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Prison Labor Exports from China and Implications for U.S. Policy

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Executive Summary

Since the Commission's examination in 2008 of prison labor issues in the People's Republic of China (PRC), there has been little substantive reduction in the scale and scope of China's broad network of prison labor facilities. These facilities, led by local officials, continue to produce goods intended for export, including online goods and services,[*] on a potentially large scale, in violation of U.S.-China agreements on the exports of prison labor goods to the United States. Further, it is unclear whether the recent abolition of "reeducation through labor" (RTL)[†] and reported release of up to tens of thousands of prisoners will have a significant impact on the prison labor system and export of prison labor products.

Although U.S. representatives in Beijing have continued to engage with their Chinese counterparts regarding suspected prison manufacturing facilities, the pattern of long delays and minimal cooperation by officials in the PRC Ministry of Prisons persists. Allegations of prison labor exports from China to the United States and other countries continue to surface, raising legitimate doubts regarding the effectiveness of current enforcement mechanisms.

The Commission's Definition of "Prison Labor"

The Chinese government in general adopts the position that RTL facilities (as well as other institutions for non-judicially imposed confinement) are distinct from "prisons."[1] In its *2008 Annual Report to Congress*, the Commission rejected this position:

> *The Commission believes that issues related to "prison labor" must be considered within the broader context of government-administered facilities in China in which detainees perform forced labor under penal conditions, regardless of whether such facilities are officially designated as ''prisons'' by the Chinese government. Therefore, the Commission has adopted this broader interpretation of forced labor under penal conditions as equating to ''prison labor'' for its consideration of issues related to alleged prison labor imports into the United States.*

The Commission's interpretation is supported by existing U.S. law and legal precedent.[‡] Using the Commission's 2008 definition of prison labor, this staff report considers all forced labor detention facilities in China – to include RTL sites – to be prison labor facilities.[2]

[*] Such goods and services reportedly include the video game market where "gold farming" results in the potential sale or purchase of characters or commodities that Chinese prisoners have been forced to play and accrue increased value within the game. See more information on p. 8 of this report.

[†] The "reeducation through labor" program is an extrajudicial mechanism whereby local authorities may detain citizens for several years without trial. Xinhua (English edition), "China to Abolish Reeducation Through Labor," November 15, 2013. *http://news.xinhuanet.com/english/china/2013-11/15/c_132891921.htm*.

[‡] Text from the Tariff Act of 1930 emphasizes that *forced labor* is central to the law's intent: "'Forced labor,' as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily." Tariff Act of 1930, 19 U.S. Code 19 § 1307, "Convict-Made Goods; Importation Prohibited." *http://www.law.cornell.edu/uscode/text/19/1307*. In 1994, the U.S. Court of International Trade ruled that China's reeducation through labor facilities were "forced labor institutions," and that goods produced by such facilities were subject to the provisions of 19 U.S. Code 19 § 1307. U.S. Court of International Trade, ruling in the case of China Diesel Imports, Inc. v. United States (court no. 92-10-00696), December 7, 1994. *http://www.leagle.com/decision/19941217870FSupp347_11143*.

The Scope and Role of China's Prison Labor System

China's network of penal forced labor facilities,[*] established in the early years of the Chinese Communist Party (CCP) government to hold both criminals and political dissidents, remains in operation today.[3] Over time, the system has served many roles, including as a means for criminal punishment and rehabilitation, economic production, and political repression.[4]

A complete and rigorous analysis of the scope and role of China's prison labor system is difficult to conduct because the Chinese government classifies most information related to the prison system as a state secret, including its size and details of its operations.[5] Additionally, available anecdotal information is fragmented or poorly corroborated. In at least one known instance, Beijing arrested a naturalized U.S. citizen raised in China and charged him with espionage for gathering information on prison labor camps.[†] Analysis is further complicated by the distinction generally drawn by the Chinese government between "prison" facilities and RTL facilities (see Table 1), and it is unclear the extent to which forced labor is incorporated into China's prison system at large.

Table 1: Categories of Detention in the People's Republic of China

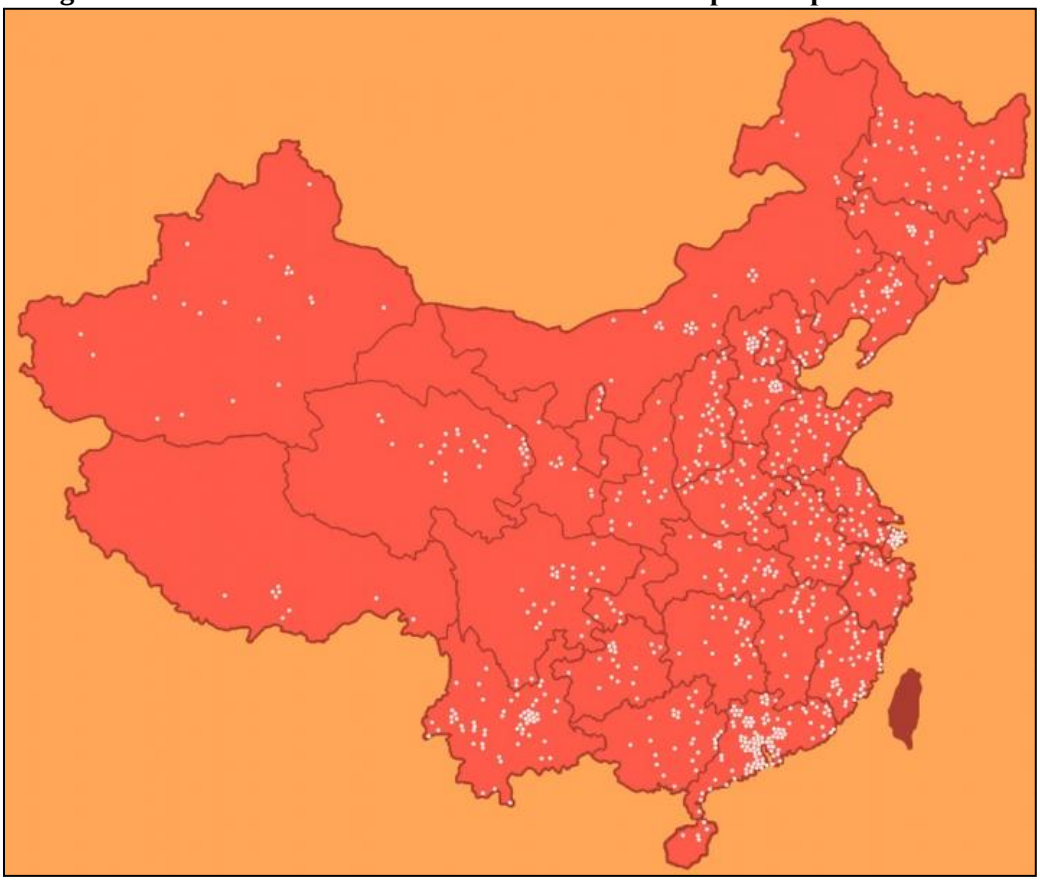
Criminal Sentences *(imposed by a court)*	**Administrative Detentions** *(imposed by police officials, with no legal due process required)*	**Extralegal Forms of Detention** *(no basis under PRC law)*
"Reform Through Labor" A formal sentence to confinement in a prison farm or factory. The Chinese government officially dropped this term, but it remains in widespread usage, and the practice continues.[6]	**"Reeducation Through Labor" (RTL)** A system of sentencing for up to three years (with possible extension for a fourth year) officially intended as a means to rehabilitate petty criminal offenders (e.g., thieves, drug abusers, sex workers). However, it has also been employed against political dissidents and petitioners seeking redress for grievances.[7] **"Forced Job Placement"** A system in which inmates who have completed their sentences may be forced to reside and work in or near their place of confinement, with continued restrictions on their personal liberty.[8] **"Custody and Education"** A sanction by which sex workers and their clients may be imprisoned for up to two years.[9] **"Custody and Rehabilitation"** A sanction by which juvenile offenders (under the age of 16) may be imprisoned for up to three years.[10]	**"Double Regulation"** A system by which Communist Party officials (often, but not necessarily, under investigation for corruption) may be confined *incommunicado* in secret locations for interrogation.[11] **"Soft Detention"** The practice of imposing de facto house arrest on dissidents, rights activists, and others who threaten "social stability."[12] **"Black Jails"** An unofficial system of unlicensed confinement facilities used by local officials primarily to detain petitioners seeking redress of grievances.[13] **"Psychiatric Confinement"** The practice by many local officials of ordering petitioners and others who "disturb social order" to be confined in mental hospitals.[14]

[*] This penal system of forced labor is also known as the "laogai" system.

[†] In June 1995, Hongda "Harry" Wu, a naturalized U.S. citizen, was arrested by PRC authorities in the vicinity of Wuhan (Hubei Province) for secretly gathering photos, film, and other documentation of prison camp facilities. He was later released with the assistance of U.S. diplomatic personnel. Seth Faison, "China Keeps Up Criticism as U.S. Welcomes Dissident," *New York Times,* August 26, 1995. *http://www.nytimes.com/1995/08/26/world/china-keeps-up-criticism-as-us-welcomes-dissident.html*.

Working from the limited information available, analysts produce a broad range of assessments regarding the system's total size. For example, a 2013 report published by the U.S. Department of State (DoS) estimates China has 681 prisons, holding 1.64 million inmates,[15] while the non-profit Laogai Research Foundation identifies approximately 1,400 forced labor facilities of all types in China,[16] with an estimated prisoner population of over 3 million persons (see Figure 1).[17] Referring specifically to RTL detention sites, the official website of the Bureau of Reeducation Through Labor Administration under the Ministry of Justice published a rare article in 2011 stating that, as of late 2008, China held 160,000 prisoners in 350 RTL facilities nationwide.[18] However, other sources estimate the total number of RTL prisoners in 2013 to be 260,000.[19] Although precise data is unavailable, it is clear China's prison labor system is massive in scale.

Figure 1: Forced Labor Detention Facilities in the People's Republic of China



Source: Laogai Research Foundation, "What Is The Laogai System?" *http://www.laogai.org/page/what-laogai-system*.

The Economic Role of the Prison Labor System

Since its inception, Chinese officials have viewed the prison labor system as an important source of economic production. In the 1980s, then paramount leader Deng Xiaoping emphasized the economic role of China's prison labor facilities, encouraging them to develop commercial enterprises – including export-oriented enterprises – to be financially self-supporting.[20] Because prisons serve a dual role as both correctional facilities and economic production centers, nearly every forced labor facility in China operates under the dual identity of its prison name as well as its commercial name.[21] For example, the

"Yunnan No. 1 Prison" is also known as "Jinma Diesel Engine Plant."[*] Under the latter identity, such companies were once designated by the government as "special state-run enterprises."[22][†] Profitable prison companies help to fund the operations of both local and national government. Prison labor enterprises producing high-tech goods such as semiconductors and optical instruments are the most profitable, each earning an estimated annual revenue of tens of millions of USD and paying hundreds of thousands of USD annually in taxes to the Chinese government.[23]

Unpaid labor has historically underpinned the profitability of China's prisons. According to the 2012 *Trafficking in Persons Report* from DoS, "[t]he [PRC] government reportedly profits from [the use of] forced labor. Many prisoners and detainees in 'reeducation through labor' facilities [are] required to work, often with no remuneration." In addition to operating spinoff commercial enterprises, many prisons function as subcontractors for Chinese firms. DoS has noted cases in which "detainees were forced to work up to 18 hours a day without pay for private companies working in partnership with Chinese authorities" and "were beaten for failing to complete work quotas."[24]

"Reeducation Through Labor" as a Tool of Political Repression

Most prisoners held in China's prison labor facilities are detained for non-political criminal offenses, though a significant minority are political prisoners in prisons, RTL facilities, as well as "black jails," mental institutions, and other forms of arbitrary detention. According to some estimates, China detains between 5,000 and 26,000 prisoners annually for political reasons.[25]

In particular, Chinese authorities have employed RTL as an extrajudicial tool to suppress ethnic and religious groups it views as subversive. According to one former prisoner, the Masanjia RTL facility, discussed later in this report, holds approximately 470 prisoners divided into three brigades, with one brigade reserved for members of Falun Gong, a spiritual movement banned in China. Accounts from other prisoners indicate approximately half the inmates held at Masanjia[‡] were members of either Falun Gong or unregistered Christian churches.[26] Sentencing to RTL has also has been levied against Uighurs and Tibetans for allegedly petitioning the government or leading protests.[27] According to the DoS's 2013 *Trafficking in Persons Report*, Chinese prison labor facilities continue to hold many political prisoners, including rights activists, relatives of Uighur activists, labor activists, a Roman Catholic bishop, and a Tibetan Buddhist monk.[28]

PRC Compliance with U.S.-China Prison Labor Export Agreements

U.S. law prohibits the importation of goods produced "wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions."[§] As U.S. trade with China expanded dramatically in the 1980s and 1990s, so did concern in Congress regarding the importation into

[*] In 1991, the U.S. Commissioner of Customs issued a detention order for diesel engines manufactured by the "Golden Horse (Jinma) Diesel Factory" (Yunnan No. 1 Prison), on the grounds that their importation violated Section 307 of the Tariff Act of 1930. U.S. Customs and Border Protection, *Convict, Forced, or Indentured Labor Product Importations*. *http://www.cbp.gov/trade/trade-community/programs-outreach/convict-importations.*

[†] The Chinese government formerly identified prison production facilities as "special state-run enterprises" in published reference materials but ceased this practice in 1990 – likely as a result of foreign criticisms of its forced labor system. U.S. General Accounting Office, "Implementation of the 1992 Prison Labor Memorandum of Understanding," April 1995, p. 10. *http://archive.gao.gov/t2pbat1/153806.pdf*.

[‡] See more information on the Masanjia case on p. 9 of this report.

[§] The law in question is the Tariff Act of 1930, 19 U.S. Code 19 § 1307, "Convict-Made Goods; Importation Prohibited." See Appendix 1 of this report for further discussion on U.S. law pertaining to the importation of prison labor products.

the United States of goods purportedly produced through prison labor in China.[*] This concern was raised in debates surrounding China's entry into the World Trade Organization (WTO) as well as the granting of permanent most-favored nation (MFN) trading status to China.[†]

To address Congressional concerns and smooth the way for China's ascension to the WTO, the U.S. and China produced two bilateral diplomatic agreements: a 1992 "Memorandum of Understanding" (MOU) that laid out general principles for stopping bilateral trade in prison labor goods; and a 1994 "Statement of Cooperation" (SOC) that established more specific procedures for site inspections at prison labor facilities suspected of producing goods for export.[‡]

As part of its legislative mandate, the U.S.-China Economic and Security Review Commission is tasked by Congress to assess and report on "the degree of non-compliance by the People's Republic of China with agreements… on prison labor imports… and United States enforcement policies with respect to such agreements."[29§] The Commission's detailed examination of this matter in 2008 found a low level of compliance by the Chinese government regarding the obligations it assumed in the 1992 MOU and the 1994 SOC.[30]

Extensive evidence indicates products from China's prison labor system are exported to other countries, including the United States. A U.S. diplomatic cable from May 2008 specifically identifies artificial flowers, Christmas lights, shoes, garments, and umbrellas as products allegedly produced in Chinese prison factories for middlemen companies, which subsequently market them with the presumed possibility of export.[31] The U.S. Department of Labor's 2013 report on forced labor products adds to this list coal, cotton, electronics, fireworks, footwear, garments, nails, and toys, though it does not provide details on which prison-made products might be exported abroad.[32 **]

[*] For example, in November 1991 a concurrent resolution of the U.S. Congress stated that "[w]hereas forced labor is an integral part of the Chinese prison system, and Chinese prisoners are forced to labor under extremely inhumane and dangerous conditions with little or no compensation for their work; Whereas … Chinese prisons seek to export forced labor products to the United States, and have devised numerous methods to evade United States laws … Congress urges the [PRC] to allow international inspections of places of detention that are suspected of producing export goods in order to ensure that such production does not take place…" U.S. Congress Concurrent Resolution 105, Stat. 2441, "China-Human Rights Violations" (H. Con. Res. 216), Nov. 21, 1991.

[†] For examples of the role of prison labor in the debate over granting MFN to China, see *Bloomberg Business News*, "China Prison Tapes Again Part of MFN Debate," May 19, 1994; and Elizabeth Perry, "Most Favored Nation Status and the Political Potential of Chinese Labor," Center for Labor Studies, University of Washington (1995), *http://depts.washington.edu/pcls/documents/research/Perry_MostFavoredNation.pdf*. For an example of discussions of prison labor as it related to China's entry into the WTO, see speeches on the floor of the U.S. Senate by Senator Paul Wellstone and Senator Frank Lautenberg, as contained in Congressional Record, vol. 147 (September 12, 2000), pp. S175582-84.

[‡] For the text of these documents, see Appendices 2 and 3 of this report; and for more detailed discussion on issues surrounding the MOU and SOC, see U.S.-China Economic and Security Review Commission, *2008 Annual Report to Congress*, November 2008, pp. 317-332.

[§] The full legislative mandate of the U.S.-China Economic and Security Review Commission is available at the Commission's website on the "Charter" webpage. *http://www.uscc.gov/about/charter.php.*

[**] The Department of Labor (DoL) does not maintain databases of specific companies suspected of marketing these goods, for either Chinese domestic or international consumption. DoL personnel have indicated they do not have adequate resources to perform detailed and on-going research of this nature, and that performing field research inside China would be extremely difficult. Discussions between Commission staff and representatives of the DoL's Bureau of International Labor Affairs, June 6, 2012.

Furthermore, several allegations have been made in recent years regarding the export or attempted export of Chinese prison-made goods, including the following:

- Li Guirong, a former prisoner who served two separate terms from December 2001 to December 2002 and June 2004 to December 2005 in the Heizuizi RTL Camp for Women (Jilin Province) for offenses of "disturbing public order," claimed the inmates at Heizuizi worked shifts of up to 20 hours manufacturing cloth paste (a raw material used in the dyeing of textiles) for export to Japan.[33]

- John Sims, a British citizen imprisoned in a facility in Ningbo (Zhejiang Province) in 2006, claimed that he and other prisoners were forced to manufacture Coca Cola-themed Christmas ornaments intended for export sale. Coca Cola stated it found "no evidence" of prison labor production in the matter but terminated its business relationship with the Chinese supplier in question.[34] Coca Cola further asserted its policies "expressly prohibit the use of all forms of forced labor, including prison labor" in the production of company merchandise.[35]

- A report published by the Laogai Research Foundation revealed the use by 120 Chinese prison enterprises of English-language, on-line marketing targeting international clients. One such example was the 2009 confirmed use of *China Commodity Net*, a Ministry of Commerce-sponsored website, by Yunnan Jinma Mining and Machinery Works – the commercial identity of the Yunnan No. 2 Prison – to post English advertisements for the intended sale abroad of "belt conveyors," "tramcars," "auto spoke plates," and "high-efficiency tank type multi-purpose pulverizers."[36]

- Danny Cancian, a New Zealand citizen incarcerated in Dongguan Prison (Guangdong Province) from 2009 to 2012, alleged he and other prisoners were forced to make disposable headphones for Airphonics, a Taiwan-based company that sells the headsets to commercial airlines, including Qantas, British Airways, and Emirates. Mr. Cancian also claimed the prisoners made inductors for use in electrical appliances, which were sold to a local company that in turn provided them to foreign companies, including Electrolux and Emerson.[37] Some of the companies named have rejected these claims: Electrolux, for example, issued a statement that an internal company inquiry revealed "[n]o information … to indicate that components from [Dongguan] prison were incorporated into Electrolux products."[38]

- From 2012 to 2013, Falun Gong practitioners made specific and detailed allegations of forced labor export production at multiple facilities in China. Practitioners claimed the Hebei Province Women's Prison was producing a range of towels, diapers, and cloth products for the Hebei Yikang Knitting And Cotton Co., Ltd., which then was marketing these products internationally.[39] Falun Gong practitioners also charged the Inner Mongolia Women's Prison, operating under a dual identity as the Yinghua Garment Factory, with producing textiles, chopsticks, and buckwheat for export.[40]

- In September 2012, a woman in New York City found a letter in a Saks Fifth Avenue shopping bag written by a man claiming to be incarcerated in a Chinese prison labor facility. The letter was signed "Tohnain Emmanuel Njong" and accompanied by a small photo of a man in an orange jacket. Later found and interviewed, Njong, a citizen of Cameroon, said he was an English teacher in Shenzhen (Guangdong Province), when in May 2011 he was unjustly convicted of fraud and sentenced to a prison labor camp. According to Njong, he was forced to work 13 hours per day making paper bags, assembling electronics, or sewing garments, with no outside contact, until he was released in December 2013 for good behavior.

The letter's discovery in 2012 led to investigations by the Laogai Research Foundation and U.S. Department of Homeland Security (DHS). Saks Fifth Avenue and its affiliate, Hudson Bay Company, claim to be verifying the companies' strict labor policies throughout their global supply chains for evidence of prison-made products.[41]

- Stuart Foster, a U.S. citizen convicted of theft in April 2013 while teaching at the Guangdong University of Foreign Studies, was sentenced to the Baiyun Detention Center in Guangzhou (Guangdong Province) for eight months. Foster claimed he was forced under threat of physical punishment to work more than eight hours a day, six days a week assembling Christmas lights intended for export to the United States and other western countries.[42]

- Allegations of "gold farming"[*] in Chinese prison labor facilities emerged in a 2011 story published by *The Guardian*. A former prisoner using the pseudonym Liu Dali claimed he was sentenced in 2004 to three years of RTL in a camp in Jixi (Heilongjiang Province)[†] for "illegally petitioning" central government officials about corruption in his local area. In addition to performing work digging in open-trench coal mines, carving chopsticks, and assembling automotive seat covers (intended for export to South Korea and Japan), Liu described a system in which prisoners were forced to spend 12-hour shifts in the evenings playing online games to build up virtual credits that were then sold online by camp officials.[43] According to Liu, prison officials made approximately $785–$940 per day from the "gold farming" services performed by prisoners, which made the work more profitable than the prison's more traditional manufacturing enterprises. No compensation was provided to the prisoners themselves.[44] Although playing computer games might seem to be a relatively benign form of forced labor, Liu claimed prisoners who failed to earn the required numbers of virtual credits would be beaten by prison guards: "If I couldn't complete my work quota, they would punish me physically. They would make me stand with my hands raised in the air and after I returned to my dormitory they would beat me with plastic pipes. We kept playing until we could barely see things."[45]

The allegations of forced "gold farming" carry new and potentially significant implications for U.S. policies and laws pertaining to prison labor products. If virtual goods generated by prisoners can be

[*] Gold farming (also termed "powerleveling") is a practice associated with many online role-playing games, in which a player pays someone else to play their character for them – thereby building up points that make their characters more powerful or acquiring possessions (e.g., wealth, weapons) that similarly make them stronger. Online vendors may also offer for sale existing characters whose power and wealth have already been built up through extended periods of game play, or virtual goods that can be transferred to other characters. Vili Lehdonvirta and Mirko Ernkvist, *Knowledge Map of the Virtual Economy: Converting the Virtual Economy into Development Potential* (The International Bank for Reconstruction and Development, The World Bank, April 2011), pp. 7-9. *http://www.infodev.org/infodev-files/resource/InfodevDocuments_1076.pdf*. Websites acting as brokers for such trades are easily locatable online. On August 6, 2012, Commission staff located (with a single Google search) the website *www.ogdeal.com*, which claims the title of "The Leading MMORPG ('massively multiplayer online role-playing game') Services Company." The site offered credit exchanges for over 40 popular online games (to include *Anarchy, Age of Conan, Diablo 3, Final Fantasy, Warhammer, Star Wars: The Old Republic*, etc.), with payments "via Paypal, Moneybookers, Libertyreserve [sic] and Westernunion [sic] within 10mins after the trade." "Sell Anarchy Online Credits," *www.ogdeal.com. http://www.ogdeal.com/sell-anarchy-online.html*.

[†] In media accounts of this case, "Liu Dali" described his detention facility as an RTL camp in the city of Jixi. The Laogai Research Foundation identifies two prison labor facilities in Jixi: (1) the "Jixi Prison" and (2) the "Jixi Reeducation Through Labor" Facility. The Jixi Prison is listed as heavily engaged in coal mining and production of handicrafts; the Jixi RTL is identified as a former center for coal mining, and current manufacturing facility for plastic bags. Laogai Research Foundation, *Laogai Handbook 2007-2008* (Washington, DC, 2008), pp. 166 and 178. Assuming that Liu Dali is truthful, it is unclear as to which facility his account refers.

offered for sale online, prisoners also could be used for other repetitive and low-skill online tasks, such as spamming, "cherry blossoming,"[*] or "click fraud."[†] U.S. laws pertaining to the import of forced labor products have not caught up with such information age innovations.

Masanjia "Reeducation Through Labor" Camp

The most detailed accounts of Chinese prison export production – and of prisoner abuse – to emerge in 2013 involved the Masanjia RTL Facility, located outside Shenyang (Liaoning Province). Inquiries into conditions at the facility began in October 2012 when a woman in Portland, Oregon, discovered a letter inside a box of Halloween decorations purportedly written by an anonymous prisoner at the Masanjia site (see Figure 2). The letter described harsh working conditions and brutal treatment at the hands of prison authorities.[46‡]

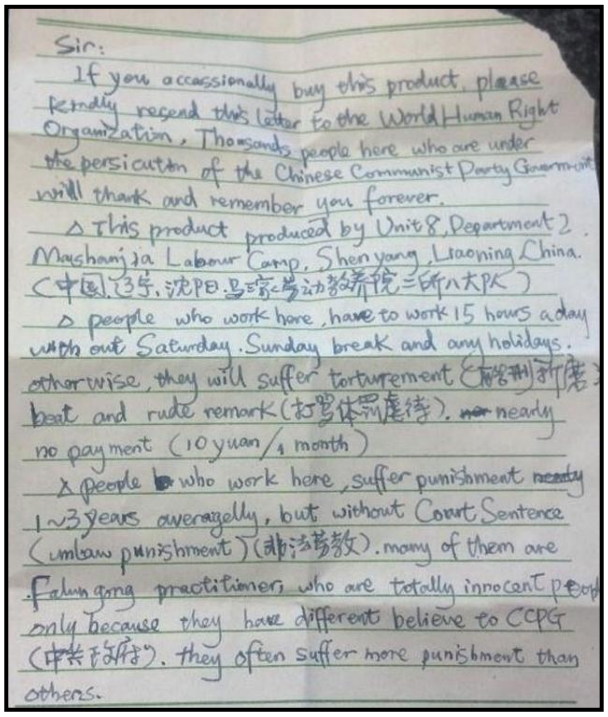
The resulting publicity led the Chinese magazine *Lens* to produce an investigative article on the women's prison at Masanjia.[47] This was followed by the release of *Above the Ghosts' Heads: The Women of Masanjia Labour Camp*, a Chinese-language documentary film that employed accounts from former prisoners to reveal conditions at the facility. The central source for both the article and the film is Liu Hua, a middle-aged farmer who claimed she and her husband were charged with "endangering state security" and "opposing socialism" after exposing corruption by their village's Party secretary, and sentenced to three years of RTL at Masanjia. Despite Masanjia prison regulations that forbid inmates from having writing materials, Liu kept a secret journal of her experiences as a prisoner. In the film, she describes brutal working conditions, torture of inmates, and corruption among prison officials. [48]

[*] "'Cherry blossoming' is a term used … to refer to small marketing related digital tasks, such as 'liking' a brand's Facebook page against a small pay. It resembles microwork in that it involves recruiting large numbers of workers to complete small tasks for a business client." Cherry blossoming could also be used to increase the number of hits on a company or product webpage, thereby raising its Internet profile and seeming popularity with consumers. Vili Lehdonvirta & Mirko Ernkvist, *Knowledge Map of the Virtual Economy: Converting the Virtual Economy into Development Potential* (Washington, DC: The International Bank for Reconstruction and Development/The World Bank, 2011), p. 7. *http://www.infodev.org/infodev-files/resource/InfodevDocuments_1056.pdf*.

[†] Click fraud is believed to be a widespread phenomenon in China. According to *PC Magazine Online*, click fraud is the practice of "[c]licking ad banners without any intention of purchasing the product. Click fraud is done to make an ad campaign appear more effective. Paying a few cents per hour to workers in a third-world country to sit at a computer all day and do nothing but click banners makes an ad campaign appear very successful. If ads are based on click-throughs (pay-per-click), the Web site publishing the ads and clicking the ads countless times can make a dishonest profit." *PC Magazine Online*, "Definition of: click fraud." *http://www.pcmag.com/encyclopedia_term/0%2C1237%2Ct%3Dclick+fraud&i%3D39774%2C00.asp*; John Leyden, "Chinese Mobile Malware Powers Click-Fraud Scam," *The Register*, February 17, 2011; and Erick Schonfeld, "The Evolution of Click Fraud: Massive Chinese Operation 'DormRing1' Uncovered," *TechCrunch.com*, October 8, 2009. *http://techcrunch.com/2009/10/08/the-evolution-of-click-fraud-massive-chinese-operation-dormring1-uncovered/*.

[‡] Journalists in China working for CNN later made contact with a man who claimed to be the writer of the letter; this "Mr. Zhang" told CNN that he was an adherent of Falun Gong, who was arrested in the lead-up to the 2008 Beijing Olympics and sentenced to two and a half years of confinement at Masanjia. Steven Jiang, "Chinese Labor Camp Inmate Tells of True Horror of Halloween 'SOS'," *CNN Online*, November 7, 2013. *http://www.cnn.com/2013/11/06/world/asia/china-labor-camp-halloween-sos/index.html?hpt=hp_c2*.

Figure 2: Alleged Forced Labor Products from the Masanjia Prison Facility



Sir:

If you accassionally buy this product, please kendly resend this letter to the World Human Right Organization. Thousands people here who are under the persicution of the Chinese Communist Party Government will thank and remember you forever.

△ This product produced by Unit 8, Department 2, Mashanjia Labour Camp, Shenyang, Liaoning China. (中国辽宁省沈阳马三家劳动教养院二所八大队)

△ people who work here, have to work 15 hours a day without Saturday. Sunday break and any holidays. otherwise, they will suffer torturement (体罚折磨) beat and rude remark (打骂侮辱). nearly no payment (10 yuan/1 month)

△ people who work here, suffer punishmeat nearly 1~3 years averagelly, but without Court Sentence (unlaw punishment) (非法劳教). many of them are Falun gong practitioner, who are totally innocent people only because they have different believe to CCPG (中共邪教). they often suffer more punishment than others.

Image left: The letter discovered in October 2012 by a woman in Portland, Oregon, in which the anonymous writer described harsh conditions in the Masanjia RTL Facility. Andrew Jacobs, "Behind Cry for Help from China Labor Camp," *New York Times*, June 11, 2013. *http://www.nytimes.com/2013/06/12/world/asia/man-details-risks-in-exposing-chinas-forced-labor.html*.

Image right: The box of Halloween decorations – purchased at a local K-Mart retail store – in which the letter was discovered. Rachel Stark, "Halloween Decorations Carry Haunting Message of Forced Labor," *Oregonian*, December 23, 2012. *http://www.oregonlive.com/happy-valley/index.ssf/2012/12/halloween_decorations_carry_ha.html.*

The women's prison at Masanjia functions in part as a garment factory, producing uniforms for the People's Armed Police. It operates under a commercial identity as the "Xinyu Clothing Company"[*] producing clothing, such as shirts for a South Korean company and down-filled cotton jackets for export to Italy. Workers who failed to meet work quotas or comply with regulations were subject to beatings, and Liu claims that she herself was severely beaten on the instructions of prison officials.[49]

The reports on conditions at Masanjia prompted varying reactions by Chinese authorities. Chinese censors delayed publication of the May 2013 issue of *Lens* magazine and placed controls on the magazine, and police officials reportedly harassed former prisoners identified in the piece.[50] The documentary was banned in China but has circulated on the Internet,[51] and the *Lens* article is no longer available online. Chinese state media have denied the allegations of abuse at Masanjia, defending the facility's "many years of upholding the Party's [RTL] work policies ... transforming many members of the 'Falun Gong' cult ... and upholding social stability."[52] In May 2013, the lead filmmaker for the project, Du Bin, was detained in Beijing on public order offenses – likely resulting from his work on the film and publication in Hong Kong the previous week of a book on what he referred to as the 1989 "Tiananmen massacre." His current status and whereabouts are unknown.[53]

[*] In addition to Liu Hua's account, an online company profile of the Xinyu Garment Company states that "We welcome all new and old customers to visit ... Our specific address is: Shenyang City, Yuhong District, Masanjia North Township (Liaoning Province Reeducation Through Labor Facility)." Xinyu Clothing Company, Ltd., *czvv.com* (Chinese language business directory website). Translation by Authors. *http://3533576.czvv.com/about_*.

Policy Response and Enforcement Efforts by U.S. Government Agencies

Legal prohibitions against importing prison labor products into the United States historically have had a weak record of enforcement, due to the requirement that U.S. law enforcement authorities must acquire "credible, first-hand knowledge … that suspected goods are produced with prison, slave, or forced labor in order to prohibit their entry into the United States."[54] However, this first-hand knowledge typically must come from Chinese citizens, who almost certainly would face retribution from the Chinese government for providing testimony to a foreign government. This severely limits the ability of U.S. enforcement authorities to obtain conclusive evidence.[55]

Among U.S. government agencies, DHS bears primary responsibility for policy and enforcement issues related to the importation of goods produced by prison labor. Immigration and Customs Enforcement (ICE) coordinates investigations into the illegal importation of forced labor products, treating such cases as a form of commercial fraud.[56] In investigating such cases, ICE works in close coordination with U.S. Customs and Border Protection, which bears responsibility for detaining or seizing any suspected or confirmed shipments of prison labor products at U.S. ports of entry, as well as issuing withhold release orders in applicable circumstances.[57]

To pursue investigations in China, ICE depends on five special agents, four working in Beijing, and one working in Guangzhou.[58] However, ICE faces competing priorities from a "myriad of crimes ranging from money laundering, child pornography, strategic weapons [proliferation] … [and] human trafficking," and has been unable to devote its full resources to stopping prison labor imports.[59] Furthermore, in regards to prison labor issues, ICE personnel working in China have experienced a systemic lack of cooperation from their interlocutors in the PRC Ministry of Justice.[60] ICE officials currently have 12 outstanding cases involving suspected export production prisons in China–including the most recent, a November 2012 inquiry opened on the Masanjia facility–but have experienced minimal cooperation from Chinese officials in resolving these cases. [61]

UPDATE: Luzhong Prison and Site Visits Under Terms of the 1994 Statement of Cooperation

In its *2008 Annual Report to Congress*, the Commission profiled the legal case of Marck & Associates, Inc. v. Photo USA Corporation.[*] Marck & Associates, Inc. (hereafter "Marck") and Photo USA Corporation are competitors in the market for drinkware products such as ceramic coffee mugs. Marck filed a lawsuit against Photo USA in the Federal District Court for the Northern District of Ohio, alleging, among other unfair business practices, the defendant was acting as a wholesaler and distributor of coffee mugs purchased from Shandong Zibo Maolong Ceramics Company, a front company for the Luzhong Prison (Shandong Province). The court ruled that Marck failed to meet the necessary evidentiary burden to establish that Photo USA's products were produced by prison labor.[62]

[*] As stated in the Commission's *2008 Annual Report to Congress*, the Commission takes no position on the litigation between Marck and Photo USA, makes no judgment regarding the veracity of particular claims by either side, and does not seek to influence the outcome of this litigation in any way. The Commission's sole interest in this case lies in its illustrative value for public policy debates surrounding the alleged importation into the United States of products produced in China by forced labor.

On May 11, 2009, officials from the U.S. Embassy in Beijing were allowed to inspect the Luzhong Prison facility – the first time since 2006 that a site visit was permitted under the terms of the 1992 MOU and 1994 SOC. The visiting U.S. officials reported no signs of ceramics manufacturing at the site, and that prison officials told them "the prison conducted cement manufacturing and coal mining operations in the past and now produces plastic packaging, primarily for nearby chemical companies." Embassy officials also met with the director of the Shandong Zibo Maolong Ceramics Company (located adjacent to the prison), who stated the company was a private enterprise with no ties to the prison. Based on the visit, ICE decided to close its case file on the facility.[63]

Plaintiff's counsel in the *Marck v. Photo USA* case claimed ceramic production at Luzhong had decreased, or ceased entirely, by mid-2008 due to publicity surrounding the lawsuit.[64] While this assertion cannot be independently confirmed, the lengthy delays in allowing prison site visits – if requested visits ever occur at all – have shown the 1994 SOC to be an inefficient tool for resolving U.S. concerns regarding Chinese prison export production facilities.

The Luzhong Prison inspection illustrates continuing non-compliance by Chinese officials with the terms of the 1992 MOU and 1994 SOC. Per the latter agreement, visits to suspect facilities are to be arranged within 60 days of the receipt of any such request; however, testimony before the Commission in 2008 indicated 13 outstanding visit requests by U.S. officials, dating back to 1994. As of July 2014, there are 7 outstanding requests.[65] In the case of Luzhong Prison, ICE officials made initial inquiries regarding the facility beginning in 2006,[66] and issued the first of a series of formal requests to visit the site in October 2007.[67]

Prospects for Reform of the "Reeducation Through Labor" System

Under PRC statutory law, it is illegal for prison labor products to be exported abroad.[*] Unfortunately, competing interests at the local, provincial, and national level within the party-state bureaucracy reduce enforcement and cooperation within the context of the MOU. In one past case, Chinese government economic and trade officials "concurred [with U.S. embassy officials] that 'reeducation through labor' facilities were covered by the MOU and … indicated they would try to persuade the Ministry of Justice to grant … access" for investigation.[68] It is also likely, as with their U.S. counterparts, Chinese entities tasked with enforcing the non-export of prison labor products experience many competing priorities and lack the institutional capacity at the central level to prevent their export effectively.

A recent reform to the prison labor system, if truly implemented, could substantially reduce the number of laborers forced to produce goods for export. Following the Third Plenum of the 18th CCP Central Committee in November 2013, the Chinese government announced it would abolish the RTL program.[69] On December 28, 2013, the National People's Congress repealed laws and regulations relating to RTL.[70] China's new leadership likely seeks to be seen as responding to public outrage over a string of high-profile abuses that have been covered extensively in recent years in official and unofficial media in China and discussed by Chinese Internet users.

[*] "China prohibits export of products made with prison labour. No competent Chinese authorities [have] ever given any reform-through-labour unit the right to export commodities… [t]he Chinese Government is very strict on this point and any violations of these regulations are dealt with severely." Information Office of the State Council of the People's Republic of China, "Reform of Criminals through Labour," *Government White Paper: Criminal Reform in China*, Part 3, August 1992. *http://www.china.org.cn/e-white/criminal/8-4.htm*.

- According to an October 2012 commentary from Xinhua, the Chinese government's official news agency, "[m]any cases have shown that the labor re-education system has been misused to persecute innocent people and illegally punish protestors. The system has infringed on human rights and the rule of law, undermining the government's accountability."[71]

- A December 2013 article published by *China Daily*, an official Chinese news source, profiled multiple people who had suffered under the RTL system from its earliest years, and noted how the system conflicted with provisions of the PRC Constitution.[72]

- Nationwide public outcry against the RTL sentence of Ren Jianyu, a village official in the southwest of Chongqing Municipality, for "spreading negative information and inciting the subversion of state power" caused the local committee to revoke the sentence halfway through his detention. He was released in November 2012.[73]

Chinese leaders also likely aim to be seen as improving the rule of law at the local level after officials like Bo Xilai, former Chongqing party chief (since imprisoned for life on corruption charges), was exposed in 2012 for misusing RTL to target his critics.[74] *

The announcement to eliminate RTL has already resulted in the release of many prisoners. Reports less than two months following the abolishment of RTL indicate tens of thousands of prisoners have been released.[75]

Chinese and Western human rights activists and legal scholars welcomed news of the policy change but expressed doubts regarding the extent of future reform.[76] Pilot programs for RTL reform, launched in 2011 and 2012 in various cities,† may help illuminate China's ultimate plans for RTL reform. These pilot programs have centered on resolving the dispute between the police and judiciary bodies over which organization has the ultimate decision-making authority in administering RTL sentences.[77] The limited information available regarding these pilot programs indicates reforms could to some extent reduce police authority in reviewing and approving RTL cases.

Other reports of institutional changes to RTL include re-designating RTL facilities as drug treatment centers, presumably where non-violent drug offenders would continue to be detained, without legal due process, under forced labor conditions and expanding "community correction programs."[78] Furthermore, China's State Council reportedly approved reorganizing the Beijing Bureau of RTL Administration as the Bureau of Educational Correction under the auspices of the Ministry of Justice. Experts familiar with this development assess this specific revision "reflects a deepening of the administrative examination and approval system and strengthening the establishment of a service-oriented government model."

If effectively implemented, the elimination of RTL would remove the major tool used by local officials to arbitrarily imprison Chinese citizens and represent a significant step forward for both human rights and

* From 2009 to 2012, Bo seized more than $11 billion in illicit funds and made "heavy use … of measures that allow[ed] police to lock [more than 5,700] people away without trial." Stanley Lubman, "Bo Xilai's Gift to Chongqing: A Legal Mess," *Wall Street Journal*, April 12, 2012. *http://blogs.wsj.com/chinarealtime/2012/04/12/bo-xilais-gift-to-chongqing-a-legal-mess/*.

† In late 2012, Chinese officials launched pilot projects in four cities – Jinan, Lanzhou, Nanjing, and Zhengzhou – to study possible reform measures. Earlier that year, pilot projects began in the four cities in Shandong, Gansu, Jiangsu, and Henan provinces. At the same time, several areas, including Chongqing and Heilongjiang, initiated "pilot projects and adjustments of their own, but even these 'corrections' are based on provisions in relevant [existing] laws." Dui Hua Foundation, "RTL: Reporters Shed Some Light on Reform Projects," December 11, 2012. *http://www.duihuahrjournal.org/2012/12/rtl-reporters-shed-some-light-on-reform.html*.

the development of China's criminal justice system. However, even if China abolishes RTL, local governments likely will retain methods to detain government critics, either extralegally – such as confinement in "black jails" or psychiatric hospitals – or through the current legal system. Local governments also may have economic incentives to continue operating RTL facilities despite central government directives. Finally, continuing concerns about the ripple effect of the marked increase in domestic protests since 2012, recurrent ethnic unrest in Tibet and Xinjiang, and the "Arab Spring" triggered in late 2010, may encourage officials at every level to use abusive control tools to prevent activities and dissidents from creating disturbances.[79] This could prevent any meaningful reform on civil and political rights, regardless of the scope of RTL reform.

APPENDIX 1:
U.S. Government Legal Prohibitions on the Importation of Prison Labor Products

Section 307 of the Tariff Act of 1930 (commonly known as the "Smoot-Hawley Tariff Act") makes it illegal to import goods into the United States produced by prison labor. The law explicitly prohibits the importation of "all goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions."[80]

Text from the Tariff Act of 1930 emphasizes that *forced labor* is central to the law's intent: "'Forced labor,' as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily."[81]

Furthermore, Section 1761 of Title 18 of the U.S. Code states that "[w]hoever knowingly transports … from any foreign country into the United States any goods, wares, or merchandise manufactured, produced, or mined, wholly or in part by convicts or prisoners … or in any penal or reformatory institution," may be subject to fines or imprisonment up to two years.[82]

The United States is also a signatory to Convention #105 of the International Labor Organization (an agency of the United Nations), which requires member states "to suppress and not to make use of any form of forced or compulsory labour" for the purposes "of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system" or "as a method of mobilising and using labour for purposes of economic development."[*]

There have been steps proposed in recent years to update existing U.S. laws on prison labor products. For example, legislation entitled the Customs Facilitation and Trade Enforcement Reauthorization Act of 2009, co-sponsored by then chairman of the Senate Finance Committee, Senator Max Baucus (D-MT) and Ranking Member Charles Grassley (R-IA), would have expanded the language of Section 307 by also banning any imports produced "by means of coercion" and/or by "individuals … subjected to a severe form of trafficking in persons." The bill would also have tasked U.S. Immigration and Customs Enforcement to "prepare and publish" in the *Federal Register* "the name and country of each producer of goods the importation of which is prohibited" under U.S. law.[†]

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[*] The United States ratified Convention #105 in September 1991; the PRC is not a signatory. International Labour Organization, "C105 - Abolition of Forced Labour Convention, 1957 (No. 105) – Convention Concerning the Abolition of Forced Labour" (entered into force: January 17, 1959). *http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO:12100:P12100_INSTRUMENT_ID:312250:NO*.

[†] "Prohibition on Importation – No good may be imported into the United States, if that good was produced, in whole or in part – (1) with convict labor, forced labor, or indentured labor under penal sanctions; (2) by means of coercion (as defined in Section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102)), including by means of an employer withholding the passport or other travel documents of a foreign worker in order to compel the production of that good; or (3) by 1 or more individuals who, at the time of the production were being subjected to a severe form of trafficking in persons (as defined in Section 103 of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102))." *Customs Facilitation and Trade Enforcement Reauthorization Act of 2009* (S.1631.IS), draft language for "Sec. 308," introduced August 6, 2009 (111th Cong., 2009–2010). *http://thomas.loc.gov/cgi-bin/query/z?c111:S.+1631.*

Some U.S. trade associations reportedly expressed concerns over the bill on multiple grounds, to include: questioning the accuracy and currency of information on forced labor production held by U.S. government agencies; concern that all sourcing from a given country could be called into question if instances of forced/prison labor production for export were to be identified in that country; and that it might lead to "a 'slippery slope' problem where this definition could be continually expanded, [creating] uncertainty in terms of how the expanded definition would play out when it comes to enforcement."[83] However, this bill was not passed,[84] and the original text of Section 307 of the Tariff Act of 1930 remains in effect.

APPENDIX 2:
Text of the 1992 U.S.-China Memorandum of Understanding Regarding the Prohibition of Import and Export Trade in Prison Labor Products

MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA ON PROHIBITING IMPORT AND EXPORT TRADE IN PRISON LABOR PRODUCTS

The Government of the United States of America and the Government of the People's Republic of China (hereinafter referred to as the Parties),

Considering that the Chinese Government has noted and respects United States laws and regulations that prohibit the import of prison labor products, has consistently paid great attention to the question of prohibition of the export of prison labor products, has explained to the United States its policy on this question, and on October 10, 1991, reiterated its regulations regarding prohibition of the export of prison labor products;

Considering that the Government of the United States has explained to the Chinese Government U.S. laws and regulations prohibiting the import of prison labor products and the policy of the United States on this issue; and

Noting that both Governments express appreciation for each other's concerns and previous efforts to resolve this issue,

Have reached the following understanding on the question of prohibiting import and export trade between the two countries that violates the relevant laws and regulations of either the United States or China concerning products produced by prison or penal labor (herein referred to as prison labor products).

The Parties agree:

1. Upon the request of one Party, and based on specific information provided by that Party, the other Party will promptly investigate companies, enterprises or units suspected of violating relevant regulations and laws, and will immediately report the results of such investigations to the other.

2. Upon the request of one Party, responsible officials or experts of relevant departments of both Parties will meet under mutually convenient circumstances to exchange information on the enforcement of relevant laws and regulations and to examine and report on compliance with relevant regulations and laws by their respective companies, enterprises, or units.

3. Upon request, each Party will furnish to the other Party available evidence and information regarding suspected violations of relevant laws and regulations in a form admissible in judicial or administrative proceedings of the other Party. Moreover, at the request of one Party, the other Party will preserve the confidentiality of the furnished evidence, except when used in judicial or administrative proceedings.

4. In order to resolve specific outstanding cases related to the subject matter of this Memorandum of Understanding, each Party will, upon request of the other Party, promptly

arrange and facilitate visits by responsible officials of the other Party's diplomatic mission to its respective companies, enterprises or units.

This Memorandum of Understanding will enter into force upon signature.

DONE at Washington, in duplicate, this seventh day of August, 1992, in the English and the Chinese languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA:	FOR THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA:

APPENDIX 3:
Text of the 1994 U.S.-China Statement of Cooperation Regarding the Prohibition of Import and Export Trade in Prison Labor Products

STATEMENT OF COOPERATION ON THE IMPLEMENTATION OF THE MEMORANDUM OF UNDERSTANDING BETWEEN THE UNITED STATES OF AMERICA AND THE PEOPLE'S REPUBLIC OF CHINA ON PROHIBITING IMPORT AND EXPORT TRADE IN PRISON LABOR PRODUCTS

1. Summary: The statement of cooperation on implementation of the prison labor MOU was signed at 09:00 LT in Beijing March 14, 1994. Ministry of Justice Reform Through Labor Bureau Director - General Wang Mingdi signed for the Chinese side, Econ Mincouns Szymanski signed for the U.S. side. This message contains the final text of the document as signed and a background document distributed at Secretary Christopher's press conference where the signing of the document was announced. End Summary.

2. Final text of the statement of cooperation on implementation of the prison labor MOU, signed at 09:00 LT in Beijing March 14, 1994 follows:

BEGIN TEXT

As the Chinese government acknowledges and respects United States laws concerning the prohibition of the import of prison labor products, and the United States government recognizes and respects Chinese legal regulations concerning the prohibition of the export of prison labor products;

As China and the United States take note and appreciate the good intentions and efforts made by both sides in implementing the "Memorandum of Understanding" signed in August 1992;

The Chinese government and the United States government agree that conducting investigations of suspected exports of prison labor products destined for the United States requires cooperation between both sides in order to assure the enforcement of the relevant laws of both countries. Both sides agree that they should stipulate clear guidelines and procedures for the conduct of these investigations. Therefore, both sides agree to the establishment of specialized procedures and guidelines according to the following provisions:

First, when one side provides the other side a request, based on specific information, to conduct investigations of suspected exports of prison labor products destined for the United States, the receiving side will provide the requesting side a comprehensive investigative report within 60 days of the receipt of said written request. At the same time, the requesting side will provide a concluding evaluation of the receiving side's investigative report within 60 days of receipt of the report.

Second, if the United States government, in order to resolve specific outstanding cases, requests a visit to a suspected facility, the Chinese government will, in conformity with Chinese laws and regulations and in accordance with the MOU, arrange for responsible United States diplomatic mission officials to visit the suspected facility within 60 days of the receipt of a written request.

Third, the United States government will submit a report indicating the results of the visit to the Chinese government within 60 days of a visit by diplomatic officials to a suspected facility.

Fourth, in cases where the U.S. government presents new or previously unknown information on suspected exports of prison labor products destined for the U.S. regarding a suspected facility that was already visited, the Chinese government will organize new investigations and notify the U.S. side. If necessary, it can also be arranged for the U.S. side to again visit that suspected facility.

Fifth, when the Chinese government organizes the investigation of a suspected facility and the U.S. side is allowed to visit the suspected facility, the U.S. side will provide related information conducive to the investigation. In order to accomplish the purpose of the visit, the Chinese side will, in accordance with its laws and regulations, provide an opportunity to consult relevant records and materials on-site and arrange visits to necessary areas of the facility. The U.S. side agrees to protect relevant proprietary information of customers of the facility consistent with the relevant terms of the prison labor
MOU.

Sixth, both sides agree that arrangements for U.S. diplomats to visit suspected facilities, in principle, will proceed after the visit to a previous suspected facility is completely ended and a report indicating the results of the visit is submitted.

Both sides further agree to continue to strengthen already established effective contacts between the concerned ministries of the Chinese government and the U.S. Embassy in Beijing and to arrange meetings to discuss specific details when necessary to further the implementation of the MOU in accordance with the points noted above.

Done at Beijing, in duplicate, this Thirteenth day of March, 1992, in the English and the Chinese languages, both texts being equally authentic.

Representative of the Chinese side: Wang Mingdi	Representative of the United States side: Christopher J. Szymanski

3. The statement of cooperation was signed, for the Chinese side by Ministry of Justice Reform Through Labor Bureau Director – General Wang Mingdi and for the U.S. side by Econ Mincouns Christopher J. Szymanski.

4. Secretary Christopher announced the signing of the statement at a 10:45 LT press conference in Beijing. The text of a background document distributed at the Secretary's press conference follows:

BEGIN TEXT

The original Memorandum of Understanding on prohibiting import and export trade in prison labor products, signed in Washington August 7, 1992, provides for cases of suspected exports of prison-made goods to the U.S. to be referred to the Chinese government for investigation and, if necessary, for U.S. officials to conduct visits to the suspected facilities.

In the first year of implementation it became apparent that explicit implementation guidelines needed to be developed.

In January 1994, in an exchange of letters with the Chinese side, we determined general guidelines for implementation to be used as a basis for the development of a "Statement of Cooperation".

The "Statement of Cooperation" signed this morning sets out working-level procedures to be

followed by both sides and delineates objective standards for assessing bilateral implementation. These include:

- Investigations of suspected exports, requested by one side, will be concluded and reported by the other side within sixty days of request.
- A written evaluation of the investigative report will be submitted by the requesting side within sixty days after receipt of the report.
- Requested visits to suspected facilities will be arranged by the Chinese side within sixty days of request.
- The U.S. side will provide a visit report to the Chinese side within sixty days of the visit.
- If new information is provided by the U.S. concerning a previously visited facility, the Chinese side will reinvestigate and, if necessary, arrange a second visit.
- During visits to suspected facilities, the Chinese will provide an opportunity for U.S. officials to consult records and materials on-site and visit relevant areas of the facility.
- Visits to other suspected facilities will be arranged following the provision by the U.S. side of a report of previous visits.

[1] U.S. Senate Committee on Foreign Relations, *Hearing on the U.S. Implementation of Prison Labor Agreements with China*, testimony of Jeffrey Bader, May 21, 1997. *http://www.gpo.gov/fdsys/pkg/CHRG-105shrg47725/pdf/CHRG-105shrg47725.pdf*; and U.S. Immigration and Customs Enforcement official (U.S. Department of Homeland Security), email interview with Commission staff, April 14, 2014.
[2] U.S.-China Economic and Security Review Commission, *2008 Annual Report to Congress*, November 2008, pp. 317-332.
[3] Ramin Pejan, *Laogai: "Reform Through Labor" in China* (Human Rights Brief, 2000), p. 1. *http://www.wcl.american.edu/hrbrief/07/2laogai.cfm*.
[4] Michael Pareles, "Hard Times and Hard Labor: Prison Labor Reform in China from 1978 to the Present," *Greater China* (Winter 2006). *http://www.stanford.edu/group/sjeaa/journal61/china3.pdf*.
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[6] Congressional-Executive Commission on China, *Roundtable on Forced Labor in China*, testimony of Harry Wu, June 22, 2005; and Laogai Research Foundation, "What Is The Laogai System?" *http://www.laogai.org/page/what-laogai-system.*
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[8] Philip Williams, *The Great Wall of Confinement: The Chinese Prison Camp Through Contemporary Fiction and Reportage* (Berkeley, CA: University of California Press, 2004), pp. 58-60; and James Seymour and Richard Anderson, *New Ghosts, Old Ghosts: Prisons and Labor Reform Camps in China* (Armonk, NY: M.E. Sharpe, 1999), pp. 190-198.
[9] Congressional-Executive Commission on China, *Annual Report 2013*, October 10, 2013, p. 81.
[10] Congressional-Executive Commission on China, *Annual Report 2013*, October 10, 2013, p. 81.
[11] Congressional-Executive Commission on China, *Annual Report 2013*, October 10, 2013, p. 79; Flora Sapio, "Shuanggui and Extralegal Detention in China," *China Information* 22:7 (2008); and Andrew Jacobs, "Accused Chinese Party Members Face Harsh Discipline," *New York Times*, June 14, 2012. *http://www.nytimes.com/2012/06/15/world/asia/accused-chinese-party-members-face-harsh-discipline.html*.
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[13] Human Rights Watch, "'An Alleyway in Hell': China's Abusive 'Black Jails'," November 2009, *http://www.hrw.org/sites/default/files/reports/china1109web_1.pdf*; and Phelim Kine, "Beijing's Black Jails," *Foreign Policy*, March 15, 2012. *http://blog.foreignpolicy.com/posts/2012/03/15/beijings_black_jails*.
[14] Sharon LaFraniere and Dan Levin, "Assertive Chinese Held in Metal Wards," *New York Times*, November 11, 2010. *http://www.nytimes.com/2010/11/12/world/asia/12psych.html?pagewanted=all&_r=0*; Calum McLeod, "Chinese Citizens Sent to Mental Hospitals to Quiet Dissent," *USA Today*, December 29, 2011. *http://usatoday30.usatoday.com/news/world/story/2011-12-28/china-mental-hospitals/52260592/1*; and Robin Munro, "The Ankang: China's Special Psychiatric Hospitals," *Journal of Comparative Law* 1:1 (2006).
[15] U.S. Department of State, Bureau of Democracy, Human Rights and Labor, "China (includes Tibet, Hong Kong, and Macau)," *Country Reports on Human Rights Practices for 2013.* *http://www.state.gov/documents/organization/220402.pdf*.
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[17] Congressional-Executive Commission on China, *Hearing on Working Conditions and Worker Rights in China: Recent Developments*, testimony of Harry Wu, July 31, 2012.
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[20] Sanne Deckwitz, *Gulag vs. Laogai: The Function of Forced Labour Camps in the Soviet Union and China*, (Utrecht University, January 2012), p. 45.
[21] Sanne Deckwitz, *Gulag vs. Laogai: The Function of Forced Labour Camps in the Soviet Union and China* (Utrecht University, January 2012), p. 45; and Laogai Research Foundation, *Laogai Handbook 2007-2008*, (Washington, DC, 2008), p.156.
[22] Sanne Deckwitz, *Gulag vs. Laogai: The Function of Forced Labour Camps in the Soviet Union and China* (Utrecht University, January 2012), p. 45.

[23] Nicole Kempton and Nan Richardson eds., *Laogai: The Machinery of Repression in China* (Brooklyn, NY: Umbrage Editions, 2009), p. 68.
[24] U.S. Department of State, *Trafficking in Persons Report 2012: Country Narratives: A-C* (June 2012), p. 118.
[25] Thomas Lum, "Human Rights in China and U.S. Policy," *Congressional Research Service*, July 18, 2011. *http://www.fas.org/sgp/crs/row/RL34729.pdf*.
[26] Congressional Executive Commission on China, *Annual Report 2013*, October 10, 2013, p. 90.
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[29] 22 U.S.C. § 7002, as amended by Section 635 of Public Law 109-108.
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