

**Report on the Malpractices and Social and Environmental Abuses of  
European Companies Investing in China**

**Globalization Monitor**

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September 2012



Cover photo: Tesco workers protesting at a Tesco supermarket in Jinhua, Zhejiang Province, November 2011. Their signs read: “We demand rights as well as my hard earned money”.

Publisher: Globalization Monitor

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September 2012

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ISBN: 978-988-18039-0-0

We would like to thank the Isvara Foundation for sponsoring this report.



Price: HK\$ 50 / US\$ 12 / EURO 10

# Report on the Malpractices and Social and Environmental Abuses of European Companies Investing in China

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## 1) Introduction

This report is a follow up to our 2010 pilot study *Complicity, Campaigns, Collaboration and Corruption: Strategies and Responses to European Corporations and Lobbyists in China* in which we looked at the general lobbying strategies and tactics used by European corporations in order to advance their investments and business interests in China. The previous report showed that in carrying out their business interests in China, the resorting of multinational companies to corrupt practices or other harmful lobbying techniques is very commonplace. Rather than advancing human rights, something which European governments and companies made clear was not their priority when they placed their investment interests above human rights shortly after the Tiananmen massacre, or rather than bringing overall benefit to society, for instance in its bringing new technology to China, something which is often cited as reason or justification for supporting the advancement of the growth of foreign investment in China, the pilot study showed that investment by multinational corporations, due to the nature of their interests and the way that they behave in China, has often impacted adversely particularly where ordinary people and the environment are concerned. Given the authoritarian nature of the Chinese state and the absence of a normal civil society, foreign companies are just as likely as domestic companies of resorting to corrupt practices. Indeed, the recent China Mobile corruption case and the reported implication of Ericsson and Siemens (outlined by this report) highlight how foreign and domestic companies can be involved in corrupt practices together for mutual benefit. Furthermore, it is also true that just like their domestic counterparts, foreign companies gain from taking advantage of the lack of freedom of association and other basic labour rights when doing business in China. At a very minimum foreign companies continued investment in China, indeed only acts as an endorsement of the current situation there.

This report aims to extend the research of the pilot study, this time with the focus more specifically on the targeting of individual European companies, whose business practices in China are a cause for concern. The companies included are mostly chosen as they are either implicated in corruption or other malpractice, are responsible for the violation of labour rights, produce products which are unsafe or harmful to consumers or potentially cause harm to the environment. In some of the cases, such as in the cases of infant formula manufacturers or in the case of Tesco, due to misinformation and dishonesty by the companies concerned, for instance regarding claims about ethical practice and commitment to Corporate Social Responsibility not matching up with the practice of the company and its suppliers, consumers are misled. In other cases, for instance, in the case of Nokia, workers rights are infringed upon and they are not even afforded the same rights as workers working for the same company in other countries, highlighting how the exploitation of Chinese workers is particularly severe. In other cases, for instance in relation to Daimler and Siemens, bribery and corruption over a number of years in order to win lucrative contracts or the personal enrichment of company senior executives has featured prominently. Despite such examples, however, the particular selection of individual companies in no way means that these companies are the sole culprits of such malpractices. Rather, the cases chosen here are selected because they provide clear illustration of practices which we should oppose whenever they surface. To illustrate both how frequently and wide ranging such malpractices are, we have therefore looked at evidence and selected cases concerning companies from six different industries or sectors to include in our study. These include infant formula manufacturers, the retail industry, the auto industry, the

container industry, the telecommunications and mobile phone industry and the water industry. It is hoped that the findings of this report will be of use in activities to raise awareness of and to campaign against the malpractices of companies from these and from other industries as well.

## 2) Infant Formula and Milk Powder Companies

In recent years the infant formula market has grown significantly in China and fierce competition exists among different international, as well as domestic companies, with global brands accounting for more than 80% of the premium infant formula market<sup>1</sup>. Nonetheless such growth has often been accompanied by blatant disregard for the health and safety of the consumer. In the promotion and marketing of infant formula, for instance, many companies have been found to operate malpractices, disregarding the potential health consequence for infants, in order to try and achieve higher sales and to maximise profits.

One measure by which to hold companies to account in this respect are the guidelines set by the World Health Organisation (WHO). In order to encourage good infant nutrition and the promotion of breast-feeding, the WHO adopted *the International Code of Marketing of Breast-milk Substitutes*, in 1981. The code provides guidelines for restrictions on the promotion of breast-milk substitutes. Although not legally binding, since its adoption, at least 65 countries have passed legislation to implement provisions of the code. This includes China, which enacted the *Chinese Rules Governing the Administration of Marketing of Breast-milk Substitutes* in 1995, which according to the WHO embody the principle of the international code. Nonetheless a 2004 survey prepared by the WHO Collaborating Centre for Child Health found that in China the rules are not adequately enforced, there is no regular monitoring mechanism and that numerous violations take place.<sup>2</sup> Indeed, according to the survey report, the marketing strategies by the different competing companies are said to be so excessive that companies will often resort to reporting on each others' violations.

One of the major problems that the report identifies is that infant formula companies have engaged in a strategy of establishing themselves and their influence within health care communities. Health care facilities, for instance, are becoming more and more dependent on the baby food companies themselves to provide services and other activities. Materials on infant feeding and childcare, for example, are often funded by these companies,<sup>3</sup> which thus places them in an advantageous position to influence mothers and promote their brand. A further strategy used by companies which violates the code, is to supply educational and information materials supposedly for healthcare workers in such bulk so as to encourage a "trickle down" of this material to mothers themselves. In addition, companies have also been found to try to boost their image by enlisting renowned health professionals and associations to endorse them.

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<sup>1</sup> China baby milk market faces challenges, The China Post, July 15<sup>th</sup> 2011.

<sup>2</sup> China: Code Violations: A Survey of the International Code of Marketing of Breastmilk Substitutes and Subsequent WHA Resolutions, IBFAN, WHO collaborating Centre for Child Health, March 2004.

<sup>3</sup> Ibid



*Picture 1: Promotional material and coupons collected from the maternity ward on the third floor of Nanshan Hospital in Shenzhen on 13<sup>th</sup> June 2011. Photo by Globalisation Monitor.*

Indeed, included among the provisions of the WHO code are provisions which prohibit the promotion of infant formula in health care system facilities (article 6.2). This includes the prohibition of the display of products, placards and posters and the distribution of materials provided by a manufacturer or distributor, except educational and promotional materials requested by and approved by an appropriate government authority but which nevertheless do not refer to a proprietary product (articles 6.3 and 4.3).<sup>4</sup> When investigating marketing strategies by infant formula companies in 2011, in the same way that the WHO survey found numerous violations in 2004, our own research trips found that there are still violations of these provisions by numerous companies, including European companies. In Shenzhen pamphlets, posters and other such materials, which we suspect violate both the international WHO provisions stated above as well as the Chinese code, promoting brands including amongst others the U.S brands Heinz and Abbott and the European brands Dumex and Friso, were found at both Nanshan Hospital and Nanshan Maternal and Child Health Hospital.



*Picture 2: Dumex pamphlet on baby care and nutrition found at Nanshan Maternal and Child Health Hospital in Shenzhen on 13 June 2011. Photo by Globalisation Monitor.*

<sup>4</sup> International Code of Marketing of Breast-Milk substitutes, World Health Organization, Geneva, 1981.

## Company Profile 1: Dumex

Dumex first entered the Chinese market in 1995. Formerly a part of The East Asiatic Company, since 2005 it has been part of Fortune 500 Company Groupe Danone, which is headquartered in Paris. Since 2002 it has been the leading seller of infant baby formula milk powder in China. According to information provided by the company on their Singapore website, “Danone Dumex believes and endorses that breast milk is best for babies. But if breastfeeding is not possible for mothers, Danone Dumex products will provide complete nutrition during a baby’s first year of life.”<sup>5</sup> At the time of writing no such similar statement was made on their Chinese website, however, and indeed despite such a statement, in our visits to hospitals in China we found suspected violations of the WHO code in the marketing of this company’s products. At the maternity ward of a hospital in Shenzhen, for instance, we found a promotional coupon for Dumex products stapled inside a Dumex pamphlet on baby care and nutrition. Despite the text on the inside cover of the pamphlet, citing the WHO code and the benefits of breast milk, the coupon, offering a buy-one-get-one-free promotion and providing a Dumex sales consultation telephone number, was stapled on the very opposite page. Thus the seemingly “responsible” provision of information and guidance with regards to caring for the health of babies is exposed for what it often is; nothing but another marketing strategy to trick consumers into believing that the company can be trusted while pushing sales aimed at boosting company profits.



Picture 3: A promotional discount coupon for Dumex products stapled inside a pamphlet on baby care and nutrition. Material collected at Nanshan Maternal and Child Health Hospital in Shenzhen on 13<sup>th</sup> June 2011. Photo by Globalisation Monitor.

In addition to violations in healthcare facilities we also found violations of the code in retail. The code also prohibits the advertising and promotion of infant formula and other breast milk substitutes (article 5.1), meaning that at a retail level, “there should be no point-of-sale advertising, giving of samples, or any other promotion device to induce sales directly to the consumer at the retail level, such as special displays, discount coupons, premiums, special sales, loss-leaders and tie-

<sup>5</sup> About Us, [http://www.dumex.com.sg/about\\_us](http://www.dumex.com.sg/about_us)

in sales,” (article 5.3).<sup>6</sup> Nonetheless, our research at a number of supermarkets in Shenzhen in 2011 suggests that these clauses are regularly being violated by retailers, including French supermarket chain Carrefour and Chinese Retailer Ren Ren Le, which often make use of promotion stands, advertising boards and a variety of different discounts and special offers to encourage the consumer to purchase these products.

#### Company Profile 2: Nestle

The Swiss “nutrition, health and wellness company” Nestle is the largest food company in the world and another leading manufacturer of infant formula in China. In 2004 Nestle, was accused in a feature on German TV program Panorama, of violating the WHO International Code in China and the Philippines. Following this feature and the use of the program’s report by the UK based campaign group Baby Milk Action as part of its call for a boycott against the company, Nestle responded by stating its commitment to complying with the WHO code and denying the accusations made by the program. After stating that it had carried out a careful investigation into the allegations raised by the report, it stated that, “As for our marketing of infant formula in China and in the Philippines, we would stress that we implement all the WHO Code restrictions in those two countries, like elsewhere in the developing world.”<sup>7</sup> Nonetheless, despite the fact that Nestle has managed to produce a written declaration from the owner of the shop, in which it was alleged to have carried out promotional activities of infant formula in violation of the code in the Panorama program, stating that no promotion of Nestle infant formula ever took place in that store<sup>8</sup>, evidence from the 2004 survey by the WHO Collaborating Centre for Child Health (mentioned above) nevertheless clearly depicts, with the word “violation” stamped across the photographs, evidence of violations of the code in the marketing of Nestle products in China. This includes the display of both products and the brand name in health care facilities, offers of free gifts with the purchase of products, and an advertisement presenting babies which are fed with Nestle as competition winners.<sup>9</sup> Thus it would seem that Nestlé’s above stated commitment to the code in practice means very little.

Statements by Nestle might also be considered less than reliable in light of its claims during the 2008 China milk scandal that none of its products in China were made from milk adulterated with melamine and that all of its products were safe, even though shortly after traces of melamine were found in Nestle milk products manufactured in mainland China by first the Hong Kong and then the Taiwanese governments. As a result of its claims about its product safety at the time and the fact that Nestle did not initiate recalls and suspend production as some other dairy producers did, the IUF union federation criticised Nestle for “putting public relations before safety”.<sup>10</sup> Indeed, even after Taiwan placed a ban on Nestle milk products after detecting traces of melamine, Nestle made statements criticising Taiwan’s decision claiming that the products had been proven to meet international safety standards.<sup>11</sup> While our investigation in 2011 into the current situation regarding marketing of infant formula in hospitals and supermarkets in China, did not in this instance uncover

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<sup>6</sup> Ibid

<sup>7</sup> Is Nestle violating the Code in the Far East? 12<sup>th</sup> March 2004,

<http://www.babymilk.nestle.com/news/Pages/is-nestle-violating-the-code-in-the-far-east.aspx>

<sup>8</sup> <http://www.babymilk.nestle.com/news/Documents/chinadeclaration.pdf>

<sup>9</sup> China: Code Violations: A Survey of the International Code of Marketing of Breastmilk Substitutes and Subsequent WHA Resolutions, IBFAN, WHO collaborating Centre for Child Health, March 2004.

<sup>10</sup> Nestle puts public relations before precaution in China milk scandal, IUF, 24<sup>th</sup> September 2008,

[http://www.iuf.org/cgi-bin/editorials/db.cgi?db=default&uid=default&ID=607&view\\_records=1&ww=1&en=1](http://www.iuf.org/cgi-bin/editorials/db.cgi?db=default&uid=default&ID=607&view_records=1&ww=1&en=1)

<sup>11</sup> Nestle criticises Taiwan’s ban on milk products, 3<sup>rd</sup> October 2008,

[http://www.channelnewsasia.com/stories/afp\\_asiapacific/view/379941/1/.html](http://www.channelnewsasia.com/stories/afp_asiapacific/view/379941/1/.html)



any direct violation of the WHO code, which applies narrowly to products targeting infants up to six months, we did find promotions such as free gifts and discount in supermarkets relating to products targeting slightly older infants. What is more, this company's past record in China and their blatant disregard for consumer safety shows that Nestle clearly cannot be trusted and that it is important to continue to closely monitor this company's behaviour and to expose and campaign against any malpractices.



Picture 4: Sign offering free gifts for spending money on Nestle young children's milk powder at Ren Ren Le (人人乐) supermarket in Shenzhen. Photo taken on the 7<sup>th</sup> July 2011. Photo by Globalisation Monitor

### Product Safety Concerns

Violations of WHO guidelines on the promotion and marketing of infant formula have not been the only health concerns with regards to the sale of infant formula and milk powder in China. Product safety issues have frequently surfaced as companies have pursued profit at the expense of consumer safety. The most notable recent example being the 2008 melamine milk scandal in which milk, infant formula and other food products containing melamine, which was added to products to make them appear to more nutritious, led to the death of six infants and sickened an estimated further 300,000. In addition to this, a number of health scares indicate that in some instances the safety of the powdered milk products themselves might sometimes be substandard or potentially harmful.

Some examples include:

- In August 2011 consumers reported finding unknown worms inside Dumex milk powder.
- In October 2011 it was reported that a citizen from Qingdao province was seeking compensation after allegedly finding a live insect in Friso care milk powder imported from the Netherlands.<sup>12</sup>
- In early 2009, Dumex milk powder was also put under investigation by the Shanghai Municipal Bureau of Quality and Technical Supervision to see if it was contaminated with Melamine, after

<sup>12</sup> Insect found in Imported Milk Powder, China Daily, 1<sup>st</sup> November 2011, [http://www.chinadaily.com.cn/bizchina/2011-11/01/content\\_14017088.htm](http://www.chinadaily.com.cn/bizchina/2011-11/01/content_14017088.htm)

48 Chinese infants from Zhejiang, Guizhou and Sichuan provinces were reported to have suffered from calcium deposit problems and kidney illnesses after drinking Dumex milk powder.<sup>13</sup> In response, on its Malaysian website Dumex stated that “the current situation in China has been incorrectly reported and our colleagues there have confirmed that Dumex products manufactured in China have been tested thoroughly by certified official laboratories and were found to contain no melamine.”<sup>14</sup> After conclusion of the investigation by the Bureau China’s General Administration of Quality Supervision, Inspection and Quarantine published the results, stating that no evidence of melamine contamination had been found.<sup>15</sup>

- In 2002, it was reported by the Thai media that 400 tons of Denmark made polluted Dumex milk powder had been shipped to Thailand, China and the Philippines and that the Thai Food and Drug Administration and Dumex Thailand had reached an agreement to recover 135 tons of the milk powder from Thailand. Meanwhile in China, the domestic producer of the milk powder, the International Nutritional Company Ltd. responded by stressing that the domestically produced brands and the polluted powders were independent of each other.<sup>16</sup>
- In 2005, 13.5 tons of Nestlé’s infant formula “Jin-Pai Growing 3-Milk Powder” was pulled off shop shelves in a number of regions in China after Zhejiang authorities found the product to contain excessive levels of iodine. Nestle issued an apology for “its mistake in deviating from the National Standard”, although it denied that the product posed a health risk, and stated that it had increased the frequency of its iodine testing in response to the incident. Critics, such as Qiu Baochang a lawyer for the China Consumer’s Association, responded that the company’s apology coming only after pressure from the public.<sup>17</sup>

### 3) Retail

#### Carrefour

French multinational Carrefour is the second largest retailer in the world and one of the largest retailers in China. It entered the Chinese market in 1995, initially in larger cities and like many foreign companies it first entered through joint-ventures with local enterprises. In recent years it has rapidly expanded in China. By 2007 it already had 156 hypermarkets, and having opened between 20 to 25 stores each year in China since then, by the end of 2011 aimed to have a total of 203 stores.<sup>18</sup>

Carrefour’s website outlines its “social and ethical approach”. In this outline it stresses the importance of preserving “the rights of its employees worldwide” and cites the signing of an

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<sup>13</sup> Chinese quality watchdog investigates whether Dumex milk powder contaminated, 11<sup>th</sup> February 2009, [http://news.xinhuanet.com/english/2009-02/11/content\\_10802804.htm](http://news.xinhuanet.com/english/2009-02/11/content_10802804.htm)

<sup>14</sup> Cited by Ibid

<sup>15</sup> AQSIQ: No melamine in Dumex milk powder products. February 20th 2009, <http://www.chinacsr.com/en/2009/02/20/4563-aqsiq-no-melamine-in-dumex-milk-powder-products/>

<sup>16</sup> Polluted Dumex Milk Powder Shipped to China: Report, People’s Daily Online, 17<sup>th</sup> July 2002, [http://english.peopledaily.com.cn/200207/17/eng20020717\\_99885.shtml](http://english.peopledaily.com.cn/200207/17/eng20020717_99885.shtml)

<sup>17</sup> Nestle offers apology for unsafe product, China Daily, 7<sup>th</sup> June 2005, [http://www.chinadaily.com.cn/english/doc/2005-06/07/content\\_449298.htm](http://www.chinadaily.com.cn/english/doc/2005-06/07/content_449298.htm)

<sup>18</sup> Latest Store Openings, Carrefour, <http://www.carrefour.com/cdc/group/our-business/latest-store-openings/china-opening-of-the-200th-carrefour-hypermarket.html>

agreement with the UNI (Union Network International) in 2001, its work for more than ten years with the FIDH (Federation for Human Rights) and its involvement with the Global Social Compliance programme since 2006 “in order to better assert the workers’ rights within the global supply chain” as examples of its commitment to this.<sup>19</sup>

Carrefour also seems to be concerned with presenting the image that it is providing benefit to local communities and countries that it is investing in. Accordingly it states that:

*“The Group contributes to sustaining local communities by creating jobs, dealing with local service providers and suppliers, and paying taxes. However Carrefour also views itself as a civic-minded player and thus engages in constructive dialogue with the international, national and local authorities. This approach, implemented at all levels (country, banner and store level), takes the form of community support projects which help Carrefour to further establish its roots in the local community.”<sup>20</sup>*

Nonetheless, despite such apparently commendable statements with regards to social responsibility and commitments, the practices of Carrefour in China might lead us to question whether such statements and actions are more of an elaborate marketing strategy to create a positive image of the company both with consumers and with local governments, rather than because of a genuine desire and belief in foreseeing such commitments enacted. In fact, a number of examples of the malpractices of Carrefour in China perhaps undermine the statements that it makes on its website.

**Violation of Labour Law by Carrefour Supplier:** A 2010 China Labour Watch investigation into four Carrefour suppliers (Dongguan Lanyu Toy Company, Kiddieland Toys, Shenzhen Nanling Toys Products and the Xinlong factory) found that the practices of these suppliers violated the Chinese Labour Law, for instance in its not providing labour contracts. It also revealed that the workers had to endure poor working and living conditions. This included housing in overcrowded dormitories, exposure to toxic fumes, withholding wages and inadequate training provisions. The Dongguan Lanyu Toy Company was also found to be making use of child labour, something which is prohibited under China Labour Law and also banned according to Carrefour’s Supplier’s Social Charter. Those under 16 were reported to be using fake ID cards.<sup>21</sup>

**Inflated sales and Price fixing:** In January 2011, Carrefour and US multinational Wal-mart were fined a total of 9.5 million Yuan by the Chinese government for price fixing involving fake discounts and misleading price tags in a number of outlets in China, including at 11 Carrefour stores across six cities.<sup>22</sup> This included three Carrefour stores in Shanghai which were each fined the maximum 500,000 RMB for illegal pricing, two stores in Kunming which cheated on prices for tea, rice, chocolate and other goods by charging nearly twice the label price, a store in Beijing which misled

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<sup>19</sup> Our Social and Ethical Approach <http://www.carrefour.com/cdc/responsible-commerce/our-social-and-ethical-approach/>

<sup>20</sup> Solidarity Actions <http://www.carrefour.com/cdc/responsible-commerce/solidarity-actions/>

<sup>21</sup> An Investigation of Carrefour, China Labour Watch, May 2010.

<sup>22</sup> Carrefour apologises for deceptive pricing in China, 27<sup>th</sup> January 2011, [http://www.channelnewsasia.com/stories/afp\\_asiapacific\\_business/view/1107210/1/.html](http://www.channelnewsasia.com/stories/afp_asiapacific_business/view/1107210/1/.html)

consumers into believing that the price of a snack box was 16.90 Yuan rather than its actual price of 169.0 Yuan by enlarging the size of the 1 and the 6 when compared to the 9 and the 0, as well as two stores in Guangzhou and three in Hunan province.<sup>23</sup> According to the China Daily such fines were the highest ever imposed in China for this type of malpractice. Both companies subsequently apologised. It was also reported that Carrefour had been inflating its sales figures in Shanghai by reselling products bought from its suppliers at a discount to immediate distributors. Along with its alleged practice of increasing charges for promotional and management activities to its suppliers in order to make up losses incurred in the selling process. Such a practice was reported to account for up to 5 to 15% of sales in its Shanghai stores.<sup>24</sup> The fact that this practice was found to be so widespread could be said to reflect the sheer arrogance and dishonesty of the company, which thinking that it can get away with it, deliberately set out to deceive ordinary people and consumers in order to slightly boost its profits. This thus suggests that it is not such a “civic-minded player” after all.

**Product safety:** Despite its having set up a foundation for food safety in China, aimed at improving, “awareness of food safety across China”.<sup>25</sup> In late 2011 both Carrefour and Wal-Mart were also fined 10,000 Yuan each for having sold expired products with altered production dates in Changsha in Hunan province.

**Bribery and Corruption:** Carrefour management personnel have also reportedly been involved in bribery and corruption scandals. In August 2007 eight managerial staff were detained on suspicion of accepting bribes from food suppliers in exchange for providing them with contracts. The police were called in to investigate 22 people, including 12 suppliers following an internal corruption probe initiated by the company. The eight arrested employees were the heads of meat procurement departments in Beijing.<sup>26</sup> The case resulted in a public outcry at the time. In response to the allegations Carrefour claimed that “it was just the action of individual employees.”<sup>27</sup> However Carrefour said that offenders would be severely punished according to relevant laws and it was reported to have subsequently fired the personnel involved.<sup>28</sup> At the same time Carrefour was also reported to have been undertaking corruption inquiries in other parts of China including in northeast China and Shenzhen.<sup>29</sup> Corruption of this kind has been identified by some as being more of a systemic problem within Carrefour China, particularly linked with its rapid growth and decentralized procurement system.<sup>30</sup> Despite some internally initiated probes into its corruption problems, however, according to Wang Tao, the former manager of a Carrefour outlet who said that bribery and corruption were frequent in his store, even in cases where corruption in the company is

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<sup>23</sup> Carrefour finds the going tough in China, 23<sup>rd</sup> February 2011, [http://europe.chinadaily.com.cn/business/2011-02/23/content\\_12071155.htm](http://europe.chinadaily.com.cn/business/2011-02/23/content_12071155.htm)

<sup>24</sup> “Reselling claims put more pressure on Carrefour”, 26<sup>th</sup> February 2011, [http://europe.chinadaily.com.cn/business/2011-02/26/content\\_12082632.htm](http://europe.chinadaily.com.cn/business/2011-02/26/content_12082632.htm)

<sup>25</sup> <http://www.carrefour.com.cn/other/foodSafetyengnew.aspx>

<sup>26</sup> Carrefour staff caught in swoop on bribery. <http://www.china.org.cn/english/China/222115.htm>

<sup>27</sup> Jialefu shangye huilu wo an dao cha, 13<sup>th</sup> September 2007 <http://www.sina.com.cn>

<sup>28</sup> Jialefu zhongguo de “yingxiang li”, 29<sup>th</sup> February 2008, <http://mnc.people.com.cn/BIG5/6941650.html>

<sup>29</sup> Carrefour staff arrested on corruption charges. <http://www.amcham-china.org.cn/amcham/show/content.php?id=2820&menuid=&submid=&PHPSESSID=cfd71f52bfb99>

<sup>30</sup> Carrefour contends with bribery in China, [http://www.forbes.com/2007/08/27/carrefour-bribery-china-markets-equity-cx\\_jc\\_0827markets03.html](http://www.forbes.com/2007/08/27/carrefour-bribery-china-markets-equity-cx_jc_0827markets03.html)

uncovered it is often kept within the group and "People who were caught were relocated or transferred to other stores. So the same things happened time and again."<sup>31</sup>

### Tesco

Carrefour is not alone amongst multinational supermarket retailers in its malpractices in China. While rival US retail giant Wal-mart has often fallen under scrutiny, for instance in relation to labour rights, the activities of British retailer Tesco might also be considered a cause for concern. Already criticized in the UK, and around the world for its malpractices and disregard for labour rights, the practices of Tesco in China should also be scrutinised.

Tesco is the largest retailer in the British domestic market and in 2008 it became the world's fourth largest retailer. Tesco first entered the Chinese market in 2004, comparatively late when compared to its two key competitors Carrefour and Wal-Mart, and it subsequently still operates comparatively fewer supermarkets with many of its outlets being based around Shanghai. Nevertheless its operations have been quickly expanding and as of the end of the first quarter of 2011, a period in which it saw a 16.3% growth, it was reported to be worth four trillion Yuan (440 billion Euros).<sup>32</sup>

According to a statement responding to the Business and Human Rights Resource Centre regarding concerns over opposition by industry associations to proposed reforms prior to the implementation of the 2008 Labour Contract Law, Tesco stated that it is committed to the fair treatment of workers in China:

*"Fair treatment of workers in our supply chain, and in our stores, is crucial. We are committed to complying with all the legal requirements in every market where we operate, including China. Workers in our Chinese stores are treated with respect, given an attractive package of pay and benefits, and have the right to union recognition. We also demand clear standards of our suppliers, in particular that they pay a living wage to those who work for them, that workers do not work excessive hours, that no threats or intimidation are practiced, and that workers have the freedom of association, the right to join a union, and the right to collective bargaining. These standards are supported by a rigorous system of independent third party audits."*<sup>33</sup>

Nonetheless our research suggests that the practices of Tesco and some of its suppliers in China do not always match up and are very far removed from the above statement.

One such example comes from late November 2011 when Tesco made news headlines due to the protests action taken by more than 100 workers at a Tesco supermarket in the city of Jinhua in Zhejiang province who blockaded and camped at the store to protest against wages and redundancy terms in the face of the planned store closure at the end of the year. Based on knowledge of the

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<sup>31</sup> Cited in Carrefour aims to rid itself of corruption, July 18<sup>th</sup> 2006, [http://english.people.com.cn/200607/18/eng20060718\\_284223.html](http://english.people.com.cn/200607/18/eng20060718_284223.html)

<sup>32</sup> Tesco steps up battle for attention of Chinese retail consumers, 19 July 2011, <http://www.independent.co.uk/life-style/tesco-steps-up-battle-for-attention-of-chinese-retail-consumers-2316107.html>

<sup>33</sup> Tesco response to concerns regarding industry association positions on China labour law reform, 17<sup>th</sup> January 2007. Available from Business and Human Rights Resource Centre, <http://www.business-humanrights.org/Documents/Chinalabourlawreform>

previous closure of a Tesco store in Shaoxing, which closed ahead of schedule, Tesco workers at the Jinhua store had become especially anxious when they found out that some of the supermarket goods had been transferred to another store. When negotiations with management over the terms of the termination of their labour stalled, the workers began their protest by blocking the store to prevent sales as well as the further transfer of goods to other stores. Tesco claimed that it was offering help with relocation to another store or one month's redundancy pay to workers from the affected store.<sup>34</sup> Such a low level of redundancy pay, however, is in violation of the Chinese Labour Contract Law, which stipulates that workers should be entitled to one month's redundancy pay for each year of their service. Workers argued, that many would be forced to leave their employment as a result of the store closure and that they had a right to the same level of redundancy pay that is stated in the law.



Picture 1: Tesco workers protesting at a Tesco supermarket in Jinhua, Zhejiang Province, November 2011. Workers slept overnight in the store during their protest. Their signs read: "We demand rights as well as my hard earned money". Source: linkshop.com.cn<sup>35</sup>

On the afternoon of November 29<sup>th</sup>, talks then took place between Tesco management, more than 20 employee representatives, public security and other relevant government departments concerning the compensation packages to be received by the workers. The workers put forward thirteen demands to the management. Amongst others, these included the demand that the electronic records of the workers' working hours be made available as they believed that the amount of hours they had worked as overtime had been under estimated. The management is reported to have agreed although stating that it would take some time. The demands also included the demands that management pay money that they should have paid to workers but had not in relation to compensation due to workers for working during National Day and Chinese New Year holidays, contributions that they should have paid to housing funds as required by the social security

<sup>34</sup> Striking Workers Blockade Tesco Store, <http://www.guardian.co.uk/world/2011/nov/30/striking-chinese-blockage-tesco-store>

<sup>35</sup> Jinhua le gou "weiquan men": Yuangong da hengfu qiu chang, 29<sup>th</sup> November 2011, <http://www.linkshop.com.cn/web/archives/2011/186054.shtml>

law, subsidies to employees who had given birth, as well as repaying money that they had cut from the wages of pregnant employees' when they had an abortion. To these latter demands the management responded that it would repay the money owed if the workers' allegations were verified by investigation. The workers, however, are reported to have been dissatisfied with the outcome of the talks and believing that they could not trust the company, demanded that the local government step in and that the company pay 5 million Yuan to a special guarantee trust fund. With such a government guarantee in place they said they would resume with the normal operation of the supermarket.<sup>36</sup>



Picture 2: Tesco workers holding up banner while protesting at a Tesco supermarket in Jinhua, Zhejiang Province, 27<sup>th</sup> November 2011.

Source: linkshop.com.cn

According to reports on this strike, in addition to the closure of the Shaoxing store (mentioned above) and the strike in the face of the closure of the Jinhua store, Tesco had also recently experienced a number of other problems in China. These included a Tesco store in Tianjin being accused of false propaganda, the death of an employee at its store in Hangzhou, and a shuttle for Tesco's Shenyang store spontaneously combusting.<sup>37</sup>

It is not only in Tesco stores themselves that there have been problems however. The case in April 2009, of Liu Pan, a 17 year old factory worker being crushed to death while working at the Yiuwah stationary factory in Dongguan, a supplier of Tesco as well as Disney, when the machine he was operating malfunctioned, suggests that Tesco's statement about demanding, "clear standards of our suppliers" is not always adequately enforced. Following an investigation into the incident, it was found that there were a number of labour and safety violations at the factory and furthermore that Liu had been hired by the factory at the age of 15 and so had been below the legal age requirement when he had begun working there. Tesco was reported to have responded to the accident by

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<sup>36</sup>Zhejiang jinhua le gou jiang che dian yuangong buman buchang feng du men ju sao huo, 30<sup>th</sup> November 2011, <http://finance.sina.com/bg/chinamkt/chinanews/20111130/0234405823.html>

<sup>37</sup> Liang ge yue wenti pin fa Tesco le gou pi zhi guanli "shikong", Beijing Buisness Today, 14 December 2011. <http://finance.591hx.com/article/2011-12-14/0000103043s.shtml>

claiming that it was working to improve conditions at the factory.<sup>38</sup> When the Yiuwah factory offered Liu's family \$22,000 in compensation, Liu's father wondered how this could compensate for the loss of his son: "We are in the lowest class. So I still don't know if it's the highest compensation. I still wonder, because a life, a young life, is only worth \$22,000?"<sup>39</sup>

Like Carrefour, Tesco has been keen on the use of corporate social responsibility policies as a way to promote itself or enhance its image. It has been particularly keen, for example, to present itself as having a green image and has stated that its intention is to achieve zero carbon emissions by 2050. In 2011 Tesco China signed a letter of intent with the Department of Commercial Services Administration of the Chinese Ministry of Commerce to promote the sustainable development of retail industry in China declaring its intention to work with local government departments, retailer organizations, suppliers and consumers to share technology and ideas concerning the environment and sustainable development in the industry.<sup>40</sup> Such an action acts as a good way to gain favour with relevant government departments so as to promote investment interests. Another example of efforts to present itself as a green company is its partnership with the Lenovo Group to develop green IT projects in China, by for instance agreeing that Lenovo will collect its used IT products and outsource the products to an affiliated company for recycling.<sup>41</sup>

Despite its alleged commitment to the environment, however, Tesco has been ranked by Greenpeace as the worst supermarket in China for food product safety. It has accused the supermarket chain of double standards with regards to consumer safety, due to its policies banning genetically engineered food from its own-brand products in the UK but its failure to state any policy with regards to its own-brand food in China.<sup>42</sup> In addition, a Greenpeace report from September 2011 showed Tesco to be selling vegetables and rice with traces of harmful, and in some cases illegal pesticides, in its Beijing and Guangzhou stores. According to the report, of the 16 fruit and vegetable samples from stores in these two cities that Greenpeace tested between April and July 2011, 11 were found to contain pesticides of which 6 contained pesticides that the EU classifies as being suspected hormone disrupters, 6 contained pesticides that the EU states are potentially harmful to unborn babies, one vegetable sample contained the pesticides methimidophos and monocrotophos, both of which are banned in China, while one of the four rice samples taken contained levels of isoprothiolane pesticide residue, exceeding levels deemed safe for sale in the EU.<sup>43</sup> In other words Tesco is not only violating Chinese law and showing little practical regard for its so called green commitment, it is also guilty of selling goods, which potentially puts the health of consumers at risk. In response to the allegations by Greenpeace, Tesco are reported to have called Greenpeace "disrespectful", claiming that their produce was safe as they had also third-party run tests. Greenpeace, however, claimed that it was not the same as the produce they had tested. Following

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<sup>38</sup> Despite Law, Job Conditions worsen in China , New York Times, 23<sup>rd</sup> June 2009, <http://www.nytimes.com/2009/06/23/business/global/23labor.html?pagewanted=all>

<sup>39</sup> Ibid

<sup>40</sup> Tesco Signs Environmental Letter of Intent with Chinese Government, <http://www.chinacsr.com/en/2011/05/03/8255-tesco-signs-environmental-letter-of-intent-with-chinese-government/>

<sup>41</sup> Tesco China and Lenovo in Green IT Partnership <http://www.chinacsr.com/en/2008/09/19/3144-lenovo-joins-the-climate-group/>

<sup>42</sup> Greenpeace Supermarket ranking guide 2010.

<sup>43</sup> Banned Pesticides detected on vegetables in Tesco and other supermarkets in China, Greenpeace East Asia, 8<sup>th</sup> September 2011, <http://www.greenpeace.org/eastasia/news/blog/banned-pesticides-detected-on-vegetables-in-t/blog/36666/>



their investigation, Greenpeace filed a lawsuit against Tesco at the Beijing Secondary People's Court in the public interest for their use of banned pesticides which are harmful to humans.<sup>44</sup> They stated that, "not only are we asking them to immediately halt these illegal activities, we're also asking they issue a formal apology and establish a strict quality control system."<sup>45</sup>

#### 4) Auto Industry

The auto industry is a very significant industry in China. In 2005 it became a net exporter of vehicles and then in 2009 surpassed the US as the world's largest auto producer in terms of volume. Beginning in the 1980s, foreign car manufacturers have entered China through joint-ventures with domestic partners, with the number of ventures continuing to grow since then. With many car manufacturers in Europe experiencing difficulties in Europe, even before the onset of the financial crisis in China, investment in China with its large and growing domestic market and still significantly cheaper labour costs continues to be extremely attractive to European investors. As of 2009, there were 52 foreign and domestic car manufacturers operating in China, with foreign car companies holding 85% of the Chinese market.<sup>46</sup> Below we give accounts of instances of malpractice by two European auto manufacturers (Daimler and Volkswagen) in their carrying out of business in China.

##### *Daimler*

Daimler Northeast Asia Limited is the Chinese subsidiary of the German auto manufacturer Daimler AG, formerly known as DaimlerChrysler. It is headquartered in Beijing and is responsible for the operations of Mercedes-Benz Cars, Mercedes-Benz Vans, Daimler Trucks and Daimler Financial Services in Mainland China, Hong Kong, Taiwan and the Republic of Korea. It has joint-ventures in Beijing with the Beijing Automotive Industrial Holding Company (BAIC) and in Fuzhou with the Fujian Motors Group and China Motors Corp.<sup>47</sup>

In 2010 Daimler was charged in the US with the violation of US bribery laws. This resulted in it agreeing to pay a total of US\$185 million to settle all of the charges, criminal and civil, with Daimler AG's Russian subsidiary, Daimler Chrysler Automotive Russia SAO, and its German subsidiary, Export and Trade Finance GmbH, both pleading guilty and agreeing to pay criminal fines of \$27.26 million and \$29.12 million respectively. Meanwhile Daimler AG and its Chinese subsidiary Daimler Chrysler China Ltd (DCCL), now known as Daimler North East Asia Limited, entered into a deferred

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<sup>44</sup> Greenpeace sues Tesco, Global Times, 22<sup>nd</sup> September 2011,

<http://www.globaltimes.cn/NEWS/tabid/99/ID/676379/Greenpeace-sues-Tesco.aspx>

<sup>45</sup> We're taking China's pesticide perpetrators Tesco and Lianhua to court, 21<sup>st</sup> September 2011,

<http://www.greenpeace.org/eastasia/news/blog/were-taking-chinas-pesticide-perpetrators-tesco/blog/36950/>

<sup>46</sup> Automobile Industry in China, <http://factsanddetails.com/china.php?itemid=361&catid=9&subcatid=61>

<sup>47</sup> <http://career.daimler.com/dhr/index.php?ci=873&language=2&DAIMLERHR=7ce2080b3649ebca8ccb48b2c648edc8>

prosecution agreement and agreed to the filing of criminal information charges.<sup>48</sup> In this case according to the court documents filed by the US department of justice, between the years 1998 and 2009, Daimler had paid bribes to officials in at least 22 different countries including Croatia, Egypt, Greece, Hungary, Indonesia, Iraq, Russia, Thailand, Turkey and Vietnam amongst others.<sup>49</sup> It also included numerous accounts of bribery in China where, according to files released by the court, a number of “improper payments” amounting to at least 4,173, 944 Euros were paid to Chinese officials between 2001 and 2005 in the form of gifts, commissions and vacations by DCCL resulting in the company receiving contracts worth over 112, 357,719 Euros from Chinese firms. This included improper payments to the major state-owned petroleum companies China Petroleum and Chemical Corporation (Sinopec) and PetroChina. It was alleged, for instance that in 2002, just a few days after Sinopec agreed to purchase Daimler commercial vehicles, Daimler paid 57,000 Euros to the wife of a Sinopec official.<sup>50</sup> Indeed while the case was commencing, Sinopec acknowledged that one of its employees, with the surname of “Du” had allegedly received bribes from Daimler and been convicted and sentenced by a Beijing court in 2006 for crimes committed from 2002-2003 and claimed that since then it had severed its business relations with Daimler.<sup>51</sup> The court files nonetheless state that Daimler paid a total of approximately 2, 599, 694 Euros to Chinese government officials associated with Sinopec and the Bureau of Geophysical prospecting (BGP), a division of the China National Petroleum Corporation, in order to obtain sales worth approximately 71, 562, 822.

In order to make the bribes to Chinese officials, the court file shows that Daimler and Daimler Chrysler China would typically inflate the sales prices of vehicles sold to Chinese government customers and maintain the overpayments in debtor accounts in Daimler’s books and records, including in an account which was named the “special commissions” account.<sup>52</sup> The court files also show that DCCL and Daimler were alleged to have provided at least 268, 586 Euros worth of delegation trips for employees of government customers in China, also with the aim of securing business from these customers. In some contacts these were characterised as “factory inspection” trips even though the delegations primarily made visits to tourist locations.<sup>53</sup> The court documents cite a number of cases where Daimler is alleged to have made use of agents to facilitate in the securing of business from Chinese state owned entities. One of the several such allegations made, for instance, is the allegation that in around 2001 Daimler made a payment of 98,300 Euros to a bank account in California of M. F. Mechanical and Electrical, which was intended for the payment of an official from the Changqing Petroleum Exploration Bureau (Changqing), who helped Daimler in the securing of a contact for the sale of Unimogs to Changqing worth 1,875,777 Euros. A consulting contract existed between M. F. Mechanical and Electrical and Daimler but this was only signed after

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<sup>48</sup> Daimler AG and Three Subsidiaries Resolve Foreign Corrupt Practices Act Investigation and Agree to Pay \$93.6 Million in Criminal Penalties, US Department of Justice: Office of Public Affairs, April 1<sup>st</sup> 2010.

<sup>49</sup> Case 1:10-cr-00066-RJL Document 4, United States District Court, Court of Columbia

<sup>50</sup> Daimler Charged under US bribery laws, <http://cachef.ft.com/cms/s/0/5b5aeaaa-36b1-11df-b810-00144feabdc0.html#axzz1YNbrhUEr>

<sup>51</sup> China’s Sinopec said Daimler Allegedly paid bribes. March 26 2010

[http://articles.economictimes.indiatimes.com/2010-03-26/news/27576492\\_1\\_daimler-ag-daimler-vehicles-bribes](http://articles.economictimes.indiatimes.com/2010-03-26/news/27576492_1_daimler-ag-daimler-vehicles-bribes)

<sup>52</sup> Case 1:10-cr-00066-RJL Document 1, United States District Court, Court of Columbia

<sup>53</sup> Ibid

the underlying contract between DCCL and Daimler had been executed, although one month prior to the authorization of the improper payment.<sup>54</sup> Furthermore, in addition to a number of payments to and for the purpose of the entertainment of a number of Chinese officials, between 2000 and 2005 Daimler and DCCL were also alleged to have provided certain things of value to the son of a Chinese official responsible for making purchasing decisions for BGP, including internships at Daimler for the son of the official and his girlfriend, letters to German immigration officials to help them in the obtaining of student visas, 2,223 Euros to attend a truck race, use of a Mercedes passenger car and employment at Daimler for a period of time.<sup>55</sup>

### *Fujian Daimler*

Besides the corruption charges, some of the working environment conditions described by workers at the Fujian Daimler Automotive Co., Ltd. (Fujian Daimler) are also potentially a cause for concern with respect to occupational health and safety and labour rights. Fujian Daimler was established in 2007 and is located in the Qingkou Investment Zone of Minhou County, Fujian and is a joint-venture company co-invested by Fujian Motor Industry Group Company and Hong Kong Daimler Vans Limited, which is a joint-venture between Daimler AG and Taiwan China Motor Corporation. It refers to itself as being, “Daimler's south China project, and one of the key manufacture basements for Daimler's global strategy.”<sup>56</sup>

One such complaint raised by workers was over changes to housing allowance. According to discussion by workers on a message board, although Fujian Daimler previously offered 200RMB housing allowance to assembly-line workers, this was subsequently stopped in October 2009. Although a message posted on February 22<sup>nd</sup> 2011 suggests that it was later started again and that assembly line workers now receive a housing allowance, it is said that only workers above a certain level can receive as much as 200RMB. Such changes, with little regard for the employees, have been a cause of dissatisfaction to workers

Workers have also complained about the excessive temperatures that they sometimes have to endure at the work place. In early June temperatures are reported to reach almost 40 degrees Celsius. One welding plant worker has complained that he hates working in the summer because the plant is just like a boiler. Others have complained about heatstroke and hyperthermia. According to Health Authority Circular No. 186 issued in 2007 on “Preventing Heatstroke and Lowering Temperature for Workers in Hot Weather” enterprises which cannot implement effective measures to lower the temperature of the workplace to below 33 degrees Celsius should pay workers a special high temperature allowance as compensation at a rate determined by the relevant provincial government or labour and social security bureau.<sup>57</sup> Despite the rate in Fujian province being set at 5-8RMB per day, workers commented on how they only received 3RMB per day as compensation.<sup>58</sup> Furthermore workers have complained about managers forbidding them from drinking water at the

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<sup>54</sup> Ibid

<sup>55</sup> Ibid

<sup>56</sup> Fujian Daimler Company Profile <http://www.fujiandaimler.com.cn/en/CompanyProfile.aspx>

<sup>57</sup> Guanyu jinyibu jiaqiang gongzuo changuo xiaji fangshu jiangwen gongzuo de tongzhi, 8<sup>th</sup> July 2008, <http://www.aqsc.cn/101814/101826/101992/92827.html>

<sup>58</sup> Fujian dai mu lei qiche gongye youxian gongsu pinglun, <http://www.fenzhi.com/gsr21478.html>

plant. We wrote to Daimler to ask for their comments on these issues at Fujian Daimler but after several months, and at the time of our first publishing this report, their only reply so far had been to state that they would follow up the complaints and to ask for more detailed information.

*Follow Up:* On the 18<sup>th</sup> September 2012 we subsequently received another reply from a Senior Manager for Corporate Social Responsibility for Daimler AG in Stuttgart, Germany. His letter stated that Daimler had carried out an investigation into the concerns that we had raised and had closed the case 'without merit'. As justification for this they claimed that:

*"1) The investigation brought to light that there is no legal stipulation at what temperature work shall be stopped indoors. The maximum temperature outdoors is 40 degrees Celsius. The management of Fujian Benz committed to stop work at a temperature above 40 degrees. The investigation checked all monitored temperatures from Mai to Juli 2012; no temperatures above 40 degrees could be found at any metering station.*

*2) The investigation found out that there was no violation of regulations regarding high temperature compensation. The governmental regulation stipulates 8 - 10 RMB per person per day (over 33 degrees). FBAC grants 8 RMB per person per day plus provides cool drinks valued 3 RMB per person per day.*

*3) The right to drink water has never been denied. FBAC has installed 8 cool drink machines in their factory. Additionally FBAC offers free herbal tea to all employees.*

*4) The housing fund payments are 12% of the respective payment base. Besides housing fund FBAC provides free dormitory to all workers in Qingkou.*

*After this investigation we are sure that FBAC management does not only fulfil its legal duties but it is also trying to improving the working conditions more and more. Several steps have been made, like air condition is several places, cooling fans etc. For summer 2012 an additional investment of round about 1,200,000 RMB has been made to install more air conditioning in the factory."*

While denying the concerns that we had raised and stating its intent to improving working conditions, what this letter brings to light, however, is how some of Daimler's examples, such as the stoppage of work only at temperatures above 40 degrees and the payment of only 8RMB per day plus cool drinks, do not seem to go beyond very minimum expected standards or legal duties. Furthermore, the fact that FBAC claims to have spent money on air cooling this summer, seemingly coincides with the stated period of their investigation into excessively high temperatures, and so this does nothing to counter any claims that temperatures prior to this period were too high. We are thus dissatisfied with the disappointing response by this profitable and influential multinational company, which should easily be able to afford to ensure standards of working conditions far beyond the minimum.

*Volkswagen*

The Volkswagen Group China, a division of the German Volkswagen Group, is the largest foreign car manufacturer in China, with sales of around 1.9 million cars within the Chinese market in 2010. It was the earliest foreign partner with China's automobile industry, first establishing connections in 1978. It has two joint-ventures in China, the Shanghai Volkswagen Automotive Co., Ltd. (SVW), which was established in 1984 as a joint venture between the Volkswagen Group and the Shanghai Automotive Industry Corporation (SAIC) and the FAW-Volkswagen Automotive Company Ltd. (FAW-VW), which was established in 1991 as a joint-venture between the First Automobile Works and the Volkswagen group, and which manufactures Audi amongst other brands, and 16 subsidiaries.

While auto workers are often known for receiving comparatively higher wages in China, many auto companies actually make use of temporary workers, including dispatch labour sent from labour service agencies, or student trainees in order to cut their labour costs. Despite legislation to the contrary, it is common for such workers to be paid significantly less than formal workers and not to be entitled to the same benefits. With regards to both SVW's and FAW-VW's use of temporary workers, Zhang has described it as indicating both the widespread use of temporary labour and a "despotic regime" over temporary workers.<sup>59</sup> In her 2005 paper she goes on to describe the situation involving temporary workers then as follows:

*"SVW currently has a workforce composed of approximately 9,000 formal/contract workers (hetong gong) and approximately 5,000 temporary workers (laowu gong) hired through three local labor service agencies (laowu gongsi). Likewise, FAW-VW in Changchun has been using temporary workers since it began production in 1996. It has been estimated that over 50% of the production line workers are temporary workers at FAW-VW. Temporary workers at SVW receive 3-month contracts and those at FAW-VW receive 1-year contracts. Though the contracts can be renewed, it is completely the company's decision whether to renew the contract or not. In the other word, the companies can dismiss temporary workers whenever they don't feel they need so many workers. Moreover, since temporary workers are not allowed to join the factory unions, there is actually no official way for them to speak out and protect themselves. While both SOEs and JVs use temporary workers, at the joint ventures (SVW and FAW-VW) temporary workers receive half the pay of formal workers for doing the same job."<sup>60</sup>*

Indeed a number of more recent reports concerning workers at FAW-VW, particularly regarding the use of dispatch labour, suggest that violations of workers' rights take place. One example is the unfair treatment of dispatch workers when compared to ordinary workers. It is reported that at a FAW-VW plant in Jilin province, while ordinary workers would earn 4,000-5,000 RMB per month and could earn the equivalent of eighteen months wages in a calendar year, dispatch workers doing the same work would only be paid 2,000-3,000 RMB per month.<sup>61</sup> This is in violation of article 63 of the Chinese Labour Contract Law which states that dispatch workers should be paid the same pay as ordinary workers for the same work. Such intensive exploitation is reported to have led to tensions between ordinary and dispatch workers in some cases. In an article by Lu Zhang, she reports having

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<sup>59</sup> "Hegemonic Regime? Globalization, Market Reform and Changing Labor Politics in China's Automobile Industry" Lu Zhang, *Paper presented at the annual meeting of the American Sociological Association, Marriott Hotel, Loews Philadelphia Hotel, Philadelphia, PA, Aug 12, 2005.*

<sup>60</sup> Ibid

<sup>61</sup> Yi qi dazhong laowu gong bei ci "renkou hongli" zao zhiyi, 1<sup>st</sup> November 2011, [http://www.cnwnews.com/html/car/cn\\_qcdt/20111101/379813.html](http://www.cnwnews.com/html/car/cn_qcdt/20111101/379813.html)

found that formal workers held different views concerning agency workers. While some believed that they should be treated equally, others complained that they would rather not have any contact with them, that they had bad manners and poor education and should feel lucky just to have such well-paid jobs. At the same time she reports that the agency workers themselves felt a lack of support from formal workers and a sense of disempowerment on the shop floor.<sup>62</sup> Indeed at the same FAW-VW plant in late 2011, it was reported that a formal worker stabbed a dispatch worker to death. Although the company has not officially verified this incident, they have not denied it either.<sup>63</sup>

Posts by workers on the internet have also suggested the outrageously unfair treatment of dispatch workers at FAW-VW. Several posts comment on what could in effect be described as corruption, in the use of a human resources company, whose general manager has connections to a general manager of FAW-VW due to being classmates, which is alleged to deduct money from the workers' wages each month before they receive them and which makes workers pay a fee of 10,000 to 20,000 RMB before working for this human resources company.<sup>64</sup>

In 2010 it was also reported that several top executives from Shanghai-Volkswagen were suspected of corruption involving millions of Yuan. A letter posted on the internet signed by five senior executives working under SAIC is reported to have claimed that some former and current executives of the company had allegedly taken large sums of money as bribes from suppliers, contractors, corporate training and advertising. Many of the allegations involved Chen Zhixin, the general manager of SAIC passenger cars and former general manager of Shanghai-Volkswagen. According to the letter Chen had worked in Shanghai-Volkswagen for many years, gradually being promoted until he became general manager. During his time there he promoted his cronies, who took over and became responsible for important departments in the company, consolidated themselves into interest groups, accepted bribes and enriched themselves personally. In the letter Chen and these interest groups are accused of 6 crimes: 1) Irregularities in the assigning of contracts to private rather than state owned companies, for instance in the leaking of information regarding the bottom price tender to his cronies who run private companies so that they could gain the contracts and enrich themselves. Chen is alleged to have accepted 30 million in bribes for this. 2) When Chen was general manager of Shanghai-Volkswagen he was alleged to have accepted millions of RMB in bribes for giving contracts to particular suppliers to carry out the renovation of workshops 3) Chen was alleged to have accepted 8 million in bribes during the arrangement of advertisements 4) In the seeking of agents for the Shanghai-Volkswagen brand he is said to have manipulated the tender process, choosing unprofessional companies as agents and accepting 6 million in bribes 5) Manipulating the prices of contracts in making business agreements with advertising companies and accepting 10 million in bribes for this 6) Choosing training companies without following the proper tender process and accepting 8 million in bribes for this.<sup>65</sup> Many of the articles circulated on the

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<sup>62</sup> Lean Production and Labor Controls in the Chinese Automobile Industry in An Age of Globalization, Lu Zhang, International Journal of Working-Class History, No. 73, Spring 2008, pp.24-44.

<sup>63</sup> Yi qi dazhong laowu gong bei ci "renkou hongli" zao zhiyi, 1<sup>st</sup> November 2011, [http://www.cnwnews.com/html/car/cn\\_qcdt/20111101/379813.html](http://www.cnwnews.com/html/car/cn_qcdt/20111101/379813.html)

<sup>64</sup> See for instance Tianya za tan heixin de yi qi dazhong, heixin zhongjie, meinian boxue gongren yige duo yi, <http://www.tianya.cn/publicforum/content/free/1/1999892.shtml>

<sup>65</sup> Dazhong qiche chenzhixin shenghuo jiduan fuhua duoluo, you tancai you tanse, <http://blog.bandao.cn/archive/160020/blogs-1214176.aspx>

internet quickly disappeared. According to one report, a responsible person from Shanghai-Volkswagen denied the accusations. SAIC's public relations department are also reported as having denied that Chen was being investigated for economic crimes<sup>66</sup> Due to the lack of transparency in China and the removal of internet materials, it has been difficult to find out more about this incident.

## 5) Container Manufacturing

The container industry is an important industry in China. Indeed, China is the world's leading container manufacturer. In 2001 while China was already producing more than eighty percent of the world's containers, amounting to more than one million twenty feet equivalent units (TEUs), while Europe, as the world's second largest producer, produced eight percent of the world's containers or 104,000 TEUs.<sup>67</sup> Since then, the container manufacturing industry in China has continued to grow rapidly, such that before the global economic crisis hit in 2008 it was manufacturing 4 million TEUs of dry standard cargo containers in a year. Although production was severely affected by the crisis, it began to increase again from 2010.<sup>68</sup>

**Table 1: Market Shares of China's Container Outputs in the World 1993-2008H1**

|            |       |       |       |       |       |       |       |       |       |       |       |       |
|------------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|-------|
| Year       | 1993  | 1994  | 1995  | 1996  | 1997  | 1998  | 1999  | 2000  | 2001  | 2002  | 2003  | 2004  |
| World      | 1.01  | 1.09  | 1.34  | 1.24  | 1.40  | 1.52  | 1.55  | 1.93  | 1.25  | 1.65  | 2.38  | 2.76  |
| China      | 0.25  | 0.39  | 0.68  | 0.66  | 0.97  | 1.03  | 1.14  | 1.61  | 1.02  | 1.36  | 2.20  | 2.56  |
| Shares (%) | 24.85 | 36.01 | 50.71 | 52.61 | 68.71 | 67.85 | 73.66 | 83.16 | 81.60 | 82.57 | 92.44 | 92.79 |
| Year       | 2005  | 2006  | 2007  |       |       |       |       |       |       |       |       |       |
| World      | 2.48  | 2.95  | 3.92  |       |       |       |       |       |       |       |       |       |
| China      | 2.32  | 2.79  | 3.75  |       |       |       |       |       |       |       |       |       |
| Shares (%) | 93.55 | 94.71 | 95.56 |       |       |       |       |       |       |       |       |       |

Unit: million TEU

Source: 2000-2010 Report on Investment in China's Container Industry, Market Avenue, [http://www.marketavenue.cn/upload\\_EN/chinamarketreports/2010-03/REPORTS\\_1001.html](http://www.marketavenue.cn/upload_EN/chinamarketreports/2010-03/REPORTS_1001.html)

### Maersk

While domestic companies, in particular China International Marine Containers (CIMC), the world's largest container manufacturing company, play a leading role in container manufacturing in China, it

<sup>66</sup> Shanghai –VW has bribery allegations thrown its way, December 14<sup>th</sup> 2010, <http://www.chinacartimes.com/2010/12/14/shanghai-vw-has-bribery-accusations-thrown-its-way/>

<sup>67</sup> China – the world leading container manufacturer, Shipping Container Housing Guide, <http://www.shipping-container-housing.com/container-manufacturer.html>

<sup>68</sup> China's dominance of shipping container manufacturing: the cost to workers' health. Globalization Monitor, February 2011. The following section draws on the findings from this report.

is also an industry in which investment by foreign companies has featured prominently. One such company which has established itself in China, and is on good terms with the Chinese government, is the Danish, fortune 500 company, A.P. Moller-Maersk Group, of which the Maersk Container Industry (MCI) is a part. MCI produces containers at its two container facilities in China – one in Qingdao, Shandong province, which was purchased from the Korean Jindo Reefer Company in 1998 and the other in Dongguan, Guangdong province, which was established in 2004 through a joint-venture.

Over recent years interviews with workers and investigations by Globalisation Monitor into working conditions at Maersk facilities in China have revealed malpractices and gross violations of labour laws and labour rights. In Maersk Container Industry Dongguan (MCID), for instance, at least up until the end of 2008 it was common for workers to work an 11 hour day, six days a week, far exceeding the 44 hours per week plus 36 hour overtime per month permitted by China's Labour Contract Law. At Maersk Container Industry Qingdao (MCIQ) a survey involving 25 workers conducted by Globalisation Monitor in 2009 also found that many of the workers complained about low wages (lower than those received by workers at MCID) and the poor quality of food in the canteen. They also reported that workers were not given labour contracts during the four months of their initial training period, meaning that these workers lacked legal protection if injured at work.

Cases of occupational diseases and injuries caused by dust, chemicals and noise have also been a common feature reported by workers at the plant, with some workers claiming that the company has tried to thwart their attempts to receive proper treatment and diagnoses for such diseases. At MCIQ, workers have raised concerns about strong chemical odours, dust, noise and poor personal protective equipment and how they suspect that many workers were suffering from health problems as a result of their work. By December 2010, based on interviews by Globalization Monitor with 80 workers working at MCID, it was discovered that there were at least three known cases of certified occupational diseases – including three involving loss of hearing, two involving blood diseases (one of these workers subsequently died) and one case of asthma – while there were a further fifteen cases of workers being officially placed under medical observation concerning loss of hearing and twenty-seven further complaints about suspected occupational diseases. What is more is that, in order to avoid its responsibility, MCID, has unlawfully dismissed workers when they have been placed under medical observation. This violates the Chinese Law of Prevention and Control for Occupational Diseases, which states that workers who have been placed under medical observation are protected from dismissal. In 2008 both Yuan Daiyong and Wang Dapeng were dismissed by the company when they were placed under medical observation due to loss of hearing. In other instances where workers have been placed under medical observation, the company has also behaved irresponsibly and denied workers who potentially have occupational diseases, due to the hazardous working environment in which it forces them to work, their right to treatment, and has either put pressure on the workers to resign of their own accord or has simply refused to renew their contracts when they have come to an end. In addition to occupational diseases, the hazardous working environment has also led to a high number of workplace injuries occurring at the plant. Although when Globalisation Monitor wrote to the company to object about such a high level of injuries, the company denied the accusations, citing a much lower number of injuries, a list obtained by GM indicated that injuries in July and August 2008 alone amounted to a greater number of workplace injuries than that quoted by the company for the entire year. They have since then also



ignored demands that an independent investigation involving international trade unions and NGOs be carried out

Furthermore employees at both MCID and MCIQ have been subjected to a barracks like regime, as illustrated by their employee's handbooks. At MCID up until 2008 the handbook potentially subjected employees to 73 different penalty clauses. After the second of two violent strikes, which took place at Maersk Dongguan in January and May 2008, and news coverage in Denmark, following the publication of a report by Globalization Monitor, and subsequent discussions between GM and the A. P. Moeller Maersk Group, it was agreed by the company that working conditions would be improved at this plant and that the employee handbook would be revised. This resulted in the number of penalty clauses being reduced down to 44. At around the same time, in 2009, a new employee handbook was also produced for workers at MCIQ. This, however, still contained many clauses which were problematic in terms of labour and human rights, for instance the ban on employees discussing their salaries with each other, which is not only in violation of clause four of China's labour contract law but also in effect denies the workers the right to protect themselves in terms of fair pay, through comparing their salaries, from potential abuse by their employer. Following reports by the Danish media, MCIQ again changed its handbook. In the 2011 edition, although it now only bans workers from disclosing the salary of their colleagues (a clause which is still problematic), the number of penalty clauses have actually increased when compared with the 2009 handbook and many of the dehumanising clauses, for instance concerning dining regulations, remain the same.

Strikes occurring at both of the two plants have resulted in further dismissals being made by management who have declared them as illegal, despite there being no law in China which explicitly bans strikes. At MCID, for instance, the first of these two strikes began in January 2008 when security guards at the plant beat up a worker for allegedly jumping the lunch queue. This escalated as more security guards were sent in and workers responded by setting fire to cars and destroying plant offices. The second strike began in May 2008 as a protest by workers against the increasing intensity of work at the plant. The strike was suppressed by management when they fired 29 workers on the alleged grounds that they were breaking a law. A 2005 strike by workers at MCIQ also resulted in seven workers being dismissed.

## 6) Telecommunications and Mobile Phone Industry

### *Industry Background*

With a population of more than 1.3 billion, China has the world's largest fixed line and mobile network in terms of both the network capacity and number of subscribers. In 2005, the total revenue of the Chinese telecommunications market had already reached USD 79.7 billion.<sup>69</sup> The number of Chinese phone users is continuing to grow and surpassed the 1.1 billion mark at the end

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<sup>69</sup> Study on the Future Opportunities and Challenges of EU-China Trade and Investment Relations: Study 10 Telecommunications Services, John Ure.

of May 2010.<sup>70</sup> The telecommunications industry in China today remains dominated by state owned companies, having undergone heavy restructuring in the 1990s. The current leading providers, China Unicom, China Mobile and China Telecom, are all global fortune 500 companies. As part of the terms of China's WTO accession obligations, however, it agreed to allow foreign operators increased access to the market, although restrictions still limit the areas of their activities.

Particularly following the huge expansion of networks and subsequent increased competition, corruption in China regarding telecommunications companies, both foreign and domestic, has perhaps become an even more prominent issue, as different companies have tried to make use of a range of different tactics to procure deals and lucrative contracts. Indeed one of the key state owned telecommunications companies, China Mobile, has been found embroiled in corruption and the investigations which have emerged from this case have resulted in the conviction and even the death sentence for some senior figures within the company for the acceptance of millions of dollars worth of bribes. By the end of May 2011 at least nine China Mobile executives had fallen under investigation for corruption and bribery.<sup>71</sup> In July 2011 Zhang Chunjiang was sentenced to death after being convicted of accepting more than \$1.15 million in bribes between 1994 and 2009 while working at state run telecom companies. The following month Li Hua the former chairman and general manager of China Mobile Sichuan also received the same sentence for accepting more than \$2.5million in bribes.<sup>72</sup> This sentence was later commuted to life imprisonment. Later Shen Changfu, the former party secretary and president of China Mobiles' Chongqing office, was also charged with accepting over 36 million Yuan in bribes, including from foreign suppliers. This corruption scandal also had implications for some of the European companies, which we will discuss below.

**Table 2: List of China Mobile executives investigated as of May 2011**

| Name            | Date of Investigation | Previous Positions Held                                  | Reasons for Investigation                            |
|-----------------|-----------------------|--|--|
| Zhang Chunjiang | Dec 2009              | Party Secretary and Vice General Manager of China Mobile | Suspected of seriously breaching economic discipline |

<sup>70</sup> China's phone users top 1.1 billion, [http://www2.chinadaily.com.cn/china/2010-06/29/content\\_10036635.htm](http://www2.chinadaily.com.cn/china/2010-06/29/content_10036635.htm)

<sup>71</sup> Zhongguo yidong wo an sheji de 9 wei gao guan yilan, 30<sup>th</sup> May 2011, <http://www.caing.com/2011-05-30/100264112.html>

<sup>72</sup> Chinese Telecom Executive Sentenced to Death for Bribery, <http://www.nytimes.com/2011/08/31/business/global/chinese-telecom-executive-sentenced-to-death-for-bribery.html>

|              |            |   |  |
|--------------|------------|---|--|
| Li Xiangdong | March 2010 | General manager of the digital department of Xichuan China Mobile; General manager of Wireless Music Operation Centre | Suspected of bribery involving large sums of money and attempting to flee with the money                             |
| Li Hua       | June 2010  | General manager of Xichuan China Mobile   | Suspected of bribery involving large sums of money   |
| Shi Wanzhong | Early 2010 | Former General manager and Director of Anhui China Mobile; General manager of human resources dept of China Mobile    | Suspected of accepting a 50 million US\$ bribe from Siemens  |
| Su Jinsheng  | March 2011 | General Engineer of Industrial and Information Ministry   | Suspected of involvement in the Zhang Chunjiang case. Possession of valuable property without reasonable explanation |
| Ma Li        | May 2011   | Vice General Manager of the digital dept of China Mobile  | Suspected of breaching discipline  |
| Ye Bing      | May 2011   | CEO of a subsidiary company of China Mobile   | Suspected of involvement in the Ma Li case   |
| Shen Changfu | Oct 2010   | Party secretary and general manager of Chongqing Mobile Company Ltd   | Suspected of accepting a large sum of money in bribes  |
| Lin Donghua  | July 2009  | Vice General manager of Hubei China Mobile  | Suspected of corruption involving large amounts of money   |

Source: <http://www.caing.com/2011-05-30/100264112.html> (translation)

## Ericsson

Swedish telecommunications company Ericsson, which is widely acknowledged as the world's leading mobile telecommunications equipment vendor, was one of the early telecommunications companies to re-establish itself in China after restrictions on foreign companies began to be relaxed from the late 1970s. The Chinese market is seen as significant to Ericsson and is reported to make up 10% of the company's global revenue.<sup>73</sup> It claims that it has about half the market share for mobile systems in China, while it has about 10% of its market share for fixed networks.<sup>74</sup>

In the investigation into the corruption of China mobile executives, Ericsson was one of the companies which was reported to have been linked to the case, potentially giving reason to call its business practices into question. Indeed as part of the investigation relating to the corruption charges against two of the high-ranking officials from China Mobile in Sichuan, who were accused of accepting bribes in exchange for equipment deals, an equipment procurement officer from Ericsson was brought in for questioning.<sup>75</sup> Moreover, it was also reported by the Century Weekly that the general manager of a Hong Kong public relations company, Mao Jieqi (毛节琦), was one of those who was allegedly responsible for paying bribes to Li Hua, the general manager of China Mobile Sichuan, on behalf of Ericsson.<sup>76</sup> The company which Mao worked for was said to have signed a contract with Ericsson's headquarters in 1985 and had become one of its consultants. The bribes involved were reported to involve significant amounts of money and a watch worth 100,000 RMB as well as gifts and favours for members of Li Hua's family. According to the report, beginning in 2001-2002, Mao told Li Hua that he was going to give some money to him, the amount of which increased over time as Li Hua told Mao to keep hold of it for the meantime. In 2005 when Li Hua bought a house he then asked Mao for USD 100,000 of the money, however the amount of money being held by Mao for Li Hua continued to increase and in 2010 Mao told Li Hua that he was holding USD1.5 million for him. After Lin Hua was prosecuted, Mao then turned this money over to the Sichuan government. In addition to this, Mao also gave money so that Li Hua's daughter could study in Britain beginning in 2004 and for Li Hua's wife to visit her in Britain and attend her graduation. As a result of the alleged bribes Li Hua is said to have authorised Sichuan China Mobile to make contracts with Ericsson worth RMB6.429 billion.<sup>77</sup> According to the Economic Observer, it was the evidence provided by Mao as part of Li Hua's corruption trial that also revealed the case of Shen Changfu. Having met Shen in 1997, Mao is also reported to have paid millions of RMB to him since then, including in 2008 when Mao is said to have deposited 6 million RMB into a stock trading account that he had opened for Shen in Hong Kong in March 2010, when it is alleged that he paid 60,000 RMB to cover the shopping expenses of Shen and his wife during one of their trips to Hong Kong,

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<sup>73</sup> Ai lixin caigou guan she fu an beihou: Shebei shang di jia bosha, 25<sup>th</sup> November 2010, <http://tech.163.com/10/1125/00/6MA1HC06000915BE.html>

<sup>74</sup> The History of Ericsson: China, <http://www.ericssonhistory.com/templates/Ericsson/Article.aspx?id=2068&ArticleID=1337&CatID=365&epslanguage=EN>

<sup>75</sup> Ericsson Employee Probed or China Mobile Scandal <http://english.caing.com/2010-11-18/100199795.html>

<sup>76</sup> Sichuan yidong li hua yishen huo sihuan jiemi ai lixin 60 yi Yuan shengyi, 5<sup>th</sup> September 2011, <http://finance.sina.com.cn/g/20110905/094610432661.shtml>

<sup>77</sup> Ibid

and in April 2010 when Mao is said to have given Shen 200,000 RMB in Chongqing after Shen had run into financial difficulties and so directly asked Mao for cash.<sup>78</sup>

In December 2010 Ericsson released an announcement to CCTV acknowledging that one of its employees was under investigation by a relevant Chinese judicatory department in relation to the China Mobile case<sup>79</sup>

### Siemens AG.

The activities of German multinational Siemens also go to further show how deep rooted the problem of corruption is both within China and around the globe. Indeed, in December 2008, Siemens pleaded guilty in Munich and Washington DC to corruption charges concerning the bribing of government officials in the pursuit of contracts. An in-house investigation revealed suspect payments amounting to 1.3 billion Euros. As in the case of auto manufacturer Daimler, this case did not solely involve the bribing of officials in China but involved officials around the world, highlighting how some multinationals will make use of corrupt practices wherever they think they might get away with it in pursuing their business interests. The cases of bribery were numerous, dating from the 1990s up until 2007 and when the scandal broke in 2006 the company had to fire most of its management board. As a result of the case Siemens had to pay about 1 billion Euros worth of fines and penalties.

In terms of Siemens in China, at the time of the investigation a German magazine was reported as claiming that Siemens China had been affected by the bribery scandal and that around half of Siemens businesses in China were connected with bribery.<sup>80</sup> Meanwhile, Hao Ruiqiang, the president and CEO of Siemens China stated that, “for bribery and other corruption, we have zero tolerance” and in response to an alleged bribery scandal in Shanghai claimed that 20 employees from Siemens China had been dismissed in 2006 for being involved in “practices that the company cannot tolerate.”

Furthermore, in addition to Ericsson, Siemens was also implicated in the corruption scandal involving China Mobile in 2010. It was reported that in order to obtain a contract Siemens paid bribes to then general manager of An hui China Mobile, Shi Wanzhong. Siemens was alleged to have paid the sum of US\$5 million to a foreign company outside of China, which then in turn paid the same sum of money as a “consultancy fee” to a consultancy company in An hui province. One of the registrars of this consultancy company was Shi Wanzhong’s wife.<sup>81</sup> Shi Wanzhong was in fact detained by the authorities in 2010 for allegedly accepting the bribe.<sup>82</sup>

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<sup>78</sup> Chongqing’s China Mobile Corruption, The Economic Observer, 28<sup>th</sup> November 2011, <http://www.eeo.com.cn/ens/2011/1028/214512.shtml>

<sup>79</sup> Ericsson may [be] involved in China Mobile bribery case, People’s Daily Online, 2<sup>nd</sup> December 2010, <http://english.people.com.cn/90001/90778/90861/7218404.html>

<sup>80</sup> Siemens China Cites “Zero tolerance” for Corruption, 23<sup>rd</sup> August 2003, <http://www.china.org.cn/english/business/221861.htm>

<sup>81</sup> Ai lixin yangong huilu an qian chu li yi lian, 30<sup>th</sup> November 2011, <http://news.hexun.com/2010-11-30/125909900.html>

<sup>82</sup> Ai lixin yangong juan ru zhonggui yidong sichuan fubai an , 24<sup>th</sup> July 2010

Despite having been implicated in the investigation involving the corruption of China Mobile officials, as far as we are aware no action has been taken by the Chinese authorities, regarding the further investigation of the potential malpractices of either Siemens or Ericsson in relation to this case. This reflects how in many cases nothing is done to deter corrupt practices of this kind by foreign companies.

### Nokia

In addition to involvement in corruption to obtain contracts, as with companies in other industries, mobile phone manufacturers, have also been quick to take advantage of the cheap labour cost as a result of the low wages and poor working conditions that workers in China are often forced to endure. As the examples below will show, one such company has been the Finnish multinational Nokia and its suppliers.

In August 2007 nearly 18,000 employees working for a Nokia subcontractor's factory in Shenzhen went on strike because of their poor working conditions including long working hours, unpaid overtime, low salaries and unrealistic production targets. The factory concerned belonged to Friwo, a German company, which is the world's largest manufacturer of batteries for mobile devices. According to the striking employees, in order to earn even the basic salary for the area at the time (700 RMB per month), they had to meet production targets which in some cases was enough work for two workers. According to a SACOM report on the incident, some workers claimed that in the past, in order to complete orders, they had to work for 30 days every month, 11.5 hours per day. Also, while previously they could earn up to 1800 Yuan per month, they could now only earn 1100-1200 Yuan. Due to the intensity of the work and low wages, many workers at the plant would choose to resign. Even this was difficult, however, as one month's notice was required in which time the factory had to give approval of the resignation without which the worker could not resign, or alternatively in exchange for the permission to resign, the worker's last months' wages would be deducted and benefits withheld. In addition to this they reported concerns over the high temperature of the working environment and other occupational health and safety problems such as exposure to toxic smoke and other potentially harmful chemicals and injuries when using machinery.<sup>83</sup> In a written statement by the workers they are said to have demanded a salary increase, compensation for night shift work, statutory insurance cover and clean drinking water at the factory.<sup>84</sup>

Companies should have a duty to ensure that all of their suppliers guarantee good working conditions and do not violate labour rights in any way. In addition to the case of Friwo, however, conditions for workers at a factory of Taiwanese company Wintek in Suzhou, another supplier used

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<http://biz.cn.yahoo.com/ypen/20101124/97302.html>

<sup>83</sup> Xinwen gao: Shenzhen Nokia ji Motorola gongying chang gongchao kouda jin er wan gongren jixu bagong, SACOM

<sup>84</sup> Workers protest at Nokia subcontractor's factory in Southern China, <http://www.hs.fi/english/article/Workers+protest+at+Nokia+subcontractor%E2%80%99s+factory+in+China+/1135229738612>

by Nokia, also led to strike action by around 2,000 workers in 2009. As well as striking over pay, workers were also said to be angry about how 47 workers had been hospitalised with several requiring continued medical attention due to the use of the chemical n-hexane used in the production process at the factory.<sup>85</sup> In response to the poisoning of the workers coming to light, according to a Guardian report, Nokia confirmed that the factory did supply parts for its handsets and claimed that despite n-hexane not being used on any of its production lines it had, “agreed on a development plan for health and safety management at Wintek's Suzhou factory and a series of corrective measures have been taken since then.”<sup>86</sup>

As part of the large scale layoffs that Nokia announced in Spring 2011, also affecting workers in Denmark, Finland, the UK and the US amongst other countries, in June 2011 Nokia announced that it was sacking 170 of its employees in China. The way that the company went about this showed complete disregard for the rights of the employees and indeed some of its employees accused the company of having violated the Chinese Labour Law. The 170 employees, who were all from its Research and Development Service division responsible for its Symbian operating system, were told that they would lose their jobs with Nokia and that if they wished their jobs could be transferred to global management and technology consulting firm Accenture, which it was outsourcing its Symbian software activities to. The company only gave the affected employees 10 days to decide whether they wanted to accept the transfer, however, understandably angering the employees who claimed that this was not long enough. Legal experts described Nokia's action as a violation of the Chinese Labour Law, as when jobs are cut for economic reasons companies are supposed to explain to employees or the union the reason for the staff reduction at least 30 days in advance and report it to relevant authorities. In response to this accusation Nokia China's Advisory Director Gong Wenfei claimed that the layoff was legitimate as the layoffs were not due to economic reasons.<sup>87</sup> Nonetheless, when Nokia announced its decision in April to shed the 7,000 jobs worldwide, it claimed that the decision should reduce its operating expenses by US\$1.47 billion in 2013 when compared with 2010 and that the subsequent planned product and service portfolio, to which the job reductions were linked, and which would largely be made up of phones using Microsoft Windows phone software, as a result of a deal between Nokia and Microsoft, would be worth billions of dollars for both companies.<sup>88</sup> Thus while Nokia's stated intention is to make a lot of money, many workers are going to lose their jobs. What is more is that particularly given that Nokia had plans to make the layoffs at least some months before, it is clear that only affording workers 10 days to make their decision in China is a violation of their rights. Furthermore, when compared with workers in other affected countries 10 days is comparatively a much shorter period of notice. It was

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<sup>85</sup> Workers at Chinese mobile phone supplier poisoned by cleaning chemical, 22<sup>nd</sup> February 2010, <http://www.guardian.co.uk/world/2010/feb/22/chinese-mobile-factory-n-hexane-nokia?INTCMP=SRCH>

<sup>86</sup> Cited in Ibid

<sup>87</sup> Nokia gives 10 days notice before sacking 170, China Daily, 2<sup>nd</sup> September 2011, [http://www.chinadaily.com.cn/business/2011-09/02/content\\_13604928.htm](http://www.chinadaily.com.cn/business/2011-09/02/content_13604928.htm)

<sup>88</sup> Nokia to cut 7,000 jobs, stop developing Symbian operating system, Los Angeles Times, 27<sup>th</sup> April 2011, <http://latimesblogs.latimes.com/technology/2011/04/nokia-to-slash-4000-jobs-move-3000-jobs-and-symbian-to-accenture.html>

reported, for instance, that workers in the UK were given 90 days to negotiate terms<sup>89</sup> and when the loss of 700 jobs in the UK was announced the trade union Unite declaring that it would campaign to halt the job losses.<sup>90</sup> Meanwhile in Finland, in relation to the deal between Nokia and Microsoft, the trade union Pro was demanding 100,000 Euros in addition to severance payment for each employee who lost their job,<sup>91</sup> and codetermination talks (talks which in an earlier round of announced job losses, although not a significant reduction, led to the number of job losses being reduced from 850 to 800<sup>92</sup>) were held between the company and employees. Nokia took advantage of the situation of workers in China, who have no legitimate trade union, by giving them just ten days notice and no adequate means to negotiate.

## 7) Water

The water shortage crisis and the supply of water are serious problems affecting China today. It has been estimated that China has a water supply shortfall of 40 billion cubic metres per year.<sup>93</sup> Prior to the 1990s, it was the state which took sole responsibility for the urban water supply in China. Beginning in 1992, however, with a project by Sino French Water, a joint venture between Suez Group and the Hong Kong based NWS Holdings Limited international and private companies have become involved in China's water supply. Then in 2002, the Shanghai Pudong Project, which involved Veolia, marked the first contract obtained by foreign investors to cover water supply operation and management. Since then, encouraged by policies of the Central government, the system of China's urban water supply has undergone privatization, and been opened up to both domestic and foreign private investors, although domestic publicly-owned water companies, such as the Beijing Capital Co. Ltd., still hold the majority share of the market.

The French multi-national corporations Veolia and Suez have both been major players during the privatisation of China's water supply and have rapidly expanded since they first entered China's market. Veolia Environnement (previously known as Vivendi Environnement), through its division/subsidiary Veolia Water, is the world's largest water company and is ranked at number 175 in the global Fortune 500 companies in 2011 making profits of \$769.6 million.<sup>94</sup> Suez Environnement (previously a part of Suez) is another of the world's leading multinational water companies and had a reported revenue of 13.6 billion Euros in 2010. As of 2009, Veolia, was operating in 20 out of 34 provinces, municipalities, autonomous regions and special administration regions in China, supplying

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<sup>89</sup> Nokia China staff say it has violated Chinese labour laws, 2<sup>nd</sup> September 2011, <http://www.theinquirer.net/inquirer/news/2106283/nokia-china-staff-violated-chinese-labour-laws>

<sup>90</sup> Nokia job losses "another dark day for the UK economy" 27<sup>th</sup> April 2011, [http://www.unitetheunion.org/news\\_events/latest\\_news/nokia\\_job\\_losses\\_another\\_dark.aspx](http://www.unitetheunion.org/news_events/latest_news/nokia_job_losses_another_dark.aspx)

<sup>91</sup> Nokia shareholders and unions fight back against Mikrokia, 16<sup>th</sup> February 2011, <http://www.engadget.com/2011/02/16/nokia-shareholders-and-unions-fight-back-against-mikrokia/>

<sup>92</sup> Nokia concludes codetermination talks: 800 jobs to be cut in Finland instead of predicted 850 <http://www.hs.fi/english/article/1135262404576>

<sup>93</sup> Water Shortages in China, <http://factsanddetails.com/china.php?itemid=390&catid=10&subcatid=66>

<sup>94</sup> Global 500: 175. Veolia Environnement <http://money.cnn.com/magazines/fortune/global500/2011/snapshots/11102.html>



water to more than 30 million urban residents, while Sino French Water had 22 projects across the country and supplied water to more than 14 million residents.<sup>95</sup> One of the key strategies that these companies have used to advance their investment in China is to offer high premiums in order to win bids, suggesting their confidence in being able to make significant profits from their investments. For this reason, such corporations have prioritised investment in first and second tier cities where there is growth in demand for water and more opportunity to profit from higher water prices.<sup>96</sup>

*Why there is need to further monitor and investigate the activities of private investors in China's water supply, such as Veolia and Suez.*

- 1) **Private investment in the urban water supply has not solved the problem of poor water quality.** In 2006, the Guangdong Provincial Environment Protection Bureau reported on the unqualified drinking water sources in Shenzhen and Guangzhou, stating that some sources were found to contain ammonia nitrogen, fecal coliforms, biochemical oxygen demand, and total nitrogen.<sup>97</sup> Research by Globalization Monitor published in 2010 also found that of 300 interviewees from six cities in Southern China, 77.7% of those interviewed were uncomfortable with the quality of the tap water. Reasons given included the water being unclean or muddy, having a strange colour, having an usual taste or causing sickness after drinking it.<sup>98</sup>

**Table 3: Percentage of those who feel uncomfortable about tap water quality.**

| <u>City</u>   | <u>Percentage</u> |
|---------------|-------------------|
| Shenzhen      | 88.3%             |
| Guangzhou     | 86.7%             |
| Dongguan      | 78.3%             |
| Fuzhou        | 80.0%             |
| Xiamen        | 58.7%             |
| Quanzhou      | 53.3%             |
| <b>Total:</b> | <b>77.7%</b>      |

Source: The Reform of the Urban Water Supply in Southern China, Globalization Monitor, April 2010

**Poor international record** Both Veolia and Suez have a poor reputation internationally in terms of environmental pollution problems and harm to ordinary people due to unaffordable water. Veolia/Vivendi has also allegedly been involved in corruption. A 2005 report on Veolia Water by Public Citizen lists a number of cases, from the 1990s and early 2000s, of convictions in relation to bribery charges involving Vivendi's pursuit of contracts in Europe and the US. It also draws attention to its poor environmental record. In 2000, for instance, Leigh Environmental, a subsidiary of Vivendi, received seven prosecutions and fines of £87,500 for environmental pollution in the UK and was listed on the UK's Environment Agencies worst ten polluter's list in 1999. Meanwhile in the US in

<sup>95</sup> Marketising Urban Water Supply in China, Ji Ma.

<sup>96</sup> The Reform of the Urban Water Supply in Southern China, Globalization Monitor, April 2010.

<sup>97</sup> Guangzhou, Shenzhen warn of unqualified drinking water, Xinhua News Agency April 19, 2006

<sup>98</sup> Ibid

July 2001, an electrical fire at the New Orleans' East Bank Sewage Treatment Plant, which was operated by Vivendi subsidiary USFilter (since renamed Veolia Environnement North America), led to the plant's operators diverting raw sewage into the Mississippi River for two hours before it resumed operation. USFilter had apparently been aware of equipment problems several weeks beforehand and knew that they could cause severe damage but took no action.<sup>99</sup> As for Suez Environnement, according to a report by Food and Water Watch, in the US the Suez owned United Water also has a poor record, for instance for problems related to raw sewage spills in Milwaukee, Wisconsin, the bacterial contamination of drinking water in Gloucester, Massachusetts, and poor maintenance and service in Gary Indiana following its taking over of the wastewater treatment plant and its laying off of half the workforce. This is on top of the expensive water charges in a number of states.<sup>100</sup> Such a poor record internationally means that despite any statements by either of these companies about their commitment to working for the benefit of the environment in China<sup>101</sup>, there is need to monitor much more closely the actual effects of their activities.

**High water tariffs harm ordinary citizens.** One of the major criticisms of private investment in the water sector is the subsequent huge tariff rises that are inflicted on ordinary citizens as private investors take advantage of their simple daily human need for clean and fresh drinking water in their pursuit of expansion and increased profits. Prior to the introduction of pricing water in 1985, water in China was viewed more as a form of social welfare and public good. With the increased introduction of private investment water tariffs have risen significantly. In Kunming, for instance, the water tariff was increased by 56% just three months after the transfer of 49% of its shares to Veolia in 2005. The tariff was then increased again in 2007 and 2009, meaning that altogether it had increased by 92% when compared to before the transfer.<sup>102</sup> In the same way, Changzhou, a city where Veolia owns 49% of shares in the water supply company, is one of four cities with the highest water tariff in the Yangze River Delta. While Yangzhou city, where the water supply company is partly owned by Suez, is another.<sup>103</sup>

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<sup>99</sup> Veolia Environnement: A Corporate Profile, Public Citizen 2005, [www.wateractivist.org](http://www.wateractivist.org)

<sup>100</sup> United Water: Suez Environnement Poor Record in the United States, Food and Water Watch, 2010.

<sup>101</sup> Veolia Environment Group China, for instance, has been actively involved in environmental education projects and has forged partnerships with Tsinghua University, founding the Joint Research Centre for Advanced Environmental Technology in 2010 and developing training programs for Chinese officials. Accordingly their stated aim in developing such programs is to, *"target mayors and senior local government officials with responsibility for urban planning and infrastructure construction. The aim is to raise their awareness about integrating environmental protection and sustainable development concepts into their decision-making processes."* (Cited in "Public Solutions for Private Problems? – responding to the shortage in water infrastructure investment" by David Hall, Emanuele Lobina and Robin de la Motte, Public Services International, September 2003). Indeed by taking part in such a partnership it will provide Veolia with the ideal opportunity to advance make contacts potentially useful for winning future contracts.

<sup>102</sup> "The Reform of the Urban Water Supply in Southern China", Globalization Monitor, April 2010.

<sup>103</sup> Ibid

The vice president of Veolia is reported as having said, “Veolia is very optimistic about China’s future water price. China is a country with severe water shortage, thus there is a general trend to raise water fees.”<sup>104</sup>

#### *Bottled Water: Evian and Volvic*

In addition to issues concerning tap water, substandard tap water supplies, as well as growth in the upper end market, have also led to an increase in the bottled water market in China. Bottled water, however, has also not always proven to be without its risks and safety concerns frequently surface involving both foreign and domestic brands. What is more, the regulations applied to bottle and vending machine water fall under food regulations and are more lenient than the Standard for Drinking Water Quality.<sup>105</sup> Nevertheless, a number of well know European brands have been found following testing by China’s General Administration of Quality Supervision, Inspection and Quarantine to fail safety standards. French mineral water brands Evian and Volvic, both belonging to the Danone Group, are among those which have in some instance been found to be substandard. In November 2011, for instance, both brands were found to be containing excessive nitrates, something which may increase the risk of cancer. In January of the same year 80 tons of Evian water had also failed entry inspection for the same reason.<sup>106</sup> While in 2007, 118 tons of Evian water was found to contain excessive bacteria. At the time, Danone tried to claim in its defence that there was a difference between the local standard and that set by the World Health Organisation and that microbial flora can often be found in natural spring water.<sup>107</sup> To make such a statement, however, shows the company’s complacency and complete disregard for the locally set standard as well as a lack of commitment toward ensuring product safety in general.

## 8) Conclusion

Our research into the business practices of the various European companies investing in China described in this report only goes to further confirm that malpractices by these companies, along with other foreign companies and their domestic counterparts, are very widespread. The findings here, however, are just the tip of the iceberg as so often such malpractices go unreported or news of them is suppressed. Taking advantage of the situation in China, such as the lack of freedom of association, the lack of enforcement of laws and labour rights and officials who can easily be bribed, companies are quick to use any means that they think they can get away with to enhance their investments and to make a profit, often at huge costs to people and the environment. Indeed, as has been illustrated, many foreign companies operate double standards when doing business in China and do not afford the Chinese people the same standards as when operating in other countries, both in terms of the treatment of workers and product safety. Furthermore, despite often making bold claims about their ethical and social commitments, the practices of many of the companies

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<sup>104</sup> Cited in Ibid

<sup>105</sup> The Reform of the Urban Water Supply in Southern China, Globalization Monitor, April 2010.

<sup>106</sup> French mineral water fails China quality tests, 16<sup>th</sup> November 2011,  
<http://english.peopledaily.com.cn/102774/7646653.html>

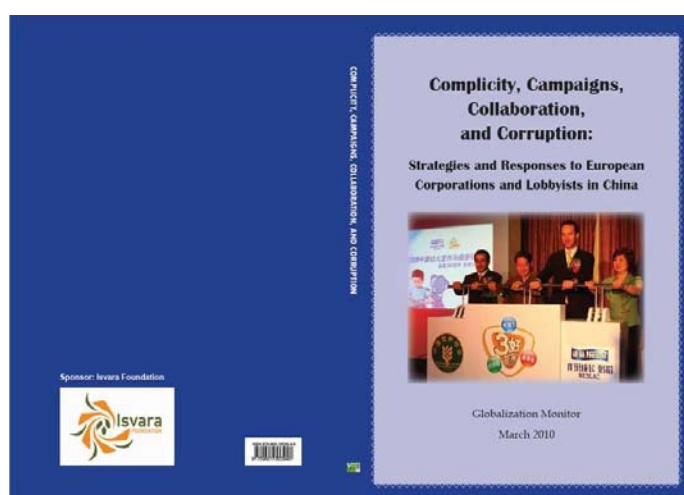
<sup>107</sup> Ibid

described here expose their CSR declarations for what they most often are; nothing but elaborate capitalist marketing strategies aimed either at directly boosting sales, through the company's presentation of itself to consumers as being more socially responsible, or as a means through which to gain favour with potential partners, whether this be governments or other partner companies. Often such statements and policies mean little in practice and will be immediately forgotten when the opportunity to increase their profits seems to arise. Only in a situation in which profit is no longer the motivational force and in which the interests of ordinary people are placed first, will it be entirely guaranteed that companies will not seek to advance their interests at the expense of humans and the environment. In the meantime, however, we should put constant pressure on such corporations to keep them in check and to ensure that ordinary people's rights are not abused as a result of malpractices.

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