

August 10, 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

Re: Request that Certain Chinese Companies be Added to UFLPA Entity List

Commissioner Magnus and Secretary Mayorkas:

The Coalition for a Prosperous America (CPA) requests that you include several additional companies engaged in forced labor to U.S. Customs and Border Protection's (CBP's) Uyghur Forced Labor Prevention Act (UFLPA) Entity List, subjecting them to the presumption that their products are prohibited from entry into the United States under Section 307 of the Tariff Act of 1930, as amended (19 U.S.C. § 1307). The UFLPA was enacted to strengthen the existing prohibition in 19 U.S.C. § 1307 against the importation of goods made wholly or in part with forced labor by creating a rebuttable presumption that any goods or their inputs manufactured or sourced in Xinjiang, China are made with forced labor. This is due to the widely reported and officially recognized human rights abuses carried out by China's ruling Chinese Communist Party (CCP) against the region's ethnic minorities, particularly the Uyghurs.¹

In CBP's *Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China* June 17, 2022 Report to Congress, CPB lists silica-based products (including polysilicon, which is then used in solar panels, as mandated by Congress in the UFLPA) as a high-priority sector of enforcement, based on the U.S. Department of Labor Trafficking Victims Protection Reauthorization Act List and the CBP's own Withhold Release Orders (WROs). Additionally, in reference to human rights abuses in Xinjiang, President Biden has expressed determination to "take serious actions against forced labor in solar... because that's where it's [forced labor] happening."² However, CPA respectfully echoes some of the concerns expressed to you in a recent letter by Congressman Tim Ryan and six other Democratic Members of Congress³ that requests major Chinese manufactures linked to various stages of the solar panel supply chain be included on the UFLPA Entity List.

¹ Of the many well detailed reports CPA consulted with in preparing this letter, two were indispensable and must be acknowledged from the outset: (1) Murphy, L. and Elimä, N. (2021). "In Broad Daylight: Uyghur Forced Labour and Global Solar Supply Chains." Sheffield, UK: Sheffield Hallam University Helena Kennedy Centre for International Justice. (2) Lehr, A. and Bechrakis, M. (2019). "Connecting the Dots in Xinjiang: Forced Labor, Forced Assimilation, and Western Supply Chains." Washington, DC: Center for Strategic & International Studies.

² Remarks by President Biden in Press Conference [Conclusion of G7 Meeting], June 13, 2021, Cornwall Airport Newquay, UK, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/06/13/remarks-by-president-biden-in-press-conference-2/>

³ <https://timryan.house.gov/sites/evo-subsites/timryan.house.gov/files/evo-media-document/July%2012%202022.UFLPA%20Letter.pdf>

Specifically, CPA requests that the following companies be added to the Entity List:

- Xinjiang Sokesi New Materials Company (aka Sokos);
- Changji Jisheng New Building Materials Company;
- Xinte Energy Co. and its parent TBEA Co.;
- LONGi Green Energy Technology;
- Trina Solar Energy Company;
- JA Solar Holdings Company;
- JinkoSolar Co., Ltd.;
- GCL-Poly Energy Holdings Co.;
- Daqo New Energy Corp.; and
- East Hope Group.

As shown below, these companies should be added to the Entity List due to their operations in Xinjiang, their sourcing in Xinjiang, and/or complicity in Uyghur forced labor schemes. These forced labor schemes may include but are not limited to, accounts of “re-education” initiatives, “poverty alleviation” programs, internment, forced labor, and/or state-sponsored labor transfers and “pairing programs.”

SOKESI & CHANGJI: Raw Materials

CPA requests that **Xinjiang Sokesi New Materials Company (aka Sokos)** and **Changji Jisheng New Building Materials Company** be added to the Entity List as well as their divisions and subsidiaries.

The entire photovoltaic (PV) supply chain is tainted with forced labor at each stage. At the top of the stream, quartz is the primary raw material used to create metallurgical-grade silicon used in the manufacture of solar panels that are imported into the United States. On its UFLPA Entity List, CPB has already banned the importation of goods made with materials produced by Hoshine Silicon Industry, the world’s largest metallurgical-grade silicon producer. However, there are at least two other major entities operating primarily in Xinjiang that should be added to the Entity List.

According to corporate filings in 2021, Sokesi supplies 47% of Daqo’s raw materials. Daqo is already on the UFLPA Entity List, but its upstream supplier is not.⁴ According to a comprehensive report by the Helena Kennedy Centre at the UK’s Sheffield Hallam University:

[L]abourers work in Sokesi’s facilities in the Changji High-tech Zone within the Zhundong Economic and Technological Development Zone, which ‘transferred’ more than 700 labourers from Hotan through ‘surplus labour’ programmes in March 2020 alone. State media reported Sokesi would sign three-year contracts for surplus labourers in 2020.⁵

⁴ <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight>

⁵ Ibid.

Xinjiang East Hope, which is currently on the Entity List, has a subsidiary named Changji. Changji is the second largest producer of metallurgical-grade silicon. It is not only located in Xinjiang, but it is physically adjacent to East Hope's main polysilicon processing facility. It is highly unlikely that Changji is not using forced labor when it is in the same corporate family as East Hope, located in Xinjiang, and one of its production facilities is essentially on the same plant site as East Hope's operations.

XINTE AND TBEA: Polysilicon

CPA requests that **Xinte Energy Co.** and its parent **TBEA Co.** be added to the Entity List as well as their divisions and subsidiaries.

These companies occupy the next stage of the solar supply chain: high-purity polysilicon. TBEA/Xinte is headquartered in Xinjiang and has enthusiastically embraced and benefited from the CCP's repressive "poverty alleviation" programs. It also has a strategic cooperative agreement with the Xinjiang Production and Construction Corps (XPCC), which has provided it with its energy and infrastructure needs.⁶

XPCC is currently on CBP's Entity List and is sanctioned by the Commerce Department's Bureau of Industry and Security (BIS)⁷ together with its companion XPCC Public Security Bureau.⁸ XPCC, together with Hoshine, Daqo, East Hope, and GCL-Poly, was placed on BIS's Entity List for "engaging in activities contrary to the foreign policy interests of the United States through participating in the practice of, accepting, or utilizing forced labor."

LONGi, JA SOLAR, TRINA AND JINKOSOLAR: Ingots, Wafers, Cells, and Modules

CPA requests that LONGi Green Energy Technology Company, JA Solar Holdings Company, Trina Solar Energy, and JinkoSolar be added to the entity list as well as all their divisions and subsidiaries. These are the top four manufacturers of ingots, wafers, cells, and modules by market share. They are producing and/or sourcing in Xinjiang and benefiting from the low labor costs of the Uyghur's modern-day slavery.

LONGi is the world's largest monocrystalline wafer producer and the world's largest solar module manufacturer. While it does not have any reported facilities in Xinjiang, it participates in labor transfer programs that enlist workers in the Xinjiang Uyghur Autonomous Region (XUAR) and relocate them across the country. LONGi also participates in forced labor "absorption" beyond the XUAR. At a job fair in Yunnan concerning the transfer of poor and migrant labor, Longi's subsidiary, Lijiang Longi Silicon Materials Co., allegedly boasted it "can absorb more than 3,800 people."⁹ LONGi is also a major customer of upstream suppliers known to operate in Xinjiang and employ forced labor, such as GCL-Poly, Xinte, and Daqo. In February 2021, it

⁶ Ibid.

⁷ <https://www.federalregister.gov/documents/2021/06/24/2021-13395/addition-of-certain-entities-to-the-entity-list>

⁸ <https://www.federalregister.gov/documents/2019/10/09/2019-22210/addition-of-certain-entities-to-the-entity-list>

⁹ 发挥示范带动作用 积极助力脱贫攻坚 [Give Full Play to the Leading Role of Demonstration and Actively Assist in Poverty Alleviation], Shuju Township, June 23, 2018.

signed a mega deal with GCL-Poly valued at about \$1.14bn and committing it to purchase materials until December 2023. This is in addition to a 2020 mega deal signed with Xinte with purchase commitments through 2025.¹⁰

JA Solar Holdings Company is the world's third largest solar module manufacturer by market share and last year signed a major deal with Xinte to procure 181,000 tons of primary polysilicon through 2026.¹¹ It has also been linked to procurement purchases from Daqo and GCL-Poly.

Trina Solar Energy manufactured PV modules at a factory it opened in Toksun County, Turpan, Xinjiang in 2014, and participated in forced labor transfers there.¹² Its suppliers are Daqo and GCL-Poly, and in 2020 reports indicated it signed an agreement with Daqo, which is currently on the Entity List, to purchase high-purity mono-grade polysilicon in a total amount of 30,000 MT ~ 37,600 MT through the end of 2023.¹³

JinkoSolar produces 42% of its ingots and wafers at its Xinjiang plant.¹⁴ It also invested heavily in Xinyuan Industrial Park, where it operates a massive factory that is situated next to an internment camp and high-security prison.¹⁵ The previously cited Helena Kennedy Centre report found that "Xinjiang Daqo's 2021 IPO prospectus indicate[d] that at least through 2020, Daqo supplied not only Xinjiang Jinko but also JinkoSolar's Sichuan subsidiary and JinkoSolar in Jianxi." JinkoSolar is the second largest customer of Daqo, which operates exclusively within Xinjiang.¹⁶

GCL-POLY ENERGY HOLDINGS CO., DAQO NEW ENERGY CORP., AND EAST HOPE GROUP: Tainted Beyond Xinjiang

This last case is significant because it documents how major Chinese corporations with plants outside of the XUAR, such as JinkoSolar, have their upstream supply chains tainted with Uyghur forced labor.¹⁷ A CSIS report concluded that "[t]here is a risk of commingling of products, or that products made in Xinjiang will be shipped from a company's address in another part of China to hide their origin. It will likely be simplest and most effective to *assume the whole corporate group is affected by forced labor*, rather than trying to end sourcing from just one factory."¹⁸ More than 50% of all the polysilicon manufactured in China today comes from

¹⁰ <https://renewablesnow.com/news/longi-green-to-buy-usd-114bn-in-polysilicon-materials-from-gcl-poly-729893/>

¹¹ <https://taiyangnews.info/business/ja-solar-jinkosolar-to-invest-in-xinte-energy-subsiadiary/>

¹² <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight>

¹³ <https://solarindustrymag.com/daqo-new-energy-signs-polysilicon-supply-agreement-with-trina-solar>

¹⁴ <https://www.pv-magazine.com/2021/01/26/xinjiang-sanctions-and-the-pv-supply-chain/>

¹⁵ <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight>

¹⁶ See also <https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/human-rights-allegations-in-xinjiang-could-jeopardize-solar-supply-chain-60829945>

¹⁷ "Because polysilicon can be blended and ingots can be made from several feedstocks, companies downstream of these polysilicon giants run significant risk of having their supply chains tainted by Xinjiang forced labour." <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight>

¹⁸ https://csis-website-prod.s3.amazonaws.com/s3fs-public/publication/Lehr_ConnectingDotsXinjiang_interior_v3_FULL_WEB.pdf [Emphasis added.]

Xinjiang, representing around 40-50% of the global market;¹⁹ it is common practice, and perhaps even unavoidable, that raw materials from multiple factories mix together along the solar supply chain.²⁰

Therefore, in addition to UFLPA enforcement, sufficient evidence exists to meet the *reasonable suspicion* standard²¹ of 19 U.S.C. § 1307 needed for CBP to issue country-wide²² WROs on PV inputs and products of at least each of the aforementioned entities, banning the importation of goods produced in-whole or in-part by them or any affiliated entity within their respective corporate groups anywhere in mainland China, beyond XUAR.²³ Indeed, in reference to China's solar supply chain, Jenny Chase, head of solar analysis at BloombergNEF remarked, "Any silicon-based solar panel may have at least a small amount of Xinjiang silicon...[o]nly a few modules can be guaranteed free of it."²⁴

On this basis, CPA also petitions CBP to issue country-wide WROs on PV inputs and products of **GCL-Poly Energy Holdings Co., Daqo New Energy Corp., and East Hope Group**—the parent companies of Xinjiang subsidiaries currently on the Entity List—that should also include any affiliated entity within their respective corporate groups anywhere in mainland China, beyond XUAR.

CONCLUSION

The evidence above is clearly sufficient to conclude that these companies either operate within Xinjiang and/or benefit from Xinjiang forced labor that takes place elsewhere in their supply chain. They should be required to show by clear and convincing evidence that they do not utilize forced labor within the scope of the UFLPA. As a law enforcement matter, we request that you place all the above companies on the Entity List as soon as possible to ensure against the illicit importation of their goods through US ports of entry. In addition, we request that Withhold Release Orders be issued against PV goods associated with any subsidiaries or affiliated entities

¹⁹ <https://www.pv-magazine.com/magazine-archive/leveling-the-playing-field/>;
<https://solarbuilddermag.com/news/how-to-ensure-your-solar-components-werent-sourced-from-xinjiang-or-involved-forced-labor/>

²⁰ <https://www.bloomberg.com/graphics/2021-xinjiang-solar/>

²¹ 19 CFR § 12.42(e): "If the Commissioner of CBP finds at any time that information available reasonably but not conclusively indicates that merchandise within the purview of section 307 is being, or is likely to be, imported, he will promptly advise all port directors accordingly and the port directors shall thereupon withhold release of any such merchandise pending instructions from the Commissioner as to whether the merchandise may be released otherwise than for exportation."

²² There is precedent to issue country-wide WROs. For instance, *see* WRO on "All Turkmenistan Cotton or products produced in whole or in part with Turkmenistan cotton," and WRO on "Tobacco produced in Malawi and products containing tobacco produced in Malawi."

²³ Uyghur Forced Labor Prevention Act Sec. 2(d)(2)(B)(vii): "A comprehensive description and evaluation...that includes... an enforcement plan for each such entity whose goods, wares articles, or merchandise are exported into the United States, which may include issuing withhold release orders to support enforcement of section 4 with respect to the entity."

²⁴ <https://www.bloomberg.com/graphics/2021-xinjiang-solar/>. *See also* CBP's UFLPA *Operational Guidance For Importers*, in which CBP warned that, "Importers should be aware that imports of goods from factories that source polysilicon both from within Xinjiang and outside of Xinjiang risk being subject to detention, as it may be harder to verify that the supply chain is using only non-Xinjiang polysilicon and that the materials have not been replaced by or co-mingled with Xinjiang polysilicon at any point in the manufacturing process."

within their respective corporate groups that may operate beyond Xinjiang based on a reasonable suspicion that such goods have inputs made with forced labor comingled or blended within their products.

Sincerely,

A handwritten signature in blue ink that reads "Michael C. Stumo". The signature is fluid and cursive, with the first name "Michael" being the most prominent part.

Michael Stumo, CEO
Coalition for a Prosperous America

CC: Forced Labor Enforcement Task Force