

# End Uyghur Forced Labour

The [Coalition to End Forced Labour in the Uyghur Region](#) welcomes the opportunity to comment on the draft Traceability Standard. We are pleased that the standard will require members to trace their supply chains. Tracing supply chains is a critical step to identify all supply chain linkages to the Uyghur Region and companies using Uyghur forced labour. The Coalition calls on companies to map and trace their entire supply chain, down to raw material level, in this case, quartz. This is particularly important in the solar sector as [research has found](#) that the least visible parts of the solar supply chain are its most upstream segments: quartz mining and conversion of quartz to metallurgical grade silicon (MGS) and that these less visible parts of the supply chain and the polysilicon stage are the ones with the highest potential Uyghur Region exposure.

The Coalition, therefore, also welcomes the proposed scope of the Standard which, “currently covers silicon as the certified material used in different forms in all tiers of the value chain starting from quartz mining through metallurgical grade silicon and polysilicon to ingots and wafers to cells and modules.” It is vital that the standard maintains this scope in the final version. We also welcome the intention to expand the Traceability Standard to other materials in the future. We note, for example, the high risk of Uyghur forced labour associated with aluminium sourcing, which is also a material used in the manufacture of solar panels.

A question for clarification: It is our understanding that the scope of the ESG Standard does not apply to upstream activities. How will the SSI ensure that the Traceability Standard and ESG standard complement each other if the latter does not apply to the entire value chain such as extraction, manufacture and processing of quartz and metallurgical silicon?

## **Continued exposure to Uyghur forced labour**

[Uyghur forced labour](#) remains the single most pervasive and severe human rights risk in the solar sector. [Recent research](#) confirms that the solar industry remains highly reliant on the Uyghur Region for key inputs, where state-imposed forced labour is an integral element of a government-imposed system of oppression against the Uyghur population. Abuses in the Uyghur Region may constitute crimes against humanity according to the [UN High Commissioner for Human Rights](#). The solar industry, therefore, continues to be at risk of directly or indirectly benefiting and profiteering from such egregious harm.

### **ESG and Traceability Standards - lack of requirements on Uyghur forced labour**

Despite this continued exposure, the Coalition notes neither the ESG Standard nor the Traceability Standard, which are meant to be used in tandem, expressly states that members must immediately disengage from any direct supplier in the Uyghur Region as well as from business relationships outside the Region that are linked to Uyghur forced labour. The SSI claims that the standards, when used together, are tools for the achievement of the SSI's mission. However, if the standards remain silent on this issue, they will lack credibility and continue to place the solar industry at risk of profiting from Uyghur forced labour.

We note and welcome that that the FAQ page of the SSI website now includes a question, *“Will the SSI conduct audits in Xinjiang”* with the response being, *“If Assessment Bodies cannot freely access a site, or region, then sites cannot be certified under the SSI, whether in Xinjiang or anywhere else in the world. The SSI will not conduct assessments or certifications for sites in regions that are inaccessible to unsupervised visits. The SSI is a tool to reinforce and demonstrate the credibility of sites that are freely accessible and are committed to upholding robust ESG standards. There are sufficient accessible sites around the world for the SSI to build a certified network of solar suppliers.”*

This position is in line with the Coalition. As we noted in a [previous statement](#), it is a practical impossibility for investigators, auditors and other individuals to conduct due diligence on the ground in the Uyghur Region. There are no valid means for companies to verify that any workplace in the Uyghur Region is free from forced labour. They are likewise unable to prevent, mitigate or remedy the use of forced labour in these workplaces in line with the principles of human rights due diligence. Therefore, in line with the UNGPs, the only responsible course of action is disengagement from the Uyghur Region.

However, we reiterate that the inability to audit in the Uyghur Region and therefore the need for disengagement, due to the inability to prevent or remedy human rights harm in line with the UN Guiding Principles on Business and Human Rights must be incorporated as binding requirements into the standards and the manual. The SSI FAQ now includes the question *“Does the SSI address reports of forced labour taking place in the solar supply chain?”* with the reply, *“Yes. The SSI does not certify sites complicit in forced labour. This is embedded in the SSI ESG Standard and Assurance Manual, and will be further reinforced by the forthcoming SSI Traceability Standard. By refusing to conduct assessments or certifications in sites or regions that are not freely accessible, the SSI contributes to the marginalisation of businesses who fail to uphold strong ESG standards.”*

However, this is not reflected in the ESG Standard. The **ESG Standard** includes a section on Human and Labour Rights that states members shall observe the UN Guiding Principles on Business and Human Rights (UNGPs) including by undertaking human rights due diligence. The SSI should go further and include in this section of the ESG Standard a clear requirement that the ESG Standard **cannot be applied** in the Uyghur Region and areas that cannot be safely and credibly audited, as outlined above. Similarly, the **Assurance Manual**, which is meant to be used by those carrying out assessment activities against the ESG Standard, should also include clear provisions on the inability to carry out audits in the Uyghur Region.

With regard to the **Traceability Standard**, this mapping exercise should be conducted with the added objective of identifying links to the Uyghur Region or supplier and sub-supplier relationships that are linked to Uyghur forced labour, due to the high risks of such exposure. The standard should be clear that where these links are identified, members are **required to disengage** from such relationships.

Further, the SSI must make members aware of the known challenges of carrying out supply chain mapping and tracing in the industry but in particular when trying to identify links to Uyghur forced labour due to [opacity of China-based supply chains](#). This is in part due to the Chinese government's regulatory environment, which encourages corporate secrecy and makes on-the-ground investigations or audits impossible. These conditions mean that information provided or published by companies may be false or misleading. Seasoned researchers and experts found in their [latest report](#) on the solar sector that, "the vast majority of [solar] companies are unwilling to make their full supply chains transparent.... Every company was provided the opportunity to amend or supplement the supply chain maps provided in this report and to respond to our claims. Most companies **did not respond or referred to Chinese anti-sanctions and espionage laws** as an explanation for not providing detailed information regarding their supply chains." Therefore, the SSI must provide its members with information and guidance on these barriers and how best to conduct this tracing exercise.

#### **Lack of accountability for non-compliance**

Both the Traceability and ESG Standards should include a public accountability mechanism for non-compliance by members that fail to take action to address links to Uyghur forced labour, or other human rights and environmental harm. In the case of the Traceability Standard, a requirement to trace the supply chain without acting on risks identified renders the standard meaningless.

### **Limited scope for certification - risk of bifurcation**

We are highly concerned that SSI will initially only require members to certify two of their facilities under the ESG and Traceability Standards within the first year of joining the SSI. This would allow members to be compliant with SSI standards while maintaining non-certified supply chains that are tainted by Uyghur forced labour, as long as these two supply chains from different facilities are not mixed. The practice of bifurcation is an unethical practice that allows companies to continue to benefit from and support egregious human rights abuse. The SSI standards further increase the risk of bifurcation by allowing sites that do not use 100% traced materials to be certified as long as they do not mix uncertified materials with certified materials.

There is [evidence](#) that some of the world's largest solar module manufacturers may have already **bifurcated** their supply chains. This means they may have created a product line that likely does not contain inputs from the Uyghur Region. These supply chains are dedicated to products bound for the US market, presumably in order to comply with the Uyghur Forced Labor Prevention Act, which prohibits the importation of any product made in whole or in part in the Uyghur Region. Those same companies may continue to source from suppliers and sub-suppliers that have exposure to the Uyghur Region for other non-US product lines, making the UK and EU the market for such tainted products. Therefore, **the SSI must establish a clear timeline by which members are expected to assess 100% of their value chain against the Traceability and ESG Standards.**

**Clarification question: Could the SSI clarify its stance on bifurcation of solar supply chains?**

### **SSI & relevant regulation**

The SSI as an industry initiative and the Traceability Standard must make clear that assessments conducted pursuant to the Traceability Standard and the ESG Standard are not a substitute for effective human rights due diligence. Nor should the [SSI Standards](#) be considered as reliable evidence of compliance with forced labour regulations or that participation in the initiative is equivalent to undertaking effective human rights due diligence pursuant to relevant legislation.

Rather, SSI should support stronger and comprehensive human rights and environmental due diligence requirements under national and regional policy. For example, the SSI should urgently provide members with the guidance and tools to comply with relevant regulations such as the U.S. Uyghur Forced Labor Prevention Act (UFLPA), which prohibits any goods made in part or in whole in the Region from importation into the US, and in the future, the EU Forced Labour Regulation.

In November 2022, Solar Power Europe (co-creator of the SSI) published a position paper calling for the SSI to serve as a carve-out or safe haven under the the proposed [EU Forced Labour Regulation](#), which would prohibit from the EU market all global products made with forced labour, stating, *“The Regulation should propose a mechanism to exempt companies from investigations by national authorities, if the companies can prove by certificates, participation in recognised auditing systems or credible multi-stakeholder industry initiatives (such as the **Solar Stewardship Initiative** will be) that their business partners are compliant with the relevant norms and standards...”*.

The SSI seems to have since addressed this controversial position on its recently updated FAQ page with the following question, *“Does the SSI replace supply chain sustainability laws or exempt companies from the application of such laws?”*. The answer reads, in part, *“ No, the SSI does not replace supply chain sustainability laws or exempt companies from the application of, or liability under, such laws. On the contrary, the SSI intends to support the effective implementation of relevant legislation...The SSI does not act as a replacement for these laws, nor does SSI membership negate a business’ liability to comply with law and perform its own environmental and human rights due diligence.”*

While this is a welcome update, this must be included within the Traceability and ESG Standards themselves and in external communications and communications with other stakeholders.

### **Transparency**

Related to above, Uyghur forced labour risks should be a priority issue for companies that must comply with forced labour and mandatory due diligence legal regimes. Supply chain disclosure and transparency are important ways by which companies are able to demonstrate they have conducted appropriate due diligence. Disclosure enables suppliers and sub-suppliers throughout the value chain to conduct their own due diligence and support their efforts to comply with regulatory requirements. It also supports responsible procurement by both private and public sector actors to meet their renewable energy objectives more ethically and sustainably.

To that end, the SSI should encourage its members to publish their supplier lists as well as information that is collected via assessments under the ESG and Traceability Standards such as information on inflow/outflow quantities of certified and non-certified materials at certified facilities.

### **Membership**

The Coalition remains very concerned about Manufacturer Members of the SSI, some of which

are also members of the board, that remain at very high risk or high risk of exposure to Uyghur forced labour, including Canadian Solar, JA Solar, Jinko Solar and Trina Solar. According to SSI Principles, prior to confirming SSI membership, SSI will conduct a due diligence evaluation to confirm that the organisation is not directly or indirectly involved in any unacceptable activities such as violation of human rights.

[Research](#) indicates these current members may be bifurcating their supply chains - see above. Bifurcated supply chains allow forced labour to continue, and allow the companies to continue to benefit from forced labour without losing business. In some cases, a company may operate a bifurcated supply chain to avoid legal accountability under import bans such as the Uyghur Forced Labour Prevention Act while dumping tainted goods into markets without comparable legislation. The SSI is at risk of compromising its own reputation and of its members that have fully exited the Region by allowing such companies to remain members. Further, it could create a possible conflict of interest on the SSI's ability to speak out publicly on the issue of Uyghur forced labour, to encourage diversification of the supply chains, and to call for an immediate exit from the Uyghur Region. **The Coalition calls for the SSI to suspend the above Manufacturing Members until they are able to demonstrate that they have no exposure, across their entire supply chain, to Uyghur forced labour.**