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Research Report on Current China Labor Trends

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About this Report

During the years 2008-11, a series of labor-related incidents in China caused the community of international buyers to reconsider their relationship with the new generation of Chinese laborers. In addition, new labor legislation—particularly legislation on mediation and arbitration, collective negotiation, and social security—has become an increasingly high-priority item on the Chinese government's agenda.

This study has been completed through desktop research and a review of current, publicly available information in China, as well as through expert interviews. In building this report, we have emphasized key issues including:

- Employment Trends in China.
- Labor Characteristics in China.
- Worker Migration Trends.
- Labor Shortages.
- Social Security.
- Working Hours.
- Wages.
- Collective Negotiation and Labor Disputes .
- Labor Contracts.

The research was financed by the Norwegian Consulate General Guangzhou together with three labor dialogue seminars in 2011 and 2012.

Executive Summary

After the Spring Festival of 2012, labor shortage again became the hot topic in China, and recruiting laborers became even more difficult than the previous year. Companies are feeling the pinch, finding it more difficult to recruit workers and having to pay increasing minimum wages. The situation is leading employers to reconsider labor relations, amidst important trends such as those below:

Labor Characteristics: With more “new generation” migrant workers entering the labor market, China’s labor force is now more than 250M laborers. Manufacturing still ranks in top place for labor demand, with more male than female workers.

Worker Migration Trends: There is an increasing number of migrant workers who choose to work in the mid western region of China, and more migrants tend to remain in their hometowns because of the narrowing wage gap between the eastern and the mid-western regions.

Labor Shortage: Due to rapid economic recovery and development, migrant workers are still in great need in a variety of industries. However, labor supply has tended toward a slow down, especially in the costal and eastern regions.

Social Security: The social and legal systems have improved through implementation of a series of laws and regulations, such as the *Labor Contract Law*, *Labor Dispute Mediation and Arbitration Law*, *Regulations on the Negotiation and Mediation of Enterprises*. But there is still room for improvement in terms of cross-provinces social security funds.

Working Hours: Though there is some decline in overtime worked, there are still many workers working 80-100 hours per month. However, workers are willing to work more hours for extra pay, as long as they receive at least one day off a week.

Wages: There is a continuing rise in minimum wages in different regions, and the wage gap between eastern and western regions has gradually narrowed.

Collective Negotiation and Labor Disputes: Workers are better equipped with legal knowledge and access to information. Pay and labor contracts are the key issues in labor disputes.

Labor Contracts: An increasing number of workers are covered by labor contracts. With the enforcement of labor-contract law, workers’ awareness of their rights is also growing.

RAPID OVERVIEW OF LABOR TRENDS

Elements	China
Labor Characteristics	<ul style="list-style-type: none"> - Total labor force of 252,780,000 people. - Laborer force in the mid-western area is growing fast than the eastern area. - Secondary and tertiary industries make up the highest proportion of employees being hired.
Worker Migration Trends	<ul style="list-style-type: none"> - Most migrant workers are working in eastern China, but the number of migrant workers in mid-western China is on the rise. - Decrease of migrant workers to Yangtze and Pearl River Deltas. - More workers are choosing to stay in their home provinces. - Younger migrant workers tend to move permanently to cities rather than going back to their hometowns.
Labor Shortage	<ul style="list-style-type: none"> - Dual shortage of both skilled workers and front-line workers. - Inland economic growth increasingly causing migrant workers in those regions to stay in their provinces. - The change in the mindset of migrant workers has also affected their decisions about where to work. Apart from the salary, self-improvement was another consideration for migrants.
Social Security	<ul style="list-style-type: none"> - Basic pension, medical and unemployment insurance are portable for individuals. - Employers pay an extra 100-300% penalty if they do not pay social insurance for their employees. - As of 1 January 2011 the social-insurance pension can be transferred.
Working Hours	<ul style="list-style-type: none"> - Although the law restricts overtime to a maximum of 36 hours per month, workers in manufacturing often work 80-100 hours of overtime per month. - Workers are willing to work overtime to earn more money but prefer one day off per week.
Wages	<ul style="list-style-type: none"> - Increase in minimum wage nationwide. - Legislation on annual increase of minimum wage.
Collective Bargaining and Labor Disputes	<ul style="list-style-type: none"> - Increasing number of labor disputes and strikes in southern China. - Enforcement of Labor Dispute Mediation Regulation to entered into effect on January 1 2012.
Labor Contracts	<ul style="list-style-type: none"> - Revisions are currently in discussion to keep pace with changing employment trends, such as stopping abuse of dispatched labor .

Part 1 – Employment Trends in China

1.1 Labor Characteristics in China

The Chinese economy has rapidly recovered from the 2008 financial crisis, and the market for labor has seen significant growth. At the same time, the Chinese labor market has faced labor shortages, labor disputes, rising wages for migrant workers, and an increase in government mandated minimum wages.

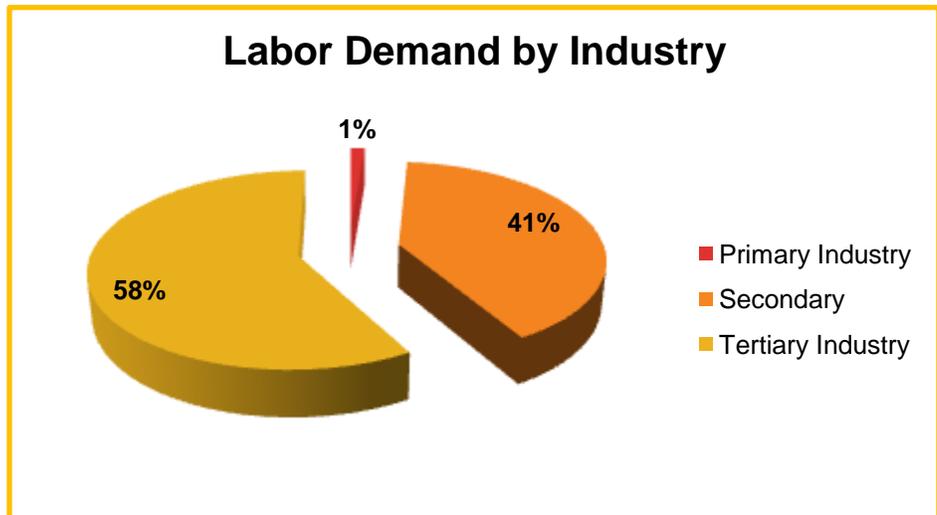
Given its total population of around 1.4B people, China has one of the largest workforces in the world. According to the National Bureau of Statistics of China, it was estimated at approximately 252,780,000 laborers in 2011. The report also reveals that the number of laborers in the mid western region is growing faster than the eastern region. Furthermore, the number of laborers leaving their home provinces to work is declining.

LABOR MARKET OVERVIEW

In today's Chinese labor market, not only is it a fact that labor is no longer inexpensive, there is also a quickly shrinking number of willing and able workers in some locations. As income levels in China rise, so do the aspirations of the country's workers. Employment is no longer the sole goal. Instead, workers are beginning to place an increased priority on life experiences, career development, and jobs with higher pay and better benefits. Where possible, workers also prefer white-collar occupations to blue-collar factory work.

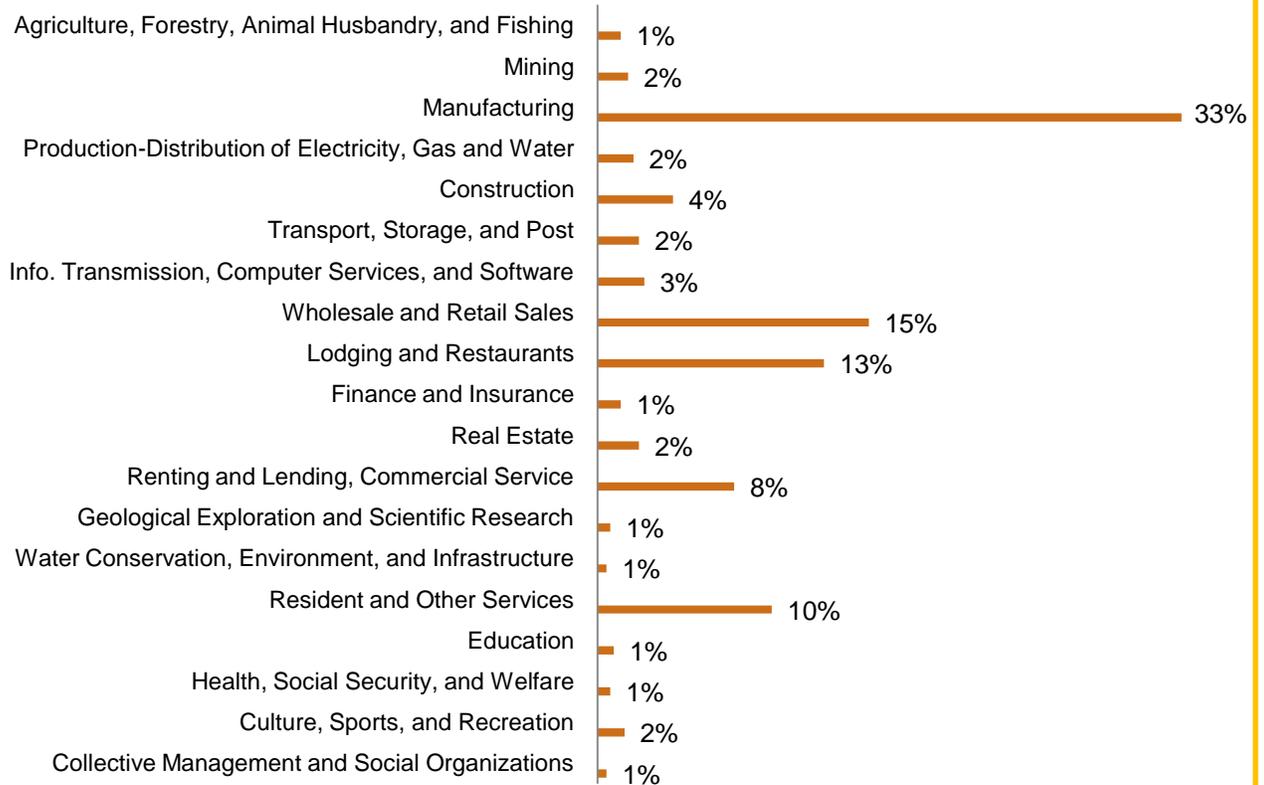
Reports from the National Bureau of Statistics of China suggest that¹:

- The demand for workers is primarily in secondary and tertiary industries. Forty-one percent of labor demand is in secondary industries, with most of the demand concentrated in manufacturing. Fifty-eight percent is in tertiary industries, most of which is focused on wholesale or retail sales, public services, or lodging and restaurants.



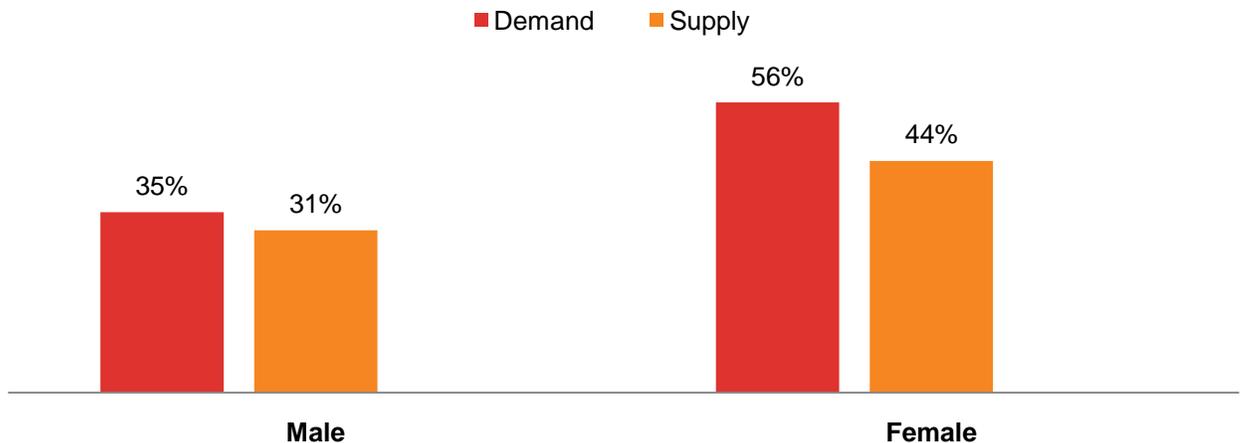
¹ http://www.lm.gov.cn/Weekly/content/2012-02/14/content_695963_2.htm

Labor Demand Broken Out by Industry

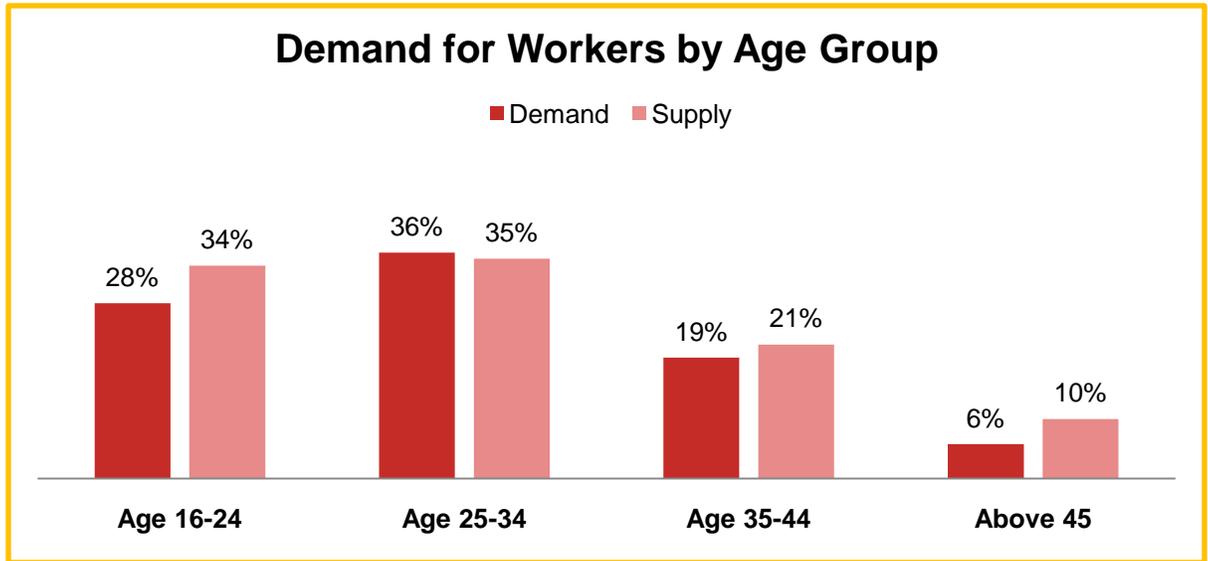


- Demand for male and female workers is somewhat different. Approximately 66% of employers have a gender preference when hiring workers. Overall, the labor demand for males is higher than for females. Meanwhile, the labor supply of males is also more than females, 56% vs. 44% respectively.

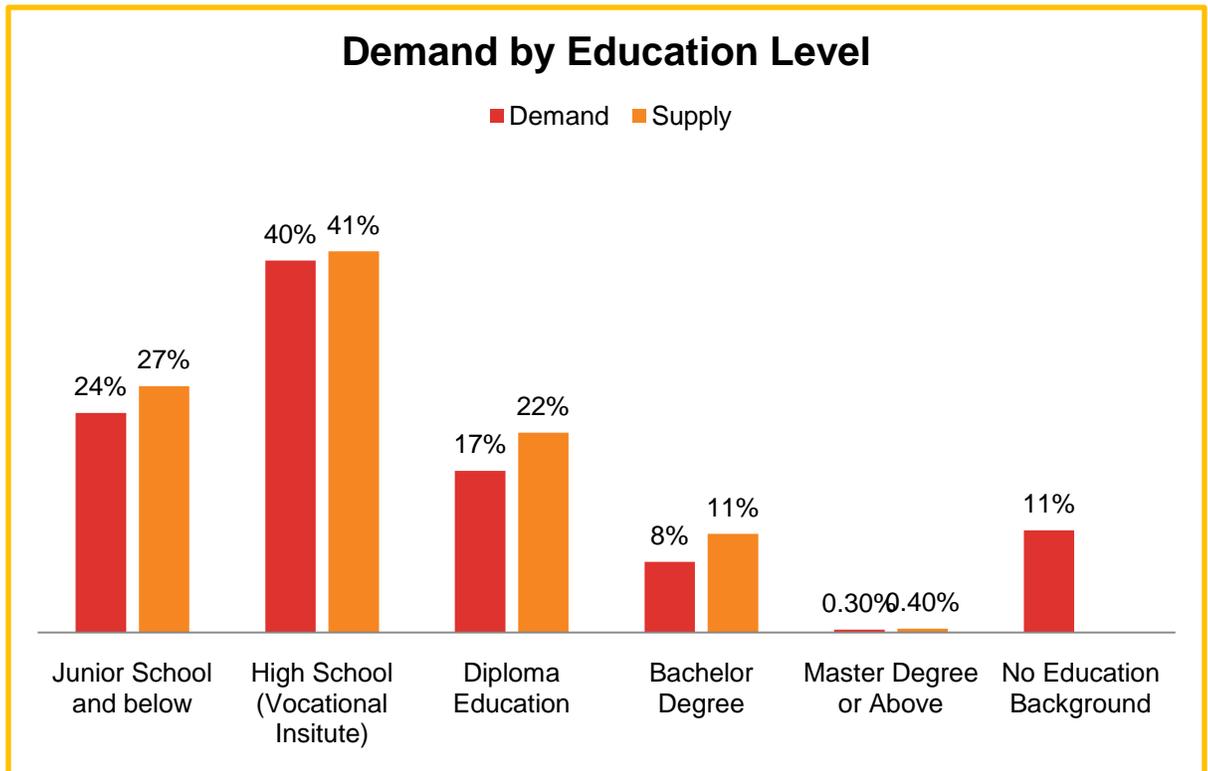
Demand for Male vs. Female Workers



- The demand for workers also varies by age. Almost 89% of employers have requirements for age. The demand for workers between age 16 and 34 year is the highest, accounting for 64% of all labor demand, of which, 28% is for employees aged 16-24 years and 36% for 25-34 years.



- Around 89% of employers have specific requirements on education levels. The demand for workers with a high-school level education is highest, accounting for 40% , while the demand for master’s or above is the lowest, only 0.3% .



1.2 Worker Migration Trends

Rapid economic growth and urbanization across China since 1979 has had a profound impact on rural communities, resulting in massive rural-to-urban and region-to-region migration. In addition, continuously rising costs of living and narrowing wage gaps among regions have reduced migration between the eastern area and the mid-western regions.

DISTRIBUTION OF MIGRANT WORKERS

The 2011 Migrant Worker Monitoring Report² indicates that although there is an increase in the number of migrant workers outside of their home provinces, there are four changes in the distribution of migrant workers.

1) **The majority of migrant workers are still working in eastern China, but there is an increase in the number of migrant workers in mid-western China**

The number of migrant workers in eastern China was 165.4M workers in 2011. This number was 3.24M (2.0%) more than that of the previous year. The percentage that these workers represented out of the total migrant worker population was 65%, which was 1.5% lower than the previous year. In 2011, there were 44.4M migrant workers in mid-western China, an 8.1% (3.3M) increase compared with that of the previous year. This represented 18% of the total migrant worker population, an increase of 0.7%.

In mid-western China, there were 42.2M migrant workers in 2011, which represented nearly a 10% increase (3.7M workers) nearly 17% of the total migrant-worker population (up 0.8%). Guangdong, Zhejiang, Jiangsu, and Shandong together have received over 50% of total migrant workers in the country.

It is apparent that although the total number of migrant workers increased in 2011, there is a tendency that more and more migrant workers are moving to mid-western China instead of eastern China as their destination.

2) **Decrease of migrant workers in Yangtze and Pearl River Deltas**

The labor shortage that occurred in the coastal area of eastern China was largely due to the decrease in the number of migrant workers in the Yangtze River and Pearl River Deltas. The decrease in migrant worker numbers was particularly prominent in the Pearl River Delta.

Statistics show that in 2011, there were 58.3M migrant workers in the Yangtze River Delta, a 1.8M (0.1%) increase over 2010. The increase in migrant workers and the growth rate were significantly lower than the year before. Migrant workers in the Yangtze River Delta and the

² http://www.stats.gov.cn/tjfx/fxbg/t20120427_402801903.htm

Pearl River Delta are taking up 23% and 20% out of the total number of migrant workers, which is 0.9% and 0.8% less than 2010. With the rapid development of the mid-western region, the wage gap across regions in China has narrowed, and thus the Yangtze River Delta and Pearl River Delta appear to be gradually losing their attractiveness to migrants.

3) More migrant workers decided to work in their home provinces

There were 74.73 million (47.1 percent) migrant workers working in provinces other than their home provinces. This figure is 2,440,000 (3.2 percent) less than that of the previous year. Conversely, 83.9 million (52.9 percent) migrant workers decided to work in their home provinces, an 10.1 percent (7.72 million) increase over 2010.

As shown by the results of our investigation, although the total number of migrant workers increased in 2011, more of them decided to work in their home provinces. This is particularly true for farmers in eastern China. In the middle and eastern areas of China, while most farmers prefer to work in other provinces, there is an increase in farmers who decided to work in their home provinces. It seems that with the economic growth of mid-western Chinese areas, farmers would rather work nearby their hometowns, and not migrate to the eastern coastal areas.

As shown by the data above, there is an apparent change in migrant workers' choices of working destinations, and the decrease of migrant workers in the eastern coastal areas is the main cause for the labor shortage that has occurred in the Pearl River and Yangtze River Delta areas since early 2011.

4) Migrant workers moved mainly to regional-level cities

Statistics also showed that among those workers who chose to work outside their home provinces, 34% moved to regional-level cities, and 21 % and 10% moved to provincial- and municipal-level cities respectively. The number of migrants who moved to regional-level cities is 1.7% higher than 2010.

1.3 Labor Shortages

China's growth has been phenomenal but not without problems. A key bottleneck has been the inability of the educational system to provide the numbers and types of human resources needed by its rapidly expanding industries and businesses. Human resource development takes time, but businesses operating in China have immediate need for experienced middle managers, entrepreneurs, technicians, and inventors.

In 2011, data from the coastal regions clearly showed the decline in migrant numbers. Statistics by the transportation department in Shanghai in February 2011 revealed that the number of migrant workers returning to the city from Sichuan and Anhui provinces fell by 10,000 per day compared with the prior year. In southern China's

Guangdong province, there will be about 1M fewer workers this year compared with the previous year, according to the Director of Guangdong's Labor Bureau. A survey released on February 11 2011 shows that 67% of companies in the eastern province of Jiangsu expect to have difficulty recruiting new workers this spring.

BSR's research in China has revealed the following trends:

1) The number of migrants is still increasing, but at a lower rate

According to a report published by the China Academy of Social Sciences, the proportion of the working-age population in China reached its peak of 72% in 2009 and will decrease gradually to 67% by 2030. Although the number of migrant workers will continue to grow for seven to eight years after 2009 (as the total population continues to grow), the growth rate will be lower in coming years.

2) High demand for workers due to rapid recovery of the Chinese economy

In late 2009 and before Lunar New Year 2010, the Chinese economy showed a rapid recovery, and companies found it was necessary to employ more workers to fulfill rush orders from abroad. However, since many migrant workers were enjoying their annual New Year's leave at the time, business owners could not recruit enough workers.. This caused a serious labor shortage in the eastern coastal areas.

3) Industrial upgrades lead to higher demand for experienced and technical workers

Facing government requirements for industrial upgrades, as well as market pressures to keep costs down and substitute cheap capital (i.e., machinery) for increasingly expensive labor, labor-intensive manufacturing companies are beginning to require more skilled and technical workers. According to a report by the human-resources consultancy Hewitt, there will be a 10-20% shortage in skilled labor.

1.4 Social Security

Chinese law provides that employees are entitled to—and employers are required to provide—social security and welfare benefits, even if the employee prefers to waive such benefits. China's Labor Law provides for a national social security system that includes the following social security and welfare benefits: Retirement and pension benefits; worker compensation for job-related injuries and diseases; medical care and disability benefits for injuries or diseases that are not employment-related; unemployment benefits; pregnancy and maternity benefits; and death benefits for survivors.

CHANGES TO CHINA'S SOCIAL INSURANCE LAW

On October 28 2010, The NPC Standing Committee adopted the Social Insurance Law of the PRC ("SIL"), which entered into effect on July 1 2011. SIL establishes, for the first time, the legislative framework of the social security system, and specifies the principles and scope of social security; the coverage of each type of social

security; the contents of social security benefits and qualifying conditions thereof; the supervision of social security funds and the payment and receipt of each type of social security. Highlights of the legislation include:

- **Employer Obligations:** SIL strengthens employers' obligations to pay social security for their employees, and specifies the enforcement measures which may be used if employers fail to pay premiums. In case of dispute, the parties concerned may seek resolution through mediation, arbitration, or litigation according to the law.
- **Contents of the social security system are clarified:** Basic pension, basic medical insurance, and unemployment insurance shall be paid by an employee and his/her employer jointly as stipulated, while occupational injury insurance and maternity insurance shall be paid only by the employer on behalf of employees.
- **The portability of basic pension, basic medical insurance, and unemployment insurance are explicitly stipulated:** SIL provides that when an individual is employed in another pooling region, arrangements for the individual's basic pension, medical insurance, and unemployment insurance shall move with him/her to the new region. The contribution years for the social security funds shall be calculated on a cumulative basis. SIL also provides that the administrative authorities in charge of social security and health shall establish a medical-expenses settlement system for people receiving medical treatment.
- **Remedies are explicitly stipulated for employers or individuals seeking remedy against infringement on their legal rights by government agencies:** SIL states that an employer or individual may apply for an administrative review, or file an administrative litigation, with a court when the employer or individual feels that a social-security collection agency has infringed on their legal rights or interests, or that a social-security handling agency has failed to carry out such procedures as social security registration, premiums determination, benefits payment, or enrollment or withdrawal requests.
- **Foreigners working in China:** SIL also stipulates that foreigners working in China may participate in social-security programs.

IMPACT ON COMPANIES

- The implementation of the Social Insurance Law has reinforced employees' rights in social security, and employers have to pay a penalty ranging from 100 to 300 % of the contribution due if they fail to make social-insurance contributions in full and on time. Furthermore, a daily late payment interest of 0.05% of the underpaid amount will be fined as well.
- The Social Insurance Law has instigated employers to operate in more standardized fashion in terms of employee social security. Likewise, promulgation of the law will raise employee awareness of

their rights, which will likely lead to increased numbers of arbitrations and lawsuits against violators of the new law.

FEATURES OF MIGRANT WORKERS SOCIAL SECURITY

- **Gradual improvement in delayed payment.** According to statistics presented by the 2011 Migrant Worker Monitoring Report, the cases of delayed payment to migrant workers accounted for 0.8% of the total, a decrease of 0.6% from the previous year. Delayed payment usually occurs in construction and manufacturing. Recent statistics indicate that there has been a tendency toward gradual reduction in the number of cases of delayed payment between 2008 and 2011—from 4.1% in 2008, to 1.8% in 2009, 1.4% in 2010 and 0.8% in 2011-- suggesting positive impact from the social-security law.
- **Fewer working hours of migrant laborers.** Compared to the average of 26.2 days per month in 2010, migrant laborers worked 25.4 days per month in 2011. Although there is improvement in working hours, 84.5% of migrant workers still worked for over 44 hours per week in 2011, which more than the legal work week.
- **Higher percentage of signed labor contracts, but still over half of migrants have not signed contracts.** Approximately 43.8% of migrant workers had signed labor contracts with their employers in 2011, which is 1.8% higher than the previous year. However, there is still a high percentage of migrants who do not have signed contracts.
- **Increased number of migrant workers participating in the social-insurance system.** Nevertheless, the number of migrant workers who have participated in the mid-western region is much lower than the eastern area. Coverage rates for pension, medical, unemployment, and maternity insurance have increased to 13.9%, 16.7%, 8.0% and 5.6% respectively. The exception is industry injury insurance.
- **There is large variation among different industries.** Construction, lodging, and catering are the industries of most concern.

1.5 Working Hours

Working excessive hours is common in China, and overtime is usually driven by a range of factors including inefficient internal production systems; poor human-resources management; inadequate communication among workers, supervisors, and management; buying practices of client companies; and insufficient quality or late delivery of inputs.

Chinese labor law recognizes that a single regime for the regulation of working hours, however desirable, cannot be universally applied. Taking into account the varied types of work in a modern economy, there are three categories of working hours in China:

- “Standard working hours” of eight hours per day and 40 hours per week, with overtime payment at rates of 150%, 200% and 300% for additional hours worked.
- “Unspecified” working hours”.
- “Comprehensive” working hours.

The last two are often referred to together as “flexible working hours”, although that is not an official category.

Chinese law has explicit restrictions on overtime. Based on production or operations needs, an employer may consult with the trade union and employees on the extension of working hours, with the maximum daily overtime not to exceed one hour. If extended working hours are needed due to special circumstances, the employer may extend working hours for no more than three hours a day and no more than 36 hours a month, with the precondition of ensuring workers' health.

Employees may work for more than eight hours in a day, or more than 40 hours in a week, but average working hours during the reference period should not exceed the standard working hours. If they do, the excess (a maximum of 36 hours per month) will be overtime with payment of 150% (300% for statutory public holidays). All decisions to place employees on “comprehensive” working-hour systems must receive approval from the local labor department.

1.6 Wages

The Chinese labor market has changed in recent years and employers have to be concerned about caring for workers, or they risk losing them to competitors. This increased competition for human resources is the primary reason for rising wages and improved working conditions in recent years. To sustain regional economic growth, local governments tend to compete with each other to attract migrant workers by investing in improved conditions for migrants, including strict implementation of the minimum-wage policy.

In China, the term “minimum wage” refers to the lowest remuneration paid to employees by employers on the condition that the employees have worked regular working hours. Some items—like overtime pay, legal allowance, and legal benefits—must be deducted and cannot be counted as a part of wages when calculating minimum wage.

Generally, there are no limits on age, gender, job, or industry for the application of the minimum-wage system in China. Employers shall pay new (trial) employees no less than the local minimum wage. Migrant workers are explicitly included as well.

Municipal labor officials from various cities consider the situations of their respective regions, decide upon the minimum wage level for their cities, and then review the system once every one or two years.

Statistics from the 2011 Migrant Worker Monitoring Report reveal that migrant-worker wages in 2011 demonstrated the following characteristics:

- **Rapid growth of migrant-worker wages and a narrowing gap among regions.** The average wage of migrant workers in 2011 climbed to RMB 2,049, a 21% increase (RMB 359) from 2010. This was broken out as 21%, 23% and 21% increase across the eastern midlands and-western regions respectively.
- **Premium for outbound labor.** Outbound laborers earn an average of RMB 1,788 per month, which is an average of RMB 261 more than their local counterparts.
- **Migrant workers in large cities earn higher wages.** Wages for migrant workers in municipal cities, provincial cities, and regional cities are RMB 2,302, RMB 2,041 and RMB 2,011 respectively. Municipal-city wages are growing faster than other the others.
- **Huge gaps between industries.** The average wages in transportation, storage, and construction are higher than other industries, while lodging, catering, and manufacturing are paid relatively less.

1.7 Collective Negotiation and Labor Disputes

Collective negotiation is not a new concept in China: it can be traced back to 2000³. As the Chinese economy develops, workers are thinking more seriously about exerting their collective leverage when it comes to wages and working conditions.

Collective negotiation caught the public's attention in 2010, when strikes were called in May in Shenzhen and nearby cities in the south China⁴. The strikes were triggered when workers in foreign-owned factories asked for increased wages.

The Ministry of Human Resources and Social Security (hereafter MHRSS) issued the Company Labor Dispute Mediation and Arbitration Regulation on November 30, 2011, aiming to establish an internal negotiation system between employers and employees and to strengthen employee-grievance systems. Chief objectives of the regulation include the following:

- **Strengthen employer-employee communications.** It is suggested that companies establish a mediation committee—consisting of representatives of employees, management and labor unions—to ensure smooth communication between company and employees. The mediation committee also serves as a platform to convey worker grievances, demands, feedback, and messages

³ the *Trial Act of Collective Negotiation on Salary*, issued by the Ministry of Labor and Social Security

from employees to management. The committee also helps to resolve complaints and potential disputes at an early stage.

- **Mediate settlement and enforcement of disputes.** According to Articles 11 and 27 of the regulation, within 15 days of the effective date of the mediation agreement, the arbitration committee shall review the mediation agreement and issue a statement in written form to review arbitration cases.

The total number of labor-dispute cases grew significantly during the 2008--11. In 2011, the government's Mediation and Arbitration Departments around the country received approximately 1,379,000 labor-dispute cases with over 1,815,000 workers involved. This figure is 7.1% higher than the year before. The collective-labor dispute cases for the same three years accounted for over 15,000 cases with 372,000 workers involved.

Current trends among these labor-dispute cases include the following:

- **Prevalence of Guangdong among cases.** The year 2011 was the third year in a row that Guangdong Province received more than 300,000 labor-dispute cases for the year. In 2007, there were nearly 112,000 cases; the figure climbed to 303,000 in 2008, with a continued increase to 317,000 in 2009. In 2010, there was a slight decrease to 311,000 cases (a 2.6% reduction). It's worth noticing that 90% of total labor-dispute cases occurred in the Pearl River Delta (PRD).
- **Prevalence of privately owned companies.** Labor disputes tend to be more frequent in private companies, particularly companies with capital from Hong Kong, Macao, and Taiwan, which together represented a total of 70% of the labor disputes. This can be attributed to the rapid development of private companies and a decline in the number of state-owned enterprises while the management style and standards of private companies are not yet in line with the requirements for business growth.
- **Rising worker awareness.** On the one hand, industrialization of the PRD has attracted a huge number of companies and employees. On the other, enactment of the Labor Contract Law and the Labor Dispute Mediation and Arbitration Law in 2008 has driven growing awareness of labor rights among workers, especially the availability of free arbitration services and longer periods for arbitration.
- **Compensation and contracts are behind most disputes.** Some 70% of the labor-dispute cases involve termination of contract, compensation, working hours, or social insurance and humane treatment of workers. It appears that that disputes around economic rights and interests still top the list of disputes.
- **Mediation has become the most common form of labor disputes resolution.** A total of 70% of labor disputes were resolved through mediation of either government mediation board

or enterprise mediation committee, which is the result of shared effort at different levels of the mediation department.

- **The proportion of employees who win labor lawsuits has declined sharply.** The number of lawsuit cases in which workers eventually win has dropped from 34% to 24% since 2008, implying that employers have been improving their labor conduct in terms of labor contract, wages, working hours and etc to enable employment become more standardized.

1.8 Labor Contracts

China's Labor Contract Law has already contributed to greatly improving treatment of employees in China since 2008. Before enactment of the Labor Contract Law, employee abuse was rampant and labor relations were deteriorating. Labor disputes in China increased more than thirteen-fold between 1995 and 2006, and growing numbers of these disputes erupted into public demonstrations. Most Chinese labor law experts viewed the existing labor laws and regulations as inadequate for solving employer-employee disputes and considered employees to be lacking basic legal protection.

The Labor Contract Law was designed to give employees more rights and easier enforcement. Moreover, the Labor Contract Law gives workers the right of private legal action to enforce their own labor rights. In other words, employees may now sue their employers directly, without the aid of the state. Chinese labor departments and agencies may still assign administrative penalties for labor law violations, but granting a cause of action to Chinese workers has greatly minimized the role of the state in the employer-employee relationship and greatly increased the power of Chinese workers to pursue their legal rights independently.

KEY MODIFICATIONS ON LABOR CONTRACT LAW COMPARING WITH LABOR CONTRACT

- **The Labor Contract Law poses stricter legal liability on employers without labor contracts.** According to Article 82, when an employer fails to sign a written employment contract with an employee after the lapse of more than a month but less than one year from the date when the employee enters employment, the employer is required to pay double monthly wages to the worker.
- **The Labor Contract Law settles the issue of open-ended employment contracts.** In accordance with Article 14, if employees have been working for the same employer for 10 consecutive years, or have signed open-ended employment contracts with the same employer more than once, then open-ended employment is assumed.
Detail requirements during probation period. According to Article 19, if an employment contract has a term of three to twelve months, the probation period may not exceed one month. If a contract has a term between one and three years, the probation

period may not exceed two months. And if a contract has a term of three or more years—or is open-ended—then the probation period may not exceed six months. An employer may stipulate only one probation period with any given employee.

- **About penalties.** Under Article 22, if employees resign within the contract period, employees pay penalties only for violation of competition clauses when they receive professional technical training from their employers.
- **Labor contract changes and modifications.** Articles 33 and 34 state that modifications such a change in the name, legal representative, executive officer or investors in a company shall not affect the validity of the company's employment contracts. Likewise, if a company merges or is divided, its existing employment contracts shall remain valid and shall continue to be respected by the new employer which assumed the contracts.
- **Labor contract termination.** According to Articles 37 and 38, an full-time employee may terminate their employment contract upon 30 days' written notice to the employer. During new employee's probation period, an employee may terminate their employment contract by giving their employer 3 days' prior notice.
- **Collective agreements.** According to Article 51, after bargaining on an equal standing, employees as a group, and their employer, may agree on a collective contract regarding such matters as compensation, working hours, rest times, leave, work safety and hygiene, insurance coverage, benefits, etc. The draft of the collective contract shall be presented to the employee representative congress, or to all employees, for discussion and approval. A collective contract shall be signed by the trade union, on behalf of the company's employees, and by the employer.
- **Labor dispatch.** Article 67 states that employers may not create staffing firms to place employees with their own companies or their subsidiaries. The Labor Contract Law views staffing firms as employers, which are required to meet all labor obligations. The employment contract between a staffing firm and an employee to be placed shall, in addition to the matters specified in Article 17, specify matters such as the unit with which the employee will be placed, the term of his placement, his position, etc.

Research by the All China Federation of Trade Union in 2010 revealed that labor-contract coverage reached 85% of employees. In 2010, there were 1.1M signed collective labor contracts, among 1.9M companies which represented some 150M workers.

On a micro level, the Labor Contract Law has changed the way nearly every company does business in China. Companies now are required to have written employment contracts, in Chinese, with all of their employees and maintain a written policy manual, also in Chinese, explicitly stating the potential causes for employee termination. The written contract is necessary to avoid potentially huge penalties, and the policy manual helps prevent the potential of having to retain

employees. The law has also carved out a bigger, and more clearly defined, role for labor unions in China. Despite all of the changes instigated by the law—and all the changes yet to come—employee rights in China are still insufficient when compared to the West.

Part 2 – Recommendations

It is widely acknowledged that labor relations in China can only be improved through collaborative efforts among government, business, international buyers, labor unions, and grassroots NGOs. We suggest the following approaches for key stakeholder groups to pursue, together, more harmonious industrial relations.

GOVERNMENT: ENFORCEMENT IS KEY!

National, provincial, and municipal governments are sending an important signal by following up on the Labor Contract Law with a series of supplementary regulations and systems, such as the Enterprises Labor Disputes Mediation and Arbitration Regulation, the Wage Collective Bargaining Mechanism, and others.

We encourage governments at all levels to diligently enforce the laws and regulations. Disciplined enforcement will greatly facilitate employer-employee dialogue, and will ensure an open and fair platform to resolve labor disputes.

BUSINESS OWNERS AND EMPLOYERS: THE CALL TO CULTURE CHANGE

The changing environment in China requires employers to upgrade their knowledge, management practices, and most importantly, their mindset. As labor shortages continue and labor unrest rises, employers need to treat workers as human capital, not as production tools. This change in perspective requires more than a new management tool or system; it requires a change in basic company culture.

We recommend that employers invest in professional human-resources management and that they demonstrate sincere commitment to workers' health and wellbeing. This culture change will require better human-resources planning, more effective career management, and open worker communication and engagement. A participatory culture and management style are essential for a productive and stable workplace.

INTERNATIONAL BUYERS: SHAPING ENTIRE SUPPLY CHAINS

The past 15 years have witnessed tremendous improvement in basic working conditions thanks to the combined efforts of international buyers. The buyers' sourcing decisions have huge impacts on labor conditions throughout their supply chains.

We encourage international buyers to align internally within their respective companies on pricing, forecasting, planning and scheduling, and most importantly sending consistent signals from various departments (for example, between the global compliance and buying functions). We also recommend that buyers facilitate industrial dialogue to help and respond to worker needs in their supply chains,

and resolve industrial disputes. Buyer associations can help buyers come together and speak with a single, more consistent, voice.

LABOR UNIONS: GENUINE REFORM FIRST

As labor strife and strikes increase, so does the need to strengthen China's labor unions. Strong, professional labor unions that put worker rights and interests first—and that are open to transparent engagement with company management—are an important building block of harmonious industrial relations. Democratic participation within the unions is the first priority for reform.

We encourage labor unions to undertake genuine reform, enabling democratic and grassroots participation for establishing effective collective bargaining systems which faithfully represent worker interests. It is also crucial that workers' awareness of—and respect for—the potential impact of labor unions be cultivated. Workers need to understand the importance of having their trade unions accurately represent, and be accountable, for their interests. A critical foundation for achieving this is to help trade unions become financially independent from companies and the government.