

 BRIEF

Implications of the Uyghur Forced Labor Prevention Act

ZEROFOX INTELLIGENCE

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Scope Note

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Implications of the Uyghur Forced Labor Prevention Act

Executive Summary

The Uyghur Forced Labor Prevention Act (UFLPA) goes into effect in the United States on June 21, 2022. The federal law bans goods originating from the Xinjiang Uyghur Autonomous Region (Xinjiang) of China with the aim of ensuring no private or public American enterprises fund forced labor. Activist groups and Western leaders allege China is behind a campaign of repression in Xinjiang, targeting Uyghurs and members of other Muslim minority groups in the region by forcing them into religious indoctrination camps and to work under abusive and harsh labor conditions. While UFLPA only applies to the Xinjiang Region, enforcing it will be difficult. China goes to great lengths to disguise the provenance of its products, and finished products are often made in different regions or countries, which obfuscates their origin. If the United States takes a firm stance on enforcing UFLPA, it could cause supply chain and reputational risks for countless businesses and the wider global economy. China's USD 500 billion in annual exports to the United States is at risk if regulators determine Uyghur forced labor is used across the global production line.¹ A reciprocal response from China could start a wider trade war with the West, which will face pressure to adopt U.S. positions. This will likely result in ongoing inflation and supply chain problems, which were initially caused by COVID-19 and then worsened by Russia's war in Ukraine.

Details

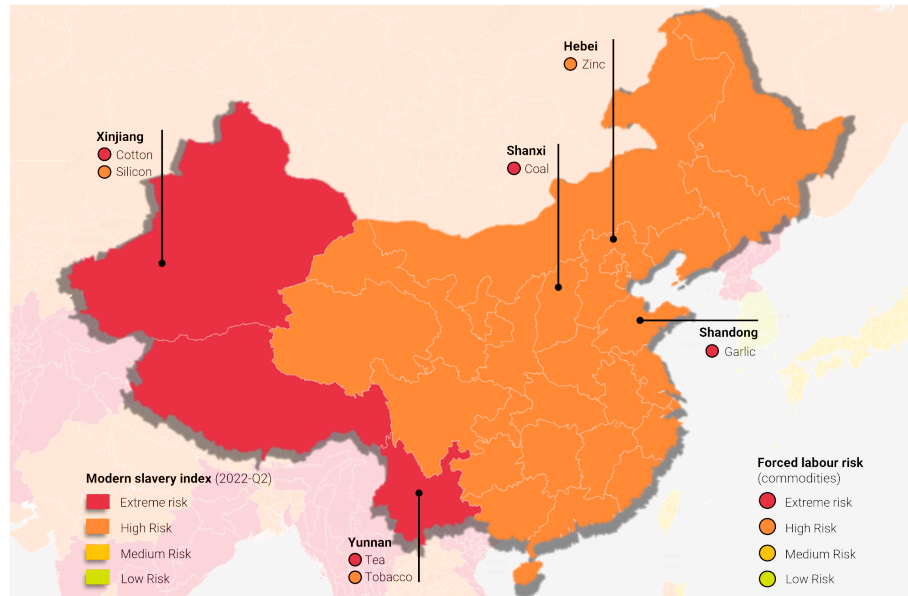
Allegations of repression by the Chinese state in the Muslim minority region that accounts for a quarter of China's landmass—but only 2 percent of the population—have been longstanding. In the years before UFLPA, activist and human rights groups led awareness campaigns alleging human rights violations that included detentions, forced labor, oppressive surveillance, religious persecution, and political

¹ [hXXps://www\[.\]census\[.\]gov/foreign-trade/balance/c5700.html](https://www.census.gov/foreign-trade/balance/c5700.html)



indoctrination.² Since then, the UFLPA has determined that all goods made in Xinjiang are produced with forced labor.³ Sectors considered at high risk are cotton, tomato, and polysilicon. Imports from these sectors, even if the country of origin is not China, are expected to be the most scrutinized. However, since there is a presumption of forced labor in all of Xinjiang, any sectors operating in Xinjiang will in theory be investigated. This could implicate building manufacturers the most. China has a robust global infrastructure network known as the Belt and Road Initiative (BRI).⁴ Recent activist investigations have indicated Uyghur forced labor is being used in the building of things like flooring and pipes, which China exports on a large scale.⁵

UFLPA will not, however, investigate allegations that Uyghur forced labor was utilized to make a product outside of Xinjiang. Hypothetically, the manufacturers of a cotton t-shirt made outside of China will be forced to prove Xinjiang cotton was not used, while a manufacturing plant in Shanghai, which potentially has Uyghur employees, will not be investigated.



Source:

[hXXps://www.maplecroft\[.\]com/insights/analysis/everything-you-need-to-know-about-the-uyghur-forced-labour-prevention-act-uflpa/](https://www.maplecroft.com/insights/analysis/everything-you-need-to-know-about-the-uyghur-forced-labour-prevention-act-uflpa/)

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[hXXps://www.state\[.\]gov/wp-content/uploads/2020/07/Xinjiang-Supply-Chain-Business-Advisory_FINAL_For-508-508.pdf](https://www.state.gov/wp-content/uploads/2020/07/Xinjiang-Supply-Chain-Business-Advisory_FINAL_For-508-508.pdf)

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[hXXps://www.maplecroft\[.\]com/insights/analysis/everything-you-need-to-know-about-the-uyghur-forced-labour-prevention-act-uflpa/](https://www.maplecroft.com/insights/analysis/everything-you-need-to-know-about-the-uyghur-forced-labour-prevention-act-uflpa/)

⁴ [hXXps://theintercept\[.\]com/2022/06/14/china-uyghur-forced-labor-pvc-home-depot/](https://theintercept.com/2022/06/14/china-uyghur-forced-labor-pvc-home-depot/)

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[hXXps://www.bloomberg\[.\]com/news/articles/2022-06-15/china-s-xinjiang-uses-forced-labor-in-materials-report-says](https://www.bloomberg.com/news/articles/2022-06-15/china-s-xinjiang-uses-forced-labor-in-materials-report-says)



If a product is deemed to have been made using forced labor, it will be rejected at the U.S. port of entry. Companies responsible for the imports could be barred from trading with the United States until they have proven their supply lines contain no forced labor. In December 2021, the United States announced it was blocking imports of palm oil from one of the world's largest producers, Malaysia's FGV holdings. The imports were held at U.S. ports of entry after U.S. authorities determined the products were made using forced labor. The company was also sanctioned, fined, and suspended from the U.S. market. This occurred despite there being an international palm oil deficit that was driving up prices worldwide and contributing to global food price inflation.⁶

Retaliation

On September 14, 2020, President Donald Trump's administration moved to block U.S. imports of cotton, apparel, and other products from five entities in western Xinjiang due to allegations of forced labor. Measures included withholding goods from certain producers, most notably ones like Xinjiang Junggar Cotton and Linen Co., Ltd. However, proposed broad bans on all cotton and tomato products were shelved, with the administration opting to conduct more legal analysis of the region-wide import bans.⁷

China did not let the allegations stand and responded with its own trade restrictions or activist campaigns. This caught many Western companies and U.S. allies by surprise, which were accustomed to assuaging activist concerns with public comments without fear of losing access to the Chinese market. Even if the ban has only superficial impacts, China is still likely to respond and demand acquiescence from companies operating in China, which could escalate the economic impacts.

Swedish retail company H&M, for example, issued a statement expressing anodyne support for the Uyghur population and then had its stores banned from Chinese e-commerce sites, costing the company millions.⁸ Its market share was quickly absorbed by Chinese companies. Following other criticism directed at China from Swedish politicians, Swedish cyberattacks originating from China reportedly went up

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[hXXps://www.state\[.\]gov/wp-content/uploads/2020/07/Xinjiang-Supply-Chain-Business-Advisory_FINAL_For-508-508.pdf](https://www.state.gov/wp-content/uploads/2020/07/Xinjiang-Supply-Chain-Business-Advisory_FINAL_For-508-508.pdf)

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[hXXps://www.dhs\[.\]gov/news/2020/09/14/dhs-cracks-down-goods-produced-china-s-state-sponsored-forced-labor](https://www.dhs.gov/news/2020/09/14/dhs-cracks-down-goods-produced-china-s-state-sponsored-forced-labor)

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[hXXps://www.voanews\[.\]com/a/east-asia-pacific_voa-news-china_hm-vows-regain-customers-after-backlash-over-uyghur-comments/6204186.html](https://www.voanews[.]com/a/east-asia-pacific_voa-news-china_hm-vows-regain-customers-after-backlash-over-uyghur-comments/6204186.html)



17 and 9 percent in 2019 and 2020, respectively.⁹ Chinese threat actors could seek to retaliate against U.S. criticism of supposed Uyghur forced labor with cyberattacks targeting U.S. private enterprises.

When Australia expressed its support for an investigation into the origins of COVID-19 in 2020, China placed prohibitive tariffs on countless Australian exports. Since then, Australian wine, lobster, dairy, lamb, and barley sales to China have plummeted.¹⁰ The only trade that remains are for commodities China cannot yet source elsewhere, like iron ore and coal. This demonstrates China is open to ending its business relationships or cutting off trade with some of its trade partners over geopolitical issues in a way it may not have done prior to becoming such a powerful economy.

Analyst Commentary

Despite the implementation date rapidly approaching, importers are unclear as to how strictly UFLPA will be enforced. If it is enforced on a level that severely impacts China's trade to the United States, it will likely initiate a trade war—not just between the United States and China, but also between U.S. allies on one side and Chinese allies on the other. Therefore, determining the extent of which goods will be barred entry into the United States is important.

According to the bill, any “goods manufactured or produced in Xinjiang shall not be entitled to entry into the US unless Customs and Border Protection (1) determines that the goods were not manufactured by convict labor, forced labor, or indentured labor under penal sanctions; and (2) reports such a determination to Congress and to the public.”¹¹ This leaves open the possibility that enforcers will take a limited approach to restricting trade with China, which is beneficial for the wider global economy. However, it also allows for scrutiny of any products from high-risk sectors.

If enforcers only focus on Uyghur forced labor within Xinjiang, the likelihood of economic impact is small. Most companies have already ended operations in the region or reoriented their supply lines away from Xinjiang after the United States began issuing its forced labor trade bans in 2020. Xinjiang is known for cotton- and tomato-based products, and earlier efforts to crack down on alleged forced labor focused on those commodities. While these bans did elicit responses from China and likely contributed to other economic barriers between the two countries, they did not greatly impact supply chains or disrupt the global economy.

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[hXXps://www.truesec\[.\]com/wp-content/uploads/2020/06/Truesec-Swedish-Cyber-Threat-Landscape.pdf](https://www.truesec.com/wp-content/uploads/2020/06/Truesec-Swedish-Cyber-Threat-Landscape.pdf)

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[hXXps://www.theguardian\[.\]com/australia-news/2022/jun/14/australia-demands-end-to-unjustified-trade-strikes-after-china-ends-diplomatic-freeze](https://www.theguardian.com/australia-news/2022/jun/14/australia-demands-end-to-unjustified-trade-strikes-after-china-ends-diplomatic-freeze)

¹¹ [hXXps://www.congress\[.\]gov/bill/116th-congress/house-bill/6210](https://www.congress.gov/bill/116th-congress/house-bill/6210)



For now, UFLPA will not cast a wide net to include products made outside of Xinjiang but with Uyghur labor. However, if geopolitical tensions increase—and U.S. enforcers begin inspecting imports from across China—the impacts could be more widespread. Activist groups are encouraging investigations into Uyghur forced labor outside of just the Xinjiang region, and there are some U.S. politicians open to the requests.

On October 1, 2020, the United States designated China as a global hotspot in its biennial report on goods believed to be produced by child or forced labor. The list included 17 Chinese-made products that range from gloves to Christmas decorations. Xinjiang-produced cotton and textiles were on the list of 155 goods from 77 countries. According to the then-U.S. Labor Secretary Eugene Scalia, China “by a wide margin has more goods made with forced labor than any other country.”¹² ¹³ This report indicates a higher level of scrutiny on Chinese-produced goods in general by the U.S. federal government.

Recent activist reports accuse the Chinese central government of transferring large numbers of Uyghur citizens from the far western region of Xinjiang to factories nationwide. These transferred Uyghurs, under conditions that suggest forced labor, are allegedly working in many factories that are in the supply chains of at least 82 well-known global brands.¹⁴ In its current form, UFLPA will not limit imports from these entities.

However, if the United States adopts a policy of inspecting a wider range of imports from across China, the implications for supply lines could be significant. China’s COVID-19 lockdowns in Shanghai, which is home to the world’s largest port and countless U.S. factories, have led to delays and shortages across global trade that are significant contributors to inflation. If U.S. enforcers determine, for example, that Shanghai factories or ports have Uyghur employees and thus begin rejecting those goods, the consequences for supply chains could be worse than the COVID-19 lockdowns have been. China would likely retaliate by refusing to buy Western products.

Other Western nations would then face pressure to join the United States, and China’s allies would likely side with it. This could create a dynamic similar to what happened after Russia invaded Ukraine, when countless Western companies ended operations in

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[hXXps://www.reuters\[.\]com/article/us-usa-china-forcedlabor/u-s-puts-china-at-top-of-forced-labor-list-idUSKBN26M3ZW](https://www.reuters.com/article/us-usa-china-forcedlabor/u-s-puts-china-at-top-of-forced-labor-list-idUSKBN26M3ZW)

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[hXXps://www.dol\[.\]gov/agencies/ilab/reports/child-labor/list-of-goods?items_per_page=10&combine=china](https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods?items_per_page=10&combine=china)

¹⁴ [hXXps://www.aspi.org\[.\]au/report/uyghurs-sale](https://www.aspi.org[.]au/report/uyghurs-sale)



Russia—mainly voluntarily—instead of incurring the reputational damage of continuing operations.

China and the United States have much more important economies than Russia, and therefore a similar Western-style embargo is unlikely. However, exploring the implications is worthwhile, as there may be few avenues from which to source any goods from China under such a scenario. Rail trade, for example, is increasingly popular between China and Europe and is done passing through Xinjiang.¹⁵ A worldwide trade war likely means that sort of trade would be off-limits as well.

Recommendations

In the short term, businesses with physical operations or sales in China should carefully examine whether it is worth maintaining them. Those that wish to maintain operations should consider the business ramifications if they do attempt to assuage activist campaigns and criticize official Chinese government policy. Recent developments impacting Western organizations doing business in Russia at the onset of the war in Ukraine were subject to significant media and public scrutiny.

If an entity decides to end operations in China, it must determine alternative supply chains. Southeast Asia has other manufacturing hubs that are growing in importance, including Thailand, Vietnam, and Indonesia. While not on the scale of China, they are producing similar products. The United States is attempting to bring those economies into its trade orbit in a practice called “friendshoring,” which would reduce U.S. dependence on China,¹⁶ and is also making efforts to bring manufacturing hubs from China to low-cost economies in Latin America. However, China has also grown into a consumer hub, and many of these economies depend on purchases from China to maintain their own factories.¹⁷ As a result, U.S. trade overtures to Pacific nations dependent on China’s purchases of textiles or electronics, as well as to Latin American producers of copper, lithium, or meat, have achieved little success. Economic agreements between China and Latin American countries in particular have increased, while the longstanding trade relationships with Asian nations have continued—despite heightened criticism of China. Organizations that do decide to end operations in China will likely experience the same fallout as occurred in Russia when business entities withdrew there, including significant intellectual property exposure and attempts at brand replacement.

¹⁵[hXXps://www.scmp.com/economy/global-economy/article/3140169/china-europe-rail-trade-undamaged-beijing-brussels-tensions](https://www.scmp.com/economy/global-economy/article/3140169/china-europe-rail-trade-undamaged-beijing-brussels-tensions)

¹⁶[hXXps://www.forbes.com/sites/vasukishastri/2022/05/24/bidens-indo-pacific-pact-what-does-friend-shoring-mean-for-asia/](https://www.forbes.com/sites/vasukishastri/2022/05/24/bidens-indo-pacific-pact-what-does-friend-shoring-mean-for-asia/)

¹⁷[hXXps://www.iadb.org/en/news/nearshoring-can-add-annual-78-bln-exports-latin-america-and-caribbean](https://www.iadb.org/en/news/nearshoring-can-add-annual-78-bln-exports-latin-america-and-caribbean)



Appendix: Traffic-Light Protocol for Information Dissemination

Red

WHEN SHOULD IT BE USED?

Sources may use TLP:

RED when information cannot be effectively acted upon by additional parties and could lead to impacts on a party's privacy, reputation, or operations if misused.

HOW MAY IT BE SHARED?

Recipients may not share TLP:

RED with any parties outside of the specific exchange, meeting, or conversation in which it is originally disclosed.

Amber

Sources may use TLP:

AMBER when information requires support to be effectively acted upon but carries risks to privacy, reputation, or operations if shared outside of the organizations involved.

Recipients may not share TLP:

AMBER information with members of their own organization and only as widely as necessary to act on that information.

Green

WHEN SHOULD IT BE USED?

Sources may use TLP:

GREEN when information is useful for the awareness of all participating organizations, as well as with peers within the broader community or sector.

HOW MAY IT BE SHARED?

Recipients may not share TLP:

GREEN information with peers & partner organizations within their sector or community but not via publicly accessible channels.

White

Sources may use TLP:

WHITE when information carries minimal or no risk of misuse in accordance with applicable rules and procedures for public release.

Recipients may not share TLP:

WHITE information may be distributed without restriction, subject to copyright controls.