

WORKING CONDITIONS IN CHINA: JUST AND FAVORABLE?

ROUNDTABLE BEFORE THE CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA ONE HUNDRED NINTH CONGRESS FIRST SESSION

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WORKING CONDITIONS IN CHINA: JUST AND FAVORABLE?

THURSDAY, NOVEMBER 3, 2005

CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA,
Washington, DC.

The roundtable was convened, pursuant to notice, at 2:35 p.m., in room 480, Ford House Office Building, David Dorman (Senate Staff Director) presiding.

Also present: John Foarde, House Staff Director; Chris Mitchell, Legislative Director, office of Representative Michael Honda; Adam Bobrow, Counsel, Commercial Rule of Law; Katherine Palmer Kaup, Special Advisor on Minority Nationalities Affairs; and Patricia Dyson, Senior Counsel for Labor Affairs.

Mr. DORMAN. We are very pleased to have a distinguished panel here with us to talk about working conditions in China. But before we get started, I would like to tell everyone that this is our first roundtable since the Commission's 2005 Annual Report came out. If you have not seen the Annual Report yet, you will find copies of it outside the front door. So please feel free to take a copy. If they are all gone, please stop down at the Commission's staff offices on the second floor of this building and we can give you one there.

I want to apologize to everyone in the audience. This is the first time we have used this room. As you probably noticed, the room does not have microphones. So I am going to ask everybody in the audience to raise their hand if you cannot hear a speaker during the course of the roundtable. I will take that as a notice to tell the person talking to speak up just a little bit.

We will all try to keep our voices at the right level, but it is easy to forget over 90 minutes. So, please feel free to raise your hand if you cannot hear.

Mr. FOARDE. It might also be useful if you would move forward. There are plenty of seats up here in the front, so move yourselves forward. Do not be shy.

Mr. DORMAN. As in previous roundtables, I will introduce each of our panelists individually, and then give each panelist five minutes to make a statement. After all our panelists have spoken, each individual on the dais will have an opportunity to ask a question and hear an answer from one, or all, of the panelists. We will continue asking questions and hearing answers until we have reached 4 o'clock, or until we run out of questions. Since I have been on the Commission staff we have never run out of questions, so I think we will probably use up all that time. So let's get started.

I would like to introduce our first panelist, Judy Gearhart. Judy is the Program Director for Social Accountability International [SAI]. Ms. Gearhart serves as the program director at SAI and as an adjunct professor at Columbia University. She joined SAI in 1998. She has worked on democratization and women's labor issues in Mexico and conducted evaluations for UNICEF in Honduras. Ms. Gearhart is the author of a national child labor study in Honduras for the International Labor Organization [ILO]. She has participated in numerous public forums and published on topics including: NGO networks' influence on policymaking, child labor, and corporate social responsibility [CSR]. Ms. Gearhart holds a master's degree in international affairs from Columbia University.

Ms. Gearhart, thank you very much for joining us today. You have five minutes for an opening statement.

Ms. GEARHART. Oh. Five minutes. I thought it was 10.

Mr. DORMAN. Ten minutes. I stand corrected.

Ms. GEARHART. Thanks.

**STATEMENT OF JUDY GEARHART, PROGRAM DIRECTOR,
SOCIAL ACCOUNTABILITY INTERNATIONAL, NEW YORK, NY**

Ms. GEARHART. I will run through briefly what Social Accountability International does and talk a little bit about how we are working in China.

SAI published the SA8000 Standard for Safe and Decent Workplaces in 1997, after an 18-month consensus-based drafting process by our international advisory board, which includes international business, trade unions, and non-governmental organizations.

The SA8000 standard is based on ILO Conventions, the Universal Declaration of Human Rights [UDHR], and other human rights norms. It also defers to national law in the countries where it is applied, whichever norm is stronger.

SA8000 is primarily a business-to-business standard, in line with International Organization for Standardization [ISO] principles of continuous improvement and management systems-based implementation. SAI accredits independent organizations which audit workplace facilities for compliance with the standard. Once in full compliance, those facilities receive a certification which lasts three years and requires semi-annual surveillance audits. For us, certifications are an important communication mechanism and they do three things: signal a facility's social responsibility to brand customers; provide a level of transparency for consumers—factory names and locations are published on the SAI Web site and the facility is required to publicly report on compliance; and provide a handle for workers and their advocates, and all others, to claim their rights—there is an open complaints process—both internal to a certified facility and external through complaints filed with the accredited certification body and to SAI. Resolutions of complaints are posted to the SAI Web site.

As of June 2005, there are 710 certifications worldwide, covering 436,600 workers, spanning 45 countries and 52 industries. In China, there are 99 certifications concentrated in the apparel, footwear, housewares, and electronics sectors.

In addition to these certifications, there are thousands of gap analysis audits conducted each year against SA8000, using SA8000

as a benchmark, and numerous certification applicant audits that do not result in certification. So, it is a well-known benchmark.

SA8000, it is important to note, is a voluntary standard. There are two main drivers behind these certifications and the benchmark audits. One is international brand pressure, international brands seeking to ensure their suppliers provide decent working conditions in compliance with SA8000 and to protect their reputation and the value of their brands. The other driver is the motivation of managers or owners of factories, farms, and service centers seeking, on their own, to provide decent working conditions in compliance with the standard and to gain a competitive edge in international markets and/or to protect their reputation and the value of their own local brands.

The uptake of SA8000 in China is among the strongest. It is the country with the largest number of workers covered in certified facilities and the third largest number of certifications in any country.

Nevertheless, much smaller countries, such as Italy, have more than twice as many certified facilities—Italy has 233, compared to China’s 99—and a significantly higher proportion of the population is covered. China is unusual among the top countries for SA8000 certification, as the other leaders are Italy, Brazil, and India, countries where there is already a robust corporate social responsibility movement and debate. This is mainly what I want to talk about today.

I think one of my first points here is that SA8000 is working to encourage a robust CSR dialogue within China and among forward-thinking business and opinion leaders. I think that is an important step. So what I can tell you about the CSR debate in China, from what we learned, is that the debate is rapidly growing and SA8000 is frequently referenced. A key word search in November 2005 yielded 118,000 references to SA8000, just to give you an example. The debate in China, from 2004 through early 2005, tended to fall along two lines: those who see corporate social responsibility as a threat and those who see it as the right way to do business. These differing views can be found within business circles as well as among government institutions.

Those who see CSR as a threat to Chinese business competitiveness are those who are focused on a low-cost strategy, in our view. They cite CSR as the imposition of foreign values on China, and it is regarded as a potential trade barrier. They also seem to confuse the requirement of the market with a government requirement. This is something important to clarify.

There is a lot of misinformation about SA8000 in the Chinese press. In the case of SA8000, the press was reporting that the United States would require all imports from China to be certified to SA8000 as of May 2004. That is not the case. That is not anything we have put out, but it is one of the points that speaks to the confusion.

In contrast, CSR in general—or SA8000 specifically—is also seen by others in China as an attractive opportunity to improve Chinese business competitiveness. That view is for those looking to advance Chinese production toward higher value-added goods, and who seek an advanced industrial relation system in China, with “best practice” human resource management, better-quality productivity, and

retention of workers. A couple of local governments currently provide subsidies for local firms that seek to implement SA8000 within China. This is an interesting indicator of some actors in China being receptive to SA8000.

At the moment, in the later months of 2005, the pro-CSR voices seem to be growing stronger, especially with the Chinese central government having issued the Harmonious Society Policy in February 2005. Unfortunately, the China National Certification Agency [CNCA], has also raised several concerns and is currently taking a sharp look at certifications throughout China. They required both facilities seeking certification to any social or environmental standard, and also the certification bodies to which they have applied, to first seek permission from the CNCA before beginning a certification audit. The effect has been to curb the rate of certification and discourage Chinese certification bodies from applying to SAI for accreditation or to audit against SA8000. We are feeling this impact directly. As explained above, for us, certification is an important point of transparency for a business-to-business social compliance program.

Meanwhile, we know of numerous international organizations working in China to improve workplace conditions, thus further spurring the debate, but also adding some confusion.

The Global Compact conference coming up in December promises to be another opportunity to elicit support for corporate social responsibility in China. SAI, like many other organizations, has capacity-building programs there and we are seeking to collaborate broadly.

Finally, my last point. SAI's project right now on the ground is to provide training for managers and workers together. The project aims to help managers see the benefits of running a socially responsible business and to enable workers to understand the competitive challenges facing the business and how they can use voluntary codes and other mechanisms to exercise their rights.

A few factories in China are seeking to achieve certification for the internal benefits, not just because a customer has asked for it, rather than something in response to those demands from U.S. and European brands. Most, however, still seek to comply with SA8000 or other business codes or other multi-stakeholder codes, like the Fair Labor Associations [FLA], or others, because of foreign pressure. This is a problem because monitoring has its limits. Double bookkeeping is a well-known common practice, and workers are often fed the answers that they are meant to give to the auditors. Even the managers who are trying sincerely to meet the standard frequently do not understand the concepts behind these codes of conduct well enough to communicate those effectively to workers. To this end, SAI is seeking to help these managers to "own" the implementation process, not just to prepare for social audits.

SAI is also implementing strategies to encourage worker/manager dialogue and worker participation in workplace improvements within the parameters of Chinese law. Working in partnership with several brands, a few suppliers, and local NGOs, SAI has developed an innovative training program. It is an important training program given China's superpower status in manufacturing, with hundreds of thousands of factories. It is a huge challenge for any

actors, businesses, trade unions, and NGOs alike, to improve working conditions.

Any program requires both depth and reach. Since the early 1990s, all major Western companies have been relying on social auditing or monitoring for acceptable working conditions, which has significantly raised awareness, at least among their primary suppliers, in China. Many have taken corrective actions under those requests from the brands and their customers and auditors. These days, however, many corporate compliance teams have also realized that there are major shortfalls of an audit-only compliance program: one, that such programs are external or imposed; two, there is general agreement that workers are the parties most affected and the ones who know the most about working conditions. Unfortunately, all social auditing programs—even with the best NGO monitors—are challenged as to how deeply they can incorporate worker opinion and participation. These programs can only help create the space for workers, who then need to find their own voice.

So, in response to a call for more factory ownership of compliance programs, SAI, in collaboration with our various partners, initiated at the end of 2003, a worker/manager training program aimed at deepening worker involvement in the factories' implementation program. It is a comprehensive training program in which we train all of the workers in a factory and the managers, and, after a brief training for everyone, there is a dialogue. There is a discussion about how the factory measures up against international labor norms, codes of conduct like SA8000, and Chinese Labor Law. In the factories in which we have conducted this training, the workers and the managers agreed that they needed a mechanism to continue this dialogue, that this was a useful discussion. By November 2004, workers had organized independent nominations and elections and established worker committees in three factories. Workers and managers in the fourth factory are currently working to set something up as well there.

Since March 2005, project participants have conducted a series of evaluations, and what we are finding is interesting. The workers are enjoying much better opportunities to air their concerns. Per one survey in one factory of 20 percent of the workforce, 68 percent stated that the worker committee significantly enhanced communication between managers and workers.

Worker committees have been increasingly proactive. In one, factory representatives are monitoring food quality; in another, the worker committee worked together to successfully convince the management to adjust unit prices for 80 percent of the workers. This is a breakthrough. The ongoing dialogue between the two groups has become at least one of the primary factors contributing to, at various levels, better retention rates, improved wages, and reduced working hours.

Workers and managers at all the factories participating have been far more confident and willing to continue the program on their own, and many have acknowledged that the program has offered much added value potentially minimizing the work needed on factory audits and the consulting that has been frequently enlisted to prepare management for those audits.

A finding probably more critical than all the rest is that the pilot project strongly suggests that workers in China do care about their rights and identity, in addition to recognizing the need for better working conditions.

Thank you.

Mr. DORMAN. Good. Thank you very much for that statement. I am sure it will generate good questions and dialogue.

Next, I would like to introduce Mr. Dan Viederman. Mr. Viederman is Executive Director of Verité. Mr. Viederman became Executive Director after three years as director of research, where he managed Verité's efforts to assess labor conditions for institutional investors, including the California and New York State pension systems and government agencies. He has spent over 10 years working in Asia with NGOs and businesses focused on issues of environmental protection and rural development. He served as CEO of World Wildlife Fund's China program, where he established the first Beijing office for an international environmental organization in China. He has worked as country director for China for Catholic Relief Services focused on relief and small-scale developmental work in China's interior. Mr. Viederman served on the faculty of Chongqing Architecture University. A graduate of Yale University, he has a master's degree from Columbia University's School of International and Public Affairs.

We might be accused of being biased toward Columbia at this particular roundtable. [Laughter.]

Ms. ROSENBAUM. I did not go there. [Laughter.]

Mr. VIEDERMAN. We owe it all to our graduate program.

Mr. DORMAN. Mr. Viederman, you have 10 minutes for your opening statement.

**STATEMENT OF DAN VIEDERMAN, EXECUTIVE DIRECTOR,
VERITÉ, AMHERST, MA**

Mr. VIEDERMAN. Thank you very much. I am trying to think of how I can best work off of what Judy was introducing, because clearly there is a lot of overlap between the work that SAI does and what Verité does. We are not a certifying organization. We are a nonprofit that works globally, and extensively in China, for over a decade. We started as a social monitoring organization, so our expertise and much of our core competency remains in the area of going into factories and finding out about labor conditions on behalf of international brands.

So what I thought I would do is talk in three parts. First, what is the picture that monitoring has presented to Verité of working conditions in China. I will try and pull out a few key, salient points. I am happy to go into as much detail as you want about them later. Second, I will talk about some of the positive impacts, and certainly some of the limitations, that implementing codes of conduct from international corporate involvement in China has accomplished. In other words, what has been good, what has come out of monitoring against codes that is useful, and what are the limitations. Then, third, to talk about, from Verité's perspective, some of the key questions that remain and some of the steps that we are aiming to take to move forward to continue to improve implementation of labor standards in China.

So, first of all, the picture of working conditions in China is not a pretty one. Indeed, we believe it is fair to say that most, if not all, international brands that are sourcing in China are in violation of their own codes of conduct or Chinese labor law at one point or another during their sourcing experiences in China.

I am going to speak about the picture of Chinese workplaces based on approximately 350 factory audits that we have undertaken over the past three years, which we have conducted for various international brands in a variety of sectors and industries, largely garments and footwear, but including others, including hard goods, accessories, and electronics. I have four or five main points. The most complex issues that we find in China are related to compensation and work hours. This is a particularly complex issue for international brands, and also for Chinese factories, because of the vagueness of the Labor Law itself, which leads to constant reinterpretation and a variety of creative forms of book-keeping. In 2004, from a sample of 80 of the factories that we audited, only 9 factories did not have overtime hour violations, and of those 80 factories surveyed roughly half had wage violations related to regular working hours as well. In 2003, the figures were about similar: 75 percent of factories that we audited had overtime wage violations. Over 90 percent had overtime hour violations, meaning workers exceeded limits on hours or days worked.

The second area of significant non-compliance with codes and with international and domestic labor standards is benefits. This is another area where the law is relatively new, and designed, promulgated, and implemented in different forms across different regions and locations. It presents a significant challenge to companies that are trying to be in compliance with Chinese labor law, and obviously to Chinese factories as well.

In roughly the same sample of about 80 factories that we surveyed in 2004, fewer than 5 were in full compliance with benefits laws. Common violations in this area include no provision of paid vacation for workers, which is a particularly vague area of the Labor Law, and failure to enroll workers in the legally mandated social security system. We must note that some workers—particularly those who are migrant workers—choose not to enroll in the system either because they do not understand it, or because they do not trust it, or both.

The third main area of non-compliance that I wanted to mention is health and safety. In China, conditions range widely and many factors contribute to whether or not a factory is in compliance with health and safety requirements, including location, the level of local enforcement of safety laws, the resources and devotion of the factory management to adequate enforcement, the length of time the factory has been in operation, and management quality and capacity, among others. But health and safety violations of varying severity are commonplace in China. Major violations are in the areas of machine safety, fire safety, chemical safety, and the provision and use of personal protection equipment. According to our findings in year 2002, 40 percent of the factories audited had machine safety violations. In most cases, the machines lacked safety devices. Toxic chemicals were mislabeled and mishandled in over 30 percent of the factories, though this may be a low estimate.

Over half of the factories did not provide, or the workers did not use, the appropriate personal protection equipment. These are cut-and-dried numbers about violations at the factory level that lead to quite severe problems, injuries, and even death, for workers.

Other issues that we find include child labor, which is generally not present in export factories, but juvenile labor is quite common. This is particularly a function of inadequate age verification procedures. Juvenile workers generally do not work in accordance with the protections that are legally required of juvenile workers, including medical examinations, registration with the government, and the limitations on work hours. Discrimination is something that we found reported, particularly against pregnant applicants and pregnant employees, in about 40 percent of the factories that we saw in 2004. These, then, are some of the standard code of conduct issues about which we find endemic violations.

Having said that, and having painted this relatively bleak picture, there are positives that have come out of the implementation of codes of conduct by international brands, and one of them is that we have access to this picture. In some ways, without the implementation of codes of conduct and of the regular auditing and monitoring that we do as a result of those codes, we would not be able to know what is going on in Chinese factories. This is something easy to overlook, and yet important to mention, despite the fact, as Judy mentioned, and as we as an organization strongly feel, that most of the factory monitoring that is undertaken is inadequate in its depth and quality.

Indeed, you can rarely find factories these days that do not expect external audits, particularly those that source for export industries, and they willingly provide, in most cases, some sort of proof of social compliance; whether or not that proof is reliable and as thorough as we might like is a different question. Significantly, there is movement toward the positive in export factories in other ways. This is particularly apparent if you take a long enough perspective at the issue and look back 10 years, and maybe look forward 10 years.

I participated in Verité's annual China sourcing conference this summer, where we bring together staff from Chinese factories with outside experts and NGOs in China. There was something akin to a kind of pass/fail mania going on among the Chinese factories. They are very eager for the stamp that will allow them to achieve the expectations of their international partners. Codes of conduct are a part of the common parlance among factory management and ownership of this particular cohort of Chinese society. At our conference this summer, we presented case studies from two additional factories that have, on their own, in many ways in reaction to international codes of conduct and the requirements for other brands, come up with high impact, significant, and innovative social compliance programs that act to the benefit of their workers. There are a couple of case studies on our Web site, and I can send those case studies to anyone who is interested in seeing what those are.

There is increased acceptance of the kind of worker training programs that Verité has undertaken and the kind of factory management training and interaction and collaborative effort that Ruth

will talk about, I assume, and that Judy already talked about. So, these are significant positive signs.

They are, of course, tame in terms of the scale of the actual problems and the number of workplaces in China. Despite that scale imbalance, these positive developments are still important for the potential that they represent.

The weaknesses in code implementation—i.e., labor violations—persist for several reasons. Too often, companies do not look carefully enough or with enough intention for the problems that they no doubt find, or could find, in their supplier factories. Companies are likely to ignore, in many cases, their own role in the creation of these problems. Sourcing practices are arguably an area where there is a high potential for short-term improvement in social compliance outcomes, as well as a great deal of control exerted by the companies themselves. Factories are too often an object of the compliance process rather than a partner. This is a limitation of the overall social compliance model as it exists right now. The project that Judy mentioned and that Ruth will talk about are examples to the contrary, but they do not represent the broad condition at this point. In addition, true compliance is not valued by the market. Strong social compliance performance is infrequently rewarded and, in fact, strong social compliance performance is often contradicted by the corporate purchasing policies of the brand to which vendor factories are attempting to supply.

Compliance is, at this point, not compelled by Chinese regulators due to unclear policies, policy contradictions, as well as a fundamental lack of capacity. Furthermore, a limitation on the impact of international codes of conduct, when we are looking at China as a whole, is quite significant. Our look is really through the keyhole presented by export-oriented sourcing. Our view ignores the vast number of workplaces in China that operate beyond the reach of international codes of conduct. For example: those producing for China's domestic market or for export to other poor Asian countries rather than to the West; raw material suppliers down the supply chain, including tanneries, embroidery workshops, home work areas, and slaughterhouses for the leather that becomes shoes; most agricultural workplaces, and workplaces exporting in industries which have yet to implement strong codes and code implementation mechanisms. Code of conduct implementation is an area of effort that is most well-developed in the apparel and footwear industries.

Last, sourcing that takes place out of Guangdong and Fujian, where code of conduct monitoring is most active. This is something that we have begun to work on more effectively because we were brought there by our international partners, as their sourcing moves beyond the Guangdong area. In fact, around 40 percent of the work that we do on a factory audit basis is in inland provinces and the Yangtze River delta area. This represents a significant shift away from the areas where management capacity and civil society are more well-developed to be able to deal with the social compliance problems.

Moving forward, clearly these are problems that we as a group of concerned citizens, companies, and organizations need to address. The efforts we have collectively undertaken are really minus-

cule in comparison to the level of the problem. To us, this points toward an obvious set of approaches, namely, that we focus on integrating social compliance performance and labor protections within Chinese society; that we have to move beyond the small impact of our programs to larger and sustainable societal impact. In order to do that, we need to ensure that institutions in China develop and maintain ownership of meaningful interventions and working conditions in CSR. From our perspective, there are three key groups to work with.

Obviously, government is a key player and has an obvious role to play. As David mentioned, I come from a background in the environmental field in China and saw the development of significant and useful collaborative programs between international organizations and government in environmental protection. I look for the potential to create such programs in the CSR or the labor arena as well. Chinese NGOs are a second segment of society that needs to be engaged by international actors, responsibly and in clear relation to their ability to absorb funding. Again, in reference to the environmental field where there has been an explosion of the number of NGOs working on environmental issues, I look ahead and wonder whether there will be a similar explosion of CSR-oriented Chinese NGOs. Then, of course, Chinese workers and workers' organizations themselves need to be much more fully integrated into workplace assessments and the resolution of workplace problems.

Opportunities exist to expand worker training like we have undertaken, worker participation and assessments, like SAI's pilot program, and other such programs. We have engaged individuals in our annual conference from within the All China Federation of Trade Unions in dialogue, and found that in some cases we have been able to facilitate a useful dialogue between them and some of the companies with which we have been working.

So, overall, we see a picture where problems are endemic; where there is some improvement, which is at this point almost anecdotal in its scale; and that sustainable solutions need to be developed that come from Chinese institutions themselves. The role that we can play best is to help facilitate and develop those sustainable institutions. Thank you.

Mr. DORMAN. Good. Thank you very much. Next, we will hear from Dr. Ruth Rosenbaum. Dr. Rosenbaum is Executive Director of the Center for Reflection, Education, and Action, Inc., a social-economic research and education organization. Dr. Rosenbaum is the creator of the Purchasing Power Index, a transcultural measurement of the purchasing power of wages used to determine what constitutes a sustainable living wage. She is associate professor for research at the Labor Education Center at the University of Connecticut. She received a bachelor's degree in biology and chemistry from Hunter College, master's degrees in molecular biology from Hunter College and in theology from Manhattan College, and a doctorate in social economics and social justice from Boston College.

Dr. Rosenbaum, thank you for joining us again. You have 10 minutes for an opening statement.

**STATEMENT OF RUTH ROSENBAUM, EXECUTIVE DIRECTOR,
CENTER FOR REFLECTION, EDUCATION, AND ACTION, INC.,
HARTFORD, CT**

Ms. ROSENBAUM. Thank you. Every time I listen to that, I think of what an eclectic background I bring to all of this.

Sometimes when I hear my colleagues speak about China, I recall that we do a lot of work in a lot of other parts of the world also, and it seems to me that what we are describing in China, I also could be describing in El Salvador, Guatemala, or Kenya. I could be describing so many places around the world. So I think we need to keep that in mind, that the enormity, just the size of China, makes it seem like it is the center of many things or that the problems there are different. But honestly, when I look at the work we are doing in other countries, the parallels, to me, are simply overwhelming.

I think we are at a particular time in China where we are beginning to see a few things that are changing. Number one, we are hearing from factories that there is regional competition for workers, that there is a worker shortage. If you think back 10 years ago when we talked about the labor supply in China being unlimited, the fact that factories are now talking about a labor shortage and therefore are seen holding onto workers that are trained so that they can have an adequate work supply, that this is something that might give us a handle to address some of the issues that my colleagues have talked about.

In some parts of China, especially in the Pearl River Delta, we are certainly hearing about the problem of energy availability. The last few times that I was in China working on the project that I am going to describe, there was not a factory that does not have at least one day without electricity. So, the fact that electricity or energy availability is being limited, and that this is an extra cost in terms of having to purchase generators to be able to run their factories, when you have a factory of 20,000 workers, I cannot even imagine what kind of generators we are talking about in a situation like that.

The other thing that has been very obvious to me, since my first world really is molecular biology, is the increased rates of pollution that we are finding, and also the exhaustion of the ground water supply in some areas where the factories have been located, and how this is going to play out in terms of factories being able to continue to work in certain areas. We really do not know. But these are certainly situations that are there.

The three of us have been at the annual conference of Business for Social Responsibility [BSR], and in listening to speaker after speaker after speaker for the past couple of days, and a lot of the meetings that we have had, everybody keeps talking about corporate social responsibility. I keep wanting to raise the question, why are we doing any of that? What is the purpose of it?

So I am going to tell you up front that for CREA, which is what we call our organization instead of our long name, corporate social responsibility is bringing about change to benefit workers, and in turn benefit their families and the communities from which they come and in which they live, and it does not make any difference whether that is in China or other places.

So it is not just for the good name of the corporation and it is not for the amorphous good that is out there, but we want to be able to see tangible, positive change in the lives of the workers and the communities. We believe that, in that happening, that we are going to see positive change within the factories.

What I would like to share with you today is just some information about a project that we have been privileged to be involved in. It is called Project Kaleidoscope, or Project K, for short. It is a cooperative, collaborative project that has involved 10 factories, two brands, socially responsible investors from the faith-based community, the investment community, the Connecticut State government or the Connecticut State treasurer's office, research and NGO organizations that are also SRI investors, NGOs in China, and academia. That is academics in China, and I guess you could talk about myself as an academic, even though that is really not the way I would describe myself. This project involves factories that produce toys, both plastic and plush, apparel factories, and footwear factories. So, we have quite a spectrum of involvement.

What makes this project different? There are a number of components that make the project different. Number one, we are looking at management as partners in corporate social responsibility rather than the object of CSR. I think that this has brought about a mindset change in the minds and ways that the management within the factories have received what we have proposed and what we have done. In the past, in audit systems—and again, it does not make any difference whether it is in China or in other places—you have outside auditors coming in to check on the factories. It is what we call, in shorthand, the “gotcha” approach. “Gotcha.” We caught you at A, B, C, D, whatever it is. Now, if you think back to your own experiences when you were a child and you went to school, like in grammar school, and you had to take a test, and you were hoping that the questions were going to be about the things that you knew, and the teacher was not going to ask the things that you didn't know, the things you were unsure of, and when you got the test back, what you had on it most of the time were things that were marked wrong. Am I correct? Is that not the way you all experienced your tests?

What we are trying to do, instead of only focusing on the things that are wrong, we are trying to focus on the things that are right and helping them to grow. So to give back an exam that would have the things marked right, and then ask how do you increase that, rather than only the things that are wrong. It is a change in respect or a change in the way we have been showing our respect for what factory managers, factory workers, and so on have been trying to do. In this new program, this Project Kaleidoscope, as we call it, we are trying to help everybody see things in a new way. I have two things that I use to illustrate this point. I usually have them with me, and I do not now, I am sorry. One is like a tubular, multi-lensed thing. It is like a cone shape and has a multi-lens at the end. If you look through that, you see the exact same thing over and over and over again. It is almost like an insect's eye. That is different from a kaleidoscope, in which you have a set of pieces inside a tube, but as you rotate them you see something different. That is essentially what we are trying to do with management,

with workers, with supervisors within the factory, that is to say, when you look at what is going on here, how do you look at it, and look at it in a different way.

The new program, Project Kaleidoscope, has asked the factory management, working with their supervisors and worker representatives, to design systems in the factory. The purpose of these systems—and this is my shorthand, not the project shorthand—is to find things that need to be fixed, to fix them, and then to learn from that and prevent them from happening again. So my three key words in the project are: find, fix, and prevent.

And they can tell us about what they found, tell us how they fixed it, and to tell us the systems that they have set in place to prevent these things in the future. It is very different from having outside auditors coming in and saying, “We have found it, now you have to go fix it, and, well, prevention will just be, did we find it again the next time?” In this process or in this new way of looking at things, the factory has become a partner in this “find, fix, and prevent” process. It is a systems-based approach in which we have asked the factories to take a look at anything that might go wrong, try to prevent it, but to help everybody understand how they participate in this effort.

Everybody in the factory has been involved—workers, line managers, supervisors, senior management. On all levels, we have had to do education, we have had to do training, and especially we have had to do capacity building. The capacity building has been necessary on every single level. It is one thing to know something, it is another thing to be able to make it operational. What we have emphasized is that everybody has the responsibility and everybody has the “response-ability,” the ability to respond when something happens, and that to respond when something happens is a positive rather than saying, “I do not want to get involved, I am going to hide and not be part of whatever this problem is.” We have tried to work with the factories to develop internal systems that are particular to the factory. The smallest factory has about 370 workers, the largest factory is almost 20,000 workers. Only part of that 20,000 produce for the brand that is involved in the project.

But the biggest issue for us has been capacity building at all these levels. One of the training programs that we have used has helped to create communication between the different levels within the factory.

A lot of it has had to do with answering the question, “How do we do this with an atmosphere or with behavior that is respectful of the efforts that have gone on beforehand?” And, so just to tell you a story: I was walking around in one of the largest factories in the project with the factory manager, and we just happened to be talking to each other. And we got to one floor of the factory and I said to him, “Is this not curious?” I said, “All of these lines in this part of the factory are set up for production, but when we get over there everything is set up in clusters.” I said, “Gee, do you have any idea why the clusters are there?” He said, “Oh, I will go fix them.” I said, “Wait. Why do we not find out why it happened?” Well, it turned out that the workers had created the clusters slowly, over time, because handing down what they were working on, handing things down the production line, was not as efficient for

them as being able to hand it to the side, so what they had done is created a square, and they were just able to pass it around in the square and then hand it on when they were done. So, that was the first thing.

Then we were walking around. And again, because my background is in molecular biology, every time I go by an exhaust system I put my hand underneath to see if it is on, having been in numerous factories where you have these huge systems and there is no vacuum or no suction. So I stuck my hand underneath and I said to the manager, "Where does it vent? Outside?" He looked at me and he said, "I do not know." We walked the entire factory as he was showing me around—and there were many floors, like seven or eight floors to this—and we followed the vent system. It was like this big adventure. We followed the vent system. He said to me, "I do not even know if it has a filter on the outside." So we looked. We got outside, and sure enough, there was a filter on the outside and it was clean. It was relatively clean. I said, "Whose job is it to keep it clean or to change the filter when it is dirty?" He said, "I do not know." This was wonderful. Everything was good. It was the way it was supposed to be. But who was responsible for keeping it that way? Was it chance? Was it just chance that it happened to be clean that day?

By the time we went back the second time, he knew who was responsible, and also if that person was not there or if that team of people were not there, who was going to be responsible to train somebody else to change the filter, and to dispose of the dirty filter. They do not really dispose of them, they clean them. The point being that sometimes there are good things happening there and they do not really know how it is happening or why it is happening.

The manager said to me afterward, "You are a very good teacher." And I am not telling you this story because of what he said to me. I said, "What do you mean?" He said, "I did not feel embarrassed by any of the questions you were asking me." For me, that was a huge learning experience. In the audits, they are embarrassed. They feel awkward, they feel embarrassed, they feel on the spot.

Now, our process for this Project K is as rigorous as traditional auditing. It goes into absolutely every aspect of everything that goes on, not only in the factory itself, but in the dormitories, in the cafeteria, et cetera. But the embarrassment piece is gone because we are asking them to figure out the things that need to be fixed, and to do that with getting feedback from their workers. With participation in this new approach, we have already seen a change in the factories. Rather than being concerned about what an audit may find, the internal self-correcting systems that they have designed address these concerns and so they are happy to tell us about them. There are some consistent problems that remain. Excessive overtime and working hours, we consistently find this, and then I would say the whole question of wage levels. But I would like to suggest, and to build on what my colleagues spoke about, that excessive overtime and the extension of working hours is not always the responsibility of the factory itself, but many times has

to do with the sourcing practices of the many brands that are in the factories.

The example I used when we presented this yesterday at the BSR conference is: I am at an NGO and I get a call on Thursday just as I am closing down for the day. I am the Executive Director, and somebody says, "Ruth, we need this report on Monday morning." I know that that means Thursday night, Friday, Friday night, and probably Saturday and Sunday, I am going to have to work on this report. That is excessive overtime, folks. It happens to everybody who is sitting in this room, I would be willing to bet. Why? Part of it has to do with planning. The other part of it has to do with the sourcing practices and brands and nobody wanting to assume the risk of having supply on hand. So they have pushed it down with just-in-time production and lean manufacturing and so on, so it is the factory that has to assume all that risk. The factory does not want to assume the risk of overproduction either, so what do they do? They wait to see whether they have the orders. So, somehow within all of this we have to come up with some way of addressing this part of the problem.

The piece that continues to be of concern to me, and this is because of the work we do really around the world, is the sustainable living wage. The wage levels in Chinese factories need to go up. The fact that there are many workers that are willing to work at those wage levels is not the same thing as saying that those wages really provide enough purchasing power for the workers to have a dignified standard of living.

As we are seeing the deconstruction of the hukou system and as we are seeing more and more workers not return to their villages and stay within the towns and cities where the factories are located, those workers are going to want to be able to get married and to be able to support their families, to have children, send their children to school, et cetera. I cannot imagine that those things are going to take place without the demand for wages to go up, so I think that this is something that we are going to see in the future.

The last thing I would say is that with the educational materials that the factories have developed, some of the factories, when we were there in June, had big charts on the self-auditing they had done and the things they had found. They were big charts. They are posted for all the workers to see, for everybody to see. The workers will stand there and they will translate them for us. Anyway, they were able to show us what the progress is, what it is that they are trying to do to improve. We now hear factory management saying, "We want to be a code of conduct [COC] factory." This, to me, says that in some way, shape, or form, we have gotten the message across. What it is going to take to fully implement all of that? Of course, that is going to take time. But I do think that there are changes that we are beginning to see that give me hope. I wish that when I was in other parts of the world there would be the same response. I am still waiting to go into my first factory in Central America where a factory manager says, "Gee, we want to be a COC factory." Right, Judy? Have you ever heard it? I have not heard it either.

So, thank you very much.

Mr. DORMAN. Good. Very important and very interesting statements. So, we will move into the question and answer phase. But, first, I would like to check with the audience. Can everybody hear us in the back? Are we doing all right, speaking loud enough? Good. I will start with a question for each of you and then we will move down the dais to other staff that will have questions.

Judy, in your statement, you said that the Chinese Government is running an examination of standards right now, and part of the outcome of this examination has been decreasing interest in applying for such standards. Did I understand you correctly?

Ms. GEARHART. Yes.

Mr. DORMAN. Do you believe that this policy originates with the central government, and this review is driven by the central government? That is the first part of my question.

The second part is whether or not it is your sense that this decreased interest, or the decreasing numbers of applications, is an intended outcome of this policy or an unintended outcome?

Ms. GEARHART. The organization that is looking at certifications in the process is the CNCA, which is the government agency overseeing accreditation activity in the country. As I mentioned in my remarks, there appear to be varying views within the different government organizations, and the whole concept of corporate social responsibility is still very much being defined by how people are viewing it, and I think people are changing their views as we speak, so it is in flux.

Whether or not the consequences will be limiting in the long term is unclear, but it seems that has been the effect up to now. I do not have a determined conclusion yet whether it is intended or unintended.

We are in conversations with them. So far, I think that is positive, that we are talking with them directly and we are looking at how to understand each other better. But it is something to watch, is all I would say.

Mr. DORMAN. Mr. Viederman, Dr. Rosenbaum, any comments on that? I have an additional question, but I thought you may have something to add.

Mr. VIEDERMAN. I think, clearly, there is a lot of debate going on in China, as elsewhere, about what role certification plays. In China, there is an added political component to this debate, and certainly it seems to us that there is an effort to create a "certification with Chinese characteristics," some sort of domestically more acceptable model. I think it is unclear at this point, bureaucratically, how much broad sway that this certification effort has.

Then again, it is clearly an indication on the part of some segment of the government that CSR is something to be endorsed in one way, shape, or form. We could quarrel about the specific certification standard, but the fact that it is clearly stated as a topic that is up for discussion is, as Judy says, worth paying attention to.

Mr. DORMAN. Good.

Ms. ROSENBAUM. I agree with what my colleagues have said. The only thing I would add is I think part of it has to do with national pride, instead of having CSR being imposed from the outside, an effort to make it something that is owned within China and to come up with a Chinese standard of doing it, which, if we can get

the standard to match the kinds of standards that are already out there, would raise the standard.

Mr. DORMAN. Mr. Viederman and Dr. Rosenbaum, in terms of the auditing process, can you give us a sense of the level of interest by local governments, and by local trade unions. Are they interested in what you are doing, the outcome? Are they helpful?

Ms. ROSENBAUM. Well, I know that before we started Project K, the brands were in dialogue with the government on a whole variety of levels to make sure that we had buy-in from them, that there was not going to be any negative repercussions and so on. But that is pretty much it. We have not heard anything else since then.

Mr. VIEDERMAN. The formal auditing that we do tends to happen without any significant involvement from government agencies. Clearly they are aware of it, as a significant manifestation of international interest in Chinese factories, and there are members of the bureaucracy, or ex-members of the Chinese labor bureaucracy who have begun to participate in one way, shape, or form in factory assessments, or as consultants, and in helping to improve factory conditions. So there is a sort of an informal interaction, but from our perspective there has not been either a real formal endorsement of, or interaction with, the audit process that we have undertaken.

Mr. DORMAN. Good. Well, thank you.

Ms. ROSENBAUM. Just one other thing. One of the things we have insisted on as part of this project is that every factory that is involved has an active worker committee, and not just a worker committee, but an active worker committee, and that membership in the worker committee is something that workers have the option to join if they want to join it. So the whole idea of worker representatives, or for the workers, having the idea that they have the right to have somebody represent them, is something that we are really trying to grow within the factory. So far, it seems to be progressing. That is probably the best way to describe it.

Mr. DORMAN. Thank you.

I am going to turn my questioning over to my colleague, John Foarde, who is Staff Director on the Commission for our Co-Chairman, Representative Jim Leach.

John.

Mr. FOARDE. Thank you, Dave.

First of all, thanks to all three of you for being here this afternoon and taking time out from the conference to come over and share your views with us. Dan and Ruth have been panelists before at CECC roundtables, so welcome back. Judy, this is your first time, and I hope not your last.

I would like to pick up on the theme that Dave was questioning you about just a moment ago, but turn it around a little bit and ask you for your views on what it would take, from the central government level, to push along, and what sort of changes would it take, to make CSR and perhaps SA8000 as a standard, and sustainable wage and environmental standards, really work in China, not only in the export sectors that most of you are working in, but also in the internal sector? What sort of policy changes, what sort of attitude changes, and what is the likelihood of that happening?

Mr. VIEDERMAN. I think the one area of clear need is increased capacity, and I would say increased expertise on the part of the people who are tasked with doing factory inspections for the government. There is just a fundamental lack of capacity, a bureaucratic gap in their ability to achieve the relatively high standards that are written into Chinese law.

One significant intervention would be to make a commitment at a national level, and at a local level as well, that such capacity gaps should be filled. There also are clarifications that are needed of the law itself and the regulations that implement the law that would be beneficial to international companies sourcing in China in their interaction with Chinese factories, particularly in the newer manifestations of the Chinese Labor Law, the newer pieces on benefits, and in the area of overtime. So I see a clear need there, and a role for those of us on the outside to play in bringing that expertise and that capacity to facilitate improved implementation of the law.

As for what kind of attitude change needs to happen, I find it significant that there is an official Chinese standard, in the sense that it is an attitude change. The bureaucratic commitment is there; and whether or not it becomes reality, at least it is something for people to organize around. I think that it is a significant statement there that we can make use of. But the attitude change is a relatively bigger piece, I think, even than the capacity change.

Ms. ROSENBAUM. The other thing that we also hear from factories is that they would like to see some sort of—what is the word I want—they would like to see the laws on the local level and on the national level at least match.

Mr. FOARDE. Harmonization?

Ms. ROSENBAUM. Harmonization. That is a very good word. Thank you. They would like to see these laws harmonized. Because it is like, if you do one then you are not going to be in compliance with the other, and so on. So, part of it is the notion that you do not have to be in compliance with either one, so the whole idea of standardizing or harmonizing the laws and regulations so that it is possible to come up with some kind of unified set of standards, this step would really be helpful. Then I echo what Dan said about the capacity of enforcement.

Mr. FOARDE. Along those same lines, do you get the sense from the types of discussions that you are having that people are looking for a commitment, a public commitment on the part of central government authorities, perhaps from the political leadership at the very top, to this sort of thing because they are not sure whether or not it might be accepted?

Ms. ROSENBAUM. I do not know. I have not heard that as much as, you kind of hear that CSR is something that the government is pushing. But to say it is has come down as a mandate, that you have to do it, I have not heard it that strongly yet. But you do get the feeling that it is out there and everybody knows that it is out there. That certainly has been a change, I think, in the past two years.

Mr. FOARDE. Thank you.

Ms. GEARHART. There were several conferences canceled earlier this year, so I think there are some concerns as to how much the

discussion around corporate social responsibility can move forward easily. So to speak to your first question, my two main recommendations are going back to encouraging the national corporate social responsibility dialogue and discussion and looking at how to make that more organic to China and, as Dan mentioned, looking at not just the export industries, but the other industries, the growing Chinese domestic companies and how they are looking at these issues.

The other point I would make is that it is important to clarify the complementarity between voluntary mechanisms, codes of conduct or other voluntary initiatives, and government regulations. I think that international actors should seek to clarify that CSR and voluntary codes of conduct are not a substitute for government regulation. The voluntary initiatives are really a reinforcement of support, a tool, really, for employers and factory managers to move forward and understand. I think for many of us, the management systems element is a core component that Ruth talked about, and it is one of the core requirements of the SA8000 standard. We are not just talking about a checklist approach to improving labor conditions, but really about improving how businesses are run and the sustainability of businesses, and the long-term vision of those businesses.

Ms. ROSENBAUM. The last time I was here before the Commission staff, one of the things I said, just to build on what Judy said, one of the questions that I raised, was how appropriate it is or inappropriate it is to have corporations creating an environmental standard or creating labor standards? I offered the view that this is really the role of government acting on behalf of its citizens. I would say that that still is the major question. It is part of what I think you are asking in terms of what the role of the Chinese Government should be. I think that it should be the organization or the entity that says, "This is what the standard should be." Our hope is that they would be as high, if not higher, than the kinds of standards we have had in CSR and that they would apply, as you were saying, across the board both for Chinese production for China and for production for export. But that is really their responsibility.

Mr. FOARDE. Thank you. Very useful.

Mr. DORMAN. Good. Thank you, John. Next, I would like to recognize Mr. Chris Mitchell, who is Legislative Director for Representative Mike Honda, a CECC Member.

Mr. MITCHELL. Thanks. Ms. Gearhart and Dr. Rosenbaum, I think you hit on what I was going to ask you to elaborate on, and that is, just in general, management and practices. It seems like improvements in corporate social responsibility are so linked to better management practices. So that leads to the question, how well are some of these NGOs that look at corporate responsibility working with other organizations that focus on management practices that have experience working with local Chinese companies?

Ms. GEARHART. I think that local NGOs in China are going through growing pains or a learning curve, if you will. Most of them are very new. Even the kind of institutional infrastructure that it takes to run an organization, train and maintain staff, etc. takes time to build; so things are in flux on that level.

In March, we held an informal discussion with several of the organizations that are doing manager training or worker-manager training. Many of these are locally based NGOs. In those discussions, I found that the consensus among the group, for example, is that, yes, worker training is important, but manager training is equally as important, as I mentioned in my remarks. Even if managers are trying sincerely to implement a CSR management program and respect workers' rights, it is something they have not dealt with before. As we said, you see that the world over. I mean, people do not usually study these issues when they set out to be factory managers.

So I would say that I found the NGOs to be quite aware and thinking about how to relate to managers. As for what their experience levels are, I think everybody is looking at how to do this work in new and innovative ways, and sometimes you find management consultants that have the longest running experience of training managers and they are not necessarily the ones that are going to be the most effective trainers on social issues. They can be very effective, but sometimes the NGOs bring in a new, fresh perspective. The ideal is to have a multi-disciplinary team.

Mr. MITCHELL. Yes.

Ms. ROSENBAUM. Our experience has been that when you have a team that is working with management, with the rest of the factory, then you have this spectrum of abilities, and a spectrum of experiences. It is part of what we have had in Project K. There is a group of people working together and none of us has all the experience that is needed, but different people have had it. At the same time as we have been working together, we have each then been gaining experience from the expertise of the others in the group. So we will be able to multiply that, both here in the United States in terms of working with brands, and the groups that are in China, the expertise they have been sharing with us, and vice versa. The number of groups, the number of organizations, the number of people with expertise that are needed to really do this, I would say we are a drop in the ocean right now, to be honest with you. It is long, hard work.

Mr. MITCHELL. With respect to some of the practices by U.S. companies that may lead to excessive overtime and some of these other issues that we are concerned about, to what degree have U.S. companies started to alter their purchasing policies, either as part of this Project Kaleidoscope or any other effort?

Mr. VIEDERMAN. I think it is in the very early stages. I think it is one of the newer topics in the discussion, particularly around overseas labor standards. I think a few companies are explicitly identifying, in public reports, that this is an issue that they recognize is a contribution on their part to the difficult and persistent problems at the factory level. There is certainly dialogue going on about best practices or better practices, and it is not something that has achieved either widespread acceptability among U.S. or European companies or brands, though it is certainly a part of the dialogue that factories have with the brands.

In fact, Verité did a study on the problem of overtime a couple of years ago, looking at brand practice, looking at worker perception, looking at manager perception. The leading response from

managers was that they wanted better communication with the brands to whom they were selling. So, they certainly see that it is an issue that needs to be addressed, and I think the brands here are beginning—in some cases, not all—to understand that and to reflect it .

Ms. ROSENBAUM. Yes. It is just the very beginning stages. I would echo what Dan is saying. What we have the managers pleading for is to level the load, because that allows them to have a workforce that they can maintain and to keep those workers busy, to employ them at full capacity, and yet not have to do the excessive overtime. And how the brands are going to do that, both in Europe and in the United States, that is still a work in progress, shall we say. But at least some are beginning to hear it.

Ms. GEARHART. I think it is a collective action problem because this has been an issue raised for us. We had a conference in China in 2001 and some of the brands that were there spoke up and opened the door for this to become a discussion. We never had a chattier conference in China before that, but the suppliers really wanted to talk about this issue.

However, some of the brands we work with that have tried to change the timing of their orders or the way they are doing their orders to address this issue, report that most factories turn around and take orders from other brands. So, unless there is a system-wide change—and I think Ruth's mentioning of the just-in-time practices is part of it, it will be difficult to sustain change. I mean, it used to be something, 10 years ago, everybody was complaining about. Now it has sort of dropped out of the common discussion. How do you bring the brands together in order to address this?

I think one positive step forward, besides the fact that this is a relatively hot topic now in these discussions, that it is going along with a moment when major brands are beginning to publish their supplier lists and they are beginning to share information about factories. That sharing of information about the social compliance of factories and the supplier lists, and everything, is, I think, another important part to bringing these problems toward a collective action solution; that could help change how these orders happen.

Ms. ROSENBAUM. I guess I really hope that you are right, Judy. I just know, when the FLA and the Worker's Rights Consortium [WRC] were formed, one of the things we did at CREA was assemble this enormous data base with all the factories, all the universities that were either in the WRC or the FLA. It was all the factories or anything that they had at their university level on it where they produced. So we were able to—we still are able—to look in a country and say these are all the universities that produce there, therefore, these are all the brands that are in there. We offered that information to anybody who wanted it and we could not get anybody—anybody—to use it in terms of any kind of cooperative sourcing.

So it is my hope that now that this problem has been around long enough, that maybe—we may have to just wait until something hits the moment to address it—it is going to begin to come up again, but it is still a problem that is on the table. And I am not sure it is solvable at the factory level. I really think it has to be solved in terms of order placement. I said this yesterday at the

conference when I spoke. It was not the most popular thing I have ever said to a group of brands. There was dead silence in the room when I said it.

Mr. DORMAN. Good. Thank you. I would like to turn the questioning over to Dr. Kate Kaup, who is a Special Advisor on the Commission staff.

Kate.

Ms. KAUP. Thank you very much. I would like to ask Dan a question and then I have a related question for all of the witnesses.

Dan, you mentioned that in Verité's audits you found a good deal of discrimination against pregnant women. Did you also find discrimination against ethnic minorities?

And for all of our witnesses, will you please tell us if most of your work is conducted primarily in the east coast or do you also focus on western areas? Do you conduct any work in Xinjiang? You mentioned that 40 percent of your work is conducted in the interior. Could you please clarify what you consider to be the "interior?"

Mr. VIEDERMAN. Not the very interior yet. Coastal interior. Ethnic discrimination is not a problem that has come up as a priority finding, especially in southern Chinese factories. When we say "interior," we are talking more about upriver from Shanghai on the Yangtze River. So, Anhui, certainly to Jiangsu, Jiangxi, but not much farther west than that at this point.

Ms. KAUP. Is that a result of having trouble getting proper approval to go out west or just of having your hands full on the east coast?

Mr. VIEDERMAN. I think it is a question, because we will go in when brands ask us to go essentially in response to where they are sourcing. They are still sourcing closer to the coast, probably purely for transportation and logistical reasons.

I was having a conversation with someone the other day who described factories eager to take advantage of wage differentials between coastal areas and inland, poorer areas, you know, even on the order of a few hours' drive. I think it is only a matter of time until sourcing increasingly pushes inland simply because the transport networks are improving.

Ms. ROSENBAUM. Just to make you laugh, the only discriminatory issue that came up had to do with food that was appropriate to where the workers came from. In one factory, this was a very big issue, whether it would be spicy or not spicy. The factory solved it by having two types of food available.

But aside from the pregnancy issue which is there, or has been there at different times, not so much in this project because it is addressed directly in the project, well, that really is the only issue that has shown up. We have not seen anything in terms of ethnic minorities at all.

Ms. GEARHART. And how far out were you?

Ms. ROSENBAUM. Not very far at all. Again, the same answer as Dan. The brands are facilitating access for these programs at the moment. But there has been some interest in other areas.

We cover more than apparel and footwear, so to the extent that the agriculture production sector starts to look at standards, SA8000 would be a tool that could be used, but it has not really

happened yet. We are talking to some brands that are looking at the whole supply chain down to the cotton production, so that may be on the horizon.

Ms. KAUP. May I ask a couple more questions?

Mr. DORMAN. Yes.

Ms. KAUP. It is not really a follow-up question. Dan, you mentioned domestic Chinese NGOs and their involvement with CSR. Could you please discuss the challenges that Chinese NGOs face compared to those faced by international NGOs?

Mr. VIEDERMAN. Sure. Domestic Chinese NGOs face a very uncertain—what is the right phrase—legal environment in which they can exist. International NGOs, for that matter, do as well, but it is obviously of less risk to international NGOs than it is for Chinese NGOs. Certainly those NGOs that are working on labor issues particularly can run into conflict with institutions that want to promote economic growth, or entrenched economic interests within particular factory groups.

My experience has been that NGOs in China are still generally in the personality phase of organizational development, so there is not sort of a strong, institutional understanding or societal understanding of what role an NGO plays and how it differs from other institutions. Therefore, it is rare to find people who can effectively manage the difficult institutional environment that NGOs face in China. That difficult environment limits the number of people who can effectively work within NGOs, and a limitation on increasing their professionalism. Not to say that there are not some striking examples, because there are, but it is not certainly a widespread phenomenon at this point. It is really in some ways a systemic challenge for the organizations themselves.

Mr. DORMAN. I should have mentioned that Dr. Kaup is our Special Advisor on Ethnic and Minority Affairs, but you might have guessed that by her questions.

Mr. VIEDERMAN. I figured that out. [Laughter.]

Ms. KAUP. That is helpful. Thank you.

Mr. DORMAN. Next, I would like to introduce Adam Bobrow, who is a Senior Counsel for Commercial Rule of Law on the Commission staff.

Mr. BOBROW. Thank you to all the members of the panel for being here. I have two things which are totally unrelated, but one picks up on what Chris Mitchell asked. Are there any efforts, are there any thoughts, about working with what the companies would call the demand side? It seems as though the brands have an interest and they attempt to market some advantage that they have because, let us say, outside of the China context, the advantages that are created by having a product that is produced in a responsible manner. But actually, if it were inside China, it seems to me that you would need to develop a consumer desire for products produced that create a sustainable wage or that are done in a way that does not impact workers in a strongly negative way. So is there any move toward consumer education or public education on the issues of sustainable wage?

Ms. ROSENBAUM. In the United States or in China?

Mr. BOBROW. In China. I mean, is there any support for that?

Ms. ROSENBAUM. We have been contacted by a few folks who are connected to organizations—that is all I can say about them—where the whole idea of doing some kind of sustainable living wage study—in fact, in two instances, we have even trained people on how to do it. But it has really been deemed too dangerous to do right now. So in terms of the wage issue, it is a very difficult landscape, but that is not just in China, that is true in a variety of places.

I think the first question would be getting people to be paid the legal wages to which they are entitled, both for regular time and for overtime. So then what a sustainable living wage would be, would be some place above that. I do not know. I have not heard of anything except from NGOs or people who are teaching in the university who are teaching about some of these things, but not the same kind of consumer demand or questions that are being raised throughout the United States. I have not heard anything like that. I do not know.

Mr. VIEDERMAN. I would say it is only a matter of time. There is certainly no institutional structure yet that seems to be pushing those sorts of issues in a formal way. But just as there is sort of a noticeable, if small, demand for so-called “green food,” or organically certified food, according to Chinese organic standards as well as other environmentally sensitive products, and there are brands that have developed in China around that marketing angle, much as there are brands elsewhere. It is probably only a matter of time until someone tries to exploit that market purely from a commercial side. But I am not aware of it happening yet, in the sense that someone is marketing a domestically branded sweatshop-free garment.

Ms. ROSENBAUM. I think the question is how dangerous would it be for somebody to try to do that. The word that came back to us in terms of the wage issue, was that it would be dangerous to try begin that kind of a public conversation. That was just a couple of months ago.

Ms. GEARHART. Last year there were some legal shifts that make it easier for retailers to open up shop in China, so you will see more Wal-Marts and more Carrefours, and more of these international branded retailers in China. The retailers interact with the consumer market very differently than the international brands, which are mostly going there to export. Also, the auto industry, I think, is another place to look.

The industries that are really looking at the Chinese consumer market are the industries that need to be brought into the efforts to promote CSR. I mean, this whole CSR debate, if you go to the BSR conference that we are all here for, you do not just see apparel and footwear. It is a broader discussion. So how do you bring those groups together to then talk within China? Hopefully, the Global Compact conference in December will spark some of that.

Mr. DORMAN. I would like to turn the questioning over to Pat Dyson, who is Senior Counsel for Labor Affairs on the Commission staff.

Pat.

Ms. DYSON. First, I want to thank you very much. I called most of you to ask you to come, and thanks for coming. It is very enlightening for all of us.

I wanted to ask Dan and Ruth: how much do you think workers know about their own rights before you come to train them and give them some idea? Do they know that they should have overtime pay? Do they know what overtime is? Do they know what the minimum wage is that they should be getting when you go into a community?

Mr. VIEDERMAN. In a word, no. Not much.

Ms. ROSENBAUM. Yes, I agree. No, not much.

Mr. VIEDERMAN. And, in fact, one of the findings that we frequently see in our factory audits is that information is not shared with workers, as most brand codes require it to be. So there is little transparency internally in the workplace, not to mention the complication of figuring out whether someone is working on a piece rate or whether the overtime is paid on the piece rate. I cannot even figure it out and I have looked at lots of these documents. It is very complex.

Ms. DYSON. So I assume there is no poster like we have in our workplace here saying what the minimum wage is.

Ms. ROSENBAUM. Now there is, with this project. In some of the factories I have been in, I also have seen the posters. But in terms of how to figure it out, one of the things that a number of the factories that are part of this project have done is to set up computer systems to which the workers have access. They can put in their name, they can put in the number of hours that they have worked for that pay period, and it says right in there how much of it is regular time, how much of it is overtime, how close they are to meeting their piece rate that they have to meet. The workers can stand there. Obviously, somebody is translating for me. I mean, Dan speaks Chinese, I do not. They can just go through and just tell you how the whole thing works. So, the education that has been done is really to help the workers understand all of this.

One of the systems that we have really insisted on be set up in the factories, when a worker has a question about his or her paycheck, who do they go to? We teach them how to ask the appropriate questions; not, there is a problem with my paycheck, but I see this, I see this, or whatever kind of thing. So, to help them to be able to verbalize that is something we have worked very hard on doing.

Ms. GEARHART. Through the worker training project that we have been doing, I think the workers have learned very quickly, to the point where I think they have brought ideas to the table. So, for example, one worker committee that actually addressed wage levels and overtime rates.

One of the complicated things that we have heard before from auditors or from compliance officers at different brands, is that it is difficult to calculate overtime premiums because of the piece rate; so how do you figure that out without creating too much extra work for the payroll department? From the reports we have gotten from the factories, the workers on the worker committee had ways to look at that and figure out a system. How they define it and how

they look at it may not be in the same language we would use, but I think they are very aware.

Also, of course, education levels have varied depending on the factories we are in. We find workforces that have very different average education levels. But that does not seem to necessarily determine how quickly they are able to uptake and understand the issues. It just may determine how quickly and strongly they want to move forward on addressing the issues.

Ms. ROSENBAUM. One of the things you have done, too—I have done this in the past with the factory managers—is to say to them, “How do you figure out the piece rate in terms of overtime? I want to see exactly how you do it. What are the formulas you use?” If the answer is, like, “Well, you know, we really do not have a formula,” we ask, “Well, how do you do it then? Is it a spinning wheel and you throw a dart? I mean, what is it that you use?” The more you pin them down and the more you ask them exactly how do they do it, then that is something that can be transferred to the workers. So it is difficult. The whole relationship of piece rate and overtime is difficult, but they have to have a formula to do it. Then there is the question of, does the formula comply with the Labor Law, but first you have to know exactly what method they are using and to really push them until you get it.

Ms. GEARHART. One thing I wanted to add. One of the impacts we have seen from the worker committee process and worker/manager dialogue, is that some of the workers reported that they now see themselves differently. I am certainly not a Chinese linguist, but the language change for them is apparently significant; going from considering themselves migrant workers to workers is a status jump up within their context and thus has been important for them. They have reported feeling that now that they have gotten this dialogue and this participation, that they now feel like workers, which is a positive point and necessary to helping them to claim their rights.

Ms. ROSENBAUM. Another thing we have done with managers, is to say, “Do you look at your workers as a cost or do you look at them as an asset? Because without your workers you cannot produce.” Just raising the question has been startling in some of the factories. They said, “We only look at them as a cost, almost like a piece of machinery.” If you look at them as an asset that enables you to grow your business and to operate in a responsible, on-time way, then you are going to look at your workers in a totally different manner. So, just those kinds of wording things, just the way we asked the questions, has really made a big difference.

Mr. DORMAN. Well, we have just six minutes left. Like always, our time seems to disappear. So I am going to ask a couple of quick wrap-up questions and then give the last question to Pat Dyson to finish up the roundtable.

Dan, you talked earlier about Chinese labor NGOs. You also mentioned a Chinese CSR NGO. Is there a CSR NGO in China?

Mr. VIEDERMAN. I will speculate on that.

Mr. DORMAN. I do not mean to put you on the spot.

Mr. VIEDERMAN. No. I was speculating that it is potentially a productive way to describe an NGO that might yet develop. A labor NGO that is also working on CSR issues, especially to the extent

that they are engaged with international brands, might effectively define itself as a CSR organization.

It may be semantic, but productively semantic, to change the terminology and talk about them as corporate social responsibility NGOs, because clearly corporate social responsibility is something that is well-accepted within a particular swath of Chinese society. But I did not have a specific organization in mind.

Mr. DORMAN. I did not mean to put you on the spot.

Mr. VIEDERMAN. No, no. I think is an area for exploitation by Chinese NGOs.

Mr. DORMAN. Dr. Rosenbaum, during your testimony you mentioned that you do not see a child labor problem in the export sector.

Ms. ROSENBAUM. Did I say that?

Mr. VIEDERMAN. I think I may have said that.

Ms. ROSENBAUM. Yes.

Mr. DORMAN. This is an issue that our Commissioners have focused on. But you did bring up that you do see juvenile labor in the export sector. Are there Chinese laws and regulations that provide additional protection for juvenile workers?

Mr. VIEDERMAN. Without reference to a document, I think that there is. The Chinese Labor Law does require that juvenile workers have special protections, including that they have to have regular medical examinations and that they are not allowed to work overtime. Juvenile workers have a more strict limit on the number of hours that they can work, for example. So, there is a difference. I would be happy to find out more information.

Ms. ROSENBAUM. I thought, also, that they are not allowed to work at night, to do night shifts.

Mr. VIEDERMAN. Right.

Mr. DORMAN. So that is something to look at.

Mr. VIEDERMAN. There is a distinction.

Mr. DORMAN. One final question. I think this came up in conversation a couple of times in the last hour and a half, and some additional comments would be useful. Can you tell us more about the programs that train factory managers on labor relations, and the formation of independent committees. Three factories were mentioned, out of a much larger number that do not participate. What, or who, initiated the programs at these factories? What accounts for the programs? Enlightened factory management? Brands helping local government? What distinguishes the factories that choose to take this road? Can you provide us additional insights?

Ms. ROSENBAUM. In terms of the project that we worked on, each of these 10 factories was invited to participate.

Mr. DORMAN. So you initiated it.

Ms. ROSENBAUM. That is right. Now, whether this will then spread in terms of, let us say, other factories being interested in doing something like this, at this point we do not know. We still have a number of months to go in the project. But I think there has to be a business case for CSR. I mean, we can make the labor case and we can make the environmental case and the occupational health and safety case for it, but I think that there has to be a business case for CSR also, that factories that are good at these things, that are willing to make the investment of time, energy, and effort, are somehow going to see that this affects their business

in a positive way. If we are able to do that, I would suspect that we will see factories that are going to do it.

At the same time, and I would say this comes from background in other countries more than in China, I think there are some factories whose management are never going to get it. I just think that is the nature of the beast, that there are some people who are slow learners on some of these topics. So I do not think there is going to be like a magic tipping point and all of a sudden everybody is going to get it.

Just the fact that we are hearing factories say, "We want to be a COC company, we want to be known that way, we want to be in compliance so that when you come in you do not find us with a set of problems that you have to tell us how to fix, but that we have already addressed these things." This, for me, is progress. I do not know if that really addresses it.

Ms. GEARHART. We have seen factories be more interested and more willing based on long-term relationship and trust with a given brand.

Ms. ROSENBAUM. Yes.

Ms. GEARHART. However, I would say that that needs to be combined with individual factory managers, and preferably the owners, having the will. In some factories you will find those individual managers who have enough autonomy, enough trust from the factory owner to move forward, and they are thinking innovatively. It does still come down to individuals at that level.

Mr. DORMAN. Last question to Pat Dyson.

Ms. DYSON. Thank you. Dan, I think that you looked into the wage issue in a number of factories. There is some thought that if wages improve in China, and living conditions and benefits, that companies will then flee to other parts of Asia that are cheaper. So, in other words, improvement is not going to help the Chinese workers in the end. Do you think that is a fair point? I see you smiling. Do you have an opinion on that?

Ms. ROSENBAUM. That is the excuse.

Mr. VIEDERMAN. I guess there are a couple of ways to look at that question, one of which is that the brands that are currently sourcing in China and the factories that are currently operating there with Chinese management do face a legal and an ethical obligation, be it articulated in the code of conduct or otherwise, to operate in accordance with that code or with local law. So whether or not there is an argument to be made that, economically, good labor practices would force Chinese workplaces to close and people would go source in Burma or Bangladesh, in a sense avoids the question of what do you do while you are still there.

So I do not find it a particularly productive question to ask at this point. There is so much that can be done in the short-term, and needs to be done, just to bring labor standards up to where they ought to be based on existing commitments. Beyond that—I cannot speak for brands—it certainly seems to me that they are sourcing, and have decided where to source, for a variety of different reasons, not simply on the basis of the strictest identification of the lowest wage country. So, I would be surprised if you would see a mass exodus from China if working conditions were improved.

Ms. ROSENBAUM. Pat, I get asked that all the time. It does not matter whether we are talking about China, whether you are talking about Central America, or Africa. It does not make any difference.

There is this other piece that says—and I say this to brands all the time—if you want to expand your markets, more people have to be able to afford your products. So at some point, those two points have to coincide. We will run out of places on the face of earth to run for cheap labor, and at some point we will have to deal with all of this. But we hear that in country after country when you raise the wage issue.

But there is an ethical and a moral thing that is involved here, and it is what should any worker who works for a 40-hour or a 48-hour work week be able to do as a result of that work? I would say the same thing to people who are employing people here in the United States. What do workers have the right to expect in return for the labor that they give, good, honest work? There should be a decent standard of living and the ability to care for yourself and for your family. That should go without saying. You can call it a family value. I am sorry, I am being fresh. I apologize. No, I do not. [Laughter.] I think I did that the last time I was before the Commission also.

Ms. DYSON. We will still ask you back.

Ms. ROSENBAUM. Sure.

Mr. DORMAN. Well, as you all know, the Commission mandate calls on us to look at rule of law and human rights development in China. This is a broad mandate, and our Commissioners are attuned to the entire range of issues in this mandate. But there is a smaller set of issues that generate a particular level of interest by our Commissioners, and this is one of them. Especially because of this, I would like to thank each of you for sharing your wisdom, your insights, and your knowledge on this issue. I found this to be a very interesting and useful conversation, so I hope you will come back and join us in the future.

Ms. ROSENBAUM. Thank you for having us.

Mr. VIEDERMAN. Thank you.

Ms. GEARHART. Thank you.

Mr. DORMAN. With that, we will call the roundtable to a conclusion. Thank you.

[Whereupon, at 4:05 p.m. the hearing was concluded.]

