Responding to alleged Xinjiang forced labour

Findings from a database - Professor James Cockayne

Version 2.0, July 2021

This is the first comprehensive database of economic coercive measures adopted by countries in response to alleged forced labour in Xinjiang in the People's Republic of China – and the Chinese government's own counter-measures. The database provides insights into the source, target, type, timing, rationale and trends in these measures. The database, which will be updated as new measures are adopted, will assist policy actors and companies to understand what measures are in place, and to strengthen future policy and response design.

Key research findings

As of July 2021, the [Xinjiang Alleged Forced Labour Coercive Measures (XJAFLCM) database](#) includes 246 measures responding to alleged forced labour connected to Xinjiang, of which 199 are in force. (The remaining 47 measures have been proposed.) It also includes details of 55 counter-measures instituted by the People's Republic of China.

56% of measures in force originate from the US, but a coordinated effort over the last year has led to six other jurisdictions adopting coercive measures. One more is considering them.

The measures are targeted at 125 different targets – including both specifically named individuals, commercial entities and public bodies, and classes of actors. Yet 36% of the measures in force are targeted at just 4 individuals, and another 12% at 2 public bodies.

Import and export controls are the most common types of measure, followed less frequently by asset freezes and travel restrictions. But there is growing diversity in the types of measures being considered and used, including monetary penalties, business guidance, and due diligence rules.

However, the database also suggests a possible emerging shift in strategy: from *direct* targeting of Chinese Communist Party-linked individuals and entities, to an *indirect* strategy, targeting businesses that are commercially connected to the alleged system of Xinjiang forced labour. With the EU currently considering an import ban and mandatory human rights due diligence rules, and US authorities considering measures relating to the global solar energy supply-chain, this strategy seems likely to become more evident in the database in the months ahead.

This raises important questions that require further policy research, about the conditions in which such indirect and 'boycott' based approaches are likely to succeed in inducing policy change – and whether that is even the strategic goal of such measures.

Why is this important?

Xinjiang is the source of 20% of global cotton and 35 to 45% of global polysilicon, used in solar panels. Coercive measures may disrupt global trade in these goods. The XJAFLCM database will help policy, business and research actors identify and monitor the measures being adopted to respond to allegations of Xinjiang forced labour. This will help these actors:

- meet their compliance obligations,
- coordinate, and
- strengthen the effectiveness of response and policy design.

The database will also enable further policy research into the design, diffusion and impact of these measures. This will provide insights on:

- how global public policy measures are made and implemented, and
- how to strengthen the impact of these measures to reduce tolerance for and reliance on forced labour in global value chains.

Research overview

Multiple independent reports suggest that as many as one million people from Uyghur, Kazakh and other ethnic minorities have been arbitrarily detained in China's Xinjiang province in the last five years. Many of these people are allegedly accommodated in so-called 'political reeducation' and 'vocational training' centres. Many are allegedly forced to work – both in Xinjiang and elsewhere in China – on worksites supplying goods to global markets, notably in the cotton, tomato and solar panel supply-chains.[1]

In response, countries have begun adopting import bans, targeted sanctions and other economic coercive measures – binding instruments intended to cause the target some harm or economic loss with the purpose of inducing a change in policy or practices.[2] The Chinese government has also adopted its own counter-measures, sanctioning 55 different actors in 14 Western countries.

On 5 May 2021, G7 Foreign Ministers, noting with deep concern the "human rights violations and abuses in Xinjiang… especially the targeting of Uyghurs, members of other ethnic and religious minority groups, and the existence of a large-scale network of 'political re-education' camps, and reports of forced labour systems", called "on China to respect human rights and fundamental freedoms" and agreed "the importance of tackling instances of forced labour through our own available domestic means".[3]

On 13 June, G7 Heads of Government met in Carbis Bay, UK, and expressed concern over "the use of all forms of forced labour in global supply chains, including state-sponsored forced labour of vulnerable groups and minorities, including in the agricultural, solar, and garment sectors"[4], reiterating the need to take action in relation to Xinjiang by urging China "to respect human rights and fundamental freedoms".[5]

Since Xinjiang is the source of around 20% of global cotton and 35 to 45% of global polysilicon used in solar panels,

economic coercion measures might have the potential for a significant impact on global trade.

Yet while open source reporting of the coercive measures that governments have begun adopting has been extensive, there has been no public, centralised database of these measures available to date. This makes it difficult for policy actors and companies to identify what measures are in place, understand where they are reinforcing each other, and ensure effective policy and response design.

About the dataset

To address this gap, we built the first comprehensive, public database of such coercive measures, the ***Xinjiang Alleged Forced Labour Coercive Measures* database**. The database provides a comprehensive mapping of:

- Instruments proposed or adopted by official governmental bodies (i.e. not including corporate measures);

- In response to alleged forced labour of people in Xinjiang, and/or from Xinjiang in other provinces (often organized under the policy of 'Xinjiang Aid' (援疆));

- With the purpose of inducing a change in policy or practice connected to that alleged forced labour.

We identified these measures through extensive desk research. The purpose of a measure is determined through scrutiny of the instrument establishing the measure, and official statements made during or around its adoption. Thus, while M#245, an EU business guidance document, contains no explicit reference to Xinjiang, statements by European Commission officials make clear it was adopted in response to the Carbis Bay Communiqué.[6]

For each identified measure we coded:

- Date of proposal or adoption, and whether or not it is in force or merely proposed

---

[1] See e.g. Human Rights Watch, "Break Their Lineage, Break Their Roots": China's Crimes against Humanity Targeting Uyghurs and Other Turkic Muslims (New York, 19 April 2021); Vicky Xiuzhong Xu, Danielle Cave, James Leibold, Kelsey Munro and Nathan Ruser, *Uyghurs for sale: 'Re-education', forced labour and surveillance beyond Xinjiang.* Policy Brief, Report No. 26/2020 (Canberra: Australian Strategic Policy Institute, 2020); Laura Murphy and Nyrola Elimä, *In Broad Daylight: Uyghur Forced Labour and Global Solar Supply-Chains* (Sheffield, UK: Sheffield Hallam University Helena Kennedy Centre for International Justice, 2021).

[2] Alfred Cooper Drury, *Economic Sanctions and Presidential Decisions : Models of Political Rationality* (Palgrave Macmillan: 2005), p. 17.

[3] G7 Foreign and Development Ministers' Meeting: Communique, London, 5 May 2021, para. 14. Available at:

https://www.gov.uk/government/publications/g7-foreign-and-development-ministers-meeting-may-2021-communique/g7-foreign-and-development-ministers-meeting-communique-london-5-may-2021

[4] Carbis Bay G7 Summit Communiqué, London, 12 July 2021, para. 29. Available at: https://www.gov.uk/government/publications/carbis-bay-g7-summit-communique

[5] Carbis Bay G7 Summit Communiqué, London, 12 July 2021, para. 49. Available at: https://www.gov.uk/government/publications/carbis-bay-g7-summit-communique

[6] As reported by Politico China Direct, 15 July 2021.

- Origin of the measure (country; which body proposed or adopted the measure; formal source; legal basis)

- The target (name, identifying information, type)

- Official rationale

- Type of measure adopted

Each coercive measure is coded separately. Where an instrument provided for distinct sanctions (for example, two different types of sanction against a single individual), each is coded as a separate 'measure'.

Similarly, where an individual instrument was directed at more than one named individual, each measure (i.e. against each named individual) was coded separately.
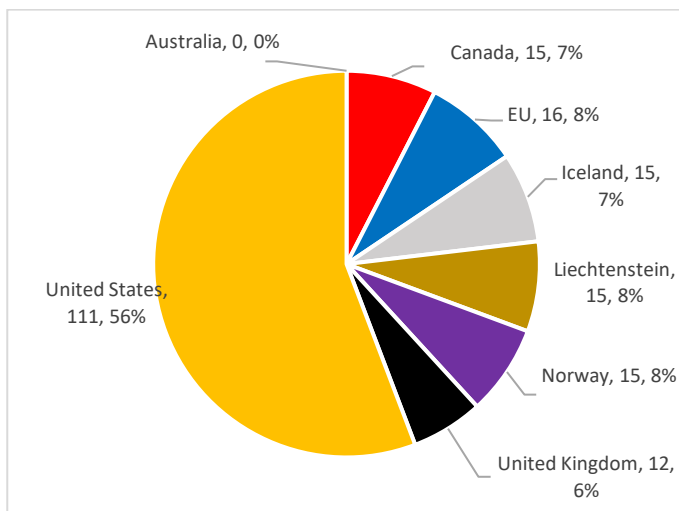
The database also includes a tab providing similar information about China's countermeasures, adopted since March 2021.

Overview of measures

At the time of writing (July 2021), the XJAFLCM database includes 246 measures – 199 in force, 47 proposed.

56% of measures in force have been adopted by the US. (*Fig. 1*.) The US has been a front-runner, adopting two measures in 2018, 30 in 2019, 58 in 2020 and 27 in 2021. The remaining measures have been adopted since 2020 by Canada, the EU, Iceland, Liechtenstein, Norway (each 8%) and the UK (6%).[7] (*Fig. 2*) Six jurisdictions (Australia, Canada, EU, Norway, UK and the US) are however now considering proposals for further measures, including a possible EU import ban.

Figure 1: Measures in force by jurisdiction

Figure 2: Year-on-year evolution of measures
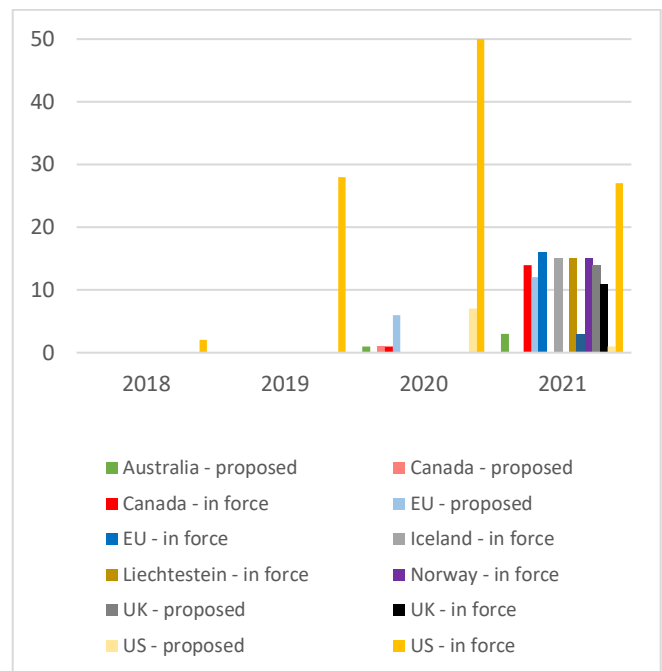
Import/export restrictions are the most popular type of measure in force (42%), followed by travel restrictions (22%) and asset or property retrictions (20%). Business guidance is less common (3%). There are also several other kinds of measures in place, including requiring business to sign an 'integrity declaration' (Canada) to suspension of investment deal negotiations (EU) (see *Fig. 3*). In contrast, amongst proposed measures, these more creative approaches are 47% of all those being considered, and monetary penalties for non-compliance are some 6% (cf 0% of those measures in force). (See *Fig. 4.*)
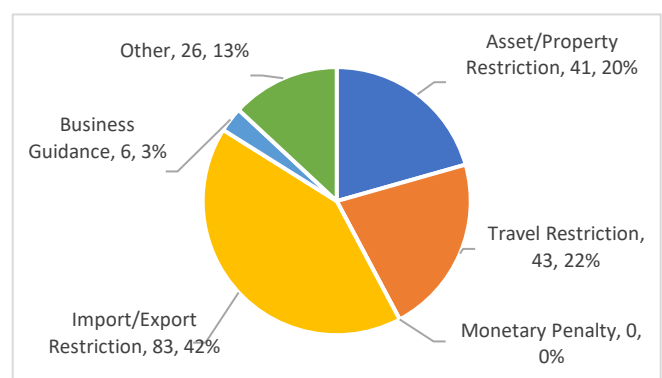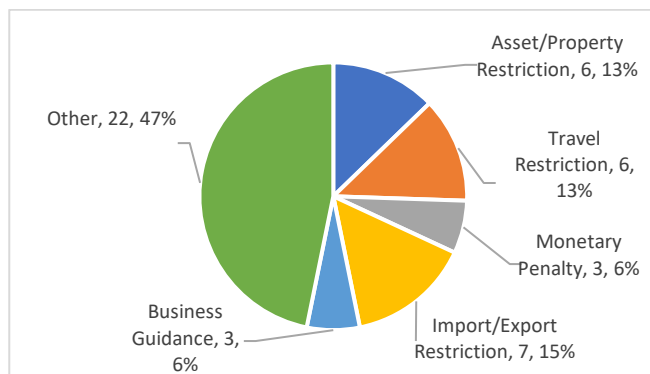
Figure 3: Measures in force, by type

---

[7] Iceland, Liechtenstein and Norway adopted coordinated measures on 22 March 2021, to align with measures adopted by the EU, pursuant to European Economic Area (EEA) obligations. Notably,

Switzerland, a member of the European Free Trade Area but not the EEA, has not yet followed suit.

Figure 4: Measures proposed, by type

While there are 246 measures, there are 125 different targets identified. 29% of all measures in force are targeted at just four individuals: CHEN Mingguo (陈明国), WANG Junzheng (王君正), WANG Minshang (王明山) and ZHU Hailun (朱海仑). And while 77 different corporate and public entities have been named, two entities account for around 9% of all measures in force – the Xinjiang Production and Construction Corps (新疆生产建设兵团) and the Xinjiang Production and Construction Corps Public Security Bureau. The 'Rationales' for these measures indicate all are believed to have been heavily involved in the organisation and management of the Xinjiang forced labour system.

Trends

The measures have been adopted in 4 main episodes. Initially, in 2018 US Customs and Border Protection adopted isolated Withhold Release Orders (WROs), detaining goods from Xinjiang under authority of the *Tariff Act 1930*, s. 307. Against the backdrop of growing US-China trade disputes, however, the US government adopted an array of import and export control measures.

Second, the US government further expanded its targeted sanctions in July 2020. Other jurisdictions also began adopting measures, commencing with Canada. An array of proposals were considered, and some adopted, in the second half of 2020, before coordinated targeted measures were adopted by the US, UK, Canada, EU and EEA partners between January and March 2021.

Third, China responded by adopting its own counter-measures in March and April 2021, imposing targeted sanctions on 42 individuals and entities from 14 countries, including MPs and MEPs. (See *Fig. 5*) In July it expanded this targeted group to 55.

Fourth, the US led a push around the G7 meeting in the UK in June 2021, which led to the adoption of a range of measures in June and July 2021. During this period US Congressional actors also began signalling they would expand scrutiny of alleged connections between the solar energy supply-chain and alleged Xinjiang forced labour.

Figure 5: Chinese countermeasure – target locations
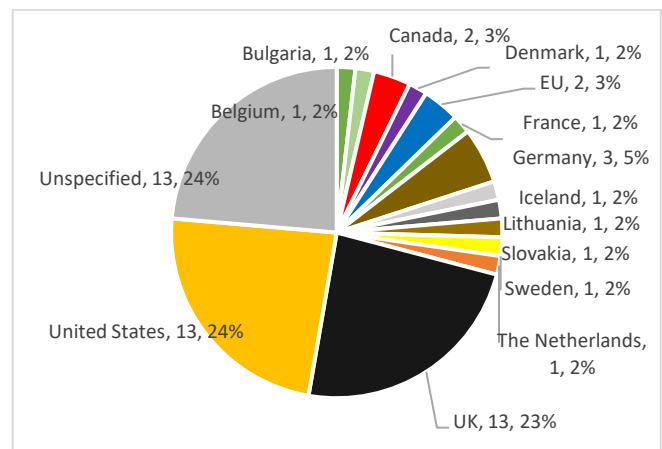
The database also suggests that the adoption of measures over the last year has become more coordinated, with most jurisdictions adopting measures targeting a small set of individual and corporate entities.

However, there is also evidence of growing variance in the *types* of measures deployed, and of further diversification yet to come (as reflected in the measures that have been proposed but not yet put in force). Different jurisdictions are using different legislative and regulatory tools available to them. This includes growing interest in use of monetary penalties, business guidance, due diligence and disclosure rules, and other corporate regulatory tools, to change the policy and practice not of CCP entities or even commercial entities in PRC, but of commercial entities operating in the jurisdiction adopting the measure.

This suggests a shift from a strategy of *direct* coercion of CCP entities to one of *indirect* coercion, influencing entities doing business with Xinjiang and with entities that may be relying on forced labour from Xinjiang. With the EU currently considering an import ban and mandatory human rights due diligence rules, and signals that the US Congress may consider measures relating the global solar energy supply-chain, this strategy seems likely to become more evident in the database in the months ahead.

This raises important questions that require further policy research, about the conditions in which such indirect and 'boycott' based approaches are likely to succeed in inducing policy change – and whether that is even the strategic goal of such measures.

The database will assist with efforts to answer these questions by enabling further policy research into the design, diffusion and impact of these measures. This will provide insights not only on how global public policy measures are made and implemented, but also potentially on how to strengthen the impact of these measures to reduce tolerance for and reliance on forced labour in global value chains.

July 2021