



Hearing on

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

Tuesday, April 18, 2023 – 10:00 AM

Opening Statement

James P. McGovern

Commissioner, Congressional-Executive Commission on China

Thank you, Mr. Chairman, for scheduling this hearing. I look forward to the testimony of our witnesses on the implementation of the Uyghur Forced Labor Prevention Act, its impact on global supply chains, and how we might improve its implementation.

On a personal note, as the author of the House legislation on the UFLPA, I want to thank my partner on this legislation, Senator and fellow Ranking Member Rubio, my good friend and colleague, Senator Merkley, for his leadership on the UFLPA, and for Chairman Smith in organizing this hearing. This group demonstrates the strong bipartisan support this issue has received in both the House and the Senate.

Since the UFLPA was signed into law, we've seen significant efforts by Customs and Border Protection – the CBP – and the multi-agency Forced Labor Enforcement Task Force – the FLETF – to implement the UFLPA. As the lead enforcement agency, CBP has been a strong ally in its implementation.

The law itself recognizes that implementation is multisectoral.

It requires engagement, cooperation, and action by CBP – but also by the private sector, including importers, and by NGOs, which have research and monitoring capabilities.

Last week the CECC Chair, Co-Chair, and Ranking Members – namely Congressman Smith, Senator Merkley, Senator Rubio, and I – wrote to DHS Under Secretary Robert Silvers who chairs the Forced Labor Enforcement Task Force to request more information on certain key aspects of the law's implementation to date.

Due to the timing of today's hearing, neither CBP nor DHS were able to appear and provide their views and insights on implementing the UFLPA. I look forward to a future hearing where we can hear about their experience and suggestions for how to pursue comprehensive enforcement.

The UFLPA was a targeted response to a specific, very serious human rights problem: the widely documented, intentional use of forced labor in the Xinjiang Uyghur Autonomous Region of China.

The use of forced labor is one of a set of interrelated policies implemented by the People's Republic of China against Uyghurs and other largely Muslim Turkic peoples in the region that, taken together, likely meet the legal definition of crimes against humanity and genocide.

In the law, by forced labor, we mean "All work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself (or herself) voluntarily." A definition first applied in tariff law in the 1930s.

But Section 3 of the UFLPA, which establishes a presumption that the import prohibition applies to **all** goods mined, produced, or manufactured in the Xinjiang Uyghur Autonomous Region, represents a **new**, even revolutionary, approach to protecting human rights.

Basically, instead of presuming that the norm is that human rights violations are not committed, the UFLPA presumes the opposite, that the standard practice is that rights violations are committed.

This presumption is grounded in research that found that –

(1) the use of forced labor is pervasive in the Xinjiang region, and

(2) because there is a lack of transparency and independent investigations and audits, it is impossible to distinguish between industry and manufacturing that involves forced labor and that which does not.

The law establishes an appeals process that allows a company to make the case that its goods are not produced with forced labor. To do so, the company must provide "clear and convincing evidence" that they are not.

There are several issues that merit attention as we review the implementation of the UFLPA, which my colleagues have noted in their opening remarks, so I won't repeat them here.

As implementation of the UFLPA advances, there will be lessons learned that may lead Congress to tweak the UFLPA or related law.

But it is worth repeating that the prohibition on importing goods made with forced labor is long-standing – what the UFLPA provides is a new approach and new tools for enforcement.

So, the interest in improving enforcement is here to stay.

It's also important to remember that while the operational aspects of the UFLPA are clearly focused on the Xinjiang Uyghur Autonomous Region, the statement of policy in the law is broader – namely, ***“to lead the international community in ending forced labor practices wherever such practices occur through all means available to the United States government.”***

American consumers should not have to wear clothing, or eat food, or use devices made by forced labor, wherever it occurs.

American companies should not profit off forced labor.

In brief, Mr. Chairman, I believe the vigorous, successful implementation of the UFLPA can establish not just a model, but a roadmap, on how to address forced labor everywhere.