



Fair Wear Foundation

Country Study On China

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1. Introduction

Fair Wear Foundation (FWF) is a multi-stakeholder initiative of business associations in the garment sector, trade unions, and NGOs. Garment companies can become member of Fair Wear Foundation if they endorse the Code of Labor Practices and accept verification of code compliance by FWF. FWF was founded in The Netherlands, and is currently in the process of becoming a European initiative.

FWF member companies commit themselves to implementing the Fair Wear labour standards in their own company and throughout their supply chain, including sub-contractors. Member companies have to monitor their suppliers, agree with each supplier to a corrective action plan and ensure that its terms of trade allow their suppliers to implement the Fair Wear labour standards. FWF expects member companies and their suppliers to start a process of improvements by drawing up a corrective action plan. Member companies and suppliers must demonstrate that they are putting sufficient efforts and working effectively to bringing labour conditions up to the level of the Fair Wear labour standards. Intermediary goals set within a specific timeframe must be specified in all corrective action plans. FWF verifies whether its member companies make sufficient efforts in stepwise implementation of the FWF Code of Labour Practices.

To be able to verify how its member companies implement the Code of Labour Practices, FWF operates in various countries where garments are being produced. In these countries, FWF conducts verification audits to assess the quality of the monitoring programs of its member companies, a network of partner organization is set up, partner organizations are systematically consulted about labour conditions in the garment industry, and FWF establishes a complaints procedure.

If FWF starts to operate in countries where garments are being produced for FWF member companies, the first step is to develop a country study by carrying out on research labour conditions and relevant laws and regulations. Once FWF is operational in a country, (parts of) the country study are periodically updated.

The country study on China provides an overview of the general situation including labour conditions in the textile and garment industry in China, a review on Chinese labour laws and regulations as well as their general implementation regarding FWF



Labour Standards. The country study also includes a study on partner network organizations in various regions in China. The information included in this country study is gathered from secondary literature review on Chinese laws and regulations, news reports and other researches on the labour law and textile and garment industry conditions in China. Information the Partner Network has been based on interviews with civil society organizations.

FWF has commissioned Mr. Chris Chan, a doctoral candidate in department of Sociology at the University of Warwick, to write the current update on the country study for China. Mr. Chan paid a field trip to Hong Kong, and the cities of Guangzhou, Dongguan, Shenzhen and Huizhou of Guangdong province in January 2008. During this trip, he conducted documentary research and interviewed managers and workers in garment industry as well as academics and labour NGO staffs in Hong Kong and Guangdong.

2. The Garment Industry in China

2.1. International trade and industrial growth in China

The phase-out of Multi-Fibre Agreement (MFA) has exerted a dramatic impact on international trade of textile and garments. It is generally regarded that China is the main country to benefit from the MFA phase-out. The MFA was adopted in 1973 by the United States, Canada and Europe to set quotas for textiles and apparel that other countries could export to these countries. Quotas were negotiated on a yearly basis but preferences were given to selected countries and for the protection of home industries. On 1 January 1995, the World Trade Organization (WTO) replaced the MFA with Agreement on Textiles and Clothing (ATC) during the Uruguay Round negotiations; the quota system would be eliminated within 10 years.

China was admitted into WTO on 11th December 2001. Subsequently, its textile and garment industry further expanded. The country emerged to be the biggest exporter of garment with 23.9% of the world's total export in 2004. In 2005, China's export of textiles and garments topped USD117.535 billion, accounting for 24% of the total international trade of textiles and garments, while its fibre processing volume accounted for one third of the world total (HKTDC, 10/09/2006). The escalating role of China export in international garment trade has been underscored by WTO World Trade Statistics (see below table).

Table 1: Ratio of China's textile and garment export value as a % of global exports 2000-2005

Year	Export Value of Textile			Export Value of Garment		
	Global	China	Ratio of China (%)	Global	China	Ratio of China (%)
2000	1570.6	161.4	10.3	1977.8	360.7	18.2
2001	1469.8	168.3	11.5	1936.9	366.5	18.9
2002	1521.5	205.6	13.5	2008.5	413.0	20.6
2003	1737.3	269.0	15.5	2325.6	520.6	22.4
2004	1953.8	334.3	17.1	2591.5	618.6	23.9
2005	2029.7	410.5	20.2	2791.5	741.6	26.9

(Sources: CNTIC report 2006/2007)

Since the establishment of the Open Door Policy, the Chinese garment and textile industry has steadily increased its aggregate workforce. The employment population in the textile sector increased from 6.13 million in 1980 to 19 million in 2004, of which 13.5 million had peasant origins. In 2004, textile workers in China accounted for 14.58% of the national working force (TNTIC report 2004-2005).

In recent years however a number of negative factors have affected China's exports of textile and garment products to the US and EU markets, such as RMB appreciation and trade friction. To settle the trade friction with the US and EU, the Chinese government held bilateral negotiations on textile and apparel exports with the two bodies in 2005 and agreed to limit growth of its textile and apparel exports. The China-US agreement allowed the US to establish safeguard quotas on 34 categories (21 groups) of textiles and clothing imports from China, and to exercise restraint in the application of any safeguard quotas on products outside the scope of the agreement from 2006 to 2008. Similarly, the China-EU agreement provided EU with the establishment of safeguard quotas on 10 categories of textiles and apparel imports from China from 2005 to 2007. From January 2008, a joint China-EU surveillance system has been installed to monitor the trade flow for one year. The new mechanism, which covers 95% of the textile trade, monitors both the issuing of export licenses in China and the importation of the textile and clothing products into the EU (Li and Fung research center, 2007: 5).

2.2 Exports by the Chinese textile and garment industry

China's total export value of the textile and garment products escalated steadily from 53 USD billion (14% of total world production) in 2000 to 117.5 USD billion (24% of total world production) in 2005, a 121.6% of growth in 5 years (CNTIC 2006-2007: 148). According to the National Statistics Department of China, about 17.002 billion pieces of garments were produced in 2006, marking a growth of 11.86% compared to figures in 2005 (ibid:78).

The major export markets for China's textile and garment production are Japan, Hong Kong, the US and the EU, while most of the exports to Hong Kong is for re-export to other countries. The proportion of imported textile and garment products from China in the market of US, EU, Japan and Canada in 2005 is showed in the following table.

Table 2: The Proportion of the Textile and Garment Import Value from China in USA, EU (25), Japan and Canada in 2005 (in 100 million USD)

Countries and Regions	Total Import Value			Import Value from China			Ratio/% (China)
	Total	Textile	Garment	Total	Textile	Garment	
USA	1026.09	225.38	800.71	272.02	60.64	211.38	26.5
EU(25)	923.26	213.61	709.65	279.14	49.04	230.10	30.2
Japan	283.53	58.12	225.41	212.80	30.37	182.43	75.1
Canada	79.78	20.02	59.76	33.76	5.79	27.97	42.3

*Import from outside the EU member countries (Source: CNTIC Report 2006-2007)

Comparing textile and garment production, as the following table shows, garment products by far constitute most of the export value of the country's textile and garment products. A CNTIC report 2002-2003 explained the dominance of garment exports by the following factors:

(1) Low quality cotton and other fabric production within China. (2) strict Chinese governmental control over cotton and fabric exports before the 1990s. (3) International trade agreements restricting the use of specific imported cotton and fabrics for quota free access for garment products to specific markets. (4) Garment production, being labour intensive and sensitive to production costs, was one of the first industries attracting export-oriented, foreign and joint venture investment from Hong Kong, Taiwan and Korea after the Open Door Policy.

Therefore, despite abundant local supply of raw materials, export items from China are largely finished garment products. In 2006, exports of garment products were even picking up at a faster rate (28.91% vs. 18.8%) than that of textile products.

Table 3: Export growth of the textile and garment industry 2000-2005

Unit: 100 million USD.

	2000	2001	2002	2003	2004	2005	2006	2006/ 2005 (%)
Textile and garment products	522.1	534.8	618.6	789.6	952.9	1152.1	1470.85	25.14
Textile products	161.4	168.3	205.6	269.0	334.3	410.5	522.54	18.84
Garments	360.7	366.5	413.0	520.6	618.6	741.6	948.30	28.91

(Sources: WTO World Trade Statistics from CNTIC report 2006/2007)

For garment products, as showed in the following table the US (with an 18.9% up from previous year) surpassed Japan in 2006 to be China's largest apparel export country. Also, Romania, for the first time ever, entered the top-ten and even overtook Russia to become China's fourth largest export market. Although the Asian market still accounted for 39.7% of China's apparel exports in 2006, exports to EU and US have steadily risen in recent years. Among the 25 members of EU, the group of top export countries in 2006 includes Germany, UK, Italy and France. It is to be noted that in this table, member states of EU are independently counted. If one takes the EU as an integrated market, with a total of 16.6 USD billion (22.64% up from previous year) in 2006, the total export value to EU surpasses the figure of the US (CNTIC, 2006-2007: 94).

Table 4: Ten major apparel exports markets of China, 2006

Rank	Country or region	Export value (USD billion)	Year-on-year change(%)
1	US	16.1	18.9
2	Japan	15.7	7.4
3	Hong Kong	9.0	33.2
4	Romania	5.0	838.9
5	Russia	4.0	-25.4
6	Germany	3.6	17.7
7	Korea	3.2	31.9
8	UK	2.8	31.2
9	Canada	2.6	52.9
10	Italy	2.3	27.8

Source: General Administration of Customs (quoted from Li and Fung, 2007)

Despite its raising pivotal role in international trade, the textile and garment production in China remains of relatively low value (CNTIC Report 2002-2003: 3). CNTIC's 2006-2007 report points out that production quantity growth has been slowing down as a period of quality competition is about to commence. This is illustrated by the fact that of the total 2005 export value, 90% was non-branded. This is underscored by the unit price of China-made garments, which is about 20 times less than those of Japan, and about 50 times less than that of Italy. Domestic added value remains low, as Chinese enterprises only earn about 10% of net profits from their products, as the remaining 80-90% of the profits is taken by foreign dealers and brand owners.

The above illustrates that, whereas industrial relocation strategies are evidently pursued in the face of rising labour cost, the Chinese textile and garment industry also must recourse for industrial upgrading to remain competitive and counter falling profit margins.

2.3 Raw Materials

In spite of remaining one of the major textile fiber production countries in the world, China's position in the global market of textile fiber has ebbed away in recent years. China used to be a big exporter of the two yarns and two fabrics. Starting from 1995, China turned from an export country into an import country, with the import mainly from India, Pakistan and Indonesia. This must be considered in the context of lifted restrictions on the import of textile and fabrics products by MOFCOM (Ministry of Commerce). While in the past only state-owned enterprises were licensed to fabric and textile import, foreign owned and joint-venture enterprises are now also licensed to handle imports and exports of textile and fabric products.

In 2005, China exported 469,600 tons of cotton and imported 793,800 tons of the same product. Today, the export oriented garment industry in China relies heavily on imported textile and fabrics. According to the Jebesen report (Jebesen & Co Ltd, 2001), 95% of imported fabrics in China are for foreign clothing joint ventures and local clothing manufacturers who are under processing trade agreements with foreign buyers.

CNTIC (2002-2003: 168) and HKTDC (2006) recognize that the quality of cotton yarn made in China is generally compared to exports from India, Indonesia and Pakistan, leaving out yarn produced by a small number of foreign owned enterprises with imported equipment. Statistics show that foreign and joint venture garment enterprises take a mere 10% of local fabrics production. Despite abundant natural resources for fabric production, only 35% of locally produced fabrics is exported from China. 30% is consumed by state owned enterprises and 25% by local wholesalers and retailers (Jebesen & Co Ltd 2001).

The production of chemical fiber has been growing quickly in China since the 1990s. In 1990, the proportion of chemical fiber in the national production of textile fabrics is 23%, reaching 58.9% in 2000 and 71.3% in 2005. In 2005, the national production of chemical fibers exceeded 16 million tons accounting for about 40.6% of total world production.

The following table shows the locations and regional importance of various fabric production in China. Jiansu and Zhejiang provinces in mid China, and Shandong province in the north, are important provinces in the supply of cotton, synthetic, silk and wool fabrics in China.

Table 7: Percentage of Various Woven Fabrics of Total Production in China 2000

Product materials	% in Total Fabric Production	Leading Provinces in Various Fabric Production					
Production of Cotton Fabrics	67.8%	Jiangsu province 13%	Shandong province 11%	Hubei province 7%	Hebei province 7%	Henan province 5%	Others 57%
Production of Synthetic Fabrics	29%	Zhejiang province 32%	Jiangsu province 24%	Shandong province 8%	Fujian province 5%	Guangdong province 2%	Others 29%
Production of Silk Fabrics	2%	Zhejiang province 73%	Jiangsu province 11%	Shandong province 6%	Sichuan province 5%	Anhui province 1%	Others 4%
Production	0.8%	Jiangsu	Shandong	Zhejiang	Shanghai	Beijing city	Others

of Wool Fabrics		province 52%	province 10%	province 6%	city 6%	4%	22%
Production of Linen Fabrics	0.4%	Hunan province 20%	Heilongjiang province 16%	Chongqing city 16%	Jiangxi province 16%	Henan province 8%	Others 24%

Sources: The Statistical Information Center of the State Bureau for Textile Industry, PRC

Sources: Synthesized from Fabrics Market Study in China, Jebesen Consult (October 2001)

2.4 Types of garment production

Statistics provided by CNTIC categorize production of garment products in China into weaving and knitting products. The export value of weaving and related products is USD 43.724 billion in 2006, growing by 24.81% compared to 2005. The export value of knitting products was USD44.901 billion in 2006, marking a growth rate of 45.44%.

Table 5: Quantity and Value of Two Types of Garment Export in China 2006

	Export of Garment Products in Quantity			Export Value of Garment and Accessories	
	Actual (100 pieces)	Quantity (million)	%	Actual Value (USD100 million)	%
Total Garment Production	266.22		21.16	951.9	28.9
Weaving Products	84.72		13.95	437.24	24.81
Knitting Products	181.51		24.85	449.01	45.44

Source: China Textile Industry Development Report 2006-2007

The following table shows the product composition of the exporting garment industry in China. Cotton products and synthetic fabric products are two major types of exported garment products in China in 2006.

Table 6: Export Structure of garment and accessories industry 2006

Categories of products	Total export value (USD 10000)	Year comparing ratio (%)	Ratio of total (%)
garment and accessories	9519224	28.91	100
Silk products	213673	-4.23	2.24
Wool products	559330	41.4	5.88
Cotton products	3953997	46.22	41.54
Chemical fiber products	2971921	27.82	31.22
Other products	1784126	4.41	18.74

(Sources: Immigration statistics quoted from CNTIC report. 2006-2007)

2.5 Ownership in garment production

The export oriented nature of the garment industry of China parallels the growing private sector and the steady restructuring of the textile and garment industry in China since the implementation of the Open Door Policy in 1979. State owned enterprises had experienced a wave of restructuring and downsizing during 1990s, whilst the FDI inflow into export-oriented light industry in coastal China continued to bloom and became dominated by small-medium sized and private enterprises. Many state owned enterprises have been closed down or privatized due to inefficiency. The proportion of state-owned capital in the textile enterprises (referring to those enterprises with an annual sales amount of 5 million RMB Yuan) decreased from 28.58% in 1998 to 13.04% in 2003, and to a low of 2.37% in 2006.

Since private enterprises have become formally allowed and recognized in China, private enterprises mushroomed in the PRD. For instance, taking Guangdong as a whole, from 2000 through 2006, private enterprise exports skyrocketed from US\$ 614 million to US\$ 47.3 billion. Due to an accelerated growth of private, joint venture and foreign invested enterprises as a result of the influx of foreign capital, the growth of exports from domestic private owned factories was as high as 65.04% in this period.

Foreign capital has seized a major role in China's industrial development. In 2006, the region's utilized FDI reached US\$11.3 billion, 19.2% of the national total. Foreign enterprises, most of which from Hong Kong and Taiwan, accounted for 65% of PRD's total exports. Shenzhen, Dongguan and Guangzhou, are the 3 cities in PRD that attracted the most FDI. An estimated 57,500 factories with Hong Kong interest are operating in PRD.

2.6 Areas where garments are produced

Guangdong province is the largest exporting center of the garment sector in China with an export value of USD142.72 billion, followed by Zhejiang province (USD108.11 billion) and Jiangsu province (USD94.08 billion) in 2006. See table below:

Table 9: export of textile and garment industry in 10 most important provinces and cities (in USD 100 Mln.)

Province	2000	2002	2004	2006	Annual growth rate % in 2006
Guangdong	132.40	142.72	180.06	355.95	60.65
Zhejiang	73.10	108.11	203.83	308.12	22.12
Jiangsu	74.91	94.08	153.15	226.32	17.21
Shanghai	70.66	80.25	120.88	149.40	11.52

Shandong	47.02	58.12	91.19	126.63	15.89
Fujian	16.78	24.94	44.65	56.81	22.01
Liaoning	16.55	17.71	22.90	30.87	12.67
Hebei	9.39	12.05	30.88	24.51	-22.94
Beijing	17.14	13.77	18.61	23.21	-5.94
Tianjin	12.72	11.79	15.07	17.99	-8.75

(Sources: CNTIC report 2006; 02; 04; 06)

The above table shows that while the export in South and East coastal provinces and cities continued to grow, it began to decline in North China. In 2006, Guangdong, Zhejiang, Jiangsu, Shandong and Fujian continued to be the provinces with the highest production capacity. Total output of these five provinces represented 83% of China's total apparel output. Several factors contribute to this concentration of industrial activity: (1) Availability of a high proportion of qualified workers in coastal areas. (2) Most of China's earliest established Economic Development Zones are located in the coastal areas such as Shenzhen, Zhuhai, Haikou, Ningbo, Shanghai, Dalian, Qingdao and Xiamen. These Economic Development Zones have attracted huge amounts of foreign investment for over 20 years. (3) Coastal areas are of high population density; in general, residents in these areas have higher disposable income, are better-educated and more fashion-conscious than in other areas, thereby leading to huge market potential. (4) Logistics infrastructures are generally better developed in the coastal regions, making the areas attractive to foreign investors (Li and Fung research center, 2007: 2)

In the following sections, socio-economic conditions in the largest two industrial center areas, the Pearl River Delta in the Guangdong province and the YRD in east China, will be examined.

2.6.1 Background on the Pearl River Delta¹

Guangdong province is located in southern coastal China, geographically connected to Hong Kong and Macau. Guangdong province has a total area of 179,756 sq.km and a total population of 85.2 million according to the year 2000 population census of the Chinese government. The Pearl River Delta (PRD) Economic Zone is the province's economic hub, and one of China's leading manufacturing centers. It locates at the Pearl River estuary where the river enters the South Chinese Sea. The zone encompasses the cities of Guangzhou (provincial capital), Shenzhen, Foshan, Zhuhai, Jiangmen, Zhongshan, Dongguan, plus 4 districts and counties of Huizhou and 4 districts and counties of Zhaoqing. The PRD is one of the most vibrant economic

¹ (Data from this section quoted from: PRD Economic Profile, Trade Development Council, Hong Kong December 2007, with minor adjustments for fitting into the purpose of this study)

regions. In 2006, the PRD accounted for 10.3% of China's gross industrial output, exporting 29.7% of China's total export. This encompassed 8.7% of China's total retail sales of consumer goods.

To attract more FDI, PRD has set up several special purpose zones in Guangdong where foreign enterprises enjoy tax deductions and exemptions. Now 4 Economic and Technological Development Zones, 6 New- and High-tech Development Zones, 6 Tariff Free Zones and 2 Export Processing Zones exist in this area.

A government survey in 2004 showed that enterprises are generally satisfied with Guangdong's infrastructure, supporting industries and administrative efficiency. However, shortages of raw materials and energy exist. In addition, there are reports that enterprises in PRD are facing shortages of labor. This prompts Guangdong to restructure its industries.

Most of the garment factories in Guangdong are small and middle size enterprises, with workforces ranging from 50 to 200 people, over 70 per cent of whom are female workers responsible for sewing - young girls in their late teens, and middle-aged married women. Smaller factories are mainly owned mainland Chinese from Guangdong and neighboring coastal provinces. Larger factories producing for major international brands tend to be funded by investors from Hong Kong and Taiwan.



Source:

<http://www.hydrocarbons-technology.com/projects/guangdong/guangdong5.html>

Table 8: Major Economic Indicators on Guangdong (2006)

<i>Cities</i>	<i>Land area (sq.km)</i>	<i>Population (mln)</i>	<i>GDP (RMB bln)</i>	<i>GDP growth (%)</i>	<i>Per Capita GDP (RMB)</i>	<i>Export (USD bln)</i>	<i>FDI (USD bln)</i>
<i>Guangzhou</i>	7,434	9.95	607.4	14.8	63,100	32.4	2.9
<i>Shenzhen</i>	1,953	7.01	581.4	16.6	69,450	136.0	3.3
<i>Zhuhai</i>	1,688	1.24	74.8	16.4	52,185	14.8	0.8
<i>Foshan</i>	3,849	5.34	292.8	19.3	50,232	21.1	1.1
<i>Huizhou</i>	11,158	3.22	93.5	16.6	25,043	12.3	1.0
<i>Dongguan</i>	2,465	6.45	262.7	19.2	39,468	47.4	1.8
<i>Zhongshan</i>	1,800	2.36	103.6	16.8	42,058	15.6	0.7
<i>Jiangmen</i>	9,451	3.95	94.2	15.6	22,936	7.4	0.7
<i>Zhaoqing</i>	14,856	3.38	51.6	14.5	13,991	1.8	0.7

Note: a) the figure in value terms are calculated at current prices; b) statistics of value-added of industry cover all state-owned and non-state-owned enterprises with an annual sales revenue over 5 million Yuan. (Source: Guangdong Statistical Yearbook 2007)

2.6.2 Background on Yangtze River Delta²

The area covering Jiangsu, Zhejiang and Shanghai, the second, third and fourth largest garment export provinces/city is generally called the Yangtze River Delta. The Yangtze River Delta (YRD) metropolitan region refers to 16 cities in Shanghai, southern Jiangsu, eastern and northern Zhejiang, including Shanghai, Nanjing, Suzhou, Wuxi, Changzhou, Yangzhou, Zhenjiang, Nantong, Taizhou, Hangzhou, Ningbo, Huzhou, Jiaxing, Shaoxing, Zhoushan and Taizhou, of which Taizhou was included as part of the YRD metropolitan region starting from August 2003.

² (Data in this section quoted from: General Background of Yangtze River Delta, Hong Kong Trade Development Council, Hong Kong January 2008)



Although the YRD only covers an area of 109,961 sq.km which is about 1% of China's total land area, its GDP reached RMB3, 950 billion in 2006, or 19% of the Chinese economy. The YRD is an important economic powerhouse of the Chinese mainland, with Shanghai being China's financial and logistics centre, and Zhejiang and Jiangsu an increasingly important manufacturing base. The YRD's total population stood at 92.2 million at the end of 2006, accounting for 7% of China's total.

Table 9: Major Economic Indicators (2006)

Cities	Land Area (sq. km)	Population (mln)	GDP (RMB bln)	GDP Growth (%)	Per Capita GDP (RMB)	Industrial Output (RMB bln)	Retail Sales (RMB bln)	Exports (US\$ bln)	Actual FDI (US\$ bln)
YRD Total	109,961	92.2	3,950.2	16.3	42,844	7,914.6	1,235	356	31.7
Shanghai	6,341	18.2	1,036.6	12.0	57,695	1,963.1	336.0	113.6	7.1
Hangzhou	16,596	6.7	344.2	17.0	51,878	697.5	111.2	26.2	2.3
Ningbo	9,365	5.6	287.4	17.3	51,460	318.8	88.3	28.8	2.4
Jiaxing	3,915	3.4	134.7	16.2	40,206	268.9	43.0	9.2	1.2
Huzhou	5,817	2.6	76.1	18.1	29,527	138.6	27.4	2.7	0.8
Shaoxing	8,256	4.4	167.8	15.9	38,540	691.1	44.1	10.5	1.0
Zhoushan	1,440	1.0	33.5	19.6	34,682	36.0	11.4	1.6	0.05

Taizhou	9,411	5.6	146.3	16.9	26,026	222.9	51.2	7.0	0.4
Nanjing	6,582	7.2	277.4	15.1	39,376	469.3	116.7	17.4	1.5
Wuxi	4,788	5.8	330.1	15.3	56,490	711.5	95.9	21.4	2.8
Changzhou	4,375	4.3	145.9	15.2	37,435	329.4	51.6	7.9	1.3
Suzhou	8,488	8.1	482.0	15.5	61,500	1,253.9	105.5	94.7	6.0
Zhenjiang	3,847	3.0	102.2	15.2	34,293	162.9	28.0	2.7	0.7
Nantong	8,001	7.2	175.8	15.7	24,133	295.0	62.2	7.2	2.6
Yangzhou	6,634	4.5	110.0	15.2	24,543	189.2	35.6	2.4	0.8
Taizhou	5,797	4.6	100.2	15.3	21,509	166.5	27.1	2.2	0.7

Note: a) GDP per capita of the YRD is calculated based on the GDP and population figures in this table.

b) Industrial output of industrial enterprises with an annual sales income of over RMB 5 million.

Source: Statistical Yearbooks of Shanghai, Jiangsu and Zhejiang, 2007

YRD's manufacturing industries are developing rapidly, partly as a result of the influx of foreign investment. Cities having relatively large industrial production include Shanghai, Suzhou, Wuxi, Hangzhou, Ningbo and Nanjing. The YRD's total industrial output amounted to RMB7,915 billion in 2006, accounting for about 25% of China's total.

While the Pearl River Delta excels in the assembly of light consumer goods, the YRD is more focused on heavy industries such as machinery, chemicals and other upstream industries, i.e. the production of raw materials, intermediate goods and capital goods including electronic parts, textile and chemical fibre etc. Within the YRD region, while Jiangsu and Zhejiang are major producers of garment, textile, chemical fiber, and machinery.

Table 10: Major industries of the YRD and their shares in China's industrial output (2006).

Industries	Shanghai	Jiangsu	Zhejiang
Textile industry	2.3	23.9	22.7
Garments & other fibre products	6.6	23.0	18.0
Raw chemical materials and chemical products	6.5	19.3	7.7
Chemical fibre	1.5	31.2	38.7

Smelting and pressing of ferrous metals	5.7	15.0	0.1
General purpose machinery	11.1	18.1	14.6
Special purpose equipment	5.8	14.1	8.4
Transport equipment	9.3	8.7	8.1
Electrical machinery & equipment	7.0	16.2	12.8
Telecommunication equipment, computers and other electronic equipment	11.9	19.3	4.8

Source: Statistical Yearbooks of China, Shanghai, Jiangsu and Zhejiang 2007

FDI inflow amounted to US\$31.7 billion in 2006, over 46% of China's total. Hong Kong is the leading source of FDI in the YRD. Other major investors include Taiwan, Japan, Singapore, US and South Korea. Foreign investment is more concentrated in Shanghai, Suzhou, Wuxi, Nantong, Ningbo and Hangzhou. In 2006, these six cities accounted for over 73% of the region's FDI.

2.7 Challenges for the garment industry in China: From a shortage of labour to industrial relocation

Several factors have led to the current labour shortage that the garment industry is facing. A survey of the Labour and Social Security Ministry showed that enterprises employed 13% more migrant workers in 2004 than 2003 (Nan Fang Zhou Mo, 15-7-2007).

Dramatic changes in both urban and rural china gave rise to the 'shortage of labour' (Min Gong Huang) since late 2003. Some provinces introduced a new policy of agriculture tax cancellation (and even agriculture subsidies in some provinces) since 2004. The policy was extended to the whole country under the central government's campaign of 'constructing socialist new rural villages' in 2006.

This policy has led to a group of middle-aged workers to return to their home villages, contributing to an increasing labour shortage. Official data revealed that there was a shortage of 2.8 million workers in the whole country, 1 million in the region of PRD and 2.8 millions in Shenzhen (Nan Fang Zhou Mo, 9-9-2004; USA Today, 12-4-2005). Low wage and harsh conditions were the main reasons of the factories falling to keep workers, especially those with more skills and experiences. A report released by the

Guangdong Federation of Trade Union in January 2005 showed that overall increase migrant workers in Guangdong was only 68 Yuan in past 12 years, and most of them earned 500-1000 Yuan per month (Apple Daily, 22-1- 2005).

As labour shortage is on the rise, workers are increasingly voting with their feet, as job quitting has become a common way to express grievances to the management. Workers do not feel attached to their employer, and tend to search for jobs that pay slightly better.

The shortage of labour has been paralleled with a wave of semi-organised workers' strikes and protests in the PRD since 2004. Among the cases which struck Shenzhen residents and media was the Mei Zhi Hai Yan Electronics Factory. On 6th October, 2004, one of the city's main highways was blocked by more than 3,000 workers for 4 hours. Workers complained about low wages and excessive working hours. Their monthly salaries were as low as 230 Yuan/month for a 12 hours working day, while the legal minimum monthly salary for 8 hours working days was 610 Yuan at that time. Besides, their company did not pay social security insurance fees as required by law. After their representatives negotiated with government officials, 1,000 workers left the scene automatically. The remaining 2,000 were driven off by the police (Nan Fang Ri Bao, 7/10/2004). Workers' average salaries were increased to approximately 900 Yuan soon after this incident. Two months later, the factory was fined by Labour and Social Protection Bureau over 1.96 million Yuan for violence to the Labour Law (Nan Fang Ri Bao, 7/12/2004).

As a response to the unstable labour market and workplace relations, the local governments have increased minimum wage rates. The following table illustrates this trend, taking Shenzhen³ and Shanghai as example:

Table 11: The Level of Monthly Legal Minimum Wage Rate in Shenzhen and Shanghai (Unit: RMB Yuan)⁴

Year	Shenzhen (Inside SEZ)	Shenzhen (Outside SEZ)	Shanghai
2001-2002	574	440	490
2002-2003	594	460	535
2003-2004	600	465	570
2004-2005	610	480	635
2005-2006	690	580	690
2006-2007	810	700	750

³ The city has two legal minimum rates for workers inside and outside the SEZ respectively.

⁴ 1 USD= around 8 RMB Yuan; the minimum wage rate covers 8 working hours per day and 5 working days per week.

2007-2008	850	750	840
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Shenzhen and Shanghai are two competitive cities with the highest minimum wage rates. Their surrounding regions, Guangdong, Zhejiang and Jiangsu provinces which are clustering garment industry clusters have seen similar rates of wage adjustments. The upward pressure of the minimum rate was reinforced from late 2006 by rising inflation rates.

With rising cost pressure at the one hand, and intense market competition on the other, many factories in the PRD and YRD feel forced to relocate to inland provinces, cities and counties, or even move overseas. Factory owners and managers tend to complain about pressure from international buyers. A manager of a big garment factory in Dongguan reflects as below on the pressure caused by social compliance rules and the practice of global 'lean' retailing in *The Financial Times*:

*We are under enormous stress. Customers place late orders, they change their orders during manufacturing and they pay their bills late. At the same time, they ask us to provide better training for our staff, better health and safety and better accommodation. We just cannot do it all.*⁵

A survey by the Federation of Hong Kong Industries (香港工業總會) in the PRD showed that 37.3% of the 80, 000 Hong Kong invested enterprises planned to move production out of the PRD, partially or wholly, in which 63% planned out of the Guangdong province. In Guangdong, the government began to develop industrial parks in the outskirts cities and counties of the province for industrial transfer from the PRD (Southern Daily, 21-1-2008).

In the YRD, the HKTDC industrial profile cited that the textile production in Shanghai has been moving to the northern part of Jiangsu Province, while textile enterprises in eastern China in general are active in launching factories in central and west China and old textile enterprises in the region have moved to industrial parks or zones on a large scale. CNTIC (2006) hinted that two inland provinces, Jiangxi and Anhui, have

⁵ "Code of Conduct Implementation in China: Laying a False Trail", *The Financial Times*, April 21, 2005; quoted from Pun Ngai (2007) 'The Making of a Global Dormitory Labour Regime: Labour NGOs and Workers Empowerment in South China'.

developed new export-orientated garment production bases. Jiangxi is next to Guangdong and Fujian, while Anhui is close to Shandong, Jiangsu, Zhejiang and Shanghai. Economic and trading officials in Dongguan confirmed that the traditional labour intensive industries, for example, Garment, textile, plastics, electronics and metal factories, are moved out from the city in a large scale.

3 Labour conditions in the Garment Industry

3.1 General Labour Situation in the Chinese garment industry

Fieldwork on working conditions affirms that numerous key problems persist in the Chinese garment industry, as summarized below: ⁶

- **Working Time:** Working hours tend to exceed the legally allowed maximum by far. During peak seasons, many workers are working 12 to 13 hours a day, 7 days a week. When factories are pressured for orders, workers are requested to work overtime till 12:00am or 3:00 am, and even for consecutive 48 hours in one row in extreme cases. Total working hours in a week can add up to between 90 and 110 hours. During the peak season, a substantial share of workers does not get their weekly rest day.
- **Wages:** Workers' monthly salaries roughly range between RMB 500 to 1500 depended on skill and experience. In the peak season, production workers earns wages of about RMB 1,000 a month for 12 to 13 hours a day, 7 days a week. Skilled workers are able to make RMB 1500/month or above whereas unskilled auxiliary workers can get RMD 500/month. Many workers in production lines are paid by piece rate, which is set by the management and often in transparent to workers.
- **Contracts:** Many factories write violations of the labour law or enter illegal stipulations into labour contracts. Workers often do not obtain a copy of their labour contract so management can edit its content without workers' approval. Factories tend to refuse to approve workers' requests to resign during the peak season, even if advance notice is given as legally required. If workers do not

⁶ (Main sources: SACOM 2005a "Looking for Mickey Mouse's Conscience: A survey on working conditions of Disney supplier factories in China"; SACOM 2005b 'A World without Strangers: a Report of the Working Conditions of Giordano Subsidiaries and Suppliers in China.' Both available from <http://www.sacom.org.hk> ; and Chris Chan's fieldwork in 2008.)

obtain approval of their employer, they are forced to “leave voluntarily”. This means they will lose the last month of wage and deposits. This phenomenon becomes increasingly prominent as a direct result of the mounting labour shortage.

- **Maternity benefits:** Many female workers do not receive paid maternity leave whereas this is their legal entitlement. Pregnant workers who do not have the strength to continue intensive work are asked to resign and return home.
- **Health and safety:** Workers suffer from a variety of occupational illnesses including menstrual disorders, back pain, headaches, deteriorating eyesight, fatigue and respiratory problems. The situation is made worse by poor ventilation on the shop floor. Some female workers have been reported to faint at work; this is especially common during hot summers.

3.2 Compliance with FWF Labour Standards

In this section, each of the ILO Labour Standards included in the FWF Code of Labour Practices is highlighted.

Data from ILO shows that 25 ILO conventions have been ratified by China:

Convention	Ratification date	Status
C7 Minimum Age (Sea) Convention, 1920	02:12:1936	denounced on 28:04:1999
C11 Right of Association (Agriculture) Convention, 1921	27:04:1934	ratified
C14 Weekly Rest (Industry) Convention, 1921	17:05:1934	ratified
C15 Minimum Age (Trimmers and Stokers) Convention, 1921	02:12:1936	denounced on 28:04:1999
C16 Medical Examination of Young Persons (Sea) Convention, 1921	02:12:1936	ratified
C19 Equality of Treatment (Accident Compensation) Convention, 1925	27:04:1934	ratified
C22 Seamen's Articles of Agreement Convention, 1926	02:12:1936	ratified
C23 Repatriation of Seamen Convention, 1926	02:12:1936	ratified
C26 Minimum Wage-Fixing Machinery Convention, 1928	05:05:1930	ratified
C27 Marking of Weight (Packages Transported by Vessels) Convention, 1929	24:06:1931	ratified
C32 Protection against Accidents (Dockers) Convention (Revised), 1932	30:11:1935	ratified
C45 Underground Work (Women) Convention,	02:12:1936	ratified

1935		
C59 Minimum Age (Industry) Convention (Revised), 1937	21:02:1940	denounced on 28:04:1999
C80 Final Articles Revision Convention, 1946	04:08:1947	ratified
C100 Equal Remuneration Convention, 1951	02:11:1990	ratified
C111 Discrimination (Employment and Occupation) Convention, 1958	12:01:2006	ratified
C122 Employment Policy Convention, 1964	17:12:1997	ratified
C138 Minimum Age Convention, 1973	28:04:1999	ratified
C144 Tripartite Consultation (International Labour Standards) Convention, 1976	02:11:1990	ratified
C150 Labour Administration Convention, 1978	07:03:2002	ratified
C155 Occupational Safety and Health Convention, 1981	25:01:2007	ratified
C159 Vocational Rehabilitation and Employment (Disabled Persons) Convention, 1983	02:02:1988	ratified
C167 Safety and Health in Construction Convention, 1988	07:03:2002	ratified
C170 Chemicals Convention, 1990	11:01:1995	ratified
C182 Worst Forms of Child Labour Convention, 1999	08:08:2002	ratified

Source: website of International Labour Organisation (<http://www.ilo.org/ilolex/english/newcountryframeE.htm>) [Accessed 26/01/2008]

Note: laws and regulations here refer to those made and declared by the People's Congresses and People's Governments at various levels in China.

3.3.1 Employment is freely chosen

The FWF Labour Standard:

"There shall be no use of forced, including bonded or prison, labour" (ILO Conventions 29 and 105)

3.3.1.1 Laws and Regulations

China has not ratified the ILO convention 29 and 105. National legislations safeguarding free employment and the signing of labour contracts can be found in the Labour Law and Labour Contract Law of the People's Republic of China.

➤ Free Employment

- **Labour Law Article 3:** Article 3 Labourers shall have the right to be employed on an equal basis, choose occupations, obtain remuneration for their labour, take rest, have holidays and leaves, obtain protection of occupational safety and health, receive training vocational skills, enjoy social insurance and welfare, and submit applications for settlement of labour disputes, and other rights relating to labour as stipulated by law.
 - **Labour Law Article 96:** Where an employing unit commits one of the following acts, the person in charge shall be taken by a public security organ into custody for 15 days or less, or fined, given a warning; and criminal responsibilities shall be investigated against the person in charge according to law if the act constitutes a crime;
 1. to force labourers to work by resorting to violence, intimidation or illegal restriction of personal freedom; or
 2. Humiliating, giving corporal punishment, bating illegally searching or detaining labourers.
 - **Labour Law Article 31** A laborer who intends to revoke his labour contract shall give a written notice to the employing unit 30 days in advance.
 - **Labour Law Article 32** A laborer may notify at any time the employing unit of his decision to revoke the labour contract in any of the following circumstances:
 - within the probation period;
 - where the employing unit forces the laborer to work by resorting to violence, intimidation or illegal restriction of personal freedom;
 - Or failure on the part of the employing unit to pay labour remuneration or to provide working conditions as agreed upon in the labour contract.
- The Labour Contract Law specifically illegalizes some common abuses of restrain on the workers' right to move:

Labour Contract Law Article 9. When hiring a worker, an Employer may not retain the worker's resident ID card or other papers, nor may it require him to provide security or collect property from him under some other guise.

Labour Contract Law Article 84. If an Employer violates this Law by retaining a worker's resident ID card or other papers, the labor administration authority shall order the same returned to the worker within a specified period of time and impose a penalty

in accordance with the provisions of relevant laws.

If an Employer violates this Law by collection property from workers as security or under some other guise, the labor administration authority shall order the same returned to the workers within a specified period of time and impose a fine on the Employer of not less than RMB ¥ 500 and not more than RMB ¥ 2,000 for each person; if the workers suffered harm as a result of the said conduct on the part of the Employer, the Employer will be liable for damages.

➤ Recruitment Fee

There is no national law or legislation regulating the collection of recruitment fee. But some localities' People's Congress and People's Government (e.g. Shenzhen) have such provisions.

● ***Shenzhen Special Economic Zone Labour Regulation*** (Promulgated 1994)

Chapter Two Recruitment Conditions and Procedure Article 17 states against the employing unit collecting recruitment fee and deposits from recruited workers. The employing unit also is not allowed to transfer the application fee for migrant employees' temporary residence and insurance fees to the employees. Employing units should pay back all the fees to the employees and pay a fine ten times of the mis-collected fees to the local authority.

➤ Detention of Personal Identity Documents and Property

The Labour Law does not specify about the detention of identity documents and property when workers are recruited. However reference from the Identity Card Law can be taken as the legal basis for prohibition of the detention practice.

● ***Identity Card of National Citizens Law of the Peoples' Republic Of China***

Article 15: No organization or individual shall retain the identity card of other national citizens. The Public Security bureau that is enforcing duty in monitoring residence or taking mandatory measures under the Arbitration Law of the Peoples' Republic of China is exempted.

3.3.1.2 Compliance Situation on Bonded Labour in China

There is no national or comprehensive report on the situation of forced labor in China. However forced or bonded labour occurs mostly through economical bondage which restricts workers, especially migrant workers from leaving their jobs or the workplace. For example,

- i) Employers, or the recruiting agencies on behalf of the employers,

- collect recruitment fees or deposits from the employees indebting the employees;
- ii) Employers detain the employees' ID or other documents;
 - iii) Employers do not approve for employee resignation especially in the peak season.
 - iv) No mechanism, or in some cases, unreasonable penalty is imposed (eg forbidding the employees to collect their belongings) in case employees resign and leave the job without giving 30-day prior notice to the employers.
 - v) Employees are not allowed to leave the workplace or the factory complex after shift.
 - vi) Employees are not allowed to leave the workplace for water, break or toilet during shift.
 - vii) In construction industry, employers may only disseminate wages in yearly base, which will cause construction workers, especially those who are rural migrants in nature, bonded to the employer.

In the garment sector in Guangdong province where a lot of foreign invested or joint venture garment enterprises are found, workers are usually recruited in the following ways:

- (i) recruited by open advertisement, factory interview or examination;
- (ii) through personal relations and recommendation;

It is less common to find massive recruitment of garment workers through vocational schools, employment agencies or being heavily in debt before getting the job. Skills and internal information circulation within the migrant workers' social circles are the most common means for getting jobs in the garment sector. The following situation is generally found in the garment enterprises where the majority of the workers employed are migrant workers.

- (i) Employers collect down payment of RMB100-200 from the new workers, usually for providing food, uniform, dormitory facilities etc. Some enterprises would re-fund the down payment to the workers when they quit the factory. Others would not.
- (ii) Workers can stay in the dormitories provided by the employing unit and pay the water, electricity and administration fee; or they can rent places and stay outside the factory complex.
- (iii) Usually factories allow workers to leave the factory complex during the

lunch break and after work. But some factories may only allow workers to leave during the lunch break on certain days a week.

3.3.1.3 Guidance for the auditors

i) Checking documents

- Local labour law and regulations with the local ministry of labour
- Factory rules on recruitment, down payment, resignation and freedom of movement during work.
- Labour contracts
- The employing unit's recruitment policy and contracts with other agencies on labour recruitment.

ii) Visual inspection

iii) Workers' interview

- How the employees get the job?
- Whether the employees keep their ID and personal documents.
- How do the employees understand the procedure for resignation and what is the usual practice to quit the job.
- Whether the employees are free to leave the workplace and factory complex after shift.

3.3.2 Discrimination in Employment

The FWF Labour Standard:

"In recruitment, wage policy, admittance to training programs, employee promotion policy, policies of employment termination, retirement, and any other aspect of the employment relationship shall be based on the principle of equal opportunities, regardless of race, color, sex, religion, political affiliation, union membership, nationality, social origin, deficiencies, or handicaps" (ILO Conventions 100 and 111)

3.3.2.1 Laws and Regulations

China has ratified the ILO convention 100 but not the ILO convention 111. National legislation prohibiting discrimination at the work place can be found in the Labour Law of the PRC.

- **Labor Law Article 12** Labourers shall not be discriminated against in employment, regardless of their ethnic community, race, sex, or religious belief.
- **Labour Law Article 13** Females shall enjoy equal rights as males in employment. It shall not be allowed, in the recruitment of staff and workers, to use sex as a pretext for excluding females from employment or to raise recruitment standards for the females, except for the types of work or posts that are not suitable for females as stipulated by the State.
- **Labour Law Article 14** Where there are special stipulations in laws, rules and regulations on the employment of the disabled, the personnel of national minorities, and demobilized army men, such special stipulations shall apply.

Below are national legislations in China that safeguard equality and non-discrimination against women, and women workers in particular.

➤ ***Regulation on the Protection of the Rights of Women, Peoples' Republic of China.***

- **Article 21** The State ensures that female workers enjoy equality of labour rights with male workers.
- **Article 22** All units should not object to the recruitment of female or raise the recruitment criteria for female in the recruitment process, unless the job or work is not suitable for female to take up.
No employment of female workers under 16 is allowed.
- **Article 23** Equal work and equal pay between female and male. Equal entitlement to housing and other welfare benefits between female and male.
- **Article 24** Equality in employment promotion and qualification of profession between female and male.
- **Article 25** All units should, according to the special characteristics of female, provide protection to the safety and health of female workers during work and working hours.
Unsuitable work or labour should not be arranged for female workers.
Female workers are entitled to special protection during menstruation, pregnancy, birth giving and breast feeding.
- **Article 26** All units should not fire or unilaterally terminate labour contracts with female workers based on marriage, pregnancy, giving birth and breast feeding.
- **Article 27** The State shall develop social security, public health and medical provision to create conditions to provide for aged, ill or women losing production

skills.

There is no specific legal provision on non-discrimination against old age and different religion or religious practices.

3.3.2.2 Compliance situation

The more common forms of discrimination in the Chinese society in general are:

- (i) Discrimination against women such as sexual discrimination as stated or implied in the recruitment policies of enterprises eg the male-only or female-only recruitment policies for certain work. Recruitment practices in particular against women include discriminating married, pregnant or women aged over 35 etc. Other discrimination against women includes sexual harassment and violence at the work place.
- (ii) Discrimination of local residents, especially those in the cities along the coastal area, against migrants from other provinces.
- (iii) Discrimination against the handicapped or those that have acquired specific diseases eg AIDS or other infectious diseases.
- (iv) Age discrimination

The All China Women's Federation has a special mandate and access to government resources in protecting the rights and improving the social status of women. There are NGOs that specifically gear to raising the awareness and the rights of women (see the part on NGOs Background Study).

3.3.2.3 Guidance for Auditors

However, it should be noted that discrimination often springs from values, norms and the culture of the broader society. For deep-rooted values, it is usually larger than what an individual factory can ratify. However, factories should take steps to incorporate non-discrimination principles into factory practices. For more pro-active implementation of this clause, it is worth understanding the deeper reasons for discrimination or inequality in order to devise appropriate corrective actions.

3.3.3 No Exploitation of Child Labour

The FWF Labour Standard:

"There shall be no use of child labour. The age for admission to employment shall not be less than the age of completion of compulsory schooling and, in any case, not less than 15 years." (ILO Convention 138) "There shall be no forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour. [...] Children [under the age of 18] shall not perform work which, by its nature or the

circumstances in which it is carried out, is likely to harm their health, safety or morals." (ILO Convention 182)



3.3.3.1 Ratified conventions and laws

China has ratified the ILO convention 138 and 182. The following legislation provides stipulations on the prohibition of child labour.

- (i) Labour Law
- (ii) Regulation on the Prohibition of Child Labour

- **Labor Law Article 15** No employing units shall be allowed to recruit juveniles under the age of 16.
- **Regulation on the Prohibition of Child Labour (promulgated on 19 September 2002 and effective on 1 December 2002.) Article 2** No state institution, social organization, enterprise, non-government enterprise or private business organization (referred to as employing unit below) shall recruit teenagers under 16 (here from “child labour” is used to refer to teenagers recruited under 16).

Mandatory education is practiced in China and it is safeguarded in the

(i) **Education Law of the People’s Republic of China (Passed in the National People’s Congress on 18 March 1995)**; and (ii) **Teenager Education Law of the People’s Republic of China.**

- **Education Law Article 18** The State enforces the 9-year education system. Government at all levels should take different measures to ensure children and teenagers that reach the eligible age to receive education. Parents and custody organizations or individuals are obliged to make sure that their children and teenagers that have reached the eligible age receive and finish education as regulated.
- **Teenager Education Law of the People’s Republic of China** (passed in the 3rd meeting of the Eighth National People’s Congress on 18 March 1995) **Article 5** Children reaching 6 years of age should enter schools to receive 9 years of mandatory education irrespective of sex, race and ethnicity. In less provided regions, the eligible age for mandatory education can be deferred to 7.
- **Article 11** Parents or custodians should ensure that their children or individuals under custody that have reached eligible age enter school in time and receive education. Under special circumstances that the children or custodians need to defer or be exempted from undertaking school education, the parents or custodians should make formal application and receive approval from the local government. Institutions or individuals are prohibited from employing children or

teenagers of the eligible ages but have not received mandatory education.



The following regulations have stipulations about the legal requirement of age proof and documentation and should be referenced during auditing.

- **Regulation on the Prohibition of Child Labour Article 4** The employing unit should verify the ID of applicants during recruitment. Teenagers under 16 years of age must not be employed. The personnel of the employing unit should keep record of the recruited labourers and the verification.
- **Article 8** The employing unit that fail to follow Article 4 of this regulation to keep records of recruitment, or that falsify documents of recruitment is entitled to a penalty of 10,000 issued by the Ministry of Labour and Social Security.
- **Chapter 3.2 of Notice About the Consistent Implementation of the Regulation on the Prohibition of Child Labour** is about the Registration, Verification in Labour Recruitment and Regulation on the Management of Employment.

Article 4 The employing unit should verify the ID of the labourers to be recruited and keep record of the recruited labourers. Such records should include: basic information of the recruited labourers such as name, sex, place of origin, date of birth, ID card number and the registration number of the laborers' employment contract. The employing unit should keep proper recruitment records of the recruited labourers, verify the related materials and subject to the monitoring and inspection of government institutions. Employing units that do not keep, fail to properly keep or falsify recruitment and verification records, the Labour and Security Administration Department has the right to order rectification and impose punishment according to Article 8 of the Regulation on the Prohibition of Child Labour.

3.3.3.2 Compliance situation

Due to government prohibition and the strong pressure coming from (mainly) international buyers against employing under-aged labour, the problem of child labour is not prominent in the export-oriented sectors that are mainly composed of foreign invested enterprises or joint ventures. However, instances of employment of under-aged workers are still reported. Some common characteristics of the occurrence of child labour as found in Guangdong province are:

- i) Under-aged labour, usually between 14-16 years old, rather than child labour is more common.
- ii) The under-aged labourers usually follow relatives or the “experienced” persons from home villages to look for jobs in factories in cities. They usually have not finished junior high school and they will borrow ID cards from relatives and friends in order to satisfy the age requirement during recruitment.
- iii) Some common reasons pushing under-aged labourers to work are: family poverty (due to low income generated from agriculture, high taxes, bad weather and poor harvest etc), gender discrimination (sons rather than daughters should receive proper education), limited prospect and job opportunity at home village/town. Other pull factors include expectation about higher material provision, living standard and job opportunity in the cities, desire for independence from family, peer influence etc.
- iv) In some instances, the factory employers may recruit under-aged workers through personal relations with vocational schools or schools in the name of arranging “internship” or “summer job” with the schools. Under-aged workers do not receive proper wages and have no contract.
- v) Before factory audit, some factory would arrange for under-aged workers or worker looking “too young” to leave the workplace or have day off. In case under-aged workers are found by auditors, they will be dismissed and sent back to home provinces (travelling expenses paid by the factory).

3.3.3.3 Guidance for Auditors

- Check the total number of the workforce and the actual number of workers present to prevent hide out of underaged workers.
- While undertaking workers’ interview with particularly young workers, understand why and how the underaged workers under suspicion come to get the job.
- Communicate and make sure to the factory about no retaliation and recommend for corrective actions that also ensures the rights of the dismissed child workers.

3.3.4 Freedom of Association and the Right to Collective Bargaining

The FWF Labour Standard:

"The right of all workers to form and join trade unions and bargain collectively shall be recognised." (ILO Conventions 87 and 98) "Workers' representatives shall not be the subject of discrimination and shall have access to all workplaces necessary to carry out their representation functions". (ILO Convention 135 and Recommendation 143)

3.3.4.1 Laws and Regulations

- China has not ratified the ILO convention 87 and 89. National legislations regarding Freedom of Association are provided in the Labour Law of the PRC, the Trade Union Law and the Labour Contract Law.
 - **Labour Law Article 7** Labourers shall have the right to participate in and organize trade unions in accordance with the law.
 - **Trade Union Law Article 3** All manual and mental workers in enterprises, institutions and government departments within the territory of China who rely on wages or salaries as their main source of income, irrespective of their nationality, race, sex, occupation, religious belief or educational background, have the right to organize or join trade unions according to law. No organizations or individuals shall obstruct or restrict them.
- Conditions for Workers to Join a Trade Union at the Enterprise Level
- **Trade Union Law Article 10.** A basic-level trade union committee shall be set up in an enterprise, an institution or a government department with a membership of twenty-five or more; where the membership is less than twenty-five, a basic-level trade union committee may be separately set up, or a basic-level trade union committee may be set up jointly by the members in two or more work units, or an organizer may be elected, to organize the members in various activities. Where female workers and staff members are relatively large in number, a trade union committee for female workers and staff members may be set up, which shall carry out its work under the leadership of the trade union at the corresponding level; where they are relatively small in number, there may be a member in charge of the female workers and staff members on a trade union committee.

In townships, towns or in urban neighborhoods, where workers and staff members of enterprises are relatively large in number, joint basic-level trade union federations may be set up.

Local trade union federations shall be established in places at or above the county level.

Industrial trade unions may be formed, when needed, at national or local levels for a single industry or several industries of a similar nature.

The All-China Federation of Trade Unions shall be established as the unified

national organization.

- **Trade Union Law Article 11** The establishment of basic-level trade union organizations, local trade union federations, and national or local industrial trade union organizations shall be submitted to the trade union organization at the next higher level for approval.

Trade union organizations at higher levels may dispatch their members to assist and guide the workers and staff members of enterprises to set up their trade unions, no units or individuals may obstruct the effort.

- **Trade Union Law Article 12** No organizations or individuals may dissolve or merge trade union organizations at will.

A basic-level trade union organization shall be dissolved accordingly when the enterprise or institution or government department to which it belongs is terminated or dissolved, and the matter shall be reported to the trade union organization at the next higher level.

The membership of the members of the dissolved trade union organization specified in the provisions of the preceding paragraph may be retained, and the specific administrative measures in this regard shall be formulated by the All-China Federation of Trade Unions.

- Trade Union Committee and the Chair of the Trade Union
- **Article 13** For a trade union in an enterprise or institution with two hundred and more workers and staff members, there may be a full-time chairman. The number of the full-time functionaries of a trade union shall be determined by the trade union together with the enterprise or institution through consultation.
- **Article 15** The term of office of the basic-level trade union committee is three or five years. The term of office of the committees of the local trade union federations at different levels and of the industrial trade union organizations is five years.
- **Article 41** Full-time functionaries of trade union committees in enterprises, institutions and government departments shall have their wages, bonuses and subsidies paid by the units to which they belong. They shall enjoy the same social insurance and other welfare benefits as the other workers and staff members of their units.
- The Constitution of the ACFTU contains provisions for the formation of the union committee, the election of the union chair, the finance of the trade union and the

relations between different levels of the ACFTU affiliate trade unions. (See ACFTU website <http://www.acftu.org.cn>)



- Rights and Functions of the Trade Unions
- **Trade Union Law Article 6** The basic duties and functions of trade unions are to safeguard the legitimate rights and interests of workers and staff members. While protecting the overall interests of the entire Chinese people, trade unions shall represent and safeguard the legitimate rights and interests of workers and staff members.

Trade unions shall coordinate labor relations and safeguard the rights and interests enjoyed in work by the workers and staff members of enterprises through consultation at an equal footing and the collective contract system.
- Chapter III of the Trade Union Law is about the Rights and Obligations of Trade Unions. These include:
 - i. The right to organize workers' congress and participate in democratic management of the enterprises (Article 19)
 - ii. The right to assist workers in signing contracts and consult with worker in workers' congress in signing collective contracts with the enterprise (Article 20).
 - iii. The right to protect workers in case of rights infringement (Article 21 and 22).
 - iv. The right to monitor the working and safety and health conditions at the work place (Article 23 and 24).
 - v. The right to take part in the investigation of worker rights infringement and violation of safety and health regulations (Article 26).
 - vi. The right to assist workers in labor disputes (Article 28,29)
 - vii. The right to assist in worker education (Article 31)
 - viii. The right to participate in legislation work concerning labor (Article 33)
- The role of trade union in collective contract and collective consultation as stipulated in the Labour Contract Law:
- **Labour Contract Law Article 4** ...When an Employer formulates, revises or decides on rules and regulations, or material matters, that have a direct bearing on the immediate interests of its workers, such as those concerning labor compensation, work hours, rest, leave, work safety and hygiene, insurance, benefits, employee training, work discipline or work quota management, the same shall be discussed by the employee representative congress or all the employees.

The employee representative congress or all the employees, as the case may be, shall put forward a proposal and comments, whereupon the matter shall be determined through consultations with the labor union or employee representatives conducted on a basis of equality.

Labour Contract Law Article 6. *A labor union shall assist and guide workers in the conclusion of employment contracts with their Employer and the performance thereof in accordance with the law, and establish a collective bargaining mechanism with the Employer in order to safeguard the lawful rights and interests of workers.*

Labour Contract Law Article 41. *If any of the following circumstances makes it necessary to reduce the workforce by 20 persons or more or by a number of persons that is less than 20 but accounts for 10 percent or more of the total number of the enterprise's employees, the Employer may reduce the workforce after it has explained the circumstances to its labor union or to all of its employees 30 days in advance, has considered the opinions of the labor union or the employees and has subsequently reported the workforce reduction plan to the labor administration department:..*

Labour Contract Law Article 43. *When an Employer is to terminate an employment contract unilaterally, it shall give the labor union advance notice of the reason therefore. If the Employer violates laws, administrative statutes or the employment contract, the labor union has the right to demand that the Employer rectify the matter. The Employer shall study the labor union's opinions and notify the labor union in writing as to the outcome of its handling of the matter.*

Labour Contract Law Article 51. *After bargaining on an equal basis, enterprise employees, as one party, and their Employer may conclude a collective contract on such matters as labor compensation, working hours, rest, leave, work safety and hygiene, insurance, benefits, etc. The draft of the collective contract shall be presented to the employee representative congress or all the employees for discussion and approval.*

A collective contract shall be concluded by the labor union, on behalf of the enterprise's employees, and the Employer. If the Employer does not yet have a labor union, it shall conclude the collective contract with a representative put forward by the workers under the guidance of the labor union at the next higher level.

Labour Contract Law Article 56. *If an Employer's breach of the collective contract infringes upon the labor rights and interests of the employees, the labor union may, in accordance with the law, demand that the Employer assume liability. If a dispute arising from the performance of the collective contract is not resolved following consultations, the labor union may apply for arbitration and institute an action according to law.*

Labour Contract Law Article 78. *Labor unions shall safeguard the lawful rights and interests of workers in accordance with the law and monitor the performance of the employment contracts and collective contracts by Employers. If an Employer violates labor laws or statutes or breaches an employment contract or collective contract, the labor union has the right to voice its opinion or require that the matter be rectified. If a worker applies for arbitration or institutes an action, the labor union shall provide support and assistance in accordance with the law.*

➤ **The Right to Strike**

The right to strike is not protected in Chinese legislation. Instead the trade unions are encouraged to use consultation and assist the employers and employees to arrive consensus in case of labor dispute.

- **Trade Union Law Article 27** In case of work-stoppage or slow-down strike in an enterprise or institution, the trade union shall, on behalf of the workers and staff members, hold consultation with the enterprise or institution or the parties concerned, present the opinions and demands of the workers and staff members, and put forth proposals for solutions. With respect to the reasonable demands made by the workers and staff members, the enterprise or institution shall try to satisfy them. The trade union shall assist the enterprise or institution in properly dealing with the matter so as to help restore the normal order of production and other work as soon as possible.

➤ **Collective Bargaining**

- The ACFTU is the official worker representative organization in the tripartite mechanism together with the Ministry of Labour and Social Security and the China Enterprise Confederation.
- However, there is no legal provision in the Labour Law and the Trade Union Law regarding collective bargaining. Instead the consultation and consensus approach is emphasized in the tripartite structure. See below for the practicing of tripartite consultation in the paragraphs below.

➤ Protection of Trade Unionists

- **Trade Union Law Article 51** Any organization that, in violation of the provisions of this Law, retaliate the functionaries of trade unions who perform their duties and functions according to law by transferring them to other posts without justifiable reasons shall be ordered by the administrative department for labor to rectify and reinstate the functionaries; if losses are caused there from, compensation shall be made to them.

Anyone who humiliates, slanders or inflict injuries upon the functionaries of trade unions who perform their duties and functions according to law, which constitutes a crime, shall be investigated for criminal responsibility according to law; if the case is not serious enough to constitute a crime, he shall be punished by the public security organ in accordance with the regulations on administrative penalties for public security.

➤ Introduction to the All China Federation of Trade Unions (ACFTU)

- In China, the *All China Federation of Trade Unions (ACFTU)* is the only official trade union recognized to represent workers. This is stated in Article 2 of the Trade Union Law that:

"The All-China Federation of Trade Unions and all the trade union organizations under it represent the interests of the workers and staff members and safeguard the legitimate rights and interests of the workers and staff members according to law."

The ACFTU was founded in 1925. It is structured along both the line of industrial unions and regional federation of unions. Under the ACFTU, there are 31 federations of trade unions of provinces, autonomous region and municipalities directly under the Central Government and 10 national industrial unions. For the garment sector, there is the *National Committee of the Chinese Financial, Commercial, Light Industry, Textile and Tobacco Workers' Union*.

➤ About the Tripartite Mechanism in China

- The official representative bodies in the national tripartite mechanism in China are:
 - (i) The China Enterprise Confederation 中國企業聯合會 (CEC established in 1979) /China Enterprise Directors Association (CEDA established in 1988). The CEC has 28 national trade associations and has established enterprise associations in 31 provinces, autonomous regions and municipalities which cover more than 200

- cities in China.
- (ii) The All China Federation of Trade Unions; and
 - (iii) The Ministry of Labour and Social Security under the State Council.

The tripartite mechanism should also be replicated in the provincial, county and municipalities level. Tripartite meetings are held every year at all levels to discuss about better consultation mechanism for the tripartite structure. Brief reports on the construction of the tripartite mechanism in China can be traced from the CEC website at

<http://www.cec-ceda.org.cn/lbgx/info/content.php?id=61>

- The CEC/CEDA is also the official representative of Chinese employers and entrepreneurs in the ILO.
- The tripartite structure adopts the consultation and consensus approach and does not have the collective bargaining structure.

There is little public information about the National Committee of the Chinese Financial, Commercial, Light Industry, Textile and Tobacco Workers' Union and whether it has collective negotiation and collective agreement with the counterpart employers' association.

➤ On Unionization and the ACFTU

The information below is quoted from ACFTU: 'work Statistics of the Chinese Trade Unions in 2006 (2007-11-27)' available from <http://www.acftu.org.cn/template/10002/file.jsp?cid=68&aid=239>. All data refers to the year 2006:

- The number of grassroots union committees is 2.753 million which gives a total membership of 169.942 million. The rate of membership joining was 73.6%.
- Trade union members from enterprises reached 125.382 million, making up 74.0%, with a membership-joining rate of 65.3%. 2.016 million enterprises have trade unions.
- The full-time trade union workers totaled 543,000 and part-time workers totaled 4.568 million.
- The trade union women workers' organizations reached 809,000.
- There were 60,000 trade union organizations above the grassroots level, including 31 provincial trade unions, 333 prefectural trade unions, and 2,860 county trade unions. Trade union organizations in townships and sub-districts numbered 22,000,

making up 51.9% of all township and sub-districts.

- 498 or 15.4% of the chairmen of the local trade unions above the county level acted as the deputy-directors of the people's congresses and 138 or 4.3% of the vice-chairmen serviced the political consultative conferences at the same level.
- 762,000 or 37.8% of the enterprises with trade union establishment entered into labour contracts with the workers. 67.036 million workers signed the contracts, accounting for 49.7% of all workers in enterprises with trade unions established, of whom migrant workers who signed the contracts reached 18.072 million, making up 43.1% of all migrant workers in enterprises with trade unions established.
- The number of collective contracts signed was 862,000, with 1.538 million enterprises and 112.455 million workers (58.6% of the workers in all enterprises) involved. The number of regional collective contracts reached 66,000, with 753,000 enterprises and 29.585 million workers involved; the number of industrial collective contracts signed reached 19,000, with 172,000 enterprises and 12.87 million workers involved.
- 258,000 labour dispute mediation committees was set up in enterprises with a trade union, with 65.447 million workers involved and 340,000 labour dispute cases being handled in 2006 (of which 9,750 were collective labor dispute cases, accounting for 2.9%), of which 63,000 cases were successfully mediated.
- 11,000 regional and industrial labour dispute mediation organizations were set up, with 102,000 labour dispute cases being handled in 2006, of which 83,000 were successfully mediated.
- There were 3,254 labour dispute arbitration committees throughout the country.
- 5,335 trade unions above the grassroots level across the country set up legal aid and service organizations, with 113,000 consultations and written complaints on workers' behalf being provided in 2006 and 47,000 legal aid cases being handled.

3.3.4.2 Compliance situation

- Since the Trade Union Law states the ACFTU as the only legitimate trade union organization in China, all other trade unions that do not affiliate with the ACFTU are regarded as illegal trade union.
- This makes auditing on FOA particularly difficult in China. Since in the strict sense of the term, there is no FOA in China. Workers can only choose whether they want to affiliate with the ACFTU or not.
- The other problem for auditing is that most of the private enterprises, joint ventures or foreign invested enterprises do not have trade union. Only few of them would have trade unions (affiliated to the ACFTU). It is common to find that these trade

unions are formed either by the upper level ACFTU or that they are formed by the management. It is also common to find that the Chair of the union is usually taken up by the General Manager or Manager of the Personnel Department instead of being elected by workers.

- Trade unions especially unions that are formed by the factory management usually take up the role of organizing social and entertainment activities and sometimes establishing complaint channels for workers. Whereas other functions such as organizing workers' congress to represent workers' opinions, defending the labour rights of workers, negotiating collective contracts with the management, participating in the democratic management of the enterprises etc are seldom taken up. There is also a lack of transparency about the finance of the unions.
- The level of understanding on the part of the workforce for trade union is also low. The problem of workers not knowing and thus not organizing themselves into trade unions is common.
- Since 2006, the ACFTU, supported by the state authorities, has launched a unionization campaigns by the top-down approach. Usually it is the local town level party-state officers came to factory to request the management to set up a trade union. It is not legally compulsory, but the factory managers are vulnerable to resist the state pressure for interest consideration. In Shenzhen, for example, the local state is to unionize factories with 1000 workers or more. The policy of the local ACFTU is 'have (a trade union) first', and 'like (a trade union) later.
- In some cases, workers themselves demanded a trade union, and the factory was forced to establish a trade union by dual pressure of the workers and the state. However, even although so, there is no case of very successful trade union representation. Management usually manipulates the trade union by controlling the candidate for leadership. Even if a good leader for workers is elected as committee member, the management can exert pressure to him or her. Higher level trade union provides little support to the workplace trade union in daily operation and for the resistance of management pressure although there were cases that after a trade union chair was dismissed, the higher level trade union provided legal support for a lawsuit to sue the factory.

3.3.4.3 Guidance for Auditors

- Problems associated with auditing in this area include:
 - (i) Auditors skip auditing the part on FOA.
 - (ii) Auditors take the establishment of worker complaint mechanism on the shop floor as equivalent to FOA.

- (iii) In case an enterprise has a trade union, the auditors do not check the independence of the trade unions from management control.
- (iv) Auditors seldom inquire workers about FOA or problems associated with participating in trade unions during the workers' interview.

3.3.5 Payment of a Living Wage

The FWF Labour Standard:

"Wages and benefits paid for a standard working week shall meet at least legal or industry minimum standards and always be sufficient to meet basic needs of workers and their families and to provide some discretionary income" (ILO Conventions 26 and 131, the Universal Declaration of Human Rights, art 23(3) and art 25(1)). "Deductions from wages for disciplinary measures shall not be permitted nor shall any deductions from wages not provided for by national law be permitted. Deductions shall never constitute an amount that will lead the employee to receive less than the minimum wage. Employees shall be adequately and clearly informed about the specifications of their wages including wage rates and pay period."

Clarification:

How the level of a "living wage" must be determined in a particular context is still a matter of debate. Awaiting a practicable definition, Fair Wear Foundation holds that where unions are in a bargaining position, salaries should be negotiated through collective bargaining. Also negotiated salaries in sectors can be taken as a point of reference. Whether unions are genuinely in a position to negotiate and CBA's are implemented and in the actual interest of the workers, is a topic discussed under the previous Labour Standard. Where collective bargaining is not in place gradual wage increases must be set in consultation with competent and relevant local authorities, unions, business associations and NGO's.

3.3.5.1 Laws and Regulations

China has ratified the ILO convention 26 but not ILO convention 131. The Chinese government also recognizes the Universal Declaration of Human Rights. The following national legislations provide clear provisions regarding the payment of wages over the country. The major one is the Labour Law of the PRC (Chapter 5) provides for the minimum wage system.

Labor law Article 48 The State shall implement a system of guaranteed minimum wages. Specific standards on minimum wages shall be determined by the people's

governments of provinces, autonomous regions or municipalities directly under the Central Government and reported to the State Council for the record.

Wages paid to labourers by the employing unit shall not be lower than the local standards on minimum wages.

Labour Law Article 49. The determination and readjustment of the standards on minimum wages shall be made with reference to the following factors in a comprehensive manner:

- (1) The lowest living expenses of labourers themselves and the average family members they support;
- (2) The average wage level of the society as a whole; the situation of employment; and the different levels of economic development between regions
- (3) labour productivity;

4 Based on the Labour Law provisions on minimum wage, the Ministry of Labour has passed the ***Minimum Wage Regulation (passed in the 7th Meeting of the Ministry of Labour and Social Security on 30 December 2003, effective from 1 March 2004)*** to further specify minimum wage provision on the national and local levels. Besides, ***Opinions on Certain Problems about the Consistent Implementation of <Labour Law of the People's Republic of China> Ministry of Labour published on 4 August 1995*** should also be referenced.

- ***Applicability (MW Regulation Article 2)***

The Minimum Wage Regulation (MW Regulation) applies to all enterprises and government organs within the territory of the PRC.

- ***Definition (MW Regulation Article 3).***

Minimum wage refers to the legal remuneration workers should receive for providing labour to the enterprises during the regular working hours as stated in the Labour Law or as specified in the labour contract (Article 3 MW Regulation).

- ***Calculation (MW Regulation 12)***

Piece rate wages and commission should be calculated on the basis of reasonable and scientific production quota. The remuneration should not be lower than the minimum wage (12).

The Appendix of this regulation provides details about the exact calculation of minimum wages. Website:

http://www.molss.gov.cn:8080/trsweb_gov/mainframe.htm

Opinion on Certain Problems 60 and 61:

The daily wage for time rate workers is calculated by dividing the monthly wage by the number of legal working days per month (i.e. 21.6 days under the 40-hour week and 23.33 days under the 44-hour week) and the daily wage should not be lower than the minimum wage.

- *Gratuity and Bonus (MW Regulation 5,6,12)*

The minimum wage is calculated on the monthly and hourly basis (5).

The following items should be excluded and the employee remuneration should not be lower than the local minimum wage standard: (i) overtime wage; (ii) subsidies for working in mid-day shift, night shift, under high temperature, low temperature, working in wells or in touch with poisonous or hazardous materials; (iii) legal welfare benefits as stated in laws and regulations (6).

- *Establishment of minimum wage standard (MW Regulation 6,7,8)*

The minimum wage is based and adjusted on the minimum living expenses of the employees and their families, the consumption index, the expenditures on social security insurance and housing, the average employee wages, the economic development and employment level at the local level (6).

Different provinces, autonomous regions and municipal cities have different levels of minimum wage (7)

The minimum wage is determined by the Labour Administrative Department in consultation with trade unions and trade associations at the national, provincial, autonomous region and municipal city level (8).

- *Monitoring (MW Regulation 12)*

The Labour Administrative Department of the county and above level is responsible to implement and monitor this regulation. Trade unions at all levels also have the right to monitor.

- *Inform workers (MW Regulation 11)*

The employing unit should inform the whole work force about the revised legal minimum wage within 10 days of promulgation.

- *Violation (MW Regulation 13)*

The Labour Administrative Department has the right to demand rectification and payment of 1-5 times the back wages with the employing unit in case of violation.

5 Regarding the delivery, book-keeping and documentation of wages, the Labour Law and the regulations issued by the Ministry of Labour should be referenced.

- **Labour Law Article 50** Wages shall be paid monthly to labourers themselves in form of currency. The wages paid to labourers shall not be deducted or delayed without justification.

- **Notice on the publication of <Intermediary Regulation on the Payment of Wages>, Ministry of Labour issue no.489, 1994**

Article 6: The employing unit should deliver wages to the employee in person. Should the employee cannot receive the payment due to other reasons, other relatives or trustees can receive the payment on the employee's behalf. The employing unit can also delivery wages through bank transfer.

The employing unit should record the amount of remuneration, the time and the name of the employee. The employee should sign on it. The records should be kept for at least two years. The employing unit should provide pay stubs to the employees while delivering wages.

6 Remuneration for apprentices

The Labour Law does not specify about the remuneration for apprentices. Reference can be made from **Opinions on Certain Problems about the Consistent Implementation of <Labour Law of the People's Republic of China> Ministry of Labour published on 4 August 1995**

57. With the establishment of labour relationship between the labourers and the employing unit, the employing unit should pay remuneration no lower than the legal minimum wage to the employees for providing regular labour during the probation, proficiency, apprentice period within the legal working hours.

3.3.5.2. Compliance situation

Remuneration in garment supplier factories may vary between different forms of capital and different geographical regions where the implementation of law vary. It is generally found that wages paid in joint ventures or foreign invested enterprises located in the coastal industrial cities and oriented towards export to western market are higher than the state owned enterprises⁷ or local private enterprises that are oriented towards the local market.

The remuneration situation found in Guangdong province where found a lot of

⁷ While remuneration in the state owned enterprises may be lower but the welfare benefits and the working conditions in compliance with the national labour law is also found to be higher than those in the joint ventures or foreign invested enterprises.

export oriented garment enterprises is taken as a reference here⁸. In most cases, the monthly wages paid to the production workers are paid in piece rate, except for a few types of work eg cutting and warehousing. Some foreign invested and joint venture enterprises however, pay production workers with time rate. Wages of the piece rate workers are usually composed of 3 components:

- (i) Piece rate work wage, the unit prices are usually not disclosed to workers.
- (ii) OT compensation. The OT compensation is usually lower than the legal requirement.
- (iii) Bonuses namely full attendance bonus (given when workers do not take leave and work OT in full as required by the enterprises), and productivity bonus (given when workers have met the daily production quota set by the enterprises).
- (iv) Subsidy such as night work subsidy.

The average monthly wage for piece rate garment workers in the peak season in foreign invested and joint venture garment enterprises in Guangdong province ranges from RMB500 to more than RMB1500 (after deductions) depending on the skill level and position. In the low season however, the wages would drop to RMB500-600 depending on how order is placed. Usually the legal minimum wage is not guaranteed in the low season.

Living expenses:

From late 2006, the inflation rate began to rise propelled by the price of food, egg and meal. For example, in January 2008, when CPI inflation rate reached 7.1%, a peak in 11 years, the price of food increased by 18.2%. The inflation had exerted a significant effect on living cost of migrant workers in the city. In one of the factories that fieldwork was conducted in January 2008 in Dong Guan, the factory canteen increased the price of some food by 20%. The factory posted out a notice to rationalize this by saying that the price of egg (per 500g) had been increased from 2.8 to 3.9 Yuan, and meal from 7.5 to 10 Yuan, resulting the canteen lost 45884 RMB from January to October 2007. Some of these attempts by the factory to increase food price has triggered off workers radical resistance.

⁸ The compliance situation on wages in the garment factories in Guangdong province is quoted from the HKCIC garment research on the working and safety and health conditions in 20 foreign invested enterprises done in 2003.

However, the cases can only taken for a general reference and should not be taken as the basis to assess a living wage in China as there are problems associated with it such as,

- (1) The living expenditure is taken on a personal not a household basis. The expenses of the family of the migrant worker are not taken into account.
- (2) The figures are one-month expenditure figures not a year round figure. The seasonality of the industry leading to workers having no work to do and receiving wages below the minimum wage should be taken into account when calculating the living wage.
- (3) There is no assessment of the living standard of the migrant worker eg the nutrition value, the health conditions etc.

3.3.5.3 Guidance for Auditors

- (i) Attention should to pay wage differentials of gender, age and skill. Men occupy most supervisory and skilled positions, while most of women workers are in production positions. Some skilled workers can even earn 1500 to 1900 Yuan monthly, while unskilled auxiliary workers (杂工), most of which are child, juvenile or older woman workers with lower market bargaining power, get merely 500 Yuan or less for even longer working time. The lowest paid auxiliary workers in garment factories, for example cleaners and plotters, are highly invisible in production and so their rights are neglected.
- (ii) In case of time rate payment, usually RMB500-600 is paid a month for 10-12 hours a day and 26 days a month. The OT compensation is paid according to the legal rate of 150%, 200% and 300% of the normal rate for OT work on weekday, weekend and statutory holidays. However enterprises would also require that production workers meet the production quota before workers get the basic wage. In some instances, deduction of the basic wage would be made if the quota is not met.
- (iii) Auditors should check the legal minimum wage level of different localities and make sure that basic wage delivered meets the legal minimum wage (in some instances, the basic wage meets the minimum wage but it is based on 10 hours a day and not 8 hours a day).
- (iv) Auditors should also check the number of working hours and OT hours as

well as whether there are unfair deductions linked to production quota when auditing time wages.

- (v) Piece rate wage is paid to stimulate productivity. The Ministry of Labour requires that piece rate payment should be in compliance with the legal minimum wage when converted to time rate. However, actual compliance is dependent on both the state and the buyers' monitoring. Auditors should check the unit price, the amount of production to make sure that the piece rate complies with the legal minimum wage and that should not include the OT compensation and other forms of bonuses and subsidies.
- (vi) Given that the wage structure of garment enterprises is the piece rate system meant to stimulate productivity, OT payment is usually not calculated as stated in the Labour Law (i.e. 150%, 200% and 300% of the normal rate for OT work on weekday, weekend and statutory holidays). Research information finds that the OT compensation paid in foreign invested or joint venture enterprises in Guangdong province range from RMB0.5-1 per hour⁹.
- (vii) To further stimulate productivity, enterprises would use various bonuses the most common of which are full attendance and productivity bonuses. Full attendance bonus, usually ranging about RMB30-60 a month, is paid to ensure that workers work full OT as required by the enterprises and do not take leave. Whereas the productivity bonus is given to control the speed of work and ensure that workers meet the daily production quota. The level of productivity bonus varies from 3% of the piece rate income to RMB100 a month.
- (viii) Night work subsidy may also be given, especially in enterprises that do not pay OT compensation. Night work subsidies range from RMB1-3 per night.
- (ix) Deductions are be made for food and lodging for migrant workers and that range from RMB80-120 per month for food and RMB50-80 per month for lodging. Some factories however provided free dormitory accommodation for production workers and an accommodation subsidy for skilled workers to live outside.
- (x) It should be checked whether the factory under audit has strict penalty practices. In some garment factories, workers are asked to pay fines for replenishing the threads, the sewing needles or other production tools. Workers may also be fined for being late for work and not working OT. These deduction practices should be checked against other deductions.

⁹ HKCIC garment sector research 2003.

3.3.6 No Excessive Working Hours

The FWF Labour Standard:

"Hours of work shall comply with applicable laws and industry standards. In any event, workers shall not on a regular basis be required to work in excess of 48 hours per week and shall be provided with at least one day off for every 7 day period. Overtime shall be voluntary, shall not exceed 12 hours per week, shall not be demanded on a regular basis and shall always be compensated at a premium rate." (ILO Convention 1)

3.3.6.1 Laws and Regulations

China has not ratified the ILO convention 1. Regarding working hours, three national legislations issued by the State Council should be taken into reference. There is no collective bargaining agreement with the trade union on working hours.

(1) Labour Law Chapter IV Working Hours, Rest and Vacations passed in the 8th State Council Standing Committee Meeting on 5th July 1995, effective from 1 January 1995.

(2) State Council Decision to Revise <State Council Regulation on the Working Hours of Employees> (State Council Order 174) passed in the 8th Meeting on 17 February 1995, effective from 1 May 1995)

(国务院关于修改<国务院关于职工工作时间的规定>的决定)

(3) <Approval Method on Enterprises Practicing Irregular Work System and Comprehensive Working Hours System> issued by the Ministry of Labour Order 503 issued in 1994

(劳动部《关于企业实行不定时工作制和综合计算工时工作制的审批办法》(劳部发〔1994〕503号)

The State Council Order has revised the number of working hours to 40hours per week:

State Council Order 174 Article 3 Employees work 8 hours a day and 40 hours a week.

Article 5 Those that due to the job nature or the restricted nature of production cannot practice 8- hour day and 40- hour week standard, can according to state regulations,

adopt other work and rest practices.

The legal interpretation in China on working hours therefore is that:

- (1) The national labour standard on working hours is 8-hours a day and 40-hours a week.
- (2) Enterprises that do not have the conditions to comply with that should guarantee that workers work not more than 8 hours a day and not more than 40 hours a week and should be entitled to at least one rest day per week.
- (3) Enterprises that have special situations can adopt the irregular work system and the comprehensive working hours system. But it should be in compliance with the **<Approval Method on Enterprises Practicing Irregular Work System and Comprehensive Working Hours System>** issued by the Ministry of Labour Order 503 issued in 1994.

About rest time, the Labour Law regulates at least one day off per week for all employees.

Labour Law Article 38 The employing unit shall guarantee that its staff and workers have at least one day off in a week.

Article 40 The employing unit shall arrange holidays for labourers in accordance with the law during the following festivals:

- The New Year's Day;
- The Spring Festival;
- The International Labour Day;
- The National Day; and
- Other holidays stipulated by laws, rules and regulations.

As for overtime work, the Labour Law regulates the number of overtime work to no more than 36 hours per month and that consultation with trade unions on extending working hours is required.

Article 41 The employing unit may extend working hours due to the requirements of its production or business after consultation with the trade union and labourers, but the extended working hour for a day shall generally not exceed one hour; if such extension is called for due to special reasons, the extended hours shall not exceed three hours a day under the condition that the health of labourers is guaranteed. However, the total extension in a month shall not exceed thirty six hours.

Under special circumstances, the Chinese government allows for flexible arrangement of working hours by granting approval for the Comprehensive Working Hours system to enterprises in need.

Labour Law Article 39 Where an enterprise cannot follow the stipulations in Article 36 and Article 38 of this Law due to its special production nature, it may adopt other rules on working hours and rest with the approval of the labour administrative department.

Based on the provisions on comprehensive working hours and irregular work, the Ministry of Labour may issue the following guidelines and interpretation documents.

- (1) **<Approval Method on Enterprises Practicing Irregular Work System and Comprehensive Working Hours System> Ministry of Labour Order 503 issued in 1994.** 《关于企业实行不定时工作制和综合计算工时工作制的审批办法》劳部发〔1994〕503号
- (2) **Opinions on Certain Problems about the Consistent Implementation of <Labour Law of the People's Republic of China> Ministry of Labour published on 4 August 1995**

<Approval Method on Enterprises Practicing Irregular Work System and Comprehensive Working Hours System> Ministry of Labour Order 503:

Article 5. The enterprises listed below can practice comprehensive working hours system to the employees by calculating the comprehensive working hours on the basis of week, month, quarter and year. But the average number of working hours per week and per month should be the same as the legal working hours standard.

- (1) Employees in the transport, railway, postal, water transport, fishing industries that have special needs due to the work nature;
- (2) Those employees in the geographical and natural resources extraction industry, the construction, salt making, sugar making and tourist industries whose work nature is restricted by natural conditions.
- (3) Employees in other industries that are applicable for comprehensive working hours.

Article 6. Enterprises that adopt the irregular work and comprehensive working hours system should follow Article 1 and 4 of the Labour Law. Based on the protection of the health of employees and comprehensive listening of the employees' opinions, the enterprise can take measures such as concentrated work and rest, shift vacation and

flexible work etc to ensure the rights of employees to rest and the completion of work and production.

Article 7 The approval procedure for enterprises adopting irregular work and comprehensive working hours is determined by the Labour Administrative Department at the provincial, autonomous region and municipality city level to be referenced with the Labour Administrative Department of the State Council.

Opinions on Certain Problems about the Consistent Implementation of <Labour Law of the People's Republic of China>

70. Enterprises that arrange work for employees on rest day should arrange for equivalent compensated day off. If compensated day off cannot be arranged, the enterprises should pay OT compensation to the employees according to Article 44.3 of the Labour Law. Enterprises that arrange work for employees on statutory holidays should pay OT compensation to the employees according to Article 44.3.

71. The extension of working hours should be determined by consultation. Enterprises due to production needs have to extend working hours, should consult with trade unions and the labourers. After that, the enterprises can extend the number of working hours within legal limits. Labourers have the right to refuse to work if the enterprise violates the law and forces the labourers to work extended hours. In case of labour dispute, the Labour Arbitration department can be approached for settlement.

For local regulations on working hours, check with the following local labour department and their websites:

- (1) Guangdong Provincial Labour and Social Security Department
<http://www.gd.lss.gov.cn/gb/molss/>
- (2) Zhejiang Provincial Labour and Social Security Department
<http://www.zj.lss.gov.cn/>
- (3) Hebei Provincial Labour and Social Security Department
<http://www.ld.hebnet.gov.cn/>

Chapter V of the **Labour Law** provides the national standard on overtime compensation. The other piece of regulation, ***Opinions on Certain Problems about the Consistent Implementation of <Labour Law of the People's Republic of China> Ministry of Labour, published on 4 August 1995*** gives further legal interpretation about overtime pay calculation.

- **Labour Law Article 44** The employing unit shall, according to the following standards, pay labourers remunerations higher than those for normal working hours under any of the following circumstances:
 1. to pay no less than 150 percent of the normal wages if the extension of working hours is arranged;
 2. to pay no less than 200 percent of the normal wages if the extended hours are arranged on days of rest and no deferred rest can be taken; and
 3. To pay no less than 300 percent of the normal wages if the extended hours are arranged on statutory holidays.
- **Labour Law Article 51** The employing unit shall pay wages according to law to labourers who observe statutory holidays, take leaves during the periods of marriage or funeral, or participate in social activities in accordance with the law.
- **Opinions on Certain Problems about the Consistent Implementation of <Labour Law of the People's Republic of China>**

62. Where employees practicing comprehensive working hours should work on the weekly rest day, it is considered as regular work. Where employees practicing comprehensive working hours should work on the statutory holiday, the enterprise should pay compensation according Article 44.3 of the Labour Law (i.e. OT compensation).

3.3.6.2 Compliance situation

The conditions on working hours in the garment industry vary between different types of capital and enterprise. Usually conditions in the foreign invested enterprises or joint ventures that supply to international buyers, especially buyers that have supplier code of conduct fare better. The size of OT related problems depends on the content of buyers' codes, the quality of their monitoring programs, but even more importantly on their buying practices with regard to negotiated lead times and supply of fabric and trimmings. Reference is taken here to analyses done on this issue¹⁰.

- (1) The number of working hours in the peak season in general is 10-14 hours per day which means 2 to 6 overtime hours a day. The labour law regulation on not more

¹⁰ The overview takes reference from a research done by the Hong Kong Christian Industrial Committee on 25 HK owned garment factories in Guangdong province in 2003.

than 3 OT hours a day and not more than 36 hours a week is usually violated. In more extreme cases the number of overtime hours exceeds 100 per month.

- (2) There is no weekly or even monthly rest day in the peak season which violates the labour law requirement of at least one day off per week.
- (3) In the low season ranges from less than 8 to 10 hours a day. When no order is placed in the low season, workers would be told to “take leave” and go back to their home provinces. Those that stay in the low season may have irregular work and since they are usually piece rate workers, they receive irregular income and do not have minimum wage protection.
- (4) For remuneration of garment workers in the foreign invested enterprise, refer to 3.3.5.2 on the compliance situation of wages in the garment enterprises.
- (5) Violations on wage and OT payment include:
 - (i) Factories not paying the legal OT rate which is 150%, 200% and 300% of the normal regular time rate. Piece rate workers may not have OT compensation or they have OT rate of RMB0.3 to 1 per OT hour. Some receive overnight rate of RMB3/night. Auditors should check the calculation method of OT payment of the enterprise and convert the piece rate payment to time rate payment to check the compliance with the legal minimum rate.
 - (ii) Factories use 10 instead of the legal basis of 8 hours as the regular number of working hours per day. Time rate workers therefore have 2 hours' under payment.
 - (iii) Factories may also pay other bonuses such as full attendance, production quota bonuses to add to the under-paid piece rate wage to make it over the minimum wage.

3.3.6.3 Guidance for Auditors

With regard to hours of work, falsification practices are frequently taken by the factory management before and during social audits. These include:

- (xi) Falsifying the time and pay records by not requiring workers to punch the clock machine during OT work.
- (xii) Coaching workers on hours and OT rate for auditors' interviews.
- (xiii) Auditors not necessarily getting access to the total daily production capacity of the factories have difficulty in assessing whether there is and how serious is the overtime work.
- (xiv) It must be noted that only approved documents provided by the provincial Labour Bureau are valid authorization for factories adopting comprehensive working hours under specified circumstances.

3.3.7 Health and Safety

The FWF Labour Standard:

A safe and hygienic working environment shall be provided, and best occupational health and safety practice shall be promoted, bearing in mind the prevailing knowledge of the industry and of any specific hazards. Appropriate attention shall be paid to occupational hazards specific to this branch of the industry and assure that a safe and hygienic work environment is provided for. Effective regulations shall be implemented to prevent accidents and minimize health risks as much as possible (following ILO Convention 155). "Physical abuse, threats of physical abuse, unusual punishments or discipline, sexual and other harassment, and intimidation by the employer is strictly prohibited."

3.3.7.1 Laws and Regulations

China has not ratified the ILO convention 155. The three major national laws regulating safety and health issues are:

Labour Law Chapter VI

Occupational Disease Prevention and Control Law (Passed by the Standing Committee of the National People's Congress on 27 October 2001)

Safe Production Law (Passed in the 28th Meeting of the 9th Standing Committee of the National People's Congress on 29 June 2002)

- Government Institutions

The institution under the central government that is responsible for industrial safety and health is the *Sate Administration of Work Safety*, a direct subsidiary unit under the State Council (<http://www.chinasafety.gov.cn>). The major duties of the SAWS are:

- 1) Coordinate ratification and control of specific issues related to safe production;
- 2) Monitoring and safety management of chemical and hazardous materials;
- 3) Organize and coordinate investigation on large scale incidents;
- 4) Organize monitoring of safe production on national level;
- 5) Monitoring and safe management of the operation of naval and oil extraction.
- 6) Monitoring the safe operation of fire work manufacturing;
- 7) Organize the certification of industrial safety engineers.

At provincial and municipal city level, the *Occupational Disease Prevention Hospitals*

are responsible for assessing and treating occupational diseases. The *National Poison Control Center* under the Occupational Health and Poison Control Office of the Control Disease Center of the Peoples Republic of China. The NPCC is responsible for the control and assessment of occupational health and industrial poisoning on the national level. The Labour Monitoring Office under the Provincial Ministry of Labour and Social Security is responsible for workplace inspection.

Provisions on the principles of safety and health, rights and obligations of enterprises, employees and government institutions, establishment of safety and health management system at the workplace are outlined in above three national laws. More detailed provisions on the procedures, standards, implementation and monitoring of specific as well as sectoral safety and health matters are given in other national and local regulations. Relevant government institutions and some useful websites should also be checked for reference. References to useful local sources are made below based on particular provisions in the FWF code on workplace safety and health.

- First Aid

The FWF standard provision

The factory places at least one well-stocked first aid kit on every factory floor and trains specific staff in basic first aid. The factory has procedures for dealing with serious injuries that require medical treatment outside the factory. A register of accidents is kept and available.

There is no equivalent provision in the Chinese Labour Law or relevant regulation on how first aid kit and equipment should be provided at the work place.

- Injuries and Accidents Reporting

The FWF standard provision:

The factory has procedures for dealing with serious injuries that require medical treatment outside the factory. A register of accidents is kept and available.

The following laws and regulations cover the above FWF provision.

Safe Production Law Article 17: The chief representative of the production unit has the following duties for safety and health for the production unit:

- 2) Establish and improve the safe production responsibility system at the production unit;
- 3) Organize and establish a safe production regulation and operation procedure at the production unit;
- 4) Guarantee effective implementation of safe production;

- 5) Monitor and inspect work on safe production at the production unit. Eliminate hazards leading to accidents relating to production;
- 6) Organize, establish and implement emergency aid plan relating to accidents at the production unit;
- 7) Report accidents related to safe production in time and in truth.

Regulation on the Reporting and Management of Industrial Accidents and Casualties of Employees (Passed by the State Council and effective from 1 May 1991)

The regulation details the procedure of reporting industrial accidents and managing casualties thus arisen at the work place. The regulation describes how industrial accidents should be reported and investigated at the work place as well as to related government institutions. Reference to this regulation is recommended when auditing and developing the safety and health management system at the work place.

● **Fire Safety**

The FWF standard provision:

Fire extinguishers are appropriate to the types of possible fires in the various areas of the factory, are regularly maintained and charged, display the date of their last inspection, and are mounted on walls and columns through-out the factory so they are visible and accessible to workers in all areas.

Fire alarms are mounted in the workshops and emergency lights are placed above exits and on stairwells as required by local law.

Evacuation drills are conducted as required by local law.

There is no national law or regulation specifying fire safety. Regulation and standards are provided by the local government and the following government institutions instead:

- i) Fire Prevention Association
- ii) Fire Safety Standards Committee under the Fire Prevention Association
- iii) Expert Committee under the Fire Prevention Association.

Information such as local regulations, general workplace and sectoral fire safety standard, fire equipment standard, evacuation procedures and fire exit standard, corporate fire safety management, emergency aid and rescue, monitoring and inspection of fire safety as well as case studies on past fire incidents etc can be

checked from the above institutions.

Some useful websites for such information inquiry are:

State Administration of Work Safety: <http://www.chinasafety.gov.cn>

China Safety Net: <http://www.safety.com.cn>

- Health Issues at the Workplace

The FWF standard provision:

There is sufficient light, fresh air and dust removal. Clean, sufficient and hygienic toilets are available. Fresh drinking water is available.

Passages, stairs and exits are free of dangers and obstructions. Doors and other exits are kept accessible and unlocked during working hours.

There is no special legal provision that states in general the organization of workplace in compliance with industrial safety. However for manufacturing and business units where hazardous materials are used, **Article 34 of Safe Production Law** has clear provision on workplace organization and evacuation exits.

- Machine Safety

The FWF standard provision:

Machines are well maintained and safe to use.

Safe Production Law Article 28: The manufacturing units should install clear warning signs at the business enterprises or on facilities that have higher safety risks.

Safe Production Law Article 29: The design, manufacturing, installation, operation, inspection, maintenance, re-designing and depreciation of safeguard facilities should comply with national or sectoral standards.

- Hazardous and Chemical Materials

The FWF standard provision:

The factory stores hazardous and combustible materials in secure and ventilated areas and disposes of them in safe and legal manner. Dangerous materials are equipped with clear instructions in the workers language. Workers working with hazardous chemicals and other dangerous materials must have the free disposition of adequate protective gear.

Safe Production Law Article 32: The government supervisory unit should comply with laws, regulations, national standards or sectoral standards in approving and

monitoring the manufacturing, selling, transportation, storage, use and disposal of hazardous materials. Enterprises that manufacture, sell, transport, store, use or dispose hazardous materials should comply with laws, regulations, national standards and sectoral standards in establishing a safety management system, taking reliable safety measures and subject to the monitoring of relevant governing units.

Safe Production Law Article 34: Workplaces, shops and warehouses of enterprises that produce, sell, store and use hazardous materials should not be housed in the same building of employee dormitories. Such facilities should be kept away safely from employee dormitories. The manufacturing or business units as well as the worker dormitories should have emergency evacuation exits. The exits should be kept clear and have clear signs. Lock up or obstruction of the exits is prohibited.

The following ordinances state the national standards on the safe management of chemicals.

Ordinance on the Safe Management of Hazardous Chemicals (Order 344, State Council of the Peoples Republic of China, 2002)

Ordinance on Workplace Labour Protection for Using Poisonous Materials (State Council, Peoples Republic of China 2002)

Ordinance on the Safe Usage of Chemicals at the Workplace

Ordinance on the Registration and Management of Hazardous Chemicals

Useful information about occupational poisoning and chemical safety ordinances can be located from the website of the National Poison Control Center <http://www.npcc.org.cn>. Legislation about chemical safety can be checked from the State Administration of Work Safety <http://www.chinasafety.gov.cn>

- Provision of Protective Equipment

The FWF standard provision

Appropriate personal protective equipment such as masks, gloves, goggles, ear plugs and rubber boots are available, at no cost, to all workers and instruction manuals are provided.

Safe Production Law Article 37: Manufacturing units should provide employees with labour protective equipments that meet national or sectoral standards. Manufacturing units should monitor and educate employees on the wearing and use of such protective equipment according to the instructions.

Safe Production Law Article 39: Manufacturing units should have budget for providing protective equipment and conducting safety training for employees.

- Ergonomics and Others

The FWF standard provision

The factory provides where ever possible sitting working positions and chairs with appropriate characteristics, according to local law. The working space per worker is in accordance with local law. During breaks a canteen is available with sufficient tables and chairs. If workers live in housing facilities provided by the company, these must comply with local standards.

There is no legal provision in China regarding ergonomical hazards and the above clause.

Workplace safety and health is not a matter of standards and engineering control only. The management of the production system and more importantly, the consciousness and participation of workers is also of high importance. The **Safe Production Law** of the PRC contains provisions that require a safety and health management system and worker participation at the workplace.

Safe Production Law

That enterprises have the responsibility to inform workers engaging in dangerous operation about the hazards and risks and instruct them about safety measures (**Article 36**).

That enterprises conduct safety and health risk assessment at the workplace (**Article 38**).

That enterprises participate in industrial injury insurance (**Article 43**).

That enterprises inform employees about the hazards and risks at work when signing the labour contracts (**Article 44**).

That workers have the right to be informed about safety and health risks and to give opinions (**Article 45**).

That workers have the right to criticize, prosecute and refuse to work should the enterprise violate safety and health regulations (**Article 46**).

That workers have the right to receive safety and health education and training (**Article 50**).

➤ **Legislation on Maternity Leave**

- **Labour Law Article 62** After childbirth, female workers shall be entitled to no less than ninety days of maternity leaves with pay.
- **Regulation on the Protection of the Rights of Women Article 26** All

employing unit should not fire or terminate labour contracts with female workers based on marriage, pregnancy, maternity leave and breast feeding.



➤ ***Regulation on the Labour Protection of Female Workers (promulgated in June 1998 and effective on 1 September 1998)***

- **Article 7** The employing unit should not arrange the pregnant female employee to perform work equivalent to the 3rd level of labour intensity under national regulation; or work that is prohibited for pregnant workers. Pregnant female workers should not work longer hours than regulated. For pregnant workers that are un-suitable to perform the original work, the employing unit should lessen the work load or arrange other work based on proof issued from the medical authority.

Female workers that are pregnant for 7 months and above should not be arranged to work night shift. Appropriate break time should be arranged during the work.

Time spent by pregnant workers for medical check up during working hours should be counted as working hours.

- **Article 8** Pregnant workers are entitled to 90-day maternity leave of which 15 days should be given prior delivery. Female workers having difficulties in delivery should be given an extra of 15 days for leave. For those that give birth to twins are entitled to an extra of 15-day leave per child.

Female workers that have miscarriage should be entitled to maternity leave based on proof from the local medical authorities.

- **Labour contract Law** provides workers rights to refuse perform dangerous operations:

Labour Contract Law Article 32. Workers shall not be held in breach of their employment contracts if they refuse to perform dangerous operations that are instructed in violation of regulations or peremptorily ordered by management staff of the Employer. Workers have the right to criticize, report to the authorities or lodge accusations against their Employers in respect of working conditions that endanger their lives or health.

Labour Contract Law Article 42. An Employer may not terminate an employment contract pursuant to Article 40 or Article 41 hereof if the worker:

- (1) is engaged in operations exposing him to occupational disease hazards and has not undergone a pre-departure occupational health check-up, or is suspected of having contracted an occupational disease and is being diagnosed or under medical observation;
- (2) Has been confirmed as having lost or partially lost his capacity to work due to an occupational disease contracted or a work-related injury sustained with the Employer;
- (3) Has contracted an illness or sustained a non-work-related injury, and the set period of medical care therefore has not expired;
- (4) Is a female employee in her pregnancy, confinement or nursing period?
- (5) Has been working for the Employer continuously for not less than 15 years and is less than 5 years away from his legal retirement age;
- (6) Finds himself in other circumstances stipulated in laws or administrative statutes.

3.3.7.2 Compliance situation

Safety and health engineering control measures are not fully in place in garment factories. For instance:

- Basic fire safety provision may be provided and fire drills are organized. But the degree of meeting national standard varies depending on the intensity of government or external monitoring.
- Sewing machines usually do not have safeguards. Finger cuts are common.
- Higher risk departments are the cutting and ironing department. Protective equipment against cut and ergonomic hazards may not be adequately protected.
- Ergonomic problems such as back pain, shoulder pain, skin allergy and other occupational diseases are common for sewing workers. However ergonomics related problems are not yet officially categorized as occupational diseases in China.

The garment industry being a highly labour intensive industry, vulnerable to quick product turnover and quick delivery, long working hours is constantly a problem and that is also the cause for industrial injury. However, factory management would rather rely on engineering measures rather than changing the planning and management of production to control industrial injuries. The relation between the management system of production, personnel management and labour control measures with industrial health and safety in the garment industry can be illustrated in the following.

- Garment factories in China have long working hours from 10-14 or even 16 hours in some factories in the peak season. Fatigue in relation to long working hours is the most common health problem in the garment industry in China.

- The piece rate and production quota system push workers to sew quickly and that is also a source for industrial injuries.
- Workers may leave their workplace for toilet or drinking water with replacement. However garment factories usually do not grant sick leave to workers especially in the peak season.
- Garment factories usually have injury records. However non-reporting and misreporting is common too.
- Garment factories, except large scale ones, usually do not have a department or special staff administering safety and health at the workplace. Workers are excluded from participating and getting access to the safety and health administration of the management.
- The safety and health hazards related to garment manufacturing are usually not communicated to the employees nor stated clearly in the labour contracts.
- Employees usually do not receive safety and health education and training.
- Employees usually do not receive body check up before and during employment.
- Garment factories have varying levels of social security participation. Usually only part of the workforce is covered with industrial injury insurance. Industrially injured workers may not be able to get full compensation as stated in law. The employers usually just pay the medical expenses, food and in some cases, the basic salary during medication. This is also largely due to low level of legal consciousness of workers.
- Regarding personal protective equipment, garment workers in general do not receive personal protective equipment such as finger hats, masks etc. Protective equipment safeguarding chemical poisoning in some departments is usually not provided.

According to a survey in 2006 in the PRD by China Labour Research team, an independent research body in Hong Kong, among 277 female informants, more than half worked in an environment with detriment of dust (74.4%), noise (62.5%) and working pressure (50.5%). Moreover, 34.3% suffered from eye fatigue, 33.9% suffered from muscular strain caused by the repeat of motions and 27.8% worked in too high or low temperature. Most of the factories do not have sufficient preventative measures to prevent the potential disaster or occupational diseases.

The majority of the workforce in Guangdong province in the export-oriented manufacturing sector is female, usually migrants workers. The same survey showed that women workers are not entitled to maternity, breast-feeding leave according to law. Pregnant women's overtime working patterns are usually the same with other

workers, and their works include contacting poisonous materials even during pregnancy and lactation. Many female workers experienced menstruation abnormality, and anemia. In addition to workers' legal rights not being realized, an effective grievance channel was also totally absent for the protection of their rights and interests. For instance, many pregnant women said that it was impossible for them to discuss their maternity protection with the management. It is very common that the pregnant workers collected wage and then resigned after being pregnant. Individual adoptions, of which quitting is overwhelming, seem to be the only possible ways out to cope with the discrimination.

3.3.8 Legally Binding Employment Relationship

The FWF Labour Standard:

"Working relationships shall be legally binding, and all obligations to employees under labour or social security laws and regulations shall be respected."

3.3.8.1 Laws and Regulation on Legally Binding Contracts

In China all employers are legally required by the Labour Law to sign individual or collective contracts with the employees. Labour Law Article 2: This Law applies to all enterprises and individual economic organizations (hereinafter referred to as employing units) within the boundary of the Peoples Republic of China and labourers who form a labour relationship therewith State organs, institutional organizations and societies as well as labourers who form a labour contract relationship therewith shall follow this Law.

It should be noted here that the Labour Law recognizes both labour relationships that are bound by a labour contract as well as actual labour relationship that is not bound by a labour contract. This is explained further in Opinions on Certain Problems about the Consistent Implementation of the Labour Law of the Peoples Republic of China. Application: 2. Once a labour relationship is established between enterprises or individual economic organizations with labourers, i.e. labourers have become in actual terms members of the enterprises or individual economic organizations and are providing paid labour service to the enterprises or economic organizations, the Labour Law is applicable.

- Chapter Three of the **Labour Law** is about labour contracts. Some provisions are

highlighted as follows:

- **Labour Law Article 16** A labour contract is the agreement reached between a laborer and an employing unit for the establishment of the labour relationship and the definition of the rights, interests and obligations of each party. A labour contract shall be concluded where a labour relationship is to be established.

- **Labour Law Article 17** Conclusion and modification of a labour contract shall follow the principles of equality, voluntariness and unanimity through consultation, and shall not run counter to the stipulations of laws, administrative rules and regulations.

A labour contract once concluded in accordance with the law shall possess legal binding force. The parties involved must fulfill the obligations as stipulated in the labour contract.

- **Trade Union Law Article 20** also states the role of the trade unions in consulting the enterprises and the workers in signing collective contracts.

➤ The Signing of Labour Contracts

- **Chapter Three of the Labour Law** : Labour contracts “shall follow the principles of equality, voluntariness and unanimity through consultation” (Article 17). A labour contract is invalid under the following circumstances: (I) labour contracts concluded in violation of laws, administrative rules and regulations; and (ii) labour contracts concluded by resorting to such measures as cheating and intimidation (Article 18).

- A Labour Contract should contain the following:

- (i) terms of a labour contract;
- (ii) contents of work;
- (iii) labour protection and working conditions
- (iv) labour remuneration;
- (v) labour discipline;
- (vi) conditions for the termination of a labour contract; and
- (vii) responsibility for the violation of a labour contract.

Apart from the required clauses specified in the preceding paragraph, other contents in a labour contract may be agreed upon through consultation by the parties involved. (Article 19)

- **Labour Contract Law Article 17.** An employment contract shall specify the following matters:

- (1) the name, domicile and legal representative or main person in charge of the Employer;

- (2) the name, domicile and number of the resident ID card or other valid identity document of the worker;
- (3) the term of the employment contract;
- (4) the job description and the place of work;
- (5) working hours, rest and leave;
- (6) labor compensation;
- (7) social insurance;
- (8) labor protection, working conditions and protection against occupational hazards; and
- (9) other matters which laws and statutes require to be included in employment contracts.

In addition to the requisite terms mentioned above, an Employer and a worker may agree to stipulate other matters in the employment contract, such as probation period, training, confidentiality, supplementary insurance and benefits, etc.

- **Labour Contract Law Article 10.** To establish an employment relationship, a written employment contract shall be concluded. In the event that no written employment contract was concluded at the time of establishment of an employment relationship, a written employment contract shall be concluded within one month after the date on which the Employer starts using the worker.
- **Labour Contract Law Article 11.** In the event that an Employer fails to conclude a written employment contract with a worker at the time its starts to use him, and it is not clear what labor compensation was agreed upon with the worker, the labor compensation of the new worker shall be decided pursuant to the rate specified in the collective contract; where there is no collective contract or the collective contract is silent on the matter, equal pay shall be given for equal work.
- **Labour Contract Law Article 18.** If a dispute arises due to the fact that the rate or standards for labor compensation or working conditions, etc. are not explicitly specified in the employment contract, the Employer and the worker may renegotiate. If the negotiations are unsuccessful, the provisions of the collective contract shall apply. If there is no collective contract or the collective contract is silent on the issue of labor compensation, equal pay shall be given for equal work; if there is no collective contract or the collective contract is silent on the issue of working conditions, the relevant regulations of the state shall apply.
- **Labour Contract Law Article 26.** An employment contract shall be invalid or partially invalid if:

(1) a party uses such means as deception or coercion, or takes advantage of the other party's difficulties, to cause the other party to conclude an employment contract, or to make an amendment thereto, that is contrary to that party's true intent;

(2) the Employer disclaims its legal liability or denies the worker his rights; or

(3) mandatory provisions of laws or administrative statutes are violated.

If the invalidity or partial invalidity of the employment contract is disputed, it shall be confirmed by a labor dispute arbitration institution or a People's Court.

- **Labour Contract Law Article 28.** If an employment contract is confirmed as invalid and the worker has already performed labor, the Employer shall pay the worker labor compensation. The amount of labor compensation shall be determined with reference to the labor compensation of workers in the same or a similar position with the Employer.

➤ Termination of Labour Contracts

Article 14. An "open-ended employment contract" is an employment contract for which the Employer and the worker have agreed not to stipulate a definite ending date. An Employer and a worker may conclude an open-ended employment contract upon reaching a negotiated consensus. If a worker proposes or agrees to renew his employment contract or to conclude an employment contract in any of the following circumstances, an open-ended employment contract shall be concluded, unless the worker requests the conclusion of a fixed-term employment contract:

(1) the worker has been working for the Employer for a consecutive period of not less than 10 years;

(2) when his Employer introduces the employment contract system or the state owned enterprise that employs him re-concludes its employment contracts as a result of restructuring, the worker has been working for the Employer for a consecutive period of not less than 10 years and is less than 10 years away from his legal retirement age; or

(3) prior to the renewal, a fixed-term employment contract was concluded on two consecutive occasions and the worker is not characterized by any of the circumstances set forth in Article 39 and items (1) and (2) of Article 40 hereof.

If an Employer fails to conclude a written employment contract with a worker within one year from the date on which it starts using the worker, the Employer and the worker shall be deemed to have concluded an open-ended employment contract.

- **Labour Law Article 23** A labour contract shall terminate upon the expiration of its term or the emergence of the conditions for the termination of the labour contract as agreed upon by the parties involved.
- **Labour Law Article 24** A labour contract may be revoked upon agreement reached between the parties involved through consultation.
- **Labour Law Article 25** The employing unit may revoke the labour contract with a laborer in any of the following circumstances:
 - to be proved not up to the requirements for recruitment during the probation period;
 - to seriously violate labour disciplines or the rules and regulations of the employing units;
 - to cause great losses to the employing unit due to serious dereliction of duty or engagement in malpractice for selfish ends; and
 - to be investigated for criminal responsibilities in accordance with the law.
- **Labour Law Article 26** In any of the following circumstances, the employing unit may revoke a labour contract but a written notification shall be given to the laborer 30 days in advance:
 - where a laborer is unable to take up his original work or any new work arranged by the employing unit after the completion of his medical treatment for illness or injury not suffered at work;
 - where a laborer is unqualified for his work and remains unqualified even after receiving a training or an adjustment to an other work post; and
 - no agreement on modification of the labour contract can be reached through consultation by the parties involved when the objective conditions taken as the basis for the conclusion of the contract have greatly changed so that the original labour contract can no longer be carried out.
- **Labour Law Article 27** During the period of statutory consolidation when the employing unit comes to the brink of bankruptcy or runs deep into difficulties in production and management, and if reduction of its personnel becomes really necessary, the unit may make such reduction after it has explained the situation to the trade union or all of its staff and workers 30 days in advance, solicited opinions from them and reported to the labour administrative department.
Where the employing unit is to recruit personnel six months after the personnel reduction effected according to the stipulations of this Article, the reduced personnel shall have the priority to be re-employed.

- **Labour Law Article 28** The employing unit shall make economic compensations in accordance with the relevant provisions of the State if it revokes its labour contracts according to the stipulations in Article 24, Article 26, and Article 27 of this Law.
- **Labour Law Article 29** The employing unit shall not revoke its labour contract with a laborer in accordance with the stipulations in Article 26 and Article 27 of this Law in any of the following circumstances:
 - to be confirmed to have totally or partially lost the ability to work due to occupational diseases or injuries suffered at work;
 - to be receiving medical treatment for diseases or injuries within the prescribed period of time;
 - to be a female staff member or worker during pregnant, puerperal, or breast-feeding period; or
 - other circumstances stipulated by laws, administrative rules and regulations.

Labour Law Article 30 The trade union of an employing unit shall have the right to air its opinions if it regards as inappropriate the revocation of a labour contract by the unit. If the employing unit violates laws, rules and regulations or labour contracts, the trade union shall have the right to request for reconsideration. Where the laborer applies for arbitration or brings in a lawsuit, the trade union shall render him support and assistance in accordance with the law.

Article 46. In any of the following circumstances, the Employer shall pay the worker severance pay:

- (1) the employment contract is terminated by the worker pursuant to Article 38 hereof;
- (2) the employment contract is terminated after such termination was proposed to the worker by the Employer pursuant to Article 36 hereof and the parties reached agreement thereon after consultations;
- (3) the employment contract is terminated by the Employer pursuant to Article 40 hereof;
- (4) the employment contract is terminated by the Employer pursuant to the first paragraph of Article 41 hereof;
- (5) the employment contract is a fixed-term contract that ends pursuant to item (1) of Article 44 hereof, unless the worker does not agree to renew the contract even though the conditions offered by the Employer are the same as or better than those stipulated in the current contract;

- (6) the employment contract ends pursuant to item (4) or (5) of Article 44 hereof;
- (7) other circumstances specified in laws or administrative statutes.

Article 47. A worker shall be paid severance pay based on the number of years worked with the Employer at the rate of one month's wage for each full year worked. Any period of not less than six months but less than one year shall be counted as one year. The severance pay payable to a worker for any period of less than six months shall be one-half of his monthly wage.

If the monthly wage of a worker is greater than three times the average monthly wage of employees in the Employer's area as published by the People's Government at the level of municipality directly under the central government or municipality divided into districts of the area where the Employer is located, the rate for the severance pay paid to him/her shall be three times the average monthly wage of employees and shall be for not more than 12 years of work.

- Probation, placed and short-termed Workers
- **Labour Law Article 21** provides that the probation period may be agreed upon in a labour contract not exceeding six months. The law does not allow for differential treatment for probation workers.
- **Labour Contract Law Article 20.** The wages of a worker on probation may not be less than the lowest wage level for the same job with the Employer or less than 80 percent of the wage agreed upon in the employment contract, and may not be less than the minimum wage rate in the place where the Employer is located.
- **Labour Contract Law Article 63:** Placed workers shall have the right to receive the same pay as that received by workers of the Accepting Unit for the same work. If an Accepting Unit has no worker in the same position, the labor compensation shall be determined with reference to the labor compensation paid in the place where the Accepting Unit is located to workers in the same or a similar position.
- **Labour Contract Law Article 82** If an Employer concludes a written employment contract with a worker more than one month but less than one year after the date on which it started using him, it shall each month pay to the worker twice his wage.

Chapter IX Labour Law is about social security and insurance. The article stipulates five types of social insurance provisions for employees.

Labor Law Article 73 Labourers shall, in accordance with the law, enjoy social insurance benefits under the following circumstances:

- (1) retirement;
- (2) illness or injury;
- (3) disability caused by work-related injury or occupational disease;
unemployment; and
- (4) child-bearing.

The survivors of the insured labourers shall be entitled to subsidies for survivors in accordance with the law. The conditions and standards for labourers to enjoy social insurance benefits shall be stipulated by laws, rules and regulations. The social insurance amount that labourers are entitled to must be timely paid in full.

Labour Contract Law Article 49. The state will take measures to establish a comprehensive system that enables workers' social insurance accounts to be transferred from one region to another and to be continued in such other region.

Labour Contract Law Article 50. At the time of termination or ending of an employment contract, the Employer shall issue a proof of termination or ending of the employment contract and, within 15 days, carry out the procedures for the transfer of the worker's file and social insurance account.

Provisions regulating the collection and payment of social security fees are written in the **Temporary Implementation Ordinance on the Collection of Social Security Fees** (approved in the 13th Meeting of the Standing Committee of the State Council on 14 January 1999, effective on 22 January 1999):

- **Article 2:** This ordinance applies to the collection, payment and receiving of basic old age insurance, basic medical insurance, unemployment insurance (known as social security fees below).
- **Article 3:** The collection of basic old age insurance covers: state owned enterprises, collective enterprises at town and city level, foreign invested enterprises, private enterprises at town and city level, enterprises and the employees at other towns and cities, institutions that have entrepreneurial management and the employees.

The collection of basic medical insurance covers: state owned enterprises, collective enterprises at town and city level, foreign invested enterprises, private enterprises at town and city level, enterprises and the employees at other towns and cities, institutions that have entrepreneurial management and the employees, civil non-enterprise institutions and the employees, social organizations and the employees.

The collection of unemployment insurance covers: state owned enterprises, collective enterprises at town and city level, foreign invested enterprises, private enterprises at town and city level, enterprises in other towns and cities and their employees.

The provincial, autonomous regions and municipal city government base on local situation may include individual industrial and business units at town and city level for collecting basic old age insurance and basic medical insurance. Social organizations and the full time staff, civil non-enterprise institutions and the employees, as well as the individual industrial and business units and their employees may also be include for collecting unemployment insurance.

The fee base and rate for collecting social security insurances are determined according to law and the administrative regulations and the regulations of the State Council.

- **Article 4:** The paying unit and paying individual should pay the social security fees in full and on time. The social security fees are collected into the Social Security Fund to be used in specific areas. No unit or individual should misuse the fund.
- **Article 2:** This ordinance is applicable for the collection and payment of basic old age insurance fee, basic medical insurance fee and unemployment insurance fee (termed as social security fees below).
- **Article 5:** The Labour Protection Administrative Department under the State Council is responsible for the collection, management and monitoring of social security fees on the national level. The Labour Protection Administration Departments of county or above level are responsible for the collection, management and monitoring of social security fees within the mandated areas.
- **Article 12:** The employing unit and individual should pay social security fees in full currency. The employing unit, on behalf of the employees, should check off the employee's part of social security fees from the remuneration. Social security fees must not be waived.
- **Article 17:** The paying unit should disclose to the employees annually about the collection of social security fees and subject to the monitoring of the employees. The social security departments should regularly report about the collection of social security fees and subject to public monitoring.

(1) Old Age Insurance

Old age insurance one of the 5 main types of social securities mandated by national legislation. All employing units and employees should participate in old age insurance. The Ministry of Labour and Social Security is the government organ that administers the old age insurance on the national level.

Old age insurance is composed of three parts. (1) The central fund administered by the state. (2) Contribution from the employing unit which can be wholly paid by the employing unit or shared by the employing unit and the employees based on a proportion mutually agreed after consultation. (3) Personal saving of the employee the amount and method of collection of which is decided by the local administrative department of the Ministry of Labour and Social Security. The personal saving for the old age insurance should be put into a personal old age insurance account of the employee opened in banks as specified by the local social security ministry.

Upon reaching the retirement age, employees may draw the old age insurance in one off or by months. The personal old age insurance account would be transferred in correspondence with the job change and mobility of the employee.

The national regulations governing old age insurance are:

1. State Council Decisions Regarding the Reform of the Old Age Insurance System for Employees, <http://www.molss.gov.cn> (passed by the State Council in 1991);
2. State Council Decisions Regarding the Establishment of a Unified Old Age Insurance System for Employees, <http://www.molss.gov.cn> (passed by the State Council in 1997).

(2) Unemployment Insurance

Employees that have participated in the unemployment insurance scheme are entitled to enjoy unemployment insurance when unemployed.

The unemployment insurance is composed of four parts. (1) Contribution by the employing unit which is equivalent to 2% of the total monthly wage of the whole workforce. (2) Contribution by the employee which is equivalent to 1% of the personal monthly wage. (3) Government subsidy. (4) Interests of the unemployment insurance fund.

Individuals participating in the scheme are entitled to receiving monthly unemployment insurance and other subsidies such as medical, vocational training etc. The amount of unemployment insurance received is determined by the provincial government and it should be lower than the minimum wage and higher than the minimum living standard of the local town and city. Employees that have served in the previous employing unit between 1-5 years are entitled to receive unemployment insurance for not more than 12 months. Those that have served between 5-10 years

in the previous employment can receive unemployment insurance for not more than 18 months and not more than 24 months for those that have served for 10 years and above in the previous employment.

The national regulation government the unemployment insurance is the ***Unemployment Insurance Ordinance***, passed by the State Council in 1999. Local regulations should also be checked. Reference regulations are:

Guangdong Province Unemployment Insurance Ordinance, passed in 2002; ***Zhejiang Province Unemployment Insurance Ordinance***, passed in 2003; and ***Hebei Province Implementation Method of Unemployment Insurance***, passed in 2001.

(3) Industrial Injury Insurance

There are national legislations as well as local legislations providing industrial injury protection to workers. They include:

- ***Labour Law of the PRC***. Labour Law Article 73 states that labourers are entitled to social security provisions including when labourers are industrially injured or have acquired occupational diseases.
- ***Implementation Methods for Industrial Injury Insurance for Employees***, passed by the Ministry of Labour in 1996.
- ***Industrial Injury Ordinance***, passed by the State Council on 27 April 2003 and effective from 1 January 2004. Provision of industrial injury insurance should be based on this ordinance.

Local regulations include the ***Guangdong Province Industrial Injury Insurance Ordinance***; ***Zhejiang Province Government Notice on Related Matters Regarding the Consistent Implementation of Industrial Injury Insurance Ordinance***; ***Hebei Province Government Notice on the Related Matters Regarding the Consistent Implementation of Industrial Injury Insurance Ordinance***.

On the Applicability of the Industrial Injury Insurance Ordinance

Industrial Injury Insurance Ordinance Article 2: All enterprises and individual industrial or business organizations within the territory of the Peoples Republic of China (known as employing unit below) should participate in industrial injury insurance and pay insurance fees for all the employees according to this ordinance. All the employees employed in all enterprises within the territory of the Peoples Republic of China are entitled to enjoy the right to industrial injury insurance

according to this ordinance. The specific procedures and implementation methods for employing units to participate in industrial injury insurance are determined by the government at the provincial, autonomous region and municipality city level.

Industrial Injury Insurance Ordinance Article 3: Payment of industrial injury insurance is based on the regulations regarding the payment of basic social security insurance, basic medical insurance and unemployment insurance as stated in the ***Temporary Implementation Ordinance on the Collection of Social Security Fees***

Governing Body on Industrial Injury Insurance

Industrial Injury Insurance Ordinance Article 5: The labour administrative department under the State Council is responsible for industrial injury insurance on the national level. The labour administrative department of the local government at the provincial level or above is responsible for industrial injury insurance within the mandate region. The social security executive institutions set up by the Ministry of Labour and Social Security under the regulations of the State Council (known as executive institutions) are responsible for the actual implementation of matters related to industrial injury insurance.

Industrial Injury Insurance Ordinance Article 16: The Labour Administrative Departments should consult the opinions of trade unions and employing units in forming policies and establishing standards regarding industrial injury insurance.

The Rights and Obligations of the Employing Unit and Employees

Industrial Injury Insurance Article 4: The employing unit should post updates about its participation of industrial injury insurance within the enterprise. Employing units and employees should comply with the laws and regulations on safety production and prevention of occupational diseases, implement the safety rules and standards, prevent the occurrence of industrial injury incidents as well as avoid and minimize hazards of occupational diseases. In case of industrial injury, the employing unit should take appropriate measures to give immediate rescue and treatment to the injured employees.

The Composition and Collection of Industrial Injury Insurance

Industrial Injury Insurance Ordinance Article 7 states that the industrial injury insurance is composed of the payment from the employing units, the interests of the industrial injury insurance fund and other legal contributions to the fund.

Industrial Injury Insurance Ordinance Article 8 states that the government sets

different rates according to the usage level and the frequency of industrial accidents in different sectors. The executive institutions then set the rates for the employing unit based on the sectoral rate as well as the usage level and the frequency of industrial accidents of the employing unit.

Industrial Injury Insurance Ordinance Article 10 states that the calculation of the industrial insurance fee paid by the employing unit.

Assessment of Industrial Injury

Industrial Injury Insurance Ordinance Chapter Three is about the legal definition and the legal procedures of assessing industrial injury.

Industrial Injury Insurance Ordinance Article 14 and 15 specify the following circumstances as constituting industrial injury:

- (1) Injury incidents that take place at the workplace during working hours.
- (2) Injury incidents associated with the preparation and finishing work related to ones job which takes place at the workplace before or after the working hours.
- (3) Injury caused by violence due to the execution of ones job duty at the workplace during the working hours.
- (4) Acquisition of occupational diseases.
- (5) Employees that are injured or lost due to work related reasons when undertaking external assignment.
- (6) Injury in traffic accidents on the way to and away from work.
- (7) Other injuries assessed as industrial injury according to laws and administrative regulations.

Industrial Injury Insurance Ordinance Article 15 also states that circumstances in which employees die at the workplace during working hours are also considered as industrial injury.

Procedures for Assessing Occupational Diseases:

Industrial Injury Insurance Ordinance

The employing unit, the employees as well as relatives of the employees have the right to apply for assessment of occupational diseases with the local labour administrative department (**Article 17**). Documents needed for applying industrial injury status are listed in **Article 18**. The labour administrative department will verify the documents and investigate the case upon receiving the application. In case of occupational diseases, diagnosis certificates should be applied and issued by the legally recognized institutions (**Article 19**). The employing unit has the responsibility to provide evidence in case the employing

unit disputes with the employee or the relatives of the employee about the industrial injury case.



(4) Medical Insurance and Maternity Insurance

The Labour Law states that labourers in China have the right to enjoy medical insurance and maternity insurances. However the national and local legislation for the implementation of medical and maternity insurance system has not been formulated. There is no state implementation of these two insurances. Medical and maternity provisions may be found in some state owned enterprises. Whereas individual private enterprises may have company based medical and maternity insurances for their employees.

3.3.8.2 Compliance Situation

3.3 Labour Conflict and Labour Contract Law

Following unprecedented consultation and debate, a new Labour Contract Law took effect from 1st January 2008 within a context of rising pattern of labour conflicts¹¹. There are no public figures on strikes available, but the nationwide number of cases dealt by labour dispute arbitration rose from 135,000 in 2000 to 314,000 in 2005, an annual average increase of 18.4 percent (Labor Statistical Yearbook, 2006).

The new law is envisaged to enhance job security of workers by stipulating that open-ended contracts for employment are required for those workers who have completed two fixed term contracts or with more than 10 years of service in a firm or whose employers failed to provide a contract within one year. Moreover, employers are obliged to pay workers a severance payment which is equal to one month's salary for every year's service.

The new law also provides a better protection of workers' rights by the following grounds:

- 1) A copy of valid written labor contract must be signed to be offered by the employer in advance of any employment relationship commencing. In case of a

¹¹ (The English version of the Labour Contract Law is referenced to an unofficial Translation Prepared by Baker & Mc. Kenzie, available from: [http:// www.bot.or.th/fipcs/Documents/FPG/2546/EngPDF/25461347.pdf](http://www.bot.or.th/fipcs/Documents/FPG/2546/EngPDF/25461347.pdf); the part of analysis is referenced to an article by Parry Leung from Hong Kong University of Science and Technology (Managing Labor Relations in China: the Labor Contract Law Legislation) and Chris Chan's fieldwork in January 2008)

legal contract is not properly provided, workers can assume such a relationship has been existed. See Article 10; 11; 18; 26; 28;

- 2) The law requires employers to contribute to their employees' social security accounts and set standards for workers on probation, placement or short service term. It also states that the government would establish mechanism to facilitate the cross-regional transfer of social insurance fund. See Article 20; 49; 50; 63; 82.
- 3) The consequences of violating the new law are specified. The law states that officials will face administrative penalties or criminal prosecution for abusing their authority or neglecting their responsibilities that result in serious harm to the interests of workers. See Articles: 80, 85, 87, 88, and 92.
- 4) The law more specifically rules out some common abuse to restrain the workers' right to move and management strategies to prevent labour compensation. See Articles 9; 33; 34; 84.

In the consultation period, some foreign business groups argued that the new law was a return to the “iron rice bowl” of guaranteed jobs. Professor Chang Kai in Ren Min University who participated the draft of the law, dismissed this view. He conceded that law may increase the cost of employment, but employer can always terminate a labor contract according to the law or contract requirements. Also, mass lay off is still allowed in case of need. On the other hand, the law was criticized by the international labour movement as within the old strategy of “denying collective rights, but improves stipulations on individual rights for labour conditions”. The right of strike is not mentioned and freedom of association is not addressed in the new law, although the ACFTU's representative power is strengthened in the new law. (The law stipulates the rights and responsibility of the official trade union by Article 4; 6; 41; 43; 51; 56; 78.)

Although the state's purpose of having new labor legislations is to divert the surging labour conflicts to established legal channels, workplace conflicts around the new Labour Contract Law intensified. In order to postpone the time for signing open-ended employment contracts, many companies have been terminating existing contracts and asking employees to resign ahead of the introduction of the law. For example, the Guangdong-based Huawei Technologies Company, China's telecom network equipment giant, had initiated a plan calling for its staff who had worked for eight

consecutive years to hand in “voluntary resignations”. Moreover, in order to prevent the protection of the law over the existing workers, cases of contract termination without renewal arose throughout the country. The management strategy gave rise to a round of workers’ strikes and protests. To preempt the factory from ending contract without compensation, some of the workers quitted from the factory before the end of their contract by a legal excuse of ‘forced resignation’ due to illegal behavior of the employer. For the ordinary production workers, the common factory problems relate to the overtime hours which is usually far beyond the legal limit of 36 hours per month. But for the skilled and supervisory staff, although their basic salary is well more than the minimum wage, their overtime pay is usually only based on the minimum wage. In December 2006 the Supreme Court issued a judicial explanation that restricted backdated overtime wage claims to two years. The explanation had encouraged many workers to claim ‘forced resignation’ on the grounds of unpaid overtime in order to claim the two years of underpaid overtime wages. It further encouraged wave of skilled workers to take legal actions against the factory in the face of the factory’s strategy of terminating contract without compensation. Workers’ legal activism exerted big challenge for the management.

Other than the Labour Contract Law, two more labor laws were legislated during 2007. They are the Employment Promotion Law and the Law on Labor Dispute Mediation and Arbitration. The latter law simplifies labor arbitrary procedures and banned the arbitration case administration fees so that more dispute legal cases are expected after its formal implementation from May 2008. Like the Labour Contract Law, these new laws also aim to divert workers’ discontents to established legal channels. However, to what extent the government’s strategy of constraining worker’s unrest can be successful is still to be observed.

Compliance with provision of labour contracts varies in implementation in the garment sector. Legal enforcement by the state and the buyers, the level of consciousness of workers, as well as the degree of voluntary compliance on the part of the garment enterprises are determining factors. In the export-oriented, joint venture or foreign invested garment enterprises in Guangdong province for instance, strict monitoring on the part of the international buyers play an important role in improving the compliance situation. Taking reference with the joint venture garment enterprises in Guangdong province, the following situation is generally found.

- (i) New employees are required to sign contract, usually of one year, with the

- enterprises.
- (ii) The terms and conditions of the labour contracts are based with the local regulations.
 - (iii) Copies of the labour contracts are usually kept with the personnel department of the enterprises for inspection from the local labour ministry and the buyers. The workers may not be given the copies of the labour contracts.
 - (iv) The major problems with signing labour contracts as reflected from workers in general are:
 - New employees usually sign contracts without necessarily understanding the terms and conditions, as well as the legal rights and obligations of the employers and the employees.
 - Without keeping copies of the labour contracts, it becomes difficult for workers to use legal means to protect their rights in case of labour disputes. Workers that have more legal awareness keep their factory identification and wage records for self-protection. However legal recognition of "actual labour relation" in China provides advantage for workers in case of legal disputes.
 - Some migrant workers may borrow other persons' identification in applying for jobs and contract signing. That may create problems in case of labour arbitration.
 - The actual working conditions may not necessarily comply with the terms and conditions stated in the labour contracts.
 - Legal rights consciousness is a deeper question. Workers not having enough legal consciousness do not have confidence with labour contracts as a means to safeguard their rights.

The level of compliance regarding legal insurances in the garment sector varies. Since the promulgation of the laws on old age and industrial injury insurances, most of the foreign invested and joint venture garment enterprises are requested by the local Ministry of Labour and Social Security to pay the insurances. However the following situation would take place:

- (i) Enterprises not reporting the true number of employees to the local ministry so as to lower the level of insurance payment.
- (ii) The local authority would set a certain minimum coverage level for payment of old age and industrial injury insurance. The factories usually would pay the minimum.
- (iii) For old age insurance, the factories usually have all the non-production workers and only part of the production workers insured. Production workers may be

randomly selected or selected by seniority for coverage. Some factories also allow workers to voluntarily participate in the old age insurance.

- (iv) Since most of the migrant workers do not understand the concept and the operation of the old age insurance and thus have little confidence in it, some of them do not want to participate in it.
- (v) The local ministry of labour also would require factories to cover their workers with industrial injury insurance according to the coverage rate of the local authority. The problem here lies more with the low consciousness level of workers about industrial injury insurance. They may not know whether they are covered or not and what rights they are entitled to in case of industrial injury. The management also does not see it as their responsibility to provide legal education to their workers on their legal rights regarding occupational safety and health.
- (vi) The level of understanding on occupational disease is low amongst the migrant workers. The lack of regular body check up and lack of understanding and participation on workers' part on the safety and health monitoring of the work place also results in low consciousness level about occupational disease and the legal rights workers enjoy in case of acquisition.
- (vii) Very few if any garment factories would provide company based medical and maternity insurance to migrant workers. This can be shown by the fact that workers are not allowed to take sick leave during the peak season. They would go to see private doctors or buy medicine from pharmacies nearby in case they get ill without receiving subsidy or reimbursement from the employers. As for maternity provisions, female migrant workers in the production line are not entitled to enjoy the legal provision in reality. They would resign some time before delivery and they do not have maternity leave or insurance.

3.3.8.2 Guidance for Auditors

A copy of the labour contract issued by the Shenzhen municipality bureau of Labour and Social Security is attached in Appendix II for reference. Auditors should check with the local labour ministry on local regulations specifying the terms and conditions of legally binding labour contracts for reference during auditing.

Some factories are seeking new strategies to preempt workers from enjoying new protections and compensations provided in the Labour Contract Law, for examples:

- 1) Force workers to sign a contract which is on the legal minimum bottom line, while in reality their wage is higher than the minimum rate. By doing so, the



employers attempt to minimize the total amount of severance pay in the future;

- 2) Sign a commercial service contract with an agent who mediates workers to the factory. The factory pays the workers through the sub-contractor or agent and claim that the workers are not employees of the factory, and so it is the agent to hold the legal responsibility of an employer.

4 Partner Network¹²

4.1 State and Civil Society in China

Generally speaking, there is a classic distinction between two groups of 'NGOs' in China. The first comprises 'official NGOs' or 'mass organizations' which were set up during Mao's China as an official enterprise, like the All China Federations of Trade Unions (ACFTU), the All China Women's Federation and Youth League. The second group includes 'grassroots' NGOs are more independent from the party-state and have been established after the reform, but which are not allowed to register as a social organization by law.

There was a boom of labour 'grassroots' NGOs in the late and early 2000s in the PRD. Some of them were supported by Hong Kong based organizations. Others have been set up by lawyers, journalists or migrant workers themselves in mainland China. Without a proper legal status, NGOs recourse to three ways for survival: 1) find a patronized partner such as the local ACFTU branch, Youth League or academic institutes to provide them with a legal status to operate their projects; 2) register as a business unit or a company; 3) operate without any registration. Most of them are, more or less, sponsored by international trade unions, NGOs or brands on project basis. As ACFTU cannot perform its primary role, workers seek help from independent NGOs. However, the reach of NGOs is still limited considering the huge number of migrant workers in China.

In 2005, the occurrence of the "Orange Revolution" in Ukraine spread out fears that NGOs which are funded abroad could be controlled by foreign forces, especially the USA, to incite social unrest¹³. From then onwards, monitor and censorship from the state over the NGOs has been significantly strengthened. Some NGOs' community service centers were forced to close down. The Shenzhen Federation of Trade Unions approached some of migrant workers ran NGOs in October 2007 to discuss the possibility of collaboration, but ruled out all groups with oversea connections and foreign media contact. This act was interpreted by some of the NGO members as an attempt to undermine their independency.

¹² (Main source: Pun Ngai (2007) 'The Making of a Global Dormitory Labour Regime: Labour NGOs and Workers Empowerment in South China'; Chris Chan's fieldwork in 2008)

¹³ Chan Kin-man, Qiu Haixiong and Zhu Jiangang (2005) "Chinese NGOs Strive to Survive", *Social Transformations in Chinese Societies* 1: 131-159.



Due to its geographic approximation with the PRD, Hong Kong based NGOs have a prominent role in nurturing the NGO culture in the region. In Beijing, there is a number of active ‘grassroots NGOs’, but few of them work in the field of migrant workers’ rights. In East China, the number of grassroots NGOs is heavily constrained compared to South China and Beijing.

While official organisations are static, many grassroots NGOs lack proper legal space to perform their duties. Academic institutions need more expertise and clearer position in the practice of CSR monitoring and workers’ training.

4.2 Partner Network in Hong Kong and Guangdong Province

A relatively high amount of labour related organizations can be found in Guangdong province. The increasing concern of international buying companies for suppliers that fail to comply with labour rights standards created a need for civil society initiatives in labour service and organizations in Guangdong province. Labour related groups found in Guangdong province are diverse in organizational background and scope of work.

The following study on civil society organizations in Guangdong province in southern China has been based on information compiled by interviews, organizational literature and website information. The study aimed at understanding the work and organizational approaches of these groups as well as the important issues related to labour identified in the region.

Chinese Working Women Network (CWWN)

CWWN was set up in 1996 as a non-governmental organization with the mission of promoting betterment for the lives of Chinese migrant women workers and developing feminist awareness of workers’ empowerment. Core members are labor organizers, feminists, university professors, researchers, social workers, cultural activists, workers and students.

Objectivities	To facilitate migrant women workers to fight for sustainable development in China. The four objectives of CWWN are: <ul style="list-style-type: none"> . Labour rights . Feminist consciousness . Occupational health and safety . Alternative socio-economic life
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Projects and work	<p>From January 2000 onwards, CWWN has been conducting participatory factory training primarily for production workers. In 2008, CWWN will join an in-factory training program with a Transnational Cooperation and 2 other NGOs to conduct workers training. Other projects of CWWN include:</p> <ul style="list-style-type: none"> . offers legal advice and counseling services on labour law, OSH training, publications, and cultural activities to migrant workers. . provides legal advice to injured workers and help rebuild confidence in themselves. . provides different activities to women workers to raise their gender consciousness. . conducts seminars on labour law and OSH with a hotline to provide legal advice and OSH consultation. . publishes bulletins which are written and edited mainly by migrant workers, pamphlet on Labor Law, handbook of injured workers' right and handbills on difference labour rights and OSH issues.
Contact	<p>Contact Person : Ms CHOI Suet Wah Mobile : 852.9655.7353 Tel : 852.2396.6921 Address : P.O. Box 79187, Mongkok Post Office, Hong Kong Email : swchoi@cwwn.org / exco@cwwn.org</p>

(Sources: CWWN)

China Labor Support Network (CLSN)

China Labor Support Network is a Hong Kong registered NGO formed by a group of labor organizers, occupational health educators and other people concerned about the welfare of workers in China.

Objectives	<ol style="list-style-type: none"> 1. to promote occupational health (and safety, OSH in short) awareness 2. to empower workers, especially women workers, to solve their problems related to the workplace 3. to train up peer educators and organizers to assist more workers to achieve these goals
Projects	<p>Major work areas are as follows:</p> <ol style="list-style-type: none"> 1. Occupational Health Resources Center <ul style="list-style-type: none"> ◆ Located in Guangzhou ◆ Running a library with information on OSH & labor laws/regulations, a Chinese website www.ohrc.net.cn and a toll free hotline ◆ Providing support to work injury and occupational diseases victims from approx. 100 factories per year in the Pearl River Delta ◆ Conducting rights awareness and training programs on a sign

	<p>up basis for workers and organizers from different labor organizations</p> <ul style="list-style-type: none"> ◆ Assisting workers to form mutual self-help groups ◆ Publishing information leaflets, booklets and workers' stories on OSH/labor rights, as well as a bimonthly bulletin (over 8 issues to date). ◆ Distributing publications and providing consultative services/and basic health checks to workers at street level and in dormitories ◆ Organizing recreational activities for workers <p>2. OSH Express - Workers Mobile Services Center</p> <ul style="list-style-type: none"> ◆ Modified from a 29-seat bus, with a small library, AV and broadcasting equipment ◆ On the road in the industrial areas of Pearl River Delta and providing services to approx. 4,000 workers per month ◆ Distributing publications and providing consultative services/basic health check to workers ◆ Exhibitions and video shows on OSH ◆ Organizing small group training and activities ◆ Training worker volunteers <p>3. Factories Training</p> <p>Working with transnational corporations and organizing activities at their supplier factories:</p> <ul style="list-style-type: none"> ◆ Workshops/training and exchange program for factory OSH committees ◆ Training/talks on OSH and labor rights <p>4. Research</p> <p>Researches on the situation of workers in the Pearl River Delta</p>
Contact	<p>Juliana So Email: juliana@clsn.org Tel: (852) 92780997 (86) 131 8910 8252 Fax: (852) 2639 7341 Correspondence: PO Box 1209, Yuen Long Delivery Office, NT, Hong Kong</p>

(Source: CLSN)

Labour Education and Service Network (LESN)

Labour Education and Service Network is an independent NGO established in Hong Kong since October 2001. It is composed of experienced union organizers, women workers organizers and labour researchers in Hong Kong. LESN's work area includes Mainland China, Hong Kong and Macau. Labour services are provided primarily in Mainland China.

Labour Education and Service Network (LESN)	
Objectives	Improve labor rights and encourage mutual aid and solidarity among workers
Focuses	<ol style="list-style-type: none"> 1. Worker's training 2. Legal services 3. NGO networking in China
Projects	<ul style="list-style-type: none"> ● Provide in-factory training programmes on labour law and OSH issues. ● Collaborate with mainland partners to provide a variety of services through a framework of "Labour Community Service Center"-- para-legal assistance and Legal aid; labour education to consciousness raising; various activities to workers' empowerment, etc. ● Provide training for other labour service NGOs in mainland China ● Organize conferences with academic institutions, lawyer's associations and other groups to exchange experiences and opinions on labour issues. ● Establish networks with labour right concerned organizations and individuals.
Contact	Contact: Ms. So Sheung Tel: (852) 9417 8341 Address: Room 703, Wing lee Ind Blog, 54-58 Tong Mi Rd, Mongkok, KLN., Hong Kong Email: lesnhk@yahoo.com.hk

Labour Action China (LAC)

Labour Action China (LAC) is a labour rights nongovernmental organization based in Hong Kong. LAC engages in research on working conditions and labour relations of Chinese workers and supporting grassroots organizing as well as campaigns for protection of labour rights in China.

Mission and Vision	<p>LAC believes that worker empowerment is a means to improving labour conditions in China:</p> <ul style="list-style-type: none"> . Workers are the main agency of change in monitoring the labour regulation on the shop floor. Through consciousness raising and grass-root participation for legal defense of their rights, their collective voices and actions would be one of the main forces for advocating economic and social justice. . Grass-root labour activism should be supported by research that can capture the changes in the formation of a more conscious migrant working class.
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	. It should also be supported by worker education and training that is based on the local needs and civil society exchange initiatives between workers.
Projects and Work	<p>The work of LAC includes:</p> <ul style="list-style-type: none"> • Support labour activism and grassroots labour organizations formed by workers • Provide platform for study and training for Chinese workers on labour relations and worker representation • Research on labour conditions and labour relations and capital mobility in China • Support campaigns for the protection of labour rights in China • Build worker solidarity within China and with other countries
Contact	<p>Tel: (852)+ 28159003 Fax: (852) 2815 1739 Email: lac@lac.org.hk Official website: http://www.lac.org.hk Address: Unit A, 10/F, Hillier Commercial Building, 89-91 Wing Lok Street, Sheung Wan, Hong Kong Director: Monina Wong</p>

(Sources: <http://www.lac.org.hk>)

Hong Kong Confederation of Trade Unions (HKCTU)

Founded in 1990, the Hong Kong Confederation of Trade Unions (HKCTU) is an independent trade union center representing 180,000 members in 85 trade unions in Hong Kong.

Principles	<ul style="list-style-type: none"> • Solidarity • Job security • Justice • Democracy
Work and campaigns	<p>HKCTU engages in a wide range of activities, including:</p> <ul style="list-style-type: none"> • Industry and workplace organizing, public campaigns, lobbying, workers' education, legal assistance for workers, legal representation in labour disputes, and retraining for unemployed workers. • campaigns for universal suffrage in Hong Kong.

	<ul style="list-style-type: none"> • solidarity with the pro-democracy movement in mainland China, including the rights for independent trade unions. • works closely with labour NGOs and campaign groups to support the labour rights and monitor the misconducts of Hong Kong investors in China.
Contact	<p>Chief Executive: Elizabeth Tang</p> <p>Contact: 19/F, Wing Wong Building, 553-557, Nathan Road, Kowloon, Hong Kong.</p> <p>Tel: (852)+ 27708668 Fax: (852)+27707388</p> <p>Web: www.hkctu.org.hk</p> <p>E-mail: hkctu@hkctu.org.hk</p>

(Sources: www.hkctu.org.hk)

Guangzhou Occupational health & Occupational Rehabilitation Resource Center
 Guangzhou Occupational Health & Occupational Rehabilitation Resource Center (OHOR) in South China is supported by a group of professionals from China & Hong Kong in a multi-disciplinary approach. Its members include specialists in occupational medicine, occupational hygiene, ergonomics, safety and health, rehabilitation medicine, rehabilitation therapy and social work. OHOR focuses on injured workers, occupational health promotion and occupational rehabilitation service delivery.

Guangzhou Occupational health & Occupational Rehabilitation Resource Center (OHOR)	
Objectives	<ul style="list-style-type: none"> ~ Education and training on Labor Insurance Law, safety management. ~ Provide occupational rehabilitation for migrant injured workers working in Guangzhou. ~ Community support network for injured workers.
Projects and Work	<p>For Employer & Management</p> <ul style="list-style-type: none"> ● Hotline inquiry service on labor insurance system, occupational safety & health regulations. (Hotline: 86-20- 37652932) ● Participatory training on safety and health management for management and workers. ● Consultancy service to companies on safety and health system ● External audit on social compliance / codes of conduct / OSH requirements. ● Facilitation, assessment and job placement for rehabilitation of injured workers. <p>For Worker, Injured Worker & Non-government Organizations</p> <ul style="list-style-type: none"> ● Hotline inquiry service on laws & rehabilitation system. (Hotline: 86-20-37652932) ● Participatory training and education ● External audit on social compliance / codes of conduct / Occupational safety & health requirements.

	<ul style="list-style-type: none"> ● Rehabilitation and support for injured workers. ● Promoting rehabilitation and job referrals for disabled and injured workers amongst employers.
Contact	<p>Contact: Karen Office Address: G/F , Accessory Building, Mei Hui Building, Dong San Qu, 28 , Mei Dong Road, Guangzhou, China. Mailing Address: Unit 1429-1437 , 14/F , Beverley Commercial Center , No.87-105 , Chatham Road South , Tsimshatsui , Kowloon , Hong Kong. E-mail Address : info@ohor.org Telephone no. : (86) 20 - 3765 2932 Fax no. : (86) 20 - 3765 2162 http://www.ohor.org/english.html</p>

Institute of Contemporary Observation (ICO)

The Institute of Contemporary Observation (ICO) is a non-government organization based in Shenzhen, working on labor issues in China. The ICO is supported by a group of Chinese academics, scholars and specialists from Beijing, Guangzhou, Shanghai and Nanjing active in sociological research, labor protection and training. The working partners of the ICO include companies, consumer groups, trade unions, academies and local institutions in China and abroad.

Objectives	<ol style="list-style-type: none"> 1. To report and research on the costs paid by vulnerable groups for economic development in China. 2. To facilitate self-help, mass media assistance, legal services to vulnerable groups. 3. To work with companies to build systems for improvements.
Projects	<ul style="list-style-type: none"> ● Legal Aid and Consultation - Guangdong Labor Law Protection and Aid Network 2001 Research on the aid network for migrant workers, runs hot-line services, provides legal aid and postal services for migrant workers to seek legal help from local Ministry. Supported by Oxfam Hong Kong and companies. ● Training and Capacity Building ● Verification and Monitoring ● Marketing Planning and Research ● Research and Study
Research and Study	<ul style="list-style-type: none"> ● Participates in the OI Labour Wedge Fair Trade Campaign - research on the conditions of garment factories in China ● Participates in the World Bank Study of Options for Strengthening CSR Implementation Among Suppliers in Global Supply Chains - commissioned by the WB and Business Social Responsibility ● Research on Social Support Resources - 100 case studies on social support resources for migrant workers ● Research for Law and Labor Right Cases - assisted by the Oslo University in Norway in 2003. To improve general knowledge on the legal system in China

	<ul style="list-style-type: none"> ● Research for the Tracing of Labor Request - supported by Nike in 2003. About ways to resolve labour complaints and publication of labour rights booklets. ● China Overtime Project ● Legal Cases of Industrial Accidents 2003 - research on the causes of industrial accidents, promotion of safety awareness and interviews with injury victims and their families in out-migrating provinces as well as local officials, lawyers, judges and factory management.
Contact	<p>Correspondence address: 6F, Tower A, 9 Building, Anhua Industrial Zone, Shenzhen, China. Postal: 578040 Tel: (86) 755 - 2586 6803 Fax: (86) 755 - 2585 1890 Email: info@ico-china.org Web: http://www.ico-china.org</p>

(Sources: ICO web and publication information <http://www.ico-china.org>)

Global Alliance For Workers and Communities China

The Global Alliance for Workers and Communities (GA) is a partnership of private, public and non-governmental organizations including The Gap, Nike, Inditex, the International Youth Foundation, the World Bank and academic institutions such as St. John's and Pennsylvania State University in the US in 1999. The GA is aimed to improve the workplace experience and future prospects of workers involved in global production and service supply chains in developing countries, the majority of whom are young adults. GA is currently working in 5 countries (China, India, Indonesia, Thailand and Vietnam) and reaching over 200,000 workers. Global Alliance China is based in Guangzhou city and has projects in a number of provinces including Guangdong, Fujian, Jiangsu and Shandong province.

Global Alliance China	
Objectives	<ul style="list-style-type: none"> ● Promote new approaches to corporate social responsibility ● Enhancing workers' capacity ● Improving workplace environment
Work Focus and Projects	<p>(1) Training Programs</p> <ul style="list-style-type: none"> ● Management Training Program - For line supervisors, middle and top level managers. Assist management to understand the role and responsibilities of supervisors, the skills to motivate subordinates to higher standards of work, professionally enforce discipline at the workplace, develop effective interpersonal relations, and avoid all forms of harassment, verbal and sexual abuse. Understand the roles and responsibilities of a supervisor ● Health Programs - Equip workers with basic information and training on nutrition, sanitation, reproductive health and sexually transmitted diseases, including HIV/AIDS. Assist management to develop health infrastructure, personnel, peer educators, health counseling, health campaigns and education.

	<ul style="list-style-type: none"> ● Finance Management Program - Introduces workers to basic concepts, principles and strategies in managing family/personal income and day-to-day household expenses. ● Cooperative work place skills - Focus on effective communication, teamwork, conflict prevention and management, and problem-solving in application to work places, personal relations and families. <p>(2) Research and Studies</p>
Research	<ul style="list-style-type: none"> ● Workers' needs assessment - in Nike contract factories in 2001. To assist the development of health, education, work and life skills training programs. ● Corporate social responsibility in China
Contact	<p>The Global Alliance for Workers & Communities Suite 11D, Culture Building No. 82 Xianlie Zhonglu Guangzhou, Guangdong 510091 China Country Director: Miss Gu Youli Phone: 86 20 3761 7231 ext 11 fax: 86-20-37616283 Email: geyouli@public.guangzhou.gd.cn Web: http://www.theglobalalliance.org</p>

(sources: GA China website <http://www.theglobalalliance.org>)

Migrant Workers' Document Handling Service Center

Founded in 1998 by a group of college graduates concerned about the plight of migrant workers in Guangzhou. The center is now headed by a para-legal person based in Pun Yu to provide legal and labour rights services to migrant workers.

Migrant workers' Document Handling Service Center	
Objectives	<ul style="list-style-type: none"> ● Research the conditions of migrant workers ● Promote work relating to the protection of the rights of migrant workers ● Provide legal assistance to migrant workers ● Raise the legal consciousness of migrant workers
Focus	<ul style="list-style-type: none"> ● Legal labour assistance ● Consciousness raising ● Research and studies ● Work with local media to raise concern to the conditions of migrant workers
Projects	<ol style="list-style-type: none"> 1. Legal consultation hotline 2. Handling legal cases - over 400 cases of work injuries and other labour rights abuses have been handled assisting 660 people. 3. Weekly workers' forum - on legal rights and cases of labour disputes 3. Periodicals on migrant workers' stories and disputes 4. Publication of books on stories of migrant workers 5. Free writing classes for workers in conjunction with a local newspaper
Contact	Mr. Zeng Feiyang

	Room 211, No.5 Block Two Guan Nan Street, South Guan Ming Road Pun Yu District Guangzhou Guangdong province Tel: (86) 20-84835119 Email: dagongzu@263.net Website: http://www.dagongzu.org
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(sources of information: <http://www.dagongzu.org> and Asia Foundation Workshop on Direct Labour Service Program 2003, participant packet)

Guangdong Women's Federation

Guangdong Women's Federation received grant support from the Levis Strauss Foundation and the Asia Foundation to develop its Women's Rights Department. This department works to foster cooperation with the legal aid system to inform women migrant workers about their rights and provide legal assistance.

Guangdong Province Women's Federation	
Projects	1. Handling legal cases related to labour disputes of women migrant workers. 2. Counseling hotline - by Guangdong Provincial Women's Federation, Shenzhen City Women's Federation, Guangzhou City Women's Federation and Dongguan City Women's Federation (10) Publication and distribution of "Learn to Protect Yourself" handbooks to women migrant workers. (11) Support the "Legal Aid to Women" column in Southern China Daily Newspaper. (12) Emergence Relief Fund for women workers. (13) Training and capacity building for the women's federations to improve the provision of legal aid to women migrant workers.
Contact	Miss Huang Shumei Tel: (86) 20 - 8718 5682

(sources: Asia Foundation Workshop on Direct Labour Service Program 2003, participant packet)

Research Center for Women's Education of Guangdong Women Cadres Training School

The center received grant support from the Levis Foundation and the Asia Foundation to develop counseling and education programs for migrant workers. Four centers have been established in industrial areas in Zhongshan, Chang An, Pun Yu and Nanhai.

Research center for Women's Education of Guangdong Women Cadres

Projects	<ol style="list-style-type: none"> 1. Community based lectures, roundtables, seminars delivered to women migrant workers on rights issues. 1. Migrant sisters mailbox - set up in Guangzhou and Zhongshan to receive letters from women migrant workers. 3. Counseling hotline services for women migrant workers. 4. Establish the Sanxiang Town Workers Amateur Performance Troupe - migrant workers share and express themselves through cultural means and performance 5. Sanxiang Wmen Workers' Newspaper
Contact	Miss Qu Ning Tel: (86) 20 - 8422 7439

(sources: Asia Foundation Workshop on Direct Labour Service Program 2003, participant packet)

Guangdong Participatory Development Appraisal Network (PDA Network)

Formed in 2003, the Guangdong PDA Network was established to adapt the participatory rural appraisal methodology to factory context. Its approach aims at increasing involvement of factory workers in improving working conditions. The PDA Network is involved in education program for labour officials.

Guangdong Participatory Development Appraisal Network	
Focus	<ul style="list-style-type: none"> ● Increase worker involvement of factory workers ● Improve communication between management and workers
Projects	<ol style="list-style-type: none"> 1. Organize PDA work groups with management and workers as well as training sessions in factories. 2. Training to labour unions in Guangdong province
Contact	Mr. Zhou Weidong Tel: (86) 20 - 3885 1978 Email: zqd67@21cn.com

(Sources: Asia Foundation Workshop on Direct Labour Service Program 2003, participant packet)

4.3 Partner Network in Northern China

This study has been based on interviews, data collection and information provided by FWF staff in 2008. FWF staff has established contact with staff of these organizations.

Peking U-HK Poly U Social Work Research Centre (SWRC)

The China Social Work Research Centre (SWRC) has jointly been established by Peking University and Hong Kong Polytechnic University. It devotes to the development of social work theory and practice, as well as the indigenization of social work profession in China. It aims at enhancing the capacity of social workers in solving social problems and promoting social development. To achieve this aim, the center

runs a Corporate Social Work Training Program and Corporate Social Responsibility Research Program and Cross-sector Communication and Co-operation project.



Corporate Social Work Training and Research	<ul style="list-style-type: none"> . corporate social work training and exchange network . corporate social work pilots and policy suggestions . corporate social work courses and teaching materials . civil society capacity building
Corporate Social Responsibility Training and Research	<ul style="list-style-type: none"> . corporate, employee and worker trainings . management-worker relation and communication trainings . environmental safety and health trainings . women worker welfare and employee assistance trainings . indigenous corporate social responsibility research
Cross-sector communication and co-operation	<ul style="list-style-type: none"> . third sector and social enterprise researches . corporate citizenship and venture philanthropy researches . social capital and cooperative economy researches . government, company and NGO communication and co-operation
Contact	<p>Amanda JIANG Block 2, Room 1-701, Da He Zhuang Yuan, 3 Suzhou Street, Beijing Tel: 86-13501158211 852-27665778 Email: zjjiang.pku@gmail.com</p> <p>CHOW Sung-ming Hong Kong Polytechnic University, Hung Hom, Hong Kong Tel : 852-27665778 852-92170894 Email: sschow@inet.polyu.edu.hk</p>

(Source: SWRC)

Cultural Communication Center for Facilitators (CCCF)

Beijing Cultural Communication Center for Facilitators was established in the spring of 2003 as an independent local NPO dedicated to empowering workers and helping urban and rural areas to develop harmoniously. In May 2007, members of CCCF registered a Community Development Center of Facilitators (CDCF), the first social work NGO in the city of Nanjing in Eastern China to provide integration service for migrant workers.

Objective	<ul style="list-style-type: none"> . through carrying out the activities of labor empowerment, community anti-poverty and policy advocacy, turn "the helped" into the ones who make a living with their own services for others.
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	<p>. develop into a localized grassroots organization which combines service practices and policy advocacy, volunteers' development and grassroots' cultivation to cultivate young volunteers who wish to engage themselves in labour development.</p>
Projects and Work	<p>. Focuses on citizen education and policy advocacy.</p> <p>. publishes a series called <i>Dagong Times</i> intended for the migrant workers</p> <p>. In 2004, CCCF was awarded the title of "Advanced Organization for Youth Education and Service".</p>
Contact	<p>CCCF: Address: No46. Dongsijitiao, Dongcheng District, Beijing Tel: 010—86219405 Fax: 010-84043576 E-mail: cccfchina@sohu.com Webpage: http:// www.facilitator.ngo.cn</p> <p>CDCF: Address: Floor 4, No 80, Dong Zhong Road, Jian Ye District, Nanjing Tel: 025-86516151 E-MAIL: cdcfnanjing@facilitator.ngo.cn Webpage: http://www.cdcf.ngo.cn/</p>

(Source: webpages of CCCF, CDCF and China CSR map)

4.4 Partner Network in East China

The following study on civil society organizations in eastern China was conducted in September 2003. Civil society organizations working on labour and other forms of organizing in Shanghai city, Nanjing city and Zhejiang area were visited. Information about the organizations listed below has been gathered through interviews and organizational literature review. The study aimed at understanding the work and organizational approaches of groups as well as important issues related to labour that were identified in this region.

Regarding the development of the civil society and NGOs in Shanghai, 4 major types of NGOs are found in Shanghai:

- (i) Environmental groups which constitute the majority amongst the NGOs in Shanghai.
- (ii) Community based social work groups providing social services for sectors such as teenagers, children and the old aged.
- (iii) Project-based NGOs attached to the universities working on a variety of issues such as legal services and NGO development.

(iv) The community of labour NGOs, which is still to be developed.



Grassroots Community - Youth Community Service Volunteer Station, Shanghai, China

Grassroots Community was formed in 2000 by a group of lawyers and community volunteers based in Shanghai. The group was formed in the first place to promote volunteer service provision and NGO development in Shanghai. The group expanded from delivering mainly legal consultation to the local communities in Shanghai area to social, environmental, social health and labour work. Grassroots Community has 2 community offices in two districts in Shanghai city and 1 community office in the suburb area of Shanghai. All offices are staffed with full time officers.

Grassroots Community, Shanghai	
Objectives	Entering into the communities; Providing voluntary services; Protecting legal rights
Work focus	<ol style="list-style-type: none"> 1. Legal consultation and services on labor issues (eg rights of laid off workers, legal labor rights) and other social, non-labor related issues (eg displacement and communities) 2. Promoting NGO culture in Shanghai. Organize seminars and courses; facilitate exchanges and discussion on caring about social issues, the role of civil society etc amongst members. 3. Develop volunteer working groups to deliver to local community. Organize professionals, teachers, retired public servants and students to use their professional knowledge to help the disadvantaged groups in society. These include: <ol style="list-style-type: none"> i. Protecting the underprivileged people, improving their situation and enhancing their abilities to better the life by themselves (a Community of Hope for the underprivileged people) ii. Enhancing communication and promoting the ideal of public services in young volunteers (a Community of Soul for the volunteers) iii. Assisting in community development, encouraging the regards to humans and establishing a self-improvement system in the communities (a Community of Peace for Public Spirit)
Project and work	<ol style="list-style-type: none"> 1. Legal services program <ul style="list-style-type: none"> ● Moot courts and lectures on legal issues; ● Public legal education and free legal consultation; ● Issue Warmhearted Card to the underprivileged people and building up the One-to-one Legal Aid System; ● Training local social workers and active residents on laws; ● Acting for the underprivileged people in litigation or arbitration. 2. Workers Education program <ul style="list-style-type: none"> ● Community classes and education workshops on professional skills, business, finance, law, medicine etc in where workers reside; ● Training local social workers to provide human resource consulting services; ● Cooperating with Workers' Union to edit and issue brochures on issues relating to workers; 3. Recruiting Young Volunteers Project <ul style="list-style-type: none"> ● Social gatherings for the youths to communicate; ● Organize lectures and discussion with local and overseas resource persons on social development and other topics;

	<ul style="list-style-type: none"> ● Website and internet communication with youths; ● Training programs on social work skills and other systematic training; ● Organize young professionals to participate in public services <p>4. Community Development Project</p> <ul style="list-style-type: none"> ● Organize study on community development; ● Provide consultation on environmental protection, public health and other public services in the communities; ● Recruit volunteers and promote mutual help within the community; ● Assist volunteers to organize public service groups and other activities.
Structure	<ul style="list-style-type: none"> ● Annual Meeting ● General and Active members ● Core members that have election rights and decision making ● Full time staff
Contact	<p>Mr. Dennis Qu Tel: 86-21-13002113775 Fax: 86-21-320136818 Email: qudonggc@hotmail.com Website: www.community.org.cn</p>

Shanghai Legal Services Center for Workers, East China University of Politics & Law

The Shanghai Legal Services Center for Workers was formed in 2001 formerly as the Center for the Protection of the Rights of Migrant Workers in Shanghai. Due to a lack of promotion amongst the migrant workers in Shanghai, the project had difficulty in stretching out to the migrant workers that are located dispersed in the out-fringe area of Shanghai. The Shanghai Legal Services Center was formed in 2002 and expanded to providing services both for migrants as well as local workers in Shanghai.

Shanghai Legal Services Center for Workers, East China University of Politics and Law	
Objectives	<ul style="list-style-type: none"> ● Legal consultation and education for workers. ● Labor legislation advocacy.
Work focus	<ol style="list-style-type: none"> 1. Legal consultation service to workers in Shanghai. 2. Legal education work through public media and education programs in collaboration with other institutions in Shanghai. 3. Advocacy work on labor legislation. 4. Incubate volunteers to provide legal services to workers through training courses, internships and program work.
Project and work	<ol style="list-style-type: none"> 1. Shanghai Legal Services Center for Workers <ul style="list-style-type: none"> ● Provides legal inquiry hotline services and legal consultation to workers. Since its formation in 2002 to August 2003, the center has processed 14000 consultation cases. ● Provide legal services to typical labour arbitration cases that provide basis for legislation advocacy and public education. ● Organize regular public legal consultation and training at train stations, parks, plazas, schools for migrant workers. Train

	<p>volunteers to deliver public consultation.</p> <ul style="list-style-type: none"> ● Create a database based on the legal consultation cases. <p>2. East Labor Law and Social Security Network</p> <ul style="list-style-type: none"> ● Running 6 community networks in Shanghai city to provide legal consultation to workers. ● Establish the cyber legal consultation network at www.eastlaborlaw.com <p>3. Legal Clinic</p> <ul style="list-style-type: none"> ● Student interns from the Law Department of the East China University of Politics & Law serve at the SH Legal Service Center and the community legal networks. ● Public education through the public media eg newspapers, TV and radio programs on legal consultation.
Contact	<p>Miss Linda Lee General Secretary Shanghai Legal Services Center for Workers Address: Rm 105, No.1 Lane 1278, Wan Hang Du Road, Shanghai City, Jiangsu province, China (200042) Tel: 86 – 21- 62264897 (O) Fax: 86 – 21- 62109991 Email: eastlaborlaw@hotmail.com Website: http://www.eastlaborlaw.com</p>

Center for Social Development, Fudan University

The Center for Social Development was formed in 2001 under the Department of Sociology in Fudan University. The center aims at promoting social development and civil society development in China

Center for Social Development, Fudan University	
Objectives	Promote social development in China
Work focus	<ul style="list-style-type: none"> ● Develop projects to provide education and community services such as public health, to migrant communities in Shanghai. ● Promote discussion, research and exchanges on NGO and civil society development in China.
Project and work	<p>1. Community projects in suburb Shanghai on social service (namely health clinic and medicine provision) and social integration for migrants staying in Shanghai.</p> <p>2. Improving migrant children education. Pilot with migrant children schools in Shanghai.</p> <p>3. Research and capacity building on NGO development in China. A meeting was organized in China in 2002.</p>
Contact	<p>Miss Lizhu Fan Secretary General Center for Social Development, Department of Sociology, Fudan University, Jiangsu province, China Address: 220 Handan Road, Shanghai, 200433 Tel: 86 – 21 – 65643483 (O) Fax: 86 – 21 – 65643484 Email: lizhufan@fudan.edu.cn</p>



The Amity Foundation, Nanjing

The Amity Foundation is an independent Chinese voluntary organization formed in 1985 as an initiative of Chinese Christians to promote education, social services, health, and rural development from China's coastal provinces in the east to the minority areas of the west. The Amity Foundation has offices in Hong and Kong and Nanjing, China. The Hong Kong Office (HKO) is primarily concerned with publicity and overseas liaison work as well as supporting the Nanjing office.

The Amity Foundation, Nanjing, China	
Objectives	<ul style="list-style-type: none"> ● Contributes to China's social development and openness to the outside world. ● Makes Christian involvement and participation in meeting the needs of society more widely known to the Chinese people. ● Serves as a channel for people-to-people contact and the ecumenical sharing of resources (sources: http://www.amityfoundation.org/engindex.html)
Work focus	<ol style="list-style-type: none"> 2. Education for poverty stricken areas in China 3. Medical and health provision for remote villages in China 4. Rural development 5. Social welfare provision for disabled children and youth 6. Blindness prevention and assistance 7. Relief work for natural disasters
Project and work	<ol style="list-style-type: none"> 1. Legal Research and Consultation Center in Nanjing to assist the industrial injured workers. 2. Provide labor rights education to migrant workers by collaborating with local schools for migrant children. 3. Collaborate with the Women Federation in Wuxi City in Jiangsu province to provide re-training to laid off women workers. 4. Financial assistance to orphans of AIDS parents in Henan province.
Contact	Mr. ZHANG Liwei Assistant to the Secretary General Amity Foundation Address: 71 Han Kou Road, Nanjing City, Jiangsu province, China Tel: 86 – 25 – 6638128 Fax: 86 – 25 – 6631701 Email: afn71@public1.ptt.js.cn Website: http://www.amityfoundation.org.cn

Research Center for Women's Development, Ginling College, Nanjing Normal University

The Research Center for Women's Development was formed under the Ginling College of the Nanjing Normal University. The center provides research, academic seminars as well as worker training for laid off in Nanjing as well as migrant workers.

Research Center for Women's Development, Ginling College, Nanjing Normal University	
Objectives	Care for the marginal and disadvantaged groups in the society namely laid off workers, migrant workers, informal workers and the marginal sectors in urban city.

Work focus	<ul style="list-style-type: none"> ● Research and seminars ● Worker training programs and in-factory worker rights monitoring
Project and work	<ol style="list-style-type: none"> 6. Seminars organized include: “Lay off and re-employment”, “Flexi labor and employment equality of women workers”, “Research on community projects against urban poverty”. 7. Research and training project on “Re-employment of women laid off workers”. 8. Participate in research and assessment project on code of conduct with Nike.
Contact	<p>Miss JIN Yi Hong Director Research Center for Women’s Development Address: Number 122 Jin Hai Road, Nanjing City, Jiangsu province. Tel: 86 – 25 – 3598026 (O) Email: ginyihong@163.com, jinyihong@njnu.edu.cn</p>

4.5 National Level Government Affiliated Organizations

All China Confederation of Trade Unions (ACFTU)

The All-China Federation of Trade Unions (ACFTU) is a mass organization of the working class formed voluntarily by the Chinese workers and staff members. Founded on May 1, 1925, it had a membership of 170 million in all its primary trade union organizations in 2007.

It is stipulated in the Constitution of the Chinese Trade Unions that membership in trade unions is open to all manual and mental workers in enterprises, undertakings and offices inside China whose wages constitute their principal means of livelihood and who accept the Constitution of the Chinese Trade Unions irrespective of their nationality, race, sex, occupation, religious belief or educational background.

The Chinese trade unions apply the organizational principle of combing leadership along industrial lines with that on a locality basis. Now, under the leadership of ACFTU, there are 31 federations of trade unions of provinces, autonomous region and municipalities directly under the Central Government and 10 national industrial unions, namely,

- National Committee of the Chinese Educational, Scientific, Cultural, Medical and Sports Workers’ Union;
- National Committee of the Chinese Seamen and Construction Workers’ Union;
- National Committee of the Chinese Energy and Chemical Workers’ Union;

- National Committee of the Chinese Machinery, Metallurgical and Building Material Workers' Union;
- National Committee of the Chinese Defense Industry, Postal and Telecommunications Workers' Union;
- National Committee of the Chinese Financial, Commercial, Light Industry, Textile and Tobacco Workers' Union;
- National Committee of the Chinese Agricultural, Forestry and Water Conservancy Workers' Union;
- All-China Federation of Railway Workers' Unions;
- National Committee of the Chinese Aviation Workers' Union;
- National Committee of the Chinese Banking Workers' Union.

The supreme power organ of the Chinese trade unions is the National Congress of Trade Unions. It is convened once every five years. The 14th National Congress of the Chinese Trade Unions was held in September 2003. Composed of 267 members, the Executive Committee is the power organ when the national congress is not in session, and it elects the chairman, vice-chairmen of the Executive Committee and members of the Presidium, thus forming the Presidium. When the Executive Committee is not in session, the Presidium comprising 39 members exercises its power. The Secretariat is set up under the Presidium and consists of a first secretary and a number of members who are elected from among the members of the Presidium. The Secretariat takes care of the routine work of the ACFTU (Source: <http://www.acftu.org.cn/about.htm>).

All China Women's Federation

The All China Women's Federation was founded in April 3, 1949. The ACWF is a mass organization dedicated to the advancement of Chinese women of all ethnic groups in all walks of life. The ACWF has the mission to represent and to protect women's rights and interests, and to promote equality between men and women.

The ACWF is structured by local women's federations and group members. Local Women's Federations are set up according to state administrative divisions i.e. provincial, towns, autonomous regions and municipalities directly under the central government. National or local women's organizations that have registered with the departments of civil affairs and are willing to apply for affiliation with the federations may become members of ACWF once approved by ACWF or local Women's Federations.

The ACWF has about 60,000 grass-root organizations above township and



neighborhood committee levels across China, and more than 980,000 women's representatives' committees and women's committees at grass-root level. There are 18 national group members and about 5,800 local group members at various levels throughout the country.

Recently the ACWF runs four projects under the general objectives of "Women Accomplishing More Achievements:"

- (i) Enhance Women's Professional Competence - ACWF, taking this project as a long-term strategic task, will assist relevant departments, organizations and enterprises to provide training to women so as to improve their professional competence.
- (ii) Help Women Earn More Income Through Science and Technology - ACWF will work to disseminate/provide knowledge of science and technical skills to rural women for running productive and income-generating activities and guide them to develop agricultural undertakings through science and technology.
- (iii) Develop Community Services - In this project, ACWF will focus on developing those community services that will be able to reemploy laid-off female workers and to make local people's life more convenient as well.
- (iv) Strengthen Healthy Ethics at Home - There are three major elements in the campaign: firstly, to advocate desirable practices and healthy ethics at home extensively; secondly, to organize publicity and educational activities to promote respect and love for the older persons and initiate it also as a celebration of the International Year of the Older Persons; thirdly, to work to protect environments, encourage an environment-friendly life style, and call on women and their families to plant trees, use mulch films correctly, classify rubbish on a trial basis, do shopping with cloth bags and to preserve water resources etc.

5 Auditing and Workers' Training

5.1 Auditing practices

Regarding methodologies and important issues for conducting labour audits in China, the following observations are made.

(1) Falsification of records

Social auditors in China face a lot of challenges with falsified records. Some common practices regarding falsification of records include:

- Factories have double or triple book keeping on working hours and pay records.

Extra working hours, OT compensation, wage deduction may not be shown in documents submitted for auditing.

- A team of employees may be assigned to prepare fake documents, to meet requirements of foreign buyers.
- False records on the size of the workforce. The number of contracts may not be accurate. Part of the workforce may be arranged to take leave during the audit.

(2) (Worker interviews)

Problems associated with conducting worker interviews include:

- Coaching of workers. Standard answers might be delivered to workers prior to interviews. Workers will be penalized or fired if they "behave improperly" and financially rewarded for giving "correct" answers in some cases. Workers tend not to dare to speak up to auditors when they are given instructions by management.
- Improper arrangement for worker interviews (e.g. no safe venue, too low number of interviewers, presence of management etc.

(3) Difficult areas for auditing in China

The following areas offer challenges regarding the interpretation of labour standards and auditing in China.

- Working hours: While the national labour law allows for 40 working hours per week and an additional maximum of 36 OT hours per month, Factories may produce approvals from local labour bureaus allowing for comprehensive working hours system.
- Wages: Most of the factories are paying by piece rate supplemented by a variety of allowances and bonuses. This makes conversion to the legal minimum wage standard difficult. Besides, lack of research and data on living expenses of migrant workers both in supporting themselves in cities and the families in rural areas makes interpretation on living wage difficult.
- Freedom of association: Most foreign invested or joint venture enterprises in China do not have trade unions. Workers in China are allowed to affiliate with the ACFTU only. In some cases auditors are allowed to take the existence of a complaint channel at the workplace as equivalent to freedom of association. Lack of training on freedom of association on the part of the auditors as well as lack of a proper auditing approach to freedom of association and industrial relations remain as problems.

The main auditing organizations and auditing programs active in China are listed below.



BVQI

BVQI is a French testing and auditing company. The company has operations in 140 countries. In China BVQI has local offices in 5 cities including Hong Kong, Beijing, Shanghai, Qingdao and Guangzhou. BVQI is certified to audit on ISO14000, OHSAS18000 and SA8000. Audited industries cover aerospace, petro-chemical, automobile, transport, pharmaceutical, food as well as light industries such as toys, garment and footwear. BVQI is one of the accredited auditing companies for WRAP (Worldwide Responsible Apparel Production) and ICTI (International Council of the Toy Industry).

Cal Safety Compliance Corporation (CSCC)

CSCC is a US based auditing company. Its audits cover the garment, home furnishing, forestry, restaurant, food services, toys, and agriculture industries in 110 countries. CSCC is one of the accredited auditing companies for ICTI, FLA, WRAP and BSCI.

DNV (Det Norske Veritas)

DNV is based in Norway. It has 22 offices in China including Hong Kong and conduct audits in more than 100 countries. DNV is certified to audit on SA8000, ISO14001, and OHSAS18001. Audited industries include aerospace, maritime, gas, transport, automobile as well as light industries. DNV is one of the accredited auditing companies of SA8000.

Hong Kong Quality Assurance Agency (HKQAA)

HKQAA is a non-government auditing organization based in Hong Kong. HKQAA works closely with the Federation of Industries in Hong Kong to assist companies based in Hong Kong on quality and social certification. HKQAA audits cover light industries such as toys and garment. HKQAA is certified to audit on ISO14001, OHSAS18001 and SA8000. It is also one of the accredited organizations for ICTI and SA8000.

Intertek Testing Services Labtest (ITS)

ITS is an auditing company that quality testing as well as social auditing. ITS has operations in 99 countries and has local offices in China and Hong Kong. Audited industries cover textile and garment, footwear, toys, electronics and electrical products, food, pharmaceuticals etc. ITS is certified to audit on ISO14001, OHSAS18001 and SA8000 and is one of the accredited organizations of SA8000 and WRAP.



SGS International Certifications Services

SGS is a quality testing and auditing company based in Switzerland. SGS has offices in China and Hong Kong. The audited industries cover agriculture, oil, gas, mineral as well as light industries and service industries. SGS is certified to audit on SA8000 and is one of the accredited auditing organizations for SA8000 and WRAP.

TUV Rheinland

TUV is a German based testing and auditing company. It has offices in China and Hong Kong. TUV audit activities cover heavy as well as light industries. TUV is certified to audit on SA8000 and OHSAS18000. TUV is also one of the accredited auditing organizations for SA8000.

Verite

Verite is a US based auditing organization. Verite has local offices in China and has audited factories mainly apparel so far.

5.2 Worker Training¹⁴

As clarified above, codes of conduct cannot solely be implemented by audit practices. Some brands and Multi-stake Initiatives (MSIs) have therefore been turning to worker training projects. The idea is that workers, rather than external agencies, are in the best position to monitor working conditions. Worker training programs focus on raising workers' awareness on the labour law, legal minimum wages, OHS standards, content of codes of conduct and international labour standards.

During recent years, brands and MSIs have been collaborating with many NGOs in providing worker training. For small and middle sized factories, (part of) the workforce is requested to attend training in rotation, while for large enterprises, a certain percentage of workers is selected. The duration of training programs varies from project to project. In some cases, NGO trainers give a short presentation in front of workers and leave their hotline number for further inquiry or complaints. Democratic election pilot projects usually last for half year or more. After sessions of general training for workers (and management in some cases), elections are organized to establish a trade union committee.

¹⁴ This part is referenced to Anita Chan (2006) Realities and Possibilities of Chinese Trade Unionism. in Craig Phelan (ed.) The Future of Organized Labour: Global Perspectives. Oxford: Peter Lang pp275-304).



Notably, ACFTU and local authorities have been skeptical and worried about the rise of independent worker representation. As a result, they tend to oppose the participation of NGOs in such projects.

In order to avoid the sensitivity of trade unions, MSIs and brands have turned to the establishment of workers' committees, welfare committees or OHS committees by means of democratic elections. It is envisaged that these committees can gradually and partially seize the role of trade unions.

With respect to worker committee establishment, some generalities apply: Committee representatives should be nominated and elected in a transparent and democratic way. Every production worker is entitled the right to cast a secret ballot. One of the biggest challenges is that workers committees need continuing support from NGO trainers and brands after their establishment. When they engage in negotiations with management, committee members tend to lack confidence, determination, skills and experiences to consolidate support from workers and resist pressure from management.