



Hearing on

Corporate Complicity: Subsidizing the PRC's Human Rights Violations

Tuesday, July 11, 2023 – 10:00 a.m.

Statement for the Record

James P. McGovern

Commissioner, Congressional-Executive Commission on China

Good morning. I join my colleagues in welcoming those present to today's hearing on business and human rights in China. I regret that I am not able to join you in person.

Today's hearing is not the first time the Congressional Executive Commission on China has taken up the role of businesses and their potential, even actual, complicity in the commission of grave human rights violations in the People's Republic of China.

We did our best to engage the corporate sponsors of the 2022 Winter Olympics, held in China in February 2022, to use their leverage in support of human rights. But our efforts and those of many other human rights advocates fell short – the games were not postponed and they were not moved. It turns out that the profit motive that fuels the engine of capitalism is far more powerful than the principle of human dignity that lies at the heart of America's Bill of Rights and is the core of international human rights laws and norms. "Reputational risk" cannot compete.

This reality informed the bipartisan Uyghur Forced Labor Prevention Act that I was privileged to lead and which became law in December 2021. Rather than rely on moral suasion, the law creates a rebuttable presumption that all goods produced in the Xinjiang region of China are made with forced labor. Importing goods made with forced labor is illegal in the United States – has been since 1930. Now, the burden of proof lies with those who want to import goods to show that their supply chains are free of forced labor. We will hear today from DHS Undersecretary Silvers that the law has brought "a sea change" to the way the government approaches forced labor issues. That is a very good thing.

But I cannot help but express my frustration that it seems to be so hard to get the private sector to pay attention to grave human violations that occur in the places they do business, in concrete ways that actually matter on the ground.

We will hear today about several of the ways the PRC government pressures businesses to comply with its ideological and “security” interests. That is information that has been shared with us consistently in the past and it is important to continue to document and draw attention to the ways these pressure campaigns work.

But I hope the witnesses will also talk about how we can do a better job of getting businesses to comply with the spirit of human rights laws. For all the kudos we have received for passage of the UFLPA, there have also been plenty of complaints about the “burden” it creates for the private sector.

The reality is that Congress ends up having to write human rights laws as tightly as possible, because experience suggests that they will not be honored otherwise.

My question for the witnesses today is why is it so difficult to get businesses to comply, and what can we do about that? Is the best option – perhaps the only option – to make sure that compliance is in the financial and market interest of businesses?

If that’s the case, maybe my colleagues across the aisle should rethink their opposition to economic, social and governance guidelines for investment – since ESG rules are the very thing that Uyghur advocates have been asking us to use to end Uyghur slave labor.

One further point: I understand that implementing a law like the UFLPA requires resources. This Commission must be clear that talk about human rights in China – or anywhere else, for that matter – has to be backed up with funding. Cuts to the budgets of agencies that implement human rights policy will gut that policy. It is important to keep this in mind during appropriations season.

Thank you.