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FORCED LABOR EXPORTS FROM CHINA: UPDATE No.1

Since April 1991, when Asia Watch issued its report on how prison labor in China is used to produce goods for export¹, several developments have taken place:

-- the Chinese government initially denied that any such exports had ever occurred, but later, in the face of mounting evidence, admitted that some prison-made goods could have reached the US through "loopholes in management;"²

-- new evidence has been uncovered which further validates Asia Watch's original assertion that the policy of exporting prison-made goods has, in fact, firm central government approval. The evidence includes a confidential set of guidelines, dating from 1979, from the Ministry of Public Security specifying how such foreign sales are to be arranged. It also includes a number of recently issued English-language sales promotion brochures from labor reform camp enterprises themselves;

-- the Bush administration has announced a stepped-up investigation through the Customs Service of Chinese products and stated that any goods found to have been made by prison labor would be denied entry to the US. Thus far, no goods have been banned from entry.

The Chinese Reaction

On April 29, 1991, ten days after the Asia Watch report was issued, a Chinese Foreign Ministry spokesman called the charges that China used cheap prison labor to expand its exports "groundless."³ A week later, the Chinese ambassador to the US, Zhu Qizhen, insisted that Chinese economic and trade departments "have never granted these reform-through-labor units any right whatsoever to engage in foreign trade."⁴

¹ News from Asia Watch, "Prison Labor in China," April 19, 1991.

² FBIS-CHI-91-100, "Policy on Prison-Made Goods," May 23, 1991, p.1

³ FBIS-CHI-91-082, "Censure on Prisoner-Made Exports 'Groundless'", April 29, 1991, p.1

⁴ FBIS-CHI-91-089, "Envoy to US Stresses Mutual Benefits of MFN," May 8, 1991, p.6

But then, under intensified criticism, Chinese government officials acknowledged that some prison-made goods might have found their way overseas. It was due, they claimed, to the rapid growth of China's economy and the autonomy given to local governments and enterprises. There might be "loopholes in management," a Chinese Foreign Ministry official said in late May. "We hope to strengthen management in the future and, meanwhile, expect the US side to offer cooperation, so as to prevent reoccurrence of such cases."⁵

New Evidence

As the Chinese denials of using prison labor for export mount, new evidence is emerging to strengthen Asia Watch's original assertion that production of export goods made by prisoners is very much a part of government policy.

According to the Ministry of Public Security's confidential directive of 1979:

When foreign businessmen in placing orders, request to visit labor reform plants, the foreign trade departments may, in principle, approve such requests and allow them to visit those labor reform industrial or agricultural units that produce export products, so that they can inspect production of the ordered items. But this must be done under strict control.

The directive then provides further specific advice to "those labor reform units with relatively advanced production techniques which are exporting products in large quantities, or those units that are in a position to engage in compensation trade with foreign businessmen..."

The discovery of this directive, issued by one of the most powerful central government ministries in Beijing, discredits entirely the recent claims by Chinese officials that exports of Chinese prison-made goods are carried out without the knowledge or approval of the central government. It also shows that a central government policy of authorizing such exports has been in place for at least 12 years.

Recent evidence that it continues is provided by the 1989 Yearbook of Local Historical Records of Shandong Province, which notes:

In 1988, the reform-through-labor production in Shandong earnestly carrying out the important strategic plan of the Party's Central Committee to speed up the economic development in coastal regions, made a great effort to develop foreign-oriented economy by fully utilizing...Shandong's advantageous conditions in opening its doors to the outside world.

In the June 1, 1989 issue of the restricted circulation journal, *Theoretical Studies of Reform-Through-Labor and Education-Through-Labor*, an article by Cheng Wenru asserts that the Hebei No.5 Prison had worked out an arrangement, with the mediation of [China's] foreign trade departments, whereby a Hong Kong merchant provides the prison with "advanced foreign shoe-producing machines" and raw rubber in exchange for the exclusive right to sell and export the rubber shoes produced in the prison.

⁵ FBIS-CHI-91-100, "Policy on Prison-Made Goods," May 23, 1991, p.1

The February 1, 1990 issue of the same journal notes that seven labor reform camps in Guangzhou, Shenzhen, Shaoguan and Meizhou (all cities in the southern coastal provinces) are so successful that they account for 80 percent of the total earnings of all provincial labor reform enterprises.⁶ The author suggests that other prisons could benefit by implementing the business techniques used in Guangdong (*sanlai yibu* or processing, assembly and compensation trade.) The statistics in this article suggest that the coastal cities touted as the major beneficiaries of Most Favored Nation status are also the areas where use of prison labor is most exploited, and that benefits from MFN may be subsidizing labor reform enterprises.

And the *1990 Yearbook for Hubei Province* (published by Hubei People's Publishing House), states:

In 1989, labor reform units throughout the province...produced altogether 69,811 domestic pigs, of which 48,034 were exported to other countries; this was a historic record level.

In May 1991, Chinese officials reportedly informed the U.S. State Department that the Chinese government had recently issued a directive forbidding exports to the US goods produced in labor reform units. On July 19, President Bush in a letter to Senator Max Baucus of Montana promised that he had "obtained a firm high-level commitment to prevent the sale of prison labor products to the U.S." But if the 1979 confidential directive contradicts earlier assurances that no policy of approving prison-made exports existed, evidence gathered by scholar and former labor reform camp inmate Harry Wu after the 1991 directive was supposedly issued raises even more questions. If the new directive in fact exists, why is it not being enforced and why has no one ever seen the text? The onus is now firmly on the Chinese government to produce this document for public scrutiny.

Harry Wu has produced convincing evidence that many labor reform camp enterprises are actively seeking foreign buyers.

In June 1991, posing as an California-based businessman interested in importing tools, Wu visited the Shanghai Laodong Machinery Plant. Officials in the plant, after explaining that they were unable to do business "directly" because of the "special nature" of their enterprise, put him in touch with the North Science and Technology Company, a Chinese state-run export-import company (see Appendix). Later that month after he returned to California, Wu received a fax from the plant, saying, "Our factory can manufacture hand tools according to the standards provided by your company. We are also capable of manufacturing according to British standards. However, all of these [special order] products must be sold by your own company. The prices of our goods may appear somewhat expensive, but we can discuss the specific details face to face. Also, it is not necessary to imprint the products with 'Made in China'...May our business venture be blessed with good luck."

A second labor reform camp in Shanghai approached by Wu, the Shanghai Laodong Steel Pipe Works (Shanghai No.7 Labor Reform Detachment), says in its glossy, full-color, promotional brochure,

Shanghai Laodong Steel Pipe Works has specialized in producing welded steel pipe

⁶ The article is by Luo Wenjing of the Hongxing Labor Reform Detachment of Guangdong Province.

inclusive galvanized steel pipe for over 30 years...Pipe for export are normally packaged in hexagonal bundles, the quality of the product is the lead of hte country, and our products sell well in China and was successively granted the Superior Products Honours by the Ministry of Metallurgical Industry and the Shanghai Municipal Awards to 500 Items Surpassed Quality Products from 1981 to 1987, and the 88's Superior Products Honours of State Grade as well...

The export capacity of galvanized steel pipe became the first in China. The product has been exported to regions in South-east Asia, Middle Asia, South America and countries of USA, Japan and West Germany etc and finds favour in foreign purchasers with high praise.

We also produce cold-rolled steel strap and blued steel strap for packing. Of the two, the latter is wholly for exporting.

We cordially welcome business personnel and friends from all corners throughout the region and the world to visit and talk business. (see Appendix B)

At yet another plant, the Qinghai Hide and Garment Factory (Qinghai No.2 Labor Reform Detachment) in the provincial capital Xining, which Wu visited in August 1991, he found police managers well aware of the US ban on goods from China made with forced labor, but nonetheless willing, even eager, to do business. Like the Shanghai tool factory, their only condition was that their goods be sold, either through a state-run export-import company or a Hong Kong trading firm, in order to disguise their point of origin.

Their Hong Kong partner is the Winmate Trading Company Ltd., which, according to Manager Samuel Poon, is buying some \$5.2 million worth of leather from the Qinghai factory this year alone. Much of it is being transshipped from Hong Kong to South Korea where it is being processed and then exported as finished products to US markets.

When interviewed about their relationship with the Qinghai Hide and Garment Factory, Winmate employees told Wu and the CBS television program, "60 Minutes" which aired a segment on prison labor on September 15, 1991, that they were well aware that they were dealing with a prison.

Because they made numerous trips each year to Qinghai province, Wu asked them if they had any problems with quality due to the fact that the factory's labor force was composed of prisoners, Winmate's secretary Linda Lee said that if any problems arose, they simply called up the prison, and the inmates were, in her words, either "punished" or "beaten."

The Bush Administration Response

On the same day the first Asia Watch report on prison labor was issued, a State Department spokesman noted that the Bush administration had "suspected for some time that some Chinese prison products were making their way to the US market" and referred to a US Customs Service investigation

that in April had already been underway for more than a year.⁷

That investigation has thus far been inconclusive, and the Customs Service has yet to ban the import of particular goods or categories of goods. In Congressional testimony on July 17, 1991, a Customs Service official responsible for the investigation said that they were concentrating on tea, wine, tungsten, textiles, shoes, bicycles and circuit boards. But, he asserted, "investigation focused on these commodities has not produced sufficient evidence" to restrict their import. He said that the lack of evidence was due to the difficulties locating eyewitnesses and problems in pinpointing the country of origin of certain goods, the use of false labelling and mismarking of products to escape detection. (Ability to mismark goods is virtually advertised in the brochures obtained by Harry Wu. The Hand Tools Catalogue of the Shanghai Laodong Machinery Plant says very clearly (in English), "Enquiries and orders for custom-made products with buyer-named brand based on buyer's requirements, samples or drawings are welcome. Quality will be good, delivery prompt and prices competitive."

In the midst of the MFN debate, when President Bush wrote to Senator Baucus, he outlined additional measures he said would be taken to stop prison labor exports from entering the US market. He said the State Department would negotiate "a memorandum of understanding" with the Chinese government on "procedures for the prompt investigation" of evidence that specific goods were made by prison labor. Meanwhile, he said, the Customs Service would expand its investigation and would act to deny entry to Chinese products "when there is a reasonable indication" they were made by prison labor.

The administration has sought access to prison farms and factories to monitor compliance with Chinese government promises to stop exports. Assistant Secretary of State Richard Solomon told the Senate Foreign Relations Committee on May 17, 1991 that US officials had visited "a number of such factories", but he could not give assurances that the Chinese would allow access to any and all of these labor camps and their enterprises.

US consular representatives reportedly tried to visit the New Life Cotton Mill, one of the labor reform enterprise named in the April 1991 Asia Watch report, but were denied access on the grounds that the factory was "closed to foreigners."

The Bush administration has opposed making the extension of Most Favored Nation status for China conditional on improvement of the human rights situation there. One condition in bills passed (in different versions) by both houses of Congress was that China cease its export of prison-made products. US Ambassador J. Stapleton Roy, at his nomination hearing on June 25, 1991, assured questioners that the U.S. had "effective measures already available to us" to stop the exports.

Asia Watch Concerns

Asia Watch remains concerned about the use of prison labor to produce export goods. It does not condemn prison labor *per se*; the opportunity to work in prison is one of the United Nations' Standard Minimum Rules for the Treatment of Prisoners.⁸ But another standard minimum rule states, "The interests of the prisoners and of their vocation training, however, must not be subordinated to the

⁷ Richard Boucher, State Department briefing, April 19, 1991.

⁸ Rule 71(3) states, "Sufficient work of a useful nature shall be provided to keep prisoners actively employed for a normal working day."

purpose of making a financial profit from an industry in the institution."⁹

Moreover, the use of prison labor can only serve a progressive rehabilitative role when a certain minimum standard of working conditions exists in the factories or labor camps concerned. The condition under which most prisoners in China are forced to work are, by all reliable accounts, appalling. While some model units in coastal areas may be somewhat above average in this respect, working conditions for prisoners elsewhere in China are generally brutal, unsanitary and dangerous.

Asia Watch is disturbed that many labor reform camps in China are clearly exploiting prison labor for financial profit and forcing prisoners to work under substandard conditions. But it also remains concerned that many of the prisoners producing export goods have been sent to the camps without any judicial hearing whatsoever, while others are forced to stay on after their sentences have expired as so-called "forced job placement personnel." Moreover, a significant proportion of the labor camp inmates may be political dissidents, serving time for the crime of "counterrevolution."

Asia Watch calls on the Chinese government to strictly abide by the provisions relating to prison labor in the UN Standard Minimum Rules for the Treatment of Prisoners, to cease the practice of keeping prisoners on as paid labor in labor reform enterprises after their sentences expire, and to release all those prisoners held for "counterrevolutionary offenses", when in reality they have only non-violently expressed their political views.

It also calls on the Bush administration to intensify its efforts to trace the source of goods made in China and to ban prison-made products; to demand the text of any Chinese directive banning exports from labor reform enterprises; and to allow access by international humanitarian organizations into such enterprises for regular inspections.

The following guidelines, found by Asia Watch in a collection of restricted circulation (neibu) documents, were issued to labor reform units receiving visits from potential exporters.

Circular on Visits by Foreign Businessmen to Labor-Reform Enterprises to Inspect Ordered Goods and Related Problems

Issued by Ministry of Public Security, November 27, 1979¹⁰

To: Public Security Bureaus of the various provinces, municipalities and autonomous regions

Recently, [the local authorities] of Hebei, Shandong, Shanghai and Yunnan asked for

⁹ Rule 72(2), *Standard Minimum Rules for the Treatment of Prisoners*. Resolution 663 C I (XXIV) July 31, 1957.

¹⁰ *A Collection of Standard Interpretations of the Laws of the People's Republic of China*, People's Publishing House of Jilin Province (Jilin:1990), pp.1577-78. For internal use only.

instructions concerning visits by foreign businessmen to labor reform factories (farms) to inspect the products they were ordering. When foreign businessmen, in placing orders, request to visit labor reform plants, the foreign trade departments may, in principle, approve their request and allow them to visit those labor reform industrial or agricultural units that produce export products so that they can inspect the production of the ordered items. But this must be done under strict control. It is for this purpose that the following circular is issued. Please carry it out on an experimental basis, and report any problems to us as they arise.

I. For those units with relatively advanced production techniques which are exporting products in large quantities, or those units that are in a position to engage in compensation trade, requests by foreign businessmen to visit the factory (farm) and inspect the production or ordered goods may, in principle, be agreed to. But they must be reported to the provincial, municipal or autonomous region people's government for approval. A copy of the report must also be submitted to the Ministry of Public Security. In addition, the following preparatory work must be done properly.

1. Those factories (farms) that have been approved to receive foreign businessmen must complete their preparatory work in earnest by improving the order of control and education work as well as that of production management, so as to meet the standards set for those labor reform units that are open to visitors. Before each reception, a plan must be drawn up, including what the visitors are to be shown, the routes along which they will travel, and an outline of questions and answers anticipated at discussions. This plan must be reported to the public security bureau of the province, municipality or autonomous region for approval.

2. In discussing production-related business and signing contracts with foreign businessmen, everything must be done in the name of the enterprise specifically designed for dealing with foreigners.¹¹ In the process of showing the foreign businessmen the conditions of production and in case the visiting foreign businessmen inquire about the reform of prisoners, explanations may be made in accordance with the relevant regulations governing those units that are open to foreign visitors. The Communist Party's policy of reform through labor may be appropriately propagated.

3. Those professional personnel responsible for receiving foreign businessmen should be told by the foreign affairs department of points deserving attention in dealing with foreigners. They must also undergo necessary training. As for other cadres, workers and employees, they must be educated to keep secrets and observe discipline. Generally speaking, they should not come in contact with foreign businessmen themselves. The prisoners must be taught to strictly observe prison regulations and discipline and to be polite. No prisoner is allowed to come into contact with foreign businessmen.

4. Arrangements of room and board for foreign businessmen should be the sole responsibility of the foreign trade departments.

5. There must be tight security and protection for foreign businessmen. During their visit, effective supervisory measures must be taken and control must be strictly exercised in accordance with the principle of "internal repression, outward relaxation," (*neiju waisong*) so as to prevent any

¹¹ Translator's note: since prison and reform-through-labor camps are not technically allowed to export directly abroad, they must go through a state-owned export-import company, an administrative procedure which helps conceal the origin of the products shipped abroad.

untoward accidents.

II. Should foreign businessmen request to visit those units with very poor production facilities, and if they are exporting relatively small quantities of products, their request for visits should be politely turned down by the foreign trade department concerned.

III. The labor reform units are state enterprises of a special nature, and should not, in principle, engage in joint ventures with foreign businessmen.