

# The Wire *China*

Q &amp; A

## Thea Lee on Tracing Supply Chains and Protecting Workers

The longtime labor advocate and current Biden administration official talks about the U.S.'s lopsided trade relationship with China; enforcing the Uyghur Forced Labor Prevention Act; and why labor rights problems in China are so systemic.

BY BOB DAVIS — JANUARY 8, 2023

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*For nearly all her career, Thea Lee (<https://www.dol.gov/agencies/ilab/about-us/bio-lee>) has focused on defeating new free-trade agreements, arguing that pacts like the North American Free Trade Agreement and efforts by the U.S. to ease China's entry into the World Trade Organization undermined workers in the United States. From 1997 to 2017, she was the lead trade policy official at the AFL-CIO and later became deputy chief of staff there. From 2018 to 2021, she was president of the Economic Policy Institute (<https://www.epi.org>), a progressive Washington D.C. think tank supported by labor union funding. In 2021, President Biden named her deputy undersecretary of labor for international labor affairs — essentially the department's top labor diplomat. She oversees the Bureau of International Labor Affairs, which puts pressure on nations to end forced labor and child labor. Along with Customs and Border Patrol, she plays an important role in enforcing the Uyghur Forced Labor Prevention Act, which seeks to end imports from the Xinjiang region of China that are made with forced labor.*

*This interview is part of **Rules of Engagement**, a new series by Bob Davis ([https://twitter.com/bobdavis187?ref\\_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor](https://twitter.com/bobdavis187?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor)), who covered the U.S.-China relationship at The Wall Street Journal starting in the 1990s. In these interviews, Davis asks current and former U.S. officials and policymakers what went right, what went wrong and what comes next.*



**Thea Lee.**

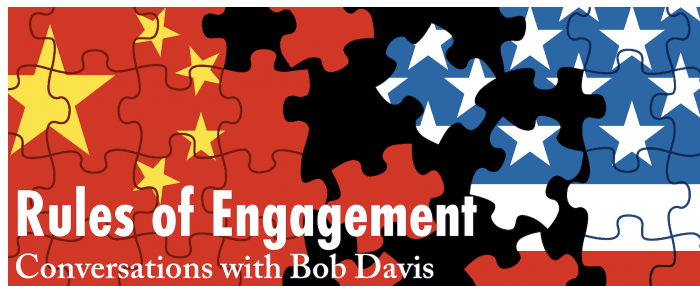
*Illustration by Kate Copeland*

**Q: You have such an interesting family background as the descendant of Chinese immigrants. Tell us about that.**

A: My family came back and forth between China and the United States for several generations. My great-great-grandfather came to the United States in the 1880s to work on the railroads. He was from Taishan county, a part of Southern China and Guangzhou province where there was just a lot of poverty and drought. There must have been recruiters who went there looking for labor.

My great-great-grandfather, my great-grandfather, my grandfather, and my father were all born in China. Each generation came to the United States, worked, and went back to China to get married and have children. The Chinese Exclusion Act [Editor's note – Passed in 1882, the Act was one of a series of restrictive laws targeting Chinese immigration] prevented many Chinese women from easily coming to the United States.

Chinese men were welcomed as workers — as cheap labor — but people didn't really want them procreating. When I think about these men, I always try to think of them as earlier versions of temporary migrant workers who are valued for their cheap labor but not really valued as citizens or members of the society.



*Illustration by Sam Ward.*

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Employers also sometimes used Chinese workers as strike breakers. They were used to weaken the bargaining power of workers who were here. That always breaks my heart because workers are not pawns. They shouldn't be used to fight each other by bosses.

My great-grandfather tried to settle in California, but there were exclusions on who could buy farmland; he ended up in Boston's Chinatown. That's where my grandfather and my father ended up as well. My father was born in Guangzhou and came to the U.S. with his dad. He left behind his mom and his three sisters in Taishan and didn't see them for another 37 years because afterwards the Chinese revolution occurred.

My dad was brought up by his grandfather and his grandmother who lived in Boston's Chinatown in a tiny apartment without hot water. His father was a lawyer [in China] and acted as an immigration lawyer [in

Boston]. My dad went to Boston Latin, which was a magnet [Editor's note: selective] public high school, and got an excellent education there. He ended up going to the University of Michigan.

As a kid who came to the U.S. speaking no English and having very few opportunities, his example shows the potential and the promise of America. He ended up having a very illustrious career. He – Tunney Lee (<https://news.mit.edu/2020/tunney-lee-professor-emeritus-urban-planning-dies-0710>) – was an architect, urban planner and professor at MIT, and he worked for the [Gov. Michael] Dukakis administration as the head of capital planning and operations. He was just an extraordinary person.

He and my mom met in New York City. She's Jewish. Her parents were from Eastern Europe — Russia and Poland. She was first generation born in New York City. My parents met in New York City, fell in love and eloped to Rome. Neither of them is still alive.

My dad stayed pretty connected to China. He and my mom ended up living in Hong Kong for almost 10 years in the 1990s [when Thea Lee was an adult]. We visited some and spent a lot of time in Hong Kong. He started the Department of Architecture at the Chinese University of Hong Kong. That decade or so in Hong Kong was an opportunity for him to connect to mainland China and to travel there.

## BIO AT A GLANCE

<b>AGE</b>	<b>63</b>
<b>BIRTHPLACE</b>	<b>New York City, NY</b>
<b>CURRENT POSITION</b>	<b>Deputy Undersecretary for International Labor Affairs</b>

At MIT, he used to teach a graduate course where he brought his students every year to China to do an urban planning project. He had a benefactor who funded this. They would go to, say, a small town where

the mayor had a problem like wanting to revamp the waterfront. The students would spend a week or so there to interview people and get the lay of the land. They would return to MIT, come up with proposals, bring them back and present them to the mayor. It was free advice.

When I became more active in the China-U.S. trade discussions, my dad was sometimes a little bit critical and a little bit anxious. He thought I was being too harsh on the Chinese government. But we had, I think, good, fruitful discussions. He wasn't an apologist for the Chinese government in any way. It was just that he spent a lot of time there and was very connected.

## MISCELLANEA

<b>FAVORITE BOOK</b>	<i>Jane Eyre</i> by Charlotte Brontë
<b>FAVORITE FILM</b>	<i>The Awful Truth</i>
<b>FAVORITE MUSIC</b>	Folk/Rock
<b>MOST ADMIRED</b>	Mother Jones

We've done a couple of family visits back to his village, one in 1987 and another in 2010, which were amazing. In 1987, it hadn't changed that much since my dad had left in 1937. It was so small and so rural that we had to borrow bicycles from the maids at the hotel because there were no roads. There were only buffalo paths. There was a well and no running water. There were pigs in kitchens and a shrine to my great-great-grandparents. We met everybody in the village of maybe 150 people, and they were all related to us.

When we went back in 2010, the place had changed quite a bit. There were lots of roads and highways and McDonald's in a big town nearby [Taishan] and pedestrian malls. A lot of people seem to have left the village at that point.

**In one of your first jobs, as a researcher for the Economic Policy Institute, you co-wrote an op-ed in 1994, criticizing the Clinton administration's decision to grant Most Favored Nation status to China. [Editor's note: At the time, Congress annually voted on whether China should continue to receive MFN status, which enabled it to export goods to the U.S. at the lowest possible tariff rate.] You said MFN renewal threatened to "exert a terrific downward pressure on wages and working conditions." In retrospect, do you think you were correct?**

Yeah. Trade with China was used by multinational corporations to get access to cheaper labor — and labor that doesn't have basic human rights, especially the right of freedom of association and collective bargaining. It's trading with a country that deliberately and systematically represses and denies workers' rights.



**President Clinton announcing his position on China's MFN status. May 26, 1994. Image Credit: C-SPAN (<https://www.c-span.org/video/?57295-1/china-favored-nation-announcement>)**

**Three Republican senators have recently introduced legislation that would revoke MFN for China. Do you think that would make sense?**

This is a little bit of closing the barn door after the cows have gone out. It's a little bit hard to understand how that might function now that China is a member of the World Trade Organization [where MFN is guaranteed].

## Do you think it was a mistake to let China into the WTO?



Chinese trade minister Shi Guangsheng claps on the second day of meetings of the WTO in Doha, Qatar, Saturday, 10th of November, 2001, as China formally becomes a member. *Credit: AP Photo*

(<http://www.apimages.com/metadata/Index/Associated-Press-International-News-Qatar-MIDEA-/2f2c3f9264e5da11af9f0014c2589dfb/131/0>)

I do. Partly that's because the WTO (<https://www.thewirechina.com/2022/05/08/charlene-barshefsky-on-why-engagement-with-china-is-more-important-than-ever/>) does not have any way of dealing with some of the issues China poses for the United States, such as currency manipulation, workers' rights violations, and human rights and democracy.

I'm a believer, in principle, in multilateral trading rules, but I'd like to see those rules better reflect the challenges of the global economy. I think having China as a member of the WTO, with all the rights that that brings, is problematic. We entered into a relationship with China that was very lopsided and has continued to be lopsided in terms of the trade.



**Would it make sense to try to kick China out of the WTO or bring a trade action that could take away its rights as a member?**

The world needs to grapple with China as a major competitor that doesn't abide by International Labor Organization standards or other norms. I'm not sure what the best method is.

**This video from the World Trade Organization covers China's accession process and the subsequent impact on China and the world. December 15, 2021.**

It's hard to reform the WTO with China as a member because the WTO tends to work on consensus. China brings three votes — Macau, Hong Kong, and China — and it can block proposals.

One way of dealing with China would be to say that now is the time to reform the WTO so that it can address some of the major issues that are under-addressed in multilateral trading rules. I would add climate change, workers' rights, currency manipulation and some regulatory issues to the list.

Another question is whether countries like the United States still have the ability to use unilateral tools [to challenge China]. That can have an impact and send a strong message, especially if other trading partners might be interested in following suit, rather than trying to kick China out of the WTO.

**Let's switch to your job at the Labor Department. What is your role when it comes to China?**

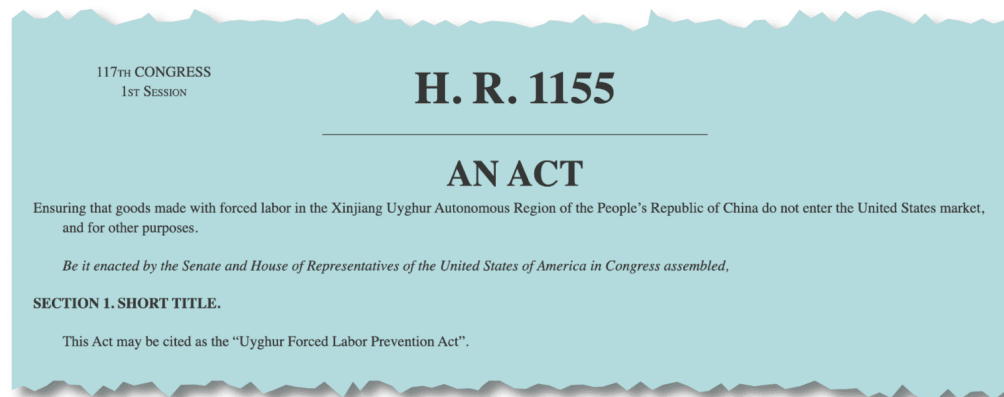


**Thea Lee met with Vietnam's Minister for Labor, War Invalids, and Social Affairs, Đào Ngọc Dung, to discuss labor issues of mutual interest. Hanoi, November 16, 2022. *Photo provided by Thea Lee.***

That's actually a really hard question for me. I head the International Labor Affairs Bureau. Our job is to protect, strengthen and uplift workers' rights around the world, using whatever tools at our disposal, whether it's trade leverage, labor diplomacy or technical assistance.

None of those tools are that useful with respect to China because China is not a GSP recipient. [Editor's note: The U.S. grants tariff relief to certain poor countries under a program called The Generalized System of Preferences (<https://ustr.gov/issue-areas/trade-development/preference-programs/generalized-system-preference-gsp>). That gives the U.S. some leverage to pressure those nations to change.] We don't have a free trade agreement with China. We don't do technical assistance in China. And I don't think labor diplomacy is likely to be that effective.

What tools do we have? What are the ways that we can engage? With respect to forced labor, there is Tariff Act of 1930 (<https://www.britannica.com/topic/Smoot-Hawley-Tariff-Act>). [which bars imports produced in part or whole by forced labor] and the Uyghur Forced Labor Prevention Act (<https://www.thewirechina.com/2022/08/28/xinjiang-date-deception/>). [Editor's note: Signed into law in late 2021, this act puts the onus on importers to show that goods from the Xinjiang region of China weren't produced through forced labor. If they can't, the imports are blocked.] These are ways for the U.S. not to be complicit in the Chinese government's repression of Muslim minorities and use of forced labor.



**H.R. 1155** (<https://www.congress.gov/bill/117th-congress/house-bill/1155>), the Uyghur Forced Labor Prevention Act.

**China is at the top of your department's list of countries that rely on forced labor. That's a form of naming and shaming China. Does the listing do more than that?**

The Labor Department doesn't have law enforcement powers, like Customs and Border Protection or the United States Trade Representative. But we work closely with our counterparts at Customs and Border Protection, the Department of Homeland Security, USTR, State and Commerce. Our research feeds into the work that other agencies do.

The list of goods made with forced labor and child labor doesn't bring any sanctions (<https://www.thewirechina.com/2022/04/24/making-sense-of-sanctions/>). But it can provide important information that we share with other agencies that have sanction capacity. In that sense, I would say the work is useful. Our staff has a tremendous amount of expertise and follows these issues very closely. We're very engaged in interagency discussions about the proper steps to take.

**In some cases, the Chinese government promises an infrastructure project and then brings in Chinese workers who might work under forced labor conditions. That doesn't help a country create jobs.**

The other big issue is geopolitical. What is China's role in the developing world? Our agency is building stronger relationships with developing country governments. That can show a path [for them] to attract foreign investment by having high labor standards and good environmental practices. It is a way to attract big brand names and multinational corporations that is more attractive than what China has to offer, which is Belt-and-Road-Initiative [loans] or offers of aid that sometimes come with hidden strings. In some cases, the Chinese government promises an infrastructure project and then brings in Chinese workers who might work under forced labor conditions. That doesn't help a country create jobs.

**Where is the Labor Department providing this alternative view of development?**



**Thea Lee alongside Prime Minister of the DRC, Jean-Michel Sama Lukonde Kyenge. Kinhasa, March 1, 2022. Credit: *The Press Office of the Prime Minister of the DRC* (<https://www.primature.gouv.cd/2022/03/01/les-questions-liees-a-la-lutte-contre-le-travail-des-enfants-dans-les-mines-au-centre-des-echanges-entre-le-premier-ministre-sama-lukonde-et-une-delegation-du-bureau-international-des-affaires-du-trav/>)**

I was in the Democratic Republic of Congo in March. There's a lot of Chinese investment in the cobalt industry there, and we have a lot of projects trying to deal with child labor in the cobalt industry. The DRC under President Felix Tshisekedi is trying to chart a new path.

There's not a lot of U.S. investment in the DRC right now. A lot of it left because of corruption. Chinese companies bought out a lot of the U.S. cobalt mining operations. Some of that has been disappointing. Now there's an openness to considering whether the U.S. can be a strong partner going forward and offer a very different path of development than what China brings.

I met with the Labor Minister and the Minister of Mines and talked about the labor inspection system. One of the frustrations is that labor inspectors aren't welcome in the Chinese cobalt mines. They haven't set foot in those mines for six years. These are DRC inspectors.



(<https://www.thewirechina.com/2022/08/07/china-drc-mine/>).

The DRC is trying to strengthen their labor inspection system. They have made a commitment to hire 2,000 new labor inspectors, which would be a tremendous improvement. There's a frustration with the Chinese-owned mines. There are complaints about labor problems, labor abuses, and unsafe conditions.

**Are they worried about being too dependent on China?**

I think they're open to thinking about different options.

**Let's talk about Labor's role under the Uyghur Forced Labor Prevention Act.**



**Rob Silvers, DHS Under Secretary for the Office of Strategy, Policy, and Plans, is the chair of the FLETF. Credit: DHS**



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<https://www.dhs.gov/medialibrary/collections/27022>

We were tasked with coming up with an enforcement strategy. My staff and I worked very hard on importer guidelines and all the other pieces [of the legislation]. I am also co-chairing, with DHS, the entities subcommittee of the FLETF [The Forced Labor Enforcement Task Force (<https://www.dhs.gov/forced-labor-enforcement-task-force>)]. We started with entities—companies—that Commerce has already sanctioned [for violating the Uyghur forced labor act]. There was an understanding that there would be additional entities added at some point to the list.

Obviously, it's a big process. We are cooperating and working with all the agencies involved in the FLETF. Customs has investigators on the ground who gather information, and so on. We're involved at an earlier stage. There's a lot of information out there, through NGOs and academics who do research. We and DHS are coming up with criteria to evaluate that information and decide which of it is most actionable.

**In July 2022, you were quoted as saying that the EU and Canada are following the U.S. lead in restricting products made by forced labor. But neither had a ban on imports from Xinjiang.**

Canada has a piece of legislation that would ban imports of goods made with forced labor. The EU, I understand, is also moving in that direction. Now they have what's known as 'mandatory due diligence.' That means a subset of companies that sell in the European Union have to provide some supply chain information, down a couple of tiers. That is also very important.

These kinds of measures are very compatible and complementary. We all need more information, and we all need companies to provide more information than they have in the past. I have engaged with my counterparts [in other major markets] to see as much as possible how we can coordinate.



**Thea Lee at the G7 Conference on Sustainable Value Chains, May 6, 2022.**

***Credit: German Federal Ministry of Labour and Social Affairs***

***(<https://www.csr-in-deutschland.de/EN/Business-Human-Rights/G7-Presidency-2022/Gallery-G7-Supply-Chain-Conference/gallery-g7-supply-chain-conference-image-gallery.html>)***

I know it's onerous for companies to have to meet 10 different standards [regarding forced labor]. At the G-7 supply chain conference in Berlin this spring, I heard from the business community that they're being killed by having too many standards. We need the business community to be more forthcoming. They should be supporting some of these standards, so we can get a consistent standard across different countries.

### ***Are you trying to come up with a common standard?***

Each country does things the way they do things, but we are trying to share information. My staff connects with their counterparts in other countries. As Canada was implementing their forced labor import ban, they called over here to say, 'How do you gather the information? Can we share information?' Law enforcement agencies are sometimes reluctant to share a lot of information.



With North America, all three countries committed under the USMCA [U.S.-Mexico-Canada Agreement negotiated in the Trump administration] to ban the import of goods made with forced labor. Canada has put in place legislation. Mexico has not quite done that yet. It will make a lot of sense for us all to coordinate so that goods, for example, don't come to the U.S., get turned away and then end up in Canada or Mexico through the back door.

**We should put economic pressure on the Chinese government to stop using forced labor in Xinjiang or elsewhere. This is not about attacking anybody or decoupling. It is about enforcing our own laws.**

**Is the forced labor issue part of a government effort to decouple from the Chinese economy?**

I wouldn't use the word decoupling. We shouldn't be a market for goods made with forced labor. That's hard to do. The Tariff Act of 1930 says the United States will not import, in whole or in part, goods manufactured, produced, or mined with forced labor. When you say, 'in part,' we know that a lot of the goods that are made with forced labor in Xinjiang end up a part of other goods. Polysilicon made in Xinjiang (<https://www.thewirechina.com/2021/12/19/the-solar-struggle/>) ends up in most solar cells and panels that are sold globally. We should put economic pressure on the Chinese government to stop using forced labor in Xinjiang or elsewhere. This is not about attacking anybody or decoupling. It is about enforcing our own laws.

**Executive Summary**  
**AFL-CIO Section 301 Petition Against China**

*Introduction*

This Petition is filed by the AFL-CIO and the Industrial Union Council of the AFL-CIO under Section 301 of the Trade Act of 1974 on behalf of the 13 million members of the AFL-CIO, including nearly 6 million manufacturing workers.

The Petition charges that China's brutal repression of internationally recognized workers' rights constitutes an unfair trade practice under Section 301(d) of the Trade Act, and that such repression "burdens or restricts U.S. commerce." It is the first time in the history of Section 301 that a petition has invoked the violation of workers' rights as an unfair trade practice, although it is quite common for corporations to use Section 301 to challenge other unfair trade practices, such as violation of intellectual property rights.

The United States Trade Representative and the President of the United States have 45 days to decide whether or not to accept the petition.

**An excerpt from the Executive Summary of the Section 301 Petition, released March 16, 2004. Credit: *IDS Trade***  
**([https://www.ids.trade/files/news/2004/AFL-CIO%20301%20Petition\\_ExSum.pdf](https://www.ids.trade/files/news/2004/AFL-CIO%20301%20Petition_ExSum.pdf))**

When I was at the AFL-CIO, we brought a section 301 case against China, saying that its violations of freedom of association and collective bargaining amounted to an unfair trade practice. [Editor's note: Under section 301 of U.S. trade law, the U.S. can impose sanctions against countries engaged in unfair trade practices.] Congress had amended section 301 to include all sorts of egregious violations of labor rights as a possible unfair trade practice. Nobody had ever used section 301 that way before. It was a very good case; our petition was about 150 pages long.

We did this under the Bush administration in 2004. Nothing was done. It was rejected. As I remember, they convened four cabinet secretaries and rejected our petition within 15 minutes of it being filed.

**You are part of a different administration: Would it make sense to pursue the case now?**

That's an option.

## **Have you discussed this with U.S. Trade Representative Katherine Tai?**

Probably before I was in this job, but not since.

**There are reports (<https://insidetrade.com/daily-news/analyst-chinese-solar-firms-separating-production-due-us-labor-concerns>) that some Chinese solar companies have multiple production lines. One line may make products for American customers and may be free of forced labor; other production lines may not be. How do you deal with a situation like that?**

We want to make sure that these processes have integrity. There should be some ability to follow the supply chain through to make sure that we're getting the straight story. The question is, 'How much transparency do companies have into Chinese facilities? Are they getting a straight answer with respect to where the polysilicon comes from?' That's the reason that the U.S. government issued a business advisory on Xinjiang — precisely because it's not possible to do due diligence in Xinjiang. [Editor's note: In 2021, the government warned (<https://www.state.gov/xinjiang-supply-chain-business-advisory/>) U.S. businesses about the legal and reputational risks of doing business in Xinjiang.]

The Chinese government doesn't allow the kind of access [needed]. They have kicked out a lot of auditors. They've even passed some legislation that makes it illegal to ask too many questions about what's in your supply chain. So long as the Chinese government prevents the kind of access and transparency that companies need to ascertain what is in their supply chain, I think [the information provided by Chinese firms] has to be treated with some skepticism.



Thea Lee at the launch of the Multilateral Partnership for Organizing, Worker Empowerment, and Rights (M-POWER) (<https://www.dol.gov/agencies/ilab/multilateral-partnership-for-organizing-worker-empowerment-and-rights-m-power-initiative>), December 8, 2022. Credit: U.S. DOL ILAB via Twitter ([https://twitter.com/ILAB\\_DOL/status/1600884321543684096/photo/1](https://twitter.com/ILAB_DOL/status/1600884321543684096/photo/1))

But I also agree that we have an urgent need to deploy more solar energy equipment and we need to make rapid shifts. My interest is to do as good a job as we can in terms of getting good information about where things are produced. I'm also happy that the work is going on to develop a domestic solar supply chain.

One of the most important reasons we do as much international coordination and engagement as we do is to try to bring other countries along, so that there are fewer and fewer markets for slave-labor-solar panels.

**If you cut off Chinese solar suppliers, you would slow the pace of installation of solar panels and solar energy. Do you ever feel pressure to hold off a bit on enforcement?**

Every agency has its primary constituents and focus; people respect that. Labor does what we're asked to do. We're asked to provide the best information we possibly can.

**You have said Labor is developing tools to help trace supply chains. What sort of things have you done?**

We have a couple of technical assistance projects. One is on cobalt from the DRC. Another is cotton from Pakistan. We're about to fund some new supply chain tracing projects because there's all this new technology, involving things like the DNA of cotton. We're trying to work with organizations pioneering this work.

We're still in the planning stages. There's a whole cottage industry of supply chain tracing because of increased interest and focus from the EU, U.S. and Canada on supply chains that are free, not just of forced labor, but egregiously bad labor practices or environmental practices.



**A worker inspects the quality of cotton bales for Shandong merchants at the Urumqi Cotton and Hemp Station in Xinjiang, December 10, 2022.**

***Credit: Imaginechina via AP Images***

<https://newsroom.ap.org/detail/COTTONURUMQIXINJIANG/c4325be6366c4bcQuery=xinjiang%20cotton&mediaType=photo&sortBy=arrivaldatetime:desc&dateRa>

For 30 years, companies used to say to me, there's nothing we can do. We can't possibly be expected to know what's in our supply chain. We have thousands of subcontractors, and we can't be held responsible for what all those subcontractors do. That answer is no longer acceptable.

One of the conversations we have with corporations is that they have to do better. That means getting the conversation [about forced labor and other labor practices] out of the Corporate Social Responsibility basement into the CEO penthouse. We have to motivate CEOs to care not just about whether they hire slave laborers or children, but whether they buy stuff that was made under these egregious labor practices.

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*[Click here to read Nithin Coca's piece on the social auditing industry, 'Crisis of Confidence'. \(https://www.thewirechina.com/2022/06/26/crisis-of-confidence/\).](https://www.thewirechina.com/2022/06/26/crisis-of-confidence/)*

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We know that forced labor is on the rise globally and probably got worse during COVID. In such a wealthy global economy, we ought to be able to do a better job in addressing labor abuses. That's what I hear from most of my counterparts. The companies are starting to get that message as well.

**I remember going to many trade policy conferences when you were the AFL-CIO's main trade policy person. There would be 100 corporate people in the room and you alone for labor. Has your view of corporations changed, either positively or negatively, since you have taken this government position?**

@USDOL's Bureau of International Labor Affairs  
@ILAB\_DOL · [Follow](#)

At the 5th Global Conference on the Elimination of Forced Labor, @ILAB\_DOL head Thea Lee calls fair wages for workers essential to winning the fight against child labor.

Before, I spent a lot of time fighting the government and fighting business. Now I'm part of the government and obviously have a different responsibility than I did as an AFL-CIO advocate. My basic viewpoint is consistent. Companies do what they do. Their job is to make money. I don't criticize them for that. My job in the government is to make it unprofitable for them to violate labor rights. The way that we do that is through market access [restrictions], through trade sanctions and through other methods.

If you want to hire children or use forced labor, go ahead, but don't try to sell in the United States of America. A lot of companies understand that they need the government to set consistent and enforceable standards.

I certainly meet a lot of companies that are very good, responsible businesses. One of the things I say to them is, 'I really want to help you succeed as a responsible business.' A business that sets high labor standards and maintains them, and has good environmental practices, I want to succeed. The way I can make them succeed is by making sure that their competitors aren't getting away with murder, literally sometimes.

I don't see myself as an enemy of business. I never have. I see myself as somebody who wants to set, maintain, and enforce consistent standards so that the best businesses can thrive.

**Some companies and organizations want tighter limits on imports from Xinjiang. If you look at the scale of importing from China, they say just a small portion is affected by Customs actions.**

In the historical context, the 'withhold release' order is a fairly new tool. [Editor's note: Customs uses those orders to detain imports from Xinjiang suspected of being produced by forced labor. Importers must prove they weren't made in that fashion.] It's a powerful tool but the use of it is still evolving. I don't think we're at a place today where we



can say, we're confident that we are not importing in whole or in part any goods made with forced labor. But I don't think it's reasonable to think that we would evolve an entire system in just a few short years.



**Import specialists and a CBP Officer examine a shipment of suspect Xinjiang jujubes at a port in New Jersey. You can read more about Xinjiang jujubes in Eliot Chen's cover story, 'Date Deception' (<https://www.thewirechina.com/2022/08/28/xinjiang-date-deception/>). Photo credit: CBP (<https://www.cbp.gov/frontline/implementing-uyghur-forced-labor-prevention-act/>)**

CBP is learning and evolving. We are working with them. The Uyghur Forced Labor Prevention Act is very fresh and new. Each case that is brought, or each withhold release order that happens sends a pretty powerful message to other entities that this is the direction enforcement is going. It behooves companies to take more proactive, energetic steps — to both have transparency into their supply chain and make sure they are taking steps to get forced labor and other bad labor practices out of their supply chain.



Every time there's a withhold release order, I think it has a ripple effect. People keep telling me that law firms are getting a lot of calls from companies saying, 'What do I need to do?' That's good. That's healthy.

**Some retailers complain that the government doesn't share enough information and they feel distrusted by the administration. They say retailers can't know everything that's in a giant shipping container. They compare it to the period after the September 11 terrorist attacks when importers say they worked closely with the government to make sure no radioactive material or dirty bombs wound up in shipping containers.**

For the most part, companies have more of that information than the government does. The government's job is to share information about the standards we're holding companies to. I don't know how we're supposed to know what's in their shipments, or where they bought it from, or what the working conditions were like where they bought it from.

**So long as the United States continues to have such a significant bilateral trade relationship with China and a significant two-way investment, we have the ability and the right to continue to raise these issues and we should do that.**

I also don't think 9/11 is a good analogy. With dirty bombs or radioactive material, I assume that would be some outside person who stuck something into a shipment. You need different tools with respect to labor conditions in a supply chain. Those are things that I think a company is responsible for.

## Do you see any improvement in China regarding forced labor ?

It's hard to say because of the lack of transparency.



ILO Director General, Guy Ryder, speaking during the opening of the 110th Session of the International Labour Conference, May 27, 2022. *Credit: ILO via Flickr*

<https://www.flickr.com/photos/ilopictures/52110203430/in/photolist-2noNpZh-2noNpXZ-2no9wjZ-2nnpWV8-2no945L-2noaMQp-2noadzm-2nobxyd-2no8Yuw-2noaeC3-2no9whK-2noEyoE-2no3BRt-2noaMU2-2nobyxB-2no8Tay-2noKPbe-2noKP6z-2noa39w-2noaosN-2no98id-2noEypB-2noEynT-2noKZex-2nobol1e-2no9sw5-2noNpWX-2nobol1p-2no42c1-2no42cG-2nobTL6-2no3Nyg-2noKP9A-2noM4X4-2noKP4k-2noKZ4N-2noEyfJ-2noEygL-2noM53E-2noNpZY-2noKZ6G-2noaMVE-2no8M1j-2noM54w-2noa9s8-2noc8Bc-2no8WQS-2no8WQm-2noKZau-2noNq3t/>

There's supposed to be a technical visit from the ILO with business and labor experts. That was agreed to this summer at the [ILO's] International Labor Conference, when China was chastised under convention 111 on discrimination [against ethnic minorities]. The

outcome was an agreement to send technical experts to Xinjiang, but I don't think they've been able to agree on the terms. That's happened many times.

A lot of the original labor camps have been closed down—that's what I've heard. But it isn't clear whether everybody has been sent home and is free to go about their business or they've been moved to another location.

### **Would you like to travel to China?**

I know we've had some projects in China mostly around things like mine safety or occupational safety and health. They were more like technical assistance projects. I had a video conversation with my counterpart in China. But I don't at the moment have any plans to travel to China.

### **What are your next steps concerning China?**

China is daunting because the labor rights problems are so systemic. It isn't like there's a violation in one factory where workers are fired for organizing. There are no independent democratic unions. It's hard to imagine how you would begin building a labor movement under those circumstances.

For now, it is a question of continuing to engage and use whatever tools we have at our disposal, which are limited. In the long term, labor rights are tied up with democracy and human rights. Those are huge concerns. The trade tools we have can only bear so much weight. So long as the United States continues to have such a significant bilateral trade relationship with China and a significant two-way investment, we have the ability and the right to continue to raise these issues and we should do that.

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Bob Davis, a former correspondent at *The Wall Street Journal*, covered U.S.-China relations beginning in

the 1990s. He co-authored “Superpower Showdown (<https://www.amazon.com/Superpower-Showdown-Battle-Between-Threatens-ebook/dp/B07Z3RZ9NY>),” with Lingling Wei, which chronicles the two nations’ economic and trade rivalry.