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SWEATSHOP CONDITIONS IN THE CHINESE TOY INDUSTRY

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERSTATE COMMERCE, TRADE, AND TOURISM

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

OCTOBER 25, 2007

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SWEATSHOP CONDITIONS IN THE CHINESE TOY INDUSTRY

THURSDAY, OCTOBER 25, 2007

U.S. SENATE,
SUBCOMMITTEE ON INTERSTATE COMMERCE, TRADE, AND TOURISM,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC.

The Subcommittee met, pursuant to notice, at 9:38 a.m. in room SR–253, Russell Senate Office Building, Hon. Byron L. Dorgan, Chairman of the Subcommittee, presiding.

OPENING STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR FROM NORTH DAKOTA

Senator DORGAN. I'm going to call the hearing to order this morning. I'm Senator Dorgan. I'll be joined by colleagues in a bit.

Today, the Subcommittee here in the Commerce Committee is holding the fourth in a series of hearings that relate to international trade. This hearing deals with the issue of sweatshop conditions in the Chinese toy industry. There's been a great deal of discussion and concern about products coming into this country that are unsafe. Many of us have seen the reports of toys being pulled off the shelf of major American retailers because those toys are manufactured in China and come to this country with lead content that is higher than would be safe for children. We read the tragic stories of, for example, Jarnell Brown, who ingested a small charm that came with a Reebok tennis shoe, and, swallowing that charm, which turned out to have been made of 99-percent lead, young Jarnell Brown died. He was admitted to the hospital with brain swelling, and, when they X-rayed him, they found a heart-shaped object in his stomach. It was a charm that came with tennis shoes, but no one would have known that it was 99-percent lead. Of course, no one would have expected someone would swallow it, but a young child swallowed it, and the young child died.

It's not an accident that products are containing lead, coming from China. Lead is cheap, and the contractors want to lower costs without respect to health consequences. And so, we have to be vigilant about these things, and we have to stand up for the interests of the consumer with respect to these matters.

The issue of how a product is produced in China with respect to toy manufacturing is one issue; that is, what materials are used in its production. That's one issue. The second issue, that has been less discussed, but, I think, is as important, is, what are the conditions under which toy products are manufactured?

The manufacturing of toys, of course, has migrated substantially. I think 80 percent of the toys are now manufactured in China. We have a witness today representing the Toy Industry Association. And we appreciate that. It's interesting that the term of "toy industry," because it used to be "toy manufacturing." But the term "toy manufacturing" would no longer apply appropriately, because we don't manufacture toys to any great extent in this country; they're manufactured elsewhere, mostly in China.

The example of Etch-a-Sketch is one that I have written about. Etch-a-Sketch is a little thing that most of us have played with as kids, and Etch-a-Sketch was made in Bryan, Ohio. And they were proud of making Etch-a-Sketch. People from that little town—or, not so little—but that town of Ohio always referred to their home town as the "Town of Etch-a-Sketch." "Where are you from?" "Well, I'm from the town that makes—where we make Etch-a-Sketch." Everybody knew about Etch-a-Sketch. But now Etch-a-Sketch is gone from Ohio, it's made exclusively in China.

The question that we ask today is under what conditions are these toys made? Are there sweatshop conditions in China that are existing with respect to the production of toys? And the reason that I am interested in that is, I and my colleagues have introduced a piece of legislation, S. 367, titled the Decent Working Conditions and Fair Competition Act. And it relates to the question of the production of products—not just toys, but products—in sweatshop conditions in other countries. The first question I asked with respect to the issue of fair trade is, should we not, at least at the very start of this, decide that we will not allow into our country products that come from sweatshop labor? That is, persons who are working in other countries in gross violation of those other countries' labor laws. That ought to be the first step. Even if we disagree about trade strategy, all of us ought to agree that, after what we've done to pull ourselves up and create a middle class, and the kinds of things that represent safe workplaces and standards and dignity for American workers, we should at least be able to agree we will not allow the product of sweatshop labor to be brought into this country and sold on the store shelves in America.

So, the question today is what is happening in China? What kind of assurances do we have that the substantial portion of toys, some 80 percent of which are produced in China, are being produced under conditions that we would condone, under conditions that we would not want to prevent coming into this country? What is happening with respect to sweatshops in China? We know they exist. Are they proliferating? Is it a substantial problem? What's being done to stop it, to correct it? All of these issues are very important in the construct of international trade, and they certainly are important with respect to legislation that a number of us are trying to get passed here in the U.S. Senate, S. 367, the Decent Working Conditions and Fair Competition Act.

[The prepared statement of Senator Dorgan follows:]

PREPARED STATEMENT OF HON. BYRON L. DORGAN,
U.S. SENATOR FROM NORTH DAKOTA

Today the Subcommittee is holding the fourth in a series of hearings this year that relate to international trade. And the focus of today's hearing is the prevalence of sweatshop conditions in the Chinese toy industry.

Why is this an important issue? First, because eighty percent of the world's toys are manufactured in China. Open the toy chest of any American child, and odds are that over three-fourths of the toys will be Chinese-made.

Second, because these toys are all too often manufactured under inhuman production conditions that we would never tolerate in this country.

And third, because these sweatshop practices ultimately have other consequences, including unsafe products that pose a health hazard to our children.

In recent months, there have been countless reports of dangerous products being imported from China. For instance, Mattel, the biggest toy company in the United States, announced three major product recalls in just a five-week period involving Chinese-made products, the latest involving 848,000 Chinese-made Barbie and Fisher-Price toys that contained excessive amounts of lead.

These safety issues involving Chinese imports should surprise no one. When production is outsourced to Chinese factories infamous for paying their workers pennies an hour, for dumping toxic sludge into the environment, and for covering up all kinds of health hazards, it should come as no shock that the products turned out by those factories pose a danger to our own health.

Five years ago, the *Washington Post* ran a story entitled "Worked Until They Drop". The *Post* story described the story of a 19-year-old girl who was literally worked to death at a Chinese factory making stuffed toys for the U.S. market. Her coworkers said that she had been on her feet for 16 hours running back and forth in the factory on the day that she died, and it had been 2 months since she had had a day off. The factory food was so bad that she was severely malnourished. She woke up in the middle of the night coughing up blood, and died on the floor of the dormitory bathroom.

According to the *Post,* some Chinese newspapers have a name for what happened to Li Chun Mei: it's called "guolaosi," which literally means "worked-to-death." I find it incredible that the phenomenon of working young people to death is so common in China that they actually have a name for it.

This story ran on the front page of the *Washington Post* in 2002, but it was quickly forgotten. While I'm sure that the *Post's* readers were shocked by the story, they probably didn't really understand how it affected their own lives.

Well, here is a story that hits closer to home. It happened in March 2006, when a 4-year-old Minnesota boy died of lead poisoning after swallowing a heart-shaped metal charm that came as a "gift with purchase" of Reebok shoes.

The boy's name was Jarnell Brown. The charm he ingested was found to contain 99 percent lead. The safety threshold for lead content in jewelry is 0.06 percent. The little boy ingested a piece of the charm, and developed severe stomach pains. He was admitted to the hospital with brain swelling. X-rays showed that the little boy had a heart-shaped object in his stomach.

The charm was manufactured in a Chinese factory. Reebok recalled over 500,000 of these charms, in some 25 countries. The vast majority of the shipments had gone to the United States.

It's no accident that Chinese products are being found to contain lead. The products contain lead because lead is cheap, and because the Chinese contractors who made the products were ultimately trying to lower costs without regard to the health consequence of the products.

To me, these two stories show dual sides of the same coin: if you move production to Chinese factories that cut every possible corner to lower costs, you end up with young women worked to death in China and products that end up poisoning our kids here at home.

At today's hearing, we will hear from four witnesses with a variety of perspectives on the issue of sweatshop conditions in the Chinese toy industry.

Charlie Kernaghan is the Executive Director of the National Labor Committee, which investigates sweatshop abuses around the world.

Harry Wu is the best-known Chinese human rights activist in the United States, having spent 19 years in Chinese labor camps. He is the Director of the Laogai Foundation, and an advocate for human rights in China.

Bama Athreya is the Executive Director of the International Labor Rights Forum, which documents child labor, forced labor, and other abusive labor practices abroad.

Peter Eio is testifying on behalf of the Toy Industry Association, Inc., of which he was recently the chairman. The Toy Industry Association represents the interests

of the largest companies selling toys in the United States, representing about 85 percent of the U.S. toy market. Mr. Eio is also a former President of Lego Systems, Inc.

I thank the witnesses for coming. Before turning to their testimony, I would note that I have been working with a number of my colleagues on S. 367, the Decent Working Conditions and Fair Competition Act. This is a piece of legislation that would prohibit the importation of products manufactured in sweatshop conditions. We have a growing list of bipartisan cosponsors that now stands at 14 Senators. A companion bill in the House of Representatives has 116 cosponsors. I hope this hearing will provide additional momentum for that bill.

We have four witnesses today: first, Mr. Charles Kernaghan, the Executive Director of the National Labor Committee, in New York City. Mr. Kernaghan has previously testified before this Committee. Second, Mr. Harry Wu, Executive Director of the Laogai Research Foundation. Mr. Wu, I hope I have pronounced that correctly. Dr. Bama Athreya, Executive Director, International Labor Rights Forum; and Mr. Peter Eio, from the ICTI CARE Governing Board, member, past Chair of the Toy Industry Association.

And let me begin with Mr. Kernaghan.

Mr. Kernaghan, welcome back to the Committee. Thank you for the work that you do at the National Labor Committee, exposing sweatshop working conditions around the world. And I know that you've been working on these issues with respect to China.

We will take your testimony, from all four of you. Your formal written testimony will be made a part of the permanent record, and I will ask all four of you to summarize your oral testimony.

So, let's begin with you, Mr. Kernaghan. Why don't you proceed.

STATEMENT OF CHARLES KERNAGHAN, DIRECTOR, NATIONAL LABOR COMMITTEE

Mr. KERNAGHAN. Thank you, Senator. And thank you for holding these critically important hearings.

Many Americans—many parents in America would be shocked and disturbed if they knew the abusive sweatshop conditions under which their children's toys are being made in China. Parents, however, have no way of knowing, as Mattel, the largest toy company in the world, hides its 40 or so contract plants in China, just as the other companies do, refusing to provide the American people with even the names and addresses of those plants. Mattel Barbie toys, along with Thomas & Friends toys for RC2 Corporation and Wal-Mart, are made at the Xin Yi factory in Shenzhen. The 5,000 workers there are stripped of their rights, forced to sign mostly blank temporary contracts lasting anywhere from just 10 days to a maximum of 3 months. At management's discretion, new temporary contracts could be extended every 2 or 3 months. Workers could be at the factory for over a year, working full time, but always held as temporary workers, which means they are stripped of their rights—they have no right to paid maternity leave, no right to health insurance, no right to sick days, no right to vacation, no right to holidays.

The standard shift at the factory is 14 and a half hours a day, from 7:30 in the morning until 10 p.m. at night, 6 days a week. Workers are at the factory 87 hours a week, while working 70 hours, including 30 hours of overtime, which exceeds China's legal limit by 260 percent. In 2006, it was worse. The workers worked

7 days a week, from 7:30 in the morning until 10:30 at night. They were routinely at the factory over 100 hours a week.

The factory is excessively hot. Everyone's dripping in their own sweat. The workers are prohibited from standing up during working hours and say that, after a few hours of this, their legs go numb. The workers say that you can see young women in the factory crying every day as the supervisors scream and yell at the workers, push them to go faster. Workers who speak up or speak back to a supervisor will be immediately fired.

The base wage in Shenzhen is 53 cents an hour. But here, the factory cheats the workers of their overtime pay; at least 20 percent of their overtime pay every week is confiscated from the workers. This is the equivalent of losing 2 days wages per week. It was, again, worse in 2006, when the workers were paid no overtime premium at all, and were cheated of 40 percent of the wages due them.

The workers are housed in primitive dorms, 12 people crowded into each room, sleeping on double-level metal bunkbeds and fed company food the workers describe as awful.

It doesn't have to be this way. This Mattel Barbie toy was made in that factory. This Barbie pet doctor toy. We know it entered the United States with a landed customs value of just $9. That's the total cost of production. Even on sale, the toy retails for $29.99. That's an astonishing markup of $20.99 on this toy. In other words, it's marked up 233 percent.

There's enough money here to make toys safe and to treat the workers in China with dignity and respect, and at least adhere to China's labor laws. In fact, Mattel spent $3.45 to advertise this toy, which is 18 times more than the 19 cents they paid the workers to make it. It doesn't have to be this way.

At the Guangzhou Vanguard Water Sports Products factory in China, they make goods for Speedo, such as this Condor mask—swim mask. Speedo may be the best-known and the best-selling swimwear brand in the world, and an Olympic sponsor, but the 400 workers at the factory are drowning in abuse. At the Guangzhou factory, the workers are forced to work 14-and-a-half hours a day, from 8 o'clock in the morning—8:30 a.m. in the morning until 11 p.m., 7 days a week. There are 15-and-a-half hour shifts, 17-and-a-half hour shifts, and even 24-hour shifts. The workers are at the factory over 100 hours a week, they're working overtime hours that exceed the legal limit in China by 430 percent. Workers are routinely cheated out of 40 percent of their wages. It's an—they're losing, really, 2 weeks' wages every month they're being short-changed.

Despite the fact that they're not paid overtime, if the workers miss a single shift—a single overtime shift, they are docked nearly 2 weeks' wages, despite the fact, again, that they're being routinely cheated of their wages. Supervisors constantly scream and yell and harass their workers, calling them "idiots," "garbage." Talking back to management is strictly prohibited. One worker who tried to defend himself by answering back to his supervisor was attacked, choked, beaten, fired.

The pace of production is grueling. Workers in this factory are allowed a minute and a half to assemble this toy, this mask, this

Condor mask, for which they are paid less than 2 cents. Workers are so exhausted when they return to their dormitories that they frequently just climb into bed with their clothing and shoes on, collapse, and go to sleep.

The dormitories—the bathrooms are filthy, the workers have no hot water. They have to make their own hot water by fashioning a wood-burning stove out of an oil drum. They heat their own water in a little plastic bucket, they take it back to their room, and they take a sponge bath.

I don't think that there is a single Olympic athlete, no matter how committed, who could endure what China's sweatshop workers endure day in and day out.

And, finally, Thomas & Friends went to China, stumbled, and, of course, was recalled. At the factory where the Thomas & Friend trains were recalled, the factory, called Hansheng Wood Products factory in Dongguan, the workers are suffering right up to the last minute, and being cheated right up to the last minute. That factory had 1,500 workers. Every single worker has now been laid off, and they have not received their full severance pay. They are suffering right up to the end. I don't think there's been one single medical examination provided to any of the workers who handled the lead paint, which is required by law in China, to see whether or not they're suffering any effects of lead paint.

The workers at the Thomas & Friends factory or contractor were working 14-and-a-half to 15 hours, sometimes 16 hours, from 8 o'clock in the morning until 10:30 at night. During the peak seasons, they also worked 7 days a week and went for months without a single day off. They also were cheated of 16 percent of their overtime pay which was legally due them.

At the Li Cheng industrial complex in Dongguan, where RC2 Corporation has its headquarters and makes toys for Thomas & Friends, Disney, NASCAR, under licensing agreements, conditions are also brutal. At the Yong Yi factory, RC2 workers are forced to toil all-night shifts, 21 to 23 hours, every single Saturday, from 8 o'clock until 5 a.m. or 7 o'clock in the morning the following morning. This is the only way the workers will receive Sunday off.

At the Ri Sheng factory, the RC2 workers are systematically cheated their legal overtime wages. They're not paid overtime wages. They're cheated of 42 percent of the overtime wages legally due them.

At the Pinghu factory, the largest in the zone, all they hire is temporary workers all of the time, full time. The workers—this is an illegal scam to strip the workers of their rights.

The companies say that, "We don't need laws." Corporations tell us, "We don't need laws to protect our children against toxic or sweatshop toys," as they can regulate themselves through voluntary codes of conduct and private monitoring schemes. However, this summer's recall—massive recall of toxic and hazardous toys made under sweatshop conditions in China clearly demonstrates that corporate self-regulation is not enough. Toxic and sweatshop toys are two sides of the same coin and need to be regulated by enforceable laws, such as the law that you introduced, Senator Dorgan, which I think is absolutely essential to ending sweatshop abuse, not only in China, but across the world.

Thank you very much.

[The prepared statement of Mr. Kernaghan follows:]

PREPARED STATEMENT OF CHARLES KERNAGHAN, DIRECTOR, NATIONAL LABOR COMMITTEE

Senator Dorgan, I want to thank you for holding this very important hearing investigating illegal sweatshop conditions under which our children's toys are made. In 2006, the American people spent $22.3 billion purchasing over three billion toys and sporting goods. Last year, China accounted for over 86 percent of all toy imports into the U.S., and to day in 2007, China's toy imports have surged another 16 percent. The timing of your hearings could not have been more appropriate, as the last 3 months of the year typically account for almost 80 percent of all toy sales. Last year, holiday sales in the U.S. reached a total of $457.4 billion. This year, each consumer is expected to spend $791 on holiday purchases, including toys and sporting goods.

Many parents in America would be shocked and disturbed if they knew of the abusive sweatshop conditions under which their children's toys are being made in China. Parents, however, have no way of knowing, as toy companies like Mattel (which is the largest in the world) hide their 40 or so contract plants in China, refusing to provide the American people with even the names and addresses of their plants.

Mattel's Barbie toys, along with Thomas & Friends toys for the RC2 Corporation and Wal-Mart are made at the large *Xin Yi* factory in Shenzhen. The 5,000 workers there are stripped of their rights, forced to sign mostly-blank temporary contracts lasting anywhere from just 10 days to a maximum of 3 months. At management's discretion, "new" temporary contracts can be renewed every two to 3 months. Workers can be employed full time for a year or more, but always remain temporary workers with no legal rights. Temporary workers can be easily fired for being "inattentive" at work, or for "speaking during working hours." Temporary workers have no right to participate in the mandatory national Social Security program which provides health care, no right to paid holidays, vacation, sick days, maternity leave, or severance pay.

The routine shift is 14½ hours a day, from 7:30 a.m. to 10 p.m., 6 days a week. Workers are typically at the factory 87 hours a week, while toiling 70 hours, including 30 hours of forced overtime, which exceeds China's legal limit by 260 percent!

In 2006, it was even worse, as the young toy workers were routinely kept at the factory 15 hours a day, from 7:30 a.m. to 10:30 p.m., 7 days a week, *going for months without a single day off.* The workers were typically at the factory 105 hours a week, while forced to work 50 overtime hours a week, which exceeds China's legal limit by 530 percent!

The factory is excessively hot and everyone is drenched in their own sweat. Workers are prohibited from standing up during working hours, and cannot leave their hard wooden benches, which do not have back rests. The workers say that after several hours, their legs become numb. It is routine for the supervisors to yell and curse at the workers and every day, the workers, say, you can see young women crying. Workers have but two choices: to bow their heads and remain silent despite the humiliation, or speak up and be immediately fired without receiving their back wages. Independent unions are, of course, prohibited in China, leaving the workers with no voice. Workers who fall behind in their assigned production goal are docked 5 hour's wages.

The base wage in Shenzhen is just 53 cents an hour, $4.27 a day, and $21.34 a week. Despite being forced to work a 70-hour week, workers report being routinely cheated of nearly 20 percent ($8.31) in overtime wages legally due them each week. This is the equivalent of being cheated out of 2 day's wages each week. For working 70 hours, the workers earn just $39.79 while they should have been paid $48.60. In 2006, this too was even worse, since the Xin Yi factory illegally paid no overtime premium at all, robbing the workers of 40 percent of the wages legally due them!

Workers are housed in primitive dorms, 12 people crowded into each room, sleeping on double-level metal bunk beds and fed company food the workers describe as "awful." Every morning workers have to cue up to wait their turn to brush their teeth and use the toilet. After deductions for room and board, the workers' take-home pay drops to just 46 cents an hour.

It does not have to be this way! As an example, Mattel's "Barbie Hug 'N Heal Pet Doctor" set costs just *$9.00 to make in China, yet—even on sale—it retails for $29.99 in the U.S. This means that the price of the Mattel toy is being marked up an astonishing $20.99—or 233 percent.*

So there is clearly sufficient money around both to make safe toys and to treat the toy workers as human beings, respecting their most basic legal rights.

Mattel spent nearly $2 billion in advertising over the last 3 years, which amounts to 11½ percent of its revenues. This means that *Mattel spent $3.45 to advertise the Barbie Pet Doctor toy—more than 18 times the 19 cents they paid the workers in China to make it!*

There is absolutely no need for toxic and hazardous toys, as one industry estimate puts the price of thoroughly screening toys at just *10 cents* per toy. Further, with a 233 percent ($20.99) mark-up on each toy, it is clear that Mattel could afford to assure respect for worker rights in China and pay the workers a fair wage so they could climb out of misery and at least into poverty. After all, Mattel's CEO paid himself $7.3 million last year, 6,533 times more than he paid his toy workers in China.

It is important to note that while Mattel's Barbie brand is fiercely protected by all sorts of enforceable laws backed up by sanctions—(Mattel sues an average of once a month to protect Barbie and its other toys)—there are no similar laws to prevent toxic toys from reaching our children, and certainly no laws to protect the fundamental human and worker rights of the young toy worker who makes Barbie. To legally protect the rights of the human being—according to Mattel and the other corporations—would be "an impediment to free trade." So Barbie is fiercely protected, but not the human being who made Barbie.

Like many Americans, I was embarrassed and angered when Mattel's vice president apologized to a Chinese government official for the massive toxic toy recalls. Mattel apologized after the official pointed out that Mattel makes a large proportion of its profits from its Chinese manufacturers and that Mattel ought to appreciate China's "cooperation."

This is the sort of cooperation they meant: As late as 2005, Mattel sought and won special "waivers" so they could pay their workers less than the already-below-subsistence legal minimum wage. And to this day, Mattel has additional special "waivers" allowing its toy workers to toil 77 hours a week—including 32 hours of forced overtime—which just happens to exceed China's legal limit by 295 percent!

Corporations say there is no need for laws to protect our children against toxic or sweatshop toys, as they can regulate themselves through voluntary codes of conduct and private monitoring schemes. However, this summer's massive recall of toxic and hazardous toys—made under abusive sweatshop conditions in China—clearly demonstrates that corporate self-regulation is not enough. Toxic and sweatshop toys are two sides of the same coin, and need to be regulated by enforceable laws.

The *Guangzhou Vanguard Water Sports Products* factory in China manufactures swimming gear and sporting goods for *Speedo,* their major client, as well as *Toys "R" Us,* the giant French retailer *Carrefour,* which is second only to Wal-Mart—and others.

Speedo may be the top-selling and best-known swimwear brand in the world, and an official sponsor of the upcoming 2008 Olympic Games in China, but the 400 workers producing Speedo goods at the Guangzhou Vanguard factory are drowning in abuse.

One worker told us, *"What lies in front of us is a blanket of darkness. We have no hope."* Another worker shed tears as he described being forced to work a grueling all-night 23-hour shift on a dangerous compression molding machine, explaining how exhausted he was, and terrified that his hands would be crushed by the relentless motion of the machine if he slowed down even for a second.

The routine shift at the Guangzhou factory is *14½ hours a day, from 8:30 a.m. to 11 p.m., 7 days a week.* There are also frequent 15½ hour shifts to midnight and 17½ hour shifts to 2 a.m., which is common with Speedo production. There are even grueling 24-hour, all-night shifts. Workers report toiling for months at a time without receiving a single day off. Workers are routinely at the factory over 100 hours a week, including at least 44 hours of mandatory overtime each week, *exceeding China's legal limit on overtime by 430 percent!*

Workers are also routinely cheated out of 40 percent of the wages legally due them. The minimum wage in Guangzhou is just 60 cents an hour, $4.77 a day and $23.87 a week. All weekday overtime must be paid at a 50 percent premium, or 90 cents an hour, while weekend overtime must be compensated at a 100 percent premium, at $1.19. *Factory management refuses to pay any overtime premium at all. So instead of earning $70.43 a week, the Guangzhou factory pays just $41.32 for 84 hours of work, meaning that the workers are being cheated of $29.11 in wages legally due them each week.* This is an enormous loss for these poor workers, whose regular weekly pay is just $23.87. The workers are earning on average just 49 cents an

hour—including all the grueling overtime hours—while the legal minimum wage is 60 cents an hour.

Despite the fact that the workers are illegally not paid any overtime premium, *if they fail to show up for even a single overtime shift, 2 days' wages will be deducted from their pay as punishment.*

Supervisors constantly abuse and harass the workers, calling them "idiots" and "garbage" and screaming at them to work faster. Talking back to management is strictly prohibited. One worker who tried to defend himself by answering back to a supervisor was attacked, choked, beaten and fired. Workers have no voice or rights. Workers have no choice but to bow their heads and remain silent.

The pace of production is also grueling. For example, someone working on a compression molding machine—which forms the swim masks—must complete one operation every nine to 12 seconds, 310 to 410 per hour, and 3,720 to 4,920 operations in the standard 12-hour shift. *Production line workers are allowed just 1½ minutes to assemble each Speedo "Condor" swim mask, for which they are paid less than two cents.*

Workers are so exhausted by the long hours and grueling production goals 7 days a week that they often return to their dorms after work only to collapse into bed, falling asleep with their clothes and shoes still on—despite the fact that the dorm rooms are stiflingly hot. Workers are drenched in their own sweat all day, but on the shop floor and in their dorms.

Workers report handling potentially dangerous chemicals, oil paint, thinners and solvents including benzene. Yet they do not know the names of the chemicals, let alone their health hazards or how to respond in case of an emergency. In the silk screening department, *workers say they are working with a solvent which, if even one drop touches their body, their skin begins to burn and fester.*

In another direct violation of China's laws, management has refused to inscribe its workers in the mandatory national Social Security program, leaving the workers without health insurance, including for work injuries. There is no paid maternity leave, no paid holidays and no paid sick days.

Eight workers are crowded into primitive 14-by-19-foot dorm rooms, sleeping on double-level metal bunk beds that line the walls. There is no other furniture, not even a chair. The rooms reek of perspiration due to the stifling heat, leading the workers to refer to their dorm room, sarcastically, as a "sauna." The shared bathrooms are filthy, and due to a shortage of hot water, workers wishing to wash must heat their own water on a makeshift wood stove they set us using an old oil drum. Workers carry small plastic buckets of hot water back to their rooms where they take a sponge bath. The workers can afford to spend only $1.52 a day on food.

The Guangzhou Speedo workers are in a trap, with no voice, no rights, and no exit.

It is unlikely that any Olympic athlete—no matter how committed—could endure what China's sweatshop workers suffer day in and day out.

Speedo and the others must clean up this factory and guarantee that the workers' legal human and worker rights will finally be respected.

Senator DORGAN. Mr. Kernaghan, thank you very much. I have a good number of questions for you, but I'm going to wait and have the other witnesses testify first.

Mr. Wu, thank you for being with us. You, I believe, have testified before this Committee on a previous occasion, some many years ago. I know that you have been incarcerated in China for many years. You've spoken out aggressively on Chinese policies. We appreciate very much your courage in doing so.

Why don't you proceed to give us your testimony.

STATEMENT OF HARRY WU, EXECUTIVE DIRECTOR, LAOGAI RESEARCH FOUNDATION

Mr. WU. Thank you, Mr. Dorgan.

I want to ask that you put my written testimony in the record, and I will also say something not in my written testimony.

First of all, I feel a kind of difference that we, today, are talking about the toy industry. Number one, the Chinese have set up their

prison system to manufacture things from 1949 until today. And the Laogai system is still effective today.

Fifty years ago, I made some comments. One was about the Hungarian Revolution in 1956. Second, I criticized the government for dividing people into different classes. That is a kind of violation of human rights. And I was sentenced to life in a prison camp. I spent 19 years over there. Has there been a change or not?

Unfortunately, today there are many people who just for writing an article on a website or saying something that criticizes the government, are still in jail. So, whatever the economic development is like today in China, the political system has not changed. The Laogai system plays a very important role—it is meant to quiet the people, to quiet those who criticize the government. It's to assist in that. But the Chinese stopped using the word "Laogai." "Laogai" is a regular name, it is a government issue. But, later, they stopped using it, using "prison system" instead—they tried to say, "Well, we have prisons, the same as in America." But in the Chinese prison system, there's a lot of prisoners who are there because they disagree with the government.

And since 1990, America has had a big problem with MFN, most-favored nation trading status, and it is related to the prison labor—forced labor. And America has had a law since the 1930s forbidding any product made from forced-labor to be imported into the United States. And there were five to six American companies that were publicized by American customers, but, unfortunately, those cases were dismissed.

And there are two customs representatives today in Beijing. They spend money and do nothing. For example, this is their report. There's a court paper. Shandong province—a prison, they produce 8 million to 10 million mugs which they export to the United States. And now they have won the case. The Chinese company was published—was punished, and—unfortunately, that customs representative had no response on this issue.

And—a prison, using a small company in front of the prison, and using the police family and policemen to export instead of the prisoners. It means the present prison—the prison can force the products to be indirectly exported to the United States. This indirect exporting is much larger than ever before. Many prison camps today have stopped the production in the agricultural and construction areas and are working in the processing of products, particularly in garments, toys, electronical components, footballs, crafts, all kinds of things, which are processed by prison labor, and exported to the United States.

The second problem is in the so-called sweatshops. Unfortunately, I received this newspaper just recently, from Salt Lake City. An importer reported on what's happening inside China. The total (I have 2 days reports from newspapers that tally the Chinese) how long they work, just as he described, and how much they're paid, and, particularly, that people have lost their arms, lost their fingers, lost their legs, and nobody cares about it. And I want to share with you about this newspaper.

And, finally, I want to say, in China there's a union, so-called—let me explain the name, because we don't care about this name. Chinese National Trade Union. It is a government union. It is a

Communist union. That's the only union in China. And no one accepted it. But today, Wal-Mart accepts it. Wal-Mart does not allow any of its American workers to organize unions in America, but they accept the Chinese union, and cooperate with the Chinese union.

When I was here 20 years ago, I heard that Wal-Mart was very proud that of all its products, maybe 70 percent, 80 percent, were made in America. But today, probably the reverse, 70 percent, 80 percent come from China.

This can be combined into one story about our relationship with the Chinese. It is a Communist regime. And we are so enthusiastic to trade with them, do business, and we say that capitalism can destroy socialism. That is true. The ideological crisis is serious in China today. But the profit from the trade not only benefits America, but it also benefits the Chinese Communist system. That's why you see the Chinese Communist system doing something in Sudan, Burma, and North Korea. And you will see that the Chinese government is going to do more.

Thank you.

[The prepared statement of Mr. Wu follows:]

PREPARED STATEMENT OF HARRY WU, EXECUTIVE DIRECTOR, LAOGAI RESEARCH FOUNDATION

Good morning, I would first like to thank the Senate Commerce Subcommittee on Interstate Commerce and Trade and especially Chairman Dorgan and his staff for inviting me here today. This issue is extremely timely in light of recent toy recalls, and I am pleased that the U.S. Senate is concerned about labor conditions in China's toy industry.

I have been asked to focus on the Chinese labor system and the working conditions in toy factories in China. For many years human rights organizations have raised awareness about the atrocious conditions in Chinese sweatshops where workers make most of the clothes we are wearing right now, and most of the toys our children play with. Today my testimony will confirm that Chinese and foreign-owned companies operating in China consistently violate international labor standards in the toy industry and the Chinese Communist Party (CCP) ignores these violations in order to maintain economic growth and foreign investment. The Chinese government placates the international community by agreeing to promote labor rights in multi-lateral meetings while continuing to allow the abuse of its workers at home.

First, I will cover a subject less discussed in the international arena—forced labor. I will begin with early CCP theories on forcing prisoners to work, and will provide current examples of forced labor being used in the toy industry specifically. Next, I will discuss China's so-called national trade union, the All China Federation of Trade Unions (ACFTU), and its role as one of the Party's many tools to repress its people. I will conclude with what actions the U.S. Government and American companies should take.

My knowledge of this subject originates from my 19 years in China's prison camps where I was forced to labor, and from my subsequent work as a human rights activist. I am the founder and the Executive Director of the Laogai Research Foundation which began in 1992 for the purpose of researching and raising awareness about China's vast system of prison camps, called the "Laogai", and other human rights abuses in China.

Chinese Government Labor Theories

The Chinese word "Laogai", meaning "reform through labor," refers to a system of forced labor camps that spans China's entire territory. Since the inception of the Chinese Communist Party in 1949 the Chinese government's ideology has been to use its people to fulfill its political and economic goals. As a result humans are viewed as expendable commodities. Mao Zedong immediately recognized prisoners as a huge source of manpower, and in 1951 amended the "Resolution of the Third National Public Security Conference" to support this idea:

> The large number of people who are serving their sentences is an enormous source of labor. In order to reform them, in order to solve the problems of the prisons, in order that these sentenced counterrevolutionaries will not just sit there and be fed for nothing, we should begin to organize our Laogai work. In the areas where this work already exists, it should be expanded.

During the 1950s and 1960s Laogai inmates were the primary labor force for massive state-run reconstruction projects such as irrigation, mining, and dam projects that would have been impossible to undertake with regular workers. As China's economy developed and it shifted from agriculture to manufacturing, so did the type of work that prisoners were forced to endure. During Deng Xiaoping's reform era the goal for economic development drove the country to open to foreign investment and the importance of forced labor increased. In the 1988 "Criminal Reform Handbook" Deng reiterated that one of the three major functions of the Laogai facilities was to organize "criminals in labor and production, thus creating wealth for society." This amount of profit cannot be underestimated because prisoners are not compensated for their work.

Forced Labor and the Toy Industry

In our foundation's most recent biannual handbook (*Laogai Handbook 2005–2006*) we identified more than 1,100 labor camps by name and location (693 prisons and 352 re-education through labor camps). According to our research, there are eleven (11) prisons that produce toys for domestic and international markets in provinces across China and there are likely many more.

These provinces include Beijing, Shanghai, Gansu, Hunan, Hubei, Zhejiang, Shandong, Liaoning, and Henan. In the No. 2 Re-education through labor camp in Shandong province female prisoners, many of whom are imprisoned for political reasons, are forced to work without pay on handicrafts and toys for international export. Former prisoners from the camp have described some of their tasks to include applying artificial eyelashes and hair to dolls. At the Shiliping re-education thorough labor camp in Zhejiang province, where profits equal about 80 million yuan or almost 11 million U.S. dollars, inmates produce wool sweaters, leather products, and toys for international export. Hunan province's Chishan Prison forces its inmates to make toys for export to South Korea. At a juvenile detention facility in Shanghai youths are forced to produce toys, clothes and other products.

In June 2004, Li Ying a former political prisoner held for 2 years at the Shanghai Women's re-education through labor facility talked about the toys she was forced to produce—dolls that were eventually sold in Italy. She asserted that she and her fellow inmates on "Team No. 3" made these dolls from June 2002–May 2003 laboring from 7 a.m. until 11 p.m., and sometimes even until 1 a.m. The prisoners were required to fulfill a quota of 120 dolls per day without pay in horrible working conditions.

The U.S. State Department's Annual Human Rights Report from 2006 confirms that "prison labor" is common in China. The report states that throughout last year "prisoners worked in facilities directly connected with penal institutions; in other cases they were contracted to nonprison enterprises. . . . Facilities and their management profited from inmate labor." This fact that companies are using forced labor makes it very likely that some of the toys are entering the United States.

Unfortunately, the Memorandum of Understanding on Prison Labor (MOU) signed between the United States and China in the United States has proven to be completely ineffective in stopping the trade in forced labor products. Our own efforts to gather specific evidence are hampered significantly by the fact that China has deemed much information about these camps to be "state secrets". They severely punish anyone who reveals it. While we have revealed much information about the Laogai over the years, we have also contributed to simply forcing the trade to go further underground. The Chinese systematically use legitimate trading companies unconnected to the Laogai to sell the products abroad.

A recent civil case involving the importation of forced labor made coffee mugs was brought by a U.S. company in Ohio. Detailed evidence of the production link to Luzhong Prison was presented. Unfortunately, the bringing of such cases is extremely rare, not because forced labor is rare, but rather because it is dangerous and difficult to gather the information in the first place.

Sweatshops

Of course, the overwhelming majority of toys made in China are produced in private factories, most of which are foreign-owned. Many of these can and have been defined as "sweatshops" by NGO's, unions, and journalists in literally hundreds of reports over the past decade.

The State Department's investigation also reported the sweatshop conditions that exist in factories including those that make toys:

> In July more than 1,000 workers at a plastic toy factory in Dongguan, Guangdong Province, rioted over allegations of inadequate pay and working conditions, particularly excessive overtime, and protesters clashed with police and company security. Dozens of workers were detained after the two-day protest.

In September of this year, the Hong Kong labor rights organization, Students and Scholars against Corporate Misbehaviour (SACOM), exposed the conditions at a factory in China making toys for Disney. Workers at Haowei Toys in southern China said they were forced to labor for 15 hours a day for 28 days a month during peak seasons, work 28 days a month and up to 15 hours a day using dangerous toxic chemicals.

The labor conditions in prisons and sweatshops are clearly different, but in all too many cases only by degree. If prisoners attempt to defend their rights they are quickly stifled by beatings or even torture. If workers do, they are either fired or arrested. Prisoners labor without remuneration and many factory workers are denied the pay that is due them for the hours they work. Forced labor and sweatshop conditions in the toy industry like nearly every other industry are perpetuated by the Chinese government because economic profit and GDP growth are the CCP's number one priority. China still refuses to ratify the International Labor Organization's convention against forced labor claiming its has a useful purpose in its reeducation camps. The government also will not ratify any United Nations or ILO conventions that allow workers to create and join independent unions and collectively bargain.

This week *The Salt Lake Tribune* is running a series of investigative reports on working conditions in Guangdong province by reporter Loretta Tofani entitled "American Imports, Chinese Deaths". It represents a 14-month effort and was sponsored by the Pulitzer Center for Crisis Reporting. With your permission I am attaching it to my testimony for the record. While it does not deal specifically with the toy industry, it is the most current expose of the tragic nature of work in southern China, the very same region where a majority of toys are produced for export to the United States.

China's National Trade Union

The Chinese government outlaws all independent trade unions, forcing workers to join the state-sponsored All China Federation of Trade Unions (ACFTU). This organization, run by the CCP, with over 170 million members, is used to control union activities and workers. The ultimate goal of the ACFTU is to "uphold . . . the leadership of the Communist Party" and to quash any grassroots union movements.

The government's most recent tactic is to co-opt foreign companies into allowing their employees to join the ACFTU under the auspices of protecting the workers. In 2006 Wal-Mart—a company that does not allow its employees to unionize in any other country—finally capitulated to ACFTU demands and currently 77 out of 84 of its stores in China have union branches. This tactic has two motives for the government as its economy's shifts to privately owned enterprises. First dues paid by companies with ACFTU branches help off-set the losses from the diminishing state-owned sector, and second, the CCP can better monitor and control its private-sector workers.

There is no evidence that Wal-Mart workers are allowed to bargain their own contracts with the company. And, unfortunately some in the American labor movement have seen fit to ignore the reality that the ACFTU is CCP controlled and an oppressor of workers rather than their advocates and have granted them a legitimacy they don't deserve by meeting and working with them as equals.

Sadly, workers who attempt to organize independent unions are quickly dealt with, usually by arrest and sentencing to serve terms in the Laogai and could end up making the products we are discussing here today.

Conclusion

The labor abuses in the toy industry prove that despite its rhetoric China has not progressed in human rights nor does it respect international labor standards. The high number of recalled toys made in China this year alone should be a sufficient warning for U.S. companies and consumers. The Chinese government continues to use forced labor to make goods, condones sweatshop conditions in its factories, and refuses to allow workers to create independent unions—is it really any wonder that low-quality, harmful toys are being exported to the U.S. and into the hands of our children? The toy industry in China is a vivid example that disproves the commonly mentioned notion that economic development and/or capitalism will bring demo-

cratic change to China. In contrast, more and more U.S. companies are bending to the government's demands making the totalitarian regime even stronger.

The U.S. Government has an obligation to ensure that forced labor products and tainted goods do not enter our borders. American companies must take responsibility for the Chinese factories that produce their goods. They must perform more frequent inspections and audits and should not allow phony unions to be set up in their factories and workplaces. Profit is the only factor that has the potential to affect China's behavior. Worker's rights in China will not improve until foreign businesses and governments collectively decide to press China to stop using prison and sweatshop labor and to allow their workers to independently organize.

The time has long past to discard meaningless Codes of Conduct.

The Administration has rejected the AFL–CIO's "301" petition on worker rights in China. I believe the Congress should itself resubmit this petition as well as significantly strengthen inspection at its ports of any and all products, including toys, which could endanger the health and well-being of American consumers.

Thank you.

The information referred, *American Imports, Chinese Deaths,* by Loretta Tofani, can be accessed at *http://extras.sltrib.com/china/*.

THE SALT LAKE TRIBUNE:

Chinese Workers Lose Their Lives Producing Goods for America—dated October 19, 2007.

Metal Factories Fail To Protect Against Fatal Lung Diseases—dated October 20, 2007.

Primitive Machines Take Digits and Limbs—dated October 21, 2007.

Workers Inhale Toxins Up To 70 Hours a Week—dated October 22, 2007.

Cadmium Dust Causes Kidney Failure, Death—dated October 23, 2007.

Companies Say They Are Not To Blame; Who Is?—dated October 24, 2007.

Senator DORGAN. Mr. Wu, thank you very much for your testimony. I have some questions but I will wait until the others have testified.

Dr. Bama Athreya, Executive Director of the International Labor Rights Forum, your organization has been extensively documenting the connection between Chinese toy sweatshops and product safety problems. We appreciate very much your willingness to be here and to testify today, and you may proceed.

STATEMENT OF BAMA ATHREYA, EXECUTIVE DIRECTOR, INTERNATIONAL LABOR RIGHTS FORUM (ILRF)

Dr. ATHREYA. Thank you very much, Senator Dorgan. Thanks to you and the Committee for the opportunity to testify and for your leadership on this very important issue.

We all have read the scandalous news in recent months of toys, Thomas the Tank Engines, bibs, even baby clothes that are tainted with lead and toxic substances, and we should, rightly, be very concerned with the health and safety of our children—consumers in the United States, and, most importantly, our children who trust innocently in these toys.

We are here today, however, to give voice to others who are, frankly, barely more than children themselves, and who are also tragic victims of the global toy industry. And these are the workers that work and apply these toxic substances to the toys, day in and day out, as Mr. Kernaghan has described.

They operate machinery that produces the plastics for the toys. They breathe and touch the toxics, and almost never are they given protective gear or masks. In fact, most of the workers that we and our friends in China have interviewed would not know what protective gear looks like.

I have documented and included several examples in our written submission for the record. Here, I just want to summarize some of the facts and figures about the toy industry in China, and cite a couple of the very typical examples that we found in our research.

There are approximately 8,000 toy factories in China today, and they employ more than 3 million workers. Most of these factories and workers are in south China and the Pearl River Delta, and virtually every American toy company produces its wares in this region. We have seen products for Mattel, Hasbro, Fisher-Price, Toys "R" Us, and Disney. These are all well documented and users of Chinese toy factories. And the value of the toy exports to the U.S. market is estimated in excess of $15 billion per year.

By far, the single largest toy retailer and the single largest beneficiary of this trade is Wal-Mart. Wal-Mart, alone, has toy sales of approximately $7.4 billion a year. Most of these toys, like most toys retailed in the U.S., are made in China. And Wal-Mart, therefore, bears a lion's share of responsibility for pushing the toy industry into a region where product safety and worker safety inspection are nonexistent.

On the subject of workers' health and safety, I'm going to focus a bit on that, as Mr. Kernaghan has spoken very eloquently about the other worker rights abuses in these factories. But on worker health and safety, things are particularly grim. Toy factories that we have surveyed, and that our partners in China have surveyed, routinely fail to provide information or training to workers using chemicals at their work posts. Hundreds of workers that were surveyed by our allies in China reported that they are subjected to harmful chemical substances. These workers may be at risk of lead poisoning, plastic poisoning, and welding accidents.

I am going to just name two examples of two factories that we investigated, one toy company, at Yu Bao, would actually ask its workers to make a Faustian bargain just to obtain their jobs in the first place. The company keeps two contracts for each worker. The first contract with the worker is what they hand to the labor rights monitors when they come to the factories to inspect, but the other is the real contract with the worker. The real contract stipulates the following, and I'm quoting a translation from a contract that we obtained, "During working hours, in case of injuries and/or disabilities as a result of not following the machine operating rules," which the supervisor certifies to be true afterward, "the first party, the factory, without exception, does not grant or bear any responsibility, and, without exception, the second party, the worker, is, himself, responsible." So, just to make that clear, workers are signing away any ability to hold the company, the factory, accountable if they are injured on the job.

The same contract stipulates that workers must work for 12 hours, 7 days per week, and if a worker fails to report for this entire period of duty for any reason, then, "without exception, the first party, the company, has no relationship with the employee, and the second party, the employee, must not, for any reason, raise the issue of litigation." Again, in other words—I want to rephrase this—if a worker is severely maimed on the job and must leave her post to obtain medical emergency treatment, she is regarded as ter-

minated and has signed away her rights to bring a case forward for any damages.

As if all of this were not enough, Yu Bao also compels workers to stay on the job by withholding a portion of their regular pay as a security. I'll just name one other typical Chinese toy factory, Lee Der Industrial, a supplier to Mattel, and now infamous. Lee Der was one of the ones forced to close down due to excessive lead in its products. This caused immediate unemployment of all of Lee Der's workers, and no mention was made by Mattel as to whether the lead poisoning they may have suffered would be treated. So, our investigators did go to interview the recently fired workers from this factory. They interviewed several ex-Lee Der workers. None of the workers interviewed knew anything about the materials, including lead, that were used during production. They had not been told why the factory closed. They had not been told about the lead paint issues. Nor had they been given any information related to the poisoning they may have suffered on the job as a result of applying the toxic to the toys.

I will just say, my—on behalf of my organization, that we do believe these workers need jobs, but we don't believe in condoning the rush to profit from the desperation of Chinese workers, who are really forced to take these jobs by dire economic conditions in their country. We believe there must be global regulations in place that keep powerful corporations from maximizing the profits they can wring from human misery.

The name brands that we've mentioned here today—Hasbro, Mattel, Fisher-Price, and certainly Wal-Mart—have access to the most sophisticated possible information on every aspect of China's economy, including comprehensive data on the nature of China's desperate labor force, the vast unemployment problem in China, and the—the companies are also privy to excellent data on the number of China's labor inspectors, which is, frankly, vastly inadequate for the workforce, the number of product safety inspectors, and the overall current inspection capabilities of the Chinese government.

Despite some of the newspaper statements that you've seen recently, these companies were not shocked that there was no product safety happening in these factories; they were well aware that the Chinese government does not have the capacity to conduct systematic investigations of these factories. Indeed, multinational corporations, such as the ones we've named, are seeking out this production destination precisely because there is very little regulation. Let me restate this. Wal-Mart and the world's major toy brands and retailers are not producing in China despite the lack of meaningful protection for workers or product safety, they're there precisely because of it, precisely because it lowers their costs not to have to worry about regulation.

Wal-Mart and the world's major toy brands and retailers are not producing in China despite the lack of meaningful protection for workers or product safety, they're there precisely because of it, precisely because it lowers their costs not to have to worry about regulation.

Lest this seem too dramatic a statement, I do want to remind us all of an example that came up several months ago of the U.S.

business lobby's efforts to impede improvements to labor law reforms in China. The Chinese government has recognized that there is a problem in the fact that most private-sector workers in China are not covered by the country's basic labor laws. They're not covered, because they're not considered to be contracted under—covered by a labor contract.

Several months ago, a new labor contracts law was drafted by labor experts within China to provide basic labor law coverage to the country's growing private-sector workforce. The U.S. Chamber of Commerce in China, on behalf of its corporate members, opposed the new draft law and lobbied to weaken the protections of the Chinese government that it was seeking to instate. China would not be as attractive a production destination to U.S. toy retailers if its workers were actually provided with the basic protections of China's labor code.

I will end my comments here. I simply want to reinforce the point that Mr. Kernaghan also made, that we cannot rely on the voluntary commitments, the voluntary promises made under corporate codes of conduct. They are grossly insufficient, particularly in a context where, on the one hand, Wal-Mart and other retailers and brands are telling you, "Don't worry, we have voluntary codes of conduct. We will protect the workers, ourselves," and, on the other hand, are vigorously lobbying the Chinese government not to strengthen its legal protections for workers. We do need legal protection. This is extremely important. And we—our organization feels that we cannot wait several years for the Chinese government or Chinese laws to catch up with the situation—the desperate situation faced by these workers.

That is why it is so important, the legislation, Senator Dorgan, Senator Sanders, that you've supported and brought forward, to hold U.S. retailers accountable for labor rights violations throughout their supply chains around the world. We do need binding regulation, and we strongly thank you for your efforts in this regard.

[The prepared statement of Dr. Athreya follows:]

PREPARED STATEMENT OF BAMA ATHREYA, EXECUTIVE DIRECTOR, INTERNATIONAL LABOR RIGHTS FORUM (ILRF)

Introduction

Thank you for the opportunity to present our testimony on the plight of China's factory workers. We have all read the scandalous news in recent months of the dangers to U.S. consumers of toys made in China's factories, with revelations of lead paint and other toxic and hazardous substances on Thomas the Tank Engines, baby bibs and even children's clothing. We should be very concerned with the health and safety of our children, who innocently trust in the safety of their pretty toys.

We are here today to give voice to others who are barely more than children and who are also tragic victims of the global toy industry. These are China's toy factory workers.

The International Labor Rights Forum (ILRF) has long fought to give voice to the abusive conditions faced by factory workers in China and around the world. Over the past decade we have worked closely in solidarity with China's factory workers. I have traveled to China's industrial centers in Guangdong province many times, have visited many factories and spoken directly with many dozens of workers. We have also made it possible for Chinese factory workers to speak on their own behalf in front of public audiences in the United States, to explain first hand the abuses they suffer in the completely unregulated export factories of southern China.

These are the workers who apply the lead paint to the toys and who breathe the paint fumes day in and day out. They operate the machinery that produces the plastics for the toys, and breathe and touch those toxics as well. Almost never are they

given protective gear or masks—most would not know what protective gear looks like. They live and work in industrial slums that often resemble the images in Charles Dickens' novels, crowded, almost unbearably polluted, and with limited access to clean, safe water.

Here are the hard facts and figures. There are approximately 8,000 toy factories in China today, employing more than three million workers. Most of these factories and workers are in the Pearl River Delta area of southern China. Virtually every American toy company produces its wares in this region. Mattel, Hasbro, Fisher-Price, Toys R Us, and Disney are all well documented end users of China's toy factories. The value of China's toy exports to the U.S. market alone is estimated in excess of $15 billion per year. As I will explain, however, our concern is not simply with the brands, but even more principally with the retailers of these toys, who bear the most responsibility for the horrific conditions under which they are produced. Of these, the single biggest toy retailer by far is Wal-Mart. Wal-Mart alone has annual toy sales of approximately $7.4 billion. Most of these toys, like most toys retailed in the U.S., are made in China. And Wal-Mart bears a lion's share of responsibility for pushing the toy industry into a region where product safety and worker safety inspection is virtually nonexistent. The Wal-Mart model of doing business, as I'll explain, is precisely to push suppliers to produce in corners of the world where they can escape the costs that are inherent in providing protections for consumers or protections for workers.

Eric Clark's excellent book "The Real Toy Story" documents the life story of one typical toy factory worker, and our own allies in China have documented many dozens of similar stories. I'd like to quote from Clark's moving and detailed description of the 18 year old worker he met: "Li Mei soon had small wounds on her hands and elbows, burn marks on her uniform, her shoes, and socks. When they moved her to trimming plastic toys with small sharp knives, she often cut herself, once so badly that her hand bled heavily but the medical box was locked. Rather than pay at the clinic, she bound up the wound in a bit of cloth. Much worse things happened: workers in the die-casting and moulding department lost fingers and even arms, while hole-making workers often had their hands punctured and crushed because they had no reinforcing gloves."

Our allies in south China have conducted systematic research on the area's toy factories throughout 2007. The results to date indicate repeated and endemic violations of China's basic labor laws in every single factory. Compulsory overtime with inadequate and illegally low compensation is prevalent. Workers routinely work 10 to 14 hours per day during the busy season. Because of a system of illegal fines and fees, workers actually receive well below the region's mandated minimum wage. Very few workers are covered by government-mandated medical insurance or pension funds. Employees suffer verbal and sometimes physical abuse and sexual harassment.

On the subject of these workers' safety and health, things are particularly grim. Toy factories routinely fail to provide information or training to workers using chemicals at their work posts. Hundreds of workers that surveyed by our Chinese partners reported that they are subjected to harmful chemical substances. These workers may be at risk of lead poisoning, plastic poisoning or welding accidents.

To cite the example of one of the factories we surveyed, the Duoyuan factory making Hasbro toys: Every day, workers are required to move bundles of PVC materials between departments. Each bundle averages about 100 lb. and workers describe these jobs as extremely fatiguing and not fit for the average workers. Production departments are installed with large machines, and workers are denied the necessary training to operate these machines. Induction heating machines and cutting machines are particularly high-risk. However, the only warning notice posted on this machinery reads, "Careful of high temperature." Chemicals such as paint and dilutants are used in the silk print department. However, the company does not provide any related chemical information nor does it distribute any safety equipment.

Another toy company that we investigated, Yu Bao, would ask workers to make a Faustian bargain just to obtain their jobs. The company keeps two contracts for each worker. The company's first contract with the worker is used to hand to factory inspectors when they visit. The other is the real contract with the worker. The real contract stipulates the following: "During working hours, in case of injuries and/or disabilities as a result of not following the (machine) operating rules, which the supervisor certifies to be true afterward, the first party (the factory), without exception, does not grant or bear any responsibility, and without exception, the second party (the worker) is himself responsible." The same contract stipulates that workers must work for 12 hours, 7 days per week, and if a worker fails to report for this entire period of duty for any reason then "without exception, the first party (the company) has no relationship (with the employee); and the second party (the em-

ployee) must not for any reason raise the issue of litigation." In other words, if a worker is severely maimed on the job and must leave her post to obtain medical emergency treatment, she is regarded as terminated and has signed away her rights to bring a case forward for any damages. Why would any manager ask a worker to sign such a contract, except that such clauses are actually likely to be invoked? As if all of this were not enough, Yu Bao compels workers to stay on the job by withholding some of their pay as a 'security.'

Another typical Chinese toy factory is Lee Der Industrial, a supplier to Mattel and now infamous. Lee Der was forced to close down due to excessive lead in its products. This caused immediate unemployment of all Lee Der's workers; no mention was made as to whether any lead poisoning they may have suffered would be treated. To find out, recently, our Chinese partners traveled to the factory site and interviewed some ex-Lee Der workers. None of the workers knew anything about the materials (including lead) that they were using during production. They had not been informed why the factory closed nor given any information related to the poisoning they may have suffered.

Why do workers accept these jobs? The country's enormous and desperate population of unemployed have no choice. With well over a billion people, of course China has the world's largest labor force. In addition, despite the GDP growth rates that appear on paper, there are nowhere near enough jobs, so most of those billion plus people are barely surviving. In the countryside, where 900 million of those people live, the land cannot support the growing population. Even those peasants who had been getting by are now faced with competition from foreign agricultural markets, a result of expanded trade ties and China's recent entry into the WTO, and that will put tens of millions more out of work. These tens of millions will flee to urban areas to seek work. However, China's cities are also plagued with vast number of unemployed. Again as a result of free market pressures, many of China's state owned enterprises have gone out of business in recent years, creating an even greater pool of unemployed and increasingly desperate workers.

Yes, these workers need jobs. However should we condone the rush to profit from this desperation? We believe there must be global regulations in place that keep powerful corporations from maximizing the profits they can wring from human misery. ILRF is not an organization that opposes global trade, per se, but we cannot ignore the fact that the reason why virtually every U.S. toy company has chosen to produce in China is because of a 'race to the bottom.' The stories and statistics on China's workers that I have cited here today are no secret to Hasbro, Fisher-Price and certainly not to Wal-Mart. These name brands and retail giants have access to the most sophisticated possible information on every aspect of China's economy, including comprehensive data on the nature of China's desperate labor force and vast unemployment problem; these companies are also privy to excellent data on the number of China's labor inspectors, the number of product safety inspectors, and the overall current inspection capabilities of the Chinese government. Multinational corporations seek out production destinations precisely where there is little or no regulation of labor or environmental conditions. Let me restate this: Wal-Mart and the world's major toy brands and retailers are not producing in China despite the lack of meaningful product or worker safety regulation—they are there precisely because of it.

Lest this seem too dramatic a statement, let me cite the example of the U.S. business lobby's efforts to impede improvements to China's labor laws. The Chinese government recognizes the problems faced by its workers. With the assistance of several labor experts, last year a new labor contracts law was drafted to provide basic labor law coverage to the country's growing private sector workforce. The U.S. Chamber of Commerce in China, on behalf of its corporate members, opposed the new draft law and lobbied to weaken the protections the Chinese government sought to instate. China would not be as attractive a production destination to U.S. toy retailers were its workers actually provided with basic legal protections.

The companies that make up the U.S. Chamber of Commerce, and more broadly the companies that consume cheap Chinese goods and hook U.S. consumers on the habit of these cheap goods, do not like regulation. Typically they prefer their consumers to relay on voluntary measures, 'codes of conduct.' This is a device we see used, for example, by Wal-Mart today to explain why binding regulations are not needed to correct human rights abuses. Collectively the various codes and monitoring initiatives that have emerged over the past two decades are referred to under the broader rubric of "Corporate Social Responsibility," or CSR.

In a new report which ILRF just released yesterday, we document the systematic failures of Wal-Mart to enforce its so-called ethical standards in its supplier factories around the world. Key findings include:

- *Decreasing Percentage of Factories Rated Green:* The number of factories rated green (as having no or low-risk violations) had been consistent at 21 percent for the first 2 years that data was available, decreased to 10 percent in 2005 and to only 6 percent in 2006. Wal-Mart explains the dramatic shift as resulting from increasing standards for factories. However, it is more likely that the factories that actually complied with ethical standards did not meet Wal-Mart's demand for the cheapest possible product, and that Wal-Mart therefore ceased doing business with the more ethical factories.
- *Decreasing Number of People Trained by Ethical Standards Staff:* The number of suppliers and factory management personnel trained by ethical standards staff increased from 4,644 in 2003 to 11,000 in 2005, a significant increase in the number of people being made aware of the Standards for Suppliers. In 2006, however, training was cut in half. Only 5,000 suppliers and members of factory management were trained that year.
- *Recurring Violations*: The 2004, 2005 and 2006 company reports listed some common and repeated violations that are "related to legally required benefits not being paid," "workers not being paid for all hours worked," and "the use of double books to hide the number of hours worked." Wal-Mart describes these common violations as "Global Challenges and Trends." The "double books" violation is particularly telling since it reveals that suppliers and factory management officials recognize that they are violating labor rights standards and laws.

One of the challenges of analyzing Wal-Mart's Ethical Standards program, and the extent of violations against workers throughout its supply chain, is the lack of accurate information available to the public. Information on sourcing policies and practices is conspicuously absent from the Ethical Standards Reports. It is not clear how Wal-Mart decides which factories to use, and it is not evident that its sourcing practices have changed in response to repeated sweatshop exposes. Pressures on suppliers to produce goods quickly and at the lowest possible cost necessarily lead to excessive overtime and illegally low wages due to Wal-Mart's unreasonable deadlines for orders and demands for ultra-low prices.

On health and safety issues, Wal-Mart and other toy brands' codes of conduct and auditing systems are particularly inadequate. We have worked for several years now with trained occupational health and safety experts who led a training program within south China's factories. They found an enormous lack of basic information in these factories, not only among workers, but also among factory management. Neither retailers nor brands bother to provide factory managers with information they have on such dangers as lead paint exposure. While companies claim to protect workers' safety and health through their codes of conduct, most companies do not take even the first steps to encode meaningful standards that specifically identify hazardous substances and train or even suggest to factory monitors how to inspect for occupational illness. I have actually accompanied company monitors on their factory inspections so I can attest to the fact that nowhere in the standard questionnaire do company auditors ask such questions as what are the factory's accident rates, what are the rates of illness among workers, what are the systems for hazard communications, what procedures are in place to limit exposures to chemicals, etc. Health and safety inspectors with whom we work report that many toys are handpainted by workers who stand over the toxic fumes applying paint to the toys for up to 20 hours per day! If Wal-Mart and other toy retailers had been measuring illness rates among their factory employees, might we consumers have known much sooner that there were problems here?

Surely we can do better than to leave these horrific abuses to the 'free market' to address through such weak and voluntary efforts. None of the systems noted above contain any truly meaningful sanction for bad behavior. As we have seen first-hand in our current case against Wal-Mart, retailers who have played such a strong role in the development of voluntary systems are usually loath to see such systems assist in holding the companies themselves legally liable for non-compliance with local labor laws. This alone is evidence enough that local law enforcement is not the answer.

Why hasn't Wal-Mart been here before you testifying? They are the largest customer for all these brands that have been named, they are the ones who have pushed these companies overseas. Let's tell the story of Huffy Bikes as an example of how the company's price pressures led directly to an unsafe product for consumers, and the flight of a company from good factory conditions where labor laws were enforced to a place where workers could be exploited. What happened to Huffy is also the story of many a toy manufacturer.

Despite making bikes in the United States for many years, Huffy was forced to close three factories and lay off thousands of workers. Huffy could not compete with

cheap bicycles coming from China. Celina, OH, where a large Huffy factory was closed, was hit particularly hard by the demand for low cost bicycles. Celina Mayor Paul Arnold said ". . . [Wal-Mart's] demand for cheaper bicycles drove Huffy out of Celina. [*Mansfield News Journal,* 12/8/03]

- *After Filing for Bankruptcy, Huffy is Now Partly Owned by the Chinese Government.* After Wal-Mart's unfair demands pushed Huffy into bankruptcy, the Chinese government's export credit insurance agency, known as Sinosure, took control of 30 percent of the company's stock options. Sinosure executive vice president Zhidong Liang will be Chairman of the Board and over the next 5 years, Sinosure is expecting to control more than 50 percent of the company. As part of the deal, Huffy's pension plan was dismantled and its current and former employees must seek assistance from Pension Benefit Guarantee Corporation. [*Daily Deal,* 10/18/05; *Bicycle Retailer and Industry News,* 10/1/05]

According to Gary Gereffi, a Professor of Sociology at Duke University, "Wal-Mart is telling its American suppliers that they have to meet lower price standards that Wal-Mart wants to impose. The implication of that in many cases is if you're going to be able to supply Wal-Mart at the prices Wal-Mart wants, you have to go to China or other offshore locations that would permit you to produce at lower cost. . . ."

What do we do, then, to stop this relentless race to the bottom? Clearly we cannot rely on voluntary company commitments as the answer. Companies will not respect worker rights unless there are prohibitive legal sanctions in place. Without the fear of such sanctions, companies like Wal-Mart, Mattel and Disney will correctly calculate that it is cheaper to suffer a little bad publicity once in awhile than to provide systematic and meaningful protections for workers and consumers.

As I have noted, the Chinese government has taken steps in recent years to reform its labor laws, and may over time take more such steps. Nevertheless serious challenges to enforcement remain, and may take many, many years to address. In the interval, it is highly likely that if retailers and manufacturers see enhanced worker protections, they will flee to yet more lawless destinations around the globe.

We at ILRF recognize that enforceable global human rights laws are also a dream for a far distant future. We are doing what we can to utilize existing U.S. laws to hold U.S. corporations accountable for abuses suffered by workers overseas. We have used U.S. laws to bring forward cases in U.S. courts on behalf of abused workers in China and elsewhere. We have also worked with U.S. Congress to strengthen worker rights protections in our trade laws, and to push for adequate enforcement of those labor clauses. We applaud the initiative of Senator Byron Dorgan and Senator Lindsey Graham to promote a new legislative remedy for worker rights abuses in the global supply chains that bring consumer goods to the United States, the S. 367 bill to amend the Tariff Act to prohibit the import, export and sale of goods made with sweatshop labor. These are necessary but not sufficient initiatives, and are, of course, vigorously opposed by the same U.S. business community that claims to be implementing ethical standards in its overseas production. We ask why Wal-Mart and the toy brands have not been called upon today to answer for the exploitation of their factory workers overseas? We look forward to a lively, substantive exchange with U.S. corporations on the investments they have made to promote voluntary CSR initiatives, while all the while vigorously opposing enforceable domestic labor laws and enforceable legislation on international labor standards.

Our grateful thanks to the Committee for the opportunity to present this testimony today.

Senator DORGAN. Dr. Athreya, thank you very much for your comments.

We have been joined by Senator Sanders, who I invited to join the panel this morning. And we expect Senator Brown to be along, as well.

Our last—Senator Sanders, if you don't mind, I'll ask Mr. Eio to present, and then you may have a statement and then ask questions, as well. And we appreciate your being here.

Mr. Robert Eio—am I pronouncing that correctly?

Mr. EIO. Mr. Peter Eio, sir.

Senator DORGAN. OK.

Mr. EIO. Your—but the "Eio" pronunciation is correct.

Senator DORGAN. First name is Peter.

Mr. EIO. Yes.

Senator DORGAN. I apologize. Mr. Peter Eio, former Chairman of the Toy Industry Association.

I should mention that we did invite Mattel to be present at the hearing. They chose not to. We wanted someone with the Toy Industry Association. Mr. Eio is the former Chairman of that association. He chaired the group, as I indicated, when it was known as the Toy Manufacturers Association, but I'm guessing, Mr. Eio, that, because the manufacturing is largely gone, the name has changed to Toy Industry. But you, in any event, are welcome to discuss that.

I thank you very much for being here because we wanted to hear the perspective of the toy industry as well. And, as I indicated, I had invited Mattel, because Mattel has been the subject of some of the testimony. But your presence is appreciated, and why don't you proceed.

STATEMENT OF PETER EIO, MEMBER, GOVERNANCE BOARD, ICTI CARE FOUNDATION

Mr. EIO. Thank you, Senator Dorgan and Senator Sanders.

My name is Peter Eio, and I'm a member of the Governance Board of the ICTI CARE Foundation. I retired 5 years ago as president of the Lego Toy Company in the Americas, and, as you stated, I am a past chair of the Toy Industry Association. And you were correct also, in those days it was the Toy Manufacturers Association.

The ICTI CARE Foundation is an independent foundation that oversees the ethical manufacturing program of the worldwide toy industry. The International Council of Toy Industries, or ICTI, is the umbrella industry association of 21 national toy associations around the world, of which the U.S. Toy Industry Association is the largest member.

Our Governance Board was founded by such people as Carl Bildt, former Prime Minister and current Foreign Minister of Sweden; Maria Livanos Cattaui, former Secretary General of the International Chamber of Commerce; and Amir Dossal, Executive Director of the United Nations Fund for International Partnerships.

As I'm sure you know, many organizations "talk," and some "do." We are doers. We are the first worldwide industry to bring together brands, retailers, government, civil society, and manufacturers to achieve a common goal: to help create a better life for workers in our supply chain. I have focused my remarks on this effort, as I believe that is most of what the committee has asked us to cover.

Our program is called the ICTI CARE Process and has been operating in China for about 2 years. It is the worldwide toy industry's effort to develop a transparent, independent system that will ensure its products are manufactured in safe, healthy, and fair work environments. To achieve this, it aims to provide a single, fair, thorough, and consistent monitoring program for toy factories. We began in China, where more than 75 percent of the world's toys are made, and expect to expand into other countries, beginning next year.

This process begins with a global code of business practices, continues with a monitoring protocol and guidance document, and is

enforced through the periodic certification and recertification of factories that comply. Operations in China are managed by an office in Hong Kong, while the actual audits are carried out by third-party social compliance auditing companies.

To date, there are more than 1,200 toy factories in China, employing more than a million people, that are registered and active in this process, with 670 factories currently certified as being in compliance. The others are working toward compliance. We expect those numbers to grow significantly next year as more auditors are trained and more factories used by major retailers join the system.

Senators, clearly, certifying factories is not sufficient unless you have toy brands and retailers who are willing, not only to accept those certifications, but also to demand them. Currently, there are 290 toy brands around the world, representing an estimated 75 percent of global toy production, that are pledged to order product only from factories certified by our program by a date no later than year end 2009. In addition, a growing list of major retailers have joined us around the world, including Wal-Mart, Target, Sears, K-Mart, Carrefour, Tesco, Argus, and the smaller retailers grouped in the American Specialty Toy Retailing Association, ASTRA.

Our toy industry has twice been awarded grants by the U.S. Department of State as part of their Partnership to Eliminate Sweatshops program, in support of two phases of our "Toward Better Workplace Standards in China's Toy Factories" program.

In this program, we brought together toy factory managers, Chinese labor inspectors, and social compliance auditors to learn international and Chinese labor law and the requirements of the ICTI CARE Process, as well as to receive practical training in working together to improve labor law enforcement. We would welcome the opportunity of further funding, should that opportunity present itself.

The Governance Board, of which I am a member, is a fully independent body whose members are drawn from current and former toy industry leaders, members of civil society, and international civil servants. We oversee the ICTI CARE process, raise funds to support it, and, beginning this year, will issue annual reports on our activities.

We believe we were asked here today because we're the most advanced global industry organization working towards improving labor conditions in our industry's supply chain. In 2 short years, we have made great strides forward, but recognize there is a great deal still to be done.

In closing, I would like to thank the other organizations testifying here today for continuing to make us more aware of all that needs to be done, and also for helping us to come—become better at doing it. We know that, by working together with our partners in China, we will be able to achieve continued progress.

Mr. Chairman and Members of the Committee, thank you for this opportunity to address you, and I look forward to responding to your questions.

[The prepared statement of Mr. Eio follows:]

PREPARED STATEMENT OF PETER EIO, MEMBER, GOVERNANCE BOARD, ICTI CARE FOUNDATION

Good morning, Mr. Chairman and Members of the Subcommittee. My name is Peter Eio and I am a member of the Governance Board of the ICTI CARE Foundation. This is an independent foundation that oversees the ethical manufacturing program of the worldwide toy industry. The International Council of Toy Industries (or ICTI) is the umbrella industry association for 21 national toy associations around the world (list at Appendix I), of which the U.S. Toy Industry Association is the largest member. I retired 5 years ago as President of the LEGO toy company in the Americas and I am a past chair of the Toy Industry Association.

As I'm sure you know, many organizations talk and some do. We are doers, the first worldwide industry to bring together brands, retailers, government, civil society and manufacturers to achieve a common goal—to help create a better life for workers in our supply chain. I would like to focus my remarks on this effort, believing it covers most of the territory I was asked to cover.

Our program is called the ICTI CARE Process and has been operating in China for about 2 years. It is the worldwide toy industry's effort to develop a transparent, independent system that will ensure its products are manufactured in safe, healthy and fair work environments. To achieve this, it aims to provide a single, fair, thorough and consistent monitoring program for toy factories. We began in China, where more than 75 percent of the world's toys are made, and expect to expand into other countries beginning next year.

This process begins with a global Code of Business Practices, continues with a Monitoring Protocol and Guidance Document, and is enforced through the periodic certification and recertification of factories that comply. Operations in China are managed by an office in Hong Kong, while the actual audits are carried out by third-party social compliance auditing companies.

To date there are more than 1,200 toy factories, employing more than one million workers, registered and active in this process, with 670 factories currently certified as being in compliance. (Current statistics at Appendix II). We expect that number to grow significantly next year, as more auditors are trained and as more factories used by major retailers join the system.

Clearly, certifying factories is not sufficient unless you have toy brands and retailers who are willing not only to accept those certifications but also to demand them. Currently, there are 290 toy brands around the world representing an estimated 75 percent of global toy production that are pledged to order product only from factories certified by our program by a date no later than year-end 2009. In addition, a growing list of major retailers have joined us around the world, including Wal-Mart, Target, Sears, K-Mart, Carrefour, Tesco, Argus and the smaller retailers grouped in the American Specialty Toy Retailers Association (ASTRA).

Our toy industry has twice been awarded grants by the U.S. Department of State (Bureau of Democracy, Human Rights & Labor), as part of their "Partnership to Eliminate Sweatshops" program, in support of two phases of our "Toward Better Workplace Standards in China's Toy Factories" program. In it, we brought together toy factory managers, Chinese labor inspectors and social compliance auditors to learn international and Chinese labor law and the requirements of the ICTI CARE Process, as well as to receive practical training in working together to improve labor law enforcement. We would eagerly accept the opportunity for further funding, should that opportunity present itself.

The Governance Board of which I am a member is a fully independent body, whose members are drawn from current and former toy industry leaders, members of civil society and international civil servants. (See Appendix III for current members.) We oversee the ICTI CARE Process, raise funds to support it and, beginning this year, will issue annual reports of our activities.

In summary, the ICTI CARE Process is a work in progress, working toward improved labor conditions in our industry's supply chain, through factory monitoring and worker capacity-building. We are well advanced, but recognize there is a great deal still to be done.

As part of that, in 2008 we will start a new phase of our program, which adds education, training and capacity-building to our factory certification program.

You have also asked me to cover a few areas which may not have been as specifically answered as you wish in this presentation on our ICTI CARE Process program.

- With regard to the toy industry's formal relationship to Chinese factories where toys are made, this is almost always a contract manufacturing relationship. Through the ICTI CARE Process, we have a direct relationship to the qualification of factories to be part of the toy supply chain.

- Regarding working conditions in factories, we have a very strict Code of Business Practices, with specific guidelines, regarding how manufacturers must treat their workers. Our code does not permit child, slave or prison labor; it requires decent living conditions and, with regard to wages and hours, requires compliance with Chinese law—which, by the way, is very strict. We have been working on strict enforcement of those laws with the Chinese government for several years and we can report some good progress in factories that have been audited in accordance with our guidelines.
- With regard to the impact of Chinese toy manufacturing on domestic toy production, the U.S. toy industry began sourcing overseas some 40 years ago, beginning in Japan and later moving to Taiwan, Korea and parts of Southeast Asia. Nearly 75 percent of toys sold in the USA are made in China and the rest are divided among the USA and a variety of other countries in Europe and Asia.

In closing, we would like to thank the other organizations testifying here today for continuing to make us more aware of all that needs to be done and also for helping us to become better at doing it. We know that by working together with our partners in China, we will be able to achieve continued progress. Mr. Chairman and members of the committee, thank you for this opportunity to address you. I look forward to responding to your questions.

APPENDIX I

ICTI Members (21 National Associations)

Australia	France	Netherlands
Austria	Germany	Russia
Brazil	Hong Kong	Spain
Canada	Hungary	Sweden
China	Italy	Switzerland
Chinese Taipei	Japan	United Kingdom
Denmark	Mexico	United States

APPENDIX II

ICTI CARE Process Statistics
(As of 30 September 2007)

Factory Compliance Monitoring

	Current	Target 12/31/07
Toy factories in the system (registered, applications)	1,242	1,500
Seals of Compliance issued	669	800
Employees covered 1.1 million		

"Date Certain" Program

Toy brands pledged to source only from certified factories by the end of 2009	290 (75 percent of world toy market)

Major Retailer Commitments to the ICTI CARE Process

Recognize the ICTI CARE Process Seal of Compliance as a replacement for own social compliance audits.

Wal-Mart
Target
Costco
Kmart Sears
Dollar General
ASTRA (American Specialty Toy Retailing Association)
Carrefour (France)
Chelsea Stores (UK)
Tesco (UK)
Argus (UK)
Woolworth (UK)
Colruyt Group (Belgium)
Top-Toy (Scandinavia)
Coles-Myer (Australia)

APPENDIX III

ICTI CARE Foundation Governance Board Membership
(As of 22 October 2007)

Name	Affiliation
Alan Hassenfeld (Co-Chair)	Chairman (non-executive) Hasbro
Maria Livanos Cattaui (Co-Chair)	Former Secretary-General, International Chamber of Commerce (ICC)
Thomas A. Debrowski	Executive Vice President, Worldwide Operations, Mattel
Amir A. Dossal	Executive Director, United Nations Fund For International Partnerships (UNFIP)
Peter Eio	Former President, Lego Americas (retired)
Gary Hutchens	President, International Council of Toy Industries (ICTI)
Steven Jesseph	Vice Chairman, President and CEO, Worldwide Responsible Apparel Production (WRAP)
Alan E. Munn	Former President and CEO, TOMY Europe (retired)
Jane Nelson	Senior Fellow and Director of the Corporate Social Responsibility Initiative, Kennedy School of Government, Harvard University; Director, Business Leadership and Strategy, Prince of Wales International Business Leaders Forum (IBLF); Senior Fellow, the Brookings Institution
William Reese	President and CEO, International Youth Foundation (IYF)
Paul Rice	President and CEO, TransFair USA
T.S. Wong	Immediate Past President, ICTI; Managing Director, Jetta Ltd.
Christian Ewert, *ex officio*	President, ICTI CARE Foundation

Senator DORGAN. Mr. Eio, thank you very much. We appreciate your being here and your testimony.

Let me begin with you, Mr. Wu. You spent 19 years in a Chinese prison. You have come to this country and lived here now for some while, have testified previously before this Committee, on human rights issues and so on. I believe, in your testimony, you indicated that there is toy manufacturing occurring in Chinese prisons, and that, by indirect methods, toys produced in Chinese prisons find their way to American store shelves. Is that what you're suggesting?

Mr. WU. Yes. Chinese prison camps right now have signed contracts with state-run enterprises, contract by contract. So, for example, they produce the toys just by one process to another process. That's all. Particularly in Guangdong, Shanghai, Zhejiang, Shandong provinces, many prison camps right now are working on the processing of cameras, toys, footballs, electronical components, every kind of thing, but they are indirectly exported——

Senator DORGAN. Mr. Wu, how do you know that?

Mr. WU. Oh, we have people in there. We do have the evidence.

Senator DORGAN. So, you're saying that toys, garments, and so on, are produced in prison camps, and, through indirect methods, then marketed through Chinese government-owned enterprises, and then being sent to the store shelves in our country.

Mr. WU. Correct.

Senator DORGAN. Mr. Kernaghan, you have described, in great detail, sweatshop conditions, dangerous working conditions, workers being cheated, workers being worked long, long hours, 7 days a week. Tell me how you know that. Can you describe for us the

research and the investigation you have done that will give us confidence that what you are testifying is, indeed, a fact?

Mr. KERNAGHAN. Well——

Mr. WU. I will give you two examples. The first example is Christmas lights. They were assembled by prisoners in a number of the prisons, and exported by a Chinese export company. It is a different company. The second case is artificial flowers. The prisoners sit in a small space and put these leaves and flowers on the branches, including the label, "Made in the United States," 99 cents, $1.99, each of them.

Senator DORGAN. The label says, "Made in the United States"?

Mr. WU. Yes. They are imported by Ben Franklin. Yes.

Senator DORGAN. By Ben Franklin stores?

Mr. WU. Yes.

Senator DORGAN. Mr. Kernaghan, tell me your—the results of your investigations. You've described to me what you found, but tell me how those investigations occurred and how we understand that these are firsthand, observable conditions?

Mr. KERNAGHAN. Well, some of the research was carried out over a year, starting in mid-2006, with another return at 2007. Pictures were smuggled out of the factory. Pay stubs were smuggled out of the factory. All these pictures of the toys were smuggled out of the factory. Dormitory photographs were smuggled out of the factory. Plus, we also used shipping records, based on U.S. Customs documents, to arrive at the pricing of the toys, the landed customs value, which is the total production cost.

I can't go much beyond that, because, like Mr. Wu said, anyone involved in this research will be sent away, so it's not—there's—it's impossible to do this openly. It was even during the overthrow of President Aristide, in Haiti, with the Tonton Macoutes running wild, it was easier to research in Haiti than it is to research in China. So, this stuff needs to be—remain—it comes from the workers.

Senator DORGAN. I understand. So, in the case that you described today, one of them is a Mattel toy. Would you hold that up? That is a——

Mr. KERNAGHAN. This was an almost exact replica of the picture that workers sent us. And we were fortunate enough to find the landed customs value, the shipping records. And this came in. It was for Target. It came in at a landed customs value of $9. And the toy—we purchased it at a Toys "R" Us, also went to Toys "R" Us—for $29.99.

Senator DORGAN. And there's 19 cents of Chinese labor——

Mr. KERNAGHAN. Yes, even——

Senator DORGAN.—in the product?

Mr. KERNAGHAN.—less than that. That's a very, you know, liberal estimate as—what they were paid. And, of course, the—Mattel spends—spent $2 billion in advertising over the last 3 years, so they're spending 11.5 percent of their revenues in advertising, so they spend, you know, 18 times more to advertise this toy than they paid the workers to make it.

Senator DORGAN. Based on your investigation, the company that sells that product in the United States, what knowledge do they

have of the conditions of the factory in which the product is produced?

Mr. KERNAGHAN. I would say none, because, even Mattel—and I have to say this—I heard Mattel say they are a good company so often I began to believe it. I always thinking maybe they're the Jesuits, and they're traveling around the world to help develop poor countries. But then, with the toy recall, Mattel actually admitted they have no idea, it's out of control, they did not even know where their toys were being made, they certainly didn't know where parts of their toys were being made, because their contractors were illegally subcontracting to subcontractors who, in turn, were subcontracting to other factories. It was completely out of control. They've admitted it.

Now, Mattel says it has the best code of conduct imaginable. As a matter of fact, in the Xin Yi factory, where the workers are held as temporary workers, which means from the—from the very beginning, they have absolutely no rights, zero rights—the first day they come into the factory, they're given a training session, where they teach the workers how to lie to Mattel auditors and other corporate auditors; they tell them to say, "The work conditions are great, management's fine, we're never forced to work overtime, we're paid correctly, our dorms are beautiful." The very first day, they receive that training.

On top of that, if you read Mattel's own audits—and I was—I—shocked, because I don't believe anybody ever reads these things—if you read Mattel's own audits, they read like a nightmare: 80-hour work weeks, 7-day work weeks—I mean, it's frightening. Fungus growing on the walls of the dormitory, and it's—it would—frightening. These are their own audits. This audit—and, of course, they don't name the—they don't—won't give you the name of the factory. This is factory number 18. They won't tell you what factory it is. They worked with this factory for 6 years to clean it up, and yet, for 6 years, the 80-hour work weeks went on.

And one other thing that blew my mind, personally. Mattel apologized to China, their government official in China, for the recall. After the Chinese government official said to Mattel, "Don't you realize a large portion of your profits come out of our manufacturers in China," Mattel then apologized to China for the recalls, for making them seem too excessive. It turns out that the cooperation that the government official was referring to with Mattel—Mattel was given waivers, as late as 2005, to pay below the minimum wage. So, this is the monitoring operation. They got waivers to pay below the pitiful minimum wage in China. To this day, they have waivers to allow workers to work excessive amount of overtime. In China, the law is 36 hours of overtime a month. Mattel has waivers to let the workers work—allow the workers to work up to 72 hours a week, which is 295-percent higher than China's labor laws. So, this thing is out of control.

Senator DORGAN. I'm going to ask a couple more questions, then I'm going to call on my colleague Senator Sanders.

Dr. Athreya, same question to you. You are testifying about conditions inside of China. Tell me how you know these conditions exist.

Dr. ATHREYA. I will say I have, myself, traveled to China on several occasions, and have traveled extensively in this region of south China, where most manufacturing for the U.S. market occurs. I have been able to go into factories, to my own surprise, openly, with factory—with the sort of folks that are hired to do compliance for some of these companies, and have been proud to walk me around the factory to show me what their labor monitoring looks like. I, therefore, can verify, directly, that they are vastly inadequate to uncover the tremendous range of problems that these workers suffer. Workers are not interviewed confidentially.

Now, we do also have allies in China, as I have mentioned, that we cannot name and we cannot identify, but they are very close to workers in these factories, because they are in these communities, day in and day out, and have the trust of the workers and, therefore, are able to gain information directly from factory workers on a routine basis, month in, month out, and to verify the nature of what companies report in their annual reports, et cetera.

Senator DORGAN. Mr. Eio, thank you for your work and your description of what you're trying to do to develop codes of conduct and so on. In your testimony, you indicated 670 factories currently certified as being in compliance with the standards you're developing, but there are 8,000 toy factories in China. So, would you agree that the kinds of things that have been described by others on the panel can exist—can exist quite easily—because you've got close to 7,500 factories not in compliance?

Mr. EIO. Yes. And, certainly, I think the examples we've heard of here are very egregious, and they do occur. And that's precisely why the ICTI CARE Foundation was set up. We are very young. We have been—it took a number of years to put together an international code of manufacturing practices, because we were working with organizations in 21 different countries. The code is now globally accepted code, and the phase we're working on now is the implementation and the monitoring. And, as I say, we have, so far, signed up with 1,200 companies. I think there are 3,500 toy companies that are licensed to export out of China, and it obviously is our intention that all of those should eventually come under the ICTI code. We have about 1—just over 1 million workers who are covered by the factories that are approved, out of a total of about 3 million, so we have a long way to go.

One of the things we do is, we provide workers with a copy of the code, which tells them what their rights are and what they are entitled to do. And this is—generally, as has been observed, is not known by many of the workers, and this educational process is a very important part of what we do.

Senator DORGAN. I see three issues coming to the same intersection.

One, American workers lost jobs because they couldn't compete with somebody that's working 80 hours a week, 7 days a week, for 20 or 30 cents an hour, and shouldn't have to try to compete with that. No American workers should be told, "You've lost your job because you can't compete with a sweatshop."

Second, unsafe products. If you don't know about the factory, where the work's being produced, you probably don't know what in-

gredients exist, or you probably look the other way. What about the product safety for American consumers?

And, third, the sweatshop conditions and the abuse of workers inside plants in China.

Our country ought to at least, as a matter of standard, say, "We will not accept, for sale in this country, products produced with forced labor or sweatshop labor." And that's the legislation Senator Sanders and I and Senator Brown and others have introduced. And we're going to push to try to get at least the U.S. Congress on record to say that we have disagreements on trade, but they ought not be a disagreement in this Congress about this principle. We should not have the product of sweatshop labor coming into this country to be sold. That's profiting at the misery of others, and that's not something this country should condone.

Senator Sanders, thank you for joining us. Why don't you proceed.

STATEMENT OF HON. BERNARD SANDERS, U.S. SENATOR FROM VERMONT

Senator SANDERS. Well, Mr. Chairman, thank you for holding this hearing. And, most especially, I want to thank all of the panelists for being here. The issue that we're dealing with today is an issue that should be dealt with in virtually every Committee of the U.S. Senate. Too often, it is swept under the rug.

The bottom line here, to my mind, is that these unfettered so-called "free trade" agreements that have been pushed on us by large multinational corporations are certainly hurting American workers. The middle class is shrinking, poverty is increasing. They are certainly hurting the health of our people; in this case, our children. Where products are coming into this country that can make our kids sick is unacceptable. And, last but certainly not least, as people who care about working folks in other countries, these policies are doing horrendous harm to people in China, in other developing countries, who are working 70 or 80 hours a week in horrendous working conditions.

So, I think what you are telling us is that the time is long overdue for this Congress to begin rethinking these unfettered free trade policies which are hurting so many people in America and all over the world. And I want to thank you very much for doing that.

In my view, if, to the degree that the people of our country know what is happening in countries like China, where people are being exploited so ruthlessly, where their lives are endangered by horrendous working conditions and exposure to harmful chemicals, to the degree that the American people understand that—and they are understanding it more and more—they will say, "No more. We need to rethink these entire policies."

The bad news is that what you have described this morning is going on. That is the very bad news. The good news, I should tell you, is that, in this country and around the world, there is growing discontent with these unfettered free trade policies. Some of you may have seen, recently, just a couple of weeks ago, on the front-page *Wall Street Journal,* almost two-thirds of Republicans, by a two-to-one vote—two-thirds of Republicans—are beginning to doubt

whether unfettered free trade is good for this country. And I think the polls for Democrats are even higher.

The one last point that I want to make—and I think Senator Dorgan touched on it—or maybe Mr. Wu did, I can't remember who—is the incredible situation when you have the United States Chamber of Commerce telling the Chinese government, an authoritarian government, that they are going too far in giving workers more rights. Can you imagine that? This is a country which is supposed to believe in freedom and democracy, and you have the Chamber of Commerce of this country, representing corporate America, telling an authoritarian government that they've got to ease back, they're giving workers too many rights. Can you believe that? I mean, it is really quite unbelievable and quite a national disgrace.

Senator DORGAN. Senator Sanders, might I observe, on that point, exactly the same thing happened it the Philippines. President Arroyo, of the Philippines, at one point said, "We really need—given the miserable poverty and wage rates, we really need to consider increasing the minimum wage." The U.S. Chamber of Commerce folks and—particularly, the very next day, one American company doing business in the Philippines, said, "You do that, we leave." It is the same story virtually all over the world.

Senator SANDERS. The last point that I want to make is, I believe we are making progress in raising consciousness. And a lot of that has to do with the work that all of you are doing. And we appreciate that very much. You keep up the fight out there at the grassroots level. We'll do what we can inside here in the Senate. And thank you.

And, Senator Dorgan, again, thank you for being the leader in raising consciousness on this issue. I wish more of subcommittee chairmen were holding the same type of hearings within their jurisdictions.

Thank you.

Senator DORGAN. Mr. Kernaghan, you heard Mr. Wu describe garments and toys made in Chinese prisons, and then, through indirect marketing, go to the central government of China and then marketed back so that those products come into this country. I'm going to ask, in several different ways, that that be investigated. But I'd like to have your assessment of that. Do you believe that is happening in China?

Mr. KERNAGHAN. Yes. Mr. Wu has documented it thoroughly. We've been following your work for years. It's been very well documented. There is no question that prison labor is especially involved in making parts of toys, Christmas ornaments, and so on.

If I could just say one thing——

Senator DORGAN. Yes.

Mr. KERNAGHAN.—because I feel your legislation, the Decent Working Conditions and Fair Competition Act, is so critical that if you look at this Barbie doll, Mattel has won all sorts of enforceable laws to protect this doll, backed up by sanctions. In fact, Mattel sues, on the average of once a month, to protect Barbie. And they've been doing this for the last 10 years, just as the other companies have. But when you go to Mattel and say, "Can't the workers who make the Barbie doll—the young women in China—can't

they also be legally protected—their rights be legally protected?" Mattel and the other corporations say, "No, that would be an impediment to free trade." So, we live in a society where Barbie is protected, but not children in the United States—they're not protected legally from toxic toys—and the workers in China are not legally protected, because their corporations won't allow it. And that's why I think your legislation is the critical legislation to finally level the playing field.

Senator DORGAN. Mr. Kernaghan, you're talking about Mattel. We, in fact, invited them to this hearing. But I assume you're using that company because that company's been in the news because of substantial recalls. But this issue is much, much broader than a company, is it not?

Mr. KERNAGHAN. Yes, of course. Yes. Yes, exactly. It's—Mattel—just like—I like to be concrete, because abstractions—it's hard to judge. But——

Senator DORGAN. Dr. Athreya, in your testimony, you mentioned Huffy bicycles, which is a story close to my heart, because I've talked to workers from Huffy bicycle factories in Ohio. One of them told me a very plaintive story about, to the last day at work at Huffy bicycles. I believe they were produced for 100 years in our country. Over a century, Huffy bicycles were produced in this country, most—not all, but most in Ohio by people that appreciated their jobs, average about $11 an hour, plus benefits. On the last day of work after they were all fired, as they left their parking space—parking lot where their cars had rested while they worked, the workers at Huffy bicycle left a pair of empty shoes in the space where they parked their cars. And it was a way for the workers, after that parking lot had emptied, and now had a pair empty shoes in the parking space—it was the only way the workers had to say to that company, "You can move our jobs to China, but, by God, you're not going to fill our shoes." What a poignant, plaintive way for workers to send a message to a company.

That story—the story of Huffies—the story of Huffy bicycles is an almost unbelievable story. They actually pawned off on this government the pension responsibilities for the workers that were displaced at Huffy. But those bicycles, I believe, are now made in Shenzhen, China, and, I believe, made for 20 to 30 cents an hour labor by people working 7 days a week. Do you have any knowledge about the conditions of manufacture for Huffy bicycles in China?

Dr. ATHREYA. Yes, thank you, Senator Dorgan. That is a case that you know very well, and, you know, I certainly agree with all the—what you've just said.

We don't—I'm not going to answer the question about conditions within the factory, because our researchers didn't look at that factory recently, and so, I don't want to be speaking out of turn about current conditions in that factory.

One thing I would like to emphasize related to your remarks is, in our written submission for the record we did make a point of really discussing the role of Wal-Mart in driving production into these very tragic factories in China. And the Huffy bicycle case was simply an example of that, but we've seen it over and over, and we've seen it in the toy industry, in the garment industry, we've seen it in virtually every light-manufacturing industry. And the na-

ture of the contradiction, the hypocrisy, is that you have, on the one hand, Wal-Mart claiming that it has a code of conduct to protect worker rights, and that it insists that all its suppliers enforce this code; on the other hand, Wal-Mart, known very—you know, sort of, infamous for going back to the suppliers of the bicycles, the dolls, the baby clothes, year after year, and systematically pushing down the prices and saying, "You must give us this product for 5-percent less this year than you did last year." And manufacturers in the U.S., one after another, so many stories that are so similar to the Huffy bike story, if a manufacturer is saying, "The only way I can get it to Wal-Mart for 5-percent cheaper, 10-percent cheaper, 15-percent cheaper, is to close down this factory and move overseas to the cheapest possible place I can find."

And now that these companies have been in China for a number of years, what we're seeing happen within the Chinese factories—and I've actually talked to factory managers who have been so outraged at what they themselves are facing that they've confessed this to me—that they have the—you know, the Wal-Mart buyers come in and say, "OK, you know, you gave us this whatever-it-is product for this much last year, we want it for this much less this year," and the factory manager is saying, "The only way I can get it to them for that much less is to stop paying myself." I mean, there's nowhere else to cut the costs.

Senator DORGAN. Dr. Athreya, in your testimony you talk about the new report by the International Labor Rights group, and it describes the percentage of factories—the decreasing percentage of factories rated, "green,"—the number of factories rated green or having no risk or low-risk violations had been consistent at 21 percent—I'm quoting you—for the first 2 years that data was available, decreased to 10 percent in 2005, and only 6 percent in 2006. I don't understand that. I mean, that is completely at odds with what we hear publicly from many companies who have said, "Look, we understand there's a serious problem here, and we're hiring lots of contractors. We haven't been able to figure out what they're doing, but we've got projects going on. We're going to get to the bottom of it. We don't want workers abused." You know, the material they put out in press statements from these companies is, "We're going to get a handle on this. We're working hard to do it." And yet, the number of factories rated as having low risk or no risk has dropped dramatically. What is your assessment of that?

Dr. ATHREYA. This is precisely—and this—by the way, this report was based on—you know, as Mr. Kernaghan said earlier, it's too bad more of us don't read what the companies themselves say; you can find this information in their own reports on their ethical sourcing—but this precisely points out the hypocrisy, on the one hand, of their saying, "Oh, we've got this code, and we want the factories to implement the code," on the other hand, it being really clear that those factories that actually meet the code aren't giving them the stuff at the cheap prices that they want. And so, if they have to make a choice between the worst factory with the worker rights violations that's giving them the lower price and the factory with the better conditions for workers, they—they'll go with the worst factory.

Senator DORGAN. Mr. Eio, do you think that, if we do nothing here in the United States Congress—for example, we don't pass the sweatshop bill that I've introduced with my colleagues—if we just do nothing but hold a hearing once a year, lament what's going on—is this something that will be corrected in the private sector, or will we still see this aggressive approach to saying, "We're going to drive down prices and we're going to circle the globe in our corporate plane, looking for the lowest possible labor rate, the cheapest conditions of production, the least environmental standards, and so on, and that's what we're going to produce"?

Mr. EIO. I think one of the things that I—one of the points I'd like to make is—and I'd to leave as evidence a copy of our code of manufacturing.

Senator DORGAN. Without objection.

[The information previously referred to follows:]

The ICTI Code of Business Practices

The International Council of Toy Industries (ICTI), an association of associations, is committed on behalf of its member companies to the operation of toy factories in a lawful, safe, and healthful manner. It upholds the principles that no underage, forced, or prison labour* should be employed; that no one is denied a job because of gender, ethnic origin, religion, affiliation or association, and that factories comply with laws protecting the environment. Supply agreements with firms manufacturing on behalf of ICTI members must also provide for adherence to these principles.

The role of ICTI is to inform, educate, and survey its members so that individual member companies can adhere to its Code of Business Practices. As an association, it also acts to encourage local and national governments to enforce wage and hour laws and factory health and safety laws. Specific operating conditions on which companies are expected to meet and obtain contractor agreement in advance are as follows:

1. Labour

a) that working hours per week, wages and overtime pay practices comply with the standards set by law or, in the absence of a law, address humane, safe and productive working conditions;

b) that no one under the legal minimum age is employed in any stage of toy manufacturing; that a minimum age of 14 applies in all circumstances, but notwithstanding the foregoing, that C138 Minimum Age Convention (1973) and C182 Worst Forms of Child Labour Convention (1999) of the International Labour Organization apply;

c) that no forced or prison labor is employed*, that workers are free to leave once their shift ends, and that guards are posted only for normal security reasons;

d) that all workers are entitled to sick and maternity benefits as provided by law;

e) that all workers are entitled to freely exercise their rights of employee representation as provided by local law.

PHOTO: PETER KAUS

2. The Workplace

a) that toy factories provide a safe working environment for their employees and comply with or exceed all applicable local laws concerning sanitation and risk protection;

b) that the factory is properly lighted and ventilated and that aisles and exits are accessible at all times;

c) that there is adequate medical assistance available in emergencies, and that designated employees are trained in first aid procedures;

d) that there are adequate and well-identified emergency exits, and that all employees are trained in emergency evacuation;

e) that protective safety equipment is available and employees are trained in its use;

f) that safeguards on machinery meet or exceed local laws;

g) that there are adequate toilet facilities which meet local hygiene requirements, and that they are properly maintained;

h) that there are facilities or appropriate provisions for meals and other breaks;

i) if a factory provides housing for its employees, it will ensure that dormitory rooms and sanitary facilities meet basic needs, are adequately ventilated and meet fire safety and other local laws;

j) that no mental or physical disciplinary practices are employed.

3. Compliance

a) The purpose of this Code is to establish a standard of performance, to educate, and to encourage commitment to responsible manufacturing, not to punish.

b) To determine adherence, ICTI member-association companies will evaluate their own facilities as well as those of their contractors. They will examine all books and records and conduct on-site inspections of the facilities, and request that their contractors follow the same practices with subcontractors.

c) An annual statement of compliance with this Code must be signed by an officer of each manufacturing company or contractor.

d) Contracts for the manufacture of toys should provide that a material failure to comply with the Code or to implement a corrective action plan on a timely basis is a breach of contract for which the contract may be cancelled.

e) Because of the great diversity in the kinds of toys manufactured and the manufacturing methods used, as well as the wide range in factory sizes and numbers of employees, three annexes are attached to this Code to provide guidelines for determining compliance. A rule of reason must be used to determine applicability of the annex provisions.

f) This Code should be posted or available for all employees in the local language.

* Many countries recognize that prison labor is essential to the rehabilitation process. This provision prohibits the exportation of prison-made goods to countries that prohibit or restrict the importation of such goods.

Mr. EIO. Right. This is—recently, Wal-Mart has announced that they will not accept toys from any supplier that is not certified under the ICTI Code of Practices. And that is our aim, to have all retailers, on a worldwide basis, agree to that. We audit those factories on a regular basis. We do surprise audits, unannounced audits. And we feel that we're making good progress, and, within the next 2 to 3 years, will cover the majority of the industry, not only in China, but also in South America, in the Czech Republic, in Hungary, and places like that.

Senator DORGAN. Mr. Eio, though, I have read extensively about this subject, and what I have read tells me that auditors have come in to a number of these plants, are treated to a ruse, and the ruse

is double sets of books, workers being told, "You dare not speak to the auditor. If you speak to the auditor, here's what you must say." And we know of many examples in which inspectors have come into the plants, have left the plants, believing that the information they have seen would tell them that plant is in compliance, when, in fact, that plant is aggressively abusing workers rights. In this case, how do your investigators know that you're getting the right story, the straight information?

Mr. EIO. We have, obviously, encountered those ruses, as well, double bookkeeping and many practices like that. But I would emphasize that we're using professional outside auditor—audit companies, many of them global, and our auditors are trained to look for issues precisely like that. Currently, we have about 250, and our aim is to build up to 600.

Senator DORGAN. How have you been financed?

Mr. EIO. Initially, we have been financed entirely by donations from within the industry, of about $5 million, and our aim is ultimately to make this a self-financing exercise, in that the factories pay for the audits, and they also pay for the seal of approval once they have been approved.

Senator DORGAN. The *BusinessWeek* magazine that I have used on the floor of the Senate in some presentations, the cover of *BusinessWeek*—I don't have the date on that—but it says, "Secrets, Lies, and Sweatshops: How the Chinese Supplies Hide the Truth from U.S. Companies." And the article inside that *BusinessWeek* is quite illuminating, describing the deception that occurs that allows plants to abuse workers, effectively create nearly sweatshop conditions and yet pass inspection. I'm not suggesting that your inspectors aren't good. You, of course, with 8,000 toy manufacturers just in China alone, with only a couple of hundred—250 or so investigators, much more needs to be done.

But, having said that, I applaud your work. I want you to be successful. I think it's a step in the right direction to be concerned about this, to care about it, and to take action to try to represent change, even if it is small, incremental change.

Mr. Wu, let me come back to you for just a moment. As I indicated, I've long admired you and your steadfastness in support of human rights. You've spent 19 years of your life in a prison. You've spent a substantial portion of your life in a prison for, in my judgment, speaking truth to power. And we in this country know that China will be a significant part of our future. China is a big player on the world scene, and becoming an even bigger player.

The question is what set of policies can we implement in this country to continue to try to move China, or persuade or coax or push China in the right direction toward greater human rights, greater engagements on the issues that matter to people, to workers, and so on? You come here this morning and you testify that Chinese government sanctions, production of goods in their prisons, then, through indirect methods, gets them to a government-owned company and markets them in our country—there's no consumer in this country that should ever want to buy goods that are made by forced labor from prisons. No one should want to do that. And yet, if this is happening—and you say it is—if this is happening, it's a real abridgment of any sort of common sense or moral values or

human dignity. So, the question is, what kinds of steps do you think can be taken that will, not only more commonly expose this, but, second, force the Government of China to discontinue these practices?

Mr. WU. Well, I am very touched by your talking about the story very close to your heart about the bicycle workers. I want to share with you my experience.

I was in a prison camp, working in a coal mine—12 hours a day, 7 days a week. We were pulling the coal out. And it's just like an animal, doing that.

But who cares about these things? Our coal mine produced million of tons of coal for the market. Not really—some people care. Everything matters to people who lost their legs, lost their arms, even lost their lives. It is quite normal. I was in an accident, and I almost lost my life. The police prepared a coffin for me. Finally, I survived. I only—you know, my neck, my back was broken, I lost consciousness. I don't want to go back to that situation.

And I am very happy that Americans are talking about Chinese prison labor and sweatshops. But the problem you raise—you raise two questions, the first question is, American workers lost their jobs to whom? To Chinese workers. But Chinese workers are under a Communist regime. Would you be willing to see American workers lose jobs to the Soviet workers? You would not. You said, "No, we will not go over there."

And the second question is, Americans today, so enthusiastic, go to China and they want to invest, want to buy, want to sell, and they stay in Beijing, in a hotel. They just see the products. They don't see the producers, they don't see how the products are produced. They don't care. Wal-Mart, they have a contract with the Chinese, saying, OK, the seller has to agree that none of the products are made by prisoners. So, there's a protection. They don't do anything about it. And the Chinese contractor says, "OK, I will do it, I will give you the product, I will sign a subcontract with other people. That's our side of the story."

I think the problem is—now related to a security problem. You see the Chinese, what they are doing in Sudan today. They're doing something in North Korea, whatever. This is a Communist regime. It has kind of come to the stage that causes security problems for America. I think this is a very big issue, not only *BusinessWeek* talking about slave labor. Actually in China the workers' conditions are horrible. Child labor, I never mentioned anything about that. Prison labor, very normal. Today there are 3 million, 4 million people there, and every day they are forced to labor. So, who cares?

I just don't know how to answer your question, but I do think, when Americans are in church on Sunday morning, they pray to God. They have to think about who makes these products and under what kind of conditions. They really have to care about it.

Thank you.

Senator DORGAN. Mr. Wu, thank you very much.

There are, I think—and I don't know that you would agree with this—there are some signs in China of some movement in ways that are hopeful. But there are many areas in which there must be additional movement in order to come into the mainstream of what we expect, of how countries treat their workers and so on.

But this issue—we're talking now about China. We could talk about Sri Lanka or Bangladesh or Indonesia or other countries, as well, where Mr. Kernaghan has visited—Honduras, as an example, we held a hearing about that. We talked about China, because the migration of so many American jobs to a low-cost manufacturing platform has moved in many directions, but most prominently it has moved to China. And then, therefore, the spotlight of worker abuse that exists properly shines on where most of those jobs have gone. And so, that's the reason we speak of China at this point.

As you mentioned, Mr. Wu, there are many other issues with respect to China, larger geopolitical issues that might cause our State Department to look the other way, or our policymakers to ignore—to be content to not see some other things that are happening, and to engage in other ways. But this issue of international trade, worker abuse, sweatshops, and so on, is a very important issue.

And I want to ask Mr. Kernaghan, if I might—the work that you are doing—you've done this work for some long while—do you see progress? And, if so, where does that progress exist? You work in many countries. Where do you see progress?

Mr. KERNAGHAN. Well, there has been some progress, I—in terms of the most egregious violations. For example, in Central America, back in the early 1990s, there was enormous amounts of child labor. In fact, the girls used to tell us—these are, like, 11-, 12-year-old kids, and 13-year-old kids—that if they let the boss fondle them—these were young girls—they would get a few extra pennies at the end of the week. There were actually even brothels on—in some of these free trade zones. Workers could be shot and killed for trying to organize. There have been some positive changes. However, when it comes to wages and hours and the right to organize, there have been minimal improvements. And, sad to say, in China, as Mr. Wu said, workers simply have no human rights freedoms or religious freedoms or free-press freedoms or labor freedoms, and so, you have workers really stripped of their rights. That situation has not improved.

Senator DORGAN. There are countries, in which you have done investigations, where workers, who have attempted to organize fellow workers for better conditions, are imprisoned, and, in some cases, worse. Is that correct?

Mr. KERNAGHAN. Yes. Yes. Yes. I mean, it's—imprisoned on trumped-up charges—I mean, very horrible things that the American people would be shocked—it just doesn't get out to the general public enough.

Senator DORGAN. I am Co-Chairman of a commission here in the Congress that works on a number of these issues, including developing and retaining—and maintaining, I should say, a list of those who are imprisoned for human rights violations in China. And it is the case that there are some very courageous people, who stand up for the rights of workers, who find that they end up in a Chinese prison cell.

At any rate, let me say to all four of you that I appreciate your willingness to be here. I think this work must continue, and must continue aggressively.

I'm going to do a couple of things as a result of this hearing. We have legislation on sweatshop abuse that this Congress needs to

address. We might disagree about a lot of things in this Congress. We have a trade agreement with Peru that they say might come to the floor of the Senate very soon. We have a trade agreement with Colombia that's done, a free trade agreement with South Korea that is completed, a free trade agreement with Panama that is done. We're going to have free trade agreements come to the floor of the U.S. Senate. And, of course, they, I believe, were all completed under what is called "fast track authority," which means no one can offer any amendments of any kind to the trade agreement. It's a kind of self-restraint or a straightjacket that Congress has decided to put itself in. We have now eliminated that condition, so future trade agreements cannot be negotiated under those conditions. And we have sufficient votes, I believe, in the Senate, to prevent a restoration of fast track.

But, nonetheless, we have trade agreements coming to the floor of the Senate at some point in the future. It seems to me that those who care about trade, those who assert that trade is very important—and I believe it is, I support trade, and plenty of it, but I demand it be fair, and I demand that it not be trade conditioned under sweatshop labor and so on—those who really believe in trade ought to be the first to sign as cosponsors to a piece of legislation that would end sweatshop labor—products from sweatshop labor coming to this country and being sold in this country. That would be the surest way to require that standards rise in other countries, in order for them to be able to produce and to ship their products to this country.

So, I and my colleagues intend to push very, very hard, in the coming weeks, on S. 367, the Decent Working Conditions and Fair Competition Act. It's, effectively, an anti-sweatshop labor bill, is really what it is, trying to give workers around the world some rights.

And I think your willingness to come here today and be a part of a hearing, and to testify publicly about what you see is happening, is very, very important.

Let me also just, finally, say this. It is, it seems to me, a lonely job, to be working for organizations that do these things. It's not so lonely if you're part of a big association of manufacturers and employers who have common cause in seeking workers around the world who will work for the least cost and produce your product for the highest profits. But it is a lonely job to investigate these issues and to support workers in the farthest regions of the world, and to insist on standards in this country, when we do trade, that would require that those standards abroad be lifted rather than diminished.

So, I appreciate it, and on behalf of the U.S. Senate, I hope you will continue your work, and be even more vigilant, and continue to be willing to contribute in open hearings.

Mr. Eio, you represent an industry that's come under—you previously, in fact, headed an industry that's come under very severe attack and very severe criticism, and, in my judgment, for justifiable reasons. I think many of them have done almost nothing, and many of them have not cared at all—produce where it's cheap, sell where they can get a good price, and fatten the checkbook. I appreciate the fact that you've come here today, and I appreciate that

you're working for organizations that are hiring investigators to try to see if you can develop some standards—some standards that address these issues. I think that's good news. I appreciate it. I think you would agree with me that you've made a step, albeit, perhaps, a small step, in the right direction, and we commend that step and hope that you'll reach a full gallop pretty soon.

To Mr. Wu, thank you for your courage. Thank you for continuing to speak out against what you believe are, and what are, human rights abuses.

And, Dr. Athreya, thanks for the work of your organization. Please continue it.

Mr. Kernaghan, I expect that we will call you before the Congress once again, because your organization has done some really groundbreaking work, and we appreciate it.

This hearing is adjourned.

[Whereupon, at 11 a.m., the hearing was adjourned.]

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