

## Congressional-Executive Commission on China

### **Hearing: “Factories and Fraud in the PRC: How Human Rights Violations Make Reliable Audits Impossible”**

**Testimony: Jim Wormington, Senior Researcher and Advocate on Corporate Accountability,  
Human Rights Watch**

**April 30, 2024**

Dear Congressman Smith, Senator Merkley, honorable Members of the Commission, thank you for the invitation to appear before you today.

#### **The Car Industry Illustrates the Links between Global Supply Chains and Forced Labor in Xinjiang**

The essential context for this hearing is the longstanding connection between major global industries and the Chinese government’s human rights violations, including state-imposed forced labor programs targeting ethnic Uyghur and other Turkic groups. Human Rights Watch and other organizations have documented the links between forced labor programs in the Xinjiang Uyghur Autonomous Region (the Uyghur Region, or Xinjiang) and global supply chains, from the [cotton](#) in clothes and textiles, the [polysilicon](#) in solar panels, to the minerals and metals in both electric and gas-powered [cars](#).

The car industry provides a compelling example of the links between global supply chains and the Chinese government’s abuses in Xinjiang. Domestic and foreign manufacturers in China produced and exported more cars than any other country in the world in 2023. Chinese companies also produce and export billions of dollars of parts used by global carmakers, from electric vehicle batteries to alloy wheels. Many of the industry’s biggest brands use China as a manufacturing and supplier base, a vital sales market, or both.

Companies manufacturing cars or sourcing parts from China risk exposure to the government’s forced labor programs. Human Rights Watch released a report in February 2024 describing the links between aluminum, a vital material for car manufacturing, and forced labor in Xinjiang. Close to 10 percent of global aluminum is produced in Xinjiang, and our research showed that aluminum producers in the region, and the coal mines and coal plants that supply them, have participated in coercive labor transfers, a form of state-imposed forced labor. Aluminum from Xinjiang is shipped out of the region, melted down, and used to make aluminum alloys and aluminum products and used by car manufacturers and other industries. International commodities traders also continue to purchase and trade aluminum from Xinjiang, further obscuring the links between Xinjiang and global supply chains.

Global carmakers are currently doing too little to address the risk of Uyghur forced labor in their aluminum supply chains. In our February 2024 report, we examined the aluminum sourcing policies and practices of five major carmakers – BYD, General Motors, Tesla, Toyota, and Volkswagen. We found problems in all five companies’ sourcing practices, ranging from a lack of knowledge of the origin of the aluminum in their cars to a failure to take responsibility for joint ventures’ sourcing practices.

Volkswagen, for example, which holds 50 percent of the equity in its joint venture with SAIC, a Chinese state-owned carmaker, has sought to downplay its responsibility for human rights impacts in its joint venture's supply chain. Volkswagen contends that, under German law, the company is only legally required to address human rights impacts in the supply chains of subsidiaries in which it has "decisive influence," which it says excludes SAIC-VW.

German government guidance, however, sets out a range of criteria for determining whether a company has "decisive influence," including "whether the subsidiary manufactures and exploits the same products or provides the same services as the parent company." SAIC-Volkswagen manufactures cars for the Chinese market under the Volkswagen brand. The law also applies to Volkswagen's direct suppliers, which could include SAIC-Volkswagen.

Companies in joint ventures also have a responsibility under the United Nations Guiding Principles on Business and Human Rights (the "UN Guiding Principles") to use their leverage to address the risk of forced labor in the joint venture's supply chain. Volkswagen has said the company "assumes responsibility ... to use its leverage over its Chinese joint ventures to address the risk of human rights abuses." But when asked about potential links between SAIC-Volkswagen and an aluminum producer in Xinjiang, Volkswagen responded: "We have no transparency about the supplier relationships of the non-controlled shareholding SAIC-Volkswagen."

General Motors and Toyota, which also operate through joint ventures in China, did not provide written responses to our questions about their oversight of Chinese joint ventures, supply chain mapping, or the origin of their aluminum. General Motors instead said, "GM is committed to conducting due diligence and working collaboratively with industry partners, stakeholders, and organizations to address any potential risks related to forced labor in our supply chain." BYD also did not respond to questions about its efforts to address forced labor in its supply chain.

Tesla, which builds cars for China's domestic market and for export at its Shanghai Gigafactory, said that it had "in several cases" mapped its aluminum supply chain and had not found evidence of forced labor. However, the company did not specify how much of the aluminum in its cars remains of unknown origin.

Our research concluded that all five companies need to do more to map their supply chains for aluminum parts and identify and address potential links to Xinjiang. Confronted with an opaque aluminum industry and the threat of Chinese government reprisals for investigating links to Xinjiang, carmakers in many cases remain unaware of the extent of their exposure to forced labor.

### **Credible Social Auditing is Not Possible in Xinjiang**

The term [social audits](#) refers to a broad range of third-party inspections that purport to assess a company's compliance with specified human rights, labor, or environmental standards. The term is [frequently used](#) to refer to factory audits designed to assess labor conditions at the facility under inspection.

The risk of links to Uyghur forced labor in supply chains has led some companies, in the car industry and other sectors, to look to social audits to investigate labor conditions at factories in Xinjiang. Volkswagen, for example, in 2023 commissioned an audit of the risk of forced labor at the Xinjiang plant operated by a subsidiary of SAIC-Volkswagen.

The inherent limitations of social audits, however, and the threats to auditors and workers in Xinjiang, mean that companies should not commission or rely on audits in the region.

[Human Rights Watch](#) and [other organizations](#) have documented the limitations of factory audits in identifying labor abuses, including forced labor globally. Common problems include the inadequate time on the ground to conduct the audit; failures to interview workers offsite in safe settings; conflicts of interests between the audit firm and paying clients; and successful efforts to deceive auditors by hiding actual working conditions.

The inherent problems of factory audits are exacerbated in Xinjiang, where the Chinese government's brutal repression means there is no valid means to verify that any workplace in the region is free of forced labor. Threats to workers in Xinjiang mean that interviews with workers, which are essential to the methodology of any labor or human rights investigation, cannot generate reliable information. The government's use of extrajudicial detention, torture, and enforced disappearances, as well as mass and intrusive surveillance, mean any victim of forced labor would and should assume that providing truthful testimony to an auditor would result in government retaliation. At [least five international audit firms](#) had by 2020 determined they would no longer conduct audits in Xinjiang.

Volkswagen's 2023 audit of the Xinjiang plant, overseen by a firm run by Markus Löning, Germany's former commissioner for human rights, exemplifies the pitfalls of auditing in Xinjiang. Löning [said](#) in December 2023, when the audit was released, that "we could not find any indications or evidence of forced labor" at the plant and stated that "we conducted 40 interviews and were able to freely inspect the factory." He later [admitted](#), however, that the main basis for the audit, which was conducted by a Shenzhen law firm with support from Löning, had been a review of documentation rather than interviews, which he said could be "dangerous." He also said that "even if they [workers] would be aware of something, they cannot say that in an interview."

Despite these flaws, the release of the Volkswagen audit resulted in MSCI, a financial rating agency, [removing](#) a "red flag" rating for the company's stock. On March 12, 2024, and following the release of the audit report, Human Rights Watch and 61 Uyghur, human rights, and labor organizations issued a [statement](#) calling on consultancies and auditors to immediately cease providing services in the Xinjiang Uyghur Autonomous Region. The statement also called on companies not to commission audits in the region, to exit the Uyghur Region at every level of their supply chains, and cease doing business with suppliers implicated in Uyghur forced labor.

### **Supply Chain Due Diligence Audits throughout China are Highly Problematic**

Stopping the use of audits at factories in Xinjiang is not, however, enough to address the role of audits in enabling links between global supply chains and Uyghur forced labor. Other organizations have documented how audits in other regions of China, including in the [seafood industry](#), have failed to identify the presence of Uyghur forced labor at factories. In addition, companies frequently use "supply chain due diligence" audits of suppliers outside Xinjiang as a tool to verify whether suppliers have processes in place to avoid sourcing materials or products from Xinjiang and other high-risk regions. Supply chain due diligence audits, however, are still constrained by the threat of Chinese government reprisals against auditors or their sources, creating obstacles for auditors seeking to safely investigate companies' supply chain links to forced labor.

Supply chain due diligence audits, rather than looking at labor conditions at the supplier’s factory, instead or in addition consider whether the company has adequate responsible sourcing policies and practices to identify the source of its materials and products and to address the most important human rights and environmental risks in its supply chain. The audits frequently assess companies against supply chain due diligence standards such as the Organisation for Economic Co-operation and Development (OECD)’s [Due Diligence Guidance for Responsible Business Conduct](#) and the OECD [Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas](#).

The Chinese government’s hostility to scrutiny of its treatment of Uyghurs makes it difficult for auditors conducting supply chain due diligence audits to investigate whether companies are effectively identifying and eliminating potential supply chain links to Xinjiang. The government has harassed companies or individuals that assist businesses to investigate their potential links to human rights abuses in China, including forced labor in Xinjiang. In March 2023, Chinese police [closed the Beijing office](#) of the consulting firm Mintz and detained five of its Chinese staff for questioning. Media [reported](#) that Mintz had conducted corporate due diligence work related to forced labor and supply chains in Xinjiang. In April 2023, a [state news report](#) stated that national security officials had penalized a Chinese national under counter-espionage laws for assisting a nongovernmental organization in labor rights investigations related to Xinjiang. Executives at other consulting firms told [reporters](#) in May 2023 that the government has warned them against conducting due diligence work related to Xinjiang.

The Chinese government in April 2023 also [passed](#) an expanded counter-espionage law that experts have warned could increase the government’s power to investigate and prosecute foreign firms conducting research on local markets and business partners. In 2021, the Chinese government also [enacted](#) several anti-sanctions laws that could put companies with assets and personnel inside China at risk of sanction from Chinese regulators – or subject to civil liability – for taking actions to implement foreign laws such as the Uyghur Forced Labor Prevention Act. Companies are also concerned that, were their efforts to tackle forced labor in Xinjiang to become public, their business might be boycotted by Chinese consumers. In 2021, the decision by clothing company H&M to stop using cotton from Xinjiang [led to its removal](#) from Chinese online retail platforms as well as attacks on social media.

Human Rights Watch’s research on aluminum illustrates the limitations of audits in assessing whether Chinese suppliers are sourcing responsibly and avoiding the risk of links to Uyghur forced labor. Our research examined in detail the Aluminium Stewardship Initiative (ASI), an audit program that assesses and “certifies” suppliers against social and environmental standards, including their responses to forced labor. Several car companies, including BMW, Mercedes, Tesla, and Volkswagen, refer to suppliers’ audits under ASI as part of their efforts to source aluminum responsibly. ASI has not certified smelters in Xinjiang, but it has given manufacturers of aluminum products elsewhere in China a passing grade for their sourcing practices even where evidence suggests those companies may have sourced aluminum from Xinjiang.

Chalco Ruimin, a subsidiary of state-owned aluminum producer Chinalco, is one of the companies certified by ASI. Chalco Ruimin’s products include aluminum alloys and sheets for the automotive industry. There is evidence that Chalco Ruimin has sourced aluminum from Xinjiang. Xinjiang Zhonghe, a Xinjiang-based smelter, stated in 2021 and 2022 that it supplies aluminum products to Chalco Ruimin. Xinjiang Zhonghe stopped disclosing its downstream customers in 2023. As a member of the Chinalco group, Chalco Ruimin may also source aluminum from other Chinalco entities. Chinalco’s trading arm has purchased aluminum from Xinjiang.

Although ASI's audit standards include criteria assessing companies' human rights and supply chain due diligence, the summary audit reports certifying Chalco Ruimin against ASI's standards contained no reference to Uyghur forced labor. ASI told Human Rights Watch that the auditor found "no critical human rights issues regarding child labor or forced labor" and stated that "Specific reference to 'Uyghur forced labor' was likely not incorporated in the audit report due to political sensitivities in China on this specific issue." The Chalco Ruimin policies that the auditors relied on to assess the company's sourcing, including the company's human rights impact assessment, also contained no reference to Uyghur forced labor and very little detail on how the company maps its supply chain to identify human rights risks.

The failure of both the summary audit report and the company's underlying sourcing policies to explicitly address the risk of Uyghur forced labor exemplifies the limitations of auditing in China. Kendyl Salcito, an aluminum industry expert who sits on ASI's Standards Committee and whose nongovernmental organization, NomoGaia, co-authored a Sheffield Hallam University report on Uyghur forced labor in automotive supply chains, told Human Rights Watch that using the political sensitivity of China's violations in Xinjiang as a reason not to discuss forced labor in audit reports "gives the Chinese government carte blanche to quash discussion of abuses in the Uyghur region. If auditors can't document links between aluminum producers and forced labor, how can ASI credibly claim to be auditing forced labor risks?" Salcito acknowledged ASI is in a "difficult position," because China's dominant role in primary aluminum production means that, "in order to be globally relevant, ASI needs to engage with Chinese operators," but expressed concern that the challenges of auditing in China, especially the Chinese government's hostility to auditors or auditees discussing Uyghur forced labor, made it very difficult for ASI to credibly assess whether Chinese companies are taking adequate steps to eliminate links to Xinjiang.

ASI, in response to Human Rights Watch's reporting on aluminum and Xinjiang, stated in [February 2024](#) that it "firmly rejects HRW's characterization of ASI as a 'flawed' scheme with a failure to meaningfully investigate ... risks of links to forced labour." ASI acknowledged that, "auditing human rights risks in many contexts is challenging," but stated "that doesn't make the process 'inherently flawed' or worthless. The alternative is either nothing, or some other process of inquiry which will face the same challenges." ASI also noted that the companies referenced in Human Rights Watch's report willing be subject to follow-up audits in 2024 and that the auditors in question had been informed of Human Rights Watch's concerns on forced labor.

### **Audits are not a Solution to Forced Labor**

The limitations of social audits, the impossibility of conducting audits in Xinjiang, and the growing concerns about the obstacles to credible audits in the rest of China mean that companies should not rely on audits either as evidence of the absence of forced labor at specific factories or as proof that a supplier is sourcing responsibly. Companies should instead map their supply chains and responsibly disengage from joint ventures, subsidiaries, or suppliers who continue to operate in or source materials or products from Xinjiang.

The continued links, however, between car companies and forced labor in Xinjiang, including the problematic role of audits in obscuring forced labor risks, makes it vital to increase congressional and executive oversight over the auditing and automotive industry.

To that end, Human Rights Watch respectfully urges that Congress:

- Hold hearings requesting executives at major audit firms and certification schemes to testify about the challenges of auditing in China, including but not exclusively in Xinjiang, and to describe the efforts they are taking to ensure their audits are not used to obscure or enable links to forced labor and other human rights violations in China.
- Hold hearings requesting car company executives to testify about the risk of Uyghur forced labor in their supply chains, including their joint ventures, and their efforts to respond to that risk. These hearings could build on the Senate Finance Committee’s ongoing investigation into links to Uyghur forced labor and global carmakers.
- Hold hearings requesting executives at major international commodities traders, including Glencore and Trafigura, to testify about whether their firms source aluminum and other materials in Xinjiang, as well as other areas with high risks of links to human rights abuses, and the efforts the traders take to address the risk that they are purchasing and selling materials or products linked to forced labor and other human rights abuses.
- Write to the Forced Labor Enforcement Task Force to request that it make aluminum a “high-priority sector” under the Uyghur Forced Labor Prevention Act.
- Enact legislation that requires companies sourcing materials with a high risk of links to Xinjiang, such as cotton, polysilicon and aluminum, to disclose their supply chains to the raw material level to demonstrate that they are sourcing from outside Xinjiang.