

U.S. Releases Strategy for Enforcement of the Uyghur Forced Labor Prevention Act

June 21, 2022

On June 17, 2022, the Forced Labor Enforcement Task Force (FLETF) released its enforcement strategy for the Uyghur Forced Labor Prevention Act (UFLPA), which goes into effect today, June 21, 2022. The strategy provides guidance to importers on how to conduct the due diligence required to ensure that their goods are not made in whole or in part with forced labor in the People's Republic of China, as the importation of such goods is unlawful. The strategy also provides lists of:

- known users of forced labor in China's Xinjiang Uyghur Autonomous Region (XUAR);
- companies (whether or not located in the XUAR) that are known to support the use of, or use, forcibly transferred workers from the XUAR;
- companies that export goods produced in whole or in part by the first two sets of companies.

Passed in December 2021, the UFLPA amends 19 U.S.C. § 1307, a federal statute prohibiting the importation of goods made in whole or in part with forced labor. Prior to the UFLPA, U.S. Customs and Border Protection (CBP) enforced this law by issuing Withhold Release Orders (WROs) requiring the detention of imported goods, upon receiving information reasonably indicating that those goods were made with forced labor. Pre-UFLPA, several dozen active WROs affected products made by specific Chinese companies, as well as certain broad classes of goods (cotton/apparel, tomatoes) made in the XUAR or with XUAR materials. The UFLPA implements a rebuttable presumption that forced labor (and therefore the import prohibition) affects all goods made in the XUAR or with XUAR materials, or in

Authors

Timothy C. Brightbill
Partner
202.719.3138
tbrightbill@wiley.law
Hon. Nazak Nikakhtar
Partner
202.719.3380
nnikakhtar@wiley.law
Maureen E. Thorson
Partner
202.719.7272
mthorson@wiley.law

Practice Areas

Customs Law and Compliance
International Trade
National Security
Supply Chain and Transactional Support

whole or in part by entities that enable the use of forced labor. This presumption can only be rebutted by “clear and convincing evidence.”

The newly released FLETF strategy complements operational guidance released on June 13, 2022 by CBP. Like CBP’s guidance, the FLETF strategy stresses the importance of importers’ mapping their supply chains from the raw materials through final production, as well as implementing due diligence/supplier verification programs to ensure that no forced labor is used in producing imported goods.

One potentially surprising aspect of the new FLETF strategy is the seeming narrowness of the lists of XUAR/Chinese entities using/supporting the use of forced labor. The lists include, as expected, a number of Chinese companies subject to pre-existing WROs. They also include certain Chinese companies that are on the Department of Commerce’s Entity List due to their use of forced labor. However, the lists do not identify any companies not previously named in WROs. The lists do not include every company previously placed on the Entity List due to their involvement with forced labor in China. The lists also do not include any Chinese solar cell or solar module producers, even though several are known to have used polysilicon from the XUAR.

Wiley’s Supply Chain and Customs practice groups have extensive experience in helping clients navigate emergent and existing import enforcement regimes. For more information about the UFLPA and its implementation, please contact one of the attorneys listed in this alert.

To register for our webinar on the June 21 UFLPA guidance, **[click here](#)**.