

Written evidence submitted by Quilliam International (FL0023)

The focus of this submission is the use of forced labour of Uyghurs in the Xinjiang Uyghur Autonomous Region (XUAR) of China in the value chains of UK companies, and the steps which should be taken in relation to the use of such forced labour. It draws on the separate submission by the Coalition to End Forced Labour in the Uyghur Region, of which Quilliam International is a part, and which we endorse.

The BEIS Inquiry asks the following questions:

What is your assessment of the connection between the treatment of minorities in XUAR and company value chains supplying the UK fashion, retail and technology sectors?

The mistreatment of minorities in XUAR involves a considerable expenditure of resources by the governing Chinese Communist Party (CCP), encompassing extensive surveillance, internment, imprisonment, indoctrination and forced relocation. The cost of that bureaucracy has been underwritten, in part, by profit extracted from the forced labour of detained members of those minority groups. It is pernicious that minorities are, in effect, being compelled to fund their own oppression.

The CCP operates a scheme, described as 'Xinjiang Aid', that allows participating Chinese companies to: (a) establish satellite factories inside the Uyghur Region and/or (b) hire transferred Uyghur workers within factories located outside Uyghur Region. It is understood that some of the largest global apparel and technology companies have taken part in this scheme. In addition, forced labour and coerced relocations also take place extensively outside the scope of this scheme.

The manner in which the forced labour of regional minorities in China is present within the value chains of the UK textile industry has been set out in detail in the submission of the Coalition to End Forced Labour in the Uyghur Region. We share the Coalition's concerns with the shortcomings of the process promoted by the Better Cotton Initiative (BCI) with respect to value chains in XUAR. Forced labour pervades the network of relationships at every level in the industry: from direct relationships with suppliers and sub-suppliers, to the supply of raw materials, to associations with Chinese groups with subsidiaries located in XUAR. In addition, because workers from this region have been forcibly relocated to other parts of China under "forced labour transfer schemes", suppliers in other parts of China may also be in the business of selling the products of forced labour.

o what extent do you think companies operating in the UK are complicit in the human rights abuses against Uyghurs within XUAR?

UK companies are not the cause of the oppression of minorities within China. They are, however complicit in the funding of that persecution.

Profit is not the driver of the CCP's campaign of persecution of minority groups in XUAR. However, the use of forced labour plays an important role offsetting the cost to the Chinese state of the mistreatment of those minorities.

Particularly in relation to the production of Chinese cotton - 84% of which comes from XUAR - British companies with supply chains inevitably and inescapably play a part in the process by which Uyghur and other regional minorities are mistreated. We do not argue that the existence of a market for the product of the work of coerced regional minorities is the only or key driver for their mistreatment. The case against forced labour in XUAR does not turn on causation. Rather, it rests on a simple moral principle. Britain has long regarded it as improper to permit profit from the forced labour of imprisoned people.

It might be argued that, in a competitive global marketplace, British companies have no choice but to source goods and materials from China. If they are penalised for doing so, they will suffer a competitive disadvantage.

A similar argument was made in the 19th century in relation to slavery: which also involved coercion of labour and a denial of personal autonomy. There are certain principles which define a nation, and fierce and effective opposition to slavery and other forms forced labour is one of them. Britain took the global lead in the 19th century in suppressing the Atlantic Slave Trade. That campaign was one of this nation's proudest achievements. In the 21st century, it is appropriate that Britain take similar measures to address a contemporary counterpart.

It is essential that the government establishes a robust framework that will create a level regulatory playing field for UK businesses, to ensure that businesses which are determined to ensure that forced labour is eliminated from their supply are not outcompeted by those who are unperturbed.

Measures to address the use of forced labour in supply chains are a focus of international legislative action in the most significant jurisdictions. A multijurisdictional approach to this problem, establishing global best practice, will address the problem of competitive disadvantage, and will prevent companies from engaging in regulatory arbitrage in order to circumvent national controls. The UK should therefore seek to align the UK's approach with international efforts.

How do you view the Government's response to evidence which suggests that businesses operating in the UK have engaged value chains which make use of the forced labour of Uyghurs?

The legislative framework within which UK companies operate is inadequate to address the role which they play in the financing of the persecution of minorities in XUAR.

In April, 2020 the Global Legal Action Network (GLAN) and World Uyghur Congress (WUC) submitted a legal argument to Her Majesty's Revenue and Customs (HMRC) premised on the application of the Foreign Prison-Made Goods Act 1897. However, HMRC has taken no action in relation to this potential application of existing legal powers.

A significant problem which UK companies face is that, as a result of the high level of control over information exercised by the CCP, the opacity of data relating to supply chains, and the interconnected nature of those supply chains, neither due diligence nor social audits are capable of determining with certainty whether their suppliers make direct or indirect use of forced labour.

Section 54 of the Modern Slavery Act 2015 addresses the problem of Transparency in Supply Chains (TISC) by imposing reporting obligation on UK companies with a revenue of over £36 million per year. However, the section mandates no steps which must be taken to prevent harm in those companies' supply chains. In the absence of such a positive duty, reinforced by sanctions, the Modern Slavery Act is toothless, and therefore ineffective to prevent abuses which we know are taking place.

What actions should the Government and companies operating in the UK take to end the exploitation and oppression of minorities in XUAR and other parts of China?

To that end, we endorse the smart-mix of measures proposed by the submission of the Coalition to End Forced Labour in the Uyghur Region. With our additional comments, they include the following:

- **Enhanced disclosure obligations**, relating to:
 - business relationships with suppliers or sub-suppliers operating in or sourcing from the Uyghur Region, including information on whether brands/retailers hold any business relationships, at any level and in any location with companies which have subsidiaries or operations located in the Uyghur Region that have allegedly accepted Chinese government subsidies and/or employed workers provided by the government; and
 - steps taken to identify and address the risk of being directly or indirectly linked to the forced labour of Uyghurs and other Turkic and Muslim-majority peoples in their supply chain, including through mapping of supply chains.
- **Official Guidance**, setting out the various ways by which the UK apparel industry is exposed to the risk of being linked to the use of Uyghur forced labour. The guidance

could either be produced by government itself, or by an external body but endorsed by government, on the model of the Joint Money Laundering Steering Group Guidance on Anti-Money Laundering.

- **Assistance** to the UK apparel and textile industry to promote the identification and use alternate sources of supply of cotton/yarn/fabrics.
- **Suspension and seizure:** the import of products produced in part or in whole in the Uyghur Region should be suspended. Powers under the Foreign Prison-Made Goods Act 1897 and, if appropriate, civil recovery orders the Proceeds of Crime Act 2002 and supplementary legislation should be employed in order to confiscate the proceeds of forced labour.
- **Longer term broader measures:** including:
 - **Liability:** Companies, financial institutions and the public sector should be required to conduct human rights and environmental due diligence across their operations, subsidiaries and value chains, and with liability established for harm, loss and damage arising from a failure to prevent adverse impacts.
 - **Enhanced transparency duties:** including requiring UK businesses to adhere to the Transparency Pledge (<https://transparencypledge.org/>), and amending UK customs-related regulations to ensure that all companies that import goods into the UK disclose to UK customs authorities important information, including the name and address of manufacturers of goods and products, and making this information publicly accessible.
- **UK trade and tariff measures** should be designed in order to ensure that international human rights and labour rights standards are upheld in UK trade agreements and trade. Such measures should include a punitive element, and should (a) be effective in promoting supplier engagement, providing prompt remediation, and preventing adverse consequences to workers; and (b) should not replace, or distract from, the responsibility over the buyers of products to conduct due diligence to identify, prevent, mitigate and remediate risks as determined by the UN Guiding Principles on Business and Human Rights.

In particular, and as a minimum, we repeat the recommendation of the Coalition to End Forced Labour in the Uyghur Region, that UK companies should operate on the presumption that all products produced in part or in whole in the Uyghur Region are at high risk of being tainted by forced labour.

The UK could introduce legislation mirroring the US Uyghur Forced Labor Prevention Act (H. R. 6210). That Act, which was passed by the US House of Representatives in September 2020, creates a legal presumption that any product arriving at U.S. ports that was manufactured in the Uyghur Region or contains inputs from the region was made using forced labour. If that law comes into effect, unless U.S. Customs and Border Protection determines by “clear and convincing evidence” that no forced labour was used in its production, it will be illegal to import a product falling within the scope of the Act into the United States.

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