

ETI briefing

Promoting worker-management dialogue: Lessons from ETI's Decent Work project

1. Introduction

China has been a major production centre for UK brands and retailers for many years. However, labour rights abuses there – such as restrictions on freedom of association – continue to be a serious challenge. For example, workers in China often have few opportunities to seek improvements to their working conditions or to get their grievances resolved with the support of representatives they trust. Enabling grievances, such as forced overtime, to be raised with management and addressed without fear of reprisal, not only leads to better working conditions. It can also help resolve employment conflicts, improve job satisfaction, contribute to a more stable workforce, and help ensure that legal requirements are enforced. ETI's Decent Work project (2007–11) set out to identify possible ways to create sustainable systems of worker–management dialogue in China by carrying out a small number of pilot cases. This Briefing outlines the background to and approach taken in the project, and draws out lessons on how to promote worker–management dialogue in this context. It aims to provide companies sourcing from China with a realistic view of the challenges that they may encounter when seeking to improve labour rights in supplier companies in China and other countries where freedom of association is restricted.

2. The China context

China has the largest labour force in the world and is a key sourcing location for many ETI members. While freedom of association is expressly recognised in the Chinese Constitution, in practice the right to freedom of association is restricted. This happens in a number of ways. For example:

- There is effectively a trade union monopoly in China. Under law, the All China Federation of Trade Unions
 (ACFTU) is 'the unified national organisation' which means that all unions established must seek approval from
 and register under ACFTU. ACFTU also exercises a monopoly over worker representation, and workers are not
 free to join or form independent unions of their own choosing.
- Legally, ACFTU is bound to accept the leadership of the Chinese Communist Party and is subordinate to party
 policy. This raises a question of whether ACTFU can really put the interests of its own membership before those
 of business and employers (something it has been criticised for in recent years).
- China's labour laws do not yet meet the freedom of association standards set out in international law or the ETI Base Code. China has not ratified key International Labour Organisation (ILO) conventions on freedom of association.²

See Annex A for more details on Freedom of Association in China.

¹ Article 10 Trade Union Law of the People's Republic of China 2001

² Freedom of Association and Protection of the Right to Organise Convention (No 87), 1948 and Right to Organise and Collective Bargaining Convention (No 98), 1949.

3. ETI's Decent Work Project

Project aims

The aim of ETI's China Decent Work project was to test out whether it is possible to create a sustainable system of improved worker–management dialogue which allows workers and managers to negotiate on priority issues relating to conditions and rights in the workplace. The specific aims of the project were to:

- Increase workers' and managers' understanding of their rights under Chinese labour law and the ETI Base Code.
- Develop mechanisms by which workers and management could resolve workplace issues and move towards the establishment of mature systems of industrial relations.
- Identify factory-level improvements which could be made by workers and management.

The project provided an opportunity for partners to explore and pilot ways of creating improved worker—management dialogue. However, a number of guiding principles shaped this work, based on ETI's multi-stakeholder approach:

- Decision making should be devolved as close as possible to the workplace, with facilitation teams comprising representatives of the suppliers, ETI member companies and civil society groups.
- Workers should determine jointly with management what dialogue mechanisms look like, while the choice of individuals to stand as elected representatives should be made by workers alone.
- ETI and other stakeholders with relevant expertise should support the project with a view to ensuring its sustainability beyond ETI's involvement.

Project participants

Three ETI retailer members took part in the project – Debenhams, Monsoon Accessorize and Next. Each retailer engaged with a supplier factory in China. Other project participants included trade unions, companies and civil society organisations (CSOs) in China and the UK, as well as ETI staff in the UK and China/Hong Kong.

Project approach

The project operated at a factory level, with activities taking place on suppliers' sites in China. UK retailers worked with ETI to identify and engage supplier factories, as well as to provide ongoing support and guidance to their supplier throughout the project. Once a factory committed to taking part in the project, ETI worked with partners to carry out different types of activities depending on local needs and priorities. The main steps taken in the project are set out below:

- Supplier introduction. ETI members explored which of their suppliers might be interested in experimenting with
 worker committees or other forms of worker-management dialogue systems. ETI met with selected suppliers to
 introduce them to the project, as well as holding meetings to build trust between the supplier and civil society
 groups.
- 2. Carrying out a needs assessment. Needs assessment were carried out to help understand existing conditions at each factory, including current worker—management relations, so that partners could identify what training and support the factory needed. Civil society groups carried out the needs assessments, which included interviews with workers and managers.
- 3. **Establishing a facilitation committee.** A fundamental aspect of the project was to devolve decision making to the local level through establishing local 'facilitation committees' at each site. The facilitation committees were responsible for planning and overseeing activities at individual factories. They included representatives from the factory, from local community or voluntary groups, from the brand and/or agent, and a union representative based in Hong Kong. The committees met throughout the project to design events, training and revise tools in the light of project experiences.

- 4. **Running training sessions for different target audiences**. Civil society groups conducted a range of training sessions at factories, to provide workers and management with an understanding of the project and relevant issues such as labour law, codes of conduct and worker–management dialogue.
- 5. **Election of worker representatives**. The facilitation committees reviewed options for elections, including constituencies (eg grouping workers by production line or work responsibility, how to involve non-production employees, etc) and ways to publicise elections to the wider workforce. The facilitation committees observed elections on site. Once elected, worker representatives played a key role in developing factory-specific communication channels, including worker committees.
- 6. Providing ongoing support. An important feature of the project was to provide post-election support to factories, to ensure that worker representatives and managers understood and were able to carry out their roles and work together to define priorities and resolve issues. In the most advanced pilot the facilitation committee continued to meet to review progress and design training to further support workers representatives and management.

Project achievements

Three suppliers with production sites in Zhejiang and Guangdong were involved in the project, which ran from 2007 to 2011. Of those, one supplier completed the project 'successfully', while only limited progress was made on the other sites before the suppliers withdrew from the project. However the experience gained with the two suppliers who withdrew provided valuable lessons about the project and about the reality of seeking to comply with the ETI Base Code in this particular country context.

Successful completion at one supplier site. At one of the supplier sites, management supported open elections of worker representatives and then met consistently with those worker representatives to discuss and respond to diverse issues. Together, management and worker representatives:

- improved the food service
- resolved issues in the dormitories
- inspired workers' involvement in festivities
- contributed to progress on difficult issues including employee turnover and wages, which led to the introduction of a productivity bonus.

Although the worker representative system grew stronger in the second year election, the third election cycle struggled under the pressure of buyers' shifting away from the area as well as the turnover of key worker representatives. However, overall the project built ongoing trust between management and workers, and the supplier has continued discussions with civil society groups on how to revive the elections beyond the end of the project and ETI's direct involvement.

Withdrawal of two suppliers. However, the project was not successful in achieving its aims, or even getting proper commitment from managers, at the two other project sites.

- One Zhejiang supplier supported the project through an election and one round of discussions with worker
 representatives. However, civil society groups ended the project when the supplier would only continue modest
 discussions of the food service and production incentives through the enterprise union which was 'represented'
 by the HR director and sought to exercise a veto on who could be elected by the workforce to represent them.
 Although the ETI member tried to include interviews with worker representatives as part of its supplier
 monitoring, without more support from the factory management, the elected worker representatives were
 without defined roles or resources.
- The third supplier indicated a preference to include non-production and office employees in the worker representation system. However, despite fruitful discussions during the project design stage, the supplier pulled out due to concerns that worker representatives might undermine the influence of management.

It is disappointing that only one of the three project sites completed the project. This reflects the ambitious and challenging nature of the project – to promote genuine worker representation – particularly in the context of China. Nonetheless, the project provided some positive experiences and points to some lessons for those wishing to address this issue in the future. In particular the Decent Work pilot is a reminder of how difficult it will be for companies sourcing extensively from China to ensure that their suppliers are meeting the standards in the ETI Base Code, and the effort and resources which need to be factored into these relationships. The following sections of this Briefing draw out the challenges and lessons from the Decent Work project. These are discussed under five broad themes – choosing suppliers, worker involvement, worker representative issues, support from management and the need for compromise.

4. Project lessons

Choosing suppliers and keeping them on board

Securing a supplier's trust and willingness to participate in this type of project and to experiment with systems of elected worker representatives is not simple. However, experience with Decent Work highlights the following factors as helping to get and keep supplier commitment to the project:

- Long-term business between the supplier and the company is key to success. However, long-term business by itself is not sufficient. Buyers also need to show support for development of the supplier's business (eg not reducing orders during the project).
- Buyers also need to invest time to oversee the project and ensure that the project is adapted to suppliers' needs.
- It can take a long time to get and keep suppliers on board. However, it is important to **spend time at the start of the project making sure that suppliers understand exactly what the project will involve**, what issues might arise during the project and what will be required of them. Without being clear upfront about project activities, suppliers may reach a point in the project where they are not prepared to go any further. This can be frustrating and a waste of time for everyone. It is important that suppliers also receive a clear, consistent message as to what is expected from them as part of the buyers' commitment to supporting minimum standards for workers in their supply chain.
- Linked to this, a clear lesson from Decent Work is that partners need to insist that suppliers respect minimum commitments (ie that they stick to agreed actions and timescales). If suppliers consistently fail to respect minimum commitments, it is usually best to end the project and explore options with other suppliers or projects, rather than struggle through endless rounds of compromise. This is a key lesson from ETI's perspective; too much time and resource was spent with suppliers who were not committed to the project's objectives, and clearer ground rules should have been set and enforced.
- Experience with Decent Work also shows that suppliers want to know the 'business case' before committing. Clearer articulation of the benefits of worker-management dialogue would help get and keep suppliers on board in future projects, and businesses participating in the project identified a need for better tools to help them present the business benefits of worker representative systems. For example, initial feedback from some suppliers was that their management systems already functioned well and therefore they didn't see how better dialogue with the workers would bring benefits. Here it would have been helpful to show the value of the needs assessment/baseline study in identifying areas for further improvement. Annex 2 sets out further information on the business case for worker-management dialogue.
- The above points will only take you so far, however. A key lesson is the importance of identifying the right
 person to involve in these discussions someone who has the authority and influence to commit to
 participating. This is not always clear at the start of a project.

• The project also generated some lessons about the impact that involving export firms or agents might have. In two of the project sites, ETI members' orders were placed through exporters rather than directly with the supplier. This added complexity to the project, as it meant that more people were involved and projects need the commitment of more people to run smoothly. However, although the involvement of exporters can reduce buyers' oversight and influence on production, it can sometimes strengthen buyers' influence. This is because business with an export firm often exceeds the business sent to a single production site, and is likely to endure longer. If the project is seen as a step in a wider set of activities, rather than a one-off exercise, then involving an export firm can mean that the influence of the project extends beyond the single supplier who is directly involved.

Worker involvement and priorities

Experience with the Decent Work project shows that, when workers feel free to express themselves, they do not limit their concerns and priorities to food and dormitories. Instead, they make suggestions and give opinions on a range of rights issues including hours, income and freedom of employment.

These concerns can extend beyond the issues explicit in codes of conduct. For example, workers expressed strong opinions about the way in which management discusses and decides overtime schedules with workers. They also showed sensitivity to the 'fairness' in income differences between workers and, in some cases, considered this question more important than whether workers receive government-defined overtime premiums or whether new employees receive sufficient income protection in their first months of employment. Observers might have prioritised these issues differently, but Decent Work showed that giving workers more discretion over setting priorities helps build momentum within the enterprise for longer-term continuous improvement.

In terms of ensuring workers' freedom of expression, Decent Work highlighted the importance of:

- workers and worker representatives having some time for training and meetings that are not under management supervision;
- **securing management support for this** eg by providing management with the opportunity to review and edit the content of training and, if necessary, to observe the first session of a training programme; and
- **involving independent union representatives in the facilitation committees** to ensure that, even in the Chinese context, there was a worker viewpoint that added legitimacy. Considerable effort is needed to ensure that workers understand that such initiatives are not simply another top-down approach by managers or buyers.

Worker representatives' elections and skills development

The Decent Work project generated some useful lessons about **how best to encourage and equip workers to be effective worker representatives**.

- Voting mechanism. Experience with Decent Work indicated that many Chinese workers did not like the fact that registering to run for election was such a high-profile/visible process. This meant that, in some cases, despite management's support for elected worker representatives, no one volunteered to stand for election. When this occurred, one solution implemented by civil society groups was to list all workers of a voting block on a ballot. Workers responded well to this voting method and frequently identified experienced workers who, in response to the support of their peers, consented to become worker representatives.
- Training needs. Elections by themselves will not always deliver a group of worker representatives who have the skills and attitude to effectively represent the wider workforce. The project helped identify a number of training needs that would to help representatives develop and refine new skills and function more effectively in their new roles. These include skills and techniques for:

Collecting the views of the wider workforce

Representing those views to management (rather than conveying their own views)

Reporting back to the wider workforce on the process and results of discussions with management. (This helps build workers' trust in their representatives, as workers can then recognise the representative's effectiveness in representing and helping resolve their concerns.)

Compromise and problem-solving. Reporting problems is only one of a worker representative's role; support in compromise and problem-solving helps them prioritise issues and recognise the limits of worker—management dialogue. (This in turn helps prevent the disillusion some workers feel when a reported problem is not necessarily resolved quickly, and builds management support for involving worker representatives in longer-term discussions about the business.)

Even with genuine elections and training support, however, the project shows that **overtime and employee turnover** is a challenge for worker representatives. Workers with the skills and interest to be effective representatives may decline or leave the role if they do not have enough time to carry it out effectively, due to overtime. This has a knock-on effect for worker committees, which can depend on the direction given by a few more-skilled worker representatives and lose momentum when these representatives leave their post. A clear lesson here is that when planning specific initiatives it is essential to look at broader structural employment issues which will affect the ability of workers to exercise their rights in a meaningful way.

Role of and support from managers

Effective dialogue depends on a range of support across an enterprise, from the owner or CEO to the HR director to line supervisors. Management training is an important factor in that it helps to build managers' skills to respond constructively to workers, as well as helping build management's wider involvement in and recognition of the benefits of dialogue with workers.

Experience with Decent Work also highlighted two important elements of management support:

- The role of supervisors. A supervisor's perspective can be closer to that of less-skilled workers than other managers and, as such, supervisors can lend credibility to the concerns of workers and worker representatives. However, the project showed that supervisors can both help or hinder worker representatives in their efforts to connect with the wider workforce. For example, on one project site supervisors helped worker representatives to distribute and collect an opinion survey to workers under their supervision, whereas on another site supervisors under pressure to meet production deadlines refused to release workers from the production line to attend training events, despite the HR director's explicit directions to do so.
- Time and resources for representatives. Managers also need to provide time and resources for worker representatives to fulfil their duties. At the start of the Decent Work project, civil society groups recommended that workers volunteer their time to fulfil duties as a worker representative. This was to ensure that workers serving in the role were not doing so out of self-interest and that their peers would not consider them privileged. However, having seen the effects of excessive overtime on worker representatives civil society perspectives on the issue changed even when managers permitted worker representatives to request time off the production line, they sometimes felt they could not do so as this might require their colleagues to shoulder their responsibilities or possibly to lower their income. If managers could not reduce excessive overtime, civil society groups eventually preferred the management to support worker representatives by paying them modestly for time they spent fulfilling their duties, even if they did so outside of working hours.

Fostering a spirit of compromise

An ability and willingness to compromise is very important in promoting effective dialogue. At the start of the Decent Work project, managers frequently responded to issues workers raised by dismissing them. Worker representatives often took this rejection as an indication of management's indifference to workers. It took time for managers to see the benefits of recognising workers' perspectives, and for workers to see management's concerns and offer constructive suggestions.

To build trust and effective dialogue, all parties need not only to listen, but to respond positively to some of the other side's concerns, even if that response is only modest. Members of the ETI Decent Work project found that observers can play a useful role in guiding this process. Project partners' feedback is that discussions ended more positively when ETI helped ensure that all sides understood and respected differing views. In addition, people with different perspectives were more confident to propose a useful compromise where working in an environment of respect.

5. Summary

As with any supply chain project that tries to break new ground, the Decent Work pilot project was a challenging and at times painful process. But the lessons that came out of the experience will be useful for any company or organisation trying to establish worker—management dialogue structures. They also provide food for thought for any company sourcing from China. Key suggestions to remember for the future are summarised below.

Box 1. Key lessons from Decent Work

- DO remember that getting supplier commitment for better worker representation is not a one-off event.
 You will need to keep them on board throughout the project. Suppliers should not renege on a minimum level of commitment, though they might feel tempted to when things get tough. If suppliers don't respect minimum commitments, consider investing your resources in other projects more likely to deliver results.
- DO ensure local-level decision making. Involve representatives from various stakeholders, including buying companies, factory management and local community groups. This will ensure projects are adapted to worker priorities and local needs, and so more sustainable. Local facilitation committees will also help drive activities and progress, and balance possible power imbalances.
- DO make sure all parties know what they can expect to get out of the project. Let suppliers know the business benefits, but also communicate the benefits to the workers.
- DO work in a spirit of compromise. Constructive compromise is key to building trust. Expect some mutual suspicion at the start, but work toward breaking down barriers and building trust over a period of time. The facilitation committee model helped to bring civil society groups and company managers together and build better understanding of what the different participants were really concerned about.
- DO try starting with elections and training of worker reps before getting into more complex discussions on the Base Code and legal requirements.
- DO make sure you have the right resources on the ground. Having an in-country coordinator will help build relationships, drive activities and provide support to partners particularly in the early stages.
- DO recognise that one size doesn't fit all. Projects need to be adapted to different contexts.
- DON'T underestimate the time it will take to get your suppliers on board. Suppliers in China and other
 countries often agree to things asked by their customers without fully understanding the implications.
- DON'T underestimate the resistance or fear you might encounter in some companies or by some managers to having workers involved in decision making. Think about how to talk through these concerns.
- DON'T underestimate the workers. It's a myth that Chinese workers don't want to talk about substantive issues once they feel free to express their opinion without the threat of losing their jobs.
- DON'T neglect communications between worker representatives and workers. Workers elected by other
 workers need to build trust and show their peers how effective they are at representing their issues to
 management.

Annex 1. Freedom of association in China

"Citizens of the People's
Republic of China enjoy freedom
of speech, of the press, of
assembly, of association, of
procession and of
demonstration"

Article 35 of the Chinese Constitution

China has the largest labour force in the world. While freedom of association is expressly recognised the Chinese Constitution (see left), in practice the right to freedom of association is restricted.

Trade Union Monopoly

The Chinese Trade Union law states that all workers 'have the right to organise and join trade unions according to law'. The same law establishes the All China Federation of Trade Unions (ACFTU) as 'the unified national organisation' and any and all unions established must seek approval from and register under the ACFTU. In theory, Chinese law provides for restricted forms of elections to promote the responsiveness of enterprise-level unions to the workers they represent. However, ACFTU exercises a monopoly over worker representation, and workers are not free to join or form independent unions of their own choosing outside the official structures. Workers who organise without the approval of ACFTU have little or no legal protection and risk serious consequences, including dismissal and imprisonment.

In reality, in many workplaces the official 'union' is only a fictional paper committee or, if representatives do exist, they are almost exclusively HR staff or other managers. In this way, factories are able to tick the correct boxes for both government records and supplier audits.

ACTFU and the Government

The ACFTU statutes define unions as 'liaison organs between the Chinese communist party and the working masses'. Legally, it is bound to accept the leadership of the Chinese Communist Party and is subordinate to party policy. And since the beginning of economic reforms when policy shifted to prioritise economic growth over employment protections, ACFTU has been widely criticised for putting business and employer concerns before the interests of the union's own membership. More recently, growth in labour unrest and strikes, along with calls from within the governing party to rebalance the economy in a more equitable way, have prompted some voices in government and ACFTU to re–examine ACFTU's role and to look for ways to improve its connection with workers and secure improvements in pay and conditions.

Over the past decade or so, there have been 11 major new labour laws or regulations come into force including the Labour Contract Law, Employment Creation Law, and Labour Disputes and Arbitration Law. Subsequent legal changes have been introduced to try and ensure that union leaders at workplace level are in fact workers, rather than managers or relations of factory owners.

³ Article 3 Trade Union Law of the People's Republic of China 2001

⁴ Article 10

Collective bargaining?

Collective bargaining is the process which allows workers to freely negotiate their working conditions with their employers. Historically, the Chinese referred to systems of collective consultation rather than genuine collective bargaining. However, the increase in worker disputes led to a proposal by ACFTU, the Ministry of HR and Social Security and the China Enterprise Confederation for the Rainbow Plan, which aimed to promote collective bargaining and see signed collective contracts in all companies that have established a union by the end of 2012. Although this has not been implemented across China, many regions have been experimenting with new systems. For example, Guangdong has seen a series of legal developments including regulations to allow for direct election of union representatives and moves to create genuine systems for collective bargaining in firms like Ohms electronics in Shenzhen. While it is still too soon to tell whether these moves will translate into support for workers' wider involvement in bargaining across the country, new legislation does seem to allow room for new forms of collective bargaining to start emerging in China.

Right to strike

The 1982 revisions removed the right to strike from the Chinese constitution. Some experts believe Chinese union law implicitly gives permission for strikes by specifying that the union's role when workers stop or slow-down production is to represent workers to 'consult' with management.⁵ However, this is not sufficiently explicit to protect striking workers, and Chinese law likewise gives the union responsibility to support management to quickly resume production.

There is discussion of possible reform on this issue. The draft provisions publicised in Shenzhen in 2010, which outlined a process for workers to collectively 'consult' with enterprise management, included some limits and protections of the right to strike, but were not formally approved. It is worth noting that some experts believe it is to workers' benefit that the law does not explicitly mention strikes, since other countries that explicitly guarantee the right to strike frequently impose burdensome restrictions on that right.

Failure to adopt international standards

China's labour laws do not yet meet the freedom of associations standards set out in international law or the ETI Base Code. China has not ratified key International Labour Organisation (ILO) conventions in freedom of association.⁶

⁵ Article 27 Trade Union Law of the People's Republic of China 2001

⁶ Freedom of Association and Protection of the Right to Organise Convention (No 87), 1948 and Right to Organise and Collective Bargaining Convention (No 98), 1949.

Further resources

- Freedom of Association in Company Supply Chains: a Practical Guide, ETI,
 June 2013: www.ethicaltrade.org/resources/key-eti-resources/freedom-of-association-in-company-supply-chains
- Briefing on Freedom of Association, ETI, March 2012:
 www.ethicaltrade.org/resources/key-eti-resources/freedom-of-association-briefing
- Freedom of Association and Collective Bargaining Guidance Document, ETI,
 December 2009: www.ethicaltrade.org/resources/key-eti-resources/foa-and-cb-guidance
- Report on Internationally Recognised Core Labour Standards in the People's Republic of China, ITUC, 2010: www.ituc-csi.org/IMG/pdf/Chinal-Final-2.pdf
- Freedom of Association and Development, ILO, 2011: <u>www.ilo.org/wcmsp5/groups/public/---ed_norm/---</u> declaration/documents/publication/wcms_160208.pdf

Annex 2. Business benefits of worker-management dialogue

Respect for freedom of association is not just the right thing to do; it brings business benefits. Workers given genuine opportunities to engage in dialogue with their managers lend their insights to help identify risks and solve problems. The process builds workers' commitment to the employer while workers' input improves management systems. In the end, businesses that invest in positive engagement with workers will enjoy a competitive edge as the Chinese economy evolves and employment protections gain strength.

Benefits can occur at a number of levels, including improvements to management systems and workers' skills and involvement, all of which contribute to longer-term progress and business sustainability. The main business benefits are outlined further below.

Responding to the business environment. Growing employment disputes, labour shortages and stronger, better enforced requirements on workers' income and length of employment mean that managers who do not build trust in their workplace run the risk of poor productivity.

Management effectiveness. When workers feel confident that top-level management is listening to them, supervisors and mid-level management feel a natural incentive to improve and respond more positively to difficulties, benefitting both the business and its workers. The improved flow of information between managers and workers will lead to more targeted and effective investment in the business and its workforce.

Collective interests and responsibilities. Workers' involvement in decision making fosters a sense of shared responsibility. It leads to a shared understanding of business problems and sometimes competing worker concerns and helps shift workers' attitude from one of complaining to helping find pragmatic solutions to collective problems.

Recognising minority voices. Workers' involvement in systems to collect the views of their peers is the best method to identify minority voices within the group and avoid issues of equality and discrimination.

Skills development and training. Dialogue between management and worker representatives helps identify and build skills within the workforce.

Sustainability. Consistently involving more workers in workplace decisions is the most effective way to reduce staff turnover and the associated loss of workers' skills and problem-solving ability. It also helps compliance with legislation and customer codes of practice, all of which help business in the long term.

See also: ETI Member Briefing on the benefits of working with trade unions to improve working conditions, 2010: www.ethicaltrade.org/resources/key-eti-resources/benefits-working-with-trade-unions.