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*Factories and Fraud in the PRC:
How Human Rights Violations Make Reliable Audits Impossible*

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Congressman Smith, Senator Merkley, Honorable Members of the Commission, thank you for the invitation to appear before you today.

I am the Deputy Undersecretary of Labor for International Affairs at the Department of Labor and oversee the work of the Bureau of International Labor Affairs (or ILAB for short). ILAB plays a pivotal role in promoting and protecting workers' rights worldwide. By advocating for international labor rights, including the rights to organize, bargain collectively, to have safe working conditions, and to be free of child labor, forced labor, and discrimination, ILAB contributes to creating a more equitable global labor landscape.

Overview

The issue of factories and fraud in China is multifaceted, with significant implications for human and labor rights and the integrity of our global supply chains.

In my testimony, I will address two related issues: first – the challenges and risks for businesses of using social compliance auditing as a definitive assessment of labor conditions in general, and second – the heightened risks given the ongoing human and labor rights violations in Xinjiang Uyghur Autonomous Region, making reliable audits in the region impossible.

Risks of using social compliance auditing alone as a definitive assessment of labor rights

Social auditing can be a useful tool to assess compliance at a particular point in time; but it cannot be the only mechanism for detecting labor rights violations and abuses. Audits are often announced in advance, giving managers time to prepare a facility. Managers can easily fake timesheets to skirt pay and overtime laws. And workers may be pressured to provide inaccurate information.

To be effective, social auditing should be part of a comprehensive social compliance system that ensures trade unions, democratic worker organizations, and other worker representatives provide support and **voice for workers to identify and raise concerns and collectively advocate for their rights** and interests without fear of retaliation. ILAB's Comply Chain provides examples of best practices in this area.¹

¹ See "Steps Toward a Worker-Driven Social Compliance System" at <https://www.dol.gov/agencies/ilab/comply-chain/steps-to-a-social-compliance-system>.

Worker voice and the ability to freely express concerns are particularly important. When authentic worker voice exists, workers can freely elect their union representatives, identify problems, negotiate agreements, and hold parties accountable. ILAB recently commissioned Penn State University to provide a report, *Worker Voice: What it is, what it isn't, and why it matters*². This report provides important insights on why legitimate, authentic collective worker voice is critical to ensuring effective social compliance.

It is clear effective worker voice is impossible when workers are trapped in state-sponsored forced labor, where there are no independent, democratic unions, and where workers continue to face threats and reprisals.

On the ongoing human and labor rights violations in XUAR

This is the situation we face in China. There are widespread restrictions and repression of freedom for human rights defenders. There isn't just a lack of civil society presence; rather, the entire civic space has been shut down. In Xinjiang in particular, ethnic minorities live in fear of the Chinese government.

Any audit occurring in Xinjiang cannot be conducted without government oversight, making objective worker interviews free from reprisal an impossibility. As the U.S. government highlighted in the Xinjiang Business Advisory³, published in 2021 and updated in September of 2023, auditor interviews with workers cannot be relied upon given pervasive surveillance, the threat of detainment, and evidence of workers' fear of sharing accurate information. Moreover, auditors have reportedly been detained, harassed, threatened, or stopped at the airport.

That is why dozens of major audit firms have not operated in Xinjiang for years; the fear of reprisal for both workers and auditors remains high. Social audits in China should not be seen as an authoritative source for companies reflecting on-the-ground human rights conditions. The business community needs to be aware that any audits, and frankly any business operations undertaken inside China, carry heightened labor and human rights risks.

Concluding remarks

In conclusion, ensuring workers have a substantive role and voice in social compliance is essential to make social compliance audits legitimate. Without workers' feedback, input, and support in resolving issues, labor exploitation risks in supply chains around the world will unfortunately persist.

The Department of Labor serves on the Forced Labor Enforcement Task Force to support implementation and enforcement of the Uyghur Forced Labor Prevention Act, or UFLPA. The UFLPA is a powerful tool to address egregious human and labor rights abuses and to ensure that U.S. workers and businesses have a level playing field. We'll continue to leverage that tool to

² See "Worker Voice" at: https://www.dol.gov/agencies/ilab/worker-voice?_ga=2.22750203.1707314604.1713908500-385848940.1713786258

³ See Departments of Labor, State, Treasury, Commerce, Homeland Security and the Office of the U.S. Trade Representative *Xinjiang Supply Chain Business Advisory*, <https://www.state.gov/xinjiang-supply-chain-business-advisory/>.

protect the integrity of lawful trade and the rights of workers and continue to raise these issues and call for change.

I thank you for your attention.