

Written Testimony before the U.S. House of Representatives, Committee on Ways and Means, Subcommittee on Trade

Hearing Concerning Forced Labor in the Xinjiang Uyghur Autonomous Region and the US Apparel Industry

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Chairman Blumenauer, Ranking Member Buchanan, and members of the subcommittee, I appreciate the opportunity to present written testimony.

The widespread use of forced labor in the Xinjiang Uyghur Autonomous Region (XUAR), like other elements of the brutal campaign of repression the Chinese government is carrying out there, has been persuasively documented by a range of independent investigators. I will focus my remarks on the implications of this forced labor has for the global apparel industry and on the actions necessary to ensure that apparel brands and retailers, including those importing apparel into the United States, are not complicit in these abuses.

Quantifying the extent of the garment industry's risk exposure in the XUAR requires a working understanding of the structure of global apparel production, most importantly the production of cotton garments, which represents close to half of all garments imported into the United States. There are four basic levels to the production process for cotton apparel:

- 1) the growing, harvesting, and ginning of cotton;
- 2) the process of turning that cotton into yarn, which is known as "spinning" and is carried out in facilities called spinning mills, which may also dye the yarn;
- 3) the use of yarn to make fabric or "textiles," work performed at fabric mills, where dyeing may also take place; and
- 4) the cutting and sewing of the fabric to make finished clothing, sometimes referred to as garment "assembly" or, in industry parlance, "cut, make, and trim."

When we speak of global supply chains in the apparel industry, we are describing these different elements of production and the corporate entities that carry them out on behalf of the brand or retailer that ultimately takes possession of the finished garment and sells it to a consumer. While there is some vertical integration in apparel supply chains, where the same supplier is responsible for two or more of these elements, the majority of the work is done by stand-alone corporations specializing in one level of production, separated from other companies in a given brand's supply chain, often by national borders.

Even where there is vertical integration of some elements of the supply chain within one company, the different operations are often carried out at worksites located hundreds or

thousands of miles apart, and often in multiple countries. One of the most vertically integrated companies in the apparel industry is Esquel Group, a supplier to numerous US brands and retailers, one of the world's largest manufacturers of men's dress shirts, and a recent addition to the US Commerce Department's Entity List. Esquel owns and operates facilities at all levels of production, from cotton farms to yarn mills to fabric mills to sewing facilities. These operations, however, are geographically far flung. A garment that has its origin in an Esquel cotton farm in one part of the XUAR may, by the time it ends up on a store rack in Baltimore or Boston, have traveled to an Esquel yarn spinning mill in another part of the XUAR, to an Esquel fabric mill in Eastern China, and finally to an Esquel sewing facility in Vietnam.

To answer the question whether a specific cotton garment imported into the United States was made in the XUAR, and therefore whether there is a substantial risk that the product was made with forced labor, it is therefore necessary to ask whether any element of the product's manufacture was carried out in the XUAR.

Because of the XUAR's outsize role in the production of cotton, and because of China's dominant role overall in the production of cotton fabric, the answer to this question is "yes" with respect to *billions* of garments arriving at US ports annually. The XUAR produces more than five million metric tons of cotton each year, accounting for about one-fifth of all global cotton production. This cotton is spun into yarn and then made into fabric in mills across China. This Chinese-made cotton fabric is then used by garment sewing facilities in China and in dozens of other countries, from Bangladesh, to Indonesia, to El Salvador, to make finished garments for brands and retailers in the United States, Europe, Japan, and elsewhere. China exports nearly \$21 billion worth of cotton fabric, 63% of all global exports, most of it used to make cotton clothing. The majority of that fabric contains cotton from the XUAR.

As a result, in 2019, of the more than 13 billion units of cotton garments imported into the US by apparel brands and retailers, roughly one in five, more than 2 billion individual garments, was made, in part, in the XUAR. That is tens of millions of garments with labor content from the XUAR arriving at US ports every week.

Virtually every significant brand and retailer that sells cotton garments in the United States, from Abercrombie & Fitch and American Eagle to Walmart and Zara, has a supply chain that runs through the XUAR.

Because of the sprawling structure of global supply chains, the majority of these garments are sewn in countries other than China. Bangladesh, for example, utilizes Chinese-made fabric, the bulk of it with cotton or yarn from the XUAR, in the manufacture of almost half of the \$28 billion worth of garments it produces annually.

I do not want to dismiss the significance of apparel sewn within the XUAR. Brands and retailers like Costco, Muji, and the workwear arm of Caterpillar corporation are all recent US importers of apparel that was finished at sewing facilities in the XUAR implicated in forced labor. However, garments sewn in the XUAR for direct export to the US are the tip of the iceberg relative to garments sewn outside the XUAR but containing cotton (and/or yarn) from the region.

This means that the bulk of the XUAR-related forced labor risk in the US apparel market sits below the visible surface of the garment supply chain, creating serious challenges for the

detection of XUAR content and the enforcement of a future region-wide ban, if one is imposed. There is significant transparency into global apparel supply chains at the level of sewing factories. Shipping records collected by Customs and Border Protection (CBP) for apparel imports generally bear the name of the factory that sewed the garments and shipped them to a brand or retailer in the US. After years of pressure from unions and labor rights advocates, many brands and retailers now also publicly disclose the names and addresses of the sewing facilities where their products are made. Some also disclose their fabric suppliers. There is, however, almost no such visibility, either via shipping records or brand disclosure, at the level of cotton and yarn. Tens of millions of garments land every day at US ports from factories in Bangladesh, Cambodia, Myanmar, various parts of China, and dozens of other apparel-exporting countries. While many contain cotton or yarn from the XUAR, there is, in most cases, nothing in the records that arrive with these shipments to distinguish these goods from garments without XUAR content.

Given the vast volume of apparel affected, and the breadth and severity of the forced labor crisis in the XUAR, major brands and retailers face enormous risk that they are importing garments into the US in violation of the Tariff Act's prohibition on forced labor-made goods. Greatly compounding the problem, the mechanism corporations would normally use to address severe labor rights risk in their supply chains is unavailable in the XUAR.

Virtually all brands and retailers have supplier codes of conduct that prohibit the use of forced labor in their supply chains. The typical mechanism brands rely on to verify labor conditions in their supply chains, including conditions of forced labor, is factory inspections, generally known as labor compliance "audits." These are conducted by the brands' own personnel; by service providers (auditors or certifiers) contracted by the brands or the factories themselves (at the brands' behest); and/or by associations of multiple brands that carry out inspections on their members' behalf.

Every credible labor rights audit includes, as a central component of its investigative methodology, candid interviews with workers about the conditions under which they are laboring. When the specific subject under investigation is the question of whether the labor workers are performing is voluntary, worker interviews are especially vital. Managers utilizing forced labor – for example, at a factory employing former internment camp detainees who have been compelled to work at the factory after their release – are not going to admit to auditors that workers are coerced. Nor are managers likely to maintain factory records that would demonstrate that forced labor is taking place. In a situation where there is a risk of forced labor at a workplace, no auditor can credibly conclude that all labor is being performed voluntarily unless they are able to interview workers candidly. Such candid testimony can only be obtained if workers can speak honestly without fear of retribution.

Unfortunately, it is difficult to imagine a set of circumstances less conducive to workers speaking freely about their conditions than those that prevail today in the XUAR. This is due to three main factors that set the conditions for labor rights monitoring in the XUAR apart from those in any of the other countries involved in global apparel manufacturing supply chains, many of which are, themselves, highly challenging environments for such work.

First, is the certainty and severity of the retribution that faces workers whose labor is coerced should they be found to have spoken truthfully to labor inspectors about the terms of their

employment. In most garment-exporting countries, the worst risk that factory workers face if they should tell the truth about labor conditions that violate brands' labor standards for suppliers is, generally speaking, simply loss of their job.

For a worker in the XUAR performing forced labor, the risks involved in simply telling the truth are on an entirely different scale. Virtually every adult member of the Uyghur or other Turkic Muslim minority groups is either incarcerated in an internment camp, was previously incarcerated, or is at risk of future incarceration if they speak or otherwise act in a manner that displeases the authorities. Lawyer and Uyghur rights advocate Nury Turkel captured the severity of the risks confronting any worker interviewed by auditors in the XUAR, explaining "No interviews can be treated as uncoerced. Recall that any Uyghur who departs from the government-dictated script faces a high risk of detention, torture, and possibly death in custody."

It is vanishingly unlikely that a worker who is being forced into employment at any factory or farm in the XUAR, much less one that is located inside or connected to an internment camp, is going to speak openly about this in an interview conducted at the workplace, whether or not managers or other authorities are present.

The only context in which workers might be willing to speak openly would be if they are interviewed away from the workplace, in a location where they feel safe from observation. Unfortunately, even assuming auditors would be diligent enough to pursue such offsite interviews, the reality in the XUAR is that there is no place where workers can be safe from observation.

This is the second factor that makes labor rights due diligence in the XUAR a practical impossibility. The Chinese government has erected a massive apparatus of surveillance in the region, utilizing both advanced technology and traditional methods. Given the ubiquity and intrusiveness of this system, as documented by Human Rights Watch, among others, no worker can have any expectation of privacy or safety, regardless of where an interview is conducted. Indeed, it would be irresponsible for a workplace auditor to solicit offsite interviews with Uyghur workers in the XUAR under the present circumstances, as this would expose workers and their families to not just the risk but the likelihood of reprisal.

The third factor is the de facto ban that Chinese authorities have enforced in the XUAR on any form of civil society, with the slightest degree of independence from the Chinese state and ruling party. Even in countries with much less repressive human rights environments overall, worker interviews that are effective in documenting the most severe labor abuses almost always require that factory monitors are assisted, in making contact and developing trust with workers, by local civil society organizations that already enjoy such trust – independent trade unions (in countries where, unlike in China, these are allowed), worker centers, and other grassroots organizations. In the rest of mainland China, entities of this type face significant state harassment and repression. In the XUAR, they are simply not permitted to exist.

Because, as a result of all three of these factors, candid worker interviews cannot be carried out in the XUAR today, no apparel brand or retailer is in a position to perform credible labor rights due diligence in the region. This means that if a cotton firm, ginning facility, spinning mill, fabric mill, or garment factory within a corporation's supply chains is located in the XUAR,

there is no available means by which that corporation can satisfy itself, its customers, or US regulators that the facility in question is free of forced labor.

Indeed, the only purpose workplace audits can serve under prevailing conditions in the XUAR is to obscure the labor rights reality. This is amply demonstrated by audits that have been conducted over the last two years in the XUAR and that have come to public light.

The Hetian Taida Apparel Company operated a factory in a reeducation camp in Hotan and another a few hundred yards from the camp. Under the auspices of two labor rights certification bodies, Worldwide Responsible Accredited Production and Business Social Compliance Initiative, auditors assessed the factory adjacent to the reeducation camp and gave it a clean bill of health. They did so despite the fact that the parent company operated a factory inside an internment camp, despite the facility's location next to the camp, and despite the presence of what the Chinese government calls camp "graduates" (i.e., recently released detainees still subject to ongoing coercion and surveillance) among the workforce. In October, Customs and Border Protection issued a Withhold Release Order against all goods from Hetian Taida, because of overwhelming evidence that it uses forced labor.

Last year, the *Wall Street Journal* exposed the involvement of Huafu Fashion, a major yarn manufacturer, in forced labor in the town of Aksu. According to the Journal's reporting, Huafu's massive spinning mill in Aksu puts its workers through a month-long government-sponsored job-training program. Workers in the program are forced to wear identical camouflage uniforms and receive training whose purpose is to cleanse their minds of "extremist thoughts" so as to make them suitable employees. Huafu responded to the exposure of its abuses by commissioning a labor rights audit from a leading international auditing firm called Bureau Veritas. The result was another clean bill of health, later cited by a major apparel brand as the reason for its continued partnership with the Huafu.

This week, CBP issued a Withhold Release Order against a glove manufacturer in the XUAR, Yili Zhuowan Garment. This action comes after revelations last year that the factory, working in concert with local authorities, imposes mandatory labor on former internment camp detainees. Our organization linked Yili Zhuowan to the French apparel brand Lacoste. When we asked Lacoste why it chose to source from this facility, given that its use of forced labor had been publicly reported well before Lacoste placed orders there, the brand informed us that it relied on a workplace audit that had found no forced labor. This audit was also conducted by Bureau Veritas.

The prevailing circumstances in the XUAR make meaningful labor inspection impossible. As in these cases I have just reviewed, the only result workplace audits in the XUAR today can yield is the false appearance of due diligence.

This is why the Better Cotton Initiative (BCI) – a prominent industry association that uses workplace audits to evaluate cotton producers around the world and license those that qualify as environmentally and socially responsible – decided in March of 2020 to suspend its licensing program in the XUAR. In its public announcement of the decision, BCI attributed this action to its recognition that credible inspections cannot be done in the current "operating environment."

The combination of the widespread risk of forced labor across farms and factories in the XUAR, and the unavailability of viable due diligence mechanisms, leaves US apparel brands and retailers with only one means to ensure that they are not complicit in forced labor and that they are complying with US law when they import apparel. That option is to extricate their supply chains from the XUAR.

This is why labor rights organizations have petitioned CBP to impose a region-wide Withhold Release Order on goods with content from the XUAR. It is why the proposed Uyghur Forced Labor Prevention Act includes such a ban. And it is why hundreds of human rights, labor rights, and Uyghur organizations, from more than three dozen countries, have endorsed an apparel industry Call to Action that asks all apparel brands and retailers to formally commit to end all sourcing from the XUAR.

This Call to Action was launched in July by the recently formed Coalition to End Forced Labour in the Uyghur Region. Our organization is proud to be a member of this coalition, along with groups like Human Rights Watch, Global Labor Justice/International Labor Rights Forum, the British human rights organization Anti-Slavery International, the pan-European advocacy group Clean Clothes Campaign, the World Uyghur Congress, the Uyghur Human Rights Project, and many others.

The coalition seeks four sets of actions from brands and retailers to end their complicity in forced labor in the XUAR. The Call to Action asks brands and retailers to:

- Cease any sourcing from apparel sewing facilities in the XUAR;
- Require suppliers and sub-suppliers to exclude any content from the XUAR, at all levels of the supply chain, in the production of a brand's or retailer's goods;
- Require suppliers in China outside of the XUAR to decline any participation in the government's scheme to transfer Uyghur workers from the XUAR to work, in conditions tantamount to forced labor, in factories elsewhere in China; and
- End ties with Chinese companies that are implicated in forced labor through their operation of facilities in the XUAR that utilize government subsidies or government-supplied labor. This includes companies like Luthai Textile, a recent producer of fabric for UNIQLO and Esprit, among other brands; Huafu Fashion, a recent producer of yarn for adidas and the giant European retailer C&A, among many others; and Esquel Group, a supplier of shirts to numerous brands, from Ralph Lauren to Hugo Boss to Gap.

The practical reality is that, without such a comprehensive approach to delinking the apparel supply chains of brands and retailers from the XUAR, it is a virtual certainty that apparel partially made with forced labor from that region will flow continuously into the United States and other consumer markets in the months and years ahead.

Whether a ban on garment imports with content from the XUAR is achieved through private brand commitments like those sought by the Coalition to End Forced Labour in the Uyghur Region, through a region-wide Withhold Release Order issued by CBP, through the passage of the Uyghur Forced Labor Prevention Act, or through all of the above, the enforcement challenges will be substantial.

Complicating matters is the fact that some brands and retailers do not take steps to track the source of the cotton and yarn entering their supply chain. In noting this reality, it is important to stress that, although there are complexities that arise from the atomized nature of apparel production, brands and retailers are entirely capable of knowing – indeed, of determining – exactly where they obtain their cotton and yarn. The primary reason some brands and retailers lack command of this information is not because the origins of cotton and yarn represent some unfathomable mystery of the global supply chain, but because these brands and retailers choose not to know. To the extent that private action and/or public regulation create real consequences for failing to control and track cotton and yarn sourcing, brands and retailers that don't currently do so will expeditiously find the means to control and track this sourcing.

Beginning with strong transparency requirements, and including such measures as examining whether the purchase orders brands place with suppliers explicitly prohibit the use of inputs from the XUAR, it is feasible to enforce a ban. Given that there are financial and logistical costs to brands if they and their suppliers must find alternate yarn and cotton sources for all cotton products, brands will have incentive to evade compliance. A strong commitment to enforcement and a multifaceted and creative approach, backed up by meaningful public transparency, are crucial.

In advocating for the apparel industry to cease all sourcing of inputs from the XUAR – until and unless the human rights of the peoples of the region are respected – our organization is mindful that the issue sits within the broader political context of US-China trade and diplomatic relations. It is not the mandate of our organization to opine or advocate on the broad economic and political relationships between countries. We have no organizational interest in seeing increased conflict between the US and China, in limiting overall trade between the US and China, or in advancing geopolitical rivalries.

Our mandate and interest as an organization is combating violations of internationally recognized labor standards, holding global apparel brands and retailers accountable in this regard, and promoting respect for the rule of law in the labor rights context. It is in furtherance of this mandate that we recognize that violations of fundamental labor rights are widespread in the XUAR, that this environment creates enormous risk of complicity for apparel brands and retailers, and that the only means by which these corporations can ensure that they are not importing goods made with forced labor into the US and other consumer markets is to leave the XUAR.

Thank you.