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Xinjiang Supply Chain Business Advisory

Issued: July 1, 2020

Title: Risks and Considerations for Businesses with Supply Chain Exposure to Entities Engaged in Forced Labor and other Human Rights Abuses in Xinjiang¹

SUMMARY: Businesses with potential exposure in their supply chain to the Xinjiang Uyghur Autonomous Region (Xinjiang) or to facilities outside Xinjiang that use labor or goods from Xinjiang should be aware of the reputational, economic, and legal risks of involvement with entities that engage in human rights abuses, including but not limited to forced labor in the manufacture of goods intended for domestic and international distribution. In order to mitigate reputational, economic, legal, and other risks, businesses should apply industry human rights due diligence policies and procedures to address risks. The People's Republic of China (PRC) government continues to carry out a campaign of repression in Xinjiang, targeting Uyghurs, ethnic Kazakhs, ethnic Kyrgyz, and members of other Muslim minority groups. Specific abuses include mass arbitrary detentions, severe physical and psychological abuse, forced labor and other labor abuses, oppressive surveillance used arbitrarily or unlawfully, religious persecution, political indoctrination, forced sterilization, and other infringements of the rights of members of those groups in Xinjiang. Survivor and family member accounts conveyed through Non Governmental Organizations and media reports indicate the PRC government has been using discriminatory immigration policies to cancel the passports of and lure diasporic Uyghurs, ethnic Kazakhs, and ethnic Kyrgyz individuals back to China and intern them, and that some holders of

¹ This advisory is explanatory only and does not have the force of law. It does not supplement or modify statutory authorities, Executive orders, or regulations. It is not intended to be, nor should it be interpreted as, comprehensive or as imposing requirements under U.S. law, drawing any legal conclusions about specific fact scenarios regarding particular businesses or entities, or otherwise addressing any particular requirements under applicable law. Its sole intent is to provide information to businesses and individuals that they may consider in assessing their potential exposure to involvement with entities engaged in human rights abuses, as part of a risk-based approach to due diligence. Please see the legally binding provisions cited for relevant legal authorities.

Kazakhstani citizenship have also been detained while visiting family members in Xinjiang and similarly arrested and interned. There have also been credible reports that the PRC government has facilitated the mass transfer of Uyghurs and others from Xinjiang to factories across China, including under conditions of forced or involuntary labor. Businesses with supply chain exposure to entities involved in human rights abuses in Xinjiang or the use of forced labor in Xinjiang should be aware of the risks outlined in this advisory and should implement human rights-related due diligence policies and procedures. Businesses and other organizations undertaking due diligence practices should be aware of reports of auditors being detained, threatened, harassed, and subjected to constant surveillance related to this ongoing issue.

I. Introduction

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) are issuing this advisory to highlight the harsh repression in Xinjiang. Businesses, individuals, and other persons, including but not limited to academic institutions, research service providers, and investors (hereafter “businesses and individuals”²), that choose to operate in Xinjiang or engage with entities that use labor from Xinjiang elsewhere in China should be aware of reputational, economic, and, in certain instances, legal, risks associated with certain types of involvement with entities that engage in human rights abuses, which could include Withhold Release Orders (WROs), civil or criminal investigations, and export controls.

The PRC government in Xinjiang has, since at least March 2017, detained for indefinite periods more than one million Uyghurs, ethnic Kazakhs, ethnic Kyrgyz, and members of other Muslim minority groups in internment camps designed to eradicate detainees’ cultural and religious identities, and to indoctrinate them with Chinese Communist Party (CCP) ideology. Detainees describe extreme overcrowding, sleep and food deprivation, medical neglect, physical and psychological abuse (including what they describe as torture), forced labor, forced ingestion of unidentified drugs, sexual abuse, forced renunciation of religion, denial of prayer and other religious practices (including pressure to consume pork or alcohol), denial of the use of their native languages, and being forced to study and recite CCP propaganda. There is evidence that some have died in the internment camps, or very shortly after release, as a result of abuse and neglect. These abuses are now believed to have spread beyond Xinjiang, with credible reports claiming that victims are currently being sent to other provinces and subjected to forced labor and other abusive labor conditions. In line with the corporate responsibility to respect human rights as articulated in the UN Guiding Principles on Business and Human Rights, businesses should examine and identify the impact this exportation of forced labor has on their supply chains and reduce exposure to this practice.

Businesses and individuals should be aware of the large-scale human rights abuses against Uyghurs, ethnic Kazakhs, ethnic Kyrgyz, and members of other Muslim minority groups and the

² While private sector entities are the primary focus of this advisory due to potential supply chain concerns, the scope of this document also includes other entities that may engage with the Xinjiang province, such as academic institutions or those engaged in certain research.

deceptive practices employed by the PRC government in Xinjiang, as well as situations of forced labor involving members of these groups outside Xinjiang. This advisory provides factors that businesses and individuals may consider assessing in connection with business partnerships with, investing in, and providing other support to companies operating in or otherwise linked to Xinjiang, or employing the labor of individuals from Xinjiang. It also urges businesses and individuals to evaluate their exposure to these risks, and to the extent necessary, implement due diligence policies, procedures, and internal controls to ensure that their compliance practices are commensurate with identified risks and international best practice across the upstream and downstream supply chain, and in making investment decisions.

The three primary types of supply chain exposure to entities engaged in human rights abuses discussed in this advisory are: (1) assisting in developing surveillance tools for the PRC government in Xinjiang; (2) relying on labor or goods sourced in Xinjiang, or from factories elsewhere in China implicated in the forced labor of individuals from Xinjiang in their supply chains, given the prevalence of forced labor and other labor abuses in the region; and (3) aiding in the construction of internment facilities used to detain Uyghurs and members of other Muslim minority groups, and/or in the construction of manufacturing facilities that are in close proximity to camps operated by businesses accepting subsidies from the PRC government to subject minority groups to forced labor.

The U.S. government has taken several actions in response to human rights abuses in Xinjiang. On [June 5, 2020](#), the U.S. Department of Commerce added the PRC's Ministry of Public Security's Institute of Forensic Science and eight Chinese companies implicated in human rights violations and abuses in Xinjiang to the Entity List, which results in these parties facing new restrictions on access to U.S. goods and technology. On [October 9, 2019](#), the U.S. Department of Commerce added to its Entity List eight Chinese commercial entities and 20 Chinese governmental entities implicated in human rights violations and abuses in Xinjiang, including the Xinjiang Public Security Bureau, 17 local public security bureaus, Xinjiang Police College, and Xinjiang Production and Construction Corps Public Security Bureau. These Entity List additions imposed additional license requirements on exports, reexports, and transfers (in-country) to the 28 listed entities. On [June 17, 2020](#) and [May 1, 2020](#), U.S. Customs and Border Protection (CBP) issued WROs detaining imports of hair products believed to have been manufactured with forced labor by two Chinese companies operating in Xinjiang. On [September 30, 2019](#), CBP issued a WRO detaining imports of garments believed to have been produced with prison or forced labor by a Chinese company operating in Xinjiang. On [October 8, 2019](#), the U.S. Department of State announced visa restrictions on PRC government and CCP officials believed to be responsible for, or complicit in, the detention or abuse of Uyghurs, ethnic Kazakhs, or other members of Muslim minority groups in Xinjiang.

II. Heightened Risk for the Provision of Certain Goods, Services, and Surveillance Technology in Xinjiang

a. Background on Surveillance

The PRC government has established an unprecedented, intrusive, high-technology surveillance system across Xinjiang, as part of a province-wide apparatus of oppression aimed primarily against traditionally Muslim minority groups. PRC authorities justify mass surveillance and various restrictions under the guise of combatting what the PRC government labels as “terrorism” and “religious extremism” in Xinjiang. However, the Xinjiang surveillance infrastructure is facilitating human rights abuses, including abuses of the right to be free from arbitrary or unlawful interference with privacy, religious freedom, freedom of movement, and freedom of expression, which are protected by the Universal Declaration of Human Rights (UDHR).

Surveillance systems, many of which are equipped with artificial intelligence, facial recognition, gait recognition, and infrared technology, are being used throughout Xinjiang to track movements, monitor behaviors, and identify individuals for detention.

The “Strike Hard against Violent Terrorism Campaign,” launched by the PRC government in 2014, primarily in Xinjiang, has been used to justify the collection of biometric data from all Xinjiang residents ages 12 to 65. Authorities have collected DNA samples, fingerprints, iris scans, and blood types, and are centralizing this information in cloud databases. Furthermore, during what Xinjiang officials advertised as free health checks, residents’ faces were scanned, blood was drawn, and fingerprints were collected. Voice samples of individuals are also being collected when they apply for passports, raising further concerns about privacy. This involuntarily collected biometric data is linked to individuals’ identification numbers and centralized in searchable databases used by police.

One of the main systems for mass surveillance in Xinjiang is a mobile app used by police. The app allows authorities to input personal data about residents, such as identifying information, physical data, and religious data, among other identifiers, into a dataset. The app was used to identify roughly 20,000 individuals for detention in one week, according to leaked official government documents.

Chinese surveillance and technology companies earn billions of dollars in contracts from the PRC government, but there is evidence that these businesses also get support from foreign academics, scientists, businesses, and investors.

b. Heightened Risk for the Provision of Goods, Services, and Technology with a Nexus to Xinjiang Surveillance

Businesses and individuals engaged in the following activities or otherwise directly linked to those in Xinjiang engaged in these activities may face reputational risks and/or trigger U.S. law enforcement or other actions, depending on the specific facts and circumstances of their involvement:

- **Certain Activities with Cameras, Tracking Technology, Biometric Devices, or Other Goods and Services:** Selling or providing biometric devices, cameras, computers, items with surveillance capabilities, microchips and microprocessors, tracking technology, or

related equipment, software, and technology, or maintenance of goods that have been known to arbitrarily track and control the movements of Uyghurs or others in Xinjiang.

- **Certain Technology Joint Ventures, Research Partnerships, and Financial Support:** Involvement in joint ventures with PRC government officials and departments, or Chinese companies whose intellectual property has been known to aid the development or deployment of a surveillance system used arbitrarily against members of minority groups or others. This may include granting PRC government officials access to genetic databases or aiding the PRC government in involuntary collection of genetic data; participation in facial recognition research related to Chinese minorities; conducting research partnerships with Chinese technology facial recognition firms known to be involved with enabling China’s surveillance activities or inviting such parties to conferences where technical issues on surveillance-related activities will be discussed; or attending conferences related to surveillance activities and facial recognition technology in which such entities play a leading role, including through organizing or sponsoring these conferences.
- **Certain Services Provided to Xinjiang’s Internment Camps or Surveillance State:** Provision of services to internment camps or training of Xinjiang authorities, police, or PRC government officials that enable arbitrary detention, or arbitrary or unlawful surveillance on the basis of ethnic group, religion, or other protected class.
- **Companies on the U.S. Department of Commerce Entity List:** The Department of Commerce’s Entity List identifies entities reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. Exports, reexports, or transfers (in-country) to these entities of items subject to the Export Administration Regulations (EAR) require a license from the Department of Commerce’s Bureau of Industry and Security (BIS). The list is available here: [Commerce Entity List](#). For additional information about the Entity List, please see [Annex 1](#) below.

III. Heightened Risk for Forced Labor in Xinjiang

a. Background on Xinjiang Labor Abuses

The PRC government has implemented poverty-alleviation programs with a stated objective of eradicating poverty across the country. Although there are legitimate poverty-alleviation programs in Xinjiang, certain programs are focused predominantly on members of Muslim minority groups and are coupled with social control, pervasive surveillance, and a large-scale internment program. There is evidence of forced labor by force, threats, or other abusive practices under the guise of “vocational training” occurring in the internment camps, large industrial parks, as well as residential locations.

Internment camps are often referred to as Educational Training Centers or Legal Education Centers. In internment camps, there are reports of both forced labor in the internment camps themselves, as well as reports of individuals “graduating” from the camps and then being required to work at nearby facilities or sent to satellite factories in home provinces or other provinces. There have been reports of Vocational Training Camps located within and adjacent to industrial parks.

- **Government Subsidies and Labor Abuse:** Xinjiang government documents indicate the existence of a large-scale PRC government plan, known as the “mutual pairing assistance” program, for companies from east China to establish satellite factories in Xinjiang in conjunction with the internment camps. Reports indicate that, through the PRC government’s mutual pairing assistance program, 19 cities and developed provinces, generally in the eastern part of China, are spending billions of Chinese yuan to establish factories in Xinjiang. Some directly involve the use of internment camp labor, while others are part of abusive labor programs that require parents to leave children as young as 18 months old in state-run orphanages and other facilities, while the parents are forced or coerced to work full-time under constant surveillance. The children are sent to state-controlled education and training settings. See [Annex 2](#) for a map of the program pairing participants with counterparts.

The mutual pairing assistance program relies on low-skilled, labor intensive industries that only require a limited amount of job training. PRC government authorities incentivize Chinese companies to open factories near the internment camps, and local governments receive additional funds for each individual from the camps forced to work in these sites at a fraction of minimum wage or without any compensation. In April 2019, Xinjiang authorities began rolling out a plan to attract textile and garment companies. Under the plan, local governments receive funds to build production sites for these companies near the camps, and companies receive a subsidy of approximately 260 USD to train each inmate they employ, as well as other incentives. The subsidies create a windfall for these Chinese companies, and the artificially low labor costs create unfair competition in the supply chain in the form of cheaper goods.

- **Involuntary Transfer of Xinjiang Laborers to Chinese Factories:** There have been credible reports of mass transfers of Uyghurs and members of other ethnic minority groups from Xinjiang to factories across China, including under conditions of forced labor. Laborers are sometimes transferred directly from camps to factories, are forced to attend “patriotic education” and Mandarin studies, and are subjected to constant surveillance. Many of these workers are assigned minders and have limited freedom of movement. The factories produce goods in a variety of industries including garments, electronics, and automobiles.

See [Annex 3](#) for a list of industries in which the U.S. government is aware of reported instances of companies involved in activity that may constitute human rights abuses, specifically in connection with Xinjiang.

- **Forced Labor in Prisons in Xinjiang:** In addition to the forced labor present in the province, there is evidence of forced prison labor in the cotton, apparel, and agricultural sectors. Prisoners are forced to work under threat of penalties, such as solitary confinement. Working conditions are harsh with long hours, poor food quality, and little to no pay. Reports indicate that Xinjiang in recent years accounts for 84 percent of China's total cotton production. See [Annex 4](#) for more information on the cotton supply chain.

b. Potential Indicators of Forced Labor or Labor Abuses

- **Lack of Transparency:** Firms operating in Xinjiang using shell companies to hide the origin of their goods, write contracts with opaque terms, and conduct financial transactions in such a way that it is difficult to determine where the goods were produced, or by whom.
- **Social Insurance Programs:** Companies operating in Xinjiang disclosing high revenue but having very few employees paying into the government's social security insurance program.
- **Terminology:** Any mention of internment terminology (e.g., Education Training Centers (职业教育培训中心) or Legal Education Centers) coupled with poverty alleviation efforts, ethnic minority graduates, or involvement in reskilling.
- **Government Incentives:** Companies operating in Xinjiang receiving government development assistance as part of the government's poverty alleviation efforts or vocational training programs; companies involved in the mutual pairing assistance program.
- **Government Recruiters:** Companies operating in Xinjiang implementing nonstandard hiring practices and/or hiring workers through government recruiters.
- **Factory Location:** Companies operating in Xinjiang located within the confines of the internment camps, near internment camps, or within the confines of or adjacent to industrial parks involved in poverty alleviation efforts. New factories built near internment camps.

IV. Human Rights Due Diligence

Businesses with supply chain links to Xinjiang or laborers from Xinjiang are encouraged to assess their reputational, economic, and legal risk, and, as applicable, implement reasonable

human rights due diligence.³ The UN Guiding Principles on Business and Human Rights,⁴ the Organisation for Economic Co-operation and Development (OECD) Guidelines on Multinational Enterprises,⁵ and the International Labor Organization (ILO) Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy⁶ provide guidance on best practices for this type of due diligence, as discussed in more detail in this section. As applicable, businesses should consider collaborating with industry groups and multi-stakeholder groups to exercise leverage to address and prevent human rights abuses in their supply chains.

To the extent practical, businesses and individuals should examine the end users of their products, technology, research, and services, to reduce the likelihood that their goods or services are being used to build, maintain, or support: (1) the internment camps; (2) the broader surveillance apparatus of the PRC government; (3) companies that employ forced labor; or (4) activities that enable human rights abuses, including forced collection of biometric data and coercive transfer of ethnic minority groups.

Businesses and individuals providing construction materials to Chinese entities that may be operating in Xinjiang should consider utilizing due diligence in line with their internal risk assessment and industry practice. The provision of goods used to construct internment facilities or factories located within internment camps, including concrete, steel, rebar, chain-link fencing, paving materials, and glass, may present risks. Firms should consider employing due diligence practices that reduce the likelihood that internment camps are the ultimate direct beneficiaries of their business. Similarly, the direct provision of services, including training programs for internment camp guards, may implicate U.S. enforcement activities or other authorities.

Businesses and individuals providing goods and services to Chinese entities that may be operating in Xinjiang or using laborers from Xinjiang are also encouraged to conduct appropriate due diligence measures regarding the employment of forced labor.

While due diligence practices will vary based on the size and nature of the business, well-documented and implemented due diligence policies and procedures may potentially be considered as mitigating factors by U.S. authorities, in the event businesses inadvertently engage in sanctionable activity or activity that violates domestic law.

a. Due Diligence Related to Banking and Financial Institutions

³ According to Guiding Principle 13 in the [United Nations \(UN\) Guiding Principles on Business and Human Rights \(the Guiding Principles\)](#), the corporate responsibility to respect human rights “requires that business enterprises: (a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur; (b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts.” The Guiding Principles considers “business relationships” as a business enterprise’s relationships with business partners, entities in its value chain, and any other non-State or State entity directly linked to its business operations, products, or services.

⁴ https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf.

⁵ <https://mneguidelines.oecd.org/mneguidelines/>.

⁶ https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/---multi/documents/publication/wcms_094386.pdf.

Entities with banking ties to the U.S. financial system should be aware that financial institutions are required to adopt a risk-based approach to their anti-money laundering,⁷ countering terrorist financing, and countering proliferation financing (AML/CFT/CPF) programs to identify, assess, and mitigate the money laundering and terrorist financing risks to which they are exposed and take measures commensurate with those risks in order to mitigate them effectively. As with all their risks, financial institutions should assess their potential exposure to the risk of handling the proceeds of forced labor on behalf of their clients, and, as appropriate, implement a mitigation process in line with the risk.

Financial institutions should assess their illicit finance risk, implement sanctions compliance, AML/CFT/CPF and due diligence programs, and provide training and resources to personnel in order to effectively execute those programs. Entities may wish to consider communicating with their counterparties, partners, subsidiaries, and affiliates to articulate their compliance expectations in a manner consistent with applicable local requirements.

b. Due Diligence Related to Forced Labor

The repressive environment in Xinjiang and in China generally presents unique challenges to conducting human rights due diligence. Businesses with potential supply chain exposure to entities involved in human rights abuses in Xinjiang or those involved in the use of forced labor in Xinjiang should consider the reputational, economic, and legal risks, including those outlined in section V of this advisory, of such involvement. Third-party audits alone may not be a credible source of information for indicators of labor abuses for the following reasons:

- Auditors have reportedly been detained, harassed, threatened, or stopped at the airport.
- Auditors may be required to use a government translator who conveys misinformation or does not speak in workers' first language.
- Auditor interviews with workers cannot be relied upon given the pervasive surveillance, and evidence of workers' fear of sharing accurate information.

If auditors or their families have been detained or otherwise threatened, businesses and individuals are encouraged to reach out to the U.S. government, including at U.S. embassies or consulates, for assistance.

Businesses and individuals may collaborate with industry groups to share information, develop the capacity to research potential indicators of forced labor or labor abuses in Chinese languages, and build relationships with Chinese suppliers and recipients of U.S. goods and services, to understand their possible relationships in Xinjiang under the mutual pairing assistance program.

⁷ Money laundering is a crime when knowingly conducting or attempting to conduct a financial transaction with proceeds of a specified unlawful activity. Sex trafficking, forced labor, and other crimes related to trafficking in persons are considered specified unlawful activity, among others, under the relevant money laundering statutes, including promotion money laundering, concealment money laundering, international money laundering [18 U.S.C. Section 1956(a) and 18 U.S.C. Section 1956(b)], and the spending statute [18 U.S.C. Section 1957].

While human rights due diligence best practices for some businesses typically include having the ability to conduct independent onsite inspections and working with suppliers and local law enforcement to remediate forced and abusive labor practices, repressive conditions make it unlikely that businesses will have the necessary access to their suppliers in Xinjiang to support meaningful remediation.

Before supplying companies with goods and services subject to U.S. export control laws and regulations, to the extent businesses have a reason to know, businesses are also encouraged to perform reasonable due diligence on Chinese customers that may employ forced labor in or from Xinjiang.

The U.S. Department of Labor's [Comply Chain](#) provides information on due diligence measures specific to forced labor and child labor in supply chains.

The U.S. Department of State's [Responsible Sourcing Tool](#) includes an in-depth examination of 11 key sectors and 43 commodities at risk for human trafficking or trafficking-related practices, as well as 10 comprehensive risk-management tools.

The Human Trafficking Prosecution Unit of the Department of Justice's Civil Rights Division works with federal law enforcement agencies to prosecute forced labor cases. Complaints involving potential criminal violations of forced labor statutes may be referred to HTPU@usdoj.gov.

See [Annex 5](#) for additional guidance resources.

V. Relevant U.S. Authorities for Enforcement Actions and Sanctions

Individuals and entities should be aware of potential consequences of certain types of engagement with entities that have been involved with human rights abuses.

a. U.S. Department of Commerce's BIS

The U.S. Department of Commerce's EAR controls U.S.-origin items (i.e. commodities, software and technology) to, *inter-alia*, end users and end uses that would be contrary to U.S. national security or foreign policy interests, which includes multilateral obligations. The primary vehicle referred to in this advisory is the aforementioned Entity List, which is found in Supplement No. 4 to Part 744 of the EAR. The Entity List includes non-U.S. persons, such as businesses, research institutions, government and private organizations, individuals, and other types of legal persons. A license is required for the export, reexport and/or transfer (in-country) of items subject to the EAR to entities on the Entity List. The Entity List licensing requirements and policies supplement other country end-use or end-user-based license requirements in the EAR. The Department of Commerce enforces export, re-export, and transfer (in-country) requirements, including the Entity List, of the EAR. Violators may be subject to civil and/or criminal penalties.

b. U.S. Department of Homeland Security's Relevant Enforcement Agencies

DHS agencies CBP and U.S. Immigration and Customs Enforcement (ICE) enforce prohibitions against importing and benefitting from supply chain-related use of goods produced with forced, indentured, or convict labor through civil and criminal enforcement actions, respectively. Specifically, federal statute 19 U.S.C. Section 1307 prohibits the importation of merchandise mined, manufactured, or produced, wholly or in part, by forced labor, including convict labor, forced child labor, and indentured labor.

Both CBP and ICE, as well as any agency within DHS with authority to determine if DHS acquisitions are compliant, such as DHS's Office of the Inspector General, may take administrative enforcement action against contractors or suppliers who violate Federal Acquisitions Regulations or DHS Acquisition Regulations related to forced labor.

Where evidence indicates that goods from Xinjiang are produced with forced, indentured, or convict labor, CBP will deny entry to those goods, which could lead to the goods being seized and forfeited, or even to the issuance of civil penalties against the importer and other parties, as appropriate.

ICE's Homeland Security Investigations (HSI) may initiate criminal investigations relating to the importation of forced labor-made goods in violation of U.S. law. ICE HSI's criminal enforcement authorities may lead to the criminal prosecution of individuals and/or corporations for their roles in the importation of goods into the United States in violation of U.S. law, potentially resulting in incarceration, fines, seizure, and forfeiture of the goods.

c. Federal Acquisition Regulation, Combating Trafficking in Persons (FAR 52.222-50)

Pursuant to the Federal Acquisition Regulation, Combating Trafficking in Persons (FAR 52.222-50), contractors, contractor employees, sub-contractors, subcontractor employees, and their agents are prohibited from engaging in forced labor or sex trafficking as well as a range of trafficking-related activities. If a contractor is found to be in violation of the FAR, the contracting agency can impose a range of remedies including, but not limited to, suspension and debarment.

d. The Trafficking Victims Protection Act's Crime of Forced Labor (18 U.S.C. Section 1589)

The Trafficking Victims Protection Act (TVPA) criminalizes the act of benefitting financially, or by receiving anything of value, from forced labor where the defendant knew or recklessly disregarded such forced labor and knowingly participated in the relevant venture. The TVPA imposes criminal liability on U.S. defendants even when the forced labor occurs in another country. Forced labor is defined under U.S. criminal law as providing or obtaining labor or services by one or more of the enumerated means of coercion. Companies charged with criminal violations of the TVPA could face up to 500,000 USD in fines and executives or other company employees involved may face up to 20 years of imprisonment if the elements of the offense are proven beyond a reasonable doubt. The TVPA also imposes civil liability through a private right of action in U.S. District Court if a preponderance of evidence shows that the entity benefitted from participating in a venture that it knew or "should have known" was engaged in forced labor.

e. Uyghur Human Rights Policy Act of 2020 (Public Law 116-145)

On June 17, 2020, the President signed into law the “Uyghur Human Rights Policy Act of 2020,” which directs United States resources to address human rights violations and abuses of specified ethnic Muslim minority groups in the Xinjiang region in China. This statute, among other things, directs the President to impose sanctions on each foreign person the President determines is responsible for certain actions with respect to specified ethnic Muslim minority groups in the Xinjiang region in China.

f. U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC)

Among OFAC’s various sanctions authorities, Executive Order (E.O.) 13818, which builds upon and implements the Global Magnitsky Human Rights Accountability Act, gives the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, the authority to impose economic sanctions on certain persons who, among other things, are responsible for or complicit in, or have directly or indirectly engaged in serious human rights abuse; who are or have been a leader or official of an entity that has engaged in, or whose members have engaged in, serious human rights abuse relating to the leader or official’s tenure; who have attempted to engage in serious human rights abuse; or who have materially assisted, sponsored, or provided financial, material or technological support for, or goods or services to or in support of, those persons already sanctioned under E.O. 13818 (see E.O. 13818 for all designation criteria).

Unless authorized by a general or specific license issued by OFAC or otherwise exempt, OFAC’s regulations generally prohibit all transactions by U.S. persons or within (or transiting) the United States that involve any property or interests in property of designated persons. In addition, persons that engage in certain transactions with designated persons may themselves be exposed to designation. For more details on OFAC’s Global Magnitsky sanctions program, click [here](#).

VI. Annexes

Annex 1: Entity List Resources

The Entity List specifies the license requirements that it imposes on each listed person. Those license requirements are independent of, and in addition to, license requirements imposed elsewhere in the EAR. For example, if you want to export, reexport or transfer (in-country) an “EAR99” item to a listed entity and the license requirement for that person specified in the “License Requirement” column of the Entity List states “All Items Subject to the EAR,” you must obtain a license from the U.S. Department of Commerce before exporting, reexporting or transferring (in-country) the item, even if the “EAR99” item could otherwise be exported to the country of destination without a license from BIS.

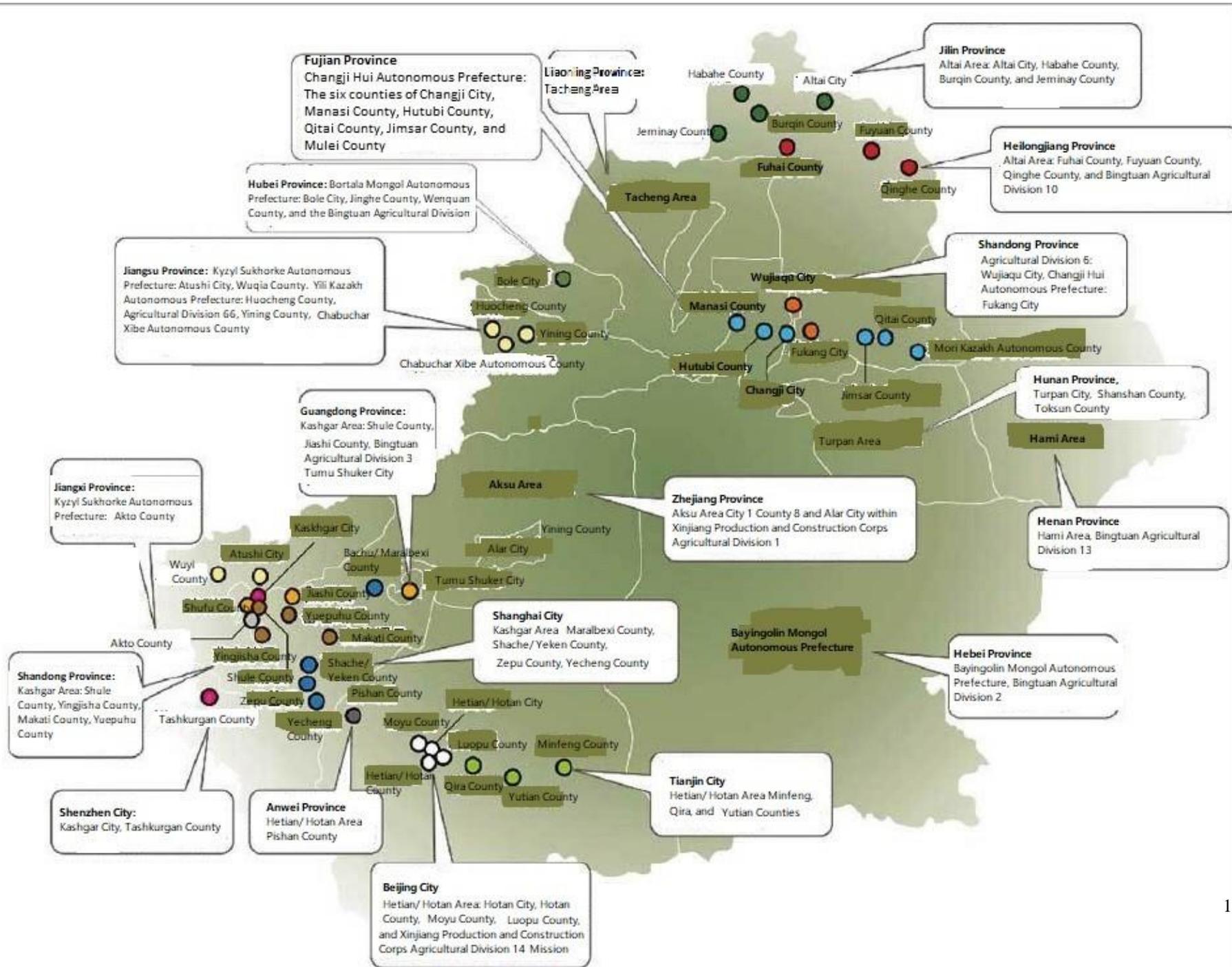
For additional information on the Entity List, see Sections 744.11 and 744.16 of the EAR. For questions or concerns related to the EAR and its requirements, contact BIS’s Office of Exporter Services at 202-482-4811 or the BIS website at www.bis.doc.gov. Information on a potential violation of U.S. export control regulations should be provided to BIS’s Enforcement Hotline at 1-800-424-2980 or <https://www.bis.doc.gov/index.php/component/rsform/form/14?task=forms.edit>. For more information on submitting a BIS license application, please see <https://www.bis.doc.gov/index.php/licensing>.

For additional information on controls on the export, reexport, or (transfer in-country) of the dual-use and military-related items under the Department of Commerce’s jurisdiction, please see the resources available on BIS’s website (www.bis.doc.gov), including the Export Administration Regulations (<https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>) and BIS’s [electronic training room](#).

The U.S. Department of Commerce also provides the Consolidated Screening List tool (<https://www.trade.gov/consolidated-screening-list>), a searchable list of parties for which the United States Government maintains restrictions on certain exports, reexports or transfers (in-country) of items. The tool consolidates multiple export screening lists of the U.S. Department of Commerce, U.S. Department of State, and U.S. Department of the Treasury.

Annex 2: Map of Pairing Program Participants with Counterparts

Xinjiang government documents indicate a large-scale plan for companies from east China to establish satellite factories in Xinjiang in conjunction with the internment camps. Although these satellite factories are in Xinjiang, many of the companies which own them are reportedly headquartered in China's eastern provinces. Reports indicate that through the PRC government's mutual pairing assistance program, 19 cities from developed provinces, generally in the eastern part of China, are spending billions of Chinese yuan to establish factories in Xinjiang. Some directly involve the use of internment camp labor, while others are part of abusive labor programs that require parents to leave their children, as young as eighteen months, while they are forced or pressured to take up full time jobs under strict surveillance. The children are sent to state-controlled education and training settings. See the map below of the pairing program participants with counterparts.



Annex 3: Illustrative List of Industries in Xinjiang at Which Public Reporting Has Indicated Labor Abuses May Be Taking Place

Elements of the following industries have been identified as using forced labor in Xinjiang. This list is illustrative and non-exhaustive and does not confirm that all goods produced in these industries in Xinjiang involve forced labor. Businesses should consider this list as an additional risk factor for the human rights due diligence discussed in this advisory.

Industry
Agriculture (including such products as hami melons, korla pears, tomato products, and garlic)
Cell Phones
Cleaning Supplies
Construction
Cotton Yarn, Cotton Fabric, Ginning, Spinning Mills, and Cotton Products
Electronics Assembly
Extractives (including coal, copper, hydrocarbons, oil, uranium, and zinc)
Fake Hair and Human Hair Wigs, Hair Accessories
Food Processing Factories
Hospitality Services
Noodles
Printing Products
Footwear
Stevia
Sugar
Textiles (including such products as apparel, bedding, carpets, wool)
Toys

Annex 4: Cotton Supply Chain

As noted in this advisory, it is estimated that 84 percent of cotton production from China comes from Xinjiang, with estimates of growth to 86 percent in 2020. Reporting indicates the “Xinjiang Textile and Apparel Industry Development Plan 2018-2023” aims to achieve production of 20 million spindles of cotton spinning, more than 50,000 looms, 250,000 tons of knitted fabric, and 800 million garments. This plan also aims to create one million additional jobs, among which more than 650,000 will be in southern Xinjiang where the Uyghur, ethnic Kazakh, ethnic Kyrgyz, and other Muslim minority populations are concentrated.

Xinjiang cotton is in some instances directly exported (though still within China), and in other cases processed into yarn, textiles, or finished apparel within Xinjiang. Reporting by the China Citizen Power Initiative indicates that some parts of the cotton supply chain include prison laborers throughout the vertical supply chain, from working in cotton fields to processing cotton and producing apparel.

Companies in China also import cotton directly from the United States. U.S. companies that export cotton to China face potential reputational and other risks if this cotton is being used in manufacturing that employs forced labor of ethnic minorities from Xinjiang.

- **Cotton and Yarn Sales:** Reporting indicates that cotton and yarn produced by prison labor are sold through e-commerce sites in both domestic and international markets, such as the UnionCotton e-commerce platform.
- **Xinjiang Yarn and Textile Exports:** In 2018, Xinjiang’s total yarn production was approximately 1,836,500 tons. In 2018, the total of textile products exported was valued at approximately 1.383 billion yuan (196,991,698 USD).
- **Xinjiang Fabric Export:** There is no available reporting on exported fabric as Chinese reporting statistics focus on cotton and yarn.
- **Xinjiang Cotton Consumed in China:** According to the China Cotton Early Warning Information System Survey of over 90 designated textile enterprises in China, textile enterprises in inner China use approximately 80 percent of Xinjiang cotton, 6.4 percent of local cotton, and 10.4 percent of imported cotton. These companies export textile products abroad.
- **Xinjiang Yarn Consumed in China:** The exact quantity of Xinjiang yarn consumed in China is unknown. However, data indicates that yarn production capacity in Xinjiang has already reached the goal set for 2023. Xinjiang’s garment sector has not yet reached its 2023 goal, so it is assumed that much of the yarn produced in Xinjiang is sent to other parts of China or exported.

Annex 5: Relevant Reports and Guidance

Information Source	Description
U.S. Government Resources	
Department of State China Human Rights Reports	The Department of State’s annual Country Reports on Human Rights Practices cover internationally recognized individual, civil, political, and worker rights, as set forth in the Universal Declaration of Human Rights and other international documents. The reports can include specific information on foreign government agencies, including Chinese government agencies.
Department of State China Trafficking in Persons Report	The Department of State’s annual Trafficking in Persons Report grades countries, including China, on a four-tier scale in their efforts to meet the TVPA’s minimum standards for eliminating human trafficking and provides content specific to forced labor and sex trafficking in each country.
Department of Labor Findings on Worst Forms of Child Labor Report	The Department of Labor’s annual Findings on the Worst Forms of Child Labor report focuses on the efforts of certain U.S. trade beneficiary countries and territories, excluding China, to eliminate the worst forms of child labor through legislation, enforcement mechanisms, policies, and social programs.
Department of Labor List of Goods Produced by Child Labor or Forced Labor Report	The Department of Labor maintains a list of goods and their source countries, including China, for which it has reason to believe are produced by child labor or forced labor in violation of international standards, as required under the Trafficking Victims Protection Reauthorization Act of 2005 and subsequent reauthorizations. Artificial Flowers, Christmas Decorations, Coal, Footwear, Garments, and Nails are included for forced labor of adults; Textiles are included for child labor; and Bricks, Cotton, Electronics, Fireworks, and Toys are included for both forced labor of adults and child labor.
Department of Labor List of Products Produced by Forced or Indentured Child Labor Report	The Department of Labor maintains a list of products and their source countries, including China, which it has a reasonable basis to believe are produced by forced or indentured child labor, pursuant to Executive Order 13126. This List is intended to ensure that U.S. federal agencies and contracted parties do not procure goods made by forced or indentured child labor. Bricks, Cotton, Electronics, and Toys feature on this list currently.
Congressional-Executive Commission on China: Annual Report	The Congressional-Executive Commission on China (CECC) report published March 2019 highlights multiple concerning human rights

	issues, including the mass, arbitrary internment of Uyghur and other Muslim ethnic minorities.
Responsible Sourcing Tool	The Responsible Sourcing Tool, developed by the State Department and Verité, assists U.S. federal contractors, procurement officials, and companies to better identify, prevent, and address the risks of human trafficking in their global supply chains.
Forced Labor Importer Due Diligence Fact Sheet	U.S. CBP’s fact sheet sets out resources to assist companies with strengthening their policies and procedures to mitigate the risk of child and forced labor in their global supply chains.
Withhold Release Orders and Findings	U.S. CBP publishes WROs issued by the Commissioner and Findings in the Federal Register. CBP does not generally publicize specific detentions, re-exportations, exclusions, or seizures of the subject merchandise that may have resulted from the WROs or findings.
Fact Sheet: Forced Labor Procedures	U.S. CBP’s fact sheet provides information on resources related to forced labor enforcement authorities and enforcement action.
Forced Labor Detained Shipments Fact Sheet	U.S. CBP’s fact sheet provides information for companies on the procedures for when goods suspected to be produced with forced labor are detained.
U.S. ICE Forced Labor Program Fact Sheet	U.S. ICE HSI’s fact sheet provides information on the Forced Labor Program that coordinates criminal investigations into allegations of forced labor (including forced child labor) resulting in the manufacturing or production of goods overseas imported into the United States.