

U.S.-China Economic and Security Review Commission

Staff Research Report



August 8, 2017

U.S. Exposure to Forced Labor Exports from China

Developments since the U.S. Trade Facilitation and Trade Enforcement Act of 2015

Alexander Bowe, Research Fellow, Security and Foreign Affairs

Acknowledgments: The author thanks Lisa Burley, Jeffrey Fiedler, Alice A. Kipel, and Jerry Malmo for their reviews of early drafts. Their assistance does not imply any endorsement of this report's contents, and any errors should be attributed solely to the author.

Disclaimer: This paper is the product of professional research performed by staff of the U.S.-China Economic and Security Review Commission, and was prepared at the request of the Commission to support its deliberations. Posting of the report to the Commission's website is intended to promote greater public understanding of the issues addressed by the Commission in its ongoing assessment of U.S.-China economic relations and their implications for U.S. security, as mandated by Public Law 106-398 and Public Law 113-291. However, the public release of this document does not necessarily imply an endorsement by the Commission, any individual Commissioner, or the Commission's other professional staff, of the views or conclusions expressed in this staff research report.

Table of Contents

Executive Summary.....	3
Background	3
Concerns Expressed in the Commission’s 2014 Prison Labor Report	4
Verification Requirements and Chinese Cooperation	4
Status of the Re-Education through Labor System	5
Exploitative Virtual Labor.....	6
The Trade Facilitation and Trade Enforcement Act of 2015.....	6
Four New WROs Issued against Chinese Companies since the Repeal of the Consumptive Demand Exemption ...	7
Conclusions	8

Executive Summary

China maintains a network of prison labor facilities that use forced labor* to produce goods intended for export—a violation of U.S.-China trade agreements and U.S. law. U.S. officials continue to face considerable difficulty in combating exports of these forced labor products, since cooperation from Chinese interlocutors has remained at low levels for years. U.S. Immigration and Customs Enforcement (ICE) agents have not been permitted to make site inspections in China since 2009, and Chinese officials still routinely deny the suspected forced labor is occurring, claiming the factories in question do not exist or that they do not make the products in question. The status of the planned abolition of the Chinese “re-education through labor” (RTL) system is uncertain. Some reports indicate forced labor continues to occur at these sites but under a different penal framework.

The Trade Facilitation and Trade Enforcement Act (TFTEA) of 2015 has strengthened U.S. Customs and Border Protection’s (CBP) ability to prevent Chinese prison labor-derived products from entering U.S. markets primarily through the elimination of the “consumptive demand” exemption,[†] speeding up the process for issuance of a withhold release order (WRO)[‡] for products deemed to have been made with forced labor. Since the TFTEA entered into force, four WROs have been issued against Chinese companies. These WROs were the first to be issued against Chinese companies since 1996, and two of the companies in question appear to have since closed.

Background

The value of Chinese forced labor exports to the United States is unknown because China’s forced labor industry has long been opaque.¹ This opacity is exacerbated by the use of middlemen companies to market the products in question for export, by U.S. inspectors’ lack of access to suspected sites, and by the Chinese government’s refusal to agree with the U.S. government on what constitutes forced labor and thus which products are governed by relevant bilateral agreements.² Jeffrey Fiedler, cofounder of the Laogai Research Foundation and a former Commissioner of the U.S.-China Economic and Security Review Commission, told the Commission that the “amount of [forced labor] production is immaterial and in a real sense unknowable ... the point is that the system continues to flourish.”³ David Lampton, professor at the Johns Hopkins School of Advanced International Studies, argued in 2001 that “the problem of Chinese prison labor has more political resonance in America than actual economic consequence for the United States.”⁴ The Declaration on Fundamental Principles and Rights at Work[§] includes a guarantee of freedom from forced labor.⁵

According to the U.S. Department of Labor, known products linked to Chinese forced labor as of September 2016 are artificial flowers, bricks, Christmas decorations, coal, cotton, electronics, fireworks, footwear, garments, and

* The Tariff Act of 1930 defines “forced labor” as “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, ch. 497, title III, § 307, 46 Stat. 689, 1930. <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title19/pdf/USCODE-2011-title19-chap4-subtitleII-partI-sec1307.pdf>.

[†] The consumptive demand exemption stated that “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 shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited ... *but in no case shall such provisions be applicable to goods, wares, articles or merchandise so mined, produced, or manufactured which are not mined, produced, or manufactured in such quantities in the United States as to meet the consumptive demands of the United States*” (emphasis added). Tariff Act of 1930, 19 U.S. Code, ch. 497, title III, § 307, 46 Stat. 689, 1930. <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title19/pdf/USCODE-2011-title19-chap4-subtitleII-partI-sec1307.pdf>.

[‡] CBP may issue an order to withhold release from CBP’s custody of any goods that are suspected of having been produced with forced labor. U.S. Customs and Border Protection, *Forced Labor Enforcement, Withhold Release Orders, Findings, and Detention Procedures*, August 2016. <https://www.cbp.gov/sites/default/files/assets/documents/2016-Aug/Fact%20Sheet%20-%20Forced%20Labor%20Procedures.pdf>.

[§] The Declaration on Fundamental Principles and Rights at Work is an agreement under the International Labor Organization (ILO), part of the UN. According to the ILO, “The 1998 Declaration [on Fundamental Principles and Rights at Work] makes clear that all Members have an obligation arising from the very fact of membership of the ILO to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of the fundamental Conventions.” The Congressional-Executive Commission on China assessed that, as a UN member, China is “obligated to respect a basic set of internationally recognized labor rights, including those associated with forced and compulsory labor” even without having ratified the relevant agreements. Congressional-Executive Commission on China, *2012 Annual Report to Congress*, October 2012, 72; International Labor Organization, “Fundamental Principles and Rights at Work: From Commitment to Action,” 2012, 2. http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_176149.pdf.

construction nails.⁶ Chen Guangcheng, a Chinese civil rights activist and lawyer who escaped from house arrest, sought refuge in the U.S. Embassy in Beijing, and eventually came to the United States on a student visa, wrote in the *Washington Post* in December 2016 that “many of the trappings of the [Christmas] holiday” are made by Chinese prisoners who are forced to work 10–15 hours a day and are punished severely for not meeting daily quotas.⁷

Concerns Expressed in the Commission’s 2014 Prison Labor Report

The Commission’s 2014 report on this topic identified three key challenges in combating Chinese forced labor-derived exports to the United States: difficulty of meeting verification requirements for prison labor products and inadequate cooperation offered by Chinese authorities, the status of the re-education through labor system, and exploitative virtual labor.*

Verification Requirements and Chinese Cooperation

According to CBP, “When information reasonably but not conclusively indicates that [forced labor-derived] merchandise ... is being imported, [CBP] may issue withhold release orders.”⁸ Alice A. Kipel, executive director of regulations and rulings for CBP, told the Commission that CBP “makes its decisions with respect to allegations of use of forced labor on a case-by-case basis,” so there are no specified regulatory criteria for determining whether evidence is “reasonable but not conclusive.”⁹ According to Ms. Kipel, these case-by-case standards for evaluating evidence have remained the same under the TFTEA, but the removal of the consumptive demand exemption has simplified the analysis for the WRO process.¹⁰

ICE, the agency responsible for identifying foreign manufacturers that use forced or child labor,[†] has only five agents in mainland China and three in Hong Kong.[‡] ¹¹ James Ink, then deputy assistant director of ICE’s Office of International Affairs, testified to the Commission in 2008 that these agents are also tasked with combating crimes “ranging from money laundering, child pornography, strategic weapons [proliferation] ... [and] human trafficking.”¹² As a result, ICE often is unable to devote adequate resources to combating forced labor exports.

The Commission’s 2014 report cited insufficient Chinese government cooperation as an obstacle impeding the United States’ investigations into forced labor.¹³ Kai Wah Chan, ICE Asia desk operations manager, told the Commission in February 2017 that the level of cooperation offered to ICE agents by Chinese interlocutors today has remained inadequate.¹⁴ According to Mr. Fiedler, Chinese officials have insisted since 1994 (when forced labor cooperation began) that agreements facilitating U.S. access to suspected forced labor sites allow for “visits” instead

* For more information, see John Dotson and Teresa Vanfleet, “Prison Labor Exports from China and Implications for U.S. Policy,” *U.S.-China Economic and Security Review Commission*, July 9, 2014, 8, 11, 12. https://www.uscc.gov/sites/default/files/Research/Staff%20Report_Prison%20Labor%20Exports%20from%20China_Final%20Report%20070914.pdf.

† Both CBP and ICE attachés can independently open investigations into forced labor issues and gather information overseas, but since in some cases one agency may have a presence in a particular country where the other does not, they assist each other in those situations. According to an ICE policy advisor, the main distinction between the activities of CBP and ICE in this matter is that “CBP has the civil enforcement authorities relating to forced labor-derived goods, and they have the authority to detain those goods at the border, as well as issue Withhold Release Orders and Findings, which may result in civil penalties for the entities in question. ICE has the criminal enforcement authorities relating to forced labor-produced goods, and [ICE has] the authority to work with the U.S. Department of Justice to criminally prosecute persons or entities for violating criminal laws relating to this topic.” Policy advisor, U.S. Immigration and Customs Enforcement, interview with Commission staff, May 9, 2017.

‡ This small group of agents is tasked with monitoring the goods exported from China and Hong Kong to the United States, which equaled approximately \$460 billion and \$7 billion in 2016, respectively, according to the Office of the U.S. Trade Representative. Further complicating monitoring efforts, about 13 percent of China’s total exported goods in 2016 were shipped through Hong Kong, as well, according to the Hong Kong Trade Development Council, though it is unclear how much of that was destined for the United States. Office of the U.S. Trade Representative, *Hong Kong*, May 7, 2017. <https://ustr.gov/countries-regions/china-mongolia-taiwan/hong-kong>; Office of the U.S. Trade Representative, *The People’s Republic of China*, May 2, 2017. <https://ustr.gov/countries-regions/china-mongolia-taiwan/peoples-republic-china#>; Hong Kong Trade Development Council, “Import and Export Trade Industry in Hong Kong,” April 21, 2017. <http://hong-kong-economy-research.hktdc.com/business-news/article/Hong-Kong-Industry-Profiles/Import-and-Export-Trade-Industry-in-Hong-Kong/hkip/en/1/1X000000/1X006NJK.htm>.

of “inspections”; he argued “inspection” carries a “strong[er] meaning” in international agreements.*¹⁵ An ICE official told the Commission in February 2017 that ICE agents have not been permitted to conduct inspections of suspected forced labor facilities since 2009.¹⁶ Further, when asked about suspected incidents of forced labor, Chinese officials often simply claim a particular prison or factory doesn’t exist or that it doesn’t produce the item in question.¹⁷

Status of the Re-Education through Labor System

The Chinese government announced in November 2013 that its RTL system, which Human Rights Watch defined as “a system of detention and punishment administratively imposed on those who are deemed to have committed minor offenses but are not legally considered criminals,” would be officially abolished.¹⁸ RTL inmates were held in work camps for up to four years at a time.¹⁹ A September 2016 U.S. Department of Labor report, however, found that “while the [Chinese] Government has closed some RTL facilities, many were converted to drug rehabilitation centers or ‘custody and education centers (C&E),’ where there are reports that forced labor continues to occur.”²⁰ The U.S. Department of State also reported in 2015 that some RTL camps had been converted into other types of detention facilities.²¹ An ICE official told the Commission that Chinese authorities view C&E centers as a way for individuals they regard as “generic antisocial elements”—such as sex workers and drug addicts—to be productive members of society, although little is known about what really goes on in these centers.²² The ICE official added that Chinese authorities have not elaborated on exactly how RTL centers have been repurposed without still relying on forced labor, and former inmates are generally not forthcoming about their experiences in these centers.²³ The U.S. Department of Labor cited continuing restrictions on both collection and dissemination of information by the Chinese state as a cause of persisting data gaps, but the department’s International Labor Affairs Bureau (ILAB)

* Mr. Fiedler told the Congressional-Executive Commission on China in 2005 that the 1994 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, which specified that the United States could “request ... visits” to suspected prison labor sites in China, was fatally flawed because it was “dependent upon the willingness of the Chinese government to provide evidence incriminating themselves.” As an example of an agreement allowing mandatory “inspections,” the 2011 New Strategic Arms Reduction Treaty between the United States and the Russian Federation allows each country to conduct 18 “on-site inspections” of the other’s relevant facilities per year, and it describes in detail which activities are permitted during each of the two types of inspection it allows as well as how many of each type of inspection each party may conduct. As reflected in the 1994 Statement of Cooperation, the term “visit” lacks this degree of specificity. U.S. Department of State, *New START*, May 4, 2017. <https://www.state.gov/t/avc/newstart/index.htm>; Congressional-Executive Commission on China, *Roundtable on Forced Labor in China*, written testimony of Jeffrey Fiedler, June 22, 2005, 1, 5. <http://www.cecc.gov/sites/chinacommission.house.gov/files/documents/roundtables/2005/CECC%20Roundtable%20Testimony%20-%20Jeffrey%20Fiedler%20-%2006.22.05.pdf>.

† Custody and education centers are extralegal detention sites used primarily for punishing commercial sex workers and their clients. According to Asia Catalyst, a nonprofit based in New York that fosters growth of civil society in Asia, the C&E system is “almost identical” to that of RTL: at C&E centers, “in the name of ‘education’ and ‘rescue,’ large numbers of sex workers and their clients are detained for periods of six months to two years without any form of judicial oversight and, while in custody, are subjected to forced labor and compulsory testing for sexually transmitted diseases.” Asia Catalyst, “‘Custody and Education’: Arbitrary Detention for Female Sex Workers in China,” December 2013, 7. http://www.asiacatalyst.org/wp-content/uploads/2014/09/AsiaCatalyst_CustodyEducation2013-12-EN.pdf.

assesses in its List of Goods Produced by Child Labor or Forced Labor that even limited data* give “reason to believe” child or forced labor is occurring.^{† 24}

Exploitative Virtual Labor

The Commission’s 2014 report cited allegations of using forced labor for “gold farming” in China—the practice of repeating specific actions in online video games to accrue or “farm” a game’s “currency” or other items to sell to other players for real money in online marketplaces.²⁵ According to a 2011 *Guardian* article, a former prisoner of an RTL camp in Heilongjiang Province claimed he was forced to play video games in addition to performing manual labor; this individual claimed prison officials forced prisoners to play in 12-hour shifts farming in-game currency that later was sold by the officials for a total profit of \$785–\$940 a day.²⁶ The Commission’s report assessed that these allegations of forced gold farming brought “new and potentially significant implications for U.S. policies and laws,” noting that U.S. legislation had not yet caught up to countering the potential for “repetitive and low-skill online tasks” to be exploited with forced labor.²⁷ As of the publishing of this report, the United States had not passed legislation designed to address this problem.[‡]

The Trade Facilitation and Trade Enforcement Act of 2015

The TFTEA, which was signed on February 24, 2016, repealed a longstanding exemption to the United States’ ban on imports of prison labor products if the consumptive demand for those products exceeded the domestic industrial capacity of the United States; the repeal of the consumptive demand exemption entered into force on March 10, 2016.²⁸ CBP called the TFTEA “the first comprehensive authorization of [CBP] since the U.S. Department of Homeland Security was created in 2003, with the overall objective to ensure a fair and competitive trade environment.”²⁹ According to CBP, the TFTEA helps ensure “American manufacturers do not compete with foreign manufacturers or U.S. importers benefiting from the use of forced labor.”³⁰ The TFTEA also requires the Commissioner of CBP to submit a yearly report[§] to Congress detailing each incident in which merchandise was denied entry to the United States based on forced labor concerns.³¹ According to the TFTEA, anyone “who has reason to believe that merchandise produced by forced labor is being, or is likely to be, imported into the United States” may submit a tip to CBP.³² If the Commissioner of CBP judges that the evidence “reasonably but not conclusively” indicates a violation has occurred, the Commissioner will issue a WRO; if the Commissioner is able to determine with certainty that the goods in question are in violation, a formal finding will be published to the Customs Bulletin and in the *Federal Register*, the U.S. government’s daily legal newspaper.³³ Previously, before a

* The International Labor Affairs Bureau (ILAB) decides whether a good is produced with forced or child labor based on the nature, date, and source of relevant information; the extent of its corroboration; and whether there is “significant incidence” of forced or child labor in its production. According to Austin M. Pedersen, lead international relations officer at ILAB’s Office of Child Labor, Forced Labor, and Human Trafficking, in the case of countries that restrict data collection and dissemination, “ILAB takes into account the limited availability of information ... in particular the extent of corroboration. So, while the definition of significant incidence remains the same across goods on the [Trafficking Victims Protection Reauthorization Act] List, ILAB would require fewer sources to corroborate the timely and credible information it has in determining a reason to believe that a good was produced by child labor or forced labor.” Austin M. Pedersen, lead international relations officer, U.S. Department of Labor Office of Child Labor, Forced Labor, and Human Trafficking, interview with Commission staff, April 12, 2017.

† According to ILAB, “Information that relates only to a single company or facility or that indicates an isolated incident of child labor or forced labor will not ordinarily weigh in favor of a finding that a good is produced in violation of international standards. Information that demonstrates a significant incidence of child labor or forced labor in the production of a particular good, although not necessarily representing a practice in the industry as a whole, will ordinarily weigh in favor of a finding that a good is produced in violation of international standards.” ILAB also assesses that forced and child labor frequently occurs in “small local enterprises” that can easily change their names, thwarting attempts to track production in detail. ILAB notes that listing of a particular good and country “cannot be generalized to all production of that good in the country.” U.S. Department of Labor, Bureau of International Labor Affairs, *List of Goods Produced by Child Labor or Forced Labor*, September 30, 2016, 52, 54. https://www.dol.gov/sites/default/files/documents/ilab/reports/child-labor/findings/TVPRA_Report2016.pdf.

‡ The TFTEA neither specifically mentions nor interferes with Congress’ ability to sanction gold-farming or click fraud—repetitively clicking ad banners on websites to generate revenue for the website owners—connected to Chinese forced labor. Trade Facilitation and Trade Enforcement Act of 2015 § 922, Public Law No. 114–125, 2016. <https://www.congress.gov/bill/114th-congress/house-bill/644>.

§ This report, which is submitted to the Senate Finance Committee and the House Committee on Ways and Means, is not made available to the public. Katrina Skinner, public affairs specialist, U.S. Customs and Border Protection, interview with Commission staff, March 22, 2017.

WRO could be issued, CBP had to consider whether consumptive demand was a factor in withholding release of a particular import. Now, however, since consumptive demand no longer requires consideration, the WRO petition process can be expedited.³⁴ According to CBP, the consumptive demand exemption “historically provided violators a defense [against] ... enforcement action.”³⁵

The TFTEA “has an important signaling effect that the U.S. government has an interest in curtailing the worst forms of labor rights abuse in global supply chains ... particularly looking at issues in aquaculture and fishing,” according to Sarah Labowitz, cofounder and codirector of New York University’s Stern Center for Business and Human Rights.³⁶ Indeed, concerns about forced labor in seafood industry supply chains—notorious for their mismanagement and lack of transparency—appear to have been a major factor driving the removal of the consumptive demand loophole.³⁷ Around the time the bill was being debated by Congress, the Associated Press published a multipart investigation of forced labor in the Southeast Asian seafood industry.³⁸ The Pulitzer-winning investigation drew the attention of many U.S. citizens to the possibility that the seafood they consumed was produced with slave labor.³⁹ Although illegal, unreported, and unregulated fishing in China has been well documented,⁴⁰ reports of forced Chinese labor in seafood supply chains have been limited and anecdotal.⁴¹ One of the lead investigators of the Associated Press investigation said in an interview, “It’s not just the Thai fishing industry—Taiwanese, Korean, Chinese. We focused on one particular industry, one company, and followed that chain. But it was exposed to illustrate a much bigger problem.”⁴²

Four New WROs Issued against Chinese Companies since the Repeal of the Consumptive Demand Exemption

Since the repeal of the consumptive demand exemption entered into force, CBP has issued four WROs against Chinese companies that remain active currently—the first WROs to target Chinese companies since 1996.⁴³ CBP told the Commission that CBP received the allegations behind all four cases before the signing of the TFTEA and issued the relevant WROs after its signing.⁴⁴ Elizabeth G. Kurpis, associate at the law firm Mintz Levin, argued that the food and apparel industries are most likely to be affected by the TFTEA since those two industries tend to have supply chains that are most compromised by forced labor.⁴⁵ Indicating the TFTEA is already having an effect, Ms. Kurpis pointed out that Tangshan Sanyou Group—one of the Chinese companies targeted by a WRO since the TFTEA entered into force—appears to have been “permanently closed.”⁴⁶ CNN also reported that Tangshan Sanyou Group and Tangshan Sunfar Silicon Company, another company targeted by a WRO, appeared to be closed, as calls to their listed numbers went unanswered or the lines were disconnected.⁴⁷ Commission staff also were unable to reach either company by phone numbers listed online, which appeared to be disconnected, suggesting the companies may no longer be in operation.

Table 1: Recent WROs Pertaining to China

Date Filed	Product Type	Company	Status
3/29/2016	Soda Ash, Calcium Chloride, and Caustic Soda	Tangshan Sanyou Group and its Subsidiaries	Active
3/29/2016	Potassium, Potassium Hydroxide, Potassium Nitrate	Tangshan Sunfar Silicon Industries	Active
5/20/2016	Stevia and its Derivatives	Inner Mongolia Hengzheng Group Baoanzhao Agricultural and Trade LLC	Active
9/16/2016	Peeled Garlic	Hongchang Fruits & Vegetable Products Co., Ltd.	Active

Source: U.S. Customs and Border Protection, *Forced Labor*, May 2, 2017. <https://www.cbp.gov/trade/trade-community/programs-outreach/convict-importations>.

Conclusions

The Chinese government continues to use forced labor to produce exports destined for the United States, in violation of U.S. law and bilateral trade agreements.⁴⁸ The enactment of the TFTEA in 2015 closed some regulatory loopholes and strengthened CBP’s ability to prevent Chinese prison labor-derived products from entering the United States, allowing CBP to issue the first WROs against Chinese companies in almost 20 years.

Some U.S. states have enacted legislation addressing forced labor in corporate supply chains. One example is the California Transparency in Supply Chains Act, which—according to the law—requires certain “retail sellers and manufacturers doing business in the state to disclose their efforts to eradicate slavery and human trafficking from their direct supply chains.”⁴⁹ The California law acknowledges that market forces are a “key impetus” in the perpetuation of the crimes of slavery and trafficking, causing consumers and businesses to inadvertently purchase and promote tainted goods.⁵⁰ In response, the law requires “large retailers and manufacturers” to disclose publicly in a “conspicuous and easily understood” fashion their “efforts to eradicate slavery and human trafficking from their supply chains, to educate consumers on how to purchase goods produced by companies that responsibly manage their supply chains, and, thereby, to improve the lives of victims of slavery and human trafficking.”⁵¹ The law “applies to any company doing business in California that has annual worldwide gross receipts of more than \$100 million and that identifies itself as a retail seller or manufacturer on its California tax return.”⁵² In 2015, the office of then California Attorney General Kamala D. Harris published a document describing how to comply with the disclosure requirements; examples of this disclosure can be found on the websites of Nestlé, Safeway, and Avon.⁵³ The document points out that the California Act only requires companies to make these public disclosures; it does not mandate taking action to actually reduce reliance on slave labor in corporate supply chains.⁵⁴

At the federal level, there are few disclosure requirements regarding efforts to curb forced labor in corporate supply chains. Federal legislation mandating not only disclosure of corporate anti-forced labor efforts but also taking certain steps to eliminate forced labor components from supply chains based on internal corporate investigations could help reduce the United States’ vulnerability to forced labor exports from China.

Endnotes

- ¹ Congressional-Executive Commission on China, *2013 Annual Report to Congress*, October 2013, 72; 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>; Paul Blustein, “Prison Labor: Can U.S. Point Finger at China?” *Washington Post*, June 3, 1997. <http://www.washingtonpost.com/wp-srv/inatl/longterm/china/stories/prison060397.htm>.
- ² U.S.-China Economic and Security Review Commission, *2008 Annual Report to Congress*, November 2008, 321, 326.
- ³ Jeffrey Fiedler, cofounder, Laogai Research Foundation, interview with Commission staff, April 8, 2017.
- ⁴ David M. Lampton, *Same Bed, Different Dreams: Managing U.S.-China Relations, 1989–2000*, University of California Press, 2001, 125.
- ⁵ International Labor Organization, “ILO Declaration on Fundamental Principles and Rights at Work and its Follow-Up,” June 15, 2010, 1. http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_467653.pdf.
- ⁶ U.S. Department of Labor, *List of Goods Produced by Child Labor or Forced Labor*, September 30, 2016. <https://www.dol.gov/ilab/reports/child-labor/list-of-goods/>.
- ⁷ Chen Guangcheng, “Prison Laborers in China Endure Unimaginable Suffering to Produce Holiday Lights,” *Washington Post*, December 21, 2016. <https://www.washingtonpost.com/news/global-opinions/wp/2016/12/21/prison-laborers-in-china-endure-unimaginable-suffering-to-produce-holiday-lights/>; Curtis Tate, “Chinese Activist Chen Guangcheng’s Visa Is Ready, U.S. Says,” *McClatchy*, May 15, 2012. <http://www.mcclatchydc.com/news/politics-government/congress/article24729559.html>.
- ⁸ U.S. Customs and Border Protection, *Forced Labor*, May 2, 2017. <https://www.cbp.gov/trade/trade-community/programs-outreach/convict-importations>.
- ⁹ Alice A. Kipel, executive director of regulations and rulings, U.S. Customs and Border Protection, interview with Commission staff, March 1, 2017.
- ¹⁰ Alice A. Kipel, executive director of regulations and rulings, U.S. Customs and Border Protection, interview with Commission staff, March 1, 2017.
- ¹¹ Kai Wah Chan, Asia desk operations manager, U.S. Immigration and Customs Enforcement, interview with Commission staff, February 16, 2017; U.S. Immigration and Customs Enforcement, *HSI International Operations*. <https://www.ice.gov/contact/hsi-international-ops>; U.S. Immigration and Customs Enforcement, “Forced Labor Program,” December 2015. http://c.ymcdn.com/sites/www.iwpawood.org/resource/resmgr/Docs/ICE_FCL_Fact_Sheet.pdf.
- ¹² U.S.-China Economic and Security Review Commission, *Hearing on the Memoranda of Understanding between the United States and China Regarding Prison Labor Products*, testimony of James Ink, June 19, 2008, 39. <https://www.uscc.gov/sites/default/files/transcripts/6.19.08HearingTranscript.pdf>.
- ¹³ John Dotson and Teresa Vanfleet, “Prison Labor Exports from China and Implications for U.S. Policy,” *U.S.-China Economic and Security Review Commission*, July 9, 2014, 2. https://www.uscc.gov/sites/default/files/Research/Staff%20Report_Prison%20Labor%20Exports%20from%20China_Final%20Report%20070914.pdf.
- ¹⁴ Kai Wah Chan, Asia desk operations manager, U.S. Immigration and Customs Enforcement, interview with Commission staff, February 16, 2017.
- ¹⁵ Jeffrey Fiedler, cofounder, Laogai Research Foundation, interview with Commission staff, April 8, 2017.
- ¹⁶ Policy advisor, U.S. Immigration and Customs Enforcement, interview with Commission staff, February 21, 2017.
- ¹⁷ Policy advisor, U.S. Immigration and Customs Enforcement, interview with Commission staff, February 21, 2017.
- ¹⁸ *Economist*, “The Government Says It Will Reform its System of Labor Camps: Long Overdue,” January 12, 2013. <http://www.economist.com/news/china/21569448-government-says-it-will-reform-its-system-labour-camps-long-overdue>; Human Rights Watch, “Reeducation through Labor in China,” June 1998. <http://pantheon.hrw.org/legacy/campaigns/china-98/laojiao.htm>.
- ¹⁹ *Economist*, “The Government Says It Will Reform its System of Labor Camps: Long Overdue,” January 12, 2013. <http://www.economist.com/news/china/21569448-government-says-it-will-reform-its-system-labour-camps-long-overdue>.
- ²⁰ U.S. Department of Labor, Bureau of International Labor Affairs, *List of Goods Produced by Child Labor or Forced Labor*, September 30, 2016, 9. https://www.dol.gov/sites/default/files/documents/ilab/reports/child-labor/findings/TVPPRA_Report2016.pdf.
- ²¹ Alexandra Harney, Jason Szep, and Matt Spetalnick, “U.S. Downplayed Evidence of Abuses in Chinese Detention Camps,” *Reuters*, December 31, 2015. <http://www.reuters.com/article/us-usa-humantrafficking-china-insight-idUSKBN0UD1MD20151230>.
- ²² Policy advisor, U.S. Immigration and Customs Enforcement, interview with Commission staff, February 21, 2017.
- ²³ Policy advisor, U.S. Immigration and Customs Enforcement, interview with Commission staff, February 21, 2017; Sophia Yan, “U.S. Steps up Pressure on China over Prison Labor,” *CNN*, June 6, 2016. <http://money.cnn.com/2016/06/06/news/economy/china-prison-labor-exports/>.
- ²⁴ U.S. Department of Labor, Bureau of International Labor Affairs, *List of Goods Produced by Child Labor or Forced Labor*, September 30, 2016, 53. https://www.dol.gov/sites/default/files/documents/ilab/reports/child-labor/findings/TVPPRA_Report2016.pdf.
- ²⁵ John Dotson and Teresa Vanfleet, “Prison Labor Exports from China and Implications for U.S. Policy,” *U.S.-China Economic and Security Review Commission*, July 9, 2014, 8. https://www.uscc.gov/sites/default/files/Research/Staff%20Report_Prison%20Labor%20Exports%20from%20China_Final%20Report%20070914.pdf.
- ²⁶ Danny Vincent, “China Used Prisoners in Lucrative Internet Gaming Work,” *Guardian*, May 25, 2011. <https://www.theguardian.com/world/2011/may/25/china-prisoners-internet-gaming-scam>.
- ²⁷ John Dotson and Teresa Vanfleet, “Prison Labor Exports from China and Implications for U.S. Policy,” *U.S.-China Economic and Security Review Commission*, July 9, 2014, 8–9.

- https://www.uscc.gov/sites/default/files/Research/Staff%20Report_Prison%20Labor%20Exports%20from%20China_Final%20Report%20070914.pdf.
- ²⁸ Alice A. Kipel, executive director of regulations and rulings, U.S. Customs and Border Protection, interview with Commission staff, March 20, 2017; U.S. Customs and Border Protection, *Trade Facilitation and Trade Enforcement Act of 2015: Repeal of the Consumptive Demand Clause*, April 2016. https://www.cbp.gov/sites/default/files/assets/documents/2016-Apr/TFTEA_Consumptive%20Demand_FINAL_0.pdf; Timothy Ford, “New Law Expands Liability for Forced Labor in Supply Chains – Food Companies at Risk,” *Hogan Lovells*, February 25, 2016. <http://ehoganlovells.com/rv/ff0025aef18870364e2c03702d49a16d5ea78ec3>; Tariff Act of 1930, 19 U.S. Code, ch. 497, title III, § 307, 46 Stat. 689, 1930. <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title19/pdf/USCODE-2011-title19-chap4-subtitleII-partI-sec1307.pdf>.
 - ²⁹ U.S. Customs and Border Protection, *Trade Facilitation and Trade Enforcement Act of 2015—Overview*, October 2016. <https://www.cbp.gov/sites/default/files/assets/documents/2016-Oct/Trade%20Facilitation%20and%20Trade%20Enforcement%20Act%20of%202015%20-%20Overview.pdf>.
 - ³⁰ U.S. Customs and Border Protection, *Trade Facilitation and Trade Enforcement Act of 2015: Repeal of the Consumptive Demand Clause*, April 2016. https://www.cbp.gov/sites/default/files/assets/documents/2016-Apr/TFTEA_Consumptive%20Demand_FINAL_0.pdf.
 - ³¹ Elizabeth G. Kurpis, “Forced Labor Loophole Closed, Fashion Brands Beware,” *Law 360*, May 2, 2016. <https://www.law360.com/articles/791298/forced-labor-loophole-closed-fashion-brands-beware>; Trade Facilitation and Trade Enforcement Act of 2015 § 910, Public Law No. 114–125, 2016. <https://www.congress.gov/bill/114th-congress/house-bill/644/text>.
 - ³² U.S. Customs and Border Protection, *Forced Labor*, May 2, 2017. <https://www.cbp.gov/trade/trade-community/programs-outreach/convict-importations>; Timothy Ford, “New Law Expands Liability for Forced Labor in Supply Chains – Food Companies at Risk,” *Hogan Lovells*, February 25, 2016. <http://ehoganlovells.com/rv/ff0025aef18870364e2c03702d49a16d5ea78ec3>.
 - ³³ U.S. Customs and Border Protection, *Forced Labor*, May 2, 2017. <https://www.cbp.gov/trade/trade-community/programs-outreach/convict-importations>.
 - ³⁴ U.S. Customs and Border Protection, *Trade Facilitation and Trade Enforcement Act of 2015: Repeal of the Consumptive Demand Clause*, April 2016. https://www.cbp.gov/sites/default/files/assets/documents/2016-Apr/TFTEA_Consumptive%20Demand_FINAL_0.pdf.
 - ³⁵ U.S. Customs and Border Protection, *Trade Facilitation and Trade Enforcement Act of 2015, Repeal of the Consumptive Demand Clause – Frequently Asked Questions (FAQs)*, April 2016. <https://www.cbp.gov/sites/default/files/assets/documents/2016-Apr/tftea-repeal-consumptive-demand-clause-faqs.pdf>.
 - ³⁶ Barbara Booth, “The Victims of the 21st-Century Slave Trade,” *CNBC*, March 3, 2016. <http://www.cnn.com/2016/03/03/hr644-bill-passed-to-end-the-150-billion-global-slave-trade.html>.
 - ³⁷ Timothy Ford, “New Law Expands Liability for Forced Labor in Supply Chains – Food Companies at Risk,” *Hogan Lovells*, February 25, 2016. <http://ehoganlovells.com/rv/ff0025aef18870364e2c03702d49a16d5ea78ec3>; Sarah A. Altschuller, “U.S. Congress Finally Eliminates the Consumptive Demand Exception,” *Corporate Social Responsibility and the Law*, February 16, 2016. <http://www.csrandthelaw.com/2016/02/16/u-s-congress-finally-eliminates-the-consumptive-demand-exception/>.
 - ³⁸ Associated Press, “Seafood from Slaves: An AP Investigation Helps Free Slaves in the 21st Century,” 2015–2016. <https://www.ap.org/explore/seafood-from-slaves/index.html#main-section>.
 - ³⁹ Martha Mendoza, “AP Report on Slave-Peeled Shrimp Spurs Calls for Boycott,” Associated Press, December 14, 2015. <https://www.ap.org/explore/seafood-from-slaves/ap-report-on-slave-peeled-shrimp-spurs-calls-for-boycott.html>.
 - ⁴⁰ Editorial Board, “China Wants Fish, So Africa Goes Hungry,” *New York Times*, May 3, 2017. <https://www.nytimes.com/2017/05/03/opinion/china-wants-fish-so-africa-goes-hungry.html>; Charlie Campbell, “The Fight to Save the World’s Seas from China’s Bloated Fishing Industry,” *Time*, August 23, 2016. <http://time.com/4463943/japan-china-fishing-marine-iuu-environment-google-skytruth/>; *Economist*, “Trawling for Trouble: Why do Chinese Fishermen Keep Getting Arrested?” April 14, 2016. <http://www.economist.com/news/asia/21697030-why-do-chinese-fishermen-keep-getting-arrested-trawling-trouble>; Christina Larson, “China’s Illegal Fishing Expeditions Threaten World Waters,” *Bloomberg*, November 19, 2013. <https://www.bloomberg.com/news/articles/2013-11-19/chinas-illegal-fishing-expeditions-threaten-world-waters>; U.S.-China Economic and Security Review Commission, *Hearing on China’s Global Quest for Resources and Implications for the United States*, written testimony of Tabitha Mallory, January 26, 2012. https://www.uscc.gov/sites/default/files/1.26.12mallory_testimony.pdf.
 - ⁴¹ Mary Divine, “Her Reporting Helped Free Slaves, Won Pulitzer – And She Lives in Afton,” *Twin Cities Pioneer Press*, May 5, 2016. <http://www.twincities.com/2016/05/05/reporter-behind-seafood-from-slaves-investigation-lives-in-afton/>; *Democracy Now!* “Is the Seafood You Eat Caught by Slaves? Meet the Pulitzer Winners Who Broke open a Global Scandal,” April 18, 2016. https://www.democracynow.org/2016/4/18/is_the_seafood_you_eat_caught; Sarah Lazarus, “Slavery at Sea: Human Trafficking in the Fishing Industry Exposed,” *South China Morning Post*, June 13, 2015. <http://www.scmp.com/magazines/post-magazine/article/1819562/slavery-sea-human-trafficking-fishing-industry-exposed>.
 - ⁴² *Democracy Now!* “Is the Seafood You Eat Caught by Slaves? Meet the Pulitzer Winners Who Broke Open a Global Scandal,” April 18, 2016. https://www.democracynow.org/2016/4/18/is_the_seafood_you_eat_caught.
 - ⁴³ U.S. Customs and Border Protection, *Forced Labor*, May 2, 2017. <https://www.cbp.gov/trade/trade-community/programs-outreach/convict-importations>.
 - ⁴⁴ U.S. Customs and Border Protection, *Forced Labor*, May 2, 2017. <https://www.cbp.gov/trade/trade-community/programs-outreach/convict-importations>; Katrina Skinner, public affairs specialist, U.S. Customs and Border Protection, interview with Commission staff, January 23, 2017.
 - ⁴⁵ Elizabeth G. Kurpis, “Forced Labor Loophole Closed, Fashion Brands Beware,” *Law 360*, May 2, 2016. <https://www.law360.com/articles/791298/forced-labor-loophole-closed-fashion-brands-beware>.

-
- ⁴⁶ Elizabeth G. Kurpis, “Forced Labor Loophole Closed, Fashion Brands Beware,” *Law 360*, May 2, 2016. <https://www.law360.com/articles/791298/forced-labor-loophole-closed-fashion-brands-beware>; Tim Fernholz, “US Border Agents Seized Goods Tied to Forced Labor for the First Time since 2001,” *Quartz*, March 29, 2016. <https://qz.com/650121/us-border-agents-seized-goods-tied-to-forced-labor-for-the-first-time-since-2001/>.
- ⁴⁷ Sophia Yan, “U.S. Steps up Pressure on China over Prison Labor,” CNN, June 6, 2016. <http://money.cnn.com/2016/06/06/news/economy/china-prison-labor-exports/>.
- ⁴⁸ Tariff Act of 1930, 19 U.S. Code § 1307. <https://www.gpo.gov/fdsys/pkg/USCODE-2011-title19/pdf/USCODE-2011-title19-chap4-subtitleII-partI-sec1307.pdf>.
- ⁴⁹ California Transparency in Supply Chains Act of 2010, Cal. Civ. Code § 1714.43, 2010. http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_657_bill_20100930_chaptered.pdf.
- ⁵⁰ California Transparency in Supply Chains Act of 2010, Cal. Civ. Code § 1714.43, f and h, 2010. http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_657_bill_20100930_chaptered.pdf.
- ⁵¹ California Transparency in Supply Chains Act of 2010, Cal. Civ. Code § 1714.43, b, f, h, and j, 2010. http://www.leginfo.ca.gov/pub/09-10/bill/sen/sb_0651-0700/sb_657_bill_20100930_chaptered.pdf.
- ⁵² Office of California Attorney General Kamala D. Harris, *The California Transparency in Supply Chains Act: A Resource Guide*, 2015, i. <https://oag.ca.gov/sites/all/files/agweb/pdfs/sb657/resource-guide.pdf>.
- ⁵³ Office of California Attorney General Kamala D. Harris, *The California Transparency in Supply Chains Act: A Resource Guide*, 2015, ii. <https://oag.ca.gov/sites/all/files/agweb/pdfs/sb657/resource-guide.pdf>; Nestlé USA, “California Transparency in Supply Chains Act.” <http://www.nestleusa.com/about-us/supply-chains-act>; Avon, “California Transparency in Supply Chains Act.” http://avoncompany.com/documents/corporateresponsibility/resourcecenter/pdfs/policies_positions/california-transparency-supply-chains-act-position-statement.pdf; Safeway, “Disclosure – California Transparency in Supply Chains Act of 2010.” <https://shop.safeway.com/ecom/content/supply%20chain%20transparency>.
- ⁵⁴ Office of California Attorney General Kamala D. Harris, *The California Transparency in Supply Chains Act: A Resource Guide*, 2015, i. <https://oag.ca.gov/sites/all/files/agweb/pdfs/sb657/resource-guide.pdf>.