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Testimony Title: Fair Toys for Our Kids

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I am the founder and Executive Director of the New York-based China Labor Watch (CLW) and a labor activist that has participated in China's labor rights movement for over twenty years, including investigation of toy factories that began in 1999. To date, I have led research on labor conditions of more than 100 toy factories. The reason I am testifying before Congress today is not only because for years I have observed the toy industry's poor labor conditions, it is also because I recently became the father of two children and have come to fully understand the importance of improving the conditions and rights of workers in the toy industry as a result.

I care deeply about my children's safety and make sure that they do not leave my sight, whether at home or outside. I want for my children to grow up safely, and I also hope that they develop empathy. When I take my son to the toy store, its shelves overflowing with Mickey Mouse, Transformers, Barbie Dolls, and little planes, cars, and balls. His face is always brimming with joy as he stops in front of each toy. Every time I see this, I come under a lot of pressure, because I understand that behind American fairytales made in China, there is often a tragic story, and I do not want my child's happiness to be connected to this.

When I take my son to Toys R Us to look at Disney toys, I often think of a boy named Liu Pan who died at the age of 17 while working at the Yiuwah Factory in Dongguan, China. Liu, who had been working at the factory for two years already, was so exhausted by the conditions of his work that he let his hand and then entire body get trapped in a machine. After Liu's death was publicized in the media, Disney announced that the factory he worked at was responsible for less than 15% of Disney's orders, and since it did not meet Disney's labor standards, Disney pulled out of the factory and would have no further relationship with it.

This kind of heartbreaking story is not limited to Disney. A similar tragedy occurred in a Mattel factory, where a 45-year old mother of two named Hu Nianzhen was reprimanded by her manager in front of her co-workers for working too slowly on the production line. The manager threatened that the company would fire her for slow working speed and forced her to leave the production line, prompting Hu to sob in the workshop. While no one was paying attention, Hu climbed to the fourth floor. Shortly after, a bang was heard throughout the workshop; Hu had thrown herself from the roof and died immediately. Neither the factory nor Mattel accepted any responsibility for her death. When Hu's family sought out the factory for an explanation, they were severely beaten outside the factory's gates by factory guards. They were later forced to sign a compensation agreement which awarded them only 90,000 RMB (\$14,580).

These stories are not just outliers; they were caused by the terrible labor conditions within the toy industry.

Between June and November 2014, CLW carried out another in-depth investigation of labor conditions in the toy manufacturing industry, this time targeting four facilities in Guangdong, China: Mattel Electronics Dongguan (MED), Zhongshan Coronet Toys (Coronet), Dongguan Chang'an Mattel Toys 2nd Factory (MCA), and Dongguan

Lung Cheong Toys (Lung Cheong). CLW's investigation confirmed that the factories produce for some of the largest toy brand companies in the world: Mattel and Fisher-Price, Disney, Hasbro, and Crayola, including famous toy brands like Barbie, Mickey Mouse, Transformers' Optimus Prime, and Thomas the Tank Engine. According to company information, the factories also produce toys for other major toy companies and retailers like Target, Kid Galaxy, Spinmaster, Kids II, and Tomy IFI.

CLW's 2014 investigation once again uncovered a long list of labor rights violations, most of which existed in toy supplier factories in 2007, suggesting that over the past seven years, the state of labor conditions in the toy manufacturing industry has failed to improve and are instead deteriorating. During peak season, workers commonly work six days a week, eleven hours a day; do not receive adequate healthcare or insurance nor legally mandated safety training; live in small rooms in factory dorms with 10 or more workers; have their IDs illegally confiscated; are made to jump through hoops if they wish to resign; and are not able to receive due wages if they quit.

SUMMARY OF INVESTIGATIVE FINDINGS

A CLW investigator entered the aforementioned four toy factories as a worker, laboring alongside other workers under the same conditions. Other CLW investigators also carried out follow-up assessments in October and November 2014. Through direct experience and hundreds of worker interviews, CLW's investigation discovered a set of 20 legal and ethical labor violations, a summary of which is below.

- 1. Hiring discrimination:** Restrictions on the age and ethnic group of applicants were found as well as a refusal to hire applicants with tattoos.
- 2. Detaining personal IDs:** Two factories illegally detain workers' personal IDs during hiring procedures, one factory for 24 hours, the other for five hours.
- 3. Lack of physical exams:** Three factories do not provide any physical exams to workers before or after being hired, meaning that previous conditions are unknown before going on the job, and if a worker contracts an occupational illness, she may not have the necessary evidence to prove that it was related to work at the factory. While one factory provides physical exams, workers are not given their exam results.
- 4. Lack of legally mandated safety training:** Chinese legal regulations require 24 hours of pre-job safety training for manufacturing workers. In three factories, workers receive half to two hours of pre-job training, much of which is unrelated to occupational safety. The fourth factory conducts absolutely no pre-job training.
- 5. Workers forced to sign training forms despite lack of training:** Three factories force workers to sign forms certifying that they participated in health and safety training that they never actually receive.
- 6. Labor contract violations:** Three companies make workers sign incomplete labor contracts while providing very little time to read the contract and rushing

workers to sign it. Workers must wait one to two months after signing to receive a copy of their labor contract, which is a violation of China's Labor Contract Law. A fourth factory fails to sign any labor contracts with temp workers or student workers and only signs contracts with formal workers after a multi-month probation period.

7. Underpayment of legally mandated social insurance: All four factories pay workers' social insurance at a rate below legal obligations.

8. Excessive overtime work: All of the factories investigated have workers accumulate at least 100 hours of overtime a month, with one factory's workers laboring over 120 hours of overtime a month, three times in excess the statutory maximum of 36 hours per month.

9. Unpaid wages: Two factories fail to pay workers overtime wages for daily mandatory work meetings before and after their shifts. The other two factories do not pay workers during mandatory training.

10. Frequent rotation between day and night shifts: One plant rotates workers between day and night shifts once a week and another plant once every two weeks. Such frequent shift rotation has been shown to be harmful to workers' health.

11. Lack of protective equipment: All factories investigated failed to provide workers with sufficient protective equipment despite their coming into regular contact with harmful chemicals.

12. Ill-maintained production machinery: Three plants failed to conduct regular safety inspections of production machinery, based on a lack of inspection records.

13. Poor living conditions: The toy factories investigated generally maintain poor living conditions for their workers, including crowded and hot dorms with 8 to 18 people per room, five shower rooms for 180 people, lax dorm management leading to frequent theft, and fire safety concerns.

14. Fire safety concerns: One factory locks emergency exit doors, and fire escape routes are blocked. None of the factories provide sufficient fire prevention training to workers.

15. Environmental pollution: Industrial waste water is discharged into the general sewer system and a failure to separate industrial waste from general waste.

16. Lack of effective grievance channels: Some of the factories investigated have a complaint hotline, but the phone number is out of order or workers are often told by the operator to simply tell their supervisor about the problem.

17. Lack of union representation: The factories have unions, but most were in name only, failing to actually represent worker interests. One factory had a more active union, but it usually led social activities with workers. Moreover, union representatives are not elected by workers and the union chairman is a member of the company's management team.

18. Illegal resignation procedures: Three factories require workers to obtain management approval before resigning, but Chinese law only requires workers to give notice, not apply for resignation.

19. Abusive management: Management is sometimes verbally abusive to workers. For example, a supervisor in one factory told a worker with sick parents that "even if someone dies in your family you'll not be allowed to resign."

20. Auditing fraud: Two companies were found to use deceptive methods during social audits. In one factory, workers are made by management to hide the truth about working conditions. Another factory even creates a special area for inspection that has better conditions than its other production facilities.

These violations suggest that labor conditions have failed to improve in toy industry supplier factories over the past seven years. And relative to other industries, conditions may even be deteriorating. For instance, over the past few years, workers at electronics manufacturer Foxconn have seen an increase in overall compensation and reduction in working hours. Before calculating overtime wages, the average monthly wage of workers in the four toy factories investigated is 1,335 RMB (\$218). But even after illegally excessive overtime hours, working at least six days a week in 12-hour shifts, these toy workers earn between 2,500 RMB (\$409) and 3,000 RMB (\$490) a month. In comparison, a worker at Foxconn in Chengdu, Zhengzhou, or Shenzhen, despite excessive overtime of 80 hours per month, will earn around 3,500 RMB (\$573).

WORKER EXPLOITATION IN THE TOY INDUSTRY

Intense business competition and demand for cheap products drives toy companies to suppress manufacturing prices. Toy sellers, especially international brand companies, have largely moved their manufacturing base from their home countries to developing countries in Asia and Latin America to utilize cheap labor. In order to mitigate investment risk, instead of building their own factories in these regions, toy companies often contract their manufacturing to local factories via intermediary supply chain firms. Supplier factories have little choice but to accept the production price put forward by the toy company. Sometimes, in order to receive the business, factories will even reduce the cost further. But toy companies maintain strict demands on material and product quality, so labor costs ultimately become the only flexible factor. Workers, situated at the bottom of this system, are forced to bear the cost.

Multinationals are keen to benefit from this system. While it reduces their investment risk, it also enables them to distance themselves from factories that act in unethical or illegal ways. The multinationals that do not directly employ workers making their products often rely on this fact when blaming factories for poor or illegal labor conditions.

Many toy companies divide their toy orders among dozens or hundreds of factories in order to ensure that their orders in any given factory only consists of a small proportion of that factory's total orders—usually no more than 20 percent. Toy companies will also use this as a basis for avoiding responsibility for poor labor conditions. For example, if CLW uncovers labor rights violations at a Disney supplier

factory in China, Disney might respond that it only maintains a small number of orders in the plant and is unable to influence the factory's behavior. Disney will blame the factory or could even blame other clients of the factory. If public pressure is too intense, toy companies will claim that the factory failed to respect their code of conduct and, on this basis, end business with the plant. In this way, toy companies can make a public show of standing up for workers' rights while reducing their own risk and costs to their business. Instead of acting with a true sense of responsibility, most major toy companies will use coping and delay tactics when faced with labor violations.

In addition to maximizing profit via suppliers, some toy companies will directly manage a number of factories in order to guarantee product quality and inventory. But poor and illegal labor conditions are a universal problem in the toy manufacturing industry, and even these directly controlled factories violate workers' rights. Despite this, the companies who manage these factories will push off responsibility for labor violations to others, claiming that it's an industry problem.

China's workers have naturally attempted to protest the aforementioned circumstances; in 2013, workers at the Shenzhen Baode Toy Factory went on strike to demand improvements in the factory's labor conditions and the social insurance owed to them.

Shenzhen Baode Toy Factory is a typical export-oriented manufacturer which mainly makes products for Mattel and Disney. The factory was built in 1989 and has nearly 10,000 workers at peak periods. At the time of the strike over social insurance payments in August 2013, there were 3,000 workers employed at the factory, a number which dropped to 1,000 after the strike.

According to information received from workers, when data was calculated in May 2013, there were 438 workers who had been at the factory for more than five years, 247 workers who had been at the factory for more than 10 years, 158 workers who had been at the factory for more than 15 years, and 48 workers who had been at the factory for more than 20 years. The social insurance issue was divided between cases where the factory paid less than the amount due or simply had not paid at all.

Among the three thousand workers employed by Shenzhen Baode, divided by their time working at the factory, the number of workers who were at the factory for more than five years and were owed social insurance payments totaled 398; those who were at the factory for more than 10 years and were owed social insurance payments totaled 141; those who were at the factory for more than 15 years and were owed social insurance payments totaled 59. This data is based on the number of workers still in the factory in May 2013; when workers who had left the factory before May are also considered, the proportion of workers owed social insurance payments is even higher.

Local social insurance regulations require that a company pays 17.3% of wages as insurance and each individual pays 8.5% of their wages as insurance. Based on these rules, assuming average monthly wages of 2,000 RMB (\$324) and annual wages of 24,000 RMB (\$3,888) over the past 10 years, the company would owe each worker 4,152 RMB (\$672) per year in insurance backpay, or 41,520 RMB (\$6,726) for 10 years of unpaid insurance.

Table 1: Social insurance rates in Guangdong Province

| Insurance Type | | Enterprise | Individual |
|------------------------|-------------|------------|------------|
| Retirement Insurance | Enterprise | 11% | 8% |
| | Local | 3% | |
| Work Injury Insurance | | 1% | |
| Unemployment Insurance | | 0.5% | |
| Health Insurance | In-patient | 1.75% | |
| | Out-patient | 0.05% | 0.50% |

Besides the issues of long-term workers who are owed compensation, after the government mandated that all enterprises purchase social insurance for their workers, new workers also found that their various legally mandated insurances were not paid in full by companies. The base monthly wage of Baode’s workers combined with overtime pay and other subsidies came out to 3,000 RMB (\$486) per month. According to law, social insurance fees should be paid according to that amount, but the company instead paid insurance according to the local minimum wage of 1,808 RMB (\$292) per month, which disregards 1,192 RMB (\$193) in overtime wages and subsidies. When calculated in this manner, the company evaded 206 RMB (\$33) per month, or 2,475 RMB (\$401) per year, in insurance fees for each worker.

The attitudes of the brand companies, factory, and government towards the Baode strike were as follows:

- 1) Brand Company Reaction: After the Baode workers began striking over the social insurance issue, Baode’s main clients, Disney and Mattel, attempted to distance themselves from the factory by quickly pulling out of production at Baode, explaining the move was primarily for business reasons. In reality, Mattel and Disney had worked with the company for ten years at that point and were aware of the situation with respect to Baode failing to purchase social insurance for its workers. Their actions were a typical method employed by multinational companies to shirk responsibility and place the blame entirely on supplying factories.
- 2) Factory Reaction: Baode contracted out its existing orders to other factories, thus reducing the production work for its workers, ensuring they could not receive overtime, and in turn forcing workers to subsist on the minimum wage, which is too low to be considered a living wage. Under these circumstances, many workers were forced to quit, which meant that not only did the factory not have to compensate them for social insurance, but also did not have to provide severance pay. Within three months of the strike, the number of workers at Baode dropped from 3,000 to 1,000.

Baode’s actions reflect the typical method that Chinese factories use to lay off workers; not only is it legal, it ensures that companies do not have to pay the compensation they would be required to hand out if they formally terminated workers of their positions rather than forcing them out.

3) Government Reaction: Baode's workers began petitioning the Shenzhen Guanlan Social Insurance and Labor Offices in addition to the local official labor union in April 2014 but never received any response. In July 2013, the workers petitioned the Shenzhen Municipal People's Congress, Municipal Labor Union, Insurance Bureau, and Legislative Affairs Office, but each of the aforementioned institutions passed responsibility to one another other without giving a clear response to the workers.

In summary, the brand companies, factory, and government each employed various methods to deflect responsibility and create legal loopholes, which ultimately lead to severe violations of workers' rights.

CLW's investigation this year discovered that all four factories had legal violations related to unpaid or insufficiently paid social insurance. For instance, Mattel Electronics Dongguan and Chang'An Mattel 2nd Factory are both directly controlled by Mattel Toys and together employ about 9,000 workers. Based on our conservative estimates, to bring these two plants in accordance with relevant Chinese social insurance regulations, Mattel would need to take on another \$7 million in costs, which is about half of a percent of Mattel's 2013 profit of \$1.17 billion.

China's economic development has not led to real benefits for its workers, the vast majority of whom still struggle both in work and life. China's economic and political elites are the true beneficiaries of China's economic growth, while the workers have only been on the receiving end of exploitation. Western multinationals have invested heavily in China, but that has not brought about the spread of a system of values which includes human rights and democracy. Instead, these companies have benefited from the lack of protection that a labor union would provide Chinese workers and have quietly exploited them. They have used PR tactics to package their publicly stated labor standards without ever truly executing those standards.

We are by no means powerless in the face of these circumstances. First, we can utilize public hearings such as this one to exert pressure on the toy industry and put forth more media reports to ensure that the public takes note of the production process of toys. Through writing letters or contacting executives at toy companies, we can ensure that those who benefit from the toy industry take action to improve working conditions in toy factories.

Furthermore, we can demand that these toy companies begin by making improvements in the four factories on which we have reported rather than look for excuses to simply pull out of the factory.

Finally, the toy companies should, within the next year, make the aforementioned companies comply with Chinese law as well as the labor standards published by the toy companies themselves. Both must be obeyed fully, and there should be no space to make any excuses. To that end, I have three suggestions for the improvement of labor conditions in the toy industry more broadly:

1. Improving the toy manufacturing industry requires that companies' make their production conditions transparent; all toys should be labeled with their specific factory origin. Factories and brands which have been shown to have committed rights' violations should respond seriously to each violation, in addition to

providing an in-depth course of action for making reforms instead of putting forth a general response promising investigations.

2. Guangdong Province is currently carrying out labor union reform pilots. International brand corporations should encourage their suppliers to carry out direct union elections, allowing elected representatives to truly represent the demands of workers and engage in collective bargaining with the factories to protect the rights of workers.

3. Factories must establish effective worker hotlines so that workers may convey labor issues through an independent channel that can ultimately aid workers in successfully resolving work-related problems and protecting their rights.

Why must the improvement of labor conditions begin in the toy industry? Because we cannot let our children grow up with this shadow hanging over them. Let's ensure our children do not also have to face the dirty side of the toy industry after they grow up. Let's ensure that the smiles of our children are founded on just and fair working conditions.