



Labour Standards in China, The Business and Investment Challenge

Executive Summary

Rising concerns about corporate governance now include risks associated with mismanagement of labour rights and health and safety

This report outlines the dilemmas that might confront any institution seeking to engage with Chinese enterprises on social issues (labour and workplace issues). With China's accession to the WTO and its hosting of the Olympic Games in 2008, foreign companies and investors already in China are seeking opportunities for expansion while those yet to enter the market see opportunities not previously available. For many, however, the hazards of doing business in China go beyond traditional risks. Rising concerns about corporate governance have spilled over into the social arena, and now include the damage to a company's reputation by failing to manage risk associated with labour rights and health and safety.

Increasingly, SRI investors expect foreign companies to take responsibility for working conditions in overseas countries

The rise of the ubiquitous sweatshop story has unnerved many investors and companies purchasing goods from China. There is the risk of being 'named and shamed' in the media over the working conditions in factories supplying to them. There is also the risk of being caught in a complex web of Chinese laws, politics and culture. With more investors and consumers calling for foreign companies to take responsibility for the working conditions at their Chinese suppliers, these issues are now centre stage.

What are the existing problems and how might companies deal with them?

This report is not another account of grim Chinese working conditions (although it does not shy away from them). Instead it seeks to outline the dilemmas that might arise from a complicated set of issues for investors who believe they can encourage and implement change in the workplace. To do this requires more than relating stories of 18-hour days and conditions that are perhaps unimaginable to those who have never ventured into workshops where conditions pose a daily threat to workers' health or lives. It requires the presentation of existing programmes, of the issues on which companies might fruitfully engage and that pose the least risk, and the problems that might arise.

Some companies are already engaged in managing the risk, but there are no easy answers

The issues surrounding Chinese workers and workplace conditions are complex and the way forward is not immediately apparent to many companies. However, some companies are already involved in path-breaking programmes, and the Chinese Government itself has recently started to focus on improving workplace conditions. Between companies already making the effort to improve conditions and the Government's initiatives, there is more room for engagement than many assume. Few have travelled this path in China, and this report does not pretend there are easy answers.

Can engagement with Chinese companies influence workplace conditions positively?

Investors and foreign companies will need to consider Chinese cultural concerns. The delicate line between setting criteria perceived by the Chinese government as discriminatory but too lax by human rights advocates in the West is a crucial issue that needs to be resolved. As Chinese markets open further than ever before, foreign firms will be able to enter the country more freely and compete head to head with Chinese enterprises for local customers. This will have a profound impact on China's economy, particularly as China's

market further opens to the global capital markets. It will also profoundly affect Chinese workers. Therefore, everybody who believes that sustainable and responsible investment (SRI) is an agent for change must also believe that its impact on workers can be positive.

Key topics addressed are:

- *the role of the ACFTU*
- *Chinese labour law*
- *Working conditions*
- *How to improve and monitor working conditions*

The report cannot cover every initiative and every potential problem, but it outlines many and where possible provides mini-case studies that illuminate the issues. It provides more detailed information in the Appendices. Key organisations are listed and there are numerous links to relevant information online.

The key issues addressed are as follow:

- **The All-China Confederation of Free Trade Unions (ACFTU)**

The key issues are:

- Does the ACFTU represent workers?
- What are the debates that surround the ACFTU and its role?
- What will its desire to increase representation in foreign invested enterprises mean for foreign investors?
- Does Trade Union Law provide an opportunity for dialogue?
- What do recent changes in Trade Union Law mean for the key issue of the right to strike?
- Are there differing views within the ACFTU?

Dilemmas: Those seeking to engage with Chinese companies must weigh up their position on the core right to freedom of association (the right to form free and independent trade unions) and the role of the ACFTU.

- **Chinese Labour Law**

The key issues are:

- China has useful laws, but implementation and enforcement are often not effective
- Loopholes and ambiguities (including the key problems surrounding hours and wages, where laws are easy to legally ignore)

Dilemmas: Those seeking to engage with Chinese companies must decide on the criteria by which they will determine investment and/or engagement (Chinese Labour Law, corporate codes of conduct, international labour standards, or some other standard).

- **Working conditions in the Chinese supply chain**

The key issues are:

- Poor living conditions, pay failing to meet the legal minimum, and long hours
- Migrants form a great proportion of the manufacturing workforce and face specific problems (including fees and discrimination)
- Unemployment and its impact on wages and conditions

- Poor occupational health and safety standards and the changes brought about by new regulations in November 2002

Dilemmas: Those seeking to engage with Chinese companies must establish benchmarks on key issues to clarify the level of conditions deemed sustainable and responsible. What is the lowest level you are prepared to accept on each issue?

- **How to improve workplace conditions**

The key issues are:

- How are workplace conditions monitored
- Can companies exert influence; and if so, how?
- Do Chinese companies understand the pressure to comply with standards?

Dilemmas: Those seeking to engage with Chinese companies must determine whether they are encouraging or forcing change (resentment can result if it is the latter). The pressures of the market mean that companies will undercut one another on labour standards resulting in many companies reconsidering their commitment to improving conditions.

- **Monitoring workplace conditions**

The key issues are:

- Do third party audits really test whether companies comply with set criteria?
- Can workers participate in audit programmes?
- Are auditors performing their tasks adequately?
- Companies cutting contracts with Chinese suppliers over breaches of compliance

Dilemmas: Those seeking to engage with Chinese companies must clarify their stance on compliance. How will they assess it? How will they deal with companies who do not comply with set standards (offer assistance or cut the contract)?

A number of foreign companies are already dealing with these issues and dilemmas. Dozens, perhaps even hundreds, more are considering how to implement programmes on the factory floor that will reflect a commitment to suppliers and their workforce, but mitigate the growing risks associated with doing nothing at all. This report highlights the dilemmas involved in trying to deal with these issues, both from a business and investment perspective.



The research was undertaken during the autumn of 2002 by Dr Stephen Frost. Dr Frost is currently a Research Fellow at the Southeast Asia Research Centre at the City University of Hong Kong, and was formerly the Research Coordinator at the Asia Monitor Resource Center in Hong Kong, a non-governmental organisation that documents workplace conditions in Asia. The report was completed with guidance from Louisa Mitchell and David St Maur Sheil of ASrIA.

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<http://www.asria.org/publications>
Price US\$150 for non members, free for ASrIA members.**

What is ASrIA?

ASrIA, the Association for Sustainable and Responsible Investment (SRI) in Asia, is a not-for-profit membership association dedicated to promoting and developing SRI in Asia. ASrIA's mission is to assist the financial community to understand and integrate sustainable investment criteria into investment decisions, and to empower investors by increasing the choice of SRI products available in Asia. At the end of 2002, ASrIA had almost ninety members managing approximately US\$2 trillion in assets. In order to raise awareness about SRI, ASrIA has run conferences, seminars and workshops, and published wide-ranging research on SRI issues. ASrIA has also founded a network of people and organisations committed to developing SRI in Asia. ASrIA's website, www.asria.org, is the primary resource for SRI in Asia, getting over 1,300 page views per day. ASrIA's regular e-bulletin has 4,500 subscribers.

Disclaimer

While every effort has been made to ensure the information in this report has been obtained from sources which we believe to be reliable, we have not independently verified the information and do not guarantee that it is accurate or complete.

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