International Trade Union Guide to Contacts with China and the All-China Confederation of Trade Unions (ACFTU)

(May 2006)
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Abbreviations

ACFTU  All-China Federation of Trade Unions
APEC  Asian & Pacific Economic Cooperation
ASEM  Asia-Europe Meeting
CEC  China Enterprise Confederation
CFA  Committee on Freedom of Association (ILO)
CLB  China Labour Bulletin
CPC  Communist Party of China¹
FDI  Foreign direct investment
GB  Governing Body (ILO)
GUF  Global Union Federation
ICCPPR  International Covenant on Civil and Political Rights
ICESCR  International Covenant on Economic, Social & Cultural Rights
ICFTU  International Confederation of Free Trade Unions
IGO  Inter-governmental organisation(s)
IHLO  ICFTU/GUF/HKCTU/HKTUC Hong Kong Liaison Office
ILC  International Labour Conference (ILO)
ILO  International Labour Office
IMF  International Monetary Fund
LDAC  Labour Dispute and Arbitration Committee(s)
MNC  Multinational Companies
MOLSS  Ministry of Labour and Social Security
NAM  Non-Aligned Movement
NPC  National People’s Congress
NTCC  National Tripartite Consultative Committee
OHS  Occupational Health and Safety
PRC  People’s Republic of China
SOE  State owned enterprise
SWC  Staff and Workers’ Congress
TCC  (municipal) Tripartite Consultative Committee(s)
TUL  Trade Union Law
WAF  Workers’ Autonomous Federation(s)
WCL  World Confederation of Labour
WFTU  World Federation of Trade Unions
WTO  World Trade Organisation

¹ CPC is its official name, but the Party is also often referred-to as CCP, for “Chinese Communist Party”. Both versions may be found in the present document.
INTRODUCTION

Three decades of economic reform have repositioned China close to the core of the global economy. The All China Federation of Trade Unions (ACFTU) has played a role in this transformation. Although the ICFTU and GUF’s do not hold the ACFTU to be a free and independent trade union, a gradually increasing number of affiliates and GUFs are coming into contact with the organisation, either directly through visits, cooperation programmes and other exchanges, or indirectly at the ILO and other international fora such as APEC. The character of these contacts ranges from “critical dialogue” to “constructive engagement”. Other affiliates and GUFs however have taken a position of no contact with the ACFTU due to its lack of independence and role as a conduit for the ruling party in China – the Chinese Communist Party (CCP).

The ICFTU’s present policy towards the ACFTU was adopted in November 2002 and states that ‘the ICFTU, noting that the ACFTU is not an independent trade union organisation and, therefore, cannot be regarded as an authentic voice of Chinese workers, reaffirms its request to all affiliates and Global Union Federations having contacts with the Chinese authorities, including the ACFTU, to engage in critical dialogue. Some ICFTU members refuse to maintain contact with the ACFTU. The ICFTU China Policy, as adopted in November 2002, is included as an appendix to this “Guide” (Annex 5).

At its third meeting in Brussels in November 2003, the China Working Party’s (CWP) of the Human and Trade Union Rights Committee discussed the ICFTU China Plan of Action in detail and an amended plan was later adopted by the Executive Body in December 2003. The plan acknowledged the growing trend of contacts with the ACFTU and recognised the need for affiliates and GUFs to be properly informed on the nature of the organisation so as to achieve the best possible results during such meetings, notably as regards international labour standards and the situation of detained labour activists.

Most delegations have little time to familiarise themselves with the condition of Chinese workers and have a minimal amount of concrete information on the nature of the ACFTU or the flip side to the "Chinese economic miracle". Knowledge of China among visiting delegations is usually restricted to the situation in the flagship cities of Beijing, Shanghai, Shenzhen, Dalian and Guangzhou and most visits appear to be tightly organised leaving little room for unfettered contact with ordinary workers.

Noting the above and given that the ACFTU is a large and complex organisation, paragraphs 11-13 in the Plan of Action stated the following five goals:

- to fully grasp the structure, internal politics, leadership of the ACFTU and the environment it operates in;
- to ensure that well-informed critical dialogue is maintained wherever ICFTU affiliates/GUFs engage with the ACFTU, on such issues as human and trade union rights, OHS, non-payment of wages, social security and other matters related to worker’s rights;
to seek ACFTU co-operation to promote ICFTU/GUF objectives in multilateral fora such as APEC, ASEM and other regional or international meetings;

• to facilitate reporting back by affiliates and GUFs through standardising reporting procedures;

• To reject any attempts at limiting freedom of expression in any contacts with the ACFTU, including the participation in meetings and delegations of the HKCTU, GUF affiliates from Hong Kong and/or the CLB, where such participation is desired by affiliates and GUFs.

The Plan of Action therefore agreed to the preparation by the IHLO, ICFTU and GUF’s, with CLB assistance, of a Guide to “International Trade Union Contacts with China”.

The ICFTU has devoted considerable effort over the last decades to deciding policy on China. Most of that has, for good reasons, focused on fundamental workers’ rights and the victims of repression, and on how, if at all, the international trade union movement should most appropriately interact with the All China Federation of Trade Unions.

The ICFTU’s long-term work to document, denounce and publicise the victimisation of independent worker activists in China has helped to moderate the treatment to which they have been subjected. But the harsh reality remains that all manifestations of real trade unionism are systematically put down in the world’s largest country which - partly as a result of this – has become the world’s number one destination for foreign direct investment, and a key player in the regional and world economy.

China’s accession to the WTO and its continued rapid growth means that the flow of jobs and investment which have made it the 21st century workshop of the world seem set to continue. Certainly, it will be boosted by the ending of the quota system in trade of textiles and garments in the days following Congress.

The direct victims of China’s blanket denial of freedom of association are Chinese workers themselves and their families. But this also has a dramatic effect throughout the global economy. As a result, large parts of the industrial sectors which have historically provided the bulk of the private sector membership of our movement in many countries are being sucked into a rigorously non-union environment, a process which can, in turn, bring pressure for lowering conditions or even the de-unionisation of those other parts which remain. This is the race to the bottom in action, and the international trade union movement needs to address it in ways which so far, it has not been able to.

The opportunities and leverage offered by the massive and growing presence of multinational investors in China need to be used. Within the very narrow limits imposed by the Chinese authorities, there is potential to influence the behaviour of employers and to build basic understanding of the meaning and benefits of independent worker representation. China is of course not the only country where trade union rights are severely repressed, but the sheer size of the potential workforce, and the flood of inward investment, mean that it merits priority attention.

Initial work already undertaken by the ICFTU China Working Party will need to be built upon, with the cooperation of GUFs and the committed involvement of affiliates. But this is one area in which the international trade union movement simply cannot afford to be inactive or ineffective.
Format of this Document

This Guide to “International Trade Union Contacts” with China (hereafter “Guide”) is designed to fulfil all five goals stated in the introduction. In particular it is designed to present a summary of the ACFTU and its role in labour rights and freedom of association in the PRC.

Chapter one focuses on the history of the ACFTU and its internal structure and includes a brief summary of some of the most important independent worker initiatives since 1989. Chapter two looks at the ACFTU in the light of China’s international obligations and touches upon ACFTU strategy in developing its international relations. Chapter three concentrates upon the main areas of work the ACFTU is involved in, ranging from its work in China’s tripartite structures to its role in reforming China’s labour laws. It also focuses on the key reforms of recent years, namely its membership drive, the promotion of trade union elections and the inclusion of migrant workers in the ACFTU. Chapter four takes a close look at two key areas of ongoing concern to the ACFTU: privatisation of State-owned industries and the rise in corporate social responsibility and the potential role for the ACFTU in that process. Finally chapter fives looks at the issue of imprisoned labour activists and the role of delegations in raising prisoner issues in general and specific cases in particular.

The appendices provide a range of useful background material, including a short summery of dos and don’t for visits, a list of current ILO ratifications, a condensed section of facts and figures on China, the ICFTU China Policy, as adopted in November 2002 and most importantly a feedback form. This is to assist affiliates and GUFs in maintaining mutually beneficial lines of communication with the ICFTU on their relations with the ACFTU. A central theme of the ICFTU policy towards the ACFTU is written feedback in report form. The ICFTU General Secretary has written to remind affiliates and GUFs of the importance of feedback on a number of occasions since 1994.

It should be stressed that this project is not designed to encourage contact with the ACFTU. Its aim is primarily to ensure that those affiliates who have elected to engage with the ACFTU can do so in an informed manner and be provided with background material for critical dialogue and engagement.

We anticipate that this document will be as useful to those affiliates and GUFs that have elected to maintain a policy of non recognition of the ACFTU as it is meant to be to those that engage at whatever level. The document can also be used by those who are about to host an ACFTU delegation in their country, those who are considering doing so as well as those affiliates or GUFs who have decided that there will be no contact with the ACFTU for the foreseeable future.
Chapter I: History and Overview

ACFTU: A TURBULENT HISTORY

Post-1949 ACFTU

The All China Federation of Labour (ACFL, the predecessor of the ACFTU) was established in Guangzhou (Canton) in 1925. Many of its organisers were CCP members operating in extremely dangerous conditions and the Party dominated the general political orientation of the ACFL.

Following the Shanghai Massacre of 1927 and the CPC’s retreat to rural areas, the organisation served little institutional role. Organising took place where conditions permitted but a functioning national labour movement did not emerge. In nationalist-controlled areas i.e. where the Guomindang (Kuomintang) government mandate ran, the ACFL unions combined economic demands with political education, with primary importance placed on the former. In “liberated areas” the union emphasised political education and the movement for New Democracy.

New guidelines were established in the Constitution of the Sixth Labour Congress in 1948. These provided for a new organisational basis for the trade union, and paved the way for the CPC to use the ACFTU as a “transmission belt” between the Party and the working class following the anticipated victory in the civil war against the Guomindang.

After the establishment of the People’s Republic of China (PRC) in October 1949, the ACFTU began a period of national growth, consolidation and adjustment in which it attempted to negotiate contending pressures and demands from workers, factory management and administration, and the CCP.

In theory, the new political situation and its close ties to the CCP meant that the ACFTU shifted from a confrontational to a cooperative role in their relationship with management and indeed, the new national Trade Union Law of 1950 contained just a single short article pertaining to the protection of workers’ rights. It mainly concentrated on administrative organisation procedures and productivity.

The First Trade Union Law: A Post-war Administrative Tool for Boosting Production

Article 9 was the longest and most detailed of the 1950 Trade Union Law:

To educate and organise the masses of workers...to support the law and regulations of the People’s Government...to adopt a new attitude to labour, to observe labour discipline...to ensure the fulfilment of production plans...to promote in privately owned enterprises the policy of developing production and of benefiting both capital and labour.

In the early days of the new republic there were two key interrelated factors that determined the ACFTU policy: labour militancy and the organisation’s relationship with the Party.
Up until 1953 and its Seventh Congress, the ACFTU vacillated between support for workers demands –buoyed by the defeat of the Guomindang – and taking the side of management and the Party. Initially, the organisation sided with workers in disputes with management, but by March of 1950 it began to push for greater output in production as demanded by Party. A “union rectification” campaign of August 1950 was further evidence of the still unclear role of unions in the PRC. This campaign reflected the ACFTU’s lack of internal democracy and called for union cadres to engage in self-criticism of “commandist” (high-handed) and “bureaucratist” (unresponsive) tendencies – see box below.

**1950: Early Warning Signs?**

“Many of the factory trade unions have recently adopted the position of the capitalists, issuing the same slogans, speaking the same language, acting like them…In the coal mines of Ta Hae, the workers, when they learned of the dismissal of the union chairman were as joyful as if they had learned of the liberation of Taiwan or a rise in wages.” (Extracted from a report by a senior CCP official).

Encouraged by Party veteran Li Lisan (see box below) the response of ACFTU cadres to the union rectification campaign was to provide support to workers in disputes with management. The response of the Party was to remove Li from office.

**Li Lisan**

Li Lisan epitomised the contradictions at the heart of the ACFTU. Concurrently Vice President of the ACFTU and Minister of Labour, he nevertheless recognised that unions needed to uphold workers’ immediate interests in the question of wealth distribution, i.e., wages. Although he also stressed that the “central task of the trade unions is to increase production,” his views went beyond the parameters set for trade union activity. In December 1951, he was removed from union leadership, along with a third of the ACFTU executive who supported him, after being accused of giving in to sectional and one-sided interests of the working class.

The union’s Seventh National Congress in May of 1953 proved to be a watershed. The CCP’s efforts to exert greater control over the country’s workers forced the ACFTU to politically reorient itself into the “transmission belt” which was supposed to convey workers’ views ‘up’ and leaders’ policies – in theory based on these views – ‘down’. The first Five Year Plan had just been announced and in keeping with the spirit of the Trade Union Law (1950) production was prioritised over labour rights. Several years later, the ACFTU’s official newspaper reported that many workers felt as though the unions had “lost their guts” after the changes resulting from the Seventh Congress.

By the mid-50s many workers were disillusioned with the transmission belt and felt their grievances were not being transmitted. Independent organising emerged in the form of ping nan hui or redress grievances societies.

Mindful of the Hungarian Uprising of 1956, the Party dealt with what it perceived as revolutionary opposition to its authority by amending the union constitution to...
reaffirm labour’s commitment and adherence to the leadership and policies of the Party at the ACFTU’s Eighth National Congress in 1957. This was, in effect, a reassertion of state control over the ACFTU.


The Great Leap Forward (GLF) was fundamentalist Maoism. Ignoring objective conditions on the ground, the Chairman launched a campaign aimed at bringing China on a productive par with the developed West within 15 years, a figure later shortened to three years! The targets were to be achieved by a combination of sheer willpower and political commitment. Union issues of working hours, health and safety, overtime wages and the rate of production were lost in the madness of backyard steel furnaces and ludicrously inflated production figures passed up to the central government. With many workers incarcerated for militancy in the Hundred Flowers Campaign, the ACFTU was in no position to do anything and it didn’t.

The period ended in humiliating political defeat for Mao and famine for the Chinese people. The GLF inevitably imploded, Soviet technicians pulled out and bad weather wrecked two harvests compounding an already serious situation. From 1959 to 1962, China descended into the “three difficult years” a euphemism used to refer to possibly the most serious famine in human history.

In what amounted to a political comeback, Mao launched the Great Proletarian Cultural Revolution (1966-1976). For the ACFTU it was a period of chaos and disaster in which the ACFTU:

- Was suspended from 1967 to 1968
- Was regarded with suspicion by the Party as a potential rival for power
- Saw disruptions in industrial production that limited its organisational strength
- Witnessed the suspension of staff and worker congresses
- Was attacked by the Red Guards – young and at times fanatical supporters of Chairman Mao – followed by a purge of senior ACFTU bureaucrats
- Was denounced for promoting “counter-revolutionary economism” (putting short term economic interests before long term revolutionary goals) and thus betraying the class struggle.

Branded a counter-revolutionary organisation by Red Guards who viewed the idea of a trade union organisation as an entirely capitalist concept, many ACFTU cadres were denounced and at best sent back to the shop floor. By the time of Mao’s death in 1976 and the start of his successor Deng Xiaoping’s economic reforms in 1978, the ACFTU was an organisation barely functioning.

Post-1978 ACFTU

Deng Xiaoping’s market based economic reforms shared a commonality with Mao’s visions: independent trade unions had no role. In Deng’s vision, the ACFTU was an organ of the state that could effectively motivate and manage workers in China’s drive for development. The Ninth Trade Union Congress (1978) began a process of reconstruction and development of the organisation within the framework of what was later dubbed the socialist market economy.
However, the activism of the Cultural Revolution left its mark on Chinese workers. The Democracy Wall Movement of the late 1970s was a time in which people in many cities around the country began to voice their discontent about society and the State quite openly. Labour was not absent from the debate. Many workers in state owned enterprises (SOEs) began to openly criticise the unions and factory management, and big character posters – a common public means of expressing discontent – often appeared, complaining that the Chinese had traded one form of exploitation (capitalist) for another (state socialist). Adding to the regime’s concern about greater worker unrest were the recent developments with Solidarity in Poland. Some Democracy Wall activists argued that more autonomous unions were necessary to avoid a “Polish conflict”. Others wanted a full-blown “Chinese Solidarnosc”.

Fuelled by the Democracy Wall, debate on union reform in the late 1970s was cut short by the State’s determination to increase economic output and in 1982 the right to strike was removed from the Constitution. The lack of reform was reflected in workers’ perceptions of the organisation. According to a survey conducted by the ACFTU in 1988, less than 10 per cent of workers thought that the unions could “speak for workers and solve their problems,” while 25 per cent believed that unions “only collected dues and conducted recreational activities.” This lack of trust in the unions made many officials nervous that workers would again attempt to form independent unions as they had in 1956-7. The events of 1989 confirmed these fears.

**Workers during the Beijing Spring (1989)**

The Beijing Workers’ Autonomous Federation (BWAF – see box below) was the most visible and significant of the many Workers’ Autonomous Federations (WAFs) that appeared in major cities throughout the country in the spring of 1989. These workers’ organisations represented a reaction to the failure of official workers’ institutions to adequately protect the rights and interests of workers. Even as it gave money to protesting students on hunger strikes, the ACFTU denounced the WAFs as illegal.

While popular and highly symbolic on the streets, the WAFs made little impression in the workplace and their two calls for a general strike were ignored. Nevertheless, their potential was too much for the authorities and the army suppressed them in June 1989. Apart from the initial well-documented violence this entailed, the clearance of Tiananmen Square was followed by arrests, imprisonments, executions and torture of labour activists. BWAF leader Han Dongfang presented himself to the police and was subsequently imprisoned, tortured, placed in a cell containing prisoners suffering from tuberculosis and finally permitted to leave China for medical treatment. He has not been allowed to return to the mainland since. A number of labour activists from this period remain behind bars to this day. (See appendix for full list).

Perhaps ironically, the WAFs had a serious impact on the ACFTU as the question of legitimacy had again been forced onto the agenda. The stage had been set for a decade of considerable structural reform.
The Beijing Autonomous Workers Federation (BWAF)

The BWAF was formed at the end of April 1989. According to founder members, the original core was made up of mainly blue-collar workers from the railways, the aviation industry, steel factories as well as shop assistants and casual workers. Similar federations were established in other cities around China.

The initial activity of the BWAF was to recruit members and distribute leaflets critical of the ACFTU. The BWAF also set up a loudspeaker system in Beijing’s Tiananmen Square and began broadcasting speeches and news updates on the political crisis. No accurate membership lists are available as details of members were burnt before troops entered the square but estimates from activists claim that between 10,000 and 20,000 names were taken.

While the BWAF initially demanded an end to corruption it then began to widen its scope and criticise the income gap between workers and managers, poor health and safety standards, the lack of workplace democracy and deterioration in living standards. Implicit in this was the recognition that workers were losing out in the economic reforms.

The BWAF also made the right to organise independently of the ACFTU structure an integral part of its demands while maintaining contacts with relatively sympathetic sections within the ACFTU. Importantly, the organisers made it clear that they meant to build the union through constitutional means and, as an organisation, neither opposed nor supported the rule of the CCP. However, on 2 June 1989 – two days before troops shot their way into the Square – the official Workers Daily called for the banning of the WAFs as illegal organisations.

Independent Organising Since 1989

The following section highlights some of the most prominent attempts by workers to organise independently from the State and from the ACFTU. It is not an exhaustive list. All these attempts were severely repressed.

1991 – Two years after the crackdown of the WAFs in 1989, Liu Jingsheng and others set up the Free Labour Union of China in 1991. It was suppressed in 1992 and its founding members are still imprisoned. The heavy sentences of up to 20 years had a profound impact and this was the last time that labour activists used the term “trade union” when attempting to organise an independent workers’ voice.

1994 – Li Wenming and Guo Baosheng served approximately three years for publishing a journal called "Workers' Forum" and organising a migrant workers night school as well as establishing groups called "Federation of Hired Workers" and "Workers’ Friendly Society".

1994 - Liu Nianchun helped to found the "League for the Protection of the Rights of Working People" for which he was assigned three years re-education-through-labour after two years of "home surveillance".
1998 – Hunan worker Zhang Shanguang applied to the local government for permission to register a laid-off workers' organisation, the "Association for the Protection of the Rights of Laid-Off Workers" and was sentenced to ten years.

1999 – Yue Tianxiang and Guo Xinmin established the "China Workers Monitor" in Gansu province, for which they were sentenced to ten and two years respectively.

1999 – In Henan province, Xue Jifeng was arrested for organising an independent union. Rather than imprison him, the Chinese government committed Xue to a psychiatric hospital possibly in an attempt to avoid international censure.

2002 – In early March up to 50,000 oil workers in Daqing demonstrated and continued to protest over the next three months despite the presence of large numbers of security forces. Workers at the Daqing Petroleum Administration Bureau attempted to set up the “Standing Committee of the ‘Retrenched Workers Provisional Trade Union’”. The group folded after some organisers were detained.

2002 – In March 2002, Xiao Yunliang, a former worker at the Liaoyang Ferroalloy Factory, Liaoning Province, and another local worker, Yao Fuxin led around 2,000 workers from the same factory, along with a further 15,000 workers from five other factories in Liaoyang, in a series of major public demonstrations. The workers were protesting against alleged corruption in the factory – which they argued had directly caused its recent bankruptcy – unpaid wages and other missing payments. Xiao and Yao were then detained (with others subsequently released) and sentenced to four and seven years respectively.

2002 – Di Tiangui, a retired worker from Shanxi province issued a statement calling for the establishment of the “Retired Workers Association” in May 2002 to protect the rights of retired workers. He was arrested shortly afterwards and charged with subversion and the setting up of an “illegal organization”. He remained in detention without trial for several months.

2004 – In September 2004, some 6,000 textile workers, mainly women, from the Xianyang Huarun textiles factory began a seven-week strike in which they halted all production. During the strike the workers also attempted to establish a trade union and began forming worker committees to elect the provisional trade union body. However the local ACFTU branch (General Trade Union of Xianyang) appointed a trade union organising committee to pre-empt further moves by the workers who then had to withdraw. In late October a mass demonstration was broken up by some 1,000 anti-riot police. Around twenty workers were detained in October but later released – some without being charged while others received suspended sentences.

In April 2005, over 10,000 workers of the Japanese-invested Uniden Electronics factory in Shenzhen (a supplier for Wal-Mart) staged a strike in protest at the factory management’s refusal to allow them to establish a trade union. The workers, mainly women, began the strike after Japanese managers broke previous promises to workers – agreed after a previous strike in late 2004. In December 2004, following reports of management beatings, several thousand Uniden workers staged a strike protest and organised a petition containing fifteen demands. These included the right to form a union, an agreement to paid sick leave and maternity leave and that workers with ten
or more years of seniority should be offered permanent contracts. After the December strike, Uniden management promised to raise wages and allow the formation of a trade union. However newly-appointed management allegedly reneged on the promises and sacked workers who had been instrumental in organising the first strike.

ACFTU STRUCTURE, CONSTITUTION and FUNDING

The ACFTU had for many years been seen as an organization dealing primarily with worker welfare training and education as per its role as a party “transmission belt”; it did not fit in well with the needs of the newly emerging working class growing up in conflict to the emerging private capitalists and the new drive for profits of the SOEs. Faced with declining membership and a similar crisis of legitimacy to the one the Communist party had been facing in the 1970s and 80s, the ACFTU has started to look for new members, new sources of income and a chance to reinvent itself. A membership drive (see page 38) was launched alongside a reassertion of its role in the newly emerging post reform society which was shown in the reformed trade union law and the decisions of the 14th Congress (2003) which saw the inclusion of migrants and ex farmers into the official “working class”.

The ACFTU has been faced with a declining membership since the dismantling of the state owned enterprise and danwei (work unit) system when ACFTU membership was almost automatic. While there were many workers outside of the ACFTU the post reform rise of private industry and the loss of jobs to the private and informal sector saw a huge decrease in union membership and the number of unions. Membership had fallen to around 80 million in the late 1990s and this decline in both financial income and legitimacy in terms of representing the “masses” helped to spur on internal reforms within the ACFTU as well as inform the trade union law revisions in 2002 which saw a redefinition of the role of the ACFTU.

**ACFTU Structure**

The highest level of the ACFTU is the National Congress of Trade Unions, which meets every five years. The last (14th) National Congress was held in September 2003. 1,698 official representatives were elected to attend, along with another 253 invitees (including 34 from Hong Kong and Macau). The main business of the Congress includes hearing and deliberating on the work report of the previous Executive Committee (in the case of the 2003 congress, the Executive Committee of the 13th National Congress), discussing and adopting an amended version of the Federation’s Constitution and the financial report of the previous Executive Committee, and electing the ACFTU Executive Committee that will preside over the Congress for the next five years. It also elects the Financial Auditing Committee.

The ACFTU is organised on two principles: industrial and geographical. In the figure below, the industrial element is represented on the right, and the geographical on the left.
Post-1949, the main organisational rationale was to establish unions along industrial lines. A geographical principle was introduced later when the Party gave local union councils the power to run local industrial unions (except those already under the control of national industrial unions).

Below the Congress, Executive Committee, Presidium (in which power is vested when the Executive Committee is in recess) and Secretariat (responsible for administering the daily workings of the union), the ACFTU functions on three levels; national, local (meaning provincial, city and county trade unions and union councils), and primary (meaning the enterprise level). As shown on the left side of the diagram...

*Note that a city accompanied by an asterisk refers to the municipality directly under the provincial government, and that dotted lines and boxes refer to new forms of trade union organisation underway in only a few cities at present.*
above, provincial trade unions take precedence over city trade unions, which in turn are senior to county federations. The same sort of hierarchy is evident with regard to industrial unions, with national, provincial and city congresses following a similar pattern.

At the bottom are grass-roots unions. By law, it is permissible to have only one grass-roots union in each enterprise. According to official statements published in the press during the National Congress in 2003, there were at the time over 1.7 million such unions nationwide.

This structure, which is set out in the ACFTU Constitution (see below), is half a century old and still in essentially the same form as when it was established. There are 34 provincial trade unions (including municipalities such as Beijing, Tianjin, Shanghai, and so on). This is up from 30 in 1996. An internal “shake up” of industrial unions in 2003 reduced the 16 industrial unions to ten:

- National Committee of the Chinese Educational, Scientific, Cultural and Medical Workers' Union;
- National Committee of the Chinese Seamen and Construction Workers' Union;
- National Committee of the Chinese Energy and Chemical Workers' Union;
- National Committee of the Chinese Machinery, Metallurgical and Building Material Workers' Union;
- National Committee of the Chinese Defence Industry, Postal and Telecommunications Workers' Union;
- National Committee of the Chinese Financial, Commercial, Light Industry, Textile and Tobacco Workers' Union;
- National Committee of the Chinese Agricultural, Forestry and Water Conservancy Workers' Union;
- All-China Federation of Railway Workers' Unions;
- National Committee of the Chinese Aviation Workers' Union;
- National Committee of the Chinese Bank Workers’ Union.

There are 21 departments in the ACFTU. They assume responsibility for issues such as education, construction, collective contracts, work safety, labour protection, law, finance, women, and so on.

The current senior leadership of the ACFTU is as follows:

Chair: Wang Zhaoguo  
Vice-Chairs: Zhang Junjiu (concurrently First Secretary of the Secretariat), Sun Baoshu, Zhou Yuqing, Wang Dongjin, Su Liqing, Zhang Rongming, Wang Ruixiang, Xu Zhenhuan, Chen Xiurong, Xu Deming, and Huang Yanrong. (Vice-Chairs highlighted in bold are concurrently members of the Secretariat listed below).

Members of the Secretariat: Zhang Mingqi, Zhang Qiujuan, and Chen Rongshu (the remaining six members concurrently hold positions as Vice-Chairs and are indicated by bold type above).
ACFTU Constitution

As indicated at the start of this guide, the ACFTU’s Constitution has its origins in the Sixth Congress of 1948. It has undergone repeated amendments since. The most recent were at the 14th National Congress of Trade Unions in 2003, where members endorsed new clauses designed to protect trade union members’ legal rights and allowing members to transfer their membership when moving from one place to another (an addition designed to protect migrant workers). They also adopted the Three Represents – the Party should always represent China’s productive forces, advanced culture, and majority of people – as one of the Constitution’s guidelines (see box below). The Constitution as it stood prior to the 14th Congress was passed during the 13th National Congress in 1998, and so on.

The Constitution of the Trade Unions of the People’s Republic of China (adopted by the 14th National Congress of the Chinese Trade Unions in September, 2003), consists of nine chapters: general principles, membership, organisational systems, national trade union organisations, local trade union organisations, primary trade union organisations, trade union cadres, trade union funds and property, trade union emblems and supplementary article.

A sampling of articles and clauses are listed below:

- (General Principles): The Chinese trade unions are mass organisations of the Chinese working class led by the Communist Party of China and formed by the workers and staff members on a voluntary basis;
- Article 1: Membership of trade unions is open to all manual and intellectual workers in enterprises;
- Article 3: Trade union members enjoy the following rights: To elect, to be elected and to vote; To criticize any trade union organization and personnel, to demand the removal or replacement of any union personnel, and to supervise the trade union work;
- Article 27: The basic tasks of the primary trade union committees are as follow: To represent and organise workers and staff members to participate in the democratic management…; To participate in the coordination of labour relations and the mediation of labour disputes…; To safeguard the specific interests of women workers and staff members and combat discrimination against any mistreatment;
- Article 35: The sources of trade union funds are: Membership dues paid by union members; Appropriations to trade unions made by enterprises, undertakings and state organs, which are equivalent to 2 percent of their respective total payrolls of all workers and staff members.

The Three Represents: san ge daibiao

Jiang Zemin, the former Chinese President, put forward the theory of the “three represents” in 2000. The theory holds that, given objective changes to China’s socio-economic structure, the CCP can no longer confine itself to merely representing the working class. In future the Party should aim to represent three core forces in modern
China: the development of advanced productive forces; the orientations of an advanced culture; and the fundamental interests of the majority of the people.

**Funding for the ACFTU**

The main funding for the ACFTU are according to official statements; (i) membership dues, an amount equal to 0.5 percent of a worker's monthly wage; (ii) a contribution equivalent to two percent of the workers' monthly payroll paid by an enterprise, or an institution, or a State organ; (iii) incomes derived from enterprises and undertakings run by trade unions; and (iv) other incomes.

Out of these contributions some “60 percent will go to grassroots trade unions; five percent to the ACFTU and the remaining part will be distributed among trade union federations at the levels of province (autonomous regions or municipality), city (prefecture) and county. All membership dues will be retained by grassroots trade unions.”

There have been well publicized cases of large foreign owned corporations allegedly refusing to allow the ACFTU to establish branches in their factories – Wal-Mart is the most well known example although there are several others. Smaller privately owned companies have also been criticized for failing to allow their workers to unionize and many claim that this is because they do not want to make their two percent contribution to the factory union. This may well be the case for many small companies but it is also true to say that for a majority of companies the desire to see a non unionized workforce is universal and factories in China are no exception – despite the more “cooperative” role the ACFTU plays in industrial relations in China. Indeed an ACFTU official interviewed by Business week over the Wal-Mart issue stated that; “Actually, some multinationals here in China perhaps misunderstand what it means to allow the ACFTU into their companies. They think that having a union might disrupt the normal carrying out of their China operations. But that isn't true.”

In some cases the lack of motivation from foreign companies to set up trade unions is mirrored by a willingness on the part of local governments to ensure that they create the most favourable circumstances for foreign investment and attract FDI to “their” region. This often includes allowing companies to postpone establishing trade unions or setting up pension and other social security funds for workers. The ACFTU then has to challenge both the local government and the traditionally union unfriendly companies in order to set up a trade union.
Chapter two: International Relations and the ILO

INTERNATIONAL WORK AND THE ‘UNITED FRONT’

The ACFTU’s international work has a dual role: to promote China's foreign policy and to address more general trade union issues. In 1998, the ACFTU newspaper Workers’ Daily correctly foresaw a new era of increased international influence for the ACFTU (see box below).

A Renewed Focus on International Work

“The work in the international union arena falls directly under the guidance of the government's overall foreign policy. Under this guidance, we need to consolidate our independence, broaden our contacts and bring in to full play the advantages and special aspects of foreign exchanges through trade union and people-to-people exchanges.”

A guiding strategy behind the ACFTU's increasing political influence in the international labour movement has been the so-called "United Front". Within China, the United Front is used as a tool to address social antagonisms. The role of the ACFTU in this is to “unite workers and peasants to struggle for the liberation of the working class.”

United Front- Tong Zhan

Originally viewed as one of the three “magic weapons” used in seizing power, the United Front means to “unite with all forces that can be united with in order to fight a common battle against the enemy…” In the current fifth era of the tong zhan, the New Era Patriotic United Front has been opened up to include employers in Hong Kong, Macau and Taiwan, as long as they are patriotic, support the unification of the motherland and are willing to have economic cooperation with the mainland.

In the context of the international labour movement, the United Front becomes a tool that facilitates declarations of solidarity and expressions of non-interference with unions and workers’ struggles in other countries. The United Front does not assume to change the views of trade unions outside China, but insists on an acceptance of the institutional status quo within China. In practical terms, this translates into exchanges of views between ACFTU and foreign delegations, but rarely an agreement to follow up on a prisoner case or labour struggle. Likewise, the ACFTU hardly ever sends public messages of solidarity to workers in struggle in other countries.

According to ACFTU, the United Front has also been the "basis of China's entry into the International Labour Organisation" and has provided the political foundation on which "Chinese trade unions have strengthened their contacts and exchanges with the international working class and its trade union organisations". While the ACFTU has no intention of applying to join the ICFTU, the general direction of its international work over the next decade will be to use the United Front tactic in its attempts to make its relations with the ICFTU less confrontational by agreeing to differ on key trade union principles.
The “Beijing Consensus”

A recent development in the ACFTU’s international work has been the issuing of the so-called Beijing Consensus following a two-day International Forum on Economic Globalization and Trade Unions held in October 2004. Participants at the conference included senior delegates from the World Federation of Trade Unions, the Organisation of African Trade Union Unity, the International Confederation of Arab Trade Unions and the General Confederation of Trade Unions of the Community of Independent States (Although it should be noted that not all participants unanimously agreed to all aspects of the post-conference publicity).

Following the conference, Wang Zhaoguo told stated that “[A]ll trade unions and international trade union organizations should respect every country’s model for the operation of their trade unions and the national development policy based on their national reality.” The Declaration went on to make eight points regarding the future role of trade unions and priorities as well as the principle of non interference in internal affairs (an abiding theme in Chinese government relations) and “the right to choose their own path of development in line with their own national conditions and the aspirations of their workers.”

Yet, although not explicitly stated by the ACFTU, the Beijing Consensus potentially represents the first steps of a departure from the traditional concept of the United Front. Vladimir Shcherbakov, general secretary of the General Confederation of Trade Unions of the Commonwealth of Independent States attended the conference. He told the Chinese media that it is important to “establish strong trade unions in transnational companies, raise common demands in collective agreements and exchange information.” The key point here is ‘raise common demands in collective agreements’ which, if acted on, would indicate the Beijing Consensus could become a vehicle via which the ACFTU begins to edge away from total compliance with the government’s investor-friendly policies.

<table>
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<th>ACFTU and WFTU</th>
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| The World Federation of Trade Unions (WFTU) is an international umbrella group for national trade union centres. Although it is by now smaller than the ICFTU both in terms of membership and political influence, it formally still enjoys identical status at the ILO as that of the ICFTU and WCL. Up until the early 90’s, the bulk of the WFTU’s membership consisted in official trade unions from the former Soviet block’s communist countries. Most of these countries’ trade unions now belong to the ICFTU. The WFTU is still headquartered in Prague (Czech Republic).

The ACFTU belonged to the WFTU until 1954, when it disaffiliated as a result of the break-up between the then-USSR and the PRC. The WFTU today still enjoys close links with the ACFTU and there is also a high level of direct political cooperation. The WFTU claimed it had played a crucial role in the successful election of the ACFTU candidate to the ILO GB in 2002 (see below). The WFTU is also a strong supporter of the non-aligned movement (NAM) and a key proponent in efforts to revitalize the grouping, a factor that could encourage the ACFTU to become more involved in the NAM. |
Regional Policies and Exchanges

The ACFTU’s contacts with foreign trade union organisations mentioned in the section below represent a non-exhaustive list. They have been included simply as examples of foreign trade union contacts which have received significant coverage in the last few years in China’s official media, including, in particular, ACFTU publications. Many more ICFTU affiliates and GUFs have reported such contacts, when they hosted ACFTU delegations in their respective countries or send their representatives to China at the invitation of the ACFTU or one of its branches.

ACFTU in Africa

The Chinese government has been keen to take up the role of leader among developing countries and the ACFTU is active in nurturing relations with African trade union organisations. The exchanges usually lead to agreements in which the ACFTU agrees to provide training on globalisation, technical support and in some cases funds to build or renovate education and training centres.

The economic success of the past 25 years of reform in China has undoubtedly impressed many governments in Africa and the Chinese trade union model has basked in some of the reflected glory. In January 2004, the President of the Confederation of Ethiopian Trade Unions Amare Alemayehu said that “the confederation has a lot to learn from the experiences of ACFTU.” Likewise in a meeting discussing trade union responses to globalisation organised by the ACFTU in October 2004, Alexander Zharikov, WFTU general secretary, and Hassan Sunmonu, general secretary of the Organisation of African Trade Union Unity, said in a joint statement “that Chinese workers have made great contribution to the world's development, and their trade unions are willing to strengthen unity and cooperation with the Chinese counterpart to better safeguard the rights of the world's workers.”

ACFTU in Asia

The ACFTU has also been active in developing ties with trade unions in Asia. One example is the relationship between the ACFTU and the National Trades Union Congress in Singapore. There have been a number of delegations between the two countries over the past 2 to 3 years, with both parties showing strong interest for building ties. The ACFTU has shown a great deal of interest in Singapore’s tripartite industrial relations system, notably the absence of strikes in that country. The latest publicised visit was in March 2004, when ACFTU chairman Wang Zhaoguo met with a delegation from the NTUC, headed by its Secretary-General.

Over the last five years, there have been a number of visits from unions and other mass-organisations in Vietnam, Burma, Laos and Cambodia, and vice versa. In the case of the latter three countries in particular, these visits have been ongoing and are part of a much larger aid development and investment program that has seen the
Chinese government pour hundreds of millions of euros into aid and low interest loans for mainland businesses setting up companies in these countries.

The ACFTU hosted several visits in 2004 from Japanese delegations and has also been active in South Asia. For instance, it sent 4 senior officials to represent the union at the General Federation of Nepalese Trade Unions (GEFONT) 4th National Congress in March, 2004. In September 2004, the ACFTU invited a high powered delegation from India to visit China. The Centre of Indian Trade Unions (CITU), the Indian National Trade Union Congress (INTUC), the Bharatiya Mazdoor Sangh (BMS), and the All India Trade Union Congress (AITUC) were invited to send two delegates each. The two sides agreed to strengthen cooperation between the trade union movements and to extend the cooperation to Asia in general so that solidarity between Asian workers is strengthened.

In May 2005, ACFTU Chair Wang Zhaoguo met with union leaders from Asian countries who came to Beijing to attend the Asian Trade Union Leaders' Seminar.

The ACFTU Bulletin reported Wang as saying:

"Chinese trade unions pay special attention to developing friendly and cooperative ties with trade unions in Asian countries and are willing to further strengthen exchanges with them."

"Chinese trade unions will make combined efforts with them to build new types of bilateral and multilateral relations based on the principle of independence, equality, mutual respect and mutual benefit so as to contribute their due share to peace and development in Asia and to the well-being of the peoples".

The seminar, co-hosted by the ACFTU and the Ministry of Commerce, was attended by 32 leaders from 21 trade union organizations in 10 Asian countries including Thailand, Laos, Vietnam, Cambodia, the Philippines, Indonesia, Sri Lanka, Bangladesh, Pakistan and Afghanistan.

**ACFTU in the Americas**

2004 began for the ACFTU with a delegation led by Vice-Chair Zhang Junjiu to Brazil, Cuba and Mexico at the invitation of trade unions in the three countries. This major visit follows visits from union delegations from the region, including the Barbados Workers Union and the Worker’s Central Union of Cuba, with which the ACFTU signed a memorandum of understanding in Havana in 2004 to step up cooperation.

In May 2005, ACFTU Chair Wang Zhaoguo met with union leaders from Central America and the Caribbean region (Guatemala, Panama, Dominica, Costa Rica, Nicaragua and Honduras) who came to Beijing to attend an international symposium. Again the concept was stressed of developing “friendly ties” on the basis of the “principle of independence, equality, mutual respect and non-interference in each other's affairs”.

Also in the spring of 2005, another group of Latin American trade union organizations, including ICFTU affiliates, were invited to visit China.
Among various ACFTU delegations to Europe and its hosting of European trade union delegations, there have been some notable visits which were publicised by the ACFTU in particular. One was the December 2001 visit of the then Vice Chair, to Belgium and Luxemburg at the invitation of WCL and OGB-L. The delegation signed a Memorandum on Expanding Exchanges and Cooperation and visited both the CSC and OGB-L. In 2002 senior ACFTU officials met with members from Italy’s UIL.

In October 2004 the British TUC visited the ACFTU as part of a trip to China while in May 2005, an ACFTU delegation led by its Vice-Chair Zhang Junjiu visited Germany, the United Kingdom and Russia.

Starting in 2004, the ACFTU seems to have resorted with increasing frequency to having its foreign missions abroad organized by Chinese or China-controlled enterprises, often active in the commercial or tourism sectors. National, regional or industrial trade union are contacted, often at quite short notice, by a commercial firm requesting them to host a delegation of the ACFTU or one of its regional structures. Such delegations have counted from just a few to over a dozen participants. They are occasionally part of a study-tour which may have been invited to the country by regional or local authorities, chambers of commerce, etc. ICFTU affiliates have reported such cases in Belgium, the Netherlands, the UK, Germany and Switzerland, among others.

**Perceived benefit**

In addition to hosting union delegations and visiting other unions the ACFTU also maintains and is actively seeking to develop contact with a wide range of IGO bodies including the United Nations Development Programme (UNDP) which, among other responsibilities, funds various capacity building projects, occasionally including trade union training activities. Other contacts include various bilateral government initiatives on general training and legal training and policy making. The ACFTU, like many of its other counterparts in the Chinese state apparatus, is extremely adroit at developing good relationships with a network of external bodies and funders and knows the importance of continued lobbying and friendly meetings for increased exposure and legitimacy overseas. In general, most of the visits hosted by the ACFTU are widely reported in the official media and in the Workers’ Daily – the ACFTU is keen on – and skilled at - generating the maximum amount of political capital from a visit by a foreign counterpart or government delegation.

The combination of globalisation and the rise of the US as the world’s sole superpower led the Chinese government and many of its agencies, including the ACFTU, to take the task of nurturing relations among developing nations even more seriously. The work is seen as part of the job of developing leadership status which in turn bears fruit at global trade meetings as well as in international geopolitical fora.

**THE ACFTU AND THE ILO GOVERNING BODY**

In June 1989, barely days after the Tiananmen Square massacre, the ACFTU lost its seat on the ILO Governing Body (GB). After a 12 year absence, a senior ACFTU official was again elected, albeit barely, to the GB in 2002. This official, Xu Xicheng,
did not finish his three-year term, and was replaced in 2004 by another senior ACFTU official – Xu Zhenhuan. In order to achieve this result, the ACFTU had conducted a long and intensive campaign during which it extensively lobbied numerous ICFTU and WCL affiliated organisations, several of which voted for the ACFTU candidate in the June 2002 elections. While on the ILO GB, the China member generally kept a relatively low profile - encouraging “non interference” and a policy of not criticising either the governments and worker representatives of China’s main allies or indeed the Chinese government.

The ACFTU had made no secret of its intention to achieve this result, and to reproduce it in the future. Indeed, many observers consider that the election of its candidate to the ILO GB constitutes a top priority for the ACFTU. As such, obtaining a workers’ seat on the GB should be seen as an important element of China’s overall foreign policy. The subsequent loss in 2005 of the seat is therefore a major setback for the international standing of the ACFTU. The following section may help explain why.

As the executive body of the ILO, the GB is the highest decision-making body in the organisation in-between each annual session of the International Labour Conference. It deals with all strategic objectives and assures governance over all activities of the Organisation. It provides policy guidance, makes decisions on the implementation of ILO policy, determines the International Labour Conference agenda, is responsible for adopting programs and budgets, adopts the reports of the Committee on Freedom of Association and elects the Director-General. GB Members, including those belonging to the Workers’ Group, wield considerable authority in the ILO and are therefore influential decision makers.

The GB has 122 members; 56 titular members (28 governments, 14 employers and 14 workers) and 66 deputy members (28 governments, 19 employers and 19 workers). Members are elected every three years, with the last elections held in June 2005 (which was the 93rd ILO conference). At the 2002 elections, Xu Xicheng, then a Vice Chairman of the ACFTU, was elected as a Deputy Member (in the Workers’ Group) to represent China for a term of three years. He was replaced on 11 March 2004 by Xu Zhenhuan, another ACFTU Vice Chair.

**Dialogue not confrontation**

In line with general policy, the ACFTU, like its counterparts elsewhere in the Chinese government, stresses the policy of “non interference” in its domestic affairs and vows not to interfere in those of others (who are conversely invited to restrain themselves from commenting on Chinese affairs). In diplomatic terms, this translates in Chinese official statements concentrating on “dialogue” and “harmony”.

For example, at the June 2004 Session of the ILC, Xu Zhenhuan, the then ACFTU delegate, appealed to the international labour movement to “strengthen solidarity and cooperation, seek dialogue instead of confrontation and make combined efforts to meet the challenges posed by globalisation.”

The ACFTU, he said, would also step up cooperation with trade unions in all countries, “preserve world peace, oppose war, promote social progress and contribute its share to peace and development of mankind.”
In 2005, the ACFTU, after only one mandate (2002-2005) lost its seat on the GB by a large and painfully embarrassing margin. In spite of intense lobbying, which culminated in the distribution of pamphlets to Workers’ Delegates to the ILC, it gained only 77 votes and came last in an election for 19 seats, all of which went to candidates included on a joint ICFTU-WCL list (or “slate”). The loss of the ACFTU seat has not been widely publicised inside China unlike its 2002 win. However the ACFTU did issue the following statement after the election:

COMMUNICATION OF ALL CHINA FEDERATION OF TRADE UNIONS TO MEMBERS OF THE ILO WORKERS GROUP AT 93rd SESSION OF INTERNATIONAL LABOUR CONFERENCE

In the election for deputy members of the Workers Group (at the ILO) on 6 June 2005, the Chinese workers' delegate won your broad support. We would like, in the name of the Chinese working class, to take this opportunity to express our sincere gratitude to you.

The Chinese workers' delegate participated in the elections of the ILO Governing Body, in the hope of strengthening unity amongst the Workers' Group, promoting communications and dialogue between trade unions of various countries and meeting challenges of economic globalisation in a better way. We have made every possible effort and displayed our strongest sincerity, so as to avoid confrontations between trade unions with different ideologies on the issue of the election.

However, the end-result of the elections prove that some people still embraced the confrontational and antagonistic mentality of the Cold War, manipulated the election process through arbitrary, undemocratic and unfair means and excluded a workers' organisation with a membership of over 100 million from the ILO Governing Body. Toward this end, we express the greatest indignation.

We strongly feel that, if an international organisation fails to recognize its own unfair practices or to earnestly democratize itself, it will be neither able to deal effectively with the challenges of the global economy, nor become a body that is trusted by workers of various countries and broadly recognized by the international community.

We strongly urge progressive trade union organizations to unite and make joint efforts to oppose hegemonism in the international labour movement and strive for materialisation of the ILO's lofty objective of decent work.

The WFTU supported the bid of the ACFTU and reported later on the “attempts at hegemony” during the election, bemoaning the fact that there was not one single list of candidates and instead the ACFTU was forced to run against the above-mentioned list of 19. The ACFTU itself repeatedly expressed bitterness about “the exclusion of China from the Workers’ Group”. It should be recalled, however, that China is represented on the ILO GB both in the Governments’ and the Employers’ Group.

In late 2005, a number of ICFTU affiliates reported that subsequent contacts with the ACFTU invariably started with the latter expressing strong disappointment about the
results of that year’s GB election, after which the discussion resumed in the usual manner. Indications received during the first quarter of 2006 broadly confirmed this trend.

ILO CONVENTIONS AND STANDARDS

The overall picture of the evolution of China’s involvement with the ILO is clear: procedural compliance; an increased willingness to employ the standards set in non-controversial conventions – such as Convention 26 on minimum wages and Convention 170 on hazardous chemicals – in its domestic legislation; and a steadfast refusal to compromise on the issue of freedom to organise and join a trade union of one’s choice.

However, China has ratified ILO Convention 144 (Tripartite Consultation (International Labour Standards) 1976) which states that workers’ and employers’ organisations attending the ILO should enjoy freedom of association. Furthermore, it continues discussions with the ILO about the possible ratification of ILO Conventions 29 (Forced Labour) and 105 (Abolition of Forced Labour); this would require China to carry out a major overhaul of its internal laws on rehabilitation and re-education through labour, which jointly constitute one of the cornerstones of its penal law system. [It should also be noted that China has reportedly recently ratified ILO Convention n° 111 on Discrimination in Employment, although the ILO was still awaiting formal notification thereof as the present draft document was going to print]. (A full list of ILO Conventions ratified by China is enclosed as Appendix 4).

The ACFTU’s position on ILO Conventions and Labour Standards largely reflects those of the government itself. Disagreements do exist between the MOLSS and the ACFTU – for example over collective contracts in the early nineties – but these are not public and are not discussed at public ILO meetings.

The government’s position is that existing labour standards are too high for developing countries and their “limited capabilities”. The ACFTU accepts this position. Both the government and the ACFTU reject the insertion of a social clause in trade agreements saying such concerns should be addressed at the ILO. None of this should lead to the conclusion that the ACFTU does not take labour standards and ILO Conventions seriously, even as it rejects some of them. In response to the measures against Burma over the issue of forced labour, the ACFTU’s Labour Union bimonthly concluded:

“The ILO decision to sanction Burma was a clear signal to all ILO member countries. Namely that following considerable pressure from Western governments and trade unions the notion of ‘toothless’ ILO labour standards is a thing of the past. Even if the WTO does not include labour standards in its trade agreements in the foreseeable future, the ILO will take the initiative to enforce such standards and the international community will sternly sanction those countries that violate them. One can forecast that the discussions...on greater co-operation between the ILO and the WTO are significant to the implementation of basic labour standards”

The ACFTU also adheres to the Chinese government’s two-pronged strategy of limited compliance with ILO procedures and attempts to adopt the mantle of
leadership for developing countries. China has, indeed, vocally called upon the ILO to concentrate on the level of global social and economic development of most ILO members when formulating standards. According to this position the problem is not “because of the lack of political will, but rather as a result of their limited capabilities.”

THE ACFTU AND THE INTERNATIONAL COVENANT ON ECONOMIC SOCIAL AND CULTURAL RIGHTS (ICESCR)

China’s lack of ratification of ILO Conventions 87 and 98, which cover freedom of association, the right to organise and collective bargaining, has hitherto made a formal discussion of its views on the subject impossible to be held in formal ILO bodies (such as the Committee of Experts on the Application of Conventions and Recommendations or the Conference Committee on the Application of Standards). On the other hand, its ratification of the ICESCR – as well as the restriction, or “reservation” it entered when ratifying it – allows for an examination of China’s current legislation and its views of international legal standards on these matters. Hence, it should be recalled that art. 8 of the ICESCR formally guarantees trade union rights, using language very similar to that of ILO Convention 87. In addition, however, the ICESCR also specifically guarantees the right to strike, which is not the case of ILO Convention 87 (even though the CFA’s jurisprudence on Convention 87 amply confirms the right to strike as an integral part of freedom of association and an indispensable tool for workers’ organisations – see below).

ICESCR Article 8.1 (a) – Freedom of Association

Article 35 of the Constitution grants Chinese citizens freedom of speech, of the press, of assembly, of association, of procession and of demonstration. However national laws and local regulations frequently negate these rights. This is especially true of the Trade Union Law, Article 10 of which disallows Chinese workers freedom of association. While there are progressives on the periphery of the ACFTU who argue for a more pluralistic stance, the organisation has fiercely defended its monopoly and opposes the formation of non-ACFTU affiliated workers’ organisations.

The government’s entry of a reservation – which the ACFTU has not opposed – when the National Peoples’ Congress (NPC) ratified the ICESCR is indicative of its entrenched position on freedom of association. Article 8.1 (a) of the Covenant requires States to grant workers the right to join a trade union of their choice. However on ratifying the Covenant, the government stated that this right must remain within the parameters set by the Trade Union Law, effectively ruling out freedom of association.

ICESCR Article 8.1 (d) – Right to Strike

This section states that signatories must grant workers the right to strike with some exceptions. The right was deleted from China’s constitution in 1982 on the grounds that China was a ‘workers’ state’.
Again there are people on the fringes of the ACFTU, along with various Chinese experts in labour law, who are quietly lobbying for the right to strike, on the ‘apolitical’ grounds that it is necessary to a functioning market economy. They point to the history of such legislation both abroad and in China itself, along with China’s rising influence at the ILO, as part of their argument that China has a responsibility to meet more international core rights in order to live up to this influence. An argument often made is that Chinese workers need this right as a weapon against the exploitation by multinational employers who will have an increasing presence in China as a result of WTO trade agreements.

The fact that China did not enter a reservation on the section pertaining to the right to strike when ratifying the ICESCR is a further sign that some sort of progress is in the pipeline and currently being discussed at a senior level. This is clearly an area in which pressure from trade unionists outside China dovetails with the work of more union-minded forces inside the ACFTU. However, visiting foreign trade union delegations need to be aware of the counter-arguments that they will encounter:

- The average level of awareness of democratic rights and obligations is still low in China. The right to strike, along with other democratic rights, should be legislated only when the economy has developed to an appropriate level.
- The legal and arbitration systems that enforce labour rights and standards in China are still in their infancy. While basic rights are in place, the machinery to defend and implement them is lacking. For example, the 60-day limit on labour dispute cases is directly against the interests of workers in dispute and often leads to violations or workers giving up their case. The right to strike should not be legislated until the relevant laws have been improved, dispute settlement machinery is fully functioning and appropriate institutions have been built up.
- Strike legislation needs to be carefully drafted and accompanied by equally well-prepared implementation regulations. Some sectors need to be excluded such as the army and public servants. And certain limitations on the behaviour of workers and employers need to be considered and drafted, such as clauses that stop employers resorting to lockouts.

It is easy to dismiss these arguments as justification for procrastination, but they carry weight inside China and require well-crafted answers from union delegations visiting China. Some of those lobbying for the right to strike are well aware of the history of workers rights in the West over the last 200 years and of the serious restrictions on strike legislation in many countries, including many industrialized ones. This latter point may be an area where discussions with visiting delegations could have a positive impact on any future strike legislation.

The revised Trade Union Law is ambiguous on the issue; it seems to neither forbid nor condone strikes. In place of the term strike (bagong in Chinese, which never appears in the Chinese text), the Law uses two synonymous terms: “stoppages” and “slowdowns” (tinggong and daigong in Chinese, respectively). Whether strikes are the same as stoppages or slowdowns is perhaps to miss a larger point, which is that, according to Article 27 (TUL):
“In case of a work-stoppage or a go-slow in an enterprise, the trade union shall … assist the enterprise or institution in properly dealing with the matter so as to help restore the normal order of production and other work as soon as possible.”

The ACFTU’s role in stoppages or slowdowns is to get workers back to work as quickly as possible in the much broader context of assisting in national development (a theme discussed below in the section on the trade union Constitution).

**ICESCR Reporting**

In April 2005, the ICFTU commented on the first report of the People’s Republic of China pertaining under the ICESCR. The report concluded that China is in serious breach of article 8 of the Covenant on several counts. Firstly, China does not allow workers to form and join trade unions of their own choice neither in law nor in fact. Secondly the only legally recognized trade union is under an obligation to promote the government’s and the ruling party’s policies; thirdly, the right to strike is not fully recognized in law and is repressed in fact. It will be recalled that, according to the Committee on Freedom of Association of the ILO, the right to strike is one of the essential means through which workers and their organizations may promote and defend their economic and social interests.

The ICESCR Committee later expressed concern over China’s low wages, poor working conditions, the rising gap between rich and poor, sexual and racial discrimination in the workplace, unemployment and workplace safety. It also “regrets the State party’s prohibition placed on the right to organise and join independent trade unions in the State party”.
Chapter Three: Recent reforms and industrial relations

THE ACFTU AND LAW DRAFTING

China’s legal system revolves around a complex hierarchy of laws. At the top of the hierarchy is the Constitution, a law that no other laws may – in theory – contradict. There are numerous other laws, legal supplements, regulations, and so on, ranging from the national through local, and administrative through legislative. The supreme law-making organisation is the National People’s Congress (NPC), which enacts basic national laws and endorses changes to the Constitution. Other laws are overseen by the Standing Committee of the NPC, while the State Council and Local People’s Congresses deal with administrative and local regulations respectively.

The ACFTU is a bureaucracy and as such is not empowered to make or pass laws like the NPC or State Council. However, the role of the union in law drafting and making should not be underestimated on the basis of its lack of formal power. There are two main reasons for this:

1. **ACFTU officials in key State or Party positions**

   Senior ACFTU officials sometimes hold concurrent positions in State bodies or organisations that do have the ability to draft and pass laws. For example, current ACFTU Chairman Wang Zhaoguo is also one of the 15 Vice-Chairpersons of the NPC, which has supreme power over the law drafting process.

   The following senior ACFTU officials hold concurrent senior positions in other powerful government or Party bodies:

   - Wang Zhaoguo (ACFTU Chairman) is also a member of the Political Bureau of the CPC Central Committee, Vice-Chairman of the CPPCC National Committee, member of its Leading Party Members’ Group, and Head of the United Front Work Department of the CPC Central Committee
   - Zhang Junjiu (ACFTU Vice-Chairman, First Secretary of the ACFTU Secretariat) is also a member of the 16th CPC Central Committee
   - Sun Baoshu (ACFTU Vice-Chairman and member of the ACFTU Secretariat) is also a member of the 16th Central Commission for Discipline Inspection

2. **The ACFTU exerts an influence on laws in the drafting stage.**

   The second point is perhaps the most important. At the risk of oversimplification, the ACFTU has on the one hand joined the government in drafting laws, but on the other hand attempted to maintain a degree of autonomy. There is a rivalry for influence on labour relations between the ACFTU and the MOLSS that at times spills into political differences. This ambivalent role has resulted in the union forfeiting its autonomy so
as to retain the influence necessary to ensure laws designed to protect workers are at least adopted (if not enforced).

One example of this concerns the current Labour Law. Most of the laws that make up the national Labour Law of the People’s Republic of China (adopted in July 1994 and entered into force in January 1995) were introduced during the 1980s. The decade prior to the adoption of the Labour Law saw successive drafts revised more than 30 times before all parties agreed. The interested parties included various ministries, the Party and of course the ACFTU. The union did not get its way in all negotiations, but one of it boasts is that it gained the ‘five-day-week’ in return for compromises in other areas. It was also able to reduce the maximum hours of work per week and other clauses – theoretically – advantageous to workers.

Possible Discussion Point for visiting delegations:

- There is a growing trend within labour circles, which argues that the five-day week is not appropriate to China’s current stage of development. This is important in the light of government observations at the ILO, which state that some labour standards and Conventions are set too high for developing countries.

Another example of the union’s role in drafting laws can be seen in China’s current Enterprise Law. Original drafts were passed in 1988 with not a single mention of staff and workers’ congresses (SWCs). ACFTU pressure ensured that later drafts included them. The union has also been involved in drafting improved occupational health and safety laws and regulations.

According to official statistics, the ACFTU has, up to September 2003, advocated and participated in the drafting of 1,264 laws and regulations on protecting workers’ rights and interests, including law on trade unions, safe production and labour contracts.

It has been perhaps too convenient for critics of the ACFTU to relegate its role in processes like drafting laws to little more than a passive witness or “transmission belt” by which the Party disseminates ideology to the masses. To do so ignores a history of fluctuating political fortunes, where at various times in its past half century the ACFTU has been severely punished for opposing or criticising the Party, and at others received as a staunch ally. Representing workers’ rights has at all times been carefully assessed in the context of an at times wildly oscillating political environment and, more lately, rapid economic reforms and the consequent shifting political landscape.
THE 2001 AMENDMENTS TO THE TRADE UNION LAW

China’s first Trade Union Law was passed on 29 June 1950, within a year of the establishment of the Peoples Republic of China in 1949. It was in effect a top-down management tool aimed at creating union branches and organisations and to “educate and organise the masses of workers and staff members to support the law and regulations of the People’s Government…” The ultimate goal of this quickly drafted-law was to ensure that the ACFTU political obligation to rebuild China’s production base was enshrined in law.

On 3 April 1992, a new Trade Union Law was promulgated by the NPC. Further amendments were promulgated on 27 October 2001. The 2001 amendments to the 1992 Trade Union Law offer an interesting window onto some of the issues raised above.

Beginning in 1999, the ACFTU worked with the Legislative Affairs Commission of the NPC Standing Committee to revise the laws. An official statement on the amendments several months prior to their promulgation indicated that the government believed revisions were necessary to better protect workers’ rights, maintain social stability and promote reform and economic development. Many remain uncertain about how successfully the amendments achieved these aims.

The 2001 amendments do appear at first glance to have gone some way towards enhancing workers’ rights.

- Article 6 included additions that defined the basic duties and functions of a trade union “to safeguard the legitimate rights and interests of workers and staff members.” It also allowed for the union’s role in coordinating labour relations “through consultations on an equal footing,” and to “organise the workers and staff members to participate in democratic decision-making.”
- Article 9 stated that “no close relatives of the chief members of an enterprise may be candidates for members of the basic-level trade union committees of the enterprise.”
- Article 10 included new clauses that acknowledged special issues confronting workplaces where women workers “are relatively large in number.” An amendment stated that “a trade union committee for female workers and staff members may be set up.”
- Article 11 allowed for the right of higher-level unions to “dispatch their members to assist and guide workers... [and] no unit or individual may obstruct the effort.”
- Article 20 allowed for the right of enterprise-level unions to “demand that the enterprise be held liable under the law” where it has infringed on the terms of a collective contract.
- Article 49 allowed for a union to request government assistance “where it legitimate rights and interests provided for in this law are infringed upon.”

There are numerous other examples of amendments ranging from single words to entire articles that clarify the 1992 wording or specify additional protections. The amended Law has an extra chapter (7) and 15 more articles (57). Yet despite this, there are clearly some unresolved issues.
During the 1990s, the ILO’s Committee on Freedom of Association produced several reports stating that specific sections of the 1992 Trade Union Law contravened the principles of freedom of association. Article 4 was specifically identified as preventing the formation of independent trade unions. This clause remained unchanged in the 2001 amendments. Further, a clause in Article 12 of the 1991 version that stated “The All-China Federation of Trade Unions shall be established as the unified national organisation,” was moved with no change to Article 10 in the 2001 version.

Articles 5, 8 and 9 also raised concern at the ILO with regard to the ACFTU’s monopoly over trade union formation and organising. The amended version alters the wording in some areas (gone are references to “safeguarding state property”, “socialist labour emulation drives”, and “labour discipline”), but the first clause of Article 4 was rewritten in such a way as to actually consolidate the subordination of trade unions to the Party: “Trade unions shall … uphold the socialist road, uphold the people’s democratic dictatorship, uphold the leadership of the Chinese Communist Party…”.

One interpretation of the amended law is that it is a reassertion of the ACFTU’s trade union monopoly and role of maintaining social stability. Yet perhaps it is also possible, in light of the discussion in the sections on tripartite structures and drafting laws below and above, to interpret the amendments as an attempt to balance autonomy and influence. A seat at the table may be better than no seat at all. The National Tripartite Consultative Committee was established just two months before the 2001 amended Trade Union Law was promulgated, and it is interesting to speculate on the differences apparent in the two approaches: one seemingly based on preserving the ACFTU’s monopoly; the other perhaps sowing the seeds a more democratised union environment and workplace.
Law and Enforcement- the chasm between theory and practice

China has to the surprise of many already passed several laws with excellent clauses or sections relating to labour issues. The same applies to some laws in the criminal and civil fields, but as with these the problem lies primarily in their enforcement.

Many obstacles lie in the path of the effective implementation of Chinese laws. The lack of resources, manpower and financial means to implement some of the reforms is a major problem and many see this lack of resources as a sign of the lack of will for implementation from the government. The lack of central control over implementation, the size of China and the myriad of local, regional and provincial regulations also mean that any national laws lack effective teeth in practise. Official corruption and the inadequacy of the systems supporting implementations like the courts or in the case of labour laws the inspection system also help cripple meaningful and standard implementation. Loose wording and get out clauses litter many of the laws. The State Secrets law for example has numerous catch all phrases while the Labour Law has numerous clauses allowing employers and authorities to ignore specific provisions.

For example China’s Labour Law of 1995 stipulates that working hours are limited to 40 per week with the normal working day limited to eight hours a day. Overtime is set at a maximum of three hours per day with a maximum of 36 hours a month. Overtime compensation is fixed at 150 percent of the basic wage on normal working days, 200 percent on rest days, and 300 percent on annual holidays. Article 37 states that piece work quotas and remuneration should be set at levels that do not force workers to agree to excessive and illegal overtime. However, also in the law are several articles that allow management to extend working hours in ‘special circumstances’ as long as the trade union or workforce has been ‘consulted’ (Article 41). This loophole is enlarged by Article 39 which allows a company to bypass regulations because of ‘the special nature of its production’ as long as the local labour department has approved (Article 40).

The lack of effective trade union representation adds to the particular problems facing implementation of the many legal guarantees for workers in the existing labour laws.

Despite the endemic problems of implementation there are many signs of progress in the adoption of new laws and measures to ensure conformity to the law – China increasingly is stressing the “rule of law” and promoting itself as a state with modern and uniformly applicable commercial laws in order to continue to attract foreign investment. Although it is arguable that China is governed by the Rule by laws and not the rule of laws it cannot be denied that many see the recent 20 years of law reform as the strongest sign of long standing reform and a willingness to uphold international standards. Increasingly there is a sense of consciousness of the law and a willingness on the part of ordinary citizens to use the law (or try to) to serve their own interests and protect their own rights. Cases involving private property, land disputes, consumer driven law suits and increasingly workers class actions are on the rise. The number of lawyers and law firms and legal aid offices set up to assist ordinary workers to claim back wages or OSH compensation or other similar protections is also growing to match the needs of workers. Many observers see legal action as a strong tool for the protection and promotion of workers rights. Despite limitations (the length of time a case may take, the problems remaining in implementing the decision of a court and the threats of retaliation from local officials) the role of law in improving the implementation of labour laws and related regulations is crucial. As a sign of the growing spread of worker actions, some cases have been reported of workers taking the ACFTU to court for failing to protect their interests as stated in the trade union law.
TRIPARTITE STRUCTURES

Until the mid-1990s, relations between workers, employers and government were for the most part dominated by the Chinese state. Even during the first fifteen years of the reform period, which started in 1979 and saw the state’s command over labour relations slowly diminish under privatisation, it still played an important role. It still guaranteed until quite recently, for instance, employment, wages and welfare for a significant number of urban workers.

Many Chinese workers are still state employees, but an increasing number find their terms of work dictated not by the Party but by a legal framework that would not seem unfamiliar to European, North American or Japanese trade unionists. This is a consequence of an increase in industrial conflict leading to the development of a system based on labour laws and regulations. Beginning as “collective consultations” between trade unions and employers, this system has since developed into “tripartite consultations” between government, employers and employees.

The critical issue about tripartite consultations is whether each party is independent of the others, and whether each has – to paraphrase the ILO – the power, capacity, will, and information to participate fully and equally in negotiations. Or to put it another way: on whose side is the ACFTU?

Several accounts of the ACFTU, from both inside China and overseas, have provided evidence for the argument that it is on the side of management. The cartoon below from a mainland newspaper captures this position well. The ACFTU official sitting in the lap of management is clearly unwilling to occupy the chair for workers.

Whether the union is on the side of workers is not the only question. A related issue is the role of the state in labour relations. Although the state’s control in this area has weakened – with, for instance, more and more workers signing collective contracts – it still intervenes heavily in disputes despite a withdrawal from the factory floor. Moreover, the State directly or indirectly appoints all parties that sit on Labour Dispute and Arbitration Committees namely a representative from the employers’ organisation the China Enterprise Confederation, a labour bureau official and the ACFTU (see section on labour dispute mechanisms).

Another and related question is, does a reduction in direct and routine state intervention in labour related affairs translate into the emergence of a new industrial relations system? In other words, are industrial relations in China starting to resemble labour relations in industrialised countries?

The answer to both hinges on whether employee and employer organisations are able to effectively play their respective roles in a tripartite structure. The issue for trade unionists in the rest of the world, then, is whether China’s fledgling tripartite structure should benefit from international encouragement and support.
However, there are clear signs which help us understand where Chinese labour relations stand now, and to where they might conceivably move in the next few years. Two stand out in particular:

- Chinese workers do not enjoy the right to freedom of association and the right to strike. Workers obviously go on strike, but strictly speaking, China’s Trade Union Law neither allows nor prohibits strikes. The Law provides workers with a legal basis for striking – using words such as “stoppages” and “slowdowns” in place of “strike” – but it also effectively states that once strikes have begun, the union should manage them; such a situation that falls short of strike legislation in most market economies.

- The Party uses the ACFTU as a mechanism to mobilise and control urban workers. However, it now realises that the union will need to pay more attention to worker grievances if it is to control people effectively.

The lack of rights and the ACFTU’s monopoly hinder the development of an effective tripartite structure. However, despite this, a tripartite consultation system has been put in place, and an ILO mission in 2002 found that it may contain the potential for the development of a more evenly weighted and thus more democratic tripartite structure.

The National Tripartite Consultative Committee

The National Tripartite Consultative Committee (NTCC) was established in August 2001, and 12 months later had extended to 20 out of 31 regions across China. Three of the NTCC’s four objectives are particularly important:

- Develop appropriate laws and regulations for industrial relations;
- Expand the concept of democratic management and collective consultation to all enterprises; and
- Resolve conflicts and promote industrial harmony to maintain social peace.

The NTCC has approved three planks of a tripartite system:

- The promotion of collective rather than individual contracts;
- The strengthening of a labour disputes settlement procedure; and
- The coordination of a labour inspectorate with the ACFTU.

The ACFTU has played a dominant role in NTCC meetings. It sends the largest delegation (five), with the Ministry of Labour and Social Security (MOLSS) sending four, and the China Enterprise Confederation sending three. The ACFTU has been pleased with progress, particularly with the NTCC’s resolve to account for the vast differences across China with the formation of municipal Tripartite Consultative Committees (TCCs). TCCs have three representatives from each party.

In practice, the NTCC has so far met with limited success. This is mainly the result of whether disputes are confined to issues dealt with by existing labour laws, or involve multiple parties and wider issues in which case the NTCC can be sidelined. This was clearly the case during the mass disputes over corruption and redundancies that hit northeast China in the spring of 2002.
Tripartism and the ACFTU’s support for it now sufficiently entrenched that we can regard it as part of the industrial landscape. It is clearly not yet, and may never be, a mirror image of the systems in industrialised countries. Yet despite its obvious limitations, it is perhaps possible to make an argument that international support and experience may provide the means by which the ACFTU at the highest level might acknowledge the need and move towards the implementation of collective bargaining.

**ACFTU AND COLLECTIVE CONTRACTS**

The ACFTU views collective contracts as a means through which it can exercise a positive influence on working conditions in large and medium-sized enterprises regardless of ownership. Obviously, a successfully signed and implemented collective contract would also help to improve the “union’s” profile in an enterprise.

In the current reform era, the ACFTU first began experimenting with collective contracts in 1992. In the early nineties the organisation attempted to go it alone and gradually increase the number of collective contracts without direct involvement of the government via the MOL (now MOLSS).

By 1995 and the promulgation of the Labour Law – which devotes just three clauses to collective contracts – the ACFTU had made little headway. It switched to direct cooperation with the MOLSS and has since invested a great deal of time in lobbying the government and employers enterprises to take the national regulations on collective contracts seriously. By the end of 2003, 18 provinces and cities had established some kind of collective contract system based on three legal documents: the Labour Law, Provisions for Collective Contracts, and the Measures (for Trial Implementation of) Collective Wage Consultation. The authority of the MOLSS as well as local Party committees led to a dramatic statistical increase in collective contracts.

With the occasional important exception of individual and economically important joint ventures, collective contracts are not the result of genuine bargaining. The Chinese term employed for the process means “collective consultation” and implies a partnership between union and employer rather than a contractual relationship between two sides with conflicting interests. It is not an exaggeration to state that many of the 100 million workers covered by a collective contract will be unaware of the fact.

While the ACFTU continues to prioritise collective contracts it has also continued to employ a quota-based system that does not reflect genuine labour relations. The ACFTU leadership assigns quotas for the number of collective contracts to be concluded around the country. These are invariably met and the successful signing is sent back up the chain of command to be entered into the statistical record.

The rapid increase in collective contracts in the late nineties is a reflection of this approach. According to published figures the number of collective contracts signed by the end of 2003 was 672,900 – up from 240,000 registered at the end of 2000. Most of these agreements, however, were products of an administrative process between the ACFTU and management rather than products of collective bargaining.
Again with some exceptions, the contents of collective contracts are usually little more than an equally mechanistic plagiarism of relevant labour regulations as opposed to genuine bargaining. The majority are not in private or foreign invested enterprises.

Official sources state:

Up to the end of 2003, there were 672,900 collective contracts signed covering 1.21 million enterprises and 103 million workers.

293,000 enterprises have collective contracts that cover salary items and these cover 35.79 million workers.

135,000 collective contracts covering regional industries have been signed and these cover 676,000 enterprises and 36.4 million workers.

Some in the ACFTU have argued that China’s membership of the WTO will provide fresh impetus for the collective contracts as more major MNCs set up plants in China. They argue that strenuous efforts to meet international norms on company law and trade rules will, and should, be accompanied by a more gradual process bringing labour laws up to the level of international labour standards. According to an ACFTU journal:

“In the global economy, collective contracts are a principal legal system for labour relations universally adopted by countries with market economies and moreover are a basic right recognised by the ILO. As a WTO member, the status of collective contracts will shift from voluntary to compulsory, an obligation clearly stated in the revised TUL”.

However, the basic problem of a collective contract that is not negotiated by an independent trade union remains. Article 33 of the Labour Law allows for workers to negotiate a collective contract with an employer “in an enterprise where a trade union has not yet been set up” i.e., where the ACFTU is absent. Decree 22 of the PRC MOLSS, “Regulations on Collective Contracts”, adopted in December 2003, states that collective contracts are to be developed through collaboration between the labour union and management but workers may elect representatives to negotiate collective contracts with management in the absence of a union. While on paper this appears to be an opportunity for a genuine collective bargaining process, the reality of either ACFTU interference or employer intransigence would be almost inevitable. Regulations also state that collective contracts should specify working conditions, wages, and hours of work but in reality most are bureaucratic formalities and many workers, predominately those in private companies, are not covered by such contracts. Indeed, the slipshod and bureaucratic approach is highlighted when one considers reports that over half the collective agreements signed by the ACFTU are in fact later rejected by the Ministry of labour and Social Security for being invalid and containing clauses violating domestic labour legislation.
Possible Discussion Points:
- Can trade unions outside China influence collective contracts inside China via MNCs?
- How can Chinese workers be brought into a genuine bargaining process?
- Does either of the above constitute an opportunity for positive engagement with the ACFTU?

LABOUR DISPUTE RESOLUTION MECHANISMS

Apart from dealing with purely administrative measures and handling workers’ petitions not directly relevant to this “guide” (for example individual cases of special needs or welfare or wage issues), the ACFTU is also involved in the dispute resolution procedures, which the government has introduced during the reforms. It should be noted that the ACFTU does not normally take sides in a dispute although the changes to the TUL (2001) may well force it to change this stance. A visiting trade union delegation from Europe was recently informed by the ACFTU in Shanghai that ‘we do not interfere in labour disputes’.

There are three levels at which a worker or group of workers – or an employer – may attempt to get a labour dispute settled: mediation, arbitration and civil courts.

- Mediation takes place within the enterprise via a committee procedure. The enterprise ‘trade union’ acts as a mediator, immediately compromising its role as a representative of the workers.
- Arbitration falls under the work of Labour Disputes and Arbitration Committees (LDAC) which are nominally tripartite bodies made up of representatives from local labour administration offices, usually the local office of the MOLSS, the ACFTU and representatives from the local government-appointed general economic management office, who represent the employers’ interests. As such the State is directly involved on all sides. The MOLSS directly represents the government, the ‘trade union’ is institutionally compromised through its acceptance of Party leadership and the government appoints the employers’ representatives. LDACs are governed by the “Rules on Handling Enterprise Labour Disputes” (1993). While they are most common at county and township level, the increasing scale and complexity of cases has led to more frequent hearings at provincial level and most provinces now have an LDAC.
- Civil courts, which provide for an initial judgment followed by an appeal.

The ACFTU has trained thousands of officials to serve as arbitrators and also fostered links to a small number of labour lawyers. In 2003, a Supreme Court ruling formally authorised the ACFTU to represent workers in a legal class action. While this is an important ruling, there have been no examples to date of it being tested in practice.

As the understaffed LDACs have come under increasing pressure due a hugely expanded caseload, there has been a trend in China’s larger cities for workers to bypass arbitration as much as possible and putting their faith in a court judgment.
Although LDAC decisions have legal status, they lack an effective enforcement mechanism. If continued, the trend towards litigation is likely to further marginalize the ACFTU.

**Possible Discussion Points**

- Can trade unions outside China find an entry point in labour dispute mechanisms via MNCs in which they have members?

**TRADE UNION ELECTIONS**

All three consecutive versions of China’s Trade Union Law (TUL) specified that the chairperson and officers of a branch trade union should be elected; however, these positions have traditionally been appointed by an enterprise Party Committee or management.

The most recent revision of the TUL in 2001 emphasised that trade union officers are legally obliged to represent their members and at the same time banned the practice of employers’ family members serving in trade union posts.

Since 2000, there have been a number of pilot projects experimenting with the direct election of trade union chairpersons and trade union committees. The driving forces behind this experiment are:

- Labour unrest.
- The absence of the ACFTU in the private sector.
- Credibility: An acknowledgment by the ACFTU’s central leadership that it will fail in its political role to stabilise labour relations without cultivating a sense of responsiveness to workers as potential or actual members.
- Foreign investment: Pressure on MNCs in their home countries has forced them to improve working conditions in supplier plants. Experiments in some plants with elected workers committees have coincided with ACFTU pilot projects on directly elected union officers.

The recent 14th Congress of the ACFTU has reportedly agreed to implement direct elections nationwide.

Throughout 2003, the media in China carried a number of reports emphasising the necessity and success of trade union elections. The Zhejiang Federation of Trade Unions claims that in one district of the provincial capital there are 310 trade unions that have carried out some form of direct election: 30 percent of these elections were in various types of state owned enterprises, and 70 percent in private enterprises.

Reports state that the elections have been preceded by candidate speeches and secret ballots. However, Article 22 of the “Temporary Regulations on Shop-floor level Trade Union Elections” drawn up in 1992 by the ACFTU, state that:

“The election of shop-floor level trade union committees, standing committees, union chairpersons and vice chairpersons are guided by the ACFTU Constitution and within the parameters of management authority and as such the results of such elections shall
be reported to and approved by the Party Committee and the next level up of the trade union.”

Nevertheless there have been some elections and related improvements in working conditions have been reported. A long article in a local edition of the ACFTU’s Workers’ Daily newspaper identified foreign capital as one source of electoral reform. Workers at a factory contracted to a large US-based MNC successfully removed an incumbent trade union chairman and elected a replacement in 2003.

Possible Discussion Point
• What is the role of visiting delegations in encouraging, improving and evaluating these elections?

ACFTU CAMPAIGNS

1. Membership Campaign

In 2000, ACFTU former chairperson Wei Jianxing berated assembled trade union officials for their apathy and ridiculed talk of upholding workers’ rights when the union was ineffective in so many work places:

“When there is not even a trade union, what is the point of talking about trade unions upholding the legal rights of workers? Or trade unions being the transmission belt between the party and the masses? Or trade unions being an important social pillar of State power? Workers' legal rights are being violated and serious work place deaths and injuries from accidents happen again and again.”

Since Wei’s speech the organisation appears to have reversed the decline and now claims a membership of over 134 million up from 87 million. But the reality of this reversal is open to serious question as recruitment campaigns are often simply a matter of making sure an enterprise registers a trade union branch with the local labour bureau and that union fees are deducted from the company’s wage bill.

According to ACFTU figures:
• By the end of 2004 there were 1.02 million grass-roots trade unions covering 1.93 million enterprises
• Total membership reached 137 million, an increase of 13.54 million over the previous year.
• Of the total members, 46 million were in state-owned enterprises, accounting for 45% of the workforce; those in the private sector numbered 55 million, making up 54%.
• 160,000 overseas-funded enterprises in China have set up trade unions, accounting for 33% of the total overseas-funded enterprises already in operation. The membership of trade unions in overseas-funded enterprises has reached 6.14 million, accounting for 38% of the total workforce in the sector.
• In 2003 there were 4,000 ACFTU-linked employment agencies.
Such formalism in the drive to increase trade union presence in private enterprises has been echoed in the labour press throughout 2003. Reports have denounced the setting up of “paper trade unions” designed to meet regulations but avoiding the actual presence of a union branch. So-called paper unions are the result of “local governments over-simplifying the procedures for setting up trade unions” in order to make it easier for new companies to meet legal requirements. The result being that “the boss, trade union officials and the workforce have no idea what a trade union organisation actually is and what it should be doing”.

The ongoing campaign does not appear to be based on addressing issues facing workers such as privatisation, even though the latter has had a negative effect on ACFTU membership figures.

Possible Discussion Point
- Is the presence of the ACFTU in an enterprise preferable to its absence?

2. Migrant workers

A significant development during the 14th Congress of the ACFTU in September 2003 was that it officially recognised migrant workers - so called peasant workers (nongmingong) who make up the vast majority of internal migrant workers - as a formal section of the working class. Media reports prior to the Congress concentrated on the formal announcement in August 2003 that the ACFTU would include migrants as members and would be launching a recruitment drive to do so [incidentally also helping to alleviate the financial crisis by bringing in increased membership dues].

However, since then, there has been little progress towards mass membership of the ACFTU by migrants for a variety of reasons, notwithstanding logistical factors. Yet, there have been some signs that the ACFTU is at least attempting to tackle some of the most obvious concerns for migrant workers. In November 2004, after the NPC Congress in March of that year highlighted many of the current social ills arising out of the growing income gap, the ACFTU made suggestions for specific laws protecting migrant workers, the removal of the household registration system which discriminates against rural residents and the urgent establishment of social security system for migrants. For the majority of migrants, however, membership of the ACFTU and its protection remains very far removed from the reality of their everyday life and working conditions. Indeed many local ACFTU branches continue to disregard them as potential members.

Official reluctance to include “peasants”

At the same time as the 14th ACFTU Congress, on 22 September 2003, a gas explosion ripped through a small mine shaft in the Pinggang mining subsidiary of the state owned Jixi Mining Group in Heilongjiang, killing eight migrant miners and injuring another. The case was particularly interesting because is showed how mismanagement is a root cause of the rising tide of mining deaths in China and how strongly entrenched is ACFTU intransigence to the plight of the nongminggong.
In investigating the explosion, it was revealed that mining officials for the Jixi group did not know who was responsible for overseeing the Pinggang subsidiary, nor indeed did the government Jixi Coal Mine administration Bureau – they all said however that it was not their responsibility. Mine officials also said they had responsibility for checking the gas safety levels at the main mine but not the smaller sections. The Health and Safety Bureau of the Jixi Group stated that they had no official documents relating to the mine in question. Later questioning showed that the Pinggang mine was in fact illegally operated and the sub contractor had already fled the area.

In further interviews, the local ACFTU branch at the Jixi group insisted that the migrant workers in the Pinggang mine were not their responsibility nor their concern – claiming that they were “an industrial union” and not responsible for migrant workers not formally employed. In fact several thousand of the “official workers” whom the ACFTU claimed to look after were in fact owed some 40 months of back wages and believed the trade union was “worse than useless” in its failure to support them.

3. Local Initiatives, Pilot Schemes and Women Workers’ Issues:

These have been concentrated mainly in areas that attract large numbers of migrant workers and usually – but not exclusively – focus on the apparently "apolitical" issues of OHS, women workers' health and legal advice on labour law. For example, the Guangzhou Federation of Trade Unions Women's Committee (GFTUWC) has an initiative to develop "services and uphold rights" (fuwu yu weiquan) in the city's technical development zone. Over the past two years, the Committee has organised a course for migrant workers entitled "Essential Legal Knowledge for Migrant Workers", conducted door-to-door visits to migrant workers' dormitories on rest days and evenings to inquire on workplace problems and provide assistance, handed out pamphlets on relevant laws free of charge, and sent inspection teams to enterprises to provide free legal representation to migrant workers involved in labour disputes at the local Labour Disputes and Arbitration Committee.

Possible Discussion Point:

- Delegations could inquire and gather further information on such projects. Their existence is testament to the ACFTU’s concern for legitimacy and need to change.

Many local Hong Kong and mainland groups (and sometimes their union partners/funders) are using the issue of occupational health and safety as a way of starting worker education and training courses related to raising worker consciousness. Such projects vary in scope from widespread health and safety training for female migrants to a few projects aimed at establishing worker health and safety committees.
in factories. Some projects targeting OSH include some corporate initiatives. For the most part however, many groups have informally stated that they prefer to work in factories which do not have ACFTU branches as previous experience has shown that the factory union can be obstructive to any real worker empowerment and the creation of such worker committees (allowed and indeed encouraged under domestic labour law, although in reality very few genuine committees exist). While OSH is generally considered to be much less controversial than ‘pure’ union building, it must be noted that many workers trying to claim OSH compensation often find themselves in the role of worker activists after being faced with government intransigence and factory denials. For this reason, then, genuine worker participation in OSH committees and the adequate enforcement of Chinese OSH laws does make sense.
Chapter four: Key issues for the ACFTU

PRIVATISATION IN CHINA

Privatisation, as defined by the World Bank, includes private sector involvement in financing, operating and, in some cases, ownership of economic activity previously under state control. The World Bank estimates that up to half of China's gross national product is now produced in the private sector, a substantial proportion of it with foreign capital and investment.

The 'p' word is still taboo in official discourse around enterprise reforms in China and the ACFTU hardly ever uses the word in public documents. It is instead referred to as the “restructuring of SOEs”, the introduction of “flexible employment”, or the even more general “shift from a planned economy to a socialist market economy”. This has come in various forms including selling off enterprises to Chinese and/or foreign investors, “gufenzhi” i.e. transformation from state ownership to shareholder ownership, contracting out, and company mergers. Downsizing, closures, and bankruptcies have accompanied these changes, leading to a massive rise in unemployment. Estimates vary but up to 25 million SOE workers have been laid off or rendered unemployed since 1993 according to statistics quoted by the ILO. For urban workers who have managed to keep a job, the price has been new or revised contracts, reduced benefits, and a general increase in the rate of exploitation.

Structural Adjustment in the Job Market

The process of privatisation has led to a massive shift in the structure of employment in China. Some official figures estimate that during 2003, 10 million workers entered the job market and around 14 million people were still laid-off – from privatised or bankrupted SOEs – and remained jobless. According to a 66-city survey conducted by the MOLSS during 2003, around two thirds of workers laid off by SOEs were re-employed in private enterprises – the number of employees in large private industrial enterprises has, the survey showed, increased by 16.1 percent in 2003, much higher than the average growth rate of 4.3 percent in all industrial enterprises.

The 1997 15th Party Congress gave a green light to privatisation in small and medium sized enterprises under the slogan fang xiao zhu da or “hold on to large SOEs but let the small and medium size ones go”. Six years and many jobs losses later, Li Rongrong, minister in charge of the State-owned Assets Supervision and Administration Commission, announced in November 2003 that 96 large-scale SOEs could be at least partly “restructured” (read : privatised) over the next two years and approximately 2,500 large- and medium-sized SOEs were “bankrupt but yet to be closed down.” Their closure, according to Li, would mean the loss of a further 5.1 million jobs. Indeed, as Han Dongfang, Director of China Labour Bulletin believes, “The real privatisation has just begun. So far we have had fake privatisation with Chinese characteristics but now things are going to get even worse. Workers are phoning me all the time saying they are frightened for their jobs. They say ‘there is no one to speak for us’.”
Consequences for workers

While there is no doubt that foreign direct investment has provided millions of jobs for Chinese workers, there is a growing bank of research that howls accusations over the nature and dignity of these jobs. Han Dongfang has described the so-called 'civilising' arrival of foreign capital as "[A] double-edged sword. It brings jobs, but with these jobs come a mass of violations and working conditions that kill and maim tens of thousands of workers every year".

Back to the Future: Labour relations under privatisation

"Our labour relations are going back in time, back to the early days of the industrial revolution in 19th century Europe. Many of the enterprises set up with investment from Asian countries, along with privately owned Chinese enterprises, have reduced working conditions to a situation comparable to the initial period of capital accumulation that accompanied the appearance of capitalism. Forcing workers to labour long hours for very low wages and even workers signing 'life and death' contracts with employers. The problem [in China] is particularly serious in the south-east coastal regions and in Taiwanese and South Korean-owned factories."

Interview with the Director of a Citizen’s Rights Centre in north China.

Viewed from a trade union angle, it is fairly safe to state that privatisation brings few, if any, sustainable benefits to working people. ICFTU affiliates and GUFs generally oppose it: either as representatives of a national working class with vested interests in defending jobs and limiting unemployment; or at the enterprise level when their members attempt to defend wages and conditions against the attacks on working conditions that privatisation often brings. While there is no doubt that some workers welcome the reform process that has resulted in such spectacular economic growth over the last twenty years, many more – especially workers in the older state-owned industries – object to the fact that the working class has been largely excluded from its share of the benefits.

ACFTU and privatisation

The ACFTU has at no point made any efforts to resist privatisation. This is not because all ACFTU cadres agree with the policy or have a vested interest in its implementation – indeed many have been laid off as a direct result of privatisation. They have failed to resist simply because their role is not to challenge government policy but to explain it and where possible alleviate the negative effects on workers.

Almost anywhere in the world, privatisation has an intentional political spin-off: the weakening or even destruction of trade unions in the public sector. In China the situation is more complex but the end result is the same. Until the reforms, the jobs of Chinese workers in SOEs were relatively secure. Wages were low, but access to medical care, housing and education was included in an overall package aimed at labour discipline and ensuring stable industrial relations.

Under the reforms, the economic priorities of former and still reforming SOEs have shifted dramatically. In practice this has meant a move from ‘multi-tasking’ (to
borrow the language of human resource management) which included capital accumulation, social stability, provision of employment and welfare in an environment where competition was not prioritised, to ‘single-tasking’ i.e. capital accumulation in a competitive environment.

The result for the ACFTU has been a marked waning of influence dramatically mirroring the disappearance of the SOEs which provided overall stability, security and services for workers and their families.

Furthermore, if the organisation and structure of the economy has changed, the balance of political power – of class forces – has remained essentially unchanged. More complex to be sure, but essentially the same. Without doubt there has been a profound shift in favour of private capital, but no matter whether the boss appears as a private company, state-run company or MNC, workers increasingly perceive a need to organise to defend their class interests. Privatisation has acted as a catalyst for this process.

The failure of the ACFTU to respond in kind at shop and office floor level has been reflected in independent initiatives by workers themselves.

**Corruption and Privatisation**

In many countries, industrialised and developing alike, privatisation has been accompanied by varying degrees of corruption. For workers in China, corruption has been a central focus to their opposition to privatisation.

Political conditions on the mainland restrict civil society and prohibit freedom of association. These realities have led to a situation in which the regulations that are supposed to govern privatisation can be more or less ignored by management and corrupt local government officials. The result has been widespread and criminal pillaging of state assets. One of the main modus operandi is for managers to deliberately run-down the operations of a state company over a period of several years. The company will then declare bankruptcy, sacking employees and selling off assets at rock bottom prices. A new company will then re-emerge in private hands employing workers on inferior contracts that reduce holiday allowances, welfare entitlements, and increase wage differentials while at the same time lowering the overall wage bill.

Due to the lack of transparency in the process, workers’ resistance usually kicks in at the comparatively late stage of asset stripping. Resistance comes in the form of large-scale street demonstrations, as was the case at Liaoyang Ferroalloy Factory in 2002, or factory occupations such as the Zhengzhou Power Generation Apparatus Works in the late nineties. However, in most cases, restrictions on labour organising means resistance comes too late and workers find themselves faced with a fait-accompli in which they are left struggling to get welfare payments and back pay. One of the key complaints of many SOE workers is that the bankruptcy, merger or downsizing of their company has not been passed by the staff and workers congress which is legally entitled to examine, approve or raise objections to management decisions. (See box)
**Staff and Workers’ Congresses**

Mark one

The Staff and Workers’ Congress (SWC) were initially introduced in the late 50s as a pressure release valve aimed at restoring industrial peace following a strike wave in 1955-56. This experimental attempt at participatory democracy in which workers were given the right to criticise management and make alternative suggestions was codified at the Eighth Party Congress in 1961. They were swept away by the Cultural Revolution.

Mark two

Starting in the 1980s, the ACFTU again began to promote SWCs as an expression of democratic management that on paper at least had the right to criticise management decisions and even to elect factory directors. One stipulation, however, was that at least 60% percent of workers’ congress members had to be shop floor workers. By the late nineties, the institution was and is frequently referred to by state owned enterprise workers resisting privatisation who argue that management act illegally by ignoring it – a testament to both the potential and powerlessness of SWCs.

**Liaoyang: A case in point**

During March 2002, tens of thousands of workers from the Liaoyang Ferro-Alloy Factory and other state owned factories in Liaoyang held mass demonstrations in protest at official corruption that had led to the bankruptcy of their factories as well as missing wages and other basic provisions. Several workers were detained. Yao Fuxin and Xiao Yunliang were later sentenced to four and seven year’s imprisonment respectively for their part in the protests. The protests were significant not least because of the unusual organisation of the workers. However the causes of the protests were more generic and reflect the concerns of millions of other workers throughout China’s old industries.

In the 1990’s the state owned Ferro-Alloy Factory began to face financial difficulties and in 1995, a new manager, Fan Yicheng, was appointed Party Secretary and Director. Fan introduced measures to restructure the factory into separate production companies but after several years however workers accused Fan Yicheng and other managers of misappropriating over 100 million Yuan and having links to local criminal gangs (Liaoning Province is no stranger to official corruption - in 2001 some 500 officials from the provincial capital were dismissed from their posts or arrested for corruption). It was also revealed that he had stopped paying contributions to the pension and medical funds.

In late 2001, Fan Yicheng applied for bankruptcy but not before some serious asset stripping. In May 2001 it was reported that officers from the Liaoyang court accompanied over fifty workmen who removed 2,000 tons of [iron] ore
from the factory warehouse. The next day Ferro-Alloy workers demanded an official investigation - but nothing was ever done.

Under Chinese legislation the agreement of the factory Workers and Staff Representative Congress is required before a SOE can apply for bankruptcy and closure and in October, 2001, Fan Yicheng convened a meeting of the Ferro-Alloy Workers’ Congress to vote on his bankruptcy proposal. To ensure the Congress approved the proposal, on the day prior to the meeting, three prominent worker representatives were detained. At the actual meeting itself riot police were deployed both inside and outside the meeting room and a number of workers were barred from entering. It was not surprising then that the Congress formally “approved” the plan.

Finally in November 2001, the factory was officially declared insolvent and parts of it began to be sold off to private investors. After it was discovered that most of these were linked to Fan Yicheng and other Liaoyang officials, the workers again called for an investigation by the local government but within three days all the factories equipment, stores and other assets had disappeared. Later half of the original workforce of the factory were reemployed – including over 100 management officials (including the ACFTU officials) - by the various new companies while the remaining laid off workers never saw their promised package of redundancy benefits.

In September 2002, Fan Yicheng was arrested on corruption charges and sentenced to 13 years for causing “a large amount of state-owned property to be fraudulently diverted and lost”. Several other key factory personnel were also sentenced to varying terms of imprisonment. Despite this however the Liaoyang workers – the original whistle blowers - remain without full settlement of their demands. Meanwhile, Yao Fuxin and Xiao Yunliang remained in jail at the time of writing, in spite of numerous appeals for their release issued by the ICFTU, the GUFs and their affiliates. Both suffer from serious health problems while in detention, and their families have often been prevented from visiting them in prison, in violation of binding Chinese legal provisions.

Attack - the best form of defence?

The year 2004 witnessed another surge in resistance to privatisation with thousands of workers taking action to defend jobs and conditions but never with the support of the ACFTU. One of the features about this latest surge has been that workers have taken action before the restructuring process is complete, namely prior to mass lay offs or rehiring on inferior contracts. This has allowed tactics to move from defensive sit-ins or road blocks outside government offices to the more direct action of picket lines and strikes at the workplace itself. In at least one major case, striking workers have actually attempted to legally establish a trade union, with the ultimate objective of affiliating it to the ACFTU. The attempt was thwarted by the authorities and several key organisers were arrested. This change may well require a more proactive response from the international trade union movement.
In September 2004, some 6,000 textile workers, mainly women, from the Xianyang Huarun textiles factory began a seven-week strike in which they halted all production. During the strike the workers also attempted to establish a trade union and began forming worker committees to elect the provisional trade union body. However once the local authorities learned of this plan it is believed they prompted the local ACFTU into creating its own union branch and officially registering it, thus rendering the worker’s own attempts technically illegal if continued. The ACFTU branch however was reportedly organised by the local officials and no elections were held to legitimatisre or sanction this “union”. At the same time the local authorities also crackdown on the mass demonstrations and began to detain those involved. The strike later crumbled but not before the workers had won some major concessions from the company. Those detained were later released, some without being charged.
Corporate Social Responsibility in China

Corporate Social Responsibility (CSR) has become a major issue in the Chinese press, academic journals, the Internet, and official circles. In this section, we do not seek to consider CSR in general or its implications for trade unions, but only how the subject is being viewed in China and in particular by the ACFTU.

The concept of CSR in Europe and America is widely understood to be about companies taking the impact of their regular business activities on others into account. Identifying, engaging and reporting to stakeholders are main activities for CSR practices. For the most part philanthropic activities, such as giving money to charities, are not considered CSR and this is especially true where these activities have no relation to the company’s regular activities and purpose. In the European and American conception, CSR is about voluntary activities undertaken “above or beyond” legal obligations.

Many Chinese views however give a central role to legal compliance. This is, of course, understandable in light of the difficulty the governments has in applying its laws and regulations. Moreover, CSR is very often associated with the codes of codes that western companies seek to apply to the labour practices of their suppliers. One view expressed both in and outside of China, is that better application of existing Chinese law would eliminate the case made for these codes.

The conception of CSR in China tends to incorporate the role of philanthropy which makes the Chinese conception of CSR both broader, but somewhat more traditional and dated concept than the concept that has evolved in Europe and America.

There is one element that the Chinese thinking has in common with the European and American idea of CSR. The European and American concept of CSR mainly concerns the unilateral activities of management and are inherently paternalistic. Paternalism also has a prominent place in Chinese perspectives on CSR. In China CSR has been promoted as a way of ensuring that the workers build a strong team spirit and are proud of being part of the enterprise (thus increasing productivity). CSR has been presented as promoting harmony within the enterprise and between the enterprise and society.

Some Chinese CSR supporters want companies to take a more active role in Chinese society by participating in the provision of public welfare. Enterprises are encouraged to develop links with local community groups, NGOs and the government through partnership in public activities or projects - for example one leading sportswear manufacturer is running community projects on HIV/AIDS. This idea of CSR does not differ much from the “public-private partnerships” that are being promoted in public policy in many countries and internationally. In China this idea is also partly rooted in China’s historical and complex forms of social management, where the enterprise (or ‘work unit’/ danwei) is responsible for workers’ welfare. This also fits in very well with the role that the ACFTU has been playing – that of helping to provide social welfare to workers.
As in Europe and America, the interest in CSR in China is not just about using the potential of business to do the right thing. It too can become wrapped up in the concerns over corporate power and its abuse. Local newspapers have begun publishing stories about corporate malfeasance, especially foreign companies. (See box). Both reports summarised in the box elicited widespread condemnation from the general public.

**GlaxoSmithKline.**

After someone was reported to have died because of insufficient safety instructions on a GSK drug, the national news agency ran a story with the title “Multinationals with double standards kill.” Reminiscent of the early days of the consumer movement spawned by Ralph Nader’s *Unsafe at any Speed*, the story berated GSK for selling a drug in China minus the ‘poison’ warning it carries elsewhere. As the author stated, GSK “is not true to its own mission statement. From a long-term perspective, it cannot keep on fooling Chinese customers. A truly respectable company wins customers with good ethics.”

**Dell**

In 2003, a Chinese staffer at Dell published an article in a popular IT magazine called “Let me tell you about Dell’s shortcomings.” It was a polemical piece against the ‘inhumanity’ of Dell’s corporate culture; a point so popular that a major and highly regarded Chinese newspaper turned it into a long examination of “‘Successful’ business model: Ugly enterprise culture.”

There are, however, no campaigns comparable to those linking respect for workers’ rights to the purchases of consumer goods that are conducted by university students and NGOs in the west. Although CSR is becoming a consumer issue, Chinese companies are mainly responding to demands made by western companies concerning compliance with their respective codes of conduct. It is the western companies sourcing from China that are targeting public opinion in their reporting.

**An example of CSR debate: SA8000**

The practices of implementation and “monitoring” compliance with code of conduct concerning the labour practices of suppliers is one of the main ways that CSR is understood in China. For this reason, CSR is often seen as something that is being pushed by foreigners and not something demanded by domestic consumers. The debate within China over CSR most often takes place in the context of codes of labour practice. One of the most extensive debates over CSR in China has concerned SA8000. Although this debate has been vigorous, it should be seen more as an example of where the debate in China on CSR is going rather than being considered the most important CSR issue.

SA 8000 is a system whereby suppliers seek from an accredited auditor (authorized by SAI) a certificate that can be used to assure sourcing companies that its working conditions are consistent with the SAI code. At present, there are 429 companies worldwide that have SA8000 certification and only 49 of these are located in China. Most of the code implementation activities involving Chinese companies concern
codes that have been adopted directly by the sourcing company. Generally, it is the western sourcing company (or its agent in the form of an enterprise providing “social auditing services”) which conduct “monitoring” or other code implementation activities.

After several years of low level interest in SA 8000, the first eight months of 2004 saw a dramatic rise of interest in the answers to two questions: “What exactly is SA8000”; and “What will it mean for China?” The major reason for this upsurge in interest was a rumour that gained widespread coverage, ironically, on Labour Day. Although it had been prevalent in manufacturing circles since December 2003, several Chinese newspapers stated on 1 May that SA8000 would become mandatory for companies supplying goods to the US and Europe. Although the story had no basis in fact whatsoever, the impact was immediate.

Numerous stories were published in the following months, and a wide ranging debate over the applicability of SA8000 ensued. There are two major camps within China. The first argues that SA8000 is a protectionist tool. The opposing view is that it will genuinely protect workers.

The belief that SA8000 is a new protectionist non-tariff trade barrier is both widespread and popular. Following are a sample of views culled from various articles: “It is a ‘wolf’ returning; i.e., “it’s another restrictive practice like intellectual property rights, antidumping rules and environmental protection standards”; “The EU and US have established the standard for labour intensive enterprises in developing countries in order to decrease their competitiveness”; “it is expensive and will make companies unprofitable”; “it raises standards for enterprises in developing countries on environmental protection and labour rights so they don’t have an unfair competitive advantage”. The list goes on.

The publicity has not been all negative however. Some views expressed consider that SA8000 is simply another standard similar to ISO 9000, which aims to improve the quality of products, or to ISO14000, which aims to improve the environment. Some consider that SA8000 is an opportunity to obtain more orders and even a ticket to export success. Some have expressed the view that SAI 8000 attempts to rectify the very problems that research by the ACFTU has identified (for example payment of wages in arrears, enforced overtime, and wages less than the legal minimum) and that it ensures that enterprises focus on their responsibility to improve working conditions. In addition, some have cited SA8000 as a means of reducing complaints over dumping or environmental protection from other countries as well as readjusting the quota system (for garments) and improving China’s image abroad.

One of the more interesting, and perhaps important, views gaining traction is that China already has laws, rules and regulations that regulate employers and protect workers. As one expert was quoted, “If the employers strictly abide by these rules … at least 90 per cent of Chinese firms should [not] be fearful of the seemingly harsh SA8000 requirements.” In other words, CRS can focus attention on existing labour and environmental regulations and assist in their implementation.

There has been little publicity of ACFTU views on SAI 8000. ACFTU responses to media reports of excessive pressures from foreign companies for Chinese suppliers to
“conform” to codes have focused on the failure of many large companies to establish trade unions which in itself is a failure to comply with domestic legislation. Of particular note in this regard has been Wal-Mart which has finally and publicly agreed to allow workers to establish branches of the ACFTU if they so wished. The campaign to get Wal Mart to accept the ACFTU has been a high profile and not without irony in that an ACFTU branch is the kind of “union” that most corporate giants would want. Most trade unions would also like to see Wal-Mart accept the unionisation of workers in their respective countries. That the ACFTU has appeared to win where trade unions in other countries have failed has not been overlooked by the media.

**CSR: The view from the ACFTU**

The following is extracted from an article entitled “Trade Union Direct Elections in China: A Labour Rights Movement Promoted by Foreigners”, which appeared in the Hangzhou Daily in 2003:

Many major foreign customers, in large part out of a desire to avoid bad publicity, have been demanding that private enterprises in China protect labour rights or face losing purchase orders. Beginning in 1999, the number of assessments of labour conditions made by major customers from overseas has gradually increased. Assessments were mainly focused on the employment of illegal workers, compulsory overtime, deduction or denial of salary payments, accident insurance and pension schemes as well as health and safety.

Mr. Wang is a senior manager at the Yajia shoe factory in Hangzhou. He described a recent tense episode following a surprise inspection by a major US snow boot retailer during which the inspectors demanded private meetings with 20 randomly selected workers. The inspectors apparently asked detailed questions on salary deductions, hazardous working conditions and even sexual harassment.

Mr. Mo Bingfa is chairman of the General Trade Union in the Yuhang district. Mo explained that “labour rights audits have contributed to creating an environment for direct election trial runs.”

In the new form of trade unions, both chairperson and the committee members are selected by direct election.

Senior All China Confederation of Trade Unions (ACFTU) official Cao Songhua, a committee member of the Zhejiang Trade Union Federation and vice secretary-general of Zhejiang Private Enterprise Trade Union Federation agreed:

"The formation of trade unions is not simply required by China’s laws. After China joined the WTO, many far-sighted enterprises sensed the necessity of improving labour rights protection and having a well-established trade union."

**Domestic Initiatives**

According to participants, in December 2004, at a British Consulate sponsored Conference in Shenzhen, Chen Ying, the Deputy Director General of the Chinese Enterprise Confederation (CEC) announced that, in response to the increasing
demands of a myriad of codes imposed on suppliers and sub contractors by foreign companies the CEC, together with relevant government departments, was in the process of developing its own CSR standards which would focus on domestic legislation.

In 2005, the China National Textile and Apparel Council released its own CSR standard – the CSC 9000T (CSC9000T (China Social Compliance 9000 for Textile & Apparel Industry). This standard is a “Social Responsibility Management System based on China's laws and regulations, international conventions and standards, and China's particular situations” [sic].” These guidelines have been reportedly developed in collaboration with the relevant organs of the ACFTU. They appear to simply echo China’s domestic legislation on issues such as working hours and wages and fail to set any other standards for operation.

The CSC9000T is being touted as China’s own home grown code and is already being picked up by overseas investors as their code of preference. This is not surprising given the probable encouragement that compliance will be easier than an imported code and that it will have the backing of the local authorities.

**Hudson's Bay Company Accused of Encouraging Exploitation of Chinese Workers**

In October 2005, the Canadian company Hudson’s Bay was accused of helping to worsen the conditions of its workings by signing up to the CSC9000T and thus helping to “neutralise the impact of good corporate codes of conduct imposed by other companies sourcing there”.

The International Textile, Garment and Leather Worker's Federation said the Company was assisting the China National Textile and Apparel Council, in creating and implementing a watered-down code which insists that workers belong to the All China Federation of Trade Unions which is controlled by the State and the Communist Party, which does not provide for the payment of a living wage, which does not control excessive working hours and which would permit discrimination on the grounds of political affiliation or sexual orientation.

“This new code, CSC9000T, is designed to supplant all other codes currently being applied in China. CSC9000T is a watered-down version of the very effective multi-stakeholder code, SA8000, which was beginning to have an impact in factories in China”, the ITGLWF added.

**CSR: NGO Views**

There is a small but increasing number of labour NGOS based in the mainland and Hong Kong using CSR as a tactic to gain access to factories and improve workers’ awareness on labour rights. Such NGOs are mostly well aware of the pitfalls, such as “selling out” to corporate public relations, interference from the authorities, or being used a means for local management to identify potential organisers and sack them.
CSR projects on the mainland are beginning to move on from audits and monitoring conducted by auditing companies – essentially the privatisation of labour rights in the workplace – to NGO and trade unions’ education programmes. There are projects in the pipeline aimed at the formation of trained and elected worker representatives to negotiate on joint management-worker OHS committees. It should be noted there are, to the best of our knowledge, no successful examples of the latter as this document goes to press.

Most such NGOs prefer to work in factories where there is no existing branch of the ACFTU as past experience has revealed that the official union is often obstructive of NGO initiatives, claiming that there is no need for an external group to come into the factory as it already has a union to look after the interests of the workers.

**Future Prospects**

There is a risk that in countries such as China where freedom of association is actively repressed, CSR represents a great danger to the long term development of independent trade unions. CSR is essentially a passive instrument that could amount solely to workers answering questions from auditors or attending training courses conducted by outsiders and often foreign experts on safety issues. In China, the danger is particularly acute given the relative sophistication – in terms of written laws, regulations, standards and the penetration of foreign capital – of the labour market and where the only legal workers’ organisation, the ACFTU, encourages acceptance of government economic and labour policies in the name of development. The emergence of CSC9000T is probably only the start of more home grown codes, designed to entice foreign companies away from other codes in favour of one which is more easily applicable and overtly encouraged by the local institutions. It would also allow the ACFTU to use CSR initiatives as a means of encouraging the development of grassroots branches in these enterprises where previously none existed.

CSR has gathered momentum in China in recent months. We have to understand its development and consider any opportunities it could provide with due attention to the role of pro-union NGOs. This last factor could be particularly important in China, given the absence of freedom of association and consequent lack of genuine trade unions.
Chapter Five: Labour detainees

RAISING PRISONER CASES

Raising labour prisoner cases is a central platform of the ICFTU’s policy regarding contact with the ACFTU. For affiliates’ and GUF delegations it is a way of offsetting any wrong messages that might be sent by the act of engagement itself.

Most of all it works, especially if the information you present is as accurate as possible, preferably with bi-lingual summaries on targeted prisoners, i.e. those who are subject of an international campaign such as the Liaoyang Two. Currently there are at least 30 documented cases of sentenced labour activists in detention but this figure is rising and does not include those workers who are detained for short periods.

The ICFTU and the IHLO can assist in preparing such information.

If the case of a particular prisoner is raised it usually results in positive repercussions for the prisoner involved. Some results include an improvement in food and living conditions, the frequency of family visits and or other forms of communication, the improved provision of medical treatment and sometimes an end to ill treatment if of concern. In some cases, public pressure has resulted in the early release of a prisoner (albeit disguised as due to some other reason) or his/her release on medical parole. There have been no recent reports of any negative effects from this kind of pressure.

There are several ways to raise a prisoner’s case. Recent experience has shown that long comprehensive lists are less effective than ‘sharing’ prisoners out among affiliates. To be successful, raising prisoners’ cases requires sustained follow up and monitoring of responses.

Relevance

The IHLO has information on most known cases of labour related prisoners and can provide selected cases chosen to coincide with

- the region/cities you are visiting or from which you are hosting an ACFTU delegation
- the industrial sector your union represents
- any other specific issues related to your visit (timing for example)

Presentation and Follow up

Ideally, ask in advance for a time to be put aside in your programme for discussion of prisoners. If you are worried about the ACFTU/government’s side heading off the opportunity by being forewarned, then ask for time to discuss ‘outstanding issues’.

Do not be afraid to present your list even if you believe you will offend your hosts. They will often expect these types of requests. Raise the prisoners’ names and last known place of detention verbally and then ask them to take your written files. You should hand them over material containing the details of the prisoner – see below.
It is possible the ACFTU/government side may decline taking your information. If so, be prepared to leave the documents on the table; they will pick it up after the meeting.

State what you are expecting back from them so they know it is not simply an empty gesture. Explain why you are doing this and perhaps why you are interested in these particular prisoners.

**Reaction to your request**

The response will likely be range from a bland agreement to ‘check’ to silent embarrassment. Sometimes ACFTU officials will state that the prisoner has been found guilty by the courts and that the matter has nothing to do with them or labour issues. If this happens, be prepared to answer with a reference to the relevant international standards, domestic legislation – Article 35 of the Chinese Constitution for example, see box – and ILO Conventions. If you are seeing the ACFTU at a senior level they will be experienced in dealing with such requests and it will not ‘spoil’ the rest of the exchange.

<table>
<thead>
<tr>
<th>Article 35 of the Constitution of PRC</th>
</tr>
</thead>
<tbody>
<tr>
<td>Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession, and of demonstration.</td>
</tr>
</tbody>
</table>

**Follow-up**

Follow up is crucial. If possible ask for a timeframe or a procedure for receiving information and try to ensure that you do follow up as agreed, preferably in conjunction with the ICFTU/IHLO.

**Further campaigning**

If possible it is useful to create sustained pressure around a particular case and this can be done by asking your affiliates or members to also write letters and campaign on behalf of the prisoner. You could consider adopting a particular prisoner for example or simply holding a six-month campaign with letters being directly addressed to the prisoner. If this occurs then it is common for the prisoners not to receive the letters themselves but they will be opened by the prison management and their superiors will also be informed. The news that letters are arriving to a particular prisoner will usually be transmitted to that prisoner who may well see a subsequent improvement in treatment.

**Details to include**

A bilingual summary in table format is probably the best method – *IHLO can assist with this*. The names at least should be in Chinese as well as English. Other details:

- Date and place of detention and arrest
- Date and duration of sentence or administrative punishment
- Summary of the protest/event leading to detention
- Latest available details of the prisoner’s situation (health, family visits, transfers, etc.)
Summary of action already taken by your organisation, affiliates or member.

This table should be accompanied by a brief description of the facts you would like to know and or the requests you are making, for example medical care, release, confirmation of release…

**Prison visits**

This is a difficult subject. China’s authorities systematically refuse any foreign institutions or delegations to visit prisoners detained in the country’s jails, for whatever reason. Exceptions to this rule are less than a handful, and none are known to have occurred in labour cases. However, there may be good reasons for your own delegation to attempt such a visit. They may be geographical (your visit takes place in an area/city/province where labour activists are detained), sector-based (detained workers may belong to an industrial sector in which your own organisation is active), or even political (you may be part of an official or state visit which is of crucial importance to the Chinese side; your hosts may then find themselves in a situation in which it will be awkward to flatly refuse your request for such a prisoner’s visit).

Whatever the case, your request –and polite insistence– to visit a detained labour activist will not hurt him/her, on the contrary: it will increase the authorities’ perception that the person concerned is particularly important to your organisation; this in turn will have positive effects on the prisoner’s detention conditions and may ultimately lead to his/her release.

Here again, it is advisable to coordinate closely with the IHLO, which can brief you on possibilities relevant to time, destination of subject of your visit.

Albeit your request will most likely be turned down, don’t give up after an initial failed attempt. Your ACFTU/authorities hosts will be only too happy if you do. Remind them of your request at regular intervals. Follow up your request with letters. Use contacts with other ACFTU delegations or hosts to inform them of your request. Keep the IHLO informed of your endeavours in this area.

**Official human rights dialogue**

Another venue for raising prisoners’ cases is your country’s (or multilateral) “human rights dialogue”. If your country is industrialised, your government is in all likelihood engaged in this sort of dialogue, most probably on a regular (annual or bi-annual basis). In most cases, your government will provide its Chinese counterpart with a prisoners’ list. Try to ensure that your priority cases are included therein. The Human Rights unit/department of your Foreign Affairs Ministry or legislative assembly is a good starting point for such matters.

The fact that your government raises cases about which your own organisation also intervenes will not be lost on China’s authorities and on the ACFTU.

**Developing countries**

If your country is a developing one, your efforts in this area will be equally, if not more, significant. China is keen to play a significant role in the developing world and is eager to convince its partners of its shared approach and solidarity.
Being confronted on human and trade union rights’ issues, including questions about detained labour activists, will be difficult for the ACFTU to reject out-of-hand as “interference”. It will also enhance in its eyes your own organisation’s status as an active partner in the international trade union movement.
ANNEX 1: DO’S AND DON’TS

Do:

Advance Knowledge
Do prepare in advance for the visit and also expect your counterparts to know a great deal on the failings of the trade union system or problems in labour rights in your country – be prepared to counter such points politely and be in a position to raise similar issues on the situation in China.

The experience of many delegations has been that it is extremely useful to visit the HKCTU, IHLO, CLB and other partners in Hong Kong before you go to the mainland rather than after. Apart from these organisations being able to assist with preparation, it is worth remembering that the HKCTU is the only independent trade union organisation operating in China.

It will be useful to include the following points in your preparatory brief:

- Background of the ACFTU officials you are going to meet.
- A summary of the latest developments in the relevant sectors in China.
- A working knowledge of the basic labour situation in China with emphasis on background to labour protests, unemployment and restructuring, and health and safety, depending on which areas your delegation needs to concentrate on.

Interpretation

Wherever possible do try to arrange for your own interpretation either through relevant agencies in your own country or the IHLO and our partners in Hong Kong. Experience has demonstrated that interpreters need to have a basic knowledge of labour and trade union rights as well as language skills. Unless you are employing extremely expensive professional interpreters, one without the other doesn’t work.

Debate and Discussion

China’s history has resulted in general sensitivity towards criticism as well as occasionally extreme expressions of patriotism. Tapping into the latter will lead discussions nowhere. Moreover Chinese officials and workers are aware of the notion of ‘China-bashing’, both real and imagined.

In this light, a useful tool for encouraging constructive debate is as follows:

“Unions in our country face the problem of...(unfair dismissal, biased courts, strikes being declared illegal, under funded OSH inspectorates, pro-employer and skewed labour market, anti-union media, police violence, etc). Does this issue occur in your country?” There are numerous variations to this opener.

Media

Do prepare a statement – preferably written – which can be given to the Chinese media. In general the press will be looking for positive statements and may cut out
any negative comments made. All the same, focus on the points you believe need reform and the areas where the ACFTU should make improvements – in distancing itself from the Party for example or grassroots elections. It is possible to present press documents that do not give tacit approval to the notion of state-controlled trade unions while remaining constructive and diplomatic. Again the IHLO can assist in this preparation if necessary.

**Prisoners**

Many labour activists remain in prison in China. Do use your visit to raise their cases and contribute to increased chances of early release (please refer to section on prisoners).

**Factory Visits**

These are notoriously staged affairs that allow little room for genuine exchanges. It is highly unlikely that an employee will speak openly to strangers in front of ACFTU officials and/or management. Possibly a good source of information is local level ACFTU officials but again this is far from guaranteed. Potentially useful lines of inquiries include:

- Is there a collective contract? Ask for a copy to take away for reference. Such documents are extremely useful. State that the fact they are in Chinese is not a problem.
- Is there a staff and workers congress or any form of democratic management in the enterprise? (see section on privatisation).
- How does the ACFTU branch deal with collective labour disputes?
- Is there an OHS system operating in the enterprise?
- Is there a social insurance system in operation?
- Are wages paid on time?
- Are overtime hours properly compensated for?

**Reporting Back**

1. Strictly follow any policy or strategy on China set out by your Global Union Federation, national centre or other organising body
2. Inform and consult with your Global Union Federation, national centre or other relevant body each time your organisation is approached by the ACFTU or, even better, by any kind of Chinese delegation.

**ACFTU hospitality**

Consider in advance the various and full implications of mutual hospitality when exchanging visits with the ACFTU, whether in China or in your own country. Carefully analyse any invitations to China for which the ACFTU offers to bear all or a sizeable part of the costs. Refer to your organising body or international organisation if in doubt. Beware, in particular, if the invitation extends to your family.
2. Don’t:

- Don’t push an issue to the extent it becomes impolite and especially don’t lose your temper in debate. It will lead nowhere.
- Conversely, don’t let courtesy and fear of cultural differences mean that you gloss over failings or do not raise difficult issues.
- Don’t allow yourself to be quoted by Chinese union, government or any other official media as having lavished praise on the ACFTU if you have in fact not done so. Any such comments are likely to be publicised by the official press agency, Xinhua\(^2\) or, occasionally, by foreign news agencies represented in Beijing. This has a potentially extremely negative impact on labour activists, especially if they hear about your comments in prison. Note that such positive statements about the ACFTU may be attributed to you even if you have NOT made them. Examples abound. If that is the case, make sure to issue a correction.

\(^2\) Xinhua, China’s official news agency, readily publicises visits of foreign trade union delegations, particularly when these come from countries which play in role in the country’s foreign policy priorities. At the same time, it should be noted that Xinhua, which stations numerous correspondents abroad, including in many developing countries, regularly provides relevant coverage of social unrest and other issues related to core labour standards.
ANNEX 2: USEFUL RESOURCES

Official

ACFTU
http://www.acftu.org.cn/index2.htm
Home page of the ACTU. English version of website is not particularly well developed but gives a snapshot into current priorities, news and official visits.

China Occupational safety and Health Information Network
http://www.cis-safety-inf.org.cn/
Currently not updated site but with some useful background documents. ILO funded OSH information body under the State Administration of Work Safety – English language sister site of the China Academy for safety science and technology, which has an up-to-date Chinese language site.

http://www.china.org.cn/e-white/
Official website for the dissemination of official views and articles. Also contains Government “White papers” on various issues including employment and democracy.

Hong Kong Unions and labour rights groups

Hong Kong Confederation of Trade Unions
www.hkctu.org.hk

The Hong Kong Confederation of Trade Unions (HKCTU) was founded in 1990 and represents 170,000 members in over 70 affiliates, bringing together democratic and independent trade unions committed to fighting for the rights and interests of workers. HKCTU and its affiliates engage in a wide range of activities, workplace organising, public campaigns, lobbying, workers' education, retraining legal assistance and representation. It is one of the two most influential labour groups in Hong Kong. (The other is the pro-Beijing and pro government Hong Kong Federation of Trade Unions (HKFTU).

Shortly before the return of Hong Kong to the PRC in 1997, the HKCTU was instrumental in the passing of a law establishing collective bargaining rights for trade unions. However, as with some other reformist laws passed just before handover these were later abolished by the unelected provisional Legislative Council which took over in July 1997. There is currently no right to collective bargaining and inadequate protection against dismissal for involvement in trade union activity and it is common for employers to engage in anti-union practices and to victimise workers for their trade union involvement.

The HKCTU participates actively in the pro-democracy movement in Hong Kong and is campaigning for universal suffrage. It was instrumental in organizing the mass protest of 1 July 2003 to oppose the proposed national security legislation on Article 23 of the HK Basic and subsequent mass rallies for democracy. It also played a key role in the NGO coordination for the World Trade Organization Ministerial meeting in December 2005 in Hong Kong. The President of HKCTU, Lau Chin-shek, and the
HKCTU's General Secretary, Lee Cheuk-yan, are both Legislative Councillors, giving voice to workers' demands. The pro-democracy struggle of HKCTU includes solidarity with the pro-democracy movement in mainland China, including the struggle for independent trade unions. HKCTU plays an important role in the coordination of the work of the IHLO.

IHLO  
www.ihlo.org

The IHLO is the Hong Kong Liaison Office of the international trade union movement, founded in 1997, shortly after Hong Kong's reunification with China. The IHLO was established to support and represent the international trade union movement in Hong Kong and to monitor trade union and workers' rights and political and social developments in China.

IHLO publishes regular articles and research briefings on the situation of trade union and worker rights in China, Hong Kong and Macau SARs and provides advice and briefings to ICFTU affiliates and labour groups interested in working on China. The IHLO provides information and analysis to the China Working Party of the ICFTU Committee on Human and Trade Union Rights. IHLO also plays a key role in ensuring more effective participation of independent and democratic trade unions in Hong Kong in the international trade union movement. The IHLO has an English website and is developing a Chinese website with information on union activities for a Chinese audience.

Asian Monitor Resource Centre  
http://www.amrc.org.hk/

Asia Monitor Resource Centre (AMRC) is an independent non-government organization (NGO) which focuses on Asian labour concerns. Founded in 1976, AMRC has been promoting workers’ rights and democratic labour movements in Asia and the Pacific for over 25 years. The Centre supports a democratic and independent labour movement promoting the principles of labour rights, gender consciousness, and active workers’ participation. AMRC provides information, consultation, publications, documentation, and internships, and conducts research, training, advocacy, campaigns, labour networking, and related services to trade unions, pro-labour groups, related NGOs, academics, researchers, and professionals on labour issues.

China Labour Bulletin  
www.clb.org.hk

Founded in 1994 in Hong Kong by independent trade unionist Han Dongfang, the China Labour Bulletin (CLB) has been actively promoting independent, democratic union organizing, and the protection of labour rights and standards in mainland China. CLB has both Chinese and an English language website and “aims to provide information and education on trade union rights and labour standards to workers and union organizers in China; provide a forum for workers to express their opinions and demands on labour and economic issues; to facilitate workers’ collective actions and legal and administrative dispute settlement; to mobilize a network of labour activists
in China; and to reinforce solidarity with the international trade union movement by updating overseas unions and the international community on the labour situation in China and advocating on behalf of detained Chinese labour activists”.

CLB has been actively involved with the ICFTU ad the development of the China Working Party policy on China.

China Working Women Network
http://www.cwwn.org/eng/eng_main.html
Formed in 1996, Chinese Working Women Network (CWWN) aim is to improve the lives of Chinese migrant women workers and develop a feminist awareness of workers’ empowerment. The group works with both male and female workers in south China mainly.

Other Labour Rights groups

China labour watch
http://www.chinalaborwatch.org/en
Founded in 200 and based in New York City, China Labor Watch provides labor news, worker struggles, editorials, press releases and investigations relating to migrant workers, sweatshops, Wal-Mart, mine reports, and demonstrations in China. It often has useful in-depth investigations into working conditions at particular factories or in particular industrial sectors.

Human Rights in China
http://www.hrichina.org/public/index
Based in New York with a research office in Hong Kong, HRIC is useful for human rights issues and news of prisoners both labour related and others. It undertakes periodic research into labour issues.

Official News

Xinhua
http://www.xinhuanet.com/english/
[Comprehensive news agency]

News Guangdong
http://www.newsgd.com/default.htm
Sometimes interesting news feeds from Guangdong province

China Daily
http://www2.chinadaily.com.cn/english/home/index.html

People’s Daily
http://english.peopledaily.com.cn/

Other Sources / unofficial news
EastSouthWestNorth  
http://www.zonaeuropa.com/weblog.htm  
Reliably updated and opinionated blog of events and roundup of articles on China

China Development Brief  
http://www.chinadevelopmentbrief.com/  
Online publications on social developments and work of NGOs in China

China law Digest  
http://www.chinalawdigest.com  
Selected articles and translations of laws and legal developments. Some labour and economic related laws.

CSR

CSR in Asia  
http://www.csr-asia.com/  
Regularly updated and wide-ranging CSR site with translations of articles from inside China as well as research articles on labour related issues.

Asria  
http://www.asria.org/  
The Asian regional website for SRI – ‘sustainable and responsible investment’.

Other

ILO Regional office  
Contains reports of ongoing projects and contacts for China related ILO work
ANNEX 3: ESSENTIAL FACTS AND FIGURES

General

The People’s Republic of China has undergone enormous changes in the past 25 years since the death of Mao Zedong in 1976. The country has gone from a predominately state run economy with the majority of the population working in agriculture to one where some 150 million ex farmers are now living and working in the cities. The generation of people who are now in their 20’s have little in common with their parents, most of whom grew up in a “danwei” (work unit), lived in state housing and received free education and health care along with – for the lucky urban few – a lifetime of secure employment. The current youth now face a health system which some outsider observers have noted is the most rapidly marketised in the world, where education is no longer free and where many children (especially rural and ethnic minorities) do not finish the compulsory 9 years of basic schooling. A country where travel and tourism is now permissible for those with the money and where the elites can send their children overseas to school as opposed to a country of closed doors and limited travel even within the PRC.

The Communist party of China (CPC) underwent a major transformation after the death of Mao and the redemption of his political enemies. By then stressing economic performance and reform over ideological purity and self reliance, the CPC needed to ensure economic success in order to maintain its legitimacy after it gave up its moral high ground. Yet, it has been able to achieve continuously staggering growth rates and for many of its population ensured a rapid rise in living standards. This has helped keep its legitimacy but current economic reforms are increasingly leading to a rising division in the country between the haves and the have-nots, the east and the west, the coast and the inland and between the affluent urban rich and the predominately poor rural population. In this situation, China is treading a difficult path between pleasing its western trading partners, liberalising its economy still further and reforming its laws according to WTO guidelines. It has simultaneously been grappling with a failing health and education system and increasing social unrest from both workers and the rural poor.

The lack of an effective and independent trade union to represent the new working class in this changing economy is a major missing piece of the modern jigsaw and its absence is a huge flaw in the emerging China.

Society

Population

- Some 1.3 billion people in the PRC (official figures include Taiwan, Hong Kong and Macau).

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3 Sources include UN, ILO figures as well as academic and NGO sources. Where relevant some official Chinese statistics have been included. Please note that official figures from the PRC should be treated with some caution.
Urban residents to rural ratio is around 30:70 to 37:63 percent. The gap between the poor inland rural areas and the richer urban coastal regions is estimated to be the biggest income gap in the world.

Some seven percent of the population is over 65

Cities

There are in total 31 administrative divisions with 22 provinces (Taiwan is considered the 23rd), four municipalities and five autonomous regions.

Poverty

Estimated population under the poverty line is 10 percent. Despite massive economic changes and sustained growth, close to 50 percent of the country's population subsist on less than two dollars a day. According to the 2003 United Nations Development Program's Human Development Report, China ranked 104th on the human development scale.

Migrant workers

China’s economic reforms have led to the largest rural-urban migration in history as “surplus” labour from the countryside moves to off-farm jobs in towns and cities. While millions travel thousands of miles to the rich east-coast cities – covering distances easily as far as many migrants who go abroad to work – the majority travel no further than a bordering province. Figures vary, but government statistics put the number of internal migrants at anywhere between 100 million and 120 million. Unofficial figures go as high as 150 million.

Internal Migrants

8 to 10 million rural residents seek work in the cities each year. The total number of rural migrants (so-called “floating population”) is estimated to be over 150 million. Despite ongoing relaxation to the household registration system which allows for the monitoring and control of population movement (Hukou), ex-rural residents are discriminated against and are often vulnerable to abuse while temporary in the cities. Many work there without the necessary papers and without therefore contracts or other safeguards.

External Migrants

Little is known about the rising numbers of Chinese who are leaving China to look for work. Until quite recently, China’s borders were to all intents and purposes closed, now unemployment has been recognized as a problem and the exporting of labour abroad is seen as one of the solutions. The last ten years has seen a substantial increase in cross-border migration between Yunnan province in southwest China, Burma, Vietnam, Laos and Thailand. A substantial number of the migrants leaving and arriving in Yunnan are victims of human trafficking – up to 10,000 a year, according to some estimates. The weakening of government authority in general, along with the rise of organized crime and corruption, has facilitated both undocumented migration and trafficking. Although infrequently reported, cases of
women being lured abroad into jobs as waitresses and then forced into prostitution are common.

Reforms agreed as part of China’s entry into the WTO mean that the government is now committed to further reform and by 2005 all citizens in cities and larger urban towns – in theory - were able to apply for a passport simply by presenting their ID Cards and residence papers to the Public Security Bureau. It is unrealistic however to expect these reforms and the ease in which people are to be given passports to be so smooth in practice.

The major sources of migrants are the southern provinces of Guangdong and Yunnan, Zhejiang and Fujian in the east, which have a long history of migration, and the northeastern provinces of Heilongjiang, Jilin and Liaoning. The chief destinations were the US, Europe and the Middle East. In 2002, the number of legal migrant workers was statistically less than one percent of the total working population but this figure does not include the large numbers of undocumented workers. According to the National Bureau of Statistics there were 380,000 workers contracted overseas workers in 2000 but this only includes those working on set projects.

The number of Chinese mainland migrants legally living in Europe in 2000/2001 was only 200,000 compared to over 40,000 Chinese migrants who left for Canada in 2001 alone. In the Russian Federation there has been well publicized articles on the huge influx of Chinese workers but in reality the number remains proportionally very low. Migration from China’s northeast – which borders Russia – is often driven by the restructuring of state-owned industries that has put millions out of work as well as by a fall in crop prices resulting from the increased access to agricultural markets by foreign producers. Many northern workers and farmers seek work in Russia’s Siberian cities, although some go on to Europe.

There are two legal avenues of labour export from China. The first is project based where workers are sent to work on large - usually construction or infrastructure - projects in developing countries. The second is through companies specialising in exporting workers, usually in construction, but also in textiles, agriculture, cooking, medical services and as mechanics and seamen. The chief destinations are East Asia, Southeast Asia, North Africa, North America, the Gulf and Europe. The experience of many of these workers is often – but by no means always – negative.

In 2002 there were at least 48 companies licensed to export workers. These included factory workers in Saipan, computer technicians usually in Europe and the US, cooks and service workers in Germany and construction workers in Israel. The figures of the number of workers being exported seriously underestimate the reality. For example, in 2002 there were at least 25,000 Chinese migrant workers in Israel but only 8,000 were reportedly registered.

Many migrants – especially undocumented ones - face much lower wages than the local populations and, for some, nonpayment of wages is also common. Many migrants speak little or none of the local language and have to rely on their exporting company representative for assistance in case of non payment or other violations. Many in the Middle East for example live in rough sheds hastily constructed to house
only these workers. Some also face considerable pressure and discrimination from the local population.

Social security/Pensions

- According to figures in 1999, there was one retired person for every 3.7 employees. If current retirement ages remain unchanged at 55 for women and 60 for men, by 2030 some estimate that the ratio may climb to 2.4. Current provisions for old age pensions and relevant social security are insufficient to cope with increasing demand and the rapidly aging population will increase the pressure. The one child policy has led to increasing numbers of families with fewer resources to care for elderly parents. Old age support in rural areas, like other forms of social security, is underdeveloped and lacking in funding from local and central authorities.

Economy and labour issues

- Background

In 1976, the death of Mao Zedong and the 12th plenum of the Chinese Communist party saw the tentative start of economic reforms which gained massive momentum in the early 1990s with the creation of over 2,000 Special Economic Zones (which facilitate foreign capital investment). Official policy is to stress social stability and continuity in the political system but bolder reform in the economic system. Reforms are aimed at giving more importance to market-oriented institutions while strengthening control over the financial system and reforming the state owned enterprises (SOEs) to create a "socialist market economy". The Chinese economy has been growing rapidly until 2003 when the government tried (and essentially failed) to slow growth to halt inflation and overheating.

While in the late 1990’s the government was relatively successful in controlling prices, it has been unable to control other aspects of the economy, most notably massive corruption and the collection of tax and other revenues from regional authorities. In addition often chaotic restructuring of SOEs and widespread corruption in SOE management has meant that many laid off workers are not being paid wages, benefits and pensions. The lack of a social security network covering the rural areas and migrant workers is increasingly becoming a visible problem, with many workers active in low paying, temporary, seasonal or subsistence employment.

Nonetheless, China's recent development and its potential for continued growth is extraordinary. The country has attracted large amounts of foreign direct investment (FDI) and formally joined the WTO in December 2001, both of which accelerated structural and legal reforms. By 2002, the government had approved of more than 200,000 foreign-invested companies, with about half of all FDI focused on the export sector. Foreign-funded businesses reportedly provided over 50 percent of China's exports and more than 25 percent of China's industrial output in 2002. Indicators show that their market share will continue to increase. A growing number of MNCs are investing heavily in China and many are building their own large-scale plants as well as working with a huge number of suppliers.
Threats to social stability are seen as the rise in labour unrest and popular demonstrations as well as growing poverty and the rising gap between rich and poor. The tension between the highly centralized and authoritarian political system and the increasingly decentralized economic system can only increase. Another long-term threat to continued economic growth is the deterioration in the environment. In addition recent economic changes and the relaxation of regulations have lessened the impact of the one child policy which authorities believe is crucial to maintaining growth in living standards.

- Currently the 6th largest economy in the world with GDP per capita (purchasing power parity) estimated to be US $5,000. US$1.2 trillion GDP in 2002. GDP by sector: agriculture 14.5%, industry 51.7%, and services 33.8%. By 2012 the PRC may have the world’s highest GDP.
- In 1999 China’s global trade totalled $353 billion with a trade surplus of $36 billion (IMF figures). Primary trading partners include Japan, Taiwan, the U.S., South Korea, Hong Kong, Germany, Singapore, Russia, and the Netherlands. According to U.S. statistics, the PRC had a trade surplus with the U.S. of $68.7 billion in 1999.
- Labour force is estimated to be some 753.6 million (2002) - by occupation, it is estimated as: agriculture 50%, industry 22%, services 28% (2000)

Agriculture

The main agricultural products are rice, wheat, potatoes, sorghum, peanuts, tea, millet, barley, cotton, oilseed, pork, and fish. Approximately half of the workforce are farmers despite the fact that under 10% of the land is suitable for cultivation. Virtually all arable land is used for food crops. Major non-food crops, including oil seed and cotton, account for a large proportion of foreign trade revenue.

Industry

The main industries are iron and steel, coal, machine building, armaments, textiles and apparel, petroleum, cement, chemical fertilizers, footwear, toys, food processing, automobiles, consumer electronics, telecommunications. Major state owned industries are iron, steel, coal, machine building, light industrial products, armaments and textiles. The estimated industrial production growth rate was put at 12.6 percent in 2002. Machinery and electronic are the main exports, but the car and petrochemical industries are expected to grow most rapidly in the short term.

Energy and Mineral Resources

According to some projections, it is estimated that China’s total energy consumption may double by 2020. The central government wants to shift from a heavy reliance on coal, which accounts for 75% of China’s energy, toward greater reliance on oil, natural gas, renewable energy, and nuclear power. Some 30,000 coal mines over the past 5 years have been closed to cut overproduction, reducing coal production by over 25%. Since 1993, China has been a net importer of oil and currently imported oil accounts for 20% of the processed oil. However recent oil price increases have led to statements stressing the need for continued reliance on coal -oil consumption reportedly went from less than 5 million barrels per day in 2002 to 6.2 million barrels per day in 2004.
Environment

Rapid economic changes and industrialisation have seen a marked increase in pollution. According to a 1998 WHO report on global air quality worldwide, seven out of the ten most-polluted cities were in the PRC. Respiratory and heart diseases related to air pollution are the leading cause of death. Most of, if not all of the country’s rivers are considered polluted to some degree and half of the population lacks access to clean water. Water scarcity is also a growing issue, especially in the north. Various studies estimate pollution costs the Chinese economy about 7% of GDP each year. The government is increasingly paying attention to the environment and in 1998, the State Environmental Protection Administration (SEPA), once renowned for being toothless, was officially upgraded to a ministry. Environmental legislation has been strengthened but remains widely disregarded by polluting companies.

Employment

In 2005, the number of rural and urban jobless is expected to top 220 million, including 62 million newly-added jobless and 150 million surplus rural labourers. The official statistics on unemployment are misleading and full figures on the number of people laid off from SOEs remain a state secret. The official unemployment rate has been reported at some 4.5 percent, but this is inaccurate because this figure only measures registered urban unemployment and does not include those laid off from state-owned enterprises (SOE’s) that still receive nominal benefits. The figures also do not include underemployment numbers of the 150 million rural workers who only hold temporary or seasonal jobs in cities. A more realistic figure is around 10 percent rising to 20 percent in some older industrial areas such as the northeastern provinces (Liaoning for example). It has been estimated that the number of new job seekers entering the labour market annually is between 15 to 25 million (figures vary). However the number of jobs created each year falls well short of this figure (estimated to be some 8 million).

While there has – in the past 12 – 24 months – been increasing reports of a labour shortage in certain areas, most notably the south and coastal areas, this is not the case for laid off SOE workers who are often unlikely to find re-employment. This is especially true of female workers who can find themselves effectively ‘retired’ at the age of 35. The rising unemployment rate, especially among older workers is perhaps the biggest social problem that the government has to handle.

Government

State power within the PRC is divided into the Party, the State, and the Army – however the line demarking the three remains unclear and is sometimes non existent.

The Communist Party of China (CPC)

There are more than 63 million members in the CPC and it remains an extremely useful if not essential part of social or economic advancement to be a member. The CPC continues to dominate government and all aspects of society despite a loosening
of control in the past two decades. Under the command economy system, every state
owned enterprise was required to have a party committee. The introduction of the
market economy means that economic institutions now exist in which the party has
limited or no power. In part this explains the drive towards the formation of ACFTU
branches in private companies.

The party's highest body is in theory at least the Party Congress, which is supposed to
meet at least once every 5 years. In reality the most important bodies are the 22-
member Politburo and its Standing Committee of nine members.

Party committees maintain an important role in all governmental institutions in the
PRC including the judiciary and the entire state apparatus. Party control is strongest in
government offices and in urban areas. It is considerably weaker in the rural areas and
in the emerging regional powerhouses in the south and eastern coast. The CPC
oversees the recruitment and promotion of state personnel, including factory
management. In many areas the CPC forms a parallel structure to the economic,
governmental or social organisation with party committees mirroring the work of the
relevant bodies and ensuring they keep in line with party policy.

State Structure

The core organs of state power are the National People's Congress (NPC), the
President, and the State Council. During the 1980s there was an attempt made to
separating party and state functions with the party to decide general policy and the
state implementing it, however this initiative was abandoned by the 1990s - the
political leadership of the state are also the leaders of the party, thereby creating a
single centralized power centre. At lower levels the party and state offices are
separated but the state remains under the guidance of the CPC.

The NPC is the highest state body and meets every March to review and approve
major new policy directions, laws and budgets. Although generally seen as a rubber
stamp the NPC has become more vocal in the past decade and has been able to force
changes to several proposed laws as well as show disapproval for failing policies or
personnel.

The People's Liberation Army

The People's Liberation Army (PLA) is controlled by the Central Military
Commission, a body which consists mostly of military officers but is chaired by a
civilian. Jiang Zemin, the ex-Premier resigned from this post in autumn 2004 and Hu
Jintao has since filled his post. The influence of the CPC upon the army is bolstered
by the policy that army units have a political officer who is answerable to the party.

Principal Government and Party Officials

President: Hu Jintao (also General Secretary of the Politburo Standing Committee).
Vice President: Zeng Qinghong. Premier of the State Council: Wen Jiabao (also on
the Politburo Standing Committee)
Democracy

The main institution for “democracy” is the Chinese Peoples Consultative Committee which includes members from Hong Kong and Macau as well as CPC members and others from “democratic parties”. The CPCC is essentially a rubber stamp and the term “political party” is in this case far removed from its usual usage. There are eight registered parties which are all formally led by the CPC. Their major role is to organize societal groupings such as academics.

Unofficial and independent political parties which have emerged over the years such as the China Democracy Party are clamped down upon and suppressed often with great force. The arrests of supporters and leaders of the main members of the CDP in the 1990s saw the successful demise of the party as an active dissident movement.

The government has been focusing on the introduction of village elections as its main claim to progress towards democracy. However, despite some positive changes, most village elections remain dogged by local corruption, cronyism and are generally led by CPC local officials.

Legal System

The Cultural Revolution saw the end of much of the formal legal system. In 1979, it was decided that the “rule of law” was a crucial part of economic reform - new criminal codes were promulgated in 1979 and since then the government has adopted over 300 national laws and regulations with many hundreds more being enacted at a provincial or local level. While the majority of efforts have concentrated on the economic sphere, there have also been advances in criminal law and procedure, administrative and civil law.

While government's efforts to promote rule of law are significant, concerns remain over the arbitrary use of the law in many spheres and the lack of clarity in legal definitions which continue to allow for a wide discretion by judicial and state bodies interpreting the law. Many critics argue that China is a long way from the rule of law and instead is concentrating too much on rule by law – which is of course instigated, promulgated and influenced by the CPC through its various channels. Additionally there are serious issues over the implementation of the law with under funding, corruption, lack of regional implementation, lack of training and local resistance to reforms being some of the main causes of the huge gap between law and reality. For example, while the legal aid regulations stress legal aid for all, in practice a very small proportion of defendants in criminal cases have any legal representation at all. Another example is the chasm which separates many of the detailed and high quality labour regulations from the reality in the workplace.

Legal System in labour relations

The use of the law as a tool in labour disputes has also grown along with a growing legal awareness among ordinary Chinese. The number of lawsuits over compensation, consumer issues, civil disputes and contractual disputes has seen a huge increase in recent years.
Constitution

The PRC Constitution was first created in 1954. The current Constitution, promulgated in 1982, is the 4th promulgation. Amendments were made in 1988, 1993, 1999, and most recently in 2004, the latter recognised private property, made references to human rights, and further promoted the private sector of the economy. The right to strike was removed from the Constitution in 1982 on the grounds that the political system had "eradicated problems between the proletariat and enterprise owners."

Human rights

Although the human rights situation in China has improved a great deal since 1979 when a formal end to a period of massive human rights abuses and arbitrary detentions was observed, there remains a long way to go before China fulfils its international and even domestic obligations. According to specialised NGOs, several thousand political prisoners remain in detention. The government denies it has any "political prisoners" and claims that they are all common criminals - many are in for crimes under the now defunct charge of "counter revolution" which was changed to that of "subverting the state" in a recent criminal law revision. In addition, despite conflict with the ICCPR which China signed in 1998 the government still employs a system of administrative detention which runs in parallel to the criminal justice system but allows for the detention of suspects for up to three years without recourse to a trial or any other safeguards of the criminal justice system. There have been numerous reports of internal moves towards a reform of this system, none of which have come to fruition and thousands of minor criminals as well as dissidents and labour activists continue to be detained each year.

Torture remains widespread especially in police detention and during interrogation (despite some reforms, the use of confessions extracted through torture remains admissible in trials). China retains the death penalty and executes more people than the rest of the world put together – some estimate as many as 10,000 per year. Statistics on the death penalty remain a state secret – the divulging of which is also punishable in serious cases by death.

International obligations

The Chinese government has ratified the Equal Remuneration Convention (No. 100), Minimum Age Convention (No. 138), and the Worst forms of Child Labour Convention (No. 182). In 2005, the government reportedly ratified ILO Convention 111 concerning Discrimination in Respect of Employment and Occupation, although the ILO had not received formal notification thereof as this (draft) document was going to print. Also in 2005, China passed domestic legislation on sexual harassment.

China has not, however, ratified either of the two fundamental ILO conventions on freedom of association; the Right to Organize Convention (No. 98) and the Freedom of Association and Protection of the Right to Organize Convention (No. 87). Despite this, its membership in the ILO requires it to respect, promote, and realize the right to freedom of association and the right to collective bargaining, which are included.
among the fundamental rights enumerated in the ILO's 1998 Declaration on
Fundamental Principles and Rights at Work.

The Chinese government signed the International covenant on Economic, social and
Cultural rights on 27 October 1997 and ratified it on 27 March 2001. However in
doing so it entered a reservation on articles 8 (1)(a), 8 (1)(b), as well as a general
declaration. The International Covenant on Civil and Political Rights was signed on 5
October 1998. It has not yet been ratified.

China acceded to the Convention on the Elimination of All forms of Racial
Discrimination (CERD) on 29 December 1981, with a general declaration and a
reservation on article 22. China signed the Convention against Discrimination against
Women on 17 July 1980 and ratified it on 4 November 1980. China has entered
reservations on articles 1, 11(2), 15(3), 15(4), and 29(1) in respect to the provisions of
the Convention as applied to Hong Kong. China signed the Convention Against
Torture on 12 December 1986 and ratified it on 4 October 1988 with declarations on
articles 20 and 30(1). China signed the Convention on the Rights of the Child on 29
August 1990 and ratified it on 2 March 1992 with a declaration on Article 6. It has
also signed and ratified the Optional Protocol (Sale of children) and the Optional
Protocol (Armed Conflict).
Annex 4: Feedback Form

To allow for simple and easy feedback from affiliates who do visit China or indeed are visited by ACFTU officials we are enclosing this pull out feedback form which can also be copied. Ideally your union should write a full report to be passed onto the ICFTU Secretariat and/or to the IHLO. However if that is not possible then please as a minimum complete this form and send it to us, preferably within 30 days of your organisation’s contacts. This will help us analyze developments as well as pass on useful information on sectors, officials or prisoners to delegations currently planning visits.

| Name of Union: ____________________________ |
| Reason/background to the visit: ____________________________ |
| Names of participating Officials: ____________________________ |
| Date of delegation: ________________ ACFTU officials names and rank: ____________________________ |
| Places/Cities Visited: ____________________________ |
| Meetings held: ____________________________ |
| Issues raised: ____________________________ |
| Sectors highlighted: ____________________________ |
| Factory visits (please state names, information gained and what (if any) limits were placed on the visit) ____________________________ |
| What were your general impressions of the visit: ____________________________ |
| Has the visit changed your perception of the ACFTU and/or labour rights in China? If so please explain: ____________________________ |
| Did you sign any agreements or issue a statement? [If so please provide a copy] ____________________________ |
| Did your delegation raise any prisoners’ cases? If so please provide their names and the response of the ACFTU: ____________________________ |
| Did your delegation seek information or advice from IHLO before your visit? If so was it useful and how can it be improved: ____________________________ |
| Will you be issuing a report? ____________________________ |
Personal Notes
### Annex 5: ILO Conventions ratified by the PRC

#### 24 Conventions ratified (21 in force)

[Data supplied from http://webfusion.ilo.org/public/db/standards/normes/appl/Art22byCtry.cfm?hdroff=1&CTYCHOICE=2650&Lang=EN]

<table>
<thead>
<tr>
<th>#</th>
<th>Convention</th>
<th>Ratification Date</th>
<th>Reservation</th>
<th>Report Submission</th>
<th>ILO response (Committee of Experts on the Application of Conventions and Recommendations)</th>
<th>Due date for next report</th>
</tr>
</thead>
<tbody>
<tr>
<td>C.11</td>
<td>Right of Association (Agriculture) Convention, 1921</td>
<td>27.04.1934</td>
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<td>C.14</td>
<td>Weekly Rest (Industry) Convention, 1921</td>
<td>17.05.1934</td>
<td>Exception list on working hours under preparation.</td>
<td>Article 6: Committee notes the Government’s indication that the list of the exceptions made under Articles 3 and 4 of the Convention is still in preparation because the enterprises in China which apply flexible and consolidated working hours continue to be subject to approval/registration by the relevant bodies and they are not yet all registered with the Ministry of Labour and Social Security. Committee expects a detailed list in next report</td>
<td>Request for response to direct request (subsequent years)</td>
<td></td>
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<tr>
<td>C.16</td>
<td>Medical Examination of Young Persons (Sea) Convention, 1921</td>
<td>2.12.1936</td>
<td>National legislation prohibits persons under the age of 18 employed as seafarers</td>
<td>Requested report on practical application statistics concerning inspections, violations and sanctions</td>
<td>Report received (2005)</td>
<td></td>
</tr>
<tr>
<td>C.19</td>
<td>Equality of Treatment (Accident Compensation) Convention, 1925</td>
<td>27.04.1934</td>
<td>Provisional Regulations on insurance against industrial injuries intended to reform and improve the former system of accident compensation.</td>
<td>Requested (again) text of Provisional Regulations. Also requested statistics on numbers, nationality, accident numbers, amount and nature of compensation to foreign nationals working in China.</td>
<td>Request for response to direct (subsequent years)</td>
<td></td>
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<tr>
<td>C.22</td>
<td>Seamen's Articles of Agreement Convention,</td>
<td>2.12.1936</td>
<td>Over 99 seafarers had signed labour contracts by 1997 in</td>
<td>Requested detailed information on contractual provisions covering all workers including</td>
<td>Direct replies requested</td>
<td></td>
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<tr>
<td>Year</td>
<td>Convention Title</td>
<td>Date of Report</td>
<td>Details</td>
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<td>1926</td>
<td>accordance with the Labour Act of 5 July 1994. In transition to bring domestic articles of agreement into conformity with internationally accepted standards. Shanghai Ocean Shipping Company (June 1996) provided as an example of a standard articles of remuneration (contract).</td>
<td></td>
<td>Request for information on progress of the national application of the Convention. Report received (2005)</td>
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<tr>
<td>C.23</td>
<td>Repatriation of Seamen Convention, 1926</td>
<td>2.12.1936</td>
<td>Requested clarification of seafarers and repatriation conditions as well as indication of who (employer, PRC consulates etc) bears cost. Renewed request in 2001 for clarification on domestic implementation of the Convention in absence of specific legislation. 2004 Report received</td>
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<tr>
<td>C.26</td>
<td>Minimum Wage-Fixing Machinery Convention, 1928</td>
<td>5.05.1930</td>
<td>Requested information on employers and workers practical participation in minimum wage fixing machinery. Committee notes the establishment in 2001 of a national system of tripartite meetings to harmonize labour relations (covering minimum wage issue) – request a copy of the text establishing the legal basis of the system. Requested information on how information on minimum wage was made available to workers. Requested full information, statistics in future reports to reflect Convention as applied in national law and practice as well as information on progress in areas such as Tibet. Request for response to direct request (subsequent years)</td>
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<td>C.27</td>
<td>Marking of Weight (Packages Transported by Vessels) Convention, 1929</td>
<td>24.06.1931</td>
<td>Request to indicate measures to enforce gross weight markings on transport by sea or inland waterway. Requests report on how the Convention, especially in relation to containers, is applied in national law and practice. Request for response to direct request (subsequent years)</td>
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<tr>
<td>Code</td>
<td>Convention Title</td>
<td>Date</td>
<td>Remarks</td>
<td>Follow-up</td>
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<tr>
<td>C.32</td>
<td>Protection against Accidents (Dockers) Convention (Revised), 1932</td>
<td>30.11.1935</td>
<td>Considering the formulation of unified national procedures for ports based on the Occupational Safety and Health (Dock Work) Convention, 1979 (No. 152). Repeated request for information on specific provisions of the convention in national practice, more information on inspection system, maintenance procedures and clarification on the application of labour law provisions on occupational diseases (recording, reporting and dealing with) apply to dock work.</td>
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<td>C.45</td>
<td>Underground Work (Women) Convention, 1935</td>
<td>2.12.1936</td>
<td>Further to its previous comments, Committee notes with satisfaction the adoption of the Regulation of 21 July 1988 relating to the working conditions of female employees and workers, section 5 of which prohibits their being assigned to underground work in mines.</td>
<td>Report received (2005)</td>
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<tr>
<td>C.80</td>
<td>Final Articles Revision Convention, 1946</td>
<td>4.08.1947</td>
<td>Request statistical information on the income and employment of women (both state and private), Information on how issue of under-representation of women in supervisory positions will be addressed. Information on how Government ensures that remuneration distribution systems are in accordance with the principle of equal remuneration for work of equal value &amp; bonuses/benefits are provided to men and women on an equal footing. Information on methodology used to ensure that indicative wages issues are established in accordance with the principle of the Convention. Information on enforcement of Convention, number/nature of violations reported and remedies. Information on wages investigations undertaken by ACFTU in five provinces.</td>
<td>Request for response to direct request (subsequent years)</td>
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<tr>
<td>C.100</td>
<td>Equal Remuneration Convention, 1951</td>
<td>2.11.1990</td>
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<tr>
<td>C. 122</td>
<td>Employment Policy Convention, 1964</td>
<td>17.12.1997</td>
<td>Request for information on active employment policies, encouragement of entrepreneurship in enterprises, statistics of lay off numbers, discrimination, information on re-employment and training, information on consultation over rural and SOE displaced persons as well as information on how data is used to formulate policy.</td>
<td>Report received (2005)</td>
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<tr>
<td>C. 138</td>
<td>Minimum Age Convention, 1973</td>
<td>28.04.1999</td>
<td>Note that compulsory schooling ends at 15 but work starts at 16 - need for full time training or education until age of work. Requests for detailed information on how education, work and training of minors complies with the Convention. Information on regulations relating types of jobs, duration of time and intensity of labour as well as protective measures and banning harmful labour for young workers aged 16 and 17. Information on vocational programs as well as relevant texts and information on provisions allowing young persons aged 13 to 15+ who have not yet completed compulsory schooling to undertake non-harmful work. Information on guarantees for the physical and mental well being of employed minors under the age of 16 (arts). Legislation and information on registering relevant employee data by employers. Information on practical application of Convention, including statistical data, inspection services, and number/nature of contraventions reported.</td>
<td>2004 Report received</td>
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<tr>
<td>C. 144</td>
<td>Tripartite Consultation (International Labour Standards) Convention, 1976</td>
<td>2.11.1990</td>
<td>Request report on procedures ensuring effective consultations between representatives of the Government, employers and workers; frequency &amp; results of consultations. Committee notes the Government's wish to consult</td>
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<td>C. 150</td>
<td>Labour Administration Convention, 1978</td>
<td>7.03.2002</td>
<td>employers' and workers' organizations over production of an annual report on the working of these procedures and hopes that such a consultation will shortly be held. If so - please give results.</td>
<td>2004 Report received</td>
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<tr>
<td>C. 167</td>
<td>Safety and Health in Construction Convention, 1988</td>
<td>7.03.2002</td>
<td>Notes receipt of relevant legislation. Requests information on national legislation, including registration, training, labeling &amp; marking, responsibilities of suppliers/employers/ exporting countries, rights of workers and their representatives and accident procedures. Information on developments on risks to the environment and chronic risk. Information on progress of safety manuals. Request Rules of Transporting Chemicals on Railways and Administrative Methods for Monitoring the Health of Workers in Chemical Industry</td>
<td>2004 Report received</td>
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<td>C. 170</td>
<td>Chemicals Convention, 1990</td>
<td>11.01.1995</td>
<td>2004 Report received</td>
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<td>C. 182</td>
<td>Worst Forms of Child Labour Convention, 1999</td>
<td>8.08.2002</td>
<td>2004 Report received</td>
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ANNEX 6: ICFTU CHINA POLICY

ICFTU EXECUTIVE BOARD, Brussels, 27 - 29 November 2002
ICFTU CHINA POLICY

1. China has become a major actor on the world stage. It cannot be ignored or overlooked. What happens in China, including in terms of the relations of its rulers with their own citizens and workers, has an important impact on its neighbours and on the rest of the world.

2. The sweeping economic changes in China are having radical effects on workers with many millions losing jobs and many others facing an uncertain future. The ICFTU should follow these changes, with special attention to the effects of WTO membership on employment and working conditions in China, but also the effects beyond its borders, particularly in other developing countries.

3. Much of the worker unrest in China is related to economic restructuring. It is important to follow such struggles and give and express public support for independent action by workers to defend their interests. The Global Unions’ Hong Kong Liaison Office (IHLO) and the China Labour Bulletin are important means to keep track of these developments. In addition, they may be able to offer guidance as to how to provide concrete support for independent worker activity without jeopardising the safety of the workers concerned.

4. China violates human, religious and workers’ rights on a massive scale, including the central enabling rights of freedom of association and collective bargaining. This requires the ICFTU to step up its campaign to win respect for workers’ rights in China. This means continuation of efforts to use the supervisory machinery of the ILO as well as interventions with other international and regional bodies, including those belonging to the UN system. Special attention must continue to be given to the release of detained trade union and labour rights activists. This should include involving unions and their members in campaign activities focused on individual detainees. Activities in this and other areas should be planned based on concrete goals and targets to accomplish change. The ICFTU should promote a public initiative in the months leading up to the next WTO Ministerial Conference on social dumping and the use of forced labour in China.

5. There are differing approaches among ICFTU affiliates and Global Union Federations concerning contacts with the ACFTU. They range from “no contacts” to “constructive dialogue”. The ICFTU, noting that the ACFTU is not an independent trade union organisation and, therefore, cannot be regarded as an authentic voice of Chinese workers, reaffirms its request to all affiliates and Global Union Federations having contacts with the Chinese authorities, including the ACFTU, to engage in critical dialogue. This includes raising violations of fundamental workers’ and trade union rights in any such meetings, especially concerning cases of detention of trade union and labour rights activists.

6. Of particular interest would be the responses of the ACFTU to these interventions and their reactions, if any, to the violation of the rights of workers to form unions and engage in free collective bargaining. This would include their attitude towards labour disputes and other independent, collective actions by Chinese workers. ICFTU
affiliates and Global Union Federations are urged to systematically provide information to the General Secretary of the ICFTU on the results of interventions and discussions on such issues, most importantly, concerning the status of individuals charged or detained because of independent trade union and labour rights activity and on the follow-up on information provided by the ACFTU on relevant issues. This information would help to assess the impact of such interventions. In the work of the ICFTU related to detentions, priority should also be given to the Chinese system of prison labour and camps that is being used to hold trade union and labour rights activists, political prisoners and others.

7. Information has been provided to the ICFTU by many affiliates and Global Union Federations on their activities with respect to China, including in connection with sending and receiving delegations. Such information is very useful and all affiliates and Global Union Federations are urged to provide and share it. The secretariat will seek to monitor such activities to gain a comprehensive overview. Affiliates and Global Union Federations are also encouraged to take advantage of the information and contacts of the Global Unions’ Hong Kong Liaison Office (ILHO), in particular, they are urged to take contact with that office before and after any visits to China.

8. The ICFTU expresses its solidarity with its affiliates in Hong Kong. They are the only free trade unions in China. It is vital that they are able to continue to function without interference from the central Beijing authorities, business interests, and without erosion of current legal provisions protecting civil and political rights.

9. Several Global Union Federations are active inside China. They have agreed to increase their co-operation with the ICFTU and with each other with respect to China. This will include work with specific global companies as well as supplier firms. Relations with companies and other contacts may provide ways to explore the situation at workplaces in China and to have dialogue with Chinese workers. Such activities may include education work on freedom of association and the right to bargain collectively as well as on other issues vital to the future for Chinese workers. One way to have contact with workers is through the implementation of corporate codes of conduct. In connection with work place conditions in foreign based companies operating in China, the use of the OECD Guidelines for Multinational Enterprises should be explored.

10. It is clear that the ACFTU is not a free and independent trade union organisation. Nevertheless, there are circumstances that require ICFTU contact with the ACFTU. Most importantly, dialogue is necessary, in the context of the Workers’ Group of the ILO. There are also contacts and dialogue in relation to regional and inter-regional forums, for example, APEC and ASEM. In the context of those relationships, the ICFTU expects a minimum of co-operation from the ACFTU.

11. The ICFTU expects the ACFTU to fulfil the minimum obligations of membership in the Workers’ Group of the ILO Governing Body. This means showing solidarity and unity with the rest of the Workers’ Group, especially on issues involving fundamental workers’ rights, in particular, trade union rights. For the ICFTU and its members, this will be a determining factor for future relationships with the ACFTU. It would also include support for fundamental workers’ rights and solidarity in the context of the International Labour Conference in plenary sessions and Conference committees.
12. As mentioned in paragraph 10, the Government of China plays an important role in several regional and inter-regional forums. In that context, the ICFTU expects the ACFTU to co-operate to facilitate dialogue between the ICFTU and the Government of China. The ICFTU will also promote the participation of its Hong Kong affiliates in such forums where possible.

13. The ICFTU, in the framework of its overall strategy on China, will work to increase the quality and quantity of its research on developments in China and relations with it. This should include the creation of a database that would cover initiatives carried out by national affiliates and Global Union Federations. Among the areas of particular interest are the activities of multinational enterprises and developments in Special Economic Zones in China.

(ICFTU China Policy, ICFTU Executive Board, Brussels, 27-29 November 2002)