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ISSUE BRIEF

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PROTECTING WORKERS' RIGHTS IN CHINA DURING THE CORONAVIRUS OUTBREAK

THE ISSUE

How should companies ensure workers' rights are protected during potential work stoppages and manufacturing delays in China?

BACKGROUND

The spread of the new coronavirus (2019-nCoV), first reported in Wuhan, China, in December 2019, has become a monumental global health concern. There are almost 25,000 confirmed cases in 25 countries as of February 5, 2020,¹ with more than 99 percent of the cases reported across China. As part of the Chinese Government's containment efforts, at least 15 cities are under some form of mobility or travel restriction that has impacted almost 50 million people.²

The Chinese Government has extended the official Chinese Lunar New Year holiday in order to curtail travel and the overall movement of people, in line with their virus containment strategy. Originally the holiday was scheduled to end on January 30. Currently, the official date for people to return to work in many provinces and cities in China is February 10, 2020, although that date may be further postponed by local or central authorities. Other areas like Hubei Province, which is the epicenter of the outbreak, are following stricter control measures, and people in those areas are not expected to return to work until February 14. In many places there is not only a restriction on coming in and out of the cities, but also restrictions on the use of public transportation.

POTENTIAL IMPLICATIONS FOR WORKERS AND SUPPLIERS

Workers in China may not be able to return to work immediately following the end of the Lunar New Year break, which means that the normal operations of factories may be impacted by both labor shortage and supply disruptions. Buyers and suppliers should be aware of, and seek to mitigate, the following potential risks that might arise as a result:

¹ <http://who.maps.arcgis.com/apps/opsdashboard/index.html#/c88e37cfc43b4ed3baf977d77e4a0667>

² <https://www.scmp.com/news/china/society/article/3048983/will-chinas-city-lockdowns-stop-spread-coronavirus>

1. Non-payment of wages to workers during this period;
2. Financial strain on suppliers in China;³ and
3. Manufacturing delays in third countries due to the interruption of shipments of raw materials from China.⁴

GOVERNMENT REGULATION

The Government of China has provided notice to employers in China on how they should treat workers in this situation. The Ministry of Human Resources and Social Security⁵ issued a notice titled, “Notice on Improving the Handling of Issues in Labor Relationships During the Period for Protection and Control of Pneumonia from the Novel Coronavirus Infection.” It clearly states that workers should not pay the financial price for business disruption. A link to both the Chinese original and an English translation (provided by China Law Translate) [can be found here](#).

In the notice, the Ministry provides specific advice for handling pay for workers:

“For employees who have or are suspected of having pneumonia from infection by the novel coronavirus, and those in close contact with it, during the period of isolation and treatment or medical observation, as well as those who are unable to work normally as a result of government quarantine measures or other emergency measures, **the enterprises shall pay their salaries for this period and must not end their labor contracts** on the basis of articles 40 and 41 of the Labor Contract Law. Where labor contracts are completed during this period, appropriately extend them until the completion of the employees’ medical treatment, medical observation, isolation period, or the completion of the emergency measures imposed by the government.”

The Ministry also specifies measures that can be taken by companies that need to pause production or where operations are halted or otherwise impacted:

“Where enterprises experience production and business difficulties due to the impact of the epidemic, they may consult with employees to reach an agreement on adjusting salaries, work rotations, reducing work hours, and other methods to maintain positions, avoiding or minimizing layoffs as much as possible. Eligible enterprises may receive subsidies for maintaining positions in accordance with regulations. Where enterprises stop production during a pay period, the enterprises should pay salaries as provided in the labor contract. Where it is for longer than a pay period, if employees provide normal labor, salaries paid by the enterprise must not be lower than the local minimum wage standard. Where professionals do not provide regular labor, the enterprises shall issue living allowances at a standard provided in the measures promulgated by provinces, autonomous regions and directly governed municipalities.”

³ <https://sourcingjournal.com/topics/sourcing/coronavirus-china-supply-chains-alvanon-fedex-aarete-ups-fedex-192923/>

⁴ https://www.just-style.com/news/coronavirus-could-impact-china-polyester-production_id138028.aspx

⁵ www.gov.cn/zhengce/zhengceku/2020-01/27/content_5472508.htm

RECOMMENDATIONS

1. Suppliers should follow the MOHRSS notice and continue to pay workers per the labor contract, even if work is suspended. Buyers should ensure their suppliers are meeting this requirement.
2. Buyers and suppliers should communicate with each other to understand whether changes or delays in production are expected. Given the enormity of the health crisis, buyers should strongly consider providing flexibility on delivery dates, payment terms, financial liability, etc. and continue to uphold responsible purchasing practices to mitigate negative impacts on suppliers and workers. Absent such flexibility, workers may not receive their legally owed compensation and may be retrenched without receiving their legally owed severance and benefits. According to the MOHRSS notice, employers may be eligible for “subsidies for maintaining positions in accordance with regulations.”
3. For buyers working with suppliers in third countries that rely on materials produced by factories in China, the same level of communication and flexibility afforded to suppliers in China should apply.

Working cooperatively with suppliers, particularly when they are experiencing difficulties beyond their control, is not only a matter of compliance but also a key component of responsible sourcing and social responsibility and leads to enhanced protection for workers. The FLA’s full guidelines on responsible sourcing can be found in the FLA’s Principles of Fair Labor and Responsible Sourcing, under Responsible Sourcing Practices.⁶

⁶ https://www.fairlabor.org/sites/default/files/principles_fair_labor_responsible_sourcing_february_2015_0.pdf

About the Fair Labor Association

The FLA is a multi-stakeholder organization combining the efforts of businesses, universities, and civil-society organizations to improve conditions for workers around the world. Occasionally, the FLA publishes briefs on current issues in the global supply chain. We intend for these briefs to provide an overview of the various perspectives on a given issue. At all times, the FLA expects its business affiliates to comply with all legal requirements, as well as the provisions of its Workplace Code of Conduct.