THE CANADIAN HOUSE OF COMMONS SPECIAL COMMITTEE REPORT ON CANADIAN PENSION FUNDS' EXPOSURE TO HUMAN RIGHTS ABUSE IN XINJIANG

Executive Summary

Research by Hong Kong Watch has highlighted the extent to which Western institutional investors, including public pension funds responsible for managing the savings of government employees, are directly or indirectly invested in Chinese companies associated with gross violations of human rights, including state-sponsored forced labour in the Xinjiang Uyghur Autonomous Region (XUAR).

In 2023 the Canadian House of Commons Special Committee on the Canada-People's Republic of China Relationship conducted a series of hearings and issued a report on the issue of Canadian pension fund investments in PRC companies. This briefing reviews the report's findings and recommendations, and advances a series of further recommendations based upon Hong Kong Watch's own research and advocacy.

The globalised nature of modern finance means that multilateral regulatory action is necessary to ensure human rights are given due consideration by international investors, and to ensure that one country's efforts to hold violators of human rights accountable are not inadvertently undermined by its allies. Per the recommendations in this briefing note, governments should coordinate and rationalise their regulatory response to this issue, ensuring that 'banned entities lists' are concordant across various jurisdictions and ensuring both imports and investments are consistently prohibited; take action to mandate benchmark providers delist banned entities, or face penalties; and pass legislation to require enhanced due diligence on capital investment in PRC companies with a high risk of labour violations.

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BACKGROUND TO THE HOUSE OF COMMONS REPORT

The Canadian House of Commons Report and Hearing

In December 2023, the Canadian House of Commons Special Committee on the Canada-People's Republic of China Relationship published a report titled, *The Exposure of Canadian Investment Funds to Human Rights Violations in the People's Republic of China.*

This report was prompted by findings from Hong Kong Watch (HKW) research reports *ESG, China and Human Rights: Why the time has come for investors to act* and *Passively Supporting Oppression*. These reports reveal that Western pension funds are implicated in supporting, via passive and active investment, Chinese companies complicit in gross violations of human rights, military modernisation, and coercive labour.

The Special Committee summoned several expert witnesses to provide testimony and recommendations on addressing this issue, including former HKW Director of Policy and Advocacy Sam Goodman and HKW co-founder Aileen Calverley.

Human Rights Violations in the PRC

Since 2017 the People's Republic of China has undertaken a programme of repression against the Uyghur minority in Xinjiang, of actions which the UN Human Rights Office said could constitute crimes against humanity.

As part of its programme of repression, the Chinese state conducts coercive labour transfers both in and out of Xinjiang. Labourers have no say in where they are transferred, what industries they work in, or their living and working conditions.

The PRC government has also created a massive system of extrajudicial internment and high-tech surveillance that limits movements and behaviours of ethnic minority citizens in Xinjiang.

The Canadian House of Commons Report

Findings

The Canadian House of Commons report finds that there are currently no measures in place to prevent companies from investing in Chinese firms implicated in human rights violations, including companies which have been blacklisted by the US government due to their connections to internment camps in Xinjiang.

Index funds which track developing markets have rapidly increased the number of Chinese companies included in their trackers, meaning institutions that passively invest capital via these funds are indirectly exposed to companies which may be blacklisted on human rights grounds.

Current sanction regimes are inconsistent. At present, both Canadian and US legislation blocks imports from companies accused of connections to repressive surveillance, forced labour and gross violations of human rights in Xinjiang. However, investment in these same companies is not prohibited under existing law.

The report also notes a lack of transparency around portfolio investments and the publication of investment holdings, which can obscure the extent of an institutional investor's involvement in the PRC and their exposure to human rights violations. As noted in HKW research, many companies' publicly-listed information on their investment holdings are a year or more out of date.

Recommendations from the House of Commons

- That the Government of Canada studies the compilation of an official list of companies deemed unsuitable for investment, as well as a list of companies in the PRC that Canadian public pensions plans are prohibited from investing in due to national security risks and human rights violations.

- That the Government of Canada proposes legislative action to enhance transparency and due diligence requirements for investments in authoritarian states, and to reinforce the prohibition on the import of goods produced by forced labour.

- That the Government of Canada work with the United States and other allies to develop common approaches to human rights implications of public pension fund investments.

Impact Assessment

Subsequent to the publication of Hong Kong Watch's reports and Canada-PRC relation committee hearing, the following Canadian pension funds have ceased, paused or reduced investment in the PRC:

- CPP Investments
- CDPQ (Caisse de dépôt et placement du Québec)
- British Columbia Investment Management Corp.
- Ontario Teachers' Pension

In the US, the Federal Retirement Thrift Investment Board, the main federal government pension fund, announced that it would exclude investments in China and Hong Kong from its portfolio.

Further Recommendations from Hong Kong Watch

While Hong Kong Watch welcomes the report and the withdrawal of Canadian pension funds from the PRC, we believe that the report lacks strong recommendations to effectively address investment in human rights violations. Our recommendations for stronger action are as follows:

Recommendations for Canada

- The Canadian Government should adopt and adapt the United States government's Uyghur Forced Labor Prevention Act (UFLPA) and Executive Order 14032 to use as a 'banned entities' list to ensure that prohibitions on imports and investments are harmonized and enforced.

- Financial regulatory frameworks should take the UN Guiding Principles on Business and Human Rights (UNGPs) as the basis of engagement, with enhanced transparency and due diligence requirements for investment in PRC companies with a high risk of forced labour violations.

- The Canadian Government should enact legislation to prohibit state pension funds from investing in PRC companies that are complicit in gross violations of human rights and/or included in existing 'banned entities' lists issued by the US and allied governments.

- It is clearly inconsistent to prohibit investment in companies implicated in government repression, while allowing investment in bonds issued by the same government. The Canadian government should thus also consider introducing a cap on total bond holdings from the PRC, or a tax on investment into PRC government bonds.

- Governments should enact legislation mandating that benchmark providers within their jurisdiction delist all officially sanctioned companies from their indexes, or face penalty.

Recommendations for the US

- The US Government should amend existing legislation on sanctions, such as the Uyghur Forced Labour Prevention Act (UFLPA), ensuring that companies included on key US government import sanctions and red-flag lists, including the UFLPA Entity List, are also placed on the investment ban list.

- The House of Representatives House Foreign Affairs Committee, the Senate Committee on Foreign Relations, the Congressional-Executive Commission on China, the United States–China Economic and Security Review Commission, and the United States House Select Committee on the CCP should produce an official list of PRC companies deemed unsuitable for investment by US public pension funds.

- The House of Representatives House Foreign Affairs Committee, the Senate Committee on Foreign Relations, the Congressional-Executive Commission on China, the United States–China Economic and Security Review Commission, and the United States House Select Committee on the CCP should review the list of entities included on the UFLPA Entity List in accordance with the findings of Hong Kong Watch's research, to ensure that companies known to be complicit in forced labour are included.

- The US government should enact legislation mandating that benchmark providers within the United States' jurisdiction delist all officially sanctioned companies from their indexes, or face penalty.

- The regulatory frameworks of the Security and Exchange Commission should take the UN Guiding Principles on Business and Human Rights (UNGPs) as the basis of engagement, with enhanced transparency and due diligence requirements for investment in PRC companies with a high risk of forced labour violations.

- It is clearly inconsistent to prohibit investment in companies implicated in government repression, while allowing investment in bonds issued by the same government. The US government should thus also consider introducing a cap on total bond holdings from the PRC, or a tax on investment into PRC government bonds.

Recommendations for the UK

- The UK government should introduce an official 'banned entities' list of PRC companies complicit in gross violations of human rights and forced labour, and pass legislation applying prohibitions on public procurement, pension and government investment, and imports. Legislation should include subsidiaries and parent or holding companies of these listed entities.

- The UK government should work with the US government and other allies to rationalise and harmonise prohibitions on imports and investment from listed entities, sharing intelligence and evidence of problematic equities where appropriate.

- The House of Commons Foreign Affairs Select Committee, the Treasury Select Committee, and the Lords Select Committee on Economic Affairs should consider holding a hearing on institutional investment into companies complicit in human rights abuse, summoning expert witnesses and financial executives, and issuing a report to complement the Canadian House of Commons' investigation into this issue.

- The UK government should enact legislation mandating that benchmark providers within the UK's jurisdiction delist all officially sanctioned companies from their indexes, or face penalty.

- The Financial Conduct Authority's regulatory frameworks should take the UN Guiding Principles on Business and Human Rights (UNGPs) as the basis of engagement, with enhanced transparency and due diligence requirements for investment in PRC companies with a high risk of forced labour violations.

- It is clearly inconsistent to prohibit investment in companies implicated in government repression, while allowing investment in bonds issued by the same government. The UK government should thus also consider introducing a cap on total bond holdings from the PRC, or a tax on investment into PRC government bonds.

Recommendations for the EU

- In addition to the European Commission's 2022 proposal to prohibit products made with forced labour on the EU market, policymakers in the EU should extend the proposal to include banning investments in companies complicit in directly engaging state-imposed forced labour.

- The EU should introduce an official 'banned entities' list of PRC companies complicit in gross violations of human rights and forced labour, and pass legislation applying prohibitions on public procurement, pension and government investment, and imports. The European Commission should issue an official notice encouraging individual EU Member States to do the same.

- The EU should pass national legislation that bans the import of goods known to be made with forced labour and investments in companies engaged in forced labour, covering, in particular, state-imposed forced labour such as that practised in the Uyghur region.

- Governments within the EU should enact legislation mandating that benchmark providers within their jurisdiction delist all officially sanctioned companies from their indexes, or face penalty.

- The EU should ensure that its financial regulatory frameworks take the UN Guiding Principles on Business and Human Rights (UNGPs) as the basis of engagement, with enhanced transparency and due diligence requirements for investment in PRC companies with a high risk of forced labour violations.

- It is clearly inconsistent to prohibit investment in companies implicated in government repression, while allowing investment in bonds issued by the same government. Governments within the EU should thus also consider introducing a cap on total bond holdings from the PRC, or a tax on investment into PRC government bonds.

Conclusions

This briefing note has summarised the findings and recommendations of the 2023 Canadian House of Commons Special Committee report on pension funds investment in the PRC, and noted further steps that allied governments in North America and Europe could take to ensure their citizens' pension savings do not end up in the pockets of PRC companies actively contributing towards state-sponsored coercive labour and the repression of Uyghur ethnic minorities in XUAR.

It is imperative that Western allies coordinate their legislative and regulatory response to the accusations of complicity in forced labour and repression outlined in the House of Commons report and in Hong Kong Watch's research reports. Otherwise, blacklists in one jurisdiction will simply cause capital flows to reroute to other locales with less stringent restrictions. As such this briefing urges all the governments to which it is addressed to work together to coordinate banned entities lists, and to share standards of best practice, intelligence, and evidence of problematic equities issued in the PRC and other countries ruled by authoritarian regimes.