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# Workplace Codes of Conduct in China and Related Labor Conditions

Thomas Lum

*Congressional Research Service*

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# Workplace Codes of Conduct in China and Related Labor Conditions

## **Abstract**

This report provides an overview of U.S. interests and policies regarding China's labor conditions. It compares a cross section of labor codes of conduct utilized by U.S. corporations and their suppliers that manufacture toys, shoes, apparel, and other labor intensive merchandise in China for export. Many consumer goods imported from China to the United States are produced by Hong Kong, Taiwanese, and South Korean factories in China for U.S. brands. Serious labor rights abuses have been reported in many of these factories. All of the codes sampled in this report mandate labor standards that are consistent with International Labor Organization core covenants and China's Labor Law. The standards compared in this report pertain to: child labor, forced labor, disciplinary actions, discrimination, health and safety, and the environment. However, many of the codes do not provide extensive guidelines for monitoring and verifying compliance.

## **Keywords**

work, codes of conduct, China, labor, law, ILO, International Labor Organization, U.S., foreign, trade, union, government

## **Disciplines**

Business | Labor Relations

## **Comments**

### **Suggested Citation:**

Lum, T. (2003). Workplace Codes of Conduct in China and Related Labor Conditions. Washington, DC: Congressional Research Service. [http://digitalcommons.ilr.cornell.edu/key\\_workplace/62/](http://digitalcommons.ilr.cornell.edu/key_workplace/62/)

# Report for Congress

Received through the CRS Web

## **Workplace Codes of Conduct in China and Related Labor Conditions**

**April 23, 2003**

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# Workplace Codes of Conduct in China and Related Labor Conditions

## **Summary**

This report provides an overview of U.S. interests and policies regarding China's labor conditions. It compares a cross section of labor codes of conduct utilized by U.S. corporations and their suppliers that manufacture toys, shoes, apparel, and other labor intensive merchandise in China for export. Many consumer goods imported from China to the United States are produced by Hong Kong, Taiwanese, and South Korean factories in China for U.S. brands. Serious labor rights abuses have been reported in many of these factories. All of the codes sampled in this report mandate labor standards that are consistent with International Labor Organization core covenants and China's Labor Law. The standards compared in this report pertain to: child labor, forced labor, disciplinary actions, discrimination, health and safety, and the environment. However, many of the codes do not provide extensive guidelines for monitoring and verifying compliance. This report will be updated as warranted.

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# Workplace Codes of Conduct in China and Related Labor Conditions

## U.S. Interests and Policies

U.S. congressional objectives and concerns regarding Chinese labor include supporting labor rights in the People's Republic of China (PRC) and preventing the importation of goods from the PRC that were made from prison labor, child labor, or under conditions that violate internationally-recognized labor standards. P.L. 106-286, granting the President authority to extend permanent normal trade relations treatment to the PRC upon its accession to the World Trade Organization (WTO), established the Congressional-Executive Commission on China (CECC) to monitor the PRC's compliance with international human rights standards, including worker rights. The act also authorized the Department of Labor to conduct rule of law training and technical assistance related to the protection of worker rights in China. In the 107<sup>th</sup> Congress, H.R. 2782 was introduced that would require U.S. companies in foreign countries to implement corporate codes of conduct, while labor rights and corporate codes of conduct were highlighted in three bills criticizing China's human rights record.<sup>1</sup> In 2002, the CECC held two hearings on labor rights and working conditions in China and made a number of recommendations in its annual report, including expanding rule of law and legal aid programs for workers and promoting work health and safety councils, raising awareness among export companies in China of the importance of legal and fair working conditions to U.S. consumers, and raising the profile of labor issues in the U.S.-China bilateral dialogue.<sup>2</sup> Also in 2002, the congressionally-mandated U.S.-China Economic and Security Review Commission (USCC) recommended, among other actions, that Congress establish a corporate code of conduct for U.S. businesses operating in China.<sup>3</sup>

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<sup>1</sup> [S.1307.IS] China Free Enterprise Act of 2001; [H.Con.Res. 73.RH] Expressing the sense of Congress that the 2008 Olympic Games should not be held in Beijing; [H.R. 2782] To require nationals of the United States that employ more than 20 persons in a foreign country to implement a Corporate Code of Conduct.

<sup>2</sup> "Labor Rights and Conditions in China," Roundtable before the Congressional-Executive Commission on China, March 18, 2002; "Workplace Safety Issues in the People's Republic of China," Roundtable before the Congressional-Executive Commission on China, November 7, 2002; Congressional-Executive Commission on China, *Annual Report for 2002*.

<sup>3</sup> See *Report to Congress of the U.S.-China Security Review Commission*, July 2002. The USCC was authorized by P.L. 106-398, the National Defense Authorization Act for FY2001.

The United States supports labor rights and other rule of law programs in China through U.S. foreign operations<sup>4</sup> and other appropriations, including grants to the National Endowment for Democracy (NED) and the Asia Foundation. NED sponsors the American Center for International Labor Solidarity, which administers labor programs in the PRC through the *China Labour Bulletin* in Hong Kong. The Asia Foundation is engaged in activities related to legal development, civil society, and local governance in China through U.S. public and private financing, including legal aid and health programs for migrant women workers funded by the Levi Strauss Foundation.

In October 2002, the Department of Labor awarded a four-year, \$4.1 million grant to a consortium of the Asia Foundation, Worldwide Strategies, Inc., and the National Committee on United States-China Relations for them to work on strengthening the PRC government's capacity to implement laws and regulations that protect internationally recognized labor rights, promote greater awareness of the law among Chinese workers and employers, and improve legal aid services to women and migrant workers. The Department of Labor also awarded a four-year, \$2.3 million grant to the National Safety Council for efforts to improve safety and health conditions in Chinese coal mines.

## Labor Conditions in China

### Foreign Invested Enterprises

Many egregious forms of labor exploitation have been reported in foreign-owned or "overseas" factories in China's coastal provinces that are engaged in low-skill, labor intensive production for export. Most of these factories are owned by East Asian investors from Hong Kong, Taiwan, and South Korea, and much of their output of toys, shoes, and apparel is contracted by American companies. According to PRC official data, foreign invested enterprises (FIEs), including Hong Kong and Taiwanese companies, employ approximately 10% of the urban labor force or about 23 million workers — mostly women in their early 20s from impoverished rural areas of China's interior.<sup>5</sup>

The most severe and widespread labor rights abuses reported in these factories involve workplace conditions and work hours that are harmful to the physical health of workers, lack of fair compensation, and restriction of movement. During times of peak demand, work days of 12- to 16-hours, no days off for several weeks, and managers' under-reporting of hours worked have been widely alleged. Most workers are reluctant to protest such treatment because they fear being fired and/or losing back wages, benefits, security deposits, or temporary residency permits that are

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<sup>4</sup> Total amounts for China rule of law and Tibet programs in the U.S. foreign operations budget: FY2000 — \$1 million; FY2002 — \$10 million (est.); FY2003 — \$15 million (est.)

<sup>5</sup> Some U.S. experts estimate much higher numbers of workers in the foreign-owned export factories.

retained by the employer. Furthermore, many workers are unaware of their legal rights. Local Chinese reporters have estimated that each year, dozens of workers die of causes related to overwork.<sup>6</sup>

According to PRC government statistics, between 6,000 and 8,000 workers die annually in industrial accidents (not including mining). Each year, 13,000 new cases of occupational disease (industrial and mining) are reported.<sup>7</sup> Many foreign enterprises do not compensate employees for work-related injuries and medical care — or cover only partial costs — and have not paid taxes into government-sponsored accident and unemployment insurance funds. Other labor abuses reported in some foreign firms include verbal humiliation, physical punishment, and severe restrictions on movement.<sup>8</sup>

## Labor Protections

### The Official Labor Union

The PRC has been slow to address labor rights in China's burgeoning private sector. Since the late 1990s, the government has attempted to install branches of the official All China Federation of Trade Unions (ACFTU) in foreign-funded or overseas firms in order to help improve labor conditions and resolve labor disputes. PRC officials claim that enterprise unions have been set up in 40% of *newly founded* overseas companies. Although the ACFTU represents the interests of both labor and the state, and most enterprise union leaders are appointed by the Communist Party, it can serve as a potential check on abusive or illegal management practices. Both local officials and foreign investors have reportedly resisted government efforts at unionization.<sup>9</sup>

### New PRC Legislation

In 2001, the PRC ratified the International Covenant on Economic, Social and Cultural Rights, which includes a section granting the right to organize and form independent trade unions. However, China reserved the right to interpret the covenant in a manner consistent with the PRC Constitution, the Labor Law, and the Trade Union Law, which permit only one trade union — the ACFTU. The covenant also provides for safe and healthy working conditions and for equality in the workplace. In 2001, the National People's Congress amended the Trade Union Law

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<sup>6</sup> Philip Pan, "Worked Till They Drop," *Washington Post*, May 13, 2002.

<sup>7</sup> Philip Pan, "Poisoned Back into Poverty," *Washington Post*, August 4, 2002.

<sup>8</sup> Examples of physical abuse include being struck or slapped and ordered to kneel or stand on a stool. Some managers have reportedly prohibited employees from talking or using the toilet more than twice daily.

<sup>9</sup> In the private sector, only one-sixth of workers belong to unions. Unionization efforts have so far not resulted in significant improvements for workers. See Philip Pan, "When Workers Organize, China's Party-Run Unions Resist," *Washington Post*, October 15, 2002; "Union Drive Targets New Firms," *South China Morning Post*, August 13, 2002.



to enhance the ACFTU's role in defending workers' interests. In 2002, the National People's Congress (NPC) passed a Work Safety Law, Prevention of Occupational Disease Law, and handling of dangerous chemicals directive. In January 2003, the ACFTU issued its first "Blue Book of Chinese Trade Unions," which publicizes and explains the rights and interests of Chinese workers.<sup>10</sup> However, local officials reportedly often downplay labor regulations as a way of attracting or keeping foreign or overseas investment.

## Non-Governmental Efforts

The most important Chinese non-governmental advocates for workers in the PRC are the press, non-governmental or non-profit organizations, academic researchers, and labor rights attorneys. Zhou Litai, a labor rights and workers' compensation attorney, has represented 800 maimed migrant workers in Shenzhen, Guangdong province. He has reportedly won 30 out of 200 cases against various FIEs. However, while the central government often allows open criticism of individual companies, it suppresses debate on fundamental state policies and strenuously suppresses autonomous labor organization. Labor rights activists often face harassment by local authorities.<sup>11</sup>

## ILO Conventions

Since 1919, China has ratified 23 conventions (of which 20 are still in force), including three of the International Labor Organization's eight core conventions. In 2002, China ratified three ILO conventions: No. 182 (core), Worst Forms of Child Labor; No. 167, Safety and Health in Construction; and No. 150, Labor Administration. China is reportedly preparing to ratify convention No. 111 (core), Discrimination. In May 2001, the ILO and the PRC signed a memorandum of understanding aimed at improving labor practices, reforming dispute settlement mechanisms, and strengthening ILO-PRC collaboration.

### ILO Core Conventions

Core Convention		Ratified by China
No. 29:	Suppression of Forced Labor	
No. 87:	Freedom of Association and Protection of the Right to Organize	
No. 98:	Right to Organize and Collective Bargaining	
No. 100:	Equal Remuneration	11/2/90

<sup>10</sup> Li Jianghong, "China's Union Federation Issues "Blue Book" on Workers' Rights," *BBC Monitoring Asia-Pacific*, January 23, 2003.

<sup>11</sup> Elaine Kurtenbach, "Chinese Lawyer Faces off Against Bureaucracy for Right to Seek Legal Recourse for Maimed Workers," *Associated Press Newswires*, June 7, 2002.

Core Convention		Ratified by China
No. 105:	Abolition of Forced Labor	
No. 111:	Discrimination (Employment and Occupation )	
No. 138:	Minimum Age	4/28/99
No. 182:	Worst Forms of Child Labor	8/08/02

## U.S. Investment and Trade with China

In 2002, China was the third largest source of imports to the United States, with imports valued at \$125 billion. An estimated 44% of China's exports involve foreign companies.<sup>12</sup> The United States is the second largest single investor in China after Hong Kong.<sup>13</sup> U.S. companies have invested in many sectors including information technology, communications, finance, hotels, automobiles, and consumer goods. Observers have noted relatively good working conditions and comparatively high wages at American-operated manufacturing facilities offering skilled employment. However, much of the production in China of low-end goods for U.S. labels is contracted through other foreign investors. In 2002, toys, footwear, and apparel items made up about 25% of all U.S. imports from China, while the PRC was the top supplier of toys, footwear, and leather goods to the United States.<sup>14</sup> These export-oriented industries are dominated by East Asian manufacturers filling orders for U.S. brands according to their specifications, as well as home to serious labor rights abuses. Some policy-makers have argued that the United States can promote better labor conditions in China through these foreign suppliers to U.S. corporations.

## Codes of Conduct

Many large U.S. brand companies and retailers that source in China have adopted codes of conduct for their suppliers in order to assure that goods bearing their companies' names are produced under acceptable working conditions. Lack of compliance with these codes may justify the termination of contracts by U.S. corporate buyers. These standards are based upon United Nations and ILO core labor conventions and U.S. Occupational Safety and Health Administration (OSHA) regulations. There are three broad categories: "multi-stakeholder" or external codes developed by non-profit organizations in consultation with labor and business

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<sup>12</sup> David Hale, "The Outlook for China Policy," *China Online*, January 15, 2003.

<sup>13</sup> See CRS Report RL31749, *Foreign Direct Investment in China*, by Dick K. Nanto and Radha Sinha and CRS Issue Brief IB91121, *China-U.S. Trade Issues*, by Wayne M. Morrison.

<sup>14</sup> United States International Trade Commission.

groups; individual corporate codes; and industry or sector codes.<sup>15</sup> Multi-stakeholder programs that not only monitor suppliers but also certify U.S. companies may generate additional public pressures on corporations to conform with international labor rights standards. Although codes vary somewhat, they generally mandate standards at or above the levels of national labor laws. China's labor laws meet international benchmarks in most respects. Often the main problem or variable is not the stringency of the standards but rather the level of enforcement. However, not all codes apply rigorous methods for monitoring and effecting compliance. Some experts argue that third party, non-profit auditors are more effective in monitoring compliance than in-house and for-profit auditors.<sup>16</sup> Independent monitoring organizations in China include Bureau Veritas, Global Social Compliance, Intertek Testing Services, and Verité.

Labor codes of conduct have reportedly produced improvements in some large factories that fear losing contracts to large U.S. corporations for violating labor standards.<sup>17</sup> However, some labor rights groups have found monitoring and verification problems stemming from insufficient transparency, including lack of unannounced audits, lack of input from workers through off-site, confidential interviews (without fear of retribution), and lack of accessibility or disclosure of audits and assessment scores.<sup>18</sup> Furthermore, large suppliers often subcontract further to smaller foreign or Chinese companies that have no code of conduct. Only one of the codes sampled in this report addresses the problem of subcontracting. The Disney Company's Code of Conduct forbids its manufacturers from using subcontractors without the company's written consent, in order to assure both acceptable labor conditions and product quality. According to some accounts, labor conditions in privately-owned PRC factories are worse than FIEs.

The financial incentives of suppliers in China to abide by codes of conduct — attracting or maintaining the business of U.S. corporations — are often negated by countervailing economic pressures. First, the overabundance of migrant labor from the Chinese countryside suppresses wages in low-skill and labor intensive, export-oriented industries. Since the late 1990s, real incomes in many rural areas have fallen while the PRC Ministry of Labor estimates that 20% of farmers are jobless or

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<sup>15</sup> See CRS Report RS20803, *Codes of Conduct for Multinational Corporations: An Overview*, by James K. Jackson.

<sup>16</sup> Some experts have suggested that conflicts of interest prevent private sector accountancy and auditing firms, such as Pricewaterhouse Coopers, from effectively monitoring working conditions for corporations. See the independent report, "Monitoring the Monitors: A Critique of Pricewaterhouse Coopers (PwC) Labor Monitoring," by Dara O'Rourke, Massachusetts Institute of Technology, September 2000.

<sup>17</sup> In 2001 and 2002, two Taiwanese-owned factories, along with local government and ACFTU officials, agreed to hold free elections for enterprise union representatives at the behest of Reebok, their U.S. buyer. The incentive for consenting to the experiment was fear of losing Reebok's business. See: Alison Maitland, "Sewing a Seam of Worker Democracy in China," *Financial Times*, December 12, 2002; Jasper Becker, "China's Exploited Toy Workers Still Toil in Toxic Sweatshops," *Independent*, December 23, 2002.

<sup>18</sup> See reports by China Labor Watch [<http://www.chinalaborwatch.org>], China Labour Bulletin [<http://www.china-labour.org.hk>], and Labour Rights in China.

redundant. Second, export manufacturing zones in China have proliferated, and competition for foreign investment has grown, thus pressuring local governments to keep labor activism to a minimum. Third, the global markets in these sectors have become more exacting. The Hong Kong Christian Industrial Committee reported, for example, that in the past decade, intense global competition in the toy industry has shortened delivery times that multinational corporations demand of their contractors by approximately 40%, and driven down prices by 30%, thereby exacerbating labor exploitation despite efforts to improve conditions. The committee recommended that international companies adopt fair buying practices and pay reasonable prices for their toys.<sup>19</sup>

## Comparing Codes of Conduct

This section compares 11 codes of conduct: four multi-stakeholder codes — SA8000 (Social Accountability International), the Ethical Trading Initiative (ETI), the Fair Labor Association (FLA), and the Worker Rights Consortium (for producers of collegiate logo garments);<sup>20</sup> six company codes — Levi Strauss, Mattel, Nike, Reebok, Walt Disney, and Wal-Mart; and one industry code, the International Council of Toy Industries (ICTI) Code of Business Practices.<sup>21</sup> Some companies have both developed their own standards and signed onto one or more multi-stakeholder codes. The codes discussed in this report and participating U.S. companies represent only a sampling of all codes and companies that institute standards of conduct.

### Finding Codes of Conduct Online:

**SA8000:** [<http://www.cepaa.org/SA8000/SA8000.htm#StandardElements>]

**ETI:** [<http://www.eti.org.uk/pub/publications/basecode/en/index.shtml>]

**FLA:** [<http://www.fairlabor.org/all/code/index.html>]

**WRC:** [<http://www.workersrights.org/coc.asp>]

**Levi Strauss:** [<http://www.levistrauss.com/responsibility/conduct/guidelines.htm>]

**Mattel:** [[http://www.mattel.com/about\\_us/Corp\\_Responsibility/cr\\_global.asp](http://www.mattel.com/about_us/Corp_Responsibility/cr_global.asp)]

**Nike:** [<http://www.nike.com/nikebiz/nikebiz.jhtml?page=25&cat=compliance&subcat=code>]

**Reebok:** [[http://www.reebok.com/x/us/humanRights/pdf/ReebokHR\\_Guide.pdf](http://www.reebok.com/x/us/humanRights/pdf/ReebokHR_Guide.pdf)]

**Wal-Mart:** [<http://disney.go.com/corporate/compliance/code.html>]

**Walt Disney:** [<http://disney.go.com/corporate/compliance/code.html>]

**ICTI:** [<http://www.toy-icti.org/mission/bizpractice.htm>]

<sup>19</sup> Chloe Lai, “Toy Factory Workers Face Exploitation,” *South China Morning Post*, February 17, 2003.

<sup>20</sup> SA8000 signatories include Avon, Dole Food, and Toys R Us; Levi Strauss is a member of ETI; FLA licensees include Adidas, Eddie Bauer, Liz Claiborne, Nike, and Reebok.

<sup>21</sup> ICTI is an association of toy trade associations with members in China, Hong Kong, the United States, and other countries.

## Child Labor

The problem of underage workers (under 16) in foreign invested enterprises (FIEs) along the coast is likely considerably less than in township and village enterprises (TVEs) and workshops in China's rural areas. The risks and costs of traveling and acquiring temporary residency permits in factory towns and the ample supply of legal-age labor reduce the incentives for employing underage labor in FIEs. However, the preference of many export-oriented factories for hiring youthful workers (late teens to early 20s) creates opportunities for underage Chinese to gain employment. Some reports describe teenagers using fake personal identification cards to work in foreign-owned assembly plants.<sup>22</sup>

The codes of conduct reviewed herein place restrictions on minimum age ranging from under 16 to under 14. Nike further prohibits the hiring of workers under the age of 18 for footwear. All codes apply a higher standard if either the legal minimum age or the age for completing compulsory education is higher. Social Accountability International (SA8000) and the International Council of Toy Industries (ICTI) would prescribe a minimum age of 14 where ILO Convention 138, Article 2.4 applies (developing country exception — members whose economies and educational facilities are insufficiently developed). The Mattel and Reebok codes stipulate that identity documents must be thoroughly checked and shall be accessible. Mattel and the Ethical Trading Initiative (ETI) require that employees under the age of 18 be exempt from hazardous duties. According to the PRC Labor Law, it is illegal to hire workers under the age of 16. “Young workers” — ages 16-18 — are accorded special treatment, including prohibitions on overtime and night work, regular health check-ups, and other protections.

## Forced Labor

The codes universally proscribe several forms of forced labor, including prison labor, indentured labor, and bonded labor. Some codes provide more detailed prohibitions that apply specifically to involuntary labor practices in China, such as the withholding of wages, security deposits, and identity papers or the charging of “severance fees” by employers. The Mattel code requires a written document for each employee stating that employment and overtime are voluntary. The Reebok code forbids the use of “administrative detainees” in supplier factories.<sup>23</sup> The ICTI code stipulates that “workers are free to leave once their shift ends.” The Labor Law of China states that a worker may terminate his employment, or repudiate his labor contract, if the employer compels a worker to work by the use of force, threat or by means of illegally restricting personal freedom, or if the employer fails to pay remuneration or provide working conditions as agreed upon in the labor contract.

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<sup>22</sup> “McDonalds Gets Minced,” *Asian Wall Street Journal*, September 6, 2000.

<sup>23</sup> China maintains a system of “labor reeducation” (*laojiao*) camps for citizens who have committed socially disruptive but non-criminal acts. In these cases, no trial is granted, but sentences legally do not exceed three years.

## **Disciplinary Actions**

Most of the sampled codes forbid corporal punishment as well as verbal harassment, sexual harassment, and psychological abuse, or simply declare that employees shall be treated with respect and dignity. The Reebok code adds that employers will not unreasonably restrain workers' freedom of movement including movement in canteens, during breaks, using toilets, accessing water or medical services. In China, it is illegal for employers to insult or punish workers physically.

## **Discrimination**

In the codes examined, discrimination standards range from none at all, to requirements that personnel decisions be made on the basis of a person's ability to do the job, to more detailed regulations. Generally, the factors that are subject to protection from discrimination are age, ethnicity, gender, race, and religion. Other factors in some codes include disability, sexual orientation, and union or political affiliation. External codes — SA8000, ETI, FLA, and the Worker Rights Consortium (WRC) — go furthest in imposing discrimination standards. The Nike and ICTI codes do not contain provisions on discrimination. China's Labor Law prohibits discrimination on the basis of nationality, sex, race, and religious beliefs. The WRC and ICTI codes recognize the rights of pregnant women. The WRC standards provide the most extensive protections for women — forbidding pregnant women from being fired, proscribing forced or pressured use of contraception, demanding equal pay for women, and barring their exposure to hazardous materials.

## **Health, Safety, and the Environment**

Health and safety areas and issues covered by the codes pertain to: the work environment, housing, and dining areas, injury and fire prevention practices, hazardous materials management, sanitation (including clean toilets and wash rooms), and potable drinking water. Applicable standards are the national health and safety laws of the government where the factory is located, the health and safety conventions of the International Labor Organization, and OSHA regulations. More comprehensive standards on some codes include safety features on machines, health and safety training, first aid stations, and regulations for exits, space, lighting, ventilation, temperature, and noise. Some codes also require health and safety professionals to be stationed on the shop floor and specify procedures for the documentation of injuries. Reebok has the most detailed health and safety codes. The Labor Law of the PRC entitles workers to refuse to engage in dangerous operations forced upon them by management in violation of relevant regulations, and allows them to criticize, inform or bring charges against the employer for acts that are harmful to life, safety, and personal health. Several of the codes sampled in this report encourage environmentally-safe practices and the assignment of trained personnel for managing hazardous waste.

## **Freedom of Association**

The multi-stakeholder codes — SA8000, ETI, FLA, and WRC — and some company codes in this sample assert the rights of workers to join or form trade unions

of their own choosing and to bargain collectively without fear of retribution. The SA8000 code provides that where the law prohibits these freedoms, the employer shall facilitate the development of parallel means for independent and free association and bargaining. Mattel and Reebok also require that grievance procedures be set up. Some company codes surveyed either do not address these rights or state that workers may join *any* legally-sanctioned labor organization, which in China is the ACFTU. In the PRC, workers in most private and foreign invested enterprises lack any union representation while independent organization is not tolerated by the government. In some enterprises where unions exist, workers reportedly are not aware of them. According to the PRC Labor Law, collective contracts may be negotiated between the enterprise management and enterprise trade union or workers' congress. However, collective contracts apply mostly to large, state-owned enterprises, and decisions about workers' pay, working hours, health, welfare, and other issues are largely non-negotiable. In 2001 and 2002, Reebok was successful in urging two Taiwanese-owned suppliers in China to hold free elections for representatives of the official trade union, touted as first of its kind in China.<sup>24</sup>

## Working Hours

Excessive work hours is one of the most common labor abuses and causes of sickness and accidents in Chinese factories. Many codes prescribe a maximum of 60 hours per week, including a maximum of 48 hours of regular time and voluntary overtime not to exceed 12 hours, or the legal maximum if it is lower. All codes require one day off per week. Some codes apply restrictions "on a regular basis" rather than unconditionally. Others provide an exception to maximum working hours under "extraordinary circumstances."<sup>25</sup> The SA8000 code allows mandatory overtime if it is part of a collective bargaining agreement. Mattel, Wal-Mart, and ICTI state that working hours shall comply with local laws. China's Labor Law mandates an average work week of 40 hours with one day off every seven days. It prohibits overtime work in excess of 3 hours per day or 36 hours per month, and stipulates that it must be voluntary.

## Compensation

Although low relative to many other developing countries, wages in China's labor intensive, export-oriented industries continue to attract migrants from rural areas of China's interior, where unemployment is high and average incomes are comparatively low.<sup>26</sup> The baseline standards for compensation are wage and benefits

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<sup>24</sup> Frank Ching, "Hong Kong Companies, We Are Told, Now Employ 11 Million Factory Workers on the Mainland," *South China Morning Post*, December 28, 2002.

<sup>25</sup> Reebok defines "extraordinary circumstances" as situations "that could not have been anticipated such as natural disasters, political upheaval, or mechanical failures."

<sup>26</sup> In China, legal minimum wages vary by location. Calculating actual wages in labor intensive sectors can be difficult because workers are often paid by a combination of piece rates, hourly, and overtime wages. Estimated actual wages in low-skill, export-oriented industries range from US\$50 to \$95 per month, compared to an average rural income of \$25

(continued...)

levels that comply with local laws or match “prevailing industry standards.” Some multi-stakeholder codes — SA8000, ETI, and WRC — include “basic needs” or “living wage” clauses.<sup>27</sup> Some codes also require employers to provide written pay policies before employment contracts are signed and accurate pay statements or records (listing all calculations and deductions) for each pay period. Other additional standards in some codes include requiring the payment of “premium rates” for overtime work, prohibiting the withholding of wages for disciplinary purposes, and deducting “reasonable amounts” for food and housing. According to China’s Labor Law, the overtime rate of pay is 150% of the regular rate; legal compensation for working on rest days is 200% of regular pay, while work on national holidays is compensated at 300% of the base rate.

## Compliance

Although extensive compliance guidelines are a crucial element in making codes of conduct effective, some of the sampled codes do not provide for them to any significant extent. Some codes apply an auditing system consisting of assessment or grading standards and corrective action procedures. The Disney code mandates comparatively rigorous on-site inspections, declaring that they be *unannounced* and that they include *private* or confidential interviews with workers. By contrast, Nike requires inspections “with or without prior notice” and Wal-Mart only specifies “personal interviews.” Few of the codes sampled in this report explicitly call for third party or independent auditors. Others refer to “designated” monitoring agencies or to internal auditors (self-monitoring).

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<sup>26</sup> (...continued)

per month. Generally, these figures do not include employer-provided room and board, but also do not indicate how much of the income might come from overtime. Average per capita urban incomes in China exceed \$100 per month.

<sup>27</sup> WRC defines a living wage as providing for basic needs — housing, energy, nutrition, clothing, health care, education, potable water, childcare, transportation, and savings — of an average family unit divided by the number of wage earners.