

## China Advisory E-news

November 24, 2008

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### CHINA LABOR LAW ALERT: INITIAL UNIONIZATION CAMPAIGN ENDS

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#### **The cost of labor and number of labor disputes in China can be expected to increase with the recent campaign to enforce China's Trade Union Law.**

On June 25, 2008, the All China Federation of Trade Union ("ACFTU") launched what was called a "One Hundred Day Campaign" to unionize the workers at the Chinese subsidiaries of Fortune 500 companies. The campaign officially ended September 30, 2008. According to the ACFTU, the campaign ended in a "great success" with 82% of the Chinese subsidiaries of Fortune 500 "unionized". According to recent statistics, 483 Fortune 500 companies have invested in China, establishing over 4,100 subsidiaries or joint ventures. Among these, ACFTU reports that 3,370 enterprises have established unions at the end of September, 2008, including Wal-Mart, FedEx, Intel, Toyota, McDonald's, ABB, KFC, Pizza Hut, etc.

China's Trade Union Law, effective on October 27, 2001, requires that trade unions be established in companies with at least 25 employees. For years, most companies have simply ignored this law. Recently, enforcing this law has become the top priority of the ACFTU. The recent Labor Contract Law, effective on January 1, 2008, grants increased power to the trade unions with respect to collective bargaining, as well as the formation and implementation of an employer's internal rules and regulations that bear the "immediate interests" of the employees. Such "interests" include remuneration, working hours, rest time, holidays, job safety, social insurance, training and discipline, etc. More specifically, the Labor Contract Law requires employers to "consult" with the trade union and negotiate concerning these issues. In addition, companies are required to allocate an amount equivalent to 2% total payroll to unions as union funds.

The long-term consequences of the One Hundred Day Campaign are yet to be seen. One thing that seems certain is that the Chinese government will not limit its unionization efforts to the Fortune 500 multinationals. Instead, they have clearly indicated that they plan to push for unions in all the enterprises through the collective effort of national and local governments. The cost of labor and the number of labor disputes in China can be expected to increase. We have at least one privately owned client in the Shanghai area that has been approached by a Chinese union group. If you have questions or wish additional information about labor or other issues affecting doing business in China, please contact either Joe Kimmell or Shusheng Wang, in the U.S., or Liu Ji-Qing in China. Their contact information is set forth below.

**SPEAKING OF LABOR:**

We are pleased to highlight two significant additions to our China Practice.



In January, 2008, Joe Kimmell joined our China Practice after eight years of managing the China Practice of another major Midwestern law firm. For over thirty-five years Mr. Kimmell has represented business entities of all sizes in their general corporate, acquisition and other transactional business. Since 1999, Mr. Kimmell's primary focus has been assisting public and private U.S. companies in developing and implementing China-related investment or manufacturing strategies.



In July, 2008, Ji-Qing Liu joined our China Practice as a senior attorney. Mr. Liu will be resident in Beijing and will manage the Butzel Long office in China which is planned to open in early 2009 and supplements the existing alliance offices in Shanghai and Beijing. Mr. Liu is a U.S.-trained labor attorney who has been practicing in China for the past fifteen years as Chief Representative for a major Midwestern law firm. While representing U.S. and Chinese companies in a wide-range of legal matters in China, he has concentrated his practice in labor and employment issues, non-litigation dispute resolution and intellectual property protection and enforcement actions. Should you have specific questions about this Labor Law Alert or other labor or operational issues in China, Mr. Liu is available to discuss these issues with you upon request.

Mr. Kimmell and Mr. Liu join the remainder of our China Practice consisting of C. Peter Theut, Shusheng Wang, Jerome Hill, Jennifer Feng-Smith, Michael Gzybowski, and our Chinese legal consultant in China, Li Yong Lan, as members of our quickly expanding China Practice.

If you have questions regarding our China Practice, please feel free to contact Mr. Kimmell, Mr. Wang or Mr. Theut in the U.S. or Mr. Liu or Ms. Li in China.

**C. Peter Theut**

theut@butzel.com  
734 302 1022

**Joe Kimmell**

kimmell@butzel.com  
734 213 3423

**Shusheng Wang**

wangs@butzel.com  
313 225 5313

**Jennifer Feng-Smith**  
feng-smith@butzel.com  
734 213 3604

**Ji-Qing Liu**  
liujq@butzel.com  
011 86 139 1150 2261

**Li Yong Lan**  
liyl@butzel.com  
011 86 135 0123 5800

**Chris Brady**  
brady@butzel.com  
212 676 3901

**Michael Gzybowski**  
gzybowski@butzel.com  
734 213 3629

**Jerome Hill**  
hillj@butzel.com  
734 302 1023

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