

Promoting Worker Representation in Chinese Factories— The SAI Approach

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Issues Roundtable on Freedom of Association

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As a member of the Advisory Board of Social Accountability International and as Manager of Social Accountability for clothing designer and retailer Eileen Fisher, I bring both the NGO and corporate perspectives to the table. On a personal level, I have studied and traveled extensively in China and have visited our clothing factories there several times.

But let me begin with a little background.

Opportunities for Change

Existing legal barriers to forming independent trade unions in China notwithstanding, we feel it is possible to work on improving workers' rights to freedom of association through active engagement at the factory level. We are seeking to help create more opportunities for workers in China to learn about, voice, and access their rights. Recent developments on the ground in China indicate that there are openings for encouraging such opportunities, such as:

- (1) Some worker rights groups have become active in mainland China recently, for example: the Institute of Contemporary Observation in Shenzhen and the migrant worker centers in Beijing and Panyu.
- (2) There are indications that the All China Federation of Trade Unions (ACFTU), the Chinese official trade union, is looking at how to become more effective as the Chinese economy continues its rapid transition from a planned economy to a market economy. In October 2001, in a positive gain for the ACFTU, China passed a new trade union law granting the ACFTU more legal leverage to defend worker's interests. In January 2003, the official Xinhua News Agency reported that the ACFTU is conducting experiments to encourage the direct election of union leaders at the factory level.
- (3) Some international companies have joined with NGOs to launch encouraging initiatives to promote worker representation in China. The most recent example is the direct election of union leaders at a Taiwanese-owned footwear factory, in a process in which the main buyer (Reebok) – together with workers' rights groups – played a pivotal role. According to SAI sources in China, Reebok's effort even gained positive comments from the ACFTU Guangzhou branch, which considers it "a model worthwhile to replicate." Doug Kahn of Reebok has previously testified to this Commission on these cases.

Although it is unlikely that thorough democratic changes will occur from the top down any time in the near future, these examples illustrate the limited space that is emerging in which international organizations can foster respect for workers' rights. It is important to recognize the broader political

challenges that these trends could face, while continuing to work directly with managers and workers on ensuring rights in the workplace.

Parallel Means of Freedom of Association: The SAI Approach to Promote Worker Representation

We at Eileen Fisher are asking our suppliers to adhere to the SA8000 standard and are working with SAI and others on various factory-level training programs.

The SA8000 standard is the result of a consensus-based drafting process by trade union, NGO and business representatives from around the world. The SAI Advisory Board, which is responsible for drafting SA8000 and advising on policies related to the SA8000 certification system, includes members from Amnesty International and the International Textile, Garment and Leather Workers' Federation (ITFLWF), among others (see attached). The SA8000 standard (also attached) covers 8 core workplace issues: child labor, forced and bonded labor, discrimination, discipline, health and safety, working hours, remuneration, and the right to freedom of association and collective bargaining. The requirements in these eight areas are based on 12 ILO conventions and other international human rights instruments. A ninth element consists of requirements that focus on the management systems needed to ensure ongoing compliance with the standard and encourage continuous improvement even after a factory is certified for having met the minimum requirements of the standard.

In drafting the SA8000 standard this group – now the SAI Advisory Board – agreed we could not exclude Chinese factories' access to such a certification program. We saw direct engagement on workers' rights as crucial to fostering change. SA8000 encourages change by providing an incentive to achieve certification. At the same time, certification is also an important means to enable workers and their advocates to file complaints if they detect some failing in the factories' compliance with the minimums defined in SA8000.

SA8000 does require additional efforts on free association for factories in countries like China where there are legal restrictions on free association. To that end, the SAI Advisory Board came up with the following requirement (clause 4.2 of SA8000):

“The company shall, in those situations in which the right to freedom of association and collective bargaining are restricted under law, facilitate parallel means of independent and free association and bargaining for all such personnel.”

The chief purpose of such “parallel means” is to ensure that workers in countries such as China have the means to address their concerns and seek solutions without fear of repercussions. This requirement draws on the spirit of the Sullivan Principles implemented by companies doing business in South Africa during the apartheid regime.

The experience of the Sullivan Principles in South Africa shows that in cases where a government policy restricts an international human right, companies are able to implement parallel means for protecting that right within the factory walls. Despite Apartheid, the Sullivan Principles stated in Principle 1 that companies would promote: “Non-segregation of the races in all eating, comfort, locker rooms, and work facilities.” Compliance with the principles were audited by the consulting firm Arthur D. Little. Companies adhering to the Sullivan Principles in their South Africa operations during the apartheid era were able to make a strong statement against discrimination by providing a non-discriminatory environment within the workplaces they managed. The Sullivan principles helped to develop a movement of business leaders objecting to apartheid, who were thus able to raise an influential voice against discrimination.

The SA8000 standard adopts a similar approach, with companies providing additional opportunities for workers in their factory to organize themselves independently. SA8000 requires companies to let workers know they are free to organize and elect representatives in order to raise their concerns with management and, essentially, negotiate solutions.

Eileen Fisher: A Case Study

Eileen Fisher utilizes the services of eight factories in southern China, representing about 60% of our total production. (The balance is manufactured in the U.S.) We do not own or in any way manage these factories. In fact, our share of the total capacity in these factories ranges from 10% to 30%, depending on the season. Many other well-known brands use the same factories and apply their own labor standards to these facilities. All of the factories have agreed to adopt SA8000, and we engage in a program of monitoring, continuous improvement and education to help facilitate this process.

Early in the process, Eileen Fisher realized that we cannot simply provide the SA8000 standard and walk away. Neither the factory workers nor the managers has the cultural context with which to fully comprehend or utilize the elements of the standard. For example: How can we expect a manager to eliminate all forms of unacceptable disciplinary practices or forced labor when putting padlocks on women's dormitories is generally-accepted practice in order to keep them safe? How can we expect a worker to voice concern about sexual harassment when she or he doesn't even recognize when it's occurring? How can we expect workers to speak up about ANYTHING when they are raised with such a deep-seated respect for their elders (a.k.a. managers, supervisors, teachers, parents, etc.) and freedom of speech is limited?

In the case of ensuring that management facilitates parallel means to freely associate, we have found it difficult to encourage workers to make active use of worker committees. This is likely due to a combination of reasons, including:

- Management not doing enough nor understanding how to enable workers to form such committees;
- Worker distrust of any management information that such committees will be independent and unproblematic for workers who join them;
- Worker inexperience in organizing and in participating in such a dialogue with management (especially since many workers come from farming communities) and a lack prior experience with real change resulting from committee work; and
- Payment structures do not allow workers to participate in worker committees without losing incentive-based income.

What is needed is change – not a “westernization” of the cultural norms of the factory people, but rather to foster greater understanding of their universally-recognized rights, how to talk about those rights when they are being violated, and how managers can respond to those comments in a compassionate, non-discriminatory, effective manner. This was not something we could leave in the hands of the managers to coordinate. Neither was this something that could happen in a classroom on a single day.

Working Together to Foster Change

Eileen Fisher engaged the services of SAI and Verité, a non-profit U.S.-based research and monitoring organization, to conduct SA8000 training for the managers of our China factories. This training is conducted annually or as needed, with an emphasis on specific issues that the managers face in achieving compliance to the SA8000 standard. Verité also provides training to our factory workers through its

mobile worker training van program. The van brings educators to each of our three primary factories once a month to inform the workers on such topics as minimum wage calculation, occupational health and safety, and China's labor law. All of these efforts are intended to lay the groundwork on which to build effective worker representation and worker-manager communication systems in each factory.

To illustrate how this process has impacted workers at our China factories, let me describe an experience in one factory that represents our experience across the board. When talking with the factory manager about parallel means of free association, we found that he was eager to facilitate the formation of worker committees. Initially, though, he offered to simply form the committees himself. (Why bother with an election when management already knows who will be chosen based on popularity of the workers?) When we explained that the process is not legitimate unless it entails an open worker election, he was skeptical. Surely he feared that this would lead to unrest among the worker population. When pressed, however, the manager gave in, knowing that our business relationship with the factory was at stake. Months later, when we returned to visit the factory, we were pleasantly surprised to find a well-functioning worker committee. Skeptical ourselves, we privately asked the worker reps about the process, and they told us that, yes, they were elected by their peers (from among their work groups) and that management does listen to their concerns. Issues raised have ranged from the quality of food in the cafeteria to complaints about co-workers being too messy. In every case, management has addressed the concern in a reasonable manner. And every issue was documented in a worker-controlled notebook. Time will tell if this committee continues to function effectively, through employee turnover and the simple passing of time. But we remain hopeful.

As an SAI Advisory Board member, Eileen Fisher has followed SAI's worker training program with particular interest. Since 2001, SAI, in collaboration with the International Textile, Garment, and Leather Worker's Federation, has been conducting a program in 12 countries to train 6,000 workers on how to use codes of conduct as an additional tool to defend their rights and interests (in countries where there is not restriction on freedom of association).

In 2003-2004, SAI will expand on this program to develop an innovative worker training for the Chinese context. The primary objectives of the program are to raise worker's awareness of and to introduce skills to use all available opportunities, including the parallel means of freedom of association, to improve working conditions. Another important objective is to train a group of workers (who will be selected by their peer workers through secret ballot, multiple candidate elections) who have the potential and skills to serve as peer workers' representatives. The group will possibly set up their own agenda for further activities, such as to train other workers on how to protect themselves, or to set up worker committee on issues of their own concerns. Managers will be also trained separately on how to take proactive action to address workers' concerns and grievances.

Eileen Fisher has offered three of its factories to participate in the pilot of SAI's China worker training program, to begin later this year. This program will be conducted with the assistance from local partners such as the Institute of Contemporary Observation, the and others. Both organizations have rich experience in training and working with workers in South China.

Both SAI and Eileen Fisher recognize that, in the case of the right to free association and collective bargaining, both training and ongoing assistance are needed. This support work needs to be done through a multi-stakeholder collaboration so as to foster a sustainable and credible process. U.S. brands can play a critical role, but they need to work in partnership with U.S. and international labor, NGOs, as well as local Chinese organizations.

In summary, SAI and Eileen Fisher believe that, for anyone concerned with worker rights, China represents both risks and opportunities. We understand that substantial change will take time. But we must recognize the important role that all of us can play by fostering that change from within. We have a choice: We can walk away from this challenge, jeopardizing the jobs and livelihoods of millions of workers, or we can be a catalyst for something better. We believe in the possibilities.

Addendum

Social Accountability International

SA8000 Advisory Board

It is SAI's policy to balance its Advisory Board (AB) equally between business and non-business (non-governmental organizations, trade unions, socially responsible investors and government) members. Parentheses below indicate the geographic work location of the Advisory Board member.

Affiliated with Non-Governmental Organizations, Trade Unions, Socially Responsible Investing and Government*:

Dorianne Beyer/David Zwiebel (alternate)	<i>National Child Labor Committee (USA)</i>
Jan Furstenborg	<i>Union Network International (Switzerland)</i>
Oded Grajew/Helio Mattar (alternate)	<i>Abrinq Foundation for Children's Rights (Brazil)</i>
Joseph Iarocci	<i>CARE International (USA)</i>
Neil Kearney	<i>International Textile, Garment & Leather Workers Federation (Belgium)</i>
Kaiming Liu	<i>Institute of Contemporary Observation (China)</i>
Alice Tepper Marlin	<i>Social Accountability International (USA)</i>
The Honorable William Thompson/Ken Sylvester (alternate)	<i>Office of the Comptroller, City of New York (USA)</i>
Morton Winston	<i>Amnesty International (USA)</i>
Lynda Yanz	<i>Maquila Solidarity Network (Canada)</i>

Affiliated with Business*:

Ivano Barberini/Alessandra Vaccari (alternate)	<i>Legacoop and Coop Italia (Italy)</i>
Sylvain Cuperlier	<i>Dole Food Company (France)</i>
Tom DeLuca (Chair)	<i>Toys "R" Us (USA)</i>
Durai Duraiswamy/Robin Cornelius (alternate)	<i>Prem Durai Exports (India) and Switcher SA (Switzerland)</i>
Pietro Foschi/Andrew Kirkby (alternate)	<i>Bureau Veritas Quality International Holding SA (United Kingdom)</i>
Amy Hall	<i>Eileen Fisher (USA)</i>
Fitz Hilaire	<i>Hilaire Associates (USA) (formerly of Avon Products, Inc.)</i>
David McLaughlin/George Jaksch (alternate)	<i>Chiquita Brands International (Costa Rica & Belgium)</i>
Dr. Johannes Merck/Achim Lohrie (alternate)	<i>OTTO-Versand (Germany)</i>
Frits Nagel	<i>WE Europe (The Netherlands)</i>

*Affiliations are for identification only