



CORE OCRE



Initial Assessment Report

Nike Canada Corp.

Country: China

File number: 220851

Complaint filed on: June 21, 2022

Report published on: July 11, 2023

Canada



Government
of Canada

Gouvernement
du Canada



About the CORE

The Canadian Ombudsperson for Responsible Enterprise (CORE) is a business and human rights grievance mechanism established by the Government of Canada. People can file complaints with the CORE about possible human rights abuses arising from the operations of Canadian garment, mining, and oil and gas companies outside of Canada.

For more information, see the [Canadian Ombudsperson for Responsible Enterprise](#) website.

What is the purpose of this report?

The CORE is reporting on the initial assessment stage of a complaint filed by a coalition of 28 Canadian organizations on June 21, 2022, about the activities of Nike Canada Corp.

Pursuant to section 16 of the CORE's [Order in Council](#), the parties had an opportunity to comment on the facts contained in the report. A summary of the comments received is at Part 5 of the Report.

Who are the parties to the complaint?

The Complainants are a coalition of 28 Canadian organizations listed in Annex 1.

Nike Canada Corp. is a Canadian garment company. Nike Canada Corp. was incorporated under the *Nova Scotia Companies Act* on May 30, 2008 with its head office at 200 Wellington Street West, Toronto.¹

What is the complaint about?

The complaint alleges that Nike Canada Corp. has supply relationships with several Chinese companies that the Australian Strategic Policy Institute (ASPI) identified as using or benefiting from Uyghur forced labour. It also asserts that there is no indication that Nike Canada Corp. has taken any concrete steps to ensure beyond a reasonable doubt that forced labour is not implicated in their supply chain.

According to the complaint, Nike Canada Corp. has relationships or supply chain links with Qingdao Taekwang Shoes Co. Ltd., Haoyuanpeng Clothing Manufacturing Co. Ltd., Esquel Textile Co. Ltd., Qingdao Jifa Group, Huafu Fashion Co. Ltd., and Texhong Textile Group. The complaint links all of these companies with Uyghur forced labour.

To support their allegations, the Complainants refer to the findings documented in the ASPI report "Uyghurs for sale" regarding the companies listed below:²

¹ <https://rjsc.novascotia.ca/e-commerce/company/3228609>

² Australian Strategic Policy Institute (ASPI), "Uyghurs for Sale", (March 2020), <https://www.aspi.org.au/report/uyghurs-sale>.



Qingdao Taekwang Shoes Co. Ltd.: The complaint alleges that Nike is the primary customer of Qingdao Taekwang Shoes Co. Ltd. It alleges that the factory employs Uyghur workers who attend classes in the evening for “vocational training” and “patriotic education”. In addition, the Complainants provided bills of lading (from Panjiva) which indicate that Nike Canada Corp. imported at least three shipments from Qingdao Taekwang in July 2019.

Haoyuanpeng Clothing Manufacturing Co. Ltd.: The complaint alleges that Haoyuanpeng Clothing Manufacturing Co. Ltd. (HYP) advertises a partnership with Nike. According to the complaint, HYP exports Uyghur workers to its headquarters in the Chinese province of Anhui and uses them in their factory in Xinjiang. It alleges that the workers transferred to the Anhui headquarters were all “graduates” of the Jiashi County Secondary Vocational School, a facility which has operated as a “re-education” camp for Uyghur people since 2017.

Esquel Textile Co. Ltd.: The complaint alleges a link between Nike and Esquel Textile Co. Ltd., a textile and apparel manufacturer that owns several factories in Xinjiang. To support this allegation, the complaint provided bills of lading (from Import Genius) which indicate that Nike Canada Corp. imported six unique shipments into Canada from Esquel in August 2020. The Complainants stressed the fact that this occurred several months after Nike’s statement wherein it denied having any relationship with Esquel Textile Co. Ltd. According to the complaint, Esquel Textile Co. Ltd. has been identified as using Uyghur forced labour.

Qingdao Jifa Group: The complaint alleges a link between Nike and Qingdao Jifa Group, an apparel manufacturer identified as using Uyghur forced labour.

To support their allegations, the Complainants refer to a report by Sheffield Hallam University, *Laundering Cotton*, regarding the companies listed below.³

Huafu Fashion Co. Ltd.: The complaint alleges a link between Nike and Huafu Fashion Co. Ltd. According to the complaint, there is evidence that Huafu Fashion Co. Ltd. uses or benefits from Uyghur forced labour. In particular, it alleges that the company owns a subsidiary in Xinjiang, purchases Xinjiang cotton, engages in state-sponsored labour transfers, and cooperates in labour transfers with the Xinjiang Production and Construction Corps (XPCC).

Texhong Textile Group: According to the complaint, there is evidence that Texhong Textile Group uses or benefits from Uyghur forced labour. In particular, it alleges that the company owns a subsidiary in Xinjiang, purchases Xinjiang cotton, engages in state-sponsored labour transfers, and purchases cotton from the XPCC.

The Complainants indicate that by way of letter dated November 12, 2021, they asked Nike Canada Corp. to conduct human rights due diligence (HRDD) to ensure that they do not benefit from Uyghur forced labour. According to the letter, Nike released a statement in March 2020

³ Sheffield Hallam University, “Laundering Cotton”, (November 2021), <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/laundered-cotton>.



which indicates that Qingdao Taekwang Shoes Co. Ltd. stopped hiring new employees from Xinjiang after human rights abuses were reported in 2019. However, the Complainants allege that this statement is directly contradicted by findings in the aforementioned ASPI report. In that same statement, Nike allegedly denied having any relationships with HYP, Esquel and Qingdao Jifa, which was also contradicted by the ASPI report according to the Complainants. They also requested that the company “cut off relations” with Qingdao Taekwang Shoes Co. Ltd., Haoyuanpeng Clothing Manufacturing Co. Ltd., Esquel Textile Co. Ltd., and Qingdao Jifa Group, and take “reasonable steps to ensure beyond a reasonable doubt that none of its materials are sourced from Xinjiang”. According to the Complainants, Nike Canada Corp. has not replied to their inquiry.

Part 1 - Summary of the Intake stage (or Admissibility stage)

1. On July 20, 2022, on the basis of the information provided by the Complainants, the Ombud decided that the complaint was admissible pursuant to section 6.1 of the [Operating Procedures](#). This means that the Ombud decided there was sufficient information for the Complainants to form a reasonable belief that each of the three admissibility criteria was met. The threshold for admissibility is a low one. The admissibility criteria are that:
 - The complaint concerns an alleged abuse of an internationally recognized human right;
 - The alleged abuse arises from the operations abroad of a Canadian company in the garment, mining or oil and gas sector; and
 - The abuse allegedly occurred after May 1, 2019 or, if it allegedly occurred before May 1, 2019, is ongoing at the time of the complaint ([Section 5.7, Operating Procedures](#)).
2. The Ombud’s decision was communicated to the Complainants on July 27, 2022.
3. The Ombud’s decision was communicated to Nike Canada Corp. by email on July 28, 2022 with a copy of the complaint. The complaint was then moved from the intake stage to the initial assessment stage of the complaint process. The CORE subsequently made several unsuccessful attempts to make contact with Nike Canada Corp., inviting them to an initial assessment meeting in November 2022. On January 17, 2023, the CORE made contact with counsel for Nike Canada Corp. who indicated that the delay in reply was due to personnel changes. Nike Canada Corp. declined to meet with the CORE for an initial assessment meeting and provided a brief response to the complaint. The response is outlined in paragraph 9.



Part 2 - Initial Assessment

Background

4. Initial Assessment is the process for deciding how to proceed with an admissible complaint including how to address any objections from the respondent (the company named in the complaint). The Ombud does not make a decision on the merits of the complaint during initial assessment.
5. The objectives of the initial assessment process are to:
 - Develop a better understanding of the parties' positions regarding the allegations including any objections to the complaint from the respondent;
 - Begin to identify the parties' underlying needs and interests;
 - Provide information regarding the role of the CORE and the different dispute resolution processes; and
 - Work with the parties to decide what dispute resolution process may best address the issues raised by the complaint including the allegations and any objections from the respondent.
6. During initial assessment, the Ombud meets with the parties to learn about their views regarding the allegations, respond to their concerns and questions, and seek their agreement to participate in early resolution or mediation. If the parties do not agree to participate in a consensual dispute resolution process, the Ombud will decide how to deal with the complaint including whether to begin an investigation.

The Initial Assessment Process in this Complaint

7. The steps taken by the CORE during the initial assessment of this complaint were as follows:
 - i. Desk review of the complaint.
 - ii. Virtual meeting with the Complainants' representatives on November 18, 2022.
 - iii. Virtual meeting with counsel for Nike Canada Corp. on January 19, 2023. (This meeting was not an initial assessment meeting. CORE responded to questions from counsel about the complaints process).

1

Talk to both parties separately

to develop a better understanding of the complaint without deciding whether it is true or false.

2

Begin to identify the parties' underlying needs and interests.

3

Provide information

regarding the role of the CORE and the different dispute resolution processes.

4

Work with the parties

to decide what dispute resolution process may best address the issues raised by the complaint including any objections from the company.



- iv. Desk research on academic reports and corporate statements.

What the Complainants told the CORE

8. During the initial assessment meeting on November 18, 2022, the Complainants expressed their willingness to participate in early resolution or mediation including agreeing to terms of confidentiality. The Complainants are willing to work towards a systemic resolution that does not name Nike Canada Corp. and that finds solutions to address the possible use of Uyghur forced labour and that would help Canadian garment companies to undertake appropriate HRDD in this high risk context. The Complainants also indicated that given the complexity of tracing the origin of textiles, particularly from Xinjiang, it is preferable that garment companies use fibre tracing technology to map their supply chains from fibre to retail.

Nike Canada Corp.'s Response to the Complaint

9. On February 16, 2023, Nike, Inc. (the parent company of Nike Canada Corp.) provided a response to the complaint and declined to attend an initial assessment meeting with the CORE. Nike, Inc. expressed a commitment to ethical and responsible manufacturing and directed the CORE to the following statements:
 - a. [Nike, Inc. Response to the ASPI report \(PDF\)](#)
 - b. [Nike, Inc. Statement on Forced Labour, Human Trafficking and Modern Slavery for the Fiscal Year 2022](#)

With the provision of the above statements, Nike, Inc. stated that they considered all of the allegations to be addressed. The content of the statements is summarized in paragraphs 10 to 12.

10. In its response to the ASPI report, Nike, Inc. stated that they do not source products from Xinjiang and that they have confirmed with their contract suppliers that they are not using textiles or spun yarn from the region. They made reference to the Nike [Code of Conduct](#) and [Code Leadership Standards](#), which prohibit forced labour. According to the statement, Nike conducts “ongoing due diligence with its suppliers in China to identify and assess potential forced labour risks related to employment of Uyghurs, or other ethnic minorities from XUAR, in other parts of China”. They have strengthened their audit protocols and have not found evidence of employment of Uyghurs, or other ethnic minorities from Xinjiang, elsewhere in their supply chain. With regard to the relationships established in the ASPI report, Nike denies having relationships with three of the companies cited in the report (Haoyuanpeng Clothing Manufacturing Co. Ltd., Qingdao Jifa Group, and Esquel Textile Co. Ltd.). With respect to the fourth, Qingdao Taekwang Shoes Co. Ltd., the statement asserts that the company no longer has any employees from Xinjiang at the facility. Finally, the statement confirms that Nike is working to pilot traceability approaches and outlines its collaboration with multi-stakeholder working groups and industry associations.
11. The Nike, Inc. Statement on Forced Labour, Human Trafficking and Modern Slavery for the Fiscal Year 2022 affirms Nike’s commitment to supporting human rights and working with suppliers that demonstrate a commitment to engaging their workers, providing safe working



conditions and advancing environmental responsibility. Nike discloses the independent factories and material suppliers used to manufacture Nike products in its [Nike Manufacturing Map](#). Its requirements for suppliers are contained in its [Code of Conduct](#) and [Code Leadership Standards](#). The Code of Conduct lays out the required minimum standards Nike expects each supplier factory or facility to meet in producing NIKE products and includes strict requirements around forced and child labor, excessive overtime, compensation, and freedom of association amongst other requirements. The Code Leadership Standards specify how the Code of Conduct should be implemented. With regard to its supply chain, Nike is working to improve its systems to map and address risks, and is expanding engagement with Tier 2 suppliers.

12. The Nike, Inc. Statement on Forced Labour, Human Trafficking and Modern Slavery for the Fiscal Year 2022 further explained that Nike regularly audits contract factories, including for the risk of forced labour. Nike uses both internal and external third-party audits to assess compliance. They also monitor conditions at supplier factories through audits and assessments by independent organizations, including the Fair Labor Organization and the Better Work Programme. With respect to remediation, Nike investigates reports of non-compliance with its policies, works to address root causes, and collaborates with stakeholders to drive remediation. Nike provides annual training to those with direct responsibility for supply chain management. Finally, the statement addresses Nike's collaboration with industry experts, partners, industry associations, stakeholders and other organizations.

Part 3 – How to deal with the complaint

13. The Ombud must decide how to deal with the complaint. The Ombud may decide to:
 - a. Close the file - The Ombud may decide not to deal with the complaint and to close the file after publishing this report pursuant to section 14(2) of the [Order in Council](#); or,
 - b. Proceed to mediation – The Ombud may decide to proceed to mediation if both parties are in agreement; or,
 - c. Conduct an investigation using independent fact-finding - The Ombud may decide to investigate the complaint using independent fact-finding pursuant to section 7(b) of the [Order in Council](#).
14. In deciding whether to investigate a complaint, the Ombud considers the overall context of the complaint and relevant factors including whether:
 - a. The complaint is frivolous or vexatious;
 - b. The complaint is being reviewed or has been reviewed, in another forum.
 - c. The Canadian company has already provided a satisfactory response or remedy to the allegations in the complaint;
 - d. Relevant information is likely to be available;



- e. Effective remedy is likely to be available; and,
- f. An investigation is likely to lead to unacceptable risk to the complainant or others.

15. In considering whether relevant information is likely to be available, the cooperation of the Canadian company named in a complaint is not determinative. The CORE may consider the availability of information from all reasonably accessible sources. As well, in any final report, the CORE may comment on how the cooperation of the parties impacted on the availability of information and other aspects of the investigation.

16. In considering whether any practical or effective remedy is available, the Ombud will weigh the scope of the investigation i.e. who would be covered by the investigation, possible remediation options, and other competing factors including institutional capacity (public resources) and the desirability and effectiveness of launching a public investigation.

Analysis

17. On their face, the allegations made by the Complainants raise serious issues regarding the possible abuse of the internationally recognized right to be free from forced labour, referred to in following instruments:

- a. Right to be free from slavery or servitude (Article 4, [Universal Declaration of Human Rights, 1948](#));
- b. Right to work, to free choice of employment, to just and favourable conditions of work (Article 23(1), [Universal Declaration of Human Rights, 1948](#); Article 6.1, [International Covenant on Economic, Social and Cultural Rights, 1966](#));
- c. Freedom from forced or compulsory labour (Articles 1 & 2, [ILO's Forced Labour Convention, 1930 \(No. 29\)](#), Article 8(3)(a), [International Covenant on Civil and Political Rights, 1966](#); [The Protocol of 2014 to the Forced Labour Convention 1930](#));

18. Freedom from forced or compulsory labour as a means of political coercion or of racial, social, national or religious discrimination. (Article 1, [ILO's Abolition of Forced Labour Convention, 1957 \(No. 105\)](#)). The seriousness of the human rights impacts arising from the possible use of Uyghur forced labour is underlined by the [report of the Office of the UN High Commissioner for Human Rights](#) issued in August 2022. The report finds that far-reaching, arbitrary and discriminatory restrictions on human rights and fundamental freedoms were imposed on Uyghurs and other predominantly Muslim communities living in Xinjiang "in violation of international laws and standards" and calls on states, businesses and the international community to take actions in order to end the abuses.

19. Recognizing the seriousness of the possible use of Uyghur forced labour in Xinjiang, the Canadian government requires Canadian companies that source directly or indirectly from Xinjiang or from entities relying on Uyghur labour or who seek to engage in the Xinjiang market to sign the [Integrity Declaration on Doing Business with Xinjiang Entities](#) before receiving services and support from the Trade Commissioner Service (TCS). In addition, the



Canadian government's 2023 budget signaled its commitment to reducing supply chain vulnerabilities and its intention to strengthen Canada's supply chain infrastructure by shifting critical supply chains away from dictatorships and towards democracies.

20. The complaint raises questions about Nike Canada Corp.'s due diligence activities. [Principles 14 and 17 of the UNGPs and related commentary \(PDF\)](#) indicate that HRDD in high-risk areas such as the Xinjiang region in China be tailored according to the nature and context of a company's operation, types of vulnerable groups, and the intensity and severity of human rights risks and that a company may need to adopt more robust measures in a high-risk operating context.
21. As well, the UNGPs provide guidance regarding the responsibility of companies to be transparent about their HRDD activities. Companies whose business operations or operating context pose risks of severe human rights impacts are required to report formally about how they identify and address those serious human rights impacts ([Principle 21 and its commentary of the UNGPs \(PDF\)](#)). When concerns are raised by or on behalf of affected or other relevant stakeholders, companies need to provide sufficient information and ensure that its reporting/communication is accessible to the intended audiences.
22. As mentioned above, Nike, Inc. provided the CORE with a response to the complaint. In this response, they refer to a statement issued by Nike, Inc. in response to the ASPI report (Uyghurs for Sale). As detailed above, the ASPI report purports to establish relationships between Nike and four Chinese corporations that it alleges use or benefit from Uyghur forced labour. The statement from Nike affirms that "Nike does not source products from the XUAR and [Nike has] confirmed with [their] contract suppliers that they are not using textiles or spun yarn from the region". It further denies that Nike has relationships with three of the companies cited in the ASPI report (Haoyuanpeng Clothing Manufacturing Co. Ltd., Qingdao Jifa Group, and Esquel Textile Co. Ltd.). With respect to the fourth, Qingdao Taekwang Shoes Co. Ltd., the statement asserts that the company no longer has any employees from Xinjiang at the facility.
23. Considering the information contained in the ASPI report and the bills of lading which link Nike Canada Corp. with factories that the report identifies as using Uyghur forced labour, it appears that there is a conflict in the available information that may warrant an investigation. While Nike notes that the bills of lading referenced in the complaint document shipments from an Esquel facility in Vietnam and that the Complainants have not alleged the use of forced labour in that facility, the complex nature of garment supply chains may warrant investigation of the relationship between Nike and Esquel. An investigation may, for example, explore the existence of due diligence processes adopted by Nike to ensure that its products are not manufactured using Uyghur forced labour. While Nike has provided its response to the ASPI report and its statement on forced labour, human trafficking and modern slavery, it has provided limited detail about the nature and scope of its HRDD including whether it uses fibre tracing technology. More information is required to consider whether Nike's HRDD is consistent with the robust due diligence required by a high-risk



context such as Xinjiang. As well, Nike Canada Corp. failed to respond to the November 12, 2021 letter sent by the Complainants.

24. If the Ombud decides to investigate the complaint, there will be an ongoing opportunity for Nike Canada Corp. to respond and participate including providing additional information regarding its HRDD activities.
25. Given the broader context of the complaint and challenges in gathering information on an in-country-basis, independent fact-finding may be limited. The availability of the information would need to be assessed as the investigation progresses and would be considered in any final report.
26. The complaint does not name individuals or make individuals identifiable thereby reducing the potential for an investigation to increase risk to individuals. If the Ombud decides to investigate the complaint, an assessment of risk will be ongoing throughout the investigation.

Part 4 - Participation in the Complaint Process

27. As outlined above, Nike Canada Corp. provided a response to the complaint. Nike Canada Corp. declined to meet with the CORE for an initial assessment meeting as they considered that all of the allegations were addressed in the statements that they referenced. Following their refusal, Nike Canada Corp. was provided with a copy of this draft initial assessment report for comment. At this time, Nike Canada Corp. contacted the CORE to request an initial assessment meeting and the opportunity to provide a written submission. In order to adhere to the indicative timeframe for completion of the initial assessment process, the CORE declined the request. The CORE noted that if the Ombud decides to proceed with the complaint, that Nike Canada Corp. will have the full opportunity to participate in the complaint process before any decision is made regarding the merits of the complaint or a settlement of the complaint may be reached.
28. The CORE's [Operating Procedures](#) provides that full and active participation in the complaint process is part of good faith:

Section 11.1 requires the parties to fully participate in the complaint process including by providing the Ombud with relevant information and documents and making witnesses available on reasonable notice, according to the timelines established by the Ombud.

Section 11.2 provides that where a Canadian company does not participate actively in the complaint process, including refusing to provide relevant information and documents, the Ombud may draw appropriate negative conclusions or adverse inferences during fact-finding.

Section 12.4 provides that the Ombud may consider a party not to be acting in good faith if the party does not actively participate in a review without reasonable explanation.



Part 5 – Comments from the parties

Comments from the Complainant

29. The Complainants provided their comments on the draft initial assessment report. The Complainants assert that the CORE should conduct a review using independent fact-finding. To support their assertion, the complainants apply the factors set out in paragraph 14. First, the Complainants assert that the complaint is not trivial or frivolous, arguing that the “conflict in available information” (paragraph 23) warrants a review. The Complainants reiterate the evidence provided in the complaint, namely from the ASPI and research by Laura Murphy. They also highlight the bills of lading which indicate that Nike Canada Corp. imported shipments into Canada from Esquel and Qingdao Taekwang. The Complainants assert that none of Nike’s statements satisfactorily address Nike’s use of forced labour and that its assertion that Qingdao Taekwang stopped hiring new employees from Xinjiang is directly contradicted by ASPI’s findings.
30. Second, the Complainants note that the complaint is not being reviewed in another forum, nor has it been reviewed in the past in another forum.
31. Third, the Complainants assert that Nike Canada Corp. has not provided a satisfactory response or remedy to the allegations in the complaint. They note that Nike Canada Corp. declined to meet with the CORE for an initial assessment meeting and directed the CORE to existing corporate statements. They further note that Nike Canada Corp. failed to respond to the complainants’ communications.
32. Fourth, the Complainants argue that relevant information is likely to be available in the public domain, including through the ASPI and Laura Murphy. They further note that if CORE were to close the file, this would incentivize Canadian companies to not cooperate with the CORE in the future.
33. Fifth, the Complainants note that conducting a review is not likely to lead to unacceptable risk to the complainant or others.

Comments from Nike Canada Corp. (Nike)

34. Nike provided its comments on the initial assessment draft report. Nike expressed its appreciation for the opportunity to respond to the draft. Nike disagreed with the draft report’s suggestion that Nike has not engaged in good faith with the CORE. They explained that Nike did not receive the complaint until January 2023, at which time the company took immediate action to evaluate the complaint, which is based on allegations put forth in a report by the ASPI, to which Nike has previously responded. As such, Nike explained that they issued their response and did not accept CORE’s invitation to participate in an initial assessment meeting “with the genuine and good faith belief that its initial response, in conjunction with its prior responses to the same substantive claims in the ASPI report, would be sufficient”. Nike further explained that upon understanding that the CORE had wished to



further engage on these issues, they sought to schedule a meeting with a senior member of Nike's Responsible Supply Chain Team to discuss how Nike implements its commitment to human and labour rights and to discuss the allegations in the complaint. Nike understood from a call with the CORE on April 20, 2023 that a follow-up meeting and extension for a written submission would be welcomed, however this request was subsequently denied by the CORE.

35. Nike expressed its commitment to ethical and responsible manufacturing and human rights. Nike's Corporate Responsibility, Sustainability & Governance Committee of the Board of Directors reviews and evaluates the company's sustainability strategies and policies, and provides oversight of management's efforts to ensure that company dedication to human rights is reflected in business operations. Nike explained that it expects that its suppliers respect human rights and therefore it focuses on working with long-term, strategic suppliers that demonstrate a commitment to engaging their workers, providing safe working condition, advancing environmental responsibility, and combatting risks of forced labour. Nike discloses the independent factories and material suppliers used to manufacture Nike products in a publicly available Nike Manufacturing Map.
36. Nike explained that its requirements for suppliers are contained in its Code of Conduct and Code Leadership Standards, which include strict requirements around forced and child labour. Nike requires its finished goods suppliers to source materials from vendors that are compliant with Nike's Restricted Substances List, Nike's Code of Conduct, and Nike's Traceability Standards. While Nike does not directly source raw materials, Nike explained that it actively engages with its extended supply chain in an effort to trace materials to their sources. Nike's traceability efforts include, among others, leveraging multiple verification tools and technologies in order to test the accuracy of its mapping, including fiber tracing technology.
37. Nike explained that it has prioritized work on forced labour risks in its supply chain to focus on suppliers employing foreign migrant workers. Nike uses the CUMULUS Forced Labor Screen™. Nike explained that they also regularly audit contract factories, assessing the risks of forced labour. The company uses both internal and external third-party audits to assess compliance with its requirements and local law. Nike explained that it has expanded monitoring into the materials supply chain and logistics providers, as well as introduced additional enhanced due diligence audits to further assess and mitigate forced labour in high-risk countries and populations. In addressing human rights risks, Nike engages with multi-stakeholder working groups to assess collective solutions. The company is a member of multiple working groups and initiatives.



38. With respect to the complaint, Nike responded to the specific allegations as follows:
- a. **Qingdao Taekwang Shoes Co. Ltd.:** Nike asserts that an independent third-party audit conducted later in 2020 found no employees from Xinjiang at the Qingdao Taekwang Shoes Co. Ltd. facility.
 - b. **Haoyuanpeng Clothing Manufacturing Co. Ltd.:** Nike investigated the allegation of “strategic partnership” with Haoyuanpeng Clothing Manufacturing Co. Ltd. and found no relationship with the company.
 - c. **Qingdao Jifa Group:** Nike investigated the allegation of a link to Qingdao Jifa Group and confirmed that it had no relationship with the company.
 - d. **Esquel:** Nike confirmed that it did not have relationship with the Esquel facility mentioned in the ASPI report, Changji Esquel Textile, or any of Esquel’s other facilities in Xinjiang. Nike explained that the bills of lading referenced in the complaint document shipments from an Esquel facility in Vietnam to Nike Canada. They note that the Complainants have not alleged the use of forced labour in the facility in Vietnam. Nike also noted that they no longer source from Esquel, nor do any of their finished goods suppliers.
 - e. **Sheffield Hallam University Study:** Nike asserts that the complainants misread the Sheffield study, and explains that the study’s authors clearly state that they “cannot with certainty claim that a specific brand is without a doubt receiving products made of Xinjiang cotton” and that review of shipments illustrate “possible routes”.

Part 6 – Ombud’s decision

39. To move forward with mediation or joint fact-finding, the full and active participation of both parties is essential. The Complainants have indicated that they are open to all dispute resolution options. Nike Canada Corp. has indicated that they look forward to the opportunity for continued engagement and dialogue, but did not confirm their intention to participate in mediation at the moment. Consequently, it appears that mediation is not currently a viable option. Nike noted, however, that they may opt to engage at any point in the process.
40. In order to address the allegations raised in the complaint, the Ombud has decided in favour of launching an investigation through independent fact-finding. In reaching their decision, the Ombud considered the factors mentioned in paragraph 14 of this report.
- a. On its face, the complaint raises serious allegations regarding the possible abuse of the international human right to be free from forced labour. Closing the file before conducting an investigation would prevent the Ombud from considering every process available to them to pursue their mandate of promoting human rights and preventing human rights abuses;
 - b. The complaint is not pending for review or has not been reviewed in another forum;
 - c. Nike Canada Corp. has not provided a satisfactory response to all of the allegations in the complaint. In particular, there is a conflict in the available information with regard to Nike’s assertion that Qingdao Taekwang stopped hiring new employees



from Xinjiang after human rights abuses were reported in 2019. As the complainants note, this assertion is directly contradicted by ASPI's findings. With respect to Haoyuanpeng Clothing Manufacturing Co. Ltd. and Qingdao Jifa Group, sufficient evidence is not available to either confirm or dismiss the allegations at this stage. With respect to Huafu Fashion Co. Ltd. and Texhong Textile Group, Nike noted that the authors of the Sheffield Hallam University study noted that they "cannot with certainty claim that a specific brand is without a doubt receiving products made of Xinjiang cotton". Despite this disclaimer, the report identifies a downstream supply chain risk for Nike Canada Corp. that warrants investigation.

- d. Finally, with respect to Esquel, in its comment on the draft report, Nike confirmed that it did not have a relationship with the Esquel facility mentioned in the complaint and noted that the bills of lading referenced in the complaint document shipments from an Esquel facility in Vietnam to Nike Canada Corp. The Complainants have not alleged the use of any forced labour in that facility. While a link has not yet been established, given the complex nature of the cotton supply chain, the Esquel facility in Vietnam may have been using cotton sourced from Xinjiang. The link between Esquel and Xinjiang made by the ASPI report heightens this risk. Given the high-risk context, there is a need for enhanced human rights due diligence to identify, prevent and mitigate the human rights-related risks of Nike's operations. In this regard, Nike Canada Corp. has not provided a satisfactory response or remedy to the allegations in the complaint, nor satisfactorily demonstrated that it conducts human rights due diligence.
- e. The Ombud may seek assistance from experts to carry out context-appropriate research. Given the difficulty of obtaining information from Xinjiang, relevant information may be limited.
- f. An investigation is not likely to lead to an unacceptable risk to the complainant and others.
- g. During the investigation, Nike Canada Corp. will have the opportunity to provide further relevant information, including in relation to the results of its audit of the Qingdao Taekwang Shoes Co. Ltd. facility.

41. While the CORE will proceed with an investigation through independent fact-finding, mediation is available at any stage of the complaint process at the Ombud's discretion and with the agreement of the parties.



ANNEX-1

Complainants: A coalition of 28 organizations

1. Canadians in Support of Refugees in Dire
2. Need (CSRDN)
3. Alliance Canada Hong Kong
4. Anatolia Islamic Centre
5. Canada Tibet Committee
6. Canadians Against Oppression & Persecution
7. Canadian Council of Muslim Women (CCMW)
8. Canadian Council of Imams (CCI)
9. Canada-Hong Kong Link
10. Doctors for Humanity
11. East Turkistan Association of Canada
12. End Transplant Abuse in China (ETAC)
13. Human Rights Research and Education Centre, University of Ottawa
14. Human Concern International (HCI)
15. Islamic Circle of North America Canada (ICNA)
16. Islamic Society of North America (ISNA)
17. Justice for All
18. Lawyers for Humanity
19. Muslim Association Canada (MAC)



20. National Council of Canadian Muslims (NCCM) Raoul Wallenberg Centre for Human Rights
21. Canadian Security Research Group
22. Share 2 Care (S2C)
23. Stop Uyghur Genocide Canada
24. Toronto Association for Democracy in China
25. Union of Medical care and Relief Organizations-Canada (UOSSM)
26. Uyghur Refugee Relief Fund
27. Uyghur Rights Advocacy Project
28. Vancouver Society in Support of Democratic Movement