Hearing on

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

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<u>As prepared for delivery</u>

Good morning. I join my colleagues in welcoming our witnesses and the public to today's hearing on audits and certifications of supply chains in China.

This hearing continues the work the Congressional-Executive Commission on China has done to shine a light on the use of forced labor by the People's Republic of China and to ensure that Congress is doing everything it can to bring an end to the practice.

We are motivated by the terrible toll of forced labor on those subjected to it, especially the Uyghur people of Xinjiang, and by its impact on Americans. U.S. consumers should not have to worry about whether the products they purchase are tainted by forced labor from China. U.S. workers and producers should not have to compete with companies that rely on forced labor.

Congress took a major step in 2021 by passing the bipartisan Uyghur Forced Labor Prevention Act (UFLPA), legislation that I was privileged to lead.

The UFLPA creates a rebuttable presumption that all goods produced in the Xinjiang region of China are made with forced labor. This means the burden of proof lies with those who want to import goods into the U.S. to show that their supply chains are free of forced labor.

The logic behind the law was that it would create incentives for stakeholders, including the PRC, to change their practices.

The good news is that companies have responded by implementing their economic, social and governance, or ESG, policies and contracting social compliance audits to certify that the supply chains for their products are free of forced labor.

The problem, as we will hear today, is that even when these audits conform with industry-wide ESG standards, they may not be reliable in the Chinese context.

This is both because the companies themselves pay for the audits and have a financial stake in clean findings, and because the PRC, instead of correcting course and ending the use of forced labor, has chosen to retaliate against those who do the audits or cooperate with them.

I want to be clear on this point: the PRC government could react to the worldwide concern that has been raised about its use of forced labor by taking the opportunity to end the practice – which, by the way, would be consistent with its obligations under International Labor Organization conventions, all of which China has ratified.

Instead, since 2021 the PRC has adopted laws, regulations and practices that seem designed to limit the effectiveness of social audits in detecting the presence of forced labor in supply chains.

One example is an anti-foreign sanctions law that has been used at least once to go after a U.S. due diligence firm for collecting "Xinjiang-related sensitive information."

A second is a broadened definition of espionage that came into play when PRC authorities detained staff at another due diligence firm that was reported to be conducting investigations on forced labor in supply chains linked to Xinjiang.

Of 29 firms listed by Social Accountability International as qualified to conduct certification inspections of manufacturers in China, five have announced they will no longer conduct social audits in Xinjiang because conditions simply do not allow them to do so.

In light of this, our question today is what more Congress may be able to do to help to reinforce the incentives in the UFLPA. Are there steps we could take to strengthen the integrity of auditing mechanisms and make them more independent? Are there other ways to foster increased transparency of supply chains that do not backfire on those who try to do the right thing?

Let me close by emphasizing that we are not here to force companies to leave China; our consistent goal is to help improve the human rights situation in China.

But there is a possibility that the PRC's response so far to the global condemnation of its use of forced labor could lead companies to decide on their own that it is too risky to do business in China -- because the lack of human rights protections doesn't allow them to reliably comply with their own ESG policies.

Thank you, and I yield back.