

Written Testimony of:

Kit Conklin
Nonresident Senior Fellow, Atlantic Council

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Hearing on:
Implementation of the Uyghur Forced Labor Prevention Act and the Impact on Global
Supply Chains

Overview

Chairman Smith, Chairman Merkley, distinguished Members of the Commission, thank you for the opportunity to speak before you this morning. I would like to start by saying that I am representing myself this morning and all views are my own.

The Uyghur Forced Labor Prevention Act (the UFLPA or the “Act”) bans the import of goods or commodities from the People’s Republic of China produced with forced labor. Specifically, the Act mandates a “rebuttable presumption” that any products made wholly or in part in the Xinjiang Uyghur Autonomous Region (“Xinjiang”), or by any Chinese company on a U.S. list of entities involved in the use of forced labor, are made with forced labor and banned from importation into the U.S.

Reflecting the increased international consensus on the need to address forced labor, U.S. trading partners around the world have enacted or are introducing legislation to ban products made with forced labor, to include the European Commission, Germany, France, Canada, and Mexico, amongst other jurisdictions. Each of these bans similarly require importing companies subject to the laws of these jurisdictions to engage in supply chain due diligence to identify and mitigate exposure. US companies are not alone, as expectations are increasing around the world for industry to address forced labor exposure in global supply chains.



Enforcement

CBP has stated that UFLPA detentions constitute [less than 0.1%](#) of goods imported into the U.S., yet since enforcement of the UFLPA began in June 2022, CBP has detained approximately [\\$1,000,000,000 worth of products](#) suspected of containing inputs made with forced labor in China.

CBP has prioritized enforcement relating to four goods: [cotton, polysilicon, tomatoes, and aluminum](#) – although the scope of the UFLPA includes any raw materials and goods that are mined, farmed in, or connected to Xinjiang. For instance, [billions of dollars' worth of raw materials](#), rare earth minerals, and products are exported from Xinjiang each year, including a significant percentage of global [lithium-ion batteries](#), 20% of global production of calcium carbide (used [to make PVC](#) among other materials), 10% of global production of rayon (used to manufacture apparel and home good items), 9% of global beryllium deposits (a key [rare earth mineral used for the production of satellite and aviation components](#)), and 8% of global pepper production. In addition to raw materials and goods sourced from Xinjiang, the UFLPA also [bans products made with forced labor](#) in other provinces in China.

Compliance Challenges

The sheer volume and scope of goods targeted under the UFLPA poses significant compliance challenges for industry, as supply chains have increasingly become globalized, complex and opaque. The critical challenge for industry – to discover supply chain visibility and detect risk – is compounded by the Act's rebuttable presumption and the lack of a de minimis exception, meaning even an insignificant input of product produced in-whole or in-part with forced labor could result in enforcement action.

The global nature of modern supply chains further complicates compliance because CBP maintains authority to detain goods imported into the United States from third countries. Since UFLPA enforcement began in June 2022, CBP detained \$89 million worth of goods imported directly from China, but, for instance, [detained over \\$490 million worth of goods](#) from Malaysia and over \$369 million worth of goods from Vietnam. These figures illustrate UFLPA transshipment risk and why the lack of a de minimis exception necessitates the need for due diligence into all suppliers, not just those located in China.

Guidance



Beyond the four product areas categorized as high priority for enforcement, [CBP has publicly stated](#) that it is considering other product categories that will be subject to priority targeting and enforcement. Irrespective of further announced priorities, as some in industry have requested, CBP [guidance](#) issued on July 13, 2021 and [amended](#) on June 17, 2022 sets forth red flags for forced labor exposure for all categories of products that pose UFLPA risk as well as information CBP may require from importers. These red flags include involuntary labor transfers, supply chains connected to prisons, and any affiliates of the Xinjiang Production and Construction Corps (XPCC). The amended guidance further states “an importer seeking an exception to the rebuttable presumption must demonstrate that it has fully complied with the requirements [in the guidance].” These requirements include, for example, supply chain mapping, intelligence to identify and assess forced labor risk, training, and monitoring of suppliers. CBP guidance also states that UFLPA compliance is not static and that industry should [“update \[supplier risk information\] on a regular basis.”](#)

Towards Sustainable Compliance

Similar to industry responses when countering money laundering, sanctions or anti-bribery compliance became priorities, CBP’s enforcement posture is a major driver for the material investments industry is making to address UFLPA due diligence and compliance. As [CBP’s budget and resources expand](#) to support the counter forced labor mission, many in industry are almost certain to adapt with increased senior management attention, and with support and budget for the technology and people needed to address risk.

In line with guidance, companies that make reasonable, risk-based investments to effectively map supply chains, layer in risk intelligence and conduct training and monitoring – in most instances – should be positioned to materially improve their capabilities to identify potential UFLPA exposure. As industry implements UFLPA compliance programs, global supply chain management practices will continue to adapt as companies mitigate forced labor risk and build resilience. Observers have already pointed to impacts on supply chains relating to [green energy products](#), rare earth minerals, [food items](#), and pharmaceutical precursors. Companies with [supply chains](#) prioritized by CBP for UFLPA enforcement have also [started to review and implement obligations and best practices](#) to mitigate UFLPA risk.

In summary, compliance with the UFLPA is complex and not binary, similar to compliance with AML, sanctions and anti-bribery. Nonetheless, with senior management



support and in line with guidance, effective programs can be established to identify exposure, and mitigate risk of forced labor in the supply chain. As DHS Undersecretary Silvers [recently stated](#), “over the years, things like anti corruption and sanctions compliance have come to be standard pillars of corporate compliance programs. Forced labor needs to be one of those pillars as well.”