



Fair Play: For Fair Regulations of Toy Manufacture

An Industry at a Crossroads

Statement by German toy campaign, Aktion fair spielt, on the status of the ICTI CARE Process

Summary

In December 2011, the German Catholic Bishops' Relief Organization MISEREOR commissioned junior professor for Corporate Social Responsibility at Mannheim University, Professor Nick Lin-Hi, to conduct an evaluation of the ICTI CARE Process. The goal was to investigate what contribution the program makes and can potentially make to improve the work and social standards in Chinese toy manufacturing factories.

Overall, Professor Lin-Hi's study¹ confirmed previous assessments made by Aktion fair spielt in regard to the strengths and weaknesses of the ICTI CARE Process. As an industry-wide initiative, it is well placed to contribute to the improvement of working conditions in factories. However, this potential is not quite realized; in particular due to the lack of any effective incentives for the various toy companies to get involved². The main reason for its lack of binding nature, according to Professor Lin-Hi, is the lack of authority of the Date Certain Program. If the program's authority is not recognized by toy companies, the credibility of the ICTI CARE Process is undermined and may founder.

It is in view of the above that Aktion fair spielt sees the responsibility of not just the ICTI CARE Foundation but the whole industry to make use of the instruments the program provides to improve working conditions in toy manufacture and to do so in a consistent, internally binding, externally credible and generally effective man-

ner. Without this combined effort, the ICTI CARE Process will at best remain a well-intentioned initiative.

Aktion fair spielt and the ICTI CARE Process

Aktion fair spielt was founded in Hong Kong in 1999 by MISEREOR and their partner organizations. It stands for humane working conditions in the toy industry, in particular in the manner in which it calls for toy manufacturers and the toy retail to implement effective measures to apply national employment law and international social standards to their supply chain. Supporters of the campaign include the German Catholic Bishops' Relief Organization MISEREOR, the Catholic Women's Association of Germany (Katholische Frauengemeinschaft Deutschlands), the Catholic Workers' Movement of Germany (Katholische Arbeitnehmerbewegung Deutschlands), the Nuremberg Fair Toys Alliance (Nürnberger Bündnis Fair Toys) and the 'Werkstatt Ökonomie', which coordinates the campaign³.

The implementation of the ICTI CARE Process was begun in 2003. This industry-wide monitoring and certification program was intended to ensure that the International Council of Toy Industries' Code of Business Practices was being observed in toy factories, mainly in China. The Council founded an institute specifically to manage the program, the ICTI CARE Foundation⁴.

Aktion fair spielt immediately recognized the ICTI CARE Process as a suitable instrument to contribute to a noticeable improvement regarding working conditions. However, Aktion fair spielt believed and still maintains that certain prerequisites need to be fulfilled in order for the program to deliver its intended effect. Among these, Aktion fair spielt suggests quality assurance of audits by the introduction of unannounced spot checks, independent monitoring of the program by a supervisory board not made up entirely of industry insiders, including employees in the implementation of the ICTI code and, last but not least, the implementation of transparency for the consumer⁵. Aktion fair spielt has repeatedly appealed to those responsible at the ICTI CARE Foundation to implement these measures for improvement over the last few years in a critical/constructive dialog.⁶

Commitment to Dialog and Further Development

Two of the strengths of the ICTI CARE Process identified in the study were its readiness i) to further develop the program and ii) to engage in dialog with non-governmental organizations (NGOs). Aktion fair spielt shares this perspective and sees a connection between these two points. Many of the improvements made to the ICTI CARE Process are based on Aktion fair spielt suggestions, e.g. the implementation of the core labor standards of the International Labour Organization (ILO) in the ICTI code, the introduction of a complaint hotline, training measures for employees and the reworking of the CARE card. On the other hand, there are, as before, important demands and recommendations clearly made by Aktion fair spielt in the course of the dialog that have not been implemented by the ICTI CARE Foundation, such as increased transparency and integration of the supply chain.

Continuous Improvement Process

For a defined transitional period in 2009, the ICTI CARE Foundation decided to grant a phased-in approach in regard to de facto working hours in factories over a period of twelve months rather than the immediate implementation of the foundation's maximum (respectively legal) limits. Aktion fair spielt endorsed this decision, as it was a realistic and pragmatic approach to the problem. This approach provides opportunities but also poses serious risks. It will most likely encourage more factories to get involved in the ICTI CARE Process and it will reduce incentives for interference with audits. It is not yet possible, however, to gauge whether the hoped-for effect has actually been achieved. On the other hand, this pragmatic approach carries with it the danger that standards may gradually be lowered and end up mirroring the factories' (presumed) possibilities and expectations of the toy companies and the toy retail towards the flexible nature of their suppliers. The recently announced extension of the exemption clause⁷ suggests that the ICTI CARE Foundation has no real qualms about watering down its own demands.

Audit Validity

Aktion fair spielt acknowledges the measures mentioned in the study undertaken by the ICTI CARE Foundation in order to improve the validity of factory audits. To reduce the instances of interference, it has been decreed that all audits are conducted without warning, that the audits are no longer commissioned by the factory itself, rather they are offered to tender and scheduled by the ICTI CARE Foundation, and that the auditors are only informed of their allocated site very shortly before the audit is to commence.

However, there is no gauge as to whether these measures have contributed to improving the significance and validity of the audits. Systematic random sampling could provide indications (of whether the measures are effective). Aktion fair spielt has been calling for such random testing

for years. The monitoring of factories constitutes a centrally important goal for the ICTI CARE Process; therefore it is incomprehensible that the ICTI CARE Foundation has apparently no interest in collecting data to monitor their validity and to systematically evaluate it.

Involving Employees

Aktion fair spielt welcomes the measures implemented by the ICTI CARE Foundation in the interest of increased employee involvement, in particular the creation of a complaint system under the auspices of an NGO. These measures were meant to increase the employees' competence and room for maneuver to exercise their rights. Training programs for employees, such as the pilot program developed together with the German Society for International Cooperation (GIZ), preferably with substantial NGO involvement, should therefore become an integral part of the ICTI CARE Process.

Deficiencies Regarding Comprehensibility, Reliability and Availability of Information

Based on a precise analysis of the ICTI CARE Foundation's instruments of communication, Professor Lin-Hi concluded in his study that in regard to making information available, the ICTI CARE Process could do better. These failures in communication resulted in gaps in recipients' knowledge or simply experiencing difficulty in understanding the information provided. The actual availability of information was deficient as well as the comprehensibility and reliability of that information. Aktion fair spielt has, in the past, always selectively highlighted these discrepancies, in particular regarding the unclear 'Date Certain' standards for companies. Most recently, it found occasion to criticize the fact that the ICTI CARE Foundation neither collects indicators to test the effectiveness of the ICTI CARE Process nor publishes any. That also includes processed information regarding those violations detected in the audits.

Should Factories Bear Sole Responsibility?

Aktion fair spielt agrees completely with Professor Lin-Hi's criticism of the ICTI CARE Process's approach that the responsibility for the guarantee of more reasonable working and social standards lies solely with the factories. The fact that the toy companies or toy retail can, due to their purchasing practices, significantly influence whether overtime is reduced or minimum wage is paid or not has been ignored in the ICTI CARE Process's logic and corresponding standards are missing. Similarly, effective integration of the national industry associations is lacking even though these associations have been allocated concrete tasks by the ICTI CARE Process. These tasks included the communication between companies and the ICTI CARE Foundation and restricting association membership to those companies that participate in the ICTI CARE Process. Aktion fair spielt has called for action in this area many times before.

Supply Chain Left by the Wayside

Aktion fair spielt views the opaqueness of the supply chain as one of the major discrepancies of the ICTI CARE Process. Professor Lin-Hi's study supports this view. Subcontractors of certified factories are not systematically included in the monitoring and certification system. Factories are formally obliged to ensure that their subcontractors observe the Code of Business Practices, however, not even that is monitored.

By not integrating the chain of supply, factories can easily circumvent the ICTI CARE Process and outsource parts of their production to so-called 'shadow factories'. Aktion fair spielt urgently calls once more upon the ICTI CARE Foundation for factories applying for certification to be obliged to reveal details of all their subcontractors to the ICTI CARE Foundation, and that those subcontractors be gradually integrated into the ICTI CARE Process.

ICTI CARE Process Credibility

Aktion fair spielt is of the opinion that the most serious flaw in the ICTI CARE Process is the non-binding nature of the Date Certain Program, which, according to the study, has an 'insufficient binding effect for the toy companies, resulting in a lack of motivation to act'. The lack of transparency, lack of monitoring and the non-implementation of sanctions were among the reasons given. This means: whether and to what extent companies that have committed to the ICTI CARE Process are willing to conduct their purchasing solely with certified suppliers is neither monitored nor published by the ICTI CARE Foundation and there are no repercussions for the companies in question.

The study correctly highlights the fact that the current practice of the Date Certain Program serves not only as a demotivating influence on factories, thereby undermining the ICTI CARE Process's effectiveness, but also undermines its credibility and public appreciation.

Effective contribution by the ICTI CARE Process to significantly improving working conditions is therefore, in Aktion fair spielt's view, dependent on the introduction of a greater binding character to the Date Certain Program. Only when the ICTI CARE Process itself constitutes a sustained incentive for companies to participate, can the collective commitment to it have the desired effect.

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¹ Lin-Hi, Nick (2012): Study of the International Council of Toy Industries (ICTI CARE Process, University of Mannheim / Bishops' Relief Organization MISEREOR: Mannheim / Aachen, November 2012

² As in the study, Chinese production plants are referred to as 'toy factories' and the as 'toy companies'

³ cf. Aktion fair spielt website at <http://www.fair-spielt.de>

⁴ cf. ICTI CARE Process at <http://www.icti-care.org>

⁵ cf. Aktion fair spielt press release of February 3, 2006

⁶ cf. for more detail documented correspondence between the ICTI CARE Foundation and Aktion fair spielt: http://www.woek.de/web/cms/front_content.php?idcat=35&idart=2269

⁷ In factories with a Class A certificate, working weeks may be no longer than 66 hours at the most; for a maximum of 9 weeks a year, an exception may be made and the working week extended to 72 hours. In April 2012, the exception was extended to 12 weeks. Since then, at factories with a Class B certification, 3 working weeks of even more than 72 hours are permissible.