



This article is an excerpt of the book “**Financial, Administrative and Trade Management in China: A crash course for executives for a successful and compliant business operation**”, available e.g. on [Amazon Kindle](#), [Google Play](#) and [Apple Books](#).

9.2. Democratic Principles: Company representatives and Trade Union

Introduction

Several laws and regulations, e.g. the national trade union law and additional local laws, describe the democratic principles within a company. They are to ensure that for certain kinds of decisions and processes the employees are to be involved in a company and that the company management cannot make certain decisions without consulting or including the employees in decision processes. Not following these laws raise the risks, especially but not only during labor disputes. While trade unions in China in practice do not always execute a similar power as in the western world, e.g. regarding collective bargaining, their importance should not be underestimated.

Functions of Company representatives

For certain measures that have an impact on all employees, either all staff members have to be asked for approval or the company representative assembly can be used, in which a limited amount of staff represents the full body of staff, for example

- To approve the implementation or change of company rules and guidelines like the employee handbook;
- To elect or re-elect the trade union.

To ensure that the representative assembly is not only representative by name, during its implementation different criteria must be fulfilled and the members must be chosen so that quotas in different areas are fulfilled, e.g. the representatives must have a similar share of

- Male vs. Female;
- Age groups;
- Departments or functions, e.g. Production Employees, Non-Management Office Employees, Management-Employees.

as the company staff itself. Around 25-30% of the staff should be elected as company representatives.

Trade Union Organization, funding, functions and members

As many other official organizations in China, trade unions are organized in a hierarchical network with the All-China Federation of Trade Unions as leading organization on top of local and regional trade union federations on provincial, municipal, county- and rural township-/urban-district-levels.

The main funding of Trade Unions comes from the enterprises itself: If a trade union exists, the company has to pay a certain percentage of the total salaries and wages towards the regional union organization or government authorities which then forwards parts of these funds back to the trade union within the company.

In many companies a trade union has been established which - according to the “Trade Union Law” - shall represent the interests of the employees within a company. The role of this trade union depends mostly on their members, the setup but can also be strongly influenced by the company culture itself: Some trade unions are more a vehicle to finance additional benefits for employees without much influence on other topics; Others do have a significant influence on company policies. No matter how the trade union matters fulfill their role, the trade union has a variety of rights and possible functions and the involvement should be considered in all relevant cases, for example regarding:

- Implementation and changes of company regulations and policy related to staff;
- Cancellation of a working contract with an employee;
- Company restructuring;
- Optionally some welfare functions, e.g. organizing company trips and activities for employees or giving gifts around important holidays or in certain occasions like birthdays.

Trade Unions in China do not enable the members to go on strike. Also, the Chinese communist party plays an important role and some people even see trade unions in western enterprises as a vehicle to prevent a too strong “westernization” of the employees.

Trade Union Establishment process

As always, the union establishment process might differ according to the region. The local trade union organization might be helpful though to support you in the establishment of your company’s trade union. The general process should look like this:

1. Apply for the establishment of a trade union organization and wait for its approval;
2. Create an internal working group to guide the process. Be aware, that working group members might be excluded from being elected into official functions;
3. Let the employees join the trade union and create a list of its members;
4. Select employee representatives according to criteria mentioned above to have representatives from all departments, genders and age groups;



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5. Hold the representative assembly and elect the trade union committee;
6. Hold the first meeting of the trade union committee.

Functions in the committee

Some functions within the trade union have to be elected while others can be optional. While these might vary with local regulations, in my experience the following positions had to be elected – while there were still some restrictions on the qualification or position in place:

- Chairman of the work union (工会主席): General Manager, Deputy general manager, the responsible HR manager and the spouses or close relatives to these people could not be elected for this position.
- Audit Director (精神主任): In order to check the bookkeeping of the trade union, this person must have some financial knowledge. At the same time, it cannot be someone from the finance department who is involved in the bookkeeping of the union.
- Women committee director (女工主任).

Other (optional) functions that can be elected, for example:

- Law and regulations supervision committee (法律法规监督委员);
- Labor dispute mediation committee (劳动争议调解委员);
- Labor protection inspection and inspection committee (劳动保护监察检查委员).

The Members for Union Representatives need to be approved by the local branch of the communist party of China. The terms of office for the committee shall be three to five years. During this period, members of the committee enjoy special protection, e.g. their position cannot be changed arbitrarily.

Common observances

- The involvement of the democratic organs within a company can be handled extremely different in different companies. For changes of important company rules like the employee handbook, some companies prefer to let every single employee sign an updated version while other companies use the employee representatives to get the approval for the changes. Nevertheless, most companies seem to follow these democratic processes to fulfill the legal requirements but still try to keep the involvement of the employees low.

- Often the employees or the members of the democratic organs are not aware of their actual power and follow whatever the company management tells them. This should not be considered as a given fact though: When they get aware of their power, their behavior might start to change. External stimuli, e.g. when being questioned during an involvement in a labor dispute by the labor arbitration office, can have surprising legal effects.
- Again, depending on the strength and independence of the trade union and the representative meeting, the company and project team might have a tremendous influence on the elections of staff into these bodies. If the union is not vigilant, during the next round of elections the company can try to direct the elections to weaker employees.
- Some companies use trade unions to finance welfare for their employees that would otherwise be non-deductible from the corporate income tax or that might be complicated to realize in the usual financial processes since the company's trade union funds are separate of the company's funds.