

Recommendations for an Effective EU Forced Labour Regulation to Ensure Companies Do Not Benefit from State-Imposed Forced Labour

This briefing outlines the presence of state-imposed forced labour in the Xinjiang Uyghur Autonomous Region (Uyghur Region) and Turkmenistan, as emblematic cases of state-imposed forced labour, and provides recommendations to strengthen the proposal for the European Union (EU) Forced Labour Regulation to ensure it effectively bans the import and sale of products made with state-imposed forced labour in the EU. We are encouraged to see key recommendations reflected in the Parliament's position published on October 16, 2023; we urge the Council to follow suit and conclude trilogue negotiations swiftly with strong text to address state-sponsored forced labour.

As the world's largest trading bloc, the EU has the opportunity to use its tremendous leverage and enact a carefully drafted Forced Labour Regulation that will help end the human rights abuses in the Uyghur Region and Turkmenistan. We call on the Commission, Council, and Parliament to keep victims of forced labour at the centre of their negotiations and to create meaningful legislation.

Recommendations for the EU Forced Labour Regulation

In order for the Forced Labour Regulation to meaningfully address state-imposed forced labour, it must:

- 1) Include **a rebuttable presumption of forced labour on specific product groups (e.g., all cotton, all polysilicon, or all tomatoes) from specified countries or regions (specifically the Uyghur Region and Turkmenistan)** that would lead to a presumptive ban of imports and sales of these specific product groups on the EU market. In cases where the rebuttable presumption applies, the economic operators then bear the burden of establishing that state-imposed forced labour has not been used at any stage of extraction, harvest, production, or manufacturing of a product, including working or processing related to the product.
- 2) **Lower the evidentiary threshold to initiate all investigations and to take a decision.** We recommend not to create any evidence threshold to initiate the full investigation (art. 5) beyond an assessment of the validity of the claim and to trigger an additional type of decision:
 - a) a decision to block entry into the EU market/forbid the placing on the market/export of goods made with forced labour in the EU when a "reasonable but not conclusive" standard that the goods were made with forced labour is found; in the case of state-imposed forced labour, the burden of proof would then shift to the economic operator; and
 - b) a final decision, which then allows authorities to seize the goods, as currently foreseen in the European Commission proposal, when a company cannot disprove the presence of state-imposed forced labour in its supply chain or when conclusive evidence is established in cases of forced labour in private supply chains.

These changes would facilitate the implementation of the legislation, increase its impact, and align it with other countries' standards, for the sake of both companies and authorities. In addition, this would

ensure that all products subject to a rebuttable presumption of state-imposed forced labour would not be allowed to enter the EU market, thus protecting the EU consumers.

3) Designate the **European Commission also as a competent authority**, to conduct politically sensitive investigations, such as those linked to state-imposed forced labour, or to contribute to the investigation process, in particular when investigations in third countries are required.

The above recommendations are thus necessary to address state-imposed forced labour

State-imposed forced labour cannot be addressed using the same approaches used to combat other forms of forced labour. [ILO Convention No. 105](#) specifically prohibits forced labour by the state, including as punishment for the expression of political views; for the purposes of economic development; as a means of labour discipline; as a punishment for participation in strikes; and as a means of racial, religious, or other discrimination.

State-imposed forced labour **is part of a state policy**, meaning it is imposed and enforced by the state, at all levels of government, and is widespread or systemic. For this reason, it is **a practical impossibility for a business to undertake credible and effective due diligence** on-the-ground or to take steps to effectively prevent, mitigate, or remediate state-imposed forced labour. Pursuant to the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the UN Guiding Principles on Business and Human Rights, where individual companies are unable to use their leverage to prevent, mitigate, or remediate forced labour at facilities in their supply chains, disengagement is the only responsible course of action. Disengagement means termination of all direct and indirect business relationships that are linked to state-imposed forced labour.

Full implementation of the recommendations outlined above will complement similar trade and due diligence efforts in other jurisdictions. It will create **a level playing field among companies** and, crucially, ensure that **the EU is not a dumping ground** for products made with state-imposed forced labour. It will help prevent companies from benefiting from state-imposed forced labour, and will protect EU consumers from inadvertently buying tainted products.

Regional import prohibitions can effectively address state-imposed forced labour. Where companies are legally required to eliminate all products extracted, harvested, produced, or manufactured with state-imposed forced labour from their supply chains, there are positive results. As of [March 2023](#), shipments from the Uyghur Region to the US have reportedly decreased by 90% since the [Uyghur Forced Labor Prevention Act](#) (UFLPA) went into force. As a result of UFLPA implementation, the global percentage of polysilicon sourced from the Uyghur Region has decreased by 10% [since 2020](#). Between [June 2021 and June 2022](#), sales of ginned Uyghur Region cotton decreased by over 40%. These developments demonstrate that it is possible for companies to exit the Uyghur Region and develop alternative sourcing.

Representatives of **impacted communities support these recommendations**. A regional ban against products made with state-imposed forced labour will increase economic pressure on the governments of China, Turkmenistan, and other governments that use forced labour, and help put an end to their egregious forced labour systems.

Cotton production in Turkmenistan

- All cotton originating in Turkmenistan is [produced within a state-imposed forced labour system](#). Every year during the cotton harvest (August - December), the Turkmen government forces public sector workers to pick cotton or pay for replacement pickers under threat of penalty, such as loss of employment. This policy is also a driver of child labour. Cotton production quotas are also placed on farmers, which are enforced with the threat of penalties, including fines and loss of land.
- The Turkmen government exerts control over all aspects of public life and severely represses all civic freedoms, which are crucial to combating forced labour. All civil society organisations that are publicly critical of the regime, including Cotton Campaign partners [Turkmen News](#) and the [Turkmen Initiative for Human Rights](#), must work from exile. Independent labour monitors and informants who provide evidence of forced labour conditions during the harvest, do so at great personal risk.
- Forced labour Turkmen cotton [enters the EU market](#) at all stages of production. Garments and home textiles made with cotton from Turkmenistan are imported in the EU, primarily through Turkey and Pakistan; and European manufacturers, including in Poland, Portugal, and Italy, use Turkmen semi-finished goods in the production of textiles which they then sell to global brands and retailers.

Goods mined, processed, harvested, or manufactured in the Uyghur Region

- In the Uyghur Region, the government of China is [perpetrating human rights abuses](#) on a massive scale, targeting the Uyghur population and other Turkic and Muslim-majority peoples on the basis of their religion and ethnicity. These abuses include arbitrary mass detention of an estimated range of 1 million to 1.8 million people and a program to “cleanse” ethnic groups of their “extremist” thoughts through re-education and forced labour. This involves multiple forms of involuntary labour at workplaces in the Region and across China.
- Despite obstacles to human rights investigation erected by the Chinese government, investigators have drawn on refugee accounts, satellite imagery, and government records to expose the government’s policy of using forced labour as a means of social control. These investigations show that the breadth of this policy creates significant risk of forced labour at virtually any workplace, industrial or agricultural, in the Uyghur Region.
- Research shows that state-imposed Uyghur forced labour is widespread within the supply chains of [17+ global industries](#). For example, [20% of cotton garments](#) in the global apparel market were at risk of being tainted by Uyghur forced labour (2020); [35% of the world’s](#) solar-grade polysilicon and 32% of global metallurgical-grade silicon comes from the Uyghur Region (2022); [12% of the global supply](#) of aluminium is produced in the Uyghur Region (2022); and [the mining and associated industries](#) related to coal, natural gas, gold, iron, steel alloying elements are expanding in the Region, and a particular focus has been placed on [lithium extraction](#) and processing.

Additional resources

State-imposed forced labour in Turkmenistan cotton:

- [State-imposed forced labour in the cotton harvest in Turkmenistan, 2022, independent reporting by Turkmen News and Turkmen Initiative for Human Rights](#)
- [How forced labour Turkmen cotton enters the EU market, 2022 trade data](#)
- [The ILO Committee on the Application of Standards' 2023 Conclusions](#), which “deplored the persistence of the widespread use of forced labour in relation to the annual state-sponsored cotton harvest in Turkmenistan and the Government’s failure to make any meaningful progress on the matter since the Committee discussed the case in 2016.”
- [The UN Human Rights Committee’s 2023 Concluding Observations](#), which expressed concern about “the widespread use of the forced labour of civil servants during the cotton harvest (mainly women) under threat of such penalties as the loss of wages or salary cuts and the termination of employment as well as other sanctions.”
- [Independent reporting of human rights abuses in Turkmenistan, Turkmen News](#)

State-imposed forced labour in the Uyghur Region:

- [OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People’s Republic of China](#), which states, “The extent of arbitrary and discriminatory detention of members of Uyghur and other predominantly Muslim groups, pursuant to law and policy, in context of restrictions and deprivation more generally of fundamental rights enjoyed individually and collectively, may constitute international crimes, in particular crimes against humanity.”
- [Report of the UN Special Rapporteur, Tomoya Obokata](#), one of the foremost international experts in contemporary forms of slavery, finds that “given the nature and extent of powers exercised over affected workers during forced labour, including excessive surveillance, abusive living and working conditions, restriction of movement through internment, threats, physical and/or sexual violence and other inhuman or degrading treatment, some instances may amount to enslavement as a crime against humanity.”
- See the extensive body of evidence linking state-imposed Uyghur forced labour to supply chains, on [the Coalition to End Forced Labour in the Uyghur Region’s website](#).
- US Custom and Border Protection’s [enforcement statistics for the Uyghur Forced Labor Prevention Act](#). As of October 10, 2023, 5,582 shipments, amounting to \$1.9 billion USD, have been targeted under the law, 44% of which were denied entry into the US.

Contact information

- Coalition to End Forced Labour in the Uyghur Region: Charlotte Tate, Advocacy Lead: ctate@enduyghurforcedlabour.org.
- Cotton Campaign: Raluca Dumitrescu, Senior Coordinator: raluca@ilrf.org.
- Anti-Slavery International: Helene de Rengervé, Senior EU Adviser: euadviser@antislavery.org.