



Uyghur Forced Labor Prevention Act (UFLPA) Public Law No. 117-78 December 23, 2021

Importer Overview

June 2022

CBP Publication No. 1795-0622



Forced Labor Global Trends



Number of forced laborers per region. Source: ILO.org

Over **24.9 million** people are victims of forced labor worldwide, trapped in jobs they cannot leave.

16 million

exploited in the private economy

4.8 million

victims of forced sexual exploitation

4.1 million

victims of forced labor by state authorities

Forced Labor Enforcement Legislation



- The Tariff Act of 1930, 19 U.S.C. 1307, is the primary customs law authority to prevent the importation of goods made with forced labor.
- Trade Facilitation and Trade Enforcement Act (TFTEA) enacted into law February 24, 2016, repealed the “consumptive demand exception” in 19 U.S.C. 1307.
- Uyghur Forced Labor Protection Act (UFLPA) which supports enforcement of 19 U.S.C. 1307, was signed into law on December 23, 2021.



Prohibition of imports made with forced labor in U.S. law

“All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited...”

- Section 307, Tariff Act of 1930 (19 U.S.C. 1307)

Uyghur Forced Labor Prevention Act

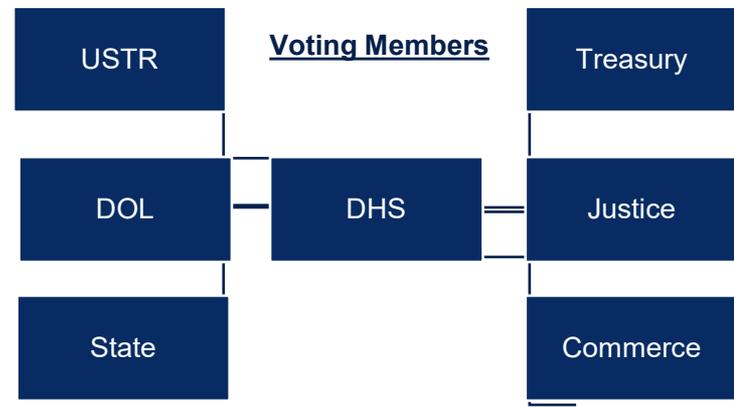
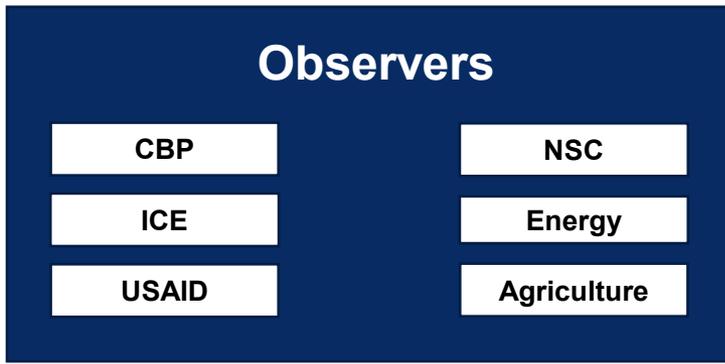


- P.L. 117-78 was signed into law December 23, 2021.
- Supports CBP's enforcement of 19 U.S.C. 1307, which prohibits the importation of goods made with forced labor.
- The UFLPA establishes a rebuttable presumption that any goods produced in whole or in part in the Xinjiang Uyghur Autonomous Region (XUAR) are prohibited by section 1307.
- Gives CBP authority to determine exceptions to the rebuttable presumption where clear and convincing evidence is provided to CBP.

Forced Labor Enforcement Task Force (FLETF)



- The FLETF was established under the United States-Mexico-Canada Implementation Act to monitor U.S. enforcement of the prohibition on importing goods made with forced labor.
- Executive Order 13923 (May 15, 2020) named the Secretary of Homeland Security as the Chair of the FLETF and named specific members/observers to the group.
 - On January 11, 2022, the Secretary of Homeland Security signed DHS Delegation Number: 23034, delegating the role of FLETF Chair to the Under Secretary for Policy.
 - The groups hold quarterly principal-level meetings, and more regular staff-level meetings as needed



Forced Labor Enforcement



- Sec. 2 of the UFLPA directs the FLETF to develop a strategy to support enforcement of the prohibition on goods from the XUAR made with forced labor.
- The UFLPA requires that the FLETF to:

No.	Task	Days*	D+0**	Date
1	Publish FRN & Solicit Public Comment	≤ 30	D+30	24 JAN 22
2	Public Comment Period	≥ 45	D+75	10 MAR 22
3	Public Hearing	≤ 45	D+120	8 APR 22
4	Develop and Submit Strategy to Congress	≤ 60	D+180	21 JUN 22

- Strategy includes how CBP plans to enhance legal authorities and other tools, additional resources required, guidance to importers, and evidence required.

Rebuttable Presumption



- The UFLPA establishes a rebuttable presumption on XUAR goods.

No.	Task	Days*	D+0**	Date
5	Rebuttable Presumption Enter Into Force	≤ 180	D+180	21 JUN 22

** ≤ No More Than, ≥ No Less Than; **
D+0 is 23 December 2021*

- Applies to any goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in the XUAR or produced by an entity on a list created by the FLETF.
- UFLPA gives CBP authority to determine exceptions where:
 - Importer of Record has complied with the guidance in strategy.
 - Completely and substantively responded to all inquiries by CBP.
 - Provides clear and convincing evidence that the merchandise was not wholly or in part made with forced labor.
- Exceptions to the UFLPA will be reported to Congress within 30 days and will be subject to public disclosure.

Existing CBP Forced Labor Trade Enforcement Actions



Withhold Release Order (WRO)

- **Target:** Foreign entities/Manufacturers or Locations
- **Explanation:** An internal instruction from the CBP Commissioner or delegated official to CBP's ports of entry to detain merchandise within the scope of the order. Merchandise subject to a WRO may be excluded from entry.

Finding

- **Target:** Foreign entities/Manufacturers
- **Explanation:** Requires approval of the Secretary of Homeland Security. Published in the Federal Register and Customs Bulletin. Merchandise subject to a Finding is subject to seizure/forfeiture.

Penalties

- **Target:** The U.S. importer
- **Explanation:** civil administrative penalty **may be** issued against an importer who imports goods made with forced labor into the United States.

UFLPA Enforcement Actions



Enforcement Action



Shipments subject to the UFLPA rebuttable presumption will follow the typical detention process, pursuant to 19 U.S.C. § 1499. Based on the identified risk of the shipment, CBP will immediately detain, exclude or seize shipments subject to the UFLPA rebuttable presumption.

Exceptions



Importers will have the opportunity to rebut the presumption by submitting clear and convincing evidence on each instant shipment. The evidence must conform with Section 3 (b) of the UFLPA. To comply with Section 3 (b) and to rebut the presumption under 3 (a), an importer must (1) fully comply with the guidance in Section 2 (d) (6) and any implementing regulations (2) completely and substantively to respond to all inquiries for information submitted by CBP, and (3) demonstrate by clear and convincing evidence that the merchandise is not mined, produced, or manufactured wholly or in part by forced labor.

Exceptions to the UFLPA will be reported to Congress within 30 days and will be subject to public disclosure. Importers may protest exclusions pursuant to 19 U.S.C. § 1514.

Admissibility Review Planning



Types and Nature of Evidence

These information sources provide guidance to importers to understand the type of documentation that CBP will require if their merchandise is subject to the UFLPA.

- CBP Reasonable Care Informed Compliance Publication
- Xinjiang Supply Chain Business Advisories
- Federal Acquisition Regulations
- National Action Plan on Responsible Business and Conduct
- The U.S. Department of Labor's Comply Chain: Business Tools for Labor Compliance
- The U.S. Department of State's Responsible Sourcing Toolkit

The documentation provided should include all stages of the product's supply chain, including; mining, production, and/or manufacture.

Additional Resources



To contact CBP's Forced Labor Division:

forcedlabor@cbp.dhs.gov

CBP's Forced Labor Web Page:

<https://www.cbp.gov/trade/forced-labor>

CBP's UFLPA Web Page:

<https://www.cbp.gov/trade/forced-labor/UFLPA>

UFLPA inquiries can directed to:

UFLPAInquiry@cbp.dhs.gov

Department of State's Xinjiang Supply Chain Business Advisory:

<https://www.state.gov/xinjiang-supply-chain-business-advisory/>

CTPAT Program Page: <https://www.cbp.gov/border-security/ports-entry/cargo-security/ctpat>