

GREEN PAPER

the uyghur forced labor prevention act

This Green Paper will provide background information on the Uyghur Forced Labor Prevention Act, due diligence recommendations, answers to FAQ, and notify our client community about increases in U.S. Customs and Border Protection (CBP) UFLPA enforcement efforts through the deployment of new Automated Commercial Environment (ACE) requirements for entry into the United States.



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background & scope of uflpa

The Uyghur Forced Labor Prevention Act (UFLPA) was built on previous congressional and executive branch actions aimed at responding to allegations of forced labor and other human rights concerns in China's Xinjiang Uyghur Autonomous Region.

UFLPA was enacted on December 23, 2021, with a June 21, 2022 effective date. It prohibits importation and entry of "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**".

The UFLPA will supersede Withhold Release Orders related to Xinjiang for goods imported on or after June 21, 2022.

The Forced Labor Enforcement Task Force, chaired by the Department of Homeland Security, monitors the enforcement of the prohibition on importing goods made wholly or in part with forced labor into the United States.

Customs and Border Protection (CBP) will exercise its authority under the Customs laws to detain, exclude, or seize and forfeit shipments within the scope of the UFLPA.

CBP plans to add advanced technology to enhance targeting and substantially increase the number of transactions subject to review and enforcement at a much higher volume and cadence than in the past.

UFLPA'S REBUTTABLE PRESUMPTION

The UFLPA requires CBP to presume that goods manufactured wholly or partially in Xinjiang or made by entities on the [UFLPA Entity List](#) violate 19 U.S.C. § 1307.

The UFLPA's rebuttable presumption applies to goods manufactured in or shipped from other countries if any part or input of those goods were manufactured in Xinjiang.



new entry requirements

U.S. Customs and Border Protection added the Uyghur Forced Labor Prevention Act (UFLPA) Region Alert enhancement to the Automated Commercial Environment (ACE) with an effective date of **March 18, 2023**.

The enhancement requires importers to provide and their customs brokers to report the China Postal Code associated with the company identified by the Manufacturer Identification Code (MID) or the manufacturer entity, which will produce a notification that the goods may have been produced in the Xinjiang Uyghur Autonomous Region which would be subject to UFLPA restrictions.

THE NEW POSTAL CODE VALIDATIONS ARE:

- The People's Republic of China (CN) is selected as a manufacturer's country of origin on the manufacturer identification code (MID) for entry.
- China (CN) is selected as a manufacturer's country of origin when a Manufacturer Identification Code (MID) is created; or is
- An existing Manufacturer Identification Code (MID) with Country of Origin 'CN' is updated.

NEW VALIDATIONS:

- China postal code is a required field.
- Users will receive an error message if the postal code provided is not a valid China postal code.
- Users will receive a warning message when a targeted postal code has been transmitted.

NOTE: CBP does not plan to release a list of the targeted postal codes.



SAMPLE FORCED LABOR DUE DILIGENCE STEPS FOR IMPORTERS (NOT EXHAUSTIVE):

- Document detailed descriptions of all imported products, inputs & how they are manufactured.
- Define unique identifiers tracking raw materials as they move downstream.
- Maintain a list of suppliers, roles, and associations with each supply chain step, including names, emails, and addresses.
- Documentation of engagement with all suppliers and other stakeholders to assess the risk of forced labor.
- Implementation of Codes of Conduct internally and with suppliers forbidding the use of forced labor.
- Internal training with employees and agents who select and interact with suppliers.
- Create & utilize an auditable process for demonstrating the origin and control of comingled raw materials and inputs.
- Obtain documentation showing internal efforts to mitigate and remediate any use of forced labor in the supply chain.
- Document direct evidence that goods were not made with forced labor.
- Maintain information on workers and internal controls indicating that all workers are voluntary, including wage payments.
- Audits and additional documentation to complete tracing.
- Stay informed on the matter and engage with industry experts for support, including trade associations & Green Worldwide.
- Be sure to include all in-house manufacturing, sub-assembly operations, and outsourced production in due diligence efforts.



IMPORTER DUE DILIGENCE & RISK MITIGATION

CBP requires that importers demonstrate due diligence, effective supply chain mapping, and management measures to ensure that they do not import any goods made, in whole or in part, by forced labor, especially from the Xinjiang Region.

Without an effective compliance solution that meets the required due diligence outlined in CBP's informed compliance document, it will be almost impossible for an importer to assemble evidence within the new 30-day detention window.

Additional information on effective due diligence and resources available may be found in CBP's [UFLPA Operational Guidance for Importers](#) and in the [UFLPA Strategy](#).



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frequently asked questions



WHAT IS THE REBUTTABLE PRESUMPTION UNDER UFLPA?

The UFLPA establishes a rebuttable presumption that the importation of any goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in Xinjiang or by certain entities on the UFLPA Entity List; is prohibited by 19 U.S.C. § 1307, and that such goods, wares, articles, and merchandise are not admissible in the United States.

The rebuttable presumption applies to all goods with any Xinjiang content, regardless of where the goods may be manufactured or if they were shipped through third countries. The rebuttable presumption also applies to products made or shipped by entities on the UFLPA Entity List.



In summary, if the goods were manufactured wholly or partly in the Xinjiang region, or by an entity on UFLPA Entity List, then the goods are presumed to violate 19 U.S.C §1307.



FAQ: WHAT ARE THE OPTIONS FOR AN IMPORTER IF ENFORCEMENT ACTION IS TAKEN ON A SHIPMENT?

To enforce the UFLPA, CBP will take specific enforcement actions, including identifying, detaining, and/or excluding, or seizing shipments subject to the UFLPA's rebuttable presumption, depending upon the unique facts involved in each importation.

In instances in which CBP has taken enforcement action under the UFLPA, but an importer believes that the importation is outside the scope, due to the goods not originating wholly or in part from Xinjiang or if the goods and/or their inputs are from the Xinjiang region but not produced with forced labor, they may submit information to CBP when responding to the notice.

An importer may submit an **applicability request** providing information to CBP supporting that the goods and their inputs are sourced entirely from outside Xinjiang and have no connection to entities on the UFLPA Entity List.

In the event CBP determines that the information provided in the applicability request demonstrates that the merchandise is outside the scope of the UFLPA because it lacks a connection to Xinjiang or an entity on the UFLPA Entity List, the importer will not need to obtain an exception to the UFLPA rebuttable presumption, and CBP may release such shipments, provided they are otherwise in compliance with U.S. law.



If the goods originate wholly or in part from Xinjiang; or an entity on the UFLPA Entity list, the importer may respond to the notice by requesting an **exception**, rebutting the forced labor presumption, which contends that the goods were not manufactured with forced labor.



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FAQ: A SHIPMENT RECEIVES A NOTICE OF ENFORCEMENT ACTION UNDER UFLPA. WHAT HAPPENS NEXT?



CBP will notify importers when enforcement action is taken on their shipments, including the reason for the detention. They work closely with importers to obtain relevant information, resolve questions, and address deficiencies.

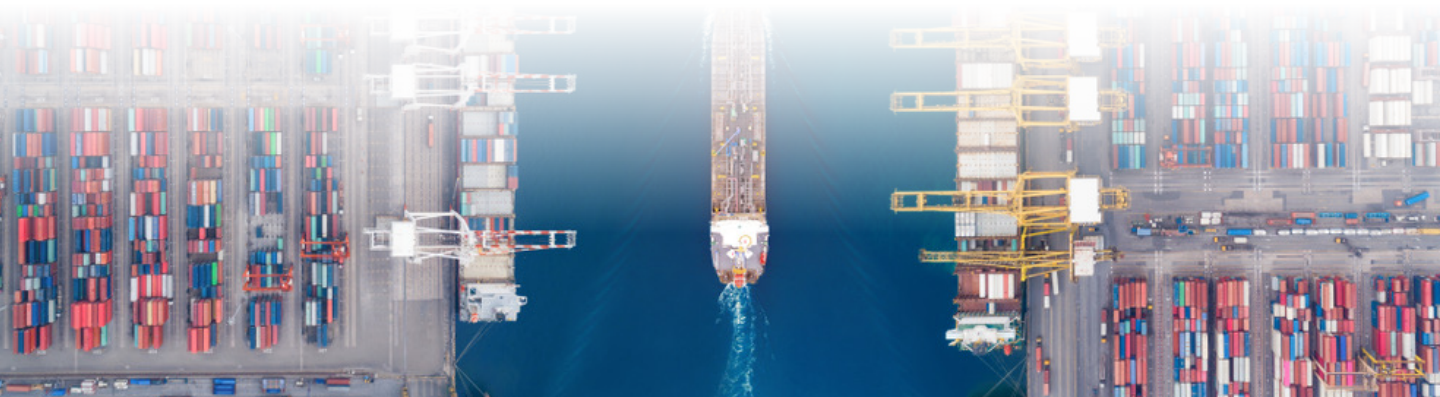
Importers who receive a **detention** notice regarding their shipments should connect with the CBP point of contact included in the detention notice as soon as possible with any questions and to discuss next steps. Importers are allowed **30 days** to address the detention by either exporting the goods or provide information contesting to the detention. Extensions may be allowable, and importers should contact CBP prior to the expiration of the initial 30-day detention period to request.

Importers who receive an **exclusion** notice may file an administrative protest within the applicable time frame under 19 C.F.R. Part 174 to request an exception to the UFLPA rebuttable presumption.

Importers who receive a **seizure** notice may utilize the petition process outlined in 19 C.F.R. Part 171 to request an exception to the UFLPA rebuttable presumption. The Fines, Penalties, and Forfeitures Office (FPFO) will advise the importer on providing information to CBP for review and the deadline for filing a petition.



Any detentions effectuated to enforce the UFLPA will be pursuant to CBP's authority to inspect, examine, and detain imported merchandise in accordance with 19 U.S.C. § 1499.



FAQ: WHAT IS THE PROCESS FOR REQUESTING AN EXCEPTION TO THE REBUTTABLE RESUMPTION?



The UFLPA rebuttable presumption applies unless the Commissioner of CBP determines that it has been rebutted, i.e., that the importer has complied with specified conditions and, by clear and convincing evidence, that the goods, wares, articles, or merchandise were not mined, produced, or manufactured wholly or in part by forced labor.

Importers may request an exception to the rebuttable presumption from CBP during detention, after an exclusion, or during the seizure process.

To request an exception to the UFLPA presumption, importers must clearly state that they are seeking an exception to the UFLPA presumption and provide appropriate supporting documentation substantiating the request.

EXCEPTION FACTORS

According to Section 3(b) of the UFLPA, the Commissioner will use the following factors when determining whether to grant an exception:

- The importer has records of full compliance with the UFLPA Strategy, the UFLPA § 2(d)(6), and any additional regulations.
- The importer responds entirely to all of the CBP Commissioner's inquiries for information.
- The importer demonstrates clearly and convincingly that the imports were not mined, produced, or manufactured wholly or partially by forced labor.

EXAMPLES

Examples of documents submitted as evidence may include but are not limited to:

- A supply chain map identifying all entities involved in the production of goods.
- Information on workers at each entity such as wage payments and production output per worker.
- Information on worker recruitment and internal controls showing that they working voluntarily.
- Creditable audits.



FAQ: WHAT ARE BEST PRACTICES FOR AN APPLICABILITY REVIEW?

If an importer wishes to contend that the rebuttable presumption does not apply to its importation, i.e., that its imported goods were not mined, produced, or manufactured wholly or in part in Xinjiang or by an entity on the UFLPA Entity List—the importer may request an applicability review.

CBP does not dictate specific requirements for the types of documents or information they may accept, allowing importers the flexibility to provide various documents that demonstrate their transactions.

As an importer gains experience submitting applicability packages; and CBP becomes familiarized with consistent supply chains, the review processing time will generally be reduced.

EXAMPLES OF DOCUMENTATION AND INFORMATION SUBMITTED WITH AN APPLICABILITY REVIEW:

- Flow chart of the supply chain and other supporting documents demonstrating the parties to the transaction, including the sourcing, manufacture, manipulation, transportation, and/or export.
- Origin and transportation of raw materials.
- Business transactions related to the payment of raw materials and goods.
- Full records of transactions and supply chain documentation that demonstrate the country of origin of the import and its components (commercial invoice, packing list, bill of lading, and manifest).



Ensure all documentation is clear, complete, and accurate, and provide an English translation. Make sure to submit all documentation in a complete package; CBP does not accept piecemeal documentation. Overall, context matters when CBP makes its admissibility decision.

FAQ: WHAT CAN GOODS IDENTIFIED AS HIGH RISK EXPECT?

Cotton, tomato products, aluminum, and polysilicon are the commodities that will have the most **rigorous enforcement for review** since they are identified as **high-risk sectors** under the UFLPA. Approximately 20% of the world's cotton supply is produced in the Xinjiang Region, much of which is incorporated into finished products outside the region.

Furthermore, about half of the worldwide polysilicon used in solar panels, manufactured in multiple countries, is also produced in Xinjiang. More than a dozen industries source significant quantities of components or raw materials from the Xinjiang Region.

The renewable energy industry has concerns about solar panel production due to a significant volume of polysilicon manufactured in Xinjiang. China exports more than 90% of the global polysilicon, and 45% of all polysilicon comes from the Xinjiang Region, where forced labor in factories is widespread.



High-risk industries will need to be diligent in gaining complete visibility throughout the entire supply chain and preparing for enhanced CBP verifications. The UFLPA does not admit the concept of de minimis as an exception, a legal term referring to something too small to be considered. Therefore, if a product contains a low percentage of a high-risk product, it still must comply with the regulations.

GET STARTED WITH UFLPA & CTPAT COMPLIANCE

If you are interested in learning more about the CTPAT (Customs-Trade Partnership Against Terrorism) Program and how to become a member, or if you need support in maintaining your membership, Green Worldwide is available for any questions, concerns, or services that your company may need to ensure you are prepared.

Make sure you're making progress in laying out a practical approach to the new UFLPA compliance framework. We are ready to provide your company with the tools, including templates and other resources, needed to map your supply chain, and assess, manage, and mitigate the risk associated with the new regulations under UFLPA.



FAQ: IF AN IMPORTER HASN'T RECEIVED A ULFPA-KNOWN IMPORTER LETTER AND IS NOT SUBJECT TO A WITHHOLD RELEASE ORDER (WRO). DOES IT HAVE TO PERFORM DUE DILIGENCE?

Importers should be taking steps to ensure compliance, even if they have not received a known importer letter from CBP and have not previously been subject to WROs.

CBP uses high-tech artificial intelligence applications to monitor global supply chains, providing an in-depth understanding of how raw materials and finished goods associated with forced labor actors are moving around the globe.

The data targets a broader range of products and their components which can be traced back to forced labor. Importers should be proactive and have this information available before any shipments are potentially flagged under ULFPA.

All importers must know their supply chain and comply with U.S. law.

FAQ: WILL CTPAT MEMBERS BE TREATED DIFFERENTLY UNDER THE NEW LAW?

Members of the Customs-Trade Partnership Against Terrorism (CTPAT) Program are not excluded from any UFLPA or WRO enforcement. When reviewing requests for exceptions, CBP will attempt to provide an expedited review of admissibility packages for CTPAT Trade Compliance partners.

If CTPAT Trade Compliance partners have shipments held for forced labor concerns, they may withhold the shipments intact at their facility while CBP reviews and resolves the issue rather than re-delivering the goods, which would be the general requirement.

CTPAT members should also be aware that the program now includes minimum security criteria requirements for forced labor, and failure to comply could result in its suspension.

CONTACT US, TODAY!

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