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Xinjiang: Problem Ahead for European Industry?

By Frederick Kliem

SYNOPSIS

Unlike some other countries, Germany stopped short of labelling the treatment of China's Uighur minority a genocide. But a new law will severely restrict German companies doing business in Xinjiang, and it precipitates EU-wide regulation.

COMMENTARY

NUMEROUS HUMAN rights groups as well as research institutes [allege](#) that the Chinese government commits “crimes against humanity” against Uighurs under the banner of fighting terrorism. What China defines as “re-education camps” are, allegedly, concentration camps, where extinction, forced castration, and slave labour are extensive.

Earlier this year, Canada's Parliament [voted overwhelmingly in favour](#) of labelling China's treatment of the Muslim Uighur minority in China's western province of Xinjiang as “genocide”. This follows earlier declarations by the United States and some European countries. Germany stood out by not following suit.

German Ignorance?

Berlin has long caused frustration among those in the European Union (EU) — in particular the EU Parliament which largely sees itself as Europe's normative guardian — who believe engagement with China should focus much more on normative than trade questions.

For decades, Germany has been viewed as dodging the problem. Berlin has more or less successfully been able to separate human rights issues from its important economic relationship with China. But in recent years, there has been a [gradual](#)

[evolution of German foreign policy](#), and policymakers as well as business leaders [have called on German industry](#) to gradually reduce the country's over-dependence on Beijing.

Nonetheless, Germany's export-driven economy remains its Achilles' heel. For decades, Germany has been heavily investing in China, both in terms of foreign-direct investment (FDI) and in an unsuccessful gamble on a more liberal Chinese future (*Wandel durch Handel*). China is Germany's largest source of imports, most important non-European supplier, and its third-largest export market. That the German economy is doing reasonably well despite COVID-19 is mostly due to thriving Chinese demand.

It is no surprise that [Berlin was instrumental in concluding the EU-China Comprehensive Agreement on Investment \(CAI\)](#), with which the EU hopes to level the hitherto asymmetric playing field for foreign businesses in China. The controversial CAI is seeing [resistance in the EU Parliament](#), not least because of the deal's alleged ignorance towards human rights abuses in China, forced labour in Xinjiang in particular.

But Germany is not going down the route of labelling China's treatment of the Uighur minority "genocide" for now — not because of industry pressure but because the legal threshold for genocide is high. According to an expert committee of the [German parliament](#) (*Bundestag*), human rights abuses in Xinjiang are proven and unacceptable, but do not constitute a genocide beyond reasonable doubt.

Supply Chain Accountability

And yet, the parliamentary findings of human rights abuses will have wide-ranging consequences.

Lieferkettensorgfaltspflichtengesetz (supply chain due diligence law) is one of the many beautiful German tongue-twisters that dominate German bureaucracy.

In June, the [Bundestag will legislate](#) on German liability for global supply chains. This new [law](#) was long overdue. It is unacceptable that large multinationals from the developed world profit from but do not take ownership of well-documented inadequacies in human rights and labour standards along their supply chains in the developing world, [including child labour](#) and the [2013 Rana Plaza catastrophe](#).

The *Bundestag* now transfers responsibility for unethical practices abroad directly to German companies, who will henceforth be liable for breaches of human- and labour rights on every step of their supply chain, including third-party suppliers and contractors. There will be German accountability all the way from raw material to the end product.

German Businesses in Xinjiang

Berlin may not view the treatment of Uighurs as genocide. But the very high due diligence requirements and legal liability German companies will face as of 2023 will have a similar effect.

A number of German companies are either directly or indirectly involved in Xinjiang. A [British study](#) found that *Wacker Chemie* purchases raw materials extracted by forced labour, and a yet unpublished [study by the Bundestag](#) finds that numerous German multinationals, including Adidas, Bosch, and Siemens, cooperate with local third-parties who equally rely on forced labour.

While the law is ultimately a watered-down compromise, it is a good step towards making “Made in Germany” not only a label of high product quality but also of accountability. As one German minister put it: “The German constitution states that *human* dignity is inviolable, not *German* dignity.”

Following a French law to a similar effect, the German law will be the toughest in the EU; and it is only a precursor to all but guaranteed EU-wide regulation in the near future. This will open another front in the already strained Europe-China relations.

Legal Backdoor Will Displease China

Of course, the vast majority of businesses in Xinjiang do not rely on forced labour. But because China does not allow foreign investigations into possible human rights abuses on its territory, it will be impossible to verify with certainty which part of the Xinjiang-based supply chain is clean — an unambiguous requirement under the new due diligence rules.

New compliance and reporting requirements will inevitably force many German companies to cut ties with Xinjiang altogether, perhaps even affecting overseas production facilities, such as Volkswagen’s operation in Urumqi.

How China might react can be gauged by its government’s, and indeed broader society’s, fierce reaction to a recent [Xinjiang cotton boycott](#) by some international clothing brands, who had expressed concerns about forced labour in cotton production.

The reaction was stern as some Chinese consumers boycotted their products, and the local government suggested that a Xinjiang boycott could lead to an exclusion of these companies from the Chinese market.

Genocide or not, ignoring human rights abuses and doing business in Xinjiang will become a lot more complicated. And EU industry will have to brace themselves for an urgent backlash.

Frederick Kliem is a Research Fellow at the S. Rajaratnam School of International Studies (RSIS), Nanyang Technological University (NTU), Singapore.
