



Customs Amendment (Banning Goods Produced By Uyghur Forced Labour) Bill 2020
Written submission to the Australian Foreign Affairs, Defence and Trade Committee Department of
the Senate

Uyghur Human Rights Project
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About the organization:

The Uyghur Human Rights Project (UHRP) promotes the rights of the Uyghurs and other Turkic Muslim peoples in East Turkistan, referred to by the Chinese government as the Xinjiang Uyghur Autonomous Region (XUAR), through research-based advocacy.

As a Uyghur organization, we document violations; highlight human rights defenders, survivors, and victims; and research avenues for defence and positive promotion of Uyghurs' human rights, especially in the arenas of policymaking, grassroots action, and cultural rights promotion. UHRP emphasizes bringing forward Uyghur voices and Uyghur experiences.

Recommendations:

1. UHRP fully supports the provisions of the Customs Amendment (Banning Goods Produced By Uyghur Forced Labour) Bill 2020.
2. The Australian government should raise the issue of state-organized forced labor implemented by the Government of China at the March 2021 meeting of the Governing Body of the International Labor Organizations (ILO).
3. Australia should impose targeted human-rights sanctions on individuals and entities implicated in forced labor and other abuses, to include visa bans and asset freezes.
4. Australia should implement export controls on goods and services to PRC government agencies and companies complicit in forced labor, extrajudicial internment, and facial-recognition and other surveillance systems facilitating forced labor.
5. Australia should undertake a determination of whether the Chinese government's recent actions in Uyghur Region meet the threshold of acts constitutive of genocide, core international crimes under the Genocide Convention and are consistent with crimes against humanity, an international crime under the Rome Statute.

Key issues:

- There is sufficient evidence to conclude that the Chinese government is attempting to eliminate the ethno-religious identity of Uyghurs and other Turkic peoples through actions amounting to crimes against humanity and genocide. These actions include mass extrajudicial detention and formal imprisonment, torture and rape, separation of children from their families, forced labor, confiscation of businesses and land, and forced abortion and sterilization.

- A significant program of forced labor is a key component of this campaign of forced assimilation, and it is taking place both inside and outside of the extrajudicial detention camps. Under repressive conditions in the region, due diligence is not possible.
- Industries tainted by forced labor in the Uyghur region include textile production from cotton agriculture to clothing assembly, agricultural goods in addition to cotton, electronics assembly, and polysilicon production.
- Numerous civil society organizations advocate urgent policy responses to the ongoing rights atrocity crimes against Uyghurs, including the Coalition to End Forced Labour in the Uyghur Region, endorsed by over 350 organizations in 40 countries.
- Governments around the world have begun to respond by conducting inquiries into genocide in the region; developing legislation which includes bans on import of products manufactured in the region; increasing scrutiny of products coming from the region and companies operating there; strengthening enforcement of existing laws against forced labor through customs orders; and implementing export bans on goods and services and implementing export bans on goods and services to Chinese agencies and companies responsible for human rights abuses.

Atrocity Crimes against Uyghurs and other Turkic Muslim peoples:

The Chinese government is currently undertaking a massive campaign of atrocity crimes against Uyghurs and other Turkic ethnic groups in East Turkistan, called the Xinjiang Uyghur Autonomous Region (XUAR) by the Chinese government. Methods include imprisonment of intellectuals, religious leaders, and business owners as well as ordinary people, torture and rape, forcible administration of unknown medications, separation of children from their families, and forced abortion and sterilization, all criteria which meet the definition of the crime of genocide laid out in the 1948 UN Genocide Convention.¹

Evidence for what is happening on the ground in East Turkistan includes victim testimony; Chinese government reports and policy documents both public and leaked; government tenders for camp construction verified with satellite imagery; government tenders for intrusive surveillance systems; and testimony from Uyghurs in the diaspora on their missing friends and relatives.²

In October 2020, the Subcommittee on International Human Rights of the Standing Committee on Foreign Affairs and International Development of the Canadian Parliament made a statement that it was persuaded that Chinese government actions meet the definition of genocide and crimes against humanity and called for a strong response.³

In December 2020, 46 UK parliamentarians called on the government to “act urgently” to hold Chinese officials accountable for rights abuses against Uyghurs and other Turkic Muslims, calling

¹ United Nations Convention on the Prevention and Punishment of the Crime of Genocide, <https://www.un.org/en/genocideprevention/genocide-convention.shtml>.

² University of British Columbia “Xinjiang Documentation Project,” Institute of Asian Research, School of Public Policy and Global Affairs <https://xinjiang.sppga.ubc.ca/>.

³ Subcommittee on International Human Rights (October 21, 2020). “Statement by the Subcommittee on International Human Rights Concerning the Human Rights Situation of Uyghurs and other Turkic Muslims in Xinjiang, China,” House of Commons Canada, <https://www.ourcommons.ca/DocumentViewer/en/43-2/SDIR/news-release/10903199>.

for the UK government support for the opening of an investigation by the International Criminal Court into “crimes committed by Chinese officials.”⁴

In January 2021, 50 genocide and atrocity prevention organizations and genocide scholars called on governments to assess that the Chinese government’s recent actions in Uyghur region “meet the threshold of acts constitutive of genocide, core international crimes under the Genocide Convention” and that China’s actions “are consistent with crimes against humanity, an international crime under the Rome Statute, including persecution against an identifiable group on racial, ethnic, and religious grounds, forced population transfers, enforced disappearances, and deprivation of liberty in violation of international law.”⁵

In January 2021, the U.S. Department of State issued a determination that the Chinese government has committed crimes against humanity and genocide in the region, which is supported by incoming administration officials.⁶

Forced Labor:

A cornerstone of this campaign of forced assimilation is the widespread and systematic use of forced labor not only within the extrajudicial detention centers but throughout East Turkistan and beyond. Not only are numerous factories co-located in extrajudicial detention camps, but victim testimonies and official Chinese media reports confirm that detainees are being placed in factories throughout the region. Local government offices in the region have quotas to meet for sending Uyghurs into factory labor, which cannot be filled solely by former detainees.

This factory work is accompanied by an indoctrination program similar to that taking place in the camps, and allows the authorities to monitor and control a large segment of the Uyghur population. Furthermore, former detainees have testified that they were working without pay, and the government permits companies to pay transferred Uyghur workers less than minimum wage.⁷ The impossibility of accessing the extrajudicial detention camps, and the extreme nature of the surveillance of the Uyghur population mean that due diligence in the region is effectively impossible.

The textile industry is a major part of the forced labor regime, with all parts of the supply chain, from cotton agriculture, textile manufacturing, and clothing assembly represented and officially promoted in the region. Export of cotton, yarn and fabric to inner China and to other textile producing countries threatens the entire supply chain. However, this is not the sole industry implicated in forced labor. Numerous other agricultural products are produced in the region, notably tomatoes, and industries such as electronics assembly are moving in thanks to government subsidies. The production of

⁴ Seytoff, A. (December 23, 2020). “UK Lawmakers Urge Action to Hold Chinese Officials Accountable For Rights Abuses in Xinjiang,” *Radio Free Asia*, <https://www.rfa.org/english/news/uyghur/lawmakers-12232020161313.html>.

⁵ Uyghur Human Rights Project (January 14, 2021). “50 Genocide prevention organizations and experts call for UN Commission of Inquiry on crimes against humanity and genocide against Uyghurs,” https://docs.uhrp.org/pdf/UyghurGenocideJointOpenLetter_2021FINAL.pdf

⁶ U.S. Department of State (January 19, 2021). “Determination of the Secretary of State on Atrocities in Xinjiang,” <https://2017-2021.state.gov/determination-of-the-secretary-of-state-on-atrocities-in-xinjiang/index.html>; Brunnstrom, D. and Pamuk, H. (January 19, 2021). “U.S. secretary of state nominee Blinken sees strong foundation for bipartisan China policy,” *Reuters*, <https://www.reuters.com/article/us-usa-biden-state-china/u-s-secretary-of-state-nominee-blinken-sees-strong-foundation-for-bipartisan-china-policy-idUSKBN29O2GB>.

⁷ Lehr, A. and Bechrakis, M., “Connecting the Dots in Xinjiang: Forced Labor, Forced Assimilation, and Western Supply Chains,” Center for Strategic and International Studies, October 2019, <https://www.csis.org/analysis/connecting-dots-xinjiang-forced-labor-forced-assimilation-and-western-supply-chains>.

polysilicon, a key component of solar panels, is increasing in the region; its use of transferred Uyghur labor threatens to taint the renewable energy industry's supply chains with forced labor.⁸

A broad coalition of over 300 civil society groups has demanded a response to the overwhelming evidence of forced labor in the region. The Coalition to End Forced Labor in the Uyghur Region, made up of numerous labor rights organizations and Uyghur groups, is urging brands and retailers to exit the region at all levels of their supply chain and governments to strengthen laws against the importation of goods made with forced labor.⁹

There are several further issues related to international trade and investment which may implicate international companies in human rights abuses in the Uyghur Region. The first includes the sale of high-tech components by western companies to Chinese corporations responsible for building surveillance network in the region, which helps enforce the forced labor regime. The second is the investments in these Chinese corporations by investment funds in democratic countries. Already corporations are lobbying against policies intended to push back on the exploitation of Uyghur forced labor in order to maintain their access to the Chinese market.¹⁰

Global Policy Responses:

Governments around the world are developing or have already implemented policies to ensure private-sector compliance with international human rights standards.

- The UK Parliament is pursuing inquiries in its Foreign Affairs and Business, Energy and Industrial Strategy Committees regarding the extent to which UK businesses are exploiting forced labour in the Uyghur region and how to prevent it.¹¹
- The U.S. Senate is currently considering legislation, the Uyghur Forced Labor Prevention Act (S.65), which will create a “rebuttable presumption” that goods produced in XUAR are made with forced labor, and are thus banned from importation, unless sufficient evidence demonstrates otherwise.¹²
- The Canadian government strengthened its law prohibiting the importation of goods made wholly or in part by forced labor, and issued a business advisory in January 2021 to “help Canadian firms and stakeholders understand the legal and reputational risks posed to companies whose supply chains engage with entities possibly implicated in forced labour.”¹³

⁸ Swanson, A. and Buckley, C. (January 8, 2021). “Chinese Solar Companies Tied to Use of Forced Labor,” *The New York Times*, <https://www.nytimes.com/2021/01/08/business/economy/china-solar-companies-forced-labor-xinjiang.html>.

⁹ Coalition to End Forced Labour in the Uyghur Region, <https://enduyghurforcedlabour.org/about/>.

¹⁰ Coalition to End Forced Labour in the Uyghur Region 12/15/20 “End Uyghur Forced Labor Coalition Demands Companies Disclose Corporate Lobbying Against the Uyghur Forced Labour Prevention Act” <https://enduyghurforcedlabour.org/news/press-release-end-uyghur-forced-labor-coalition-demands-companies-disclose-corporate-lobbying-against-the-uyghur-forced-labor-prevention-act/>.

¹¹ U.K. Foreign Affairs Committee (January 12, 2021). “Xinjiang Detention Camps: Inquiry,” UK Parliament, <https://committees.parliament.uk/work/564/xinjiang-detention-camps/>; Business, Energy and Industrial Strategy Committee, “Forced labour in UK value chains: Inquiry,” UK Parliament, <https://committees.parliament.uk/work/593/forced-labour-in-uk-value-chains/>.

¹² S.3471 - Uyghur Forced Labor Prevention Act, United States Congress, <https://www.congress.gov/bill/116th-congress/senate-bill/3471>.

¹³ Canada Border Services Agency 6/30/20 “Import prohibition on goods produced wholly or in part by forced labour” Government of Canada <https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn20-23-eng.html>; Canadian Trade Commissioner Service (January 12, 2021). “Global Affairs Canada advisory on doing business with Xinjiang-related entities,” Government of Canada, <https://www.international.gc.ca/global-affairs-affaires-mondiales/news-nouvelles/2021/2021-01-12-xinjiang-advisory-avis.aspx?lang=eng>.

- In January 2021, the U.S. Customs and Border Protection Commission issued a region-wide import ban on all cotton and tomato products from the Uyghur Region.¹⁴
- In December 2020 the European Parliament adopted a resolution of forced labor in the Uyghur Region stating that “no reliable means are available to companies to verify that any workplace in [XUAR] is free of forced labour or to prevent the use of forced labour in these workplaces in line with the UN Guiding Principles on Business and Human Rights and human rights due diligence standards.”¹⁵
- In June 2020, 50 UN independent human rights experts and special procedures mandate holders called for greater UN scrutiny of China’s human rights practices, a demand which was echoed by an unprecedented 400 civil society groups from around the world.¹⁶
- The U.S. Commerce Department has placed 48 entities on the export control list, and the Treasury Department placing Magnitsky sanctions on individuals and entities implicated in atrocities in the region, including the Xinjiang Production and Construction Corps (XPCC), a paramilitary organization which includes a massive network of state-owned companies with a significant international presence.¹⁷
- Since October 2019, the U.S. Customs and Border Protection Commission has issued eight Withhold Release Orders on shipments made by companies and the Xinjiang Production and Construction Corps, in the forced labor regime.

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¹⁴ U.S. Customs and Border Protection (January 13, 2021). “CBP Issues Region-Wide Withhold Release Order on Products Made by Slave Labor in Xinjiang,” <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-region-wide-withhold-release-order-products-made-slave>.

¹⁵ European Parliament (December 16, 2020). “European Parliament resolution on forced labour and the situation of the Uyghurs in the Xinjiang Uyghur Autonomous Region” https://www.europarl.europa.eu/doceo/document/RC-9-2020-0432_EN.html

¹⁶ Office of the High Commissioner for Human Rights (June 26, 2020). “UN experts call for decisive measures to protect fundamental freedoms in China,” <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26006>

¹⁷ U.S. Department of the Treasury (July 9, 2020). “Treasury Sanctions Chinese Entity and Officials Pursuant to Global Magnitsky Human Rights Accountability Act,” <https://home.treasury.gov/news/press-releases/sm1055>; U.S. Department of the Treasury (August 31, 2020). “Treasury Sanctions Chinese Entity and Officials Pursuant to Global Magnitsky Human Rights Executive Order” <https://home.treasury.gov/news/press-releases/sm1073>.