

Congress of the United States
Washington, DC 20515

July 12, 2022

Commissioner Chris Magnus
U.S. Customs and Border Protection
1300 Pennsylvania Ave. NW
Washington, D.C. 20229

The Honorable Alejandro Mayorkas
Secretary
U.S. Department of Homeland Security
3801 Nebraska Ave. NW
Washington, D.C. 20016

Commissioner Magnus and Secretary Mayorkas:

We write to urge you to aggressively enforce the Uyghur Forced Labor Prevention Act (P.L.117-78) and request additional information about the Forced Labor Enforcement Task Force's (FLETF's) decision-making process that went into the Uyghur Forced Labor Prevention Act (UFLPA) Entity List for polysilicon products released on June 21st.

As the U.S. Customs and Border Protection's (CBP's) June 13th Operational Guidance for Importers states, the UFLPA requires CBP "to apply a [rebuttable] presumption that imports of all goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region (Xinjiang) of the People's Republic of China (PRC), or by entities identified by the U.S. government on the UFLPA Entity List, are presumed to be made with forced labor and are prohibited from entry into the United States." To overcome the presumption, the UFLPA requires the importer to produce "clear and convincing evidence" that the good, ware, article, or merchandise was not mined, produced, or manufactured wholly or in part by forced labor. Pursuant to UFLPA, CBP is required to publicly report to Congress each time it determines an importer meets these criteria.

While we support the inclusion of Hoshine Silicon Industry (Shanshan) Co., Ltd, Xinjiang Daqo New Energy, Co. Ltd, Xinjiang East Hope Nonferrous Metals Co. Ltd, and Xinjiang GCL New Energy Material Technology Co. Ltd. on the UFLPA Entity List, we would appreciate more information regarding some noteworthy omissions.

For example, a report from Horizon Advisory includes JinkoSolar and Xinte Energy among the PRC solar companies "bearing signs of using...forced labor."¹ Due to the Chinese Communist Party's (CCP's) notorious opacity when it comes to outside/independent audits of these facilities, Horizon resorted to scrutinizing "Chinese-language documents and news reports, such as programs that may use high-pressure recruitment techniques, indoctrinate workers with patriotic or military education, or restrict their movement" as indicia of possible coercion.² While

¹ Ana Swanson and Chris Buckley. "Chinese Solar Companies Tied to Use of Forced Labor." The New York Times. January 8, 2021. <https://www.nytimes.com/2021/01/08/business/economy/china-solar-companies-forced-labor-xinjiang.html>

² Ibid.

headquartered in Shanghai, “JinkoSolar’s Xinjiang-based subsidiary operates an ingot facility in the Xinyuan Industrial Park, which also contains a high-security prison and a detention center.”³ Also, in 2019, JinkoSolar entered into a two-year polysilicon supply agreement with Daqo New Energy, which has been included on the Entity List.⁴

Xinte Energy is another conspicuous omission considering “an April 2018 statement on the Xinjiang government’s website [regarding] TBEA Co., parent company of the Xinte Energy Co. polysilicon factory, accepting as many as 300 poor workers from Hotan,” and another TBEA document from “August 2019 indicat[ing] the company’s open participation in [the Xinjiang] labor transfer program.”⁵

Longi Solar, the world’s largest monocrystalline silicon wafer producer, is another PRC company absent from the Entity List despite being identified in the Horizon Advisory report as having ties to forced labor and the Xinjiang Production and Construction Corps (XPCC), a paramilitary organization that has been subjected to Magnitsky sanctions since 2020 and is also included on the Entity List.

Given this information, would you please provide answers to the following questions:

1. Why were JinkoSolar Holding Co., Ltd., Xinte Energy, and Longi Solar not included on the UFLPA Entity List?
2. What criteria did the FLETF utilize to formulate the UFLPA Entity List?
3. Please provide us with the evidence the above-named entities provided to CBP as proof that the good, ware, article, or merchandise was not mined, produced, or manufactured wholly or in part by forced labor.

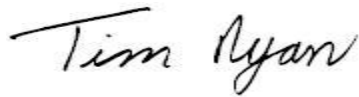
We recognize the increasing importance solar energy will assume in reducing future greenhouse gas emissions and mitigating the effects of climate change. However, this recognition, along with the relative under-diversification of the solar industry’s supply chain, cannot cause the U.S. to compromise on values as fundamental as our commitment to upholding human rights. Doing so will result in the CCP profiting off gross human rights abuses. Thank you for giving this issue the immediate attention it deserves.

Sincerely,

³ Matthew P. Funairole and Katherine Kurata. “The United States Can Cast Light on China’s Shadowy Solar Industry.” Foreign Policy. September 1, 2021. <https://foreignpolicy.com/2021/09/01/china-solar-industry-xinjiang/>

⁴ PR Newswire, provided by Daqo New Energy Corp. “Daqo New Energy Signs Two-Year Polysilicon Supply Agreement with JinkoSolar.” September 11, 2019. <https://www.prnewswire.com/news-releases/daqo-new-energy-signs-two-year-polysilicon-supply-agreement-with-jinkosolar-300915925.html>

⁵ Dan Murtaugh, Colum Murphy, James Mayger, and Brian Eckhouse. “Secrecy and Abuse Claims Haunt China’s Solar Factories in Xinjiang.” Bloomberg. April 13, 2021. <https://www.bloomberg.com/graphics/2021-xinjiang-solar/>



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