



Business and Human
Rights Compliance

C4ADS
innovation for peace

FRACTURED VEINS REPORT

A Six-Month Review

11 April 2024

Executive Summary

In October 2023, C4ADS – a U.S.-based non-profit investigative and research organisation — published its **Fractured Veins** report (the Report, available [here](#)). The Report relies on publicly available mining licences and Chinese corporate data to map the **gold mining** and **processing** industry in China's Xinjiang Uyghur Autonomous Region (XUAR), and its ties to global supply chains and financial systems.

At the six-month anniversary of the Report's launch, C4ADS and Global Rights Compliance (GRC) — an international human rights legal practice based in the UK and the Netherlands that specialises in business and human rights — are returning to the Report to assess how its findings have been leveraged in the sector, and to provide specific recommendations that will support the private sector and government actors in better implementing responsible mineral sourcing practices.

The Report's findings offer an alarming analysis of the **unavoidable links** between **state-sponsored forced labour** in **XUAR**-based mines and refineries, **global supply chains**, and **international investment**. The Report implicates global companies, including notable U.S. companies like Apple and Tesla, that are inadvertently exposed to forced labour-tainted gold through the global reach of their supply chains. Other industry stakeholders, such as certification schemes and regulators, play a significant role in creating an enabling environment for companies with operations in XUAR to trade gold sourced from the region with Western companies. This is problematic as they endorse companies' social and environmental standards, irrespective of well-documented ties to widespread state-sponsored human rights abuses. Follow-on analysis by C4ADS indicates that this problem most significantly implicates companies in the technology and electronics sector, particularly those in North America and the European Union (EU) — home to countries that are increasingly creating and enforcing anti-forced labour supply chain legislations.

To remediate these issues, C4ADS and GRC have developed a full set of **tailored recommendations** that **call** for the adoption of a **human rights-centred approach** to prevent industry actors from further facilitating state-sponsored forced labour in XUAR. With this six-month review in mind, this brief addresses the important **next steps** that **companies**, **investors** and **certification organisations** need to take to establish whether there are risks of forced labour or other human rights violations across their business activities, and to ensure compliance with the Organisation for Economic Cooperation and Development (OECD) Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights (UNGPs) and domestic legislation such as the Uyghur Forced Labor Prevention Act (UFLPA).

Background to the Report

Since 2007, the People's Republic of China (PRC or China) has positioned itself as the **largest gold producer** in the world. In 2021, XUAR was China's sixth gold-producing region, with a yearly production of over 11 tons. Mining license data and corporate records indicate that **4 out of 10** of the **top gold companies** in the **PRC own gold mines in XUAR**. In XUAR, the mining and associated downstream industries accounted for 43% of the regional gross product in 2020. Apart from gold, the Report highlights that XUAR also produces a large amount of PRC's gas, copper, nickel, lithium, iron, and steel.

Human rights organisations¹ have documented the widespread use of state-sponsored forced labour in XUAR as well as other human rights violations and international crimes, such as torture, arbitrary detention, sexual violence, forced sterilisation, mass surveillance, and destruction of language and cultural heritage. As part of this broad repressive campaign, major Chinese companies, including state-owned enterprises (SOEs) operating mines and refineries in the region through their local subsidiaries, implement and enforce government assimilation policies and forced labour transfer programs against the Uyghurs and other Turkic Muslim peoples.

The Report reveals that, at the time of its publication, global commodity markets are exposed to forced labour-tainted gold sourced from XUAR.² Specifically, the Report identifies many international companies that conduct business activities in partnership with larger Chinese SOEs headquartered inside or outside XUAR that are complicit in state-sponsored forced labour, e.g., Xinjiang Nonferrous Metal Industry Group, Zijin Mining, Shandong Gold Group and Zhaojin Gold Group. These companies include Apple, Tesla, Mattel, Starbucks, and Sony, among hundreds of others.³

¹ See UN High Commissioner for Human Rights, "OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China", 31 August 2022, available [here](#); International Labour Organization, "Application of International Labour Standards 2022: Report of the Committee of Experts on the Application of Conventions and Recommendations", 2 October 2022, available [here](#).

² The Report acknowledged that it only presented a snapshot of the mine locations and ownership as of early 2023. It is important to note that these dynamics are constantly evolving. The Report has not captured new developments since its publication, including new mines, change of owners, or renewal or expiration of mining licenses.

³ Despite promoting responsible sourcing practices and supply chain transparency, these reports are unable to determine the full list of refineries and country of origin of all minerals in their products. Yet, the known list of refiners and associated parent companies have been linked to media reports and self-disclosures highlighting their involvement in state-sponsored labour transfer programs and assimilation practices, posing a significant risk indicator for forced labour.

Key Findings

Global Supply Chains

The Report exposes the scale of XUAR's mining sector. It revealed how gold mined and processed by some of China's largest gold companies using Uyghur forced labour **enters the global market**, including the U.S. market, at scale.

In addition to the evidence of specific instances of forced labour in XUAR gold mines, Chinese companies — and those specifically based in or linked to XUAR — are presumed to be involved in carrying out the PRC's state-sponsored forced labour programmes.

- ▶ Many of the gold mines in XUAR are **owned** by **local subsidiaries** of **major Chinese companies**, both headquartered inside or outside of XUAR.
- ▶ Many of these Chinese companies are SOEs, owned by either the **XUAR local government** or Xinjiang Production and Construction Corps (XPCC), a **paramilitary corporate conglomerate** that holds thousands of companies in XUAR and plays a key role in implementing PRC's policies against Uyghurs.
- ▶ SOEs are **likely to align with the PRC's massive campaign of repression** targeted at Uyghurs and other Turkic Muslim peoples.

This has implications on all companies trading gold on international markets, exposing them directly or indirectly to (1) the risk of buying gold or other minerals tainted by forced labour and supporting these forced assimilation programmes; and (2) to enforcement action under the UFLPA or other pending laws and policies intended to stop the trade of goods produced by forced labour.

The U.S. Congress enacted the UFLPA in December 2021 to prevent international companies from profiting from forced labour-tainted trade. This legislation introduced a ban on goods — wholly or in part — manufactured or produced in XUAR from entering the U.S. unless there is **clear evidence** these goods were **not made using Uyghur forced labour**. This creates a **responsibility** for the **importer** to demonstrate that, throughout its entire supply chain, goods from the region (from raw material to fully manufactured goods) were not mined, produced, or manufactured using Uyghur forced labour.

Since its implementation in June 2022, the UFLPA has denied shipments totalling US\$624 million due to suspected ties to Uyghur forced labour in XUAR.⁴ Of this amount, US\$59 million is attributed to industries such as industrial and manufacturing materials, machinery, automotive and aerospace, and base metals and electronics.

⁴ The UFLPA Statistics Dashboard shares shipment statistics subjected to UFLPA enforcement actions since the law went into effect. See U.S. Customs and Border Protection, "Uyghur Forced Labor Prevention Act Statistics", 13 February 2024, available [here](#).

Investments

C4ADS revealed crucial aspects of the global financial structures that support the gold mining industry in XUAR. The dual nature of many Chinese mining companies — they are predominantly SOEs controlled by or tied to either the XUAR government or the XPCC while being publicly traded on international stock exchanges — makes them **accessible not only to Chinese investors but also to international investors**.

Moreover, as a commodity, gold is traded on various international gold exchanges, including the Shanghai Gold Exchange (SGE).⁵ C4ADS also examined Chinese mining companies' links to commodities markets and identified alarming findings, namely:

- ▶ Chinese corporations with a **direct XUAR footprint sell their gold on the SGE**, which may include international companies.
- ▶ Prominent international financial institutions, including the United Overseas Bank, JPMorgan Chase, BNP Paribas, and HSBC, are recognised as **members of the International Board** on the SGE. As members, they can engage in gold trading.
- ▶ The **XUAR provincial government** is listed as one of the SGE's **strategic partners**.

While the UFLPA has introduced a forced labour-tainted **rebuttable presumption** on goods produced in XUAR, the Report revealed a significant **legislative gap** related to **investments**. The UFLPA does not restrict investments in companies registered in or involved in manufacturing and producing goods in XUAR.

The Report identified the SOE **Xinjiang Nonferrous Metal Industry Group**, which controls gold mines in XUAR through its subsidiary, Western Region Gold. Evidence of forced labour and safety hazards at Western Region Gold's mines in XUAR has resulted in dozens of deaths.

In 2021, **Western Region Gold** mined 2.31 tons of gold, which placed it among the top ten Chinese gold producers. Western Region Gold is publicly listed on the SGE, indicating its ability to engage in trade with international companies. This allows it, in turn, to **profit from the sales of gold tainted by forced labour** and **makes international companies complicit** in these human rights violations.

C4ADS identified index funds managed by well-known investment management companies and retirement funds, such as Vanguard, State Street Global Advisors, Blackstone, and CalPERS. Their investment portfolios include companies with a XUAR footprint associated with forced labour. The C4ADS investigation casts doubt on their investment practices, prompting a call for increased investor awareness and the need for responsible investment practices.

⁵ The SGE aims to facilitate the trade of gold and linked products domestically and internationally.

Accrediting and Certification Schemes

The London Bullion Market Association (LBMA), alongside key players like the Responsible Mineral Initiative⁶ (RMI) and the World Gold Council,⁷ is pivotal in regulating and advancing standards and practices for trading minerals worldwide. Operating as an international trade association overseeing the London Bullion Market, the LBMA⁸ accredits refiners as responsible suppliers through its Good Delivery List. As a result, the LBMA plays a **crucial role in bolstering the credibility of mineral suppliers**, including those that source minerals from XUAR. Despite the seemingly rigorous nature of these certification organisations and third-party processes, the Report highlighted the following points:

- ▶ Companies, accreditors, and regulators **failed to recognise XUAR** as a **high-risk area**.
- ▶ **LBMA and RMI continued to accredit refineries⁹** owned by companies whose gold mines are located in XUAR, and which are ultimately implementing PRC repressive policies against the Uyghurs and other Turkic Muslim peoples.
- ▶ A **significant discrepancy** exists between **the declared objectives** of ensuring responsible practices and enhancing human rights standards and the **actual impact** of the accreditation processes, as they create an enabling environment for companies with a XUAR footprint to conduct business and trade. This is both a failure of LBMA's due diligence processes and a **global failure of policy and governance**.
- ▶ The industry inadvertently misrepresents its ethical reputation by presenting refiners as trustworthy and responsible business partners. This gives rise to a **false sense of security** among investors, companies, and other stakeholders like consumers, who rely on accreditations to **make informed decisions**.

In December 2022, Leigh Day, a UK-based law firm, filed a legal complaint before the High Court in London against LBMA for alleged human rights abuses. The claimants asserted that, despite a long history of systematic and serious human rights abuses in and around the Tanzanian mine of North Mara, including a 2019 incident in which security forces killed two miners, the LBMA wrongly certified (and continues to certify) gold sourced from the mine as good delivery under its "Responsible Gold" standard.¹⁰ This indicates the urgent need for accrediting bodies like the LBMA to strengthen its certification process to ensure that suppliers with direct or indirect ties to human rights abuses do not receive accreditation.

⁶ The RMI has an active and conformant status list, certifying companies after evaluating their sourcing practices, due diligence processes, transparency, and environmental and social performance. Their list includes several Chinese companies, including at least one mentioned in the Report with a XUAR footprint, Shandong Gold Mining Co.

⁷ The WGC certifies gold producers that conform to their Conflict-Free Gold Standard. Under this standard, producers must assess and provide assurances that extracted gold does not cause, support, or benefit from unlawful armed conflict or contribute to serious human rights abuses or breaches of international humanitarian law. Compliance with the standard is externally assured.

⁸ During the evaluation process for the Good Delivery List, refiners must meet criteria established under the LBMA's responsible sourcing program, which is designed to counter human rights abuses in the global gold mining industry.

⁹ This includes Shandong Gold Mining Co. Ltd., Zhaojin Mining Industry Co., and Zijin Mining Group.

A Six-Month Review

Since its release in October 2023, the Report has received **contrasting reactions from the public and private sectors**. Government officials and policymakers across North America and Europe have been briefed and informed on the Report's findings. Initial reception indicates the Report will be used to implement further policy and law enforcement actions across jurisdictions, which may include increased detention of goods, Entity List additions, and enforcement legislation surrounding minerals due diligence.

The Report's findings were also highlighted in public testimony to the U.S. House of Representatives, evaluating the U.S. Department of Homeland Security's (DHS) efforts to counter Uyghur forced labour. This led the U.S. Select Committee on the Chinese Communist Party (USCC) to later request the DHS leverage the Report's findings to direct enforcement of the UFLPA. Specifically, the USCC highlighted the urgent need to broaden the UFLPA Entity List "to include numerous companies and entities located outside the XUAR because of the affiliation to companies and entities in the region, particularly those involved in the seafood, gold, and critical minerals industries."¹¹

However, the private sector has not reciprocated the positive reception demonstrated by government enforcement actors. Initial indications show companies may be unprepared for subsequent enforcement and legislative actions, such as the detention of goods, Entity List additions or strengthened due diligence and transparency requirements. In private sector briefings, it became apparent that companies are overly reliant on accreditors like the LBMA to provide guidance on responsible refiners, particularly given unclear national and international guidance on interpreting the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas (CAHRAs). Notably, in this context, the EU's CAHRAs List does not include XUAR or China as high-risk areas.¹²

Moreover, certification and accreditation organisations, like the LBMA, continue to accredit Chinese mining companies named in the Report and have not taken steps to suspend current certifications to companies with affiliations to XUAR. These entities also continue to have conformant status with the RMI and are members of the World Gold Council. This is deeply concerning, as many businesses in the gold industry rely on these certification schemes to identify trustworthy and responsible suppliers. These varied responses reveal that private companies, investors, and accreditors have yet to take sufficient action to disengage from supply chains and investments linked to state-sponsored Uyghur forced labour — leaving themselves open to enforcement action.

As such, GRC and C4ADS are **providing updated, detailed recommendations** from the Report that, if implemented, can better align government and private practices to end forced labour in XUAR.

¹⁰ Leigh Day website, "Legal action served against London Bullion Market Association following alleged human rights abuses at Tanzanian gold mine," 15 August 2023, available [here](#); Leigh Day website, Barrick Gold, available [here](#). The complaint was still pending when this paper was published.

¹¹ U.S. Congress, "Letter to Secretary Mayorkas, U.S. Department of Homeland Security", 19 January 2024, available [here](#).

¹² European Union, "Indicative, non-exhaustive list of conflict-affected and high-risk areas under Regulation 2017/821", available [here](#).

Next Steps: Practical Guidance for Private Actors

Building on the Report's findings, **we recommend** that **companies, investors, and certification organisations** take the following steps:

For Companies

IDENTIFY AND ASSESS

- ▶ Companies should undertake a comprehensive **factual analysis** and **trace** their supply chains from extraction to the sale of products to **assess exposure** to products mined, produced, or manufactured wholly or in part in **XUAR**.
- ▶ Given the state-sponsored nature of forced labour in XUAR and the fact that Chinese companies implement forced labour transfers and assimilation programs locally, companies should **presume** that **all gold** extracted and processed and **all derivative products** produced and manufactured in XUAR, are **tainted by forced labour**.
- ▶ Companies should refer to **alternative sources of information**, including human rights defenders, civil society, and independent expert resources, to accurately assess human rights impacts on the ground. This is particularly important as conducting credible due diligence through conventional means, such as social audits, is **impossible** due to the limited access to workplaces and the level of repression and surveillance workers are subjected to in XUAR.

TAKE ACTION

- ▶ Companies should typically exercise their **leverage** when they have identified adverse human rights impacts in their impact assessment. **However**, given the severity of the adverse impacts — especially those associated with the **state-sponsored nature** of forced labour in XUAR, **companies do not have the leverage to effect change** among suppliers with a XUAR footprint. There are no valid means for a company to ensure a supplier operating in XUAR is not sourcing forced labour-tainted minerals, as these state-sponsored practices are broadly implemented in the region. Only when the company is sourcing from an intermediary operating outside XUAR that sources from XUAR can companies use leverage to encourage intermediaries to shift to responsible suppliers.
- ▶ Companies should **immediately disengage** from suppliers in XUAR. It is crucial that companies recognise that failure to respond promptly to these calls of action carries legal ramifications and reputational and financial risks to companies.
- ▶ According to the OECD guidelines and UNGPs, companies should **seek alternative suppliers** and ensure responsible sourcing practices throughout their supply chains.

- ▶ When tracing their supply chains, companies should consider existing **regional and national legislation** that mandates reporting and disclosure requirements. For instance, companies should refer to the UFLPA, the Canadian Act to Enact the Fighting Against Forced Labour and Child Labour in Supply Chains Act, and forthcoming EU legislation on forced labour and supply chain due diligence.

For Investors

IDENTIFY AND ASSESS

- ▶ Investors should take proactive measures by integrating **human rights risk management** into their investment decision-making processes to **assess exposure** to XUAR in their investment portfolios.
- ▶ Investors are expected to **adhere to authoritative instruments** on business and human rights and, as such, should actively implement these principles in their investment practices.
- ▶ Although existing legislation, like the UFLPA, does not explicitly place obligations on investors, they should **follow the growing trend** of incorporating responsible business practices and conducting human rights due diligence before investing in companies linked to XUAR. As a starting point, investors should refer to the UFLPA Entity List — which identifies companies performing business activities in XUAR — and conduct further analysis of the companies to ensure they are not based in or have a XUAR footprint.

TAKE ACTION

- ▶ Investors may cause or contribute to adverse human rights impacts through their investments. Investors financing intermediaries that source from suppliers in XUAR should use their **leverage to address, prevent, and mitigate** adverse human rights impacts. Investors' leverage is a key driver for bringing human rights due diligence and responsible sourcing practices to the forefront of corporate agendas.
- ▶ Although the UFLPA may not directly apply to investors, investors should apply its principles when evaluating potential investments in the PRC, specifically the presumption that all goods made in XUAR are forced labour-tainted.
- ▶ In all other instances, when an investor finds it has investments in a company operating in XUAR, it should **immediately divest**, as leverage at this point cannot yield desired results due to the nature of state-sponsored forced labour.

Accrediting and Certification organisations

IDENTIFY AND ASSESS

- ▶ As with companies and investors, no business is exempt from authoritative business and human rights principles. Therefore, certification and accreditation schemes should **identify and assess possible exposure** to XUAR that may arise through certifying and accrediting activities.
- ▶ As with investors, certification and accreditation bodies should refer to the UFLPA Entity List as a starting point and conduct further corporate analysis of companies' ties to XUAR before granting certification or accreditation to a company.

TAKE ACTION

- ▶ The Report implicates major Chinese mining companies with a XUAR footprint, linking them to state-sponsored human rights violations, despite having successfully obtained accreditation from certification schemes like the LBMA or RMI. For this reason, a stronger approach is required from accreditation and certification schemes **to stop granting or suspending existing accreditations or certifications** to companies with direct ties to XUAR, whether through its suppliers or otherwise.
- ▶ As stated above, certification and accreditation schemes should refer to the UFLPA Entity List, which has already identified companies with XUAR footprints and ties to state-sponsored human rights violators, and conduct corporate analysis of companies' ties to XUAR.



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C4ADS is a 501(c)(3) non-profit organisation dedicated to data-driven analysis and evidence-based reporting of conflict and security issues worldwide. Our approach leverages non-traditional investigative techniques and emerging analytical technologies. We recognise the value of working on the ground in the field, capturing local knowledge, and collecting original data to inform our analysis. At the same time, we employ cutting edge technology to manage and analyse that data. The result is an innovative analytical approach to conflict prevention and mitigation.

Business and Human Rights Compliance is the business and human rights arm of GRC. We regularly advise businesses, public sector institutions, civil society organisations, and investors on both the legal and practical aspects of human rights due diligence and responsible business conduct including in three key high-risk sectors: extractives, garment/textiles, and agriculture. With expertise in international humanitarian law, we also provide specialist advisory on the application of business and human rights principles and heightened human rights due diligence in conflict-affected and high-risk areas.

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