

**Submission**

**by the**

**Canadian Labour Congress**

**to the**

**House of Commons Subcommittee on**

**International Human Rights of the Standing**

**Committee on Foreign Affairs and**

**International Development (SDIR)**

**regarding the**

**Human Rights Situation of the Uyghurs**

July 30, 2020



As Canada's largest labour organization, the Canadian Labour Congress (CLC) not only represents 3 million Canadian workers, but is also committed to ensuring that the human and labour rights of workers and communities around the world are protected and upheld. The CLC is deeply troubled and concerned at the scale of human rights violations against the Uyghurs by the Chinese Government in the Xingjiang Uyghur Autonomous Region (Uyghur Region). The CLC believes that the Canadian government and Canadian brands and retailers must take immediate action to uphold international obligations, ensure that labour and human rights are respected, and to immediately cease the atrocities against Uyghurs and other Turkic and Muslim people.

The CLC would like to highlight that while the Canadian labour movement is deeply concerned for the welfare of Chinese and Canadian workers, we reject the Sinophobia being cultivated by those who would promote a new cold war with China for their own political purposes. Anti-China sentiment has further fuelled xenophobia and racism during the pandemic and must be wholly rejected. As such, it is important to recognize that while this situation facing the Uyghurs is dire, forced labour is by no means endemic to China alone and is well-documented in Canada, the United States and throughout the globe.

In recent years and months, the Chinese government has rounded up and detained between 1 and 1.8 million Uyghurs and other Turkic and Muslim people in detention and forced-labour camps. This represents the largest internment of an ethnic and religious minority since World War II. The human rights violations taking place in the Uyghur Region are widely recognized as including crimes against humanity. These crimes include a vast system of forced labour that are being undertaken both inside and outside of the internment camps and in farms and factories in the Uyghur Region. As part of this system, Uyghurs and other Turkic Muslims face repressive security and mass surveillance practices, including the mass collection of biometric data, coercive police actions, and severe restrictions on movement, including the confiscation of travel documents.

Recent reports have also brought to light the Chinese government's labour-transfer scheme, where over 80,000 Uyghur residents and former detainees have been transferred to factories across China that are a part of the global supply chains of electronic, textile and automotive sectors. These same reports found that over 83 Chinese and foreign multinational enterprises are benefitting from this atrocious program.

Given the global COVID-19 pandemic, forced labourers are being put at additional risk. Recent video evidence shows that some of these labour transfers took place earlier this year, despite widespread lockdown measures in China. This has put forced labourers at risk of exposure to the virus and begs the question as to whether forced labour is being used in personal protective equipment (PPE) being purchased by the Canadian government.

Despite growing awareness and evidence that forced labour is being used as a central element to dominate and control the Uyghur people, brands continue to source millions of tons of cotton and yarn from the Uyghur Region, and retailers and governments continue to buy and import products connected to these abuses. More than 80 percent of China's cotton is grown in the Uyghur Region and roughly 20 percent of cotton garments sold globally contains cotton and/or yarn from the Uyghur Region. This makes it virtually certain that these goods have been tainted with forced labour.

The Canadian government and Canadian brands and garment retailers must take immediate steps to end companies' participation in these crimes against humanity.

### **Recommendations to Canadian Brands and Retailers**

While the CLC continues to call for the Canadian government to develop and implement Human Rights Due Diligence (HRDD) legislation (see below), the direness and severity of this situation is beyond what could be remedied through HRDD. Because forced labourers and their families in the Uyghur Region face vicious retaliation for speaking out, there is no valid way for companies to verify that any workplace in the Uyghur Region is free from forced labour, or to prevent the use of forced labour. Worker interviews, which are essential to any labour investigation, would not be able to generate reliable information, making them ineffective in this situation.

Given this lack of leverage or ability to prevent or mitigate adverse human rights impacts, garment brands and retailers must take immediate steps to end all business relationships connected to the Uyghur Regions. This would be the only way that companies would be able to fulfil their responsibilities to respect human and labour rights, as defined by the UN Guiding Principles on Business and Human Rights (UNGPs), the OECD Guidelines for Multinational Enterprises (OECD MNE Guidelines), the OECD Due Diligence Guidance for Responsible Supply Chains in the Footwear and Garment Sector, the OECD Due Diligence Guidance, and the ILO Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy (MNE Declaration). In particular, the UNGPs (Principle 19) and the OECD Due Diligence Guidance (3.2.5) note that businesses should end or disengage from business relationships where prevention or mitigation of harm is not possible by other means.

As such, brands and retailers must operate under the assumption that all products produced in the Uyghur Region are at a high risk of being tainted by forced labour.

To ensure that they are not complicit in these abuses or profiting from forced labour, Canadian brands and retailers must immediately take steps to exit the Uyghur Region and end relationships with suppliers whose supply chains are implicated in forced labour, from cotton to finished garments. This includes making commitments and taking immediate steps to:

1. stop sourcing cotton, yarn, textiles, and finished products from the Uyghur Region;
2. cut ties with companies implicated in forced labour, including those that have operations in the Uyghur region and have accepted government subsidies and/or government-supplied labour at these operations; and
3. prohibit any supplier factories located outside of the Uyghur Region from using Uyghurs or Turkic or Muslim workers supplied through the Chinese government's labour-transfer scheme.

The Canadian government must play a role in ensuring that Canadian companies take these necessary steps.

As part of these steps, the CLC encourages all Canadian brands to sign the *Coalition to End Forced Labour's* "Brand Commitment to Exit the Uyghur Region and Prevent the Use of Forced Labour of Uyghur and Other Turkic and Muslim-Majority Peoples," which is included below as *Annex 1*.

## **Recommendations to the Canadian Government**

In addition to ensuring that Canadian brands and retailers are taking immediate steps to exit the Uyghur Region and end relationships with implicated suppliers, the Canadian government must immediately take the following steps to help end these atrocities and uphold its international obligations:

1. Implement a whole-of-government human rights strategy for our relationship with China, ensuring that human rights concerns, including the Uyghur crisis, are consistently prioritized in all of our dealings with the Chinese government and Chinese business interests;
2. Develop a comprehensive response to the Uyghur crisis, including bilateral and multilateral efforts to press China to immediately release all persons held in "de-extremification", "transformation-through-education" or other facilities in the Uyghur Region and repeal all measures that restrict the exercise of human rights by Uyghurs and other Muslim minorities;
3. Pursue all avenues to exert pressure on brands and retailers, such as the imposition of individual sanctions under Canadian law and under the Labour Chapter of the Canada-United States-Mexico Agreement (CUSMA), which includes a provision that prohibits the importation of goods produced by forced labour. A list of brands that have been linked to specific cases of forced labour of the Uyghur people is provided in *Annex 2*; and
4. Work within the international community to increase pressure on the Chinese government to allow independent and unrestricted access to the Uyghur Region for fact-finding missions by international observers, including UN Special Procedures.

In addition to taking these immediate steps to address the atrocities currently underway against Uyghurs and other Turkic and Muslim people in China, Canada must also take steps to end the use of forced labour more broadly.

Globally, there are 40.3 million victims of modern slavery, including 24.9 million people in forced labour. A study released by World Vision found that in 2016, Canadian imports of “risky goods,” which described products that have been imported into Canada from countries with high instances of child and forced labour, totalled \$34 billion. The study also found that more than 1,200 companies operating in Canada are known to be importing goods with a high likelihood of being produced by child or forced labour.

In the spring of 2017, the UNWG on Business and Human Rights (UNWG) conducted an official country mission to Canada. The UNWG’s *End of Mission Statement* noted that cases of alleged human rights abuse by Canadian companies abroad “continue to be a cause for serious concern,” and that the Canadian government and Canadian companies should be playing a greater role in promoting and protecting human and labour rights overseas. The statement further encouraged “the federal government to examine how it might use regulatory measures focused on mandatory due diligence and non-financial disclosure as means of promoting respect for human rights.”

The CLC recommends that the Canadian government develop and implement human rights due diligence (HRDD) legislation that draws on international best practices and includes three key components: mandatory transparency, mandatory due diligence, and ethical public procurement. Such HRDD legislation should include the following:

- Transparency provisions: 1) disclosure of instances of human and labour rights abuses in operations and supply chains; 2) application to large and medium-sized companies above a certain revenue threshold; 3) have extra-territorial reach; 4) require high-level approval and sign-off and prominent disclosure of the statement on the company’s website; 5) require annual statements; 6) provide monitoring and enforcement mechanisms and impose sanctions where appropriate; and 7) provide clear official guidance prior to the law taking effect.
- Due diligence provisions: 1) refer to the human rights due diligence standards set forth in the ILO Declaration on MNEs, the UNGPs and the OECD Guidelines; 2) require large companies to publish an effective due diligence plan; 3) provide for meaningful consequences for non-compliance, including liability for harm and effective enforcement mechanisms; 4) allow individuals, trade unions and NGOs to file complaints in case of company non-compliance; 5) apply throughout the entirety of a company’s business operations and supply chains, inside and outside of Canada (apply to both companies headquartered in Canada and globally headquartered corporations doing business in Canada); and 6) enable victims to access civil and criminal remedy.
- Public procurement provisions: 1) mandatory due diligence reporting obligations for relevant public bodies; 2) inclusion of human rights provisions in social

clauses of public procurement; and 3) include mandatory exclusion provisions for certain suppliers.

The Government of Canada should also follow through on its commitments regarding the Canadian Ombudsperson for Responsible Enterprise (CORE) and take immediate steps to ensure the CORE's independence. It should also grant the CORE strong investigatory powers, including the power to compel documents and testimony.

In addition to taking these steps, the Canadian Government must also take steps in its role as a purchaser of goods. Government contracts for apparel are worth approximately \$127 million a year, putting the Government of Canada at grave risk of purchasing goods that have been tainted with forced labour.

In 2018, Public Works and Government Services Canada (PWGSC) implemented a new policy, *Ethical Procurement of Apparel* and a corresponding *Minimum Labour Rights and Certification Form*. While the CLC appreciates the intention behind this new policy, in its current form it will be ineffective at ensuring that the goods purchased by the Canadian government are free from forced labour.

The policy relies wholly on self-certification by suppliers, simply requiring them to sign the form indicating that "to the best of my knowledge" their company and first-tier subcontractors are compliant with eight principles related to: child labour; forced labour; abuse and harassment; discrimination; freedom of association and collective bargaining; occupational safety and health; fair wages; and hours of work. This type of self-certification fails to align with internationally-recognized best practices, and will do little to prevent labour rights abuses.

Additionally, given the complexity of garment supply chains, limiting this policy to first-tier suppliers will do little to prevent forced labour throughout a company's supply chains. In the case of the Uyghur people, it would almost certainly not protect them.

The CLC recommends that PWGSC strengthen its procurement policy, including extending it beyond first-tier suppliers and ensuring independent monitoring and enforcement of obligations outlined in the policy. This would be a first step, while awaiting the implementation of mandatory HRDD legislation, which would include public procurement provisions.

The CLC commends the SDIR Committee for undertaking this important and urgent study on the human rights situation of the Uyghurs and encourages the Canadian government and brands to take immediate action to end the atrocities committed against Uyghurs and other Turkic and Muslim people.

## Annex 1

### **Brand Commitment to Exit the Uyghur Region and Prevent Use of Forced Labour of Uyghur and Other Turkic and Muslim-Majority Peoples**

In order to ensure that [signatory] is not, in its supply chain, contributing to or benefitting from forced labour of the Uyghur and other Turkic and Muslim-majority peoples, [signatory] commits to undertaking the actions enumerated below *within no more than 365 days from signing this* commitment. The Coalition to End Forced Labour in the Uyghur Region will publicly list brands committing to this Call to Action, in consultation with the signatories.

1. Engage with representatives in the Coalition to End Forced Labour in the Uyghur Region to:
  - a. provide a timeline for implementing the actions enumerated below,
  - b. provide regular reporting on the progress and completion of each committed action, and
  - c. agree to appropriate remedial action, endorsed by the Coalition to End Forced Labour in the Uyghur Region, including but not limited to compensation to affected workers. The signatories should aim, via this time-bound plan, to achieve compliance with the actions defined below as soon as possible and will do so no later than 365 days from signing this commitment.
2. Identify and map through all credible means possible—including by reference to reports by human rights and labour rights organisations endorsed by the Coalition to End Forced Labour in the Uyghur Region—the following business relationships:
  - a. Suppliers and sub-suppliers with any production facilities located in the Uyghur Region making apparel and other cotton-based goods.
  - b. Suppliers and sub-suppliers based outside the Uyghur Region that have subsidiaries or operations located in the Uyghur Region that have accepted Chinese government subsidies and/or employed workers provided by the government. These business relationships must be identified and mapped regardless of whether the products the supplier makes for [signatory] are produced in the Uyghur Region.
  - c. Suppliers and sub-suppliers that have employed at a workplace outside the Uyghur Region workers from the Uyghur Region who were sent by the government. In the case of suppliers with multiple factories/workplaces, these suppliers must be identified and mapped, regardless of whether the specific factory/workplace providing goods to the signatory employs workers from the Uyghur Region sent by the government.
  - d. Business relationships with any supplier in China *and* globally that source inputs produced in the Uyghur Region, such as but not limited to fabric, yarn, or cotton.

3. Upon identification of any of the business relationships A–D in #2, [signatory] must operate on the assumption that its supply chain is linked to the forced labour of Uyghur and other Turkic and Muslim-majority groups. Accordingly, [signatory] commits to take action to prevent the use of Uyghur Region-linked forced labour through the following steps:
  - a. Disengage from business relationships with any production facilities located in the Uyghur Region being utilised to make apparel and/or other cotton-based goods.
  - b. Disengage from business relationships with any supplier based outside the Uyghur Region that has subsidiaries or operations in the Uyghur Region that have accepted Chinese government subsidies or employed workers provided by the government, regardless of whether the products the supplier makes for [signatory] are produced in the Uyghur Region.
  - c. Disengage from business relationships with any supplier that has employed, at a workplace outside the Uyghur Region, workers from the Uyghur Region who were sent by the government. *[Signatory] may refrain from ending the relationship if a supplier stops this employment and remediation is provided as agreed with the Coalition to End Forced Labour in the Uyghur Region (see #1).* [Signatory] will direct all suppliers not to use government-provided labour sent from the Uyghur Region and will conduct verification via methods developed in consultation with human rights and labour organisations endorsed by the Coalition to End Forced Labour in the Uyghur Region.
  - d. Instruct all suppliers in China *and* globally to end, no later than the 365 days from [signatory] signing this Call to Action, all sourcing of all finished products or inputs produced in the Uyghur Region. [Signatory] will also instruct all suppliers globally to end their business relationships with any company that would be prohibited under A–C. [Signatory] will assist suppliers to identify alternate sources of finished products or inputs, where needed, so that suppliers can comply within the time-bound plan of no more than 365 days.
  - e. Disengage from business relationships with all suppliers in China *and* globally that do not agree to take the steps in D as outlined for *all* production, not solely for [signatory]'s purchase orders, and do not provide proof that it has done so.

These commitments remain in force until human and labour rights organisations, endorsed by representatives of the Coalition to End Forced Labour in the Uyghur Region, report that the human rights situation in the Uyghur Region has improved, forced labour has ceased, and preventive reforms have been implemented.



## Annex 2

The following brands and retailers have been linked to specific cases of forced labour of the Uyghur people: Abercrombie & Fitch; Adidas; Amazon; Calvin Klein; Costco; Esprit; Gap; H&M; Ikea; L.L. Bean; Lacoste; Nike; Patagonia; Polo Ralph Lauren; Puma; Skechers; The North Face; Tommy Hilfiger; Victoria's Secret; and Zara.

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