

Testimony for Congressional-Executive Commission on China

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I appreciate the opportunity to speak before the commission today. My testimony is informed by 20 years of experience with advancing labor rights for Chinese workers, first as a worker and activist in China and since 2000 as director of China Labor Watch. Over the past dozen years, China Labor Watch has conducted a series of comprehensive assessments of a wide range of factories in China, relying on researchers based there as well as in the United States. In May 2000, the U.S. Congress debated giving China permanent normal trade relations (PNTR) status. I testified before Congress then and said that Chinese workers work like machines and that trade cannot be viewed simply in its own right, but that it is intimately linked to issues of human rights. So initiatives that facilitate trade need to be accompanied by efforts that advance worker rights. Clearly, voices like mine did not win out at that time. Let us hope that this hearing helps lead to the right approach.

Today, I will cover three major issues.

First, today, a full 11 years since China joined the WTO, labor conditions in Chinese factories remain unacceptably harsh, with long hours, low pay, and severe conditions in the norm. Here I will highlight the findings of our new report on 10 of Apple's suppliers in China.

Second, the main response from multinational corporations to these severe working conditions has been the establishment of supplier auditing systems. These systems, however, contain serious defects, including what is apparently rampant corruption, thereby leading at best to marginal improvements in working conditions.

Third, substantial advances in labor conditions in China are far more likely to occur only if two things happen: the multinational corporations operating there must push for appropriate improvements and, additionally, the Chinese government will have to take a more aggressive role in enforcing its own labor laws. Companies such as Apple have the resources and influence to assure that necessary changes are made. Consequently, it is imperative, to encourage these companies to act as responsible corporate citizens.

I. The Labor Conditions

Over this past year the worldwide media has directed particular attention to the working conditions at the Apple supplier Foxconn. This attention, culminating in high-profile stories in major papers, has its basis in reports about abusive working conditions dating back to 2006 as well as in the tragic events of 2010, when 13 workers committed suicide by jumping to their

death out of Foxconn dormitories in China. My organization has just released a 135-page analysis of working conditions at Foxconn and nine other Apple suppliers in China. We found that Foxconn is hardly an exception, as deplorable working conditions characterize all the factories examined, with conditions often even worse than those uncovered at Foxconn.

Specifically, the report found the following problems to be common in the ten factories:

1. Excessive Overtime: The average overtime in most of the factories was between 100 and 130 hours per month, and rising to as high as 150 to 180 hours per month during peak production season. These figures are well above China's legal limits.
2. In most factories, workers generally work 11 hours every day, including weekends and holidays during peak seasons. Frequently they are permitted to take just one day off every month, while in the peak seasons employees may go as long as several months without even one day of rest. (Under China's labor law, the official working hours are 8 hours/day and 36 hours/month for overtime hours, but the workers in the factories examined now typically work as much as a shocking 150-180 hours overtime each month.)
3. Low wages compel workers to accept long overtime hours. Most of the factories pay a basic salary equal to the minimum wage stipulated by the local law (around \$200/month), a rate that is so low that workers have to work long hours simply in order to support a bare livelihood for themselves.
4. Workers are exposed to a variety of dangerous working conditions. Workers in all the factories reported safety concerns such as metal dust and hazardous working environments.
5. All too often, workers find the food offered in the factory cafeterias unsanitary. Besides that, their housing conditions are frequently overcrowded, dirty, and lacking in facilities.
6. Most factory workers are young females who are not familiar with unions and their functions. Nor are they aware of their legal rights under Chinese labor laws. They have little ability to push for reasonable working conditions.
7. Some factories do not pay for workers' social insurance, work injury insurance, and other insurance required by law.

The Riteng factory stands out for its particularly poor working conditions, even in comparison to Foxconn. On average the 20,000 Riteng workers are on the job nearly 12 hours a day, compared to 10 hours a day at the Foxconn factory. The Riteng workers get only about one day of rest each month. Their overtime hours dwarf those of the Foxconn workers, which themselves are well above the legal limit set in China. For Riteng workers, the average hourly wage is 8.2 RMB or \$1.30, well below the still-meager average hourly wage of Foxconn workers of 10.2 RMB or \$1.62. A full half of Riteng workers rated its safety and health as 'bad' compared to just 2% of workers giving this rating to the Foxconn factory.

Serious problem of Labor Dispatching has been overlooked by Apple

Labor dispatch companies are employment intermediaries similar to temporary employment agencies in the United States. Whereas workers typically enter into a contractual relationship directly with their employer, labor dispatching introduces a third-party into the arrangement. Workers are contractually obligated to their dispatching company, and the company sends its workers to work in factories on an as-needed basis. Factories have no formal relationship with the dispatched workers and can send them back to their dispatch companies at any time.

Our research revealed that Apple's Social Responsibility Reports have entirely neglected the fundamental problems caused by the prevalent use of dispatched labor in Apple's supply chain. Except for Foxconn in its Shenzhen operations, which transferred all dispatched workers to direct-hire status in 2011, all of the other factories investigated overused dispatched labor, including the Jabil factory in Shenzhen where dispatched labor made up almost 70% of the workforce. The use of dispatched labor creates a series of problems for workers, as listed below:

1. Factories can use dispatched labor to employ people short-term without having to pay severance compensation.
2. Factories can use dispatched labor to shift responsibility for worker injuries onto another party.
3. Factories can use dispatched labor to prevent workers from organizing into unions or establishing democratic management systems.
4. Factories can reduce other forms of worker compensation, and thus their labor costs, by hiring dispatched labor. For instance, when companies do contribute to social insurance programs for dispatched workers, they pay a smaller percentage of the wage bill to insurance companies or sometimes do not sign workers up at all. Such practices mean that employers' labor costs can be reduced by 10% to 15%.
5. Dispatched workers have no limitation on the amount of overtime that they work. Some have to work more than 150 hours of overtime every month, exceeding the 36 hours per month allowed under Chinese law.
6. Dispatched workers often have to pay sizable fees to the dispatching agency.

In short, our study shows that 11 years after China joined the WTO, labor right violations are rampant in the factories supplying one of the largest companies of the world. Beyond this study, the available evidence indicates that labor rights violations are also common in Chinese factories that supply companies like HP, Dell, and Samsung, where the conditions may be even worse than they are at Apple's suppliers.

II. The Problematic Auditing System

To improve labor rights in China, beyond exerting pressure on the Chinese government, it is appropriate and critical to demand change from the multinational corporations themselves, a method that has borne fruit in the past. For instance, under pressure from negative media coverage, Apple requested that the Fair Labor Association investigate Foxconn, and subsequently said it would implement the report's recommendations (the verdict is out on whether Apple will fulfill this promise).

Nonetheless, the central mechanism currently deployed by multinational corporations to advance labor rights is fundamentally flawed. Corporations will usually audit a factory, then call for the factory to meet its social responsibility standard, before placing an order there. In China, there were more than 100,000 audits of at least 30,000 factories last year. When labor rights organizations criticize the supplier factories of those multinational corporations, the corporations typically respond that they are addressing any deficient conditions through their auditing process. Yet over the past ten years the audits have produced little if any changes or improvements in labor conditions.

There are efficacy issues in those doing the auditing, and even serious corruption in the execution of audits. For example, an accurate audit could require a factory to spend tens of thousands of dollars to increase its workers' wages or to buy safe equipment, in order to satisfy the social responsibility standard of multinational corporations. However, bribing an auditor to give the factory high marks may cost only a few thousand dollars. After the bribe yields an excellent report on that factory, a corporation could satisfy its public critics, and the Chinese factory would get its usual orders.

China Labor Watch has itself found strong evidence of corruption in the auditing process, a discovery that led to positive results. After one of our reports about corruption in the auditing system, in 2010 an auditing company laid off two thirds of its auditors of social responsibility Department (around 300) in China. Also, the problem that toys manufactured in China too often contain lead in part reflects deficient auditing of the safety of toy factories¹, as those toys were exported to the U.S. after they passed the quality audits from the auditing companies.

The experience of China Labor Watch in fighting against audit corruption in China illustrates the problems with the audit process.

In 2009, the International Council of Toy Industries authorized Intertek to audit the Hang Fat factories in Dongguan. ICTI CARE PROCESS, as its name suggests, is a toy industry association. More than 75% of the exported toys produced in China have to pass its social responsibility audit. The international corporations will only place orders from factories passing their audit.

¹This piece of news mentioned how rampant corruption is undermining safety standards in mainland China's toy factories. <http://www.asianews.it/news-en/Chinese-toys-tainted-by-lead-or-made-by-child-labour-18907.html>

Intertek is a large multinational corporation with more than 30,000 employees around the world. It helps other multinational corporations conduct social responsibility and safety audits in industries like toys, electronics, garment, sporting and automobiles. It has branches and offices in the United States, China and Hong Kong. Intertek's clients include ConocoPhillips, Costco Wholesale, the Gap and many others.

According to China Labor Watch's informant, the Hang Fat factory paid Intertek's auditor \$3,100 so that that plant could pass the audit. We reported the bribery to Intertek and ICTI CARE PROCESS. ICTI CARE PROCESS rechecked the audit result and found that the factory had in fact fraudulently reported its working hours and salaries. ICTI CARE PROCESS then cancelled the certification of the factory².

The factory employed about 200 workers during the low season and 500 workers during the peak season. ICTI CARE PROCESS's own study found that every worker lost \$20 per month due to the defective audit of Intertek. If we use the number of workers in the low season, the monthly salary loss for the 200 workers is \$4,000 and the yearly loss is \$48,000. It cost the factory a mere \$3,100 to pass the audit by bribing the auditor. So if the factory had not been caught it would have saved at least \$45,000 by bribing the auditor.

We found nine questionable audits like the Hang Fat factory audit. Given that we are only a small NGO that can investigate just a modest number of factories, we believe there are many more questionable audits conducted by Intertek.

After we reported the dishonest audit result to the ICTI CARE PROCESS, Intertek published the identity of our informant in its Compliance Newsletter. He and his family subsequently received a death threat.

As a famous international audit company, Intertek claims that integrity, transparency, and accountability are its core values. However, its description of the case is troublesome. Everything in the Newsletter was technically true, but the story given there omitted some key facts. It did not mention that its audit was voided by ICTI CARE PROCESS. Intertek also concealed the fact that its auditors violated the confidentiality agreement with our informant and put his life in danger.

² The ICTI program is primarily for the toy industry and a cancelled certification precludes purchases in the toy industry, but it does not preclude other retailers from purchasing from the factory.

Intertek's version of the events

The Truth

Intertek omitted that CLW reported the corruption case to ICTI CARE PROCESS.

March 4th, 2010, CLW reported the audit corruption to ICTI CARE PROCESS.

Intertek omitted the salary and working hours fraud at the Hang Fat factory.

On March 16th, ICTI CARE PROCESS discovered that there was fraud in the salary and work hour records at Hang Fat. ICTI CARE PROCESS later notified Intertek.

In its report, Intertek published Yuan Chaowen's name and his relationship with CLW.

Intertek agreed that it would not reveal Yuan Chaowen's name and his relationship with CLW.

By using information selectively, Intertek drew a different picture of the whole story. This selective use of information for this company's own interest is consistent with its issuing biased and even blatantly false audit reports.

III. The Responsibility of Multinational Corporations to Take Action

Currently in China, there is no independent labor union to monitor labor conditions and implementation of labor laws. We hope that the Chinese government will change its policies in favor of advancing labor rights, including encouraging legal construction and the reform of the one, official labor union. However, we know it is very difficult to influence China's government directly. Therefore, to be effective, and reflecting the shared responsibility of the corporations operating in China, the best approach to advancing labor rights would be to focus on the multinational corporations themselves.

The multinational corporations obtain extra profits through the use of low-wage labor in China; they also often squeeze the profits of their suppliers, which in turn leads them to squeeze the wages of workers. These factors help explain why those corporations may choose factories in China over those in other countries, where workers' rights are more respected, labor standards are stronger, and where there may be the freedom to organize independent labor unions. In other

words, the large profits of multinational corporations reflect their exploitation of Chinese workers.

At the same time, the investment from multinational corporations in China is a form of support to China's current political system; that is, the economy can grow even though China refrains from undertaking essential reforms in its political economy. Because Chinese workers do not have the rights to organize independent labor unions and have no channels to fight for their interests, China's government acquiesces in transferring workers' rewards to the extra profits of the multinational corporations, with the aim of attracting foreign investment.

In addition, there is no law in the U.S. to restrain the purchasing systems of the multinational corporations, especially their overseas components, from violating human labor rights. The absence of involvement by both of the governments leads to the severe working conditions of the Chinese workers.

Corporations have the responsibility to change and improve workers' rights; this solution should be accepted by both China's factories and the government. Further, if multinational corporations demand and advance improvements in their supplier factories in China, this may influence the policy-making in China's government.

In our opinion, truly improving the working conditions in Chinese factories could be achieved by multinational corporations simply raising the prices they pay to their suppliers and demanding needed improvements in labor conditions in return. Multinational corporations have both the power and the resources to take these steps.

Take the example of Apple, the world's leading company, which is in possession of enormous resources. In the first quarter of its 2012 fiscal year, Apple had \$46.3 billion in revenue and made a net profit of \$13.1 billion, its largest profit ever and one of the largest quarterly profits of any American company in history. And Tim Cook, current CEO of Apple, personally received stock awards worth \$380 million just before the start of the quarter. Let's do some simple math. The \$13.1 billion net profit Apple made in one single quarter is equal to the combined salary of 300,000 workers at Foxconn's assembly line over the course of eleven years. And the value of Cook's options alone could pay for those 300,000 workers' salaries for that extremely profitable quarter. Experts from the Economic Policy Institute have made similar calculations and arrived at similar results³.

So part of the broad answer is that companies like Apple have ample resources to ensure that workers at their supplier factories in China receive better treatment. There are also creative, simple steps multinational corporations can take to improve labor conditions. For instance, as the labor unions in China can function only in a severely limited way, we suggest opening worker hotlines in the supplier factories of multinational corporations. The hotlines could go

³<http://www.epi.org/blog/apples-executive-pay-profits-cash-balance/>

from the workers to the multinational corporations and perhaps to neutral monitors. Such hotlines may not be able to change labor rights fundamentally, but if hotlines could be installed that were safe for the workers to use without retribution from the supplier factories, they could increase the transparency of the factories and potentially relieve some of the harsh situations. The hotlines could attend to every worker's complaints as the receptors on the other end could try to solve the workers' practical problems with some dispatch. In return, the establishment of the hotlines benefits the factories in terms of staff turnover rate. If the hotlines satisfy the workers' expectations, there will be smaller number of employees leaving the factory. I think this is a solution that both the corporation and factories could accept and put into practice.

In addition, the redundant audits performed on many factories should be reduced, as they are not effective in monitoring the conditions in the factories. Other ways such as the hotlines, or allowing for truly independent and corruption-free audits, may be more reliable and more effective.

In closing, I express my gratitude to the Committee for holding this important hearing. The deplorable working conditions faced by workers in China continue. A key 'response' that is currently being used by the multinational corporations--the audit system is failing. All of us need to think more creatively, and multinational corporations must take much more responsibility, to ensure that labor conditions in China rise to reasonable levels.