

Office of Trade

Best Practices for Applicability Reviews: Importer Responsibilities



U.S. Customs and
Border Protection

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Importers have a responsibility to proactively monitor their supply chains to mitigate the risk of forced labor. CBP encourages companies to be aware of forced labor allegations specific to their industry and to monitor their supplier relationships and the labor conditions in their supply chains, including using independent third-party audits, risk assessments, and supply chain transparency tools, among other due diligence actions. Guidance on these topics, as well as additional relevant information, is available on the CBP website at <https://www.cbp.gov/trade/forced-labor>.

The Uyghur Forced Labor Prevention Act's (UFLPA) rebuttable presumption applies to goods or merchandise mined, manufactured, or produced, in whole or in part, in the Xinjiang Uyghur Autonomous Region (XUAR), or to goods or merchandise involving an UFLPA Entity List entity. If an importer wishes to contend that the rebuttable presumption does not apply to its importation—i.e., that its imported goods were not mined, produced, or manufactured wholly or in part in the XUAR or by an entity on the UFLPA Entity List—the importer may request an applicability review. This document offers best practices for importers requesting an applicability review based on CBP's experience to date.

Importers asserting that the UFLPA's rebuttable presumption does not apply to a detained shipment should refer to Section IV, B & D (pages 14 through 15) of [CBP's UFLPA Operational Guidance for Importers](#). Section IV provides information on the types of documentation typically required to demonstrate that the imported goods and their inputs are sourced completely from outside the XUAR, are not commingled with inputs from the XUAR during the production process, and are not connected to any entity on the UFLPA Entity List.

CBP understands that compliance specialists are accustomed to clear requirements for documentation; however, supply chains vary dramatically between countries, industries, companies, and sometimes even within the same company. Specific documents that may exist for one step in a supply chain may not be available for others, so CBP has sought to avoid prescriptive requirements for the types of documentation and information it will accept. This affords importers the flexibility to provide a variation of documents that demonstrate the transactions in a supply chain. Generally, to demonstrate that the UFLPA does not apply to a shipment identified for examination under the law, importers will need to provide documentation produced in the ordinary course of business that details the order, purchase, manufacture, and transportation of inputs throughout their supply chain.

Examples include:

- **Documents Demonstrating the Parties Participating in the Transaction:** records illustrating all parties involved in the sourcing, manufacture, manipulation, transportation, and/or export of a particular good (e.g., summarize the roles of parties involved as substantiated by other supporting documents, flow chart of supply chain).
- **Documentation Relating to the Payment and Transportation of Raw Materials:** documents demonstrating the origin of the raw materials and records showing that business transactions related to the payment and transport of inputs (e.g., invoices, contracts, and purchase orders) have occurred. This includes financial documents substantiating the transaction (e.g., proof of payments) and documents demonstrating that the goods were physically transferred from one entity to another.
- **Transaction and Supply Chain Records:** full records of transactions and supply chain documentation that demonstrate the country of origin of the imported good and of its components (e.g., packing list, bill of lading, manifest).

This is not intended to serve as an exhaustive list of documentation required to sufficiently demonstrate that goods are not subject to the UFLPA, but it generally represents documents that facilitate CBP's review and should be included in importer submissions. CBP considers the totality of information provided by an importer in assessing the admissibility of merchandise.

Examples of properly prepared applicability review packages include the following:

- A solar panel importer files an applicability review for a specific shipment and provides all transactional, financial, and transportation documents, including packing lists, bills of lading, country-of-origin certifications, invoices, purchase orders, contracts, production records, inventory of inputs/outputs, proofs of payment, and transportation records. It does so for all stages of the solar-panel manufacturing process from solar panel modules and solar cells to wafers, ingots, polysilicon, silicon, and quartzite. Based on the information provided, CBP conducts an applicability review and determines whether the supply chain includes any inputs from the XUAR or an entity on the UFLPA Entity List. If CBP determines this shipment is not subject to the UFLPA and is compliant with other applicable laws, the shipment is released into U.S. commerce.
- An apparel importer files an applicability review for a specific shipment and provides all transactional, financial, and transportation documents (i.e., the same types of documents as in the solar panel example) for all stages of the garment manufacturing process, including the cotton, spinning, yarn, fabric materials, and finished garment. The supporting documents demonstrate the countries of origin of the raw cotton, as well as where the purchase, manufacture, and transportation of the different inputs throughout the supply chain took place. As in the previous example, CBP conducts an applicability review and determines whether the supply chain includes any inputs from the XUAR or an entity on the UFLPA Entity List. If CBP determines this shipment is not subject to the UFLPA and is compliant with other applicable laws, the shipment is released into U.S. commerce.

Prior to importing merchandise, importers should:

- **Maintain Awareness** – Monitor federal interagency, civil society and academic reports, as well as public allegations, news, and other sources for signs that products or suppliers may be high risk. Check the native-language websites of suppliers for information on labor transfer schemes and XUAR business ties.
- **Assess Risk and Make Informed Decisions** – Identify manufacturers in regions and third world countries with a high risk of XUAR inputs. Assess business relationships and reduce vulnerabilities in supply chains. Communicate with suppliers and identify the risk their supply chains present. Trace the supply chain and assure the segregation of non-XUAR inputs to prevent commingling.
- **Prepare for Detention** – Ensure there is a clear plan for responding to a detention under the UFLPA. This includes confirming that suppliers are aware of the UFLPA and maintaining supply chain documentation for ready/immediate submission to CBP. Set expectations for the types of supply chain documentation required and consider plans to enable suppliers to protect trade secrets. Suppliers may be hesitant to share business documentation that may reveal sensitive information but may be willing to provide that documentation directly to CBP.
- **Maintain Consistent Supply Chains and Communicate Early** – Communicate with the appropriate CBP Center of Excellence and Expertise (“Centers”) regarding a high-risk import before it arrives at a U.S. port of entry. Early and clear communication, combined with a thorough package of documentation presented in advance of arrival, will facilitate CBP’s review and may result in a quicker cargo release. Importers should notify the appropriate Center when the supply chain for a particular import is identical to one previously reviewed by CBP; under these circumstances, importers may provide CBP a summary tracing report, as described below, to facilitate faster review.

Upon receipt of a detention notice, importers should:

- Connect with the CBP point of contact included in the detention notice as soon as possible with any questions related to the detention and next steps. CBP works closely with importers to obtain relevant information and resolve questions and deficiencies.
- The importer is allowed 30 days to address the detention by either exporting the goods or providing documentation to contest the detention. If additional time beyond this 30-day period is needed to provide requested documents, an importer may request an extension from the Port Director or the Director of the applicable Center. To request an extension, importers should email the point of contact identified on the detention notice prior to the expiration of the initial 30-day detention period.
- Customs Trade Partnership Against Terrorism (CTPAT) Trade Compliance partners will have their admissibility packages prioritized for review by the appropriate Center. The importer must assert that they are an active.
- member of the CTPAT Trade Compliance program and request prioritized review at the time the importer submits supporting documentation for the applicability review.

When preparing a documentation package for submission to CBP, importers should:

- Ensure the documentation submitted is clear, complete, and accurate. Provide English translations for every document. Note that CBP is not able to review documentation piecemeal – the documents must be provided as a package because the overall context matters. Once the document package is complete, CBP will review the documentation and render an admissibility determination as quickly as possible.
- Notify CBP when the supply chain for a particular import is identical to a previously reviewed supply chain for which the goods were found admissible. In these circumstances, importers can significantly accelerate the applicability review process by providing a summary tracing report to the appropriate Center. A summary tracing report should include the suppliers/producers for all production stages and a business record—such as an invoice number, contract number, or purchase order number—involved in the production of the merchandise being imported. This information enables CBP to quickly verify that the new shipment is from the same supply chain.
- Consider how to ensure that the documentation is easy for CBP to read and understand. Keep in mind that importers and suppliers have more expertise concerning their specific supply chains, so clear explanations to CBP are helpful.
 - Some importers and suppliers have used executive summaries to provide essential context. Such a summary might list each stage, each supplier, and the associated documentation, explaining the role of each supplier and what the specific documentation is intended to indicate.
 - Explanatory annotations may also be attached to documents within a package.
- If the supply chain or supporting documentation is particularly complex, request to meet with the assigned Center team conducting the applicability review and walk through the document submission with the Center team. Importers can reach out to the point of contact identified in the detention notice to request a meeting.
- When additional information is requested by CBP, provide the requested information as soon as possible so that the review can continue without significant delay.

Please note: As an importer gains experience with submitting applicability packages and CBP becomes familiarized with consistent supply chains, the processing time for the importer’s applicability reviews generally will decrease.

