Welcome to ESMC's webinar

HOW TO STOP FORCED LABOUR IN THE SOLAR PV SUPPLY CHAIN?

The webinar will begin shortly. Please note that the webinar is being recorded. In consideration of your privacy, please keep your cameras and microphones deactivated. Any questions for the speakers should be directed to the chat.

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EUROPEAN SOLAR MANUFACTURING COUNCIL

How to stop forced labour in the solar PV supply chain?

Jens Holm, Sustainability Policy Director, ESMC

Webinar, 26/9 2023

ESMC IS GROWING

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EUROPEAN SOLAR MANUFACTURING COUNCIL

European Solar Manufacturing Council AISBL
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EUROPEAN SOLAR MANUFACTURING COUNCIL

Document name: A solar PV supply chain without forced labour
Date: September 21, 2023

Contact:
holm@esmc.solar

A solar PV supply chain without forced labour

A position paper from the European Solar Manufacturing Council (ESMC)

SUMMARY ESMC strongly condemns all forms of forced labour. This position paper explains ESMC's position against forced labour, presents improvements to the proposed European regulation and includes recommendations to ESMC's members on how to use due diligence to discover and act against forced labour as well as to completely refrain from suppliers and sub-suppliers from the Xinjiang province in China.

Forced labour is a violation of basic human rights and is prohibited in the vast majority of jurisdictions around the world. At present, approximately 28 million people are subjected to forced labour and the solar industry is not exempt from this problem. According to the Global Slavery Index 2023, the manufacturing of solar panels is the fourth most prevalent product category exposed to forced labour (together with electronics, garments, and palm oil).[1]

This means that the solar industry must proactively work at all levels to eradicate forced labour from our supply chains.

ESMC urges European legislators to adopt legislation that prohibits the sale of products made with forced labour as soon as possible. In awaiting the legislation, the EU must act urgently to prevent products made with forced labour from entering the European market. Some of the measures that should be considered:

I. Close cooperation with U.S authorities to avoid re-routing of Xinjiang products to Europe.
II. Anti-dumping measures and different forms of support to European industries.

This is a position paper made by ESMC´s Working Group on Forced Labour and Socially Sustainable Supply Chain.

ESMC RECOMMENDATION TO MEPs

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1. **A BAN SHOULD BE A BAN (ART 3)**
   Ideally, we'd like to see regulations more in line with the U.S. Uyghur Forced Labor Prevention Act (UFLPA). In the absence of UFLPA-like legislation, EU legislators should amend the proposal to make it easier to ban products or parts of the value chain made with forced labour.

2. **DATABASE (ART 11)**
   It is essential that the proposed database over risk-areas and products exposed for forced labour is set up as soon as possible by the European Commission. The database should be based on independent and verifiable information and conduct its work of the principles of transparency and, e.g., publish all open investigations.

3. REVERSED BURDEN OF PROOF (ART 3, ART 11)

We agree with the co-Rapporteurs of the European Parliament on the proposed reversed burden of proof obligating the economic operators in cases of suspected forced labour to prove the opposite.

4. INVESTIGATIONS (ART 4, ART 5)

When investigations on suspected forced labour is carried out, the product or part of products deriving from a suspected region should by default be denied entry to the European market.

ESMC RECOMMENDATION TO MEPs

5. DUE DILIGENCE OBLIGATIONS (ART 4 (6))

We support the requirement on economic operators to carry out due diligence in order to identify, prevent, mitigate and bring to an end the use of forced labour among own operations as well as all thorough the supply chain as requested in the Corporate Sustainability Due Diligence Directive…

6. THE UNION NETWORK AGAINST FORCED LABOUR PRODUCTS (ART 24)

It´s important that the proposed Union Network Against Forced Labour Products will have the mandate to also collaborate with third countries, international organisations and industry representatives when necessary. The Network should have the appropriate funding and capacity.

7. SMEs

To proactively combat forced labour, especially among small and medium-sized enterprises (SMEs), the EU and member states should provide guidelines, make information readily available, and lessen scrutiny for the value chain segments not directly involved in import activities.

ESMC RECOMMENDATION TO MEPs

8. REMEDIATION OF VICTIMS

We would like to see clear provisions on remediation to affected victims on forced labour. Remediation could be both financial and non-financial compensation.

9. IT´S THE INDUSTRY

Both the draft proposal from the Commission and the report from the European Parliament consistently use the term "business"/”business organisations”/”business partners” when referring to, what we believe is meant to refer to, “industry” representatives. Hence, we simply suggest consequently replacing the word "business” with “industry”. E.g., instead of “business partners” use “industry partners”. Instead of “business organisations” use “industry organisations”.

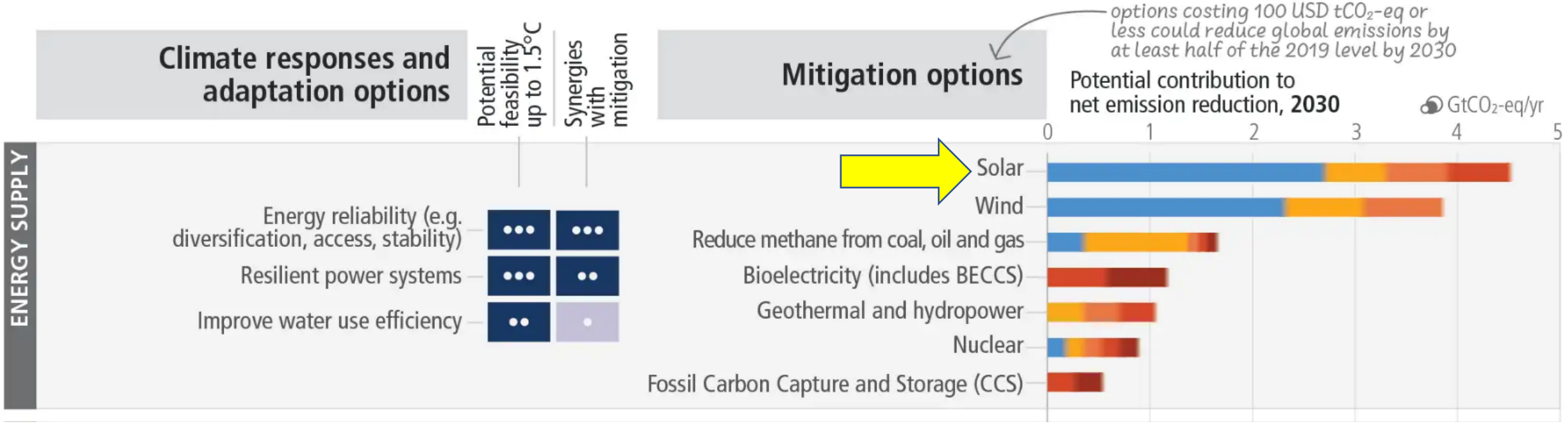
CONCLUSION:

ESMC urges the EU and its member states to adopt a stringent regulation that leaves no room for forced labour within the solar manufacturing supply chain. By creating an environment free from forced labour, we can uphold the values of human rights, ethical manufacturing, and responsible industry practices.

IPCC: SOLAR - BEST CLIMATE MITIGATION OPTION

There are multiple opportunities for scaling up climate action

a) **Feasibility of climate responses and adaptation, and potential of mitigation options in the near-term**



March 2023 AR6, Summary for policy makers, p 27,
https://www.ipcc.ch/report/ar6/syr/downloads/report/IPCC_AR6_SYR_SPM.pdf

ESMC webinar:

Forced labour and the solar PV industry

13:00-13:10 ***Forced labour and how the manufacturing industry should deal with it***
Jens Holm, Sustainability Policy Director ESMC.

13:10-13:30 ***In Broad Daylight***
Laura Murphy, professor of Human Rights and Contemporary Slavery at Sheffield Hallam University and co-author of *In Broad Daylight – Uyghur Forced Labour and Global Solar Supply Chains.*

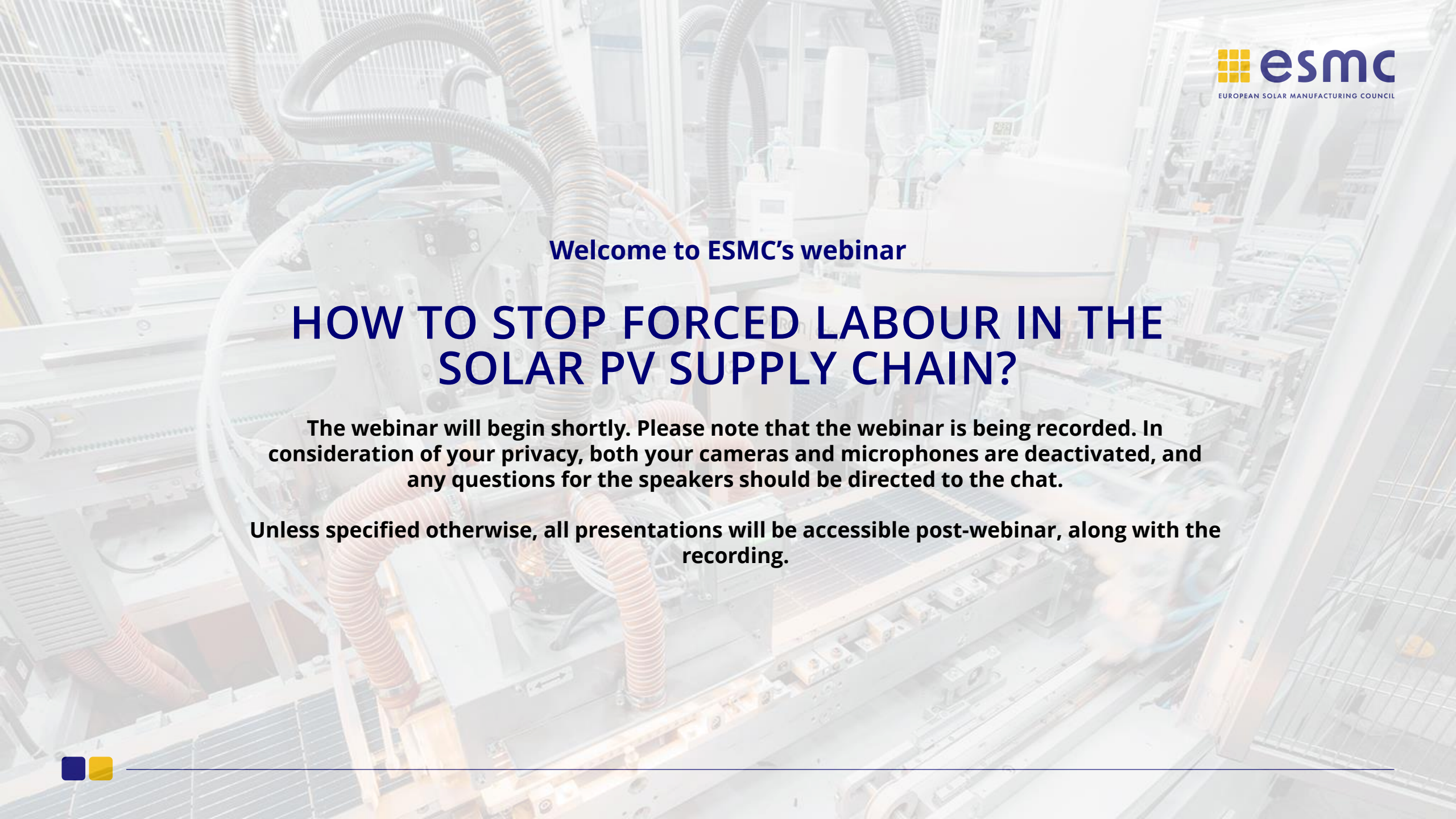
13:40-14:00 ***With Repression and Subsidies***
Nyrola Elimä, independent researcher and journalist and co-author of *In Broad Daylight*, on how China became the world´s no 1 supplier of polysilicon and the human price we pay for it.

14:00-14:20 ***The EU Ban on products made with Forced Labour***
Lennart Grundberg, policy officer, the European Commission, present the regulation on prohibiting products made with forced labour on the Union market.

14:20-14:30 The EU Ban and the European Parliament´s committee vote
Helene de Rengerve, Senior EU-adviser at Anti-Slavery International, present some possible changes to the ban ahead to the committee vote in October.

14:30-14:55 How should the solar PV industry work against forced labour?
Discussion with **Matthew Kasdin** Director and Senior Counsel at Maxeon and **Karen Drozdiak**, Director for Global ESG and Sustainability at First Solar and **Patricia Carrier**, Business Engagement Lead for the Coalition to End Forced Labour in the Uyghur Region.

14:55-15:00 ***Where do we go from here?***
Johan Lindahl, General Secretary ESMC.



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OVER-EXPOSED:

Uyghur Region Exposure Assessment for Solar Industry Sourcing

Alan Crawford, Laura T. Murphy,
and a team of anonymous researchers

Sheffield Hallam University | Helena Kennedy Centre for International Justice

Laura T. Murphy
Professor of Human Rights and Contemporary Slavery
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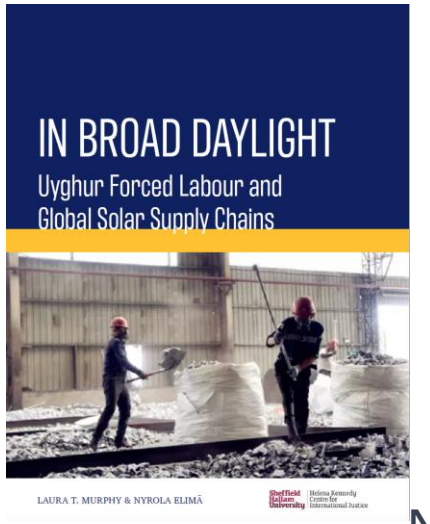
Sheffield Hallam University | Helena Kennedy Centre for International Justice

SHEFFIELD HALLAM UNIVERSITY RESEARCH ON UYGHUR FORCED LABOR



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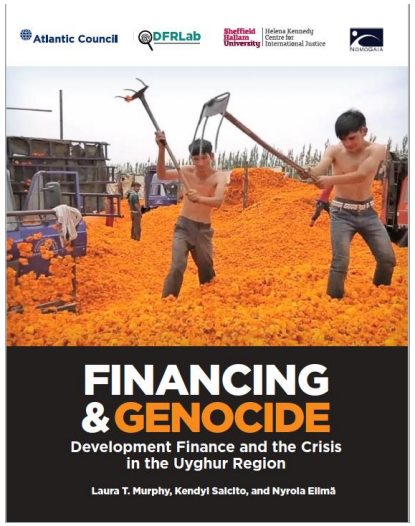

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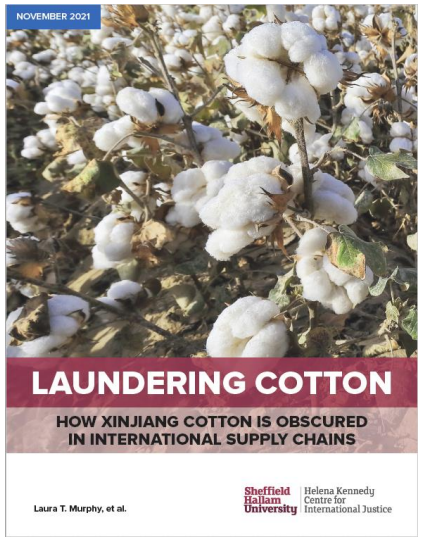
DEC 2022

MAY 2021



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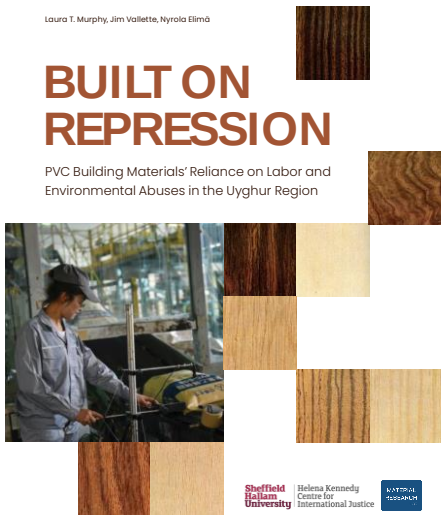

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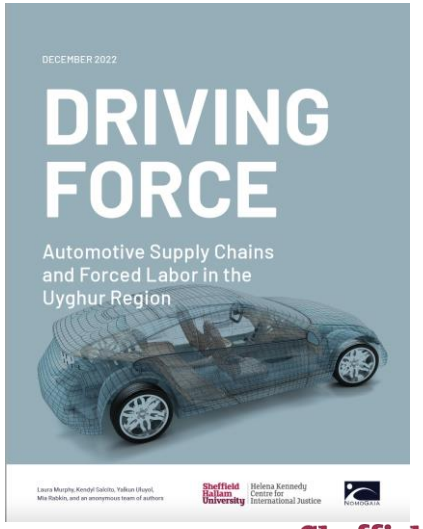

JUL 2023

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KEY TAKEAWAYS

- The vast majority of modules produced globally continue to have exposure to the Uyghur Region.
- Some of the world's largest module manufacturers appear to have bifurcated their supply chains, purporting to create a product line that is free of XUAR inputs. These product lines appear to be dedicated for the US market.
- Some companies that have bifurcated their supply chains continue to have exposure to the Uyghur Region, even in the supply chains aiming to be free of XUAR inputs.
- A lack of disclosures regarding sourcing make it much more challenging to know whether companies continue to source from the XUAR at some point in their supply chains.
- Despite significant global pressure for increased transparency, information regarding solar industry sourcing is becoming less transparent over time, thwarting the world's ability to source ethically.

THE SOLAR SUPPLY CHAIN

1. **quartz** rock that meets specific purity and physical property specifications (also known as quartzite) is mined from the earth;
2. quartz is chemically reacted with carbon sources to produce **metallurgical grade silicon (MGS)** in electric arc furnaces;
3. MGS is converted to **polysilicon** through a series of chemical reactions and purifications;
4. polysilicon is placed in high purity quartz crucibles and melted, and long cylindrical single crystal silicon **ingots** are "pulled" from the melt;
5. ingots are squared and then sliced into very thin **wafers** with diamond wire saws;
6. individual solar **cells** are produced from wafers via a complex series of automated chemical and physical processes; and
7. individual cells are assembled into solar **modules**.

The least visible parts of the solar supply chain are its most upstream segments: quartz mining and conversion of quartz to metallurgical grade silicon (MGS). **These less visible parts of the supply chain and the polysilicon stage are the ones with the highest potential Uyghur Region exposure.**

Production of MGS, polysilicon, and ingots consumes large amounts of electricity. These tiers of the supply chain are optimally located in regions with abundant, low-cost electricity. The XUAR's abundant coal reserves have encouraged some companies to locate their production in the Uyghur Region, resulting in a very high carbon footprint and very low price. **Every single polysilicon plant in the Uyghur Region is 100% powered by coal.** The Breakthrough Institute calculated that a polysilicon-based panel made with 100% coal as the energy source installed in California would have 3.76 times the CO_2 payback time compared to one made with renewable energy.

Many companies "bifurcate" their supply chains to comply with regulations and consumer demand, producing some product lines that include XUAR inputs and others that do not. At the same time, batches of MGS or polysilicon sourced from different locations are often blended, which could introduce XUAR-sourced materials into any batch made by a company sourcing any amount of materials from the region. **Bifurcation of solar module supply chains presents a significant challenge to the wide range of governments, developers, and consumers purchasing modules, as they cannot always be certain whether they are buying the tainted or untainted products.**

This report provides insight into these obscure supply chains at a time when solar manufacturers provide increasingly little information in public records.

The Making of a Solar module

1. Quartz

2. Metallurgical Grade Silicon (MGS)

3. Polysilicon

4. Ingots

5. Wafer

6. Cells

7. Modules

XUAR EXPOSURE ASSESSMENT RUBRIC

XUAR Exposure	Polysilicon Sourcing Data Available		Basis of Assessment
VERY HIGH	At least one polysilicon producer is known		Any product in the supply chain (quartz, MGS, polysilicon, ingots, wafers, cells, or modules) is documented to be produced in the XUAR
HIGH	All, some, or none of the polysilicon producers may be known		Any portion of the polysilicon sourcing is unknown, and thus could be from the XUAR. OR Any portion of the polysilicon is sourced from a known producer in China that has high polysilicon production capacity located in a province with low or no MGS production capacity (elevated risk of XUAR sourcing) OR Any portion of the polysilicon is sourced from elsewhere in Asia and the MGS supplier locations are unknown
MEDIUM	None of the known polysilicon producers is in a higher exposure category AND...	At least one polysilicon producer is known	Any portion of the polysilicon is sourced from a known producer in China that has low polysilicon production capacity located in a province with low or no MGS production (moderate risk of XUAR sourcing) OR All of the polysilicon is sourced from the EU and the MGS suppliers' locations are unknown (none exists that fit this description at this time, as Wacker Germany is the only EU polysilicon producer)
LOW		At least one polysilicon producer is known	Any portion of the polysilicon is sourced from a known producer in China with any polysilicon production capacity located in a province with high MGS production (the only reason non-provincial or XUAR MGS would be used is due to potential emergency use of alternate suppliers)
NONE (UNVERIFIED)	All polysilicon producers are documented but cannot be independently verified		MGS sourcing locations documented in corporate or other reputable disclosures show none is in the XUAR, but no additional public or official disclosures verify the claim
NONE (VERIFIED)	All polysilicon producers are documented and independently verified		MGS sourcing locations documented in corporate disclosure and show none is in the XUAR, and additional public or official disclosures verify the claim OR All polysilicon is documented to be sourced from the US (due to prohibitive duties on China MGS in the US)

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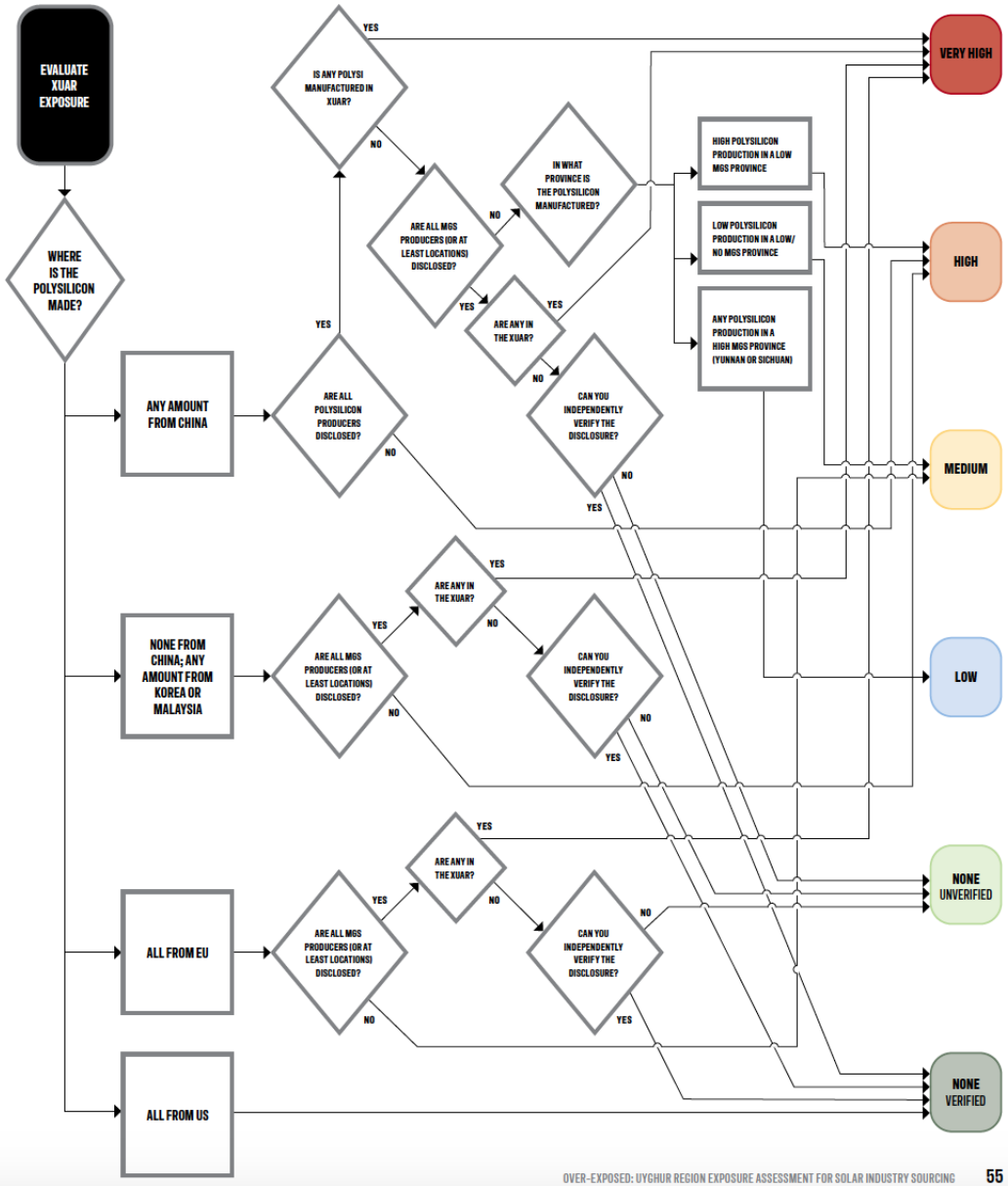
Assessment Model Decision Tree



Exposure	Company
HIGH	Canadian Solar
VERY HIGH	JA Solar—Southeast Asia/US
VERY HIGH	JA Solar—China
HIGH	Jinko Solar—Southeast Asia/US
HIGH	Jinko Solar—China
VERY HIGH	LONGi Solar—Southeast Asia
VERY HIGH	LONGi Solar—China
VERY HIGH	Maxeon 3/5/6 Module / Sunpower X-/A-/M-Series
VERY HIGH	Maxeon / Sunpower Performance Series
NONE (UNVERIFIED)	Meyer Burger Technology
VERY HIGH	QCells
NONE (UNVERIFIED)	REC Group N-Peak and Alpha
VERY HIGH	REC Group TwinPeak 4
HIGH	Tongwei Solar
NONE (UNVERIFIED)	Trina Solar—Southeast Asia
VERY HIGH	Trina Solar—China

Meyer Burger Technology AG

All Modules

The overall XUAR exposure for all solar modules produced and sold by Meyer Burger Technology AG is assessed as NONE (Unverified).

EVIDENCE BASE

Meyer Burger has not disclosed its supply chain in its entirety. Nonetheless, Meyer Burger's known polysilicon suppliers provide insight into its upstream suppliers. Meyer Burger CEO Gunter Erfurt disclosed in an interview published in February 2023 that Meyer Burger purchases wafers that use no China-produced polysilicon. Erfurt stated, "As our customers are pretty sensitive to the Xinjiang issue, the polysilicon is entirely sourced from non-Chinese companies. The vast majority comes from German multinational chemicals company Wacker. On wafers, we get around a fifth of our wafers from Norway-based companies NorSun and Norwegian Crystals, and the rest from China. But the vast majority of the polysilicon—and that's the interesting part for many of our customers—is made in Germany."

ANALYSIS

Meyer Burger produces n-type HJT cells in Bitterfeld-Wolfen, Germany. All modules are produced from these cells in Freiberg, Germany. Meyer Burger has no backward integration from wafers, ingots, polysilicon, MGS, or quartz. Meyer Burger is planning cell and module expansions in Germany and is building a new module fabrication facility (that will use German-produced cells) in Goodyear, Arizona, US. Meyer Burger has explicitly stated that it sources wafers from China.

Ingot/Wafer Exposure

Meyer Burger modules use self-produced n-type HJT cells. Meyer Burger produces the HJT cells in Bitterfeld-Wolfen, Germany, using n-type monocrystalline wafers purchased from two Norwegian wafer producers, NorSun and Norwegian Crystals, and at least one unnamed China-based wafer producer. The Norwegian companies supply about 20% of the wafers Meyer Burger uses, and the remaining 80% are from China.

If Meyer Burger's claim is correct, and there is no China-originating polysilicon in the wafers it uses, the China-based wafer supplier is likely either LONGi or Yuze Semiconductor. Both companies have produced n-type wafers with non-China polysilicon (from Wacker and OCI) for REC Solar (see REC chapter of this report). Neither LONGi nor Yuze has any production facilities in the XUAR, though LONGi at least does source China-produced polysilicon for other customers' products (see LONGi chapter of this report).

Quartz/MGS/Polysilicon Exposure

Meyer Burger's CEO reported in February 2023 (see above) that "the vast majority" of polysilicon used by the company's wafer suppliers is produced by Wacker Chemie. Wacker (Germany) polysilicon has no XUAR exposure based on their 2023 MGS supply. A Wacker executive reports that the company no longer uses any MGS produced in China, though that remains unverifiable through any public domain information.[1] In a response to Sheffield Hallam University, a Wacker representative indicated that the company does not source any products from the Uyghur Region making this statement regarding the United States Customs and Border Protection (CBP) enforcement of the UFLPA: "Wacker´s polysilicon meets CBP´s requirements and we have established supply chains to meet CBP's requirements." Wacker further indicated that its German polysilicon is currently made of MGS sourced from Europe, Norway, Canada, Iceland, Brazil, South Africa, and Australia; its US-produced polysilicon is made of MGS sourced from Brazil, US, and Norway. Wacker also provided the country of origin of all of its raw silica, none of which is from the Uyghur Region. (See Annex A – Corporate Responses)

Meyer Burger indicates that the remaining polysilicon used to make the company's wafers is produced outside China, though that is also unverifiable through public domain information. Outside of Wacker (Germany), the only polysilicon suppliers outside China are Wacker (US), Hemlock (US), and OCI (Malaysia). Given that Meyer Burger does not mention Wacker (US) as a supplier in its above-quoted comments about sourcing from Wacker (Germany), sourcing from Wacker (US) is unlikely. It is possible that NorSun and Norwegian Crystals source any polysilicon beyond what Wacker (Germany) provides from Hemlock (US) and/or OCI (Malaysia). As Hemlock (US) sources its MGS from outside China because of the 139% anti-dumping duties attached to importing China-originating MGS, it would be entirely XUAR-free.

OCI (Malaysia) is almost certainly the source of the non-China polysilicon used by the unnamed China-based wafer suppliers. We can confidently exclude Wacker (US) and Hemlock (US) because any China wafer producer would very likely avoid any US supplier due to the 59% anti-dumping duty on US-produced polysilicon imported to China. OCI (Malaysia) primarily sources its MGS from China, but has no XUAR exposure, as they have reportedly stopped purchasing MGS from the region.[2] OCI (Malaysia) sources its remaining MGS from Malaysia, and perhaps Brazil and Norway. It is not possible to verify OCI's disclosures about its current global MGS supply and OCI did not respond to a request for more information.

Conclusion

The XUAR exposure for all Meyer Burger modules is NONE (Unverifiable). According to corporate reports, all Meyer Burger modules produced in Germany use zero China-produced polysilicon and zero XUAR-produced MGS. Most of the polysilicon used in the wafers purchased by Meyer Burger is produced by Wacker (Germany).

Overall Exposure

NONE (UNVERIFIED)

QUARTZ	NONE (UNVERIFIED)
MGS	NONE (UNVERIFIED)
POLYSILICON	NONE (UNVERIFIED)
INGOT	NONE (UNVERIFIED)
WAFER	NONE (VERIFIED)
CELL	NONE (VERIFIED)
MODULE	NONE (VERIFIED)

ASSESSMENT

The NONE (Unverified) exposure assessment is based on the following factors:

- Meyer Burger disclosed that no China-produced polysilicon is used to manufacture any wafers purchased by Meyer Burger;
- OCI and Wacker Chemie (Germany) have disclosed that no metallurgical grade silicon (MGS) produced in the XUAR is used in their polysilicon;
- However, there is no way to independently verify these disclosures.

OPPORTUNITIES TO REDUCE EXPOSURE

- Public disclosure or other independent verification of Meyer Burger CEO's February 2023 claims of zero China-produced polysilicon used in wafers purchased by Meyer Burger
- Public disclosure or other independent verification of MGS suppliers used by OCI and Wacker

1. Jörg Hoffman, Wacker Senior Vice President for Investor Relations in Munich Germany to author, personal correspondence, 30 March 2023.

2. OCI Investor Relations to author, personal correspondence, 21 April 2023.

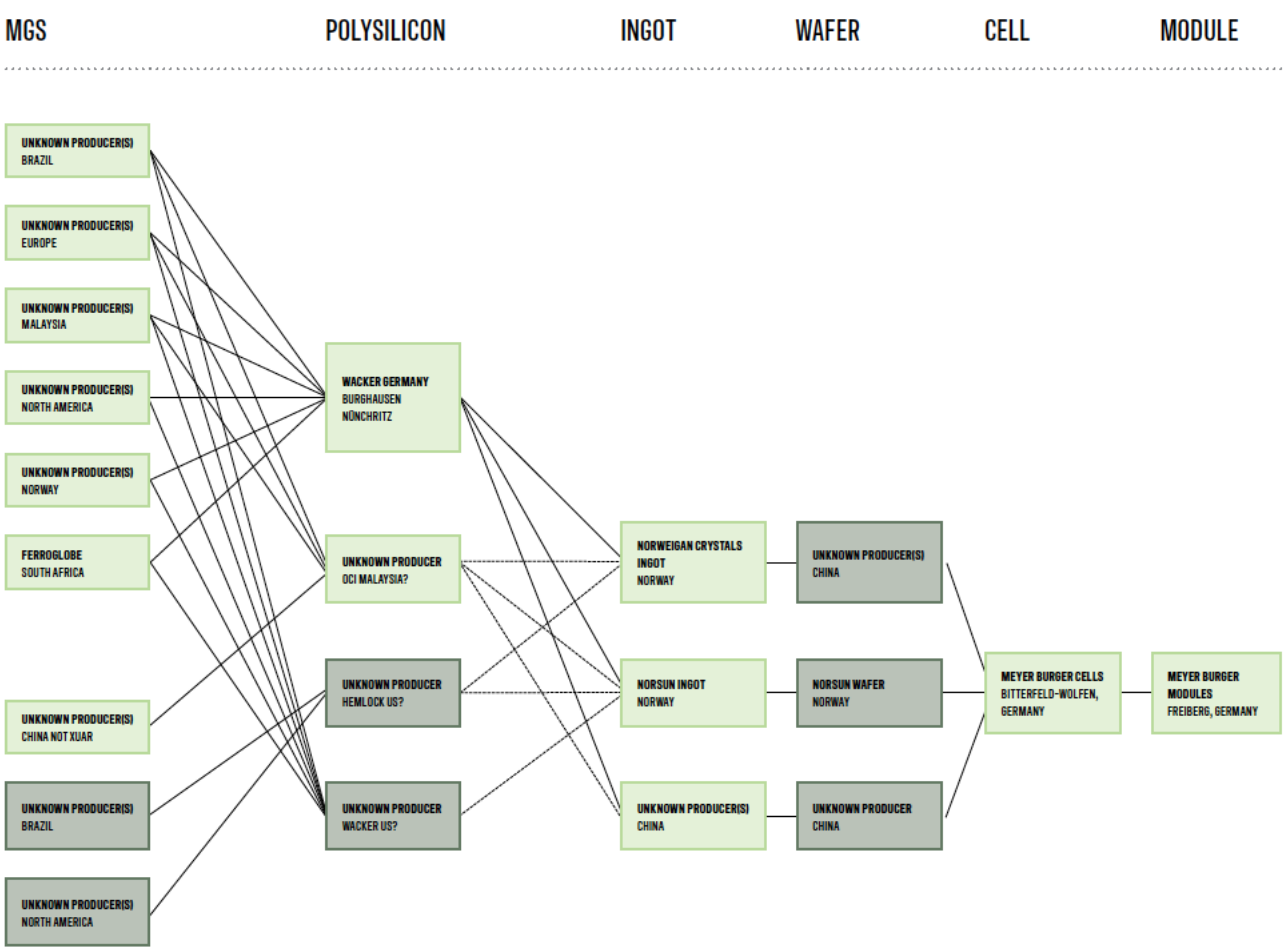
Meyer Burger Technology AG

Supply Chain

EXPOSURE KEY

VERY HIGH	HIGH	MEDIUM	LOW	NONE (UNVERIFIED)	NONE (VERIFIED)

Solid line = disclosed / known information (verified or unverified)
Dashed line = not disclosed but likely / possible



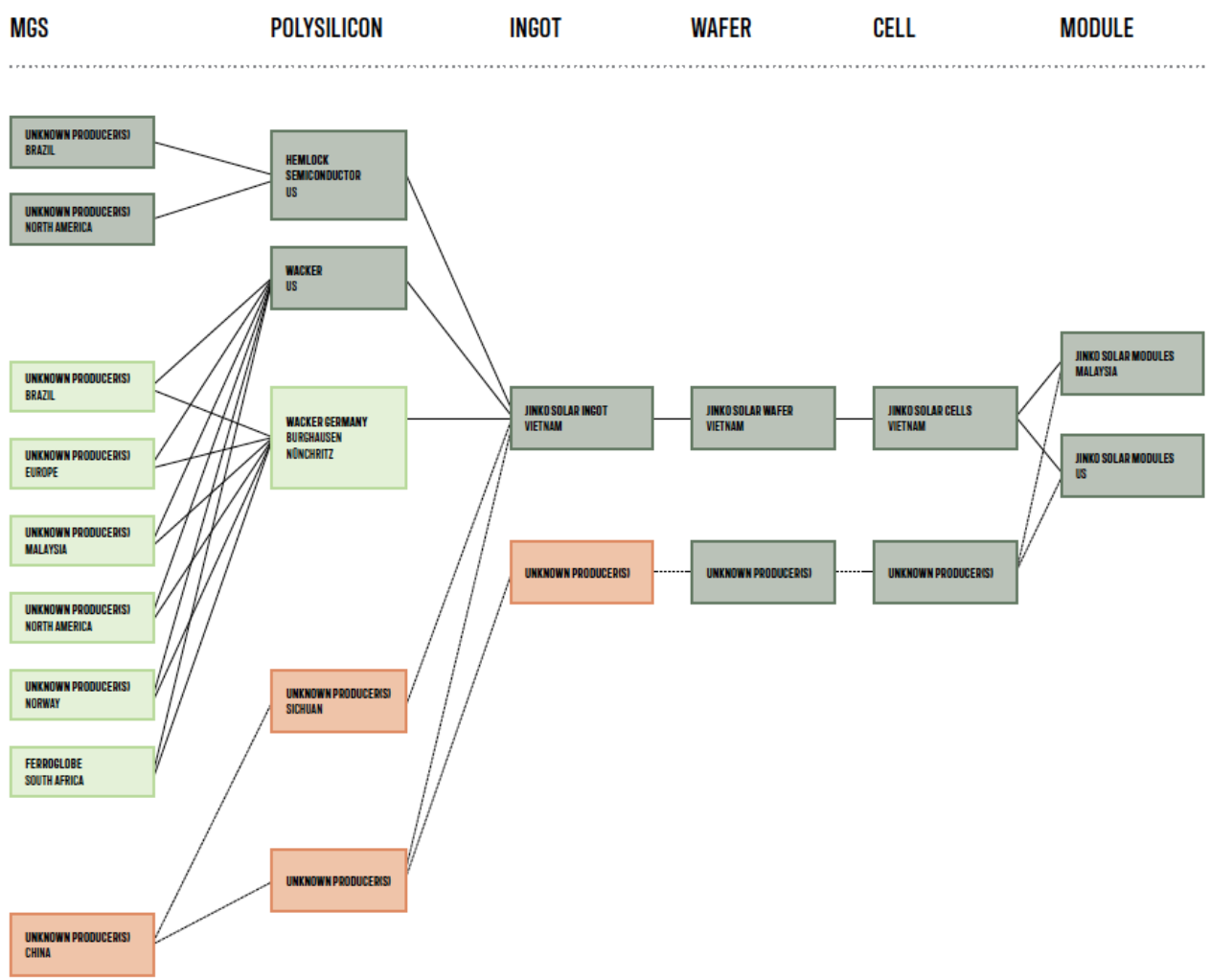
Jinko Solar

Supply Chain – Southeast Asia/US

EXPOSURE KEY

VERY HIGH | HIGH | MEDIUM | LOW | NONE (UNVERIFIED) | NONE (VERIFIED)

Solid line – disclosed / known information (verified or unverified)
Dashed line – not disclosed but likely / possible



Jinko Solar

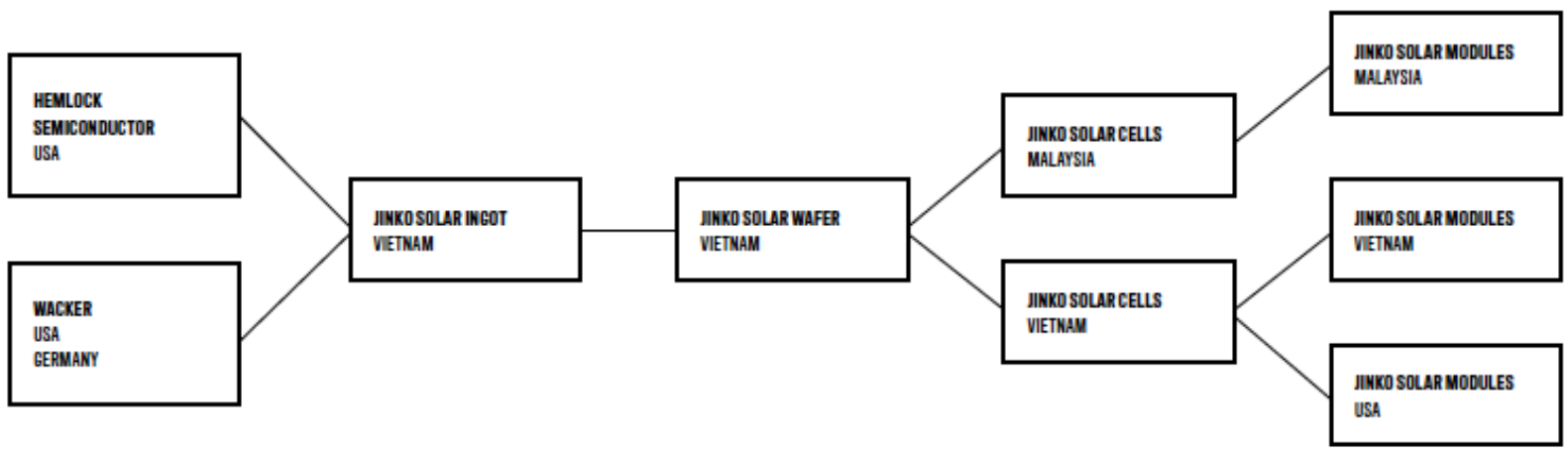
Supply Chain – For US Market (According To Jinko)

EXPOSURE KEY

VERY HIGH	HIGH	MEDIUM	LOW	NONE UNVERIFIED	NONE VERIFIED

Solid line = disclosed / known information (verified or unverified)
Dashed line = not disclosed but likely / possible

MGS	POLYSILICON	INGOT	WAFER	CELL	MODULE



this should *not be a choice*
between the E and the S

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laura.murphy@shu.ac.uk

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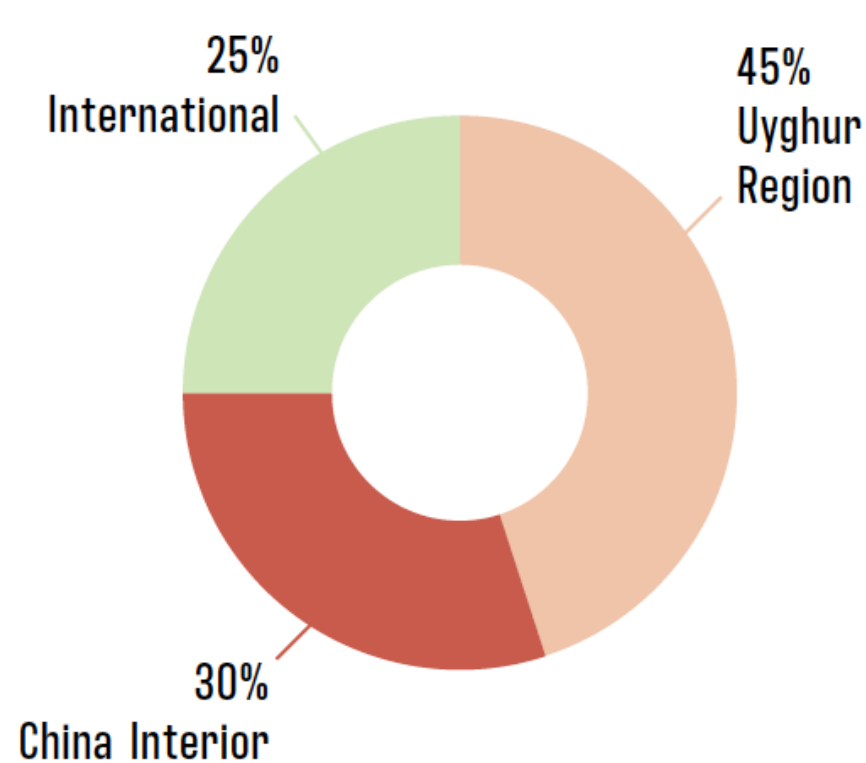
Polysilicon Market Share

2020



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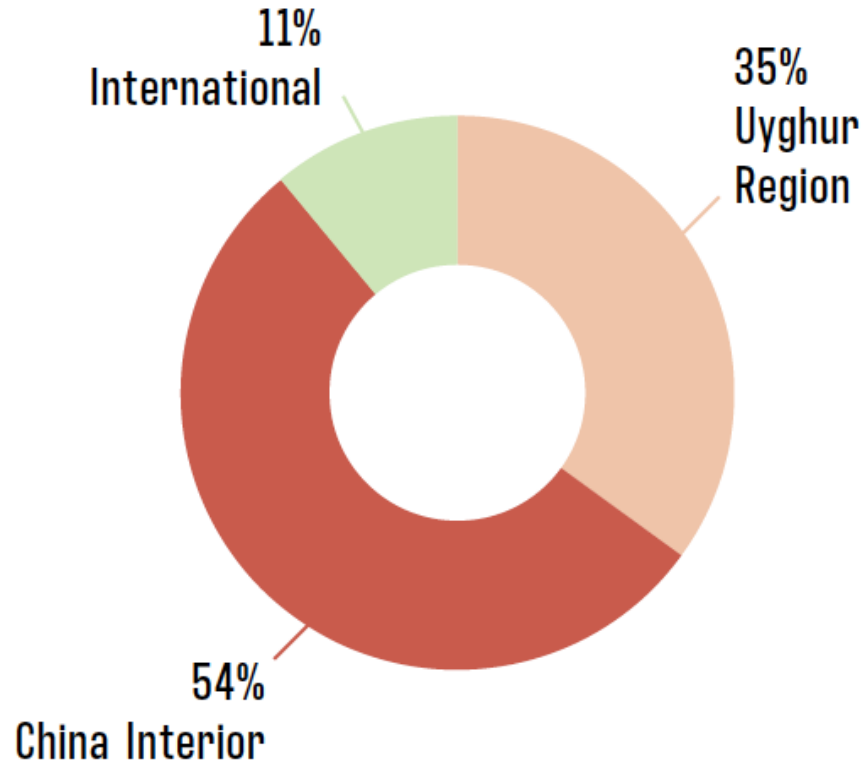
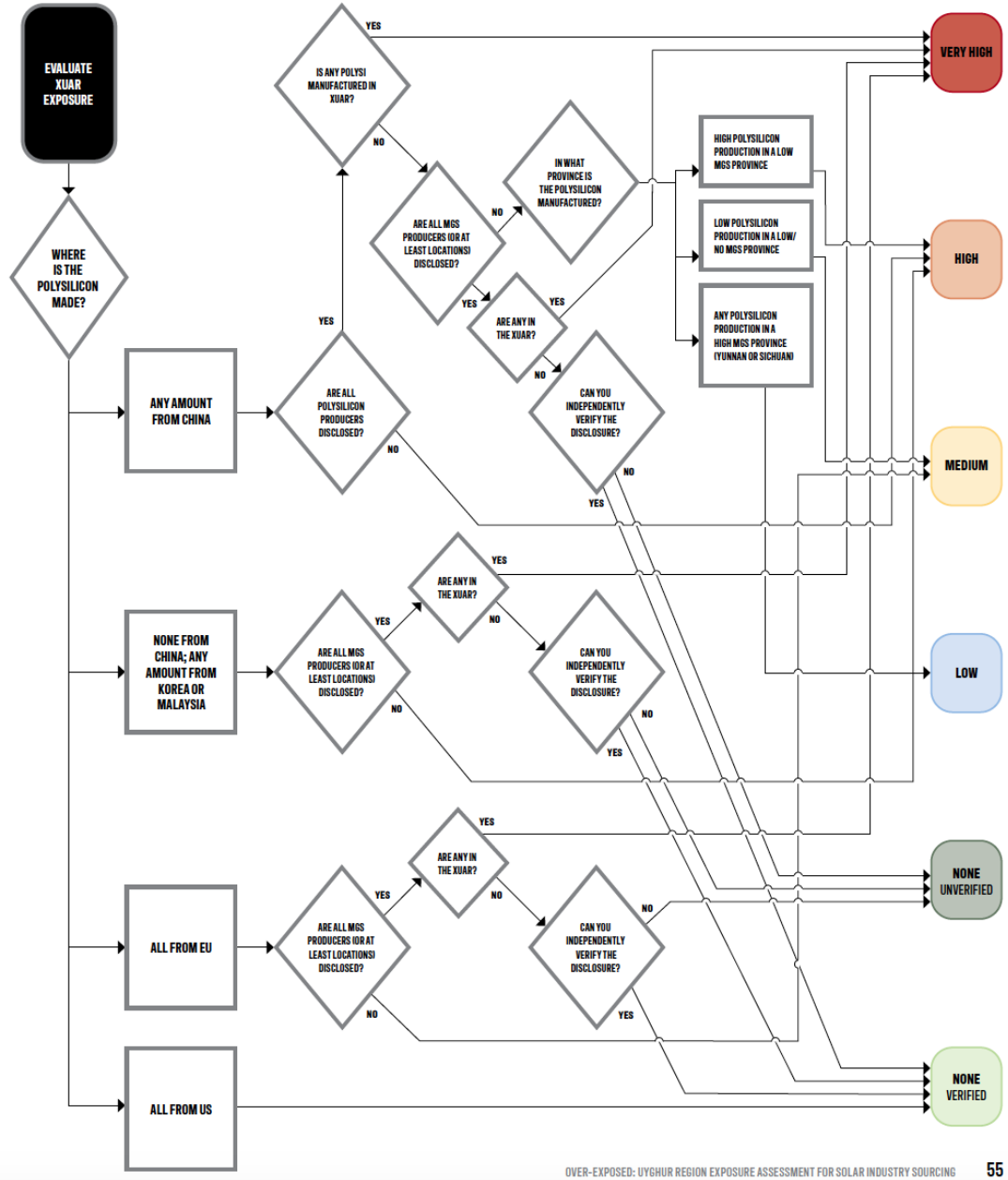


Assessment Model Decision Tree



Sheffield Hallam University | Helena Kennedy Centre for International Justice

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VERY HIGH	LONGi Solar—Southeast Asia
VERY HIGH	LONGi Solar—China
VERY HIGH	Maxeon 3/5/6 Module / Sunpower X-/A-/M-Series
VERY HIGH	Maxeon / Sunpower Performance Series
NONE (UNVERIFIED)	Meyer Burger Technology
VERY HIGH	QCells
NONE (UNVERIFIED)	REC Group N-Peak and Alpha
VERY HIGH	REC Group TwinPeak 4
HIGH	Tongwei Solar
NONE (UNVERIFIED)	Trina Solar—Southeast Asia
VERY HIGH	Trina Solar—China

Proposed Forced Labour Regulation

DG GROW Unit D3 (Market Surveillance)
DG TRADE Unit C4 (Multilateral Trade and Sustainable Development Policy, Green Deal, Conflict Minerals)

Lennart Grundberg, GROW D3

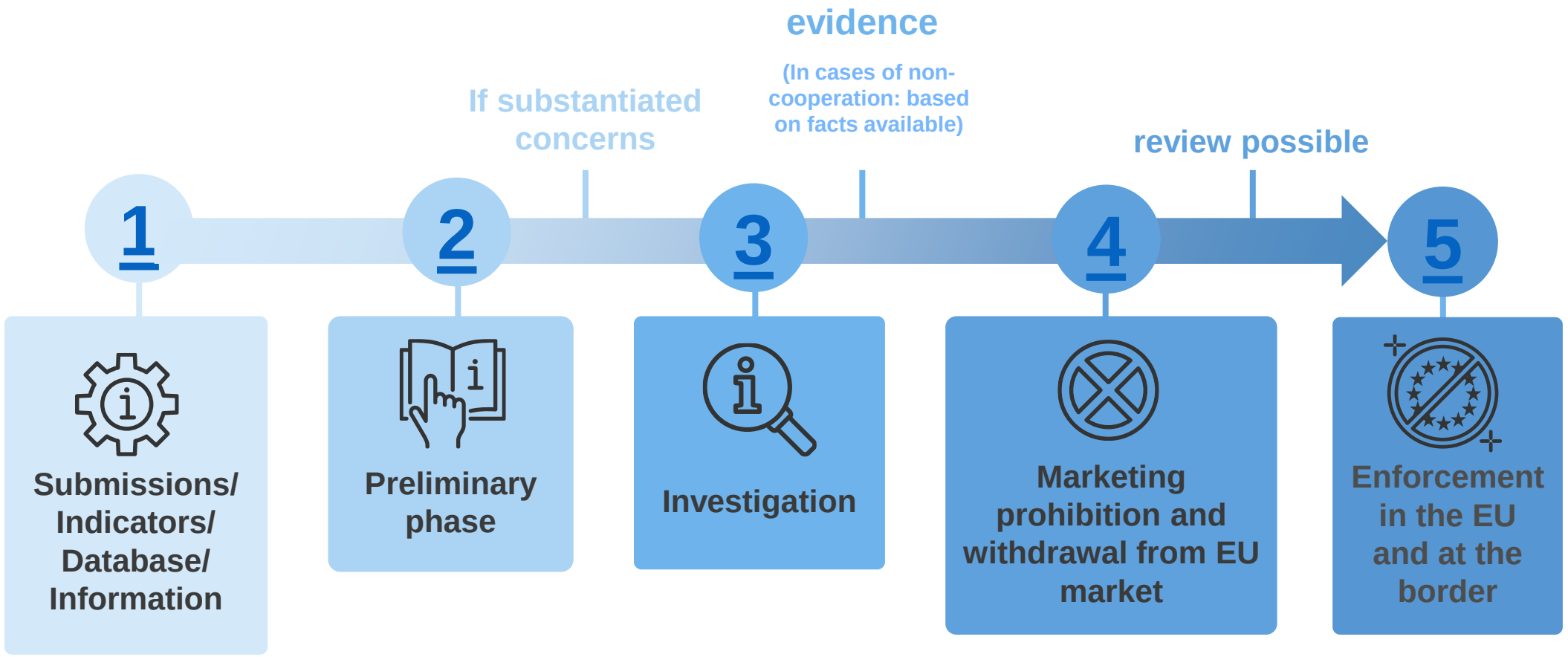
Proposed instrument

Marketing prohibition of forced labour products

- Imported products and EU-manufactured products (for domestic consumption and exports)
- Risk-based enforcement by national competent authorities (in cooperation with other national authorities such as customs and labour inspection)
- Coordination role by European Commission
- Built on international standards
- Due consideration of SMEs
- Complementing existing EU initiatives (e.g. Corporate Sustainability Due Diligence)
- Specific provisions on international cooperation to facilitate implementation

European Commission

Mechanism



European Commission

Tools for implementation and support

- Public database of forced labour risks areas or products (by external expert)
- Cooperation between competent authorities
  - EU Forced Labour Product Network
  - Information and communication system
- Guidance for companies and competent authorities
  - Due diligence
  - Risk indicators
  - Publicly available information sources

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1. Preliminary phase of investigations - Triggers

CA to **assess possible breaches** of the prohibition based on:

- Submissions by natural or legal persons
- Risk indicators and publicly available sources
- Database of risk areas and products
- Information from other relevant authorities
- Information and decisions in the IT system

2. Preliminary phase of investigations

- Competent Authority to **assess likelihood** of forced labour on the basis of risk-based approach:
  - Focus the assessment as close as possible to where the risk of forced labour is occuring
  - Take into account the size and resources of the economic operators, the quantity of products concerned, and the scale of suspected forced labour
- Before initiating an investigation, Competent Authority to **request information** on due diligence to the economic operator(s), to reply within 15 days
- Competent Authority to conclude within 30 days whether there is a **substantiated concern**

3. Investigations

- **Inform** the economic operator about:
  - the initiation of the investigation and the possible consequences;
  - the products subject to the investigation;
  - the reasons for the investigation, where possible;
  - the possibility to submit any other document or information within a given deadline.
- **Request information** necessary for investigation following risk-based approach. Operator to reply within 15 days (extension possible)
  - Competent Authority may carry out checks and inspections including in third countries (consent of operator and government required)
- Take a **decision** within a reasonable period of time based on:
  - Information and evidence gathered
  - Facts available (in cases of non-cooperation)

4. Marketing prohibition and withdrawal from EU market

- Where a breach of the prohibition is established, Competent Authority must **adopt** a **decision** with:
  - Prohibition to place products on EU market and to export
  - Order to withdraw the products from EU market (if already marketed)
  - Order to dispose of the products (in line with national law consistent with EU law)
- The decision must also indicate:
  - Findings of the investigation and information underpinning the findings
  - Reasonable time-limit for compliance (no less than 30 days)
  - Other information relevant for compliance (e.g. identification of the product, manufacturer, suppliers)
  - Customs information, where applicable

5. Enforcement in the EU and at the border

- If operator fails to comply, Competent Authority must **enforce** the decision;
- If operator provides evidence of compliance with the decision and of elimination of forced labour, Competent Authority shall **withdraw** the decision
- Decisions by a Competent Authority in one Member State must be **recognised and enforced** by Competent Authorities in the other Member States
- Enforcement at the border by **customs authorities** based on decisions by CA
  - Where customs authorities identify products in breach of the prohibition they must **suspend** the release for free circulation or the export and notify competent authorities

If product notified is in breach of prohibition	→	CA requests not to release for free circulation nor to allow export, and product is disposed of
If product notified is NOT in breach of prohibition	→	CA agrees to the release for free circulation or export

Thank you!