

EU imports of goods from Chinese forced labour

Goods made by forced labour in China, and a potential ban on their import to the EU, have long been on the EP agenda. Members have addressed numerous questions on the subject to the Commission and Council. Yet, so far EP calls for action have not led to tangible measures.

The Chinese labour camp system

Modelled on the Soviet Union's *gulag* system, Chinese labour camps were [set up](#) by Mao Zedong in the 1950s to "reform" people through [forced labour](#) and political indoctrination. Despite a number of changes, the system continues to exist, with inmates serving either criminal or administrative detention:

Lao(dong) gai(zao) or '[reform through labour](#)', i.e. criminal detention based on a prison sentence under the Chinese criminal code. Due to international criticism, in [1994](#) the term *laogai* was changed into *jianyu* (prison), but not the function and nature of the punishment. A sprawling and financially lucrative '[prison economy](#)' has evolved, with millions of inmates working under appalling conditions. Prisons also operate as economic entities under different commercial names, which mask the true origin of prison-made goods in China and abroad.

Lao(dong) jiao(yang) or '[re-education through labour](#)'. This is a form of police-imposed [administrative detention](#) of one to three (maximum four) years without formal charges or a trial. It denies those detained basic procedural rights, such as the right to a hearing, legal counsel or judicial review, in violation of key international human rights instruments, such as the [Universal Declaration of Human Rights](#) (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), which China signed in 1998 but has [not ratified](#). *Laojiao* has been widely used as a tool of political control over regime opponents. It has mainly targeted political dissidents, [Falun Gong](#) practitioners, but also petty criminals and drug addicts.

According to [data](#) China provided to the UN Human Rights Council, there were 320 *laojiao* centres with 190 000 inmates in 2009. Estimates of the number of *laogai* camps/inmates are much higher. China keeps related statistics secret, but the US-based Laogai Research Foundation (LRF) has regularly published lists of prisons, including the estimated number of inmates, since 1992. In its [2008 handbook](#), it noted 1 422 camps, including 669 prisons and 319 *laojiao* centres, with the latter's inmates ranging between 500 000 and 2 million.

The abolition of the *laojiao* system

The abolition or reform of the *laojiao* system has been repeatedly [announced](#) in the past. Several recent [high-profile cases](#) have sparked a renewed [debate](#) on the controversial *laojiao* system within China, with the [Chinese press](#) openly recognising its misuse. Recent press releases suggest that the November 2013 [decision](#) of the Communist Party of China (CPC), [confirmed](#) by the National People's Congress in December 2013, to abolish the *laojiao* system is already being [implemented](#), with some camps being transformed into rehabilitation centres for drug addicts. [Human rights activists](#) fear that the abolition may only be a "[cosmetic rebranding](#)", with the old system continuing under a different label.

China's view on forced/prison labour

China is [not](#) a party to the International Labour Organisation (ILO) conventions [29](#) and [105](#) on forced or compulsory labour. China asserts that its legislation recognises the principle of the elimination of all forms of forced and compulsory labour. A 1999 [report](#) by the International Confederation of Free Trade Unions (ICFTU) reveals, however, that China's legislation falls well short of ILO standards and that, moreover, both *laogai* and *laojiao* are exempted from these legal provisions. From a Chinese point of view, goods produced

Author: Gisela Grieger, Members' Research Service

European Parliamentary Research Service

130700REV1

Disclaimer and Copyright: This briefing is a summary of published information and does not necessarily represent the views of the author or the European Parliament. The document is exclusively addressed to the Members and staff of the European Parliament for their parliamentary work. Links to information sources within this document may be inaccessible from locations outside the European Parliament network. © European Union, 2014. All rights reserved. <http://www.eprs.ep.parl.union.eu> — <http://epthinktank.eu> — ep@ep.europa.eu



by *laojiao* inmates do [not constitute](#) prison labour goods for the purpose of bilateral agreements with China, because according to Chinese law they are not criminals. The 2005 Chinese customs [regulations](#) prohibit the export of prison labour-made goods.

Resolutions of national parliaments

In 2005, the [US Congress](#) condemned the *laogai* system. In 2007, the German Parliament adopted a similar [resolution](#) calling on the Federal Government to ask the Chinese authorities to make public the overall number of *laogai* inmates, the products they manufacture and the export destinations of these products. The Italian Parliament endorsed resolutions [173](#), [174](#), and [238](#) to similar effect, also in 2007.

National import bans and their impact

[Section 1307](#) of the US Tariff Act of 1930 bans prison-made goods. The US has also [agreed](#) a 1992 memorandum of understanding (MoU) on prison labour and a 1994 statement of cooperation (SoC) on procedures allowing the US to investigate allegations of imports of Chinese forced labour-made goods. These arrangements have, however, largely failed to [curb](#) the inflow of such goods into the US. Commentators such as [Jeffrey Fiedler](#), currently a member of the US-China Economic and Security Review Commission, have strongly suggested enacting a [series of new legal instruments](#) to discourage China from circumventing US legislation. US industry representatives such as [Gary Marck](#) have called for US [enforcement measures](#) to address the unfair and unlawful competitive edge of Chinese forced labour-made goods on the US market. In **Canada** a similar legal ban is in place under customs tariff item [No 9897.00.00](#). Nonetheless, in 2011, the LRF, which compiles lists of Chinese companies associated with labour camps and the export of their goods, [documented](#) imports of Chinese prison-made goods by the Canadian construction company [Inland Screw Piling](#). **New Zealand's** [Customs and Excise Act of 1996](#) contains an import ban of prison labour. In **Australia** an import ban was in place until it was [repealed in 1986](#). In 1996, Australia opted against the re-introduction of a ban arguing that it would be ineffective, and only a [symbolic gesture](#). [Proponents](#) of a ban contend that recent developments such as China's WTO accession and the signing of an [Australian-Chinese Strategic Partnership agreement](#) have created a better starting point to take up the matter with China. [Australian media revealed](#) in June 2013 that disposable headphones for Qantas, British Airways and Emirates, as well as parts for electrical appliances for Electrolux and Emerson, were produced by Chinese prison labour.

WTO law and EU action so far

An EU ban on imports from China, a WTO member, would be contrary to the 1994 General Agreement on Tariffs and Trade (GATT). But a ban on goods from forced labour [could](#) fall under the [scope](#) of the general exceptions of [Article XX](#), notably its paragraph e on "prison labour". However, Article XX(e) has never been tested as a justification for import bans/restrictions either with respect to prison labour or – through an [evolutionary approach](#) to the interpretation of the legal basis – regarding forced labour. A European Commission inter-service group on forced labour has been exploring the feasibility and effectiveness of such an EU import ban for several years. Since products made by forced labour are [difficult to trace](#) and to [distinguish](#) from other forms of compulsory prison labour which are allowed, no legislative proposal has been submitted. To date, [diplomatic channels](#) have been privileged for the voicing of the EU's human rights concerns.

EP position

In its [resolution](#) on the EU-China negotiations for a bilateral investment agreement of 9 October 2013, the EP stressed that "goods for export to the EU which are produced in forced labour camps, such as under the Re-education through Labour (RTL) system, (...) should not benefit from investments made under this bilateral investment agreement". A [motion for a resolution](#) on EU imports of Chinese forced labour-made goods drafted by rapporteur Vital Moreira (S&D, Portugal) was [unanimously](#) adopted by the International Trade Committee (INTA) on 14 October 2013. It calls on the Commission to submit a legislative proposal on an effective traceability mechanism for forced labour-made goods and a proposal for a regulation banning EU imports of such goods.