

## ICTI CARE Process Response to SACOM 15 February 2011 E-Mail

This provides the ICTI CARE Process response to SACOM's 15 February 2011 e-mailed comments (see below) regarding the ICTI CARE Process's 15 February 2011 answer to SACOM's 8 February 2011 public statement about the ICTI CARE Process. Our responses (*in italics*) follow each of SACOM's comments, below:

---

On Feb 15, 2011, at 5:39 PM, CHAN Sze Wan Debby wrote:

Dear Christian,

Thank you for the response from ICTI CARE, but there are a number of issues have not been addressed by the foundation:

### **Financial accountability**

Although you insisted that ICTI did not make any money, there is no information of financial accountability. And there is no commitment on transparency in finance of the foundation. In our statement, we requested ICTI CARE to disclose information like income sources, staff cost, programme fee and reserve. This is no answer from ICTI CARE at all.

*Both the ICTI CARE Foundation (ICF, based in New York) and the ICTI CARE Foundation Asia Ltd. (ICFAL, based in Hong Kong) are non-profit organizations, registered as such with the governments of their respective countries. As such, they provide annual accounts to the relevant government tax authorities and those accounts are a matter of public record. In addition, in its report on activities through 2007, the ICTI CARE Process showed that its income was derived 61% from donations and 39% from operations in its start-up years. In its second report, covering 2008-2009, it no longer shows that breakdown because most of its income came from operations. Now all of it comes from operations and from public/private partnerships. (A copy of that report is available on the ICP website at <http://www.icti-care.org/PDF/annual-report-2008-9.pdf>).*

### **Working hours**

Class A, Class B, and Conditional Class system is definitely a defiance of the Labour Law. Certifying factories even though the overtime is 3-4 times of the legal limit is ridiculous.

*ICP's Continuous Improvement Process (CIP) has as its aim to require participating factories to achieve full compliance with Chinese law over a limited time period. This was judged the most practical way to ensure factories would be transparent with regard to their current practices, so that we could measure their true progress toward that goal. The CIP is fully detailed on our website at <http://www.icti-care.org/new-process-policies.html>.*

### **Back payment and the right to remedy**

SACOM cannot understand the argument from ICTI that a 24-month back payment period would result in less transparency from the factories. On the contrary, it can encourage more factories to comply with the minimum requirement on wage. Furthermore, in our report, *Shielding Labour Rights Violations in the ICTI Certification System*, we pointed out that piece rate workers were denied overtime premium. Back payment should apply to piece rate workers as well. Furthermore, the right to remedy should also apply to cases like denial of contract and absence of social insurance. Compensation should be given to workers.

*The consensus among social compliance monitoring organizations is that black/white, wrong/right systems encourage a lack of transparency, especially in the area of wages, overtime and benefits. What does work is a program that requires continuous progress toward full compliance. Looking at the progress made in 2010, we are convinced that this is currently the right way forward. The ICP is guided by Chinese law and it is providing positive encouragement to comply rather than negative enforcement that may result in incorrect figures.*

*In addition, the ICP is providing information and training to workers and factory managers regarding workers' rights and is also providing a hotline service, staffed by Chinese NGOs, for workers to use both to ask for information and to request assistance. To date, the hotline has received over 1,200 calls, of which about 15% were judged serious enough to require resolution by ICFAL staff.*

## **Social insurance**

"ICIT CARE does not require factories to pay social insurance for all the workers. As long as factories can show they pay social insurance for some workers, the foundation considers the factories" have fulfilled its requirement. ICTI CARE did not even respond to issue of inadequate social insurance. We are disappointed about that.

*The ICP monitors for compliance with the ICTI Code of Business Practices and with Chinese law. Social insurance requirements are still a work in progress and we are requiring compliance with them as they are developed. New developments expected in China in 2011 will be reflected in an update to our compliance requirements.*

## **Living wage**

Minimum wage and living wage are 2 different standards. Currently, the minimum wage is not enough for basic subsistence of workers. Even with the adjustment of the minimum wage, it is far from a living wage standard which can meet the basic needs of his/her family. Brands are the key stakeholder in the issue of living wage. SACOM would like to know has ICTI CARE ever raised the issue of living wage among your members.

*Again, the ICP monitors for compliance with Chinese law. Living wage is not currently contemplated in Chinese law and is not something with which ICP can enforce compliance. The ICP is focused on ensuring that, at the very least, workers are paid what they are due under the law, including minimum wage and overtime premiums. With the introduction of our continuous improvement process good progress has already been made toward that end. Achieving that even more broadly will be a considerable accomplishment.*

## **Supplier list**

Even for the high-end electronics products, the brands know well about where their competitors place at. And a toy factory usually has multiple clients. Potential intellectual property theft is not a justification not to disclose the supplier list of the brands. Furthermore, the big brands in the sportswear industry also unveil their supplier list. It should not be a challenge for toy companies.

*The companies SACOM has referenced as examples individually decided to show a supplier list. ICP regards this as a decision to be taken by each organization and not as a responsibility of the ICP. The ICP is a voluntary program, focused on improving treatment of workers; however it does encourage companies to disclose their suppliers. Whether or not they do so is up to them.*

*Success in the toy industry is closely linked to creativity, with new ideas leading to new toys every year. Protection of intellectual property is justifiably viewed as being extremely important. Theft of ideas and production of counterfeit goods are real problems and are not to be treated lightly.*

SACOM reiterates the importance of brand-based information. We sincerely urge ICTI CARE to provide statistics on the level of compliance of the brands suppliers. So the consumers can compare the level of compliance of the brands. Instead of asking the brands to provide the statistics on a voluntary basis, information from ICTI CARE would be relatively impartial.

*ICP reiterates that provision of brand-based information is up to the brands themselves and is neither part of the ICP's mandate nor the type of information the ICP collects. We would encourage those who seek such information to request it from the brands directly.*

Positions of ICTI CARE have been clearly shown in the statement. ICTI CARE has only made some concession on the summary of audit. I wonder do we have other common grounds for discussion. If there is plan from ICTI CARE on back payment for 24 months and democratic election for trade union or worker committee, we can have more discussion on those issues. Otherwise, it would another meeting for ICTI CARE to repeat the statement. Hope you can understand our concerns. Thank you!

*The ICTI CARE Process and SACOM have the same goal – improved treatment of factory workers. However the ICP believes better progress will be made if dialogue is unconditional and that is what the ICP seeks. The ICP is ready to talk when SACOM sees its way clear to conduct open, frank and unconditional discussions.*

Yours sincerely,

Debby

---

Response by ICTI CARE Foundation Secretariat, 15 March 2011.