

“‘Made in China’ . . . Is a Warning Label”¹: Is America Doing Enough?

*Devin Kathleen Epp**

CONTENTS

INTRODUCTION.....	708
I. BACKGROUND: XINJIANG UYGHUR AUTONOMOUS REGION	709
II. THE WORLD RESPONDS TO CULTURAL GENOCIDE.....	713
<i>A. Congress Takes Action</i>	715
<i>B. U.S. Federal Agencies Take Action</i>	718
1. U.S. Department of State.....	719
2. U.S. Department of Homeland Security.....	721
3. U.S. Department of Commerce	723
4. U.S. Department of Treasury	724
5. U.S. Department of Labor	726
III. TIME TO PRESSURE CHINA	727
<i>A. Multilateral Efforts</i>	727
1. The World Platform	727
2. U.S.–EU Coordination	729
<i>B. Secondary Sanctions</i>	731
1. Maximum Pressure Campaign	734
2. Secondary Sanction Effects.....	735
IV. CONCLUSION.....	738

* J.D. Candidate Class of 2022, Seattle University School of Law.

1. *CBP Issues Detention Order on Cotton Products Made by Xinjiang Production and Construction Corps Using Prison Labor*, U.S. CUSTOMS & BORDER PROT. (Dec. 2, 2020), <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-detention-order-cotton-products-made-xinjiang-production> [<https://perma.cc/CC6S-LWCK>] [hereinafter XPCC Detention Order].

INTRODUCTION

Today, China and the United States (U.S.) are two economic world powers that significantly influence global trade.² China's economic status and coercive tactics create challenging barriers for nations to condemn China's repressive actions against the Uyghur population. Yet, roughly two thousand years ago, in a continent far away from Asia, the Stoic philosopher Seneca wrote words relating to the human condition that sound all too relevant to today's diplomatic fray between China and the U.S.: "Even Socrates, Cato, and Laelius might have been shaken in their moral strength by a crowd that was unlike them; so true it is that none of us, no matter how much he cultivates his abilities, can withstand [the influence of their surroundings]."³ The prophetic message warns, "The offer to work for some notoriously bad boss, to make a boatload of money in a sketchy industry, to serve in some compromised administration: it will not end well. It must be turned down—it is the call of a siren. It will wreck you!"⁴ The U.S. cannot work with the Chinese Communist Party (CCP), which governs the People's Republic of China (PRC), when it knowingly initiated a self-serving genocide—the "compromised administration." The U.S. cannot empower China's trade industry that funds human rights violations—the "sketchy industry." The U.S. cannot continue to import Chinese products manufactured by forced labor—the "notoriously bad" state entity. As a world power, the U.S.' inability to curb human rights violations in China must be addressed. Cultural genocide is a greater and more material interest than the interests of trade, market, and investments in China. The U.S. can hold China accountable, but it needs to lead the world through stronger diplomatic mechanisms and reform its sanction framework.

Part I discusses the background and human rights violations in Xinjiang, also known as the Xinjiang Uyghur Autonomous Region (XUAR). Part II addresses U.S. economic regulations and sanctions imposed against actors involved in Xinjiang's forced labor industry. Part III analyzes previous U.S. strategies and sanction regimes implemented to combat human rights violations in other countries. This Note recommends that the U.S. implement a more robust multilateral framework to combat

2. See, e.g., Amy K. Lehr & Mariefaye Bechrakis, *Combatting Human Rights Abuses in Xinjiang*, CTR. FOR STRATEGIC & INT'L STUD., <https://www.csis.org/features/combating-human-rights-abuses-xinjiang> [<https://perma.cc/38EZ-D3H4>] [hereinafter *Combatting Human Rights Abuses*] ("[China is the] world's largest producer and exporter of yarn, textiles, and apparel."); *Economy & Trade*, OFF. OF THE U.S. TRADE REPRESENTATIVE, <https://ustr.gov/issue-areas/economy-trade> [<https://perma.cc/WKC5-PR9D>].

3. *Who You Spend Time with Matters*, DAILY STOIC (Dec. 2, 2020), <https://dailystoic.com/who-you-spend-time-with-matters/> [<https://perma.cc/FCK2-27S2>] [hereinafter DAILY STOIC].

4. *Id.*

the Xinjiang cultural genocide and impose secondary sanctions against China and entities involved in forced labor in Xinjiang.

I. BACKGROUND: XINJIANG UYGHUR AUTONOMOUS REGION

Xinjiang is an important economic and political region in China. It is a province four times the size of Germany in China's northwest region.⁵ China's financial goals largely depend on Xinjiang's trade production for the following key reasons: (1) Xinjiang plays a crucial role in China's economy as one of the world's largest cotton producers,⁶ which accounts for 20% of the world's cotton⁷ and about 85% of China's cotton production⁸—it is a multi-billion-dollar production of goods;⁹ (2) Xinjiang's location is a valuable resource to China's economy because it sits on a designated "special economic zone"¹⁰ due to its richness in fossil fuels, oil, minerals, copper, and coal¹¹ and is China's largest natural gas producer;¹² and (3) Xinjiang's economic importance only amplifies as China's multi-trillion-dollar Belt and Road initiative (One Belt One Road)—a project that spans over sixty countries—will run through

5. See Shrey Verma, *The Echo of Uyghurs—Voices Stifled by an Authoritarian Regime*, HUM. RTS. PULSE (Feb. 2, 2021), <https://www.humanrightspulse.com/mastercontentblog/the-echo-of-uyghurs-voices-stifled-by-an-authoritarian-regime> [<https://perma.cc/C3BL-KXXX>]; see also Brennan Davis, *Being Uighur . . . with "Chinese Characteristics": Analyzing China's Legal Crusade Against Uighur Identity*, 44 AM. INDIAN L. REV. 81, 88 (2019) (bordering Uzbekistan, Kazakhstan, Turkmenistan, Mongolia, Pakistan, Afghanistan, and Kashmir).

6. AMY LEHR, CTR. FOR STRATEGIC & INT'L STUD., ADDRESSING FORCED LABOR IN THE XINJIANG UYGHUR AUTONOMOUS REGION: TOWARD A SHARED AGENDA 4–5 (2020) [hereinafter FORCED LABOR REPORT] (XUAR produces "a desirable source of cotton" known for its "consistent quality.").

7. ADRIAN ZENZ, CTR. FOR GLOB. POL'Y, COERCIVE LABOR IN XINJIANG: LABOR TRANSFER AND THE MOBILIZATION OF ETHNIC MINORITIES TO PICK COTTON 2–3 (2020) [hereinafter COERCIVE LABOR] ("Uyghur-majority regions . . . grow much of the region's hand-picked cotton . . . also produce nearly all of the highest-quality long-staple cotton . . ."). See generally AMY K. LEHR & MARIEFAYE BECHRAKIS, CTR. FOR STRATEGIC & INT'L STUD., CONNECTING THE DOTS IN XINJIANG FORCED LABOR, FORCED ASSIMILATION, AND WESTERN SUPPLY CHAINS (2019) [hereinafter CONNECTING THE DOTS] (stating more than thirty percent of U.S. apparel imports come from China).

8. GRAHAM SOLEY, U.S. DEP'T OF AGRIC. FOREIGN AGRIC. SERV., CH19052, CHINA – PEOPLES REPUBLIC OF COTTON AND PRODUCTS UPDATE ECONOMIC HEADWINDS STYMIE COTTON USE (2019).

9. *China Slams Canada After Report Calls Uighur Policy 'Genocide'*, AL JAZEERA (Oct. 11, 2020), <https://www.aljazeera.com/news/2020/10/22/china-rejects-canada-report-accusing-beijing-of-uyghur-genocide> [<https://perma.cc/7EWY-XM57>] [hereinafter *Policy Report*].

10. Bryan Wood, *What is Happening with the Uyghurs in China?*, PBS NEWS HOUR, <https://www.pbs.org/newshour/features/uyghurs/> [<https://perma.cc/E8B7-E4UD>].

11. Lily Kuo, Guardian News, *Why More Than a Million Uighers are Being Held in Camps in China*, YOUTUBE (July 24, 2020), <https://www.youtube.com/watch?v=TKpyaDZkNfU> [<https://perma.cc/823B-7KMD>].

12. Wood, *supra* note 10.

Xinjiang and connect China with Africa and Europe, which will greatly expand China's economic influence.¹³

The CCP, the founding and ruling political party—China's government—asserted its control over Xinjiang's Uyghur population after the establishment of the PRC in Beijing in 1949.¹⁴ The Xinjiang's Uyghur population is a Turkic Muslim minority group.¹⁵ The CCP seeks to cultivate Xinjiang into its Chinese society by “integrat[ing] the Uyghur homeland into a more homogeneous”¹⁶ and Han-centric state.¹⁷ China's President, Xi Jinping, called for an “ideological cure, an effort to rewire the thinking of the [Xinjiang] region's Muslim minorities.”¹⁸ To advance its Han-centric society, the CCP used the “Global War on Terror” (GWOT) to create a counterterrorism narrative as a victim of the GWOT.¹⁹ China deflected international criticism alleging that the Uyghurs pose a terrorist threat²⁰ in an attempt to justify its actions.²¹ Consequently, over the past several decades, the CCP established its regime in Xinjiang to

13. See *Policy Report*, *supra* note 9; see, e.g., The Economist, *How China is Crushing the Uighurs*, YOUTUBE (July 9, 2019), <https://www.youtube.com/watch?v=GRBcP5BrfI> [<https://perma.cc/8EX7-FMKY>].

14. E.g., Explore Map Feature from *The Xinjiang Data Project*, AUSTRALIAN STRATEGIC POL'Y INST., <https://xjdp.aspi.org.au/map/> [<https://perma.cc/7KJZ-Y6A2>] [hereinafter *Xinjiang Data Project*]; see, e.g., Brian Yeh, *Self-Determination for Some: The Palestinians and the Uyghurs in China's Foreign Policy*, 41 U. PA. J. INT'L L. 1137, 1161 (2020).

15. See, e.g., *The Chinese Communist Party's Human Rights Abuses in Xinjiang*, U.S. DEP'T OF STATE, <https://2017-2021.state.gov/index.html> [<https://perma.cc/2WZW-75B4>] [hereinafter *CCP Human Rights Abuses*].

16. SEAN R. ROBERTS, *THE WAR ON THE UYGHURS: CHINA'S INTERNAL CAMPAIGN AGAINST A MUSLIM MINORITY* 236–37 (2020) (“[T]he primary driver of this state-led cultural genocide is the settler colonization of the Uyghur homeland . . . [China] poured billions of dollars into the region's development . . . and an ever-increasing securitization.”).

17. See generally Susan K. McCarthy, *A New Era of Development?: The State, Minorities, and Dilemmas of Development in Contemporary China*, 26 FLETCHER F. WORLD AFFS. 107 (2002) (discussing China's large-scale economic modernization projects of Han resettlement to ethnic minority regions that “alter the socio-economic patterns and cultural practices of the minority residents of those regions”).

18. Austin Ramzy & Chris Buckley, ‘*Absolutely No Mercy*’: *Leaked Files Expose How China Organized Mass Detentions of Muslims*, N.Y. TIMES (Nov. 16, 2019), <https://www.nytimes.com/interactive/2019/11/16/world/asia/china-xinjiang-documents.html> [<https://perma.cc/NNV3-2KUB>] [hereinafter *Absolutely No Mercy*].

19. E.g., ROBERTS, *supra* note 16, at 244–45 (“[T]he narrative of GWOT is now evolving into . . . settler colonization, ethnic cleansing, and cultural genocide. This was the case with the Rohingya in Myanmar . . . Uyghurs in China; and it may be evolving . . . for Kashmiris in India.”). See generally *How China is Crushing the Uighurs*, *supra* note 13 (discussing Uyghur terrorist attacks that fueled CCP's hostility and arguing that China used GWOT to heighten domestic security, which tripled its security budget in Xinjiang).

20. See, e.g., *Absolutely No Mercy*, *supra* note 18 (quoting President Xi Jinping's dictatorship response as a “struggle against terrorism, infiltration[,] and separatism”).

21. ROBERTS, *supra* note 16, at 200; see, e.g., GARDNER BOVINGDON, *THE UYGHURS: STRANGERS IN THEIR OWN LAND* 4, 5 (paperback ed. 2020).

systemically destroy²² the Uyghur population and traditionally Muslim groups.²³

The CCP's regime ties the U.S.' economic trade forum to cultural genocide. The CCP's "unified and systematic" campaign²⁴ now controls the Uyghur population—subjecting them to forced labor, among other human rights violations.²⁵ The CCP regime includes a massive overarching surveillance system²⁶ that collects a breadth of data²⁷ such as biometric information.²⁸ The high-tech surveillance cameras²⁹ include facial recognition systems that can purportedly distinguish Uyghurs and Tibetans from other ethnic groups.³⁰ Additionally, the CCP has enacted

22. *E.g.*, ROBERTS, *supra* note 16 at 199. See Timothy Grose, *How the CCP Took over the Most Sacred of Uighur Rituals*, CHINAFILE (Dec. 9, 2020), <https://www.chinafile.com/reporting-opinion/viewpoint/how-ccp-took-over-most-sacred-of-uighur-rituals> [https://perma.cc/S3JK-LWRB], for a discussion on CCP's suppression of Uyghur identity.

23. *See, e.g.*, 116 CONG. REC. E909 (daily ed. Oct. 1, 2020) (statement of Rep. Jackson Lee) (“[F]or years, the Chinese government has engaged in a systematic campaign of repression targeting Uyghurs and other Muslim groups. Chinese authorities have used the pretext of terrorism to suspend the Uyghurs’ civil and political rights and pursue the internment of Uyghurs in ‘educational training centers’ . . . satellite imagery, leaked [Chinese] official documents . . . testimony of camp survivors . . . confirmed a widespread and pervasive forced labor system . . .”).

24. ROBERTS, *supra* note 16, at 208.

25. *See, e.g.*, Natasha Parassram Concepcion, *Human Rights Violations Against Muslims in the Xinjiang Uighur Autonomous Region of Western China*, 8 HUM. RTS. BRIEF 19 (2000).

26. *E.g.*, ROBERTS, *supra* note 16, at 202–03; Michael Posner, *Why U.S. Investors in Chinese Companies Need to Consider the Human Rights Risks*, FORBES (July 14, 2021), <https://www.forbes.com/sites/michaelposner/2021/07/14/why-us-investors-in-chinese-companies-need-to-consider-the-human-rights-risks/?sh=bd21d0c3840f> [https://perma.cc/S733-DBMR] (“The Chinese government has installed more than 200 million surveillance cameras across the country and applied their most draconian monitoring efforts against the Uyghurs in Xinjiang.”). *See* John Wagner Givens & Debra Lam, *Smarter Cities or Bigger Brother? How the Race for Smart Cities Could Determine the Future of China, Democracy, and Privacy*, 47 FORDHAM URB. L.J. 829, 859 (2020), for a discussion of the mass surveillance system controlling the Xinjiang population.

27. *See* DOMINIC J. NARDI, U.S. COMM’N ON INT’L RELIGIOUS FREEDOM, RELIGIOUS FREEDOM IN CHINA’S HIGH-TECH SURVEILLANCE STATE (2019) (reporting several members of Congress calling for greater restrictions on advanced technology exports to China in response to high-surveillance developments).

28. *E.g., id.* (including voice recordings, fingerprints, iris scans, and blood types); *see, e.g.*, Givens & Lam, *supra* note 26, at 859–60 (“[I]nformation collected includes height, religious dress, beard length, electricity and gas usage, package deliveries, use of a home’s back versus the front door, movements around cities . . . police records, addresses, vehicle registration . . . details on trips abroad.”).

29. *E.g.*, NARDI, *supra* note 27; *see, e.g.*, Givens & Lam, *supra* note 26, at 860 (reporting that identification checkpoints are equipped with “machines that detect and log the MAC addresses and IMEI numbers of any phones that pass through the checkpoint” that are often in conjunction with facial recognition); COERCIVE LABOR, *supra* note 7, at 14 (“[V]illage-based work teams . . . became a key component in the seamless integration of social control and securitization, linking household information with data from surveillance systems and the entire police state.”).

30. *E.g.*, NARDI, *supra* note 27 (reporting CCP targets religious communities with “advanced computing platforms and artificial intelligence to collate and recognize patterns in the data” including surveillance outside and inside worship centers to identify attendees).

methodology for “transforming”³¹ and “cleansing” the population³² through mass internment.³³ The CCP also imposes discriminatory laws³⁴ and actions against the Uyghur population³⁵ to ensure the alleged extremism does not spread to others.³⁶ In Xinjiang, approximately 3 million people³⁷ were detained in “an expanded system of extrajudicial mass internment camps” that tortured subjected detainees in 2019,³⁸ in addition to thousands of secondary students forced to pick cotton.³⁹ It is evident that cultural genocide is happening in Xinjiang.⁴⁰

31. *See, e.g.*, COERCIVE LABOR, *supra* note 7, at 19 (“[C]otton pickers . . . must eat, live, study and work with them [CCP officials], vigorously implementing thought education . . .”); FORCED LABOR REPORT, *supra* note 6.

32. *E.g.*, ROBERTS, *supra* note 16, at 203.

33. *See* Hailey Konnath, *House Oks Bill Barring Chinese Imports Over Forced Labor*, LAW360 (Sept. 22, 2020), <https://www.law360.com/articles/1312207/house-oks-bill-barring-chinese-imports-over-forced-labor> [<https://perma.cc/P9LY-STGW>] (reporting by 2017, CCP held more than one million Muslims in government detentions). *See generally* BUREAU OF CONFLICT & STABILIZATION OPERATIONS, 2020 REPORT TO CONGRESS PURSUANT TO SECTION 5 OF THE ELIE WIESEL GENOCIDE AND ATROCITIES PREVENTION ACT OF 2018 (P.L. 115-441) (2020) [hereinafter CONFLICT & STABILIZATION REPORT] (reporting that inside the detention centers, abuses include violations of religious freedom; involuntary birth control; family separation by taking children from their parents; physical and sexual abuse; forced abortion; forced labor; forced sterilization; and arbitrary detention.).

34. *E.g.*, *Xinjiang Data Project*, *supra* note 14 (reporting party officials in Xinjiang banned twenty-three (later expanded to seventy-five) “illegal religious activities,” including any uses of religion to influence social order or damage national interest); Wood, *supra* note 10 (reporting PRC passed a law in Xinjiang prohibiting men from growing long beards and women from wearing veils).

35. *See, e.g.*, Chris Buckley & Austin Ramzy, *China Is Erasing Mosques and Precious Shrines in Xinjiang*, N.Y. TIMES (Sept. 25, 2020), <https://www.nytimes.com/interactive/2020/09/25/world/asia/xinjiang-china-religious-site.html> [<https://perma.cc/84SC-2LXY>] (estimating more than a third of the mosques in the Xinjiang region have been completely demolished since 2017).

36. *See, e.g.*, ROBERTS, *supra* note 16, at 203. In 2005, police arrested a religious teacher and thirty-seven students for studying the Qur’an in private. BOVINGDON, *supra* note 21, at 72.

37. 166 CONG. REC. 4,662 (2020); *see, e.g.*, CCP Human Rights Abuses, *supra* note 15. *See generally* Mehmet Volkan Kaşıkçı, *Documenting the Tragedy in Xinjiang: An Insider’s View of Atajurt*, DIPLOMAT (Jan. 16, 2020), <https://thediplomat.com/2020/01/documenting-the-tragedy-in-xinjiang-an-insiders-view-of-atajurt/> [<https://perma.cc/3JSM-42EB>] (“The Atajurt Kazakh Human Rights Organization has provided enormous amount of information about the Chinese concentration camps and the dystopian regime in Xinjiang.”).

38. REP. JAMES P. MCGOVERN & SEN. MARCO RUBIO, CONG.—EXEC. COMM’N ON CHINA, 2019 ANNUAL REPORT (2019). Abuses such as “beatings; electric shocks; waterboarding; medical neglect; forced ingestion of medication; sleep deprivation; extended solitary confinement; and handcuffing or shackling for prolonged periods, as well as restricted access to toilet facilities; punishment for behavior deemed religious; forced labor; overcrowding; deprivation of food; and political indoctrination.” Conditions and medical neglect have led to detainees dying in the camps. *Id.* at 15, 263.

39. COERCIVE LABOR, *supra* note 7, at 4.

40. *E.g.*, ROBERTS, *supra* note 16, at 200.

II. THE WORLD RESPONDS TO CULTURAL GENOCIDE

The U.S.,⁴¹ other democratic countries,⁴² and world leaders⁴³ deem China's treatment of the Uyghurs cultural genocide.⁴⁴ Yet the CCP continues to commit human rights abuses⁴⁵ and pressure other nations to turn a blind eye.⁴⁶

Due to China's powerful regime, its coercive tactics create significant barriers to stop human rights violations and prevent transparency for the global trade industry. The CCP claims that the human rights violation reports are baseless⁴⁷ and such allegations are "unacceptable."⁴⁸ However, after satellite imagery exposed the detention

41. *E.g.*, CONFLICT & STABILIZATION REPORT, *supra* note 33 ("U.S. government also signed an unprecedented joint statement with [twenty-three] nations, calling attention to the situation in Xinjiang and urging China to demonstrate respect for the rights of members of ethnic and religious minority groups.").

42. Australia, Canada, and Japan are among several democracies to voice concerns. Steven Chase & Robert Fife, *Parliamentary Committee Calls China's Mistreatment of Uyghurs 'Genocide,' Urges Ottawa To Sanction Beijing Officials*, THE GLOBE & MAIL (Oct. 21, 2020), <https://www.theglobeandmail.com/politics/article-parliamentary-committee-calls-chinas-mistreatment-of-uyghurs/> [<https://perma.cc/L3CE-6PBD>].

43. *E.g.*, POPE FRANCIS, LET US DREAM: THE PATH TO A BETTER FUTURE 12 (2020) (calling Uyghurs "persecuted" people); Asim Kashgarian, *Activists, Experts Call on UN to Recognize China's Uighur 'Genocide,'* VOA NEWS (Sept. 17, 2020), <https://www.voanews.com/east-asia-pacific/voa-news-china/activists-experts-call-un-recognize-chinas-uighur-genocide> [<https://perma.cc/6LD5-Q8VL>].

44. *E.g.*, Edward Wong & Chris Buckley, *U.S. Says China's Repression of Uighurs Is 'Genocide,'* N.Y. TIMES (Jan. 19, 2021), <https://www.nytimes.com/2021/01/19/us/politics/trump-china-xinjiang.html?action=click&module=Top%20Stories&pgtype=Homepage> [<https://perma.cc/M2NK-3UCZ>]; Chase & Fife, *supra* note 42; *China Suppression of Uighur Minorities Meets U.N. Definition of Genocide, Report Says*, NAT'L PUB. RADIO (July 4, 2020) (downloaded using Spotify).

45. See ADRIAN ZENZ, JAMESTOWN FOUND., STERILIZATIONS, IUDS, AND MANDATORY BIRTH CONTROL: THE CCP'S CAMPAIGN TO SUPPRESS UYGHUR BIRTHRATES IN XINJIANG (2020), for a report on the significant Uyghur population decline—eighty-four percent decline between 2015 and 2018 in the largest Uyghur jurisdictions.

46. Aryeh Neier, *Opinion: China Bullies the World to Look the Other Way on Human-Rights Abuses*, MARKETWATCH (Feb. 11, 2020), <https://www.marketwatch.com/story/china-bullies-the-world-to-look-the-other-way-on-human-rights-abuses-2020-02-05> [<https://perma.cc/V9Z8-CQSQ>].

47. *E.g.*, *China Dismisses Pope Francis's Comments about Persecution of Uighers*, GUARDIAN (Nov. 24, 2020), <https://www.theguardian.com/world/2020/nov/25/china-dismisses-pope-franciss-comments-about-persecution-of-uighers> [<https://perma.cc/YQX2-GUPB>] (quoting a Chinese foreign ministry spokesperson, "[p]eople of all ethnic groups enjoy the full rights of survival, development, and freedom of religious belief").

48. *UN Demands 'Unfettered Access' for China Uighur Region Visit*, ALJAZEERA (Feb. 27, 2020), <https://www.aljazeera.com/news/2020/2/27/un-demands-unfettered-access-for-china-uighur-region-visit> [<https://perma.cc/G97Q-EV26>]; see Reuters Staff, *China Says It Welcomes U.N. to Visit Xinjiang Via Proper Procedures*, REUTERS (Jan. 6, 2019), <https://www.reuters.com/article/us-china-xinjiang/china-says-it-welcomes-u-n-to-visit-xinjiang-via-proper-procedures-idUSKCN1P10IG> [<https://perma.cc/RYU4-DRS2>] ("Beijing has launched an increasingly active publicity campaign to defend its actions in Xinjiang . . .").

camps,⁴⁹ the CCP finally acknowledged the centers⁵⁰ but referred to them as “vocational camps.”⁵¹ Nevertheless, China continuously employs deceptive tactics to keep its abuses undisclosed and justified.⁵² The CCP punishes anyone against its regime, including legal activists and human rights lawyers, for “organizing political challenges,”⁵³ and even the CCP officials for “gravely disobeying” the CCP’s protocol for governing Xinjiang.⁵⁴ In June 2021, Canada’s ambassador to the United Nations (UN) addressed the UN Human Rights Council on behalf of forty-four countries voicing their grave concerns about human rights abuses in Xinjiang and urging China to allow “immediate, meaningful[,] and unfettered access to Xinjiang.”⁵⁵ China’s refusal to allow media,⁵⁶ foreign

49. NATHAN RUSER, INT’L CYBER POL’Y CTR., DOCUMENTING XINJIANG’S DETENTION SYSTEM 4 (2020) (mapping over 380 sites across Xinjiang and reporting at least sixty-one detention sites have seen construction and expansion between July 2019 and July 2020—with at least fourteen still under construction in 2020—and half of these new sites are “higher security facilities”); *see also* Julia Wokaty, *Human Rights Groups Call on U.S. for Regional Ban on Imports from China Made with Uyghur Forced Labor*, INTERFAITH CTR. ON CORP. RESP. (Aug. 31, 2020), <https://www.iccr.org/human-rights-groups-call-us-regional-ban-imports-china-made-uyghur-forced-labor> [<https://perma.cc/SBXD-ELZ3>] (“The large-scale forced-labor program is a core part of the government’s plan for control and surveillance of Uyghurs.”).

50. Sigal Samuel, *Internet Sleuths Are Hunting for China’s Secret Internment Camps for Muslims*, ATLANTIC (Sept. 18, 2018), <https://www.theatlantic.com/international/archive/2018/09/china-internment-camps-muslim-uyghurs-satellite/569878/> [<https://perma.cc/R4DA-CFHM>] (“China has denied that it aims to indoctrinate Muslims in the camps, telling a UN panel . . . ‘there is no such thing as reeducation centers’ The country *now claims* the camps are *just vocational schools* for criminals”) (emphasis added); *e.g.*, ROBERTS, *supra* note 16, at 214.

51. *E.g.*, Geneva Sands & Ben Westcott, *Trump Administration Blocks Some Xinjiang Goods from China Suspected of Being Made with Slave Labor*, CNN (Sept. 14, 2020), <https://www.cnn.com/2020/09/14/politics/us-xinjiang-cotton-imports-intl-hnk/index.html> [<https://perma.cc/E8L2-GWJX>] (describing camps “as voluntary and part of a wide-reaching deradicalization campaign”).

52. *See, e.g.*, Wood, *supra* note 10.

53. Javier C. Hernández, *Chinese Rights Lawyer Swept Up in Xi’s Crackdown Gets More Than 4 Years in Prison*, N.Y. TIMES (Jan. 28, 2019), <https://www.nytimes.com/2019/01/28/world/asia/china-wang-quanzhang-human-rights.html> [<https://perma.cc/N2UZ-T6UA>] (“The government has continued its campaign . . . disbaring lawyers who take on cases the [CCP] party sees as a threat and keeping others under surveillance.”).

54. *Absolutely No Mercy*, *supra* note 18. Thousands of Xinjiang officials were punished for “failing to carry out the crackdown with sufficient zeal.” *Id.* One official was stripped of his power because he released more than seven thousand inmates from an internment camp; another Han leader in Xinjiang was jailed for “trying to slow the detentions and shield Uighur officials.” *Id.*

55. U.S. MISSION TO INT’L ORGS. IN GENEVA, JOINT STATEMENT ON THE HUMAN RIGHTS SITUATION IN XINJIANG (June 22, 2021), <https://geneva.usmission.gov/2021/06/22/joint-statement-on-the-human-rights-situation-in-xinjiang/> [<https://perma.cc/8JS6-VMPT>].

56. ROBERTS, *supra* note 16, at 238 (“[J]ournalists were allowed to interview a few hand-picked released ‘graduates’ from the camps . . . ‘graduates’ . . . were visibly terrified to misspeak.”).

officials,⁵⁷ and the UN⁵⁸ unfettered access⁵⁹ to Xinjiang prevents U.S. companies from investigating its supply chain and performing legitimate audits in Xinjiang—only allowing those companies to see what China wants them to see.⁶⁰

The U.S. must do more: it must lead strategic multilateral engagements and impose harsher sanctions to pressure China to end its human rights abuses.⁶¹ The unilateral actions and strategies Congress and U.S. federal agencies have taken⁶² are not enough to combat China's cultural genocide.

A. Congress Takes Action

Members of Congress from across the political spectrum share the common goal of stopping China's human rights abuses.⁶³ In 2017, a bipartisan group from both houses of Congress urged federal agencies to impose Global Magnitsky Act⁶⁴ (Magnitsky Act) sanctions on Chinese authorities for their role in China's human rights abuses.⁶⁵ The Magnitsky

57. See Margaret K. Lewis, *Why China Should Unsign the International Covenant on Civil and Political Rights*, 53 VAND. J. TRANSNAT'L L. 131, 175 (2020) (discussing China's failure to meet minimal obligations as a member of the UN Human Rights Council).

58. E.g., Reuters Staff, *supra* note 48; Ayat G. Hamza, *Bolstering the Role of U.N. Treaty Bodies: A Possible Solution to the Chinese Uighur Crisis with Potentially Far-Reaching Implications*, 46 N.C. J. INT'L L. 505, 527 (2021) ("Over the last decade, [China] has not been receptive to visits by U.N. human rights personnel like the High Commissioner for Human Rights, preferring to limit its approval to only those visits that would result in positive reviews.").

59. Yu-Jie Chen, *China's Challenge to The International Human Rights Regime*, 51 N.Y.U. J. INT'L L. & POL. 1179, 1204 (2019).

60. Ana Swanson, *U.S. Restricts Chinese Apparel and Tech Products, Citing Forced Labor*, N.Y. TIMES (Sept. 14, 2020), <https://www.nytimes.com/2020/09/14/business/economy/us-china-forced-labor-imports.html> [<https://perma.cc/3QHS-M77D>].

61. See George A. Lopez, *Enforcing Human Rights Through Economic Sanctions*, in OXFORD HANDBOOK OF INT'L HUM. RTS. L. 772, 792 (Dinah Shelton ed., 2013) ("Short of military force, economic sanctions are the only major tool available to national leaders and multilateral institutions that will produce results essential to ending harsh repression and human rights abuses.").

62. See generally Rebecca Stark, *China's Use of Artificial Intelligence in Their War Against Xinjiang*, 29 TUL. J. INT'L & COMPAR. L. 153, 170–72 (2021) (discussing recent actions U.S. government has taken to condemn CCP).

63. E.g., 166 CONG. REC. H4666 (daily ed. Sept. 22, 2020).

64. See generally, e.g., DIANNE E. RENNACK, CONG. RSCH. SERV., *THE GLOBAL MAGNITSKY HUMAN RIGHTS ACCOUNTABILITY ACT (2020)* (explaining history and purpose); *Global Magnitsky Sanctions*, U.S. DEP'T OF TREASURY, <https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information/global-magnitsky-sanctions> [<https://perma.cc/YF49-N4YQ>] (providing information on sanctions framework); *Global Magnitsky Act*, U.S. DEP'T OF STATE, <https://www.state.gov/global-magnitsky-act/> [<https://perma.cc/E8C3-R7BP>] (listing infographics, releases, and executive order).

65. Tal Axelrod, *Bipartisan Lawmakers Call for Sanctions Against China Over Human Rights Concerns*, THE HILL (Apr. 4, 2019), <https://thehill.com/policy/international/china/437419-bipartisan-legislators-call-for-sanctions-against-china-over-human> [<https://perma.cc/6CPW-EM92>] (reporting a forty-three-member bipartisan group, twenty-four senators and nineteen representatives, sent a letter to Secretary of State, Treasury Secretary, and Commerce Secretary).

Act sanctions hold individuals accountable for gross violations of human rights and acts of significant corruption.⁶⁶ Notably, the Magnitsky Act has inspired other nations to take action and follow U.S. policy.⁶⁷ Thus, Congress has the platform to inspire and initiate global reform yet it is falling short of effective action.

In 2020 and 2021, Congress drafted several bills regarding human rights abuses in Xinjiang,⁶⁸ but only two have been enacted into law: the Uyghur Human Rights Policy Act of 2020 (Uyghur Act)⁶⁹ and the Uyghur Forced Labor Prevention Act (UFLPA). The UFLPA expands on the Uyghur Act and creates a rebuttable presumption that all goods manufactured in Xinjiang are a product of forced labor.⁷⁰ Although the Uyghur Act and UFLPA Act are steps in the right direction, there are two central problems.

First, these unilateral measures alone are not enough to alter China's behavior because of China's dominance in trade. Consequently, the products imported from China to the U.S. do not substantially impact China's economic market.⁷¹ China consumes most of its own final products; roughly 88% of China's apparel and textiles stay within its borders.⁷² In some instances, the European Union (EU) is a larger

66. See 166 CONG. REC. S7,065 (daily ed. Nov. 18, 2020) (statement of Sen. Ben Cardin) (“[When a] country does not hold accountable those who violate basic global human rights of its citizens; [the U.S.] impose[s] [Global Magnitsky] sanctions. Those sanctions prevent that individual who perpetrated these acts from visiting the United States through the issuance of a visa or participating in our banking system.”).

67. *Id.* Countries such as the UK, Canada, Estonia, Latvia, and Lithuania have enacted similar bills to the U.S.' Magnitsky Act, and Japan and Australia are currently considering similar legislation. *Id.* In December 2020, the EU also adopted a “Global Human Rights sanctions framework of its own.” Michael R. Pompeo, Sec’y of State, *United States and Partners Promote Accountability for Corruption and Human Rights Abuse*, U.S. DEP’T OF STATE (Dec. 10, 2020), <https://www.state.gov/united-states-and-partners-promote-accountability-for-corruption-and-human-rights-abuse/> [<https://perma.cc/2JMM-M8Q9>].

68. *E.g.*, H.R. 6270, 116th Cong. (2020) (requiring issuers of securities to publicly disclose their activities related to Xinjiang); H.R. 6210, 116th Cong. (2020) (imposing various restrictions related to the Xinjiang region, including prohibition of certain Xinjiang imports); S. 4241, 116th Cong. (2020) (requiring publicly traded companies to disclose use of forced labor in their direct supply chain); S. 65, 117th Cong. (2021) (ensuring goods made with forced labor do not enter U.S. market). These bills never passed during the 116th or 117th sessions.

69. Uyghur Human Rights Policy Act of 2020, 22 U.S.C. § 6901 (providing resources to combat the Xinjiang human rights violations and allowing the President to impose sanctions on entities deemed responsible for such abuses in Xinjiang).

70. Uyghur Forced Labor Prevention Act, Pub. L. No 117-78, 135 Stat. 1525 (2021) (requiring “clear and convincing evidence” that products produced in XUAR are not tainted by forced labor, effective June 2022).

71. See *Combatting Human Rights Abuses*, *supra* note 2 (“U.S. action will most likely not be sufficient on its own to effect change.”).

72. Soumaya Keynes & Chad P. Brown, *Xinjiang’s Forced Labor, Supply Chains, and Trade Sanctions*, TRADE TALKS (Dec. 2, 2020) (downloaded using Spotify).

consumer of these products.⁷³ Another hurdle that prevents success to these Acts is China's blatant disregard for democratic values, as China enacted statutes for "Counteracting Unjustified Extra-territorial Application of Foreign Legislation and Other Measures" that authorize countersanctions and civil liability for Chinese nationals who comply with attempts to enforce foreign laws in China.⁷⁴ Due to the U.S.' nominal impact on China's economy from Chinese imported goods and China's aggressive and hostile stance, Congress must engage in multilateral strategies to disrupt China's economy to stop the CCP's repression in Xinjiang.⁷⁵

Second, there is growing speculation that Congress's actions are making a difference.⁷⁶ Congress enacted two bills to stop China from committing genocide in Xinjiang, but the U.S. decided to participate in the 2022 Beijing Winter Olympics (Beijing Olympics) in China.⁷⁷ Congress is sending a mixed message: the U.S. will denounce the CCP's treatment of the Uyghurs but participate in the Beijing Olympics where the CCP is committing genocide. It is no coincidence that there is strong financial incentive to participate in the Olympics as "[m]any of the companies sponsoring the [Beijing Olympics] Games also spent directly on lobbying and influence operations as part of efforts to further their agendas in Washington."⁷⁸ Although the U.S. refused to send diplomatic or official representation:

The President has once again opted for a half measure, when bold leadership was required. The United States should fully boycott the Genocide Games in Beijing. American businesses should not financially support the Chinese Communist Party and we must not

73. *Combating Human Rights Abuses*, *supra* note 2.

74. See MOFCOM Order No. 1 of 2021 on Rules on Counteracting Unjustified Extra-territorial Application of Foreign Legislation and Other Measures, People's Republic of China Ministry of Commerce (Jan. 9, 2021), <http://english.mofcom.gov.cn/article/policyrelease/announcement/202101/20210103029708.shtml> [<https://perma.cc/28KW-XPM7>].

75. See *infra* Section III.A.2.

76. See *Beijing's Genocide Olympics*, HONESTLY WITH BARI WEISS (Feb. 16, 2021) (downloaded using Spotify) [hereinafter *Genocide Olympics*] (arguing Uyghur Act does not make a difference, "it does not spend a dollar, does not spend a one red cent . . . the point is that a lot of politicians saying the right things, not a lot of politicians getting together to use their power and influence to stand up for the suffering, to raise the pressure").

77. Press Briefing, Jen Psaki, Press Secretary, Press Briefing by Press Secretary Jen Psaki (Dec. 6, 2021), <https://www.whitehouse.gov/briefing-room/press-briefings/2021/12/06/press-briefing-by-press-secretary-jen-psaki-december-6-2021/> [<https://perma.cc/9FHR-FJ6V>].

78. Anna Massoglia, *Beijing Winter Olympics' Corporate Sponsors are Also Big Lobbying Spenders*, OPEN SECRETS (Feb. 3, 2022) <https://www.opensecrets.org/news/2022/02/beijing-winter-olympics-corporate-sponsors-are-also-big-lobbying-spenders/> [<https://perma.cc/F9AN-VL99>] (In 2021, "Toyota and its subsidiaries spent more [money] on lobbying . . . than any other 2022 Olympic partner . . . [spending] more than \$6.2 million. . . . Toyota paid for lobbying on a wide array of issues" such as trade, tax credits, and infrastructure.); see e.g., *Genocide Olympics*, *supra* note 76.

expose Team USA to the dangers of a repugnant authoritarian regime that disappears its own athletes.⁷⁹

The decision to participate, despite a diplomatic boycott, “is a real gut punch to activists.”⁸⁰ As Congressman Michael McCaul stated: “We have a moral duty today to speak out against these horrifying crimes against humanity and against the Uyghurs But we have an even greater duty to avoid funding this genocide by paying for slave labor in Xinjiang.”⁸¹ Congressmembers must uphold their stance against genocide, maintain a global conversation, and enforce legitimate action despite any political agenda.

B. U.S. Federal Agencies Take Action

The U.S. imposes sanctions as a means to justify the ends, usually to alter behavior and invoke change. Since 2019, several U.S. government agencies have responded to China’s human rights abuses in Xinjiang,⁸² particularly by imposing primary sanctions.⁸³ Generally, sanctions include economic measures such as “trade embargoes; restrictions on exports from or imports to the American market; cessation of aid to foreign countries, loans, and foreign direct investment; and control (i.e., freezing) of foreign assets and economic transactions that involve American citizens or businesses.”⁸⁴ Other sanctions limit China’s access to the U.S. financial system by “limiting or prohibiting transactions involving U.S. individuals and businesses; restricting private and government loans, investments,

79. Press Release, Tom Cotton, Senator, Cotton Statement on Diplomatic Boycott of the 2022 Winter Olympics (Dec. 6, 2021), <https://www.cotton.senate.gov/news/press-releases/cotton-statement-on-diplomatic-boycott-of-the-2022-winter-olympics> [<https://perma.cc/W74G-8QFL>].

80. *Id. Contra*, Press Release, Nancy Pelosi, Speaker, House of Representatives, Pelosi Remarks at Hearing on the Beijing Olympics and the Faces of Repression (Feb. 3, 2022), <https://www.speaker.gov/newsroom/2322-2> [<https://perma.cc/YHF2-HVBU>]. Speaker of the House, Nancy Pelosi addressed the U.S. athletes warning them to not speak out against China’s regime because China is “ruthless”—yet at the same time she preaches that “we cannot and will not be silent on human rights in China.”

81. 166 CONG. REC. H4666 (daily ed. Sept. 22, 2020) (statement of Congressman Michael McCaul).

82. *See, e.g.*, CONFLICT & STABILIZATION REPORT, *supra* note 33 (listing actions U.S. has taken to strengthen its efforts to denounce atrocities in Xinjiang and promote accountability for the CCP).

83. *See generally* Daniel Meagher, Note, *Caught in the Economic Crosshairs: Secondary Sanctions, Blocking Regulations, and the American Sanctions Regime*, 89 FORDHAM L. R. 999, 1004 (2020) (“Primary sanctions prohibit companies and individuals in the sanctioning country from engaging with their counterparts in the sanctioned country. These primary sanctions apply to persons, transactions, and goods over which the sanctioning country can assert its jurisdiction.”).

84. *Id.* at 1004.

insurance, and underwriting; and denying foreign assistance and government procurement contracts.”⁸⁵

The following agencies are taking action through unilateral measures: the U.S. State Department (State Department); the U.S. Department of Homeland Security (DHS); the U.S. Department of Commerce (DOC); the U.S. Department of Treasury (Treasury); and the U.S. Department of Labor. Each is addressed in turn.

1. U.S. Department of State

The State Department advises the President, leads the nation in foreign policy issues, and has the authority to impose visa restrictions.⁸⁶ The State Department has publicly criticized China’s behavior and imposed several visa restrictions on millions of the CCP officials for their responsibility or complicity in “the detention or abuse of minority . . . Muslim groups in Xinjiang.”⁸⁷ Then-Secretary Mike Pompeo released several press statements calling for an immediate end to the CCP’s repression.⁸⁸ He urged all countries to join the U.S. “in condemning

85. U.S. GOV’T ACCOUNTABILITY OFF., GAO-20-324, ECONOMIC SANCTIONS: TREASURY AND STATE HAVE RECEIVED INCREASED RESOURCES FOR SANCTIONS IMPLEMENTATION BUT FACE HIRING CHALLENGES 4 (2020) [hereinafter GAO REPORT]; see Jonathan Cross, Christopher Boyd, Brittany Crosby-Banyai & Christopher Milazzo, *Recent Trends in Secondary Sanctions*, HERBERT SMITH FREEHILLS (Oct. 7, 2020), <https://hsfnotes.com/sanctions/2020/10/07/recent-trends-in-secondary-sanctions/> [<https://perma.cc/W6M8-NF9L>].

86. U.S. Department of State, USAGOV, <https://www.usa.gov/federal-agencies/u-s-department-of-state> [<https://perma.cc/YV46-J3UH>].

87. U.S. DEP’T OF STATE, DEP’T OF THE TREASURY, DEP’T OF COM., DEP’T OF HOMELAND SEC., XINJIANG SUPPLY CHAIN BUSINESS ADVISORY: RISKS AND CONSIDERATIONS FOR BUSINESSES WITH SUPPLY CHAIN EXPOSURE TO ENTITIES ENGAGED IN FORCED LABOR AND OTHER HUMAN RIGHTS ABUSES IN XINJIANG (2020), https://home.treasury.gov/system/files/126/20200701_xinjiang_advisory.pdf [<https://perma.cc/5RX2-FDPW>] [hereinafter 2020 XINJIANG SUPPLY CHAIN ADVISORY]; see Michael R. Pompeo, Sec’y of State, *U.S. Department of State Imposes Visa Restrictions on Chinese Officials for Repression in Xinjiang*, U.S. DEP’T OF STATE (Oct. 8, 2019), <https://www.state.gov/u-s-department-of-state-imposes-visa-restrictions-on-chinese-officials-for-repression-in-xinjiang/> [<https://perma.cc/92DV-2ZU3>]; see also Jordan Fabian, *Trump Signs Bill That Could Remove Chinese Stocks from U.S.*, BLOOMBERG L. (Dec. 18, 2020), <https://www.bloomberg.com/news/articles/2020-12-18/trump-signs-bill-that-could-remove-china-stock-listings-in-u-s> [<https://perma.cc/6KKQ-M8YW>] (“[T]he law . . . limit[s] travel visas for 92 million Communist Party members. Any of them with a 10-year visa . . . now see it reduced to one month.”).

88. See, e.g., Michael R. Pompeo, Sec’y of State, *CBP’s Continued Enforcement Actions to Combat Forced Labor in China*, U.S. DEP’T OF STATE (Sept. 14, 2020), <https://www.state.gov/cbps-continued-enforcement-actions-to-combat-forced-labor-in-china/> [<https://perma.cc/56WX-CQUQ>] (“[T]he world will not stand for the PRC’s human rights abuses against Uyghurs and members of other Muslim minority groups in Xinjiang . . .”); Jon Emont & William Mauldin, *In Indonesia, Pompeo Urges Muslims to Challenge China’s Xinjiang Policies*, WALL ST. J., (Oct. 29, 2020), <https://www.wsj.com/articles/in-indonesia-pompeo-urges-muslims-to-challenge-chinas-xinjiang-policies-11603970520> [<https://perma.cc/33ZB-46MU>] (quoting then-Secretary Pompeo in Indonesia) (“[The CCP] has tried to convince Indonesians to look away from the torments your fellow Muslims

the CCP's heinous abuse of the human rights of its own citizens, affecting countless families across the world."⁸⁹ Although the U.S. has already denounced the atrocities in Xinjiang on a global platform,⁹⁰ more international diplomatic discourse that leads to global action is essential to achieve the greatest success of all U.S. sanctions unilaterally and multilaterally.⁹¹

Without legitimate action behind State Department efforts, the U.S. cannot lead a global effort to stop China's repression of the Uyghurs. For example, at the world's first Summit for Democracy,⁹² President Biden addressed leaders of more than 100 countries reaffirming the shared commitment to "push back on authoritarianism, fight corruption, promote and protect human rights of people everywhere. To act. To act."⁹³ Yet, two months later, the U.S. failed to act in its mission to "protect human rights of people everywhere" in the decision to fund genocide by competing in the Beijing Olympics. State Department leadership provides other nations similar tools to join the U.S.,⁹⁴ but such leadership can only succeed when

are suffering. . . . CCP officials have spun fantastic tales Look at the facts, listen to . . . the survivors and their families.").

89. Michael R. Pompeo, Sec'y of State, *On Sanctioning Human Rights Abusers in Xinjiang, China*, U.S. DEP'T OF STATE (July 31, 2020), <https://www.state.gov/on-sanctioning-human-rights-abusers-in-xinjiang-china/> [<https://perma.cc/5KS4-WSVJ>] ("The Trump Administration has led the world's effort to impose tangible costs on the PRC's continuous campaign of repression, mass arbitrary detention, intrusive surveillance, forced labor, forced population control, involuntary collection of biometric data, and genetic analyses targeted at these groups.").

90. See CONFLICT & STABILIZATION REPORT, *supra* note 33 ("U.S. publicly condemned China's ongoing and escalating abuses of the Uyghurs . . . at the 74th United Nations General Assembly (UNGA), UN Security Council (UNSC) meetings, and various international commemorations."); Humeyra Pamuk & David Brunnstrom, *U.S. Leads Condemnation of China for 'Horrific' Repression of Muslims*, REUTERS (Sept. 24, 2019), <https://www.reuters.com/article/us-usa-china-un-xinjiang/u-s-leads-condemnation-of-china-for-horrific-repression-of-muslims-idUSKBN1W92PX> [<https://perma.cc/26KD-3M53>] ("[US] led more than 30 countries in condemning . . . China's 'horrific campaign of repression' against Muslims in Xinjiang . . .").

91. See generally Kieran Beer, *Financial Crimes Matter: Sanctions of Our Time: Iran, Venezuela and the Kingpins*, ACAMS (Apr. 1, 2020) (downloaded using Spotify) (stating sanctions require strong diplomacy efforts to work effectively).

92. See generally *The Summit for Democracy*, U.S. DEP'T OF STATE, <https://www.state.gov/summit-for-democracy/> [<https://perma.cc/E37X-U2PS>] (providing summary of proceedings and schedule information).

93. Speeches and Remarks, Remarks By President Biden at the Summit for Democracy Opening Session (Dec. 9, 2021), <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/12/09/remarks-by-president-biden-at-the-summit-for-democracy-opening-session/> [<https://perma.cc/YY6N-GU95>].

94. Cf. Meagher, *supra* note 83, at 1014 ("[I]n 2012, Congress introduced legislation to disconnect Iranian banks from the . . . financial messaging company that was used near universally for global payments. Seeking to present a united front with the United States, the EU passed a similar regulation shortly thereafter.").

it stands behind its mission to “defend human rights, combat corruption, and promote accountability and good governance.”⁹⁵

2. U.S. Department of Homeland Security

The U.S. Customs and Border Protection (CBP), a DHS agency, is responsible for imposing Withhold Release Orders (WROs) to prevent products made by forced labor from entering U.S. borders. Between 2019 and 2020, CBP imposed WROs “detaining imports of hair products believed to have been manufactured with forced labor by two Chinese companies operating in Xinjiang.”⁹⁶ In Fiscal Year 2020 (October 2019 to September 2020), CBP issued eight WROs on goods made by forced labor in China.⁹⁷ In Fiscal Year 2021 (October 2020 to September 2021), the CBP has issued six WROs based on information indicating the use of forced labor or human rights abuses in Xinjiang.⁹⁸ One WRO⁹⁹ of the six issued in Fiscal Year 2021 for forced labor includes a ban on all cotton and cotton products produced by the Xinjiang Production and Construction Corps (XPCC).¹⁰⁰ XPCC is a paramilitary entity and one of China’s single-largest producers of cotton, accounting for about 37% of Xinjiang’s total production in 2017.¹⁰¹ Another WRO banned “cotton products and tomato products produced in Xinjiang . . . [encompassing] all products made in whole or in part using this cotton or these tomatoes, regardless of where

95. Michael R. Pompeo, Sec’y of State, *United States and Partners Promote Accountability for Corruption and Human Rights Abuse*, U.S. DEP’T OF STATE (Dec. 10, 2020), <https://www.state.gov/united-states-and-partners-promote-accountability-for-corruption-and-human-rights-abuse/> [<https://perma.cc/2JMM-M8Q9>].

96. 2020 XINJIANG SUPPLY CHAIN ADVISORY, *supra* note 87 (“[Including] a WRO detaining imports of garments believed to have been produced with prison or forced labor by a Chinese company operating in Xinjiang.”).

97. XPCC Detention Order, *supra* note 1; *see* Konnath, *supra* note 33 (stating CBP issued twelve import bans, including eight for China in the last fiscal year).

98. *Fact Sheet: New U.S. Government Actions on Forced Labor in Xinjiang*, WHITE HOUSE (June 24, 2021), <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/24/fact-sheet-new-u-s-government-actions-on-forced-labor-in-xinjiang/> [<https://perma.cc/25GX-EA93>] [hereinafter *Fact Sheet*]; *see, e.g., CBP Issues Region-Wide Withhold Release Order on Products Made by Slave Labor in Xinjiang*, U.S. CUSTOMS & BORDER PROT. (Jan. 13, 2021), <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-region-wide-withhold-release-order-products-made-slave> [<https://perma.cc/E3E6-HR3P>] [hereinafter *Slave Labor Withhold Release Order*].

99. XPCC Detention Order, *supra* note 1 (“The WRO on XPCC cotton products is the sixth enforcement action that CBP has announced in the past three months [October–December] against goods made by forced labor from China’s Xinjiang Uyghur Autonomous Region.”).

100. *Id.* (including “its subordinate and affiliated entities” and “any products that are made in whole or in part with or derived from that cotton, such as apparel, garments, and textiles”).

101. FORCED LABOR REPORT, *supra* note 6, at 5–6. (“XPCC helped build and run detention facilities in its administrative areas that have been involved in the repression of Uyghurs. . . . These activities mean that it is a key actor in what the U.S. Holocaust Museum has labeled crimes against humanity.”).

the downstream products are produced.”¹⁰² A subsequent WRO included a ban on a company located in Xinjiang and its subsidiaries that make silica-based products.¹⁰³ In total, near the end of Fiscal Year 2021, CBP issued WROs “against nine Chinese companies, XPCC cotton, and all Xinjiang cotton and tomatoes as well as products using Xinjiang cotton or tomatoes as inputs.”¹⁰⁴ Overall, CBP has taken several actions to restrict goods imported from Xinjiang.¹⁰⁵ According to Ken Cuccinelli, former DHS Deputy Secretary, “DHS is taking the lead to enforce our laws to make sure human rights abusers, including U.S. businesses, are not allowed to manipulate our system in order to profit from slave labor.”¹⁰⁶ Cuccinelli further stated that “‘Made in China’ is not just a country of origin[;] it is a warning label.”¹⁰⁷

DHS’s unilateral actions are not enough to impact China’s economy¹⁰⁸ and to stop it from committing human rights abuses against the Uyghur population. In 2019 alone, the U.S. imported roughly \$11 billion in cotton textile and apparel products from China,¹⁰⁹ and approximately 84% of cotton from China is grown in Xinjiang.¹¹⁰ In 2020, the U.S.’ largest supplier of good imports was China.¹¹¹ Although Chinese

102. *Slave Labor Withhold Release Order*, *supra* note 98.

103. *The Department of Homeland Security Issues Withhold Release Order on Silica-Based Products Made by Forced Labor in Xinjiang*, U.S. CUSTOMS & BORDER PROT. (June 24, 2021), <https://www.cbp.gov/newsroom/national-media-release/department-homeland-security-issues-withhold-release-order-silica> [<https://perma.cc/YD8S-JCWR>].

104. U.S. DEP’T OF TREASURY, XINJIANG SUPPLY CHAIN BUSINESS ADVISORY: RISKS AND CONSIDERATIONS FOR BUSINESSES AND INDIVIDUALS WITH EXPOSURE TO ENTITIES ENGAGED IN FORCED LABOR AND OTHER HUMAN RIGHTS ABUSES LINKED TO XINJIANG, CHINA 10 (2021), https://home.treasury.gov/system/files/126/20210713_xinjiang_advisory_0.pdf [<https://perma.cc/Y6ZS-2SWU>] [hereinafter 2021 XINJIANG SUPPLY CHAIN ADVISORY].

105. See Sands & Westcott, *supra* note 51 (“It’s been the most aggressive year in using CBP’s authorities to fight forced labor in its history that I know of.”).

106. XPCC Detention Order, *supra* note 1; see, e.g., Martha Mendoza, *Hair Weaves from Chinese Prison Camps Seized*, AP NEWS (July 2, 2020), <https://apnews.com/article/fff5fc7925f09916bf6b9d5f79bb4132> [<https://perma.cc/5TCX-FWCW>] (reporting that CBP seized thirty tons of products made from human hair suspected of being forcibly removed from Uyghurs imprisoned in internment camps).

107. XPCC Detention Order, *supra* note 1.

108. See also David Laufman, Joseph Casino & Michael Kasdan, *Where We Are in the US Trade Secret Crackdown on China*, LAW 360 (May 29, 2020), <https://www.law360.com/articles/1275219/where-we-are-in-the-us-trade-secret-crackdown-on-china> [<https://perma.cc/9YW3-2DFA>]. China is the second largest economy in the world. *Id.*

109. *US Bans Cotton Imports from China Producer, Citing ‘Slave Labour’*, ALJAZEERA (Dec. 3, 2020), <https://www.aljazeera.com/economy/2020/12/3/us-bans-cotton-imports-from-china-producer-citing-slave-labour> [<https://perma.cc/5M6U-9MMW>].

110. Amy K. Lehr, *Down the Rabbit Hole of Global Chains*, CTR. FOR STRATEGIC & INT’L STUD. (Dec. 18, 2020) (downloaded using Spotify).

111. *The People’s Republic of China: U.S.-China Trade Facts*, OFF. OF THE U.S. TRADE REPRESENTATIVE, <https://ustr.gov/countries-regions/china-mongolia-taiwan/peoples-republic-china> [<https://perma.cc/6VC8-QXDA>] [hereinafter *U.S.-China Trade Facts*].

imports to the U.S. are statistically low on a global comparison,¹¹² China is the U.S.' largest goods trading partner.¹¹³ Consequently, there is a concerning probability that the billions of dollars from the cotton-made and apparel products imported to the U.S. involved forced labor.¹¹⁴ Thus, the WROs are not enough to discourage China's use of forced labor—falling short in achieving its policy objective: to prevent trade with actors committing human rights violations.¹¹⁵

3. U.S. Department of Commerce

The DOC focuses its efforts on prohibiting the export of U.S. goods or services to entities known to profit from forced labor.¹¹⁶ The Bureau of Industry and Security (BIS) of DOC maintains two lists: the Denied Persons List and the Entity List (Commerce Entity List).¹¹⁷ The Denied Persons List designations are concerned with export and reexport privileges.¹¹⁸ The Commerce Entity List designations are concerned with export licensing to designated entities.¹¹⁹ Ultimately, the designations result in the parties facing new restrictions on access to U.S. goods and technology.¹²⁰

BIS responded to the Xinjiang situation by imposing sanctions on entities involved in cultural genocide. It added the following entities to the Commerce Entity List due to evidence of crimes committed against humanity or enabling human rights abuses in Xinjiang: in 2019, eight Chinese commercial entities and twenty Chinese governmental entities;¹²¹ in 2020, the PRC's Ministry of Public Security's Institute of Forensic

112. *See id.*

113. *Id.*

114. *See id.* (stating cotton is not immediately exported from China but is turned into cotton yarn, fabric, and garments through internal supply chains that make it difficult to trace the cotton origin).

115. *See infra* Section III.B.

116. *See Bureau of Industry and Security*, U.S. DEP'T OF COM., <https://www.commerce.gov/bureaus-and-offices/bis> [<https://perma.cc/QFM5-AKN4>].

117. *See Frequently Asked Questions: Specially Designated Nationals (SDNs) and the SDN List*, U.S. DEP'T OF THE TREASURY, <https://home.treasury.gov/policy-issues/financial-sanctions/faqs/topic/1631/print> [<https://perma.cc/8HZ5-ZQBK>] (“[BIS] maintains separate lists for the purposes of the programs that it administers (including the Denied Persons List and the Entity List). The Denied Persons List consists of individuals and companies that have been denied export and reexport privileges by BIS. The Entity List consists of foreign end users who pose an unacceptable risk of diverting U.S. exports and the technology they contain to alternate destinations for the development of weapons of mass destruction.”).

118. *See id.* (discussing difference between DOC and OFAC lists).

119. *Id.*

120. 2020 XINJIANG SUPPLY CHAIN ADVISORY, *supra* note 87.

121. *Id.* at 3 (“[I]ncluding the Xinjiang Public Security Bureau, [seventeen] local public security bureaus, Xinjiang Police College, and Xinjiang Production and Construction Corps Public Security Bureau. . . . These Entity List additions imposed additional license requirements on exports, reexports, and transfers (in-country) to the [twenty-eight] listed entities.”).

Science and eight Chinese companies,¹²² and fifteen additional Chinese entities;¹²³ in 2021, five other Chinese entities involved in the production of polysilicon,¹²⁴ and an additional fourteen entities based in the PRC.¹²⁵ As a result, these designations restrict access to U.S. goods and technology as it bans U.S. firms from selling goods to those entities.¹²⁶ Although the imposed primary sanctions send a strong message against human rights violations in Xinjiang, the unilateral actions have done little to alter China's behavior.¹²⁷

4. U.S. Department of Treasury

The Treasury's Office of Foreign Assets Control (OFAC) has designated sanctions on numerous entities and persons.¹²⁸ OFAC maintains a separate list known as the Specially Designated Nationals (SDN) List (OFAC Entity List).¹²⁹ The OFAC Entity List uses "the

122. 2020 XINJIANG SUPPLY CHAIN ADVISORY, *supra* note 87.

123. Press Release, Wilbur Russ, Sec'y of Com., *Commerce Department Adds Eleven Chinese Entities Implicated in Human Rights Abuses in Xinjiang to the Entity List*, U.S. DEP'T OF COM. (July 20, 2020), <https://www.commerce.gov/news/press-releases/2020/07/commerce-department-adds-eleven-chinese-entities-implicated-human> [<https://perma.cc/R9VK-H4L8>] (imposing sanctions for eleven entities' implications in "mass arbitrary detention, forced labor, involuntary collection of biometric data, and genetic analyses targeted at Muslim minority groups" from Xinjiang); Michael R. Pompeo, Sec'y of State, *U.S. Imposes New Sanctions on People's Republic of China Actors Linked to Malign Activities*, U.S. DEP'T OF STATE (Dec. 18, 2020), <https://www.state.gov/u-s-imposes-new-sanctions-on-peoples-republic-of-china-actors-linked-to-malign-activities/> [<https://perma.cc/FJG8-7RJS>] (adding fifty-nine PRC entities to Commerce Entity List for "exploiting U.S. goods and technologies for malign purposes" and "enabling human rights abuses within China by providing DNA-testing materials or high-technology surveillance equipment to the PRC government").

124. Press Release from U.S. Dep't of Com., *Commerce Department Adds Five Chinese Entities to the Entity List for Participating in China's Campaign of Forced Labor Against Muslims in Xinjiang*, (June 24, 2021), <https://www.commerce.gov/news/press-releases/2021/06/commerce-department-adds-five-chinese-entities-entity-list> [<https://perma.cc/WJB8-V948>].

125. Press Release from U.S. Dep't of Com., *Commerce Department Adds 34 Entities to the Entity List to Target Enablers of China's Human Rights Abuses and Military Modernization, and Unauthorized Iranian and Russian Procurement*, (July 9, 2021), <https://www.commerce.gov/news/press-releases/2021/07/commerce-department-adds-34-entities-entity-list-target-enablers-chinas> [<https://perma.cc/24FB-TYLG>] ("[The fourteen entities] are based in the . . . [PRC] and have enabled Beijing's campaign of repression, mass detention, and high-technology surveillance against Uyghurs, . . . and members of other Muslim minority groups in the . . . [XUAR], where the PRC continues to commit genocide and crimes against humanity.").

126. See China Geopolitics: South China Morning Post, *Exposing American Investment in Xinjiang: Beijing's New Ambassador to the U.S.* (June 25, 2021) (downloaded using Spotify) [hereinafter *Exposing American Investment in Xinjiang*].

127. See *infra* Section III.B.

128. See generally *Financial Sanctions: Office of Foreign Assets Control - Sanctions Programs and Information*, U.S. DEP'T OF THE TREASURY, <https://home.treasury.gov/policy-issues/office-of-foreign-assets-control-sanctions-programs-and-information> [<https://perma.cc/BRZ8-ESN5>] (providing OFAC Sanctions Lists).

129. See generally *Office of Foreign Assets Control - Sanctions Programs and Information*, U.S. DEP'T OF THE TREASURY, <https://home.treasury.gov/policy-issues/office-of-foreign-assets-control->

blocking of assets and trade restrictions on individuals and entities” throughout the world to accomplish foreign policy goals.¹³⁰ It also prohibits U.S. persons from “engaging in any transactions with SDNs and must block any property in their possession or under their control in which an SDN has an interest.”¹³¹ In July 2020, OFAC sanctioned a few Chinese government entities¹³² and several current or former government officials¹³³ pursuant to Global Magnitsky Human Rights Executive Order 13818,¹³⁴ which “builds upon and implements the Global Magnitsky Human Rights Accountability Act.”¹³⁵ These designations are for their “connection to the serious human rights abuse against ethnic minorities,” including the Uyghurs in Xinjiang.¹³⁶

These unilateral efforts prohibit U.S. companies from engaging in certain transactions with these entities, but it does not prevent U.S. companies from investing in them. For example, three of the biggest mutual fund companies have invested in Xinjiang companies despite these sanctions.¹³⁷ Consequently, they are flowing millions of dollars into the

sanctions-programs-and-information [https://perma.cc/BRZ8-ESN5] (“[The] Treasury administers and enforces economic and trade sanctions based on US foreign policy and national security goals against targeted foreign countries and regimes . . . [and] those engaged in activities related to . . . other threats to the national security, foreign policy or economy of the United States.”).

130. *Sanctions Programs and Country Information*, U.S. DEP’T OF THE TREASURY, https://home.treasury.gov/policy-issues/financial-sanctions/sanctions-programs-and-country-information [https://perma.cc/DAD5-UAN6]

131. *Frequently Asked Questions: Specially Designated Nationals (SDNs) and the SDN List*, *supra* note 117.

132. *E.g.*, Press Release, *Treasury Sanctions Chinese Entity and Officials Pursuant to Global Magnitsky Human Rights Executive Order*, U.S. DEP’T OF THE TREASURY (July 31, 2020), https://home.treasury.gov/news/press-releases/sm1073 [https://perma.cc/3YSW-AVAM] [hereinafter *OFAC July 31, 2020 Sanctions*]; Press Release, *Statement on Treasury Sanctions Chinese Entity & Officials Pursuant to Global Magnitsky Human Rights Accountability Act*, U.S. DEP’T OF THE TREASURY (July 9, 2020), https://home.treasury.gov/news/press-releases/sm1055 [https://perma.cc/QJ4K-C8QD] (including XPCC and Xinjiang Public Security Bureau (XPSB) entities) [hereinafter *OFAC July 9, 2020 Sanctions*].

133. *E.g.*, *OFAC July 31, 2020 Sanctions*, *supra* note 132; *OFAC July 9, 2020 Sanctions*, *supra* note 132 (including a CCP Secretary of XUAR; former Deputy Party Secretary of the XUAR; current Director and CCP Secretary of XPSB; former Party Secretary of the XPSB; former Political Commissar of the XPCC, and the Deputy Party Secretary and Commander of the XPCC).

134. Exec. Order No. 13,818, 31 C.F.R. pt. 583.

135. *OFAC July 31, 2020 Sanctions*, *supra* note 132; *OFAC July 9, 2020 Sanctions*, *supra* note 132 (“[DOC] added nine PRC entities related to human rights abuses in the Xinjiang region to the Commerce Entity List; this action complemented the October 2019 addition to the Commerce Entity List of 28 entities engaged in the PRC repression campaign in the Xinjiang region.”).

136. *OFAC July 9, 2020 Sanctions*, *supra* note 132.

137. *Exposing American Investment in Xinjiang*, *supra* note 126; *e.g.*, Jacob Fromer & Cissy Zhou, *In Windfall for Xinjiang, Huge US Mutual Funds Invest Millions in its Companies*, US-CHINA RELATIONS, (June 25, 2021) (“[T]hese three mutual fund companies [Vanguard, State Street, and BlackRock], the biggest in the US and trusted by many Americans to manage their savings and pensions, have collectively poured millions of dollars into Xinjiang’s publicly traded companies in recent years, many of them directly controlled by the Xinjiang government itself.”).

Xinjiang economy despite these sanctions and compliance guidance.¹³⁸ “Vanguard has seen the value of its Xinjiang investments triple since 2018, according to US Securities and Exchange Commission (SEC) filings.”¹³⁹ To prevent U.S. companies from supporting the CCP regime against the Uyghurs, the U.S. should impose secondary sanctions regarding transactions and investments tied to the specific human rights abuses in Xinjiang.¹⁴⁰

5. U.S. Department of Labor

The Bureau of International Labor Affairs (ILAB) of the U.S. Department of Labor maintains a list of goods produced by child labor or forced labor.¹⁴¹ The purpose behind this list is to alert businesses of abuses in their supply chain and provide tools for compliance and preventive measures for companies and governments around the world.¹⁴² The list “is not intended to be punitive, but rather to serve as a catalyst for more strategic and focused coordination and collaboration among those working to address these problems.”¹⁴³ ILAB publishes a Federal Registrar Notice with an updated list every two years.¹⁴⁴ However, in June 2021, ILAB added polysilicon¹⁴⁵ produced with forced labor in the PRC to its list for violating international standards.¹⁴⁶ This addition is the first time a good has been added to the list outside the two-year cycle.¹⁴⁷ The 2020 List of Goods Produced by Child Labor or Forced Labor Report “currently

138. *Exposing American Investment in Xinjiang*, *supra* note 126; *see e.g.*, Posner, *supra* note 26 (“In 2018, SenseTime a \$7.5 billion Chinese company, that makes facial-recognition technology, raised \$620 million in the U.S., assisted by Silver Lake, Tiger Global and other U.S. investment firms. The company was added to the Commerce Department’s Entity List in 2019 because it provides surveillance technology to the Chinese government that is being used in Xinjiang.”).

139. Jacob Fromer & Cissy Zhou, *supra* note 137.

140. *See infra* Section III.B.

141. *See List of Products Produced by Forced or Indentured Child Labor*, U.S. DEP’T OF LAB., <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-products> [<https://perma.cc/8B7W-WB7U>].

142. DEP’T OF LAB., 2020 LIST OF GOODS PRODUCED BY CHILD LABOR OR FORCED LABOR 9 (2021), https://www.dol.gov/sites/dolgov/files/ILAB/child_labor_reports/tda2019/2020_TVPRAList_Online_Final.pdf [<https://perma.cc/AK5Y-Z6NN>].

143. *List of Goods Produced by Child Labor or Forced Labor*, U.S. DEP’T OF LAB., <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods> [<https://perma.cc/ZPQ4-TTBW>].

144. *Fact Sheet*, *supra* note 98.

145. *See generally*, Kenneth Rapoza, *Biden Takes a Shot Against China’s Massive Solar Industry. Why It Matters.*, FORBES (June 27, 2021), <https://www.forbes.com/sites/kenrapoza/2021/06/27/biden-takes-a-shot-against-chinas-massive-solar-industry-why-it-matters/?sh=3828dcf947ba> [<https://perma.cc/FX7F-38EX>] (“Estimates are that China controls around half of the global polysilicon supply chain of which roughly 60% is based in Xinjiang. Since China does not allow third party audits, it is also hard to know if any of the solar cells being exported to the U.S. were made by Hoshine [a company issued a WRO] materials.”).

146. *Fact Sheet*, *supra* note 98.

147. *Id.*

includes other products from the PRC that have links to forced labor in Xinjiang or by Uyghur workers transferred to other parts of the PRC, including cotton, garments, footwear, electronics, gloves, hair products, textiles, thread/yarn, and tomato products.”¹⁴⁸ This acknowledgement is essential but it stops short of tangible legal ramifications because ILAB has no authority to reprimand the bad actors.

The current restrictions and sanctions against China and entities involved in the human rights violations imposed by the federal agencies are not enough. The following Part suggests how the U.S. can do more to impact China’s trade forum and ultimately end the cultural genocide.

III. TIME TO PRESSURE CHINA

To end cultural genocide and change China’s forced labor practices and regime in Xinjiang, the U.S. must impact China’s trade forum. The U.S. can lead this effort by (1) engaging in stronger international coordination efforts and enforcing multilateral measures against China; and (2) imposing secondary sanctions against any entity or person assisting, investing, sourcing, supplying, or aiding in human rights abuses in Xinjiang.

A. Multilateral Efforts

First, the U.S. should discuss the Xinjiang situation and its sanctioning strategies on a world platform. It should focus on creating a collegial framework and avoid possible disconnect and harm to allies.¹⁴⁹ A multilateral strategy will likely stir international support and create political pressure for other democracies to take action.¹⁵⁰

1. The World Platform

The U.S. must lead a global effort to end cultural genocide occurring in Xinjiang through stronger multilateral diplomacy efforts. The U.S. is a

148. *Id.* See generally 2021 XINJIANG SUPPLY CHAIN ADVISORY, *supra* note 104 (“To date, the Department of Labor has identified 18 goods produced by forced labor in China, including six goods on the TVPRA [Trafficking Victims Protection Reauthorization Act] List that are produced by forced labor by members of Muslim minority groups, including Uyghurs . . . and members of other ethnic and Muslim minority groups, in Xinjiang.”).

149. See generally Beer, *supra* note 91 (discussing how U.S. sanction framework can hurt allies if they are not on the same page).

150. See generally Todd F. Buchwald & Adam Keith, SIMON-SKJODT CTR. FOR THE PREVENTION OF GENOCIDE, *By Any Other Name: How, When, and Why the US Government Has Made Genocide Determinations* (2019) (“The international community has a responsibility ‘to use appropriate diplomatic, humanitarian, and other peaceful means . . . to help protect populations from genocide, war crimes, ethnic cleansing, and crimes against humanity.’ . . . More generally, US policy statements on atrocity prevention . . . serve as sources of pressure to act when there is a clear risk of genocide . . .”).

powerful world leader;¹⁵¹ it is “the world’s largest national economy and leading global trader.”¹⁵² As a result, it has the strength to lead a more diplomatic and multilateral dialogue. A multilateral strategy encourages other nations to implement similar standards for business entities involved in Xinjiang trade. Ultimately, it establishes a framework for multinational-supplier labor standards and simultaneously pressures China to change its regime against the Uyghur people.¹⁵³

Specifically, the U.S. can raise more awareness through avenues such as the World Economic Forum and the World Trade Organization (WTO). During the multilateral discussions, the U.S. must press for reform against China’s “bully tactics”¹⁵⁴ and continuously make Xinjiang the forefront topic.¹⁵⁵ Moreover, the U.S. can lead in a multilateral coordination effort, such as in Central America and Southeast Asia, to develop new sourcing hubs that comply with the Magnitsky Act, providing a foundation for capitalizing on future economic growth in those regions. The tactic to diversify, to source from other regions, in compliance with the Magnitsky Act is a strategic method because it provides an alternate supply chain with humane standards.¹⁵⁶ The U.S. can work closely with its allies, such as the EU¹⁵⁷ and Trans-Pacific Partnership¹⁵⁸ nations, to

151. Sinéad Baker, *The Most Powerful Countries on Earth in 2020, Ranked*, BUS. INSIDER (Jan. 19, 2020), <https://www.businessinsider.com/worlds-most-powerful-countries-2020-ranked-us-news-2020-1> [<https://perma.cc/3E6A-NU3G>] (ranking U.S. as “the world’s most-powerful country in 2020”).

152. *Economy & Trade*, *supra* note 2.

153. *See, e.g., Combatting Human Rights Abuses*, *supra* note 2.

154. *See Beijing’s Genocide Olympics*, *supra* note 76 (“[This is] a very complex problem, which is this Chinese communist party that acts like a mafia organization and runs the biggest richest economy in the world and is committing a genocide on our watch.”).

155. *Cf. id.* (suggesting a similar approach to the Reagan administration’s approach to the Soviet Union during the Cold War era that made “significant headway on human rights issues” by making it the initial topic of every meeting and trade talk).

156. *See* AMY K. LEHR & HENRY C. WU, CTR. FOR STRATEGIC & INT’L STUD., ADDRESSING FORCED LABOR IN THE XINJIANG UYGHUR AUTONOMOUS REGION 9 (2021) https://cis-website-prod.s3.amazonaws.com/s3fs-public/publication/210203_Lehr_Labor_XUAR.pdf [<https://perma.cc/KQ4F-GVKK>] (suggesting diversifying sourcing locations and developing new sourcing hubs may be complementary to the UN Sustainable Development Goals by spurring economic development).

157. *See generally* Press Release, U.S. Dep’t of the Treasury, *Remarks of Sec’y Lew on the Evolution of Sanctions and Lessons for the Future at the Carnegie Endowment for Inter’l Peace*, U.S. DEP’T OF THE TREASURY (Mar. 30, 2016), <https://www.treasury.gov/press-center/press-releases/pages/j10398.aspx> [<https://perma.cc/7VBV-BELE>] [hereinafter *Evolution of Sanctions*] (“[W]e have learned that sanctions are most effective at changing behavior when we work closely with our partners to build support for a common objective. The more international support there is for sanctions, and for their underlying objective, the more effective they will be.”).

158. *See* Yun Jiang & Jordan Schneider, *The United States Needs More Wine to Stand Up to Chinese Bullying*, FOREIGN POL’Y (Dec. 10, 2020), <https://foreignpolicy.com/2020/12/10/united-states-australian-wine-chinese-bullying-strategic-shiraz->

diversify and develop a strategy to source from other regions and prevent Xinjiang-made products from entering their borders.

In addition to allies supporting each other's objectives, the U.S. can incentivize other nations that are closely tied to China's economy and depending on Xinjiang products.¹⁵⁹ For example, the U.S. can negotiate monetary rewards, loans, or grants to limit other nations from importing Xinjiang-linked products and transactions connected to forced labor.¹⁶⁰ As a result, the nations that depend on China can rely less on China's trade as the U.S. provides a more adaptable economic framework.

However, it is important not to neglect China's powerful role in the world economy.¹⁶¹ Although such avenues may take substantial time, multilateral engagement can encourage nations to ally with the U.S. to provide a framework that combats forced labor in Xinjiang. The multilateral engagements would limit transactions with entities connected to forced labor in Xinjiang and create global sanctions resulting in substantial economic risks for China. Additionally, this mechanism promotes other nations and multilateral institutions to support human rights organizations that help suppressed Xinjiang people in which may likewise pressure China to release more detainees.¹⁶² Therefore, in addition to a harsher sanction scheme,¹⁶³ the U.S. must create action on the global stage through stronger multilateral mechanisms.

2. U.S.–EU Coordination

A combined U.S.–EU framework would send a strong message to China to provoke change. Although in the spring of 2021, the EU, as well as Canada and the United Kingdom, imposed targeted sanctions on

reserve/?utm_source=PostUp&utm_medium=email&utm_campaign=28301&utm_term=Flashpoints%20OC&?tpcc=28301 [https://perma.cc/9W9E-GEAC].

159. See generally Preston Jordan Lim, *Applying International Law Solutions to the Xinjiang Crisis*, 22 ASIAN-PAC. L. & POL'Y J. 90, 92 (2021) ("Given China's status as an economic powerhouse, only a few countries have proven willing to risk Chinese wrath by condemning Chinese human rights abuses.").

160. See generally Gary Clyde Hufbauer & Euijin Jung, *What's New in Economic Sanctions?*, 130 EUR. ECON. REV. 1, 4 (2020) (discussing monetary rewards as a positive measure to incentivize other nations).

161. See Laufman, Casino & Kasdan, *supra* note 108 (stating that China is the second largest economy globally). *But see* Luke Patey, *China Is an Economic Bully—and Weaker Than it Looks*, FOREIGN POL'Y (Jan. 4, 2021), https://foreignpolicy.com/2021/01/04/china-is-an-economic-bully-and-weaker-than-it-looks/?utm_source=PostUp&utm_medium=email&utm_campaign=29013&utm_term=Flashpoints%20OC&?tpcc=29013 [https://perma.cc/V5MU-NNZF].

162. See e.g., CONNECTING THE DOTS, *supra* note 7, at 21–26 (reporting a first-hand story of a detained Uyghur woman who was eventually released with help from a human rights organization).

163. See *infra* Section III.B.

Chinese officials,¹⁶⁴ the unilateral sanctions against China's robust economy are not enough. When President Obama led the U.S.-EU coordination and cooperation (2014 cooperation),¹⁶⁵ he stated such measures would "have an even bigger bite" than U.S. sanctions alone,¹⁶⁶ and that would be the case here. Since Russia invaded Ukraine in 2014, the U.S. and EU allied together in the 2014 cooperation effort that led to "imposing sanctions on Russia and coordination on other political and diplomatic responses to Russia's invasion."¹⁶⁷ The 2014 cooperation stands as a "tangible indication of U.S.–European solidarity frustrating Russian efforts to drive a wedge between transatlantic partners."¹⁶⁸ Moreover, the 2014 cooperation "sought to close as many gaps as possible between the two sanction regimes to send a unified message to Russia, maximize the effectiveness of sanctions, and make compliance for financial firms and multinational companies easier."¹⁶⁹

Regardless of immediate effect, the "sanctions have led the Russian government to make policy adjustments, including diverting resources to affected businesses and sectors."¹⁷⁰ Despite pushback that the Russian sanctions did not achieve their objective,¹⁷¹ the broad deterrent

164. Wendy Wysong, Ali Burney & Nicholas Turner, *Sanctions and Export Controls in the Asia-Pacific Region*, GLOB. INVESTIGATIONS REV. (July 31, 2021), <https://globalinvestigationsreview.com/guide/the-guide-sanctions/second-edition/article/sanctions-and-export-controls-in-the-asia-pacific-region> [<https://perma.cc/6FM9-ZWF4>].

165. The actions that the U.S. has taken in response to 2022 Russian-Ukraine war is beyond the scope of this Note.

166. CONG. RSCH. SERV., R4515, U.S. SANCTIONS ON RUSSIA 39 (2020) [hereinafter U.S. SANCTIONS ON RUSSIA].

167. *Id.* at 38. ("The Obama Administration and the EU designed sanctions related to Russia's invasion of Ukraine, in part, to impose longer-term pressures on Russia's economy while minimizing collateral damage to the Russian people and to the economic interests of the countries imposing sanctions.").

168. *Id.* at 2.

169. *Id.* at 39.

170. *Id.* at 55 ("[U.S.] imposed sanctions on Rusal, a global aluminum firm, which had broad effects that rattled Russian and global financial markets. These sanctions marked the first time the United States had made a top-twenty Russian firm completely off-limits, and the first time the Treasury Department appeared prepared to implement CRIIEA-mandated secondary sanctions. In January 2019, however, the Treasury Department removed sanctions on Rusal and two related companies after Kremlin connected billionaire Oleg Deripaska, who is subject to sanctions, agreed to relinquish his control over the three firms."); *see also* Beer, *supra* note 91 (stating U.S. sanctions imposed on Russia impacted Russia's central bank reserves to fall at precipitates rates).

171. *See, e.g., Sanctions Against Russia Have Failed to Achieve Political Goals*, NPR (Aug. 30, 2014), <https://www.npr.org/2014/08/30/344585043/sanctions-against-russia-have-failed-to-achieve-political-goals> [<https://perma.cc/9KL6-DJ6V>] ("[C]urrent sanctions [against Russia], which have been primarily economic, are definitely having an impact on the Russian economy. But so far, they've failed to achieve their political goal, which is to get Vladimir Putin to shift his policy course towards Ukraine.").

implications seriously complicated Russia's ability to achieve its objectives¹⁷²—and for that, this metric has succeeded.

Similarly, a U.S.-EU coalition could restrain China's economy due to its force as transnational partners. Like the 2014 cooperation, the U.S. should apply a framework that targets entities to adjust their behavior and pressures multilateral entities to adjust their operational procedures. With the current U.S. Administration, a U.S.–EU coalition is feasible and can force change in Xinjiang. The current EU position on China¹⁷³ resembles the Administration's policy during the 2014 cooperation.¹⁷⁴ With the current Administration in the White House, the ability to coordinate with the EU is achievable and in both nations' interest.¹⁷⁵ A U.S.–EU coalition is a strong and effective framework to initiate serious change to the trade practices in Xinjiang.

B. Secondary Sanctions

Second, OFAC should impose secondary sanctions¹⁷⁶ on entities involved in the forced labor practices that fund this cultural genocide. Although the federal agencies' actions economically burden persons and entities involved in the human rights abuses and lower the possibility that U.S. trade supports the Xinjiang genocide,¹⁷⁷ these unilateral efforts fall short of initiating substantial change to China's regime.

While secondary sanctions may seem like a dramatic step because they target non-U.S. persons, this tactic can stimulate reform in Xinjiang

172. See Erielle Davidson, *Sanctions, Sanctions, Sanctions*, NAT'L SEC. DIG. (Dec. 23, 2020) (downloaded using Spotify) (discussing adverse impact on Russian objectives in result of U.S. sanctions on Russia).

173. Lyubov Pronina, *China Deserves New Sanctions Over Xinjiang, EU Lawmakers Say*, BLOOMBERG (June 9, 2022), <https://www.bloomberg.com/news/articles/2022-06-09/china-deserves-new-sanctions-over-xinjiang-eu-parliament-says#xj4y7vzkg> [<https://perma.cc/5JLV-PCBY>].

174. Keith Johnson, *How Europe Fell out of Love with China*, FOREIGN POL'Y (June 25, 2020), <https://foreignpolicy.com/2020/06/25/china-europe-rival-strategic-competitor-huawei/> [<https://perma.cc/KPT6-ZDKA>] (“For years, much as the United States did in the past, Europe has sought to nudge China to make reforms in how it trades and does business but has nothing to show for it. Now, European officials openly talk of China as a rival that needs to start making changes—or face increasing restrictions from Beijing’s biggest trading partner.”).

175. See, e.g., Homi Kharas & Dennis J. Snower, *The Future of Multilateralism: Global Governance in a Changing World*, 5 GLOB. SOLS. J. 54, 82 (2020) (“Multilateral coordination generates win-win opportunities for all nations.”).

176. Also known as supplementary sanctions.

177. Cf. Nicholas Rowan, *Uighur Protections Bill Passes House Amid Partisan Division on China Policy*, WASH. EXAM’R (Sept. 30, 2020), <https://www.washingtonexaminer.com/news/uighur-protections-bill-passes-house-amid-partisan-division-on-china-policy> [<https://perma.cc/FTN2-S38V>] (“[S]anctioning is the most effective way to hold these human rights abusers accountable.”).

with multilateral alignment of foreign policy.¹⁷⁸ Secondary sanctions pressure entities worldwide to consider the likely financial, legal, and reputational risks of doing business connected to human rights violations.¹⁷⁹ These sanctions “target third-party actors doing business with, supporting, or facilitating targeted regimes, persons, and organizations.”¹⁸⁰ In other words, secondary sanctions are imposed against non-U.S. persons that conduct transactions with entities or persons on the OFAC Entity List. Essentially, these sanctions differ in that “they are not directed toward the primary target, but rather are directed against third parties in an attempt to [change] their behavior or their policies regarding the primary target.”¹⁸¹ In recent years, as a means to achieve important U.S. foreign policy goals, the U.S. has increasingly relied on sanctions.¹⁸²

Secondary sanctions are controversial because they impact third parties and can financially burden other nations not directly linked to the designated entity.¹⁸³ The U.S. recognizes that sanctions should be used with caution because they “can strain diplomatic relationships, introduce instability into the global economy, and impose real costs on companies here and abroad. And . . . carry a risk of retaliation.”¹⁸⁴ However, sanctions are appropriate when (1) a “significant threat” to national security, foreign policy, or the economy is present; and (2) the U.S. has “reasonable confidence that they will achieve their intended policy goal, and only when the balance of costs and benefits is in our [the U.S.] favor.”¹⁸⁵ In this case, primary sanctions fail to combat cultural genocide with millions of people subjected to forced labor and heinous conditions in an economically powerful and coercive country.

178. *Cf.* Meagher, *supra* note 83, at 1013–14 (discussing U.S.’ imposition of secondary sanctions against Iran’s energy sector was impactful in “large part[] due to the multilateral nature of the sanctions” and the alignment of the “respective foreign policies on either side of the Atlantic”).

179. *See, e.g., id.* at 1006–07.

180. GAO REPORT, *supra* note 85, at 5.

181. GEORGE E. SHAMBAUGH, STATES, FIRMS, AND POWER: SUCCESSFUL SANCTIONS IN UNITED STATES FOREIGN POLICY 4 (1999).

182. *See* GAO REPORT, *supra* note 85; *see also* Jonathan Cross, Christopher Boyd, Brittany Crosby-Banyai & Christopher Milazzo, *Recent Trends in Secondary Sanctions*, HERBERT SMITH FREEHILLS (Oct. 7, 2020), <https://hsfnotes.com/sanctions/2020/10/07/recent-trends-in-secondary-sanctions/> [<https://perma.cc/7GET-RC8G>].

183. *See also* ELLIE GERANMAYEH & MANUEL LAFONT RAPNOUIL, EUR. COUNCIL ON FOREIGN RELS., MEETING THE CHALLENGE OF SECONDARY SANCTIONS 1 (2019) (arguing secondary sanctions have become “a critical challenge for Europe” because of their “aggressive economic statecraft”).

184. *Evolution of Sanctions*, *supra* note 157.

185. *Id.*

Imposing secondary sanctions is a stronger mechanism than the current U.S. strategy¹⁸⁶ that can “become a powerful force in service of clear and coordinated foreign policy objectives.”¹⁸⁷ A crucial reason secondary sanctions reach beyond primary sanctions is because third parties that conduct business with sanctioned entities often face “severe financial penalties and threats of exclusion from U.S. consumer and financial markets.”¹⁸⁸ Therefore, imposing secondary sanctions places immense pressure on multinational companies to weigh the benefits of conducting business in Xinjiang against the threat of being excluded from the U.S. market, which brings grave consequences. For example, “most large multinational companies cannot afford to lose access to the US market” and regardless of company size, each face the risk of being labeled as a company that violated sanctions—effectively tarnishing its reputation and business.¹⁸⁹

In addition, businesses risk being excluded from the global banking system.¹⁹⁰ For instance, when the U.S. imposed secondary sanctions on Iranian banks from the Society for Worldwide Interbank Financial Telecommunication (SWIFT) network, other global banks complied.¹⁹¹ This method discourages non-U.S. persons from conducting transactions with Chinese entities and persons listed on OFAC’s Entity List and other sanctionable transactions.

In this case, the world is witnessing cultural genocide, and the U.S. economy is funding it. Not only are primary sanctions justified, but secondary sanctions are likewise appropriate.¹⁹² For example, the U.S. enacted the Hong Kong Autonomy Act,¹⁹³ and pursuant to Section 5 of the Act, any Foreign Financial Institute (FFI) could be subject to secondary

186. See *Evolution of Sanctions*, *supra* note 157 (“Economic sanctions have become a powerful force in service of clear and coordinated foreign policy objectives—smart power for situations where diplomacy alone is insufficient, but military force is not the right response.”).

187. *Evolution of Sanctions*, *supra* note 157.

188. Meagher, *supra* note 83, at 999.

189. Robert Lewis, *US Secondary Sanctions Provoke Strong Backlash Among Both Friends and Foes Around the World*, LEXOLOGY (July 21, 2021), <https://www.lexology.com/library/detail.aspx?g=84f1f477-ad07-4063-9964-c6a030779bb7> [<https://perma.cc/447X-W9CX>].

190. *Id.* (“[A]n aggressive US administration theoretically could still use its sanctions power to cut off access to the US dominated financial systems, which could still severely handicap global banks and MNCs [multinational companies] even in a world with redundant alternative global payment systems and competing currencies.”).

191. *Id.* (“When the US . . . barred Iranian banks from the SWIFT network, Belgium-based SWIFT complied and the EU acquiesced.”).

192. *Cf. Evolution of Sanctions*, *supra* note 157 (“And secondary sanctions should be used only in the most exceptional circumstances, where—as with Iran—the threat is severe, where we have international consensus, and when ordinary sanctions have fallen short of their mark.”).

193. Hong Kong Autonomy Act, Pub. L. No. 116-149, 134 Stat. 633 (2020).

sanctions.¹⁹⁴ In result, Chinese state-owned banks were unwilling to open an account for a Chinese governmental official who was carrying out Chinese government policy, prohibited by the U.S. sanctions.¹⁹⁵ In regard to pressuring non-U.S. entities to support the U.S.' objective to end human right abuses, secondary sanctions are an effective tactic to weaken China's regime, in part due to respect and fear of U.S. secondary sanctions.

1. Maximum Pressure Campaign

The U.S. secondary sanctions against Iran, part of the "Maximum Pressure Campaign," are a dramatic yet significant example of the U.S. imposing effective secondary sanctions.¹⁹⁶ However, it is important to distinguish the secondary sanctions recommended in this Note from the combined Iranian comprehensive sanctions¹⁹⁷ and Iranian governmental priorities that have negatively impacted and severely harmed the Iranian people.¹⁹⁸ Thus, this Note highlights the effectiveness of the secondary sanctions—not the comprehensive sanctions—and does not recommend comprehensive sanctions against China. Nevertheless, in regard to the Iranian secondary sanctions, the Treasury imposed secondary sanctions against thirteen individuals and twelve entities for their connection in support of Iran's ballistic missile program and Iran's Islamic Revolutionary Guard Corps.¹⁹⁹ Accordingly, in part due to these secondary sanctions, they effectively denied revenue and minimized the amount of money available to the Iranian government.²⁰⁰ For example, Executive Order (E.O.) 13902²⁰¹ expanded U.S. secondary sanctions against Iran to

194. U.S. DEP'T OF THE TREASURY, REPORT PURSUANT TO SECTION 5(B) OF THE HONG KONG AUTONOMY ACT (2020), https://home.treasury.gov/system/files/126/hkaa_report_12112020.pdf [<https://perma.cc/7YZ8-S3AH>].

195. Davidson, *supra* note 172.

196. See *Advancing the U.S. Maximum Pressure Campaign on Iran*, U.S. DEP'T OF STATE (Apr. 22, 2019), <https://www.state.gov/advancing-the-u-s-maximum-pressure-campaign-on-iran/> [<https://perma.cc/9C5V-F8PW>].

197. See generally GAO REPORT, *supra* note 85, at 4 ("Comprehensive sanctions generally include broad-based trade restrictions and prohibit commercial activity with an entire country. Examples of comprehensive sanctions include U.S. sanctions against Iran and Cuba.").

198. See Beer, *supra* note 91 (discussing Iranian regime exploiting humanitarian efforts, i.e., government managed to make a billion dollars in medical supplies disappear and spent \$170,000 for medical supplies on tobacco).

199. GAO REPORT, *supra* note 85, at 5.

200. See Michael R. Pompeo, Sec'y of State, *The Importance of Sanctions on Iran*, U.S. DEP'T OF STATE (Nov. 18, 2020), <https://www.state.gov/the-importance-of-sanctions-on-iran/> [<https://perma.cc/HH9E-LPN4>] [hereinafter *Importance of Sanctions on Iran*] ("Since May 2018, we [U.S.] have denied the [Iran's] regime of direct access to more than \$70 billion in oil revenue, and will continue to prevent the regime access to around \$50 billion annually These sanctions deprive the regime of funds it would use to carry out its malign activities.").

201. Exec. Order No. 13902, 85 Fed. Reg. 2003 (Jan. 14, 2020).

include certain types of transactions.²⁰² The secondary sanctions are summarized as follows:

The secondary sanctions in E.O. 13902 mean that OFAC may sanction non-U.S. individuals and entities if they operate in or knowingly engage in a “significant” transaction for the sale or supply to or from Iran of “significant” goods or services “used in connection with” the Iranian construction, mining, manufacturing, or textiles sectors. E.O. 13902 also authorizes the Treasury Secretary via OFAC to sanction non-U.S. financial institutions that facilitate “significant” financial transactions involving those sectors.²⁰³

The E.O.’s objective was “to deny the Iranian government revenues, including revenues derived from the export of products from key sectors of Iran’s economy, that may be used to fund and support its nuclear program, missile development, terrorism and terrorist proxy networks, and malign regional influence.”²⁰⁴ Almost a year after imposing these secondary sanctions, coupled with other sanctions and factors, the “Iranian rial has depreciated to one fifth of its former value against the dollar since the start of the campaign, while Iran’s GDP has shrunk by around 6% for three consecutive years.”²⁰⁵

Like the secondary sanctions imposed on Iran, the U.S. should impose similar sanctions to non-U.S. entities and persons that conduct transactions or investments with any sanctioned entity relating to Xinjiang violations. Similar to the goal put forth under the Iranian sanctions, the objective to impose secondary sanctions against entities involved in Xinjiang human rights abuses sends a strong message to the world: Despite China’s dominance in the economy, the U.S. is committed to ending modern genocide.

2. Secondary Sanction Effects

Secondary sanctions are intended to promote accountability to entities and the CCP for their involvement in human rights violations that ultimately fund cultural genocide.²⁰⁶ The secondary sanctions are not intended to harm people. The secondary sanctions imposed against

202. *OFAC Issues New FAQs Clarifying Iran Sanctions*, MORRISON FOERSTER (June 18, 2020), <https://www.mofo.com/resources/insights/200618-ofac-new-faqs-iran-sanctions.html> [<https://perma.cc/P4ZL-RHCU>] (including transactions involving construction, mining, manufacturing, and textiles sectors).

203. *Id.*

204. Exec. Order No. 13902, 85 Fed. Reg. at 2003.

205. *Importance of Sanctions on Iran*, *supra* note 200.

206. See SHAMBAUGH, *supra* note 181, at 49 (“The U.S. government has used secondary sanctions to compel negligent firms to alter their behavior.”).

Syria²⁰⁷ were enforced as a means to “send a clear signal that no foreign business should enter into business with or otherwise enrich such a regime.”²⁰⁸

A similar objective should apply here. The objective of these secondary sanctions should likewise send a clear message that no foreign entity should engage in transactions or investments connected to the Xinjiang abuses or otherwise enrich the PRC’s regime.

Although these sanctions present challenges in a complex supply chain for multinational-businesses, banks, and third parties that may link to designated parties,²⁰⁹ that hurdle²¹⁰ cannot outweigh cultural genocide.

Every multinational-business has a choice. And such choice carries the inevitable risk that a business’s supply chain connects to a Chinese subsidiary on the OFAC Entity List, Commerce Entity List, or Denied Persons List. Another risk to consider is that a business’s imports come from Xinjiang or a neighboring province that has a potential connection to human rights abuses. In July 2021, U.S. Secretary of Labor, Marty Walsh, alerted businesses of the heightened risks involved in the supply chain and investment links to the labor and human rights abuses against Uyghurs and other minority groups in Xinjiang: “China[’s], [abuses] are egregious, systematic and ongoing . . . Any company doing business in this region should take heed: These are reprehensible and illegal practices, and the goods produced under these conditions have no place in the U.S. economy.”²¹¹

The U.S. government acknowledges a company’s burden to investigate its complex supply chain and provides support as it imposes more sanctions. For example, OFAC provided U.S. companies with an economic sanction guideline²¹² on how to implement compliance policies

207. See 22 U.S.C. § 8791–95; see also Exec. Order No. 13894, 84 Fed. Reg. 55851 (Oct. 14, 2019).

208. *Caesar Syria Civilian Protection Act*, U.S. DEP’T OF STATE (June 17, 2020), <https://www.state.gov/caesar-syria-civilian-protection-act/> [<https://perma.cc/S7XR-C8L6>].

209. See Ama Adams, Brendan Hanifin & Emerson Siegle, *A Review of 2020’s Key US Sanctions Developments*, LAW360 (Dec. 18, 2020), <https://www.law360.com/articles/1338652/a-review-of-2020-s-key-us-sanctions-developments> [<https://perma.cc/A8P6-QPCB>] (“These designations have presented practical challenges for multinational businesses, including companies with long supply chain networks . . .”).

210. See generally Economist Radio, *Unpicking the Thread: Forced Labour in Xinjiang*, THE ECONOMIST (Sept. 9, 2020) (downloaded using Spotify) (arguing American companies are being asked to police a complex system that lacks diplomatic leadership).

211. *U.S. Department of Labor, Other Federal Departments Issue Business Advisory for Xinjiang, China*, U.S. DEP’T OF LAB. (July 13, 2021), <https://www.dol.gov/newsroom/releases/ilab/ilab20210713> [<https://perma.cc/ZDS6-D3WG>].

212. U.S. DEP’T OF THE TREASURY, A FRAMEWORK FOR OFAC COMPLIANCE COMMITMENTS (2019), https://home.treasury.gov/system/files/126/framework_ofac_cc.pdf [<https://perma.cc/V328-5HDL>].

and regulations.²¹³ Specifically, regarding the Xinjiang “genocide and crimes against humanity,”²¹⁴ several federal agencies²¹⁵ released a “Xinjiang Supply Chain Business Advisory” in 2020 and 2021 discussing the risks and considerations for businesses exposed to entities engaged in the Xinjiang abuses.²¹⁶ Although businesses carry the burden to investigate its supply chain, the U.S. government is working to support companies to combat forced labor.

Furthermore, such compliance is not an impossible task. The U.S. should hold corporations that place monetary gain over human rights abuses accountable. To illustrate, a few large retail companies, such as Patagonia and H&M, took their own initiative to cut ties with Xinjiang’s supply industry.²¹⁷ Although some companies have risen to the challenge,²¹⁸ others have not. For example, “[d]espite universally-recognized abuses occurring in Xinjiang,”²¹⁹ Disney filmed its movie

213. See, e.g., Press Release, U.S. Dep’t of the Treasury, OFAC Issues a Framework for Compliance Commitments (May 2, 2019), <https://home.treasury.gov/news/press-releases/sm680> [<https://perma.cc/8SDF-9N6B>] (“As the United States continues to enhance our sanctions programs, ensuring that the private sector implements strong and effective compliance programs that protect the U.S. financial system from abuse is a key part of our strategy.”).

214. 2020 XINJIANG SUPPLY CHAIN ADVISORY, *supra* note 87.

215. Issued by the Department of State, Department of the Treasury, Department of Commerce, Department of Homeland Security, Office of the United States Trade Representative, and Department of Labor. *Id.*

216. *Id.*; 2021 XINJIANG SUPPLY CHAIN ADVISORY, *supra* note 104.

217. E.g., Tessa Byars, *Update: Patagonia Statement on Xinjiang*, PATAGONIA WORKS (July 23, 2020), <http://www.patagoniaworks.com/press/2020/7/23/update-patagonia-statement-on-xinjiang> [<https://perma.cc/H6UX-T3NX>] (prohibiting its global suppliers from using fiber made in Xinjiang region); Sophie Richardson, *China’s “Untenable Operating Environment” for Business in Xinjiang*, HUM. RTS. WATCH (Oct. 25, 2020), <https://www.hrw.org/news/2020/10/25/chinas-untenable-operating-environment-business-xinjiang#> [<https://perma.cc/QQK6-8EAM>] (cutting ties to an indirect supplier due to forced labor concerns and discrimination of ethnoreligious minorities).

218. See, e.g., *UK’s Marks and Spencer to Ban Xinjiang Cotton over Uighur ‘Abuses’*, CNA INSIDER (Jan. 7, 2020), <https://www.channelnewsasia.com/news/business/uk-s-marks-and-spencer-to-ban-xinjiang-cotton-over-uighur-abuses-13908184> [<https://perma.cc/N249-V8AS>] (reporting UK’s Marks and Spencer “vowed . . . not to use [Xinjiang] cotton” and athlete Antoine Griezmann “immediately terminate[d] his partnership’ with telecom giant Huawei due to ‘strong suspicions’” it supports Chinese authorities’ surveillance of Uyghur minority).

219. Juliegrace Brufke, *GOP Lawmakers Want Answers from Disney on Mulan, China*, THE HILL (Sept. 14, 2020), <https://thehill.com/homenews/house/516323-gop-lawmakers-want-answers-from-disney-on-mulan-china> [<https://perma.cc/5AC2-55WQ>]. Lawmakers from the House Oversight and Reform Committee questioned Disney because it supported Georgia’s abortion rights but found it legitimate to fund CCP’s human rights abuses. A letter addressed to Disney’s CEO from the House Oversight and Reform Committee stated, “[p]erhaps more surprising than Disney’s decision to film *Mulan* in Xinjiang is its recent contemplation to put a moratorium on all filming in the state of Georgia. Disney appears to have taken a firm stand against the lives and rights of the unborn in favor of the right of the CCP to commit genocide against the Uyghurs and force sterilizations on Uyghur women.” *Id.*

Mulan in Xinjiang.²²⁰ Disney also offered a “special thanks” to the CCP government entities²²¹ including “over a dozen Chinese institutions that assisted with filming.”²²² More recently, the Beijing Olympic sponsorships illuminate why stronger action, such as secondary sanctions and multilateral engagement, is essential to end the Xinjiang genocide:

These companies stood publicly for justice after George Floyd’s murder and months of self-examination over race in America. But with rare exception, when pressed by lawmakers on an issue far from American shores in a country possessing a tantalizing bonanza of customers, their bold stances for justice wilted with the wind.²²³

Corporations are picking and choosing when to stand for justice, and when financial profit was at stake, they turned their heads. “Instead of using their significant clout to speak boldly for human rights in China—or, even stronger, speaking boldly and pulling up stakes entirely—the corporate sponsors that underwrite the Games and use the Olympics as a marketing tool are putting profit over morality.”²²⁴ Corporations should not have the freedom to pick and choose when to fund genocide.

While the U.S. concurrently pursues primary sanctions and multilateral engagement, secondary sanctions should be imposed. Secondary sanctions place accountability on all entities involved—directly or indirectly—in the Xinjiang cultural genocide.

IV. CONCLUSION

The U.S. must stand behind its core democratic values and refuse to engage in capitalism tainted with genocide. Seneca, the ancient stoic philosopher, had credence in his prose: The U.S. can no longer engage in China’s comprised administration; it can no longer fuel China’s sketchy trade industry; and it can no longer support this notoriously bad state entity. Simply put, “there can no longer be business as usual with China.”²²⁵

220. *Id.* (“Disney’s decision to film *Mulan* in Xinjiang and use CCP-run entities is inapposite and counters the company’s commitment to ‘provid[e] comfort, inspiration, and opportunity to children and families around the world.’”).

221. *E.g., id.*; Lily Kuo, *Disney Remake of Mulan Criticised for Filming in Xinjiang*, GUARDIAN (Sept. 7, 2020), <https://www.theguardian.com/film/2020/sep/07/disney-remake-of-mulan-criticised-for-filming-in-xinjiang> [<https://perma.cc/L962-Z9LC>].

222. Juliegrace Brufke, *supra* note 219 (“Disney’s eagerness to partner with CCP groups engaged in such atrocities while taking jobs out of the state of Georgia is disturbing.”).

223. Kurt Streeter, *A Diplomatic Boycott is a Start. Sponsors Should Act Next.*, N.Y. TIMES (Dec. 8, 2021), <https://www.nytimes.com/2021/12/08/sports/olympics/diplomatic-boycott-2022-winter-olympics.html> [<https://perma.cc/3R4M-3G7B>].

224. *Id.*

225. 166 CONG. REC. H4666 (daily ed. Sept. 22, 2020) (statement of Congressman Michael McCaul).

A robust and coordinated sanctions framework can debilitate China's economy and seriously complicate China's ability to commit human rights violations. Coupled with stronger multilateral engagement, the U.S. can lay the groundwork for global efforts to ensure that those responsible for human rights abuses are held accountable. Although additional steps and other complex factors must be considered before a change can occur, especially due to China's role in the economy and lack of transparency in the supply chain, the above recommendations provide a powerful strategy to combat the human rights violations and end cultural genocide in Xinjiang.

The importance of human life must supersede economic interests. To achieve U.S. policy objectives in protecting human rights, the U.S. must do more to stop China's egregious actions. It demands stronger initiative from the U.S. to lead the global economy in ending cultural genocide in Xinjiang—"it is the call of a siren."²²⁶

226. DAILY STOIC, *supra* note 3.