

**Commercial Customs Operations Advisory Committee
Government Issue Paper
Intelligent Enforcement Subcommittee
Forced Labor Working Group**

September 2023



**U.S. Customs and
Border Protection**

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**Office of Trade / Trade Remedy Law Enforcement Directorate
Intelligent Enforcement Subcommittee
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Action Required: Informational

Background:

- Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307) prohibits importing any good, ware, or article that was mined, produced, or manufactured wholly or in part by forced labor, including forced or indentured child labor. U.S. Customs and Border Protection (CBP) enforces the prohibition.
- In 2015, Congress removed the “consumptive demand” clause from 19 U.S.C. § 1307 through the Trade Facilitation and Trade Enforcement Act of 2015 (P.L. 114-125). Since then, and amid ongoing interest in worker rights in trade policy and anti-trafficking, CBP’s use of Section 307 has gained greater visibility.
- On December 23, 2021, the President signed the Uyghur Forced Labor Prevention Act (UFLPA) into law.
- The UFLPA requires CBP to apply a rebuttable presumption that all goods produced wholly or in part in China’s Xinjiang Uyghur Autonomous Region (XUAR) – or by entities on the Entity List in the *Strategy to Prevent Importation of Goods Mined, Produced or Manufactured with Forced Labor in the People’s Republic of China* (Strategy) – are produced by forced labor and prohibited from entry to the United States under 19 U.S.C. § 1307. The presumption applies to goods imported on or after June 21, 2022.
- CBP may grant an exception to the presumption if the agency determines the importer complied with the importer guidance in the Strategy, responded to all CBP requests for information, and by clear and convincing evidence, demonstrates that the goods were not produced wholly or in part by forced labor.
- Within 30 days of granting an exception, CBP must report to Congress and make public the information on the goods and the evidence considered.
- The U.S. Department of Homeland Security (DHS) chairs the Forced Labor Enforcement Task Force (FLETF) and maintains oversight over the UFLPA provisions specific to DHS, its component agencies, and the FLETF. CBP worked with DHS to implement the UFLPA.
- On June 17, 2022, as part of the Strategy, the FLETF published guidance for importers. CBP also published operational guidance for importers on [cbp.gov](https://www.cbp.gov) regarding the rebuttable presumption.
 - This guidance complements the importer guidance published by the FLETF in the Strategy.
 - Importers requesting an exception and submitting information to rebut the presumption must comply with the importer guidance in the Strategy.
- CBP’s meticulous planning, including analysis of U.S. imports impacted by UFLPA, letters to importers advising them of risk, and educational events for both trade stakeholders and CBP employees helped ensure the smooth implementation of the rebuttable presumption.
- CBP continues to employ a dynamic, risk-based approach to enforcement that prioritizes action against the highest-risk goods based on current data and intelligence to prevent prohibited goods from entering the United States.

Key CBP Activities:

- Fiscal Year 2023 to date (as of July 1, 2023), CBP stopped 3,469 shipments of goods, valued at over \$1.18 billion, suspected to have been made wholly or in part with forced labor.
 - Of the shipments stopped, 3,121 shipments valued at over \$1.16 billion were subject to UFLPA reviews or enforcement actions. CBP has denied entry of 658 shipments valued at approximately \$45 million under UFLPA.
- CBP continues to work with the COAC Forced Labor Working Group (FLWG) to address its questions and incorporate them into frequently asked questions. Additionally, CBP will work with the FLWG to provide feedback on updated information for importers on CBP websites. Finally, CBP will look to the FLWG for industry feedback regarding the current state of technologies, such as those presented at the Forced Labor Technical Expo, to enhance identification of forced labor risks in supply chains.
- On June 12, 2023 and August 2, 2023, the FLETF added four new entities to the Entity List:
 - Xinjiang Zhongtai Chemical Co. Ltd.;
 - Ninestar Corporation and its eight Zhuhai-based subsidiaries, which include Zhuhai Ninestar Information Technology Co. Ltd., Zhuhai Pantum Electronics Co. Ltd., Zhuhai Apex Microelectronics Co., Ltd., Geehy Semiconductor Co., Ltd., Zhuhai Pu-Tech Industrial Co., Ltd., Zhuhai G&G Digital Technology Co., Ltd., Zhuhai Seine Printing Technology Co., Ltd., and Zhuhai Ninestar Management Co., Ltd.
 - Camel Group Co.; and
 - ChenGuang Biotech Group Co., Ltd. and its subsidiary, Chenguang Biotechnology Group Yanqi Co. Ltd.
- As of August 3, 2023, importers can no longer move forced labor detained goods into foreign trade zones (FTZ) for storage pending resolution of detention by the importer or CBP.
 - Forced labor **detained** goods can be stored in bonded warehouses.
 - Importers may submit requests to transfer goods to bonded warehouses to the respective Port Director for review and approval. The Port Director will approve/deny requests based on the circumstances at his/her Port of Entry.
 - Goods currently in FTZ may remain in the FTZ but a withdrawal must be made, and a detention must be issued on the FTZ withdrawal before the Centers of Excellence and Expertise can conduct applicability reviews.
- An automated detention notice enhancement to the Automated Commercial Environment (ACE) is underway. This new process will impact all detentions, not just those related to forced labor and the UFLPA. The process will allow CBP to issue detention notices electronically in a shorter time than using the postal service. This will also provide CBP and importers better visibility on due dates for documentation submission for detention notices.
- CBP looks forward to continued dialogue with the COAC regarding its recommendations and efforts to increase the effectiveness of CBP's forced labor enforcement mandate.

Current Status:

- CBP and the COAC finalized the Statement of Work (SOW) for the FLWG.
- In accordance with the SOW, CBP has implemented changes for COAC FLWG to increase transparency and improve information sharing and tools to address the trade community's questions related to the UFLPA and WROs.

- The COAC is planning to make forced labor recommendations at the September COAC public meeting.

Next Steps:

- The FLWG will continue work under the current SOW with an extended date.

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