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HONG KONG • BEIJING • SHANGHAI

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***Collective Rights – PRC and Hong Kong***

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# The Trade Union Law of PRC

## Trade Union's powers :

- Contracts :
  - Advising workers
  - Reaching collective contract
- Representation :
  - Breach of collective contract
  - Breach of individual worker's contract
  - Unfair treatment
- Supervision and Investigation :
  - Safety and Health issues

# The Trade Union Law of PRC

## Organization :

- General Meeting
- To form a Committee if over 25 members
- Legal Protection to Committee Members
- Intervention by local government and union
- Finance :
  - Membership Fee
  - Employer to pay a monthly sum equivalent to 2% of the total monthly wages (expense before tax)
  - Other income from the Employer
  - Government subsidies

# The Trade Union Law of PRC

When local government will intervene :

- obstructing formation and operation of trade union
- revenge towards committee member
- disbanding the trade union
- obstructing investigation by trade union for labour right issues and personal injuries incidents
- unreasonable refusal to negotiate with trade union

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# The Trade Union Law of PRC

## Civil Liability :

- revenge towards participation – compensation : 2 times of annual salary of the particular worker

## Criminal Liability :

- defamation or violence against committee member
- obstructing participation by violence or threatening

# The Trade Union Law of PRC

## Trade Union with Chinese Characteristics :

- In a stoppage, or a go-slow, shall negotiate with the employer, and suggest solutions (Article 27).
- After resolving disputes, shall assist the employer in resuming the production and the order (Article 27).
- Power of calling strike ? Abolition of right to strike in 1982 Constitution Amendment ?  
Liability relating to strike ?

# Decision issued by the All China Federation of Trade Unions in December 2005

## Harmonious Society – role of trade unions

- Co-ordination is the main way to resolve disputes
- Encouraging harmony
- Preventing situation getting worst

# Practices

## Establishment of Trade Union :

- In major cities, most of the Foreign Investment Enterprises have been notified to set up trade union
- But for other cities or areas, situation varies

## Participation of Trade Union :

- Voluntary
- Actual situation : less than 50% participation for some FIE
- Mobility of employees



# Practices

## Role of Trade Union :

- Harmonious Society : not to fight, more on co-ordination
- Policy reason : encouraging foreign investment
- Culture : employees seldom wish to cause troubles
- Sufficiency of Labour Law and its mechanism in protecting the interest of workers

# Collective Agreement

## Major Terms :

- Compensation
- Working hours
- Leaves
- Health and Safety
- Welfare and Insurance
- Female workers' rights
- Rewards and Penalties
- Dispute Resolution

# Collective Agreement

- Negotiated by Representatives from both sides
- Accepted by 50% of the workers
- Filing with local supervising authority
- If no objection from authority, shall apply to all employees

# Statistics

## National :

- No. of collective agreement signed : 86,200

## Example - Qingdong City :

- FIE with Trade Union : 3,402 (70.9%)
- Participation : 423,000 (96.8%)
- Collective Agreements : 80%
- Mediation Success Rate : 92% (482)
- Proposals raised by employees : 37,556

# Trend

- Establishing Trade Unions
- Reaching Collective Agreements
- Encouraging employees' participation
- Employee Representative in Board
- Dispute Resolution : Co-ordination, Mediation & Arbitration



**Thank you !**

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