



CREATING CONSEQUENCES

Canada's moment to act on slavery
in global supply chains

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Above Ground works to ensure that companies based in Canada or supported by the Canadian state respect human rights wherever they operate. It is a project of MakeWay, a national charity that builds partnerships and solutions to help nature and communities thrive together.

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Close to 25 million women, men and children are trapped in forced labour around the globe, working under abusive conditions in the factories, fields, and other sites where much of the world's — and Canada's — goods are produced.

In this report we examine just the tip of this iceberg, reviewing some of the most visible signs of Canadian business ties to forced labour abroad. Companies are importing into Canada large quantities of goods from industries in which forced labour is known to be rife. They are also importing products from specific manufacturers that allegedly use forced workers, including manufacturers whose products are banned from sale in the U.S. for this reason. Forced labour allegations or concerns have also been raised in relation to the overseas activities of Canadian firms, for instance those operating in Xinjiang.

To date, the Canadian government's response to these problems has largely consisted of studying the issue, informing companies about it and encouraging them to act responsibly. It recently took the more proactive step of legally banning the importation of goods produced by forced labour, following the U.S.'s longstanding model. Ottawa has yet to begin enforcing the ban, and early indications suggest that in practice authorities may take enforcement action only in rare cases, without publicly disclosing which manufacturers are involved.



To make a real contribution towards eradicating forced labour in the global economy, Canada must move beyond words and use legal measures to cut Canadian business ties to the exploitation of forced workers abroad.ⁱ It should vigorously and transparently enforce the import ban that's already in place, aiming to meet and exceed the rigour shown by the U.S. in enforcing its ban. It should also adopt a new law requiring that companies exercise due diligence to rid their operations and supply chains of human rights abuses — as UN experts, lawmakers and thousands of Canadians have called for.

Canada must **move beyond words and use legal measures** to cut Canadian business ties to the exploitation of forced workers abroad. It should vigorously and transparently enforce the import ban that's already in place, aiming to meet and exceed the rigour shown by the U.S. in enforcing its ban.

i This will of course require that Canada address forced labour within its own borders as well — a distinct problem that is beyond the limited scope of this brief report.



PREFACE

Workers crowded into dormitories where dozens sleep together in a room, many on the floor, sharing a single filthy bathroom. An employee cleaning chemicals out of pipes with barely any safety equipment. Workers lined up for COVID-19 testing without physical distancing at a facility where thousands are already infected. These are just a few of the scenes caught on video inside the facilities of a leading disposable glove manufacturer in late 2020, for a CBC investigation into forced labour at the Malaysian factories producing much of the world's medical glove supply.ⁱ

In addition to the video footage, 23 people working in these factories provided interviews to the CBC. “They treat us like slaves,” said one. “They beat us,” alleged another. Many reported working excessive overtime: in one case, 12-hour shifts for six days a week; in another, an entire year without a day off work.

The industry relies heavily on migrant workers from poorer countries, who often go into significant debt to pay recruitment agencies' fees and then must work for years to pay off the loans. Many workers told the CBC they felt trapped in their jobs due to this debt bondage and because employers retained their passports. Some even said they couldn't leave the factory premises.

Since 2019, Canada has imported hundreds of millions of gloves from the five manufacturers whose workers the CBC interviewed. Shipments from the biggest producer, Top Glove, continued apace after July of last year, when Canada's legal prohibition on importing goods produced by forced labour came into effect, and when U.S. authorities banned imports from this company over forced labour concerns.ⁱⁱ

As we show in this report, Malaysian glove manufacturing is far from the only industry in which forced labour is rife, and that has strong supply chain links to Canada. It also provides just one example among many where Canada lags behind the U.S. on restricting business with companies that reportedly use forced workers.

The cost of speaking out

The dire consequences migrant workers may face if they leave their employment is illustrated by the story of one man who spoke to the CBC about his experience working at a Malaysian glove factory. He says his supervisor beat and threatened to kill him after he complained about abusive work conditions, forcing him to flee the job to which his legal status in Malaysia was tied. Unable to find other work, he has no money and lives in constant fear of arrest and the repercussions of his unpaid debt on his family in Bangladesh, who he has not seen in over two years.

ⁱⁱ Top Glove has denied the presence of forced labour indicators in its operations, in [statements](#) such as its January 2021 [response](#) to the CBC's reporting, which it called “thoroughly misleading.”

FORCED LABOUR: A GLOBAL CRISIS

Close to 25 million people are victims of forced labour on any given day, according to the most recent figures from the International Labour Organization (ILO).² The ILO stresses that this is a conservative estimate.³ The prevalence of forced labour is highest in Asia and the Pacific, where at least four out of every thousand people are victims.⁴

The ILO defines forced labour 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 or herself voluntarily.”⁵ The penalty might involve violence against a worker or the withholding of due wages. Work or service performed involuntarily is undertaken without a worker’s free and informed consent. It might involve taking advantage of a worker’s legal status or language limitations to create dependency, or deceiving a worker through undelivered promises of better conditions.

The ILO affirms that forced labour is common in global supply chains, and that it’s particularly widespread in the construction, manufacturing, and agricultural and fishing sectors.⁷

CANADA’S BUSINESS TIES TO FORCED LABOUR ABROAD

Given Canada’s position as a wealthy trading nation and home base for many multinational corporations, there is a high risk that Canadian companies are profiting from forced labour abroad. In this report, we examine three ways in which Canadian business is linked to industries or manufacturers of high concern.

Dealing in high-risk goods

Research from academics, journalists, civil society groups and international authorities have documented widespread forced labour in the production of certain goods in particular regions or countries. From the food we eat to the electronics and clothing we purchase, many of these high-risk goods are ubiquitous on the Canadian market. Below we take a closer look at four examples that help to illustrate the insidious nature of the problem, as well as the types and severity of harm often endured by forced workers.

Seafood from Thailand

International authorities and human rights groups have for years called attention to endemic human rights abuses, including extensive use of forced labour and violence, across the Thai fishing industry.⁸ Dangerous working conditions, severe beatings, and executions have all been widely reported on Thai fishing vessels, where victims of trafficking and debt bondage are commonplace⁹ among the mostly migrant workforce.¹⁰ A 2018 report by Human

Forced labour indicators

In 2012 the ILO identified eleven main indicators of the **possible existence of forced labour**:

- 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 overtime⁶



Rights Watch noted that little progress had been made since a survey of 496 fishers conducted by the International Labour Organization (ILO) in 2012 found that nearly one in five workers “reported working against their will with the menace of a penalty preventing them from leaving.”¹¹ U.S. authorities also warn of migrant children being forced to process shrimp. Their identity papers are frequently confiscated by employers, and there are reports of children being physically abused, prohibited from leaving the worksite, and threatened with arrest by immigration police.¹²

Thailand is Canada’s third largest supplier of seafood after the United States and China, with imports valued at approximately \$323 million in 2019.¹³

targeting workers from poorer neighbouring states, precarious and unsanitary living conditions, sub-minimum wage payments, the confiscation of work and identity documents by employers, and exploitative practices resulting in debt bondage.¹⁵ While no firm estimates exist as to the extent of forced labour in the Minas Gerais coffee sector — workers have reported fear of punishment for speaking out about the conditions¹⁶ — a Reuters investigation in 2019 found that the scale was “likely to be significant and largely unchecked,” in a state where more than two thirds of the roughly 245,000 coffee workers are working informally.¹⁷

Brazil is the second-largest exporter of coffee to Canada after Colombia, with imports totalling approximately \$162 million in 2019.¹⁸ The Reuters investigation found that coffee produced by forced labour had been “stamped slavery-free by top certification schemes” and sold to major retailers including Starbucks and Nespresso.ⁱⁱⁱ

Cocoa from Côte d’Ivoire and Ghana

Reports going back two decades have documented the widespread presence of forced labour, including forced child labour, in the cocoa industries of Côte d’Ivoire and Ghana,¹⁹ which together account for approximately 60 percent of global cocoa production.²⁰ U.S. authorities estimate that over 4,000 children, including victims of abduction and trafficking, are forced to work on Côte d’Ivoire’s cocoa farms, where they are often held captive, subjected to hazardous conditions, and physically and psychologically abused.²¹ Research conducted by the Walk Free Foundation and Tulane University estimated that 14,000 children were victims of forced labour in the main cocoa-producing regions of Ghana between 2013 and 2017. The number of adult victims of forced labour in Ghana and Côte d’Ivoire, in the main cocoa-producing regions only, was estimated at 13,700 during this period.²²

Côte d’Ivoire and Ghana are the two largest exporters of cocoa beans to Canada, with imports in 2020 valued at \$230 million and \$56 million, respectively.²³ The world’s major chocolate manufacturers, including Mars, Hershey, Nestlé and Mondelez, all sourced cocoa beans from these West African countries as of 2019.²⁴

Coffee from Brazil

U.S. authorities warn that forced labour is widespread in Brazil’s coffee industry, particularly in the state of Minas Gerais, which produces 70 percent of the country’s coffee.¹⁴ Reports by media and non-governmental organizations (NGOs) describe deceptive recruitment practices



Photo by Rodrigo Flores on Unsplash

iii Asked to respond to the findings, the companies reportedly told Reuters that they were committed to combatting forced labour and were working with coffee producers to improve their labour practices. See Reuters, [12 Dec 2019](#).



Cotton clothing and other cotton products

Forced labour has long been associated with cotton production in some of the world's biggest cotton-producing countries. State-run programs forcing vast numbers of citizens to work as cotton pickers have been reported in Uzbekistan,^{iv} Turkmenistan²⁵ and China. India, Pakistan, Kazakhstan, Tajikistan, Benin and Burkina Faso have also been flagged as countries where forced labour is prevalent in cotton or cottonseed production.²⁶

Forced labour in China's cotton and textile industries has emerged as a topic of particularly urgent concern, for two reasons:

- China produces around one fifth of the world's cotton, the vast majority of it in the Xinjiang region, and is the world's largest exporter of textiles and apparel.²⁷
- Reports of forced labour in Xinjiang's cotton fields and textile and clothing factories across China allege that Turkic ethnic minorities have been transferred en masse into such work as part of a brutal campaign to control and forcibly assimilate these populations.

Human rights advocates estimate that about one in five clothing products sold globally are likely tainted by the forced labour of ethnic minorities in or from Xinjiang.²⁸ As the *Globe and Mail* has highlighted, "Canadian consumers can find a lengthy list of products on sites such as Amazon.ca and eBay.ca that feature "Xinjiang cotton."²⁹

Xinjiang's forced workers

In recent years China has ramped up efforts to counter what it calls "religious extremism" in the region of Xinjiang, also known as East Turkestan to local people. Since 2017, authorities have reportedly sent hundreds of thousands³⁰ of the region's Uyghurs and other Turkic ethnic minorities, who are predominantly Muslim, to detention camps to have their thoughts "transformed."³¹ Survivors of the camps report being kept in crowded dorms, deprived of food, forbidden from praying or speaking their language, and harshly punished for transgressions. Some recount stories of harrowing abuse, including forced abortions, gang rape and torture.³²

Chinese authorities have also allegedly transferred hundreds of thousands of ethnic minority citizens, including former detainees, into involuntary work placements across China.³³ Researchers say these labour transfer programs — presented as "poverty alleviation" programs by Beijing — aim to separate Muslims from their families and forcibly assimilate them, and that workers have little choice but to comply given the ever-present threat of extrajudicial detention.³⁴

Forced work involving Xinjiang's minorities is reportedly widespread in the production of many Chinese goods, including electronics, components used in solar energy equipment, tomato products, and cotton and related goods (yarn, textiles, clothing, etc.). Some Uyghur rights advocates say it is so prevalent within Xinjiang that there is "significant risk of the presence of forced labour at virtually any workplace, industrial or agricultural," in Xinjiang.³⁵



iv While this was the case in Uzbekistan for many years, recent improvements have led the ILO to [conclude](#) that forced labour is no longer being carried out on a "systematic and systemic" scale in Uzbek cotton fields, "although some local vestiges still remain."

Doing business with high-risk and blacklisted companies

While Canada's substantial volume of imports from high-risk industries suggests that some products of forced labour are likely entering the country, the likelihood appears even greater when we consider imports from specific producers accused of using forced workers. Identifying these imports can be a challenge due to the complexity of global supply chains and limited public access to import records. Nonetheless, by examining a narrow subset of shipment records from a few dozen producers of concern — primarily in the electronics, apparel, and PPE sectors — we have found dozens of examples of companies in Canada importing their products. The producers include companies charged with labour code violations in their country of operation or placed on business blacklists by U.S. authorities due to their alleged abuse of forced workers.

Some of these cases have been reported already by investigative journalists with the CBC, the *Toronto Star* and the *Guelph Mercury Tribune*:

- By examining international shipping records, CBC reporters found that Canada has imported hundreds of millions of gloves since 2019 from the Malaysian firms discussed in the preface of this report,³⁹ including one firm banned from exporting its products to the U.S.
- Journalists with the *Star* and *Tribune* consulted similar records and found firms in Canada sourcing from at least two manufacturers blacklisted by the U.S. over their alleged use of forced workers from Xinjiang.⁴⁰

Above Ground has reviewed such records as well, searching for shipments to Canada from companies blacklisted by the U.S. and from another 40 firms suspected of potentially using forced workers from Xinjiang.^v In addition to the shipments noted by media investigations, we found dozens of shipments from two more suppliers on the U.S.'s import blacklist: palm oil producer Sime Darby and clothing producer Hero Vast Group. We also found nearly 200 shipments from manufacturers reportedly involved in China's labour transfer programs targeting Xinjiang minorities.

^v These companies were identified by the Australian Strategic Policy Institute (ASPI) in its 2020 report [Uyghurs for Sale](#).

Blacklists used by the U.S. to combat forced labour abroad

Under U.S. law it is illegal to import goods mined, produced, or manufactured in whole or in part by forced labour. Importers that violate the law may face criminal investigation and fines. Authorities can issue detention orders on goods made by specific manufacturers suspected of employing forced workers — creating, in effect, a blacklist of banned suppliers. Customs officials are instructed to block shipments of these companies' products from entering the U.S. market unless the importer can prove they were not produced by forced labour. Alternatively, the goods can be released to the importer if it plans to re-export them to a third country — such as Canada.³⁶

The U.S. has issued dozens of detention orders blocking goods from specific manufacturers and several orders that block certain types of goods from entire countries or regions. It currently prohibits all cotton products from Turkmenistan, most tobacco products from Malawi, most artisanally-mined gold from the Democratic Republic of the Congo, all cotton and tomato products from Xinjiang, and goods made anywhere that contain cotton or tomatoes from Xinjiang.³⁷

The U.S. has also sanctioned foreign manufacturers for allegedly using forced workers by adding them to its "entity list," which bars U.S. firms from selling goods or services to those manufacturers.³⁸





“Canadian import data is not publicly available, so it’s unclear how much of the tens of billions of dollars in merchandise Canada imports annually from China came from Xinjiang or which Canadian firms received it.”⁴³

- Graeme McNaughton and Jeremy Nuttall, *Guelph Mercury Tribune* and *Toronto Star* reporters

Our findings, which are presented in more detail in the table on page 10, may represent just a small fraction of the shipments flowing into Canada from these suppliers. There are several reasons for this:

- **They cover only goods imported into Canada indirectly, via the U.S.** Records of goods shipped directly to Canada from overseas are not made public.^{vi} The U.S., by contrast, publishes these records for all shipments arriving at U.S. ports, including those en route to Canada. These U.S. records were the primary information source examined by Above Ground, and also by the *Star/Tribune* and CBC reporters.⁴¹
- **Canadian importers can petition U.S. authorities to remove their shipments from the public records.**⁴² In this case, their imports arriving at both Canadian and U.S. ports would be invisible.

- **The manufacturer’s name isn’t always indicated in shipping records.** Goods are often shipped by an intermediary company, and the manufacturer’s name only rarely appears in the description of goods shipped.
- **The manufacturers’ own suppliers aren’t listed in the records,** so finished products made by one company using inputs from another company that employs forced workers can rarely be identified through shipping records alone.

Given these restrictions, it’s possible that very large volumes are being imported of goods produced by companies that turned up no hits in the shipping records. Due to this and the small number of companies searched, what we’ve uncovered from this limited search may be just the tip of a much larger iceberg linking Canadian importers to forced labour overseas.

vi Nor can these records be obtained through access-to-information requests. After the *Guelph Mercury Tribune* filed such a request with the Canada Border Services Agency, the agency said it would need permission from the Chinese companies involved to release the records.

CANADIAN IMPORTS FROM MANUFACTURERS OF CONCERN^{vii}

Manufacturer, product type	Basis of suspicion ^{viii}	Sanction(s) imposed	# of shipment records found ^{ix}	# of Canadian companies importing
Top Glove and its subsidiaries, disposable gloves	Worker reports of debt bondage, confiscation of passports, excessive overtime, deplorable conditions in worker housing ⁴⁴	<ul style="list-style-type: none"> Imports into U.S. banned since July 2020 Charged for labour code violations in Malaysia in March 2021⁴⁵ 	117 since 2018; 61 since July 2020 ⁴⁶	18
Sime Darby Plantation, palm oil	Information that “reasonably indicates the presence of all 11 of the International Labour Organization’s forced labor indicators in Sime Darby Plantation’s production process,” according to U.S. authorities ⁴⁷	Imports into U.S. banned since December 2020	29 since 2018; 5 since December 2020	1
Hero Vast Group and subsidiaries including Hero Vast Canada, clothing	Use of prison labour in China, according to U.S. authorities ⁴⁸	Imports into U.S. banned since August 2020	6 since 2018	2*
Hefei Meiling / Changhong Meiling, appliances	Reported transfer of 1,554 workers from Xinjiang, China to factories including Hefei Meiling’s plant in Anhui province in 2018 ⁴⁹	On U.S. entity list since July 2020 ⁵⁰	271 since 2018, 90 of these since July 2020	6
KTK Group, rail equipment	Reported transfer of 41 Xinjiang ethnic minority workers to KTK factory in Changzhou, China, in July 2019 ⁵¹	On U.S. entity list since July 2020 ⁵²	7 since 2019	2
Qingdao Taekwang Shoes, shoes	Government press release from 2019 stating that 9,800 Xinjiang ethnic minority workers had been transferred to Qingdao Taekwang’s factory since 2007 ⁵³		196 since 2007	1
Foxconn Technology, electronics	Government document from 2019 showing transfer of 560 Xinjiang workers to factories in Henan, including Foxconn’s Zhengzhou facility ⁵⁴		22 since 2019	8
Shandong Jianhua Zhongxing Glove Co. / Jianhua Zhongxing Ski Products, ⁵⁵ gloves	<ul style="list-style-type: none"> Company statement that it built a factory in Xinjiang in 2014 with the goal of “driving people to employment”⁵⁶ State media reports that by 2019 it had worked with authorities to set up 20 satellite factories in the region and employ 2,000 people⁵⁷ 		8 since 2014	3
Hubei Haixin Protective Products Co., disposable medical and protective products	Reported transfer of 131 minority women from Xinjiang, China to Hubei Haixin factory in March and April 2019 ⁵⁸		1 since March 2019	1

vii Statements made by these companies in response to concerns of possible forced labour in their operations are summarized in the endnotes of this report.

viii Unless otherwise noted, the source for all information in this column is the Australian Strategic Policy Institute’s 2020 report [Uyghurs for Sale](#).

ix The time range of records searched varied by company. If the month or year in which the firm allegedly began using forced workers (or, alternately, began operating in Xinjiang) was reported, we used this as the start date. Otherwise we searched for records going back to 2018, to capture data from the last few years. We used May 13, 2021 as the end date in all cases.

x In addition to these importers whose shipment records we found, Hero Vast Group [lists](#) many other well-known clothing retailers as Canadian customers on its website, and [states](#) that 90 percent of its products are sold in North America.



Operating overseas in high-risk industries

Canadian businesses may also be linked to slavery abroad through operational and supply chains that never touch Canada. Multinationals headquartered in Canada but operating primarily overseas could be directly employing forced workers at their facilities or purchasing from others firms that do. Here again, we needn't look far to find cases where such allegations or concerns have been raised.

One well-known example is Nevsun, a Vancouver-based mining company operating in Eritrea. In 2014, a group of Eritreans sued Nevsun, alleging they'd been forced to work at its mine as part of the compulsory military service Eritrea imposes on its citizens. The plaintiffs said they endured appalling working and living conditions there and were severely punished for trying to flee. They reached an agreement with Nevsun in 2020 to settle the case before it went to trial.⁵⁹

More recently, *Globe and Mail* journalists have called attention to Canadian firms operating in Xinjiang, where human rights advocates warn that nearly any firm employing a large workforce is at risk of becoming complicit in the forced labour of Uyghurs and other minorities. Canadian companies have invested hundreds of millions of dollars in Xinjiang in the past two decades, making



Canada one of the five biggest investors in the region. Among them are two mining firms, Dynasty Gold and GobiMin, as well as solar energy giant Canadian Solar.⁶⁰

Dynasty Gold employs “about 150 workers from different ethnic backgrounds” at its Qi2 mine, which is also owned in part by Chinese state-owned firms, and is located less than an hour's drive from six detention centres. GobiMin carries out exploration work at its Sawayaerdun mine with “local exploration teams under subcontract.”^{xi}

Canadian Solar operates a 100-hectare solar farm in Xinjiang in close proximity to suspected detention camps. Its line of business raises particular concern because the use of forced Uyghur labour is reportedly rife in the production of polysilicon, a component used in solar panels. One polysilicon producer accused of using forced workers in Xinjiang, GCL-Poly,^{xii} says it counts Canadian Solar among its customers. A spokesperson for Canadian Solar has said the firm does not “support forced labour” and is not “aware of any forced labour in... the whole supply chain.”⁶¹

xi Specific allegations that these companies are using forced workers have not been reported. *The Globe and Mail* reports Dynasty's response to questions about its Xinjiang operations as follows: “Ivy Chong, chief executive of Dynasty Gold Corp., said in an interview that the company employed about 150 workers from different ethnic backgrounds and paid ‘equitable compensation’.... She said ‘all protocols and culture practices were followed including special holidays for religious practices’ at the mine.” It reports GobiMin's response as follows: “GobiMin chief executive Felipe Tan recently told *The Globe* most of the company's exploration work was ‘performed by local exploration teams under subcontract.’ ... Mr. Tan did not say whether the company had completed human-rights due diligence...” *The Globe and Mail*, [31 January 2021](#).

xii An industry association that GCL-Poly belongs to [states](#): “As is known to all, the issue of forced labor is a lie invented out of thin air by institutions and personnel of the United States. There is no forced labor in the production of photovoltaic products in Xinjiang.”

THE CANADIAN GOVERNMENT'S RESPONSE

Educate and encourage

For well over a decade the Canadian government has encouraged companies to address human rights risks such as forced labour by promoting voluntary standards for “responsible business conduct.” It does so, for instance, by providing “guidance” to companies through its Trade Commissioner Service and embassies abroad. It also operates two offices that promote these standards, notably by offering advice to Canadian multinationals when allegations of human rights abuse arise in regards to their overseas operations.⁶²

Faced with the possibility that Canadian companies could be profiting from the forced labour of Turkic minorities in China, Ottawa sought to educate companies by publishing an advisory on the risks of doing business in Xinjiang.⁶³ It urged companies with links to the region to examine their supply chains for indicators of forced labour, and promised to provide them with “enhanced advice” on conducting this due diligence.⁶⁴ The government also pledged to “convene discussions” to further raise awareness about the human rights situation in the region.⁶⁵

Ottawa has further encouraged certain firms to address the risk of forced labour in their supply chains by having them sign declarations to this effect. It requires companies with ties to Xinjiang that seek support or services from the Trade Commissioner Service to sign a declaration affirming that they are aware of the risks of doing business in the region and have not “knowingly” sourced from suppliers implicated in forced labour there.⁶⁶ Apparel suppliers that contract with the federal government must “self-certify that they and their first-tier subcontractors” uphold international standards on human rights, including freedom from forced labour.⁶⁷ In 2019 the government announced it would require similar self-certification statements from its suppliers in all sectors.⁶⁸

Import controls awaiting enforcement

Following on the U.S.’s longstanding model, Canada agreed to ban the importation of goods produced with forced labour under the Canada-



United-States-Mexico Agreement (CUSMA), which it signed in 2018.⁶⁹ When it adopted the *Canada-United States-Mexico Agreement Implementation Act* on March 13, 2020, it added a legal provision to the *Customs Tariff*, effective July 1, 2020, that prohibits the importation of “goods that are mined, manufactured, or produced wholly or in part by forced labour.”⁷⁰

The responsibility for administering and enforcing the prohibition on forced labour imports rests with the Canada Border Services Agency (CBSA).⁷¹ The president of the CBSA is appointed by the federal cabinet and acts under the direction of the minister of public safety and emergency preparedness, who is responsible for the CBSA.⁷²

Ottawa has disclosed few details about how it will enforce this prohibition. In statements to journalists and on its website, the government has indicated that Employment and Social Development Canada (ESDC) is investigating problematic supply chains, with a focus on those linked to Xinjiang, and developing the criteria by which goods from suspect suppliers could be blocked. Based on information from ESDC, the CBSA may then decide to detain shipments of these goods arriving in Canada.⁷³

Above Ground wrote to the ministers overseeing the CBSA and ESDC in March and April 2021

seeking further details. Some of our questions went unanswered in the replies we received from the labour minister,⁷⁴ who oversees ESDC, and from the president of the CBSA.⁷⁵

The labour minister neglected to disclose, for instance, the number of staff ESDC has assigned to this file, whether it's investigating any of the manufacturers blacklisted by the U.S., or when it will have finalized its criteria for enforcement.

The president of the Canada Border Services Agency declined to specify whether importers could face any legal penalty for violating the ban, as they can in the U.S., or what criteria the CBSA would use, in the event of a detention order, to decide whether to release detained goods or to revoke the detention order. He confirmed that, as of April 29, officials had not taken any enforcement action.

His letter suggests that Canada's enforcement strategy may be less ambitious than the U.S.'s in at least one respect: border authorities intend to block shipments only if they have "legally sufficient and defensible evidence of production by forced labour."⁷⁶ The U.S., by contrast, most often detains shipments based on information that "reasonably but not conclusively" indicates the use of forced labour^{xiii} — a responsible precautionary approach, given that importers can secure the release of detained goods if they can prove they weren't made by forced labour.

Canada's enforcement approach may also fall short of the U.S. model in that it reportedly does not allow for detention orders that would block the importation of goods of a certain type from an entire region. The CBSA says it doesn't have the authority to issue such orders, according to a refugee rights organization that has taken the agency to court over its decision not to block goods made in Xinjiang.⁷⁷

The CBSA appears unable to provide any assurance that the public will be informed of its enforcement actions. The agency "cannot disclose the names of businesses that have been subject to enforcement action at the border," according to its president, "as this information is protected under the *Privacy Act* and the *Customs Act*." It "may" disclose, on request, statistical data on the number of shipments and types of goods detained.⁷⁸



Repeated rounds of study and consultation

The government has been studying the issue of forced and child labour in Canadian supply chains since at least 2016, when it created an interdepartmental working group to develop legislative proposals to address the problem.⁷⁹ In late 2017, the parliamentary subcommittee on international human rights engaged in its own study of the issue. Witnesses spoke of the prevalence of forced labour, including forced child labour, in global supply chains,⁸⁰ the ineffectiveness of voluntary approaches,⁸¹ and the need for U.S.-style import restrictions.⁸² Numerous human rights groups stressed the need for legislation that imposes robust due diligence obligations on companies.⁸³

In response to the committee's report, the federal government announced the first phase of a consultation process aimed at further informing possible supply chain legislation.⁸⁴ This first round took place in the spring of 2019 and concluded on June 30 of that year. To date, no report has been published outlining what the government heard, and no second phase has been scheduled. There are no indications that either are forthcoming,⁸⁵ or that the government is considering pursuing legislation.

Faced with mounting evidence of systemic forced labour in Xinjiang, Ottawa's response has been much the same. As the U.S. stepped up its response in January by imposing blanket bans on the importation of cotton and tomato products from the region,⁸⁶ Ottawa announced, alongside the above-described measures encouraging companies to act responsibly, plans for a "third-party analysis of areas of exposure to forced labour involving Uyghurs"⁸⁷ — another study, to be completed by an undetermined date.

xiii As of January 28, 2021, the U.S. had eight active "findings" of forced labour, where it found the evidence to be conclusive, as compared to 47 "withhold and release orders," where it found the information to "reasonably but not conclusively" indicate ties to forced labour. See U.S. Customs and Border Protection, "[Forced Labor](#)."



THE WAY FORWARD

To make a real contribution towards eradicating slavery in the global economy, Canada must move beyond words and use legal measures to cut Canadian business ties to forced labour abroad. It should vigorously enforce the import ban already in place and adopt a new law requiring that companies act to rid their operations and supply chains of abuses such as forced labour.

Vigorous and transparent enforcement of import controls

Canada's prohibition on importing slave-made goods will be of little consequence if it's not effectively enforced. The Canadian government should develop and swiftly put into action a robust enforcement strategy that's premised on transparency, prevention and the precautionary principle. It should at least meet the ambition level shown by the U.S. in this regard, for instance by

- detaining goods at the border when credible information indicates they were most likely produced by forced labour, rather than requiring conclusive evidence before taking action.^{xiv}
- detaining goods of a certain type from especially high-risk regions or countries, rather than limiting detention orders only to products made by particular companies.
- publicly reporting detention orders, including the names of producers involved, and information about enforcement actions such as seizure of goods at the border.

Beyond this, the Canadian government should seek to improve upon the U.S. model to more effectively enforce Canada's prohibition, monitor the impacts of any detention orders on workers overseas

and ensure that affected workers have access to remedy. Civil society organizations, including those campaigning for stronger enforcement of the U.S. law, have plenty of ideas to offer.

The government must direct sufficient resources into enforcing the prohibition. It should dramatically ramp up the relevant agencies' capacity to investigate goods and producers of concern in a thorough and timely manner, and to detect and block shipments of goods that fall under detention orders.

The success of Canada's import prohibition will also depend in part on civil society being a full partner in the government's enforcement strategy. The government should commit to publishing complete import records so that journalists, researchers and civil society organizations have the tools they need to monitor and assess the effectiveness of Canada's import controls. It will also need to guarantee the confidentiality of first-hand information submitted to Canadian authorities from external sources such as workers or NGOs, so as to protect them from potential reprisals.

^{xiv} This would not preclude releasing the goods to an importer if the importer can show they weren't produced by forced labour.



Mandatory human rights due diligence legislation

The Canadian government states that it “expects companies to take every step possible” to ensure their supply chains are free of forced labour.⁸⁸ It further “encourages” them to follow UN guidelines⁸⁹ that include identifying, preventing and mitigating adverse human rights impacts they may cause or contribute to. It should now move beyond words and adopt a law requiring them to do precisely this, as called for by thousands of Canadians⁹⁰ and a House of Commons committee composed of lawmakers from all parties.⁹¹

This type of legislation, often referred to as “human rights due diligence” legislation, already exists in France, is under development at the European Union level,⁹² and is being studied and debated in parliaments and governments across Europe.⁹³

Many academics, including experts on forced labour, are also pushing for states such as Canada to adopt human rights due diligence legislation because, unlike transparency legislation, it would require companies to actually change their practices to stop contributing to abuses and would ensure remedy for those harmed.⁹⁴ It would also overcome the limitations of import controls, by addressing the risk of Canadian firms using forced workers at their overseas facilities, or buying slave-made goods but not importing the products into Canada.

xv Another common misconception is that the law would ban the importation of goods produced by child labour. If passed, Bill S-216 would establish only that the Governor in Council “may” expand the import ban on goods produced by forced labour to also cover those produced by child labour.

xvi Years of experience from other jurisdictions shows that states relying on transparency laws to address forced labour in supply chains have failed to make a dent in this crisis. Such an approach is “weak, ha[s] not spurred significant changes in corporate behaviour, and fail[s] to reach the segments of supply chains where the worst human rights violations are occurring,” according to [leading academics](#).

A “Modern Slavery Act” for Canada?

In response to forced and child labour in global supply chains, some parliamentarians propose that Canada adopt a mandatory reporting law, similar to those in place in the U.K. and Australia. Bill S-216, which would establish a “Modern Slavery Act” in Canada, was tabled in October 2020 and is before the Senate.⁹⁵

The law would require that large companies publish a report each year describing steps they’ve taken, if any, to “prevent and reduce the risk” that forced or child labour is used in making their products or goods they import into Canada.

Contrary to claims made by some proponents, the law would not require firms to prove that their operations and supply chains are free of forced and child labour. It would require only that they issue a report each year. A firm could be fined for failing to report or for giving false information, but not for knowingly profiting off the sweat of forced and child workers.^{xv}

Transparency legislation such as Bill S-216 is not a sufficient response to the global crisis of tens of millions of women, men and children working under forced conditions.^{xvi} To end this abuse, legal measures must require not only that companies disclose more information, but that they change the way they do business.

The Canadian Network on Corporate Accountability (CNCA) has published model legislation, endorsed by over 150 civil society organizations around the globe, that provides a blueprint for an effective

human rights due diligence law in Canada.⁹⁶ Such a law would require companies to avoid facilitating human rights violations of any kind, from forced labour to violent land grabs to severe pollution harming people's health.

Firms with links to Canada would have to undertake due diligence to identify, prevent and mitigate these risks throughout their overseas operations,

supply chains, and relationships with contractors and subsidiaries. Should they fail to do so, or to publicly report the steps they've taken, they could face legal action. Communities and workers who've suffered harm would have the statutory right to sue the company in a Canadian court.

Canada should immediately develop legislation along the lines of the model proposed by the CNCA.

ENDNOTES

- 1 CBC News, [15 January 2021](#). This article is the source for all information in this preface, with the exception of the quotes from workers, which were broadcast in the accompanying [TV episode](#).
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- 6 Ibid, p. 2.
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- 8 See, for example: United Nations Inter-Agency Project on Human Trafficking (UNIAP), [Exploitation of Cambodian Men at Sea: Facts about the Trafficking of Cambodian Men onto Thai Fishing Boats](#), 2009; Supang Chantavanich et al., [Employment Practices and Working Conditions in Thailand's Fishing Sector](#), 2013; and Human Rights Watch, [Hidden Chains: Rights Abuses and Forced Labor in Thailand's Fishing Industry](#), 2018.
- 9 Issara Institute and International Justice Mission, [Not in the Same Boat: Prevalence & Patterns of Labour Abuse across Thailand's Diverse Fishing Industry](#), 2016, pp. 1, 12; Human Rights Watch, [Hidden Chains: Rights Abuses and Forced Labor in Thailand's Fishing Industry](#), 2018.
- 10 Supang Chantavanich et al., [Employment Practices and Working Conditions in Thailand's Fishing Sector](#), 2013, p. i.
- 11 Ibid, p. xii.
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- 17 Reuters, [12 Dec 2019](#).
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- 20 U.S. Department of Labor, "[Child Labor in the Production of Cocoa](#)."
- 21 U.S. Department of Labor, "[List of Goods Produced by Child Labor or Forced Labor](#)."
- 22 The Walk Free Foundation, "[Global Slavery Index: Cocoa](#)."

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- 24 *Washington Post*, [5 June 2019](#).
- 25 Cotton Campaign, “[Joint Civil Society Monitoring Finds Systemic Forced Labor in Turkmen Cotton Harvest](#),” 23 March 2021.
- 26 U.S. Department of Labor, “[List of Goods Produced by Child Labor or Forced Labor](#).”
- 27 Center for Strategic and International Studies, “[Addressing Forced Labor in the Xinjiang Uyghur Autonomous Region: Toward a Shared Agenda](#),” 2020.
- 28 *The Globe and Mail*, [29 March 2021](#).
- 29 Ibid.
- 30 Researchers have given estimates broadly in the range of 1 million people to 1.8 million or more. For details, see China File, [8 January 2019](#), and *International Journal of Political Risk*, [24 November 2019](#).
- 31 International Consortium of Investigative Journalists, [24 November 2019](#).
- 32 University of British Columbia Institute of Asian Research, “[Xinjiang Documentation Project: Primary Accounts](#).”
- 33 *The Globe and Mail*, [2 March 2021](#).
- 34 Ibid.
- 35 Coalition to End Forced Labour in the Uyghur Region, “[Call to Action](#),” 2020.
- 36 Sources for information in this paragraph: U.S. Customs and Border Protection, “[Forced Labor](#),” Greenberg Traurig Law, “[Focus on Forced Labor for Imported Products](#),” 2020.
- 37 The source for all information in this paragraph is U.S. Customs and Border Protection, “[Withhold Release Orders and Findings](#).”
- 38 Baker Mackenzie, “[BIS Adds Eleven Chinese Entities Implicated in Human Rights Abuses in Xinjiang to the Entity List](#),” 2020.
- 39 CBC News, [15 January 2021](#).
- 40 Toronto Star, [22 January 2021](#) and [9 March 2021](#).
- 41 The bills of lading were accessed through database services provided by two companies: Panjiva and Import Genius. The CBC and *Star/Tribune* reporters searched both databases, while Above Ground searched only the Panjiva database.
- 42 See Dolbec International, “[News from the industry](#),” 2019.
- 43 *Toronto Star*, [22 January 2021](#).
- 44 In addition to the previously mentioned CBC reporting, see similar reporting by *The Guardian* in [2018](#).
- 45 Reuters, [March 16, 2021](#). Top Glove has pleaded not guilty to the charges, and in April the company [said](#) that it had resolved all “indicators of forced labour” in its operations, including “abusive working and living conditions.”
- 46 Includes shipments from Top Glove Sdn Bhd and its subsidiary TG Medical Sdn Bhd.
- 47 U.S. Customs and Border Protection, [media release](#) of December 30, 2020. Sime Darby Plantation has responded to the allegations in a series of statements that can be found at [simeдарbyplantation.com/human-rights](#).
- 48 U.S. Customs and Border Protection, [media release](#) of August 11, 2020. We were unable to find any statements made by Hero Vast Group in response to these allegations.
- 49 We were unable to find any statements made by Hefei Meiling in response to these allegations.
- 50 See rule of [July 22, 2020](#) published in the U.S. Federal Register.
- 51 KTK Group states that it “in 2018-19 it did employ a small number of workers from Xinjiang, who were not ethnically Uyghurs,” but that it “has never been involved in the employment of any forced labour.” See Rail Express, [27 July 2020](#) and *The Guardian*, [28 July 2020](#).
- 52 See rule of [July 22, 2020](#) published in the U.S. Federal Register.

- 53 See pages 8 to 11 of the [Uyghurs for Sale](#) report for sources and details about the security, surveillance and indoctrination measures that workers at Qingdao Taekwang's factory have allegedly been subject to. Qingdao Taekwang Shoes' main customer, Nike, [states](#) that in 2019 its supplier "stopped hiring new employees from XUAR to its Qingdao facility and an independent third-party audit confirmed there are no longer any employees from XUAR at the facility."
- 54 A Foxconn spokesperson told reporters in [March 2020](#) that "[a]t no time has Foxconn ever had employees in its workforce in any market who have not voluntarily joined our firm. Any allegations to the contrary are categorically false."
- 55 This ski glove manufacturing firm chaired by Chen Jianhua is referred to as Jianhua Zhongxing Glove Co. on its website and as Jianhua Zhongxing Ski Products in [2016](#) and [2019](#) news articles. Both company names are listed at the same address in import database Panjiva.
- 56 See company [website](#) and remarks made by Jianhua Zhongxing's chairman, Chen Jianhua, in a [2019 news article](#) about its expansion to Yingjisha county in Xinjiang.
- 57 In addition to sources in the [Uyghurs for Sale](#) report, see China Daily, [14 July 2017](#). We were unable to find any statements made by the company in response to the allegation that its workforce may include forced labourers.
- 58 A company spokesperson told reporters in [July 2020](#) that Uyghurs were part of its workforce under the government's policy of "supporting Xinjiang development," stating that "[w]e need to develop the western region, let the people there be employed, and improve their living standards...."
- 59 The source for all information in this paragraph is The Conversation, [26 October 2020](#).
- 60 The source for all information in this paragraph is *The Globe and Mail*, [18 January 2021](#).
- 61 The source for all information in this paragraph is *The Globe and Mail*, [28 January 2021](#). Further details about GCL-Poly's reported use of "surplus" workers "transferred" to the firm's industrial park, which was built in cooperation with Xinjiang authorities, can be found on page 30 of Laura T. Murphy and Nyrola Elimä's 2021 report [In Broad Daylight: Uyghur Forced Labour and Global Solar Supply Chains](#).
- 62 These two offices are the Canadian Ombudsperson for Responsible Enterprise (CORE) and the National Contact Point (NCP), which serves to promote adherence to the Organization for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises. See Global Affairs Canada, "[Responsible Business Conduct Abroad](#)."
- 63 Global Affairs Canada, "[Global Affairs Canada advisory on doing business with Xinjiang-related entities](#)."
- 64 Global Affairs Canada, news release, "[Canada announces new measures to address human rights abuses in Xinjiang, China](#)."
- 65 Global Affairs Canada, "[Measures Related to the Human Rights Situation in the Xinjiang Uyghur Autonomous Region](#)."
- 66 Global Affairs Canada, "[Integrity Declaration on Doing Business with Xinjiang Entities](#)."
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- 68 Employment and Social Development Canada reported that a "clause will be incorporated into all Government of Canada contracts requiring suppliers to certify that they have taken all reasonable steps to guard against the use of forced labour within their supply chains." See [Supply chain consultations - Issue paper, spring 2019](#).
- 69 [Canada-United States-Mexico Agreement Implementation Act](#) (S.C. 2020, c. 1) at ss. 2, 201 (i.1), 204 (8). See also Global Affairs Canada, "[Canada-United States-Mexico Agreement \(CUSMA\) - Labour chapter summary](#)." For the date of signing, see Global Affairs Canada, "[A new Canada-United States-Mexico Agreement](#)."
- 70 *Customs Tariff* (S.C. 1997, c. 36) at s. 132(1) (m) (i.1), s. 136, and Schedule at Tariff Item No. 9897.00.00. See also Canada Border Services Agency, "[Memorandum D9-1-6](#)," 7 May 2021.,
- 71 [Canada Border Services Agency Act](#) (S.C. 2005, c. 38) at ss. 2 (definition of "program legislation"), 5 (1) (a).
- 72 Ibid at ss. 6 (1), 8 (1).
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- 74 See Above Ground's correspondence with [Minister Filomena Tassi](#) between March 26 and June 10, 2021.
- 75 See Above Ground's correspondence with [Minister Bill Blair and CBSA president John Ossowski](#) between March 26 and June 9, 2021.
- 76 Ibid.

- 77 *Toronto Star*, [13 June 2021](#).
- 78 See CBSA president John Ossowski's [response to Above Ground](#) on June 9, 2021.
- 79 See Subcommittee on International Human Rights, "[Evidence: Tuesday, December 12, 2017](#)," at section 1340.
- 80 See Subcommittee on International Human Rights, "[Evidence: Thursday, November 23, 2017](#)," at sections 1310 and 1325.
- 81 Subcommittee on International Human Rights, [A Call to Action: Ending the Use of All Forms of Child Labour in Supply Chains](#), 2018, pp. 27-9.
- 82 *Ibid*, pp. 40-1.
- 83 *Ibid*, pp. 34-5.
- 84 Employment and Social Development Canada, "[Consultation on labour exploitation in global supply chains](#)."
- 85 In an email sent to Above Ground on April 1, 2021, a spokesperson for the Labour Program of Employment and Social Development Canada (ESDC) was unable to confirm that either are forthcoming.
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- 87 Global Affairs Canada, "[Measures Related to the Human Rights Situation in the Xinjiang Uyghur Autonomous Region](#)."
- 88 Global Affairs Canada, "[Global Affairs Canada advisory on doing business with Xinjiang-related entities](#)."
- 89 The UN [Guiding Principles on Business and Human Rights](#).
- 90 House of Commons, "[Petition e-2564 \(Business and trade\)](#)."
- 91 Subcommittee on International Human Rights, media release, "[Statement by the Subcommittee on International Human Rights concerning the Human Rights Situation of Uyghurs and other Turkic Muslims in Xinjiang, China](#)," 21 October 2021.
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- 94 See, for instance, testimony from Professor Surya Deva, a UN expert on business and human rights, to Canadian parliamentarians on [March 23, 2021](#) and [Re:structure Lab's "Due Diligence and Transparency Legislation" evidence brief](#).
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