



Forced labour in the supply chain: connecting the dots

On 17 March 2021, the UK's Department for Business, Energy and Industrial Strategy ("BEIS") published [a report](#) that concluded that companies are failing to undertake necessary due diligence to establish whether their supply chains are implicated in forced labour or the abuse of minorities in China and the country's Xinjiang Uyghur Autonomous Region ("XUAR").

Extensive evidence of forced labour programmes targeting the Uyghur and other ethnic minorities in China mean that companies in the textile, technology and renewables industries face significant legal, reputational and economic risks with regard to their suppliers.

Businesses that are either part of a value chain that stretches to XUAR or engage with local authorities in the fields of surveillance, biometrics, or tracking technology, are also at risk of unintentionally facilitating human rights violations.

The need for supply chain due diligence

Since July 2020, the international community has taken a number of steps in response to human rights violations against the Uyghur minority in XUAR that will require companies to fully understand the risks of working with entities in the region.

Sanctions

- On 22 March 2021, the UK [imposed](#) sanctions on four Chinese officials and the Public Security Bureau of Xinjiang Production and Construction Corps ("XPCC"), a Chinese paramilitary and economic organisation in XUAR, for human rights abuses. The UK will

impose asset freezes and travel bans against the four officials and the XPCC's Public Security Bureau.

- In a coordinated move, the EU, US and Canada also [announced](#) sanctions against the above subjects.
- On 31 July 2020, the US Department of the Treasury's Office of Foreign Assets Control ("OFAC") [imposed](#) economic sanctions on the XPCC.

Withhold Release Orders ("WRO") in the US

- In September 2020, US Customs and Border Protection [issued](#) five WROs on items originating from XUAR, including hair, clothing and technology products.
- The US issued a further WRO in November 2020 against all cotton products made by XPCC and in January 2021 against cotton products and tomato products produced in XUAR. Under the WROs, US Customs and Border Protection is instructed to detain shipments of the relevant items and, to obtain their release, an importer must present proof that no forced labour was used for manufacture throughout the supply chain of the finished goods.

Supply chain legislation

- On 18 February 2021, the US House of Representatives re-introduced an updated version of a bipartisan [bill](#) known as the Uyghur Forced Labor Prevention Act. The original bill was passed by the House and referred to the Senate Foreign Relations Committee in September 2020. The bill, which is likely to be signed into law, would prohibit all imports to the US of any goods made in XUAR unless it can be demonstrated with "clear and convincing" evidence that the goods are produced without the use of forced labour.
- On 10 March 2021, the European Parliament voted to [adopt](#) binding EU laws that will require companies to identify, address and remedy their impact on human rights throughout their supply chains.

How companies can protect themselves against human rights risks in Xinjiang

- Conducting effective human rights due diligence in XUAR is inhibited by a number of factors, including poor access, a lack of freedom of speech for workers, and the extent and severity of human rights violations on the ground. However, it remains incumbent on businesses to demonstrate that they have performed adequate due diligence and have the necessary human rights policies and practices to ensure their operations do not directly or indirectly contribute to human rights violations.
- Unfortunately, cutting direct ties with factories or suppliers based in XUAR is insufficient since these entities themselves frequently source products or workers from within XUAR. Companies should trace their supply chains to origin and, to the extent possible, identify any associations between their sub-suppliers and forced labour in XUAR.

Aperio Intelligence's established due diligence team can support businesses to:

- Identify a Chinese counterparty's ownership structure and associated links to the XPCC which may expose it to forced labour practices.
- Establish whether a Chinese counterparty receives government incentives or subsidies that may be connected to internment camps, referred to by the Chinese authorities as vocational training centres, in XUAR.
- Investigate whether a counterparty has any known links – either directly or through its own suppliers – to the mass detentions of Uyghurs in XUAR.
- Identify where an entity of interest constitutes a shell company which is used to hide the provenance of certain goods or particular financial transactions.

From a broader risk management perspective, Aperio Intelligence can assist businesses to implement effective Environmental, Social and Governance programmes, including:

- Strong leadership to develop effective governance and oversight of supply chain and human rights issues.
- Practical implementation and monitoring of corporate policies and procedures that support decision-making practices and help prevent human rights abuses.
- Stakeholder engagement and greater visibility of actors along the value chain.
- Continuous monitoring and improvement of business processes aimed at mitigating human rights risks.

If you would like more information on how Aperio Intelligence can assist you to conduct human rights due diligence in Xinjiang or the broader Asia Pacific region, please get in touch.

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