China Tells Businesses to Unionize

September 12, 2008
David Barboza
New York Times

SHANGHAI — Some of the world's biggest corporations are facing intense pressure from China to allow the state-approved union to form in their Chinese plants and offices. But many companies fear admitting the unions will give their Chinese employees the power to slow or disrupt their operations and will significantly increase the cost of doing business here.

The companies, many of which moved to China to lower manufacturing costs and some to avoid unions in their home countries as well, are now being asked to meet a Sept. 30 deadline to make their offices and factories union shops.

Companies that do not comply risk being publicly vilified or blacklisted by the union, and perhaps penalized by the government, since businesses are required by law to allow unions to form.

Lawyers and analysts say that demands of the All China Federation of Trade Unions, the only union the Communist Party allows, could sharply alter business practices of foreign companies in China, including giving lower-level workers the power to bargain over anything from pay raises to whether a Chinese headquarters should be moved elsewhere in the country.

"This will dramatically change the landscape here," said Andreas Lauffs, a lawyer at Baker & McKenzie's Shanghai office who is an authority on China's labor laws. "At the very least, company management must now consult, and in many cases bargain, with employees and unions on a wide range of matters, whereas in the past they enjoyed almost unlimited autonomy."

The union push is coming at a time when global corporations are already facing rising labor and commodity costs in China, which is struggling to contain inflation.

Hundreds of big corporations, like Wal-Mart, McDonald's and Yum Brands, which operates KFC and Pizza Hut, have agreed to set up unions in their Chinese operations.

But union officials say that some nonmanufacturing companies are resisting. Microsoft's China operation did not respond this week to questions about the union drive. The consulting giant PricewaterhouseCoopers said that its workers were not unionized but that it was studying the matter.

Union officials say they are focusing on global companies, but Chinese companies make up the bulk of the manufacturing work force and they are also expected to face audits and pressure to unionize.

For years, Western labor activists have taken aim at China's manufacturing industry, exposing hundreds of exploitive factories that employ child labor, force workers to toil as many as 100 hours a week without overtime pay or benefits, and violate labor and safety rules.

And some of the world’s biggest brand names, like Wal-Mart, Disney and Adidas, have been singled out for using contractors that violate China’s labor laws. The companies have, in many cases, investigated the claims and fired contractors.

The new government pressure seems to be part of a sweeping effort aimed at addressing some of the ugly consequences of China’s dynamic economic growth, like rampant pollution, a growing income gap and widespread labor abuse.

Up until now, though, the state-controlled union has done little to agitate on behalf of workers, legal experts say, and has often done more to control workers than to benefit them. The union’s reputation for allowing abuses to exists has led some to doubt whether it can properly represent workers.

But the union, which says it already has 200 million members, is promising to truly represent workers, and is gaining standing with Communist Party leaders.

In 2004, the National People’s Congress, the state legislative body, carried out inspections of companies operating in China to ensure that they were following labor laws and had dues-paying union members. Union officials, using increasingly bold tactics, have zeroed in on the China operations of the 500 biggest global corporations, which would mean millions of new union members. The union says it intends to combat worker exploitation.

“Some foreign companies in China haven’t behaved well in dealing with their workers’ interests and rights,” Wang Ying, an official at the All China Federation of Trade Unions in Beijing, said in a telephone interview this week. “As the economy and society develops, China needs to improve workers’ legal rights and interests, which is a demand of a civilized society.”

Forming unions could be costly, lawyers and labor experts say, because a union could fight for higher wages and benefits and because companies are required to pay 2 percent payroll dues. The dues could amount to millions of dollars in additional costs for big companies. Yum Brands, for instance, has about 160,000 employees in China.

Manufacturers are already coping with soaring labor costs, which have jumped by 30 to 40 percent in some coastal manufacturing zones over the last four years. Also, a new contract labor law and stricter enforcement of older labor rules means some companies can no longer avoid paying overtime costs, which can be substantial because many factories insist that some employees work six days a week.

But whether unions can really protect workers and bargain collectively on their behalf is still in question.

“It all depends on how they are set up,” said Anita Chan, an authority on labor issues in China who is a visiting research fellow at the Australian National University in Canberra. “After you set up a union, these groups have to know how to become representatives of the workers, and really collectively bargain.”

Mr. Lauffs, the labor law expert, said it was too early to tell what impact new unions would have on companies here. But union members would need to be consulted on all employee-related and operational matters.

“Employees may have a say in major operational matters,” he said. “And employees may have the right to strike.”

Many big corporations in China that have recently allowed unions to form under pressure have declined to comment on the union drive. Some company spokesmen have admitted privately that they do not want to raise the ire of the state-controlled union or anger China’s political leaders, who are backing the effort.

But several big companies said they were working well with the union. Wal-Mart, which for years has fought against unions in the United States and elsewhere, now has unions operating in nearly all of its 108 stores in China.

“We have a good relationship working with the union,” said Jonathan Dong, a Wal-Mart spokesman in China. “The union provides a complement to what we do.”

The top executive in China at PricewaterhouseCoopers, Frank Lyn, said accounting and professional services firms like his could not be equated with manufacturers.

“We’ll continue to monitor the situation,” Mr. Lyn said. “At this juncture we don’t see a pressing need for a union.”

Ms. Wang, the official at the All China Federation of Trade Unions, said that by the end of September about 80 percent of the top 500 global corporations operating in China would have unions here. “We are making great progress,” she said.

Chen Yang contributed reporting.