



## Corporate Social Responsibility (CSR) and Labour Rights in the People's Republic of China

With the rapid economic growth of the People's Republic of China, the living standards of most Chinese have improved, and the number living below the poverty line has been halved. Despite this, development in China faces major social and ecological challenges, which are reflected in growing environmental problems and an increase in social unrest. This and the growing pressure on Chinese businesses forming part of global value added chains to comply with international standards have put CSR and the strengthening of labour rights on the political agenda. These rights are important elements of the "harmonious society" that China is seeking to build.

Crucial in this context are the initiatives taken to introduce the CSC 9000T standard in the textile and apparel industry and the recent government instructions to introduce CSR in Chinese state-owned enterprises. The strengthening of labour rights hinges on the Labour Contract Law (LCL), which entered into force in 2008. It requires labour contracts to be drawn up in writing and greatly restricts short-term employment relationships.

### China's reform agenda for strengthening CSR and labour rights

Since the transformation process began, the annual growth of China's gross domestic product (GDP) has averaged 10 per cent. This has catapulted China into fourth place among the world's economies and second place among its trading powers. With this economic growth, the living standards of most Chinese have also improved, and the number living below the poverty line has fallen sharply. According to UN estimates, the number of Chinese living in poverty has been halved since the open-door policy was launched in 1978.

Latterly, however, this trend has also been seen to have many dark sides. The successes of the upswing have been accompanied by serious damage to the environment and waste of resources, their regional distribution is very uneven, and the income gap is growing constantly. Although China's stability cannot yet be regarded as under threat, the pressure of the problems has visibly increased.

These internal challenges have been joined by a continuous increase in the pressure to adjust exerted by external global actors. The social monitoring of western

The real contribution this agenda will make largely depends on whether and to what extent China succeeds in putting the CSR initiatives into practice, extending them to provincial level, increasing the number of businesses involved and establishing convincing verification mechanisms. The importance of the LCL will very much depend on whether the implementing provisions are so worded that any circumvention (through part-time contracts, for example) is prevented. In addition, Chinese labour law must not only strengthen individual workers' rights but introduce, in accordance with the conventions of the International Labour Organization (ILO), rules on the settlement of collective disputes.

International organisations, multinational corporations, including German companies, and the German development cooperation community can help to strengthen China's capacities in this area with individual projects and good practices.

TNCs by non-governmental organisations (NGOs), the media and trade unions has also gradually increased the demands on Chinese businesses.

There are now signs of the first steps being taken in China towards a paradigm shift from the quantitative growth model to sustainable economic, social and ecological development. In 2007 this reorientation was confirmed at the 17th congress of the Chinese Communist Party when the leitmotifs of the "scientific development concept" and the "harmonious society" introduced by Hu Jintao were included in the party's constitution. This reform agenda led to such new forms of regulation as corporate social responsibility (CSR) and further reforms of labour law being placed on the agenda.

### "Chinese-style" CSR

Until recently China rejected CSR very largely as indirect protectionism on the part of the West, but it has changed its position fundamentally since 2005. From official announcements it can be inferred that CSR is to be seen in a very comprehensive sense as a business-related contribution to the promotion of socialism and harmonious society. Unlike the EU concept, which calls for CSR to be more than mere compliance with the law,

“Chinese-style” CSR must be classed as a supplementary tool for enforcing environmental laws and labour rights. This CSR concept is due to the major deficiencies in China’s ability to monitor compliance with legislation, the introduction of CSR being intended to help reduce these constraints.

The Chinese government’s current CSR policy is particularly evident from the recent instructions to introduce and practise CSR in state-owned enterprises (SOEs) and the code of conduct for the textile and apparel industry. Especially important in this context are:

- the SASAC instruction for CSR in SOEs
- the CSC 9000T standard for the textile and apparel industry.

### CSR policy towards state-owned enterprises (SOEs)

Of central importance is the CSR guideline for SOEs published by SASAC (State-Owned Assets Supervision and Administration Commission of the State Council) in January 2008 (Ho 2008).

In principle, it requires all SOEs for which SASAC is responsible not only to meet entrepreneurial targets in the narrower sense but also to act responsibly towards their stakeholders and the environment. The following specific CSR requirements apply to SOEs:

- Compliance with laws and legal regulations. This includes, in particular, the observance of moral and ethical standards, the punctual payment of taxes, the protection of investors’ rights and intellectual property rights, adherence to contracts and measures to combat unfair competition and corruption.
- Continuous improvement of sustainable profitability, of corporate governance and of the management system.
- Improvement of product quality and services and protection of consumers’ rights.
- Assurance of environmental and resource protection and promotion of innovations and technological development.
- Assurance of industrial safety and introduction of mechanisms to prevent serious industrial accidents.
- Protection of labour rights, conclusion of labour contracts and measures to combat discrimination on grounds of gender, membership of an ethnic minority, religion or age. Introduction and strengthening of worker representation mechanisms.
- Active participation in social and corporate affairs in the communes and in philanthropic activities.

To promote CSR activities further, SASAC calls on the SOEs to implement the following measures:

- training to promote awareness of CSR;
- linking of CSR to business management;

- establishment of CSR departments in enterprises and of standards and mechanisms for the evaluation of CSR performance;
- introduction of CSR reporting mechanisms, regular publication of sustainability reports and promotion of dialogue with stakeholders;
- analysis of best practices involving CSR in foreign enterprises and cooperation in the setting of international standards;
- reinforcement of the leading role played in enterprises by organisations of the Chinese Communist Party.

The fact that certain SOEs have submitted reports on their CSR performance since 2005/6 can also be regarded as a partial indication of the changes in orientation. According to current data, however, only eleven of the total of some 150 SOEs under SASAC’s supervision had submitted a sustainability report by the end of 2007. Even with private Chinese businesses included, only about 40 CSR sustainability reports have so far been published.

### The CSR code for the Chinese textile apparel industry

In 2005 the China National Textile and Apparel Council (CNTAC) launched a fundamental initiative for a CSR framework in the textile and apparel industry. This initiative was prompted, on the one hand, by the requirements which multinational corporations expected their Chinese suppliers to meet and, on the other hand, by the extremely poor working conditions in this sector (a 12-hour day and/or a 7-day week being common). The latter had ultimately resulted in considerable losses of quality in production.

The CSC 9000T standard is a management system guided by existing laws and legal regulations in China and by international conventions, standards and practices.

In all, it sets out ten principles and corresponding guidelines. The principles cover the following areas:

- management system
- labour contract
- prohibition of child labour
- forced labour
- working hours
- income and social welfare
- trade unions and collective agreements
- discrimination
- harassment and ill-treatment at the workplace
- health and safety at the workplace

Initial assessments indicate that the introduction of this standard in the various enterprises has significantly reduced the extremely high level of employee fluctuation and so led to an increase in their efficiency (Wang Zhile 2008).

## Interim résumé

It is evident from the CSR activities that have been referred to that China did not abandon its previously strict rejection of CSR until 2005, but has since initiated new strategic perspectives. Through its recent involvement in the multi-stakeholder dialogue on the establishment of the ISO 26000 standard, which concerns the development of guidelines for the social responsibility of organisations, the Chinese government has also emphasised its conceptual reorientation at international level.

Nonetheless, implementation is still lagging well behind what is needed. The SASAC instructions outlined extend only to the SOEs for which central government is responsible, while no account has been taken of the large number of SOEs for which provincial governments take responsibility.

As for the CSR code for the Chinese textile and apparel industry, it should be emphasised that its particular contribution lies in the fact that compliance with Chinese labour law has for the first time become verifiable. At the same time, the data available on the CSC 9000T standard reveal that, with only about 300 enterprises having adopted the standard, China is at best still on the starting line.

It also needs to be emphasised that CSR activities must in principle be classified as “soft law.” Without further details on how the “voluntary commitments” are to be verified, the measures that have been introduced continue to fall short of the international standards. This situation is all the more serious for China as, unlike many western countries, it has scarcely any of the civil society organisations or media likely to form a critical public.

## Recent developments in the area of labour rights

Chinese labour law is basically guided by the ILO conventions. In some respects Chinese legislation goes beyond the ILO provisions. Clear breaches of the core ILO standards result from the absence of rights in the areas of freedom of assembly and collective bargaining.

In 2007 the Labour Law introduced in 1994 was joined by three new laws: the Labour Contract Law (LCL), the Employment Promotion Law (EPL) and the Law on Labor Dispute Mediation and Arbitration. The aim of these laws, which entered into force on 1 January 2008, is to strengthen workers’ individual rights.

## Background to and current developments in Chinese labour law

The new legislative initiatives in the area of Chinese labour law were launched primarily because of the precarious situation of migrant workers, the large number of industrial accidents, the withholding of wages due and the rise in industrial disputes (Table 1).

The external factors that triggered the LCL were considered to be media reports of workers being treated like

slaves at brickworks in the province of Shanxi and increasing disregard for rules on minimum wages and working hours at many enterprises.

Year	Number of disputes	Workers
2001	155,000	467,000
2002	184,000	610,000
2003	226,000	801,000
2004	260,000	765,000
2005	314,000	740,000

Source: PRC Ministry of Labor and Social Security (MLSS)

The publication of the draft LCL prompted some 190,000 petitions, many from the ranks of Chinese trade unions, others from domestic and foreign businesses. As the draft law provided for significant restrictions of the extremely deregulated labour market and instead laid down “house rules for the factory of the world” (Müller 2007), the trade union response tended to be positive, whereas many western businesses and commercial associations, but Chinese enterprises too, felt that China was at serious risk as an investment location and were at times vociferous in their protests. In some cases, the draft law was regarded as heralding the renaissance of the command economy and the reintroduction of the “iron rice bowl.”

## Essential elements of China’s new labour law

The following elements are among the most important innovations brought about by the LCL:

- An employment relationship must be laid down in writing (sections 10 and 11). By way of exception, the written form is not required where workers are employed part-time.
- Short-term employment relationships are restricted (section 14).
- A trial period may be agreed by employer and employee only once (section 19).
- The trade unions must be given 30 days’ notice of and consulted on reductions in the workforce by more than 20 persons (Julius 2008).

## Interim résumé

The elements outlined reveal that the level of worker protection has been substantially improved by law. This immediately becomes clear when it is realised that hitherto some 60 per cent of enterprises concluded only employment contracts for no more than a year and even then rarely in writing. However, the criticism originally voiced that the law must be regarded as a relapse into the command economy lacks any foundation. In fact, the LCL does not in any way impose on Chinese enterprises obligations with which European enter-

prises are not already familiar from European labour law.

All in all, the new provisions of China's labour law show that the main aim of its central government is to improve the rights of the individual worker. As with the government instructions and initiatives designed to strengthen CSR, the principal question in the case of the new labour law is whether and how those provisions are put into practice. A central role in this context will be played by the implementing legislation that has yet to be drawn up. Only when adequate guidelines on the implementing provisions have been adopted can the LCL be prevented from being eroded and becoming ineffective (as a result of extensive part-time contracts, for example).

From the workers' point of view the current exclusion of the settlement of collective disputes and the right to strike continues to be one of the main deficiencies of China's new labour law.

### Selected international activities to strengthen CSR/labour rights in China

Various UN agencies (Box 1), multinational corporations, NGOs and even German development cooperation are contributing to the strengthening of capacities that is needed if CSR is to be put into practice and labour rights are to be enforced.

#### Box 1: CSR training projects for small and medium-sized enterprises in the Chinese textile industry, implemented by ILO, UNIDO and CNTAC

This project is geared to SMEs in the textile sector, training and coaching upgrading programmes being implemented for 25 enterprises in the various modules. The modules extend to:

- training courses on health and safety at the workplace,
- improvement of quality and productivity through increased dialogue between management and workers,
- environmental protection and improvement of the competitiveness of enterprises,
- management of human resources.

In particular, this ILO/UNIDO/CNTAC project focuses on the joint training of managers and workers with the aim of improving cooperation at the workplace and introducing "good business practices."

The implementation of the project is overseen by an advisory committee, on which the ILO, UNIDO, CNTAC, MOLSS, CEC, MOFCOM and ACFTU are represented.

Source: Project Office for ILO/UNIDO, Beijing 2008

According to available surveys of employers, two thirds of German manufacturing companies, for example, operate on the basis of the same environmental standards

in China as in Germany. The surveys also reveal that almost 40% of the German employers questioned consider the inclusion of CSR in the supplier chain to be part of their corporate policy. (German Chamber of Commerce)

Where German development cooperation is concerned, a wide variety of technical cooperation measures are being taken to improve capacities in the area of CSR/voluntary environmental and social standards. A leading example here is the recent CSR project "Sozial verantwortungsvolle Unternehmensführung/Corporate Social Responsibility (CSR)" jointly implemented with the Ministry of Commerce (MOFCOM).

### Summary

The activities being undertaken to strengthen CSR/labour rights indicate a reorientation of China's central government. However, this new trend is still very much in its infancy in terms of practical application. Such external actors as UN agencies, multinational corporations and bilateral development cooperation are in a position to support these processes. Against this background there are obviously still relevant areas of activities for Sino-German development cooperation.



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