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Schiff



Navigating the Complexities of Forced Labor Laws:

# ArentFox Schiff's 2024 Guide for Global Businesses



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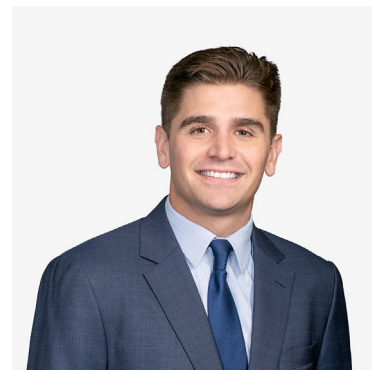


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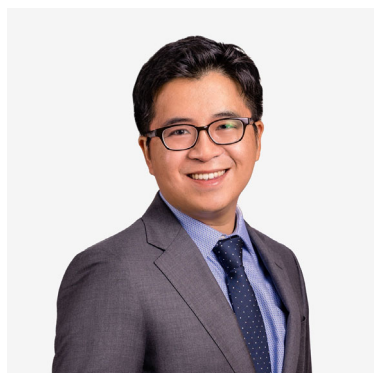


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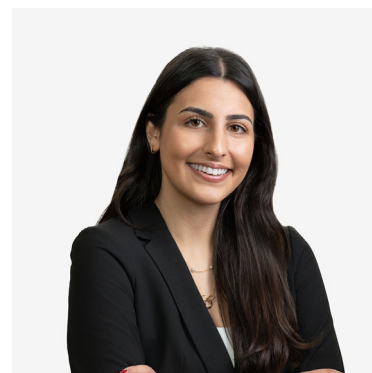


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Learn more about our **Forced Labor Team**

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## OVERVIEW

# Navigating the Complexities of Forced Labor Laws

The information and statistics discussed throughout the following report are current as of January 31, 2024.

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In the last few years, changes to the United States enforcement stance on the forced labor import ban authorized by 19 U.S.C. § 1307 and passage of the Uyghur Forced Labor Prevention Act (UFLPA) have fundamentally changed the way that companies that operate in the United States conduct business operations worldwide. For the first time, companies in all industries must know and take responsibility for their entire supply chains or face significant consequences. These obligations are complicated by the nature of many supply chains, which are broad and opaque, insufficient information and inconsistent enforcement from the government, and the lack of tools to help companies comply with the law. Multi-national companies must also comply with new global forced labor and supply chain diligence legislation impacting US policies and operations.

These new requirements can be challenging to navigate; however, with this report, we offer a substantive overview of the issues surrounding forced labor enforcement in the United States and globally to help companies plan for and mitigate potential risks. **Part I** of this report provides readers with an overview of the US forced labor laws. **Part II** is a review of forced labor developments in 2023, specifically examining the enforcement of the UFLPA and its related high-priority sectors. **Part III** outlines our predictions for 2024's forced labor developments and enforcement, as well as potential new sectors that may be subject to enforcement initiatives moving forward. We also outline proposed related legislation that may impact the trade community this year. **Part IV** provides general guidance and includes information on other national and global legislative forced labor initiatives to monitor.

Lastly, **Part V** summarizes our final takeaways that will help companies plan for the coming year.

## Who Should Read This Report

Forced labor enforcement impacts a broad range of companies and personnel in all industries (*e.g.*, fashion and retail, construction, automotive, electronics, solar, chemicals, *etc.*), including importers; investors and private equity companies investing in importing entities; buyers; manufacturers; and compliance, sourcing and procurement, legal, and accounting personnel.

## AFS Experience with the UFLPA and Forced Labor

AFS's [Forced Labor Enforcement Task Force](#) is composed of a diverse group of AFS attorneys with broad experience in all areas of customs and trade law. Since forced labor has become an essential focal point in the government's enforcement priorities, coupled with the enactment of the UFLPA, the AFS Forced Labor Enforcement Task Force has helped companies in all industries and of all sizes navigate the ever-changing regulatory landscape. Our experience includes, but is not limited to, counseling on forced labor and supply chain legislation, assisting with supplier due diligence, developing forced labor law compliance programs, petitioning for release of detained merchandise, and responding to Congressional and non-governmental organization inquiries.



## Part I: Authority for Import Bans



## PART I:

# Authority for Import Bans

Despite the recent focus on the UFLPA, restrictions on the importation of merchandise made with forced labor are not new to the United States. Starting in 1890, the United States prohibited imports of goods manufactured with convict labor. Then, the prohibition extended to forced labor with the passage of Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307).

### Withhold Release Orders<sup>1</sup> and Findings

Historically, the forced labor import ban was primarily enforced through withhold release orders (WROs) and findings.

US Customs and Border Protection (CBP) will issue a WRO covering certain goods associated with a specific manufacturer or region based on a reasonable suspicion that forced labor was used in production. There are currently 51 WROs in effect, that cover products and entities in several countries and fishing vessels, as summarized in **Figure 1**.<sup>2</sup> The WRO authorizes CBP to detain those goods at the time of importation.

Country	Number of Active WROs	Product (see CBP site for specified producer/region)
China	35	Silica based products; Cotton, Tomatoes and Downstream Products; Computer parts; Cotton and Processed Cotton; Apparel; Hair products; Garments; Peeled garlic; Stevia and its derivatives; Soda Ash, Calcium Chloride, and Caustic Soda; Malleable Iron Pipe Fittings; Galvanized Pipe; Tea; Artificial Flowers; Rubber Vulcanization Accelerators; Rubber Gloves, Condoms, Rubber Raincoats, and Rubber Footwear; Hoists; Asbestos; Electric Fans and Zinc-Coated Wire; Sulfuric (Sulphuric) Acid; Drilling Machines; Auto Parts and Machinery; Cast Iron Items; Sheepskin and Leather; Machine Presses; Diesel Engines; Planing Machines
Democratic Republic of Congo	1	Gold
Dominican Republic	1	Raw sugar and sugar-based products
India	1	Beedie Cigarettes and Other Tobacco Products
Japan	1	Video Games and Connector Plugs Thereof
Malawi	1	Tobacco produced in Malawi and products containing tobacco produced in Malawi
Malaysia	2	Disposable Gloves and Palm Oil & Palm Oil Products
Mexico	1	Fresh Tomatoes
Nepal	1	Carpets, Hand-Knotted Wool
Turkmenistan	1	Cotton
Zimbabwe	1	Artisanal Rough-Cut Diamonds
Fishing Vessels	5	Seafood

FIGURE 1

<sup>1</sup> WROs and findings stay in effect until revoked. They may be revoked or modified if evidence shows the subject merchandise was not made with forced labor; is no longer being produced with forced labor; or is no longer being, or likely to be, imported into the United States. Several companies have successfully petitioned for removal from these lists or modification of the order.

<sup>2</sup> *Withhold Release Orders and Findings List*, US Customs and Border Prot., <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings> (January 28, 2024).

Prior to the enactment of the UFLPA, CBP issued a series of WROs against companies in Xinjiang Autonomous Region (XUAR), mainly in the apparel, hair products, cotton, tomato, and silica-based products sectors. These WROs have since been superseded by the UFLPA and are addressed through the UFLPA enforcement process.

## Findings

CBP will issue a finding if the agency has conclusive evidence that forced labor was used in the manufacturing or production of merchandise. There are currently eight active findings.<sup>3</sup>

## Uyghur Forced Labor Prevention Act

The UFLPA was enacted in December 2021 with the goal of addressing alleged human rights violations imposed on minority groups in the XUAR of the People's Republic of China (PRC or China). As of June 21, 2022, the UFLPA established a rebuttable presumption that merchandise produced in whole or in part in the XUAR is produced using forced labor, and thus prohibited from entry into the United States. Goods produced in XUAR, in third countries, or other regions of the PRC from XUAR inputs, or in whole or part by an entity on the US Department of Homeland Security UFLPA Entity List may be detained. As some importers may have experienced, it takes significant effort and resources to respond to a detention under the UFLPA. Additional information and guidance on the UFLPA can be found on our [AFS UFLPA page](#) and in **Appendix 1**.

## Countering American Adversaries Through Sanctions Act (CAATSA)

CAATSA Title III Section 321 (22 U.S.C. § 9241(a)) creates a rebuttable presumption that significant goods, wares, merchandise, and articles mined, produced, or manufactured wholly or in part by North Korean nationals or North Korean citizens anywhere in the world are produced with forced labor and prohibited from importation under Section 1307. Essentially, the law requires companies to review their supply chains to ensure that North Korean labor is not used. Similar to the standards under UFLPA, the forced labor presumption can only be rebutted if CBP finds clear and convincing evidence that the imported goods were not produced with forced, convict, or indentured labor. Violations of these restrictions can result in civil penalties and criminal prosecution.



<sup>3</sup> *Id.*



## Part II: Forced Labor Enforcement in 2023





## PART II:

# Forced Labor Enforcement in 2023

2023 marked a real turning point in forced labor enforcement and public awareness, particularly as the first full year of UFLPA enforcement.

Notably, in 2023, we saw:



An increase in shipments targeted for forced labor enforcement (from 3,605 entries in FY 2022 to 4,524 entries in FY 2023) and a marked increase in detentions.



Shipments from Malaysia were subject to the most enforcement actions under the UFLPA followed by Vietnam and China.



Detentions in new high-risk sectors such as automotive, PVC, steel, aluminum, batteries, etc.



Additions of companies to the UFLPA Entity List and the first court case challenging additions to the List.



A substantial increase in Congressional scrutiny regarding the enforcement of forced labor import bans, particularly of the UFLPA, and US company compliance with these laws. Multiple letters were issued to government stakeholders and companies in various industries, from apparel to automotives. The House Homeland Security Subcommittee on Oversight, Investigations, and Accountability, Congressional Executive Commission on China, the Senate Finance Committee, and others held hearings regarding forced labor enforcement.



Several new non-governmental organization (NGO) reports were issued, alleging the use of forced labor in new industries such as gold and apparel made outside of China. CBP continued to use these reports to inform targeting measures.



Increased media attention surrounding supply chains and forced labor.

## UFLPA Enforcement in 2023

Deterring merchandise produced with forced labor from entering the United States is one of the few issues that has bipartisan support in Congress, which is helping drive increased enforcement. The Government has devoted significant resources to assist CBP and the Forced Labor Enforcement Task Force (FLETf) in enforcing the UFLPA and prohibitions against forced labor. As CBP and FLETf develop more robust processes in their efforts to combat forced labor, we expect that these enforcement actions will only increase in the future.

The forced labor enforcement budget has continued to increase since the UFLPA took effect. In 2022, approximately \$37.5 million was earmarked to CBP for forced labor enforcement, compared to \$101 million in 2023, an increase of over 100%.<sup>4</sup> These increased resources allowed CBP to hire additional staff and invest in technologies to aid in targeting shipments.

## Forced Labor Enforcement Statistics

It is no surprise that as funding and resources have increased, the number of shipments stopped by CBP under the UFLPA increased from 2022 to 2023. The chart in **Figure 2** below compares the total number of shipments stopped for suspected forced labor violations in total against the shipments targeted under the UFLPA in fiscal years 2022 and 2023.<sup>5</sup> This chart demonstrates that enforcement is on an upward trajectory as more resources are devoted to the UFLPA.

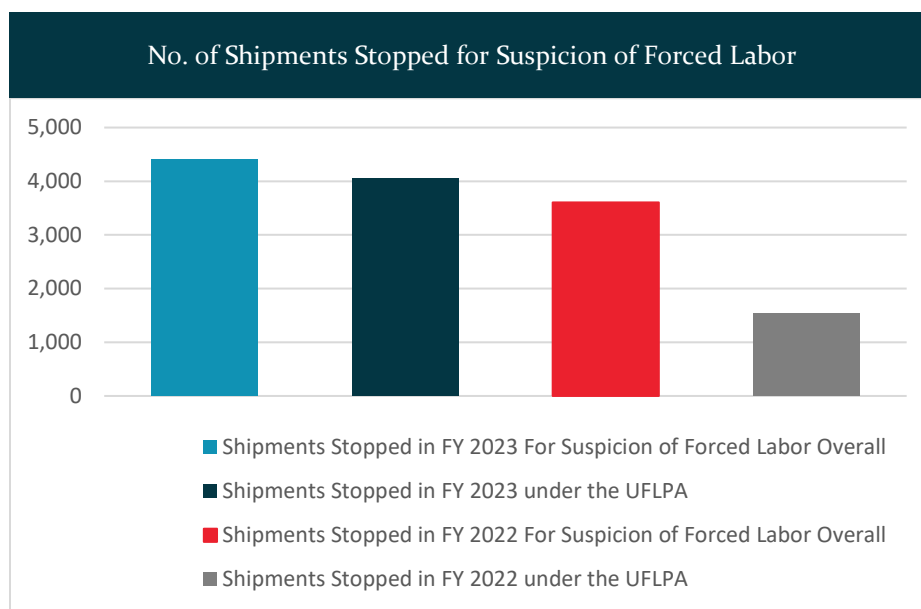


FIGURE 2

In fiscal year 2023, CBP targeted 4,415 shipments, with a total value of more than \$1.46 billion, suspected to have been made wholly or in part with forced labor.<sup>6</sup> Of these targeted shipments, 4,029 shipments were suspected of violating the UFLPA. This is a marked increase from the 1,529 shipments targeted under the UFLPA in 2022, even accounting for the fact that UFLPA enforcement began in June 2022. This may be partially explained by the fact that XUAR related WROs are now handled under the UFLPA procedures.

## Shipments Subject to Enforcement and Analysis of Enforcement Actions

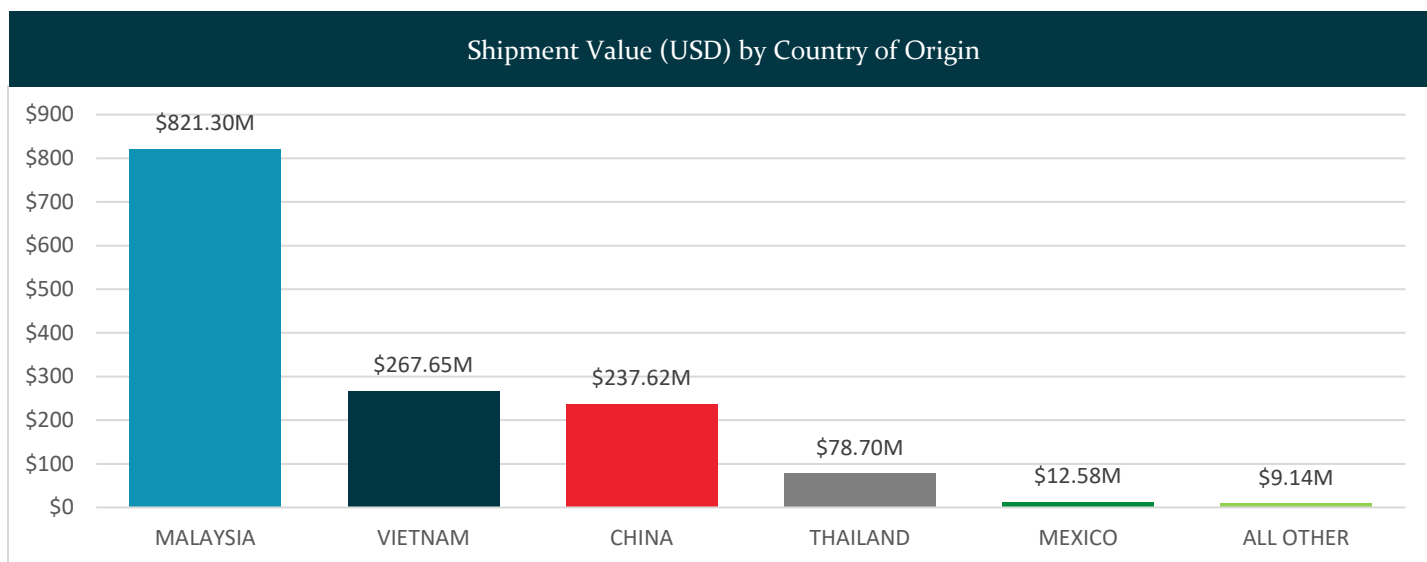
Although the UFLPA specifically targets China's XUAR, it might be surprising to note that most of the shipments subject to enforcement actions under the UFLPA are not from China. The UFLPA authorizes CBP to detain goods made in whole or in part from the region (e.g., finished goods produced outside of China using any XUAR inputs, no matter how far back in the

<sup>4</sup> See, Press Release, US Senate Committee on Appropriations, Summary: Subcommittee on Homeland Security Fiscal Year 2023 Appropriations Bill (Dec. 19, 2022), <https://www.appropriations.senate.gov/imo/media/doc/Homeland%20FY%202023.pdf>.

<sup>5</sup> US Customs & Border Prot., Commercial Customs Operations Advisory Committee Government Issue Paper: Intelligent Enforcement Subcommittee Forced Labor Working Group (Dec. 2023), <https://www.cbp.gov/sites/default/files/assets/documents/2023-Dec/IE%20Forced%20Labor%20Issue%20Paper%20-%20Dec%202023.pdf>.

<sup>6</sup> US Customs & Border Prot., Commercial Customs Operations Advisory Committee Government Issue Paper: Intelligent Enforcement Subcommittee Forced Labor Working Group (Dec. 2023), <https://www.cbp.gov/sites/default/files/assets/documents/2023-Dec/IE%20Forced%20Labor%20Issue%20Paper%20-%20Dec%202023.pdf>.

supply chain). According to CBP's UFLPA Enforcement Statistics Dashboard in **Figure 3** below, in FY 2023, shipments from Malaysia were subject to the vast majority of enforcement actions, followed by Vietnam and China.<sup>7</sup> This indicates that CBP is able to trace shipments of merchandise made in Vietnam and Malaysia (*i.e.*, third countries) to inputs from the XUAR. The UFLPA does not include a *de minimis* exception, so a shipment can still be targeted even where a component of only minimal value is suspected of being sourced from the XUAR.



**FIGURE 3<sup>8</sup>**

In the chart below, we analyze the FY 2023 UFLPA enforcement statistics for each industry, including the country of export with the most shipments targeted for enforcement, the total number of shipments targeted, and a comparison of the number of denied versus released shipments.<sup>9</sup>

Industry	Country	Total Targeted	Denied %	Released %
Agriculture and Prepared Products	China	290	22.4%	63.8%
Apparel, Footwear, and Textiles	Vietnam	786	54.7%	34.7%
Automotive and Aerospace	China	51	74.5%	3.9%
Base Metals	China	213	16.4%	74.6%
Consumer Products and Mass Merchandising	China	199	14.1%	81.4%
Electronics	Malaysia	1470	17.1%	66.1%
Industrial and Manufacturing Materials	Vietnam	900	78.9%	15.3%
Machinery	China	161	23.0%	65.8%
Pharmaceuticals, Health, and Chemicals	China	123	48.8%	39.0%
All Industries	Malaysia	4029	40.1%	48.2%


**FIGURE 4**

<sup>7</sup> US Customs and Border Prot., Uyghur Forced Labor Prevention Statistic, available at: <https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics> (last accessed on Jan. 31, 2024).

<sup>8</sup> See *id.*

<sup>9</sup> The remaining percentage of shipments are still pending the admissibility determination.

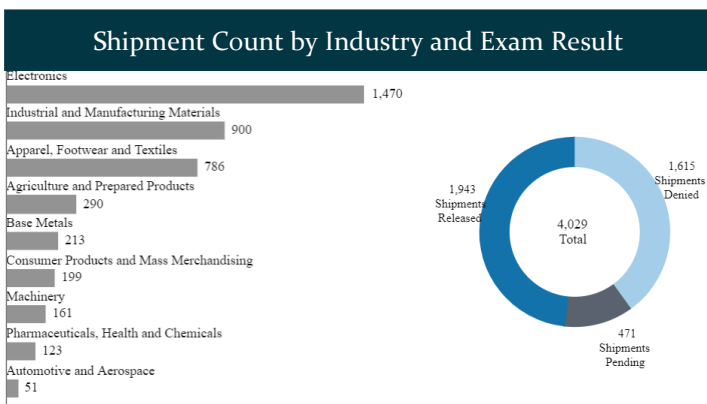
**The results are significant:**

	<p>At only 4,029 overall targeted shipments and less than 200 shipments targeted for several industry sectors, CBP is detaining a fraction of overall annual imports. CBP is likely having difficulty identifying problematic imports. While CBP can identify direct shipments from XUAR, particularly after the 2023 ACE update implementing postal code requirements for shipments from China, it is still difficult to identify shipments of finished goods made outside of XUAR that violate the UFLPA.</p>
	<p>CBP targeting appears to be incorrect for many industry sectors. The vast majority of shipments in the Agriculture and Prepared Products, Base Metals, Consumer Products and Mass Merchandising, Electronics, and Machinery sectors were released (highlighted in yellow). 48.2% of overall shipments were released versus 40.1% that were denied admissibility.</p>
	<p>Many of the industries with low release percentages have only recently been targeted for forced labor enforcement. These industries are just learning of the supply chain due diligence and documentation requirements and may not have been prepared for these initial detentions. Thus, the low release figures may indicate a lack of available documentation rather than an actual violation of the UFLPA.</p>
	<p>As expected, the majority of enforcement actions target the priority sectors: Electronics (solar/polysilicon); Apparel, Footwear, and Textiles (cotton); and Agriculture and Prepared Products (tomatoes).</p>
	<p>The Industrial and Manufacturing Materials industry has also been a target of enforcement and accounts for the second-highest volume of detentions- ahead of the other priority sectors (cotton and tomatoes). Only a small percentage of these shipments have been released. This industry may be at high risk for future enforcement amidst reports that significant metals processing operations occur in XUAR.</p>
	<p>The majority of targeted shipments in the electronics, industrial and manufacturing materials, and apparel, footwear, and textiles sectors were not exported from China.</p>

We expect that in 2024, CBP will continue to focus on goods produced in third countries, particularly Malaysia and Vietnam. We have also seen increased detentions from other countries, namely Thailand and Mexico.

**Targeted Merchandise**

Under the UFLPA, CBP has targeted a broad range of merchandise, from electronics, apparel, footwear, and textiles to industrial and manufacturing materials, among others. The graphic below in **Figure 5** from CBP’s UFLPA Statistics Dashboard depicts the categories of products subject to enforcement actions under the UFLPA in FY 2023.<sup>10</sup> These industries correlate with CBP’s Centers of Excellence and Expertise. CBP does not release enforcement statistics for specific products or companies. The electronics sector has had the most shipments subject to enforcement actions since the UFLPA took effect — this category includes traditional electronics products, but primarily solar panels. While CBP’s statistics show that traditional high-risk



**FIGURE 5**

<sup>10</sup> US Customs and Border Prot., Uyghur Forced Labor Prevention Statistic, available at: <https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics> (last accessed on Jan. 31, 2024).

sectors such as apparel and polysilicon-based products have been subject to enforcement, CBP has also targeted other product categories. Significantly, CBP's UFLPA Dashboard demonstrates that both high-priority goods (*e.g.*, agricultural products and apparel, footwear, and textiles, *etc.*) and traditionally lower-priority goods were targeted under the UFLPA. For more information on an importer's options in the event of a detention under the UFLPA, see **Appendix 2**.

## The UFLPA Entity List in 2023

Under the UFLPA, the FLETF – chaired by the US Department of Homeland Security (DHS) and composed of seven member agencies<sup>11</sup> – is required to consider additions to the Entity List. The addition of a company to the UFLPA Entity List means that any good produced by that company is subject to the UFLPA's rebuttal presumption.

In 2023, the FLETF added several new entities to the UFLPA Entity List. FLETF will consider adding entities to the UFLPA Entity List that meet the following criteria:

- Mines, produces, or manufactures, wholly or in part, any goods, wares, articles, and merchandise with forced labor;
- Works with the XUAR government to recruit, transport, transfer, harbor, or receive forced labor of Uyghurs, Kazakhs, Kyrgyz, or members of other persecuted minority groups;
- Exports products produced by entities in the first two categories to the United States; or
- Sources material from XUAR, from persons working with the XUAR government, or the Xinjiang Production and Construction Corps on government-led schemes involving forced labor.

A majority of the seven-member agencies of the FLETF must vote to add an entity to the UFLPA Entity List.

The original UFLPA Entity List was published in June 2022 with twenty entities that had been targeted by CBP's withhold release orders or included on the Department of Commerce's Bureau of Industry and Security's Entity List. In the latter half of 2023, however, the FLETF expanded the UFLPA Entity List to thirty entities, with the addition of the following companies in chronological order:

### August 2023

Camel Group Co., Ltd. (lead-acid batteries) and Chenguang Biotech Group Co., Ltd.<sup>12</sup> (plant extracts and food additives).

### September 2023:

Xinjiang Tianmian Foundation Textile Co Ltd. (textiles), Xinjiang Tianshan Wool Textile Wool Co. Ltd. (textiles), and Xinjiang Zhongtai Group Co. (PVC).<sup>13</sup>

### December 2023:

COFCO Sugar Holding Co. Ltd. (sugar and other agricultural products), Sichuan Jingweida Technology Group Co., Ltd. (magnetic devices), and Anhui Xinya New Materials Co., Ltd. (fiber, yarn, and textile materials).<sup>14</sup>

The table attached as **Appendix 3** outlines all the companies that have been placed on the UFLPA Entity List to date.

<sup>11</sup> Member agencies include Department of Homeland Security (DHS), United States Trade Representative (USTR), United States Department of Labor (DOL), and the Departments of State, Treasury, Justice, and Commerce. Observer agencies include the United States Agency for International Development (USAID), CBP, Department of Agriculture, Department of Energy, United States Citizenship and Immigration Services (USCIS), and the National Security Council.

<sup>12</sup> Notice Regarding the Uyghur Forced Labor Prevention Act Entity List, 88 Fed. Reg. 50,902 (Aug. 2, 2023).

<sup>13</sup> Notice Regarding the Uyghur Forced Labor Prevention Act Entity List, 88 Fed. Reg. 66,496 (Sept. 27, 2023).

<sup>14</sup> Notice Regarding the Uyghur Forced Labor Prevention Act Entity List, 88 Fed. Reg. 85,899 (Dec. 11, 2023).

## High Priority Sectors in 2023

The FLETF's 2023 UFLPA strategy update emphasized that beyond traditional "high-priority sectors," FLETF will expand its enforcement of the UFLPA to other sectors that have been identified by non-government organizations as potential risk areas.<sup>15</sup>

In the 2023 Strategy Update, CBP and FLETF outline sectors at risk of having connections to forced labor in the XUAR, including:

Apparel	Cotton and cotton products	Silica-based products (including polysilicon)	Tomatoes and downstream products
Red dates and other agricultural products	Vinyl products and downstream products	Aluminum and downstream products	Steel and downstream products
Lead-acid and lithium-ion batteries	Copper and downstream products	Electronics	Tires and other automobile components

Six federal agencies named additional sectors in the September 26, 2023 Addendum to the Xinjiang Supply Chain Business Advisory, originally released in 2021. Relying heavily on NGO reports, the Addendum identified sectors with connections to forced labor in the XUAR, including but not limited to:

- Coal, uranium, and asbestos mining
- Lead and zinc smelting
- Fertilizer production
- Cotton, tomatoes, sugar beets, apples, and peanuts
- Photovoltaic ingots, photovoltaic wafers, solar cells, and solar modules
- Pepper products, walnuts, rayon, calcium carbide, polysilicon, wind turbines, and beryllium

Companies sourcing products made from components and materials identified above should be aware that they may have potential risks in their supply chains.

The FLETF UFLPA Strategy Update and the Xinjiang Supply Chain Business Advisory Addendum relied heavily on NGO reports to identify sectors of interest. In particular, the Addendum cited the Center for Advanced Studies' (C4ADS) reports on industrial transfers into the XUAR and XUAR-origin goods in global supply chains; Sheffield Hallam University on forced labor in China's automotive, vinyl, and solar industries; and the Uyghur Human Rights Project's report on red date exports. Forced labor-related NGO reports should be carefully reviewed, as they may indicate products and companies that will be targets of future enforcement actions. For a discussion of the key NGO reports of 2023, please see **Appendix 4**.

## Office of Foreign Assets Control (OFAC) Sanctions

To date, the Department of Treasury's Office of Foreign Assets Control (OFAC) has not sanctioned any entities under the authority of the UFLPA. In September 2023, Congress' Select Committee on the Chinese Communist Party (CCP) sent a [letter](#) urging Department of State Secretary Blinken and DHS Secretary Mayorkas to sanction certain entities under the UFLPA and Uyghur Human Rights Policy Act of 2020 (UHRPA). The letter asked the heads of these agencies to explain why certain identified entities did not meet the criteria for sanctions.

<sup>15</sup> US Dept. of Homeland Sec'y Office of Strategy, Pol'y & Plans, 2023 Updates to the Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China (Report to Congress, July 26, 2023), [https://www.dhs.gov/sites/default/files/2023-08/23\\_0728\\_plcy\\_uflpa-strategy-2023-update-508.pdf](https://www.dhs.gov/sites/default/files/2023-08/23_0728_plcy_uflpa-strategy-2023-update-508.pdf).

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Perhaps in response, for the first time, OFAC exercised its sanctions authority under the UHRPA. Section 6(a) of the UFLPA amended the UHRPA to authorize sanctions against persons responsible for “serious human rights abuses in connection with forced labor” in the XUAR. On December 8, 2023, OFAC [sanctioned](#) two Chinese officials pursuant to UHRPA objectives, blocking all their assets that have a US nexus and entry into the United States. OFAC has previously used its non-UHRPA authorities to sanction individuals, entities, and vessels over reasons related to forced labor in [China](#), [North Korea](#), and elsewhere.

In response to these US sanctions, China imposed countermeasure sanctions against a US company that provides, among other things, forced labor data intelligence and services, one of the company’s employees, and a former researcher at the C4ADS. The company and two individuals were sanctioned for allegedly having collected information to provide the US government with evidence for its sanctions.<sup>16</sup> The individuals will be barred from entering China and the company’s assets will be frozen, according to China’s Foreign Ministry.

## China Retaliation

Importers looking to develop and implement a supply chain due diligence program in response to the UFLPA should be aware of the potential implications in the PRC. In response to the UFLPA, China has enacted the PRC Anti-Foreign Sanctions Law (also referred to as the “Blocking Statute”), with the objective of sanctioning individuals and companies who prohibit or restrict economic, trade, or related activities between China and another country.

In December 2023, China sanctioned the US data intelligence firm Kharon and two individuals under the Blocking Statute for their alleged involvement in the imposition of US restrictive measures on Chinese entities over their links to alleged human rights abuses in the XUAR. Importers with connections to the PRC should be aware of the Blocking Statute and the sensitivities in communicating with affiliates and personnel within China regarding supply chain due diligence. Nonetheless, we have not heard of the PRC sanctioning or penalizing companies that are simply trying to collect documentation or supply chain information to comply with forced labor and supply chain due diligence legislation.

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<sup>16</sup> Ryan Woo & Liz Lee, *China Sanctions US Firm Kharon, Provider of Research on Xinjiang*, Reuters (Dec. 27, 2023, 1:01 AM), <https://www.reuters.com/world/china/china-sanctions-us-firm-kharon-provider-research-xinjiang-2023-12-27/>.



**Part III:** Looking Forward - Forced Labor Enforcement in 2024





## PART III:

# Looking Forward - Forced Labor Enforcement in 2024

While CBP expanded its forced labor enforcement in 2023, as discussed in Part I, all signals are pointing towards even more enforcement in 2024. Indeed, on the first-year anniversary of the UFLPA's enactment into law, DHS vowed that in the upcoming years, it would "continue enhancing its UFLPA enforcement efforts, including identifying additional entities that meet the criteria of the UFLPA Entity List, improving transparency and regular data sharing with the private sector and NGOs, and continuing to improve DHS's ability to identify and prohibit imports made wholly or in part with forced labor in US supply chains."<sup>17</sup>

## In 2024, we predict:



An exponential increase in enforcement actions related to UFLPA, WROs, and CAATSA, supported by increased funding, newly trained personnel, and technology investments.



Continued scrutiny on the Electronics, Industrial and Manufacturing Materials, Apparel, Footwear and Textiles, and Agriculture sectors, but additional high-risk sectors added (e.g., certain metals, automotives, batteries, etc.).



Substantial additions to the DHL UFLPA Entity List, depending on the results of the *Ninestar* litigation.<sup>18</sup>



Increase in apparel detentions due to establishment of CBP isotopic testing labs.



Possible increase in non-China export detentions due to Sheffield Hallam University's Dr. Laura Murphy's involvement with DHS.



More uniform detention handling due to ACE Form 6051 deployment.



Increased scrutiny of Section 321 *de minimis* shipments (under \$800) and possible legislative action to limit its use.



Possible passage of other forced labor and supply chain due diligence reporting legislation.

<sup>17</sup> Press Release, US Dep't of Homeland Sec'y, Statement on First Anniversary of President Biden Signing the Uyghur Forced Labor Prevention Act into Law (Dec. 23, 2022), <https://www.dhs.gov/news/2022/12/23/statementfirst-anniversary-president-biden-signing-uyghur-forced-labor-prevention>.

<sup>18</sup> *Ninestar Corporation v. United States*, Slip Op. 23-169 (Ct. Intl. Trade 2023).

Any increase in enforcement requires increases in funding and resources. CBP and FLETF continue to devote resources aimed at targeting shipments suspected of forced labor. In 2024, CBP's budget to combat forced labor will likely increase from \$101 million in 2023 to about \$114 million.<sup>19</sup> Additionally, CBP has contracted with supply chain traceability and risk assessment platforms, such as Kharon and Sayari to assist in targeting entries. CBP is also investing in their own isotopic testing labs. Furthermore, we expect that more entities will be added to the UFLPA Entity List, and a broader range of products and sectors will be subject to enforcement actions.

CBP also plans to adapt to the UFLPA's enforcement demands with several technological updates. In January 2024, CBP implemented an ACE update to issue UFLPA detention notices (Form 6051D) through the ACE portal.<sup>20</sup> Importers will be able to view, search, and respond to detention notices through ACE, rather than submitting responses to the port that must be forwarded to the Center for Excellence and Expertise. CBP will review and make the admissibility determination through ACE. Further, CBP has deployed a UFLPA Region Alert enhancement in ACE directed at identifying suppliers with potential connections to the XUAR.

Another indicator of potential increased UFLPA enforcement is the addition of Dr. Laura Murphy as a consultant to DHS. Dr. Murphy, formerly a professor of human rights and contemporary slavery at Sheffield Hallam University's Helena Kennedy Centre for International Justice, will serve as a policy advisor at the DHS. The DHS will likely leverage Dr. Murphy's experience in investigating alleged forced labor abuses and tracing supply chains with links to the XUAR for future UFLPA enforcement measures.

We also anticipate the increase in forced labor enforcement to extend beyond UFLPA related issues. With increased funding, the establishment of a second forced labor division, and increasing pressure to act against the use of forced labor beyond XUAR, CBP will issue more WROs in 2024. NGO reports involving different regions, media reports of forced labor in certain industries such as cobalt mining in the Democratic Republic of the Congo, and the US [Department of Labor List of Goods Produced by Child Labor or Forced Labor](#) may be good indicators of forthcoming WROs.

In addition, CBP may renew its scrutiny of shipments prohibited under CAATSA in connection with North Korean workers. Prior to the increased scrutiny on China, we saw the issuance of Requests for Information (CF-28s) related to possible CAATSA violations, however those have largely dropped off in recent years as CBP has shifted its priority to the UFLPA and WRO enforcement. Based on reports of forced labor on fishing vessels involving North Korean workers, there may be renewed enforcement under CAATSA.

## UFLPA Enforcement- Same Targets but Different Countries?

The FY 2024 year-to-date UFLPA statistics indicate that CBP may be shifting their enforcement priorities and approach. Based on the CBP UFLPA Enforcement Dashboard, electronics (largely solar), Industrial and Manufacturing Materials, and Apparel, Footwear, and Textiles sectors remain primary targets for enforcement. However, a comparison of the enforcement statistics<sup>21</sup> in 2024 YTD (**Figure 6**) versus 2023 (**Figure 7**), shows some changes in the origin of the targeted shipments. Although shipments from Malaysia still account for most of the enforcement actions, shipments from Vietnam and Thailand are a close second and third. In less than 4 months of FY 2024, shipments from Thailand nearly equal all shipments from the country in FY 2023. This is in contrast to 2023 where most enforcement actions were focused on shipments from Malaysia, followed distantly by Vietnam and China.

This could indicate that CBP is changing its approach to identifying shipments for enforcement actions.

<sup>19</sup> See, Press Release, House Republicans Committee on Appropriations, Committee Releases FY24 Homeland Security Appropriations Bill (May 17, 2023), <https://appropriations.house.gov/sites/republicans.appropriations.house.gov/files/documents/FY24%20Homeland%20Security%20-%20Bill%20Summary%20Updated%206.21.23.pdf>.

<sup>20</sup> <https://www.cbp.gov/document/guidance/trade-information-notice-automation-cbp-form-6051d-detentions-cargofiled-ace>.

<sup>21</sup> US Customs and Border Prot., Uyghur Forced Labor Prevention Statistic, available at: <https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics> (last accessed on Jan. 31, 2024).

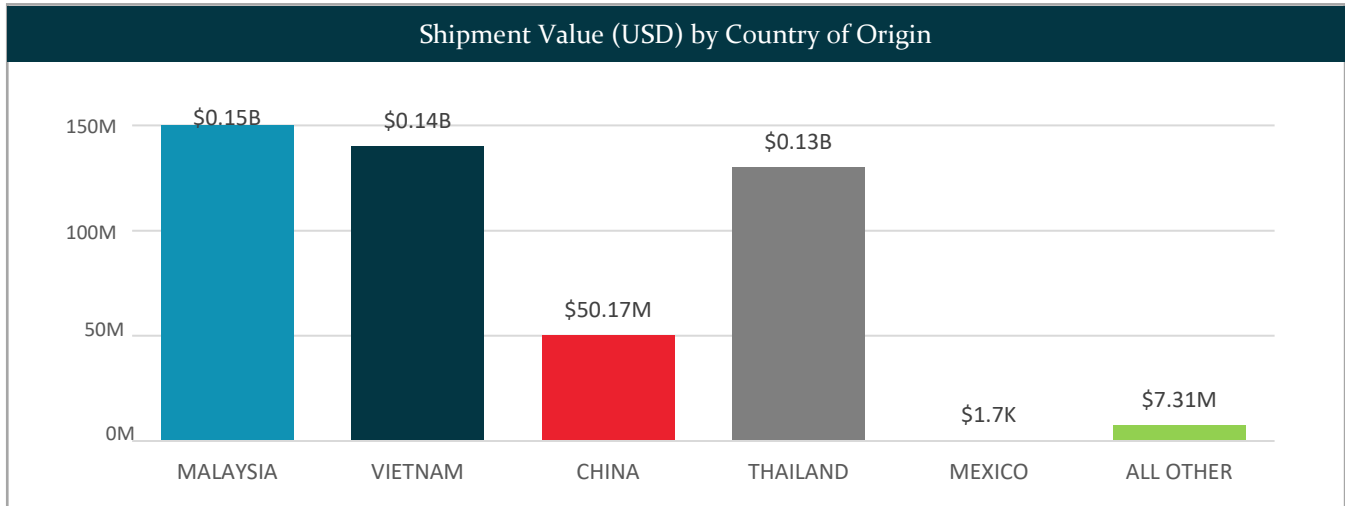


Figure 6 (FY 2024 YTD)

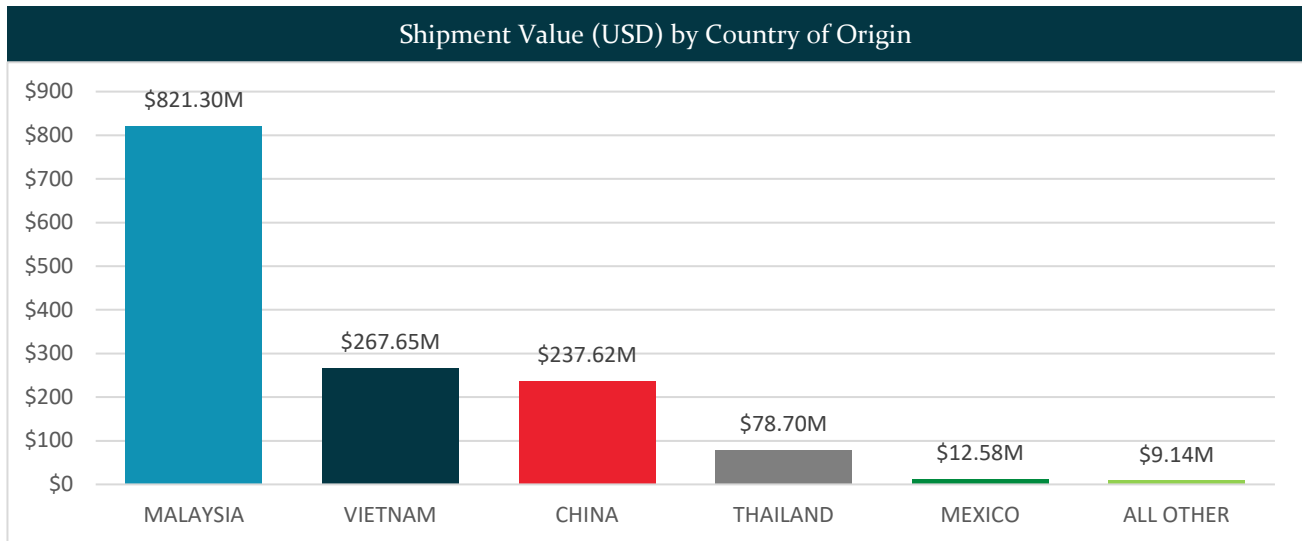


Figure 7 (FY 2023)

### Increased Rate of Additions to UFLPA Entity List

The FLETF’s updates to the UFLPA Entity List in 2023 signal that importers and the trade community more generally should expect continued designations in 2024. The 2023 designations show that there has been an evolution in the FLETF’s enforcement strategy from adding companies traditionally in the “high-risk” or “high-priority” sectors — such as cotton, textiles, clothing and apparel, electronics, and silica-based products — to adding companies in industries such as sugar and magnetic device production.

In 2023, there were increasing calls from members of US Congress to add companies to the UFLPA Entity List over concerns that this enforcement mechanism was underutilized. In September 2023, Congress' Select Committee on CCP asked the FLETF to add specific entities in the solar, apparel, metals, and mining industries (amongst others).<sup>22</sup>

Just recently, on January 11, 2024, during a House Homeland Security oversight investigations and accountability subcommittee hearing,<sup>23</sup> lawmakers renewed concerns about the small number of companies added to the UFLPA Entity List since the UFLPA went into effect.

**In response, Assistant Secretary of Homeland Security for Trade and Economic Security Policy, Christa Brzozowski, agreed with the lawmakers noting that the government is “absolutely committed” to adding entities to the UFLPA Entity List. “I agree 100 percent that we need to scale that. [Implementation] work since enactment has really been focused on setting up a robust, methodologically sound process, but I am confident that we are now at the point where we can really start to grind those wheels and move forward much quicker,” said Brzozowski.**

## Potential Sectors Targeted in 2024

The 2023 UFLPA Strategy Update and this past year's enforcement statistics confirm that the US government's forced labor efforts in 2024 will not be confined to a list of predetermined sectors. Companies in all sectors should expect CBP to employ a “dynamic risk-based approach” to identify high-risk goods, including those imported from the XUAR into the United States, products manufactured in third countries and illegally transhipped goods with inputs from the XUAR, and goods imported into the United States by entities outside the XUAR but are related to an XUAR entity and likely to contain inputs from the XUAR.

As discussed above, the UFLPA Strategy Update and Xinjiang Business Advisory Addendum reference a number of industries and sectors — in addition to high-priority sectors — which have been identified by NGOs, civil society, and academia as potential risk areas for forced labor in their supply chains. Based on government and NGO reports, the following sections may be the subject of increased enforcement in 2024:

Vinyl products and downstream products	Aluminum products and downstream products	Copper products and downstream products	Steel products and downstream products
Lead-acid and lithium-ion batteries	Tires and other automobile components	Coal, uranium, and asbestos mining	Lead and zinc smelting
Lead-acid and lithium-ion batteries	Cotton, tomatoes, sugar beets, apples, walnuts, peanuts, and pepper products	Photovoltaic ingots, photovoltaic wafers, solar cells, and solar modules	Rayon
Calcium carbide and Beryllium	Polysilicon	Wind turbines	Seafood

<sup>22</sup> Letter from Mike Gallagher, Chairman, H. Select Comm. on China, to the Honorable Antony Blinken and to the Honorable Alejandro Mayorkas (Sept. 19, 2023) (accessible at: [https://selectcommitteeontheccp.house.gov/sites/evo-subsites/selectcommitteeontheccp.house.gov/files/evo-mediadocument/9.19.23-letter-to-blinken-and-mayorkas-uharpa-uflpa-sanctions\\_1.pdf](https://selectcommitteeontheccp.house.gov/sites/evo-subsites/selectcommitteeontheccp.house.gov/files/evo-mediadocument/9.19.23-letter-to-blinken-and-mayorkas-uharpa-uflpa-sanctions_1.pdf)).

<sup>23</sup> Exploitation and Enforcement Part II: Improving Enforcement in Countering Uyghur Forced Labor Before the Subcommittee on Oversight, Investigations & Accountability of the H. Comm. on Homeland Sec'y, 118th Cong. (2024).

There are also strong indications that CBP will increasingly scrutinize supply chains in the marine and seafood industry in 2024. While CBP did not focus on the seafood sector in 2023, a recent *New Yorker* [exposé](#) and subsequent [hearing](#) before the Congressional-Executive Commission on China (CECC) has led to renewed concern over the exploitation of Uyghur and North Korean workers in the supply chains of seafood products destined for the United States.

The *New Yorker* report was created in collaboration with the nonprofit journalism organization [Outlaw Ocean Project](#), highlighting the prominent role that civil society, namely NGOs, will likely play in aiding the US government's efforts against forced labor in 2024. Although the XUAR is a landlocked area and therefore importers may believe that sourcing seafood goods may be outside of the UFLPA's purview, entities outside of the XUAR can be placed on the UFLPA Entity List if they are part of any forced labor transfer program.

**On December 8, 2023, the CECC's official X account posted: "Adding companies outside of #Xinjiang to the UFLPA Entity List is an important step and should occur more frequently—importers need guidance on companies using #Uyghur labor. Seafood processing plants in [the Chinese province of] #Shandong should be among next targets, say Chairs."**

Representatives from the Department of Labor and CBP stated in a January 11, 2024, congressional subcommittee hearing that FLETF is considering making seafood a priority sector under the UFLPA. The agencies' witnesses both specifically mentioned the Outlaw Ocean Project's reporting.

Additionally, companies with products that incorporate metals such as gold may see increased enforcement under the UFLPA based on conflict minerals reporting with the US Securities and Exchange Commission (SEC) and identified connections to XUAR. This may be significant, as gold is used in a broad array of products, including many electronics and computers, mechanical parts, and glass. NGOs have begun to examine these seemingly routine annual filings to assess whether companies have exposure to forced labor in their supply chains based on the smelters identified in SEC Form SD Conflict Minerals Reports. More information on a Center for Advanced Defense Studies (C4ADS) report covering forced labor in gold mining supply chains can be found in [Appendix 4](#). In this report, C4ADS maps the XUAR's mining industry and describes alleged evidence of forced labor and other violations.

## Increased Congressional Oversight

The FLETF's recent additions to the UFLPA Entity List coincide with congressional pressure for increased UFLPA enforcement. Congress has taken an active role in overseeing the government's enforcement of the UFLPA and assessing the steps various companies and industries have taken to ensure that sufficient due diligence measures have been established to prevent potential violations. Congress has held several hearings on this topic and sent [letters](#) to CBP and the FLETF, as well as companies in several industries, including the apparel, solar, and automotive industries, inquiring into UFLPA enforcement strategies and due diligence efforts. We expect that Congress will continue these efforts in 2024.

The congressional pressure placed on the FLETF and CBP to enforce the UFLPA, as well as on companies to comply with the UFLPA, further indicates that heightened enforcement in more sectors is likely coming in 2024. For example, as discussed above, Congress held hearings in October 2023 on the alleged use of forced labor in China's seafood. Shortly following the hearings, the CCEC issued a letter to one of the largest retailers in the world inquiring about the company's seafood supply chain including any risk assessments conducted by the company. CCEC's actions could very well catalyze an uptick in enforcement actions by CBP.


In late January 2024, the CECC sent a letter to DHS Secretary Alejandro Mayorkas regarding strengthening enforcement of the UFLPA. Some of the steps suggested called for DHS to increase enforcement of UFLPA by adding companies that are outside PRC to the UFLPA Entity List, increase testing of goods at ports of entry, further collaboration between DHS and other federal agencies, the appointment of a top-level political official at DHS to lead efforts, and assessing the potential effect of UFLPA enforcement in altering *de minimis* eligibility for high-risk items.<sup>24</sup>

Beyond targeting certain industries, Congress has also called on CBP to implement technologies to enhance its enforcement capabilities. For example, in November 2023, US Representative Jennifer Wexton sent a [letter](#) to Secretary of Homeland Security Alejandro Mayorkas asking the agency for a report on why isotopic testing — which is used to test cotton fibers and cotton containing products to specific geographic areas (*e.g.*, XUAR) — has been underutilized by DHS in its UFLPA enforcement efforts. Perhaps in response, CBP recently announced that the agency has established its first isotopic testing lab in Savannah, Georgia, and plans to open labs in NYC and Los Angeles within the next 6-8 months. Unrestrained by high third-party testing costs, this could indicate an increase in the examination of apparel and cotton product shipments and resulting detentions this year.

### Increased Reliance on Supply Chain Technologies

Supply chain mapping and risk assessment technologies will become increasingly prevalent in the trade community to assist importers in their supply chain due diligence measures and to assist CBP in targeting efforts. In 2023, CBP held its first-ever Forced Labor Technical Expo, where it offered these technology solutions a platform to demonstrate their risk assessment, tracing, and mapping capabilities. More information on these platforms can be found in our [previous client alert](#) on this topic. CBP has acknowledged that it uses several of these technology services to assist with forced labor and UFLPA enforcement, including supply chain risk assessment platforms such as Kharon and Sayari.

Supply chain technologies can be leveraged to proactively monitor an importer's supply chain to assess whether certain suppliers or subcontractors have connections to forced labor or the XUAR. These technologies can be particularly helpful when companies cannot trace their entire supply chain, as several can conduct predictive supply chain mapping.

	Supply chain mapping tools that use artificial intelligence, public data, or internal records to map a company's supply chain
	DNA or isotopic testing of raw materials, such as cotton, to authenticate their origins or confirm lack of connection to the XUAR
	Supplier screening solutions to problematic entities in the supply chain, such as parties with links to listed/sanctioned companies or companies that have been unfavorably identified by government agencies, media organizations, or NGOs
	Labor practice review tools which can efficiently audit a company's supply chain for the purpose of assessing compliance with labor standards and identifying risk areas.

On the business front, we are seeing companies trigger contractual termination clauses based solely on the results of predictive supply chain mapping or preliminary isotopic testing. Companies should be aware that their customers are also using this technology to make risk assessments and confirm compliance with contractual terms.

<sup>24</sup> Letter to Secretary Mayorkas on Enforcement of the Uyghur Forced Labor Prevention Act, Letter from Rep. Mike Gallagher, Chairman H. Select Comm. on the CCP & Raja Krishnamoorthi, Ranking Member, H. Select Comm. on the CCP, to Alejandro Mayorkas, Hon. Sec'y, The Select Committee on the CCP (Jan. 22, 2024), <https://selectcommitteeontheccp.house.gov/media/letters/letter-secretary-mayorkas-enforcement-uyghur-forced-labor-prevention-act>.

CBP will also begin issuing detention notices and decisions through ACE, and importers will make detention submissions through ACE starting January 2024.

These developments highlight the growing prominence of technological tools in CBP's forced labor enforcement, as well as the corresponding need for importers to consider leveraging technology to assist with supply chain due diligence. However, while these technologies can act as helpful tools to facilitate supply chain due diligence programs, none of them are a complete solution. Importers must still perform due diligence outside of these platforms to confirm whether risks are present.

## Continued Reliance on Academic and Non-Governmental Organization Reports

NGOs will continue to play an important role in assisting CBP with identifying targets for enforcement. In its 2021 graphic entitled "Forced Labor and Our Partners," CBP explained that it "depends on NGOs around the world to provide critical information and details for forced labor allegations."<sup>25</sup> To this end, historically we have seen an increase in detentions of goods following the issuance of an NGO forced labor report covering those goods and suppliers. This is further exemplified by FLETF's 2023 updated UFLPA strategy, where it acknowledged that it would coordinate and collaborate with NGOs to support enforcement of the UFLPA.

Notable NGOs and their reports are detailed in **Appendix 4**.

## Proposed Legislation to Monitor In 2024

### Closing the De Minimis Loophole?

The United States currently allows certain *de minimis* shipments to be imported duty free and without formal Customs entry if the aggregate value of the shipment to a single consignee in one day does not exceed \$800.

This *de minimis* program, also referred to as "Section 321," has come under scrutiny from Congress due to the alleged lack of oversight CBP has over these shipments, including a lack of visibility into whether these shipments are produced using forced labor. The focus has been on e-commerce outlets, particularly those based on China. For example, the Select Committee on the CCP sent letters to major apparel companies and fast fashion retailers citing its concerns that the companies might be using the *de minimis* loophole "to skirt the UFLPA and continue selling goods under \$800 made with Uyghur forced labor."<sup>26</sup>

In response, certain members of Congress have introduced the "Import Security and Fairness Act," with the purpose of amending the Section 321 program to prevent certain companies and countries from exploiting the program and to allow CBP to collect more information on *de minimis* shipments.

The Import Security and Fairness Act would make goods sourced from perceived adversarial nations ineligible for *de minimis* treatment under Section 321 of the Tariff Act of 1930, as amended. Specifically, the Act targets countries that are both (i) a nonmarket economy (as defined by the Tariff Act) and (ii) listed on the United States Trade Representative's (USTR) Priority Watch List. Notably, as of June 2023, only China and Russia meet both criteria. In practice, the Import Security and Fairness Act would require a formal importation process for all low value shipments of Chinese and Russian goods, likely exacting a heavy toll on companies importing low value shipments.

<sup>25</sup> *Forced Labor and Our Partners* (illustration), US Customs and Border Protection Office of Trade, <https://www.cbp.gov/sites/default/files/assets/documents/2021Jan/Forced%20Labor%20and%20Our%20Partners.pdf> (last visited Jan. 24, 2024).

<sup>26</sup> Press Release, Select Committee on the Chinese Communist Party, Gallagher, Krishnamoorthi Send Letters on Forced Labor Concerns to Nike, Adidas, Shein, Temu (May 3, 2023).

## Reintroduction of the Uyghur Forced Labor Disclosure Act

In addition to impacts on importations into the United States and supply chain due diligence, Congress has also proposed to require publicly traded companies to disclose links in their supply chain to the XUAR. Under the Uyghur Forced Labor Disclosure Act,<sup>27</sup> publicly traded companies would be required to submit annual reports to the SEC of all goods that are sourced from XUAR.

A similar bill was introduced in early 2021 as an amendment to the Corporate Governance Improvement and Investor Protection Act, but never made it out of committee.<sup>28</sup> A similar provision was also included in earlier versions of the UFLPA but was removed in order to secure votes to pass the law. Given bipartisan support and strong congressional oversight of UFLPA enforcement, as well as concerns about the continued use of forced labor in the XUAR region, this newly proposed Act may have a stronger chance of being passed this time.

## Uyghur Genocide Accountability and Sanctions Act

US Senators have proposed a bill aimed at implementing new sanctions and travel restrictions on Chinese officials in connection with human rights violations related to the XUAR. The bill, titled the Uyghur Accountability and Sanctions Act, would also mandate new disclosure requirements for companies that report to the SEC. The bill was introduced in the Senate in May 2023 and has not been voted on by either body of Congress.

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<sup>27</sup> Uyghur Forced Labor Disclosure Act, H.R. 2072, 117th Cong. (2021).

<sup>28</sup> Corporate Governance Improvement and Investor Protection Act, H.R. 1187, 117th Cong. (2021).





## **Part IV:** Other Forced Labor Initiatives



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## PART IV:

# Other Forced Labor Initiatives

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While the UFLPA is rightfully on the top of importers' minds, members of the trade community should also be aware of other US and global initiatives that can impact their businesses and supply chains.

### Contracts with the US Department of Defense

A new rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) replaced the forced labor “certification” requirement for contracts with the Department of Defense (DoD). Under the new rule — which came into effect on June 9, 2023, and was finalized October 25 — by submitting an offer, the offeror is representing that it has made a good faith effort to determine that forced labor from XUAR will not be used in the performance of the DoD contract. DoD contractors should review their supply chain due diligence procedures before submitting an offer to contract with the DoD.

AFS's more detailed analysis of the interim rule (and of several other related forced labor actions) can be found [here](#).

### US State Supply Chain Due Diligence Initiatives

Supply chain diligence requirements extend beyond the federal government. Recent initiatives indicate that individual US states are making a concerted effort to ensure that companies are accountable for their supply chains. Companies should consider structuring uniform supply chain diligence programs that will satisfy the legislation in all applicable jurisdictions.

#### California Transparency in Supply Chains Act

California's Transparency in Supply Chains Act (TSCA) requires certain companies that do business in California and have annual worldwide gross receipts exceeding \$100,000,000 to publicly disclose on their websites whether they perform certain supply chain due diligence measures. Companies with a physical presence in California or who do business in the state should confirm whether they are subject to the reporting requirements under the statute.

#### New York Fashion Act- Proposed Legislation

New York has also attempted to pass similar legislation that is even more stringent than the TSCA. Over the last couple years, the New York legislature has attempted to push through the proposed Fashion Sustainability and Social Accountability Act (Fashion Act). Under the Fashion Act, fashion retail sellers and manufacturers that do business in New York and have over \$100 million in annual worldwide gross receipts would be required to make a number of sustainability and social disclosures and report on supply chain maps and diligence measures. Significantly, the Fashion Act provides for hefty penalties and a private right of action against any company that violates the law. While the Fashion Act stalled in prior sessions, an amended version of the proposed bill gained renewed traction in 2023 and could be introduced in the New York legislature in early 2024.

AFS's more detailed analysis of the Fashion Sustainability and Social Accountability Act can be found [here](#).

#### Washington State

The Washington state legislature has proposed two bills — Bill 5607 and Bill 5541 — aimed at requiring companies to disclose their supply chain due diligence efforts. Bill 5541 would require larger sellers and manufacturers doing business in Washington to disclose their efforts to eradicate human trafficking and forced labor from their supply chains. Bill 5607 would require certain fashion retailers and manufacturers to disclose environmental due diligence policies and map a minimum of 50% of their supply chain. The proposed bill specifically references due diligence bills in New York, the European Union (EU), Germany, France, Britain, and Australia.

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## Massachusetts

Massachusetts legislators have similarly introduced a bill titled, “An Act to Establish Fashion Sustainability and Social Accountability in the Commonwealth” that would require certain fashion sellers and fashion manufacturers to disclose their supply chain mapping and due diligence procedures for four tiers of production.

## Global Forced Labor Initiatives<sup>29</sup>

While the United States has led the charge in prohibiting the importation of merchandise with a nexus to XUAR, several other countries have proposed or implemented laws aimed at curbing forced labor. Most of the laws cover companies of a certain size based on number of employees and revenue or assets, but in many cases, those thresholds are based on global figures. Many countries have proposed or implemented forced labor and supply chain diligence laws;<sup>30</sup> here we outline some of the requirements of key US trading partners. Together with the UFLPA and individual state bills, these global initiatives signal a trend that multinational companies will be required to track global supply chain legislation and develop and implement comprehensive supply chain due diligence and risk assessment processes moving forward.

## The European Union

The EU has also taken aim at combatting forced labor in its markets. The EU’s Corporate Sustainability Reporting Directive (CSRD) went into effect in January 2023. Entities covered by the CSRD’s reporting requirements are required to report on three areas: strategy, governance, and materiality; implementation measures; and performance measurement for 11 topics, including supply chain transparency and due diligence. The first reporting under CSRD will be required in 2025.

Secondly, the EU has also proposed a regulation similar to the UFLPA that would ban products made using forced labor in the EU market. However, in addition to this proposed import ban, and unlike the UFLPA, the EU’s proposed regulation would also prohibit the sale and exportation of goods made using forced labor.

The specific terms of this proposed regulation are still being negotiated by the EU’s member countries and it is unclear when the proposed regulation will be passed, but it will likely be a few years before companies will be subject to any requirements under this legislation.

## Australia

The Australian Commonwealth Modern Slavery Act requires companies to perform an assessment of their supply relationships and any human rights or environmental risks. Under the Modern Slavery Act, companies must annually report on their supply chain risk assessments and due diligence obligations.

Australia has also previously proposed forced labor import ban legislation, but it has not yet passed.

## United Kingdom

The United Kingdom’s (UK) Modern Slavery Act took effect in 2015 and seeks to regulate and address forced labor in UK companies’ business operations and their global supply chains. Similar to California’s TSCA, companies covered by the UK Modern Slavery Act must annually publish a statement that includes information such as a statement on human trafficking and an overview of their due diligence processes and risk assessments procedures.

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<sup>29</sup> We are not licensed in these jurisdictions. This information is informational only and does not amount to legal advice. We can help counsel on these laws in collaboration with local counsel.

<sup>30</sup> Including Austria, Belgium, Brazil, Denmark, Finland, France, Italy, Netherlands, Norway, Spain, Switzerland, etc.

## Germany

The German Supply Chain Due Diligence Act (Diligence Act)<sup>31</sup> took force in 2023 and requires covered companies to report on their due diligence efforts and risk assessments of their supply relationships, as well as any human rights or environmental risks. The intent is to strengthen human rights and environmental protection within global supply chains. Failure to comply would authorize large administrative fines and mandatory exclusion from public contracts.<sup>32</sup>

## Mexico and Canada

The United States, Mexico, and Canada Agreement (USMCA) requires each country to have laws that ban the entry of products produced using forced labor. In compliance with obligations under the USMCA, Mexico and Canada have implemented laws that may expand the scope of supply chain due diligence requirements and enforcement of forced labor bans.

### Mexico

Mexico implemented a resolution in May 2023 to ban the importation of goods produced with forced labor. Petitioners must submit information to Mexico's Ministry of Labor and Social Welfare regarding the forced labor allegations. Significantly, the government of Mexico can also independently initiate an investigation and can rely on investigations of other countries. The decision must be made within six months or a year after the petition is filed, and a forced labor determination will be published on the Ministry's website and ban the importation of the covered goods. To date, no goods have been banned.

Some suspect that certain Mexican industries, such as the apparel, steel, and automotive industries, will use this process to protect their domestic industry.

### Canada

Canada has banned the importation of goods produced using forced labor since July 2020 in compliance with its USMCA obligations. Canada Border Services Agency (CBSA) will re-classify the banned import as a prohibited good under tariff provision 9897.00.00. As a practical matter, very few imports have been detained by CBSA and the only publicly reported detained shipment was released. Reports indicate that CBSA does not have the workforce or resources to identify goods produced with forced labor or to manage a volume of detentions. As a result, Canada is trying a different track: supply chain due diligence reporting requirements.

In 2023, Canada passed Bill S-211, which came into force on January 1, 2024. S-211 contains two main provisions:

- (1) New supply chain reporting requirement for certain covered companies doing business in Canada that meet certain size, revenue, or asset thresholds, with the first reports due by May 31, 2024, and;
- (2) expands the prohibition on imported goods to include "child labor."

The new reporting obligations require that covered companies report to the Minister of Public Safety forced labor-related information, including, but not limited to, steps taken during its previous financial year to prevent and reduce the risk that forced labor or child labor is used at any step of the production of goods in Canada or elsewhere by the entity or of goods imported into Canada by the entity. Reports must be approved by the covered company's governing body and published in a "prominent place" of the reporting company's website. Covered companies must also submit responses to a corresponding [questionnaire](#) to Public Safety Canada. There are considerable penalties for companies, as well as personal liability for its

<sup>31</sup> *Supply Chain Act: Act on Corporate Due Diligence Obligations in Supply Chains*, Fed'l Ministry of Lab. & Soc. Affs., <https://www.csr-in-deutschland.de/EN/Business-Human-Rights/Supply-Chain-Act/supply-chain-act.html> (last visited Jan. 24, 2024).

<sup>32</sup> *Supply Chain Act: Act on Corporate Due Diligence Obligations in Supply Chains*, Fed'l Ministry of Lab. & Soc. Affs., <https://www.csr-in-deutschland.de/EN/Business-Human-Rights/Supply-Chain-Act/supply-chain-act.html> (last visited Jan. 24, 2024), citing *Act on Corporate due Diligence Obligations in Supply Chains of July 16, 2021* (July 16, 2021), [https://www.csr-in-deutschland.de/SharedDocs/Downloads/EN/act-corporate-due-diligence-obligations-supply-chains.pdf?\\_\\_blob=publicationFile](https://www.csr-in-deutschland.de/SharedDocs/Downloads/EN/act-corporate-due-diligence-obligations-supply-chains.pdf?__blob=publicationFile).

directors, officers, or agents, that fail to comply with the new law's reporting requirements. Significantly, the law does not require covered companies to take any due diligence measures or remediate any identified issues. However, companies would need to publicly report their lack of action. This law will likely encourage companies to implement forced labor procedures and take due diligence steps.

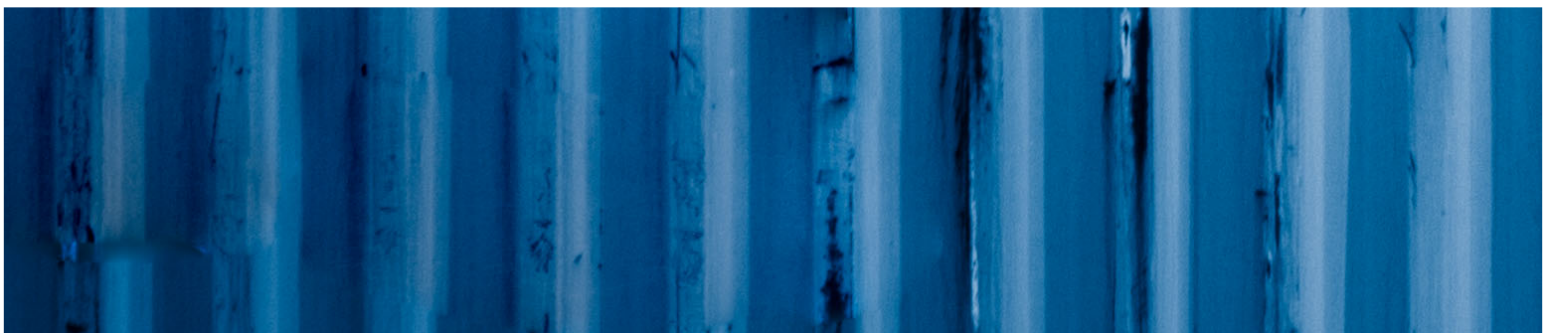
Bill S-211 also expands the prohibition on the importation of goods mined, manufactured, or produced, in whole or in part by forced labor, to also include child labor. The definition of "child labor" is broad and applies to persons under the age of 18 for labor and services that are either provided:

- (1) in Canada under circumstances that are contrary to the laws applicable in Canada;
- (2) under circumstances that are mentally, physically, socially, or morally dangerous to them;
- (3) that interfere with their schooling by depriving them of the opportunity to attend school, obliging them to leave school prematurely or requiring them to attempt to combine school attendance with excessively long and heavy work; or
- (4) that constitute the worst forms of child labor as defined in article 3 of the ILO Worst Forms of Child Labor Convention, 1999.

Given the impending reporting deadline, companies that do business in Canada should evaluate whether they are subject to the law as soon as possible and take the steps needed to prepare the questionnaire and report before May 31, 2024.



## Part V: Final Takeaways



## PART V:

# Final Takeaways

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Forced labor import bans and supply chain due diligence requirements are here to stay. This is an issue that everyone is watching — from Congress and CBP, to the media, NGOs, investors, and actual purchasers of merchandise. Companies must develop robust compliance plans to ensure that they have supply chains transparency and can document the source of their products.

- In 2024, companies must plan for increased enforcement of the UFLPA and existing WROs and prepare for the issuance of new WROs involving other industries and areas of the world.
- Compliance plans should contemplate the forced labor and supply chain legislation in all the jurisdictions where a company does business.
- Just because a company does not operate in a high-risk sector does not mean that there is no risk of enforcement actions. NGOs are consistently issuing new reports that cover new industry sectors, which have triggered enforcement actions by regulators including CBP.
- Companies should conduct regular due diligence of their supply chains. Conducting a single review is not sufficient as supply chains are constantly evolving and shifting.
- Companies may consider technology solutions but understand their limitations. There is no current holistic replacement for manual supply chain diligence. Companies that supply goods must also contemplate how technology may impact their business transactions, as buyers increasingly use technology to vet their suppliers' supply chains. Increasingly, we are seeing buyers trigger their purchase contract warranty clause based on the results of predictive AI mapping or isotopic testing, even in the absence of a detention.
- Importers should implement UFLPA training programs to ensure its employees and suppliers understand the risks and compliance with the UFLPA. This education will be particularly necessary for some industries not previously exposed to forced labor scrutiny and enforcement. In some cases, there will need to be changes to how an industry conducts business to comply with these laws. This may need to be accomplished through industry-wide initiatives.

We are constantly monitoring developments. Subscribe to our alerts at this [link](#). We also regularly update our [webpage](#) with updates.

### AFS Experience with the UFLPA and Forced Labor

AFS's Forced Labor Enforcement Task Force was formed to help companies navigate the ever-changing legal landscape relating to the UFLPA and related forced labor enforcement initiatives. The AFS's Forced Labor Enforcement Task Force has a broad range of experience assisting companies in a broad array of industries and of all sizes:

- Forced Labor Law Compliance (UFLPA, US Customs and Border Protection Withhold Release Orders and Findings)
- Protests and Petitions for Release of Detained or Seized Merchandise
- Respond to Congressional and NGO Inquiries
- Forced Labor Codes of Conduct, Compliance Programs, Trainings, and Manuals
- Supplier Forced Labor Agreements and Documentation (POs and contracts)
- Supply Chain Evaluations and Risk Assessments
- Customs Questionnaires and Forced Labor Audits
- Protest, Forfeiture, and Customs Penalty Cases
- General Forced Labor Counseling
- Advise on Technology Solutions
- Global Review of Forced Labor/Diligence Laws
- Sanctions Advice





# Appendix 1: UFLPA Guidance Documents

As companies develop and implement their supply chain due diligence processes and procedures, it can be difficult to monitor the seemingly constant developments in UFLPA enforcement. CBP and FLETF have published guidance that can assist your compliance teams navigate this ever-shifting landscape. CBP's [forced labor webpage](#) includes resources regarding how to comply with the UFLPA and minimize the risk of supply chains being tainted by forced labor. These include the aforementioned [Xinjiang Supply Chain Business Advisory](#) published by the US Departments of State, Treasury, Commerce, Labor, and Homeland Security and the Office of the United States Trade Representative. The document provides a succinct primer on the US government's position toward forced labor and enforcement strategies. The CBP also provided important advice for businesses on forced labor compliance in the [Due Diligence in Global Supply Chains](#) and [CTPAT Alert - Stopping Forced Labor in the Supply Chain](#) guidance documents.

- Fact sheets (updated November 9, 2023)
  - [CBP UFLPA Fact Sheet](#)
  - [How does CBP enforce 19 U.S.C. 1307?](#)
  - [How are WRO and/or finding modifications and revocations processed?](#) (cbp.gov)
  - [Due Diligence in Global Supply Chains](#) (cbp.gov)
  - [What can importers do to help combat forced labor?](#) (cbp.gov)
  - [What is in a petition for a WRO and/or finding modification or revocation?](#) (cbp.gov)
- FAQs
  - [FAQs: Uyghur Forced Labor Prevention Act \(UFLPA\) Enforcement | US Customs and Border Protection](#) (cbp.gov) – updated November 13, 2023
  - [Forced Labor Frequently Asked Questions | US Customs and Border Protection](#) (cbp.gov) – updated November 9, 2023
  - [Xinjiang Uyghur Autonomous Region WRO Frequently Asked Questions | US Customs and Border Protection](#) (cbp.gov) – updated August 9, 2023
  - [Hoshine Silicon Industry Co. Ltd Withhold Release Order Frequently Asked Questions | US Customs and Border Protection](#) (cbp.gov) – updated August 7, 2023
- References
  - [Xinjiang Supply Chain Business Advisory - United States Department of State](#) – September 26, 2023
  - [CTPAT Alert - Stopping Forced Labor in the Supply Chain](#) (cbp.gov) – February 25, 2023
- Other Guidance
  - [Recommended Guidelines for Submissions of Forced Labor Supporting Documents](#) (cbp.gov) – May 16, 2023
  - [Forced Labor Allegation Submission Checklist | US Customs and Border Protection](#) (cbp.gov) – May 16, 2023
  - [UFLPA Region Alert Frequently Asked Questions](#) (cbp.gov) – March 23, 2023
  - [Best Practices for Applicability Reviews](#) (cbp.gov) – February 22, 2023
  - [Guidance on Executive Summaries and Sample Tables of Contents: Preparing a UFLPA Applicability Review Submission](#) (cbp.gov) – February 22, 2023
  - [CBP Operational Statistics](#) (updated monthly)

## Appendix 2: Challenging UFLPA Enforcement Actions

UFLPA enforcement, such as detentions and the seizure of merchandise, can significantly impact an importer's ability to timely satisfy a customer's order, especially in industries with narrow seasonal purchasing windows. While these enforcement actions can pose negative threats to an importer's business, an importer has several options in challenging an enforcement action under the UFLPA, as outlined below.

### What Can an Importer Do in the Event of a Detention under the UFLPA?

If merchandise is detained under the UFLPA, an importer has several options, including those presented in **Figure 1** below.

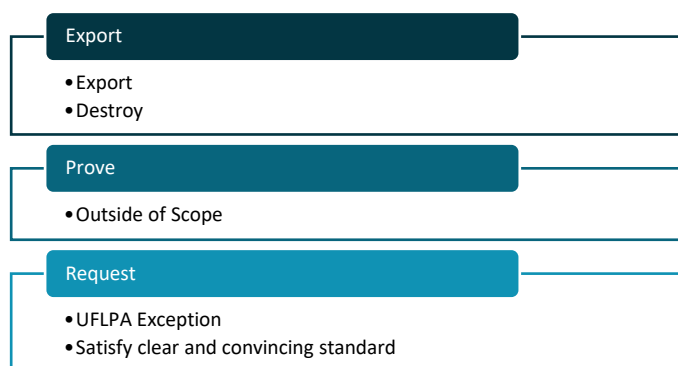


FIGURE 1

Responding to a UFLPA detention requires significant documentary evidence to prove that the merchandise was either produced outside of the XUAR or produced in the XUAR without the use of forced labor. This documentation includes transaction documents (*i.e.*, purchase orders, proofs of payment, commercial invoices), production records, and transportation records to trace the sourcing of raw materials through the production of the finished goods. For certain goods, CBP has issued product-specific documentation that importers may consider providing to CBP in the event of a detention. Early this year, CBP published an “addendum” (see [here](#)) to provide importers with product-specific documentation for additional goods, including aluminum products, batteries, cotton products, polysilicon products, polyvinyl chloride (PVC) products, steel products and tires for automobiles and trucks.

If an importer has not proactively established a supply chain due diligence program, responding to a detention within the 30-day deadline can be difficult. Exporting or destroying merchandise can be a more cost-effective avenue, especially for lower value shipments.

As a practical matter, it will be very difficult to obtain an exception to the UFLPA because it requires access to detailed information regarding supplier labor practices and production records. Additionally, when exceptions are granted, CBP is statutorily required to report it to Congress, publicly identifying the good and the evidence the agency considered in reaching the determination that an exception was warranted. To our knowledge, less than a handful of exception requests have been made, including three importers of agricultural and pharmaceutical products, and none of them were granted.<sup>33</sup>

<sup>33</sup> Letter from Robert Silvers, Under Sec’y for Pol’y, Forced Lab. Enft Task Force Chair, US Dep’t of Homeland Sec., to Jeffrey A. Merkley, Cong.-Exec. Comm’n on China Co-Chair, US Senate (June 9, 2023), <https://www.cecc.gov/sites/chinacommission.house.gov/files/documents/Response%20from%20Silvers%20to%20UFLPA%20Implementation%20Letter.pdf>; Marti Flacks, *What’s Next for the Uyghur*

### What if CBP Excludes Your Merchandise?

If any importer responds to a UFLPA detention and CBP determines to exclude the shipment from entry in the United States, the importer can protest CBP's exclusion. CBP is required to make a decision on the protest within 30 days after the protest is filed.

### Can an Importer Challenge CBP's Determination in the Court of International Trade?

An importer can still challenge CBP's decision to exclude merchandise if the exclusion is upheld via the protest process. The importer has the right to challenge CBP's decision by suing in the Court of International Trade (CIT).

### Requesting Removal from the UFLPA Entity List

Entities that are added to the UFLPA Entity List also have a process to challenge FLETF's decision. First, the entity may submit a request to be removed from the Entity List to the FLETF List with information supporting its request.

The entity can also challenge FLETF's decision via a suit in the CIT. In a case of first impression, Ninestar Corporation, filed suit in the CIT to challenge its addition to the UFLPA Entity List. Ninestar Corporation's complaint alleged that FLETF arbitrarily added Ninestar and certain of its subsidiaries to the UFLPA Entity List in violation of the Administrative Procedures Act (APA) by failing to provide an explanation for the listing. This case is still ongoing, and it is unclear when a final decision will be made by the CIT. However, the decision will be significant in determining whether DHS must disclose to a company the evidence and reasoning that supports its decision.

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*Forced Labor Prevention Act?*, Ctr. for Strategic and Int'l Stud. (June 21, 2023), <https://www.csis.org/analysis/whats-next-uyghur-forced-labor-prevention-act>.

## Appendix 3: UFLPA Entity List

	Name of Entity	Effective Date
1.	Baoding LYSZD Trade and Business Co., Ltd.	June 21, 2022
2.	Changji Esquel Textile Co. Ltd. (and one alias : Changji Yida Textile)	June 21, 2022
3.	Hetian Haolin Hair Accessories Co. Ltd. (and two aliases: Hotan Haolin Hair Accessories; and Hollin Hair Accessories)	June 21, 2022
4.	Hetian Taida Apparel Co., Ltd (and one alias: Hetian TEDA Garment)	June 21, 2022
5.	Hoshine Silicon Industry (Shanshan) Co., Ltd (including one alias: Hesheng Silicon Industry (Shanshan) Co.) and subsidiaries	June 21, 2022
6.	Xinjiang Daqo New Energy, Co. Ltd (including three aliases: Xinjiang Great New Energy Co., Ltd.; Xinjiang Daxin Energy Co., Ltd.; and Xinjiang Daqin Energy Co., Ltd.)	June 21, 2022
7.	Xinjiang East Hope Nonferrous Metals Co. Ltd. (including one alias: Xinjiang Nonferrous)	June 21, 2022
8.	Xinjiang GCL New Energy Material Technology, Co. Ltd (including one alias: Xinjiang GCL New Energy Materials Technology Co.)	June 21, 2022
9.	Xinjiang Junggar Cotton and Linen Co., Ltd.	June 21, 2022
10.	Xinjiang Production and Construction Corps (including three aliases: XPCC; Xinjiang Corps; and Bingtuan) and its subordinate and affiliated entities	June 21, 2022
11.	Aksu Huafu Textiles Co. (including two aliases: Akesu Huafu and Aksu Huafu Dyed Melange Yarn)	June 21, 2022
12.	Anhui Xinya New Materials Co., Ltd. (formerly known as Chaohu Youngor Color Spinning Technology Co., Ltd.; and Chaohu Xinya Color Spinning Technology Co., Ltd.)	December 11, 2023
13.	Camel Group Co., Ltd.	August 2, 2023
14.	COFCO Sugar Holdings Co., Ltd.	December 11, 2023
15.	Hefei Bitland Information Technology Co., Ltd. (including three aliases: Anhui Hefei Baolongda Information Technology; Hefei Baolongda Information Technology Co., Ltd.; and Hefei Bitland Optoelectronic Technology Co., Ltd.)	June 21, 2022
16.	Hefei Meiling Co. Ltd. (including one alias: Hefei Meiling Group Holdings Limited)	June 21, 2022
17.	KTK Group (including three aliases: Jiangsu Jinchuang Group; Jiangsu Jinchuang Holding Group; and KTK Holding)	June 21, 2022
18.	Lop County Hair Product Industrial Park	June 21, 2022
19.	Lop County Meixin Hair Products Co., Ltd.	June 21, 2022
20.	Nanjing Synergy Textiles Co., Ltd. (including two aliases: Nanjing Xinyi Cotton Textile Printing and Dyeing; and Nanjing Xinyi Cotton Textile)	June 21, 2022
21.	Ninestar Corporation and its eight Zhuhai-based subsidiaries, which include Zhuhai Ninestar Information Technology Co. Ltd., Zhuhai Pantum Electronics Co. Ltd., Zhuhai Apex Microelectronics Co., Ltd., Geehy Semiconductor Co., Ltd., Zhuhai Pu-Tech Industrial Co., Ltd., Zhuhai G&G Digital Technology Co., Ltd., Zhuhai Seine Printing Technology Co., Ltd., and Zhuhai Ninestar Management Co., Ltd.	June 12, 2023
22.	No. 4 Vocation Skills Education Training Center (VSETC)	June 21, 2022
23.	Sichuan Jingweida Technology Group Co., Ltd. (also known as Sichuan Mianyang Jingweida Technology Co., Ltd. and JWD Technology; and formerly known as Mianyang High-tech Zone Jingweida Technology Co., Ltd.)	December 11, 2023
24.	Tanyuan Technology Co. Ltd. (including five aliases: Carbon Yuan Technology; Changzhou Carbon Yuan Technology Development; Carbon Element Technology; Jiangsu Carbon Element Technology; and Tanyuan Technology Development)	June 21, 2022
25.	Xinjiang Tianmian Foundation Textile Co., Ltd.	September 27, 2023
26.	Xinjiang Tianshan Wool Textile Co. Ltd.	September 27, 2023
27.	Xinjiang Zhongtai Chemical Co. Ltd.	June 12, 2023
28.	Xinjiang Zhongtai Group Co. Ltd	September 27, 2023
29.	Chenguang Biotech Group Co., Ltd. and its subsidiary Chenguang Biotechnology Group Yanqi Co. Ltd.	August 2, 2023
30.	Yili Zhuowan Garment Manufacturing Co., Ltd.	June 21, 2022

## Appendix 4 – NGO Reports

### Center for Advanced Defense Studies (C4ADS)

#### “Fractured Veins – The World’s Reliance on Minerals from the Uyghur Region” (2023)

The C4ADS published “Fractured Veins – The World’s Reliance on Minerals from the Uyghur Region” in October 2023, mapping alleged connections between gold mined in Xinjiang and global supply chains, including those of major US companies in a broad array of industries from automotive to retail.<sup>34</sup>

Notably, the links were largely identified through companies’ SEC Form SD conflict minerals reports. Because personnel responsible for preparing Form SD conflict minerals reports may differ from those responsible for forced labor compliance programs, companies may have been unaware that they were publicly reporting potential links to XUAR.

While the report focuses on gold mining, other globally traded minerals could be subject to increased scrutiny moving forward, especially in light of the fact that in 2020, mining accounted for 43% of the regional domestic product in Xinjiang.<sup>35</sup>

#### “SOLD OUT – How Labor Abuse in South Asia Links to Global Supply Chains” (2021)

In 2021, C4ADS published a report called “SOLD OUT – How Labor Abuse in South Asia Links to Global Supply Chains,”<sup>36</sup> that analyzed over 600 cases of alleged bonded labor in India from 2002 – 2020, revealing that bonded labor occurs in almost every industry sector.

#### “Shifting Gears – The Rise of Industrial Transfer into the Xinjiang Uyghur Autonomous Region” (2022)

In 2022, C4ADS published a report called “Shifting Gears – The Rise of Industrial Transfer into the Xinjiang Uyghur Autonomous Region.”<sup>37</sup> According to the report, the Chinese government is allegedly working to industrialize the XUAR, leading to an increasing number of Chinese companies moving their manufacturing operations into the region.

### Sheffield Hallam University

#### “Laundering Cotton – How Xinjiang Cotton is Obscured in International Supply Chains” (2021)

This 2021 report<sup>38</sup> documents an investigation into how cotton and cotton-based goods produced with forced labor from XUAR can be connected to global supply chains.

<sup>34</sup> *Fractured Veins: The World’s Reliance on Minerals from the Uyghur Region*, Ctr. for Advanced Def. Stud. (Oct. 11, 2023), <https://c4ads.org/wp-content/uploads/2023/10/Fractured-Veins-spreads-final.pdf>.

<sup>35</sup> *Id.*

<sup>36</sup> Irina Bukharin & Mary Sebastian, *Sold Out: How Labor Abuse in South Asia Links to Global Supply Chains*, Ctr. for Advanced Def. Stud. (Nov. 10, 2021), <https://c4ads.org/wp-content/uploads/2021/11/SoldOut-Brief.pdf>.

<sup>37</sup> Nicole Morgret, *Shifting Gears: The Rise of Industrial Transfer into the Xinjiang Uyghur Autonomous Region*, Ctr. for Advanced Def. Stud. (June 30, 2022), <https://c4ads.org/wp-content/uploads/2022/07/ShiftingGears-Report.pdf>.

<sup>38</sup> Laura T. Murphy et al., *Laundering Cotton: How Xinjiang Cotton is Obscured in International Supply Chains*, Sheffield Hallam Univ. Helena Kennedy Ctr. (Nov. 2021), <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/laundered-cotton>.

### “Driving Force – Automotive Supply Chains and Forced Labor in the Uyghur Region” (2022)

This 2022 report<sup>39</sup> discusses the alleged use of XUAR labor in global automotive supply chains. Notably, the report also implicates materials such as steel, aluminum, batteries, electronics, tires, and other car parts.

### “Financing & Genocide – Development Finance and the Crisis in the Uyghur Region” (2022)

This 2022 report posits that the World Bank’s private lending arm, the International Finance Corporation (IFC), has several significant investments in XUAR and that several of its clients are active participants in the Chinese Government’s abuses of the Uyghur people.<sup>40</sup>

### “Built on Repression – PVC Building Materials’ Reliance on Labor and Environmental Abuses in the Uyghur Region” (2022)

This Sheffield report covers the alleged use of XUAR labor and state sponsored labor transfers in the production of PVC.<sup>41</sup>

### “Until nothing is left’ – China’s Settler Corporation and its Human Rights Violations in the Uyghur Region” (2022)

This 2022 report catalogues alleged human rights violations by the Xinjiang Production and Construction Corps (XPCC). Specifically, the report outlines the XPCC’s alleged use of forced to suppress the Uyghur population.<sup>42</sup>

### “In Broad Daylight – Uyghur Forced Labour and Global Solar Supply Chains” (2021)

Published in 2021, “In Broad Daylight – Uyghur Forced Labour and Global Solar Supply Chains,” discusses the use of XUAR labor in solar supply chains.<sup>43</sup>

### “Over-Exposed: Uyghur Region Exposure Assessment for Solar Industry Sourcing” (2023)

This Sheffield report analyzes several solar supply chains to identify potential alleged exposure and risk. Since the publishing of Sheffield’s solar report in 2021, Sheffield notes that the solar industry has taken actions to comply with new regulations to address the crisis in XUAR. Solar companies have taken actions such as bifurcating their supply chains in attempts to manufacture solar modules that are free from connections to the XUAR.<sup>44</sup>

<sup>39</sup> Laura Murphy, Kendyl Salcito, Yalkun Uluyol & Mia Rabkin, *Driving Force: Automotive Supply Chains and Forced Labor in the Uyghur Region*, Sheffield Hallam Univ. Helena Kennedy Ctr. (Dec. 2022), <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/driving-force>.

<sup>40</sup> Laura T. Murphy, Kendyl Salcito & Nyrola Elimä, *Financing & Genocide: Development Finance and the Crisis in the Uyghur Region*, Sheffield Hallam Univ. Helena Kennedy Ctr. (Feb. 2022). <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/financing-and-genocide>.

<sup>41</sup> Laura T. Murphy, Jim Vallette & Nyrola Elimä, *Built on Repression: PVC Building Materials’ Reliance on Labor and Environmental Abuses in the Uyghur Region*, Sheffield Hallam Univ. Helena Kennedy Ctr. (June 2022), <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/built-on-repression>.

<sup>42</sup> Laura T. Murphy, Nyrola Elimä & David Tobin, “Until Nothing is Left”: *China’s Settler Corporation and its Human Rights Violations in the Uyghur Region*, Sheffield Hallam Univ. Helena Kennedy Ctr. (July 2022), <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/until-nothing-is-left>.

<sup>43</sup> Laura T. Murphy & Nyrola Elimä, *In Broad Daylight: Uyghur Forced Labour and Global Solar Supply Chains*, Sheffield Hallam Univ. Helena Kennedy Ctr. (May 2021), <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/in-broad-daylight>.

<sup>44</sup> Alan Crawford & Laura T. Murphy, *Over-Exposed: Uyghur Region Exposure Assessment for Solar Industry Sourcing*, Sheffield Hallam Univ. Helena Kennedy Ctr., <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/over-exposed> (Nov. 2023).

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## Transparentem

### “I Came Here with So Many Dreams’ – Labor Rights Abuses and the Need for Change in Mauritius’ Apparel Factories” (2023)

In 2023, Transparentem investigated alleged labor abuses in the apparel manufacturing industry in Mauritius.<sup>45</sup> This report documents a two-year investigation of possible labor abuses at three Mauritian garment manufacturers. The report called for a need to prevent and address its findings, including recruitment issues.

## Australian Strategic Policy Institute (ASPI)

In February 2020, the Australian Strategic Policy Institute (ASPI) published a report called, “Uyghurs for Sale” that identified 27 factories in multiple provinces that are allegedly using Uyghur labor transferred from XUAR since 2017.<sup>46</sup> According to the report, about 80,000 Uyghurs were transferred out of XUAR and assigned to factories through labor transfer programs under “Xinjiang Aid,” a Chinese government policy.

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<sup>45</sup> “I Came Here with So Many Dreams”: *Labor Rights Abuses and the Need for Change in Mauritius’ Apparel Factories*, Transparentem (Dec. 2023), [https://transparentem.org/wp-content/uploads/2024/01/I-Came-Here-with-So-Many-Dreams\\_Transparentem-1.pdf](https://transparentem.org/wp-content/uploads/2024/01/I-Came-Here-with-So-Many-Dreams_Transparentem-1.pdf).

<sup>46</sup> Vicky Xiuzhong Xu, Danielle Cave, James Leibold, Kelsey Munro & Nathan Ruser, *Uyghurs for Sale: ‘Re-education’, Forced Labour, and Surveillance Beyond Xinjiang*, Austl. Strategic Pol’y Inst. (Mar. 1, 2020), <https://www.aspi.org.au/report/uyghurs-sale#:~:text=It%20analyses%20the%20politics%20and,unknowingly%2C%20in%20human%20rights%20abuses>.

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