

# German Supply Chain Act [LkSG]

Are you ready?

# Background

## China's electric vehicle battery supply chain shows signs of forced labor, report says

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### KEY POINTS

- Chinese companies that produce raw materials for electric vehicle batteries show signs of using forced labor, according to a report from The New York Times.
- Xinjiang Nonferrous Metal Industry is a company that produces minerals and metals including lithium, nickel and copper. It has exported metals to the U.S., Germany, U.K., Japan and India, the Times reported.
- The report was published on the eve of the Uyghur Forced Labor Prevention Act taking effect in the United States. The legislation bans goods made with forced labor in Xinjiang from entering the U.S. market.

December 2022

## DRIVING FORCE

### Automotive Supply Chains and Forced Labor in the Uyghur Region

What parts of your car were made by Uyghur forced laborers?

If you have bought a car in the last five years, some of its parts were likely made by Uyghurs and others forced to work in China. The Chinese government has deliberately shifted raw materials mining and processing and auto parts manufacturing into the Xinjiang Uyghur Autonomous Region (XUAR or Uyghur Region), essentially making international supply chains captive to repressive programs and systematic forced labor.

In a six-month investigation undertaken by Laura T. Murphy, Kendyl Salcito, Yalkun Uluyol, Mia Rabkin, and a team of anonymous researchers, analysis of publicly available documents revealed **massive and expanding links between western car brands and Uyghur abuses**, in everything from the hood decals and car frames to engine casings, interiors and electronics.

We found 96 companies relevant to the auto industry mining, processing, or manufacturing in the Uyghur Region, including 38 with documented engagement in labor transfer programs. Over 100 international car and car parts manufacturers are at risk of sourcing from those companies.

Consumers do not want cars made through exploitation. But a combination of China's systematic repression of the Uyghurs and opaque supply chains has allowed the automotive industry to become

## Senate Finance Committee Chair Wyden Questions Major Automakers About Supply Chain Links to Forced Labor in Xinjiang, China

*Wyden Launches Investigation Into Effectiveness of Trade-Based Efforts to Fight Forced Labor and Human Rights Violations in China*

Washington, D.C. – Senate Finance Committee Chair Ron Wyden, D-Ore., today questioned eight major automakers over reports that their supply chains may include materials sourced from the Xinjiang region of China, where forced labor is rampant. Importing goods made with forced labor violates federal trade laws.

“Unless due diligence confirms that components are not linked to forced labor, automakers cannot and should not sell cars in the United States that include components mined or produced in Xinjiang,” Wyden wrote. “The United States considers the Chinese government’s brutal oppression of Uyghurs in Xinjiang an ‘ongoing genocide and crimes against humanity.’”

“I recognize automobiles contain numerous parts sourced across the world and are subject to complex supply chains. However, this recognition cannot cause the United States to compromise

# German Supply Chain Act [LkSG]

## Are you ready?



On January 1st 2023, the German Supply Chain Act or Lieferkettensorgfaltspflichtengesetz (LkSG) will take into effect for firms with more than 3,000 employees. It will expand to smaller firms in 2024. The law carries new rules to ensure companies doing business in Germany meet the standards set out in United Nations (UN) Guiding Principles on Business and Human Rights and the Organization for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises.



The law imposes due diligence obligations on companies that have a principal place of business, administrative headquarters, statutory seat, or branch office in Germany to comply with human rights and environmental standards. It also exposes them to serious liabilities upon violations. The Act provides a comprehensive list of obligations including the establishment of a risk management system for compliance. It also outlines the necessary preventive and remedial measures, makes complaint procedures mandatory and requires regular documentation and reports.

Scope	Risk Areas	Obligations
<p><b>From 2023:</b> Companies based in Germany with more than 3,000 employees, or German-registered branches of foreign companies with more than 3,000 employees. This concerns approximately 600 companies.</p> <p><b>From 2024:</b> Companies based in Germany with more than 1,000 employees, or German-registered branches of foreign companies with more than 1,000 employees. It will concern approximately 2,800 companies.</p>	<p><b>Environmental risks:</b></p> <ul style="list-style-type: none"><li>• Minamata Convention on Mercury</li><li>• Stockholm Convention on Persistent Organic Pollutants (POPs)</li><li>• Basel Convention of the Control of Transboundary Movements of Hazardous Wastes and their Disposal.</li></ul> <p><b>Human Rights Risks:</b></p> <ul style="list-style-type: none"><li>• Child labor</li><li>• Forced labor and all forms slavery</li><li>• Occupational safety and work related health hazards</li><li>• Freedom of association and right to collective bargaining.</li><li>• Unequal treatment/discrimination</li><li>• Fair wages</li><li>• Land rights</li><li>• Inappropriate use of security forces.</li></ul>	<p><b>Due diligence:</b></p> <ol style="list-style-type: none"><li>1. Establish a risk management system</li><li>2. Define in-house responsibility for compliance.</li><li>3. Perform regular risk analyses.</li><li>4. Issue a policy statement.</li><li>5. Establish preventive measures in your own business area and for direct suppliers.</li><li>6. Take remedial action.</li><li>7. Establish a complaints procedure.</li><li>8. Implement due diligence obligations with regards to risks at indirect suppliers.</li><li>9. Document and report on due diligence activities.</li></ol>

# German Supply Chain Act [LkSG]

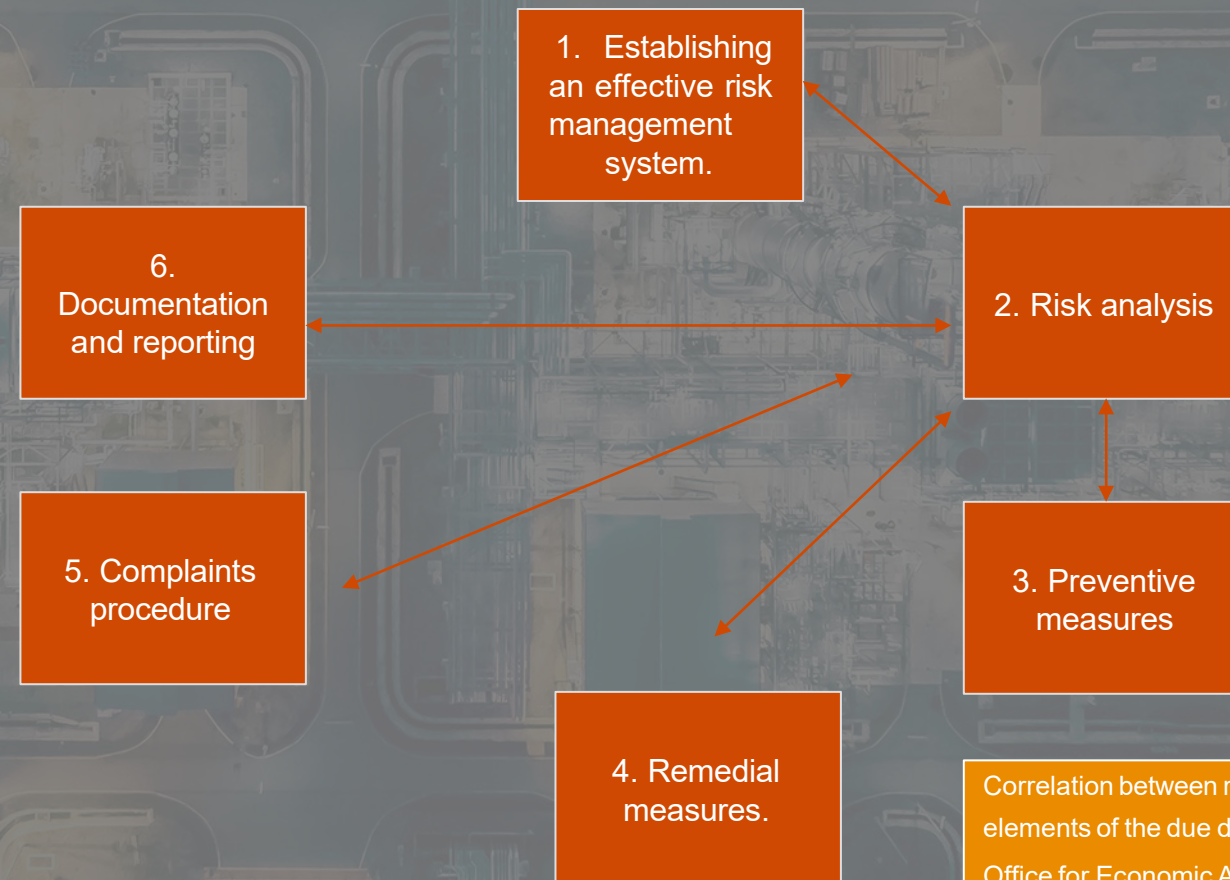
## Are you ready?

Recently there have been numerous press articles regarding Chinese forced labor in the automotive sector. Whilst the reports focus on the automotive sector the products involved cover a wide range from steel, aluminum, electronics, batteries to name a few and many companies could be impacted, if you have not already conducted a due diligence on your Chinese supply chains now is the time to act. PwC is uniquely placed to help you conduct risk assessment and due diligence of your supply chain.

### Next steps:



- The most important first step to prepare for the Act is to map all your direct and indirect suppliers.
- Conduct a risk assessment, considering their locations, the nature of their businesses, the types of people they employ, and the conditions they provide.
- Check that your suppliers are compliant with labor, health and safety and environmental legislation.
- Make sure your paperwork is up-to-date.



# How can we help you?

Companies can consider making use of a supply chain transformation framework. This concept has been cross-functionally refined by PwC, which brings together the organization's collective experience in the areas of risk, law, supply chains, human rights and sustainability.

The Act [LkSG] Section 4 requires that a Risk analysis should be conducted once a year.

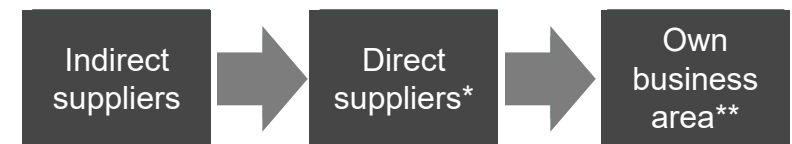
Our subject matter experts are here to help you conduct a risk analysis on an annual basis to gain an understanding of human rights and environmental risks in your company's own business area and within your supply chain, and to prioritize these risks for further processing.



## We can also assist you:

- To conduct due diligence on your direct suppliers and where required your indirect suppliers.
- Conduct a review of your risk management system.
- Conduct a review of your policy statement as it applies to China suppliers.
- Provide guidance on a ad hoc basis to your compliance department.
- Conduct a review of your complaints procedure.
- Establish preventive measures and remedial action for any identified risks.
- Document and report on due diligence activities.

Objective: An appropriate and effective risk management along the entire supply chain



Ad hoc risk analysis based on substantiated knowledge according to Section 9(3) 'LkSG'

Regular risk analysis according to Section 5 'LkSG'



Ad hoc risk analysis triggered by a change in business activity according to Section 5(4) 'LkSG'



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