

COMMON CONCERNS ABOUT ADDRESSING UYGHUR FORCED LABOR

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Introduction

The crisis in the Uyghur Region presents us all with an unparalleled campaign of state repression and systemic state-sponsored forced labor, outstripping most other human rights crises in the contemporary world in terms of scope, scale, and severity. The situation challenges us to reconsider how best to apply our ethical frameworks and our global response mechanisms, as well as our standard corporate due diligence practices. This brief attempts to answer some of the frequently asked questions about how to address the crisis and its effects on international supply chains.

Ethics of Withdrawing from the Region

Won't withdrawing from the Uyghur Region hurt the Uyghurs?

A lot of people are justifiably worried about the consequences of withdrawal from the Uyghur Region on the workers themselves. It is true that workers' rights organizations and unions typically eschew boycotts and import bans in favor of remediating the situation on the ground. But experts agree that these strategies are simply not possible in the Uyghur Region.

The situation for the Uyghur workers employed through labor transfer programs is neither beneficial for them nor voluntary. The vast majority of Uyghurs from the southern XUAR have chosen not to work in factories. There is ample evidence that they resist government pressure to be transferred. Indeed, some of the people who are forced to work in the factories were professionals and business-

men or farmers, who had jobs to which they want to return. **They are harmed by being forced to work. When we purchase the goods they make, we finance and legitimize their oppression and further ensure that they will not be freed.**

Furthermore, Uyghur people do not benefit from the expansion of manufacturing in the region. Uyghur people do not own the factories; they do not run the factories; they are not promoted to any administrative levels; they are not allowed to sell the goods; they are not allowed to be accountants or scientists. They do not own the means of production; they do not profit from the production; they are often not even paid for their work.

The system of state-sponsored forced labor being inflicted on minoritized people of the Uyghur Region is absolutely not the run of the mill kind of forced labor where a boycott or an import ban would threaten the livelihood of the workers. **Workers rights organizations, Uyghur rights groups (including Uyghurs with family members in internment camps and forced labor) and advocates have determined that a full withdrawal is the only viable and effective route to dealing with pervasive, inescapable, state-sponsored forced labor under a dictatorship that is inflicting a genocide on an ethnic minority.**

If our actions are not directly and immediately helping the Uyghurs escape forced labor, why even bother?

Withdrawing from the Uyghur Region may not directly or immediately end the oppression of the people there, but **it will ensure that we are not complicit in, legitimizing, or profiting from their oppression.** It is true that the PRC government continues to oppress Uyghurs despite international efforts and that Uyghurs who are released from

The fourth in a series of briefs about forced labor in the Uyghur Region, this brief provides context and insight into some of the common concerns shared by various stakeholders who seek to address Uyghur forced labor.

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one factory may simply be moved to another one. These are the grim realities that have been created by a government that is committed to the repression and elimination of an ethnic group. What exiting the region does is send a clear message that we do not condone this behavior and ensures that we are not consuming the fruits of Uyghur forced labor. The economic pressure also may encourage the Chinese government to end the system, or for Chinese companies to end participation or eschew the Region until the campaign has ended.

On a practical front, by exiting the Uyghur Region, we necessarily contribute to the diversification of supply chains that are necessary to make international commerce sustainable and ethical.

The Uyghur Region holds a major share of the market in many critical materials and products (specifically polysilicon) that are incredibly important in addressing climate change. If we exclude all XUAR-made products and/or withdraw from the region, won't this undermine our environmental goals?

Human rights and the fate of the planet go hand in hand. It is not only ethically inappropriate to pit the two against each other, it's simply factually inaccurate.

The increased attention to human rights violations in the Uyghur Region recently has actually accelerated the development and diversification of solar supply chains inside and outside of China. With the passage of the UFLPA, companies importing into the US have had to entirely stop sourcing from the Uyghur Region or risk legal repercussions. These efforts – though still incomplete – have been relatively successful, demonstrating that companies can and will source clean polysilicon (and other raw materials and manufactured products) if required to do so.

Governments are recently providing incentives and funding to the solar industry for manufacturing outside of China. The faster that development takes place, the sooner we will have alternatives to forced labor made inputs. We have already seen significant production capacity increases outside of the Uyghur Region in the last two years, and we can anticipate more in the near and medium term. It is critical to note that **XUAR-produced polysilicon is not environmentally-friendly**. China established the XUAR as a major production center for high electricity consuming industries, such as metallurgical-grade silicon (MGS), polysilicon, and aluminum (all of which are necessary for a solar panel), due to the availability of almost unlimited coal used to generate the massive amounts of electricity required. CO2 emissions from coal combustion to produce electricity are over two times higher than the next highest CO2 energy source, which is natural gas. Since XUAR electricity is coal based, XUAR MGS and polysilicon production leads to the highest carbon footprint of all polysilicon made in the world. Thus, the Uyghur Region is a problematic place to source from, for both humanitarian and environmental reasons.

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Supply Chain Tracing

It's challenging (some say impossible) to trace complex supply chains to the raw materials. How can I possibly know where these products come from?

Companies often indicate that it is impossible to know where the materials for their products are mined, grown, or manufactured. While it may be a challenge, it absolutely should not be impossible. Companies are now subject to such legal, financial, and reputational risk that it's critical that they either invest in identifying sourcing at every tier or, where they encounter opacity or refusal to

provide adequate sourcing information from suppliers, change suppliers until full visibility is achieved. **Nothing short of full visibility is sufficient.**

Adequate supply chain tracing requires additional collaboration with suppliers. There is no question that it can be challenging, time consuming, and costly. Small and medium enterprises might find this to be a particular challenge. But it is certainly not impossible, and it is the only route to compliance and ethical business practice.

Sheffield Hallam University has produced numerous reports that trace international supply chain exposure to forced labor in the Uyghur Region. Similarly, companies and others who want to understand more about corporate exposure to the Uyghur Region in supply chains can conduct desk-based research that will assist them in that process. Despite the urgency to do so, we have found that few companies are taking even the simplest steps to learn about their suppliers and sub-suppliers.

We have developed a methodology that can be used across sectors to better understand first tier suppliers' potential connections to the Uyghur Region, identify and increase knowledge of sub-suppliers (and potentially undisclosed sub-suppliers), and identify supply chain exposure to the Uyghur Region. Our [“Know Your Supply Chains”](#) brief provides an in-depth explanation of this methodology.

Of course, desk-based research cannot provide a complete map of a company's supply chains. Companies must be collecting purchase orders, invoices, and receipts for all products across their supply chains down to the raw materials to ensure full compliance with supplier codes of conduct. This should involve close engagement with suppliers through equitable partnerships. The costs of compliance should not be shifted to international suppliers.

Our company has thousands of suppliers. Where would I even begin?

The Chinese government has provided us with a useful roadmap as to where to begin assessing the risk of Uyghur forced labor in supply chains. Our brief [“Products Made with Uyghur Forced Labor”](#) outlines how PRC government policies have led to the rapid expansion of particular industries in the Uyghur Region. Companies looking to exclude the XUAR and Uyghur forced labor from their supply chains would be wise to prioritize those industries in their work to map supply chains, as they are the most likely areas of risk.

Companies should also consider the other industries that the Chinese government has invested in expanding in the Uyghur Region. Based on PRC government directives, those industries would include agricultural products including but not limited to tomatoes, cotton, peaches, grapes, marigolds, peppers, walnuts, dates, jujubes, melons; new materials/new energy/green technology including but not limited to photovoltaic inputs, wind turbines, and electric vehicle batteries; textile, garment, and shoe manufacturing; home appliances; chemical products; mineral resource exploitation and processing; electronic and other equipment manufacturing; and coal, oil, and gas extraction and refining. All of these sectors and those sectors that use these products as inputs in the manufacturing process should be considered high priority for due diligence.

Our [“Know Your Supply Chains”](#) brief provides step-by-step instructions on how to do the first level of desk-based risk assessment and supply chain mapping once priority sectors and suppliers are identified.

We were completely unaware that our suppliers could be implicated in the Uyghur Region. Shouldn't we have more time to respond or more warning?

The whole world has been warned that Uyghur forced labor pervades our supply chains for years. News of the programs emerged in 2018, and a steady stream of reports have implicated a wide range of products and industries. Enforcement against XUAR-origin goods started at least three years before the UFLPA entered into force, and CBP issued numerous WROs under Section 307 of the U.S. Tariff Act. Companies should have been on notice about Uyghur region risks from 2019 at least. **There is no legitimate excuse for not having conducted due diligence on this issue at this point.** No industry should consider itself above scrutiny unless its products are made entirely of inputs farmed, mined, processed, or manufactured outside of China, including the raw materials.

Sourcing

I source [insert product here] from the Uyghur Region, which, to my knowledge, has not been identified as a Uyghur forced-labor-tainted product. Does this mean my products are safe?

Many people have read news that cotton, tomato paste, and solar-grade polysilicon are the most significant exports of the Uyghur Region and are tainted with forced labor. However, as discussed in the [“Products Made with Uyghur Forced Labor”](#) brief, in the last ten years, the PRC government has deliberately encouraged and incentivized the expansion of mining, farming, processing, and manufacturing into the Uyghur Region. Due to the pervasiveness of state-sponsored labor transfer programs, this means that Uyghur forced labor makes its way into the food we eat, the computers we work on, the toys we play with, and the clothes we wear. Uyghur forced labor is present in a range of commercial sectors, and at every step of the production process from the mining of raw materials to the manufacturing of finished consumer goods. **Thus, you should assume that forced labor is involved in the mining or processing of any raw materials and goods from the region, whether or not they appear on this list.** Indeed, the most effective path to ensuring that your supply chain is not tainted with forced labor is to disengage with any companies (parents and subsidiaries) that are operating in the Uyghur Region at any level of their corporate group or engaging in the forced labor system in any way.

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This means that serious scrutiny needs to be paid to all products that could have any input from China to ensure a supply chain free of Uyghur forced labor.

I no longer source directly from the Uyghur Region. Is that enough to prevent my products from being tainted?

Ending all direct sourcing from the Uyghur Region is a critical first step in complying with ethical and legal standards for sourcing. However, it is not enough. Busi-

nesses must also look out for intermediary manufacturers sourcing from the region, products that are blended from different sources, Uyghur labor transfers in other parts of China, and misinformation from suppliers.

Many products made with Uyghur forced labor in the Uyghur Region are being exported through intermediaries throughout China and other countries (such as Indonesia, Vietnam, India, Sri Lanka, Pakistan, and Malaysia), before the goods are finally shipped to buyers. This highlights the importance of thorough supply chain tracing.

Furthermore, many products, such as cotton or polysilicon, can be blended from several different sources, leading to increased risk that these products could have some XUAR inputs even when the product is labeled as being sourced from elsewhere. See below for more on blending.

Indeed, ensuring that there are no Uyghur Region originating inputs is not sufficient to ensure products are not tainted by Uyghur forced labor. Inter-provincial forced labor transfers of people from the XUAR has affected tens of thousands of Uyghurs and other minoritized citizens. Factories in other regions of China that have accepted state-sponsored labor transfers of Uyghur workers are using Uyghur forced labor, and businesses should not source from them. Some suppliers to major international brands have been exposed by the media for having engaged in these transfers.

Auditors and due diligence professionals have indicated recently that Uyghur-region-made goods are being re-labelled or input into supplier platforms, which presents a challenge to companies’ certainty about the origins of their products’ inputs.

Additional research on all suppliers within China can assist in identifying potentially problematic suppliers. See our [“Know Your Supply Chains”](#) brief for details.

I source from factories in other regions of China that employ Uyghurs. How can I know whether these Uyghur workers are victims of forced labor?

Uyghurs and other minoritized citizens of the XUAR are not allowed to move freely, so their ability to choose work and to move to other regions of their own volition is severely limited. Many Uyghurs who are working in factories in other parts of China, especially in low-skill jobs, may have been coerced to work there by the government, as described in our brief [“Forced Labor in the Uyghur](#)

Region: The Evidence. *All Uyghurs who participate in state-sponsored “surplus labor” and “labor transfer” programs should be considered victims of forced labor.*

It is possible that under very specific circumstances, companies in China outside of the Uyghur Region can employ Uyghurs and not be participants in forced labor. If a company were able to show that all of their Uyghur Region workers were brought onto staff through open recruitment fairs that were not affiliated with central, regional, or local government recruitment or transfer programs, that would likely be acceptable. Substantive documentation of all labor recruitment, transport, contracts, salaries, housing, and holiday allowances should be scrutinized for evidence that workers from the Uyghur Region are not subject to state coercion.

My supplier guarantees that the material they’re using for my products is not from the Uyghur Region, even though they otherwise continue sourcing from (or even manufacturing in) the region. Can I feel confident that I am sourcing untainted products from them?

Ideally, companies should only source from suppliers and sub-suppliers that can document that they source or produce *absolutely nothing* in the Uyghur Region. Otherwise, these **bifurcated supply chains increase risk of contaminated, blended, or intentionally misrepresented goods**. A supplier may claim to all of their customers that each is the one getting the untainted products. Suppliers may claim to make one particular product without any tainted inputs, but how can a company be absolutely sure that it is receiving the untainted goods? The answer is that typically, it will be extremely challenging to be certain, so it is better not to work with suppliers that source anything at all from the Uyghur Region.

If a company chooses to continue a relationship with a supplier that sources some of its inputs from the Uyghur Region, significant scrutiny needs to be placed on sourcing. Isotopic testing may assist in identifying whether or-

Bifurcated supply chains increase risk of contaminated, blended, or intentionally misrepresented goods.

ganic products have been sourced from or blended with products from the Uyghur Region, but isotopic testing cannot address all products.

The high risk associated with sourcing from a company that uses any XUAR inputs means that companies must require accurate information regarding full production capacity and origin of all inputs at every tier of their sourcing to ensure that suppliers are providing them with untainted goods. Our “[Ethical Procurement](#)” brief and some answers below provide questions and evidence companies can ask of their suppliers to attempt to determine the likelihood of sourcing untainted products. But in the end, **sourcing from any company that operates in or sources from XUAR means that your business is still financing a company that is linked to the crisis in the Uyghur Region, and that’s an ethical compromise that companies should not want to make.**

My supplier refuses to tell me who they source from or their suppliers refuse to comply with requests for information. What should I do?

End sourcing from that company immediately. Some suppliers try to obscure the identities or locations of their own suppliers, provide fraudulent information, or refuse to discuss sourcing altogether. Though these may appear to be strong relationships with reliable suppliers, their refusal to provide basic information for conducting due diligence proves that in fact these are not good relationships that can be trusted. The risk that these companies could be hiding something relevant to Uyghur forced labor (or other non-compliance with corporate standards) presents too high a risk, especially given the scope of the U.S. Uyghur Forced Labor Prevention Act (UFLPA) and other international due diligence laws.

I see evidence that a supplier participated in labor transfer programs a few years ago, but I cannot find any recent reporting on it. Have they changed practices?

Companies across China have recognized the international resistance to forced labor in the Uyghur Region. For this reason, they have stopped advertising their participation in state-sponsored labor transfer programs. But that does not mean that they have stopped engaging in the programs.

Indeed, the PRC government has ramped up the forced labor program, requiring that *all* people in the impover-

There is no reason to believe that a company has stopped engaging in labor transfer or other repressive programs unless they have made a public declaration of their withdrawal from state recruitment programs and that declaration can be substantiated with documentary evidence.

ished areas of the Uyghur Region be put to work. (See our [“Forced Labor in the Uyghur Region: The Evidence”](#) brief for evidence of the growth of these programs.) The significant incentives for companies to participate remain. We are still finding new evidence of corporate participation. So there is no reason to believe that a company has stopped engaging in the programs unless they have made a public declaration of their withdrawal from the state recruitment programs and that declaration can be substantiated with documentary evidence. Many companies say they don’t use forced labor or deny allegations against them, even when the evidence is overwhelmingly clear. Only one or two companies have in fact ended their participation and made that public to date. ***But short of a public announcement and evidence, there is no guarantee that the company no longer participates, and thus you should assume that they still do to eliminate risk.***

Moving supply chains takes a lot of time.

In fact, it didn’t take that long for them to get to the Uyghur Region, and it’s entirely possible to move them out. International supply chains were largely not connected to the Uyghur Region until just a few years ago. Companies should be heartened to realize that (for the most part, aside from a few specific industries where the PRC has captured the market) ***these are not long-standing or intractable connections.***

I am in procurement/corporate social responsibility/compliance, and I want to ensure our supply chains are free of forced labor, but executives in my company either don’t understand, don’t care about, or don’t want to know about forced labor in the Uyghur Region. How can I convince them to make change?

A few years ago, it might have been a challenge to get C-suite attention to the crisis in the Uyghur Region. With the passage of the Uyghur Forced Labor Prevention Act in the US, anticipated due diligence legislation and a market ban on forced labor goods in the EU, other pending modern slavery regulations in the works worldwide, and litigation against companies alleged to profit from the crisis in France and Germany, ***this is no longer a CSR issue – it’s a legal issue.*** More and more companies are seeing shareholder proposals that express concerns about sourcing from the Uyghur Region. This should capture the C-suite’s attention.

Auditing, Certification, Attestations, Codes of Conduct

My auditing firm reported that there is no forced labor in my factory/supplier operating in the Uyghur Region. Doesn’t that mean that my products were not made using forced labor?

Auditing is not sufficient to ensure that products coming from the Uyghur Region are free of forced labor because auditors are not allowed free and unfettered access to facilities in the Uyghur Region, much less to workers. Uyghurs and other minoritized citizens in the region would be put at very high risk of internment if they were to air grievances to an external auditor; therefore, it would be unethical to put them at risk by conducting an audit. Auditors that have identified problems in the Uyghur Region have faced intimidation and arrests.

For these reasons, **all credible auditors have exited the region.** Be aware that auditors that purport to conduct a social audit in the Uyghur Region or who suggest that a state-sponsored labor transfer within the Uyghur Region is simply a standard government assistance program are revealing that they lack the adequate knowledge of the situation in the XUAR to provide reliable services.

Are audits of working conditions for Uyghurs and other minorities in other parts of China reliable?

Audits, accreditation schemes, or supplier attestations should not be seen as sufficient evidence that a supplier (and its sub-suppliers) are not using Uyghur forced labor. Many companies have been left in the lurch when their auditors have failed to identify evidence of forced labor or supply chain exposure to the Uyghur Region, but their imports nonetheless get stopped at the border.

Auditors should at least be conducting the desk-based research that is described in our [“Know Your Supply Chains”](#) brief and asking the pertinent questions discussed below to identify exposure to the Uyghur Region and to Uyghur forced labor outside of the region. Our experience is that **many auditors are not taking even the most basic steps to locate evidence of Uyghur forced labor.**

When auditors do attempt to understand either the working conditions of Uyghurs or supply chain exposures to the XUAR, they are reporting that they are being thwarted by suppliers from getting accurate information. Some auditors have reported that they are receiving false or deceptive sourcing information from audited suppliers and nonetheless continue to rate them highly; others have reported that they have stopped asking specific questions about the Uyghur Region or forced labor because it is too risky and yet they continue to accept business from customers seeking to exclude XUAR inputs. Clearly, these auditors will not be able to provide adequate service.

Furthermore, in summer 2021, new legislation from the PRC government made it illegal to assist in the implementation of a foreign sanction on China or to meddle in the domestic affairs of China, which means that no auditor can conduct necessary due diligence or reliable supply chain auditing regarding the Uyghur Region or forced labor anywhere in China. **All auditors and consultants operating in China or with agents working in China are at risk of deportation, asset seizure, and prohibitions on doing business in China** (applicable to the company, its agents, and their families). While there have been few legal consequences of this new legislation, it has had a chilling effect on suppliers’ willingness to talk about the issue. Companies that cannot get simple answers to the most basic due diligence questions from their suppliers should seek out new suppliers.

My products or inputs have been certified by the Better Cotton Initiative or have ISO certification. Does that ensure that it is not made in the Uyghur Region?

The Better Cotton Initiative certifies farms, but not gins, mills, or factories. This means that those tiers may still be a risk. Furthermore, BCI continues to include companies operating in the Uyghur Region among its membership. And because of BCI’s “mass balance” system, it is impossible to know if even a BCI certified product is made wholly with BCI cotton. A BCI label does not mean that specific product is verifiably made of BCI cotton. ISO certification does not in any way guarantee that a company is not using forced labor; many of the most egregious cases of forced labor have been in factories that are ISO-certified. Thus, these **certifications cannot be used as evidence of non-involvement in Uyghur forced labor.**

My suppliers promise that they do not use Uyghur forced labor. They have provided attestations and they have signed a code of conduct. Is that enough to show that there is no Uyghur forced labor in my supply chain?

Attestations and codes of conduct are simply not sufficient to confirm lack of forced labor, and it appears that they are not sufficient evidence for Customs and Border Protection investigations into UFLPA detained items.

In China, corporate agents do not share international definitions of forced labor, so claiming that they do not use forced labor is irrelevant. Racism against Uyghurs has created an environment where many people believe that the state must coerce Uyghurs to work because they are otherwise not inclined to do so themselves. This is utterly false, but that means that the state’s forced labor programs are deemed to be beneficial to Uyghurs who many people think need to be forcibly “transformed” through labor. (See our “Forced Labor in the Uyghur Region: Why

Signed codes of conduct and attestations (as well as certifications and self-answered questionnaires) are not enough to prove an absence of forced labor under any circumstances.

is this Happening” brief for more details.) Therefore, when a supplier claims in an attestation that they do not use forced labor, it is impossible to ensure that they are conforming to international definitions that would reject such logic and the state-imposition of factory work on Uyghurs. ***Signed codes of conduct and attestations (as well as certifications and self-answered questionnaires) are not enough to prove an absence of forced labor under any circumstances.***

What evidence could I collect to better understand the situation of Uyghur and other XUAR-originating workers in Chinese factories?

In order to determine whether a supplier in China, outside of the Uyghur Region, is engaging in forced labor through labor transfers from the XUAR, ***the supplier would need to provide clear and convincing evidence of fair recruitment practices, freedom of movement for workers, salary, holidays, and social security payments.*** Some evidence – most of which are kept in the ordinary course of business – might include:

- Evidence of all worker recruitment programs and advertisements since 2016 (to ensure non-participation in state-sponsored labor recruitment programs)
- Bank records of payment for recruitment efforts
- All worker rosters, including name, salary, educational attainment level, ethnicity, and “hukou” residency since 2016
- Bank records of worker payments (to ensure amount of pay and payer is not government)
- All signed worker contracts

- Total number of workers
- Total volume of product
- Total volume of inputs (to compare the required inputs against the production capacity)
- All government subsidies received since 2016
- Any engagement in poverty alleviation, surplus labor, labor transfer, land transfer, land cooperativization, or pairing programs related to the XUAR
- Any relationship to the XPCC
- Corporate annual reports since 2016 (to identify suppliers and participation in government “poverty alleviation” programs)
- A list of all first-tier suppliers, including their Chinese names and social credit numbers, where relevant
- A list of all of the suppliers’ subsidiaries, including their Chinese names and social credit numbers, where relevant
- A list of all of the suppliers’ sub-suppliers, including their Chinese names and social credit numbers, where relevant to the raw materials tier
- Official receipts from those suppliers sufficient to meet the volume of production
- Secondary evidence that the receipts match the sourced materials

Do you have a question or concern that has not been answered here? Share it with [Sheffield Hallam’s research team](#).

Other Useful Resources in This Series

Sheffield Hallam University’s Helena Kennedy Centre for International Justice has produced a series of evidence briefs designed to assist stakeholders in addressing Uyghur forced labor. Briefs in this series cover the context of forced labor in the region, products made with Uyghur forced labor, common concerns about addressing the issue, and various guidance for businesses, journalists, governments, affected community members, advocates, consumers, and others seeking to address the issue. Readers who want to learn more should [visit our website](#).

Common concerns about addressing Uyghur forced labor

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