

August 28, 2020

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Acting Commissioner  
U.S. Customs and Border Protection  
U.S. Department of Homeland Security  
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*Re: Petition under 19 U.S.C. §1307 concerning the Xinjiang Uyghur Autonomous Region of China*

Dear Acting Commissioner Morgan

**I. Introduction**

Pursuant to 19 CFR §12.42(b),<sup>1</sup> the undersigned organizations submit this petition to the U.S. Customs and Border Protection (CBP) concerning goods that are being, or are likely to be, imported into the United States and which are produced with forced, prison or indentured labor contrary to 19 U.S.C. §1307 (as amended). As explained herein, the Government of the People's Republic of China (GOC) has and continues to perpetrate a widespread and systematic program of human rights abuses in the Xinjiang Uyghur Autonomous Region (hereinafter "Uyghur Region") targeting the Uyghur and other Turkic and/or Muslim peoples on the basis of their ethnicity and religion. An important component of this program is the extensive use of forced and prison labor for agriculture and industry throughout the Uyghur Region.

Based on the information below and the attached reports, the petitioners have *reason to believe* the following:

1. Forced or prison labor is used on a widespread and systematic basis to harvest and process cotton in the Uyghur Region. As such, this cotton has been and is being produced "wholly or in part" with forced or prison labor. This cotton is not exported to the United States directly but rather is used in the manufacture of yarn, fabric and apparel.
2. In addition to the use of forced or prison labor to harvest or process cotton, the yarn, fabric and apparel manufactured *in the Uyghur Region* is also likely produced with

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<sup>1</sup> (b) Any person outside CBP who has reason to believe that merchandise produced in the circumstances mentioned in paragraph (a) of this section is being, or is likely to be, imported into the United States may communicate his belief to any port director or the Commissioner of CBP. Every such communication shall contain or be accompanied by: (1) A full statement of the reasons for the belief; (2) A detailed description or sample of the merchandise; and (3) All pertinent facts obtainable as to the production of the merchandise abroad.

forced labor and therefore has been produced “wholly or in part” with “compounded” forced labor (both as to the input and the good). Some of the apparel manufactured in the Uyghur Region is imported into the United States, as evidenced by this petition and the reports appended hereto. CBP has also already issued two WROs concerning apparel made in the Uyghur Region with forced labor (Hetian Taida Apparel Co., Ltd. on Sept 30, 2019 and Hero Vast Group on August 11, 2020).

3. The yarn and fabric manufactured in Uyghur Region from the aforementioned cotton are also transformed into apparel in factories throughout China. Some of these factories also use forced labor which is transferred to them from the Uyghur Region. Apparel produced in these factories are made “wholly or in part” from forced labor either as a result of the tainted inputs (above) or the forced labor utilized in their manufacture. Some of the apparel manufactured in China outside the Uyghur Region from inputs or labor from the Uyghur Region is imported into the United States, as evidenced by this petition and the reports appended hereto.
4. The fabric made of cotton from the Uyghur Region is also exported and manufactured into apparel in third countries in Asia. Those goods have been produced “wholly or in part” with forced or prison labor. Some of that apparel is imported into the United States, as evidenced by this petition and the reports appended hereto.

The petitioners therefore urge CBP to issue a “regional” withhold release order (WRO) pursuant to 19 C.F.R 12.42(e) with regard to all of the goods identified above for the following reasons and in a manner described below.

First, such broad agency action is supported by the abundance of evidence, below and attached, that the system of forced labor is so extensive that there is reason to believe that most cotton-based products linked to the Uyghur Region are a product wholly or in part of forced labor.

Second, the economic and diplomatic measures taken to date have been insufficient to create the incentives to cease the exaction of forced labor. Petitioners acknowledge and welcome the four prior WROs issued by CBP related to forced labor in the Uyghur Region.<sup>2</sup> However, the collective economic impact of these WROs is small and insufficient to create the economic incentive, namely the loss of access to the US market for apparel and other cotton-made goods, that might induce the GOC to end its program of forced labor in the Uyghur Region. The recent application of Global Magnitsky sanctions to certain entities and individuals in Xinjiang<sup>3</sup>, including

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<sup>2</sup> These include the WRO issued on Sept 30, 2019, with regard to garments from Hetian Taida Apparel Co., Ltd., the WRO issued on May 1, 2020, with regard to hair products from Heitian Haolin Hair Accessories Co., Ltd., the WRO issued on June 17, 2020 with regard to hair extensions from Lop County Meixin Hair Product Co. Ltd and the WRO issued on August 11, 2020 with regard to garments from the Hero Vast Group.

<sup>3</sup> US Department of Treasury, Treasury Sanctions Chinese Entity and Officials Pursuant to Global Magnitsky Human Rights Accountability Act, July 9, 2020, online at <https://home.treasury.gov/news/press-releases/sm1055>; US Department of

the Esquel Group and the Xinjiang Production and Construction Corps (XPCC), while also important, have also only resulted in the GOC applying counter sanctions against two US Senators and no other apparent change in behavior.<sup>4</sup> Diplomatic pressure, including by the UN, appears also to have had no discernable impact to date – including the joint statement issued by 51 UN Special Rapporteurs on the human rights situation in China.<sup>5</sup> Indeed, despite all of these measures and others, the GOC continues to deny the fact of widespread persecution of the Uyghur population even in the face of documentary and video evidence to the contrary.<sup>6</sup>

We note that these actions have also not yet convinced many US apparel brands of the need to extricate their supply chains from Xinjiang (whether direct or indirect) as a matter of urgency.<sup>7</sup> Indeed, it was recently reported that Summit Resource International, which is the wholesaler of Caterpillar-branded clothing, imported jackets and trousers from Xinjiang Ainuoxin Garment Co. and Jinan Ainuoxin Garment Co. as recently as June 2020.<sup>8</sup> The supplier participates in “Xinjiang Aid” which, as explained below, is a program involving forced or compulsory labor. A recent *New York Times* investigation also found that medical masks imported into the US, among other countries, have also been made using the forced labor of Uyghur people.<sup>9</sup> Most recently, Apple was reported to have imported staff uniforms from Esquel Textiles, a company that was sanctioned by the US in July 2020 for its use of forced labor.<sup>10</sup>

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Treasury, Treasury Sanctions Chinese Entity and Officials Pursuant to Global Magnitsky Human Rights Executive Order, July 31, 2020, online at <https://home.treasury.gov/news/press-releases/sm1073>

<sup>4</sup> U.S. declares many of China’s maritime claims ‘unlawful’ as Beijing imposes sanctions on U.S. senators, Washington Post, July 13, 2020, online at [https://www.washingtonpost.com/world/asia\\_pacific/china-imposes-sanctions-on-us-senators-rubio-cruz-over-xinjiang-advocacy/2020/07/13/b169b104-c4d8-11ea-a825-8722004e4150\\_story.html](https://www.washingtonpost.com/world/asia_pacific/china-imposes-sanctions-on-us-senators-rubio-cruz-over-xinjiang-advocacy/2020/07/13/b169b104-c4d8-11ea-a825-8722004e4150_story.html)

<sup>5</sup> UN, UN experts call for decisive measures to protect fundamental freedoms in China, June 26, 2020, online at <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26006&LangID=E>. The statement, while largely about Hong Kong, also notes serious human rights violations in Xinjiang, including forced labor. The statement builds on several prior UN statements on human rights concerns in Xinjiang. See, e.g., OL CHN 18/2019 ([https://www.ohchr.org/Documents/Issues/Terrorism/SR/OL\\_CHN\\_18\\_2019.pdf](https://www.ohchr.org/Documents/Issues/Terrorism/SR/OL_CHN_18_2019.pdf)) and OL CHN 21/2018 (<https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=24182>).

<sup>6</sup> BBC, China's ambassador challenged on treatment of Uighurs, July 19, 2020, online at <https://www.bbc.com/news/av/world-asia-53463242/china-s-ambassador-challenged-on-treatment-of-uighurs>

<sup>7</sup> We take note of the recent business advisory from the U.S. Department of State, the U.S. Department of the Treasury, the U.S. Department of Commerce, and the U.S. Department of Homeland Security (DHS), which on July 1, 2020 alerted US companies of the high risk of forced labor, among other human rights violations, in their Xinjiang-linked supply chains. See, Department of State, et al, Risks and Considerations for Businesses with Supply Chain Exposure to Entities Engaged in Forced Labor and other Human Rights Abuses in Xinjiang, online at <https://www.bis.doc.gov/index.php/documents/pdfs/2569-xinjiang-supply-chain-business-advisory-final-for-508/file>.

<sup>8</sup> Bethany Allen-Ebrahimian, *Exclusive: Caterpillar sourced clothes from Xinjiang factory involved in coercive labor*, Axios, June 30, 2020, online at <https://www.axios.com/caterpillar-xinjiang-uighur-labor-a6ec73df-b75e-4aea-ae76-cc8182ad6a3c.html>

<sup>9</sup> Muiyi Xiao, et al, *Wearing a Mask? It May Come From China’s Controversial Labor Program*, NY Times, July 19, 2020, online at <https://www.nytimes.com/video/world/asia/100000007226041/china-coronavirus-masks-uighur-labor-ppe.html>

<sup>10</sup> Emma Graham-Harrison and Stephanie Kirchgaessner, *Apple imported clothes from Xinjiang firm facing US forced labour sanctions*, The Guardian, Aug. 10, 2020, online at

A regional WRO would be by far the most economically significant action that could be taken right now. It might also have a ripple effect in encouraging other countries to impose import restrictions on forced and/or prison-labor made goods under their own laws and regulations. Such action would require a choice to be made between continuing the persecution of the Uyghur people or face the exodus of billions of dollars in business contracts and investment from US companies and others.

Finally, the magnitude of the human rights violations related to the Uyghur Region, including forced labor, very likely constitutes crimes against humanity and is further reason for the broadest possible action.<sup>11</sup> Indeed, a claim has already been filed with the International Criminal Court concerning grave human rights violations, including genocide, perpetrated against Uyghurs in violation of the Rome Statute.<sup>12</sup>

Such broad agency action is also not without precedent. Most similar to this case, the CBP issued a WRO on all cotton and cotton made goods originating in Turkmenistan on June 18, 2018, because of the country's state-sponsored program of forced labor in the cotton sector. Conceptually, there is nothing to distinguish that case and this one other than the scale here being substantially greater.

### **Remedy Requested:**

As a preliminary matter, and consistent with the recent Business Advisory, CBP should urge all importers to identify and map through all credible means its business relationships to

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<https://www.theguardian.com/technology/2020/aug/10/apple-imported-clothes-from-xinjiang-firm-facing-us-forced-labour-sanctions>

<sup>11</sup> The acts described herein likely constitute crimes against humanity and thus weigh in strong favor of broad agency action. Article 7 of the Rome Statute of the International Criminal Court defines 'crimes against humanity' "as any of the following acts when committed as part of a widespread or systematic attack directed against any civilian population." The acts relevant here would include "deportation or forcible transfer of population", "imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law" and "persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender as defined in paragraph 3, or other grounds that are universally recognized as impermissible under international law..." and "other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or to mental or physical health." The GOC has adopted a widespread and systematic program to persecute the Uyghur and other Turkic and/or Muslim minority in the Uyghur Region, which includes forceable transfer, imprisonment, forced labor and other inhumane acts. Indeed, it is estimated that up to 10% of this population is in detention and forced to work. See, e.g., Congressional Executive Commission on China (CECC), Staff Research Report, *Global Supply Chains, Forced Labor, and the Xinjiang Uyghur Autonomous Region*, March 2020; Congressional Executive Committee on China (CECC), *Annual Report 2019: Xinjiang*, at 8, available at [https://www.cecc.gov/sites/chinacommission.house.gov/files/documents/2019AR\\_XINJIANG.pdf](https://www.cecc.gov/sites/chinacommission.house.gov/files/documents/2019AR_XINJIANG.pdf); Amy Lehr and Mariefaye Bechrakis, *Connecting the Dots in Xinjiang: Forced Labor, Forced Assimilation, and Western Supply Chains*, Center for Strategic & International Studies, October 16, 2019, hereinafter Lehr, "Connecting the Dots."

<sup>12</sup> Lily Kuo, *Exiled Uighurs call on ICC to investigate Chinese 'genocide' in Xinjiang*, The Guardian, July 7, 2020, online at <https://www.theguardian.com/world/2020/jul/07/exiled-uighurs-call-on-icc-to-investigate-chinese-genocide-in-xinjiang>

determine whether it has direct suppliers in the Uyghur Region or suppliers in China or globally that source inputs produced in the Uyghur Region, including fabric, yarn, or cotton. If so, it should disclose a list of these suppliers to the CBP.

The petitioners request a two-pronged approach:

First, petitioners urge the CBP to issue immediately a WRO as to all finished goods assembled by supplier companies in the Uyghur Region and all finished goods that contain inputs (including cotton, yarn or fabric) produced by companies that own or operate facilities in the Uyghur Region that have accepted Chinese government subsidies or employed workers provided by the government, regardless of whether the finished goods are produced in the Uyghur Region. These are companies where the risk of forced labor is extremely high, and the goods should therefore be presumed to be prohibited. A non-exhaustive list of companies is listed in Annex A and will be supplemented as additional information becomes available.

Second, in the case of an importer's supplier in China outside the Uyghur Region, or globally, that sources any inputs produced in the Uyghur Region, including fabric, yarn, or cotton, CBP should work with importers in order that their suppliers obtain inputs exclusively from sources outside of the Uyghur Region that do not use forced Uyghur labor as soon as practicable but in any case no longer than 6 months. If the importer can establish that the supplier is sourcing inputs exclusively from outside the Uyghur region from factories not using Uyghur forced labor, those imports will be presumed permissible barring other evidence to the contrary. If the importer has failed to show this, it shall be prohibited after the 6-month period.

## II. Applicable Law

The term "forced labor" in 19 U.S.C. §1307 has been and must continue to be read in light of international law, in particular ILO Convention 29 – which entered into force the same year as the Tariff Act of 1930.

### A. ILO Convention 29

The International Labor Organization (ILO) has defined 'forced labor' in Convention No. 29 as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily."<sup>13</sup> 'All work or service' encompasses all types of work, service, and employment regardless of industry, sector, occupation, or whether it is formal or informal employment. 'Menace of penalty' can include sanctions, threats, violence, loss of rights or privileges, or a threat to be reported to the authorities and other

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<sup>13</sup>ILO Forced Labour Convention, 1930 (No. 29), at Art. 2, online at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C029](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029).

direct or indirect coercion.<sup>14</sup> “*Voluntary offer*’ generally refers to the free and informed consent of a worker to take a job and his or her freedom to leave at any time.<sup>15</sup>

The ILO has also developed indicators of forced labor to help assist in determining whether any particular situation arises to the level of forced labor. It is not necessary for all the indicators to be present, and in some instances just one indicator can be enough to determine forced labor, and thus the context of the worker’s situation is essential in the determination. The indicators include:

- Abuse of vulnerability
- Deception
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats
- Retention of identity documents
- Withholding of wages
- Debt bondage
- Abusive working and living conditions
- Excessive overtime<sup>16</sup>

As discussed below, the situation in the Uyghur region clearly meets the definition of forced labor. Because of their ethnicity and religion, the Uyghur and other Turkic and/or Muslim population is being forced to leave current occupations, including skilled professions, to go into manufacturing, including for the export garment industry. Forced labor takes place in the context of, at the very least, extensive and intrusive surveillance and often in the context of internment or imprisonment. Failure to comply with the authorities results in certain penalties, including loss of personal freedom and other potential sanctions, including against family members.

#### *B. ILO Convention 105*

ILO Convention No. 105, ‘Abolition of Forced Labour Convention’ supplements Convention 29 by prohibiting the use of any form of forced labor “as a means of political coercion or education or as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system” or “as a means of racial, social, national, or

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<sup>14</sup> International Labour Conference (ILC), Strengthening Action to end Forced Labour, 103<sup>rd</sup> Session, 2014, at para. 20, online at [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---relconf/documents/meetingdocument/wcms\\_217752.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_217752.pdf)

<sup>15</sup> *Id.*

<sup>16</sup> ILO, “Indicators of Forced Labour,” at 3, online at [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_203832.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf).

religious discrimination.”<sup>17</sup> There is a concerted effort to ensure the ‘reeducation and poverty alleviation’ of the Uyghur population for ‘de-extremification’ and prevention of terrorism.<sup>18</sup> The GOC states that one of its main goals with this program is to make the “religion more Chinese and under law and actively guide religions to become compatible with socialist society.”<sup>19</sup> Targeting a specific ethnic and religious group with a stated goal to ‘make the religion more Chinese,’ through which the Uyghur population is forced to work for Chinese garment and cotton companies, is a direct violation of ILO Convention 105. As will be discussed below, the reeducation and poverty alleviation terms are euphemisms for internment-style extrajudicial detention centers and forced labor.<sup>20</sup>

### *C. Relationship between ILO Protocol No. 29 and the Palermo Protocol*

Forced labor often involves human trafficking, which is defined as, “the recruitment, transportation, transfer, harboring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.”<sup>21</sup> Here, the Uyghur and other Turkic and/or Muslim population is a minority population within China, not speaking the same language, practicing a different religion, and having their own cultural traditions. This population is vulnerable to forced labor, particularly in light of the threats made against their liberty and life from the government authorities. As discussed below, many have been forcibly removed from their homes and villages to work in factories in the Uyghur Region or to be taken to detention and then forced to work. Others have been forcibly transferred from the Uyghur Region to other parts of the country also to work in conditions of forced labor. Both are considered human trafficking for forced labor in contravention of China’s international obligations.

### **III. THE GOVERNMENT OF CHINA ENGAGES IN A PERSISTENT PATTERN OF CONDUCT THAT PERMITS ANY FORM OF FORCED OR COMPULSORY LABOR<sup>22</sup>**

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<sup>17</sup> ILO, Abolition of Forced Labour Convention, 1957 (No. 105), Art. 1(a), 1(e), available at [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C105](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C105).

<sup>18</sup> Adrian Zenz, *China’s Political Re-Education Campaign in Xinjiang*, Central Asian Survey, Sept. 2018 at pp. 2-3, hereinafter, “Zenz, Political Re-Education” <https://www.tandfonline.com/doi/full/10.1080/02634937.2018.1507997>

<sup>19</sup> Xinjiang Uyghur Autonomous Region Regulation on De-extremification, art. 4, available at: <https://www.chinalawtranslate.com/en/decision-to-revise-the-xinjiang-uighur-autonomous-region-regulation-on-de-extremification/> [unofficial English translation].

<sup>20</sup> Zenz, *Political Re-Education*, *supra* n. 18.

<sup>21</sup> Palermo Protocol, <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ProtocolTraffickingInPersons.aspx>.

Note that ILO Protocol 29, references this definition of trafficking in persons from the Palermo Protocol, thus it has been adopted by the ILO.

<sup>22</sup> This petition necessarily summarizes voluminous evidence including a number of credible recent reports and articles. In Annex B, we list the most comprehensive of these sources and incorporate them into this petition in full by reference.



## A. Introduction

The Uyghur Region is home to approximately 13 million Uyghur and other Turkic and/or Muslim peoples. While constituting half the population of the Uyghur Region, they are a minority population within China as a whole. The GOC has argued that this population constitutes a domestic security threat and therefore implemented an overall program including so-called ‘poverty alleviation’, ‘vocational training’, ‘re-education through labor’ and ‘de-extremification’. The GOC objective is that this program will result in the Uyghur population integrating into the majority Han Chinese population. A key feature of this program is the use of forced or compulsory labor – in or around internment camps (as many as 1.8 million people),<sup>23</sup> prisons, and workplaces across the region and the country. It is maintained through an extensive digital and personal surveillance apparatus.

Despite the significant obstacles to obtaining information, several exposés have documented the use of forced labor across the Uyghur Region as a means of social control.<sup>24</sup> These investigations show that the widespread nature of this policy creates significant risk of forced labor at all workplaces, industrial or agricultural, in the Uyghur Region. The GOC is also transferring workers to other parts of China where they work in export factories under conditions that also strongly indicate forced labor.<sup>25</sup>

Chinese manufacturers and the international companies which source from them benefit significantly from the forced labor of the Uyghur population, which drives down the cost of production by significantly reducing labor costs. In the garment industry, for example, forced labor is present in all stages of the production process, including in the harvesting and processing of cotton, the spinning of yarn, the weaving of textiles and the manufacture of finished garments. The fact that 84% percent of Chinese cotton (and nearly all of the Chinese cotton used in garment production) comes from the Uyghur Region<sup>26</sup> means that there is a very high likelihood that the yarn, textiles and garments made with Chinese cotton are tainted with forced and prison labor, whether manufactured in China or anywhere else in the world.<sup>27</sup> This is of particular concern given the enormous global footprint. In the world, China is one of the two

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<sup>23</sup> 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*, Nov 2019, at para 7, hereinafter “Zenz, Wash Brains, Cleanse Hearts.”.

<sup>24</sup> Chris Buckley and Austin Ramzy, *Inside China’s Push to Turn Muslim Minorities Into an Army of Workers*, *NY Times*, Feb. 17, 2020, online at <https://www.nytimes.com/2019/12/30/world/asia/china-xinjiang-muslims-labor.html>; Adrian Zenz, *Xinjiang’s New Slavery*, *Foreign Policy*, Dec. 11, 2019, online at <https://foreignpolicy.com/2019/12/11/cotton-china-uyghur-labor-xinjiang-new-slavery/>; CECC Hearing, “Forced Labor, Mass Internment, and Social Control in Xinjiang,” October 17, 2019.

<sup>25</sup> Fergus Ryan, Danielle Cave, and Nathan Ruser, *Mapping Xinjiang’s ‘re-education’ camps* (Barton, Australia: Australian Strategic Policy Institute, 2018), <https://www.aspi.org.au/report/mapping-xinjiangs-re-education-camps>, hereinafter “ASPI Report”; *China compels Uighurs to work in shoe factory that supplies Nike*, *Washington Post*, Feb. 29, 2020.

<sup>26</sup> “Xinjiang continues to top China’s cotton production,” *China Daily*, January 2, 2020.

<sup>27</sup> Amy Lehr, “Addressing Forced Labor in the Xinjiang Uyghur Autonomous Region” *Center for Strategic & International Studies*, July 31, 2020, p. 4.



largest cotton producers (with the XUAR accounting for over 20% of global production), the largest producer and exporter of yarn, and the largest producer and exporter of textiles and apparel.<sup>28</sup>

*B. China maintains a state sponsored program of forced labor*

Although an exact number of how Uyghurs and other Turkic and/or Muslim peoples have been detained and are forced to work for cotton and garment companies is unknown, the current estimate is at least 1.8 million people.<sup>29</sup> Although the Chinese government uses euphemisms of ‘reeducation through labor,’ and ‘poverty alleviation,’ these programs are widely understood to be for the purposes of indoctrination, ethnic cleansing, and forced labor.<sup>30</sup>

For example, the *New York Times* reported recently that the local government “labor bureau of Qapqal [in XUAR] ordered that villagers should undergo military-style training to convert them into obedient workers, loyal to employers and the ruling Communist Party. ‘Turn around their ingrained lazy, lax, slow, sloppy, freewheeling, individualistic ways so they obey company rules,’ the directive said. The government maintains that the Uyghur and Kazakh villagers are ‘rural surplus labor’ and are an underemployed population that threatens social stability. Putting them in steady, supervised government-approved work, officials say, will erase poverty and slow the spread of religious extremism and ethnic violence.”<sup>31</sup>

The government imposed forced labor on ethnic minorities in the Uyghur Region can be broken down into three categories: (1) coerced labor of the rural poor; and (2) forced labor of current and ex-detainees, including in internment camps; and (3) prison labor.<sup>32</sup>

*a. Poverty Alleviation Program – Forced Labor by Rural Minority Populations*

The GOC plans to have at least 1 million workers in the textile and garment sectors, with at least 650,000 coming from the Uyghur region by 2023.<sup>33</sup> These numbers would mean at least 5% of the Uyghur population in the region would be working in the textile and garment sector within three years.<sup>34</sup> In order to ensure that every person who is able can work, some factories have child and elder care facilities on-site to ensure that the family spends as much time as possible under control and surveillance of the state and within the factories.<sup>35</sup>

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<sup>28</sup> *Id.*

<sup>29</sup> Zenz, *Wash Brains, Cleanse Hearts*, supra n. 23; Connecting the Dots, supra n. 11 at p. 1.

<sup>30</sup> ASPI Report, supra n. 25.

<sup>31</sup> NY Times, *Inside China’s Push*, supra n. 24.

<sup>32</sup> Lehr, *Connecting the Dots*, supra n. 11 at p. 5.

<sup>33</sup> *Ibid.*; Adrian Zenz, *Beyond the Camps: Beijing’s Grand Scheme of Forced Labor, Poverty Alleviation and Social Control in Xinjiang*, July 2019 at 13-14, hereinafter “Zenz, Beyond the Camps.” Online at <https://www.cecc.gov/sites/chinacommission.house.gov/files/documents/Beyond%20the%20Camps%20CECC%20testimony%20version%20%28Zenz%20Oct%202019%29.pdf>

<sup>34</sup> *Id.*

<sup>35</sup> Zenz, *Xinjiang’s New Slavery*, supra, n. 24; Zenz, *Beyond the Camps*, supra, n. 33.

To ensure that these individuals have the ‘skills’ required for the factory jobs, they are mandated to go through training. This training is meant to overcome the alleged “problems” with thinking, discipline and perception by instituting a specific thought education training program. This program is governed through a centralized training center which focuses on legal regulations, Chinese language, work discipline and military drills.<sup>36</sup> They are short-term training courses. Although these centralized training centers are not directly part of the reeducation camps, the education, infrastructure, and setup is similar to that of those camps complete with high fences, police watchtowers and barbed wire.<sup>37</sup> Any resistance to attend these training centers is seen as a sign of ‘extremism’ and can result in being sent to a reeducation camp, thus having that implied threat ever present.<sup>38</sup>

The rural minority populations in the Uyghur Region have resisted incorporation into the manufacturing sector for many years; thus, much of the Uyghur population is not working in the manufacturing workforce voluntarily. There are reports that poor residents were ‘transferred to work,’ which further implies that coercion was used to get them to join such manufacturing jobs.<sup>39</sup> The intense surveillance and security system in place within Uyghur Region will be discussed more below. However, it should be noted that this surveillance system is used by the government to determine who should be sent to detention facilities.

Furthermore, research and interviews have shown that some of these rural workers are being paid less than the region’s minimum wage for their work.<sup>40</sup> Although the authorities report that workers make \$400 or more a month, actual reports and documents<sup>41</sup> show that they make \$114 a month - which is less than half the minimum wage (an indicator of forced labor).<sup>42</sup> Finally, according to interviews with ex-detainees, minority workers who are part of the ‘poverty alleviation’ plan were threatened with internment if they refused to work in a garment or textile factory.<sup>43</sup> These interviews also revealed that some of the rural poor who were forced to work in these garment and textile factories were also mandated to live in dormitories and were transported in the same buses as former detainees.<sup>44</sup> The fact that labor from the rural minority poor and former detainees is intermingled makes it difficult to distinguish individuals who have faced higher levels of coercion.<sup>45</sup>

All government efforts to train and mandate factory work by members of these minority groups is to ensure that these individuals are cutting ties and connections to their culture, ethnicity and religion. The practice of forcing these individuals to attend military style training, surveilling

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<sup>36</sup> Zenz, *Beyond the Camps*, supra n. 33 at pp. 13-14.

<sup>37</sup> Zenz, *Beyond the Camps*, supra n. 33 at p 14.

<sup>38</sup> Ibid.

<sup>39</sup> Zenz, *Xinjiang’s New Slavery*, supra, n. 24.

<sup>40</sup> Lehr, *Connecting the Dots*, supra n. 11 at p. 6.

<sup>41</sup> NY Times, *Inside China’s Push*, supra n. 24.

<sup>42</sup> *Id.*

<sup>43</sup> Lehr, “Connecting the Dots.”, supra n. 11 at p. 6.

<sup>44</sup> *Id.* at 7.

<sup>45</sup> Zenz, *Beyond the Camps*, supra n. 33 at p. 16.

all the members of the community with implicit and explicit threats of being put in detention, and being paid less than minimum wage with no opportunity to leave the employment is clearly forced labor.

*b. Forced Labor by Current and Former Detainees of Internment Camps*

In a separate but parallel policy to China's public poverty alleviation plan, the government has also enacted a public reeducation policy that involves internment with some vocational training, indoctrination, and finally release to factories in nearby industrial parks or camp factories. These internment camps that have been created by the government are often referred to as 'vocational training internment camps,' or 'vocational skills education training centers,' or 'education training centers.'<sup>46</sup> This political reeducation campaign is an extrajudicial system that operates outside the criminal justice and regular prison system.<sup>47</sup> Many of the reasons for such detention are because individuals have traveled abroad, applied for a passport, communicated with individuals abroad, and prayed regularly.<sup>48</sup> Government documents state that released 'reeducated' minorities will be part of the new manufacturing workforce, and are expected to assist the government in meeting its quota requirements.<sup>49</sup> The idea of compelling those who have been released from detention to work in these jobs is to ensure control and stability of the region, and have an ability to continue to monitor these individuals.<sup>50</sup>

These reeducation facilities are internment camps complete with police stations, high surrounding walls with watchtowers, a surveillance and monitoring system, and intercom systems generally found in prisons.<sup>51</sup> The recruitment of trainers for these facilities requires a military or police background, but no specific degrees or skills related to vocational training. Generally, teaching staff needed a middle school degree and demonstrated Mandarin language skills.<sup>52</sup> The reeducation program focuses on military style drills, Chinese language courses, and indoctrination with the expectation that individuals will renounce their religion and culture.

Although the government has referred to this program as a reeducation scheme for ethnic and religious minorities, it is an internment and indoctrination program focused on separating and 'cleansing' these minorities of their culture, beliefs, and religion with an end goal of increased labor in the manufacturing sector. The government directly states that these vocational training

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<sup>46</sup> Zenz, *Beyond the Camps*, supra n. 33 at p. 5.

<sup>47</sup> Zenz, *China's Political Re-Education*, supra n. 18.

<sup>48</sup> Uyghur Human Rights Project, "Ideological Transformation": Records Of Mass Detention From Qaraqash, Hotan," Feb. 2020; DW, Exclusive: China's systematic tracking, arrests of Uighurs exposed in new Xinjiang leak, Feb 17, 2020, online at <https://www.dw.com/en/exclusive-chinas-systematic-tracking-arrests-of-uighurs-exposed-in-new-xinjiang-leak/a-52397824> (The articles explains that one man was sent to an internment camp because "His wife had covered her face with a veil and the couple had "too many" children." It further explained that 311 people who were sent off to "re-education" for growing a beard, fasting, or applying for a passport.)

<sup>49</sup> Lehr, *Connecting the Dots*, supra n. 11 at p. 7.

<sup>50</sup> Zenz, *Beyond the Camps*, supra n. 33 at pp. 7-8.

<sup>51</sup> Zenz, *Political Re-Education*, supra n. 18 at p. 21.

<sup>52</sup> *Id.* at 22.

centers plus labor intensive manufacturing are necessary for stability and social control.<sup>53</sup> According to the Chinese government's own documents, "After they [detainees] leave, the documents stipulate, every effort should be made to get them jobs."<sup>54</sup> These government efforts have led to job contracts that were forced upon detainees, requiring them to work long hours for low pay and barring them from leaving the factory grounds during the weekdays.<sup>55</sup> There is a clear path and government policy to forcefully ensure that former detainees are under the control of the government through labor intensive manufacturing jobs at factories built in and near such centers, such as the Jinfujie Clothing Company (Golden Future) factories near Kashgar.<sup>56</sup> This policy is purposeful to ensure a continuous implied threat of return to the internment camp for refusal to 'work' in the factory. The goal of social control and assimilation of the Uyghur culture and identity to be more like the secular Han Chinese populations is furthered by this indoctrination and forced labor policy.<sup>57</sup>

The exact number of former detainees who have been coerced into working in a factory is not known, but estimates based on interviews and government statements is at least 100,000 former detainees are forced to work in garment and textile factories.<sup>58</sup> The government of Kashgar (a prefecture in XUAR), stated that it would send 100,000 former detainees who had completed 'vocational training' (time in a detention center) to work in factories, which would be 20% of the Uyghur population of Kashgar.<sup>59</sup>

### c. Prison Labor

Some minorities are within the traditional prison population rather than in the internment system discussed above. In 2017 and 2018, over 230,000 people were sentenced by the courts in Uyghur Region, often with prison terms of five years or more, which was higher than any other period or region in China.<sup>60</sup> The Xinjiang Production and Construction Corps (XPCC), for example, administers its own prison system and factories.<sup>61</sup> XPCC forces its own prison population to conduct commercial activities, mainly in cotton harvesting and production.<sup>62</sup> XPCC was the enterprise to establish Xinjiang's cotton industry, and some estimates suggest

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<sup>53</sup> Zenz, *Beyond the Camps*, supra n. 33 at p. 7.

<sup>54</sup> The Associated Press, "Secret documents reveal how China mass detention camps work," November 25, 2019, available at <https://apnews.com/4ab0b341a4ec4e648423f2ec47ea5c47>.

<sup>55</sup> *Id.*

<sup>56</sup> NY Times, *Inside China's Push*, supra n. 24.

<sup>57</sup> *Id.*

<sup>58</sup> Lehr, *Connecting the Dots*, supra n. 11 at p. 8; DW, Exclusive: China's systematic tracking, supra, n. 45 ("In dozens of cases, DW has found reference to a system of forced labor in factories. One such case of prolonged internment at a factory involves a man detained in May 2018 for contacting his brother, who had fled to Turkey. According to the document, the detainee therefore "poses a certain level of danger to society." The recommendation by the "community" is for him to "remain in a factory in the re-education camps.").

<sup>59</sup> *Id.*

<sup>60</sup> "China's Prisons Swell After Deluge of Arrests Engulfs Muslims," *NY Times*, Aug. 31, 2019, online at <https://www.nytimes.com/2019/08/31/world/asia/xinjiang-china-uyghurs-prisons.html>

<sup>61</sup> *Id.*

<sup>62</sup> *Id.*

that XPCC produces almost 34% of China's overall cotton output through its forced prison labor.<sup>63</sup>

The most comprehensive research on the prison system in the Uyghur Region comes from the Citizen Power Initiative, which has explained that China has created a "cotton gulag" in the Uyghur Region.<sup>64</sup> They explain that "Xinjiang is also home to a large percentage of China's prison population and these inmates serve as a key labor force in every link of China's cotton value chain, from cotton field reclamation to planting, harvesting, processing, and garment production."<sup>65</sup>

One aspect of the prison labor system concerns the XPCC, which has been described as a paramilitary entity. According to the CPI, "In 2018 it produced 2.0465 million tons of cotton, accounting for 33.5% of China's cotton output. In the same year the XPCC exported about 47.3 billion RMB, with the largest products being apparel, textile, footwear, and hats. The XPCC has essentially been managing the largest and longest-running judicial forced labor system in China."<sup>66</sup>

The CPI explains that the prison system in the Uyghur region is set up for the exaction of forced labor, and between the XPCC and the traditional prison system may hold roughly 500,000 inmates.

The XPCC prison system is designed to be a prison labor system. Not counting the numerous Uighur internment camps, there are more than 30 prisons and at least 3 reeducation through labor camps and 15 Education Correction Centers under the XPCC system. In parallel, the XUAR operates about 27 prisons, and 10 direct units under the Judicial Bureau's Prison Administration of the XUAR. The total number of prisoners in Xinjiang is a highly-guarded state secret. Based on an internet post by a Chinese prison officer, he revealed that a large prison in China often holds about 10,000 inmates. Based on that we estimate the population of prisoners in Xinjiang is at least half a million since Xinjiang prisons are large prisons.<sup>67</sup>

Of note here, the CPI indicates that starting in 2017, the prison population of Uyghur and other Turkic and/or Muslim people increased dramatically as the central government clamped down. The CPI explains that, "[T]he number of ethnic minorities who have been put under criminal prosecution in the XUAR skyrocketed in 2017, with nearly 230,000 charged with the crimes of

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<sup>63</sup> Lehr, *Connecting the Dots*, supra n. 11 at p. 8 (Citing Xiang Bo, "Xinjiang's major cotton base reports record output in 2018," Xinhua, <https://perma.cc/YX7T-6VQS>).

<sup>64</sup> Lianchao Han, *Cotton: The Fabric Full of Lies: A report on forced and prison labor in Xinjiang, China, and the nexus to global supply chains* (CPIFC Monograph Series Book 2) (p. 4). Citizen Press.

<sup>65</sup> *Id.*

<sup>66</sup> *Id.* at p. 14.

<sup>67</sup> *Id.* at p. 16-17.

“terrorism”, “separatism”, and “religious extremism,” accounting for an alarming 21 percent of all arrests in China in 2017.”<sup>68</sup>

Evidence collected by CPI from the accounts of prisoners confirms that their work in XPCC system is the harvesting of cotton or the production of garments.

From personal accounts, it is known that most prisoners work in cotton fields, including the reclamation of desert land to develop more cotton fields, irrigation projects, and in the processing of cotton for downstream products, or making garments for the XPCC. According to the personal accounts of prisoners, the more intensive labor is land reclamation and harvesting cotton.<sup>69</sup>

In addition to harvesting cotton, prisoners are responsible for the manufacture of textiles, apparel and footwear. As CPI explains:

According to official XUAR government data, in 2018, the XUAR exported \$4.2 billion in apparel, \$2 billion in footwear, and \$1.06 billion in textiles, accounting for 43% of its total exports. It is hard to know exactly what percentage of prison labor contributes to this number. But since each prison is a big factory, and since apparel products are labor intensive, we believe prison labor is a significant part of Xinjiang cotton/textile/garment exports. The XPCC’s export numbers for textile/apparel products are unknown.<sup>70</sup>

With regard to the enterprises run by the XPCC,

[I]t is known that forced labor forms the main work force under the XPCC system. In 2018 it planted 2.13 million acres of cotton, an increase of 23.1 percent. Based on that, we can assume that many of the XPCC’s 5,000 companies, if not all, are involved in prison enterprises or use prison labor in its “laojiao economy.”<sup>71</sup>

d. *State owned enterprises and private companies are subsidized to use forced laborers from the Uyghur Region*

The government offers incentives to companies to incorporate the Uyghur population into their operations.<sup>72</sup> Companies that train detainees can receive subsidies of 1,800 RMB per person, and those that employ detainees receive an additional 5,000 RMB per person.<sup>73</sup> The Xinjiang government has offered subsidies and inducements to encourage Chinese-owned companies to invest and build factories within the ‘vocational training compounds,’ right next to such

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<sup>68</sup> Id. at p. 18.

<sup>69</sup> Id. at p. 19.

<sup>70</sup> Id. at p. 31.

<sup>71</sup> Id. at p. 37.

<sup>72</sup> Lehr, *Connecting the Dots*, supra n. 11 at p. 6.

<sup>73</sup> Zenz, *Xinjiang’s New Slavery*, supra n. 24.

compounds.<sup>74</sup> Additionally, companies were encouraged to build ‘satellite’ factories in villages to ensure that they are able to control and coerce every member to work.<sup>75</sup> The government also permits these companies to pay workers less than the minimum wage of the region. These companies have been given a 5-year tax exemption, subsidies for worker training, land, warehouse storing, transportation and electricity.<sup>76</sup>

For example, Huaifu Fashion Co. has a ‘training college’ in the middle of Aksu Industrial Park, which was built as part of the government’s ‘poverty alleviation’ plan.<sup>77</sup> Aksu Industrial Park, is a large industrial park built specifically to be a pipeline for work from detainees.<sup>78</sup> The training was paid for by government subsidies. Huaifu has a factory right next door to its training college, and it employs people who came from the government-subsidized training/reeducation program.<sup>79</sup> It should be noted that these factories in the industrial park have high fences and watchtowers, similar to those present at the detention facilities.<sup>80</sup> The Huaifu factory is touted as the “world’s largest mixed-color cotton yarn mill” that the government considers part of its large-scale vocational training program.<sup>81</sup>

Hetian Tada was recently identified by the CBP to be complicit in forced labor and a Withhold Release Order (WRO) was issued, so that any products made by Hetian Tada are seized at the U.S. border.<sup>82</sup> Hetian Tada had factories within the internment camp, which the company states is part of its assistance in ‘poverty alleviation’ programs.<sup>83</sup>

Another private company that was incentivized by the government to open factories in the Uyghur Region is Youngor Cotton Spinning Co Ltd.<sup>84</sup> Youngor is one of the largest shirt makers in China.<sup>85</sup> Most of the 520 workers at the Youngor factory in the Uyghur Region are Uyghurs. Youngor is planning to increase its factory to ensure more cotton spinning and production of products.<sup>86</sup>

Finally, Hong Kong-based Esquel Group, is one of the world’s largest shirt maker and supplies to Calvin Klein, Tommy Hilfiger, Nike, Muji and Patagonia. Esquel set up three new spinning mills

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<sup>74</sup> *Id.*

<sup>75</sup> *Id.*

<sup>76</sup> The Wall Street Journal, “Western Companies Get Tangled in China’s Muslim Clampdown,” May 2019, available at <https://www.wsj.com/articles/western-companies-get-tangled-in-chinas-muslim-clampdown-11558017472>.

<sup>77</sup> Lehr, *Connecting the Dots*, supra n. 11, at p. 6.

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *Id.*

<sup>81</sup> Wall Street Journal, *Western Companies Get Tangled*, supra n. 76.

<sup>82</sup> Worker Rights Consortium, “Update on Forced Labor and Hetian Tada Apparel,” available at <https://www.workersrights.org/communications-to-affiliates/update-on-forced-labor-and-hetian-taida-apparel/>.

<sup>83</sup> The Daily Hampshire Gazette, *US apparel firm cuts off Chinese factory over labor concerns*, Jan. 2019, online at <https://www.gazettenet.com/US-apparel-firm-cuts-off-Chinese-factory-in-internment-camp-22699518>

<sup>84</sup> Dominique Patton, *Xinjiang cotton at crossroads of China's new Silk Road*, Reuters, Jan 11, 2016, online at <https://www.reuters.com/article/us-china-xinjiang-cotton-insight-idUSKCN0UQ00320160112>

<sup>85</sup> *Id.*

<sup>86</sup> *Id.*



in the Uyghur region. The CEO, John Cheh, stated that Xinjiang government officials began ‘offering’ workers to the company as of 2017.<sup>87</sup> According to the findings by the US Congressional Executive Commission on China, it is likely that supply chains with forced labor from the Uyghur region are present for multiple global brands, including: Adidas AG, C&A, Esquel Group, H&M, and Gap Inc, to name a few of the many global brands implicated.<sup>88</sup> Indeed, according to our research, Esquel Garment Manufacturing, based in Vietnam, has made numerous shipments of finished garments containing Xinjiang Cotton to Muji USA Ltd for sale in the US.<sup>89</sup>

It is clear that the problem goes far beyond individual companies, or individual bad actors. Rather, the problem is systemic and implicates the vast majority of entities operating in this sector. These Xinjiang-cotton products are regularly entering US commerce without any obstacle.<sup>90</sup>

*e. Uyghur workers were forcibly transferred to Eastern and Central China as part of ‘Xinjiang Aid’*

According to recent reports, at least 80,000 Uyghurs and other ethnic minorities were transferred from the Uyghur Region to factories in eastern and central China.<sup>91</sup> This is part of a state-sponsored transfer-of-labor scheme that goes beyond just the cotton and garment manufacturing sector, marketed as ‘Xinjiang Aid.’<sup>92</sup> This ‘Xinjiang Aid’ scheme allows companies to participate in two ways: (1) opening up satellite factories inside Xinjiang or (2) hiring Uyghur workers for their factories located outside XUAR.<sup>93</sup> This is just an expansion of the ‘poverty alleviation’ and ‘reeducation’ programs discussed above. Government reports and research indicate that as ‘training’ of Uyghurs and ethnic minorities continues in the Uyghur Region, they will ensure and organize labor transfers so there will be a 100% employment rate for these ‘trained’ individuals.<sup>94</sup> Furthermore, just like the reeducation facilities and factories that Uyghurs and other ethnic minorities have been forced to work in within the Uyghur Region, factories outside the Uyghur Region in the Xinjiang Aid program, have similar compounds, complete with high watchtowers, razor wire, and barbed wire fencing.<sup>95</sup> As will be discussed in more detail below, the factories part of this Xinjiang Aid program are suppliers to some of the largest global apparel and technology companies including Apple, Nike, Gap, Microsoft, etc.<sup>96</sup>

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<sup>87</sup> Wall Street Journal, “Western Companies Get Tangled,” supra n. 76.

<sup>88</sup> The Congressional Executive Committee on China, “Annual Report 2019: Human Trafficking,” at 1, available at [https://www.cecc.gov/sites/chinacommission.house.gov/files/documents/2019AR\\_HUMANTRAFFICKING.pdf](https://www.cecc.gov/sites/chinacommission.house.gov/files/documents/2019AR_HUMANTRAFFICKING.pdf); Lehr, *Connecting the Dots*, supra n. 11, Annex 3.

<sup>89</sup> See Annex C (Muji Panjiva Import Data 2019-20)

<sup>90</sup> See Annex D (various companies in addition to Muji which have imported Xinjiang cotton-based goods in 2019-20)

<sup>91</sup> ASPI Report, supra n. 25.

<sup>92</sup> *Id.* at 12.

<sup>93</sup> *Id.* at 13.

<sup>94</sup> *Id.*

<sup>95</sup> *Id.* at 10; *China compels Uighurs to work in shoe factory that supplies Nike*, Washington Post, supra n. 25;.

<sup>96</sup> ASPI Report, supra n. 25, at p. 5.

According to government notices, transferring Uyghur workers to factories outside the Uyghur region is lucrative, given that those who facilitate these transfers receive approximately \$40 for every laborer transferred out of the Uyghur region, versus approximately \$3 for transfers within the Uyghur region.<sup>97</sup> Additionally, factories outside the Uyghur region that agree to have Uyghur workers are compensated approximately \$144 per worker for a year contract and \$230 per worker for a three year contract.<sup>98</sup>

Those workers who are forced to leave Uyghur Region are given no choice. If they refuse, they are threatened with further detention for themselves or their families.<sup>99</sup> In some cases, the government will send Communist Party officials to the homes of those transferred to constantly have the implied threat against their loved ones for any refusals by the worker.<sup>100</sup> These Uyghur workers live and work in segregation outside the Uyghur region. They are required to attend Mandarin language classes and are prevented from practicing their culture or religion. A government security official is assigned to each group of Uyghur workers to monitor their behavior, their comings and goings, and to ensure continued indoctrination. These workers live in segregated dormitories away from their Han Chinese counterparts, eat in a different restaurant/canteen, have their movement restricted, and are often not allowed to return home for the holidays. The surveillance they faced while in the Uyghur Region is replicated in some cases within the factory compounds where they have been forced to work – ensuring that they are under constant monitoring both through digital and physical means.<sup>101</sup> The isolation, surveillance, and monitoring of these workers all indicate forced labor as delineated by the ILO.<sup>102</sup>

According to reports, at least 83 companies have suppliers within their supply chain that have participated in Xinjiang Aid and that have forced Uyghur labor within their factories.<sup>103</sup> These companies have directly or indirectly benefited from this forced labor scheme sponsored by the Chinese government. Some of the companies on this list include: Abercrombie & Fitch, Acer, Adidas, Amazon, Apple, BMW, Calvin Klein, Carter's, Cisco, Dell, Fila, Gap, General Electric, General Motors, Google, H&M, Haier, Hart Schaffner Marx, Hitachi, HP, HTC, Huawei, Jaguar, L.L.Bean, Lacoste, Land Rover, Lenovo, LG, Mercedes-Benz, Microsoft, Nike, Nintendo, Nokia, The North Face, Panasonic, Polo Ralph Lauren, Puma, Samsung, SGMW, Sharp, Siemens, Skechers, Sony, TDK, Tommy Hilfiger, Toshiba, Uniqlo, Victoria's Secret, Vivo, Volkswagen, and Zara.<sup>104</sup>

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<sup>97</sup> *Id.* at 15.

<sup>98</sup> *Id.*

<sup>99</sup> *Id.*

<sup>100</sup> *Id.* at p. 7.

<sup>101</sup> *Id.* at p. 6.

<sup>102</sup> ILO Indicators of Forced Labour, available at [https://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---declaration/documents/publication/wcms\\_203832.pdf](https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf).

<sup>103</sup> ASPI Report, supra n. 25 at p. 5.

<sup>104</sup> *Id.* at p. 5.

#### IV. APPLICATION OF LAW TO FACTS

The facts above leave no doubt as to the exaction of forced labor under the menace of any penalty and for which the said person has not offered themselves voluntarily. Indeed, much of the labor described herein takes place in the context of extrajudicial internment or judicial imprisonment without due process. The reasons for the internment or imprisonment have nothing to do with the commission of crimes but rather the exercise of cultural and religious practices. As such, there is simply no voluntary offer to perform the work.<sup>105</sup> Moreover, failure to perform such work can and does result in further losses of rights or privileges, including extending the period of detention, as well as threats or retaliation against family and friends. The extraordinary level of personal and community surveillance reinforces the ability of the state to impose loss of rights against anyone who may denounce the human rights violations, including the exaction of forced labor.

The ILO has recognized a few exceptions to its definition of forced labor, including prison labor.<sup>106</sup> However, the prison labor exception is very narrow and only applies to work or service that is “exacted ... as a consequence of a conviction in a court of law”, that is “carried out under the supervision and control of a public authority,” and that “said person is not hired to or placed at the disposal of private individuals, companies or associations.”<sup>107</sup> Most of the inmates in the prison labor system of Uyghur and other Turkic and/or Muslim origin were arrested and tried on charges related to terrorism, subversion and similar claims. Evidence for these claims can include growing a beard, international travel, and even using the web-based chat applications such as ‘WhatsApp.’<sup>108</sup> These charges are clearly political in nature and are not founded on any actual evidence that constitutes the elements of these crimes. Rather, they have been imprisoned because of the conduct of their ethnic or religious culture and beliefs. Furthermore, their labor has been put at the disposal of for-profit industry linked to global supply chains. ILO guidance indicates that prison labor should not be for the benefit of private companies, and wages should be comparable to free labor. As such, the limited prison labor system exception does not apply.

The coercion of individuals to work in a factory is exacerbated by an extensive and highly intrusive surveillance system. This surveillance assists the government in identifying individuals that they feel are a threat and must be detained.<sup>109</sup> The Uyghur Region has become the most digitally surveilled area of China, with the authorities using pervasive and overlapping systems to closely monitor the population. Furthermore, because the government encourages people to spy and report on each other, people are aware that they are constantly being monitored by

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<sup>105</sup> Other indicators of the absence of voluntary offer include: abuse of vulnerability, restriction of movement, intimidation and threats, abusive working and living conditions and excessive overtime.

<sup>106</sup> ILO C29, Art. 2(2)

<sup>107</sup> ILO C29, Art. 2(2)(c)

<sup>108</sup> Lehr, *Connecting the Dots*, supra n. 11 at p. 1.

<sup>109</sup> *Id.* at 8.

both visible and hidden surveillance systems.<sup>110</sup> In addition to the digital security (CCTV and other systems) put in place, the government has instituted a system of placing QR codes on every home, which they scan to monitor the inhabitants' goings and comings.<sup>111</sup> To further the atmosphere of surveillance and ways that inhabitants of the region are under constant monitoring, authorities have collected biometric information, such as DNA and voice samples, use facial recognition software,<sup>112</sup> and confiscate people's phones at checkpoints to check for 'problematic' apps.<sup>113</sup> The facial recognition software is used at entrances of malls, hospitals, and supermarkets.<sup>114</sup> These searches and seizures of personal data and information are done without any official documentation, court order, or explanation. All of this information is used to collect data on the minority populations, and track their communications, movements, and create an atmosphere of needing to conform to their demands.

The application called Integrated Joint Operations Platform (IJOP) used by the police in the Uyghur Region tracks, monitors, and collects all information about each individual in the Uyghur Region, including but not limited to facial and voice recognition, tracking movements, monitoring their electric and gas usage, and even whether the person buying gas for a car is the individual who is the registered owner of the car.<sup>115</sup> The application will then alert the police to 'unusual' activity, and prompt them to investigate.<sup>116</sup>

The digital surveillance throughout the region is supplemented by 'home stays' by government authorities. By December 2017, over 1 million cadres were involved in this program, where they would spend at least five days in the homes of the primarily Muslim minorities.<sup>117</sup> During these 'home stays' the government official would collect and update information about the family, such as where they are from and political and religious views, and they would report on any concerns, from alcoholism to the extent of the family's religious beliefs.<sup>118</sup> The individuals assigned to stay with these families also carry out indoctrination schemes focused on the

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<sup>110</sup> Human Rights Watch, "Eradicating Ideological Viruses: China's Campaign of Repression Against Xinjiang's Muslims," at p. 74, 2018, hereinafter, "HRW, Eradicating Ideological Viruses," online at [https://www.hrw.org/sites/default/files/report\\_pdf/china0918\\_web2.pdf](https://www.hrw.org/sites/default/files/report_pdf/china0918_web2.pdf).

<sup>111</sup> *Id.*

<sup>112</sup> Wired, "Inside China's Massive Surveillance Operation," May, 2019, online at <https://www.wired.com/story/inside-chinas-massive-surveillance-operation/>; Uyghur Human Rights Project, at 14, supra n. 45; DW, China's systematic tracking, supra n. 45.

<sup>113</sup> HRW, *Eradicating Ideological Viruses*, supra n. 110 at p. 77

<sup>114</sup> Wired, "Inside China's Massive Surveillance Operation," supra n. 112.

<sup>115</sup> Human Rights Watch, "China's Algorithms of Repression Reverse Engineering a Xinjiang Police Mass Surveillance App," May 2019, available at <https://www.hrw.org/report/2019/05/01/chinas-algorithms-repression/reverse-engineering-xinjiang-police-mass-surveillance>; Human Rights Watch, "How Massive Surveillance Works in Xinjiang China," May, 2019, available at <https://www.hrw.org/video-photos/interactive/2019/05/02/china-how-mass-surveillance-works-xinjiang>.

<sup>116</sup> *Id.*

<sup>117</sup> Human Rights Watch, "China: Visiting Officials Occupy Homes in Muslim Region," May 2018, available at <https://www.hrw.org/news/2018/05/13/china-visiting-officials-occupy-homes-muslim-region>.

<sup>118</sup> *Id.*

positive attributes of the Chinese Communist Party and the dangers of others. These families are unable to refuse home stays.<sup>119</sup>

Furthermore, movements of workers and the Uyghur population are highly restricted. For example, if workers are sent from the southern part of the Uyghur Region to the north, they are required to get written permission from multiple officials before they are allowed to quit.<sup>120</sup> Generally speaking, most Uyghurs are not able to participate in the labor force outside of the Uyghur Region, because their appearance in another city will initiate a police investigation, unless they were forcibly transferred out of the region via the government policy discussed above.<sup>121</sup>

Given the level of monitoring and scrutiny that every individual in the Uyghur Region is under, it is impossible for minority Uyghur populations to feel safe to speak out against what is happening, to share their own experiences, or even provide further concrete evidence of internment and forced labor. Hence, most documentation and evidence that is available is based on government and corporate documentation and interviews of former detainees who have escaped the region or family members of those still in the Uyghur Region. Under constant, direct, and overt surveillance most people do not feel able to refuse the state authorities. The purpose of this level of intrusive monitoring is to ensure that everyone is under the control of the State, and if there is any 'unusual' activity, it is dealt with promptly, usually with threats of detention and coercion to take a manufacturing job.

The level of coercion that is present from the intrusive surveillance scheme in place is furthered by the explicit and implicit threats of detention for an individual and their family if they refuse to abide by the directives of the government authority. For workers who were forced into garment and textile work through the poverty alleviation scheme, they were explicitly threatened with being taken to an internment facility if they refused to work.<sup>122</sup> There is immense pressure on individuals, whether part of the rural minority workforce or former detainees, to accept work placements and sign work contracts.<sup>123</sup> For example, a woman reported that she received less than half the minimum wage, she was not allowed to leave, and she was regularly threatened with being sent to the re-education camp (internment) if she refused to sign the work contract.<sup>124</sup> The coercion comes from both the explicit and implicit threat of being sent to a detention facility, and thus there is very little resistance to the assignment to factor work.<sup>125</sup> There simply is no choice for individuals between threats and surveillance to any other option besides acquiescence or internment.

## V. CONCLUSION

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<sup>119</sup> *Id.*

<sup>120</sup> NY Times, *Inside China's Push*, supra n. 24.

<sup>121</sup> Zenz, *Xinjiang's New Slavery*, supra n. 24.

<sup>122</sup> Lehr, *Connecting the Dots*, supra n. 10 at p. 6.

<sup>123</sup> NY Times, *Inside China's Push*, supra n. 24.

<sup>124</sup> CECC, "Annual Report 2019: Xinjiang," at 8, supra n. 10.

<sup>125</sup> *Id.*

As explained herein, the GOC has and continues to perpetrate a widespread and systematic program of human rights abuses in the Uyghur Region targeting the Uyghur and other Turkic and/or Muslim peoples on the basis of their ethnicity and religion. An important component of this program is the extensive use of forced labor for agriculture and industry. Given the pervasive nature of forced labor, the goods described on pages 1-2 of this submission are very likely made in whole or in part with forced or prison labor in violation of 19 U.S.C. §1307. We therefore urge the CBP to act and issue WROs in a manner suggested by the petitioners.

Sincerely,



Josh Zinner, CEO  
Interfaith Center on Corporate Responsibility

On behalf of,

AFL-CIO



Corporate Accountability Lab



Freedom United



Global Labor Justice – International Labor  
Rights Forum



Human Trafficking Legal Center



Interfaith Center on Corporate Responsibility



Investor Alliance for Human Rights



Uyghur American Association



Uyghur Human Rights Project



World Uyghur Congress





## **ANNEX A: Entities for which there should be an immediate WRO**

1. Xinjiang Production and Construction Corps (XPCC) and its subsidiary corporations
2. Huafu Fashion Company
3. Esquel Group
4. Lu Thai Textile Company
5. Youngor Group
6. Jin Sheng
7. Shandong Ruyi Technology Group Company
8. Yili Zhuo Wan Garment Manufacturing Company

## ANNEX B: Key Reports

Petitioners incorporate into this submission by reference the following articles, reports and testimony below and/or attached:

1. Congressional Executive Commission on China (CECC), Staff Research Report, “Global Supply Chains, Forced Labor, and the Xinjiang Uyghur Autonomous Region” March 2020.
2. Congressional Executive Committee on China (CECC), “Annual Report 2019: Xinjiang.”
3. Amy Lehr, “Addressing Forced Labor in the Xinjiang Uyghur Autonomous Region” *Center for Strategic & International Studies*, July 31, 2020.
4. Amy Lehr and Mariefaye Bechrakis, “Connecting the Dots in Xinjiang: Forced Labor, Forced Assimilation, and Western Supply Chains,” *Center for Strategic & International Studies*, October 16, 2019.
5. Adrian Zenz, *Xinjiang’s New Slavery*, Foreign Policy, Dec. 11, 2019.
6. 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*, November 2019.
7. Adrian Zenz, “Beyond the Camps: Beijing’s Grand Scheme of Forced Labor, Poverty Alleviation and Social Control in Xinjiang,” July 2019.
8. Adrian Zenz, “China’s Political Re-Education Campaign in Xinjiang,” September 2018.
9. Fergus Ryan, Danielle Cave, and Nathan Ruser, “Mapping Xinjiang’s ‘re-education’ camps” (Barton, Australia: Australian Strategic Policy Institute, 2018).
10. Lianchao Han, *Cotton: The Fabric Full of Lies: A report on forced and prison labor in Xinjiang, China, and the nexus to global supply chains* (CPIFC Monograph Series Book 2), Citizen Press
11. Human Rights Watch, “China’s Algorithms of Repression Reverse Engineering a Xinjiang Police Mass Surveillance App,” May 2019.
12. Human Rights Watch, “Eradicating Ideological Viruses: China’s Campaign of Repression Against Xinjiang’s Muslims,” 2018.
13. Vicky Xiuzhong Xu, et. al, *Uyghurs for sale: ‘Re-education, forced labour and surveillance beyond Xinjiang* (Australian Strategic Policy Institute, March 2020).

ANNEX C: **Esquel Group Exports to Muji Inc.**

See attachment

**ANNEX D: Other Companies which have imported Xinjiang cotton goods in 2019-20)**

See attachment