

## Unions and collective bargaining: what companies need to know

By **Susanne Rademacher**



After what appeared to be a hold in the campaign of the All China Federation of Trade Unions (ACFTU) to approach multinational foreign invested enterprises (FIEs) for unionisation measures, as of late the ACFTU has resumed its campaigning efforts. This revival is seen by many as a response to an increase in labour unrest incidents across China. Notably, the highly publicised strikes of these last months occurred outside the realm of union organisations.

While previous ACFTU campaigns mainly focused on larger FIEs, the new campaign has broadened the scope of targeted companies to also include small and medium-sized FIEs and other companies.

Recently, ACFTU notified its local counterparts to strengthen their measures towards foreign and Chinese invested enterprises in terms of the establishment of trade unions, collective bargaining and stronger representation of migrant workers. The notifications also comprise instructions to address in particular those enterprises that earlier refused collective bargaining contracts, and authorise local ACFTU offices to issue "rectification recommendation notices" to enterprises not responding to collective bargaining requests as well as to approach local labor bureaus to seek legal liabilities against refusing enterprises.

Further, ACFTU and the Ministry of Human Resources and Social Security have joined forces by notifying individual trade unions to step-up their efforts on collective bargaining at private and labour-intensive enterprises, putting particular focus on wages and work quotas.

As part of these new efforts to foster unionisation and collective bargaining in China, many companies that have no experience with organised labour should expect an inaugural visit from the local ACFTU chapter. If an employer openly rejects ACFTU proposals or simply fails to respond, it may be subject to investigation by the labor bureau and other actions that aim to encourage compliance.

Naturally, enterprises often have an adverse attitude towards unionisation and collective bargaining plans. However,

given the increased support by the Chinese government for these campaigns, an increasing number of companies are likely to consider that union establishment is eventually unavoidable, and that cooperation with ACFTU bodies to influence the unionisation process and staffing of the relevant committees may be the best way to protect the employer's interests. The current strikes hitting numerous enterprises in China may have contributed to generating a mutual interest between the ACFTU and many enterprises to join forces against unorganised work stoppages.

Companies should educate themselves as soon as possible about the processes involved in unionisation and collective bargaining in order to handle ACFTU requests appropriately. They should know when union establishment is legally mandated (as opposed to merely an option) and which processes are involved. Employers should also know how the collective bargaining process works, which timelines have to be adhered to, who participates in the process, what can and must be covered under collective bargaining agreements, and which concurrent individual employment contract arrangements are allowable. Although the detailed requirements may vary considerably from location to location – local regulations are already established in over twenty cities and provinces – and collective bargaining salary provisions have in the past tended to reflect local minimum wage requirements, the ACFTU is now apparently aiming for wages above this level.

Companies can best protect their business interests by learning how to influence union establishment and the collective bargaining process. And an employer who chooses to participate voluntarily in the formation of a union, rather than face a labour organisation imposed by the ACFTU and employee representatives, may at least be satisfied that it has selected the lesser of two evils.

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