

# End Uyghur Forced Labour

October 31, 2024

## Submission to the Consultation on the Operation of the Canada-United States-Mexico Agreement (CUSMA)

CUSMA is a strong framework to ensure deep economic ties and commercial relationships across the US, Canada, Mexico. It also draws on the collective strength of these three countries to improve labour standards in global supply chains. However, while the US has been effective at preventing goods made with Uyghur forced labour from entering its market, through the Uyghur Forced Labor Prevention Act (UFLPA),<sup>1</sup> Canada has not been as successful. Without better aligning standards with a successful model, economic ties and commercial relationships will be negatively impacted.

The Coalition to End Forced Labour in the Uyghur Region<sup>2</sup> acknowledges Canada's ban on the import of goods produced by forced labour under the Customs Tariff in July 2020. The government of Canada must strengthen its efforts to prohibit the import of forced labour made goods on the whole and implement mechanisms that more effectively address products made with state-imposed forced labour. This submission outlines two actions that are key to addressing state-imposed forced labour: a) establishing a rebuttable presumption that products made in part or in whole in the Uyghur Region are made with forced labour, and b) regional and sector specific forced labour import bans in cases of state-imposed forced labour.

The UFLPA establishes a rebuttable presumption of forced labour for goods from the Xinjiang Uyghur Autonomous Region (Uyghur Region) or from entities listed by the inter-agency Forced Labor Enforcement Task Force (UFLPA Entity List). Since the UFLPA was enacted, of the 10,160 shipments that have been targeted for scrutiny, 4,288 shipments have been denied entry.<sup>3</sup> There is a possibility that many of those goods were rerouted and imported into Canada.

In order to effectively address state-imposed forced labour, Canada's forced labour import prohibition must go further and be compatible with the UFLPA, **which establishes a rebuttable presumption of forced labour for goods made in part or in whole in the Uyghur Region.**

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<sup>1</sup> "Uyghur Forced Labor Prevention Act," US Customs and Border Protection, accessed October 31, 2024, <https://www.cbp.gov/trade/forced-labor/UFLPA>.

<sup>2</sup> See <https://enduyghurforcedlabour.org>. The Coalition to End Forced Labour in the Uyghur Region is a coalition of civil society organisations and trade unions united to end state-sponsored forced labour and other egregious human rights abuses against people from the Uyghur Region in China, known to local people as East Turkistan.

<sup>3</sup> "Uyghur Forced Labor Prevention Act Statistics," US Customs and Border Protection, accessed October 31, 2024, <https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics>.

The CUSMA countries must be aligned in their approach to forced labour import prohibitions and implement a mechanism that is more closely aligned with the UFLPA to ensure they do not become a dumping ground for tainted goods. Not only would this protect their consumers by removing market access to such goods, it would also provide legal uniformity and a level playing field for businesses, who would not then be cross-pressured between different jurisdictions.

### **State-imposed forced labour in the Uyghur Region**

The government of China is perpetrating human rights abuses on a massive scale in the Uyghur Region targeting the Uyghur population and other Turkic and Muslim-majority peoples on the basis of their religion and ethnicity. An **estimated 1 to 1.8 million**<sup>4</sup> Uyghurs have been subject to arbitrary mass detention in internment camps termed “re-education” camps by the Chinese government. Within these camps, detainees have been routinely subjected to physical and psychological torture, sexual violence, and forced labour.<sup>5</sup>

Since 2017, the government of China has been subjecting the Uyghur population to widespread and systemic forced labour based on their religion and ethnicity through various state-imposed programmes under the guise of “fighting extremism”.<sup>6</sup> The government’s persecution of the Uyghur population has been demonstrated by robust and credible evidence, gathered through witness testimony,<sup>7</sup> Chinese state media, Chinese government records,<sup>8</sup> and satellite imagery,<sup>9</sup>

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<sup>4</sup> Adrian Zenz, “Wash Brains, Cleanse Hearts”: Evidence from Chinese Government Documents about the Nature and Extent of Xinjiang’s Extrajudicial Internment Campaign”; Human Rights Watch, “Break Their Lineage, Break Their Roots”; Amnesty International, “Like We Were Enemies in a War”.

<sup>5</sup> Amnesty International, “Like We Were Enemies in a War”; Human Rights Watch, “Break Their Lineage, Break Their Roots”; Fergus Ryan, Danielle Cave, and Nathan Ruser, “Mapping Xinjiang’s ‘re-education’ camps,” Australian Strategic Policy Institute, November 1, 2018, <https://www.aspi.org.au/report/mapping-xinjiangs-re-education-camps>; “World Report 2019: China Events of 2018,” Human Rights Watch, 2019, <https://www.hrw.org/world-report/2019/country-chapters/china>.

<sup>6</sup> Amnesty International, “Like We Were Enemies in a War”: China’s Mass Internment, Torture, and Persecution of Muslims in Xinjiang, June 2021, <https://www.amnesty.org/en/documents/asa17/4137/2021/en/>; Human Rights Watch, “Break Their Lineage, Break Their Roots”: China’s Crimes against Humanity Targeting Uyghurs and Other Turkic Muslims April 19, 2021, <https://www.hrw.org/report/2021/04/19/break-their-lineage-break-their-roots/chinas-crimes-against-humanity-targeting>.

<sup>7</sup> Evidence,” Uyghur Tribunal, accessed July 22, 2024, <https://uyghurtribunal.com/statements>; Xinjiang Victims Database,” accessed July 22, 2024, <https://shahit.biz>; “Uyghur Transitional Justice Database,” accessed July 22, 2024, <https://www.utjd.org/index.html>; Amnesty International, “Like We Were Enemies in a War”; Human Rights Watch, “Break Their Lineage, Break Their Roots”; Adrian Zenz, “Wash Brains, Cleanse Hearts’: Evidence from Chinese Government Documents about the Nature and Extent of Xinjiang’s Extrajudicial Internment Campaign,” *Journal of Political Risk*, 7(11), November 2019, <http://www.jpolarisk.com/wash-brains-cleanse-hearts/>.

<sup>8</sup> Adrian Zenz, “Forced Labor in the Xinjiang Uyghur Autonomous Region: Assessing the Continuation of Coercive Labor Transfers in 2023 and Early 2024,” *Jamestown Foundation China Brief* 24, no. 5. (February 14, 2024), <https://jamestown.org/program/forced-labor-in-the-xinjiang-uyghur-autonomous-region-assessing-the-continuation-of-coercive-labor-transfers-in-2023-and-early-2024/>; Laura Murphy, Peter Geller, Yalkun Uluyol, anonymous researchers. “Forced Labor in the Uyghur Region: Why is this Happening?” Sheffield Hallam University Helena Kennedy Centre for International Justice, no. 2, April 2023, <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/evidence-briefs>.

<sup>9</sup> Nathan Ruser, “Documenting Xinjiang’s detention system,” *Australian Strategic Policy Institute*, September 24, 2020, <https://xjdp.aspi.org.au/resources/documenting-xinjiangs-detention-system/>; Megha Rajagopalan, Alison Killing and

and in reports from UN bodies,<sup>10</sup> academic experts, non-governmental organisations,<sup>11</sup> and survivors themselves.<sup>12</sup> The state-imposed forced labour programmes have been implemented through three primary mechanisms: forced labour of internment camp detainees, forced labour transfers in and outside of the Region, and forced prison labour.<sup>13</sup> Forced labour has enabled, and been enabled by, other egregious human rights violations, such as mass surveillance, arbitrary detention, rape, torture, political ‘re-education’, and forced sterilisations.

Recent research has also documented the regional government’s increased efforts to forcibly transfer Uyghurs and other targeted groups *outside* of the Region as well, finding “[i]n 2023, Xinjiang significantly expanded the scale of the Pairing Assistance program, which facilitates cross-provincial labour transfers, aiming to increase transfers to other Chinese regions by 38 percent – levels exceeding those of any year since the mid-2010s”.<sup>14</sup> Supporting this finding, a 2023 investigation into the seafood industry found that over 1,000 Uyghurs were placed in at least ten seafood processing facilities after being forcibly transferred thousands of miles from the Uyghur Region.<sup>15</sup>

### **State-imposed forced labour is distinct from forced labour carried out by private actors**

State-imposed forced labour cannot be addressed using the same approaches used to combat other forms of forced labour. 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

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Christo Buschek, “Built to Last,” *BuzzFeed News*, August 27, 2020 <https://www.buzzfeednews.com/article/meghara/china-new-internment-camps-xinjiang-uyghurs-muslims>; Helen Ann-Smith, “What’s Happened to China’s Uyghur Camps,” *Sky News*, May 10, 2023, <https://news.sky.com/story/whats-happened-to-chinas-uyghur-camps-12881984>.

<sup>10</sup> Including the 2022 Office of the United Nations High Commissioner for Human Rights (OHCHR) Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People’s Republic of China; see full list at ISHR Repository of United Nations recommendations on human rights in China <https://ishr.ch/defenders-toolbox/resources/repository-of-united-nations-recommendations-on-human-rights-in-china/#Uyghur-region>.

<sup>11</sup> For a list of reports by academic experts and NGOs, see <https://enduyghurforcedlabour.org/home/reports/>.

<sup>12</sup> See testimonies by survivors in the “Xinjiang Victims Database,” accessed July 22, 2024, <https://shahit.biz>; “Uyghur Transitional Justice Database,” accessed July 22, 2024, <https://www.utjd.org/index.html>; “Evidence,” Uyghur Tribunal, accessed July 22, 2024, <https://uyghurtribunal.com/statements/>; and “Hearing on Uyghur Forced Labor Camps in China”, U.S. Select Committee on the CCP, Video recorded by CPSAN, March 23, 2023, <https://www.c-span.org/video/?526799-1/hearing-uyghur-forced-labor-camps-china#>.

<sup>13</sup> Yalkun Uluyol and a team of anonymous researchers, *Tailoring Responsibility: Tracing Apparel Supply Chains from the Uyghur Region to Europe*, Sheffield Hallam University and Helena Kennedy Centre for International Justice, February 2024, <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/eu-apparel>.

<sup>14</sup> Adrian Zenz, “Forced Labor in the Xinjiang Uyghur Autonomous Region.”

<sup>15</sup> Ian Urbina, “The Uyghurs Forced to Process the World’s Fish” *The Outlaw Ocean Project*, October 9, 2023, <https://www.theoutlawocean.com/investigations/china-the-superpower-of-seafood/the-uyghurs-forced-to-process-the-worlds-fish/>

across entire regions or industries. In the Uyghur Region, all those able to work are required to do so.<sup>16</sup>

**Operating in the Uyghur Region in accordance with the UN Guiding Principles on Business and Human Rights is a practical impossibility. There are no valid means for companies to conduct credible due diligence on the ground to verify that any workplace in the Uyghur Region is free of forced labour, and companies lack leverage to prevent, mitigate, or remedy the use of forced labour in these workplaces.** Worker interviews, which are essential to the methodology of any labour or human rights investigations, cannot generate reliable information in these circumstances. No worker can speak candidly to internal or external auditors about forced labour or other human rights issues without placing themselves and their families at risk of brutal retaliation; there are widespread restrictions and repression of fundamental freedoms and human rights defenders, and civic space has been shut down. Numerous audit firms have pulled out of the Uyghur Region due to the impossibility to conduct safe and credible verification on the ground.

Given the pervasive scope of the abuses, buyers therefore need to operate on the assumption that all products produced in part or in whole in the Uyghur Region are at high risk of being tainted by forced labour. Pursuant to the OECD Guidelines for Multinational Enterprises on Responsible Business Conduct and the UN Guiding Principles on Business and Human Rights, in contexts like the Uyghur Region, 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 immediate termination of business relationships with direct suppliers operating in the Uyghur Region. If operations in the Uyghur Region take place at a sub-supplier level, companies should use leverage over direct suppliers to cut ties with the relevant sub-supplier; if leverage fails, companies should terminate the relation with the direct supplier as well.

In turn, the government of Canada should adopt legislation that allows for the establishment of a rebuttable presumption that the importation of any goods, wares, articles, and merchandise mined, produced, or manufactured wholly, or in part, in the Uyghur Region are made with forced labour and therefore are not entitled to entry in to Canada.

### **Industries impacted**

State-imposed Uyghur forced labour is widespread within the supply chains of over 17 global industries. Research indicates that **extractive and manufacturing industries in particular have**

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<sup>16</sup> Adrian Zenz, "Measuring Non-Internment State-Imposed Forced Labor in Xinjiang and Central Asia: An Assessment of ILO Measurement Guidelines," *Journal of Human Trafficking*, November 2023, 1-27, <https://doi.org/10.1080/23322705.2023.2270366>.

made use of workers through state-imposed forced labour programmes, including for solar energy,<sup>17</sup> PVC plastics,<sup>18</sup> and automotive parts.<sup>19</sup>

- In the solar industry, researchers have documented that “major producers and manufacturers, including the world’s largest metallurgical-grade silicon producer and several of the most significant polysilicon manufacturers, have actively recruited and employed ‘transferred surplus labour’ from rural villages and participated in poverty alleviation.”<sup>20</sup>
- According to researchers, the two largest PVC manufacturers in China are also active participants in the Chinese government’s ‘labour transfer’ programme, one of which the researchers document has transferred over 5,000 citizens deemed ‘surplus labourers’ – perhaps more than any other company in the Region.<sup>21</sup>
- The automotive industry is deeply implicated in Uyghur forced labour – from raw materials mining and processing to auto parts manufacturing for both traditional and electric vehicles.<sup>22</sup> Horizon Advisory found in 2022 that eight of the top aluminium producers in the Uyghur Region have been involved in the government of China’s state-imposed labour transfer programs in the Region.<sup>23</sup>
- In addition to extractives and manufacturing industries, the textile industry continues to be linked to Uyghur forced labour by researchers.<sup>24</sup> As of 2022, up to 90% of China’s cotton comes from the Uyghur Region<sup>25</sup> with the Region accounting for approximately

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<sup>17</sup> Laura Murphy and Nyrola Elimä, “In Broad Daylight: Uyghur Forced Labour and Global Solar Supply Chains,” *Helena Kennedy Centre for International Justice*, May 2021, <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight>.

<sup>18</sup> Laura Murphy, Nyrola Elimä, and Jim Vallette, “Built on Repression: PVC Building Materials’ Reliance on Labor and Environmental Abuses in the Uyghur Region,” *Helena Kennedy Centre for International Justice and Material Research*, June 2022, <https://www.shu.ac.uk/helenakennedy-centre-international-justice/research-and-projects/all-projects/built-on-repression>.

<sup>19</sup> Laura Murphy, Kendyl Salcito, Yalkun Uluyol, and Mia Rabkin, “Driving Force Automotive Supply Chains and Forced Labour in the Uyghur Region,” *Helena Kennedy Centre for International Justice and NomoGaia*, December 2022, <https://www.shu.ac.uk/helena-kennedycentre-international-justice/research-and-projects/all-projects/driving-force>.

<sup>20</sup> Laura Murphy, Peter Geller, Yalkun Uluyol, anonymous researchers. “Products Made with Forced Labor in the Uyghur Region” Sheffield Hallam University Helena Kennedy Centre for International Justice, no. 3, May 2023, <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/evidence-brief-3>.

<sup>21</sup> Laura Murphy, Nyrola Elimä, and Jim Vallette, “Built on Repression: PVC Building Materials’ Reliance on Labor and Environmental Abuses in the Uyghur Region.”

<sup>22</sup> Laura Murphy, Kendyl Salcito, Yalkun Uluyol, and Mia Rabkin, “Driving Force Automotive Supply Chains and Forced Labour in the Uyghur Region.”

<sup>23</sup> Horizon Advisory, “Base Problem: Forced Labor Risks in China’s Aluminum Sector,” April 2022, [https://issuu.com/horizonadvisory/docs/horizon\\_advisory\\_ccp\\_forced\\_labor\\_series\\_-\\_base\\_p/1](https://issuu.com/horizonadvisory/docs/horizon_advisory_ccp_forced_labor_series_-_base_p/1).

<sup>24</sup> Yalkun Uluyol and a team of anonymous researchers, *Tailoring Responsibility: Tracing Apparel Supply Chains from the Uyghur Region to Europe*, Sheffield Hallam University and Helena Kennedy Centre for International Justice, February 2024, <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/eu-apparel>

<sup>25</sup> Eric C. Davis and Fred Gale, “Shift in Geography of China’s Cotton Production Reshapes Global Market,” *Economic Research Service U.S. Department of Agriculture*, December 5, 2022,

23% of the world's cotton in 2020 and 2021.<sup>26</sup> “There is significant and compelling evidence including first-person testimony that documents the continued use of forced labour to harvest and process cotton in the [R]egion.”<sup>27</sup>

### **Effectively addressing state-imposed forced labour: Regional forced labour import prohibitions**

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 or risk loss of market access, 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.<sup>28</sup> Additionally, the global percentage of polysilicon sourced from the Uyghur Region has decreased by 10% since 2020.<sup>29</sup> Between June 2021 and June 2022, sales of ginned Uyghur Region cotton decreased by over 40%.<sup>30</sup> These developments demonstrate that it is possible for companies to exit the Uyghur Region and develop alternative sourcing.

Since implementation of the UFLPA began, US Customs and Border Protection has inspected over 10,000 shipments, valued at \$3.62 billion, of which 4,288 shipments have been denied entry to the US market.<sup>31</sup> Enforcement efforts have occurred across at least nine different industries. Additionally, the Forced Labor Enforcement Task Force has added over 70 companies to the UFLPA Entity List, including companies in the sectors of apparel, aluminium, steel, and seafood.<sup>32</sup> In comparison since 2021, approximately 50 shipments have been intercepted by the Canada Border Services Agency under the suspicion that they were made with forced labour and most were released.<sup>33</sup>

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<https://www.ers.usda.gov/amber-waves/2022/december/shift-in-geography-of-china-s-cotton-production-reshapes-global-market/>.

<sup>26</sup> Arriana Mclymore, “Banned Chinese cotton found in 19% of US and global retailers’ merchandise, study shows,” *Reuters*, May 7 2024,

<https://www.reuters.com/markets/commodities/banned-chinese-cotton-found-19-us-retailers-merchandise-study-shows-2024-05-07/>.

<sup>27</sup> Laura Murphy, Peter Geller, Yalkun Uluyol, anonymous researchers. “Products Made with Forced Labor in the Uyghur Region”.

<sup>28</sup> Simon Glover, “Xinjiang exports to US down 90% since UFLPA,” *Ecotextile News*, March 28, 2023,

<https://www.ecotextile.com/2023032830532/labels-legislation-news/xinjiang-exports-to-us-down-90-since-ufpla.html>

<sup>29</sup> Alan Crawford, Laura Murphy, anonymous researcher, “Over-Exposed: Uyghur Region Exposure Assessment for Solar Industry Sourcing,” Helena Kennedy Centre for International Justice, July 2023,

<https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/over-exposed>.

<sup>30</sup> Nathaniel Taplin, “Xinjiang Law Shows Reach—and Limits—of U.S. Economic Power,” *The Wall Street Journal*, June 27, 2022, <https://www.wsj.com/amp/articles/xinjiang-law-shows-reachand-limitsof-u-s-economic-power-11656325980>.

<sup>31</sup> “Uyghur Forced Labor Prevention Act Statistics,” US Customs and Border Protection, accessed October 31, 2024, <https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics>.

<sup>32</sup> “UFLPA Entity List,” Department of Homeland Security, accessed October 31, 2024, <https://www.dhs.gov/ufpla-entity-list>.

<sup>33</sup> Ryan Tumilty, “U.S. legislators want Canada to do more to prevent slave-made goods from entering North America,” *National Post*, September 24, 2024,

Further, such a mechanism would help to level the playing field among business, as it would compel all companies wanting market access to ensure their supply chains were not exposed to, and therefore not benefiting from, systemic forced labour in specific regions or supply chains.

Representatives of impacted communities support these recommendations.<sup>34</sup> A regional ban against products made with state-imposed forced labour will increase economic pressure on the government of China and help put an end to their egregious forced labour systems.

### **North America should be free of Uyghur forced labour imports**

Currently, the forced labour import prohibition in Canada falls short of meaningfully addressing Uyghur forced labour. As the government prepares for the first joint review of CUSMA in 2026 and priorities for work being undertaken in 2025, the Coalition strongly encourages the introduction and adoption of legislation which establishes a rebuttable presumption of forced labour on goods from a region or on specific product groups from specified countries or regions where there is state-imposed forced labour, such as all products made in part or in whole in the Uyghur Region.

The adoption of this legislation must be followed with robust implementation; the implementation efforts should be adequately resourced by the government; and the government should engage in sharing of enforcement data with the US government to strengthen the enforcement efforts of both governments.

North America currently lacks harmonisation of import bans designed to address Uyghur forced labour, which encourages bifurcation of supply chains, and creates the risk that goods made with forced labour will be stopped by the US government and rerouted to Canada, subverting global efforts to end Uyghur forced labour in supply chains and turning Canada into a 'dumping ground' for products made with forced labour. An import ban with the ability to target products made in an entire region, like the Uyghur Region, or product group would establish legal certainty for companies in Canada with global operations and markets that must comply with the UFLPA. It would also provide a level playing field to ensure Canadian companies are not competing with unethical companies that import Uyghur forced labour made goods into the Canadian market.<sup>35</sup>

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<https://nationalpost.com/news/politics/u-s-legislators-want-canada-to-do-more-to-prevent-slave-made-goods-from-entering-north-america>.

<sup>34</sup> See list of organisational endorsements here: <https://enduyghurforcedlabour.org/>.

<sup>35</sup> For additional research on Uyghur forced labour, see: <https://enduyghurforcedlabour.org/home/reports/>.