

**Testimony of Harry Wu  
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**Before the U.S.-China Economic and Security Review Commission  
Hearing on “The Memorandum of Understanding Between the United States and China  
Regarding Prison Labor Products”**

**June 19, 2008**

Chairman Wortzel, Commissioner Videnieks, and other esteemed members of the Commission, thank you for inviting me to participate in this hearing today on a critical issue that has gone overlooked by so many in our government. My name is Harry Wu, and I am the Executive Director of the Laogai Research Foundation. The Foundation’s mission is to document and expose the truth about the Laogai, China’s extensive system of forced-labor prison camps, as well as other systemic human rights abuses committed in China. Having spent 19 years myself in the Laogai as a political prisoner, I have a very strong personal interest in the issue of Chinese prison labor, and am very pleased to be able to offer you my insight into this matter.

It has been sixteen years since the government of the United States committed itself to ensuring compliance with its own trade law with respect the People’s Republic of China (PRC). A Memorandum of Understanding (MOU), signed in 1992, and a Statement of Cooperation (SOC), signed in 1994, were intended to provide the United States government with the tools it needs to guarantee that products made by prison or other forced labor were not being imported into the United States from the PRC, in accordance with Section 307 of the Tariff Act of 1930 (10 U.S.C. S § 1307), which prohibits the importation of any goods made by prison labor into the United States. Unfortunately, in my opinion, these bilateral agreements have done little to uphold United States law or to promote the respect of human rights as a key element of U.S. foreign policy. Rather, they have only served to provide the PRC with diplomatic cover that it can use to defend itself in the face of criticism regarding the export of prison labor products.

The MOU and the SOC establish agreed upon procedures for the United States to investigate allegations that such products have been imported into the country from the PRC. Since the beginning of the fiscal year 2005, the task of investigating and enforcing laws and regulations prohibiting the importation of forced labor products into the United States has fallen under the jurisdiction of U.S. Immigration and Customs Enforcement (ICE). ICE can request the PRC investigate prison labor allegations pertaining to exports to the United States, and it can request for U.S. Embassy officials to visit prisons alleged to produce goods for export in order to verify that any such goods are being exported to the United States. As of 2005 there were three officers assigned to the ICE Attaché, Beijing, who were charged with conducting such investigations.

It is the duty of U.S. Customs and Border Protection (CBP) to issue enforcement actions regarding suspected importations of prison labor products. The CBP can enter Withhold Release Orders (WROs), more commonly referred to as detention orders, when there is information available that reasonably, but not conclusively, indicates that imported merchandise has been produced with forced or indentured labor. Subsequently, if an investigation concludes that there is probable cause that a class of merchandise, originating from a particular manufacturer, facility,

or distributor, is produced with forced or indentured labor, the CBP may issue a “finding”, and entry of said merchandise is denied.

In recent years, my staff has had difficulty in obtaining information on U.S. Customs’ various investigation and enforcement activities directed at the PRC, but the information that we do have is disappointing. According to a 2005 Annual Report issued by the Task Force on the Prohibition of Products of Forced or Prison Labor from the People’s Republic of China, which is currently chaired by the U.S. Department of Homeland Security (DHS), between 1996 and 2002, the Chinese Ministry of Justice granted just 3 of 18 prison site visit requests from the Customs Attaché in Beijing. The report notes that bilateral cooperation increased in the period between October 2003 and April 2005, with U.S. Embassy officials conducting four prison site visits. Yet the report also states that since October 2003, the date of the previous report, the United States had received no new information or allegations regarding the use of prison labor in the PRC, had not opened any new investigations into the importation of goods allegedly made with prohibited Chinese prison labor, had made no new requests to conduct prison site visits, and had not issued any new Orders or Findings pertaining to Chinese prison labor products. It is clear then, that all of investigations conducted during this period of increased cooperation were relying on information that was at least several years out of date.

For example, the most recent investigation that was included in the report is a site visit in April 2005 conducted at the Fuyang General Machinery Factory. U.S. Embassy officials had first requested to visit this site in 1995, ten years earlier! Surely, site visits conducted a decade after information suggesting a violation had occurred was first received, and negotiated with Chinese authorities well in advance of the actual date of the visit, cannot be expected to yield any meaningful information that could be used to make a determination with respect to the allegations. Not surprisingly, no evidence of exports to the United States of products manufactured with prison labor was found during any of the prison site visits, and as a result, all the cases were closed. Moreover, at the time of that report, there were 15 outstanding visit requests that had not been granted, with the dates of the initial requests ranging from 1992 to 2002. These remained as open cases.

Since its founding in 1992, the Laogai Research Foundation has attempted to monitor the state of affairs in China’s Laogai facilities, including the scope of their economic activity. “Laogai” literally means “reform through labor”, and although the PRC stopped using the word internally more than a decade ago, the evidence that my Foundation has gathered suggests that forced labor is as much a part of its prison system today as it ever was. This includes the Laojiao (“reeducation through labor”), which is a form of administrative rather than judicial detention, where dissidents, petty criminals, and vagrants can be imprisoned for several years without a trial or any other legal proceedings. A *Laogai Handbook*, published regularly by my Foundation, catalogs the more than 1,000 Laogai camps that the Foundation has been able to identify. Most of these camps operate under at least two names: a prison name used internally for administrative purposes and a commercial enterprise name used externally to market and sell the products produced by the prison labor.

Recently, the Laogai Research Foundation conducted a research project to assess the degree to which products made within the Laogai were exported by China. My staff compared

information contained within our own *2005-2006 Laogai Handbook* (Handbook) and two online Dun & Bradstreet (D&B) databases. D&B claims to be the “world’s leading source of commercial information and insight on businesses.” It says of its database: “Our global commercial database contains more than 125 million business records....This quality information is the foundation of our global solutions that customers rely on to make critical business decisions.” Essentially, D&B gathers information on businesses throughout the world enabling companies to check on one another before conducting transactions requiring one company to extend credit to the other. The staff searched each camp in the Handbook by both its name and address in two D&B online databases to determine if any of the Laogai camps might have listings with D&B. The results are summarized in a report that I have brought with me today (see Attachment). Only the results which revealed an address match or contained the word “Prison” were included in the final listing, so as to maintain a high level of confidence in the results of the project.

The main findings of this report are as follows:

1. A total of 314 separate entries were found for Laogai camps in D&B databases.
2. The 314 entries in the D&B databases represent 256 different Laogai camps or approximately 25% of the total number of Laogai camps identified as of 2006.
3. A total of 65 entries in the D&B databases contain the word “Prison” in the name.
4. The 314 entries in the D&B databases cover Laogai camps in 28 of 31 province level divisions (including provinces, municipalities, and autonomous regions in mainland China only).
5. The 314 entries for Laogai camps found in the D&B databases represent 72 different products (specific) and/or product categories (broad).

The Laogai camps identified in the D&B database most likely represent a small fraction of those which are actively engaged in commercial trade, both in domestic and international markets. I have no doubt that many of the products produced by these labor camps are finding their way into the U.S. market, despite the prohibition of importing such products under United States law. Given the emphasis, however, that U.S. and PRC officials have placed on the MOU as a means to prevent the importation of these products into the United States, these figures are highly disturbing. Perhaps, if anything, the MOU has caused the importation of prison labor products from the PRC to be driven underground. For the supply chain that originates at these labor camps no doubt involves a number of “middle men”, including contractors and trading companies. It is clear though, that U.S. Customs officials have not been able to identify the bulk of prison labor products entering into the United States from China, and furthermore, that an insufficient effort has been made in this regard.

I ask that this Commission remind our government, that progress in this matter should not be treated as a political issue but as a legal issue. The law is clear in this matter: products produced by prison labor are prohibited from being imported into the United States, regardless of the ramifications that enforcement of the prohibition may have on relations with other countries. We know that products made by prison labor are entering our country from China. We may not be able to comprehensively list each of these products, but that does not change the very obvious indications that they exist. As long as the United States is unable to adequately enforce its trade law with respect to the PRC, and the PRC is unwilling to cease exporting products made by

prison labor in order to finance the Laogai and enable its ongoing violation of human rights, then it is my opinion that the United States government should seriously consider banning categories of products known to be made in the Laogai. While such a move would necessarily hurt legitimate makers, it would put pressure on the Chinese government to end the export of prison products. As a first step, I recommend that the MOU between the United States and the PRC be revoked, as it has proven to be totally ineffective in providing enforcement of United States law.