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Commission
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“The Memoranda of Understanding Between the United States and China
Regarding Prison Labor Products”

Members of the Commission and Staff, I would like to thank you for this opportunity to discuss the United States’ Relationship with the Peoples Republic of China as it relates to the Importation of Forced Labor Products. My view reflects the experiences of an American Importer of Ceramic Products with first-hand, day-to-day knowledge of the ceramic industry in China and as a part owner in two ceramic factories in China. Additionally, I frequently travel to the manufacturing facilities in China to address issues related to the production and importation of ceramic products into the United States. Specific to this Hearing, I have knowledge relating to the importation of ceramic coffee mugs that were made in whole or part with prison labor.

G.G. Marck & Associates, Inc. (“Marck”) was founded in 1986 to provide products to the drinkware decorating industry, mainly sold as promotional products. Marck has offices and warehouses in Toledo, Ohio and Mira Loma, California. Marck is a leading wholesaler of ceramic, glass, stainless steel and plastic products to the drinkware decorating industry in the USA, with over 2000 customers. Marck sources products domestically as well as imports from China, India, Thailand, Taiwan, Columbia, Turkey and France. In 2004, in an effort to avoid its loss of its source of ceramic products, Marck bought a minority interest in two Chinese ceramic factories.

During this hearing, I would like to highlight the difficulties faced by U.S. Companies that comply with the laws of the United States by importing products from factories that do not use forced or prison labor in the production of their products. Many foreign exporters and some U.S. importers ignore U.S. laws to gain a competitive advantage, albeit an unlawful one. The law abiding companies must choose to exit the business because the price in which the product is sold cannot be matched by lawful

means or join in the unlawful importation of products from prison factories. Additionally the Chinese and American agencies responsible for enforcing the laws and regulations have not taken adequate measures to ensure that all competitors have met those laws and regulations. Ultimately, without the assistance and intervention of the responsible Chinese and U.S. governmental agencies, law abiding companies both in the U.S. and in China will continue to go out of business and cease to exist. The loss of these law abiding companies impacts the United States through its loss of tax revenue and American workers because of the loss of jobs.

Marck has knowledge, from a variety of sources, including eyewitness evidence, that ceramic coffee mugs produced at the Luzhong Prison of Shandong Province (“Luzhong”) are being exported to the U.S. Since it is against Chinese Laws for prison made goods to be exported, the goods made at Luzhong need to be exported by another company. The Shandong Zibo Maolong Ceramic Factory (“Maolong”) is the “front” for Luzhong. Details of our investigations have been provided to the Commission.

There are two separate prison camps for Luzhong. One is for hard core, long term prisoners and the other is what is referred to as a Re-education thru Labor Facility (RTL). It may be semantics, but the Chinese do not call this a prison. It is a Re-Education through Labor Facility that houses political and other petty criminals that are rehabilitated through work. It is this RTL facility that makes the coffee mugs.

Maolong is a small facility just outside the main gate of Luzhong. It has limited capacity to manufacture mugs. I do not believe it has ever made mugs. It is the “front” company used by Luzhong to export its mugs to the U.S. In order to get those goods to the U.S. there has to be an importer. A number of U.S. importers are importing mugs made at Luzhong and exported by Maolong. Most of these importers are aware of the Luzhong-Maolong relationship but chose to ignore the fact that prison labor was used to make their mugs because of the price advantage they receive.

This relationship unlawfully benefits the three parties involved. Maolong makes profit from the exports of the Luzhong mugs. Shandong Province benefits as they make profits from the prison (RTL). Lastly the U.S. importers that purchase the mugs from Maolong benefit from the low cost prison made mugs.

The losers are the Chinese and U.S. companies that compete with these prison made goods, ultimately causing the loss of jobs. China also loses as the prisons do not pay taxes as do the voluntary labor ceramic factories, so once Maolong drives all the other ceramic factories in China out of business they will have no tax income. Each year the number of viable manufacturing facilities decline because they can't sell their product at the same price as the prison made product and still remain profitable. Finally, the United States loses tax revenue directly related to the closing of businesses that can't compete with prison made goods.

It is Marck's belief that by increasing agency and private parties remedies available, there will be a significant increase in the effective enforcement of existing laws and regulations prohibiting the entry of prison made goods into the U.S. market. Marck submitted suggestions and concerns to this Commission on March 18, 2008 in a written statement about "China's Expanding Global Influence: Foreign Policy Goals, Practices and Tools", a copy has been provided. Additionally Marck appeared before the International Trade Commission's Investigation; "China: Government Policies Affecting U.S. Trade in Selected Sectors" testifying to the effects of prison labor on its business and how importation of prison made goods amounts to an unlawful government subsidy.

Marck strongly favors the recommendations made by this Commission in its May 3, 2002 letter to the Senate Finance Committee, suggesting that enforcement would be significantly enhanced by:

- 1) Requiring the importer of record to certify that goods were not made by prison labor;
- 2) By blocking imports from facilities where inspections by U.S. Customs (CBP) were not allowed within 60 days of the request to inspect;
- 3) By maintaining a list of suspected companies to make available to U.S. importers so they could avoid importing products from those companies; and
- 4) Requiring that bond be posted if a suspected company is used.

Additionally Marck would suggest the following:

- 1) Give domestic companies the ability to enforce the prohibition on importation of prison or forced labor goods into the United States.
- 2) Require that the Name of the Factory that produced the product be on Customs Paperwork. Currently a Trading Company can be listed as the Exporter and there is no way to know where the products were actually produced.
- 3) If the importer of record's certification is challenged, shift the burden of proof to the importer to demonstrate that the factory producing the product was not using forced labor in the production of the product and require it to assist in any inspection of the manufacturing facility by an independent monitoring agency.

Without swift and clear action by the United States Congress, American companies will continue to go out of business and American workers will continue to lose their jobs.

Thank you again for this opportunity and I look forward to answering any of your questions.