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SHOPPING FOR THE HOLIDAYS, SHOPPING AT THE OLYMPICS: WHO PAYS THE PRICE?¹

For holiday shoppers, the “Made in China” label has taken on new meaning this year. Reports of lead-coated toys, poisoned toothpaste, and tainted seafood imported from China remain fresh on the minds of consumers everywhere. Chinese authorities are determined to restore consumer confidence in Chinese-manufactured goods, but in fact may find this easier than expected: despite the uproar over dangerous toys and products, Chinese exports continue to expand.²

In short, the price is right: consumers’ demand for low prices at their local big-box retailer and increasing global competition continue to drive manufacturing to China, in spite of the social costs. This IR2008 update focuses on the labor rights violations and regulatory failures that are at the root of recent recalls of Chinese-manufactured goods—and that are relevant concerns for the massive Olympics merchandise market. This update also identifies actions different actors can take to expand protections for workers and consumers, in China and abroad, in the run up to the Olympics and beyond.

Global Competition and Opportunism

Global pressure to keep prices low encourages companies to cut corners and ignore regulations that protect Chinese workers and international consumers alike. Labor rights advocates have been highlighting the dilemma of this “race to the bottom” since labor violations in toy, sports, and apparel factories in Asia and Latin America were first brought to consumers’ attention in the 1980s. As discount retail chains increase their clout, these concerns are heightened.

China alone accounts for 15.5 percent of total U.S. imports,³ bolstered in recent years by looser trade restrictions. Due to intense competition and the rising clout of discount retail chains, the supply chain in China is under extraordinary pressure to cut costs. Yes-

terday, Wal-Mart’s “Made in America” mantra aimed to help protect domestic jobs; today, the focus is exclusively on low prices—resulting in the ubiquitous “Made in China” label. While consumers may feel relief in their pocketbooks, they pay the price of cost-cutting in the form of lead-laden toys and tainted seafood. The more severe the price pressure, the more likely suppliers will turn to less reliable subcontractors, use unsafe raw materials, or cut corners in worker safety.

Workers in China bear the brunt of the costs when firms cut corners to meet price demands. Workers have few choices in a highly competitive job market, with no real legal protections or independent unions. For example, this fall, an investigation conducted by Students and Scholars Against Corporate Misbehavior uncovered labor violations at a factory supplying Disney with stuffed toys, including withholding workers’ wages, paying substandard overtime rates, and requiring excessive hours, especially during the pre-holiday peak season.⁴ In addition, many workers endure unsafe conditions ranging from exposure to toxic chemicals to working excessive hours, which can result in accidents, amputations, and fatal diseases.⁵

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At times, the behavior of multinational companies has a destructive ripple effect. By steering manufacturing overseas, where labor costs are lower and the regulatory regime less robust, foreign companies also export the associated problems. Chinese activists and officials are increasingly connecting the dots between China’s grow-

ing pollution problems and demands by foreign companies for ever-lower prices. In China, toxic runoff from textile factories is one reason why many people lack access to drinkable water, yet an estimated 20–30 percent of China’s water pollution comes from products manufactured for export.⁶ In Shenzhen, the process of export manufacturing releases about 89 percent of sulfur dioxide emissions.⁷

Other times, foreign corporate behavior blatantly lowers the bar. In 2006, business associations working on behalf of American and European companies lobbied for reducing certain proposed protections for domestic workers.⁸ The American Chamber of Commerce in China, representing over 1,300 corporations—including some Olympic sponsors—submitted a detailed commentary on a draft of the Labor Contract Law to the Law Committee of the Standing Committee of the National People’s Congress. It warned of the bill’s potential “negative effects on China’s investment environment.”⁹ This commentary reflects pressures on corporations to keep prices low, and how they may contribute through their lobbying activities to weakening protections for Chinese workers and on the quality of products produced.

Labor Rights and Regulatory Failure

The lax and incomplete implementation of labor laws and regulations make workers subject to abuses and vulnerable to the pressures of the market economy. While some corporations have implemented codes of conduct in their supply chains, they also acknowledge that costs are lower in China because of China’s lax regulatory environment.¹⁰ Downward price pressure and fierce competition create incentives to overlook codes and regulations that are in place. Instead, corporations externalize those costs, passing them off on Chinese workers who pay the price of inadequate health and safety protections, non-enforcement of wage and hour laws, and crackdowns on efforts to form independent unions. Multinational corporations argue that internalizing these costs would mean substantially (and perhaps intolerably) higher prices for consumers.

The lack of independent trade unions in China contributes heavily to these regulatory failures. There is

only one officially recognized labor union, the All-China Federation of Trade Unions (ACFTU). All unions must register with the ACFTU to exist legally. Authorities regularly deal with attempts to organize outside that structure with harsh repression.¹¹

Normally, labor unions help ensure employers follow labor laws designed to protect workers’ interests but the ACFTU does not play this rights-protecting role. Chinese labor laws include occupational health and safety regulations,¹² wage and hour laws,¹³ and social insurance provisions, which are often not enforced.¹⁴ Increasing price pressures and the prevalence of local corruption encourages employers to unlawfully deny benefits to cut costs and increase profit margins. Some estimate that China’s refusal to permit independent unions reduces the cost of manufactured imports anywhere between 11–44 percent.¹⁵

This lack of enforcement extends not only to labor laws, but also to regulations aimed at product quality control and consumer protection—such as those laws aimed at preventing defects in toys and consumer products. Workers often report corruption, scripted answers for safety inspections, and no penalties for violations.

Information control and lack of transparency also exacerbate these regulatory failures. The Chinese government treats related issues of labor rights and quality supervision as state secrets.¹⁶ State secrets regulations can restrict dissemination of information that would benefit workers and civil society in fighting corruption, asserting labor rights, and advocating for stronger domestic consumer protection.

International concerns over the quality and safety of Chinese exports in 2007 have spurred efforts by the Chinese government to address many of these issues, since exports are key to China’s development.¹⁷ Many corporations argue that efforts like increased inspections, certification requirements, and mandatory testing may raise the cost of doing business in China for foreign businesses that are used to cheap costs and a lax regulatory scheme.

Chinese Consumers and the Olympics Brand at Risk

While recent bad press over the quality and safety of Chinese exports may motivate the Chinese government to undertake reforms and restore international confidence in the “Made in China” brand, the motivation for similar improvements for the benefit of domestic consumers is less clear. Much of the global concern has focused on exported products, but distributors sell similar products in a vast and expanding domestic market lacking in quality control mechanisms. Foreign consumers of Chinese exports may benefit from relatively greater protection when their own governments regulate exported goods. Chinese consumers and workers, on the other hand, pay the full price of China’s regulatory failures.

The 2008 Beijing Olympics presents an opportunity for the international community to raise many of these issues by increasing consumer awareness about the human costs behind officially licensed Olympics merchandise.

Chinese authorities have launched a highly visible campaign to confront problem suppliers, including suspending export licenses, arresting those involved in producing substandard or harmful food,¹⁸ even executing the former head of the nation’s food and drug administration. Efforts to address the safety of products destined for export versus consumption in domestic markets are not systematic, however. The government insists that 99 percent of food exports still meet safety standards.¹⁹ At the same time, the government acknowledges in one survey that only 82 percent of food tested in cities across China met food safety standards, and nearly 30 percent of restaurants surveyed failed inspections.²⁰ An overhaul of regulations and enforcement mechanisms will be required to see concrete lasting change.

The 2008 Beijing Olympics presents an opportunity for the international community to raise many of these issues by increasing consumer awareness about the human costs behind officially licensed Olympics merchandise. Olympics sponsors have invested tens of mil-

lions of dollars for the opportunity to showcase their brands. Yet, problems continue to emerge. PlayFair 2008 uncovered violations of both international and Chinese

RECOMMENDATIONS

For businesses: Share best practices and review internal mechanisms to ensure consistent and rigorous enforcement of laws on quality control, labor rights, and worker safety. Conduct independent, transparent, and reliable monitoring of all supply chains or other operations associated with your business. Demonstrate your commitment to the protection of your customers and employees by staffing executives on-site in advance of the Olympics to monitor compliance with regulatory standards.

For consumers: Low prices of goods in the market today are increasingly linked with major supply-side problems, including mistreatment of workers, and inadequate quality and safety oversight of products. Stay informed about these consumer issues and promote labor rights by encouraging increased corporate diligence. Investigate the manufacturing background of toys or items you purchase. Explore creative alternative gift giving such as making a donation to a worthy cause.

For governments: Urge China to enforce its own regulations on labor standards and uphold its promises as an Olympics host in order to achieve a truly successful Olympics. Offer technical assistance and cooperation on the health and safety issues impacted by the Games, and monitor the Olympics corporate sponsors based in your country to ensure compliance with applicable domestic and cross-border laws.

For the IOC: Olympics merchandise produced under conditions that violate the rights of Chinese workers undermines Olympics principles, and diminishes Olympics branding. The IOC must increase transparency of the economics behind the Olympics by releasing the Host City contract with Beijing.

labor laws in companies supplying products for the Olympics.²¹ PlayFair’s inspections of four factories this year revealed issues of child labor, underpayment of wages, no union representation, and routine cover-ups during factory inspections. These factories not only manufacture officially licensed Beijing 2008 products, but also produce goods for familiar, international consumer brands, such as Disney, Reebok, and Kangol.²²

So long as low prices remain the overriding goal, the inspection cover-ups and violations of international and Chinese labor law are simply business as usual. And in the factories and retail outlets where Barbie and Thomas the Tank are produced and sold, Chinese workers and consumers continue to pay the human price of everyday low prices.

Notes

1. Charlie McAteer and Cynthia Wong are the primary drafters of this update.
2. David Barboza, “China touts crackdown on tainted goods,” *International Herald Tribune*, October 29, 2007, <http://www.iht.com/articles/2007/10/29/business/safety.php>.
3. Wayne Morrison, “Health and Safety Concerns Over U.S. Imports of Chinese Products: An Overview,” Congressional Research Service, August 28, 2007, http://www.opencrs.com/rpts/RS22713_20070828.pdf.
4. “Disney supplier accused of labor abuse,” Associated Press (via Yahoo), October 31, 2007, http://news.yahoo.com/s/ap/20071031/ap_on_re_as/china_disney_labor_1;_ylt=AlBJWks7t7q4fub1QO6QaOlPzWQA.
5. Tofani, op. cit.
6. Jane Spencer, “China Pays Steep Price As Textile Exports Boom,” *Wall Street Journal*, August 22, 2007.
7. Jane Spencer, “China Shifts Pollution Fight,” *Wall Street Journal*, November 1, 2007.
8. “AmCham-China discusses draft labor law initiatives,” AmCham News, <http://www.amcham-china.org.cn/amcham/show/news.php?Id=325&f=1&menuid=01&submid=1>.
9. American Chamber of Commerce, “Comments on the Draft Labor Contract Law of the People’s Republic of China,” April 19, 2006, <http://www.amcham-china.org.cn/amcham/upload/041906.pdf>.
10. Loretta Tofani, “Chinese workers lose their lives producing goods for America,” *Salt Lake Tribune*, October 22, 2007.
11. Human Rights in China & China Labour Bulletin, “Labour and State Secrets,” *China Rights Forum*, No. 3, 2004.
12. National People’s Congress Standing Committee, Law of the People’s Republic of China on the Prevention and Control of Occupational Diseases, promulgated on October 27, 2001 and came into force on May 1, 2002, available at http://www.gov.cn/english/laws/2005-10/10/content_75718.htm.
13. National People’s Congress Standing Committee, Labor Law of the People’s Republic of China, 1994; Ministry of Labor and Social Security Order 21, promulgated on January 20, 2004 and came into force on March 1, 2004, replacing the Regulation on Minimum Wage of Enterprises by the Regulation on Minimum Wage, available at http://www.gov.cn/banshi/2005-08/05/content_20677.htm.
14. Articles 70–76, Labor Law.
15. Tofani, op. cit. (citing research of Professor Mark Barenberg).
16. See, e.g., Ministry of Labor and Social Security & National Administration for the Protection of State Secrets, Regulation on State Secrets and the Specific Scope of Each Level of Secrets in Labor and Security Work, January 27, 2000; State Secrecy Bureau & State Administration of Quality Supervision, Inspection and Quarantine, Regulation on State Secrets and the Specific Scope of Each Level in Quality Supervision, Inspection and Quarantine Work, May 11, 2006, http://zhaoshang.ce.cn/zcfg/jy/y/200701/26/t20070126_10220780.shtml. See also Human Rights in China & China Labour Bulletin, “Labour and State Secrets,” *China Rights Forum*, No. 3, 2004.
17. See, e.g., David Barboza, “774 Arrests in China Over Safety,” *New York Times*, October 29, 2007, http://select.nytimes.com/mem/tnt.html?_r=1&emc=tnt&tntget=2007/10/30/business/worldbusiness/30yuan.html&tntemail=y&oref=slogin.
18. Barboza, “774 Arrests in China Over Safety,” op. cit.
19. Ibid.
20. Barboza, “China touts crackdown on tainted goods,” op. cit.
21. PlayFair 2008, *No Medal for the Olympics on labour rights* (PlayFair 2008, 2007), 12–28.
22. After PlayFair published its report, the Beijing Olympics Committee announced it would cancel contracts with the companies highlighted in the report. PlayFair 2008, “Campaigners call on Beijing Olympics Committee not to Cancel Factory Contracts,” June 11, 2007, http://www.playfair2008.org/index.php?option=com_content&task=view&id=82&Itemid=43.