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UNITED NATIONS
HUMAN RIGHTS
OFFICE OF THE HIGH COMMISSIONER

TÉLÉCOPIE • FACSIMILE TRANSMISSION

DATE: 12 March 2021

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OBJET/SUBJECT: **JOINT COMMUNICATION FROM SPECIAL PROCEDURES**

Please find attached a joint communication sent by the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on minority issues; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on trafficking in persons, especially women and children.

UNITED NATIONS
HUMAN RIGHTS
SPECIAL PROCEDURES
SPECIAL RAPPORTEURS, INDEPENDENT EXPERTS & WORKING GROUPS

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Mandates of the Working Group on the issue of human rights and transnational corporations and other business enterprises; the Special Rapporteur in the field of cultural rights; the Special Rapporteur on minority issues; the Special Rapporteur on freedom of religion or belief; the Special Rapporteur on contemporary forms of slavery, including its causes and consequences; the Speciál Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and the Special Rapporteur on trafficking in persons, especially women and children

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Dear [redacted]

We have the honour to address you in our capacities as Working Group on the issue of human rights and transnational corporations and other business enterprises; Special Rapporteur in the field of cultural rights; Special Rapporteur on minority issues; Special Rapporteur on freedom of religion or belief; Special Rapporteur on contemporary forms of slavery, including its causes and consequences; Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; and Special Rapporteur on trafficking in persons, especially women and children, pursuant to Human Rights Council resolutions 44/15, 37/12, 43/8, 40/10, 42/10, 43/20 and 44/4.

We are independent human rights experts appointed and mandated by the United Nations Human Rights Council to report and advise on human rights issues from a thematic or country-specific perspective. We are part of the special procedures system of the United Nations, which has 56 thematic and country mandates on a broad range of human rights issues. We are sending this letter under the communications procedure of the Special Procedures of the United Nations Human Rights Council to seek clarification on information we have received. Special Procedures mechanisms can intervene directly with Governments and other stakeholders (including companies) on allegations of abuses of human rights that come within their mandates by means of letters, which include urgent appeals, allegation letters, and other communications. The intervention may relate to a human rights violation that has already occurred, is ongoing, or which has a high risk of occurring. The process involves sending a letter to the concerned actors identifying facts of the allegation, applicable international human rights norms and standards, the concerns and questions of the mandate-holder(s), and a request for follow-up action. Communications may deal with individual cases, general patterns and trends of human rights violations, cases affecting a particular group or community, or the content of draft or existing legislation, policy or practice considered not to be fully compatible with international human rights standards.

[redacted]

In this connection, we have received information that your company may be involved through its supply chain in alleged forced labour, arbitrary detention, and trafficking in persons of Uyghur and other minority workers within and outside the Xinjiang Uyghur Autonomous Region (Xinjiang), as well as the related lack of accountability and access to effective remedy for victims. We have also received information regarding multinational corporations sourcing items from factories in China, including in Xinjiang, not being allowed to freely access these factories in order to exercise adequate oversight and human rights due diligence across their supply chains.

According to the information received:

The Chinese Government has allegedly undertaken the forcible transfer of tens of thousands of Uyghurs and other minorities to work in factories in Xinjiang and across the country. These workers, predominantly employed in low-skilled, labor-intensive industries, such as agribusiness, textile and garment, automotive and technological sectors, both in Xinjiang and other Chinese provinces, are allegedly subject to exploitative working and sub-standard living conditions that may fall under the definition of forced labour, trafficking in persons for labour exploitation and arbitrary detention. Some factories are reportedly operating as part of the supply chains of companies, including well-known global brands. Between 2017 and 2019 more than 80,000 Uyghur and other minority workers have allegedly been transferred out of Xinjiang under the "industrial Xinjiang Aid" policy, aimed at finding low-skilled employment opportunities for "re-educated" Uyghurs and other minorities previously interned in centers. These centers have been described by the Government of China as "vocational education and training centers", created in the name of poverty alleviation, and of fighting against terrorism and combatting violent extremism.[1] Such centers allegedly operate in a prison-like or internment manner without freedom of movement, as part of fulfilling political re-education goals. We have also received information that minority workers from Xinjiang may be forced to work under the "industrial Xinjiang Aid" policy in factories inside and outside of Xinjiang province under threat of detention and/or the intimidation of family members. Information received indicates that workers' contact with relatives is forbidden or strictly controlled.

The workers are reportedly required to work in fenced-in factories, inside and outside Xinjiang, and are placed in closed and surveilled working environments, away from their original residences and families and in a position of dependency and vulnerability to human rights abuses. The workers and their family members are allegedly exposed to intimidation, coercion, threats, and restriction on their freedom of movement, and are subjected to surveillance by security personnel and through digital tools. All aspects of the daily lives of Uyghur workers are allegedly controlled by governmental authorities. In certain factories, Uyghur and other minority workers from Xinjiang are allegedly subjected to excessive overtime work, and it is unclear whether these workers receive salaries. It is unclear if workers are given any indication of a specific timeframe for when the cycle of their alleged forced

[1] We take note of the Government of China's white paper on employment and labor rights in Xinjiang Uygur autonomous region on 17 September 2020. See: http://english.www.gov.cn/archive/whitepaper/202009/17/content_WS5f62cef6c6d0f7257693c192.html

enrolment in "vocational education and training centers" and related forcible transfer to factories in Xinjiang and across the country would end, allowing workers to return freely to their homes and families. Information received raises concerns that there may be cases in which the alleged forced detention and labour of members of the Uyghur minority and their living conditions, may amount to torture or other degrading, cruel or inhuman treatment.

Moreover, Uyghur and other minority workers are allegedly required to attend State controlled trainings in the workplace, including organized mandarin language classes and patriotic education and undue limitations are placed on their right to manifest and practice their religion both in the workplace and outside work hours.

According to information obtained, both the sending institution and the receiving company are paid per head compensation by the Xinjiang Government for supplying/receiving workers. Information suggests that this is promoted by official websites allegedly indicating that Uyghurs are available for work as part of their re-education process. The rate paid varies depending on whether the rural "surplus laborer", a term used to identify former minority detainees, is transferred within Xinjiang or to other provinces in mainland China. When "surplus laborers" are transferred outside Xinjiang, the per-head compensation is allegedly higher.

We have been informed of recent online advertisements in the media, for example, claiming to have capacity to "supply" 1,000 government sponsored Uyghurs aged 16 to 18 within 15 days of signing a one-year contract. Managers are allegedly offered the possibility to request that police officers be stationed at factories 24 hours per day. Reportedly, every 50 minority workers are assigned a government minder and are monitored by dedicated security personnel.

While we do not wish to prejudge the accuracy of these allegations, we express our grave concern that the rights of minority workers from the Xinjiang Uyghur Autonomous Region, especially Uyghur, are not upheld in line with international human rights and labour rights standards. We are concerned that these workers who are allegedly forcefully relocated across the country, are subjected to forced labour as part of what the Government describes as development and poverty alleviation policy, and with the stated objective of combatting terrorism and violent extremism. We are further concerned about allegations that multinational companies sourcing from factories in China are not allowed to access these factories in order to exercise appropriate oversight and human rights due diligence across their supply chains.

In connection with the above alleged facts and concerns, please refer to the **Annex on Reference to international human rights law** attached to this letter which cites international human rights instruments and standards relevant to these allegations.

As it is our responsibility, under the mandates provided to us by the Human Rights Council, to seek to clarify all cases brought to our attention, we would be grateful for your observations on the following matters:

1. Please provide any additional information and/or comment(s) you may have on the above-mentioned allegations.

2. Please provide information as to whether your company has undertaken human rights due diligence steps, as set out in the United Nations Guiding Principles on Business and Human Rights, to identify, prevent, mitigate, and account for human rights abuses caused by or contributed to through your own activities, or directly linked to your operations, products or services by your business relationships. This includes the exercise of adequate oversight and human rights due diligence across your supply chains in order to prevent and mitigate impact on the enjoyment of human rights of Uyghur and other minority workers, including their right to freedom of movement and protection from forced labour, trafficking in persons and other contemporary forms of slavery.

3. Please explain what monitoring and evaluation systems your company has in place to ensure the effectiveness of human rights due diligence steps taken to mitigate and prevent human rights abuses, including forced labour, trafficking in persons other contemporary forms of slavery as described in this letter and other related human rights violations, throughout your business operations. In particular, please provide information on whether your company has put in place "cascading" requirements that reach down to your suppliers, such as human rights risk assessments that would cover all tiers of suppliers as recommended in the 2018 report of the Working Group to the General Assembly.

4. Please explain what measures have been adopted to ensure that staff of your company as well as your business partners have adequate awareness, knowledge and tools to identify and report human rights abuses, including those alleged in the present letter, throughout your operations.

5. Please explain what concrete steps have been taken by your company to exercise leverage, in line with the UN Guiding Principles, in your business relationships to prevent and mitigate human rights abuses committed by businesses employing workers belonging to Uyghur and other minorities.

6. Please provide information on whether your company has reported any such alleged human rights abuses in the present letter to relevant authorities, including in countries where your company is incorporated or domiciled. Moreover, what steps has your company taken, or is considering to take, to avoid potential complicity in such alleged business related human rights abuses?

7. Please advise how your company provides for, or cooperates in the remediation of adverse impact on human rights of Uyghur and other minority workers through legitimate processes if it has caused or contributed to such impact. This may include establishing or participating in effective operational-level grievance mechanisms.

Please provide specific information about any procedures in place to ensure participation of workers and their representatives in the establishment and operationalization of such mechanisms.

8. Please provide information, if any, on cooperation your company may have had with local civil society actors and/or relevant state authorities to ensure that your company's grievance mechanism are aligned with the national mechanism to address such business related human rights violations.

This communication and any response received from your company will be made public via the communications reporting website in 60 days. They will also subsequently be made available in the usual report to be presented to the Human Rights Council.

We may publicly express our concerns in the near future as, in our view, the information upon which the press release will be based is sufficiently reliable to indicate a matter warranting immediate attention. We also believe that the wider public should be alerted to the potential implications of the above-mentioned allegations. The press release will indicate that we have been in contact with your company to clarify the issue/s in question.

Please note that letters expressing similar concerns are also sent to the Governments of China, United Kingdom of Great Britain and Northern Ireland, United States of America, Switzerland, Sweden, Spain, Republic of Korea, Japan, Italy, Germany, France, Finland, Denmark and Canada, as well as to other companies involved in the abovementioned allegations.

Please accept, [redacted] the assurances of our highest consideration.

Dante Pesce
Chair-Rapporteur of the Working Group on the issue of human rights and transnational corporations and other business enterprises

Karima Bennoune
Special Rapporteur in the field of cultural rights

Fernand de Varennes
Special Rapporteur on minority issues

Ahmed Shaheed
Special Rapporteur on freedom of religion or belief

Tomoya Obokata
Special Rapporteur on contemporary forms of slavery, including its causes and consequences

Nils Melzer
Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Siobhán Mullally
Special Rapporteur on trafficking in persons, especially women and children

Annex
Reference to international human rights law

In connection with above alleged facts and concerns, we would like to draw your attention to the UN Guiding Principles on Business and Human Rights, which were unanimously endorsed in 2011 by the Human Rights Council in its resolution (A/HRC/RES/17/31) after years of consultations involving Governments, civil society and the business community.

The Guiding Principles have been established as global authoritative norm for all States and companies to prevent and address the negative consequences related to companies on human rights. The responsibility to respect human rights is a global standard of conduct applicable to all companies, wherever they operate. It exists regardless of the ability and/or willingness of States to meet their own human rights obligations and does not reduce those obligations. It is an additional responsibility to comply with national laws and regulations for the protection of human rights.

"The responsibility to respect human rights requires that business enterprises:

(a) Avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur;

(b) Seek to prevent or mitigate adverse human rights impacts that are directly linked to their operations, products or services by their business relationships, even if they have not contributed to those impacts." (Guiding Principle 13).

"In order to prevent and mitigate adverse human rights impacts, business enterprises should integrate the findings from their impact assessments across relevant internal functions and processes, and take appropriate action." (Guiding Principle 19).

Appropriate action will vary depending on whether the business actor causes human rights abuses, contributes to human rights abuses; or whether the adverse human rights impact is linked to the operations of the company by a business relationship. Furthermore, the action will depend on the extent of leverage of the business enterprise to the adverse impact.

To fulfil their responsibility to respect human rights, business enterprises should have in place:

(a) A policy commitment to meet their responsibility to respect human rights;

(b) A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;

(c) Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute." (Guiding Principle 15)

In this connection, we recall that Guiding Principle 22 states that: "[w]here business enterprises identify that they have caused or contributed to adverse impacts,

they should provide for or cooperate in their remediation through legitimate processes". Guiding Principle 20 states that businesses should track the effectiveness of their response. Tracking should: a) be based in appropriate qualitative and quantitative indicators; and b) draw on feedback from both internal and external sources, including affected stakeholders.

Furthermore, business enterprises are expected to utilize their leverage to prevent or mitigate the adverse impact. And if they lack leverage there may be ways for the enterprise to increase it. Leverage may be increased by, for example, offering capacity-building or other incentives to the related entity, or collaborating with other actors" (Commentary to Guiding Principle 19).

Guiding Principles 25 to 31 provide guidance to business enterprises and States on steps to be taken to ensure that victims of business-related human rights abuse have access to an effective remedy.

In the 2018 report of the Working Group on the issue of human rights and transnational corporations and other business enterprises (Working Group) to the General Assembly, the Working Group noted that "The Guiding Principles clarify that business enterprises have an independent responsibility to respect human rights and that in order to do so they are required to exercise human rights due diligence. Human rights due diligence refers to the processes that all business enterprises should undertake to identify, prevent, mitigate and account for how they address potential and actual impacts on human rights caused by or contributed to through their own activities, or directly linked to their operations, products or services by their business relationships". In addition, this involves (b) Integrating findings from impact assessments across relevant company processes and taking appropriate action according to its involvement in the impact; (c) Tracking the effectiveness of measures and processes to address adverse human rights impacts in order to know if they are working; (d) Communicating on how impacts are being addressed and showing stakeholders – in particular affected stakeholders – that there are adequate policies and processes in place.