Level Works Limited 達標

Wages, Benefits & Work Hours in the Peoples Republic of China

Guangdong
Zhejiang
Jiangsu
Shandong
Shanghai

By: Level Works Limited
Nov 27, 2006

TABLE OF CONTENTS

A. Executive Summary 3

B. Brand Legal Interpretation 5
Legal system
Brand variance

C. Record Falsification 7
Negative Program Impact
Estimates
Endemic Corruption & Auditor Bribery
Surviving Without Complying

D. Obstacles to Compliance, Transparency and Remediation 8
Unrealistic Expectations and Timeframes
External Audit Firms
Profit Margins
Remedial Cost Estimates
Brand Sourcing Practices
Production Management Systems
Worker Turnover
Piece Rate Wage System

E. Realistic Expectations for Remediation 13

F. Recommendations 15

Appendix A: Legal and Brand Variance v. Actual Practices 20
Minimum Wage
Overtime Wage
Work Hours
Rest Days
Comprehensive Working Hours System
Leave and Allowance Benefits
Public Holidays
Payment of Wages

Appendix B: Provincial Overview 35
Guangdong
Jiangsu
Zhejiang
Shandong
Shanghai

About Level Works 39

References 40

A. EXECUTIVE SUMMARY

The purpose of this paper is three-fold. First, to provide an overview of the variance that exists between brands with regards to legal interpretation related to wages, work hours, and benefits for the Chinese provinces of Guangdong, Jiangsu, Zhejiang, Shandong, and the municipality of Shanghai. Second, to summarize prevailing factory practices and their root causes related to these compliance areas. And last to provide specific suggestions for enhancing the effectiveness of labor compliance programs in generating measurable improvements at the factory level.

Although the labor law reforms undertaken by China in the early 90's where widely praised as a critical step forward, there still exists a considerable need for improvement and clarification in the areas of wages, work hours and benefits. The lack of ongoing and sufficient legal reform since this time has led to confusion and interpretative variance among brands and audit firms. As a result, factories are commonly asked to follow a variety of inconsistent legal interpretations as well as non-legal standards. Thus, it can be said that Chinese law and enforcement efforts inadequately support brand efforts to improve labor conditions. However, there still exists a massive gap between even the least stringent interpretation of the law and actual factory practices

Unfortunately the proliferation of brand codes of conduct (COC) and most mechanisms used to force implementation at the factory level have been met with staunch resistance and frustration. As a result, brand programs have inadvertently led to an epidemic of factory record falsification in China. With the loss of transparency, a brands ability to measure compliance, track improvement and manage risk has become next to impossible. The current reality is that raw market forces are still the strongest factor in determining factory compliance levels while brand programs struggle to have real impact. An examination of factory working conditions, particularly those engaged in brand compliance programs, provides the clearest indication of this.

The truth in China is that each week migrants spend 85-100 hours at work during high season and are provided few if any rest days. Beyond long work hours, the overwhelming majority of factories do not guarantee minimum wage and overtime premiums are only paid by a fraction of factories. Such practices are in part the result of non-existent legal enforcement, the poor application of piece-rate wage systems, an immature factory community, and a labor pool willing to accept wages below the legal minimum. Combined with decreasing profit margins, increasing worker turnover, and unrealistic brand expectations, factories are faced with an environment non-conducive to brand compliance efforts.

Removing all compliance obstacles found in China is an unrealistic goal for any one brand program. Therefore, brands must first re-calibrate their program objectives with this reality. A more appropriate measurement of program success is how well it facilitates continuous improvement within the supply chain, rather then the impatient deliverance of 'compliant' factories. Second, brands must re-establish transparency within their programs by demonstrating understanding and flexibility towards factory challenges. Next, brands should re-allocate more resources towards those vendor/factory partnerships most important to them and where greater improvement can be obtained. Last, brands must work together in supporting factory capacity building efforts in a meaningful way through mutually accountable partnerships with competitors, government, NGOs, factories, middle men, and service providers. To do this, creative thinking, experimentation, and the ability to leverage what we've already learned is essential.

B. BRAND LEGAL INTERPRETATION

Legal System

Under China's "iron rice bowl" system of the 1950's and 60's, all workers were protected by the government or by state-owned companies, which often supplied housing and local health coverage. But by the 1980's, when the old Maoist model had given way to economic restructuring and the beginning of an emphasis on market forces, China began eliminating many of those protections — giving rise to mass layoffs, unemployment, huge gaps in income and pervasive labor abuse. In 1994 and in 2001 The National People's Congress enacted labor laws that many people in China and abroad saw as positive steps for Chinese workers. Although the enactment of such laws may be considered positive, continual improvement of the laws and better implementation are clearly needed.

China's laws and regulations are promulgated by a host of different ministries and governments at the central, provincial and city levels, and it is not unusual for the resulting regulations to be general in scope, ambiguous, incomplete or even at odds with one another. This allows the Chinese authorities to apply laws and regulations flexibly, but can also lead to inconsistency and confusion among different parties (Li & Fung, 2005). Like many countries the legal hierarchy in China is such that those laws created and implemented at the provincial and/or city levels provide additional stringency and/or clarification of the broader Chinese national laws governing all provinces. Laws governing wages, benefits and work hours generally conform to this rule.

Brand variance[1]

With regards to variance in legal interpretation, brands can generally be broken down into three groups. The first **(Group A)**, which is the largest, includes those brands that depend entirely on external auditing companies. Group A companies do not have or provide suppliers with detailed or specific compliance expectations related to Chinese laws. Instead, they depend on broad language found in their COC to communicate the expectation that all 'local laws' be followed. In turn, determination of what laws are applicable to the factory is left up to the external auditing companies. As a result, factories usually learn how to interpret local law through the audit, re-audit process. Assuming the brand carefully reads the audit reports (although many do not), they too learn which laws are applicable and how they should be interpreted from the audit, re-audit cycle.

Although it seems reasonable that brands in group A trust the legal interpretation and guidance provided by their selected external auditing companies, preliminary research shows that there is variance among different audit company default legal interpretation. Furthermore, there exists variance even between auditors within the same audit company. Thus, it's advisable for any brand relying on external audit company(s) for legal interpretation to conduct a formal review of such practices. This would at least ensure consistent application within the context of the brand's program.

The second group **(Group B)**, are brands that have developed their own detailed working knowledge of the laws and compliance issues in China. This knowledge is

[1] Level Works roughly estimates that approximately 30% brands still do not have active compliance program in place. Of the brands that do Level Works further estimates Group a represents 50% of brands, Group B - 30%, and Group - C 20%.

usually generated through diligent managers based in the brand home country, or from employing Chinese or Hong Kong based field staff that either perform audits themselves or work with factories on remediation. Group B companies usually provide their supplier factories with formal or informal legal interpretation guidelines. This group tends to lean towards the least stringent legal interpretation, but attempt to remain true to the letter and spirit of the law. This is despite the extreme gap between actual factory practices and legal requirements.

The third group **(Group C)** is similar to Group B with regards to knowledge of local law. However, group C companies choose to selectively disregard one or several laws in their entirety from their program. This group generally believes that because legal expectations are so far from being met, demanding legal compliance within a set period of time leads to record falsification and works against honest and sincere efforts to improve factory practices. Thus, they are willing to sacrifice possible criticism for being 'soft' on compliance expectations, in return for better improvement results they associate in part to communicating more realistic expectations.

C. RECORD FALSIFICATION

> *The widespread forging of records threatens to undermine the aims of the corporate social responsibility movement…"* - Financial Times April 22, 2005 "Why Ethical Sourcing Means Show and Tell" by Lauren Foster and Alexandra Harney

> *"One recent study suggested that nine out of every ten Chinese factories were breaking the law and that seven out of eight were maintaining falsified records of their employment practices."* - Neil Kearney, General Secretary of Textiles Global Union

> *Huang Xiaobing is a labor compliance auditor from a major social auditing company, whose responsibility is to conduct audits on domestic suppliers on behalf of multinationals. However, during these two days of class, his responsibility shifted to teach the factories how to trick auditors of his kind."* - Southern Weekly, Dec 15, 2005 "Training Course for the Game of Cat & Mice" by Lei Jianqiao

In the past few years there's been a startling increase in the use of record falsification and the intense coaching and intimidation of workers by factory managers. Although the variables driving factories to resort to such measures are complicated, the objective of such activity is simple; to pass labor compliance audits. Furthermore, an industry of consultants focused on teaching factories how to cheat has sprung up to meet their needs. Although this practice exists in many countries, it has become the norm in countries like China.

Negative Program Impact

- Data gathered on factory compliance completely distorted
- Risk management benefits of monitoring program lost, as the majority of worker protests can be linked to wage related issues
- Corrective action cycle never begins

- Monitoring $, time and energy wasted
- Internal and external confidence in compliance program diminished

Estimates

We estimate that at least 85% of apparel factories maintain false records for compliance auditors. However, this doesn't necessarily mean that such factories consistently provide false records to all their buyers. In some cases, factories show one buyer their real records, the next buyer a second set of records, and another buyer a 3rd set of records. Thus, each buyer will have a different percentage of factories that provide them false records depending on how their program is received, which external auditing companies they use, how much flexibility they give the factories, etc.

Why many companies are not seeing the same numbers

- Field staff are not properly trained and/or not experienced enough to find evidence
- Auditors feel they need 'smoking gun' evidence to report the issue
- Auditors believe that the buyer/client program is a 'game'
- Auditor bribery
- Chances of field staff being discredited by the factory increases
- No system to track each auditors ability to find the issue (oversight by internal system)
- Field staff not aware of the extent to which this problem exists
- Soft reporting methodology which allows the issue to be overlooked as a 'comment'
- Field staff not empowered to find and report the issue

Endemic corruption & auditor bribery

Corruption and bribery presents a serious obstacle as it provides factory management with an alternative to achieving compliance. According to Transparency International's 2006 Bribe Payers Index (BPI), China and India are the countries where firms are most likely pay bribes. In an environment where corruption is endemic, and where salaries are generally low, it should be no surprise that bribery among labor compliance auditors exist.

It was previously thought that bribery during the labor compliance audit process was relatively low compared with quality inspections where a "failed" inspection report could halt goods from being shipped, potentially causing huge financial reproductions for the factory. However, the number of bribery attempts during compliance audits has been increasing for some time. As reported by one major brand that conducts thousands of audits each year in China, over the last few months the increase in the number of reports of bribery has been significant, averaging 1-2 per day. This sudden increase was the result of their new stricter requirement that audit service providers report any such factory offers when and if they occurred.

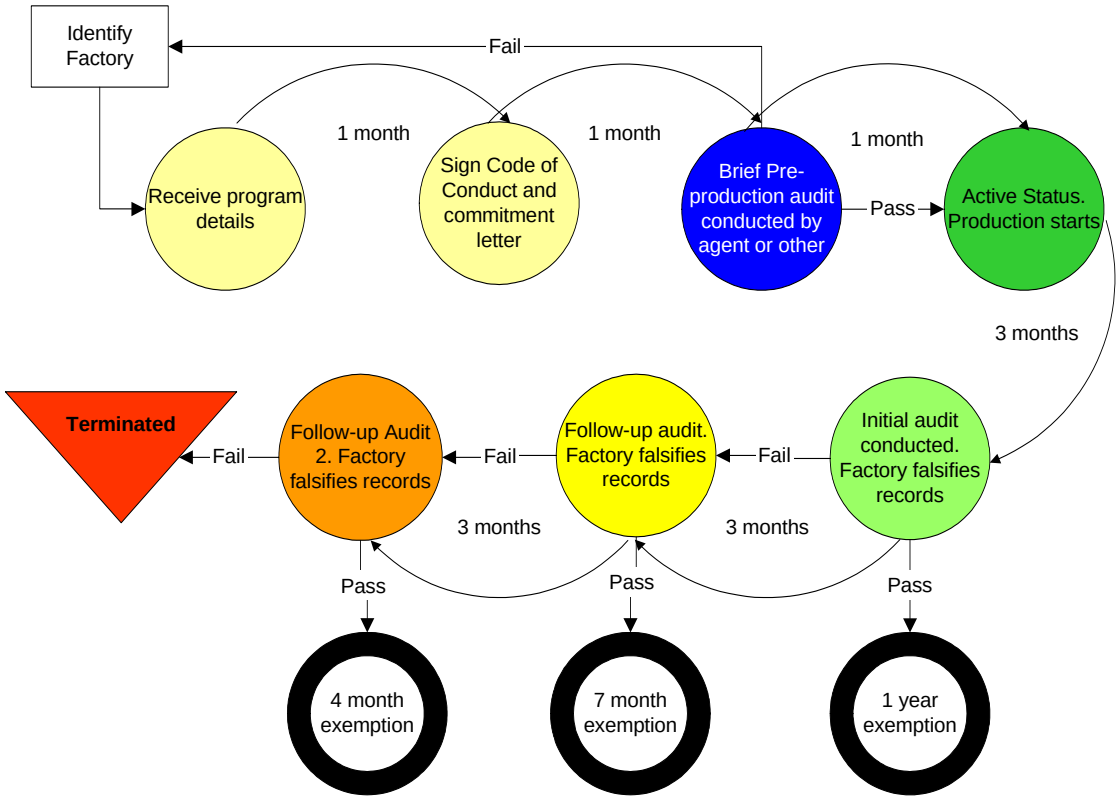
Equally concerning as the frequency of the bribery attempts is that the amount of money being offered seems to be increasing significantly; in some cases as high as 5000 to RMB15000 (between US600-2000). This is significant considering that

previous the 'market' rate was thought to be in the range of RMB1000-2000 (between US140-280). These amounts, when coupled with the salary of a typical compliance auditor in China (between US US500-800 per month) and the endemic corruption that exists (to which auditors are culturally vulnerable), and the degree of freedom that field work provides, creates a fertile environment for bribery. The good news is that in comparison with quality inspectors the compliance auditor bribery problem should be considered relatively minor and can be more easily controlled if the right systems are put in place.

Surviving without complying

Most brand labor compliance programs are structured in such a way that allows factories several opportunities (2-3) to bring themselves into compliance before being terminated. Although it's generally considered good practice to avoid 'cutting & running' in response to poor audit results, such patience is commonly abused by factories in China. Figure 1 shows the cycle of a common brand compliance program and how a factory can remain an active supplier without complying over a 12-14 month period. Unfortunately, this structure provides factories multiple opportunities to either fool the assigned auditor with fake or incomplete records, and/or bribe the auditor in exchange for a more favorable report. This, of course, assumes the factory has no intention of complying, or is financially incapable of complying. If the factory is successful in bribing or fooling the auditor, most programs will suspend audit activity, once they've received a favorable report, for one year. In turn, this can extend the life of a non-compliant factory up to 24 months.

Figure 1: Typical Brand Compliance Program Cycle



Furthermore, as shown in Figure 1, even if the auditor is competent in their duties by uncovering and reporting record falsification, the factory will typically be given 2 additional chances before termination by the buyer. A similar number of chances is provided to factories that provide their real records, but are not meeting legal expectations. Juxtaposed with the inadequacies, and lack of integrity that exists among some audit companies and auditors, along with the inflexibility of some buyers, most factories view records falsification as the most logical strategy.

Although Figure 1 shows a program cycle that allows for production to begin without a full compliance audit taking place, many brands do require factories to 'pass' a full audit prior to production starting. Level Work's experience is that if such a policy is put in place and auditing is executed properly it would be impossible to source in China as nearly all factories would fail continually.

D. OBSTACLES TO COMPLIANCE, TRANSPARENCY, AND REMEDIATION

In order to achieve a compliance-friendly environment it is important to understand the systemic obstacles that work against compliance, transparency, and a factory's ability and willingness to remediate. Moreover it's essential to carefully consider the interconnectedness of these obstacles when formulating a day to day strategy.

Unrealistic expectations and timeframes

Unfortunately, most brands use a 'cookie cutter' approach to corrective action plans for their factories. This approach usually requires factories to take corrective action in response to audit findings within set time frames corresponding to the type of issues found. This process is primarily driven by the threat of being terminated as a supplier after 2-3 failed opportunities to achieve compliance. Although this approach is less time consuming and does generate decent results in some countries, and for some issues, it fails miserably in China. In fact, a strong argument can be made that this status quo model is driving issues underground as the majority of factories seek to "pass" compliance audits using record falsification, coaching workers and/or auditor bribery. Even an industry of consultants has sprung up to help factories (sometime with money back guarantees) create sophisticated methods of passing such audits.

Table 14: Corrective Action Matrix example

Non-Compliance Finding	Necessary Corrective Action	Expected Time Frame
Minimum wage not being to all workers	*Ensure all normal working hours for "trainees" are paid at least at local minimum wage*	*Immediately*
Work hours in excess of legal limits	*Decrease work hours to below legal limits*	*30 days*
Age verification documentation not maintained for all workers	*Maintain copies of valid age documentation for all workers*	*30 days*
Inadequate number of toilets	*Install additional 15 toilets on the first floor*	*180 days*

External Audit Firms

Regardless of how much leverage a brand has with a particular factory, ultimately the factory must decide whether or not to be transparent about their real practices. You cannot force transparency! Instead a factory must be made to feel comfortable showing a brand's audit staff (internal or external) their real practices. Building this trust with the factory directly is an essential factor in achieving this comfort level. However, the practice of auditing the same factory for multiple brands, which typifies most external audit firms, creates a clear and real obstacle to building a factory's comfort level. This plays out in the following way.

1. *Brand **A** builds trust with factory, and factory is transparent about their real practices during the external audit firm audit.*
2. *The same audit firm is hired by Brand **B** to audit the same factory*
3. *Audit firm already knows the real practices of the factory and is thus obligated to report those findings to Brand **B**.*
4. *Brand **B** terminates the factory*
5. *In response the factory becomes unwilling to show external audit firm real practices again*

Although this truth may not be fashionable with regards to brand collaboration, it presents a real obstacle and concern to factories. Furthermore, it underscores that a brand cannot force transparency. Thus, collaboration is best formulated between like minded brands prior to pushing for transparency.

Profit Margins

Due to intense competition, rising costs and its position producing low-med end quality products, profit margins in the Chinese apparel manufacturing sector remain low and continue to decrease. According to economists and factory owners, ten years ago the profit margin for a Chinese shoe or garment factory was about 10 percent, but now a factory is lucky to get 5 percent (Fuller, 2006, Aug 3).

As shown in Table 15 below, the average profit margin, based on government statistics for state-owned and non-state-owned apparel factories, was close to 4% in 2004 (CNTAC, 2004). However, because this statistic incorporates a large number of factories, producing a variety of products, in a variety of locations, intended for the domestic and export market, additional variables should be considered. For one, profit margins for export factories tend to be higher than those generated by the production of domestically consumed goods. As it relates to a factory's ability to pay higher wages via reduced profit margins, it would depend on a number of factors specific to each factory. These factors include; location, product type, buyer profiles, the competency management, and the price stability of raw goods. Certainly export factories can post considerably higher margins in the range of 10+% with the right mix.

Table 15: 2004 Apparel and Textile Profit Margins

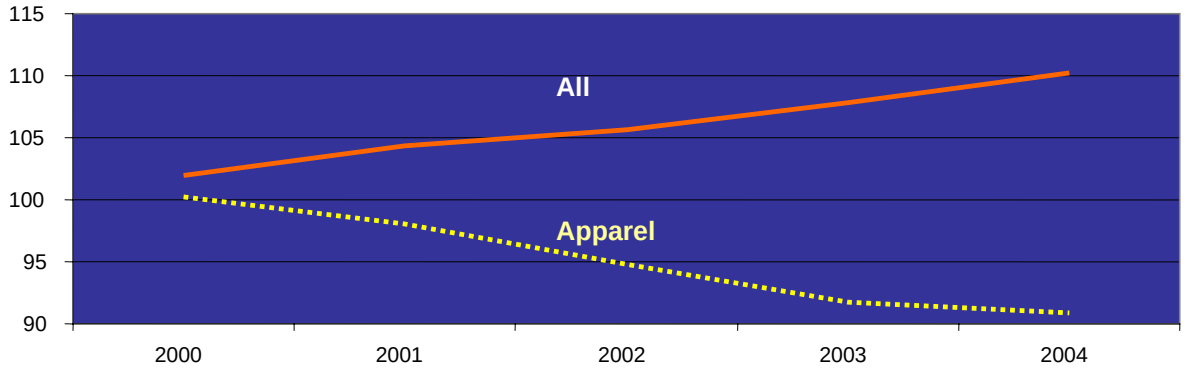
Sector	Sales Revenue (in billions Yuan)	Total Profits (in billions Yuan)	Profit Margin
Apparel	388	15	3.94%
Textile	935	28	3.00%

Source: China National Textile & Apparel Council
Note: State-owned enterprises and non-state-owned enterprises above designated size

Although there are several variables that determine the profit margin of an apparel factory, there exists a consensus that profit margins in China have been declining over the past decade. The two main factors driving this decline are increased costs and downward pressure on pricing. Increased costs include; labor costs, raw materials, taxes, as well as fixed costs such as utilities. In the words of Arthur Kroeber, director of Dragonomics Research & Advisory, an economic research firm in Beijing *"I think there's no question that in what you would call traditional Chinese exports - garments, shoes, low-end consumer electronics - they've trimmed as much fat as they can"* (Fuller, 2006, Aug 3).

With regards to downward pressure on pricing, the Figure 2 below shows the consumer price index between 2001 and 2004. As displayed, the consumer price index for apparel has dramatically declined in a very short period while the general consumer price index for all goods has had a similar, but upward trend. This can be explained in part by the intense competition among apparel retailers in Europe, the United States, and within China itself. Such competition translates into downward pressure on factory prices which is driven even lower by the intense competition amongst factories to secure orders (Zhenghua, 2006, May 7). Factories in clusters tend to emphasize short-term benefits and often compete severely each other. In order to survive and stay competitive, some enterprises may squeeze the price of their products and provoke price wars; others may even sell sub-standard products in order to yield better profits (Li & Fung, 2006, p. 12)

Figure 2: Consumer Price Index 2001 to 2004



Cost Estimates

When it comes to remediation, cost will always be a critical factor. As previously summarized, a comparison between typical factory wage practices and the legal requirements reveals a massive gap for the vast majority of Chinese factories, especially in the area of OT wages. Table 16 shows the estimated costs per month (in US dollars) for a factory to remediate their wage violations in accordance with the law based on the following conservative assumptions:

- *The factory does not pay premium OT Wage rates to any workers*
- *72 work week [40 regular hours, 32 OT hours (12 of which are on a rest day)]*
- *Calculations use the average Chinese min wage of 3.29 RMB/hr, OT wage of 4.94 RMB/hr, Rest day OT 6.58/hr*
- *OT premiums are based on minimum wage not average piece rate wage*

- *Wages paid below min wage are 20% below (2.63 RMB/hr)*

Table 16: Minimum & OT wage remediation estimates in USD for Chinese factories

% of workers being paid below Min Wage	Factory Size (No of Workers)									
	100	200	300	400	500	600	700	800	900	1000
0%	$3,619	$7,238	$10,857	$14,476	$18,095	$21,714	$25,333	$28,952	$32,571	$36,190
5%	$3,684	$7,367	$11,051	$14,735	$18,419	$22,102	$25,787	$29,470	$33,154	$36,838
10%	$3,749	$7,496	$11,246	$14,994	$18,743	$22,490	$26,240	$29,989	$33,737	$37,486
15%	$3,813	$7,626	$11,440	$15,254	$19,067	$22,878	$26,694	$30,507	$34,321	$38,134
20%	$3,878	$7,755	$11,635	$15,513	$19,391	$23,266	$27,147	$31,026	$34,904	$38,782
25%	$3,943	$7,884	$11,829	$15,772	$19,715	$23,654	$27,601	$31,544	$35,487	$39,430
30%	$4,008	$8,013	$12,023	$16,031	$20,039	$24,042	$28,055	$32,062	$36,070	$40,078
35%	$4,073	$8,142	$12,218	$16,290	$20,363	$24,430	$28,508	$32,581	$36,653	$40,726

It should be pointed out that, although Table 16 demonstrates the extreme costs that factories need to incur in order pay correct wages, the actual costs will likely be greater. Simply paying the costs shown above would necessitate directing more of wage increases towards the least skilled workers with low wages. Without distributing wage increases, or the opportunity for increases, in an equitable fashion among the entire workforce a risk of destabilization is created.

If you combine these cost realities with the typical brand demands that a factory correct its practices within 30-90 days, the existing record falsification problem can be well understood. Even if the factory can afford to pay such additional amounts, absorbing such costs within 30 or 90 days is generally considered unrealistic. Especially, when pending orders were priced based on existing labor cost estimates. The result of this mismatch is factories that are willing to take their chances with record falsification and/or bribery rather than remediation. Unfortunately, this has gone largely undetected due to uninformed brand compliance managers, sloppily implemented compliance programs and poorly executed audits.

Brand Sourcing Practices

Buyer sourcing practices are often criticized by factories and labor activists as being an important catalyst for poor labor practices. In one recent publication, an interviewed factory manager described her experience with western buyers as 'paradoxical' and 'hypocritical', stressing that in order to meet production expectations she had to violate the code by pushing workers to work faster and longer (Sumi & Ngai, 2005). As the contractual relationship between the factory and brand primarily stipulates the timely delivery of goods, according to specification, compliance with the law and/or brand code is usually what's sacrificed when the factory feels pinched. Specifically, the sourcing practices most often criticized are:

- Short turnaround times
- Falling prices
- 'Take it or leave it' pricing
- Last minute changes
- Frequency of fashion changes
- Lack of order consistency

There also exists the general belief compliance staff, charged with the duty of code implementation, are simply not on the same page as sourcing staff, merchandisers, and production managers. This is often in part due to brand compliance teams that

operate in silos, separate from the rest of the companies' core business activities. This lack of cohesion with regards to communication and priorities can often lead to passionate appeals to meet labor laws by compliance staff on the one hand, while their production related co-workers demand better, cheaper, and faster product. In light of this, it seems reasonable that many vendor/factories consider many labor compliance programs a game.

Production Management Practices

Assuming a factory has the financial means and will to remediate, there must also be complimentary management systems in place that help, not hinder them. Those management systems (or lack of) that have shown to have a negative impact are as follows:

- Poor production planning by factory leading to high overtime
- Poor quality management which leads to rework and additional overtime
- Poor management of raw material suppliers
- Poor inventory control
- Factories accepting more orders than they have capacity to fill
- Poorly trained and inexperience managers & supervisors

Worker turnover

The rising inability of factories to recruit, train, and maintain their work force has quickly become one of the leading concerns of factories operating in Guangdong, Jiangsu, Zhejiang, Shandong, and throughout China. According to the Institute of Contemporary Observation, a Shenzhen labor research group, worker turnover in some low-tech industries such as apparel, electronics, and toys is approaching 50% per annum (Business week, 2006, March 7). Although the total labor force is estimated to be around 800 million, the number of workers that meet the profile and have the qualifications employers want is relatively low (French, 2004). In turn, this has intensified competition between factories, industrial clusters, and even provinces to attract the necessary amount of qualified workers. Naturally, in response to this market wages for some workers, especially women from 18-to-25 years old or people with experience operating machinery, has increased quickly.

In response, some factories are now aggressively soliciting workers directly from the rural areas. However, according to many factories, this too has become more difficult as the rural interior becomes home to more and more factories that have moved from the coastal provinces in search of lower costs (Business week, 2006, March 7). These factories create more jobs for local workers and dilute the incentives to leave. Furthermore, a two-year-old effort by the Chinese government to lift rural incomes through tax cuts has also discouraged many would-be workers from leaving (Business week, 2006, March 7).

In relation to a factory's ability and willingness to remediate wage and work hour issues, the worker shortage and turnover problem creates barriers and opportunities. The first barrier is that some factories feel compelled to take on more unskilled workers, including child workers, which demand the lowest end of the market pay scale. The wages for these workers remain well below the minimum wage and are not rising at the same market pace as more skilled workers, or that of minimum wage laws. Another barrier created by the worker shortage is that many factories are

struggling to maintain profitability due to increased costs. This creates a situation where factories are forced to cut corners. Last, some factories may be unwilling to invest in the long term development of a portion of their work force as they anticipate the majority of them not returning each season.

The opportunities created by the competition for workers will be realized by the workers themselves. Other than paying higher wages, more forward thinking and strategic factories are realizing that they must focus on worker retention for survival. In turn, this can provoke additional attention towards skills development, incentives, better physical working and living conditions, and a more general appreciation for the work force. A more loyal and motivated work force generally brings productivity gains that will hopefully increase the factories ability to take on more orders and increase profitability.

Piece Rate Wage System

The piece-rate wage payment system has been adopted overwhelmingly as the preferred method of payment by China's garment factories. Although piece rate payment provides real productivity incentives and rewards to a cross-section of workers, it creates several barriers to the remediation and the verification of factory practices during the audit process. The first barrier created by the piece rate system, as implemented by most Chinese factories, is that the minimum wage is not guaranteed as a wage 'floor'. This means that if a slow worker does not produce enough pieces within a specified period of time, it's unlikely they will meet the legal minimum hourly wage requirement. Despite this, few factories will pay such workers the gap amount needed to meet minimum wage laws.

The second barrier created by the piece rate system is the lack of accurate working hour records maintained by factories. Because factories are paying a fixed amount per piece, regardless of when the work is being done, they are not overly concerned about tracking specific work hours. Instead, most factories maintain a general attendance sheet. This is problematic for two reasons. First, without access to actual/real working hour records it's impossible to determine whether the factory is paying wages per legal requirements. Second, because the majority of factories are not paying legal OT premiums, they have little incentive to reduce OT work hours (which are extremely high in China), as their labor costs per unit remain constant. Thus, brand appeals to improve labor productivity, as a solution to wage issues, are not always seen as a worth while undertaking by the factory. In contrast, under an hourly payment system, there exists a direct relationship between the reduction of work-hours/unit and the cost/unit, creating a clear incentive for factories to improve labor productivity.

E. REALISTIC EXPECTATIONS FOR REMEDIATION

In reviewing the obstacles to compliance, transparency and remediation, it seems highly unlikely that any significant number of Chinese apparel factories are willing and/or able to meet the compliance expectation most brand programs demand in the short or mid term. Although this truth may be considered defeatist by some, more striking is the naiveté to this reality that still exists among compliance professionals in Europe and North America. In re-calibrating a brands program to the real challenges of compliance work in China, the naiveté (selective or sincere) must first be overcome. Without this realization, formulating truly realistic improvement plans for suppliers will

almost surely fail. The fact is that each factory's ability and/or willingness to improve will be unique. Therefore, there must scalable systems in place to identify factories that will best respond to allocated resources. The good news is that responsive factories are often a brand's most important factories. Identifying such factories should be based on the following variables.

Identifying responsive factories:

- Ownership profile and mentality
- A brands percentage of business with a factory
- Where the brand is within the buying chain (direct, via vendor, agent, etc.)
- Consistency of brand orders
- Relationship history (both with factory, vendor, agent)
- Marketing value of the buyer for the vendor/factory
- The financial health of the factory
- The room for offsetting costs via increased productivity
- The presence of like minded buyers that share the factory and are willing to share resources and collaborate
- Factory size and location

Creating Realistic Improvement Plans

The key to creating realistic improvement plans can be broken down into a couple important elements.

a. The brand must realize that a percentage of their factories are not, and will not be open to improving and remediating regardless of their efforts. To the extent that a brand can identify these factories before production begins the better.
b. Brand representatives must be able to demonstrate knowledge and understanding of the realities of China with regards to compliance to vendor/factories.
c. The brand must demonstrate a stellar ability to uncover and address record falsification when employed by factories
d. The brand must make record transparency the No. 1 requirement for doing business. Gaining transparency requires creating a comfort zone for factories
    - Ensuring the factory will not be terminate based on findings if they are transparent unless they fail to make realistic progress
    - Ensuring confidentiality of information gathered; don't share the factories real practices with other brands unless the factory give permission
    - Understand that audit firms that will visit the same factory for other brands present an obstacle to factory transparency which must be addressed by using internal staff or firms that agree to stop this practice for select factories.
e. The brand must exercise flexibility and realistic and sincere intentions in response to transparent factories.
f. Improvement plans must be unique to each factory situation especially related to wages. For example, improvement targets should be based on:
    - existing and projected orders
    - the published minimum wage in the factory's geographical area
    - the market wage in the factory's geographical area
    - wages currently being paid by the factory
    - factory capacity for improvement with regards to existing management systems and staff sophistication

g. A stronger more trusting relationship must be established with the factory which requires more frequent visits to the factory (even if very short).
h. Create milestones for wage improvement based on management systems and minimum wage. For example:
    - Create reliable system to track all hours
    - Monthly min wage
    - Hourly min wage
    - Premium payment for OT hours
    - Premium payment at 150% for OT hours
    - Etc.

F. RECOMMENDATIONS

> *Philosophical reflection is without doubt a fulfilling and intellectually challenging matter – also for those that bear responsibility in corporations. But if one wishes to do more than just get traditional moral philosophical knowledge over the people or preach romantic idealism, then ethics, including corporate ethics, must come down from its lofty realm of "ideas" or "values" and establish itself in day-to-day reality* (Lay R, 1993, p.15).

1 - Redefine success

The market conditions in China don't require re-defining what it means to be 'in compliance'. However, the success of a compliance program and how it's measured does. Compliance programs should be judged by how well they facilitate and encourage incremental improvement within the supply chain, the country of manufacture, and even the industry on whole. Although the mitigation of bad press may still be linked to individual factory performance, the activist community has delivered a string of positive feedback in response to increased brand transparency, engagement, and other sincere efforts to improve working conditions. This is despite the reality that even the 'best' companies consistently use a high percentage of factories that, by most definitions, are 'sweatshops'. If activist organizations seek to expose a particular brand, poor working conditions can be found and profiled with relative ease in China.

2 - Re-establish transparency

Simply stated, breaking through the record falsification issue is required if any progress is expected in the areas of work hours, wages, and benefits. There must be a systematic effort to achieve transparency this first and foremost. Experience has shown that factories are willing to be open and transparent with their buyers if the following variables are in place:

1. Brand sets transparency as the No. 1 expectation
2. Brand does not share the factories real practices with other shared factory buyers working with the factory without prior approval
3. Brand generates support from other middle men (agents, vendors, etc.)
4. The auditor is either a brand employee, or from an auditing firm that is willing to not audit the factory for other buyers. This is important because once the auditor knows the factories real practices they will be inclined (or obligated) to

report such activities to other clients if requested by them to audit the same factory at a later date.

5. Expectations of remedial steps and time frames are considered realistic from an operational and economic perspective
6. Factory is guaranteed to not be terminated if they remain transparent and on course with remedial expectations
7. Brand demonstrates an understanding of real market conditions

3 - Promote complementary sourcing practices

- Seek ways to better manage the "critical path" of the timing of design, production, delivery and launch
- Communicate information with factories at the earliest possible stage with regard to design changes and specifications
- Assist vendors to plan factory capacity and accept orders accordingly
- Train designers and buyers on the impacts of their decision-making on suppliers' ability to deliver a quality product in time without causing undue stress on factory compliance efforts

3 -Create stronger partnerships

- Consolidate factory base to the extent possible by building capacity with strategic suppliers
- Collaborate with other like minded brands to increase leverage with shared factories especially related to improvement targets
- Evaluate your relationship history (both with factory, vendor, agent)
- Understand your marketing value for the factory
- Analyze your percentage of business with a factory to help better allocate resources

4 - Create incremental improvement goals for each factory

As discussed, the established formula for creating corrective action plans and the short time frames associated with them fail to positively motivate factories. Alternatively, brands should strive to allow for and support unique corrective action plans which are developed and owned by the vendor/factory. Such plans should be detailed, incremental, realistic considering market norms, and agreed upon at the highest level; preferably by the factory ownership. Level Works experience is that realistic corrective action plans associated with wages and work hours should take years, not months. Furthermore, the monitoring of and support of progress must be more rigorous. In doing so, unique company, industry, and country variables must be taken into consideration in order to expand the success of the monitoring and corrective action cycle. In many cases this means creating and executing unique program cycles that may vary by country and/or region.

5 - Demand excellence in auditing & reporting

Although the Chinese situation with regards to obtaining long term compliance with local laws is extremely complicated, getting high quality auditing and reporting done is well within the grasp of any brand. The most effective device in accomplishing this is

being able to systematically compare the audit results found in submitted reports of different firms against known market realities. This also provides the best means of controlling auditor bribery. It should be noted, that the brand must be willing to firmly demand competence and be willing to reject reports for quality reasons. In response to this, firms will react grudgingly, but positively.

In determining how many factories are falsifying records a review of past audit reports should be undertaken. Basically stated, there are only 4 types of compliance reports that should be accepted for Chinese factories.

1、Clean or "Compliant" reports that show basic compliance with all wage and some working hour requirements. Such reports should only be considered legitimate for showcase factories that work with consistent high margin buyers and receive overwhelming amounts of attention related to the importance of labor compliance. We estimate this group represents about 5% of export factories in China. This estimate may be slightly higher for high margin, high quality factories, and lower for discount brands and retailers.

   Note: showcase factories may often have a network of well hidden sub-contractors whose practices confirm to market or below market norms.

2、Reports with inconsistencies (falsified records) that outline inconsistencies between provided records (work hour and payroll) and information gathered in interviews, production records, etc. How often such reports are received depends in large part on how well the auditors are doing their job. Based on status quo apparel compliance program structures, inconsistencies should be reported the majority of the time 70-85% of the time.

3、Reports that show actual factory practices are generally found only when a factory is trying to make sincere effort to work with the buyer and/or if the factory has little experience with the audit/re-audit process. In most cases factories that show auditors their real records and practices don't know any better. In the Chinese apparel sector there are very few of these factories left. Again, the percentage of such reports will vary depending on the brand sourcing practices, but should typically be in the range of 5-10%.

4、Inconclusive reports are reports that result in audits where the auditors have very little evidence that the factory is falsifying their records, but nevertheless the auditor believe they are doing so. Examples of weak evidence might be a) is one worker claimed to be working off the clock, or b) all the workers seemed coached, or c) only one inconsistent record was found. Unfortunately, audit firms are not empowered to give their clients 'inclusive' results. This is despite that a typical 2 'manday' audits does not always for a sufficient amount of time to find good evidence, especially as factories become better at hiding their real practices.

6 - Build and/or encourage factory capacity building

- Record keeping
- Labor productivity enhancement
- Alternative wage payment systems (non piece-rate)
- Pre-production planning
- Quality management

7 - Experiment

The current lack of success being driven by top-down brand labor compliance programs in China should be a call to all brands that further experimentation with alternative models is desperately needed. Although there have been many pilot projects focused on specific factories, experimentation should be focused on sustainable and scalable solutions and be directed at all levels of the supply chain including; factory owners, buyers, vendors, licensees, factories, workers, and peer brands. The complex labor conditions in China necessitate out-of-the-box thinking and action.

8 - Measure a factory's relative compliance

Current programs focus on the lowest paid workers, not the average, which may be an inappropriate tool for identifying 'good factories'. This is because relatively good factories also pay a portion of the workforce (new, least skilled workers) below minimum wage due to piece rate structure norms. This rule seems to hold true across different industries and product categories (very high end, to low end) including food, electronics, garment, and heavy industry. All such manufacturing sectors have in common the need for at least a small percentage of new, least skilled workers who's wages conform to market realities. Therefore, the determination of whether a factory has 'good' labor practices cannot be defined by identifying wages (via the audit process) for least skilled workers, as the prevailing audit and reporting method currently does.

By generating a more comprehensive profile of what factories actually pay their workers it provides a much better tool for evaluating whether or not the brand is sourcing from relatively good or bad factories. The obvious goal would be to source from those factories that are at least paying market or above market wages to workers in different jobs, albeit below legal expectations. Below is an example of how additional information might be gathered to help better understand a factories relative compliance, track progress, and predict associated costs.

Table 17: Wage profile example	
1. % of workers in the whole factory whose wage is under the 3.43/hr. min wage rate	40%
2. % of workers whose wage within the hourly range of RMB 2.93 to 3.43/hour in the whole factory	6%
3. % of workers whose wage within the hourly range of RMB2.40 to 2.92/hour in the whole factory	20%
4. % of workers whose wage within the hourly range of RMB1.72 to 2.39/hour in the whole factory	7%
5.% of workers whose wage within the hourly range of RMB 0 to 1.71/hour in the whole factory	7%

9 - Know your audit service providers

It's poorly understood how large suppliers and vendors influence the global assessment firms conducting audits. Be aware that there is a strong likelihood that the firm conducting the compliance audits is providing the vendor/supplier (their client) with one of their other services such as testing and/or inspections. Inspection and

testing services categorically constitute much larger revenues sources for these firms than compliance audits. For example, one of the large global assessment firms has publicly reported that 30% is derived from work directly contracted by Asia vendors. Another global assessment firm has reported that it is strategically positioning the company to grow its vendor business in Asia. Although this fact doesn't necessarily translate into a conspiracy to pass factories during compliance audits, it does help explain why such firms are not driving the compliance process improvement agenda.

10 - Legal interpretation

As outlined in this paper, China's immature laws governing wage, work hours, and benefits are insufficient in providing clear and specific guidelines for factories to follow. As a result, confusion and interpretative variance abound among factories, brand, and audit firms. Although it would be beneficial to all stakeholders if such laws were improved, in the short term, brands conducting audits and processing corrective action plans in China should perform a thorough analysis of how to interpret ambiguous laws in the best interest of all. Moreover, there is a need for determining whether or not disregarding some laws, which may be seen as unrealistic, will ultimately bolster or deter factory level improvements. At the very least, each brand should establish and demand consistent interpretation and application of laws within the context of their program.

APPENDIX A: LEGAL AND BRAND VARIANCE VS. ACTUAL PRACTICES

The purpose of this section is two-fold. First, to provide a non-comprehensive summary of the laws related to work hours, wages, and benefits applicable to the five provinces focused on in this paper.[2] Second, to provide an understanding of the complexities around interpreting Chinese laws and the way in which audit firms, brands, and factories vary in their interpretations and practices.

For ease of comparison, this section has been broken down into 'legal variance', 'brand variance', and 'actual practices'. In addition, 'brand variance' is shown in individual tables that include examples of Group A, B, and C practices. This was done to demonstrate the extreme differences (in some cases) between buyer expectations and/or auditing companies that factories must balance. As a reminder group A is really represents compliance audit service providers.

Minimum Wage

Legal Variance

There is no national minimum wage. The labor law allows each province to set their own minimum wage according to standards promulgated by The Ministry of Labor and Social Security (MOLSS), currently headed by Tian Chengping (U.S.S.D, 2005). These standards include the minimum cost of living for workers and their families, levels of economic development and employment in the area, as well as the level of social insurance and other benefits contributions paid by the employees themselves. Minimum wages are set as monthly amounts which must then be broken down into weekly, daily, and hourly rates based on set calculation methods. The calculation method required for all five provinces is shown below.

20.92 *= 365 (number of days in a year) - 10 (Public holidays) - 52*2 (number of Sundays and Saturdays in a year) / 12 months*

Example: If the monthly minimum wage is $690RMB, then 690 /20.92 = Daily rate of $32.98 RMB / 8 = Hourly rate of $4.12 RMB

The main legal variance that exists can be found in Shenzhen city (Guangdong province) which requires that the 10 public holidays not be subtracted from number of days in the year thus creating a lower hourly rate. The method for minimum wage calculation is shown below.

21.75 *= 365 (number of days in a year) - 52*2 (number of Sundays and Saturdays in a year) / 12 months*

Example: If the monthly minimum wage is $690RMB, then 690 /21.75 = Daily rate of $31.72 RMB / 8 = Hourly rate of $3.97 RMB

Brand Variance:

Group	Table 1: Minimum Wage variance

[2] The contents of this section should not be considered a comprehensive or completely accurate representation of Chinese law.

A	Net wage for regular working hours after lawful deductions / regular working hours per local law[3]
B	Net wage for regular working hours after lawful deductions / regular working hours per local law
C	Example 1: Net wage for regular working hours after lawful deductions / total working hours Example 1: Gross wage before lawful deductions / total working hours Example 2: In Shenzhen city, allowed to subtract 10 public holidays similar to the rest of China

Actual Practices:

Before the economic reforms took place in the late 70's, apparel factories paid their workers an hourly wage. During this time a workers wage was based on the number of years they had worked in the factory and their absenteeism record, but was not dependent on a worker's productivity. Now, nearly all apparel factories use piece-rate compensation systems. Under a piece-rate system, each worker is paid a set amount for each unit (or piece) produced regardless of how much time it takes to produce it. Thus, under this system slow or inexperienced workers have trouble making enough pieces (and thus piece rate wage) to meet the minimum wage until there productivity increases. Although factories that pay by piece are still required to meet the monthly, daily, and hourly minimum wage rates as well as OT premiums, very few actually do.

The wage data shown in Table 2 has been taken from a sample of 706 compliance assessments at Chinese factories believed to have been transparent about their real practices between Jan 04 – Sept 06. Factories represented in the sample are made up the garment, accessories, footwear, electronics, tools, and home fashions sectors. Approximately 20% of the sample is represented by apparel factories. The typical buyers for these factories are medium-low priced USA retailers.

The most striking information to emerge from the sample is the extremely high number of factories, 680 out of 706 (94%), failing to guarantee minimum wage to all workers. Furthermore, on average 32% of the workers in these factories are below the minimum wage level. Also alarming, is the average gap, .99RMB or 75.4%, between the lowest paid workers in each factory and the minimum wage. This data clearly demonstrates the extent to which the systemic minimum wage payment problem exists in China. It also suggests the problem is not confined to specific industries or provinces and that there exists a sizable labor pool willing to work at market wages well below the minimum wage. By breaking down the data into specific industries such as garments or footwear, no note-worthy variance was revealed. However, more variance emerged when broken down by province as shown in Table 2. As noted, the lowest wages (both at the low end and high end) were found to be in Shandong, while the highest wage average was found to be in Shanghai.

Although this data demonstrates the variance between different provinces, while dispelling the belief that particular sectors are a crucial factor, it does not clearly demonstrate the role other factors play in determining wages at each factory. These

[3] Because many factories do not supply records that specifically detail which piece rate wages were generated during regular work hours (40 hours per week) many audit companies and brands determine wage min wage compliance by taking the *total wage paid after lawful deductions / regular working hours* then allocate the remaining wages to OT hours.

additional factors may include; the level of factory sophistication, the ethnic make up of ownership, the education and experience of management, and the education and experience of the workers themselves. For example, during a presentation to the senate democratic policy committee hearing in May 2004, Nicholas Lardy from Institute of International Economics, presented data that clearly showed that foreign funded factories pay considerably higher wages versus state-owned or collectives.

Table 2: Average wage statistics for Chinese CP factories[4]

Province	No. of Reports	Ave. Min wage/hr[5]	Highest wage/hr	Average wage/hr	Lowest wage/hr	Min wage GAP/hr	Average % of min wage paid
Guangdong	440	**3.26**	6.00	3.29	2.2	1.05	68%%
Shandong	31	**2.88**	4.85	3.17	2.58	.3	90%
Zhejiang	70	**3.5**	6.44	3.96	2.64	.86	75%
Jiangsu	130	**3.53**	6.03	3.76	2.55	.98	72%
Shanghai	35	**4.04**	5.98	4.16	2.9	1.14	72%
Average	**--**	**3.36**	**6.00**	**3.48**	**2.37**	**.99**	**75.4%**

OT Wages

Legal Variance

PRC Labor Law [2] article 44 dictates that the employing unit shall pay workers wages higher than those for normal working hours per the following requirements:

150% of the normal wages for normal workday OT hours
200% of normal wages for rest day OT hours
300% of normal wages for public holiday OT hours

This law is applicable to each of the five provinces and there are no real variations at the city or township level with regards to workers employed on a monthly pay rate basis.

However, there is some confusion when applying the OT wage law to piece rate workers. According to *Provisional Regulations for the Payment of Wages [14] article 13*, workers paid by piece must be compensated at the above noted rates based on their normal working hour piece rates after their duties and assignments have been met (such as quotas). Furthermore, *PRC Labor Law [2] article 37 requires*, in the case of piece rate workers, the employing unit shall rationally fix quotas and standards on piece rate remuneration in accordance with the *PRC Labor Law [2] article 36* related to working hours.

Depending on the province and/or city additional guidance and instruction may or may not be given with regards to a) when OT premiums should be paid in relation to quotas b) how to specifically set quotas and c) how to calculate what normal piece rates are for the purpose of setting the correct premium (Verite, 2006, p. 5). This is important because no other specific information is provided at the national level, creating

[4] *It's important to note that the wage calculation method used in the sample to determine if each factory was meeting minimum wage was gross wages / total hours worked. However, the legal calculation of minimum wage requires the use of net wage (after legal deductions). Since this sample was taken, minimum wage has increased again in most of these provinces by up to 17% starting in September. Considering this, it's reasonable to believe that 0% of these factories are currently paying minimum wage to all workers.

[5] In reviewing Table 2 Column three should be used as the benchmark for legal compliance

confusion over how much payment each worker should ultimately receive. Table 3 outlines the variance that exists among the 5 provinces related to areas "a)" and "b)";

Table 3: Provincial variance in piece rate OT wage requirements[6]

Province & Cities	a) When premium is paid?	b) Production Quota Guidance
Shanghai	For all OT Hours	Regardless of quota
Jiangsu	After production quotas are met	• Set at a level that could be met by 90% of workers during normal work hours • Should be scientific, rational, and reasonable
Zhejiang	After production quotas are met	Should be 'rational'
Shandong	After production quotas are met	Should be 'rational'
Guangdong	After production quotas are met	• Set at a level that could be met by 70% of workers during normal work hours • Should be scientific, rational, and reasonable
Shenzhen	For all OT Hours	Regardless of quota

Verite, 2006, p.6

Once it's been established that the worker should receive premium payment, the national law itself only states that overtime premiums should be based on regular piece-rate wages. However, the law is unclear how that should be determined. Because workers may produce a variety of different pieces each day at different rates there is confusion over whether that payment should be based on the average wage of each worker during a certain period or based on the minimum wage. USUALLY THE SAME

If based on the average wage the calculation would be as follows:

- Total piece-rate wages during regular work hours / total regular hours worked = hourly average
- Hourly average X premium rate multiplier(s)= expected premium rate
- Total actual wages should then be compared with (normal work hours)(min wage) + (OT hours)(expected premium rates).

If based on the minimum wage the calculation would be as follows:

- (Total normal work hours)(min wage)+(Total OT hours worked)(OT premium rate(s) = expected total wage
- Expected total wage is then compared with total actual wage.

Assuming that each worker guaranteed the minimum wage for normal work hours then the average wage calculation method is more advantages to the worker.

Brand Variance

[6] In Level Works experience the majority of factories believe that the law requires them to pay OT wage premiums for all overtime hours worked regardless of whether quotas are met by the workers.

Group	Table 4: OT Wage variance
A	Example 1: OT wages premiums based on workers monthly average X applicable premium rates Example 2: OT wages premiums based on minimum wage • Based on net payment after lawful deductions
B	Example 1: OT wages premiums based on workers monthly average X applicable premium rates Example 2: OT wages premiums based on minimum wage • Based on net payment after lawful deductions
C	• OT wages premiums based on minimum wage • Based on gross payment with reasonable deduction in meal and dormitory (such as RMB150 a month).

Actual Practices:

From the same sample used in the minimum wage section 0% of the reports reflected legal compliance with OT premium rate payment requirements. However, no additional detailed OT wage statistics were gathered. For example, the percentage of factories that paid at least some OT wage premium. Level Work's experience, been that the strong majority of factories (that pay by piece) pay the same piece rates regardless of the day or time the work is being executed. If the factory does pay OT premiums, the rate is usually calculated in a way unique to the factory and arbitrary in relation to legally mandated 150% (reg OT), 200% (rest day OT), 300% (public holidays) requirements. Some examples are:

1、Workers are paid by piece-rate, however, they are paid more if they reach the quota (as bonus). This bonus is paid regardless if the quota is reached during normal or OT hours and can be hourly or in a lump sum. This system is common in the shoe industry as well as factories with Taiwanese management teams.
2、Workers earn normal piece rates during 'normal work hours', which may be more than 40 hours per seek or 8 hours per day per the law. Within the defined overtime hours, they are paid normal piece-rates + a small amount extra per hour such as RMB0.5. This is common for factories located in the Guangdong area, with Hong Kong management.
3、Workers are paid a monthly minimum wage + a non-legal OT wage premium based on minimum wage + production bonus which is equal to the amount by which the regular piece-rate wages exceeded the minimum wage and OT premium combination (Verite, 2006, p.7)
4、Workers are paid by piece-rate during normal work hours, but during overtime hours they are paid a premium hourly rate based on that days piece rate average. The average can be from each person or their line. Again, the premium is very rarely consistent with law. Hourly rated employees are paid in the same manner.

Payment of Wages

Legal Variance

All provinces follow the national law per *PRC Labor Law [2] article 50* which requires the payment of wages directly to workers in the form of currency on a "monthly basis". Furthermore, any deductions or delays must be justified. Although the "monthly basis" wording of this law is somewhat vague, in practice it has been interpreted to mean that payment should be made within 30 days of the end of each monthly pay period. Only Shenzhen city (Guangdong province) goes beyond the national law with *Regulation on Employee for the Payment of Wages in Shenzhen City article 11,* which requires payment by the 7th day after the monthly payment period.

Brand Variance

Group	Table 5: Payment of Wages variance
A	Within 30 days for all factories, 7 days for Shenzhen
B	Within 30 days for all factories, 7 days for Shenzhen
C	Within 30 days for all factories

Actual Practices:

The most common wage payment issue in China is the illegal withholding of workers (usually migrants) wages prior to the Chinese Lunar New Year. Because the majority of migrant workers return home for up to a month during this part of the year, factories use this method to force workers back to the factory by fear of loss. As competition for skilled labor increases so too does the concern of factory management to keep worker turnover down. This leads to increased legal worker incentives as well as coercion, such as the withholding of earned wages which can quickly escalate into worker protests and media attention. Although this practice is somewhat common in the apparel and footwear sector, it's most common in the construction sector, which has also received the most media attention. The good news is that governmental officials have repeatedly made commitments to rectify this situation as the 120 million migrant workers, with their semi-legal status, have little protection against employers who cheat them. More specifically, the Ministry of Labor and Social Security (MLSS), as of Oct 2005, has set up 16 payment safeguarding mechanisms across the country, providing a long-term surveillance system to secure migrant workers be paid on time (Xinhua News Agency November 29, 2005).

Additional illegal wage payment practices common to China are illegal deductions and/or fines, and illegal wage calculation methods.

Wages for Work Stoppage

Legal Variance:

The national law, *Provisional Regulations for the Payment of Wages [14] article* 12, requires that if such work stoppage exceeds one wage-payment period during which the worker provides normal labor, the wage paid to the employee must not be less than local minimum wage standard. This laws is applicable to the provinces of Shandong, Zhejiang, Shanghai. However, less stringent regulations exist for both Jiangsu and Guangdong provinces, as well as Shenzhen city. This is noteworthy as the existence of less stringent laws at the province or lower level seems to contradict the normal legal hierarchy. However, all laws and provisions related to the payment of wages during work stoppage require that such work stoppage is not attributable to the worker.

Both Jiangsu and Guangdong province regulations share the same differences compared with the national law. Both provinces require that only 80% of the local minimum wage be paid during work stoppage

Shenzhen city goes even further to clarify, by requiring that 80% of the normal wages be paid for downtime within one month and not less than 80% of the minimum wage for a downtime exceeding one month.

Brand Variance:

Group	Table 6: Downtime Wage variance
A	Per legal requirements
B	Per legal requirements
C	Don't require work stoppage payment

Actual Practices:

The normal wage payment practice in China during work stoppage is to pay nothing, especially for hourly or piece-rate workers. However, depending on how long the work stoppage is, factories are often forced to pay workers something in order to prevent them form leaving. Therefore, in can be said that worker turnover is the driving viable rather than any precedent of legal enforcement. In any case, it's extremely rare for factories to pay work stoppage per the local law. If needed, they might pay 50% of normal wage if the work stoppage is more than a month if needed, for example during the Chinese Lunar New Year.

Hours of Work

Legal Variance

Amended in *1995, PRC Labor Law [2] article 36* requires laborers to work no more than 8 hours per day and 40 hours per week. This law is applicable without exception to all five provinces.

With regards to allowable overtime hours, *PRC Labor Law [2] article 41 & 42* restricts overtime hours to a maximum of 36 per month and/or 3 per day. This requirement is also applicable to all five provinces. Thus, the maximum total working hours in a week would be 66 per law based on the following calculation:

66 total hours *= 40 hours + 26 OT hours = (5 normal work days X 8 hours = 40) + (5 normal days + 3 OT hours) + (11 OT hours on a rest day)*

It should be noted, that if a factory works 66 hours in a week it would require them use up 26 of the 36 monthly allocated legal OT hours. Therefore, during the following weeks in the same month OT hours must be severely limited in order to stay in compliance with local law.

Brand Variance

Group	Table 7: OT Hours of Work variance

A	• 3 hours per day, 36 hours per month & COC • COC typically allows for 60 total work hours per week (or 20 OT hours) • Some firms would require CWHS for 6 day work week schedule
B	• 3 hours per day, 36 hours per month & COC • COC typically allows for 60-72 total work hours per week depending on whether it's peak season and/or whether high OT is isolated
C	• Follows only COC • COC typically allows for 60-72 total work hours per week depending on whether it's peak season and/or whether high OT is isolated

Actual Practices[7]:

High work-hours are one of the most complex issues to tackle for both brands and factory management for two reasons. First, workers often request high work hours in order to supplement their normal wages. In China this willingness and/or need to work additional OT hours is accentuated because migrant workers, which make up the majority of the work force, live in dormitories directly adjacent to the factory and have traveled great distances for the sole purpose of working. By leaving behind friends, family, and their normal social lives, there outlets for non-work activities is diminished. Furthermore, most factories are located in somewhat isolated areas with little to do outside of work hours. As a result, factories that employ a high percentage of migrant workers typically work more hours on average than those that employ more local workers. A survey published in 2004 by the Guizhou government showed that 20% of rural citizens who take jobs in urban areas do so because they have no other income options (Yang, CSR Asia Vol 1 week 11). The same survey showed that 40% want to improve their income and living conditions; and 19% want to pay for their children's education.

Taken from the sample as described in the wage section of this paper, Table 8 shows the low, average, and high work hour averages from each of the five provinces.[8] As displayed, the highest work hours in each category are from Guangdong province, which has the highest percentage of migrant workers, while the lowest hours were found in Shandong, which has the lowest percentage of migrant workers. In fact, according to this data the average high of Shandong is 12 hours lower than the average high for Guangdong.

Regardless of the differences between each province Table 8 clearly demonstrates the wide gap that exists between actual factory working hours and both the local law and brand expectations.

Table 8: Average work hour statistics for Chinese CP factories

Province	Reports in sample	Work Week (low)	Work Week (Average)	Work Week (high)
Guangdong	440	61	75	88
Shandong	31	57	68	76

[7] *Recommended reading: "Excessive Overtime in Chinese Factories", Verite, Sept 2004*

[8] It should be noted, that the sampling was taken from both initial and follow-up assessments which are based on a limited sampling. Thus, the presented data does not necessarily represent the actual high, average, and low factory work hours during a twelve month period nor include the entire peak and low production periods.

Zhejiang	70	57	70	81
Jiangsu	130	59	69	78
Shanghai	35	60	71	81
Average	**---**	**60**	**73**	**84**

Rest Days

Legal Variance

The national law, *PRC Labor Law [2] article 38*, is applicable to all 5 provinces and requires workers be guaranteed at least (1) day off per week. The main area left to interpretation related rest days is whether the law requires a rest day be taken at least every *7 days* or every *week*. If the former, it would ensure that no worker could work more than 6 days straight without a rest. The later, however, would allows for a maximum (13) days straight without rest if rest days occurred at the opposite ends of two successive weeks.

Also, the law allows 'alternative rest days' to be allocated to workers performing work on normal rest days (Sat & Sun) in lieu of premium payment. However, alternative days cannot apply towards Public Holiday work. Again the law is also unclear when the alternative rest day must be taken; within a 7 day period, within the following week, or some other time.

Brand Variance

Group	Table 9: Rest Day variance
A	Example 1: (1) rest day per week (no per 7 days) which allows for a maximum (13) days straight without rest if rest days occur at the opposite ends of two successive weeks. Example 2: (1) rest day per 7 day period
B	Example 1: (1) rest day per week (no per 7 days) which allows for a maximum (13) days straight without rest if rest days occur at the opposite ends of two successive weeks. Example 2: (1) rest day per 7 day period
C	Example 1: (1) rest day per week (no per 7 days) which allows for a maximum (13) days straight without rest if rest days occur at the opposite ends of two successive weeks. Example 2: (1) rest day per week during low season, (2) rest days per month during peek season (variation brand definition of peak season also exists)

Actual Practices:

All the same systemic issues related to work hours also apply to rest day allocation. Also similar is a blatant disregard for the law. Level Works experience has been that most factories in China provide 1-2 rest days a month on Sunday during peak-production months and 1 rest day per week (not per 7 days) during low-production months. Few factories have formally and sincerely adopted a consistent alternative rest day schedule. However, for such factories it's common that after working both

Saturday and Sunday, the following Tuesday is allocated as a rest day during low-production periods. More commonly alternative rest days provided arbitrarily after any critical orders that necessitate rest day work are completed. Such alternative rest days are often provided the following week or within the same month depending on the factory's production schedule and the season.

Comprehensive Working Hour System

Legal Variance

Applicable to all five provinces, *PRC Labor Law [2] article 39*, allows "where an enterprise can not follow the stipulations in Article 36 and Article 38 of the Law due to its special production nature, it may adopt 'other rules' on working hours and rest with the approval of the labor administrative department. 'Other rules' in practice translates into what's known as the Comprehensive Working Hour System (CWHS).

The CWHS allows a factory, within a set period of time (1 year, 6 months, 3 months, etc.) to work in excess of the 36 OT hours/month legal limit as long as the hours worked are equal to or below the average allowable work hours for that entire period. For example, if a factory practices a CWHS for a one year period the average would be calculated as follows;

- Total allowed normal working hours: 2008 hrs. = 20.92*8*12;
- Total allowed overtime hours: 432 hrs. = 12*36;
- Total normal and overtime hours allowed per year: **2440 hrs. = 2008 + 432**

Beyond permitting the more flexible distribution of working hours (such as a six day work week), the CWHS also allows the factory to avoid paying OT wage premiums for the first 2008 hours (except the 10 public holidays). Although, once work hours exceed 2008 the factory must pay the premium rate of 150%. Thus, they can avoid paying any rest day premiums at 200% for the duration of the CWHS period. In any case, total working hours must not exceed 2440 hours and daily OT working hours are still restricted to 3 hours per day. However, on occasion, the approved CWHS will specifically provide for higher OT limits per day and may also set restrictions on total weekly or monthly OT hours. This seems to be the exception rather than the rule. In any case, the total 2440 allowable working hours remains constant for a one year CWHS.

The main variance that exist with regards to the CWHS, relates to accessibility. Although approval has been known to be available at the province level, in practice CWHS approval is usually obtained from the labor administration office at the village, township, or city level. Level Works estimates that 15% come form the village, 70% come from the township, and 15% come from the city. The ease of gaining approval also seems to vary greatly. Based on feedback from management during assessment visits, Level Works believes CWHS approval is more difficult to get in Shenzhen (Guangdong), Guangzhou (Guangdong), Shanghai, and Jiangsu in comparison with other areas.

The approval procedure for enterprises adopting irregular work and comprehensive working hours is determined by the Labor Administrative Department at the provincial, autonomous region and municipality city level to be referenced with the Labor Administrative Department of the State Council. The criterion for CWHS qualification is also unclear for factories exporting apparel, footwear, or other consumer products. In fact, the only industries explicitly identified as qualifying for the CWHS are

transportation, railways, post, shipping, air, fishing, mining, construction, tourism, and sugar processing which require continual working hours or are extremely dependent on natural and/or seasonal variation. However, the law also mentions "other enterprises applicable to the system", but does not provide further details about the characteristics of such enterprises. It can be assumed that the interpretation of this wording opened the door for export factories to apply for CWHS.

Brand Variance

Group	Table 10: Comprehensive Working Hour System variance
A	Required in order to work beyond 3 hours/day and 36/month of OT. Still enforce COC working hour standard
B	Example 1: Required in order to work beyond 3 hours/day and 36/month of OT. Still enforce COC working hour standard, but more flexible in practice Example 2: Requires CWHS approval at the township level or above • Require CWHS for 6 day work week schedule
C	Example 1: Disregard comprehensive working hour system and only requires compliance with COC standard, but more flexible in practice Example 2: Allows CWHS for the extension of working hours beyond 3/day & 36/month as a waiver. However requires OT payment in accordance with law throughout the period. • Allows 6 day work week schedule without CWHS

Actual Practices:

Due to near non-existent enforcement of working hours in China, the rise in apparel factories applying for the CWHS has increased with the rise of brand codes of conduct and labor compliance auditing. As the realities of working hours are so far from the limits set forth by Chinese law, the CWHS gained popularity as the only legal way of extending working hours and placating brands demanding compliance with local law. Not only does the CWHS provide more flexibility to factories it also provides another opportunity to fool status quo audit/re-audit program model. Below is a description of how this works.

1. *Brand audit uncovers working hours in excess of the law and requires remediation within 60 days.*
2. *Factory applies for CWHS for a 6 month or 1 year period.*
3. *90 days later the brand performs follow-up audit. However, non-compliance with the law cannot be determined until near the end of the CWHS period, therefore, the factory passes the audit in the hours of work area.*
4. *Brand performs annual audit 12 months later and the process starts all over again.*

Because of the manipulation of the CWHS system and the suspicion that approval can be bought by local labor officials many brands have begun disregarding it.[9] Instead, such brands focus more on compliance with their own working hour standards

[9] Level Works experience is that nearly all factories that receive approval for CWHS exceed the average OT hour allocation for the period.

regardless of whether a factory has the CWHS or not. Furthermore, according to factory managers the government continues making CWHS approval more difficult. As a result of both brand disregard/distrust and the increasing difficulty in securing it, the number of factories with CWHS has started to decrease.

Social Insurance

Legal Variance

China's social insurance system allows for wide variance between factories at the province, city, and township level with regards to how much, what kind, and how many workers receive insurance. The specific requirements are issued to each individual factory in the form of a waiver.

This variance is the result of *PRC Labor Law [2] article 72 & 73* that requires the gradual implementation of five different types of funds as follows:

1、retirement;
2、illness or injury;
3、disability caused by work-related injury or occupational disease;
4、unemployment; and
5、child-bearing

The Labour Protection Administrative Department under the State Council is responsible for the collection, management and monitoring of social security fees on the national level (Fair Wear Foundation, 2004, p.67). In practice the responsibility for determining the implementation strategy is that of the province, city, and township; each of which control certain aspects. For example, the city level generally controls what percentage is paid to each of the different types of insurance funds, which typically consistent throughout the city. The city also controls how much of that payment is the responsibility of the employer versus the worker.

In contrast, the township usually determines how many workers in each factory must be included in the insurance scheme which is often considered along with other incentives/subsidies provided to factories for setting up operation in the township. Examples of other incentives/subsidies include; taxes, utilities, administration fees, etc. Thus, the lower the insurance costs, the more factory incentive for setting up operation.

Another variance in the social insurance scheme is that some cities have implemented different insurance funds in addition to, or in substitution of the five usual funds. For example, in Suzhou's (Jiangsu province) Singapore Industry Zone, the insurance scheme is entirely different than the rest of China and more closely resembles that of Singapore. Shanghai and Shenzhen also require different percentages of payment per worker depending on whether they are a resident or a migrant. They also have included optional additional funds, such as a housing fund.

Brand Variance

Group	Table 11: Social Insurance variance
A	Require waiver and demand proof of corresponding payment
B	Require waiver and demand proof of corresponding payment
C	Example 1: require gradual increases each year for certain funds such as

	maternity Example 2: will accept private insurance, in lieu of other coverage

Actual Practice:

The specific types and amount of insurance provided workers by garment factories is influenced by location, size, resources, government relationships, the number of workers, and number of local and migrant workers. Thus, the level of coverage regarding legal insurances in the garment sector varies. A few of the practices common in China are listed below.

- Factories commonly under report the number of workers to the local ministry so as to lower the level insurance payments.
- For retirement insurance, the factories usually have all the non-production workers and only part of the production workers insured. Production workers may be randomly selected or selected by seniority for coverage. Some factories also allow workers to voluntarily participate in the retirement insurance (Fair Wear, 2004, p.74).
- Workers generally have a poor understanding of which insurance they are covered under and what rights they are entitled to in case of say an industrial injury. Furthermore, management rarely takes on the responsibility of educating workers in this area.
- Very few if any garment factories provide company based medical and maternity insurance to migrant workers. This can be shown by the fact that workers are not allowed to take sick leave during the peak season. Instead such workers would go to see private doctors or buy medicine from pharmacies nearby in case they get ill without receiving subsidy or reimbursement from the employers (Fair Wear, 2004, p.74).
- New factories purposely do not register with the local labor authorities and therefore do not have a coverage waiver at all. This is more common with small factories.
- As for maternity provisions, female migrant workers in the production line are rarely covered by factories, as many are considered seasonal. Instead workers will often resign before delivery. It should also be noted that because most migrant workers are female and live together in dorms the pregnancy rate is extremely low compared with other countries.

Leave & Allowance Benefits

Legal Variance & Brand Variance

The national law that covers leave requirements is *PRC Labor Law article 51* which requires the employing unit to pay wages according to the law for their statutory holidays, marriage or funeral leaves or periods when they participate in social activities in accordance with the law. However, specific details related to each type of leave and allowance, have been derived from a variety of authorities. Furthermore, such details are generally considered difficult to access and understand. As a result, the implementation of such laws is poor at best. Some provincial requirements and clarifications also exist for each of the leave and allowance requirements. The

presence of these specific national and provincial laws as well as brand variance is represented in below Table 12.

Table 12: Legal and Brand Variance – Leave & Allowances						
Leave & Allowances	**National**	**Provincial Provision**	**City**	**Group A**	**Group B**	**Group C**
Annual Leave Allowance	Yes	All five provinces	No	Yes	Yes	No
Sickness Allowance	Yes	Guangdong	No	No	No	No
Child Bearing Leave	Yes	All but Shanghai	Shenzhen	Some	Yes	No
Additional Child Bearing Leave	Yes	Guangdong	Shenzhen	No	Some	No
Marriage Leave	Yes	All five provinces	No	Some	No	No
Bereavement Leave	Yes	All five provinces	No	Some	No	No
Family Leave	Yes	Guangdong, Jiangsu, Shandong	No	No	No	No

Actual Practice:

The majority of garment factories do not provide for any official leave or payment in lieu of leave, especially for seasonal piece-rate migrant workers. This is generally not a problem due to the lack of enforcement and poor education of the workers themselves.

Public Holidays

Legal Variance

PRC Labor Law [2] article 40 states that the employing unit shall arrange holidays for workers in accordance with the law during the following festivals;

New Year's Day (1 January): 1 day;
Spring Festival (days vary): 3 days;
International Labor Day (1, 2 and 3 May): 3 days;
National Day (1, 2 and 3 October): 3 days;
Total days = 10

In terms of which days are considered national public holidays, Article 40 is applicable to each of the five provinces equally. However, with regards to payment, the law is unclear between workers paid on a monthly basis versus those paid daily or hourly. This is due to the vague national law, *PRC Labor Law article 51,* which gives no specific guidelines other than requiring the employing unit to pay wages according to the law for statutory holidays. Although this is clear and actionable for monthly paid workers it

creates some confusion for daily, hourly, or piece rate workers whose min wage is already calculated based on 20.92 days average work week (ref: min wage section). Because this calculation already includes public holiday pay the general consensus seems to be that additional holiday pay is not required for such workers. However this is not absolutely clear within the law and open to interpretation.

For clarification additional provisions exists for Guangdong, Shenzhen, and Jiangsu explicitly requiring the normal payment of wages on such holidays. However, only the Shenzhen provision specifically mentions that hourly, daily, and piece rate workers must receive holiday pay.

Because the calculation method for determining weekly, daily and hours wage rates in Shenzhen is based on 21.75 (average work month), which does not include holidays, there exists interpretive agreement that workers should be paid additionally for work on holidays.

Brand Variance

Group	Table 13: Public Holiday variance
A	Require factories pay hourly, daily and piece rate workers for public holidays.
B	Require factories pay hourly, daily and piece rate workers for public holidays.
C	Do not require factories pay hourly, daily and piece rate workers for public holidays except where specifically required by additional local provisions.

Actual Practices:

Garment factory practices related to public holidays is fairly simplistic. Depending on the production calendar and the need to fill pending orders, public holidays will be provided to workers. Some holidays are more consistently provided such as Chinese New Years and Spring Festival which have a more important cultural meaning. However, in the event that workers do work on public holidays, the required legal premium payment of 300% of normal wages is extremely rare. Instead workers may be paid at 150%, some other arbitrary amount in lump sum. However, many piece rate workers will not be paid a premium at all.

APPENDIX B: PROVINCIAL OVERVIEW

Background

China's economic restructuring and the resulting efficiency gains have resulted in a more than tenfold increase in GDP since 1978. Measured on a purchasing power parity (PPP) basis, China in 2005 was the second-largest economy in the world after the US, although in per capita terms the country still has close to 150 million living below the international poverty line (CIA, 2006). Economic development has generally been more rapid in coastal provinces, which has led to a large gap in per capita income with the interior. The government has struggled to: a) sustain adequate job growth for tens of millions of workers laid off from state-owned enterprises, migrants, and new entrants to the work force; b) reduce corruption and other economic crimes; and c) contain environmental damage and social strife related to the economy's rapid transformation. It's estimated that between 100 and 150 million rural workers are floating between their villages and the cities, most subsisting on part-time and/or low-paying jobs (CIA, 2006). Due to the "one child" policy, China is also one of the most rapidly aging countries in the world.

The China National Textile Industry Council1 (CNTIC) characterized the garment industry of China as follows: (1) Fast growth rate. Export growth of textile products faster than garment. But garment export has a larger share than textile export. (2) Structure of export: mainly cotton and synthetic fabric products. (3) Export concentrate in the coastal areas. (4) Export processing has a larger share in textile and garment manufacturing. But the proportion is narrowing. (It is estimated that about 30-40% of the export value of the textile and garment production in China is export processing value.) (5) Export mainly to neighboring countries and Europe, US. (China Textile Industry Development Report 2002/2003, CNTIC).

China is the world's largest producer and exporter of textiles and apparel, contributing one-fifth of the world's total production (Li & Fung, 2006, p.1). With its historically abundant supply of low-cost and relatively skilled labor, the country has attracted investment from around the world. Half of the China's apparel factories are considered large (over 500 employees), about 20% of the factories are middle-sized (200 to 500 employees), and about 30% are of small size (less than 200 employees). Generally, apparel factories in the coastal area known to be larger than those of the midlands and western areas (HCTAR, 1999, p. 21).

Another important feature of China's apparel industry is the presence of more than 48 major industrial clusters (Li & Fung, 2006, p.1)[10]. Apparel clusters are mainly located along the coastal provinces of Zhejiang, Guangdong, Jiangsu, Fujian, Shangdong and Hebei and contain hundreds and even thousands of apparel factories specializing in one or more products (Li & Fung, 2006, p.1). It's estimated by the China National Textile & Apparel Council (CNTAC), that close to 80% of the total sales of all textiles and apparel enterprises were generated from industrial clusters (Li & Fung, 2006, p 2).

---

[10] *The 'Li & Fung' Li & Fung research Center, May 2006 "Textile and Apparel Clusters in China", Industrial Clusters Series – No. 5 provides very useful summary as well as specific information about the apparel clusters in China.*

Guangdong province, which is home to three of the four special economic zones (Shenzhen, Shantou and Zhuhai) is the largest garment exporter in China and the third largest in the world (Statistical Yearbook of China, 2005). Guangdong contributes nearly 20% of China's total textile and apparel exports, and 5.2% globally (Statistical Yearbook of China, 2005). The apparel sector of Guangdong is mostly concentrated in the Pearl River Delta and has been driven primarily by foreign investment. In particular, Hong Kong based manufacturers have shifted their production to Guangdong over the past 20 years to take advantage of lower costs. Also, Guangdong's proximity to Hong Kong has allowed for the convenient exchange of expertise and fashion trends.

Guangdong is home to a number of renowned production clusters. One example is Xintang Town, which specializes in denim. Xintang Town is situated at the gateway between Guangzhou and Hong Kong. It is the largest denim-wear town in China producing over 200 million pieces of denim wear each a year (Li & Fung, 2006, p.8). For every hundred pieces of denim wear produced in China, 60% is produced in Xintang (Li & Fung, 2006, p.8).

Although Guangdong is not considered the most populous province in China recently released information suggests that there are at least an additional 30 million immigrant workers living in Guangdong for at least six months each year (Li & Fung, 2006, p.7). The massive influx of migrants from other provinces, often called the "floating population", and is solely due to Guangdong's booming economy and high demand for labor.

Zhejiang is the second largest garment exporting province in China. The northeastern Zhejiang area is part of the Yangtze River Delta metropolitan region and though it is one of the smallest provinces, with a total area of 63,116 sq miles it has the largest number of industrial clusters and represents the largest GDP for the YRD region (www.zhejiang.gov.cn - Textile Industry in Zhejiang, 2006). Zhejiang covers 6 cities and counties including Hangzhou, Ningbo, Jiaxing, Huzhou, Shaoxing, and Zhoushan. Factories operating in Zhejiang benefit from their proximity to one of the longest coastlines in China allowing for excellent sea and river transport access. As one of the earliest places to develop non-state-owned enterprises in China, Zhejiang has a vibrant private sector, and its people have a reputation for entrepreneurship.

Zhejiang's soft-goods industries have developed in clusters and include garment and textiles with focus on socks and ties as well as chemical fiber, leather products, wooden furniture, toys, household appliances and paper goods. Zhejiang' s output of light leather products accounts for 35% of the national total and output of leather garments account for 44% of the national total (Fibre2fashion, News Desk – China).

The ever increasing majority workers in Zhejiang are migrants from Jiangxi and Anhui provinces; however, there are still around 30% local workers (Peoples Daily, 2006, Feb 21). The wage in Zhejiang is typically higher than in most provinces, but the work hours are extremely long, as most of the factories use the piece rate system.

Jiangsu is the third largest garment exporting province in China. has over 620 miles of coastline along the Yellow Sea and both the Yangtze River and Beijing-Hangzhou Grand Canal flow through the province provide excellent export access. Jiangsu move to a market economy was about 15 to 20 years ahead of other western provinces. Over the last few years Jiangsu over took Guangdong, as the top recipient of foreign investment and is thus developing and growing quickly. The manufacturing industry remained the focus of foreign investors, accounting for eight percent of investment. However, the majority of growth focus in technology sector (Fair Wear, 2004, p.11) Major overseas investors in Jiangsu include Hong Kong, Taiwan, Japan, the Republic of Korea, the United States and Australia (Peoples Daily, 2003, Oct 07).

The main apparel product categories of Jiangsu are leisurewear, woolens, feather and down, and other non wovens. Gaoyou city has emerged as the largest wholesale clothing market in China earning the title of 'Famous Clothing Market'. The apparel output from the Gaoyou market alone is over 30 million pieces each year; close to 30 percent of world output (fibre2fashion, 2006, June 3).

Shanghai has become the world's largest cargo port due to the rapid development of the Chinese economy and the large industrial and trade base of the Yangtze River Delta region (Asia Times, 2006 Jan 7)**.** Shanghai's technology-intensive industries such as computers, telecommunication equipment and integrated circuit manufacturing, are experiencing dramatic growth, while the number of low value-added manufacturing industries, like textile; though considerable amount apparel manufacturing still occurs in suburbs of Shanghai such as Jiading and Jinshan where costs are lower.

In 2002 the municipal government of Shanghai carried out a residence certificate system granting migrant laborers some of the benefits enjoyed by their urban counterparts including healthcare and education (China Daily, 2006, Oct 12). Access to these benefits, as well as higher wages and more government enforcement of the labor laws has helped lower the risk of non compliance in Shanghai's factories. However, it is expected that over the next few years factories producing low margin goods will continue to move out of Shanghai into provinces where the cost of doing business is considerably lower.

Shandong is a coastal province with a total land area of 96,720 sq miles making up 1.6 percent of the territory of China (19th biggest). According to the Chinaccm.com's 2006 Annual Report on China's Garment Industry, seventy percent (70%) of South Korea's clothes are made in Shandong, thus Korean influence and investment is particularly high compared with other provinces. Industrial clusters in the Shandong province include Zhucheng City and Tancheng County that produce menswear and Haiyang City that produces Woolen Garments (Li & Fung, 2006, p. 7). In east Shandong province the Fushan industrial zone has become one of the most successful investment destinations. In the four months of 2005 the textile and garment industries in the Fushan industrial zone received

investments of US$42.4 million and realized sales of US$24.2 million a 30 per cent increase from the same period last year.

Unique to Shandong is the relatively high number of non-migrant workers that exists. Level Works estimates that close to 70% of workers are from Shandong. Therefore, it's not as common for factories to provide dormitories and full functioning canteens. As a result of this, working hours are generally lower than provinces that really heavily on migrant workers such as Guangdong. Many factor managers in Shandong are of Korean decent and generally have a better understanding of management systems implementation than do mainland Chinese managers.

ABOUT LEVEL WORKS LIMITED

Level Works Limited 達標

Level Works Limited is labor compliance and capacity enhancement service provider operating in Asia and the Middle East. Our management team boasts extensive experience developing programs for retailers and manufacturers located in the USA and Europe, managing internal programs for major retailers as well as ground level factory operations. This well-rounded group has come together to shape services that address the limitations of COC programs that abound today, which in many cases offer poor value, drive factory problems underground, and fail to mitigate risk.

Level Works challenges the idea that there exists a 'one size fits all' monitoring solution. In contrast, we offer our clients a true long term partnership in monitoring their supply chain with the intention of lowering their own risk profile, and benefiting all supply chain stakeholders; most importantly production workers. In order to accomplish this, Level Works believes that unique company, industry, and country variables must be taken into consideration in order to expand the success of the monitoring and corrective action cycle. In many cases this means creating and executing unique client program cycles that may vary by country and/or region and involve more collaboration amongst brands and retailers.

For questions or comments related to the contents of this paper please contact James McMichael, Director Level Works Limited

Level Works Limited
2787 California Street
San Francisco, CA 94115
+1.415.440.4141
jmcmichael@level-works.com

Level Works would like to thank the following people for their contribution to this paper:

Raymond Huang
Carolyn Duffy
Dawn Marchand
All Level Works field staff

WORKS CITED

Fuller, Thomas. "Trade imbalance masks a struggle to get by in China." International Herald Tribune. 3 August. 2006.

"China" The World Fact Book – China. https://www.cia.gov/cia/publications/factbook/geos/ch.html#Econ. 14 November. 2006.

"Textile and Apparel Clusters in China." Industrial Clusters Series No. 5. Li & Fung research Center May. 2006.

"The Development of the China Apparel Industry". The China Textile University and The Harvard Center for Textile and Apparel Research, Nov. 1999.

Statistical Yearbook of China 2005. National Bureau of Statistics of China. 19 December. 2005.

Zhenghua, Wang. "Customers want it cheap, workers pay heavy price." China Daily 6 June. 2006.

Sumi, Ngai-Ling., Ngai, Pun. "Competition & Change Vol. 9, No. 2." Globalization and Paradoxes of Ethical Transnational Production: Code of Conduct in a Chinese Workplace. 1Department of Politics and International Relations, Lancaster University, Lancaster, UK 2School of Social Science, Hong Kong University of Science and Technology, Hong Kong. June. 2005.

"How Rising Wages Are Changing The Game In China 'Business Week." Business Week. News Analysis & Commentary. http://www.businessweek.com/magazine/content/06_13/b3977049.htm 27 March. 2006.

French, Ron. "Low wages turn nation into magnet for jobs. Peasants flock to factories, prompting social change." The Detroit News. Nov. 2004

Senate democratic policy committee hearing in May 29, 2004, presentation by Nicholas Lardy from Institute of International Economics

"China and India 'top bribe list'" BBC News. http://news.bbc.co.uk/go/pr/fr/-/2/hi/business/5405438.stm. 4 October. 2006.

"Piece by Piece – How the Overtime Pay of Piece-rate Workers in China is Falling Short." Verite Issue Paper. June. 2006

Bribe Payers Index (BPI) Analysis Report. Policy and Research Department Transparency International – International Secretariat. 4 October. 2006.

"Govt Urges Timely Payment to Migrant Workers." Xinhua News Agency http://www1.china.org.cn/english/government/150263.htm. 29 November. 2005.

"Excessive Overtime in Chinese Supplier Factories: Causes, Impacts, and Recommendation for Action." Verite Issue Paper. Sept. 2004.

Yang, “Going to Guizhou: Some thoughts on migrant workers.” CSR Asia Vol 1 week 11. 2005

Locke, Richard., Fei Qin, Alberto Brause “Does Monitoring Improve Labor Standards?: Lessons from Nike.” MIT Sloan School of Management, Working Paper No. 4612-06. July. 2006.

“Jiangsu most attractive to foreign investors.” Peoples Daily Online http://english.peopledaily.com.cn/200310/07/eng20031007_125495.shtml 7 October. 2003

“City job hurdles cleared for migrants.” February Peoples Daily online http://english.people.com.cn/200502/21/eng20050221_174107.html. 21 February. 2005

“China: Gaoyou occupies major stake of world clothing market.” Fibre 2 Fashion http://www.fibre2fashion.com/news/apparel-news/newsdetails.aspx?news_id=18000. 3 June. 2006.

“Shanghai now the world's largest cargo port.” Asia Times. 7 January. 2006

“Equal Rights for Migrants” China Daily. http://www.china.org.cn/english/China/183643.htm 12 October, 2006

“Shanghai Releases Business Costs for the First Time.” Hong Kong Trade Development Council Issue 09. 2006.

“China Textile Industry Development Report 2002/2003.” China National Textile Industry Council. 2003

“Background Study On China.” The Fair Wear Foundation. August. 2004