

Hearing of the Congressional Executive Commission on China (CECC)

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

April 18, 2023

Testimony of Professor Laura T. Murphy
Sheffield Hallam University
Helena Kennedy Centre for International Justice

Thank you Chairman Smith and Co-Chairman Merkley for convening this meeting and to all of the Congresspeople who are attending today and to all who have supported the rights and freedom of Uyghur people. My name is Laura Murphy, and I am Professor of Human Rights and Contemporary Slavery at Sheffield Hallam University in the UK. I have studied forced labor globally for nearly 20 years, and my work for the last three years has focused exclusively on the Uyghur Region of China.

Successes

The Uyghur Forced Labor Prevention Act is landmark legislation. Researchers who study the perilous situation of people enslaved around the world have known that the level of supply chain scrutiny and corporate accountability required by the UFLPA is necessary if we want to ensure that the people who work to produce our goods are not being enslaved or trafficked. It is painful to realize that it took a genocide for us to understand just how dire the consequences of our ignorance could be. There is no silver lining to the oppression of the Uyghurs and other minoritized people in the Uyghur Region, but it is commendable that the U.S. has been the first to create the legislation necessary to level real economic costs on the PRC government's state-sponsored forced labor program and on the corporations that directly benefit from those forced to work.

It is critical to note that while we still have a long way to go before we intercept all products made in whole or in part in the Uyghur Region, the UFLPA is indeed working as it was intended. In the short nine months that the UFLPA has been in effect, we have seen a swift and decisive enforcement response. Customs and Border Protection has indicated that it has refused at least 424 shipments entry into the United States after investigating their links to Uyghur forced labor. Those products span a broad spectrum including electronics, solar panels, apparel, and building materials. Congress has allocated significant resources – though more will still be needed – to enable CBP to conduct the in-depth supply chain investigations required to understand where our products are made, down to the raw materials. This work has protected consumers from unwittingly buying products that we know to be made in the midst of a genocide, in the shadows of a massive internment camp system, by people who are visited day after day by government agents and prosecutors and prison bureau officials demanding that they leave their children and parents and land and culture and religion behind to work in the factories that make goods that end up on our shelves. Even though Uyghurs continue to be forced to work in China, we in the United States have some small comfort that we might not be financing their suffering and that every day U.S. corporations are reducing their complicity in these crimes against humanity.

Challenges of Enforcement: Corporate Compliance

Of course, enforcement of the UFLPA is not an easy task. What our research at Sheffield Hallam University has found is that since the UFLPA went into effect, companies have not all responded with enthusiasm. Many U.S. (and multinational corporations selling in the US market) lobbied to prevent the law from being passed, and then fought to limit how it would be enforced, and now are complaining that the investigations are not convenient for them. Companies that are not making products involving the UFLPA “priority sectors” still have their heads in the sand, hoping that their products will not be scrutinized. Many are shifting the burden of due diligence onto their suppliers, rejecting the responsibility and the costs of knowing the conditions of workers in their supply chains. They throw their hands up in the air as auditors are jailed, their offices ransacked, and say they cannot do anything to address forced labor in the Uyghur Region because that could put the lives of their China-based staff at risk. They care about their own directly employed personnel and yet do not worry about the Uyghur workers at the end of their supply chains. Those that have done the right thing by terminating their relationships with suppliers implicated in the Uyghur forced labor have refused to be transparent about it, out of fear of retaliation in China. And many still refuse to admit what is becoming increasingly clear – that there is no feasible way to verify labor standards compliance in the Uyghur Region or of Uyghurs working outside the region. This all shows that ***companies across sectors must be compelled through vigorous enforcement to comply with the UFLPA.***

Some international companies and governments are claiming the UFLPA is merely about a trade war between the US and China, trying to justify their indifference toward profiting from a genocide. ***It is crucial that US government encourage our allies to align their laws to prohibit the import of forced labor made goods, but we should not link the UFLPA to trade and economic competition issues – we must make it clear that this is a human rights issue, not a strategic one. If we don't, the US is likely to remain the only country with a ban on Uyghur forced labor imports.***

Enforcement Challenge: Obscuring Supply Chains

In China, we are seeing companies pretend to sell their Uyghur Region factories, only to transfer them to executives within their own leadership team or family. They change the names of their subsidiaries to obscure the names that have been revealed by the media to be involved in Uyghur oppression. They are shipping their products first to third countries, where they know that convoluted supply chains mask their complicity. They are bifurcating their supply chains so that they can continue to sell goods in the US market while still selling Uyghur-forced-labor-tainted goods elsewhere in the world, sometimes even continuing to manufacture directly in the Uyghur Region and even continue using people “transferred” by the state for work. Some of those companies are benefiting from the Inflation Reduction Act (IRA) incentives, while continuing to operate in the Uyghur Region. ***The US should prohibit companies from using US government incentives to expand their manufacturing in the United States while they continue to profit from Uyghur forced labor in China.***

Enhancing Priority Sectors

We know that this affects a wide range of goods. The Xi Jinping government has published explicit directives indicating the manufacturing sectors they are investing in in the Uyghur Region. These include items that are critical to our supply chains and to meeting our climate goals, including renewable energy related products, critical minerals, steel and aluminum, PVC, agricultural products. ***The U.S. urgently needs to add these products to its priority list of goods produced in the Uyghur Region*** to ensure that we are stopping these goods from coming into our markets and to

alert the business community to the enormous risk of sourcing forced labor made goods if they do not commit to more diligent supply chain tracing.

Enhancing the Entity Lists

Our research team has identified 55,000 companies, large and small, operating in the Uyghur Region. We have published in-depth investigations that have documented at least 150 specific companies in the Uyghur Region and elsewhere in China for which there is significant evidence of participation in state-sponsored labor transfer programs that are tantamount to forced labor. These companies are hiding in plain sight. Some of them are massive state-owned corporate conglomerates that served as the architects of the repressive programs that oppress minoritized people in the Uyghur Region; others produce the lion's share of commodities essential to manufacturing worldwide. These companies sell their goods into international markets.

The UFLPA requires FLETF to create a "comprehensive" description of the situation of forced labor in the Uyghur Region and list the companies that are engaged in those programs. And yet the entity lists include only four of the companies we have identified as offenders – and zero new ones have been added since the UFLPA was passed.

The first version of these lists did nothing more than reiterate the 20 companies that had already been named in previous withhold release orders. It is hard to comprehend why still not even a single addition has been made to these lists, especially in light of the evidence provided by civil society organizations to FLETF that warrants the addition of potentially thousands more entities.

Undersecretary of Homeland Security Robert Silvers recently committed to expanding the entity list. ***The US government needs to prioritize making the UFLPA entity lists as comprehensive as possible, per the mandate of the UFLPA.*** FLETF should begin with the state-owned companies that have openly done the bidding of the PRC government to force sometimes thousands of people to work for their companies. FLETF should then add to the lists those companies operating in the shadows in the mining and processing tiers of our supply chains that are least visible to companies. ***Congress should make clear to FLETF that it must presume that all state-sponsored labor transfers in the Uyghur Region constitute forced labor and thus add any company engaged in those coerced transfers of laborers onto the lists.*** These iterative and constantly expanding lists will assist importers in ensuring that they know which suppliers to exclude from their sourcing.

Conclusion

The UFLPA provides us with a robust set of tools for weeding out the fruits of forced labor from the products that reach our markets. The rebuttable presumption is one important tool, but the priorities list and the entity lists are also critically important tools that consumers, advocates, industry, and enforcement all benefit from. We should put those tools to their most robust use. We cannot be hesitant about doing every single thing we can, using every single tool at our disposal, to address the genocide in the Uyghur Region. I'm pleased that we're having this hearing to review all that the UFLPA has accomplished and to consider what more we can do to lead the world in addressing what is likely the worst human rights crisis we'll see in our lifetimes. I believe that we should not rest until we know we've done every single thing we possibly can to end the Uyghur genocide and to end corporate complicity in it.