

Title 3—

Executive Order 13902 of January 10, 2020

The President

Imposing Sanctions With Respect to Additional Sectors of Iran

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (IEEPA), the National Emergencies Act (50 U.S.C. 1601 *et seq.*) (NEA), section 212(f) of the Immigration and Nationality Act of 1952 (8 U.S.C. 1182(f)), and section 301 of title 3, United States Code,

I, DONALD J. TRUMP, President of the United States of America, find that Iran continues to be the world's leading sponsor of terrorism and that Iran has threatened United States military assets and civilians through the use of military force and support to Iranian-backed militia groups. It remains the policy of the United States to deny Iran all paths to a nuclear weapon and intercontinental ballistic missiles, and to counter the totality of Iran's malign influence in the region. In furtherance of these objectives, it is the policy of the United States to deny the Iranian government revenues, including revenues derived from the export of products from key sectors of Iran's economy, that may be used to fund and support its nuclear program, missile development, terrorism and terrorist proxy networks, and malign regional influence.

In light of these findings and in order to take further steps with respect to the national emergency declared in Executive Order 12957 of March 15, 1995, I hereby order:

**Section 1.** (a) All property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of any United States person of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: any person determined by the Secretary of the Treasury, in consultation with the Secretary of State:

(i) to operate in the construction, mining, manufacturing, or textiles sectors of the Iranian economy, or any other sector of the Iranian economy as may be determined by the Secretary of the Treasury, in consultation with the Secretary of State;

(ii) to have knowingly engaged, on or after the date of this order, in a significant transaction for the sale, supply, or transfer to or from Iran of significant goods or services used in connection with a sector of the Iranian economy specified in, or determined by the Secretary of the Treasury, in consultation with the Secretary of State, pursuant to, subsection (a)(i) of this section;

(iii) to have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, any person whose property and interests in property are blocked pursuant to this order; or

(iv) to be owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to this order.

(b) The prohibitions in this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be

issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted before the date of this order.

**Sec. 2.** (a) The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to impose on a foreign financial institution the sanctions described in subsection (b) of this section upon determining that the foreign financial institution has, on or after the date of this order, knowingly conducted or facilitated any significant financial transaction:

(i) for the sale, supply, or transfer to or from Iran of significant goods or services used in connection with a sector of the Iranian economy specified in, or determined by the Secretary of the Treasury, in consultation with the Secretary of State, pursuant to, section 1(a)(i) of this order; or

(ii) for or on behalf of any person whose property and interests in property are blocked pursuant to section 1 of this order.

(b) With respect to any foreign financial institution determined by the Secretary of the Treasury, in consultation with the Secretary of State, in accordance with this section to meet the criteria set forth in subsection (a) of this section, the Secretary of the Treasury may prohibit the opening, and prohibit or impose strict conditions on the maintaining, in the United States of a correspondent account or a payable-through account by such foreign financial institution.

(c) The prohibitions in subsection (b) of this section apply except to the extent provided by statutes, or in regulations, orders, directives, or licenses that may be issued pursuant to this order, and notwithstanding any contract entered into or any license or permit granted before the date of this order.

**Sec. 3.** The unrestricted immigrant and nonimmigrant entry into the United States of aliens determined to meet one or more of the criteria in section 1(a) of this order would be detrimental to the interests of the United States, and the entry of such persons into the United States, as immigrants or nonimmigrants, is hereby suspended, except where the Secretary of State determines that the person's entry would not be contrary to the interests of the United States, including when the Secretary so determines, based on a recommendation of the Attorney General, that the person's entry would further important United States law enforcement objectives. In exercising this responsibility, the Secretary of State shall consult the Secretary of Homeland Security on matters related to admissibility or inadmissibility within the authority of the Secretary of Homeland Security. Such persons shall be treated in the same manner as persons covered by section 1 of Proclamation 8693 of July 24, 2011 (Suspension of Entry of Aliens Subject to United Nations Security Council Travel Bans and International Emergency Economic Powers Act Sanctions). The Secretary of State shall have the responsibility for implementing this section pursuant to such conditions and procedures as the Secretary has established or may establish pursuant to Proclamation 8693.

**Sec. 4.** I hereby determine that the making of donations of the types of articles specified in section 203(b)(2) of IEEPA (50 U.S.C. 1702(b)(2)) by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to section 1 of this order would seriously impair the President's ability to deal with the national emergency declared in Executive Order 12957, and I hereby prohibit such donations as provided by section 1 of this order.

**Sec. 5.** The prohibitions in section 1 of this order include:

(a) the making of any contribution or provision of funds, goods, or services by, to, or for the benefit of any person whose property and interests in property are blocked pursuant to this order; and

(b) the receipt of any contribution or provision of funds, goods, or services from any such person.

**Sec. 6.** (a) Any transaction that evades or avoids, has the purpose of evading or avoiding, causes a violation of, or attempts to violate any of the prohibitions set forth in this order is prohibited.

(b) Any conspiracy formed to violate any of the prohibitions set forth in this order is prohibited.

**Sec. 7.** For the purposes of this order:

(a) The term “entity” means a partnership, association, trust, joint venture, corporation, group, subgroup, or other organization;

(b) the term “foreign financial institution” means any foreign entity that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, or procuring purchasers and sellers thereof, as principal or agent. The term includes, but is not limited to, depository institutions, banks, savings banks, money service businesses, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, dealers in precious metals, stones, or jewels, and holding companies, affiliates, or subsidiaries of any of the foregoing. The term does not include the international financial institutions identified in 22 U.S.C. 262r(c)(2), the International Fund for Agricultural Development, the North American Development Bank, or any other international financial institution so notified by the Secretary of the Treasury;

(c) the term “Government of Iran” includes the Government of Iran, any political subdivision, agency, or instrumentality thereof, including the Central Bank of Iran, and any person owned or controlled by, or acting for or on behalf of, the Government of Iran;

(d) the term “Iran” means the Government of Iran and the territory of Iran and any other territory or marine area, including the exclusive economic zone and continental shelf, over which the Government of Iran claims sovereignty, sovereign rights, or jurisdiction, provided that the Government of Iran exercises partial or total de facto control over the area or derives a benefit from economic activity in the area pursuant to international arrangements;

(e) the term “knowingly,” with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result;

(f) the term “person” means an individual or entity; and

(g) the term “United States person” means any United States citizen, permanent resident alien, entity organized under the laws of the United States or any jurisdiction within the United States (including foreign branches), or any person in the United States.

**Sec. 8.** For those persons whose property and interests in property are blocked pursuant to this order who might have a constitutional presence in the United States, I find that because of the ability to transfer funds or other assets instantaneously, prior notice to such persons of measures to be taken pursuant to this order would render those measures ineffectual. I therefore determine that for these measures to be effective in addressing the national emergency declared in Executive Order 12957, there need be no prior notice of a listing or determination made pursuant to this order.

**Sec. 9.** The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, and to employ all powers granted to the President by IEEPA as may be necessary to carry out the purposes of this order. The Secretary of the Treasury may, consistent with applicable law, redelegate any of these functions within the Department of the Treasury. All departments and agencies of the United States shall take all appropriate measures within their authority to implement this order.

**Sec. 10.** (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

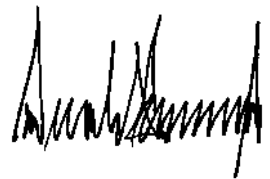
(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

**Sec. 11.** This order shall not apply with respect to any person for conducting or facilitating a transaction for the provision (including any sale) of agricultural commodities, food, medicine, or medical devices to Iran.

**Sec. 12.** Nothing in this order shall prohibit transactions for the conduct of the official business of the United Nations (including its specialized agencies, programmes, funds, and related organizations) by employees, grantees, or contractors thereof.

**Sec. 13.** The measures taken pursuant to this order are in response to actions of the Government of Iran occurring after the conclusion of the 1981 Algiers Accords, and are intended solely as a response to those later actions.

A handwritten signature in black ink, appearing to be the signature of Donald Trump, located on the right side of the page.

THE WHITE HOUSE,  
*January 10, 2020.*



***Published January 26, 2024***

**Supplemental Business Advisory Highlighting Continued Risks and Considerations for Businesses and Individuals with Exposure to Entities Responsible for Undermining Democratic Processes, Facilitating Corruption, and Committing Human Rights and Labor Rights Abuses in Burma (Myanmar)<sup>1</sup>**

**Summary**

On February 1, 2021, Burma’s military overthrew the country’s democratically elected civilian government and established a military-controlled State Administration Council. The military’s actions constitute a rejection of the will of Burma’s people, as expressed in their November 2020 elections. In response to widespread resistance to this military coup, the military of Burma has committed human rights and labor rights abuses and engaged in other repressive and antidemocratic actions, including violently suppressing peaceful protests, unjustly detaining many leaders of the democratically elected government, outlawing the National League for Democracy political party, disbanding labor unions, and conducting aerial attacks harming civilians.

The military coup and the military’s subsequent violence against people in Burma have fundamentally damaged the economic and business environment in Burma, reversing the gains achieved since the country held parliamentary elections in 2011. Since the military coup, Burma’s business environment has become more opaque, allowing the military to draw upon multiple revenue sources to support its military operations without civilian oversight or accountability.

Given significant [additional developments](#) in Burma since the previous advisory was issued in [January 2022](#), the U.S. Departments of State, the Treasury, Commerce, Homeland Security, Labor and the U.S. Trade Representative are publishing this Supplemental Advisory to highlight additional sectors and activities

of concern in the country, as well as actions taken under various federal authorities and multilateral authorities to address destabilizing conduct involving the military regime or private entities located in or operating in Burma. This supplemental information builds on and adds to the previous advisory, and is intended to inform individuals, businesses, financial institutions, and other persons, including investors, consultants, non-governmental organizations, and due diligence service providers (hereafter “businesses and individuals”) of the continued risks and considerations for businesses and individuals with exposure to entities responsible for undermining democratic processes, facilitating corruption, and committing human rights and labor rights abuses in Burma.

The additional sectors and activities of concern within Burma highlighted in this Supplemental Advisory are:

- Sectors of concern:
  - Rare earth elements;
  - Base metals and gold;
  - Timber; and
  - Aviation services, components, and fuel.
- Activities of concern:
  - Potential diversion to military end uses and end users;
  - Financial and related services to state-owned banks; and
  - Ongoing abuses of Burmese workers' internationally recognized labor rights.

The economic sectors listed above generate revenue for the military, often operating under state monopolies or monopoly-like concessions, and/or are linked with corruption and human rights or labor rights abuses. As described in further detail below, businesses and individuals should be wary of reputational, economic, and legal risks associated with conducting business and utilizing supply chains involving these sectors and activities because of their links to Burma’s military.

Conducting business in Burma may also be complicated by ongoing deficiencies in Burma’s anti-money laundering and counter financing of terrorism (AML/CFT) framework. This Supplemental Advisory also focuses specific attention on labor rights abuses and the risk of diversion of computer chips and other export-

controlled products from Burma/Myanmar to military end users in the PRC and Russia.

## Note on Additional Actions Taken by the U.S. Government and International Organizations since January 2022

Since the previous U.S. advisory, the U.S. Government and certain international organizations have expanded restrictions on individuals and entities tied to Burma's military regime.

Since February 2021, the U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) has taken actions against dozens of individuals and entities with a nexus to the military regime and the military coup leaders pursuant to Executive Order (E.O.) 14014. These actions aim to promote accountability for the military coup and related violence and disrupt revenue to the military regime. These designations include individuals and entities connected to a range of sectors noted in the original advisory. Unless authorized by a general or specific license issued by OFAC, or otherwise exempt, OFAC's regulations generally prohibit all transactions by U.S. persons or within (or transiting) the United States that involve any property or interests in property of designated or otherwise blocked persons. Additional information related to OFAC actions, policies, and responsibilities for U.S. persons seeking to do business in Burma can be found here: <https://ofac.treasury.gov/sanctions-programs-and-country-information/burma>.

Of note, on June 21, 2023, OFAC designated two state-owned banks, Myanmar Foreign Trade Bank (MFTB) and Myanmar Investment and Commercial Bank (MICB), which have been instrumental in facilitating the military regime's use of foreign currency to procure arms and jet fuel abroad and to access international markets using offshore accounts. MFTB, in particular, has served as an important bank for transactions involving several of the sectors referenced in this advisory. On October 31, OFAC issued Directive 1 under E.O. 14014 which prohibits U.S. persons from providing, exporting, or re-exporting, directly or indirectly, financial services to or for the state-owned Myanmar Oil and Gas Enterprise (MOGE) or its property or interests in property. These prohibitions went into effect on December 15, 2023.

Since the issuance of the January 2022 advisory, the Department of Commerce's Bureau of Industry and Security (BIS) has added several Burma and Russian entities to its Entity List (Supp. No. 4 to part 744 of the Export Administration Regulations (EAR), 15 C.F.R. part 730-774) to address foreign policy concerns related to support provided to Burma's military regime. In March 2023, BIS added two Burma commercial entities and one government entity to the Entity List that had provided surveillance equipment services to the military regime, thereby enabling the regime to carry out human rights abuses through the tracking and identification of individuals and groups. See 88 Fed. Reg. 13673 (March 6, 2023). Additionally, during the same month, Burma and Russian commercial entities were added to the Entity List for selling, procuring, and servicing military equipment that enabled the military regime to commit human rights abuses, as well as brutal aerial attacks killing and injuring civilians. See 88 Fed. Reg. 18983 (March 30, 2023).

BIS's actions target these entities' ability to receive items (commodities, software, and technology) subject to the EAR, recognizing, in particular, the increasingly key role that technology plays in enabling campaigns of repression and other human rights abuses.

The United States continues to coordinate with partners and allies on sanctions actions. Several countries and international organizations have also introduced new commercial restrictions since the January 2022 advisory, including the European Union, Australia, Canada, New Zealand, the Republic of Korea, and the United Kingdom.

Businesses and individuals with potential exposure to, or involvement in operations or supply chains tied to, the military regime should continually review sanctions measures imposed with respect to Burma. Businesses and individuals that do not conduct appropriate due diligence run the risk of engaging in conduct or transactions that may expose them to significant reputational, financial, and legal risks, including violations of U.S. sanctions and export controls.

Burma also continues to present significant reputational, economic, and legal risks to the private sector, particularly financial institutions, as a result of gaps in its anti-money laundering (AML) and counter financing of terrorism (CFT) legal framework, in part because the regime cannot impartially prosecute financial

crimes at this time. In October 2022, the Financial Action Task Force (FATF) placed Burma on its “blacklist” and called upon its members and other jurisdictions to apply enhanced due diligence measures proportionate to the risk arising from Myanmar. The FATF has repeated these calls for action by its members as well as urged Burma to take urgent actions to resolve AML/CFT deficiencies.<sup>2</sup>

Businesses and individuals are advised to consider Burma’s AML/CFT deficiencies in their risk analysis, including evaluating their potential exposure to economic and legal risks that may include violations of U.S. AML laws and sanctions.

## **I. Rare Earth Elements**

Burma has deposits of all 17 rare earth elements, including “heavy” rare earths like dysprosium and terbium that are used in refined products to power “green transition” technologies, including permanent magnets for electric vehicles and wind turbines. Current conditions in Burma make it extremely challenging to implement the supply chain controls, environmental protections, and labor rights safeguards necessary to mine these rare earth materials safely and with appropriate due diligence as to all involved entities.

Reports by non-profit research organizations indicate that regime-linked militias operating in Burma are facilitating the extraction and export of rare earth elements, including heavy rare earths, to neighboring countries, principally the People’s Republic of China (PRC).<sup>3</sup> The reports further note risks that regional supply chains are mislabeling rare earth elements from Burma as originating from mines in other nearby countries. The export of raw rare earth elements from Burma to the region is estimated to generate hundreds of millions of dollars annually, much of which is reportedly flowing to militias allied with the military regime.<sup>4</sup>

Further, in June 2023, OFAC designated Burma’s Ministry of Defense, which has command and control of border guard forces, some of which are involved in rare earth extraction.<sup>5</sup> The involvement of regime-linked militias – including border guard forces under control of the regime’s Ministry of Defense – in rare earth extraction heightens the risks of corruption, abuses, and environmental harm.

The most common method in these militia-controlled areas for extracting rare earth elements – known as in-situ leaching – is associated with severe risks of permanent environmental degradation, labor rights abuses, and negative health outcomes for individuals who come into contact with caustic chemicals used to extract the ores. Businesses and individuals who trade in rare earths extracted from Burma may face reputational risks from association with these harmful activities.

Businesses and individuals procuring rare earth elements and products made from rare earth elements from supply chains in the Burma region, including recycled and refined products, are encouraged to conduct enhanced due diligence and to contract with reputable third parties to reduce the risks that the rare earths (potentially marketed as being of PRC-origin) originated in Burma. Businesses should not rely on unsupported assurances, but rather should request documentation of products' origin.

Businesses and individuals are encouraged to review their due diligence procedures commensurate with the severity and likelihood of risks, including to ensure that they are appropriate to the risks described in this Supplemental Advisory and previous advisories. There are many publicly available resources for businesses on due diligence for human rights abuses and related issues. The [UN Guiding Principles on Business and Human Rights](#), the [UN Development Programme's Heightened Human Rights Due Diligence for Business in Conflict-Affected Contexts: A Guide](#), the [OECD Guidelines for Multinational Enterprises](#), the International Labour Organization (ILO) publication, "[Combating Forced Labour: A Handbook for Employers and Business](#)," and the Office of the High Commissioner for Human Rights guide on "[The Corporate Responsibility to Respect Human Rights](#)" (OHCHR guide) and others provide guidance for heightened due diligence in high-risk regions and factors to be considered in determining appropriate action, including whether and how to responsibly end relationships when a business lacks the leverage to prevent or mitigate adverse impacts, and how to mitigate the risk of human rights abuses through the business value chain.

The U.S. Embassy in Burma and Department of State in Washington, DC, can assist if businesses or individuals have questions about rare earths potentially sourced from Burma or a sanctioned person in Burma. Please refer to the Department of

Treasury’s Specially Designated Nationals And Blocked Persons List (SDN) for a list of sanctioned individuals and entities in Burma.

## **II. Base Metals and Gold Mining and Gems**

Burma’s 2021 military coup and steady global demand for the country’s base metals and gold have compounded historical oversight challenges tied to Burma’s metal mining sector.

Although overall exports of base metals from Burma have declined relative to pre-coup levels, according to industry and media reports,<sup>6</sup> regime-controlled state-owned enterprises, Mining Enterprise No. 1 and Mining Enterprise No. 2, continue to extract these resources at low volumes in partnership with PRC firms, among others. Both mining enterprises were designated by OFAC in January 2023 pursuant to E.O. 14014 for being a political subdivision, agency, or instrumentality of the Government of Burma. Because of the lack of regulation, transparency, and accountability, doing business with Burma’s metal mining sector involves risk of money laundering, corruption, and human rights and labor rights abuses, including forced labor.

In Salingyi, three PRC-run copper mines – Letpadaung, Sapetaung and Kyesintaung – are run by Wanbao Mining subsidiary Yangtse, in partnership with military-owned Union of Myanmar Economic Holdings Ltd (UMEHL). Wanbao is a subsidiary of PRC state-owned arms manufacturer China North Industries Corporation (NORINCO), identified under E.O. 13959, as amended. In July 2021, the Department of Commerce’s Bureau of Industry and Security listed Wanbao and two of its subsidiaries on its Entity List. BIS took such action to limit the entities’ access to items subject to the EAR that might be used in copper mining operations, particularly in light of existing revenue-sharing arrangements with a Burma entity previously added to the Entity List in connection with the February 1, 2021, military coup.

Meanwhile, poorly-regulated gold mining in Kachin State and other parts of the country expanded following the military coup, accelerating a deleterious trend of larger commercially run enterprises using heavy equipment to dredge rivers year-

round.<sup>7</sup> The lack of sufficient regulatory action by local or national authorities has created incentives for armed actors, including some linked to the military regime, to allow commercial interests access to areas they control in exchange for a share of profits. Labor standards, including safety standards, are not enforced in the gold mining sector, posing extreme occupational risks to vulnerable local populations who provide labor.

Further, the environmental impacts of gold mining are numerous and severe and have negatively impacted UNESCO-designated heritage and other culturally significant sites. Gold mining has polluted waterways with mercury, tailings, and other contaminants; Burma is not a party to the Minamata Convention on mercury, which seeks to reduce and eliminate mercury usage in gold mining.

As noted in the January 2022 Advisory, given the insufficient reporting requirements in Burma for cross-border transfers of goods and funds, the U.S. government continues to recommend that metal importers undertake heightened due diligence to better understand their supply chains and to avoid sourcing from or brokering through Burma military-owned or affiliated entities, even if their supply chains appear to be completely outside of Burma. It is the responsibility of businesses and individuals to ensure that their sourcing does not violate sanctions; verifying that sourcing is consistent with what is being reported from vendors and suppliers can be a means to mitigate potential liability for sanctions violations.

In addition to the OECD MNEs and UNGPs, the OECD Due Diligence Guidance for Responsible Supply Chains of Minerals from Conflict-Affected and High-Risk Areas, formally adopted by the OECD in 2011 (the OECD published the current 3rd edition of the Guidance in 2016), provides an overarching, five-step due diligence approach for metals, with Annex II of the OECD Guidance setting out a “model” corporate policy for a responsible global supply chain. The five steps are to:

1. Establish strong company management systems;
2. Identify and assess risk in the supply chain;
3. Design and implement a strategy to respond to identified risks;
4. Carry out independent third-party audits of supply chain due diligence at identified points in the supply chain; and
5. Report on supply chain due diligence.

The 2012 amendment to the OECD Guidance added a separate Gold Supplement to focus more specific attention on the unique concerns related to gold. The OECD framework and Gold Supplement undergird the numerous industry frameworks that have been developed in gold and other base metals sectors and provide an overarching approach to due diligence for all companies.

Gem industries in Burma were also identified by the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* as utilizing forced labor and child labor.<sup>8</sup> According to the 2022 release of the Department of *Labor's List of Goods Produced by Child Labor or Forced Labor*, rubies and jade mining are linked to these abuses.

### **III. Timber**

Burma has the largest expanse of tropical forest in mainland Southeast Asia and has some of the world's largest natural teak and other hardwood forests. Timber remains an accessible and significant source of revenue for the military regime.

While the military regime does not control much of the country due to general breakdown of the rule of law, the regime still is able to profit from the timber trade through control of the seaports and through its ties to timber brokers in neighboring countries, including the PRC, India, and Thailand. Although OFAC designated Myanmar Timber Enterprise (MTE) in April 2021 pursuant to E.O. 14014, MTE continues to auction timber products to private buyers. To be clear, U.S. persons are prohibited from engaging in transactions with MTE, regardless of whether the sales are of products that MTE had "stockpiled" before or after the imposition of sanctions in 2021.

Such auctions have likely contributed to a steady stream of largely unreported follow-on exports. Between the February 2021 military coup and January 2023, Burma's trade partners imported approximately \$500 million worth of timber and processed lumber from Burma, with sales generally processed through MFTB.<sup>9</sup> The regime, however, officially reported only \$70 million worth of timber exports as of July 2022, and it has underreported transactional details from its auctions.

Experts attribute the significant gap between the volume of timber exports reported by the regime and the volume of timber imports reported by trade partners to illicit market activities, coupled with mismanagement, corruption, and sanctions evasion activities by regime authorities.<sup>10</sup>

Businesses and individuals sourcing timber products from Burma or its immediate neighbors should be on the lookout for direct and indirect linkages to Burma's military regime and to sanctioned Burma individuals and entities, including banks. Businesses should conduct due diligence when dealing in supply chains of high-value timber commodities like teak and ironwood, where Burmese products may be mislabeled as of Burma origin. Such diligence should account for the significant likelihood that any timber sourced from Burma has uncertain provenance in terms of an original legal right to cut or harvest timber and may be connected to labor abuses, corruption, and broader environmental degradation. Logging and other commodity-driven deforestation remain a key driver of tree cover loss in Burma, and the logging industry has been tied to instances of forced labor in teak cultivation.<sup>11</sup> The U.S. Embassy in Burma and Department of State in Washington, DC can assist if a business or individual has a question about timber sourced from Burma or a Burmese entity.

#### **IV. Aviation Services, Components, and Fuel**

Burma's commercial aviation sector – including services, components, and fuel – is deeply intertwined with the military's aviation operations. For example, Myanma Petroleum Products Enterprise (MPPE) and its sub-entity, National Energy Puma Aviation Services (NEPAS), exercise monopoly control over Burma's jet fuel sector. NEPAS jet fuel depots are located on joint military-civil airfields throughout Burma such that aviation kerosene or Jet A1 is commingled by MPPE and NEPAS between military and civil end users. As a result, it is currently impossible for suppliers to ascertain the end user of aviation kerosene destined to Burma.

On August 23, 2023, OFAC expanded its use of Burma-related sanctions authorities by issuing a determination that identifies the jet fuel sector of the Burmese economy pursuant to section 1(a)(i) of E.O. 14014. This determination allows for sanctions to be imposed on any foreign individual or entity determined

to operate in the jet fuel sector of the Burmese economy. At the same time, OFAC designated two individuals and three entities involved in the procurement and distribution of jet fuel to Burma's military.

In addition to the 20 ATR fixed-wing aircraft that make up the Burmese commercial airline fleet, the military operates roughly ten ATR aircraft to move personnel and equipment around the country. U.S. businesses and individuals that supply spare parts for ATR aircraft in Burma, or for common models of Bell, Alouette, and PZL-Swidnik rotary aircraft, should be aware of the potential for diversion of those spare parts for use by the military and should consider the reputational and regulatory risks associated with such potential diversion. Such businesses and individuals may wish to consider limiting the quantity of components and parts shipped to entities in Burma and whether rotary and fixed-wing aircraft can be serviced outside of Burma to limit such shipments. Finally, given the risk of diversion through shell companies using proxy management or personnel affiliated with entities and persons in Burma, businesses and individuals conducting transactions of military goods and parts through Singapore and Thailand should also conduct due diligence to ensure that diversion to Burma's military will not occur.

## **V. Potential Diversion to Military End Uses and End Users**

The military operates an extensive network of corporate affiliates that are often registered in Thailand, Singapore, India, and the UAE, in addition to Burma. Businesses and individuals who supply any aviation parts and services to Burma, including those ostensibly destined for commercial operators, should conduct appropriate due diligence to limit both regulatory and reputational risks. The U.S. Embassy in Burma and the Department of State in Washington, DC, can assist if a business or individual has a question about an aviation product or service destined to Burma or a Burmese entity.

Given the close supply connections between the militaries and defense industries of Russia, the PRC, and Burma, there is a substantial risk that computer chips in ICT equipment, including routers and servers, and mature-node computer chips embedded in appliances and vehicles with an end user or destination in Burma

are at substantial risk for diversion to the PRC and Russia for military use. U.S. companies that manufacture inputs into arms and ammunition production, including smokeless powder, as well as brass, polymer and plastic composites, industrial lathes, mills, and bullet assembly presses, that are shipping to Southeast Asia should be aware of the risk of diversion to Burma of inputs and equipment used in the manufacture of small arms and small and large caliber ammunition.

Russia, the PRC, and their respective defense industries supply military equipment, including weapon systems, training, logistical and maintenance support for this equipment, to Burma's military. These same countries and entities may also purchase small and large caliber ammunition and seek replacement parts, particularly for obsolete arms and equipment, from Burma's military. U.S. businesses and individuals should be aware of reputational and regulatory risks in shipping such products to Burma and to unverified freight forwarders or third parties in Southeast Asia. They should consult with the Department of State and BIS when needed to assist in preventing military end use in Burma and/or diversion of components to Russia and the PRC's defense industries.

Individuals and businesses should also be aware that BIS continues to maintain military end use and end user controls, as well as military-intelligence end use and end user controls, under the EAR in connection with the export, re-export, and transfer (in-country) of items (as noted above, commodities, software, and technology) subject to the EAR that are destined for Burma. See Section 744.21(a)(1) (military end use and military end user controls) and Section 744.22(a) (military-intelligence end use and end user controls) of the EAR. Notably, BIS has designated Burma's Office of Chief of Military Security Affairs (OCMSA) and the Directorate of Signal as military-intelligence end users. See Section 744.22(f)(2)(i).

As a general matter, if a person knows (positive knowledge or awareness of a high probability of the existence of a circumstance) that certain items subject to the EAR are destined for a defined military end use/user or military-intelligence end use/end user, a license requirement may apply to a contemplated export, reexport, or in-country transfer. Furthermore, U.S. persons generally require a license to provide any "support" to military intelligence end users in Burma,

regardless of whether such activities involve any items subject to the EAR. See Section 744.6(b)(5) of the EAR.

## **VI. Financial and Related Services to State-owned Banks**

On June 21, 2023, the United States designated two of Burma’s military regime-controlled banks, Myanmar Foreign Trade Bank (MFTB) and Myanmar Investment and Commercial Bank (MICB), pursuant to E.O. 14014. MFTB and MICB have been instrumental in facilitating the regime’s use of foreign currency to procure arms and other materials abroad and to access international markets using offshore accounts. While MFTB and MICB allow MOGE and other state-owned enterprises access to foreign markets for revenue generation, these financial institutions also enable Burma’s Ministry of Defense and other sanctioned military entities to purchase arms and other materials from foreign sources. The United States will continue to carefully monitor compliance and scrutinize transactions with an MFTB or MICB nexus to counter evasion or other behavior that contravenes the intent of these designations and U.S. policy.

In addition to MFTB and MICB, the regime exercises influence over other state-owned banks including the Myanmar Economic Bank (MEB) and the Central Bank of Myanmar. All transactions and services for state banks, including but not limited to insurance and claims underwriting, issuance, and settlement of currency options in U.S. dollars or other foreign currencies, deposit guarantees for state bank nostro accounts held in foreign correspondent banks, commercial paper, and the sale and support of financial software and IT hardware for central banking activities, should be closely examined for possible U.S. sanctions avoidance and circumvention. There also remain inadequate anti-money laundering and countering the financing of terrorism (AML/CFT) controls in place at state banks that heighten the associated risks for any transactions with persons and/or entities in Burma as noted in the Financial Action Task Force’s October 2022 decision to add the state to its list of “High-Risk Jurisdictions subject to a Call for Action” (blacklist).

## **VII. Labor Rights Abuses**

Since the 2021 coup, the military regime has repeatedly denied citizens the human rights of peaceful assembly and freedom of association, exacerbating the longstanding and growing need for better labor rights protections in Burma. Since the military coup, the military regime has targeted the labor union movement, arrested numerous union leaders and members, and outlawed at least 16 labor unions. As a result, the UN International Labor Organization (ILO) reports that workers' rights abuses have increased, and trade unions are unable to operate in garment and other factories. Workers who protest poor working conditions, particularly in the garment and footwear sectors, face continued risk of severe retaliation by employers, and arrest and incarceration by the military regime, which is openly hostile to ILO activities in Burma. Consequently, ILO has reduced its presence and activities in Burma.<sup>12</sup>

Further pressuring the labor force, Burma's economy has remained in a low-growth, high-inflationary state relative to pre-coup levels, and poverty rates and food insecurity have increased substantially since the military coup. Many workers still earn Burma's legally mandated minimum wage of 4800 kyat (\$1.41 at current market exchange rate)<sup>13</sup> per 8.5-hour day. Workers who protest their wages are often brutally repressed and jailed by the military regime.<sup>14</sup> The minimum wage is not pegged to the cost-of-living and has not increased since the last legislative revision in 2018. Given inflation and currency depreciation, the equivalent purchasing power today would be at least 7400 kyat per day.<sup>15</sup>

The confluence of fewer labor rights protections and weak economic conditions have encouraged some businesses in Burma to reduce compensation and protections for workers. An August 2023 report by the Business & Human Rights Resource Centre, for example, indicates that garment workers have faced wage reduction and theft since the coup without adequate means to raise concerns through robust stakeholder engagement mechanisms, like unions.<sup>16</sup> Meanwhile, the Department of State 2023 Trafficking in Persons Report highlights Burma's state-owned enterprises are still significantly involved in industries that have been tied to human trafficking, child and forced labor, and the targeting of labor unions.<sup>17</sup> Forced labor, including use of drug addicts paid in narcotics, and child labor have both been implicated in Burma's extractive industries, particularly in labor-intensive mining and timber activities.

Labor rights protections have continued to decline in Burma since the previous advisory because of regime actions and worsening economic conditions. In October 2023, the UN ILO Myanmar Commission of Inquiry found deteriorating labor conditions led to widespread violations of the Freedom of Association and Forced Labor Conventions.<sup>18</sup> Businesses should be aware the Commission of Inquiry report may cause EU regulators to reexamine its trade preferences, including the “everything but arms” scheme.

Given these conditions, businesses and individuals employing workers in Burma, including through subcontractors and affiliates, should take appropriate measures to identify practices and labor conditions that may not comply with international standards. The U.S. Embassy in Burma and the Department of State in Washington, DC, can assist if a business or individual has a labor question or concern.

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<sup>1</sup> This advisory is explanatory only and does not have the force of law. It does not supplement or modify statutory authorities, executive orders, or regulations. It is not intended to be, nor should it be interpreted as, comprehensive or as imposing requirements under U.S. law, drawing any legal conclusions about specific fact scenarios regarding particular businesses or entities, or otherwise addressing any particular requirements under applicable law. Its sole intent is to provide information to businesses and individuals that they may consider in assessing their potential exposure to involvement with entities engaged in human rights abuses, as part of a risk-based approach to due diligence. Please see the legally binding provisions cited and other relevant legal authorities.

<sup>2</sup> The FATF’s “black list” places a jurisdiction identifies jurisdictions with serious strategic deficiencies to counter money laundering, terrorist financing, and financing of proliferation. For all countries identified as high-risk, the FATF calls on all members and urges all jurisdictions to apply enhanced due diligence. under increased monitoring when the country has committed to resolve the identified strategic deficiencies within agreed timeframes and is subject to increased monitoring. For the latest information about Burma’s status in the FATF monitoring process visit the FATF’s website on High-risk and other monitored jurisdictions ([fatf-gafi.org](https://fatf-gafi.org)).

<sup>3</sup> For more information, please see:

<https://www.globalwitness.org/en/campaigns/natural-resource-governance/myanmars-poisoned-mountains/>  
<https://apnews.com/article/technology-forests-myanmar-75df22e8d7431a6757ea4a426fbde94c>  
<https://ejatlas.org/conflict/rare-earth-mining-in-mountains-of-myanmar>  
<https://www.frontiermyanmar.net/en/weapons-power-and-money-how-rare-earth-mining-in-kachin-enriches-a-tatmadaw-ally/>

<sup>4</sup> <https://www.frontiermyanmar.net/en/weapons-power-and-money-how-rare-earth-mining-in-kachin-enriches-a-tatmadaw-ally/>

<sup>5</sup> <https://home.treasury.gov/news/press-releases/jy1555>

<sup>6</sup> For more information on copper exports, please see:

<https://tradingeconomics.com/myanmar/exports/copper#:~:text=Myanmar%20Exports%20of%20copper%20was,u pdated%20on%20August%20of%202023>. For more information on overall mineral exports, see:  
<https://www.frontiermyanmar.net/en/collapse-in-minerals-exports-robs-junta-of-key-revenue/>

<sup>7</sup> <https://www.rfa.org/english/news/myanmar/mining-04262023173338.html>

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<sup>8</sup> List of Goods Produced by Child Labor or Forced Labor. See <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods> ; <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/burma>

<sup>9</sup> According to Forest Trends, Burma's trade partners imported approximately \$500 worth of forest products. For more information, see: <https://www.forest-trends.org/publications/myanmars-timber-trade-since-the-coup/>

<sup>10</sup> For more information, see: <https://www.forest-trends.org/publications/myanmars-timber-trade-one-year-since-the-coup/>

<sup>11</sup> <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>

<sup>12</sup> ILO Myanmar Labor Market Update 2023 [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/briefingnote/wcms\\_888644.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-yangon/documents/briefingnote/wcms_888644.pdf)

<sup>13</sup> Myanmar kyat/US dollar market rate is 3400 kyat/dollar as of July 26, 2023

<sup>14</sup> [https://www.ilo.org/gb/GBSessions/GB349/ins/WCMS\\_894548/lang--en/index.htm](https://www.ilo.org/gb/GBSessions/GB349/ins/WCMS_894548/lang--en/index.htm)

<sup>15</sup> World Bank Myanmar Economic Monitor <https://documents.worldbank.org/en/publication/documents-reports/documentdetail/099062823041522943/p1791060533bdb01b0ae0a0c82f34c1c320>

<sup>16</sup> For more information, see: <https://www.business-humanrights.org/en/from-us/briefings/falling-out-of-fashion-garment-worker-abuse-under-military-rule-in-myanmar/>

<sup>17</sup> <https://www.state.gov/reports/2023-trafficking-in-persons-report/burma/>

<sup>18</sup> [https://www.ilo.org/gb/GBSessions/GB349/ins/WCMS\\_894548/lang--en/index.htm](https://www.ilo.org/gb/GBSessions/GB349/ins/WCMS_894548/lang--en/index.htm)



# **Forced Labor Enforcement Task Force: Establishing Timelines**

Implementing Section 742 of the United States-Mexico-Canada Agreement Implementation Act

Report to Congress

*July 30 2021, 2021*



Homeland  
Security

*Office of Strategy, Policy, and Plans*

# Message from the Acting Under Secretary for Strategy, Policy and Plans

July 30, 2021

I am pleased to present the following Report to Congress, “Forced Labor Enforcement Task Force: Establishing Timelines,” which was prepared by the U.S. Department of Homeland Security’s (DHS) Office of Strategy, Policy, and Plans.

This document has been compiled pursuant to Section 742 of the United States-Mexico-Canada Agreement Implementation Act of 2020 (Pub. L. 116-113) with contributions from and the approval of the current members of the Forced Labor Enforcement Task Force and in consultation with the appropriate congressional committees, the House Committee on Ways and Means and the Senate Finance Committee.

Combating trade in illicit goods produced with forced labor overseas not only promotes respect for human rights and dignity, it also promotes American values of free and fair global trade and rule of law. Also, combating illicit goods produced with state-sponsored forced labor or convict labor may benefit U.S. national security and interests overseas. As mandated by Section 742, this Report establishes timelines for responding to petitions submitted to the Commissioner of U.S. Customs and Border Protection (CBP) alleging that goods produced with child labor or forced labor are being or are likely to be imported. These timelines are constructed recognizing the limitations of current U.S. law precluding CBP from taking enforcement actions against any child labor that is not forced or indentured child labor.

Pursuant to P.L. 116-113, this Report will be made publicly available and is being provided to:

The Honorable Ron Wyden  
Chairman, Senate Committee on Finance

The Honorable Mike Crapo  
Ranking Member, Senate Committee on Finance

The Honorable Richard Neal  
Chairman, House Committee on Ways and Means

The Honorable Kevin Brady  
Ranking Member, House Committee on Ways and Means

Sincerely,



Kelli Ann Burriesci  
Acting Under Secretary  
Office of Strategy, Policy, and Plans

# Executive Summary

Established by Executive Order 13923 in May 2020, the Forced Labor Enforcement Task Force is responsible for monitoring U.S. enforcement of the prohibition on importing goods produced with forced labor as described in 19 U.S.C. § 1307 (Section 1307).

As mandated by Section 742 of the United States-Mexico-Canada Agreement (USMCA) Implementation Act of 2020,<sup>1</sup> this report establishes timelines for responding to petitions submitted to the Commissioner of U.S. Customs and Border Protection (CBP), a component of the U.S. Department of Homeland Security (DHS), alleging that goods produced with forced labor are being or are likely to be imported.<sup>2</sup>

Beyond the prohibition on importing goods produced with forced labor in Section 1307, there are other relevant federal laws that the U.S. government can use to combat the production of goods with forced labor globally. All members of the Forced Labor Enforcement Task Force have a role to play, as outlined in this report, in supporting effective U.S. government enforcement of such relevant laws.

There are several CBP timelines and investigative benchmarks established in this report. CBP reviews the submitted petition within 30 days to accept or reject the petition for investigation or refer the petition for possible action under other U.S. Department and Agency authorities. Once CBP accepts a petition for investigation, it will commence the investigation. In approximately 90 to 180 days from the initiation of an investigation, CBP will assess whether it possesses information to articulate reasonable suspicion of a violation of Section 1307.

In cases where CBP has reasonable suspicion of a Section 1307 violation, CBP will issue a Withhold Release Order, in accordance with applicable regulations. In approximately 180 to 365 days from the initiation of an investigation, CBP will assess whether it possesses information to articulate probable cause sufficient to issue a Section 1307 Finding. In cases where CBP has probable cause to determine a Section 1307 violation, CBP will take steps to issue a Section 1307 Finding, in accordance with applicable regulations. CBP's coordination with members of the Forced Labor Enforcement Task Force is built into the timelines, as that coordination is critical to achieving effective forced labor enforcement results.

The Forced Labor Enforcement Task Force will continue its critical mission of supporting the U.S. government's ability to effectively combat the illicit activity of importing goods produced with forced labor.

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<sup>1</sup> 19 U.S.C. § 4682.

<sup>2</sup> The CBP timelines established in this report also include timelines for CBP to refer allegations of child labor that is not forced or indentured to the relevant Forced Labor Enforcement Task Force member. However, U.S. law does not provide CBP authority to take enforcement actions against prohibit the importation of goods produced with child labor that is not forced or indentured.



# Forced Labor Enforcement Task Force: Establishing Timelines

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# I. Legislative Language

The United States-Mexico-Canada Agreement Implementation Act of 2020 (Pub. L. 116-113)<sup>3</sup> in Sec. 741 states that “the President shall establish a Forced Labor Enforcement Task Force to monitor United States enforcement of the prohibition under section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307).”<sup>4</sup> The law further includes<sup>5</sup> the following requirement in Sec. 742 of the Act<sup>6</sup>:

## *Timeline required*

### (a) In General—

Not later than 90 days after the establishment of the Forced Labor Enforcement Task Force pursuant to section 741(a), the Task Force shall establish timelines for responding to petitions submitted to the Commissioner of U.S. Customs and Border Protection alleging that goods are being imported by or with child or forced labor.

### (b) Consultation Required—

In establishing the timelines during such 90-day period, the Task Force shall consult with the appropriate congressional committees.

### (c) Report—

The Task Force shall timely submit to the appropriate congressional committees a report that contains the timelines established pursuant to subsection (a) and shall make such report publicly available.

House Report 116-358, which accompanies the United States-Mexico-Canada Agreement Implementation Act of 2020 (Pub. L. 116-113), states<sup>7</sup>:

## Explanation of Change

...

Section 742 requires the Task Force to establish timelines for responding to petitions alleging that goods are being imported by or with forced or child labor. The Task Force must establish such timelines within 90 days of being constituted and shall consult with the Committee on Ways and Means and the Senate Finance

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<sup>3</sup> 19 U.S.C. Chapter 29.

<sup>4</sup> Codified at 19 U.S.C. § 4681(a).

<sup>5</sup> Although the law says that “the Task Force shall establish timelines for responding to petitions submitted to the Commissioner of U.S. Customs and Border Protection alleging that goods are being imported by or with child or forced labor,” DHS notes that 19 U.S.C. § 1307 prohibits the importation of goods produced with forced child labor or indentured child labor, but not child labor that is not forced or indentured. DHS also assumes that “by or with child or forced labor” modifies the “goods” as opposed to “being imported,” consistent with 19 U.S.C. § 1307.

<sup>6</sup> Codified at 19 U.S.C. § 4682.

<sup>7</sup> DHS also held a meeting on June 9, 2020 with the House Committee on Ways and Means and the Senate Finance Committee in which staffers clarified Congressional intent was for CBP timelines to cover allegations of goods produced with forced labor or forced child labor that are being or are likely to be imported, not goods produced with child labor that is not forced.

Committee. The Task Force shall submit the timelines in a report to the Committee on Ways and Means and the Senate Finance Committee and make it publicly available.

...

Reason for Change

Section 307 of the Tariff Act of 1930 prohibits the importation of goods made by or with forced labor. The USMCA also includes a provision that requires parties to prohibit the importation of goods made by or with forced labor.

This subtitle requires the U.S. government to better coordinate its enforcement efforts and report to Congress on a regular basis regarding such efforts. Further, it requires the Task Force to build upon the monitoring efforts currently being completed by the Department of Labor regarding forced and child labor.

## II. Forced Labor Enforcement in the United States

U.S. law prohibits importing goods mined, produced, or manufactured wholly or in part in any foreign country by convict labor, forced labor, or indentured labor under penal sanctions, including forced or indentured child labor, as described in 19 U.S.C. § 1307.

This law is derived from the Tariff Act of 1930, passed at the start of the Great Depression to keep foreign industry with unfair labor practices from undermining the U.S. economy and its workers.

In February 2016, the Trade Facilitation and Trade Enforcement Act of 2015 repealed the “consumptive demand” clause contained within 19 U.S.C. § 1307 since the 1930s. This clause permitted the importation of goods made by forced labor “if the goods were not produced in such quantities in the United States as to meet the consumptive demands of the United States.” Repealing this clause removed a significant barrier to full enforcement of the law.

Critically, because the law prohibits the importation of goods made “wholly or in part” by forced labor, entities importing merchandise in the United States are liable for enforcement actions if there is forced labor at any tier of their supply chain, down to every input into the products actually or potentially destined for importation into the United States.<sup>8</sup>

The definition of forced labor in 19 U.S.C. § 1307 is “all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily,” and includes two key elements:

- Menace of penalty, i.e., using or threatening to use penalties to compel someone to work. Examples include violence, threats of violence, physical confinement, and debt bondage; and
- Involuntariness, i.e., a lack of freedom to leave a job at any time. Examples include identity documents being taken away, being physically or linguistically isolated in the area of work, being forced to work without wages, and being forced to work a different job or for different employers than consented or a more hazardous job without protection and consent.

Any goods produced by North Korean nationals or citizens are presumed to be prohibited from importation under 19 U.S.C. § 1307, regardless of where they are produced.<sup>9</sup> This is a rebuttable presumption. Such North Korean-made goods<sup>10</sup> may be imported into the United States if the

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<sup>8</sup> For example, if fish feed was produced with forced labor, then farmed fish given that feed are products of forced labor under this law. Similarly, for example, if gold was mined with forced labor and that gold is used to build semiconductors put in smartphones, then those smartphones are products of forced labor under this law.

<sup>9</sup> 22 U.S.C. § 9241a(a).

<sup>10</sup> If goods, services, or technology were produced wholly or in part *from* North Korea, then they are prohibited from importation into the United States without a license from the U.S. Department of Treasury Office of Foreign Assets Control (OFAC) or an applicable exemption, in accordance with Executive Order 13570.

Commissioner of U.S. Customs and Border Protection (CBP) finds, by clear and convincing evidence, the goods were not produced with forced labor.<sup>11</sup>

The Trafficking Victims Protection Act of 2000 (TVPA) made forced labor a federal crime under 18 U.S.C. § 1589 and labor trafficking a federal crime under 18 U.S.C. § 1590 and instituted numerous protections for victims. With respect to imported goods,<sup>12</sup> 18 U.S.C. § 1589(b) and 1593A criminalize knowingly benefiting, financially or by receiving anything of value, “from participation in a venture which has engaged in the providing or obtaining of labor or services [described in subsection (a) of the statute], knowing or in reckless disregard of the fact that the venture has engaged in providing or obtaining” of forced labor or in labor trafficking, which includes knowingly recruiting, harboring, transporting, providing, or obtaining a person for forced labor. Under 18 U.S.C. § 1596, U.S. courts have extra-territorial jurisdiction over the federal crimes of forced labor and labor trafficking.<sup>13</sup> That statute provides that prosecutions may be brought against an alleged offender (person or entity) for forced labor that occurred anywhere in the world, as long as the alleged offender is a U.S. national, a U.S. lawful permanent resident, or, irrespective of nationality, present in the United States.

It is also a federal crime to knowingly transport in U.S. interstate commerce or from any foreign country into the United States prison-made goods, which includes goods produced wholly or in part by convicts, prisoners, or in any penal or reformatory institution, with limited exceptions, under 18 U.S.C. § 1761. This criminal statute was originally enacted by the Ashurst-Sumners Act of 1935. It was part of a movement to further regulate the U.S. prison system and “sought to stop inmate-manufactured goods from flooding the market and undermining [American non-convict] labor.”<sup>14</sup> Anyone who violates this criminal statute shall be fined or imprisoned up to two years, or both.<sup>15</sup> Such prison-made goods shall be forfeited to the United States.<sup>16</sup>

As with 19 U.S.C. § 1307 above, the language “wholly or in part,”<sup>17</sup> indicates that corporations in the United States may be liable if their supply chain their supply chains are not free of goods produced by prisoners, convicts, or anyone in any penal or reformatory institution, unless one of the stated exceptions applies.

It is also a federal crime under 18 U.S.C. § 1762, for any goods produced, wholly or in part, by convicts, prisoners, or anyone in any penal or reformatory institution that are shipped or transported in interstate or foreign commerce, with limited exceptions, to not be plainly and clearly marked (i.e., readily ascertained on inspecting the outside of a package) with:

- the name and address of the shipper,

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<sup>11</sup> 22 U.S.C. § 9241a(b).

<sup>12</sup> 18 U.S.C. § 545 criminalizes smuggling goods into the United States, and is another example of a federal crime that may apply to those who fraudulently or knowingly import goods produced with forced labor.

<sup>13</sup> 18 U.S.C. § 1596.

<sup>14</sup> Bosworth, Mary. *Encyclopedia of Prisons and Correctional Facilities*. India: SAGE Publications, 2005. Pg. 43.

<sup>15</sup> 18 U.S.C. § 1761(a).

<sup>16</sup> 18 U.S.C. § 1762(b).

<sup>17</sup> See 18 U.S.C. §§ 1761 and 1762.

- the name and address of the consignee,
- the nature of the contents, and
- the name and location of the penal or reformatory institution where produced wholly or in part

Anyone violating this law shall be fined and the goods transported in violation of the statute shall be forfeited to the United States.<sup>18</sup>

### **Establishment of the Forced Labor Enforcement Task Force**

Section 741 of the U.S.-Mexico-Canada Agreement Implementation Act (USMCA), signed into law in January 2020, requires establishment of a Forced Labor Enforcement Task Force.<sup>19</sup> Executive Order 13923 established the Forced Labor Enforcement Task Force in May 2020.

The U.S. Department of Homeland Security (DHS) chairs the Task Force, which must meet quarterly. Members of the Task Force include the Office of the U.S. Trade Representative (USTR), the Departments of Labor (DOL), State, Justice (DOJ), Treasury, and Commerce (DOC), and the U.S. Agency for International Development (USAID). The National Security Council (NSC) and Domestic Policy Council (DPC) participate as observers. An overview of each agency's role in forced labor enforcement is described below.

### **U.S. Department of Homeland Security**

DHS enforces through its component agencies the prohibition on importing goods produced with forced labor. The agencies undertake enforcement primarily through trade enforcement and criminal enforcement.

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

CBP enforces Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307) prohibiting the importation of goods made with convict labor, forced labor, or indentured labor under penal sanctions, including forced or indentured child labor.

CBP investigates allegations received from other U.S. government agencies, civil society organizations, non-governmental organizations (NGOs), academia, media reports, and the private sector. CBP also initiates investigations of circumstances that present a high risk of forced labor use in the production of goods. To develop an allegation, CBP combines on-the-ground knowledge about foreign producers, growers, and manufacturers with information gathered by its Centers of Excellence and Expertise, Attachés, and/or Regulatory Audit and Agency Advisory Services through official correspondence, interviews, audits, and other engagements of importers. CBP refers cases to U.S. Immigration and Customs Enforcement

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<sup>18</sup> 18 U.S.C. § 1762.

<sup>19</sup> 19 U.S.C. § 4681(a).

(ICE) Homeland Security Investigations (HSI) for criminal investigation, as appropriate. CBP employs a risk-based enforcement strategy to prioritize and investigate cases.

CBP has civil law enforcement authority to detain, seize, or exclude goods produced with forced labor and convict labor at the ports of entry.

To issue a detention order (also known as a Withhold Release Order or WRO) on goods produced with forced labor, regulations require that CBP finds the information “reasonably but not conclusively” indicates the goods are produced with forced labor,<sup>20</sup> and that the “class of merchandise” is being or is “likely to be” imported into the United States.<sup>21</sup> A WRO determination is made exclusively by the Commissioner of CBP (the head of the agency) or the Commissioner’s designated representative.<sup>22</sup> Shipments of merchandise falling under WRO are subject to detention and/or exclusion. Once a WRO is issued, CBP works to facilitate the flow of legitimate goods while effectively prohibiting goods made with forced labor from entering U.S. commerce.

If CBP detains a shipment subject to a WRO, then within three months, the importer may respond to the allegation by providing evidence of admissibility,<sup>23</sup> or the importer may redirect (i.e., export from the U.S. port) the goods to a location outside of the United States at any time prior to seizure.<sup>24</sup> To request release of a particular shipment, importers may submit proof of admissibility petitions to the port of entry where the shipment is being detained. Importers and/or manufacturers may also request a WRO modification or revocation, which CBP reviews. CBP posts notifications of WRO modifications and revocations on CBP.gov, and endeavors to also issue media releases announcing the changes. WRO are also published online and announced in the media as well.

If CBP receives information sufficient to find probable cause that certain imported goods are produced with forced labor, CBP with the approval of the Secretary of Homeland Security will publish a formal “finding” to that effect in the Customs Bulletin and in the Federal Register.<sup>25</sup> Merchandise covered by a Finding is subject to seizure and forfeiture.<sup>26</sup> CBP may also issue penalties against those who facilitated the importation of goods produced with forced labor.<sup>27</sup>

Existing regulations provide that if a CBP port director identifies any apparent violation of the prohibition against knowing importation or the inappropriate marking of goods produced by

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<sup>20</sup> A reasonableness standard is one of the lowest thresholds among various burdens of proof in the U.S. legal system. As explained further, a Withhold Release Order only leads to detaining, not seizing, such goods, and shifts the burden to the importer to provide information to CBP demonstrating that the allegations are not valid.

<sup>21</sup> 19 C.F.R. § 12.42.

<sup>22</sup> See 19 C.F.R. § 12.42.

<sup>23</sup> 19 C.F.R. § 12.43.

<sup>24</sup> 19 C.F.R. § 12.44.

<sup>25</sup> See 19 C.F.R. § 12.42. The Secretary of the Treasury delegated this authority to the Secretary of Homeland Security pursuant to Treasury Order 100-16, May 15, 2003.

<sup>26</sup> 19 C.F.R. § 12.44.

<sup>27</sup> For example, 19 U.S.C. § 1592 provides that CBP may issue penalties for import violations involving fraud, gross negligence, and negligence, and 19 U.S.C. § 1595a provides that CBP may issue penalties against individuals who aid in unlawful importation..

convicts, prisoners, or anyone in any penal or reformatory institution,<sup>28</sup> then the CBP port director must detain the goods and report the facts to the appropriate U.S. Attorney, who will advise CBP on whether action should be taken against the goods.<sup>29</sup>

CBP's Office of Trade, Trade Remedy Law Enforcement Directorate (TRLED) leads CBP's forced labor enforcement work. The Forced Labor Division within TRLED handles the processing of allegations/petitions and law enforcement investigations. The Forced Labor Division manages the entire cycle of a civil forced labor case, from allegation, through investigation, respective enforcement actions, as well as adjudication of any requests for modification or revocation of WROs, and coordination for any civil penalties, criminal investigation referrals, and publishing of findings of forced labor. Offices beyond Forced Labor Division within CBP contribute to the investigations and enforcement actions, including:

- Office of Trade
  - National Threat Analysis Division (NTAD), also within TRLED
  - Regulatory Audit and Agency Advisory Services (RAAAS)
  - Regulations and Rulings
  - Trade Intelligence Division
- Office of Chief Counsel
- Office of Field Operations
  - Trade Operations Division
  - National Targeting Center
  - Centers of Excellence and Expertise
  - Field Offices and Port personnel.

CBP also conducts outreach to educate stakeholders about the prohibition in 19 U.S.C. § 1307. Stakeholders include other agencies in the U.S. government, industry associations and companies, and civil society and non-governmental organizations. CBP regularly posts guidance on CBP.gov.

CBP leverages all of its enforcement tools, including targeting, auditing, and commodity expertise, to conduct investigations of forced labor allegations.

### *U.S. Immigration and Customs Enforcement Homeland Security Investigations*

ICE HSI conducts criminal investigations into actors or entities engaging in illicit activity with a nexus to the United States, who violate 18 U.S.C. § 1589 by participating in a venture knowingly or in reckless disregard that the venture has engaged in forced labor and who knowingly benefit, financially or by receiving anything of value, from such venture. For a case to be viable for criminal prosecution under 18 U.S.C. § 1589(b), it requires a probable cause showing necessary elements of the crime—knowledge or reckless disregard of forced labor, benefit, and a venture—

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<sup>28</sup> 18 U.S.C. §§ 1761 – 1762.

<sup>29</sup> 19 C.F.R. § 12.45.

are present. Criminal conviction requires proving the elements of the crime beyond a reasonable doubt.

ICE HSI does not require a CBP-issued WRO or Finding to be in effect to criminally investigate or refer a case for prosecution for violating U.S. law regarding goods produced with forced labor. Prosecuting criminal violations of forced labor requires a higher evidentiary burden of proof than what is required for CBP to determine to issue a WRO or Finding.

Criminal cases may begin as an investigation or prosecution for violating 18 U.S.C. § 1589. Alternatively, the criminal investigation or prosecution might develop from information identified in other investigations, such as intellectual property violations, commodity smuggling, or financial crimes that indicate the goods being seized or sought may have been produced with forced labor.

If CBP or ICE receives any original information from the public on violations of the prohibition on the importation of goods produced with forced labor, the informer may be entitled to compensation, not to exceed 25% of any fine, penalty, or forfeiture incurred or \$250,000 for any case.<sup>30</sup> An informant's identifying information shall be kept confidential.<sup>31</sup>

#### *Other DHS Agencies*

The DHS Office of the Inspector General (OIG) and certain DHS Components may investigate and take criminal or administrative enforcement action<sup>32</sup> against contractors or other suppliers of the U.S. government who violate U.S. law or the Federal Acquisition Regulations (FAR) prohibition on human trafficking in U.S. government acquisitions, per FAR clauses 52.222-18, -19, and -50.<sup>33</sup>

#### **Office of the U.S. Trade Representative**

USTR is within the Executive Office of the President whose role is to develop and coordinate U.S. international trade, commodity, and direct investment policy. USTR also monitors and negotiates trade agreements and administers trade preference programs, which include U.S. government priorities to end the forced labor of adults and children.

The trade agreements to which the United States is a party have long included provisions to require parties to adopt, maintain, and enforce legal provisions on the elimination of all forms of forced or compulsory labor. In addition, the USMCA includes a ground-breaking provision requiring all three countries to prohibit the importation of goods produced wholly or in part with forced labor.

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<sup>30</sup> 19 U.S.C. § 1619.

<sup>31</sup> 19 C.F.R. § 161.15.

<sup>32</sup> Administrative enforcement action includes suspension and debarment.

<sup>33</sup> See also Executive Order 13627 *Strengthening Protections Against Trafficking in Persons in Federal Contracts*, Executive Order 13126 *Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor*, and Office of Management and Budget Memorandum: *Anti-Trafficking Risk Management Best Practices & Mitigation Considerations* (October 21, 2019).

The trade preference programs that USTR administers continue to be powerful tools in strengthening labor standards around the world, including against the use of forced labor. The Generalized System of Preferences and the African Growth and Opportunity Act require countries receiving these preferential benefits to meet all of the eligibility criteria, including with respect to forced labor. Through USTR's enforcement and review processes, they ensure that countries benefiting from these programs are indeed meeting these requirements. USTR's efforts have resulted in strengthened protections for workers, including strengthened protections against forced labor.

USTR also co-chairs the Interagency Labor Committee for Monitoring and Enforcement with DOL and is a member of the Forced Labor Enforcement Task Force. It continues to work within those entities to help address issues related to forced labor.

### **U.S. Department of Labor**

DOL's Bureau of International Labor Affairs (ILAB) combats some of the most abusive labor practices, including the use of child labor, forced labor, and human trafficking. ILAB represents DOL as co-chair for the Interagency Labor Committee for Monitoring and Enforcement and serves as a member of the Forced Labor Enforcement Task Force.

ILAB broadly combats abusive labor practices through international research, awareness, policy engagement, and technical cooperation. ILAB also engages in negotiations of international labor standards that strengthen the legal framework to protect workers from forced labor and provide guidance on how to tackle the problem. ILAB works to ensure that United States trading partners live up to their commitments through ILAB negotiation, monitoring, and enforcement of labor provisions of trade agreements and trade preference programs, including on forced labor.

For example, ILAB supports the implementation of the USMCA by working with its interagency partners and foreign government counterparts. ILAB has been working closely with the Government of Mexico and key stakeholders to support efforts that create meaningful and legitimate labor relations for workers and a fair playing field for U.S. businesses. ILAB is supporting implementation of Mexico's historic labor law reform, including through technical assistance, cooperation, and policy engagement, and has posted labor attachés in Mexico to serve as liaisons in advancing these efforts and the mission of the Bureau, including an attaché focused on child labor, forced labor, and human trafficking issues.

ILAB publishes three annual/periodic reports on international child and forced labor that serve as valuable resources for research, advocacy, government action, and corporate responsibility. These reports are the Department of Labor's *Findings on the Worst Forms of Child Labor*; the *List of Goods Produced by Child Labor or Forced Labor*; and the *List of Products Produced by Forced or Indentured Child Labor*. Each of these reports has a distinct mandate, focus and set of implications, but taken collectively, they document the current situation of child labor, forced labor, and forced child labor around the world. ILAB's *Sweat & Toil: Child Labor, Forced Labor, and Human Trafficking Around the World* is a comprehensive resource available as a smartphone app and includes data and research from ILAB's three flagship reports. ILAB also provides resources for private sector companies and industry groups to reduce forced labor in

their supply chains through its smartphone and web-based app: *Comply Chain: Business Tools for Labor Compliance in Global Supply Chains*.

ILAB provides technical assistance cooperation by funding programs to increase capacity of governments and other stakeholders to combat forced labor. More information about these resources can be found on DOL's website at <https://www.dol.gov/agencies/ilab/our-work/child-forced-labor-trafficking>.

### **U.S. Department of Justice**

DOJ has sole authority to criminally prosecute federal forced labor violations under 18 U.S.C. § 1589, including offenses connected to the importation of goods produced by forced labor. DOJ's Civil Rights Division's Human Trafficking Prosecution Unit (HTPU) prosecutes and provides subject matter expertise on forced labor and other human trafficking crimes. The Department's 94 U.S. Attorneys' Offices also prosecute forced labor cases, often in collaboration with HTPU. DOJ's Criminal Division's Money Laundering and Asset Recovery Section (MLARS) prosecutes and provides expertise on the investigation and prosecution of financial crimes, including money laundering, as part of human trafficking cases. DOJ's Criminal Division's Human Rights and Special Prosecutions (HRSP) Section also works with HTPU and MLARS to prosecute forced labor and human rights offenses.

### **U.S. Department of State**

The Department of State (State) leads the United States' global engagement to combat human trafficking and supports the coordination of anti-trafficking efforts across the U.S. government. State is responsible for bilateral and multilateral diplomacy, targeted foreign assistance, and conducting public engagement on human trafficking, including forced labor.

State engages year-round with foreign governments to discuss ways to combat human trafficking and encourage measurable progress through recommendations in the annual Trafficking in Persons (TIP) Report and national action plans. The TIP Report is the U.S. government's principal diplomatic and diagnostic tool to guide engagement with foreign governments on human trafficking. State also issues its annual Country Reports on Human Rights Practices, and in Section 7 Worker Rights includes information on forced labor laws and their application in practice. Through this consistent monitoring and reporting, State supports U.S. trade enforcement efforts by providing additional context on countries and labor concerns, facilitating in-country research on or outreach to particular industries, and raising with foreign counterparts how U.S. authorities with regard to U.S. trade oversight can complement other governments' law enforcement efforts. State is also responsible for delivering critical training to foreign government officials on labor issues.

State deploys several authorities to combat forced labor. State has foreign assistance programming aimed at helping partner countries address and mitigate security threats posed by transnational crime and illicit threats, including human trafficking. Governments of countries ranked Tier 3 in the TIP Report may also be subject to certain restrictions on non-humanitarian

and non-trade-related foreign assistance, votes on funds provided through international financial institutions to the government, and in certain circumstances, on educational and cultural exchange programs for government officials. The U.S. government can also place financial sanctions and visa restrictions on persons connected to serious human rights abuse, including those involving forced labor.

For example, State officials meet with labor stakeholders to discuss the importance of the additional USCMA labor protocol negotiated at the end of 2019 in advancing labor reform in Mexico, which is critically important to the USMCA's success. State does so to demonstrate support for labor law reforms and USMCA implementation efforts in Mexico. State also works with DOL and USTR to follow the implementation of the reforms in Mexico's 32 states and receives reporting from all consular districts on labor-related issues, including forced labor.

### **U.S. Department of the Treasury**

Treasury brings significant financial expertise to the fight against human trafficking and is committed to leveraging the Department's economic tools to target, disrupt, and counter those who undermine our values and engage in forced labor.

Treasury has various tools and authorities to support the mission of combating forced labor, including anti-money laundering, countering the financing of terrorism, and sanctions authorities. The Office of Terrorism and Financial Intelligence (TFI) integrates countering the financial operations of human trafficking networks into Treasury's strategy to safeguard the financial system and combat illicit threats. TFI, through the Office of Terrorist Financing and Financial Crimes (TFFC), the Financial Crimes Enforcement Network (FinCEN), the Office of Foreign Assets Control (OFAC), and the Office of Intelligence Analysis (OIA), coordinates with other federal agencies, state and local law enforcement, and foreign governments to combat human trafficking.

The Internal Revenue Service (IRS) collects and analyzes financial intelligence and data to identify human traffickers and their networks and support law enforcement investigations that lead to accountability and justice. The IRS's Criminal Investigation (IRS-CI) division is the law enforcement arm of the IRS. IRS-CI partners with DOJ, as well as federal, state, local, tribal, and foreign law enforcement to investigate labor trafficking and sex trafficking cases from a financial perspective.

Treasury also has authority to approve regulations implementing 19 U.S.C. § 1307 prohibiting the importation of goods mined, produced, or manufactured, wholly or in part, in any foreign country by forced labor or indentured labor, including convict labor and forced child labor.

### **U.S. Department of Commerce**

DOC's Bureau of Industry and Security (BIS) has added a total of 53 entities to the Entity List for their involvement in the implementation of China's campaign of repression, mass arbitrary detention, forced labor, and high-technology surveillance targeted at Muslim minority groups in the Xinjiang Uyghur Autonomous Region (XUAR).

A BIS license is required for the export, reexport, or transfer (in-country) of any item subject to the Export Administration Regulations (EAR) to any of the 53 entities, and no license exceptions are available. License applications involving most items subject to the EAR that are destined for any of these entities are reviewed under a presumption of denial. BIS has an ongoing process in place to identify and review activities of the Chinese government and commercial entities to determine whether placement of additional entities on the Entity List is warranted.

BIS specifically worked with interagency partners to urge businesses with potential exposure in their supply chain in Xinjiang, or to facilities outside Xinjiang that use labor or goods from Xinjiang, to be aware of the reputational, economic, and legal risks of involvement with entities that engage in human rights abuses. On July 1, 2020, the Departments of Commerce, State, Homeland Security, and the Treasury issued the *Xinjiang Supply Chain Business Advisory* that encouraged businesses to apply industry human rights due diligence policies and procedures to mitigate reputational, economic, legal, and other risks with regard to entities engaged in human rights abuse in XUAR.

### **U.S. Agency for International Development**

USAID is committed to identifying and reducing trafficking in persons in all its forms, including the forced labor of adults and children, in other countries throughout the world, including Mexico. Per the USAID Counter-Trafficking in Persons Policy, launched in 2012 and currently under revision, USAID uses rigorous research methodologies to gain a deeper understanding of the nature and scale of the approaches and to measure impact. In funded assistance around the world, preventing and prosecuting trafficking for forced labor is an important component in USAID's Counter Trafficking in Persons programs, which have been implemented in over 81 countries and regions since 2001. USAID's efforts to combat harmful child labor and trafficking of children involves targeting places where children are vulnerable to trafficking, such as schools, orphanages, and in the agricultural sector. Similarly, USAID programming to combat this crime is focused on behavior change communications interventions, policy development, and livelihood training in target communities. These efforts have been implemented in Africa, Asia, Latin America, the Middle East and Europe and Eurasia.

### III. Timeline Required

The Forced Labor Enforcement Task Force, responsible for monitoring U.S. enforcement of the prohibition in 19 U.S.C. § 1307, establishes the following timelines for responding<sup>34</sup> to petitions<sup>35</sup> submitted to the CBP Commissioner alleging that goods produced with child<sup>36</sup> or forced labor are being imported or likely to be imported.<sup>37</sup>

There are two stages to CBP's process for responding to relevant petitions. First, CBP preliminarily reviews submissions to accept or reject the petition for CBP investigation or refer for possible action under other U.S. Department and Agency authorities. If CBP rejects a petition for investigation, the petitioner may update the petition with additional evidence and re-submit it to CBP for possible acceptance and investigation. Then, if CBP accepts a petition for investigation, CBP will investigate its allegations for possible action under CBP authorities.

#### **Accepting Petitions**

The timeline begins when CBP receives from "any person outside of CBP"<sup>38</sup> a petition alleging that goods produced with forced labor, including forced child labor, convict labor, or indentured labor under penal sanctions, are being or are likely to be imported.

CBP next conducts a preliminary review of the submission, which includes source and evidence verification, risk and impact assessment, and case prioritization.

Before formally accepting and acknowledging receipt of the petition, CBP will find one of the following three outcomes within 30 days of submission of the petition:

#### *Outcome A: When the petition is viable for possible action under CBP authorities*

- CBP accepts the petition for investigation of potential violation(s) of 19 U.S.C. § 1307.
- If the petition has information on the existence of goods produced in whole or in part by forced labor, convicts or prisoners, (except convicts or prisoners on parole, supervised release, or probation) or in any penal or reformatory institution and the goods are being or are likely to be imported, CBP also refers the petition and any additional, relevant evidence to DOJ and/or ICE HSI, as appropriate, for a potential violation of 18 U.S.C. §§ 1589, 1761, 1762.
- If the petition has information on the existence of goods produced with the labor of North Korean nationals or citizens *within* North Korea and the goods are being or are likely to be imported, CBP also refers the petition and any additional, relevant evidence CBP has to Treasury's Office of Foreign Assets Control (OFAC), which may assess whether there

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<sup>34</sup> DHS assumes that "responding to petitions" means both accepting and investigating petitions.

<sup>35</sup> Sec. 742 of the USMCA Implementation Act (19 U.S.C. § 4682) uses the term "petitions." DHS interprets a "petition" to refer only to a submission of a petition in writing to CBP pursuant to 19 C.F.R. § 12.42(b).

<sup>36</sup> DHS notes that 19 U.S.C. § 1307 prohibits the importation of goods produced with forced child labor or indentured child labor, but not child labor that is not forced or indentured.

<sup>37</sup> CBP will share petitions with the Forced Labor Enforcement Task Force and update the Task Force on any determinations related to the petitions, such as if CBP initiates an investigation or issues an enforcement action, as soon as possible.

<sup>38</sup> 19 C.F.R. § 12.42(b).

has been a violation of the North Korea Sanctions Regulations, which at 31 C.F.R. § 510.205(a) prohibits the importation into the United States, directly or indirectly, of any goods, services, or technology from North Korea. Within two days of OFAC responding to CBP to confirm that the goods, services, or technology are prohibited from importation, in the absence of an applicable OFAC license or exemption, CBP will alert its port directors of the prohibited import.

- If the petition has information on the existence of goods produced with the labor of North Korean nationals or citizens *outside* North Korea and the goods are being or are likely to be imported, CBP alerts its port directors of an apparent violation of 22 U.S.C. § 9241a with instructions on how to proceed.<sup>39</sup>
- If the petition could be viable for possible action under other Department and Agency authorities not already specified, CBP refers the petition and any additional, relevant evidence CBP has to those relevant Departments and Agencies.
- If there is adequate contact information for the petitioner, CBP acknowledges receipt of the petition for action under all relevant authorities and, if needed, CBP requests additional information from the petitioner.

*Outcome B: When the petition is not viable for possible action under CBP authorities, but could be viable for possible action under other Department and Agency authorities*

- CBP rejects the petition for investigation of potential violation(s) of 19 U.S.C. § 1307.
- If the petition has information on the existence of goods produced with child labor that is not forced or indentured,<sup>40</sup> CBP also refers the petition and any additional, relevant evidence CBP has to DOL, in accordance with established information exchange protocols.
- If the petition could be viable for possible action under other Department and Agency authorities not already specified, CBP refers the petition and any additional, relevant evidence CBP has to those relevant Departments and Agencies, in accordance with established information exchange protocols.
- CBP notifies the petitioner, if there is adequate contact information, of the rejection of the petition for investigation under CBP authorities and the petition's referral to other Departments and Agencies. CBP provides the petitioner "detailed written advice as to the respects in which [the petition] does not conform."<sup>41</sup>

*Outcome C: When the petition is not viable for possible action under CBP authorities and is very likely not viable for possible action under other Department and Agency authorities*

- CBP rejects the petition for investigation of potential violation(s) of 19 U.S.C. § 1307.
- CBP notifies the petitioner, if there is adequate contact information, of the rejection of the petition for investigation under CBP authorities, provides the petitioner "detailed written advice as to the respects in which [the petition] does not conform,"<sup>42</sup> and requests additional information from the petitioner.

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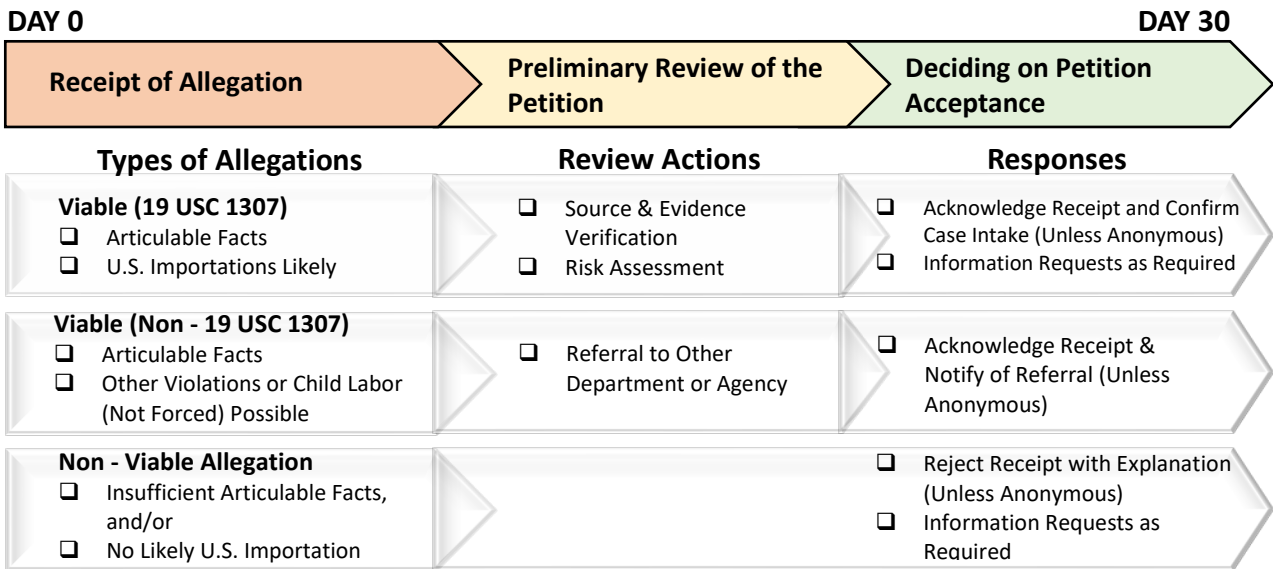
<sup>39</sup> Any further action by CBP in following up on these allegations falls outside the process outlined in 19 C.F.R. §§ 12.42 – 12.45.

<sup>40</sup> CBP does not have the authority to act against goods produced wholly or in part with child labor that is not forced or indentured that are or are likely to be imported into the United States.

<sup>41</sup> 19 C.F.R. § 12.42(c)

<sup>42</sup> 19 C.F.R. § 12.42(c)

Figure 1: Process for Accepting or Rejecting Petitions



### Investigating Petitions Viable for Possible Action Under CBP Authorities

CBP’s timeline for responding to petitions continues to an investigative phase after CBP accepts a petition for investigation of potential violation(s) of 19 U.S.C. § 1307 and acknowledges receipt of the petition to the petitioner.<sup>43</sup>

CBP undertakes the following steps after accepting a petition for investigation.

#### Initiating Investigations

CBP will consider the investigation initiated once CBP has accepted a petition for investigation of potential violation of 19 U.S.C. § 1307, and responded to the petitioner accordingly.

#### Reasonable Suspicion for a Withhold Release Order

In approximately 90 to 180 calendar days from the initiation of an investigation, CBP determines whether reasonable suspicion of violation(s) of 19 U.S.C. § 1307 exists and, if so, issues WROs and a corresponding press release.<sup>44</sup>

There are a number of information sharing opportunities with relevant government agencies. On a monthly basis, CBP hosts the DHS Interagency Forced Labor Working Group. During these meetings, agencies are encouraged to share information regarding their agency’s activities related to forced labor. Additionally, during these monthly meetings, CBP provides a forecast of cases in the investigative queue as they are maturing. CBP also strives to provide a two-week

<sup>43</sup> If at any time CBP detains goods at a port of entry pursuant to 19 C.F.R. § 12.45, then CBP will initiate an investigation for a violation of 19 U.S.C. § 1307, report the facts to the appropriate United States attorney, and follow procedures in accordance with 19 C.F.R. § 12.45.

<sup>44</sup> Extraordinarily complicated investigations, case prioritization, available resources, and other significant factors may affect the actual timeline of certain cases.

advance notification of an impending WRO. CBP meets with specific agencies to clarify any information related to an impending WROs following receipt of interagency notifications. Finally, CBP will provide regular reports to the FLETF on a quarterly basis with regards to its enforcement activities.

### Probable Cause for a Finding

CBP may not necessarily find probable cause to issue a Finding in all cases where a WRO is issued. If, taking into account benchmarks established above, in approximately 180 to 365 days from the initiation of an investigation, CBP finds probable cause that certain goods that are being or are likely to be imported were produced by or with forced labor, including forced child labor, convict labor, or indentured labor under penal sanctions, CBP will proceed to issue a Finding.<sup>45</sup>

Within approximately 60 calendar days after finding probable cause of a violation of 19 U.S.C. § 1307, CBP, with the approval of the Secretary of the Homeland Security,<sup>46</sup> publishes a Finding to that effect in the weekly issue of the Customs Bulletin and in the Federal Register per 19 C.F.R. § 12.42(f).<sup>47</sup>

If CBP identifies any apparent violation of 18 U.S.C. §§ 1761 or 1762, it will detain the subject goods and notify ICE HSI and the appropriate U.S. attorney. If CBP at any time indicates reasonable suspicion or finds probable cause of a violation of 19 U.S.C. § 1307 relating to “convict labor” exists, then CBP will take appropriate enforcement action consistent with title 19, United States Code, and applicable regulations, including notification to ICE HSI and DOJ pursuant to 19 C.F.R. § 12.45, where appropriate.

Also, unless an investigation would be seriously jeopardized by sharing with other U.S. Departments or agencies, CBP – when possible – will notify the Forced Labor Enforcement Task Force of a determination of a WRO at least two weeks before it is publicly issued. With regard to Findings, there are a number of factors that affect publication timing. However, CBP will endeavor to provide as much advanced notice as possible to Task Force member agencies prior to release of both WROs and Findings.

It should be noted that the timelines in Figure 2 (below) generally reflect the lifecycle of CBP responding to a petition; however, responding to a petition is a law enforcement investigation and not a linear administrative process.

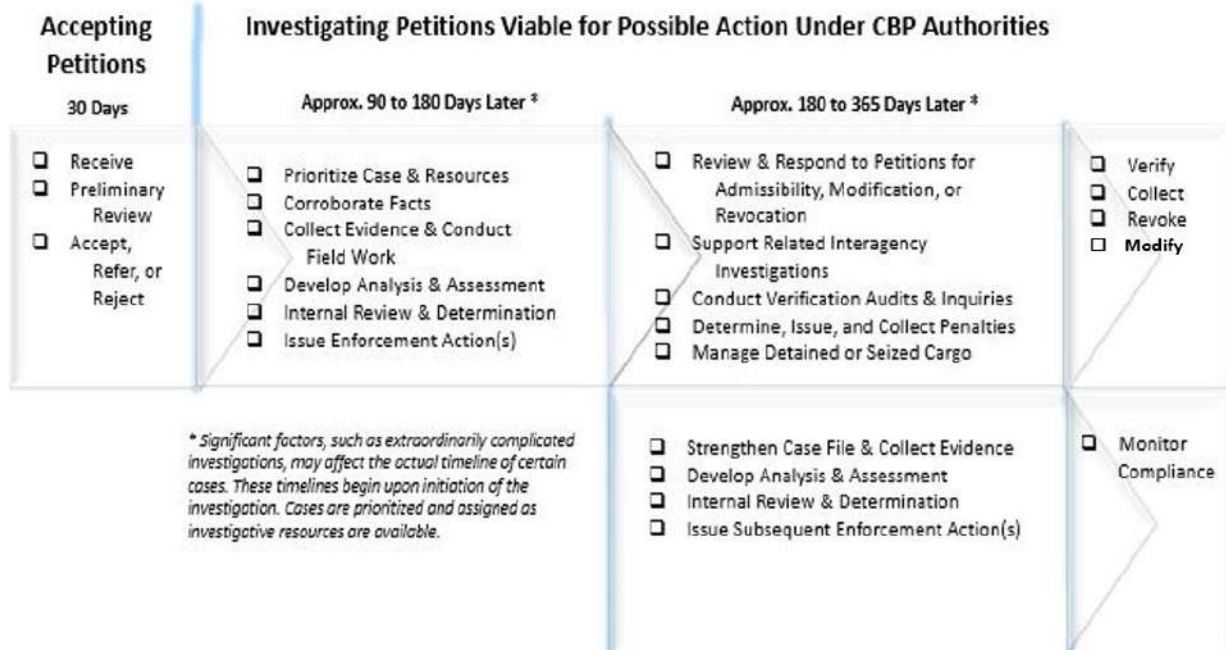
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<sup>45</sup> Extraordinarily complicated investigations, case prioritization, available resources, and other significant factors may affect the actual timeline of certain cases.

<sup>46</sup> The Secretary of the Treasury delegated this authority to the Secretary of Homeland Security pursuant to Treasury Order 100-16, May 15, 2003.

<sup>47</sup> Extraordinarily complicated investigations, case prioritization, available resources, and other significant factors may affect the actual timeline of certain cases.

Figure 2: Process for Investigating Petitions Viable for Possible Action Under CBP Authorities



## IV. Discussion

Significant factors such as extraordinarily complicated investigations may affect CBP's ability to adhere to the timelines described above. CBP prioritizes cases and assigns investigative resources as they are available.

After CBP initiates an investigation of a petition of potential violation(s) of 19 U.S.C. § 1307, CBP corroborates allegation details, collects additional evidence, conducts field work, and develops its analysis and assessment.

As soon as CBP issues an enforcement action such as a WRO, CBP may begin reviewing and responding to petitions for admissibility, modification, or revocation. CBP will also continue to support related external investigations, such as criminal investigations or investigations of prohibited goods in federal procurement and acquisitions. CBP may also conduct verification audits and inquiries.

CBP may determine, issue, and collect penalties in particular cases where WROs or Findings have been issued, as appropriate. CBP will also be involved in managing detained or seized cargo.

At all times subsequent to CBP enforcement action, CBP may continue to strengthen case files and collect evidence, develop further analysis and assessment, conduct internal reviews and determinations, and issue subsequent enforcement actions.

### **Forced Labor Enforcement Task Force Coordination**

Sec. 741(b)(2) of the United States-Mexico-Canada Agreement Implementation Act of 2020 requires the Forced Labor Enforcement Task Force in its monitoring role to “meet on a quarterly basis regarding active WROs, ongoing investigations, petitions received, and enforcement priorities, and other relevant issues with respect to enforcing the prohibition under Section 307 of the Tariff Act [i.e., 19 U.S.C. § 1307].”<sup>48</sup> Per Executive Order 13923, such agencies involved in the Task Force include the Department of Homeland Security as the Chair, and the Departments of State, Treasury, Justice, Labor, and the Office of the United States Trade Representative. By discretion of the Chair, additional members include: the Department of Commerce and the U.S. Agency for International Development. The National Security Council and the Domestic Policy Council are involved as observers.

Information exchanged in this forum, in accordance with established protocols, shall include ongoing investigations, petitions received, enforcement priorities, and other relevant issues with respect to enforcing the prohibition under section 307 of the Tariff Act. Other relevant issues may include, as appropriate: country of manufacture; goods or merchandise in question; the status of petition, investigation, or issuance of a WRO, Finding, or penalties; and scope of the targeted entity (e.g., whether it is a company, group of companies, or manufacturers in a geographic area).

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<sup>48</sup> 19 U.S.C. § 4681.

The members of the Task Force represent agencies with expertise and information about the risks of unfair labor practices and internationally-recognized workers rights in U.S.-bound supply chains. By monitoring enforcement activity associated with these areas of risk, including but not limited to WROs, the Task Force has a tremendous opportunity to inform the broader U.S. government approach to addressing the challenge of forced labor. The senior-level Task Force is complemented by more frequent engagement of the Interagency Forced Labor Working Group, which receives monthly updates on the status of forced labor cases and is notified before a WRO is issued, providing an opportunity for coordinated communication and complementary action.

## V. Conclusion

CBP is the only agency in the federal government able to issue WROs and Findings ordering the detention and seizure, respectively, of goods produced with forced labor likely to be imported. However, CBP is not the only agency in the U.S. government capable of taking action against perpetrators of forced labor, including those who benefit from forced labor, whether through the importation of goods produced with forced labor or otherwise, or even seizing and forfeiting goods imported into the United States contrary to law.<sup>49</sup>

Certain U.S. government agencies have tools and programs to prevent the importation of goods produced with forced labor, and other agencies are able to leverage existing national security and economic security tools to combat forced labor overseas. Interagency cooperation on investigations related to forced labor is essential to holistic enforcement and prevention that improves the ability to end forced labor globally as it impacts the United States. The CBP timelines in this report acknowledge the important partnership of members of the Forced Labor Enforcement Task Force.

The Forced Labor Enforcement Task Force will continue to monitor United States enforcement of the prohibition on the importation of goods produced with forced labor under 19 U.S.C. § 1307. Establishing and providing the public with CBP's timelines for responding to petitions related to the importation of goods produced with forced labor will support CBP in working with all stakeholders to effectively investigate and enforce the prohibition in 19 U.S.C. § 1307. The Forced Labor Enforcement Task Force looks forward to completing the reports required in Section 743 - 744 of the United States-Mexico-Canada Agreement Implementation Act of 2020.<sup>50</sup>

The Forced Labor Enforcement Task Force membership understand it may modify these timelines at any time in the future by contributing to, and approving, the submission of an updated Report to Congress to the appropriate congressional committees, the House Committee on Ways and Means and the Senate Finance Committee.

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<sup>49</sup> For example, pursuant to 18 U.S.C. § 1762 or 18 U.S.C. § 545.

<sup>50</sup> 19 U.S.C. §§ 4683- 4684.

## VI. Appendix

### List of Abbreviations and Acronyms

BIS	Bureau of Industry and Security
CBP	U.S. Customs and Border Protection
DHS	U.S. Department of Homeland Security
DOJ	U.S. Department of Justice
DOL	U.S. Department of Labor
EAR	Export Administration Regulations
FinCEN	Financial Crimes Enforcement Network
HSI	Homeland Security Investigations
HTPU	Human Trafficking Prosecution Unit
ICE	U.S. Immigration and Customs Enforcement
IRS	Internal Revenue Service
IRS-CI	IRS Criminal Investigation
MLARS	Money Laundering and Asset Recovery Section
NTAD	National Threat Analysis Directorate
OFAC	Office of Foreign Assets Control
OIA	Office of Intelligence Analysis
OIG	Office of the Inspector General
RAAAS	Regulatory Audit and Agency Advisory Services
State	U.S. Department of State
TFFC	Office of Terrorist Financing and Financial Crimes
TFI	Office of Terrorism and Financial Intelligence
TIP	Trafficking in Persons
Treasury	U.S. Department of the Treasury
TRLED	Trade Remedy Law Enforcement Directorate
TVPA	Trafficking Victims Protection Act of 2000
U.S.	United States
USAID	U.S. Agency for International Development
USMCA	United States-Mexico-Canada Agreement
USTR	Office of the United States Trade Representative
WRO	Withhold Release Order

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**F**orced labor, trafficking, and modern slavery (referred to collectively herein as forced labor) are human rights abuses persistent in global supply chains. The International Labour Organization (ILO) estimates that, [in 2016, 16 million people](#) were in situations of forced labor in the private sector. Companies must be vigilant in their commitment to safeguard workers' rights, in particular with regard to the risk of forced labor. Global efforts to tackle the problem of forced labor include new laws and regulations as well as new benchmarking initiatives aimed at highlighting the best and worst practices amongst companies. Companies face serious legal and reputational risks if they do not take effective action to prevent forced labor in their global supply chains.

The Fair Labor Association's (FLA) stand against forced labor has been evident since the organization's foundation in 1999. FLA standards on forced labor detail more than a dozen indicators for companies evaluating whether their suppliers or producers are upholding their human rights commitments and can be used at any supply chain level. The FLA Workplace Code of Conduct (the FLA Code) clearly states that there "[shall be no use of forced labor, including prison labor, indentured labor, bonded labor or other forms of forced labor.](#)"

This brief focuses on international standards, frameworks and best practices for identifying and eradicating forced labor in supply chains. It explains the indicators of forced labor as set out in the FLA Code, provides examples of risks and violations reported by the FLA's on-the-ground assessors, and offers recommendations of proactive and cooperative steps that companies can take to ensure suppliers do not engage in, contribute to, or tolerate forced labor.



## ILO INDICATORS OF FORCED LABOR

- Abuse of vulnerability
- Deception
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats
- Retention of identity documents
- Withholding of wages
- Debt bondage
- Abusive working and living conditions
- Excessive overtime.

### *International Standards*

Legal and regulatory frameworks prohibiting forced labor have been proliferating over the course of the last decade as international bodies and governments tackle the persistent problem of forced labor in global supply chains.

The ILO's Forced Labor Convention, 1930 (No. 29) defines forced labor as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." Therefore, to determine whether work constitutes forced labor, one must examine two components:

- The real or credible threat of penalty, and
- A lack of free and informed consent.

In 2016, the [ILO's Forced Labor Protocol](#) entered into force; it requires ratifying states to take measures to prevent, protect and remedy in their efforts to suppress forced labor according to the provisions of the Forced Labor Convention. Beyond the work of the ILO, the [United Kingdom](#) and [Australia](#) have each enacted a Modern Slavery Act. These acts require companies with revenues above a specified amount to annually disclose measures taken to identify and prevent slavery and human trafficking in their business or supply chains. In addition, there are a number of federal and state laws in the United States and elsewhere aimed at curbing forced labor. For a summary of the main legal and regulatory frameworks regarding forced labor, please see the Appendix.

## **FAIR LABOR ASSOCIATION STANDARDS**

Beyond the basic requirement that "**workers shall have the right to enter into and to terminate their employment freely,**" and the clear prohibitions on "**prison labor [and] bonded labor,**" FLA standards also require that workers

- must not be bound to their jobs by debt,
- must have reasonable freedom of movement at work, and
- must not be forced to work overtime.

Companies assessing entire supply chains against these standards — and working to remediate the violations they find — are well situated in an evolving global economy in which governments, consumers, investors, and civil society are expressing increasing concern about companies' connections to forced labor.



## **Responsible Recruitment and Forced Labor**

With the rise in global migration and related increase in migrant labor, recruitment practices have come under greater scrutiny in the last several years as a key forced labor indicator. Migrant labor (domestic and international) tends to be one of the most vulnerable sectors of the workforce when it comes to abuse of human rights. The use of unscrupulous recruiting practices may lead to situations akin to debt or bonded labor.

[The ILO reports](#) that 51% of workers in situations of forced labor in the private sector experience debt bondage – this amounts to about 8 million people. The ILO has highlighted the issue of abusive recruitment techniques since 2015 with its [Fair Recruitment Initiative](#). This multi-stakeholder initiative works to combat human trafficking, protect the rights of workers (including migrant workers) from abusive and fraudulent recruitment practices, and reduce the cost of labor migration.

In October 2018, the American Apparel and Footwear Association (AAFA) and the FLA announced a [joint commitment](#) to responsible recruitment. This proactive industry effort addresses potential forced labor risks for migrant workers. The 136 signatories commit to the following:

- no workers pay for their job,
- workers retain control of their travel documents and have full freedom of movement, and
- all workers are informed of the basic terms of their employment before leaving home.

Other organizations and companies have increasingly been addressing this issue, especially with the uptick in migrant labor:

- [The Leadership Group for Responsible Recruitment](#) was launched in May 2016 by leading companies and expert organizations to drive positive change in the way that migrant workers are recruited.
- The Interfaith Center on Corporate Responsibility (ICCR) has a [“No Fees” Initiative](#), encouraging companies across many industries to pledge that they will forbid workers to be charged recruitment fees in their supply chains, to prevent the risk of bonded labor.

## **Benchmarking Initiatives**

Over the last five years, efforts to benchmark entire sectors’ progress (or lack thereof) in combatting forced labor have increased with the goal to improve transparency and develop a public record. These initiatives have provided valuable insights into what companies are, and aren’t doing, to combat forced labor.

[Know the Chain](#), a collaborative partnership of four organizations with significant expertise in addressing forced labor, has evaluated companies’ records on forced labor in three industry sectors — apparel and footwear, food and beverage, and communications technology. It uses benchmarking as a tool to identify and share best practices with the goal of informing companies’ and investors’ decision-making. Know the Chain notes that companies with “responsible supply chain practices not only protect vulnerable workers, but they also guard against legal, reputational, and financial risks.”



In April 2019, Know the Chain [released a report](#) analyzing its findings from the previous three years. The report noted that, despite some improvements, there were specific areas “essential to systemic change” that need work, including:

- Responsible recruitment (addressing exploitative recruitment practices);
- Worker voice (empowering workers to exercise their rights); and
- Supply chain due diligence beyond Tier 1.

The [Corporate Human Rights Benchmark](#) is a collaboration led by investors and civil society organizations dedicated to creating an open and public benchmark of corporate human rights performance. It evaluates companies on their human rights record as a whole; this includes efforts to combat forced labor. This benchmark is based on publicly available information, and thus encourages companies to increase their transparency by reporting on positive steps they have taken to respect human rights. One of the objectives of this benchmarking initiative includes making “corporate human rights performance easier to see and simpler to understand for a wide range of audiences – inside and outside companies.” In addition, it enables investors to incorporate the social ‘costs’ to better represent the true cost of doing business.

### ***Forced Labor - What to Look For***

The FLA believes no worker should be unable to leave a job at will because of the burden of a heavy recruitment debt to an employer. No migrant worker should have to worry about being able to return home freely because an employer is withholding a passport, other important legal documents, or the worker’s wages. And no worker should have to risk termination because s/he is unable to work overtime or chooses not to.

To address the risk of forced labor in its global supply chain, what should a company look for? Below we explain some of the most common forced labor findings reported by FLA assessors in recent years as part of our effort to increase awareness of forced labor indicators, and to remind our affiliates of their commitments and obligations. It is vitally important that these indicators of forced labor be viewed holistically – each element on its own may not always rise to the level of forced labor, but when taken in conjunction with other elements, may paint a very different picture. Furthermore, forced labor indicators can arise during all phases of the employment lifecycle, and it is essential to be vigilant of this risk throughout a worker’s employment relationship with a company.



## **Code Element: Forced Labor**

There shall be no use of forced labor, including prison labor, indentured labor, bonded labor or other forms of forced labor.

Workers must not be bound to their jobs by debt, must have reasonable freedom of movement at work, and must not be forced to work overtime.



## 1. Recruitment Fees and Wage Advances



### FLA Code F.7: Freedom of Movement/Workers' Ability to Terminate –

Employers shall not utilize practices that restrict workers' freedom of movement.



### FLA Code F.3: Debt/Bonded Labor –

Employers shall not bind workers to employment as a condition of fulfilling terms of a debt to a third party or to the employer.

When an employer or recruitment agency imposes recruitment fees or deposit requirements, a worker without enough money to pay these costs upfront may be provided with a loan by a labor contractor, a wage advance by a factory, or even a loan from a private lender (often provided at extremely high interest rates). Such workers risk being unable to freely leave their job until all debts are paid — an employment situation tantamount to bonded labor.

For this reason, **the FLA Code states that workers must never be required to pay for their job.** They must not be required to pay recruitment costs or any fees imposed by labor contractors, employment agencies, third party labor brokers, or any other entity. If suppliers choose to follow a hiring process that results in recruitment fees — or unavoidable recruitment costs, such as when pre-employment health examinations are required by law — the employers

themselves must bear these costs. It is essential that employers audit and monitor any third party agents utilized in the recruitment and hiring process.

Through [assessments of factories and farms](#) around the world, it is clear that migrant worker populations are especially vulnerable to recruitment debt that binds them to their jobs. During the course of agricultural and factory assessments in Turkey, Jordan, and Southeast Asia, the FLA found migrant workers in debt to their employers or recruiters. For example, FLA assessments in Jordan revealed workers being charged fees as high as \$526, or nearly two months' wages, and in Malaysia as high as \$975, or more than three months' wages. FLA assessors uncovered other unfair recruitment practices including deceptive communication about the terms and conditions of work, document retention (see also item 2 below), unsafe transit passages, and failure to enforce legal requirements.

Similarly, wage advances made after a worker begins employment can create a debt bondage relationship between the worker and employer, since it is not possible for the worker to leave without working off the debt. To reduce the risk of an exploitative employment relationship, FLA benchmarks state that after a worker is hired, wage advances must never exceed three months' pay or legal limits, whichever is lower.



## 2. Control of Employee Documents



### FLA Code F.9: Personal Workers Identification and Other Documents –

Workers shall retain possession or control of their passports, identity papers, travel documents, and other personal legal documents.

FLA standards require that workers must be permitted to retain possession of all personal identity papers, passports, work permits, and other legal documents. However in practice, FLA assessors often find that employers demand that migrant workers hand over their passports to factory management, labor contractors, or recruitment agencies.

In some cases, employers will explicitly require workers to forfeit their personal documents; in other cases, pressure to relinquish personal documents may be more subtle. For example, some migrant workers have reported that upon arriving for work in a foreign country, they were not aware of their right to retain their personal documents, and simply followed the example of other workers who willingly turned over their passports to the employer.

When passports are kept by factory management, workers may not be able to move freely if management will not relinquish the documents or may be charged fees to recover these documents (also forbidden by the FLA Code). FLA standards hold brands accountable for ensuring that suppliers clearly inform workers that they may retain their passport and all other documents, and that workers cannot be charged fees or required to leave a deposit to ensure their return to the factory if they choose to travel during time off.

Workers must be permitted free and easy access to their personal documents at all times, even in cases where factories can demonstrate that workers consented to retention of their documents, such as when workers signed release forms.

## 3. Employer-Controlled Residences



### FLA Code F.5: Employer Controlled Residence –

Employers shall not require workers to live in employer-owned or -controlled residences as a condition of recruitment, continued employment or to receive the same terms of employment and working conditions as other workers in the same position.

Any employer action that unreasonably holds a worker within an employer-controlled space is a violation of the FLA Code. FLA standards require that workers must be free to choose their own housing. Some workers may choose to live in company-controlled dormitories during their employment. If they choose the housing offered by the employer, they must remain reasonably free to come and go as they please. In some countries, such as Malaysia, local law requires employers to provide housing for migrant workers. In situations such as these, the employer may not charge workers or deduct an amount from their salary to account for the housing.

FLA assessors have found employers establishing curfew rules for worker housing (prohibiting leaving the dormitory after a certain time of night). Whether workers' freedom of movement is restricted by an employer policy — or as we have observed in some cases through the locking of doors — their rights (and FLA standards) are being violated.



## 4. Mandatory Overtime



### **FLA Code HOW.8.5: Forced Overtime/ Exceptional Circumstances –**

Employers shall enact a voluntary overtime system, including for overtime mandated to meet exceptional circumstances.



### **FLA Code HOW.2: Rest Day –**

Workers shall be entitled to at least 24 consecutive hours of rest in every seven-day period.



### **FLA Code HOW.4.1: Protected Workers –**

The workplace shall comply with all applicable laws governing work hours regulating or limiting the nature, frequency and volume of work performed by women or workers under the age of 18.



### **FLA Code C.7.2: Calculation Basis for Overtime Payments –**

Employees shall be compensated for overtime hours at such premium rate as is legally required in the producing country.

The FLA Code requires that all overtime be consensual and voluntary, with no punitive consequences for workers who refuse overtime, “including for overtime mandated to meet exceptional circumstances.” In recent years, FLA assessors have found violations of this standard in factories in China, Jordan, Vietnam, Turkey, and the United States. In these cases, brands should require that suppliers remove any mandatory overtime requirements written into the factory’s policies and procedures and ensure that workers and managers understand that workers must not be compelled to work involuntary overtime. Brands should also be aware that mandatory overtime is often linked to additional violations, such as failure to provide workers with one rest day in every seven, violations of legal limits on working hours for young workers and pregnant women, or workers not being compensated for their work at premium overtime rates.

In some cases, the presence of a mandatory overtime policy may indicate a more systemic problem with a factory’s production planning and hours of work management. For example, in some factories where workers were threatened with termination if they refuse to work overtime, FLA assessors also found factory management regularly planning for a production schedule of 50 to 55 hours (or more) per week for workers when the FLA Code states that a regular work week shall not exceed 48 hours. In addition to making adjustments at the factory level, such violations may require brands to collaborate with suppliers to achieve a working environment that meets FLA agreed upon standards for hours-of-work and fair compensation.



## 5. Production Targets Too High



### **FLA Code ER.24: Administration of Hours/Production –**

Employers shall not set production targets, piece rates or any other incentive or production system at such a level that workers need to work beyond regular working hours as set under the FLA Workplace Code, excluding overtime, in order to make at least the minimum wage or the prevailing industry wage, whichever is higher.

FLA standards prohibit employers from setting piece-rate production targets so high that employees must work overtime to earn the equivalent of the legal minimum wage. For example, one FLA assessment in Haiti found that a factory's piece-rate was set so high that workers took 9.5 hours to sew enough garments to earn an amount equal to eight hours compensated at the local minimum wage. While piece-rate workers may choose to work voluntary overtime hours to increase their pay, adherence to FLA standards requires adjusting piece rates and production targets so that workers putting in a regular workweek, without overtime, can earn wages that can meet their basic needs and provide some discretionary income.

## 6. Timely Payment



### **FLA Code C.4: Timely Payment of Wages –**

All wages, including payment for overtime, shall be paid within legally defined time limits.

Finally, when workers aren't paid on time, they may fear that they will never receive their payment if they leave their job. Timely payment is important for many reasons, especially because workers' livelihoods and the security of their families and dependents rely on the stability of a predictable income. At the same time, timely payment helps ensure that workers' continued employment is freely chosen.



## RECOMMENDATIONS

In recent years, the FLA has found that most forced labor violations uncovered by factory assessments have related to some form of a mandatory overtime policy, or required overtime in production planning for the regular workweek, or both.

While all forced labor violations are serious on their own, they also tend to be accompanied by related workplace violations. Piece-rate workers facing unreasonable or impossible production targets may be forced to work excessive hours or accept wages insufficient to meet their needs. Workers forced to pay fees or commissions to labor contractors may receive net wages lower than the legal minimum. And workers locked in an employer-controlled dormitory, or forced by company policy to live there, may face health and fire-safety risks in the absence of freedom of movement.

The prevention of forced labor, and laying the groundwork for any necessary remediation, requires proactive communication between FLA-affiliated brands and their suppliers.

Companies should:

- ▶ Ensure suppliers understand FLA standards as well as indicators of forced labor as defined by the ILO and best practices.
- ▶ Ensure that company staff are aware of which parts of the supply chain are at greatest risk for forced labor, such as areas with a high migrant population, or the widespread use of labor contractors and recruitment agencies. Invest in conducting in-depth forced labor assessments for the most at-risk locations.
- ▶ Give suppliers detailed explanations about which workplace practices trigger forced labor findings, and confirm that suppliers are not engaged in any such practices.
- ▶ Maintain strict policies against retention of workers' legal documents and identification papers, and recommend that suppliers retain photocopies of such documents to fulfill administrative needs.
- ▶ Be prepared to move quickly to remediate any violations found, including potentially difficult-to-negotiate requirements like repayment of recruitment fees paid by workers to employers or recruitment agencies; in conjunction with this remediation, work to determine and eliminate the root causes of the violations.
- ▶ Establish grievance channels in the native languages of all employees at a factory or a farm as a recourse for workers to report forced labor violations, especially in workplaces where a migrant worker population may face language barriers. Ensure that these grievance channels allow for anonymous reporting and protect workers from retaliation.
- ▶ Be prepared to discuss purchasing and production practices and to find cooperative solutions whenever suppliers rely on mandatory overtime to meet excessive production targets.
- ▶ Collaborate with other brands sourcing from the same regions and suppliers to raise awareness about forced-labor issues and to find collective solutions to common findings.

Proactive communication with suppliers alerts them to their buyers' labor requirements within the facilities and farms they manage. This type of communication also provides an opening to discuss how to prevent forced labor abuses with their own supply chains, going beyond tier one. We encourage robust discussion of the standards and best practices described in this brief to inspire cooperation — at all levels of the supply chain — to eradicate all instances of forced labor.



# RESOURCES FOR FURTHER READING

## ***International Labour Organization (ILO)***

- [Fair Recruitment Initiative](#)
  - » [General principles and operational guidelines for fair recruitment: Definitions of recruitment fees and related costs](#)
- [Forced Labour, Modern Slavery, and Human Trafficking](#)
- [ILO Indicators of Forced Labour](#)
- [ILO Standards on Forced Labour – The New Protocol and Recommendations at a Glance](#)
- [List of ILO’s fundamental conventions on forced labor and related recommendations](#)

## ***International Organization for Migration (IOM)***

- [IOM and Fair Labor Association Sign Memorandum of Understanding to Promote Ethical Recruitment, Protect Migrant Workers \(26 Mar 2019\)](#)
- [Ending Modern Slavery](#)

## ***U.S. Government Resources***

- U.S. Department of Labor:
  - » [Bureau of International Labor Affairs](#)
  - » [Comply Chain](#)
- U.S. Department of State:
  - » [What is Modern Slavery?](#)
- U.S. Customs and Border Patrol:
  - » [Responsible Business Practices on Forced Labor Risk in the Global Supply Chain](#)
  - » [Forced Labor](#)

## ***UK Modern Slavery Act***

- [UK Modern Slavery Act](#)
- [FTSE 100 and the UK Modern Slavery Act](#)

## ***Australian Modern Slavery Act***

- [Australian Modern Slavery Act](#)
- [Modern Slavery Act 2018 – Draft Guidance For Reporting Entities](#)



## Fair Labor Association Resources

- [Assessing Forced Labor Risks in the Palm Oil Section in Indonesia and Malaysia](#), November 2018
- [Training Toolkit on Addressing Child Labor and Forced Labor in Agricultural Supply Chains](#)
- [FLA Issue Briefs](#)

## Additional Resources

- [Alliance 8.7](#) (initiative to combat modern slavery)
- Business & Human Rights Resource Centre: [Forced Labour & Modern Slavery](#)
- [Corporate Human Rights Benchmark](#) (The member organizations are APG Asset Management, Aviva Investors, Business & Human Rights Resource Centre, EIRIS Foundation, Institute for Human Rights and Business, Nordea Wealth Management, and VBDO (the Dutch Association of Investors for Sustainable Development).)
- [FLEX - Focus on Labour Exploitation](#)
- [The Freedom Fund - Supply Chains Initiative](#)
- [Global Business Initiative on Human Rights: Addressing modern slavery](#)
- [Global Slavery Index](#)
- [Institute for Human Rights and Business](#)
  - » [Focus Area: Migrant Workers](#)
- [Interfaith Center on Corporate Responsibility \(ICCR\)](#) (guidance on ethical recruitment)
- [Know the Chain](#) (collaborative partnership of Business & Human Rights Resource Centre, Humanity United, Sustainalytics, and Verité)
  - » [Three Sectors, Three Years Later: Progress and Gaps in the Fight Against Forced Labor](#) (April 2019)
- [Modern Slavery Registry](#) (company statements filed for UK Modern Slavery Act)
- [Slavefreetrade](#)
- [Stronger Together](#)
- [Verité](#)
  - » [The Cost of a Job - Systemic Forced Labor in Asia and What Companies Can do to Eliminate It](#)
  - » [Cumulus Forced Labor Screen](#)
  - » [Responsible Sourcing Tool](#)
  - » [Fair Hiring Toolkit](#)
  - » [An Ethical Framework for Cross-Border Labor Recruitment](#)
  - » [Forced Labor Commodity Atlas](#)
  - » [Addressing the Retention of Identity Documents](#) (with UN Global Compact)
  - » [Eliminating Recruitment Fees Charged to Migrant Workers](#) (with UN Global Compact)
  - » [Undocumented Workers in the US Garment Sector: An Assessment and Guide for Brands](#)



## LEGAL AND REGULATORY FRAMEWORKS CHART

NAME	COUNTRY	YEAR	APPLIES TO	REQUIREMENTS	TRANSPARENCY	SCOPE OF LABOR ISSUES COVERED	ENFORCEMENT
California Transparency in Supply Chains Act	US	2010	Manufacturers and retailers doing business in California with global annual gross receipts in excess of \$100 million	<p>Companies must publicly disclose their efforts to eradicate forced labor and human trafficking in their supply chains including:</p> <ol style="list-style-type: none"> <li>1. Use of third party risk assessment</li> <li>2. Independent supplier audits</li> <li>3. Tier 1 supplier certifications</li> <li>4. Internal accountability mechanisms</li> <li>5. Internal training</li> </ol>	The disclosure statement must be published on the company's website through a "conspicuous and easily understood link"	Forced labor and human trafficking	<p>Administrative order:</p> <p>Incomplete compliance or noncompliance may result in injunctive relief issued by the California Attorney General.</p>
Dodd-Frank Act §1502	US	2010	SEC-registered manufacturers of products that use conflict minerals	<p>Publicly traded companies must submit to the SEC whether the minerals originate from Democratic Republic of Congo or adjoining areas.</p> <p>If so, companies must engage in supply chain due diligence and annual disclosures on:</p> <ol style="list-style-type: none"> <li>1. Origin of minerals</li> <li>2. Due diligence measures taken to trace and identify chain of custody of minerals</li> <li>3. Findings from an independent private sector audit</li> </ol>	The annual conflict minerals reports must be published on company website.	Child and forced labor	<p>Civil liability, administrative penalty:</p> <ol style="list-style-type: none"> <li>1. Non-compliance leads to section 18 liability of the Security Exchange Act of 1934.</li> <li>2. Issuer may lose the eligibility to use Form S-3.</li> </ol>
Modern Slavery Act §54	UK	2015	Commercial organizations conducting at least a part of its business in the UK with a global net turnover of £ 36m or more	<ol style="list-style-type: none"> <li>1. Annually publish disclosures on measures taken to identify and prevent slavery and human trafficking within its business or supply chain; or lack thereof</li> <li>2. Conduct training</li> </ol>	Annual statements must be published and easily accessible on company website.	Slavery and human trafficking	<p>Administrative order; fine:</p> <ol style="list-style-type: none"> <li>1. The secretary of state may seek injunction through the High Court requiring compliance.</li> <li>2. If noncompliant with the injunction, may be in contempt of a court order, which is punishable by an unlimited fine.</li> </ol>



NAME	COUNTRY	YEAR	APPLIES TO	REQUIREMENTS	TRANSPARENCY	SCOPE OF LABOR ISSUES COVERED	ENFORCEMENT
Federal Acquisition Regulations	US	Amended in 2015	Qualifying government contractors and subcontractors with contracts valued \$500,000 or more and involving non “commercially available off-the-shelf” products	Companies must annually certify having implemented the following efforts to prevent, monitor, detect and terminate prohibited activities in the regulations. <ol style="list-style-type: none"> <li>1. Post and implement a compliance plan</li> <li>2. Conduct due diligence</li> <li>3. Take appropriate remediation actions upon discovery of relevant abuse</li> <li>4. Obtain equivalent annual certifications from each subcontractor regarding due diligence and compliance plan</li> </ol>	Government contractors and subcontractors must post compliance plans on the company website and in the physical workplace.	Forced labor and human trafficking	Administrative penalty: Failure to comply may result in a number of possible remedies by the government agency, amounting up to termination of specific contract at issue or even suspension or debarment.
Non-Financial Reporting Directive	EU	2016	Large public interest entities with more than 500 employees or parent companies of a corporate group with more than 500 employees	Provide a statement in management report on non-financial matters (at a minimum, environmental, social and employee matters, respect for human rights, anti-corruption and bribery, and board diversity). The statement should include information on policies and due diligence processes of the entity, and where proportionate, its supply chains.	The statement should be publicly available.	Human rights, anti-corruption, environmental concerns	Each EU member State must set out the consequences for noncompliance in national legislation.
Tariff Act of 1930	US	Amended in 2016	All US importers	Imported goods suspected of association with forced labor may be withheld or banned by US Customs and Border Protection (CBP). As such, companies are anticipated to conduct due diligence, and identify and avoid suppliers associated with forced labor.	All instances of Withhold Release Orders (WRO) issued are published on CBP’s website and formal findings from all instances in which the withheld imports are conclusively banned will be published in the Customs bulletin and the Federal Register.	Forced, indentured, or convict labor, and child labor	Administrative order: Temporary withholding or conclusive ban of suspected imported goods



NAME	COUNTRY	YEAR	APPLIES TO	REQUIREMENTS	TRANSPARENCY	SCOPE OF LABOR ISSUES COVERED	ENFORCEMENT
Global Magnitsky Human Rights Accountability Act	US	Amended in 2016	Foreign persons, both individuals and entities	Foreign persons can be sanctioned (a) if they are responsible for or acted as an agent for someone responsible for “extrajudicial killings, torture, or other gross violations of internationally recognized human rights,” or (b) if they are government officials or senior associates of government officials complicit in “acts of significant corruption.”	Sanctions lists are published through the Treasury Department website.	Human rights	Targeted sanctions from the executive branch: asset freezes of funds held in US banks and bans on visas to the US
Corporate Duty of Vigilance Law	France	2017	French companies with 5,000 staff in France or any companies with 10,000 staff worldwide	Companies must establish and implement a due diligence plan that states the measures taken to identify and prevent the occurrence of human rights and environmental risks resulting from their activities, the activities of companies they control and the activities of sub-contractors and suppliers	The vigilance plan and its effective implementation report shall be publicly disclosed and included in the extra-financial report required for major French multinational corporations.	Violations of human rights and fundamental freedoms, bodily injury or health risks	Administrative orders, civil liability: <ol style="list-style-type: none"> <li>1. Formal notice to comply must be followed within 3 months</li> <li>2. Injunction order to comply if continued noncompliance against the received formal notice</li> <li>3. Vulnerability to civil liability claims</li> </ol>



NAME	COUNTRY	YEAR	APPLIES TO	REQUIREMENTS	TRANSPARENCY	SCOPE OF LABOR ISSUES COVERED	ENFORCEMENT
EU Conflict Minerals Regulation	EU	2017	All importers of minerals or metals containing or consisting of tin, tantalum, tungsten or gold (except small volume importers that meet designated threshold)	<ol style="list-style-type: none"> <li>1. Clearly communicate to suppliers and the public the supply chain policy for minerals/ metals potentially originating from conflict- affected and high risk areas and incorporate the policy into contracts with suppliers</li> <li>2. Conduct supply chain due diligence consistent with the OECD Due Diligence Guidance (involving independent third party audits if applicable)</li> <li>3. Assign senior management to oversee supply chain due diligence and maintain relevant records for at least 5 years</li> <li>4. Engage in proactive risk management of potential adverse impacts of mineral supply chain</li> <li>5. Operate a chain of custody or supply chain traceability system involving third party audits of suppliers</li> <li>6. Establish grievance mechanism</li> </ol>	<ol style="list-style-type: none"> <li>1. Annual public reports must be made containing the policies and practices of responsible sourcing.</li> <li>2. Information gained from supply chain due diligence must be made available to immediate downstream purchasers.</li> <li>3. The reports of third party audits must be made available to EU Member State authorities.</li> </ol>	Human rights abuses and child labor	<ol style="list-style-type: none"> <li>1. Each member state will respectively establish the consequences applicable to infringements of this law.</li> <li>2. Member state competent authority will issue a notice of remedial action to be taken by the importer.</li> </ol>
Countering America's Adversaries Through Sanctions Act (Title III, Korean Interdiction and Modernization of Sanctions Act)	US	2017	All US importers.	The law creates an assumption of forced labor for any instance of work performed by North Koreans, provides for potential sanctions for persons that employ North Korean laborers, and specifically prohibits the importation into the US of goods produced in whole or in part by North Korean nationals employed anywhere in the world.	[See Tariff Act of 1930, above]	Forced labor	Goods will be prevented from entering US. Enforcement action by US Department of Treasury's Office of Foreign Assets Control with financial penalties.



NAME	COUNTRY	YEAR	APPLIES TO	REQUIREMENTS	TRANSPARENCY	SCOPE OF LABOR ISSUES COVERED	ENFORCEMENT
Modern Slavery Act	Australia	2018	Companies, either Australian or foreign entities doing business in Australia, with annual consolidated revenue of at least AUD\$100 million	<p>Applicable companies must file statement with the government, reporting on the following:</p> <ol style="list-style-type: none"> <li>1. identify the reporting entity</li> <li>2. the reporting entity's structure, operations and supply chains</li> <li>3 the risks of modern slavery practices in the operations and supply chains of the reporting entity and any entities it owns or controls</li> <li>4. the actions taken by the reporting entity and any entities it owns or controls to assess and address these risks, including due diligence and remediation processes</li> <li>5. how the reporting entity assesses the effectiveness of these actions</li> <li>6: the process of consultation with any entities the reporting entity owns or controls</li> <li>7: any other relevant information.</li> </ol>	MSA statement must be submitted to the Department of Home Affairs for publication on a central register.	Modern slavery	There are no financial penalties for failing to prepare a statement. After a three-year period, the position on penalties may be revisited.
Child Labour Due Diligence Law	Netherlands	2019	Companies registered in or importing to the Netherlands	<ol style="list-style-type: none"> <li>1. Conduct due diligence on whether there is reasonable suspicion on the use of child labor by first tier supplier (and when possible) others down the chain</li> <li>2. Submit a declaration of having conducted said due diligence to the supervising government authority for publication in the website maintained by the supervising authority</li> <li>3. If there is reasonable suspicion, draft a Plan of Action and publish through a public register maintained by the government</li> </ol>	A declaration of due diligence and potentially a Plan of Action must be submitted for publication at government maintained websites.	Child labor	<p>Administrative order, fine, imprisonment:</p> <ol style="list-style-type: none"> <li>1. First instance of non-compliance will be subjected to the supervising authority's binding instruction with an execution deadline.</li> <li>2. Noncompliance with said binding instruction leads to administrative fine.</li> <li>3. More than one instance of non-compliance within five years following the first administrative penalty may lead to imprisonment of no more than 6 months.</li> </ol>

# ► Research Brief

2026

## The Potential of Import Bans to Address Forced Labour\*

*Part of the ‘What Works and Why Series’*

### ► Introduction<sup>1</sup>

While an internationally banned practice, forced labour continues to generate illicit profits. Global profits generated from forced labour are estimated to have risen to USD 236 billion in 2024, compared to USD 172 billion in 2014. Profits per victim have also increased, from about USD 8,300 in 2014 to nearly USD 10,000 in 2024, underscoring the growing financial incentives behind this practice (ILO 2024). Furthermore, the most recent estimates indicate that the number of people subjected to forced labour on any given day rose from approximately 25 million in 2016 to around 28 million in 2021 (ILO, Walk Free and IOM 2022). Over 85 per cent of forced labour cases are attributed to private entities—including individuals, groups, or companies (ILO, Walk Free and IOM 2022). The available evidence suggests that while industries where trafficking for forced labour is more prevalent tend to be less integrated into global supply chains, “a non-negligible part of trafficking for forced labour does contribute to global supply chains” (ILO et al. 2019:15).

Against this background, the idea of addressing forced labour by restricting market access for goods produced under such conditions has gained prominence. This includes the stepped-up application of an existing United States forced labour import ban and the adoption of similar instruments by Mexico, Canada, and, most recently, the European Union (EU). These bans can wield substantial

economic leverage and have the potential to generate important extraterritorial effects, especially in countries where the banned goods are produced. However, the actual impact of forced labour import bans remains unclear.

This brief examines the available evidence, highlighting the implications of import bans for workers and enterprises. It finds that import bans can play a role in addressing forced labour in supply chains, sometimes contributing to the adoption of tangible remedial actions. Furthermore, evidence suggests that company-level social dialogue together with other factors can help to facilitate resolution of the issues that prompted the import ban. However, while import bans can generate momentum for change, they are not sufficient on their own to address the root causes of forced labour and raise important questions about the need for a more synergistic effort. This underscores the necessity for further research.

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<sup>1</sup> This brief draws on previous ILO research published in a two-volume set entitled [Integrating Trade and Decent Work](#) (Ebert, Francavilla and Guarcello 2023).

## ► Forced labour import bans: What are they and how do they work?

The idea of excluding products made with forced labour from being imported into domestic markets is not new. As early as 1930, a clause banning imported goods derived from forced labour was inserted into the United States Tariff Act,<sup>2</sup> extending an even older provision that had prohibited imports of goods made with prison labour since 1890 (Armstrong 1975).

Recently, import bans have gained new momentum as a tool to combat forced labour. In the United States, the use of forced labour import bans has increased following the 2015 repeal of the “consumptive demand” clause,<sup>3</sup> which had previously constrained the application of the forced labour provision in the Tariff Act (Brewer 2018). Furthermore, the United States Congress has introduced two additional import ban regimes: one targeting goods produced by “nationals or citizens” of the Democratic People’s Republic of Korea, and another covering goods originating from the Xinjiang Uyghur Autonomous Region (XUAR) or produced by entities listed on a designated entity list<sup>4</sup> (Bhala 2024). In both instances, there is the presumption that the relevant goods violate the forced labour import ban unless the importer can demonstrate otherwise. Following a requirement to this effect in the United States–Mexico–Canada Agreement (USMCA),<sup>5</sup> Canada modified its customs legislation in 2020, adding a forced labour import ban to a previously existing prison labour import ban.<sup>6</sup> Mexico adopted a similar measure in 2023 through an interinstitutional agreement between the Secretariat of Labour and Social Welfare and the Secretariat

of Economy.<sup>7</sup> In 2024, the EU enacted a comprehensive product ban for goods made with forced labour.<sup>8</sup>

All of these instruments prohibit the importation of any merchandise that has been produced wholly or partly with forced labour. As a result, they apply across the entire supply chain of a given good and cover any type of producing companies, including small and medium-sized enterprises. The definition of “forced labour” used in these instruments either draws closely on the definition in the ILO’s Forced Labour Convention, 1930 (No. 29), as in the case of the United States, or explicitly refers to this Convention, as in the case of Canada, Mexico and the EU (Ebert forthcoming).

Nonetheless, there are some important differences (see table below). For example, Canada’s import ban was amended in 2023 to encompass goods made with child labour (Pellerin et al. 2024).<sup>9</sup> Meanwhile, the EU forced labour ban covers imported products as well as exported products and products made in the EU for domestic consumption (Grado 2025). Furthermore, the public institutions involved in implementing the laws banning imports of forced-labour-produced goods differ. In the United States and Canada, the customs authorities determine whether goods are produced using forced labour, issue a ban accordingly, and enforce the ban at the border.<sup>10</sup> By contrast, in the EU and Mexico, while the bans are enforced by the customs authorities, the actual investigations and decisions about which goods to ban are made by a separate authority.

Additionally, the procedural frameworks through which the bans are implemented vary across the different jurisdictions. The United States customs authorities, either on their own initiative or in response to third-party petitions, can issue a “Withhold Release Order” to prevent imported goods from entering the United States if there is reasonable, though not necessarily conclusive, evidence

<sup>2</sup> Section 307 of the US Tariff Act of 1930 (19 US Code § 1307).

<sup>3</sup> The relevant bill was signed into law by the United States President in February 2016. The consumptive demand clause had prevented enforcement of the forced labour clause when the relevant goods were not produced in the United States in sufficient quantities to meet domestic demand.

<sup>4</sup> See Section 3 in conjunction with Section 2 of the Uyghur Forced Labor Prevention Act, Pub. L. No. 117–78, 135 Stat. 1525 (2021).

<sup>5</sup> Both the Canadian and the Mexican instruments were adopted in line with Article 23.6(1) USMCA, requiring parties to ban the import of goods made with forced labour.

<sup>6</sup> See Canada–United States–Mexico Agreement Implementation Act, S.C. 2020, c. 1, section 204(8) and *Customs Tariff*, S.C. 1997, c. 36, section 136(1); tariff item No. 9897.00.00.

<sup>7</sup> See Acuerdo que establece las mercancías cuya importación está sujeta a regulación a cargo de la Secretaría del Trabajo y Previsión Social (“Agreement establishing the goods whose importation is subject to regulation by the Secretariat of Labor and Social Welfare”, unofficial translation) of 17 March 2023.

<sup>8</sup> See Regulation (EU) 2024/3015 of the European Parliament and of the Council of 27 November 2024 on Prohibiting Products Made with Forced Labour on the Union Market and Amending Directive (EU) 2019/1937.

<sup>9</sup> While the United States Tariff Act covers also “forced or indentured child labor” (19 USC 1307), this formulation does not extend to child labour which does not qualify as forced labour.

<sup>10</sup> In Canada, Employment and Social Development Canada–Labour conducts research on supply chains that may involve forced labour and produces reports identifying goods at risk. These reports are made available to the Canadian customs authorities, which can use them to target and detain imports suspected of being made with prison or forced labour; see CBSA, Goods Manufactured or Produced by Prison or Forced Labour, Memorandum D9-1-6, 28 May 2021, Para. 6.

that the goods were produced using forced labour. If, following a full investigation, a “Finding” is issued that confirms the allegation, the United States customs authorities can seize the goods and start forfeiture proceedings (Syam and Roggensack 2020). By contrast, under Mexico’s, Canada’s and the EU’s respective legal

frameworks, an import ban can only be imposed if the authorities have established that the goods in question have been made with forced labour (Gonzalez De Aguinaga 2025a). All four jurisdictions allow importers to seek judicial review of import ban decisions and offer ways to lift the ban if the original conditions no longer apply.

► **Table. Legal Instruments Governing Import Bans**

	Name of instrument	Entry into force	Areas covered	Goods covered	Burden of proof	Main implementing institutions
United States	U.S Tariff Act	1932	Forced labour and prison labour	Any imported goods	With the authorities	Customs and Border Protection (CBP) <sup>11</sup>
	Countering America’s Adversaries through Sanctions Act (CAATSA)	2017	Forced labour and prison labour	Any imported goods made by citizens/nationals of the Democratic People’s Republic of Korea	With the importer	CBP
	Uyghur Forced Labor Prevention Act (UFLPA)	2022	Forced labour and prison labour	Any imported goods originating from the XUAR or produced by entities listed on a designated entity list	With the importer	CBP and Forced Labor Enforcement Task Force (FLETF)
Canada	Customs Tariff (Item No. 9897.00.00)	2020 <sup>12</sup>	Forced labour, prison and child labour	Any imported goods	With the authorities	Canada Border Service Agency (CBSA) <sup>13</sup>
Mexico	Agreement Establishing the Goods Whose Importation is Subject to Regulation by the Secretariat of Labour and Social Welfare	2023	Forced Labour	Any imported goods	With the authorities	Secretariat of Labour and Social Welfare (handles investigations) and National Customs Agency of Mexico (handles enforcement)
European Union	Regulation (EU) 2024/3015 on Prohibiting Products Made with Forced Labour on the Union Market and Amending Directive (EU) 2019/1937	2024 (applicable as of 2027)	Forced Labour	Any imported goods as well as goods produced in the EU for export or domestic sale	With the authorities	European Commission (leads investigations into incidents outside the EU), EU Member States’ competent authorities (lead investigations into incidents within the EU) and Member States’ customs authorities (handle enforcement)

Source: Relevant legal instruments and background studies; Gonzalez De Aguinaga 2025a

## ► What have been the effects of forced labour import bans?

Although it may be too early to assess the effects of forced labour import bans comprehensively, some insights can be

drawn from the experience of the United States.<sup>14</sup> As of mid-December 2025, the United States reported 62 active import bans (54 Withhold Release Orders<sup>15</sup> and 8 Findings). While some of these import bans concerned entire sectors, the majority focused on specific companies or groups of companies.<sup>16</sup>

Existing studies suggest wide variation in the outcomes of import bans, although the evidence base remains limited (Fanou 2023; Gonzalez De Aguinaga 2025b). For example, an inquiry by the Remedy Project found that while in some

<sup>11</sup> The activities of CBP are monitored by the Forced Labor Enforcement Task Force (FLETF), consisting of seven member agencies and additional observer agencies under the chairmanship of the United States Department of Homeland Security; see at: <https://www.dhs.gov/forced-labor-enforcement-task-force>.

<sup>12</sup> This date applies to the forced labour import ban. The child labour component came into effect at the beginning of 2024.

<sup>13</sup> CBSA relies on inputs from Employment and Social Development Canada-Labour for obtaining evidence about forced labour incidents relating to certain products.

<sup>14</sup> It is important to note that the findings related to the United States cannot necessarily be generalized given the differences between import ban laws across jurisdictions.

<sup>15</sup> Of these, enforcement of the UFLPA’s rebuttable presumption superseded 11 active Withhold Release Orders while the enforcement of Findings superseded another six active WROs. See at: [Forced Labor | U.S. Customs and Border Protection](#).

<sup>16</sup> See at: [Withhold Release Orders and Findings Dashboard | United States Customs and Border Protection](#).

instances companies or governments implemented remedial measures, there were also cases in which there was no evidence that import bans had led to any tangible improvements (Remedy Project 2023). These findings highlight the need for further research on the contextual factors that shape the impacts of import bans in specific settings.

To provide an additional perspective on the possible implications of forced labour import bans, the following subsections examine the cases of the Malaysian rubber glove sector and an Indian garment company in greater detail.

## Import bans as a catalyst for forced labour remediation: The case of the Malaysian rubber glove sector<sup>17</sup>

The case of the Malaysian rubber glove industry shows how import bans can contribute to substantial remedial action at the company-level for victims of forced labour and help to address some of the factors driving it.<sup>18</sup> Malaysia is the world's leading producer of rubber gloves, with a 53 percent share of the global market in 2021.<sup>19</sup> Despite the ratification of international treaties and domestic laws prohibiting the practice, the industry has faced forced labour challenges (Hwok Aun & Pereira 2023; ILO 2023). Migrant workers, vulnerable due to exploitative recruitment, legislative gaps, and lax enforcement, have been reported to suffer from debt bondage, restricted movement, poor living conditions, and intimidation, among other concerns (Bhutta et al. 2021; Hughes et al. 2023).

Between 2019 and 2022, the United States customs authorities issued six Withhold Release Orders and one Finding against Malaysian rubber glove producers due to forced labour concerns. This was compounded by aligned responses from the Government of Canada ending public procurement contracts regarding rubber gloves produced in Malaysia (McGregor 2022) and Norway's Government Pension Fund Global placing one company under a two-year observation period (Salim 2022). In response, Malaysian rubber glove companies took significant remedial actions to address some of the underlying issues. Several companies targeted by the import bans reimbursed workers for recruitment fees (Thomas 2020; Kotecha 2024).

One company reportedly paid over USD 30 million in remediation to affected workers and established a USD 5 million fund to settle outstanding claims (Remedy Project 2023). Some affected companies also changed recruitment policies, improved migrant worker housing, and revised human resources policies – introducing new grievance mechanisms and strengthening HR staff capacity to address forced labour issues (Ong 2022; Remedy Project 2023). By the end of 2024, these efforts resulted in the lifting of the aforementioned import bans.

A number of factors help to explain these outcomes, including the heavy reliance of the Malaysian rubber glove industry on the United States market, which is its largest importer.<sup>20</sup> The Malaysian Rubber Gloves Manufacturers Association estimated a revenue loss of about USD 800 million from United States import bans (Tan 2022), which created a strong economic incentive for companies to address relevant forced labour issues. This was reinforced by the aforesaid aligned actions from other actors, which added pressure and may have encouraged efforts to address the identified forced labour issues. Another factor contributing to the remedial outcomes may have been the direct engagement of the United States customs authorities with companies whose goods were subject to import bans. Customs Border Protection (CBP) provided guidance to the companies to lay out the remedial steps it would consider necessary for the import bans to be lifted (Brudney 2020). The guidance seems to have helped steer efforts towards the adoption of specific remedial measures. Additionally, the substantial profit margins achieved by the Malaysian rubber glove sector during the pandemic reportedly contributed to mitigating the economic costs associated with the remedial actions taken (Hughes et al. 2023).

The case of Malaysia also highlights certain limitations of import bans in addressing structural factors driving forced labour. While the bans may have helped build momentum to tackle forced labour nationally (Kotecha 2024),<sup>21</sup> some legal and institutional obstacles persist, including restrictions on migrant workers forming unions and becoming union leaders, and capacity challenges within labour inspectorates (Hwok Aun & Pereira, 2023; ILO, 2023, 2025). Additionally, a 2019 import ban reportedly led to job losses in some of the targeted factories (United States GAO 2021). Furthermore, some companies reportedly relocated production from Malaysia to alternative sites even after the

<sup>17</sup> This case study is based on Ebert, Francavilla and Guarcello (2023, 2025).

<sup>18</sup> Remedial measures were also undertaken by at least one company in the Malaysian palm oil sector following import bans imposed by the United States customs authorities on its products (Remedy Project 2023, Gordon 2025).

<sup>19</sup> See [Gloves other than surgical, of rubber \(HS: 401519\) Product Trade, Exporters and Importers | The Observatory of Economic Complexity](#).

<sup>20</sup> In 2020, almost 34 percent of rubber gloves produced in Malaysia were imported to the United States (Rahman et al. 2021).

<sup>21</sup> Domestic legal and policy reform efforts were supported by ILO projects that aimed, among others, to empower migrant workers and address issues relating to domestic labour legislation and its enforcement (Ebert, Francavilla and Guarcello 2023).

relevant import bans had been removed, which may have been driven by heightened media scrutiny over forced labour (Brown et al. 2024).

## Company-level stakeholder engagement: The case of the Dindigul Agreement in India

The case of the Dindigul Agreement illustrates how proactive engagement between workers, employers and other stakeholders to conclude an agreement at the company-level can help to facilitate the timely lifting of forced labour import bans. This case involved a garment manufacturer in Tamil Nadu, India, supplying major Western brands. The company operated a factory where workers reportedly experienced gender- and caste-based violence and harassment, along with anti-union retaliation for organizing efforts and practices classified as forced labour by the ILO's Forced Labour Indicators (Fudge and LeBaron 2024; Gordon 2025). In January 2021, a tragic incident at the factory involving a Dalit worker and trade unionist<sup>22</sup> triggered a global campaign led by trade unions and NGOs, which aimed to bring attention to the issues within the company (Fudge and LeBaron 2024; Gordon 2025). By April 2022, a set of agreements – collectively known as “Dindigul Agreement” – was concluded between the supplier, several buyers, the Tamil Nadu Textile and Common Labour Union (TTCU), the NGO Global Labor Justice (GLJ), and the trade union alliance Asia Floor Wage Alliance (AFWA) to address the issues and establish a comprehensive remediation framework (Amita and Anner 2024; Standow, Shivakumar and Rakini 2025).

In July 2022, after the Dindigul Agreement had been adopted, CBP issued a Withhold Release Order concerning the goods of the manufacturer (CBP 2022). This situation, which placed employment at the factory in jeopardy, affected a supplier that had recently taken steps to improve the situation of the relevant workers (Gordon 2025). In response to the Withhold Release Order, GLJ, AFWA, and TTCU submitted extensive documentation, to demonstrate that the import ban was unwarranted as the problematic practices and policies had been addressed (Fudge and LeBaron 2024). The documentation included evidence concerning the Dindigul Agreement's impact in remediating issues related to the relevant forced labour indicators (Gordon 2025). About one month later, CBP modified the Withhold Release Order, allowing relevant imports to enter the United States (CBP 2022). The developments appear to also have strengthened the

relationship between the company and the local trade union (Fudge and LeBaron 2024).

The case of the Dindigul Agreement in India suggests that a company-level agreement – reached through engagement between relevant companies and workers' organizations – can serve as an argument to obtain the removal of forced labour import bans. In the case at hand, the Dindigul Agreement facilitated the lifting of the Withhold Release Order in two ways: (1) by serving as evidence of the company's efforts to tackle forced labour risks and (2) by establishing a framework that helped the parties to work collaboratively toward securing the removal of the import ban (Bhattacharjee 2023).

## ► Conclusion

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The evidence presented in this brief suggests that import bans can contribute to addressing forced labour in supply chains. In some instances, import bans have helped to bring about significant remedial action. In the case of the Malaysian rubber glove industry, this involved notably the reimbursement of recruitment fees and changing company-level recruitment policies. The factors explaining such effects include the dependence of the companies affected by import bans on the receiving countries' markets and the degree to which companies are provided with guidance by the competent authorities on the specific steps required for the lifting of the bans. Meanwhile, the case of the Dindigul Agreement in India suggests that company-level engagement between workers' organizations and employers, along with the involvement of other stakeholders, can facilitate the removal of import bans. This Agreement underscores the potential of social dialogue to contribute to finding creative solutions to tackle labour rights issues within supply chains. Social dialogue-based solutions can mitigate business risks stemming from forced labour import bans while simultaneously supporting local progress on labour rights.

That being said, forced labour import bans by themselves remain unlikely to address the structural factors driving forced labour. Additional measures would be required, which can include changes to domestic laws and their effective implementation. This raises the question of how the momentum generated by forced labour import bans can be effectively leveraged to strengthen the ongoing efforts of domestic labour market institutions, social partners and civil society actors to address the root causes

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<sup>22</sup> Jeyasre Kathiravel was allegedly killed by her supervisor after a prolonged period of sexual harassment (Fudge and LeBaron 2024).

underlying forced labour. There is also the concern that forced labour import bans will lead to job losses if affected companies need to close or scale down production, or if production is shifted to other countries. These considerations highlight the need for the implications of

import bans to be examined fully, including through impact assessments and consultations with local stakeholders. Additional research is needed to gain a deepened understanding of how these measures may affect workers and enterprises.

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- [Practical Actions on the Worst Forms of Child Labor](#)
- [Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector](#)
- [Responsible Agricultural Supply Chains](#)

## Other U.S. Government Resources

- [KnowTheChain](#). A resource for businesses and investors to address forced labor in global supply chains.
- [ILAB Comply Chain](#). This U.S. Department of Labor resource provides guidance on setting up a social compliance system.
- [CBP Informed Compliance Publication](#). Guidance on the use of reasonable care in entering merchandise.
- [International Child Labor and Forced Labor Reports](#). The U.S. Department of Labor maintains three reports on international child labor and forced labor for research, advocacy, government action, and corporate responsibility.
- [Xinjiang Supply Chain Business Advisory](#). This advisory warns businesses of reputational, economic, and legal risks of involvement with entities engaged in forced labor and other human rights abuses in Xinjiang.
- [Responsible Sourcing Tool](#). Use this to understand and prevent risks of human trafficking in supply chains.
- [U.S. Department of State's Trafficking in Persons \(TIP\) Report](#). Known for its weighted tier system on countries that are at high risk for human trafficking, this resource is a diplomatic tool to engage foreign governments on anti-human trafficking efforts.





# U.S. GOVERNMENT TRADE STRATEGY TO COMBAT FORCED LABOR

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Making Trade a Force for Good  
by Addressing Forced Labor  
in Global Supply Chains

UNITED STATES TRADE REPRESENTATIVE



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*There is no more pernicious abuse of power than human trafficking. No human being should be preyed on for profit. And we must all work together to eradicate it.*

**President Joseph R. Biden Jr.**

## Message from the United States Trade Representative

Dear Reader,

The Biden-Harris Administration focused on fundamentally rewriting our story on trade. For decades, the traditional approach to trade, which prioritized aggressive liberalization and tariff elimination, did generate wealth.

At the same time, the approach came with significant costs and side effects. Prosperity without inclusiveness contributed to rising inequality and wealth concentration. The system incentivized countries to compete by maintaining or lowering standards, as companies sought to minimize costs in pursuit of efficiency. The search for cheaper labor costs came at the expense of workers' rights and wellbeing and has included forced labor. This was the race to the bottom, where exploitation was rewarded to compete and survive.

The United States has banned imports made in whole or in part with forced labor since 1930, closing a loophole in that ban in 2016 to make it more effective. During multilateral trade negotiations after World War II, the United States pushed to internationalize the ban on forced labor in trade. We were not successful, and forced labor continues to infect global trade to this day. In their 2022 report, the International Labor Organization, Walk Free, and the International Organization for Migration estimate that 28 million people today are in forced labor, an increase of 3 million people since 2016. This number highlights that, despite national laws and international conventions, we, as a global community, have not lived up to the promise of protecting our fellow humans from forced labor. This also means that many of the products we trade continue to be tainted by human exploitation.

Unscrupulous employers and labor intermediaries continue to abuse their power for profit and subject adults and children to the purposeful withholding of wages, excessive work hours, threats to their physical safety, restriction of movement, deprivation of basic needs, and other modes of severe coercion, such as sexual violence.

In addition to constituting a human rights abuse, forced labor is used to gain a competitive advantage by reducing production costs. For that reason, forced labor not only harms the working people subjected to it, but also companies that do not rely on forced labor to produce their goods.

It has been my priority as the United States Trade Representative to use trade as a force for good and to address this horrendous practice. We have transformed the way we view and treat workers—not just in the United States, but across the world. We have highlighted the humanity in our supply chains and used trade tools to defend the rights of workers to freely associate and collectively bargain, protect health and safety in the workplace, and insist on a world free of forced labor.

As a member of the President's Interagency Task Force to Monitor and Combat Trafficking in Persons and the Forced Labor Enforcement Task Force, I am proud to put forward this first-ever Trade Strategy to Combat Forced Labor in support of the U.S. Government's National Action Plan to Combat Human Trafficking and Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards Globally. It demonstrates the commitment of the United States to utilize all trade-related tools to address forced labor and chart a different and better path to the way we trade.

In this strategy, you will see the deployment of new tools and strengthening of existing tools, as the United States seeks to make the global trading system fairer and more just. We will work to: (1) undertake inclusive processes to inform an equitable approach in the advancement of the President's Trade Agenda to eradicate forced labor; (2) fully utilize all available trade tools to end forced labor; (3) develop and implement innovative trade policies to address forced labor in global supply chains; and (4) increase global action to combat forced labor as an unfair trade practice.

My team and I are grateful to the survivor leaders, trade unions, civil society organizations, companies, business associations, scientific groups, academics, and concerned citizens that took the time to provide the U.S. Government with comments on how to shape this strategy. Thanks to you, my office has developed a robust toolkit and due diligence framework to protect workers from forced labor and other labor rights abuses.

The United States will continue to fortify and build on that strong foundation. It is our hope that you see yourselves reflected here, for it is with your continued partnership that we can make expeditious and meaningful progress in the global reduction of forced labor in traded goods and services. The Biden-Harris Administration has stood with you, and we have acted. In addition to this strategy, our Administration issued importer guidance and an enforcement strategy to put into effect the Uyghur Forced Labor Prevention Act. We are implementing the enforcement strategy and steadily adding to the Entity List created by the law to prevent entry into the United States of goods produced with forced labor by specific companies. We also collaborated with Canada and Mexico to implement the forced labor import prohibition committed to under the USMCA and have pushed other trade partners to adopt similar



legislation. Additionally, we have collaborated with trade partners, including Japan and the European Union, to carry out our shared principles to combat forced labor. We initiated a 301 investigation regarding Nicaragua, the first-ever to investigate acts, policies, and practices that may constitute violations of labor rights. The United States also tabled text at the World Trade Organization to begin to address the scourge of forced labor of fishers.

This strategy outlines how the United States can continue to build on our efforts and use trade to end forced labor. It is an invitation to all of you and our allies and partners to work with the United States. I hope you will join us to make the global race to the top real and lasting and break the cycle of human exploitation now and for future generations.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Tai'.

Katherine Tai  
Ambassador  
January 13, 2025

## List of Frequently Used Acronyms

AGOA	African Growth and Opportunity Act
CBP	United States Customs and Border Protection
DHS	United States Department of Homeland Security
DOC	United States Department of Commerce
DOJ	United States Department of Justice
DOL	United States Department of Labor
DRL	United States Department of State, Bureau of Democracy, Human Rights and Labor
EU	European Union
FLETF	Forced Labor Enforcement Task Force
FTAs	Free Trade Agreements
G7	Group of 7
GSP	Generalized System of Preferences
ILAB	United States Department of Labor, Bureau of International Labor Affairs
ILO	International Labor Organization
IPEF	Indo-Pacific Economic Framework for Prosperity
ITACs	Industry Trade Advisory Committees
IUU	Illegal, Unreported, and Unregulated Fishing
LAC	Labor Advisory Committee for Trade Negotiations and Trade Policy
PRC	People's Republic of China
PITF	President's Interagency Task Force to Monitor and Combat Trafficking in Persons
Section 307	Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307)
State	United States Department of State
TALD	United States-European Union Trade and Labor Dialogue
TIFAs	Trade and Investment Framework Agreements
TIP Office	United States Department of State, Office to Monitor and Combat Trafficking in Persons
UFLPA	Uyghur Forced Labor Prevention Act
UN	United Nations
USAID	United States Agency for International Development
USMCA	United States-Mexico-Canada Agreement
USTR	Office of the United States Trade Representative
WRO	Withhold Release Order
WTO	World Trade Organization
XUAR	Xinjiang Uyghur Autonomous Region

# I. Introduction: Making Trade a Force for Good

The President’s Trade Agenda is built on a worker-centered trade policy, bringing labor issues and topics important to working people to the forefront of trade policy. The United States is leveraging our core values of fairness, inclusive economic growth, and sustainability in the global trading system to navigate the myriad complex challenges we find ourselves facing today, including the prevalence of forced labor in supply chains. Trade policy is an important driver of change in a comprehensive approach to combat forced labor. In coordination with other policy disciplines, the United States is committed to using trade to address inequality and promote sustainable, equitable development.

Globally, the International Labor Organization (ILO), Walk Free, and the International Organization for Migration estimate that there are 28 million workers, including adults and children, in forced labor on any given day.<sup>1</sup> The ILO defines forced labor as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.”<sup>2</sup>

To envision a world without forced labor requires the ability to envision a global trading system that operates as a force for good, in part by advancing a worker-centered trade policy to support, empower, and defend the rights of workers in the global economy. In line with the President’s 2024 Trade Policy Agenda and the Office of the United States Trade Representative (USTR) Fiscal Year 2022–2026 Strategic Plan, the four goals guiding the implementation of the U.S. Government’s trade policy to combat forced labor in the global trading system are:

1. Develop equitable trade policy through inclusive processes;
2. Fully utilize all available trade tools to combat forced labor;
3. Develop and implement innovative trade tools to combat forced labor; and
4. Increase multilateral action with trading partners to combat forced labor as an unfair trade practice.

USTR has developed priority actions to pursue the fulfillment of each goal, many of which we have already begun implementing. We will continue those efforts, and add to them, as outlined throughout this document. Each goal and priority action has been designed with careful consideration of input from stakeholders and a wide range of U.S. Government agencies.<sup>3</sup>

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<sup>1</sup> ILO, Walk Free, and International Organization for Migration. Global Estimates of Modern Slavery: Forced Labour and Forced Marriage. September 2022. [https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed\\_norm/@ipec/documents/publication/wcms\\_854795.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@ipec/documents/publication/wcms_854795.pdf). This estimate generally reflects what the U.S. Government considers to be “human trafficking,” which includes forced labor and sex trafficking.

<sup>2</sup> ILO, Forced Labour Convention, 1930 (No. 29). [https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C029](https://normlex.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029). For more information on the role of the ILO and additional resources, please see Appendix B.

<sup>3</sup> For a complete list of priority actions, see Appendix A.

## II. Goals and Priority Actions

### Goal 1: Develop Equitable Trade Policy Through Inclusive Processes

On November 16, 2023, President Biden issued the Presidential Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards Globally (Presidential Memorandum on Global Labor Rights). It explains that worker empowerment is essential to the advancement of sustainable economic growth, inclusive international development, human rights, democratic resilience, fair competition, and growth of a strong middle class in the United States and abroad. The memorandum commits the U.S. Government to engage with workers, labor organizations, trade unions, and other civil society groups to promote respect for internationally recognized labor rights, including the prevention of forced labor.<sup>4</sup>

In line with that government-wide call for inclusive foreign policy development, USTR’s worker-centered trade policy seeks to increase stakeholder involvement in trade policy development. USTR’s Fiscal Year 2022-2026 Strategic Plan reflects that engagement by including the goal to “Develop Equitable Trade Policy Through Inclusive Processes.”<sup>5</sup> USTR strives to build relationships with underserved and disadvantaged communities; to ensure that their concerns and perspectives are sought out, respected, and heard; and to address their concerns and interests in policy development, negotiations, and implementation and enforcement of agreements and legislation.

In doing so, we are bolstering our engagement with a wide range of stakeholders, including workers and their organizations, businesses, and individuals who belong to underserved communities that have been denied inclusion in trade policy, such as women and girls; Black, Latino, Indigenous, and Native American persons; Asian Americans and Pacific Islanders, and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality, to make sure their voices are heard in the policy development process.

We have undertaken this increased stakeholder engagement in the development of this Trade Strategy to Combat Forced Labor and the specific initiatives discussed within it. USTR sought public comment on this strategy and conducted outreach to increase trade-related engagement with a range of stakeholders, including unions, civil society organizations, survivors, and industry, as we developed this strategy.

USTR has multiple formal mechanisms through which to conduct stakeholder engagement.

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<sup>4</sup> The White House. Memorandum on Advancing Worker Empowerment, Rights, and High Labor Standards Globally. November 16, 2023. <https://www.whitehouse.gov/briefing-room/presidential-actions/2023/11/16/memorandum-on-advancing-worker-empowerment-rights-and-high-labor-standards-globally/>.

<sup>5</sup> USTR. Strategic Plan FY 2022–2026. <https://ustr.gov/sites/default/files/USTR%20FY%202022%20-%20FY%202026%20Strategic%20Plan.pdf>.

**The Labor Advisory Committee.** Alongside the U.S. Department of Labor (DOL), USTR co-chairs the Labor Advisory Committee for Trade Negotiations and Trade Policy (LAC). The LAC is composed of members of the U.S. labor community and advises, consults with, and makes recommendations to the United States Trade Representative and the Secretary of Labor on general policy matters concerning labor and trade negotiations, operation of any trade agreement once entered into, and other matters arising in connection with the administration of trade policy of the United States.

**Industry Trade Advisory Committees.** Jointly administered by the Department of Commerce (DOC) and USTR, Industry Trade Advisory Committees (ITACs) provide a forum to ensure that stakeholders in particular industries have a voice in formulating the trade policy of the United States. ITACs are composed principally of U.S. industry representatives and advise, consult with, and make recommendations to the United States Trade Representative and Secretary of Commerce on general policy matters concerning trade negotiations, operation of any trade agreement once entered into, and other matters arising in connection with the administration of trade policy of the United States.

**Other Trade Advisory Committees.** In addition to the LAC and the ITACs, USTR has a number of other trade advisory committees, including multiple related to agriculture, as well as other topics.

**United States Advisory Council on Human Trafficking.** The Council comprises survivors of human trafficking from a diverse range of backgrounds and experiences who are appointed by the President for two-year terms. It provides a formal platform for trafficking survivors to advise and make recommendations on federal anti-trafficking policies and programs to the President's Interagency Task Force to Monitor and Combat Trafficking in Persons (PITF).

USTR will continue to routinely utilize these formal mechanisms, as well as informal engagements, to bolster engagement with a wide range of stakeholders. Below are the priority actions USTR has undertaken and will consider continuing to meet Goal 1 of developing equitable trade policy through inclusive processes.

### Goal 1 Priority Actions

- Support implementation of the Presidential Memorandum on Global Labor Rights through cooperation with interagency partners and increased stakeholder engagement.
- Increase outreach and engagement with workers, unions, other worker organizations, civil society organizations, survivors, underserved and disadvantaged communities, and industry to gather input on combating forced labor through trade, addressing unfair competition from forced labor for U.S. businesses and workers, and addressing the root causes of forced labor, both through the formal mechanisms outlined above and ongoing informal engagement.
- Regularly participate and present on trade issues as a member of the Forced Labor Enforcement Task Force (FLETf) at engagements hosted at the Department of Homeland Security (DHS), DOL, or Department of State (State) with the private sector and civil society on the implementation of the Uyghur Forced Labor Prevention Act (UFLPA).

## Goal 2: Fully Utilize All Available Trade Tools to Combat Forced Labor

The United States is committed to utilizing the trade tools in our laws, free trade agreements, trade arrangements, and preference programs to combat forced labor. Many of these existing trade tools contain commitments related to eradicating forced labor, such as prohibiting the importation of goods produced in whole or in part with forced labor and collaborating to address forced labor in supply chains. Fully utilizing these tools requires a combination of enforcement action, diplomatic engagement, and technical assistance. USTR will deploy all of these tools to fully utilize existing commitments to work with our trade partners and ensure that we are maximizing our efforts to end forced labor.

### **Forced Labor Import Prohibition**

Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307) (Section 307) prohibits importing any product that was mined, produced, or manufactured wholly or in part by forced labor, including forced or indentured child labor. It was further enhanced with the passage of the UFLPA, which created a rebuttable presumption that goods mined, produced, or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region (XUAR), or by an entity on the UFLPA Entity List, are the product of forced labor and are therefore prohibited from importation into the United States by Section 307. Together, these laws have created one of the most effective trade tools for the United States to combat forced labor.

The FLETF is a DHS-led task force of interagency partners, including USTR, that are dedicated to monitoring the enforcement of the Tariff Act and UFLPA.

**Enforcement of Section 307.** U.S. Customs and Border Protection (CBP) enforces the prohibition in Section 307 by issuing withhold release orders (WROs) and Findings to prevent the entry of certain goods into the United States. By the end of 2024, CBP enforced 51 active WROs and 9 Findings across the globe. CBP issues a WRO when it finds that information reasonably indicates that a good may be the product of forced labor. A WRO allows CBP to detain the products in question at any U.S. port of entry until or unless importers can prove the absence of forced labor in their product's supply chain. CBP issues a Finding when the agency determines that information conclusively indicates that a good is the product of forced labor. A Finding allows CBP to seize the product(s) in question at all U.S. ports of entry. WROs and Findings have proven to be an effective tool to address forced labor in goods being exported to the United States and represent an important component of removing from trade goods made with forced labor.

The UFLPA, enacted on December 23, 2021, strengthens the ability of the United States to enforce the existing prohibition in Section 307 with the goal of ending the systematic use of forced labor in XUAR. The UFLPA established a rebuttable presumption that goods mined, produced, or manufactured wholly or in part in XUAR, or by an entity on the UFLPA Entity List, are the product of forced labor and are therefore prohibited from importation into the United States under Section 307. It also charged the FLETF to develop a strategy for supporting the enforcement of Section 307 to prevent the importation into the United States of goods mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China (PRC). Under the UFLPA, CBP has reviewed more than 11,000 shipments, valued at more than \$3.5 billion, since the rebuttable presumption went into effect on June 21, 2022.

In 2023 and 2024, the FLETF prioritized updating the UFLPA Entity List and has added a considerable number of entities, especially in 2024. As of the end of 2024, the FLETF has added 87 new entities since the initial publication of the UFLPA Entity List, bringing the total number of entities to 107.<sup>6</sup> The UFLPA not only strengthens the existing forced labor import prohibition, it also addresses a more specific aspect of global forced labor: state-sponsored forced labor.

**Strategy to Prevent Importation of Goods of Forced Labor.** In 2022, the FLETF published the *Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China* (UFLPA Strategy) that includes: a comprehensive assessment of the risk of importing goods mined, produced, or manufactured wholly or in part with forced labor in the PRC; an evaluation and description of forced labor schemes, the UFLPA Entity List, UFLPA-required plans and high-priority sectors for enforcement; recommendations for efforts, initiatives, tools, and technologies to accurately identify and trace affected goods; a description of how CBP plans to enhance its use of legal authorities and tools to prevent entry of goods at U.S. ports in violation of Section 307; a description of additional resources necessary to ensure no goods made with forced labor enter U.S. ports; guidance to importers; and a plan to coordinate and collaborate with appropriate non-governmental organizations and private sector entities.<sup>7</sup> As mandated by the UFLPA, the FLETF issues annual updates to the UFLPA Strategy. The latest update was issued on July 9, 2024.<sup>8</sup> The updated strategy reports on developments of the PRC's state-imposed forced labor schemes, the expansion of the UFLPA Entity List, new high-priority sectors for enforcement, additional resources necessary to implement the UFLPA Strategy, and expanded collaboration with non-governmental organizations and private sector entities.

**FLETF Coordination and Reporting to Congress.** The United States-Mexico-Canada Agreement Implementation Act directed the President to establish the FLETF to monitor United States enforcement of the import prohibition under Section 307.<sup>9</sup> The President established the FLETF by Executive Order 13923 on May 15, 2020.<sup>10</sup> DHS's Under Secretary for Strategy, Policy, and Plans chairs the FLETF, which is composed of seven member agencies.<sup>11</sup> Additional participants include observer agencies that also contribute to FLETF efforts.<sup>12</sup> The FLETF convenes quarterly to review active CBP WROs and Findings, ongoing forced labor investigations, petitions received by CBP alleging forced labor in U.S. imports, FLETF forced labor enforcement priorities, and other issues related to enforcing the prohibition on importing goods made with forced labor into the United States. The FLETF also submits

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<sup>6</sup> DHS. UFLPA Entity List. <https://www.dhs.gov/uflpa-entity-list>.

<sup>7</sup> DHS. Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China. [https://www.dhs.gov/sites/default/files/2022-06/22\\_0617\\_fletf\\_uflpa-strategy.pdf](https://www.dhs.gov/sites/default/files/2022-06/22_0617_fletf_uflpa-strategy.pdf).

<sup>8</sup> DHS. Updates to the Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China. <https://www.dhs.gov/uflpa-strategy>.

<sup>9</sup> United States-Mexico-Canada Agreement Implementation Act, § 741, Pub. L. No. 116-113, 134 Stat. 11 (2020).

<sup>10</sup> *Establishment of Forced Labor Enforcement Task Force Under Section 731 of the United States-Mexico-Canada Agreement Implementation Act*, E.O. 13923, 85 FR 30587 (May 15, 2020).

<sup>11</sup> These members are the DHS, USTR, DOL, State, DOC, the Department of Justice, and the Department of the Treasury.

<sup>12</sup> FLETF observers include: the U.S. Agency for International Development, CBP, U.S. Department of Agriculture, U.S. Department of Energy, U.S. Immigration and Customs Enforcement Homeland Security Investigations, and the National Security Council.

biannual reports to Congress on DHS priorities with respect to enforcing the U.S. import prohibition on goods made with forced labor, CBP’s enforcement of the import prohibition, planning related to DOL reports on goods and products produced with forced labor, and other relevant FLETF efforts.<sup>13</sup> USTR is an active member of the FLETF and fully supports the important role the FLETF plays in addressing forced labor.

**Bolstered Enforcement Actions.** USTR has worked as part of the FLETF to increase enforcement of Section 307. As discussed above, this involved developing new strategies for enforcement, working closely with stakeholders to develop cases and information, dedicating additional resources to these activities, and working through the interagency committee to gather information that would support WROs, Findings, and the addition of new entities to the UFLPA Entity List.

## Section 301

Section 301 of the Trade Act of 1974 grants USTR a range of responsibilities and authorities to investigate and take action to enforce U.S. rights under trade agreements and respond to certain foreign trade practices.<sup>14</sup> It provides a statutory means by which the United States may take action in response to acts, policies, or practices by foreign countries that deny the U.S. benefits under trade agreements or that are “unjustifiable” or “unreasonable or discriminatory” and that “burden or restrict” U.S. commerce. Unreasonable acts, policies, and practices include those that constitute a persistent pattern of conduct that denies certain labor rights, including the use of forced or compulsory labor.

On December 10, 2024, USTR announced the initiation of an investigation of Nicaragua’s acts, policies, and practices related to labor rights, human rights, and the rule of law that may be unreasonable and may burden U.S. commerce. The investigation is the first under Section 301 to investigate acts, policies, and practices that may constitute violations of labor rights. Forced labor is one of the labor rights violations allegations that has been documented and will be examined as part of the investigation.

In addition, following a petition filed by five national labor unions that allege a wide range of unfair practices of the PRC in the maritime, logistics, and shipbuilding sector, USTR is investigating acts, policies, and practices of the PRC in the sector, including those pertaining to wage-suppressing labor practices. We have seen the PRC utilize a wide range of non-market policies and practices to undermine fair competition and dominate the market in multiple sectors, including the use of state-sponsored forced labor in sectors such as steel, aluminum, solar, and critical minerals.

## Free Trade Agreements

The majority of U.S. free trade and trade partnership agreements (FTAs) include obligations related to ensuring the consistency of each party’s law with the fundamental labor rights as stated in the 1998 ILO *Declaration on Fundamental Principles and Rights at Work and Its Follow-Up*, as well as obligations not to fail to effectively enforce and not to waive or derogate from labor

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<sup>13</sup> DHS. Forced Labor Enforcement Task Force. <https://www.dhs.gov/forced-labor-enforcement-task-force>.

<sup>14</sup> Trade Act of 1974, §§ 301-310, 19 U.S.C. §§ 2411-2420 (collectively referred to as “Section 301”).

laws. Most FTAs also provide for robust cooperation mechanisms to foster collaborative engagement to improve protection of workers' rights, including through engagements aimed at increasing the ability of our FTA partners to enforce laws prohibiting forced labor.

In addition, the United States-Mexico-Canada Agreement (USMCA) introduced a groundbreaking provision for all Parties to “prohibit the importation of goods into its territory from other sources produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor.” USTR, DOL’s Bureau of International Labor Affairs (ILAB), and CBP regularly engage with Mexico and Canada in support of their ongoing efforts on implementation of USMCA Article 23.6 related to the prohibition of imports produced with forced or compulsory labor. Through effective enforcement and coordination of the forced labor import prohibition across the three countries, the USMCA will create a multi-country economic area free of forced labor imports that could serve as a model for future trade policy. During the second meeting of the USMCA Labor Council, on June 29, 2023, the United States, Mexico, and Canada decided to institute a trilateral dialogue on forced labor enforcement. The three countries have now held three meetings of the trilateral dialogue.

Many FTA labor chapters establish a council or committee composed of high-level or technical-level labor and trade officials from the Parties to the respective FTA. These councils meet periodically to have face-to-face conversations on key labor issues, changes to a Party’s labor law, and potential needs for technical cooperation. These meetings also usually include sessions for the public to provide input and feedback on labor issues under the FTA. Such venues provide an opportunity to raise forced labor issues at a high level and demonstrate to trade partners the importance of addressing forced labor issues as part of their FTA commitments.

The FTAs generally also provide for the receipt and consideration of submissions from the public on matters related to the labor chapters, which can be submitted through ILAB. If the issues in the submissions remain unresolved, many agreements allow for USTR to call for formal consultations and, in certain matters, dispute settlement proceedings. For additional information on submissions and the process for filing, see the ILAB website.<sup>15</sup>

For example, as a result of a submission,<sup>16</sup> the United States and the Dominican Republic continue to have discussions on improvement of labor law enforcement in the Dominican sugar sector. This engagement takes into account the commitment of the two countries under Article 16.2 of the Dominican Republic-Central America Free Trade Agreement not to fail to enforce their labor laws in a manner affecting trade or investment between the Parties, including those regarding forced labor, and to strive to ensure that their labor laws provide for labor standards consistent with internationally recognized labor rights, as well as the need to continue their long-standing partnership on addressing these issues.

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<sup>15</sup> DOL. Submissions under the Labor Provisions of Free Trade Agreements. <https://www.dol.gov/agencies/ilab/our-work/trade/fta-submissions>.

<sup>16</sup> DOL. Dominican Republic Submission. December 22, 2011. <https://www.dol.gov/sites/dolgov/files/ILAB/legacy/files/DRSubmission2011.pdf>.

## **Trade Preference Programs**

Trade preference programs that USTR administers support the economic development of our trading partners by providing duty-free access to the U.S. market for eligible products. In furtherance of economic development, those programs seek to strengthen labor standards around the world, including standards against forced labor. U.S. trade preference programs, including the Generalized System of Preferences (GSP) (currently lapsed and pending reauthorization), the African Growth and Opportunity Act (AGOA), the Caribbean Basin Initiative, and the trade preference programs for Haiti and Nepal, require beneficiaries to meet statutory eligibility criteria pertaining to internationally recognized worker rights, including with regard to forced labor and freedom of association, among others, in order to receive duty preferences for their imports into the United States. To monitor and address eligibility concerns, USTR engages with foreign governments, stakeholders, and international organizations and also looks to the variety of U.S. Government reports on workers' rights. *For more information on Data, see Appendix C.* Trade preference programs allow USTR to demonstrate its commitment to addressing forced labor by limiting trade benefits for countries where forced labor persists and requiring governments to undertake efforts to address forced labor in their country to receive trade preferences.

## **Trade and Investment Framework Agreements**

Trade and Investment Framework Agreements (TIFAs) provide strategic frameworks and principles for the United States to dialogue with other TIFA Parties on a wide range of trade and investment issues. TIFAs and similar agreements serve as fora for the United States and other governments to meet and discuss trade-related issues of mutual interest with the objective of improving cooperation and enhancing opportunities for trade and investment. Topics for consultation and further cooperation include market access issues, labor, the environment, protection and enforcement of intellectual property rights, and, in appropriate cases, capacity building.

USTR engages with countries on labor and other issues in the context of TIFA meetings.<sup>17</sup> As most TIFAs include language related to workers' rights, USTR will amplify discussion and engagement to address forced labor, where appropriate. For example, TIFA engagements have included discussions of adopting forced labor import prohibitions.

## **Other Trade-Related Forced Labor Laws and Provisions in U.S. Laws and Regulations**

The United States has a range of other forced labor-related laws and provisions with a nexus to trade. USTR is interested in cooperating with other U.S. Government agencies to support their efforts to more fully utilize and advance the use of these laws to combat forced labor.

**Criminal Investigations of Forced Labor.** DHS and the Department of Justice (DOJ) are pursuing ongoing efforts to undertake criminal investigations and prosecutions related to forced labor, which may further enhance the impact of the forced labor import prohibition.

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<sup>17</sup> USTR has entered into bilateral and regional TIFAs with many partner countries. For a list of TIFAs and related agreements, see <https://ustr.gov/trade-agreements/trade-investment-framework-agreements>.

**Implementation of the Human Rights Crossover Rule in Exports.** DOC has utilized the Human Rights Crossover Rule to add entities from Xinjiang, China to the Bureau of Industry and Security Entity List.

**Antidumping and Countervailing Duties (AD/CVD).** DOC in March 2024 issued a final rule updating its AD/CVD regulations to, among other things, allow it to take into account, when determining the normal value used to calculate the dumping margin, the failure of a government to enforce labor protections.<sup>18</sup>

**Sanctions Authorities to Address Forced Labor.** Under the Uyghur Human Rights Policy Act of 2020<sup>19</sup> and the Global Magnitsky Human Rights Accountability Act,<sup>20</sup> the U.S. Government has sanctioned individuals and entities for human rights abuses in Xinjiang, China, and for forced criminality in online scam operations in Cambodia, respectively.

**Federal Public Procurement Regulations.** A considerable amount of attention has been placed on addressing forced labor in public procurement by the U.S. Government, relying on authority provided by the Trafficking Victims Protection Act, including most recently as part of commitments under the National Action Plan on Responsible Business Conduct, to strengthen implementation of existing procurement regulations that prohibit human trafficking, including forced labor, and trafficking-related activities in federal contracts.

**Fair Recruitment Regulation.** Ethical recruitment is a key component of efforts to address forced labor as migrant workers can face higher risk, including U.S. Government efforts to enforce the no-recruitment-fees requirement in federal procurement regulations through the identification of high-risk and high-volume contracts.

**Illegal, Unreported, and Unregulated (IUU) Fishing Laws and Regulations.** Across the U.S. Government there are efforts to address IUU fishing and forced labor. Of particular note are efforts to curtail global trade in seafood and seafood products derived from IUU fishing by relying on the authority provided under the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006, as amended,<sup>21</sup> as well as preventing the importation of fish and fish products caught, farmed, or processed with forced labor. *For more information on IUU fishing, see Appendix E.*

**Countering America’s Adversaries Through Sanctions Act (CAATSA).** CAATSA Section 321(b) (22 U.S.C. § 9241a), which amended the North Korea Sanctions and Policy Enhancement Act of 2016 (22 U.S.C. § 9241 *et seq.*), created a rebuttable presumption that significant goods, wares, merchandise, and articles mined, produced, or manufactured wholly or in part by North Korean nationals or North Korean citizens anywhere in the world are forced labor goods prohibited from importation under Section 307. CAATSA is yet another example of utilizing Section 307 to combat forced labor in trade.

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<sup>18</sup> *Regulations Improving and Strengthening the Enforcement of Trade Remedies Through the Administration of Antidumping and Countervailing Duty Laws*, 89 FR 20766 (March 25, 2024) (effective April 24, 2024).

<sup>19</sup> Pub. L. No. 116-145, 134 Stat. 648.

<sup>20</sup> Pub. L. No. 114-328, Div. A, Title XII, Subtitle F, 130 Stat. 2533, 22 USCS § 10101 *et. seq.*

<sup>21</sup> 16 U.S.C. 1801 *et seq.*

## Technical Assistance

USTR works with agencies across the U.S. Government to provide technical assistance and capacity building to trading partners to ensure that key trade obligations are met, including those related to forced labor. In particular, DOL's ILAB, State's Office to Monitor and Combat Trafficking in Persons (TIP Office), and State's Bureau of Democracy, Human Rights and Labor (DRL) provide millions of dollars to trading partners and non-governmental entities to bolster enforcement systems, identify and assist victims, and promote corporate due diligence practices to address forced labor in supply chains. Frequently, technical assistance funds are directed to assist countries in complying with their labor-related trade commitments. *For more information on technical assistance and trade capacity building, see Appendix D.*

Below are the priority actions USTR has undertaken and will consider continuing to meet Goal 2 of fully utilizing all available trade tools to hold other countries accountable in combating forced labor.

### Goal 2 Priority Actions

- Through the FLETF, support CBP in its efforts to enforce Section 307 of the Tariff Act of 1930.
- Conduct diplomatic engagement with foreign governments on Section 307 of the Tariff Act of 1930. For example, USTR, CBP, DOL, and State regularly engage with foreign governments regarding the implementation of Section 307 of the Tariff Act, including by providing concrete recommendations for preventing environments where forced labor thrives.
- Support efforts of the FLETF to enforce the UFLPA rebuttable presumption and increase significantly the number of entities on the UFLPA Entity List, as supported by facts and law. Support FLETF efforts to create batch recommendation packages to more efficiently add to the UFLPA Entity List.
- Advocate for DHS and interagency resources to support the ongoing efforts of the FLETF, to ensure successful implementation of the UFLPA and a whole-of-government approach to enforcement efforts that support free and fair labor globally.
- Monitor and further examine areas of potential circumvention of Section 307 of the Tariff Act of 1930 and the UFLPA, including U.S. imports under the Section 321 (19 U.S.C. § 1321) *de minimis* threshold.
- Work with the Governments of Canada and Mexico to implement the USMCA commitments to prohibit the importation of goods produced by forced labor and to coordinate our enforcement activities.
- Engage like-minded trade partners through established labor cooperation mechanisms, FTA Labor Affairs Councils and subcommittees and FTA Free Trade Commissions, to eliminate the use of forced labor within our borders and collaborate to address the use of forced labor in global supply chains.
- Use existing TIFAs to promote collaboration on the eradication of forced labor, for example by negotiating separate protocols or annexes to existing TIFAs to address forced labor issues or by creating and utilizing labor working groups to address forced labor.

- Engage with regional economic communities to promote the inclusion of high labor standards in regional trade agreements such as the African Continental Free Trade Area.
- Support the DHS Center for Countering Human Trafficking and DOJ in increasing criminal investigations and prosecutions, respectively, related to forced labor.
- Support the DOC Bureau of Industry and Security and International Trade Administration in the implementation of the Human Rights Crossover Rule in Exports and updated regulations on AD/CVD respectively.
- Work with the Department of the Treasury and State to examine how to utilize sanctions authority to further address forced labor.
- Support work under the National Action Plan on Responsible Business Conduct to advance enforcement of public procurement requirements.
- Work with the interagency to advance ethical recruitment through promoting no recruitment fees and examining ways to increase protections for migrant workers and access to remediation.
- Work with the interagency under the National Strategy for Combating Illegal, Unreported, and Unregulated Fishing to address forced labor associated with IUU fishing, including efforts to prevent the importation of IUU fish and fish products or those products associated with forced labor, efforts to promote legal and safe working conditions, reduce vulnerabilities, and support the ability to organize and access remediation and justice in the fisheries sector.

### Goal 3: Develop and Implement Innovative Trade Tools to Combat Forced Labor

As part of its worker-centered trade policy, USTR has sought new approaches and developed new trade tools to address the concerns of workers across a spectrum of issues. This is especially true as it relates to combating forced labor. We have conducted robust outreach to a wide range of stakeholders to develop our thinking on these issues, including with respect to creating new tools and partnerships, and further utilize authorities to work with our trade partners on the elimination of forced labor, both within our borders and in our supply chains.

**U.S.-European Union (EU) Trade and Labor Dialogue (TALD).** Under the U.S.-EU Trade and Technology Council (TTC)'s Working Group 10 on Global Trade Challenges, the U.S. Government and European Commission announced the establishment of the TALD on May 19, 2022.<sup>22</sup> The TALD is co-chaired by USTR and DOL and their European Commission counterparts from the Directorate General for Trade and the Directorate General for Employment. The TALD is tripartite, including representatives from governments, labor unions, and businesses, and allows for discussion of transatlantic trade and labor issues. The TALD has held consistent meetings at the senior officials' and principals' levels to continue to pursue action to address shared labor challenges, including combating forced labor.

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<sup>22</sup> USTR. U.S. Trade Representative and U.S. Department of Labor Host Transatlantic Tripartite Trade and Labor Dialogue with Union and Business Leaders. September 21, 2022. <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/september/us-trade-representative-and-us-department-labor-host-transatlantic-tripartite-trade-and-labor>.

**U.S.-Japan Partnership on Trade.** Under the U.S.-Japan Partnership on Trade, both countries have worked together to advance joint cooperation to utilize trade policy in support of internationally recognized labor rights. On January 6, 2023, the United States and Japan launched the U.S.-Japan Task Force to Promote Human Rights and International Labor Standards in Supply Chains,<sup>23</sup> which held its inaugural meetings in February 2024. Through the Task Force, the United States and Japan are exchanging information on relevant laws, policies, and guidance; facilitating stakeholder dialogues with businesses and worker organizations; and promoting best practices for human rights and internationally recognized labor rights due diligence. Stakeholder dialogues aim to deepen understanding of supply chain labor issues; identify practical steps to reduce the risk of labor rights violations and abuses in supply chains; and promote best practices for corporate due diligence on labor standards. These areas of cooperation are designed to protect workers and enhance predictability and clarity for businesses as they seek to contribute to sustainable supply chains.

**Critical Minerals Agreement.** On March 28, 2023, the United States and Japan signed a critical minerals trade agreement (“Agreement Between the Government of the United States and the Government of Japan on Strengthening Critical Minerals Supply Chains”).<sup>24</sup> The agreement was concluded in the context of the 2019 Trade Agreement between the United States of America and Japan, the related 2019 Trade Agreement Between the United States of America and Japan Concerning Digital Trade, and the U.S.-Japan Partnership on Trade announced in 2021. The Agreement establishes several new commitments and areas for joint cooperation regarding electric vehicle battery supply chains, including coordination of engagement, information sharing, and enforcement actions related to labor rights in critical minerals extraction and processing; promoting the remediation of labor rights violations and abuses at entities connected to critical minerals supply chains; and promoting employer neutrality in union organizing and operations. These tools will help the United States and Japan work together to address the high risk of forced labor, among other labor issues, in certain critical minerals supply chains.

**Forced Labor Import Prohibitions.** The United States is committed to advocating for trading partners to also adopt complementary forced labor import prohibition provisions to efficiently increase the effectiveness of this tool globally. In addition, USTR continues to consider recommendations related to improving the implementation of Section 307 of the Tariff Act of 1930 and increasing the ability of the prohibition to lead to remediation of the conditions of forced labor and make workers whole.

**Taiwan.** The U.S.-Taiwan Initiative on 21st-Century Trade, launched in June 2022 under the auspices of the American Institute in Taiwan and the Taipei Economic and Cultural Representative Office in the United States, is intended to develop concrete ways to deepen the economic and trade relationship between the two economies, advance mutual trade priorities based on shared values,

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<sup>23</sup> USTR. United States and Japan Launch Task Force to Promote Human Rights and International Labor Standards in Supply Chains. January 6, 2023. <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/january/united-states-and-japan-launch-task-force-promote-human-rights-and-international-labor-standards>.

<sup>24</sup> USTR. Agreement Between the Government of the United States and the Government of Japan on Strengthening Critical Minerals Supply Chains. March 28, 2023. <https://ustr.gov/sites/default/files/2023-03/US%20Japan%20Critical%20Minerals%20Agreement%202023%2003%2028.pdf>.

and promote innovation and inclusive economic growth for workers and businesses. The two sides have developed an ambitious roadmap for reaching high-standard commitments and economically meaningful outcomes, including outcomes related to labor, which would be a part of a second agreement. Discussions include addressing concerns about labor rights violations and abuses in Taiwan's distant fishing industry, promoting corporate accountability, and addressing forced labor throughout both economies' supply chains.

**Kenya.** The United States and Kenya launched the Strategic Trade and Investment Partnership initiative in July 2022. The goal of the Partnership is to increase investment; promote sustainable and inclusive economic growth; benefit workers, consumers, and businesses (including micro-, small-, and medium-sized enterprises); and support African regional economic integration. The United States put forward text that would advance and protect labor rights through enforcement of and compliance with labor laws, promotion of social dialogue, and cooperation in other areas of mutual interest on labor and employment priorities, including with respect to forced labor in global supply chains.

**Indo-Pacific Economic Framework for Prosperity.** In May 2022, the United States launched the Indo-Pacific Economic Framework for Prosperity (IPEF) with Australia, Brunei Darussalam, Fiji, India, Indonesia, Japan, Republic of Korea, Malaysia, New Zealand, Philippines, Singapore, Thailand, and Vietnam. The goal of IPEF is to advance resilience, sustainability, inclusiveness, economic growth, fairness, and competitiveness for participating economies. Through this initiative, the IPEF partners aim to contribute to cooperation, stability, prosperity, development, and peace within the Indo-Pacific region. This framework has the opportunity to offer tangible benefits that fuel economic activity and investment, promote sustainable and inclusive economic growth, and benefit workers, consumers, and businesses (including micro-, small-, and medium-sized enterprises) across the region. IPEF consists of four pillars: (I) Trade; (II) Supply Chains; (III) Clean Economy; and (IV) Fair Economy, all of which include provisions that promote labor rights. Pillars II-IV have entered into force.

Through the ongoing Trade Pillar negotiations, the IPEF partners agree to focus on labor provisions and initiatives that benefit workers and ensure free and fair trade that contributes to promoting sustainable and inclusive growth, including related to adopting and enforcing national laws based on internationally recognized labor rights; encouraging corporate accountability; public engagement; and cooperative mechanisms on emerging labor issues.

The Supply Chains Pillar agreement includes a Labor Rights Advisory Board that brings together workers, employers, and governments at the same table to promote labor rights across regional supply chains.<sup>25</sup> The Clean Economy Pillar agreement includes an express recognition of the importance of just transition measures, robust labor protections, and environmental, social, and

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<sup>25</sup> DOC. U.S. and IPEF Partners Establish Supply Chain Bodies and Convene First Virtual Meetings Under Landmark Supply Chain Agreement. July 30, 2024. <https://www.commerce.gov/news/press-releases/2024/07/us-and-ipef-partners-establish-supply-chain-bodies-and-convene-first>.

governance protections in financing that are consistent with labor rights and states the intention of each Party to promote labor rights in the sectors and activities covered by the agreement.<sup>26</sup>

The Fair Economy Pillar contains innovative provisions that reflect the connection between combating corruption and implementing and enforcing labor laws. To this end, it sets forth commitments to ensure that labor rights are respected, including to provide appropriate protections to migrant workers' rights and take appropriate measures to prohibit employer interference with the exercise of the rights to freedom of association or collective bargaining.<sup>27</sup>

**Americas Partnership for Economic Prosperity (Americas Partnership).** The Americas Partnership is a regional initiative to drive the Western Hemisphere's economic recovery and growth, first announced by President Biden in June 2022 at the Summit of the Americas. In the East Room Declaration, issued November 3, 2023, at the White House, Leaders of the Americas Partnership countries highlighted the importance of decent work and promotion of internationally recognized labor rights for inclusive and sustainable trade and investment in the region. On August 1, 2024, at the first in-person Trade Ministerial, held in Quito, Ecuador, countries established a committee on Trade and Labor. That committee will develop and implement cooperative activities on labor for this regional initiative.

**Supply Chain Resilience Efforts.** On January 7, 2025, USTR released *Adapting Trade Policy for Supply Chain Resilience: Responding to Today's Global Economic Challenges*, a series of six policy papers on trade and investment policy initiatives that promote supply chain resilience. The policy papers address, respectively, a trade policy framework for supply chain resilience; challenges and opportunities for advancing resilience in the U.S. textile and apparel industries; use of rules of origin to promote resilience; how more effective responses to non-market policies and practices build resilience; data and analytics for developing resilience-oriented trade policy; and sectoral trade agreements for enhancing resilience.<sup>28</sup> Advancing supply chain resilience and addressing forced labor in supply chains are complementary efforts; one dimension of supply chain resilience is sustainability, which encompasses the promotion of labor rights.<sup>29</sup> Supply chains that embody robust labor standards help build enduring relationships with like-minded trading partners and promote diversified supply chains by rejecting the race to the bottom sourcing practices that lead to supply chain concentration.

Below are the priority actions USTR has undertaken and will consider continuing to meet Goal 3 of developing and deploying innovative new trade tools to combat forced labor.

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<sup>26</sup> DOC. Fact Sheet: Substantial Conclusion of Negotiations on Groundbreaking IPEF Clean Economy Agreement. November 2023. <https://www.commerce.gov/sites/default/files/2023-11/US-Factsheet-SF-Pillar-III.pdf>.

<sup>27</sup> DOC. Indo-Pacific Economic Framework for Prosperity Agreement Relating to a Fair Economy, Art. 14.2(a), 3(a).i. Fact Sheet: Substantial Conclusion of Negotiations of an Innovative IPEF Fair Economy Agreement. <https://www.commerce.gov/sites/default/files/2023-11/US-Factsheet-SF-Pillar-IV.pdf>.

<sup>28</sup> For more information on USTR's efforts on supply chain resilience see, <https://ustr.gov/issue-areas/supply-chain-resilience>.

<sup>29</sup> USTR. Request for Comments on Promoting Supply Chain Resilience, 89 Fed. Reg. 16,608, 16,609. March 7, 2024. <https://www.federalregister.gov/documents/2024/03/07/2024-04869/request-for-comments-on-promoting-supply-chain-resilience>.

### Goal 3 Priority Actions

- Develop new trade arrangements that include high-standard commitments and economically meaningful outcomes, including outcomes related to labor, such as promoting corporate accountability and addressing forced labor throughout supply chains. Current such initiatives include the U.S.-Taiwan Initiative on 21<sup>st</sup> Century Trade, the U.S.-Kenya Strategic Trade and Investment Partnership, and IPEF.
- In coordination with the EU, utilize and enhance the TALD to support efforts to jointly combat forced labor in supply chains, human rights due diligence, and corporate accountability.
- In coordination with Japan, lead the U.S.-Japan Task Force to Promote Human Rights and International Labor Standards in Supply Chains to cooperate on and deploy best practices in trade policy to advance internationally recognized labor rights due diligence and address forced labor in supply chains.
- Encourage trading partners to incorporate complementary prohibitions on the importation of goods produced with forced labor in their domestic law, such as in the United States, Canada, Mexico, and the EU.
- Consider recommendations to improve Section 307 and UFLPA implementation and enforcement.

### Goal 4: Increase Multilateral Engagement with Trading Partners to Combat Forced Labor

The United States has strengthened engagement with trading partners and other allies in combating forced labor as an unfair trade practice by increasing multilateral and bilateral trade engagement on forced labor and other abusive or exploitative labor practices. Through regional and multilateral fora, the United States has been emphasizing that forced labor is not just a violation of human rights but is a harmful unfair trade practice. The United States cannot unilaterally eradicate forced labor from global trade and, through this strategy, seeks to increase coordinated global action to address forced labor.

**Elevating the Issue of Forced Labor at the World Trade Organization (WTO).** As a multilateral institution responsible for promoting a rules-based trading system, the WTO provides a platform for its Members to discuss relevant trade-related issues, negotiate rules, and monitor compliance with those rules. As a result, the WTO is uniquely positioned for its Members to raise awareness about and address forced labor in production of traded goods and services. The United States has continued to bring the issue of forced labor into discussions at the WTO, wherever relevant, and engaged other Members in efforts to address the problem within their borders and supply chains.

**Advance Transparency and Information Sharing at the WTO on the Use of Forced Labor on Fishing Vessels.** The first major action of the United States on forced labor at the WTO was to address the prevalence of forced labor on fishing vessels. Through extensive U.S. engagement and leadership over the course of the long-running negotiations on harmful subsidies in the fisheries sector, the WTO was able to achieve a groundbreaking Agreement on Fisheries Subsidies,

adopted at the WTO's 12th Ministerial Conference in June 2022.<sup>30</sup> In April 2023, the United States submitted its acceptance of the WTO Agreement on Fisheries Subsidies. At the Thirteenth Ministerial Conference (MC13), WTO Members sought to conclude negotiations on additional provisions to achieve comprehensive disciplines on harmful fisheries subsidies. While WTO Members were unable to conclude these negotiations at MC13, USTR continued to press for the inclusion of enhanced transparency provisions requiring Members to notify the Committee on Fisheries Subsidies of information that reasonably indicates that vessels or operators are engaged in the use of forced labor on fishing vessels. While agreement on comprehensive disciplines was not reached at MC13, we will continue to advocate for enhanced transparency provisions.

**Finding Opportunities to Address Forced Labor in Other Multilateral Organizations.** There are numerous other multilateral organizations that include trade-related or forced labor-related work. The United States continues to pursue opportunities to address forced labor in trade in the Group of 7 (G7), Group of 20 (G20), Organization for Economic Cooperation and Development (OECD), and the United Nations (UN), among other multilateral organizations. This includes working with the EU and select member countries of multilateral organizations to encourage countries to prohibit the sale or importation of goods made with forced labor and increase awareness about forced labor in supply chains. USTR supports other agencies in addressing forced labor in other multilateral organizations. For example, CBP continues to engage with the World Customs Organization (WCO) to have a forced labor prevention requirement accepted as an internationally recognized program requirement.

**Joint Declaration Against Trade-Related Economic Coercion and Non-Market Policies and Practices.** The trade ministers of the United States, Australia, Canada, Japan, New Zealand, and the United Kingdom endorsed a statement expressing serious concern over economic coercion and non-market policies and practices in June 2023.<sup>31</sup> The Joint Declaration specifically condemned uses of forced labor, including state-sponsored forced labor, in global supply chains and recognized that such practices are gross abuses of human rights. The trade ministers agreed that uses of force labor confer an unfair competitive advantage and that there is no place for them in the global system. They affirmed that it is a moral imperative to end forced labor.

**Elevate the Problem of Forced Labor with G7 Trade Ministers.** Under the U.K. Presidency, President Biden pushed for the inclusion of forced labor in the June 2021 G7 Leaders' Statement, which paved the way for USTR to negotiate the historic October 2021 G7 Trade Ministers' Statement on Forced Labour, which was annexed to the G7 Trade Ministers' Communique.<sup>32</sup> The statement recognized the problem of forced labor in global supply chains, including state-sponsored forced labor of vulnerable groups and minorities, including in the agricultural, solar and garment sectors. It also addressed the importance of working together, along with businesses, to

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<sup>30</sup> WTO. Agreement on Fisheries Subsidies. 2022.

<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/MIN22/33.pdf&Open=True>.

<sup>31</sup> USTR. Joint Declaration Against Trade-Related Economic Coercion and Non-Market Policies and Practices. June 9, 2023. <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/june/joint-declaration-against-trade-related-economic-coercion-and-non-market-policies-and-practices>.

<sup>32</sup> UK Government. G7 Trade Ministers' Statement on Forced Labour. October 22, 2021.

<https://www.gov.uk/government/news/g7-trade-ministers-statement-on-forced-labour-annex-a>. G7 Trade Ministers' Communique. October 22, 2021. <https://www.gov.uk/government/news/g7-trade-ministers-communique-october-2021>.

protect individuals from forced labor and to ensure that global supply chains are free from the use of forced labor. The statement is based on international standards and reflects the U.S. Government toolkit that has been cultivated over the last 25 years to combat this harmful practice. On September 15, 2022, under the German Presidency, G7 Trade Ministers reiterated their commitment in Neuhardenberg to utilize trade policy to combat forced labor and built upon the 2021 G7 Trade Ministers' Statement on Forced Labour in London expressing their shared interest in also tackling child labor in supply chains.<sup>33</sup> In October 2023, G7 Trade Ministers reaffirmed their commitment made in 2021 to take measures to eradicate forced labor and the importance of promoting the respect for human rights and international labor standards in business activities and global supply chains. In July 2024, G7 Trade Ministers recommitted to taking measures to strengthen cooperation and collective efforts toward eradicating the use of all forms of forced labor and child labor in global supply chains.

**United States, Japan, and EU Trilateral Partnership.** On November 2021, United States Trade Representative Tai met with the Trade Ministers of Japan and the European Commission to renew their Trilateral partnership to address the global challenges posed by non-market policies and practices of third countries that undermine and negatively affect their workers and businesses. The trade ministers decided to focus their work as trilateral partners in three areas: (1) identification of problems due to non-market policies and practices; (2) identification of gaps in existing enforcement tools, and where further work is needed to develop new tools to address such policies and practices, as well as discussing cooperation in utilizing existing tools; and (3) identification of areas where further work is needed to develop rules to address such policies and practices.<sup>34</sup> A cross-cutting issue in each of these three areas is addressing forced labor through trade policy. In September 2022, the United States, Japan, and the EU released a Trilateral Joint Statement from the Trade and Labor Ministers on the ILO's Global Forced Labor Estimates and their concern surrounding the global situation on forced labor.

**Asia-Pacific Economic Cooperation (APEC).** The United States also continued to promote labor rights as one of the topics to strengthen economic integration and build high-quality trade agreements in the Asia-Pacific region. In the APEC forum, the United States continued to support including labor issues in the next generation of trade agreements by the APEC economies. To support this goal, USTR established an APEC work program in the Committee on Trade and Investment examining the importance of multistakeholder engagement in trade policy and continued to build support for a project on labor-related technical assistance and capacity building provisions in regional trade arrangements and free trade agreements. In addition, the United States hosted the APEC Ministers Responsible for Trade Meeting in May 2023, during which the United States led a conversation with prominent U.S. labor leaders about the vital link between trade and workers.

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<sup>33</sup> German Government. G7 Trade Ministers' Statement. September 15, 2022. <https://www.bmwk.de/Redaktion/DE/Downloads/G/20220915-g7-trade-ministers-statement-neuhardenberg-15-september-2022.pdf>.

<sup>34</sup> USTR. Joint Statement of the Trade Ministers of the United States, Japan, and the European Union After a Trilateral Meeting. November 30, 2021. <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2021/november/joint-statement-trade-ministers-united-states-japan-and-european-union-after-trilateral-meeting>.

**Association of Southeast Asian Nations (ASEAN).** USTR and ASEAN organized the second United States-ASEAN Trade and Labor Dialogue in March 2022. The dialogue focused on inclusive approaches to trade and economic recovery, improving working conditions and business competitiveness, and workforce development and labor protections in a digital era. USTR continued to support U.S. Government efforts to address forced labor associated with illegal, unreported, and unregulated fishing, including in the context of work with ASEAN governments, industry, and other stakeholders.

Below are the priority actions USTR has undertaken and will consider continuing to meet Goal 4 to increase multilateral engagement with trading partners to combat forced labor.

#### Goal 4 Priority Actions

- Engage like-minded WTO Members on how best to elevate the issue of forced labor in traded goods at the WTO, such as in trade policy reviews, committee work, and negotiations.
- Advance discussions on the WTO Agreement on Fisheries Subsidies that would contribute to Members' efforts for greater transparency and efforts to halt and eradicate the use of forced labor on fishing vessels.
- Work with like-minded countries to secure commitments to combat forced labor in supply chains, including in public procurement, as well as in the procurement of goods and services of multilateral organizations, such as the UN and others.
- Emphasize that forced labor is an unfair trade practice in multilateral engagements.

### III. Conclusion: Global Call to Action

The above strategy represents a Trade Strategy to Combat Forced Labor and is a key piece of USTR's broader worker-centered trade policy. Our past trade policy was based on the notion that as trade liberalized, everyone would prosper and that improvements for working people would follow. However, without creating guard rails to ensure that trade was in fact benefiting everyday people, the trading system created a race to the bottom that rewarded worker exploitation, including forced labor. USTR is keen to learn from lessons of the past, and we continue to press forward on a trade policy for the future – one that benefits workers, not just as consumers in the global economy, but as individuals whose labor makes the global trading system possible, and addresses the use of forced labor as unfair competition for businesses.

USTR developed the activities outlined above and this strategy to chart a course to use trade as a force for good in the global effort to address forced labor. USTR pursued inclusivity by expanding the seats at the table and incorporating more views into trade policy development in this effort. In pursuit of high-ambition standards and commitments in all of our trade engagements, we have found that words are not enough; trade tools with teeth are needed to address forced labor and uphold the dignity of work. The United States cannot do this alone. We call on all of our trading partners to heed this clarion call to combat forced labor. There are opportunities to work together, raising standards, enforcing labor laws, upholding agreements, enhancing cooperation and fair competition, and combating this unacceptable form of exploitation. Join with us and, together, let's make forced labor a relic of the past.

## Appendix A: Complete List of Priority Actions

### Goal 1 Priority Actions

- Support implementation of the Presidential Memorandum on Global Labor Rights through cooperation with interagency partners and increased stakeholder engagement.
- Increase outreach and engagement with workers, unions, other worker organizations, civil society organizations, survivors, underserved and disadvantaged communities, and industry to gather input on combating forced labor through trade, addressing unfair competition from forced labor for U.S. businesses and workers, and addressing the root causes of forced labor, both through the formal mechanisms outlined above and ongoing informal engagement.
- Regularly participate and present on trade issues as a member of the Forced Labor Enforcement Task Force (FLETF) at engagements hosted at the Department of Homeland Security (DHS), DOL, or Department of State (State) with the private sector and civil society on the implementation of the Uyghur Forced Labor Prevention Act (UFLPA).

### Goal 2 Priority Actions

- Through the FLETF, support CBP in its efforts to enforce Section 307 of the Tariff Act of 1930.
- Conduct diplomatic engagement with foreign governments on Section 307 of the Tariff Act of 1930. For example, USTR, CBP, DOL, and State regularly engage with foreign governments regarding the implementation of Section 307 of the Tariff Act, including by providing concrete recommendations for preventing environments where forced labor thrives.
- Support efforts of the FLETF to enforce the UFLPA rebuttable presumption and increase significantly the number of entities on the UFLPA Entity List, as supported by facts and law. Support FLETF efforts to create batch recommendation packages to more efficiently add to the UFLPA Entity List.
- Advocate for DHS and interagency resources to support the ongoing efforts of the FLETF, to ensure successful implementation of the UFLPA and a whole-of-government approach to enforcement efforts that support free and fair labor globally.
- Monitor and further examine areas of potential circumvention of Section 307 of the Tariff Act of 1930 and the UFLPA, including U.S. imports under the Section 321 (19 U.S.C. § 1321) *de minimis* threshold.
- Work with the Governments of Canada and Mexico to implement the USMCA commitments to prohibit the importation of goods produced by forced labor and to coordinate our enforcement activities.
- Engage like-minded trade partners through established labor cooperation mechanisms, FTA Labor Affairs Councils and subcommittees and FTA Free Trade Commissions, to eliminate the use of forced labor within our borders and collaborate to address the use of forced labor in global supply chains.
- Use existing TIFAs to promote collaboration on the eradication of forced labor, for example by negotiating separate protocols or annexes to existing TIFAs to address forced labor issues or by creating and utilizing labor working groups to address forced labor.

- Engage with regional economic communities to promote the inclusion of high labor standards in regional trade agreements such as the African Continental Free Trade Area.
- Support the DHS Center for Countering Human Trafficking and DOJ in increasing criminal investigations and prosecutions, respectively, related to forced labor.
- Support the DOC Bureau of Industry and Security and International Trade Administration in the implementation of the Human Rights Crossover Rule in Exports and updated regulations on AD/CVD respectively.
- Work with the Department of the Treasury and State to examine how to utilize sanctions authority to further address forced labor.
- Support work under the National Action Plan on Responsible Business Conduct to advance enforcement of public procurement requirements.
- Work with the interagency to advance ethical recruitment through promoting no recruitment fees and examining ways to increase protections for migrant workers and access to remediation.
- Work with the interagency under the National Strategy for Combating Illegal, Unreported, and Unregulated Fishing to address forced labor associated with IUU fishing, including efforts to prevent the importation of IUU fish and fish products or those products associated with forced labor, efforts to promote legal and safe working conditions, reduce vulnerabilities, and support the ability to organize and access remediation and justice in the fisheries sector.

### Goal 3 Priority Actions

- Develop new trade arrangements that include high-standard commitments and economically meaningful outcomes, including outcomes related to labor, such as promoting corporate accountability and addressing forced labor throughout supply chains. Current such initiatives include the U.S.-Taiwan Initiative on 21<sup>st</sup> Century Trade, the U.S.-Kenya Strategic Trade and Investment Partnership, and IPEF.
- In coordination with the EU, utilize and enhance the TALD to support efforts to jointly combat forced labor in supply chains, human rights due diligence, and corporate accountability.
- In coordination with Japan, lead the U.S.-Japan Task Force to Promote Human Rights and International Labor Standards in Supply Chains to cooperate on and deploy best practices in trade policy to advance internationally recognized labor rights due diligence and address forced labor in supply chains.
- Encourage trading partners to incorporate complementary prohibitions on the importation of goods produced with forced labor in their domestic law, such as in the United States, Canada, Mexico, and the EU.
- Consider recommendations to improve Section 307 and UFLPA implementation and enforcement.

### Goal 4 Priority Actions

- Engage like-minded WTO Members on how best to elevate the issue of forced labor in traded goods at the WTO, such as in trade policy reviews, committee work, and negotiations.

- Advance discussions on the WTO Agreement on Fisheries Subsidies that would contribute to Members' efforts for greater transparency and efforts to halt and eradicate the use of forced labor on fishing vessels.
- Work with like-minded countries to secure commitments to combat forced labor in supply chains, including in public procurement, as well as in the procurement of goods and services of multilateral organizations, such as the UN and others.
- Emphasize that forced labor is an unfair trade practice in multilateral engagements.

## Appendix B: ILO Resources on Forced Labor

The ILO is the preeminent institution for addressing, researching, and providing international standards and guidance on forced labor. Included below are a range of resources regarding forced labor.

**International Standards.** Forced labor includes the use of forced, convict, and indentured labor, including forced or indentured child labor. There are two fundamental ILO conventions concerning forced labor: (1) ILO Convention 29 - Forced Labor, 1930 (C29) and its corresponding protocol, Protocol of 2014 to the Forced Labor Convention, 1930; and (2) ILO Convention 105 - Abolition of Forced Labor, 1957 (C105). ILO C29 defines *forced or compulsory labor* as “all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily.” ILO C105 specifies conditions in which forced labor shall not occur, including punishment for participating in strikes or for labor discipline.

**Prevalence of Forced Labor.** Globally, the ILO, Walk Free, and the International Organization for Migration estimate that there are 28 million workers, including adults and children, in forced labor on any given day. Forced labor has become an issue of increased international concern over the last two decades. The 2022 estimates highlight that the five sectors accounting for the majority of adult forced labor are: services, manufacturing, construction, agriculture, and domestic work. Other notable sectors include digging for minerals or mining work, and fishing aboard fishing vessels. Children make up roughly 12 percent of all those in forced labor at 3.3 million.<sup>35</sup> Forced labor of children occurs in many different sectors and includes agriculture and manufacturing. The share of forced labor output that enters international trade is unknown.

### **ILO Indicators of Forced Labor.**

- Abuse of vulnerability
- Deception
- Restriction of movement
- Isolation
- Physical and sexual violence
- Intimidation and threats
- Retention of identity documents
- Withholding of wages
- Debt bondage
- Abusive working and living conditions
- Excessive overtime

**ILO Policy Recommendations to Governments and Businesses.** In 2022, the ILO and Global Business Network on Forced Labor released a report, “Eradicating forced labor: What works in

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<sup>35</sup> ILO, Walk Free, and International Organization for Migration. Global Estimates of Modern Slavery: Forced Labour and Forced Marriage. September 2022.  
[https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed\\_norm/@ipecc/documents/publication/wcms\\_854795.pdf](https://www.ilo.org/sites/default/files/wcmsp5/groups/public/@ed_norm/@ipecc/documents/publication/wcms_854795.pdf).

practice” on the need for a “whole-of-society” approach for the global eradication of forced labor with a focus on collaboration between governments and businesses. Table 3 describes country risk factors for forced labor that governments and businesses should understand and address. For governments, this means working to strengthen and enforce their national laws and policy frameworks to prevent and reduce the risk of forced labor in order to attract foreign investment and increase predictability for businesses. For businesses, this means carrying out due diligence and developing a social compliance system that accounts for the risks to forced labor and other labor rights abuses in the downstream and upstream production of goods in supply chains.<sup>36</sup>

**Table 1.** ILO Assessment of Country Risk Factors – Forced Labor

Top contextual factors affecting governments and companies attempting to eradicate forced labor	
1	Inadequate and poorly enforced national labor laws.
2	Inadequate and poorly enforced policy frameworks.
3	Poor knowledge and awareness amongst governments about forced labor and how to address it.
4	Poor coordination between government bodies at national level and between migrant worker origin and destination countries at international level.
5	Low awareness of rights and access to education among communities that face vulnerability.
6	Widespread poverty, lack of livelihood options and structural inequality and discrimination.
7	High levels of informality and low regulation of the labor market.
8	Workers' lack of access to grievance mechanisms, remedy and representation.

Source: ILO and Global Business Network on Forced Labor (2022). Eradicating forced labor: What works in practice.

<sup>36</sup> ILO and Global Business Network on Forced Labor. September 2022. Eradicating forced labor: What works in practice. [https://flbusiness.network/wp-content/uploads/2022/09/ilo\\_gbnfl-what\\_works\\_report\\_final\\_sep22.pdf](https://flbusiness.network/wp-content/uploads/2022/09/ilo_gbnfl-what_works_report_final_sep22.pdf). See also ILO, Hard to See, Harder to Count. February 2024. <https://www.ilo.org/publications/hard-see-harder-count-handbook-forced-labour-surveys>.

**Table 2.** ILO Recommendations on Key Policy Priorities for Addressing Forced Labor

1. **Respect for the freedoms of workers to associate and to bargain collectively** is indispensable to a world free from forced labor.
2. **Extend social protection, including floors, to all workers and their families** to mitigate the socio-economic vulnerability that underpins much of forced labor, and to provide workers with the basic income security to be able to say no to jobs that are abusive and to quit jobs that have become so.
3. **Promote fair and ethical recruitment**, to protect workers from abusive and fraudulent practices during the recruitment and placement process, including the charging of extortionate fees and related costs by unscrupulous recruitment agencies and labor intermediaries.
4. **Strengthen the reach and capacity of public labor inspectorates**, so they are able to detect and act on labor rights violations and abuses before they deteriorate into forced labor, able to raise awareness of forced labor risks and the compliance obligations of employers, and able to promptly detect and refer actual forced labor cases.
5. **Ensure protection for people freed from forced labor**, through immediate assistance, rehabilitation, and long-term sustainable solutions, so they can successfully recover and avoid re-victimization.
6. **Ensure access to remedy for people freed from forced labor**, to help recompense them for the consequences of their subjection to forced labor and to help in their recovery.
7. **Ensure adequate enforcement**, to bring perpetrators to justice and deter would-be offenders from contemplating the crime of forced labor.
8. **Address migrants' vulnerability to forced labor and trafficking for forced labor.**
9. **Address children trapped in forced labor.**
10. **Mitigate the heightened risk of forced labor and trafficking for forced labor in situations of crisis.**
11. **Combat forced labor and trafficking for forced labor in business operations and supply chains.** Attention should focus on identifying, prioritizing, and acting on "hotspots" where the risk of forced labor and other human rights abuses is highest in terms of both severity and scale.
12. **End state-imposed forced labor**, which accounts for one in seven of all forced labor cases.
13. **Partnership and international cooperation.** The challenge of forced labor is too big, and its myriad root causes too complex, for national governments or other stakeholders to address on their own.

Source: ILO, Walk Free, IOM (2022). Global Estimates of Modern Slavery: Forced Labour and Forced Marriage.

## Appendix C: Data and Coordination

### Data Collection and Reporting

The United States conducts in-depth reporting and commissions rigorous research to inform evidence-based U.S. Government policy making, including trade policy, and creates tools to disseminate information on forced labor data and due diligence best practices. The United States relies on data and evidence on forced labor and other violations of workers' rights to monitor labor obligations under trade agreements, address eligibility concerns under trade preference programs, carry out risk-based trade enforcement on forced labor import prohibitions, and develop and implement new trade tools to combat forced labor among other trade initiatives (see Table 3 for more on the U.S. Government regulatory and due diligence framework to combat forced labor).

**Table 3.** U.S. Government Regulatory and Due Diligence Framework to Combat Forced Labor

- Section 307 of the Tariff Act of 1930
- Trade Facilitation and Trade Enforcement Act of 2015
- Trafficking Victims Protection Act of 2000
- Uyghur Forced Labor Prevention Act of 2021
- Xinjiang Business Advisory
- Executive Order 13773, Enforcing Law with Respect to Transnational Criminal Organizations and Preventing International Trafficking
- Executive Order 13627, Strengthening Protections Against Trafficking in Persons in Federal Contracts
- Executive Order 13126, Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor
- Executive Order 13903, Combating Human Trafficking and Online Child Exploitation in the United States
- Executive Office of the President, Office of Management and Budget Memorandum on Anti-Trafficking Risk Management Best Practices and Mitigation Considerations

The flagship U.S. Government reports on or related to workers' rights that cover forced labor are carried out by DOL and State (see Table 4).

These reports provide important information on labor issues in a country, including labor law enforcement, and facilitate the identification of products suspected of being produced with forced labor in a country. The reports also signal to trading partners and U.S.-based and foreign businesses, sectors and goods with a high risk of forced labor in supply chains that need to be monitored for priority action and where social compliance systems should be tailored to a specific industry. USTR carefully considers each report's findings and recommendations when formulating trade engagement plans or considering trade enforcement actions. CBP uses this information to develop a risk-based strategy for enforcing the forced labor prohibition under Section 1307 of the Tariff Act (19 U.S.C. § 1307).

**Table 4.** U.S. Government Reports on Forced Labor

**U.S. Department of Labor**

- **Findings on the Worst Forms of Child Labor** report, submitted in accordance with **Section 504 of the Trade Act of 1974, as amended (19 U.S.C. § 2464)**, focuses on the efforts of certain U.S. trade beneficiary countries and territories to eliminate the worst forms of child labor through legislation, enforcement mechanisms, policies and social programs. Also included in the report are findings on the prevalence and sectoral distribution of the worst forms of child labor, including forced child labor, in each country; country-specific suggestions for government action; and individual country assessments that identify where Significant, Moderate, Minimal, or No Advancement has been made by the beneficiary country. The report covers 119 independent countries and 15 non-independent countries and territories designated as U.S. trade beneficiaries under the Generalized System of Preferences (GSP). This includes former GSP recipients who have negotiated free-trade agreements with the United States. Source: U.S. Department of Labor, Bureau of International Labor Affairs. “Findings on the Worst Forms of Child Labor.” Available from: <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings>.
- **List of Goods Produced by Child Labor or Forced Labor**, submitted in accordance with **Section 105(b)(2)(C) of the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005 (22 U.S.C. § 7112(b)(2)(C))**, compiles a list of goods and their source countries where there is reason to believe goods are produced by child labor or forced labor in violation of international standards, as required under the Trafficking Victims Protection Reauthorization Act (TVPRA) of 2005 and subsequent reauthorizations. It comprises 204 goods from 82 countries, as of September 5, 2024. Source: U.S. Department of Labor, Bureau of International Labor Affairs. “List of Goods Produced by Child Labor or Forced Labor.” Available from: <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>.
- **List of Products Produced by Forced or Indentured Child Labor**, produced pursuant to **Executive Order 13126 on the "Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor,"** was signed on **June 12, 1999**, intended to ensure that U.S. federal agencies do not procure goods made by forced or indentured child labor. It requires the Department of Labor, in consultation with the Departments of State and Homeland Security, to publish and maintain a list of products, by country of origin, which the three Departments have a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor. As of September 5, 2024, the EO List comprises 33 products from 25 countries. Under the procurement regulations implementing the Executive Order, federal contractors who supply products on this list published by the Department of Labor must certify that they have made a good faith effort to determine whether forced or indentured child labor was used to produce the items listed. Source: U.S. Department of Labor, Bureau of International Labor Affairs. “List of Products Produced by Forced or Indentured Child Labor.” Available from: <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-products>.

**U.S. Department of State**

- **Section 7 of Country Reports on Human Rights Practices**, submitted in accordance with the Foreign Assistance Act of 1961 and the Trade Act of 1974, is part of the annual Country Reports on Human Rights Practices – the Human Rights Reports. The reports cover internationally recognized individual, civil, political, and workers’ rights, as set forth in the Universal Declaration of Human Rights and international agreements. The U.S. Department of State submits reports on all countries receiving assistance and all United Nations member states to the U.S. Congress. As part of assessing internationally recognized workers’ rights, the report analyzes the forced labor situation in each country, included gaps in law and practice. Source: U.S. Department of State, Reports – Bureau of Democracy, Human Rights, and Labor. “Country Reports on Human Rights Practices.” Available from: <https://www.state.gov/reports-bureau-of-democracy-human-rights-and-labor/country-reports-on-human-rights-practices/>.

State Office to Monitor and Combat Trafficking in Persons (TIP Office) publishes the annual **Trafficking in Persons (TIP) Report**, established by the Trafficking Victims Protection Act of 2000 and subsequent reauthorizations, ranks 188 governments on their efforts to combat human trafficking, including forced labor, and outlines trafficking trends in foreign countries including information on sectors or products produced with forced labor as relevant. Governments ranked the lowest tier - Tier 3 - may be subject to certain restrictions on foreign assistance, whereby the President may determine not to provide U.S. Government nonhumanitarian, nontrade-related foreign assistance as defined in the TVPA. Source: U.S. Department of State. Reports – Office to Monitor and Combat Trafficking in Persons. “2024 Trafficking in Persons Reports.” Available from: <https://www.state.gov/reports/2024-trafficking-in-persons-report/>.

## **Enhance Coordination and Information Sharing Among U.S. Government Agencies to Inform Forced Labor-Related Trade Policy**

The U.S. Government has a variety of mechanisms to coordinate work related to forced labor.

**Forced Labor Enforcement Task Force.** The United States works through the DHS-led FLETF to coordinate, monitor, and block the importation of goods made wholly or in part with forced labor into the United States. The FLETF, created by Executive Order 13923 pursuant to the U.S.-Mexico-Canada Agreement Implementation Act (Pub. L. No. 116-113), is composed of the following interagency member partners: DHS (Chair), USTR, DOL, State, U.S. Department of the Treasury, DOJ, and DOC. The FLETF has six observer agencies: U.S. Agency for International Development (USAID), CBP, U.S. Department of Agriculture, U.S. Department of Energy, U.S. Immigration and Customs Enforcement Homeland Security Investigations, and the National Security Council.

**The President's Interagency Task Force to Monitor and Combat Trafficking in Persons and Senior Policy Operating Group.** The PITF is a cabinet-level entity created by the Trafficking Victims Protection Act of 2000 (Pub. L. No. 106-386), which consists of 20 agencies across the federal government responsible for coordinating U.S. Government-wide efforts to combat trafficking in persons. The Secretary of State chairs the PITF. PITF agencies regularly convene to advance and coordinate federal policies and collaborate with a range of stakeholders. Focus areas include: the enforcement of criminal and labor laws to end impunity for traffickers; victim-centered identification and trauma-informed assistance; innovations in data gathering and research; education and public awareness activities; and synchronization of strategically linked foreign assistance and diplomatic engagement. The Senior Policy Operating Group (SPOG) consists of senior officials designated as representatives of the PITF agencies. The SPOG brings together federal agencies that address all aspects of human trafficking.

In addition to the above mechanisms to coordinate work related to forced labor, the U.S. Government also has mechanisms to coordinate trade-related work that are relevant to work on forced labor in trade policy.

**Trade Policy Staff Committee and Trade Policy Review Group.** USTR has primary responsibility, with the advice of the interagency trade policy organization, for developing and coordinating the implementation of U.S. trade policy, including on commodity matters and, to the extent they are related to trade policy, direct investment matters. Under the Trade Expansion Act of 1962, the U.S. Congress established an interagency trade policy mechanism to assist with the implementation of these responsibilities. This organization, as it has evolved, consists of tiers of committees that constitute the principal mechanism for advising USTR as it develops and coordinates U.S. Government positions on international trade and trade-related investment issues. USTR chairs and administers both the Trade Policy Review Group (TPRG) and the Trade Policy Staff Committee (TPSC).

**TPSC Subcommittee on Trade, Forced Labor, and Child Labor.** The TPSC Subcommittee on Trade, Forced Labor, and Child Labor serves as a mechanism to coordinate input from relevant experts across the interagency on trade policy positions specifically related to forced labor and

child labor. This subcommittee was convened in the development of this whole-of-government, focused Trade Strategy to Combat Forced Labor in traded goods and services.

**TPSC Subcommittee on Trade and Labor.** The TPSC Subcommittee on Trade and Labor serves as a mechanism to coordinate input from relevant experts across the interagency on trade policy positions specifically related to negotiations of labor provisions of trade agreements, arrangements, and frameworks; development of trade positions on labor standards, new trade tools, or partnerships; and monitoring and enforcement of labor provisions in existing free trade agreements and preference programs.

**Interagency Center for Trade Implementation, Monitoring and Enforcement.** Section 604 of the Trade Facilitation and Trade Enforcement Act of 2015 established the Interagency Center for Trade Implementation, Monitoring and Enforcement (ICTIME) in USTR. ICTIME's work is not specific to forced labor but provides an important trade data-related coordination role and supports the activities of USTR in: investigating potential disputes under the WTO and bilateral and regional trade agreements; monitoring and enforcing trade agreements to which the United States is a party; and monitoring implementation by foreign parties of trade agreements. ICTIME brings together research, analytical resources, and expertise from within USTR and across the federal government into one office within USTR to significantly enhance USTR's capability to investigate foreign trade practices that are potentially unfair or adverse to U.S. commercial interests.

### **Strengthen the Knowledge Base on Forced Labor to Inform Trade Policy**

There are ample resources on forced labor, in particular in supply chains, that are potentially informative in the development of trade policy. The below examples are not exhaustive but represent a few key tools and research, namely by U.S. Government agencies but also the ILO, that seek to enhance the knowledge base in this area.

**Identifying Goods Produced with Inputs Produced with Forced Labor Research on Downstream Products.** ILAB's list of goods and their source countries which it has reason to believe are produced by child labor or forced labor in violation of international standards (TVPRA List) has been expanded to include, "to the extent practicable, goods that are produced with inputs that are produced with forced labor or child labor." In response, ILAB is identifying downstream products containing goods that ILAB has reason to believe are produced with forced labor or child labor and including them on the TVPRA List. In a given country on the TVPRA List, there may be entities that produce listed goods in compliance with the law and international standards and others that employ child labor or forced labor in their supply chains. ILAB's TVPRA List, as well as supporting supply chain research, can be considered a risk radar used to raise public awareness about forced labor and child labor around the world and to promote efforts to combat them.<sup>37</sup>

**Better Trade Tool.** ILAB's *Better Trade Tool* integrates existing ILAB reporting with U.S. global trade data, including Harmonized Tariff Schedule codes, and serves as a resource for users interested in learning about labor exploitation risks in global supply chains. The *Better Trade Tool*

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<sup>37</sup> DOL. Bureau of International Labor Affairs. Identifying Goods Produced with Inputs Produced with Forced Labor or Child Labor. <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods/supply-chains>.

search feature enables users to select a specific country, good, type of labor exploitation, and year from the respective dropdown lists.<sup>38</sup>

**STREAMS – Supply Chain Tracing and Engagement Methodologies Project.** ILAB’s STREAMS project<sup>39</sup> seeks to increase downstream tracing of goods made by child labor and forced labor. The project will develop a comprehensive analytical framework for use by a broad set of stakeholders to categorize supply chains and methods for tracing and validating supply chain connections. The project will disseminate the supply chain tracing tools and methodologies to enable and promote adoption by diverse actors across sectors.

**Global Trace Protocol Project.** ILAB’s Global Trace Protocol Project<sup>40</sup> seeks to increase downstream tracing of goods made by child labor and forced labor. The project is designed to address the barriers in supply chain traceability, and result in the development and sharing of open, accessible and replicable tools that can advance the knowledge base on supply chain tracing and scale the adoption of traceability solutions by various actors in different sectors.

**From Protocol to Practice: A Bridge to Global Action on Forced Labor, Phase II.** ILAB’s Bridge II<sup>41</sup> will improve global, regional, and country-level capacity to eliminate forced labor through the framework, principles, and guidance of the 2014 ILO Protocol and Recommendation on Forced Labor. Bridge II will continue to improve forced labor research methods and build in-country research capacity, and advance policy, law enforcement, legal justice, and victim remedies. The project will establish innovative strategic partnerships and support coordinated efforts at all levels of governance and with workers, employers, and civil society organizations to respond effectively to the challenge of forced labor.

**Comply Chain.** ILAB’s Comply Chain: Business Tools for Labor Compliance in Global Supply Chains helps businesses mitigate risks of labor exploitation in supply chains by building or improving worker-driven social compliance systems, which empower workers to play a central role in identifying and addressing labor rights violations and other concerns within their workplaces.

**Responsible Business Conduct and Labor Rights InfoHub.** The InfoHub is a central hub for U.S. Government-wide policy, guidance, tools, resources, and outcomes-based approaches available to businesses to advance responsible business conduct in global supply chains, focusing on labor rights.<sup>42</sup>

**Responsible Sourcing Tool.** State’s Responsible Sourcing Tool<sup>43</sup> assists U.S. federal contractors, procurement officials, and companies to better identify, prevent, and address the risks of human

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<sup>38</sup> DOL. Better Trade Tool. <https://www.dol.gov/agencies/ilab/better-trade-tool>.

<sup>39</sup> DOL. STREAMS – Supply Chain Tracing and Engagement Methodologies. <https://www.dol.gov/agencies/ilab/streams-supply-chain-tracing-and-engagement-methodologies>.

<sup>40</sup> DOL. Global Trace Protocol Project. <https://www.dol.gov/agencies/ilab/global-trace-protocol-project>.

<sup>41</sup> DOL. From Protocol to Practice: A Bridge to Global Action on Forced Labor, Phase II. <https://www.dol.gov/agencies/ilab/protocol-practice-bridge-global-action-forced-labor-phase-ii-bridge-ii>.

<sup>42</sup> DOL. Responsible Business Conduct and Labor Rights InfoHub. <https://www.dol.gov/agencies/ilab/responsible-business-conduct-and-labor-rights-infohub>.

<sup>43</sup> State. Responsible Sourcing Tool. <https://www.responsiblesourcingtool.org/>.

trafficking, including forced labor, in their global supply chains and to develop comprehensive, robust risk-management systems.

**Labor Provisions in Trade Agreements Hub.** The ILO's Labor Provisions in Trade Agreements Hub<sup>44</sup> allows for the examination of labor provisions across trade partners and over time.

**Committee of Experts on the Application of Conventions and Recommendations.** The ILO's Committee of Experts on the Application of Conventions and Recommendations<sup>45</sup> examines and comments on government reports detailing steps in law and in practice to apply the ILO conventions that respective governments have ratified.

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<sup>44</sup> ILO. Labor Provisions in Trade Agreements Hub. [https://www.ilo.org/global/research/projects/trade-decent-work/WCMS\\_835479/lang--en/index.htm](https://www.ilo.org/global/research/projects/trade-decent-work/WCMS_835479/lang--en/index.htm).

<sup>45</sup> ILO. Committee of Experts on the Application of Conventions and Recommendations. <https://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/committee-of-experts-on-the-application-of-conventions-and-recommendations/lang--en/index.htm>.

## Appendix D: Trade Capacity Building and Technical Assistance

Ensuring full implementation of U.S. trade agreements is one of the strategic priorities of the United States. USTR seeks to achieve this goal through a variety of means, including providing technical assistance to trading partners, especially to developing countries, to ensure that key obligations are met. In addition, USTR is committed to engaging in robust technical assistance and trade capacity building (TCB) with trading partners to ensure workers and small- and medium-sized enterprises, especially those owned by underrepresented groups, including women, around the world benefit from U.S. trade policy.

The U.S. Government places high importance on the implementation of the goals of this strategy. In furtherance of the goals, the U.S. Government will utilize technical assistance programming and trade capacity building to provide targeted support to an organization or sector to identify and address exploitative labor practices, including forced labor. Notably, the U.S. Government also provides transparency into its TCB through USAID's [TCB website](#) which the public and private sector can use to further understand the prioritization of targeted countries and sectors.

**Launch and Implementation of the Multilateral Partnership for Organizing, Worker Empowerment, and Rights (M-POWER) Initiative.** The M-POWER Initiative is the largest commitment by the U.S. Government to advance workplace democracy and support trade union rights in the global economy. M-POWER aligns with the goals of the White House Task Force on Worker Organizing and Empowerment and brings together like-minded governments, worker organizations, and labor stakeholders to strengthen free and independent trade unions, support labor law reform and enforcement, promote worker organizing and innovative use of collective bargaining to improve livelihoods, and extend labor law coverage to protect workers in vulnerable, low-wage employment and those sectors excluded from labor law protection, particularly in the informal economy. It includes a commitment by DOL, State, and USAID to invest more than \$120 million over two years for innovative technical assistance to empower workers and strengthen worker voice.<sup>46</sup>

**DOL.** ILAB's programming works to: improve effectiveness of combating forced labor; improve implementation and enforcement of evidence-based laws, policies, and programs related to combating forced labor; build capacity for trade unions to address labor rights abuses, including by identifying indicators of forced labor; build capacity for labor inspectorates to enforce workers' rights protections, including related to forced labor and indicators of forced labor; and afford greater access to workers' rights, including the enabling rights of freedom of association and of collective bargaining that empower workers to defend their rights and interests in the workplace. Independent, fair, and free representation of workers reduces vulnerability to labor rights abuses and mitigates risks of forced labor. Additionally, all ILAB technical assistance cooperation is focused on addressing labor rights abuses.

**State.** State's TIP Office and DRL dedicate foreign assistance funding to combat forced labor all around the world. TIP Office programming includes conducting targeted prevalence baselines and

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<sup>46</sup> DOL. Multilateral Partnership for Organizing, Worker Empowerment, and Rights (M-POWER) Initiative. <https://www.dol.gov/agencies/ilab/multilateral-partnership-for-organizing-worker-empowerment-and-rights-m-power-initiative>.

developing programming that builds on this research; developing and implementing guidance and training for recruitment agencies to enhance human resource capacity to recruit migrant workers ethically and address risks of abuse, as well as improving policy, regulatory, and enforcement frameworks; and promoting a new standard for the tourism industry to remove human trafficking throughout its supply chain, among others. Further and pursuant to the Trafficking Victims Protection Act, State's TIP Office uses the annual Trafficking in Persons Report and its tailored recommendations as a diplomatic and diagnostic tool to guide engagements with foreign governments and authorities on human trafficking. In addition, DRL programming prevents and combats forced labor globally by promoting freedom of association and collective bargaining, educating workers on their labor rights and effective national and international efforts advocacy efforts, documenting workers' rights abuses, raising worker and public awareness of forced labor situations, and engaging with worker organizations and trade unions across various sectors, facilitating the provision of legal aid and advice to workers, and engaging with business and other private sector stakeholders to improve capacities to address allegations of forced labor or other worker exploitation in global supply chains. DRL funds targeted programming focused on eradicating descent-based slavery in West Africa.

**USAID.** USAID's Trade Capacity Building Investment Dashboard<sup>47</sup> transparently presents the U.S. Government's trade capacity building activities that help developing countries more effectively participate in international trade and create stable trading relationships that promote prosperity and security. TCB programs help developing countries to strengthen economic policies, remove trade barriers, and build well-functioning economic, political, and legal institutions. As a result, TCB programs help promote economic growth, sustain support for trade liberalization, and reduce poverty—a driving factor of forced labor.<sup>48</sup>

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<sup>47</sup> USAID. TCB Database. <https://tcb.usaid.gov>.

<sup>48</sup> USAID. What is TCB?. <https://tcb.usaid.gov/about.html#tab-about>.

## Appendix E: Illegal, Unreported, and Unregulated Fishing and Forced Labor

The Maritime Security and Fisheries Enforcement Act of December 2019 (Maritime SAFE Act) directed 21 federal agencies to establish an Interagency Working Group on Illegal, Unreported, and Unregulated (IUU) Fishing to serve as the central forum to coordinate and strengthen their efforts to counter IUU fishing and related threats to maritime security. The working group subsequently developed and published the National Strategy for Combating Illegal, Unreported, and Unregulated Fishing (2022-2026) outlining the U.S. Government's priorities to combat IUU fishing, curtail the global trade in seafood and seafood products derived from IUU fishing, and promote global maritime security.

In 2022, the United States launched a number of new approaches to address forced labor and IUU fishing, including the National Security Memorandum to Combat Illegal, Unreported, and Unregulated Fishing and Associated Labor Abuses (NSM-11). These tools demonstrate the steadfast commitment of the United States to address the problem of IUU fishing, including by distant water fishing vessels, and associated labor rights abuses, including the use of forced labor in the seafood supply chain. These new and innovative approaches represent examples of how the United States is seeking to utilize trade policy to improve labor conditions in this sector.

**National Security Memorandum to Combat Illegal, Unreported, and Unregulated Fishing and Associated Labor Abuses.** In June 2022, the President signed the National Security Memorandum to Combat Illegal, Unreported, and Unregulated Fishing and Associated Labor Abuses, directing agencies to use the full range of existing conservation, labor, trade, economic, diplomatic, law enforcement, and national security authorities to address the challenges of IUU fishing and associated labor abuses, including forced labor.<sup>49</sup>

**Launch and Implementation of the National Strategy for Combating Illegal, Unreported, and Unregulated Fishing (2022-2026).** The National Strategy developed by the Interagency Working Group on IUU fishing includes and builds on existing activities with new initiatives to form a comprehensive set of actions to address IUU fishing and associated forced labor, including preventing importation of fish and fish products caught, farmed, or processed with forced labor.<sup>50</sup> The Strategy highlights Panama, Vietnam, Senegal, Ecuador, and Taiwan as priority partners for bilateral U.S. engagement.

**Launch and Support of the Illegal, Unreported, and Unregulated (IUU) Fishing Action Alliance.** In 2022, the United States became one of the founding members of the IUU Fishing Action Alliance alongside the United Kingdom and Canada. The Alliance is designed to increase ambition and momentum in the fight against IUU fishing. Members have signed a pledge to take urgent action to improve the monitoring, control, and surveillance of fisheries, increase

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<sup>49</sup> The White House. Memorandum on Combating Illegal, Unreported, and Unregulated Fishing and Associated Labor Abuses. June 2022. <https://www.whitehouse.gov/briefing-room/presidential-actions/2022/06/27/memorandum-on-combating-illegal-unreported-and-unregulated-fishing-and-associated-labor-abuses/>.

<sup>50</sup> NOAA. National 5-Year Strategy for Combating IUU Fishing 2022-2026. [https://media.fisheries.noaa.gov/2022-10/2022\\_NationalStrategyReport\\_USIWGonIUUfishing.pdf](https://media.fisheries.noaa.gov/2022-10/2022_NationalStrategyReport_USIWGonIUUfishing.pdf).

transparency in fishing fleets and in the seafood market, including related to labor rights abuses in the seafood supply chain, and build new partnerships that will hold bad actors accountable.<sup>51</sup>

**Launch and Implementation of the Collaborative Accelerator for Lawful Maritime Conditions in Seafood (CALM-CS) Public-Private Initiative.** Following a July *Call to Action – Ending Forced Labor and Promoting Decent Work in the Seafood Sector* Summit, in October 2022, nearly 100 representatives from across government and the seafood industry kicked off a new public-private initiative to fight labor issues in the seafood supply chain. The initiative, the National Oceanic and Atmospheric Administration (NOAA)’s CALM-CS (pronounced “calm seas”) helped participants work together to promote legal and safe working conditions, and develop and execute comprehensive approaches to fight labor rights abuses in the fishing and seafood industry. CALM-CS efforts focused around five work streams: (1) identifying best practices for industry accountability and due diligence for decent working conditions throughout the seafood supply chain; (2) exploring novel sources of information, and enhancing means to share and analyze that information, to better identify illegal and unsafe labor practices in fisheries; (3) leveraging technology and supporting relevant organizations to reduce vulnerabilities of crew and observers to labor rights abuses at sea; (4) exploring potential tools to enhance safety and labor conditions aboard U.S. vessels; (5) and supporting collaboration mechanisms across workers, governments, industry, and civil society to support workers within the seafood industry, including their ability to organize, and to access remediation and justice. In February 2024, NOAA hosted a capstone summit for more than 100 participants across the seafood sector to conclude CALM-CS and widely share lessons learned.

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<sup>51</sup> The White House. FACT SHEET: President Biden Signs National Security Memorandum to Combat Illegal, Unreported, and Unregulated Fishing and Associated Labor Abuses. June 2022. <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/27/fact-sheet-president-biden-signs-national-security-memorandum-to-combat-illegal-unreported-and-unregulated-fishing-and-associated-labor-abuses/>.



# Office to Monitor and Combat Trafficking in Persons

## What is the Uyghur Forced Labor Prevention Act?

The Uyghur Forced Labor Prevention Act (UFLPA) is a U.S. law. It established a rebuttable presumption that goods mined, produced, or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region (XUAR) of China or by an entity on the UFLPA Entity List are subject to import under Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307). The law was enacted on December 23, 2021, and enforcement began.

## What is the Purpose of the Uyghur Forced Labor Prevention Act?

The UFLPA is one tool the U.S. government uses to prevent goods made with forced labor connected to the XUAR from entering the United States and to further promote accountability for entities responsible for forced labor.

## What is the Impact of the Uyghur Forced Labor Prevention Act?

The Department of Homeland Security's U.S. Customs and Border Protection (CBP) is responsible for preventing products made with forced labor from entering into the United States by investigating and acting upon allegations of forced labor in supply chains. CBP has reviewed thousands of shipments from the electronics, apparel, footwear, pharmaceutical, agricultural, industrial, and automotive sectors. This has resulted in the denial of thousands of shipments including goods made with forced labor, totaling hundreds of millions in U.S. dollars. It also has resulted in companies conducting due diligence measures to ensure compliance with U.S. laws by tracing their supply chains for potential connections to forced labor.

## What Can You Do?

Governments are encouraged to consider similar prohibitions on the import or sale of goods made with forced labor, including broad prohibitions on goods made where state-imposed forced labor is occurring.

Stakeholders in the trade community should closely examine their supply chains to ensure their goods are not mined, produced, or manufactured, wholly or in part, with forced labor in the XUAR or elsewhere, or by entities on the UFLPA Entity List.

Nongovernmental organizations, diaspora communities and advocacy groups, and private sector entities can raise awareness about the egregious human rights situation in the XUAR.

## State Department Reporting on Xinjiang

Several State Department reports, including the Trafficking in Persons Report, the Country Report on Human Rights Practices for China, and the Report on International Religious Freedom, highlight the ongoing abuses of Uyghurs and other ethnic and religious minorities in Xinjiang. These include those involving widespread forced labor, arbitrary imprisonment, forced sterilization, violence against women, including sexual violence, and detainment in internment camps or converted detention facilities.



Several tools such as the *Responsible Sourcing Tool* ([www.ResponsibleSourcingTool.org](http://www.ResponsibleSourcingTool.org)) provide resources to prevent and address the risks of forced labor in supply chains.

*The UFLPA Entity List includes: (1) a list of entities in XUAR that mine, produce, or manufacture wholly or in part any goods, wares, articles, and merchandise with forced labor; (2) a list of entities working with the government of XUAR to recruit, transport, transfer, harbor, or receive forced labor or Uyghurs, Kazakhs, Kyrgyz, or members of other persecuted groups out of XUAR; (3) a list of entities that exported products mined, produced, or manufactured wholly or in part by entities in lists 1 and 2 from the People's Republic of China into the United States; and (4) a list of facilities and entities, including the Xinjiang Production and Construction Corps, that source material from XUAR or from persons working with the government of XUAR or the Xinjiang Production and Construction Corps for purposes of the "poverty alleviation" program or the "pairing-assistance" program or any other government-labor scheme that uses forced labor.*



Kosovo, the Serbs and the Albanians alike. That is what we have pledged to do; that is what we intend to do.

But today in the camps in Albania and Macedonia, in the villages and in the hills of Kosovo, where so many innocent people have had to hide and forage for food, among the Kosovar Albanians who have taken refuge elsewhere, including here in the United States, people are getting ready to go home. They will go back to their homes and their lives with safety and self-government.

And the United States will have stood for the proposition that we can't expect everyone to get along; we can't expect people never to fight; but we do expect that when we can stop it, innocent civilians will not be slaughtered, burned out of their homes, have their houses of worship blown up, have their personal records destroyed, have their children abused. We will not tolerate ethnic cleansing and killing. It should not be a part of the 21st century world, thanks to you.

And so let me say just one last time, as you prepare to leave O'Hare, to retire or head for your new homes and duties, the whole world is grateful to you. You have ended this chapter in the history of your Wing and your units on a truly triumphant note. You have helped to end this century, which has seen so much bloodshed and hatred, not with a feeling of helpless indignation at yet another travesty but instead with a ringing reaffirmation of the dignity of all human beings. You did it. It's quite a way to close out your stay here.

Thank you, God bless you, and God bless America.

NOTE: The President spoke at 3:30 p.m. in Hangar 30 at Chicago O'Hare International Airport. In his remarks, he referred to Brig. Gen. Harold E. Keistler, USAF, Commander, 126th Air Refueling Wing; Brig. Gen. Frank D. Rezac, USAF, Commander, Illinois Air National Guard; and Maj. Gen. Richard G. Austin, Illinois National Guard, Adjutant General, State of Illinois.

## **Executive Order 13126—Prohibition of Acquisition of Products Produced by Forced or Indentured Child Labor**

*June 12, 1999*

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to continue the executive branch's commitment to fighting abusive child labor practices, it is hereby ordered as follows:

**Section 1. Policy.** It shall be the policy of the United States Government, consistent with the Tariff Act of 1930, 19 U.S.C. 1307, the Fair Labor Standards Act, 29 U.S.C. 201 *et seq.*, and the Walsh-Healey Public Contracts Act, 41 U.S.C. 35 *et seq.*, that executive agencies shall take appropriate actions to enforce the laws prohibiting the manufacture or importation of goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by forced or indentured child labor.

**Sec. 2. Publication of List.** Within 120 days after the date of this order, the Department of Labor, in consultation and cooperation with the Department of the Treasury and the Department of State, shall publish in the *Federal Register* a list of products, identified by their country of origin, that those Departments have a reasonable basis to believe might have been mined, produced, or manufactured by forced or indentured child labor. The Department of Labor may conduct hearings to assist in the identification of those products.

**Sec. 3. Procurement Regulations.** Within 120 days after the date of this order, the Federal Acquisition Regulatory Council shall issue proposed rules to implement the following:

(a) **Required Solicitation Provisions.** Each solicitation of offers for a contract for the procurement of a product included on the list published under section 2 of this order shall include the following provisions:

(1) A provision that requires the contractor to certify to the contracting officer that the contractor or, in the case of an incorporated contractor, a responsible official of the contractor has made a good faith effort to determine whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract and that, on the basis of those efforts, the contractor is unaware of any such use of child labor; and

(2) A provision that obligates the contractor to cooperate fully in providing reasonable access to the contractor's records, documents, persons, or premises if reasonably requested by authorized officials of the contracting agency, the Department of the Treasury, or the Department of Justice, for the purpose of determining whether forced or indentured child labor was used to mine, produce, or manufacture any product furnished under the contract.

(b) *Investigations.* Whenever a contracting officer of an executive agency has reason to believe that forced or indentured child labor was used to mine, produce, or manufacture a product furnished pursuant to a contract subject to the requirements of subsection 3(a) of this order, the head of the executive agency shall refer the matter for investigation to the Inspector General of the executive agency and, as the head of the executive agency or the Inspector General determines appropriate, to the Attorney General and the Secretary of the Treasury.

(c) *Remedies.*

(1) The head of an executive agency may impose remedies as provided in this subsection in the case of a contractor under a contract of the executive agency if the head of the executive agency finds that the contractor:

- (i) Has furnished under the contract products that have been mined, produced, or manufactured by forced or indentured child labor or uses forced or indentured child labor in the mining, production, or manufacturing operations of the contractor;
- (ii) Has submitted a false certification under subsection 3(a)(1) of this order; or

- (iii) Has failed to cooperate in accordance with the obligation imposed pursuant to subsection 3(a)(2) of this order.

(2) The head of an executive agency, in his or her sole discretion, may terminate a contract on the basis of any finding described in subsection 3(c)(1) of this order for any contract entered into after the date the regulation called for in section 3 of this order is published in final.

(3) The head of an executive agency may debar or suspend a contractor from eligibility for Federal contracts on the basis of a finding that the contractor has engaged in an act described in subsection 3(c)(1) of this order. The provision for debarment may not exceed 3 years.

(4) The Administrator of General Services shall include on the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (maintained by the Administrator as described in the Federal Acquisition Regulation) each party that is debarred, suspended, proposed for debarment or suspension, or declared ineligible by the head of an agency on the basis that the person has engaged in an act described in subsection 3(c)(1) of this order.

(5) This section shall not be construed to limit the use of other remedies available to the head of an executive agency or any other official of the Federal Government on the basis of a finding described in subsection 3(c)(1) of this order.

**Sec. 4. Report.** Within 2 years after implementation of any final rule under this order, the Administrator of General Services, with the assistance of other executive agencies, shall submit to the Office of Management and Budget a report on the actions taken pursuant to this order.

**Sec. 5. Scope.** (a) Any proposed rules issued pursuant to section 3 of this order shall apply only to acquisitions for a total amount in excess of the micro-purchase threshold as defined in section 32(f) of the Office of Federal Procurement Policy Act (41 U.S.C. 428(f)).

(b) This order does not apply to a contract that is for the procurement of any product, or any article, material, or supply contained in a product that is mined, produced, or manufactured in any foreign country if:

- (1) the foreign country is a party to the Agreement on Government Procurement annexed to the WTO Agreement or a party to the North American Free Trade Agreement ("NAFTA"); and
- (2) the contract is of a value that is equal to or greater than the United States threshold specified in the Agreement on Government Procurement annexed to the WTO Agreement or NAFTA, whichever is applicable.

**Sec. 6. Definitions.** (a) "Executive agency" and "agency" have the meaning given to "executive agency" in section 4(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)).

(b) "WTO Agreement" means the Agreement Establishing the World Trade Organization, entered into on April 15, 1994.

(c) "Forced or indentured child labor" means all work or service (1) exacted from any person under the age of 18 under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily; or (2) performed by any person under the age of 18 pursuant to a contract the enforcement of which can be accomplished by process or penalties.

**Sec. 7. Judicial Review.** This order is intended only to improve the internal management of the executive branch and does not create any rights or benefits, substantive or procedural, enforceable by law by a party against the United States, its agencies, its officers, or any other person.

**William J. Clinton**

The White House,  
June 12, 1999.

[Filed with the Office of the Federal Register, 8:45 a.m., June 15, 1999]

NOTE: This Executive order was published in the *Federal Register* on June 16.

## **Letter to Congressional Leaders Reporting the Deployment of United States Military Personnel as Part of the Kosovo International Security Force**

*June 12, 1999*

*Dear Mr. Speaker: (Dear Mr. President:)*

On March 26, April 7, and May 25, 1999, I reported to the Congress, consistent with the War Powers Resolution, concerning U.S. participation in the NATO air strikes against the Federal Republic of Yugoslavia (FRY) and in supporting operations in the region, in response to the FRY Government's campaign of violence and repression against the civilian population of Kosovo. In my report of June 5, 1999, under section 8115 of the Department of Defense Appropriations Act, 1999 (Public Law 105-262), I noted the FRY had accepted the detailed set of principles for ending the conflict, as presented by Finnish President Ahtisaari along with Russian Special Envoy Chernomyrdin. I also stated that I had authorized the deployment of a significant contingent of military personnel to Kosovo as part of an international security presence (KFOR), provided it became clear that Belgrade had fully adopted NATO's conditions and was withdrawing its forces.

I can now confirm that the FRY has accepted NATO's conditions, and the process of implementing them has begun. On June 9, Lieutenant General Sir Michael Jackson, the NATO commander of KFOR, concluded a Military-Technical Agreement (MTA) with FRY authorities. The MTA specifies the detailed modalities and schedule for the full withdrawal of all FRY military, paramilitary and police forces from Kosovo. The MTA also details the role and authorities of KFOR, confirming that it can take the measures necessary to create a secure environment for the return of the Kosovars to their homes in safety and self-government. Among other authorities, KFOR is empowered to ensure that the withdrawal of FRY forces proceeds on



DEPARTMENT  
OF  
STATE



DEPARTMENT  
OF  
THE TREASURY



DEPARTMENT  
OF  
COMMERCE



DEPARTMENT  
OF  
HOMELAND SECURITY



OFFICE OF THE UNITED  
STATES TRADE  
REPRESENTATIVE



DEPARTMENT  
OF  
LABOR

## Xinjiang Supply Chain Business Advisory

Updated: July 13, 2021

**Title: Risks and Considerations for Businesses and Individuals with Exposure to Entities Engaged in Forced Labor and other Human Rights Abuses linked to Xinjiang, China<sup>1</sup>**

### **SUMMARY:**

The People's Republic of China (PRC) government continues to carry out genocide and crimes against humanity against Uyghurs and members of other ethnic and religious minority groups in

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<sup>1</sup> This advisory is explanatory only and does not have the force of law. It does not supplement or modify statutory authorities, executive orders, or regulations. It is not intended to be, nor should it be interpreted as, comprehensive or as imposing requirements under U.S. law, drawing any legal conclusions about specific fact scenarios regarding particular businesses or entities, or otherwise addressing any particular requirements under applicable law. Its sole intent is to provide information to businesses and individuals that they may consider in assessing their potential exposure to involvement with entities engaged in human rights abuses, as part of a risk-based approach to due diligence. Please see the legally binding provisions cited and other relevant legal authorities.

the Xinjiang Uyghur Autonomous Region (Xinjiang), China.<sup>2</sup> The PRC's crimes against humanity include imprisonment, torture, rape, forced sterilization, and persecution, including through forced labor and the imposition of draconian restrictions on freedom of religion or belief, freedom of expression, and freedom of movement.

Businesses, individuals, and other persons, including but not limited to investors, consultants, labor brokers, academic institutions, and research service providers (hereafter "businesses and individuals") with potential exposure to or connection with operations, supply chains, or laborers from the Xinjiang-region, should be aware of the significant reputational, economic, and legal risks of involvement with entities or individuals in or linked to Xinjiang that engage in human rights abuses, including but not limited to forced labor and intrusive surveillance.

Given the severity and extent of these abuses, including widespread, state-sponsored forced labor and intrusive surveillance taking place amid ongoing genocide and crimes against humanity in Xinjiang, businesses and individuals that do not exit supply chains, ventures, and/or investments connected to Xinjiang could run a high risk of violating U.S. law. Potential legal risks include: violation of statutes criminalizing forced labor including knowingly benefitting from participation in a venture, while knowing or in reckless disregard of the fact that the venture has engaged in forced labor; sanctions violations if dealing with designated persons; export control violations; and violation of the prohibition of importations of goods produced in whole or in part with forced labor or convict labor.

## **I. Introduction**

The U.S. Department of State, the U.S. Department of the Treasury, the U.S. Department of Commerce, the U.S. Department of Homeland Security (DHS), the Office of the U.S. Trade Representative, and the U.S. Department of Labor are updating this advisory, originally published in July 2020, in light of growing evidence of the use of forced labor in Xinjiang and the Secretary of State's determinations that the PRC government has committed genocide and crimes against humanity in Xinjiang.

The U.S. government has taken action in response to human rights abuses in and in connection to Xinjiang. Actions include the issuance of Withhold Release Orders by U.S. Customs and Border Protection (CBP), the addition of entities to the U.S. Department of Commerce Entity List, the imposition of economic sanctions by the U.S. Department of the Treasury, the imposition of visa restrictions by the U.S. Department of State, as well as the addition of multiple goods to the U.S. Department of Labor's *List of Goods Produced by Child Labor or Forced Labor*. Raw and

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<sup>2</sup> The U.S. government is also aware of reports documenting the expansion of internment camps to Tibet and Inner Mongolia to arbitrarily detain other ethnic and religious minorities and documenting the use of forced labor beyond Xinjiang such as in the fishing industry. Businesses should similarly be aware of the potential reputational, economic, and legal risks of involvement with entities and individuals engaged in any human rights abuses in China or elsewhere.

refined materials, commodities, intermediate goods, byproducts, and recycled materials may all have connections to forced labor and human rights violations in Xinjiang, regardless of the final product and region of origin or export. See Annex 1 for U.S. government actions. This advisory outlines risks that businesses and individuals should consider when assessing business partnerships with, investing in, sourcing from, or providing other support to companies operating in Xinjiang, linked to Xinjiang, or with laborers from Xinjiang.

#### **a. Human Rights Violations in Xinjiang**

The PRC government in Xinjiang has, since at least March 2017, unjustly imprisoned more than one million Uyghurs, ethnic Kazakhs, ethnic Kyrgyz, and members of other ethnic and Muslim minority groups for indefinite periods in internment camps. Detainees have described extreme overcrowding, sleep and food deprivation, medical neglect, physical and psychological abuse, torture, forced labor, forced ingestion of unidentified drugs, forced sterilizations and abortions, sexual abuse, forced renunciation of religion, denial of prayer and other religious practices (including pressure to consume pork or alcohol), denial of the use of their native languages, and being forced to study and recite Chinese Communist Party (CCP) propaganda. There are reports that some detainees have died in the internment camps, or very shortly after release, as a result of abuse and neglect. These abuses are believed to have spread outside the internment camps and beyond Xinjiang, with credible reports claiming that victims have been forcibly transferred to other provinces of China and subjected to forced labor and other abusive labor conditions.

Businesses and individuals should be aware of the atrocities against Uyghurs, ethnic Kazakhs, ethnic Kyrgyz, and members of other ethnic and Muslim minority groups, including state-sponsored forced labor practices employed by the PRC government in Xinjiang, as well as situations of forced labor involving members of these groups outside Xinjiang. There are credible reports indicating that labor transfers of ethnic minorities in Xinjiang to other regions and provinces of China are part of a state-sponsored coercive relocation and forced labor program aiming to force assimilation and reduce their population density.

#### **b. Overview of Issues Addressed in Advisory**

This advisory urges businesses and individuals to undertake heightened human rights due diligence to identify potential supply chain links to entities operating in Xinjiang, linked to Xinjiang (e.g., through the pairing program described in III. a or Xinjiang supply chain inputs) or utilizing Uyghur or other ethnic and Muslim minority laborers from Xinjiang. Such heightened due diligence is in line with the [UN Guiding Principles on Business and Human Rights](#) (UN Guiding Principles), the [International Labor Organization's Combating Forced Labor: A Handbook for Employers and Business](#) (ILO Forced Labor Guidelines), and the [Organisation for Economic Co-Operation and Development \(OECD\) Guidelines for Multinational Enterprises](#) (OECD Guidelines), which also includes factors to be considered in determining appropriate action, such as whether and how to responsibly end relationships when a business lacks the ability to prevent or mitigate adverse impacts.

This advisory discusses four primary types of potential supply chain exposure to entities engaged in human rights abuses:

- (1) Assisting or investing in the development of surveillance tools for the PRC government in Xinjiang, including tools related to genetic collection and analysis;
- (2) Sourcing labor or goods from Xinjiang, or from entities elsewhere in China connected to the use of forced labor of individuals from Xinjiang, or from entities outside of China that source inputs from Xinjiang;
- (3) Supplying U.S.-origin commodities, software, and technology to entities engaged in such surveillance and forced labor practices; and
- (4) Aiding in the construction and operation of internment facilities used to detain Uyghurs and members of other Muslim minority groups, and/or in the construction and operation of manufacturing facilities that are in close proximity to camps and reportedly operated by businesses accepting subsidies from the PRC government to subject minority groups to forced labor.

## **II. Heightened Risk for the Provision of Certain Goods, Services, and Surveillance Technology in Xinjiang**

### **a. Background on Surveillance**

The PRC government has established an unprecedented, intrusive, high-technology surveillance system across Xinjiang, as part of a region-wide apparatus of oppression, aimed primarily against traditionally Muslim minority groups. PRC authorities justify mass surveillance and various restrictions under the guise of combatting what the PRC government labels as “terrorism,” “religious extremism,” and “alleviating poverty” in Xinjiang. However, the Xinjiang surveillance infrastructure is facilitating human rights abuses, including abuses of the right to be free from arbitrary or unlawful interference with privacy, freedom of religion or belief, freedom of movement, and freedom of expression, which are enshrined in the Universal Declaration of Human Rights (UDHR).

Surveillance systems, many of which are equipped with artificial intelligence, facial recognition, gait recognition, and infrared technology, are being used throughout Xinjiang to track movements, monitor behaviors, and identify individuals for detention.

The “Strike Hard against Violent Terrorism Campaign,” launched by the PRC government in 2014, primarily in Xinjiang, has been used to justify the collection of biometric data from all Xinjiang residents ages 12 to 65. Authorities have collected DNA samples, fingerprints, iris

scans and blood types, and are centralizing this information in cloud databases. Furthermore, during what Xinjiang officials advertised as free health checks, residents' faces were scanned, blood was drawn, and fingerprints were collected. Voice samples of individuals are also being collected when they apply for passports, raising further concerns about privacy. This involuntarily collected biometric data is linked to individuals' identification numbers and centralized in searchable databases used by police.

One of the main systems for mass surveillance in Xinjiang is a mobile app used by police. The app uses artificial intelligence to track movements, monitor behavior and identify individuals for detention. The app allows authorities to input personal data about residents, such as identifying information, physical data, and data about religious practices, among other identifiers, into a dataset. The app was used to identify roughly 20,000 individuals for detention in one week, according to leaked official government documents.

Chinese surveillance and technology companies earn billions of dollars in contracts from the PRC government, but there is evidence that these businesses also get support from foreign academics, scientists, and businesses, and are funded in part by international investors.

#### **b. Heightened Risk for the Provision of Goods, Services, and Technology with a Nexus to Xinjiang Surveillance**

Businesses and individuals engaged in the following activities or otherwise linked, directly or indirectly, to those in Xinjiang engaged in these activities may face reputational risks and/or trigger U.S. criminal or civil enforcement or administrative and other actions, depending on the facts and circumstances of their involvement:

- **Investment in PRC Companies Directly and Indirectly Linked to Surveillance in Xinjiang:** Provision of financial support, including by venture capital and private equity firms, to Chinese companies that contribute to the PRC government's vast and growing surveillance network linked to human rights abuses in Xinjiang.
- **Certain Activities with Cameras, Tracking Technology, Biometric Devices, or Other Goods and Services:** Selling or providing biometrics devices; items intended for surveillance; items used for genetic collection and analysis; microchips and microprocessors; tracking technology, or equipment, software, and technology related to the aforementioned products; providing maintenance or other services in support of such products, including those that have been known to arbitrarily track and control the movements of Uyghurs or others in Xinjiang; or selling or providing any goods, software, or technology used as inputs, or to support the production of inputs, used in the manufacture of the aforementioned products.
- **Certain Technology Joint Ventures, and Research Partnerships:** Involvement in joint ventures with PRC government officials and departments, or Chinese companies

whose intellectual property has been known to aid the development or deployment of a surveillance system used arbitrarily against members of minority groups or others. This may include granting PRC government officials access to genetic databases or aiding the PRC government in involuntary collection of genetic data; participation in facial recognition research related to minority groups in Xinjiang; conducting research partnerships with Chinese technology facial recognition firms known to be involved with enabling China's surveillance activities or inviting such parties to conferences where technical issues on surveillance-related activities will be discussed; or attending conferences related to surveillance activities and facial recognition technology in which such entities play a leading role, such as through organizing or sponsoring these conferences.

- **Certain Services Provided to Xinjiang's Internment Camps or Surveillance State:** Provision of services to internment camps or training of Xinjiang authorities, police, or PRC government officials that enable arbitrary detention, or arbitrary or unlawful surveillance on the basis of ethnic group, religion, or other protected class.
- **Companies on the U.S. Department of Commerce Entity List:** The Department of Commerce's Entity List identifies entities reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. The Department of Commerce has added multiple PRC government entities and commercial companies to the Entity List that are implicated in human rights violations and abuses in the implementation of the PRC government's campaign of repression, mass arbitrary detention, and high-technology surveillance against Muslim minority groups from Xinjiang, including conducting genetic analyses. Exports, reexports, or transfers (in-country) of items subject to the Export Administration Regulations (EAR) where such entities are a party to the transaction (e.g., end-user, purchaser, intermediate or ultimate consignee) require a license from the Department of Commerce's Bureau of Industry and Security (BIS). The list is available here: [Commerce Entity List](#). For additional information about the Entity List, please see Annex 5 below.
- **Entities on the U.S. Department of the Treasury's Non-SDN Chinese Military-Industrial Complex Companies List:** E.O. 13959, as amended, imposes certain investment-related prohibitions with respect to certain entities related to China's defense and related materiel sector or surveillance technology sector. So far, 59 entities have been publicly listed and are subject to the E.O.'s investment prohibitions. Entities subject to the prohibitions in E.O. 13959, as amended, are identified on the Department of the Treasury's Office of Foreign Assets Control's (OFAC) Non-Specially Designated Nationals (SDN) Chinese Military-Industrial Complex Companies List (NS-CMIC List). The list is available here: [NS-CMIC List](#). For additional information about the NS-CMIC, please see Annex 5 below.

### III. Heightened Risk for Forced Labor in Xinjiang

#### a. Background on Xinjiang Labor Abuses

The PRC government has implemented programs with a stated objective of eradicating poverty across the country. However, certain programs targeting predominantly members of Muslim minority groups are coupled with discriminatory social control, pervasive surveillance, and a large-scale internment program. There is evidence of forced labor, under the guise of “vocational training” obtained using threats, force, detention, debt bondage, and other abusive practices occurring in the internment camps, large industrial parks, PRC companies outside Xinjiang, and among the non-detained rural residents of Southern Xinjiang where the majority of Uyghurs live.

Internment camps are often euphemistically referred to as Educational Training Centers or Vocational Training Centers. There are reports of forced labor in the internment camps themselves, as well as reports of individuals “graduating” from the camps and then being required to work at nearby facilities or sent to satellite factories in their home region or other provinces. There have been reports of Vocational Training Centers located within and adjacent to industrial parks.

- **Government Subsidies and Labor Abuse:** Xinjiang government documents indicate the existence of a large-scale PRC government plan, known as the “mutual pairing assistance” program, for companies from other parts of China to establish satellite factories in Xinjiang in conjunction with the internment camps. Reports indicate that, through the PRC government’s mutual pairing assistance program, 19 cities and developed provinces, generally in the eastern part of China, are spending billions of Chinese yuan to establish factories in Xinjiang. Some factories directly involve the use of internment camp labor, while other factories are part of abusive labor programs that require parents to leave children as young as 18 months old, while the parents are forced or coerced to work full-time under constant surveillance. The children are sent to state-controlled orphanages and other facilities.

The pairing strategy relies generally on low-skilled labor industries that only require a limited amount of job training. PRC government authorities incentivize Chinese companies to open factories near the internment camps, and local governments receive additional funds for each individual from the camps forced to work in these sites at a fraction of minimum wage or without any compensation. In April 2019, Xinjiang authorities began rolling out a plan to attract textile and garment companies. Under the plan, local governments receive funds to build production sites for these companies near the camps and companies receive a subsidy of approximately 260 USD to train each inmate they employ, as well as other incentives. The subsidies create a windfall for these Chinese companies, and the artificially low labor costs create unfair competition in the supply chain in the form of cheaper goods.

- **Involuntary Transfer of Xinjiang Laborers to Chinese Factories:** There have been credible reports of mass forced labor transfers of Uyghurs and members of other ethnic minority groups from Xinjiang who are then subject to forced labor in certain industries inside and outside Xinjiang. Laborers are sometimes transferred directly from camps to factories, are forced to attend “patriotic education” and Mandarin studies, and are subjected to constant surveillance. Many of these workers are assigned minders and have limited freedom of movement. The factories produce goods that are inputs in a variety of industries including apparel and textiles, electronics, solar energy, and automotive.
- **Forced Labor in Prisons in Xinjiang:** There is evidence of forced prison labor in Xinjiang, including in the apparel and textile sector, and agricultural industries, including cotton, and in the mining of coal, uranium, and asbestos. Prisoners are forced to work under threat of penalties, such as solitary confinement. Working conditions are harsh with long hours, poor food quality, and little to no pay. See Annex 3 on the Xinjiang Cotton, Textile, and Garment Supply Chain.
- **Forced Labor in Agriculture in Xinjiang:** Recent research has shed light on the extensive use of forced labor in the agricultural sector, including cotton and tomatoes grown in Xinjiang. Xinjiang’s cotton lint production provides for over 85 percent of China’s total cotton production and 20 percent of global output, and many companies in the cotton industry have ties to the U.S.-sanctioned Xinjiang Production and Construction Corps (XPCC), which is also a major producer of cotton and tomatoes.
- **Forced Labor in the Cotton Supply Chain:** Recent research corroborates reports of forced labor involving Uyghur and other minority groups in cotton supply chains originating in Xinjiang, particularly in cotton production, processing, and export in the garment sector. Reports indicate that a large number of companies in China and in the Asia region produce and sell cotton products tainted with this forced labor for use in the final production of garments. See Annex 3 on the Xinjiang Cotton, Textile, and Garment Supply Chain.
- **Forced Labor in the Solar Supply Chain in Xinjiang:** The PRC dominates global solar supply chains, and mounting evidence indicates that solar products and inputs at nearly every step of the production process, from raw silicon material mining to final solar module assembly, are linked to known or probable forced labor programs. In 2020, PRC solar companies controlled 70 percent of the global supply for solar-grade polysilicon, and 45 percent was manufactured in Xinjiang. China also controls market shares of the downstream solar supply chain, including the production of wafers, solar cells, and solar panels. Some of the world’s largest suppliers of solar panel materials and components reportedly have ties to U.S.-sanctioned XPCC. See Annex 4 on the Xinjiang Solar Supply Chain.

See Annex 2 for a list of industries in which the U.S. government is aware of reported instances of companies involved in activity that may constitute human rights abuses, specifically in connection with Xinjiang.

**b. Warning Signs of Forced Labor in the Operating Environment in Xinjiang**

- **Lack of Transparency:** Firms operating in Xinjiang using shell companies to hide the origin of their goods or conceal their ownership of the companies, writing contracts with opaque terms, and conducting financial transactions in such a way that it is difficult to determine where the goods were produced, or by whom.
- **Social Insurance Programs:** Companies operating in Xinjiang disclosing high revenue but having very few employees paying into the government's social security insurance program.
- **Terminology:** Any mention of internment terminology (e.g., Education Training Centers (职业教育培训中心) or Legal Education Centers) coupled with poverty alleviation efforts (e.g. Xinjiang Aid, Mutual Assistance Programs), ethnic minority graduates, or involvement in reskilling vocational training, or re-education.
- **Government Incentives:** Companies operating in Xinjiang receiving government development assistance as part of the government's poverty alleviation efforts or vocational training programs; companies involved in the mutual pairing assistance program or companies receiving subsidies for energy, transportation, and labor costs.
- **Government Recruiters:** Companies operating in Xinjiang implementing nonstandard hiring practices and/or hiring workers through government recruiters.
- **Any XPCC Affiliates:** XPCC-affiliated entities are part of the prison labor system and manufacture goods beyond cotton products. In July 2020, the Department of the Treasury sanctioned the XPCC pursuant to its Global Magnitsky sanctions authority.<sup>3</sup> The XPCC, including the XPCC Public Security Bureau, is on the Department of Commerce's Entity List. Exports, reexports, or transfers (in-country) of items subject to the EAR where the XPCC or XPCC Public Security Bureau are a party to the transaction (e.g., end-user, purchaser, intermediate or ultimate consignee) require a license from the U.S. Department of Commerce's BIS. Additionally, U.S. CBP issued a WRO against XPCC cotton.
- **Business Location and Affiliation:** Companies operating in Xinjiang located within the confines of the internment camps and prisons; near internment camps and prisons; or within the confines of or adjacent to industrial parks involved in the government's poverty alleviation efforts are at increased risk of forced labor. New factories built near

internment camps and prisons are also suspect. Any businesses owned by or contracting with a prison enterprise are very likely engaged in forced labor.

- **Goods Included on the U.S. Department of Labor’s List of Goods Produced by Child Labor or Forced Labor:** The Department of Labor maintains a list of goods and their source countries which it has reason to believe are produced by child labor or forced labor in violation of international standards ([the TVPRA List](#)). To date, the Department of Labor has identified 18 goods produced by forced labor in China, including six goods on the TVPRA List that are produced by forced labor by members of Muslim minority groups, including Uyghurs ethnic Kazakhs, ethnic Kyrgyz, and members of other ethnic and Muslim minority groups, in Xinjiang. The six goods are gloves, hair products, polysilicon, textiles, thread/yarn, and tomato products. The Department of Labor continues its research into forced labor issues in China, including the use of ethnic and religious minorities forced to produce goods in Xinjiang and in other regions in China.
- **Companies on the U.S. Department of Commerce’s Entity List:** The Department of Commerce’s Entity List identifies entities reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. Since June 2020, the Department of Commerce has added multiple Chinese entities to the Entity List implicated in or participating in the practice of forced labor involving members of Muslim minority groups from Xinjiang. Exports, reexports, or transfers (in-country) of items subject to the EAR where such entities are a party to the transaction (e.g., end-user, purchaser, intermediate or ultimate consignee) require a license from the Department of Commerce’s BIS. The list is available here: [Commerce Entity List](#). For additional information about the Entity List, please see Annex 5 below.
- **Companies and Products under Customs and Border Protection Withhold Release Orders:** WROs are issued based on information available that reasonably but not conclusively indicates that merchandise within the purview of 19 U.S. C. § 1307 is being or is likely to be imported into the United States. CBP has issued WROs against nine Chinese companies, XPCC cotton, and all Xinjiang cotton and tomatoes as well as products using Xinjiang cotton or tomatoes as inputs. A list of goods and entities subject to WROs is available here: [WRO List](#).
- **Entities on the U.S. Department of the Treasury’s Specially Designated Nationals and Blocked Persons List:** The Department of the Treasury’s OFAC’s List of Specially Designated Nationals and Blocked Persons (SDN List) includes eight Chinese officials and two entities, including XPCC, that are subject to economic sanctions. All property and interests in property with respect to such sanctioned entities (and any entities 50 percent or more owned, directly or indirectly, individually or in the aggregate, by one or more blocked persons) are blocked, and U.S. persons are generally prohibited from conducting transactions or dealings with such blocked persons unless the activity is

exempt or authorized by OFAC. OFAC's searchable online SDN list is available here: [OFAC SDN List](#).

#### **IV. Human Rights Due Diligence**

In line with internal risk assessments, businesses and individuals should undertake heightened due diligence to ensure compliance with U.S. law and to identify potential supply chain or other exposure to companies operating in Xinjiang, linked to Xinjiang (e.g., through the pairing program or Xinjiang supply chain inputs), or utilizing Uyghur and other Muslim minority laborers from Xinjiang. In the event of identifying linkages to prohibited entities linked to Xinjiang, businesses and individuals must avoid unlawful activities.

Given the severity and extent of these abuses, including widespread, state-sponsored forced labor and intrusive surveillance taking place amid ongoing genocide and crimes against humanity in Xinjiang, businesses and individuals that do not exit supply chains, ventures, and/or investments connected to Xinjiang could run a high risk of violating U.S. law. Potential legal risks include: violation of statutes criminalizing forced labor including knowingly benefitting from participation in a venture, while knowing or in reckless disregard of the fact that the venture has engaged in forced labor; sanctions violations if dealing with designated persons; export control violations; and violation of the prohibition of importations of goods produced in whole or in part with forced labor or convict labor.

The UN Guiding Principles, the OECD Guidelines, the International Labor Organization (ILO) publication, "Combating Forced Labour: A Handbook for Employers and Business," and the Office of the High Commissioner for Human Rights guide on "The Corporate Responsibility to Respect Human Rights," (OHCHR guide) provide guidance for heightened due diligence in high-risk and conflict-affected regions and factors to be considered in determining appropriate action, including whether and how to responsibly end relationships when a business lacks the leverage to prevent or mitigate adverse impacts and is unable to increase its leverage.

Businesses and individuals providing or receiving goods and services directly or indirectly to or from Chinese entities or engaging in ventures with Chinese entities are likely to face obstacles to conducting adequate due diligence to fully identify and avoid complicity in human rights abuses linked to Xinjiang. Government controls, the lack of government and corporate transparency, the threat of detention of auditors and workers, and a police state atmosphere in Xinjiang impose significant obstacles to ensuring the reliability of audits on working conditions and respect for human rights, which has led audit companies to refuse to conduct audits in this region.

Businesses and individuals should consider these difficulties, as well as any warning signs and the credible reports of the prevalence of forced labor and other human rights abuses in the region.

The use of multilateral targeted financial sanctions against corrupt actors and human rights violators has created a need for businesses to shift to a proactive corporate risk and due diligence strategy that takes into account both human rights and corruption issues. Sanctions have proven to U.S. and global businesses that human rights violations and corruption directly impact them. The recent actions of the U.S. government and multilateral partners have shown that the cost of companies performing increased due diligence is less than that of economic and reputational impacts of economic sanctions.

#### **a. Due Diligence Related to Banking, Financial Institutions, and other Investors**

Entities with ties to the U.S. financial system should be aware that U.S. financial institutions<sup>3</sup> are required to comply with a range of anti-money laundering (AML),<sup>4</sup> countering the financing of terrorism (CFT), and countering proliferation financing (CPF) related requirements under the Bank Secrecy Act (BSA).<sup>5</sup> These BSA obligations generally apply to a variety of financial institutions.<sup>6</sup> In complying with these AML/CFT/CPF BSA requirements, financial institutions are expected to take a risk-based approach to identify, assess, and mitigate the money laundering and terrorist financing risks to which they are exposed and take measures commensurate with those risks in order to mitigate them effectively.

Compliance with the BSA is essential to detecting, investigating, and deterring criminal activity, including human trafficking. The BSA imposes a range of obligations across a wide sector of financial institutions, including establishing AML programs,<sup>7</sup> filing currency transaction reports,<sup>8</sup> and reporting suspicious activity<sup>9</sup> (including that related to human trafficking and including forced labor) to Treasury's Financial Crimes Enforcement Network (FinCEN).

As appropriate, U.S. financial institutions should assess their illicit finance risk; implement sanctions compliance and AML programs; and meet existing due diligence program

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<sup>3</sup> See 31 CFR 1010.100(t).

<sup>4</sup> Money laundering is a crime when knowingly conducting or attempting to conduct a financial transaction with proceeds of a specified unlawful activity (SUA). Sex trafficking, forced labor, and other crimes related to trafficking in persons are considered specified unlawful activity, among others, under the relevant money laundering statutes, including promotion money laundering, concealment money laundering, international money laundering [18 U.S.C. Section 1956(a) and 18 U.S.C. Section 1956(b)], and the spending statute [18 U.S.C. Section 1957].

<sup>5</sup> See 31 CFR Chapter X.

<sup>6</sup> [Report to Congress on An Analysis of Anti-Money Laundering Efforts Related to Human Trafficking Section 7154\(a\) of the National Defense Authorization Act for Fiscal Year 2020 \(Div. F., P.L. 116-92\)](#)

<sup>7</sup> See 31 U.S.C. § 5318(h)(4)(A) and 31 CFR 1010.201, See 31 CFR 1020.210(a) (banks with a Federal functional regulator, 31 CFR 1020.210(b) (banks without a Federal functional regulator); 31 CFR 1021.210 (casinos and card clubs); 31 CFR 1022.210 (money services businesses); 31 CFR 1023.210 (brokers or dealers in securities); 31 CFR 1024.210 (mutual funds); 31 CFR 1025.210 (insurance companies); 31 CFR 1026.210 (futures commission merchants and introducing brokers in commodities); 31 CFR 1027.210 (dealers in precious metals, precious stones, or jewels); 31 CFR 1028.210 (operators of credit card systems); 31 CFR 1029.210 (loan or finance companies); and 31 CFR 1030.210 (housing government sponsored enterprises).

<sup>8</sup> See generally 31 CFR 1010.310.

<sup>9</sup> See generally 31 CFR 1010.320, 1020.320, 1021.320, 1022.320, 1023.320, 1024.320, 1025.320, 1026.320, 1029.320, and 1030.320.

requirements relevant to their institution. As part of their AML programs, U.S. financial institutions must provide training (and resources) for appropriate personnel to effectively execute those programs. As with all their risks, financial institutions should assess their potential exposure to the risk of handling the proceeds of forced labor on behalf of their clients, and as appropriate, implement a mitigation process that aligns with that risk, consistent with their BSA requirements.<sup>10</sup>

As part of these BSA obligations, financial institutions are expected to identify customers and monitor customer activity for unusual or suspicious transactions or activity. As such, U.S. financial institutions play a critical role in identifying transactions associated with human trafficking at the transactional or teller level.<sup>11</sup> Consistent with their existing suspicious activity requirements, financial institutions should include in their suspicious activity reports (SARs) all relevant indicia of human trafficking identified in financial transactions or series of transactions or through other appropriate methods. U.S. financial institutions also are expected to comply with law enforcement processes, such as subpoenas, seeking to identify traffickers' assets, which can be seized, forfeited, and used toward restitution.

If financial institutions lack sufficient controls, criminal actors can benefit from ready access to financial services to advance, and profit from, their enterprises. Financial institutions may face civil enforcement penalties as well as potential criminal penalties if they willfully fail to comply with their BSA obligations,<sup>12</sup> including reporting of suspicious activity.

Financial institutions are also subject to criminal, sanctions, customs, and other laws and may be subject to criminal prosecution and civil, criminal or both types of enforcement actions depending on the specific facts and circumstances. Entities doing business with or through a U.S. financial institution may wish to consider communicating with their counterparties, partners, subsidiaries, and affiliates to understand the application of these general compliance expectations in a manner consistent with internal risk assessments, industry standards, and applicable local requirements.

Additionally, non-U.S. businesses seeking to engage in mergers, acquisitions, takeovers, or other certain non-controlling investments in U.S. businesses may want to assess any potential risks arising from their commercial activities or other relationships with companies directly and indirectly linked to human rights abuses in Xinjiang.

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<sup>10</sup> [Defense Authorization Act for Fiscal Year 2020 \(Div. F., P.L. 116-92\)](#)

<sup>11</sup> See FinCEN Human Trafficking advisories: ([FIN-2014-A008.pdf](#) (fincen.gov) and (FinCEN Advisory, [FIN-2020-A008](#)).

<sup>12</sup> See 31 U.S.C. § 5321 and 31 USC 5322.

## **b. Due Diligence Related to Surveillance**

As appropriate, businesses and individuals should examine the end-users of their products, technology, research, collaborations, and services, to reduce the likelihood that their goods or services are being, or can be, used to build, maintain, or support the internment camps, the broader surveillance apparatus of the PRC government, companies that use or benefit from forced labor, or activities that enable human rights abuses, including but not limited to forced collection of biometric data, abusive genetic analysis schemes, and coercive transfer of members of ethnic minority groups.

U.S. investors should be aware that U.S. investment in Chinese surveillance technology firms that contribute – both inside and outside China – to the surveillance of religious and ethnic minorities or otherwise facilitate repression and serious human rights abuses is prohibited. Investors should consider undertaking responsible divestment in the event that funding or investment that has already occurred or is ongoing implicates these considerations.

Businesses and individuals exporting technology, products, and services with surveillance capabilities, including those pertaining to genetic collection and analysis, or businesses and individuals that are exporting inputs in or supporting the manufacture of surveillance products, are encouraged to undertake due diligence to prevent the misuse of their technology, products, and services to commit human rights abuses in Xinjiang in line with the *U.S. Department of State Guidance on Implementing the “UN Guiding Principles” for Transactions Linked to Foreign Government End-Users for Products or Services with Surveillance Capabilities*. The Guidance provides practical and accessible human rights guidance to U.S. businesses to prevent their products or services from being misused by government end-users to commit human rights abuses.

## **c. Due Diligence Related to Forced Labor**

China’s ongoing crimes against humanity and genocide in Xinjiang and the repressive and opaque environment in China presents extreme challenges to conducting human rights due diligence. Businesses with supply chain links to entities operating in Xinjiang, linked to Xinjiang (e.g., through the pairing program or through Xinjiang supply chain inputs or through XPCC), or utilizing Uyghur or other Muslim minority laborers from Xinjiang, should be aware of the reputational, economic, and legal risks of involvement with entities and individuals engaged in human rights abuse in or linked to Xinjiang. In and of themselves, third-party audits are not a sufficient due diligence program, and may not be a credible source of information for indicators of labor abuses in the region, for the following reasons:

- Auditors have reportedly been detained, harassed, threatened, or stopped at the airport.
- Auditors may be required to use a government translator who conveys misinformation or does not speak in workers’ first language.

- Auditor interviews with workers cannot be relied upon given pervasive surveillance, the threat of detainment, and evidence of workers' fear of sharing accurate information.

Several audit companies will not conduct audits of labor practices in this region in light of the challenges of obtaining objective assessments and threats to auditors.

If auditors or their families have been detained or otherwise threatened, businesses and individuals are encouraged to contact the U.S. government, including at U.S. embassies or consulates, for assistance.

Businesses and individuals may wish to collaborate with industry groups to share information, develop the capacity to research potential indicators of forced labor or labor abuses linked to Xinjiang in Chinese languages, and build relationships with Chinese suppliers and recipients of U.S. goods and services, to better understand their possible relationships to Xinjiang under PRC programs, including the mutual pairing assistance program. While human rights due diligence best practices for businesses typically include conducting independent onsite inspections and working with suppliers and local law enforcement to remediate forced labor and other abusive labor practices, repressive conditions in the context of genocide and crimes against humanity make it extremely challenging for businesses to have the necessary access to their suppliers or customers inside of Xinjiang to conduct credible audits and support meaningful remediation. The U.S. Department of Labor's [Comply Chain](#) mobile app and web-based platform provides information on due diligence measures specific to forced labor and child labor in supply chains. The app provides an interactive platform to help companies assess risks and impacts and draw on lessons and good practices from over 50 real-life examples of due diligence in various sectors. Comply Chain is currently available in English, French, and Spanish.

The U.S. Department of State's [Responsible Sourcing Tool](#) includes an in-depth examination of 11 key sectors and 43 commodities at risk for human trafficking or trafficking-related practices, as well as 10 comprehensive risk-management tools.

The Human Trafficking Prosecution Unit of the Department of Justice's Civil Rights Division works with the Criminal Division, including its Money Laundering and Asset Recovery Section (MLARS) and Human Rights and Special Prosecutions Section, U.S. Attorneys' Offices, and federal law enforcement agencies to investigate and prosecute potential criminal cases involving forced labor and other human rights abuses. MLARS also investigates financial institutions whose actions threaten the integrity of the individual institution or of the U.S. financial system.

The U.S. Department of Homeland Security Center for Countering Human Trafficking (CCHT), administered by U.S. Immigration and Customs Enforcement (ICE), Homeland Security Investigations (HSI), is a unified coordination center to holistically counter human trafficking and the importation of goods produced with forced labor. This includes supporting worldwide criminal, civil, and administrative investigations of forced labor. The HSI Human Rights Violators and War Crimes Center also supports investigations into global atrocities and

perpetrators of human rights violations and war crimes. Questions regarding federal criminal laws in this context may be addressed to [info@ccht.dhs.gov](mailto:info@ccht.dhs.gov).

#### **d. Due Diligence Related to Providing Construction Materials to Chinese Entities that May Be Operating in Xinjiang**

Businesses and individuals providing construction materials to Chinese entities that may be operating in Xinjiang should consider undertaking due diligence in line with their internal risk assessment and industry practice. The provision of goods used to construct internment facilities or factories located within internment camps, including concrete, steel, rebar, chain-link fencing, paving materials, and glass, may present risks. Firms should undertake due diligence practices to prevent the possibility that internment camps are the ultimate direct beneficiaries of their business. Similarly, the direct provision of services, including training programs for internment camp guards, could implicate U.S. enforcement activities or other authorities.

*See Annex 6 for additional guidance resources.*

### **V. Relevant U.S. Agencies and Selected Authorities for Enforcement Actions and Sanctions**

Individuals and entities should be aware of legal, financial, and reputational consequences of engaging with entities that have been involved in human rights abuses.

#### **a. U.S. Department of Commerce**

The U.S. Department of Commerce's EAR restricts exports, reexports, and transfers (in-country) of U.S.-origin and some foreign items, including software and technology, to destinations and specific end uses of concern and to end-users acting contrary to U.S. national security or foreign policy interests. EAR end-user controls referred to in this advisory are connected to the Entity List, which is found in Supplement No. 4 to Part 744 of the EAR, which identifies certain non-U.S. persons, such as businesses, research institutions, government and private organizations, individuals, and other types of legal persons. The EAR imposes a license requirement for the export, reexport, and/or transfer (in-country) of items subject to the EAR where such entities are a party to the transaction (e.g. end-user, purchaser, intermediate or ultimate consignee), in addition to license requirements for destinations, end-uses, and other restricted end-users.

On October 6, 2020, the Department of Commerce clarified that it will consider human rights concerns when reviewing nearly all license applications under the EAR. Accordingly, when making licensing decisions, the U.S. government will assess whether items may be used to engage in, or enable violations or abuses of, human rights including those involving censorship, surveillance, detention, or excessive use of force.

The Department of Commerce enforces the EAR, including requirements associated with the Entity List, and persons who violate the EAR may be subject to civil and/or criminal penalties.

**b. U.S. Department of Homeland Security's Relevant Enforcement Agencies**

The Department of Homeland Security's agencies enforce federal laws related to forced or indentured labor and convict labor through civil and criminal enforcement actions.

CBP is responsible for enforcing the federal statute in 19 U.S.C. § 1307 that prohibits the importation of merchandise mined, produced, or manufactured, wholly or in part, in any foreign country by forced labor, convict labor, and/or indentured labor including forced or indentured child labor.

Where evidence reasonably indicates that goods were produced with forced, indentured, or convict labor, CBP will issue a WRO and deny entry of those goods. If the evidence shows the goods are in violation of 19 U.S.C. § 1307, a finding may be issued and the goods may be seized and forfeited. CBP may issue civil penalties against the importer and other parties, as appropriate.

ICE's HSI may conduct criminal investigations of violations of federal laws, including those related to forced labor and prison labor, potentially resulting in incarceration, fines, and the seizure and forfeiture of imported goods. HSI's investigations may lead to the criminal prosecution of individuals and corporations present in the United States for their role in benefitting from forced labor occurring anywhere in the world, regardless of whether forced labor led to U.S. importation of forced labor-made goods, or their role in U.S. importation of goods produced with forced labor or prison labor in violation of U.S. law.

Both CBP and ICE, as well as any agency within DHS with authority to determine if DHS acquisitions are compliant, such as the DHS Office of the Inspector General, may take administrative enforcement action against contractors or suppliers who violate Federal Acquisitions Regulations or DHS Acquisition Regulations related to forced labor.

**c. Federal Acquisition Regulation, Combating Trafficking in Persons (FAR 52.222-50)**

Pursuant to the Federal Acquisition Regulation, Combating Trafficking in Persons (FAR 52.222-50), contractors, contractor employees, sub-contractors, subcontractor employees, and their agents are prohibited from engaging in forced labor or sex trafficking as well as a range of trafficking-related activities. If a contractor is found to be in violation of the FAR, the contracting agency can impose a range of remedies including, but not limited to, suspension and debarment.

**d. The Trafficking Victims Protection Act’s Crime of Forced Labor (18 U.S.C. § 1589)**

The Trafficking Victims Protection Act (TVPA) criminalizes the act of knowingly benefitting, financially or by receiving anything of value, from participation in a venture, where the defendant knew or recklessly disregarded the fact that the venture engaged in forced labor. The TVPA imposes criminal liability on defendants (individuals or entities) present in the United States, regardless of nationality or domicile, even when the forced labor occurs in another country. Forced labor is defined under U.S. criminal law as providing or obtaining labor or services by one or more enumerated means of force or coercion. Companies charged with criminal violations of the TVPA could face up to 500,000 USD in fines and executives or other company employees involved may face up to 20 years of imprisonment, and may be liable for restitution to the victims of forced labor. Entities engaged in or about to engage in forced labor violations are also subject to civil injunctions brought by the Attorney General. The TVPA also imposes civil liability through a private right of action if a preponderance of evidence shows that the entity benefitted from participating in a venture that it knew or recklessly disregarded was engaged in forced labor.

**e. The Uyghur Human Rights Policy Act of 2020 (Public Law 116-145)**

On June 17, 2020, the President signed into law the “Uyghur Human Rights Policy Act of 2020,” which directs U. S. resources to address human rights violations and abuses of Uyghurs and members of other ethnic Turkic Muslim minority groups in the Xinjiang region in China. This statute, among other things, directs the President to impose sanctions on each foreign person the President determines is responsible for torture, cruel treatment, prolonged detention without charges, disappearances and other denials of life, liberty or security with respect to these persons in the Xinjiang region in China.

**f. U.S. Department of the Treasury’s Office of Foreign Assets Control**

Among OFAC’s various sanctions authorities, Executive Order (E.O.) 13818, which builds upon and implements the Global Magnitsky Human Rights Accountability Act, gives the Secretary of the Treasury, in consultation with the Secretary of State and the Attorney General, the authority to impose economic sanctions on certain persons who, among other things, are responsible for or complicit in, or have directly or indirectly engaged in serious human rights abuse; who are or have been a leader or official of an entity that has engaged in, or whose members have engaged in, serious human rights abuse relating to the leader or official’s tenure; who have attempted to engage in serious human rights abuse; or who have materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, those persons already sanctioned under E.O. 13818 (see E.O. 13818 for all designation criteria). Unless authorized by a general or specific license issued by OFAC or otherwise exempt, OFAC’s regulations generally prohibit all transactions by U.S. persons or within (or transiting) the United States that involve any property or interests in property of designated or otherwise blocked persons. U.S. persons or others over which OFAC exercises jurisdiction can face

significant monetary penalties in addition to other enforcement action for conduct in violation of OFAC's regulations. In addition, persons that engage in certain transactions with designated persons may themselves be exposed to designation. OFAC has sanctioned multiple entities and individuals in connection with serious human rights abuse in Xinjiang. For more details on OFAC's Global Magnitsky sanctions program, click [here](#).

In addition, OFAC administers and enforces E.O. 13959, as amended, which gives the Secretary of the Treasury, in consultation with the Secretary of State and, as the Secretary of the Treasury deems appropriate, the Secretary of Defense, the authority to impose certain investment-related prohibitions with respect to persons that operate or have operated in the defense and related materiel sector or the surveillance technology sector of China's economy, and certain other related persons. Specifically, U.S. persons are prohibited from purchasing or selling any publicly traded securities, or any publicly traded securities that are derivative of such securities or are designed to provide investment exposure to such securities, of entities identified in or pursuant to E.O. 13959, as amended. These prohibitions take effect according to certain timelines as laid out in E.O. 13959, as amended. To implement E.O. 13959, as amended, OFAC has published a list on its website containing the names of entities identified in or pursuant to E.O. 13959, as amended, titled the Non-SDN Chinese Military-Industrial Complex Companies List (the "NS-CMIC List"). For more details on OFAC's Chinese Military Companies sanctions program, click [here](#).

#### **g. The U.S. Department of the Treasury's Bank Secrecy Act (BSA) Regulations**

The Currency and Foreign Transactions Reporting Act of 1970 (which legislative framework is commonly referred to as the "Bank Secrecy Act" or "BSA") requires U.S. financial institutions to assist USG agencies to detect and prevent money laundering. Specifically, the act requires financial institutions to keep records of cash purchases of negotiable instruments; to file reports of cash transactions exceeding \$10,000 (daily aggregate amount); and to report suspicious activity that might signify money laundering, tax evasion, or other criminal activities, including forced labor. It was passed by the Congress of the United States in 1970. The BSA is sometimes referred to as an "anti-money laundering" law ("AML") or jointly as "BSA/AML." Several AML acts, including provisions in Title III of the USA PATRIOT Act of 2001, have been enacted up to the present to amend the BSA. (See 31U.S.C. §§ 5311-5330 and 31 CFR Chapter X (formerly 31 CFR Part 103)).

#### **h. U.S. Department of Labor's List of Products Produced by Forced or Indentured Child Labor**

The U.S. Department of Labor maintains a *List of Products Produced by Forced or Indentured Child Labor*, which is a list of products and their source countries which the Department of Labor has a reasonable basis to believe are produced by forced or indentured child labor. Under U.S. government procurement regulations, pursuant to the Federal Acquisition Regulation (FAR 52.222-18 and 52.222-19), federal contractors who supply products on the Department of

Labor's *List of Products Produced by Forced or Indentured Child Labor* must certify that they have made a good faith effort to determine whether forced or indentured child labor was used to produce the items supplied. As of publication, there are four goods on the list for China as a whole: bricks, cotton, electronics, and toys. For more details on the Department of Labor's *List of Products Produced by Forced or Indentured Child Labor*, click [here](#).

**i. Office of the United States Trade Representative's Trade Agenda to Combat Forced Labor**

The Office of the United States Trade Representative (USTR) utilizes its trade tools to combat forced labor. This includes pursuing a trade agenda that prohibits the importation of goods produced by forced labor, and working with allies and trade partners to promote a fair, rules-based international trading system where products made with forced labor do not enter the trading system. For example, the United States-Mexico-Canada Agreement (USMCA) includes a ground-breaking forced labor provision that obligates each Party to "prohibit the importation of goods into its territory from other sources produced in whole or in part by forced or compulsory labor, including forced or compulsory child labor." The United States, Mexico, and Canada collaborate and bolster each other's efforts to ensure the effective implementation of the Agreement's forced labor import prohibition.

## **Annex 1: U.S. Government Actions<sup>13</sup>**

### **U.S. Customs and Border Protection (CBP)**

#### **Withhold Release Orders (WROs)**

- CBP forced labor enforcement related to China since 1990 has yielded 44 WROs, accounting for 75 percent of the total WROs issued, and seven findings against Chinese goods produced with forced labor.
- In fiscal year 2020, the agency issued 13 WROs; eight of these were issued against goods from China. In fiscal year 2021, CBP issued to date four WROs against Chinese goods produced with forced labor.

#### **WROs Related to Forced Labor from Xinjiang**

- September 30, 2019: Hetian Taida Apparel Co., Ltd.
- May 1, 2020: Hetian Haolin Hair Accessories Co. Ltd.
- June 17, 2020: Lop County Meixin Hair Product Co. Ltd.
- September 14, 2020: Lop County No. 4 Vocational Skills Education and Training Center; Lop County Hair Product Industrial Park; Yili Zhuowan Garment Manufacturing Co., Ltd. and Baoding LYSZD Trade and Business Co., Ltd; Xinjiang Junggar Cotton and Linen Co., Ltd.; Hefei Bitland Information Technology Co., Ltd.
- November 30, 2020: Cotton products from the Xinjiang Production and Construction Corps (XPCC)
- January 13, 2021: Cotton and tomato products from Xinjiang
- June 23, 2021: Silica products from Hoshine Silicon Industry Co., Ltd.

For the complete list of WROs see [here](#).

For a list of various fact sheets see Annex 6 Resources List.

### **U.S. Department of Commerce**

#### **Entity List Additions Related to Human Rights Abuses in Xinjiang**

- October 9, 2019: Xinjiang Uyghur Autonomous Region (XUAR) People's Government Public Security Bureau; Aksu District Public Security Bureau; Altay Municipality Public Security Bureau; Bayingolin Mongolian Autonomous Prefecture Public Security Bureau; Boertala Mongolian Autonomous Prefecture Public Security Bureau; Changji Hui Autonomous Prefecture Public Security Bureau; Hami Municipality Public Security Bureau; Hetian Prefecture Public Security Bureau; Kashgar Prefecture Public Security

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<sup>13</sup> For up-to-date information related to U.S. government actions please use the hyperlinks provided throughout this document. U.S. government actions may be taken subsequent to the issuance of this Advisory.

Bureau; Kelamayi Municipality Public Security Bureau; Kezilesu Kyrgyz Autonomous Prefecture Public Security Bureau; Shihezi Municipality Public Security Bureau; Tacheng Prefecture Public Security Bureau; Tumushuke Municipal Public Security Bureau; Turfan Municipality Public Security Bureau; Urumqi Municipal Public Security Bureau; Wujiaqu Municipality Public Security Bureau; Xinjiang Police College; Xinjiang Production and Construction Corps (XPCC) Public Security Bureau; and Yili Kazakh Autonomous Prefecture Public Security Bureau; Dahua Technology; Hikvision (later changed to Hangzhou Hikvision Digital Technology Co., Ltd.); IFLYTEK; Megvii Technology; Sense Time (later changed to Beijing Sensetime Technology Development Co., Ltd.); Xiamen Meiya Pico Information Co. Ltd.; Yitu Technologies; and Yixin Science and Technology Co. Ltd.

- June 5, 2020: Ministry of Public Security's Institute of Forensic Science of China; Aksu Huafu Textiles Co.; CloudWalk Technology; FiberHome Technologies Group and the subsidiary Nanjing FiberHome Starrisky Communication Development Co.; Netposa and the subsidiary SenseNets; Intellifusion; and IS'Vision.
- July 22, 2020: Beijing Liuhe BGI; Changji Esquel Textile Co. Ltd.; Hefei Bitland Information Technology Co. Ltd.; Hefei Meiling Co. Ltd.; Hetian Haolin Hair Accessories Co. Ltd.; Hetian Taida Apparel Co., Ltd.; KTK Group; Nanchang O-Film Tech; Nanjing Synergy Textiles Co. Ltd.; Tanyuan Technology Co. Ltd.; and Xinjiang Silk Road BGI.
- June 24, 2021: Hoshine Silicon Industry (Shanshan) Co., Ltd.; Xinjiang Daqo New Energy, Co. Ltd; Xinjiang East Hope Nonferrous Metals Co. Ltd.; Xinjiang GCL New Energy Material Technology, Co. Ltd; and Xinjiang Production and Construction Corps.
- July 12, 2021: China Academy of Electronics and Information Technology; Xinjiang Lianhai Chuangzhi Information Technology Co., Ltd.; Leon Technology Co., Ltd.; Xinjiang Tangli Technology Co., Ltd.; Shenzhen Cobber Information Technology Co., Ltd.; Xinjiang Sailing Information Technology Co., Ltd.; Beijing Geling Shentong Information Technology Co., Ltd.; Tongfang R.I.A. Co., Ltd.; Shenzhen Hua'antai Intelligent Technology Co., Ltd.; Chengdu Xiwu Security System Alliance Co., Ltd.; Beijing Sinonet Science & Technology Co., Ltd.; Urumqi Tianyao Weiye Information Technology Service Co., Ltd.; Suzhou Keda Technology Co., Ltd.; and Xinjiang Beidou Tongchuang Information Technology Co., Ltd.

For additional Entity Listings see: [Supplement No. 4 to Part 744 of the EAR](#)

### **U.S. Department of the Treasury**

- July 9, 2020: Economic sanctions under E.O. 13818 on: Chen Quanguo, the Communist Party Secretary of XUAR; Zhu Hailun, a former Deputy Party Secretary of the XUAR; the Xinjiang Public Security Bureau (XPSB); Wang Mingshan, Director and Communist Party Secretary of the XPSB; and Huo Liujun, former Party Secretary of the XPSB.

- July 31, 2020: Economic sanctions under E.O. 13818 on: Xinjiang Production and Construction Corps (XPCC); Sun Jinlong, a former Political Commissar of the XPCC; and; Peng Jiarui, the Deputy Party Secretary and Commander of the XPCC.
- March 22, 2021: Economic sanctions under E.O. 13818 on: Wang Junzheng, the Secretary of the Party Committee of the XPCC; and Chen Mingguo, Director of the XPSB.

### **U.S. Department of State**

- October 8, 2019: Imposed visa restrictions on PRC government and CCP officials believed to be responsible for, or complicit in, the detention or abuse of Uyghurs, ethnic Kazakhs, ethnic Kyrgyz, and members of other Muslim minority groups in Xinjiang.
- July 9, 2020: Imposed visa restrictions on PRC government and CCP officials believed to be responsible for, or complicit in, the detention or abuse of Uyghurs, ethnic Kazakhs, ethnic Kyrgyz, and members of other Muslim minority groups in Xinjiang.
- September 30, 2020: Issued guidance on implementing the *UN Guiding Principles* for transactions linked to foreign government end-users of products or services with surveillance capabilities.
- June 25, 2020: The Secretary of State released the 2020 Trafficking in Persons Report, rating China with the lowest ranking (tier 3) in part due to a government policy or pattern of widespread forced labor, including through the continued mass arbitrary detention of more than one million Uyghurs, ethnic Kazakhs, ethnic Kyrgyz, and other Muslims in Xinjiang. Accordingly, on November 6, 2020, the President determined that certain assistance for the Government of China for FY2021 would be fully restricted, pursuant to Sec. 110 of the Trafficking Victims Protection Act (22 U.S.C. 7107).
- January 19, 2021: The Secretary of State determined that since at least March 2017, the PRC is committing genocide and crimes against humanity against Uyghurs, who are predominantly Muslim, and members of other ethnic and religious minority groups in Xinjiang.

### **U.S. Department of Labor**

- September 2020: The U.S. Department of Labor included five goods produced by forced labor by Uyghurs, ethnic Kazakhs, ethnic Kyrgyz, and members of other Muslim minority groups - gloves, hair products, textiles, thread/yarn, and tomato products - to the List of Goods Produced by Child Labor or Forced Labor under the Trafficking Victims Protection Reauthorization Act.
- September 2020: The Department of Labor launched a webpage “[Against Their Will: The Situation in Xinjiang](#)” dedicated to compiling information related to state-sponsored forced labor in Xinjiang, noting the vast scale of abuse.

- June 2021: Due to evidence of the production of polysilicon for solar panels by forced labor, the Department of Labor added polysilicon for China as an update to the *List of Goods Produced by Child Labor or Forced Labor*. The addition of polysilicon represents the now sixth good produced by forced labor by Uyghurs, ethnic Kazakhs, ethnic Kyrgyz, and members of other Muslim minority groups in China. A total of 18 goods are noted by the Department of Labor as produced by forced labor in China, including some by forced child labor.

**Annex 2: Illustrative List of Industries in Xinjiang in which Public Reporting has indicated Labor Abuses may be Taking Place**

Elements of the following industries have been identified as using forced labor in Xinjiang. This list is illustrative and non-exhaustive and does not confirm that all goods produced in these industries in Xinjiang involve forced labor. Businesses and individuals should consider this list as an additional risk factor for the heightened human rights due diligence discussed in this advisory.

<u><b>Industry</b></u>
Agriculture (including such products as raw cotton, hami melons, korla pears, tomato products, and garlic)
Cell Phones
Cleaning Supplies
Construction
Cotton, Cotton Yarn, Cotton Fabric, Ginning, Spinning Mills, and Cotton Products
Electronics Assembly
Extractives (including coal, copper, hydrocarbons, oil, uranium, and zinc)
Fake hair and human hair wigs, hair accessories
Food processing factories
Footwear
Gloves
Hospitality Services
Metallurgical grade silicon
Noodles
Printing Products
Renewable Energy (polysilicon, ingots, wafers, crystalline silicon solar cells, crystalline silicon solar photovoltaic modules)
Stevia
Sugar
Textiles (including such products as apparel, bedding, carpets, wool, viscose)
Toys

### **Annex 3: Cotton, Textile, and Garment Supply Chains**

Xinjiang's cotton lint production provides for over 85 percent of China's total cotton production and 20 percent of global output. After the cotton is ginned and classed in Xinjiang, most cotton bales are transported to China's eastern provinces to be further processed into yarn.

Imports to the U.S. of cotton and cotton products produced in Xinjiang are subject to U.S. Customs and Border Protection's (CBP) [Withhold Release Order \(WRO\)](#) issued in January 2021 due to evidence of forced labor in Xinjiang cotton production. The Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* includes cotton and garments produced in China, in addition, textiles and thread/yarn were added in September 2020 given evidence of their production by forced labor connected to Xinjiang in particular. In addition, cotton yarn and fabric and downstream products (garments, towels, bedsheets) made elsewhere in China may be subject to detention under the WRO, as most Xinjiang cotton lint is processed outside the region. However, the Xinjiang region is not a major producer of yarn, fabric, and products relative to the eastern provinces in China.

Roughly one-fifth of Xinjiang cotton remains within the autonomous region for yarn production. In addition, China is the world's largest cotton lint and cotton yarn importer. Cotton grown in Xinjiang accounts for roughly 60 percent of cotton yarn available to produce cotton fabric in China.

China is the world's largest cotton fabric exporter, with exports accounting for over 20 percent of cotton fabric production. Cotton products produced using Chinese fabric (likely containing Xinjiang cotton lint) outside of Xinjiang, either in China or other countries may also be subject to CBP's WRO.

Cotton lint is not the only cotton product. Cottonseed is also within the scope of the WRO. Cottonseed in Xinjiang is processed in several intermediate products such as cottonseed oil and meal and cotton linters pulp (CLP). These intermediate products are used both within and outside of Xinjiang to produce a wide range of products such as cosmetics, paper, and viscose fiber.

Xinjiang's production of textiles (yarn and fabric) is smaller relative to many of China's eastern provinces. Xinjiang's 2020 yarn production (chemical fibers, cotton, cotton blended with other fibers) was approximately 1.9 million tons, providing for less than 10 percent of China's total yarn production. Total fabric production (chemical fibers, cotton, cotton blended with other fibers) in 2020 was around 500 million meters, less than 5 percent of the country's total output.

Companies in China, including in Xinjiang, also import cotton directly from the United States and other countries. The Department of Commerce's Bureau of Industry and Security has added multiple Chinese commercial companies involved in the cotton, textile, or garment supply chain to the Entity List for engaging in activities contrary to the foreign policy interests of the United

States through the practice of forced labor involving members of Muslim minority groups in Xinjiang. See Annex 1 for U.S. government actions.

## Annex 4: Solar Supply Chain

As of 2020, China controlled an estimated 70 percent of the global supply for solar-grade polysilicon and China also dominated manufacturing in other downstream solar photovoltaic (PV) components including ingots, wafers, and cells that are assembled into solar modules. Around 95 percent of solar PV modules rely on solar-grade polysilicon. In 2020, five of the top six solar-grade polysilicon companies, by capacity, were headquartered in China, with 45 percent of the world's supply of solar-grade polysilicon coming from four producers with operations in Xinjiang.

Creating a solar panel involves the transformation of raw silicon material to solar-grade polysilicon, ingots, wafers, cells, and final assembly into solar modules. Quartz is mined then crushed and heated to create metallurgical grade silicon (MGS). The MGS is refined into polysilicon, which is then further processed and melted into ingots. Since Xinjiang polysilicon is blended with polysilicon made in other regions of China, separating and tracing the amount and exact origin of any polysilicon from China can be difficult. At each stage in the solar supply chain, there is evidence of enterprises with links to the labor transfer programs that engage in coercive labor practices and to the Xinjiang Production and Construction Corps (XPCC).

The XPCC, which has been sanctioned by the U.S. government in connection with serious human rights abuse, is closely connected with polysilicon production in Xinjiang. As of June 2021, the U.S. Department of Labor's *List of Goods Produced by Child Labor or Forced Labor* includes polysilicon produced in China, given evidence of the production of polysilicon for solar panels by forced labor connected to Xinjiang in particular. Additionally, the XPCC and XPCC Public Security Bureau have been implicated in human rights abuses and violations in Xinjiang and are on the Department of Commerce's Entity List. The XPCC operates many of the industrial parks where polysilicon manufacturers are located and provides them with various benefits (e.g., reduced rent and utilities, support with logistics, warehousing, and the transportation of finished goods). The solar industry has been granted tax and financial incentives for expanding in Xinjiang, such as free office space from the XPCC.

Alongside this expansion, the solar industry companies have participated in forced labor. Between 2016 and 2018, many polysilicon manufacturers used a government-sponsored corporate incentive to employ "surplus labor transfers." Reporting indicates that within these companies there are indicators of forced labor, including restricting workers from quitting, traveling or participating in religious services, paying less than minimum wage, applying harsh or unsafe work conditions, and threatening detention. Subsidized electricity, electricity from coal-fired power plants, low environmental standards, and domestic initiatives – including subsidized labor and rents – allow factories in Xinjiang to produce polysilicon and other solar components at a lower price compared to other regions in China. Central and provincial initiatives designate the solar PV industry as a strategic sector for investment to support and develop Xinjiang's market. Local government programs provide land and low-interest loans to companies that relocate to the province, buttressed by lines of credit from state-owned banks.

The pervasiveness of forced labor programs in Xinjiang and co-mingling of solar-grade polysilicon supplies by downstream manufacturers raise concerns throughout the entire solar supply chain, and it is likely that absent more robust supply chain safeguards, reliable, enhanced auditing procedures, and continued midstream supply chain chokepoints that the majority of global solar products may continue to have a connection to forced labor and the XPCC.

The Department of Commerce's Bureau of Industry and Security has added multiple Chinese commercial companies that manufacture inputs in the solar supply chain to the Entity List for participating in the practice of, accepting, or utilizing forced labor in Xinjiang. The Department of Homeland Security's Customs and Border Protection has issued a Withhold Release Order against the silica-based products made by a Chinese commercial company and its subsidiaries based on information reasonably indicating that it uses forced labor to manufacture silica-based products. See Annex 1 for U.S. government actions.

## Annex 5: Entity List Resources

The Entity List specifies the license requirements and license review policy that it imposes on each listed person. Those license requirements are independent of, and in addition to, license requirements imposed elsewhere in the Export Administration Regulations (EAR). For example, if you want to export, reexport, or transfer (in-country) an “EAR99” item to a listed entity and the license requirement for that person specified in the “License Requirement” column of the Entity List states “All Items Subject to the EAR,” you must obtain a license from the U.S. Department of Commerce’s Bureau of Industry and Security (BIS) before exporting, reexporting or transferring (in-country) the item, even if the “EAR99” item could otherwise be exported to the country of destination without a license from BIS.

For additional information on the Entity List, please see Sections 744.11 and 744.16 of the EAR. For questions or concerns related to the EAR and its requirements, please contact BIS’s Office of Exporter Services at 202-482-4811 or the BIS website at [www.bis.doc.gov](http://www.bis.doc.gov). Information on a potential violation of U.S. export control regulations should be provided to BIS’s Enforcement Hotline at 1-800-424-2980 or <https://www.bis.doc.gov/index.php/component/rsform/form/14?task=forms.edit>. For more information on submitting a BIS license application, please see <https://www.bis.doc.gov/index.php/licensing>.

For additional information on controls on the export, reexport, or (transfer in-country) of the dual-use and military-related items under the Department of Commerce’s jurisdiction, please see the resources available on BIS’s website ([www.bis.doc.gov](http://www.bis.doc.gov)), including the Export Administration Regulations (<https://www.bis.doc.gov/index.php/regulations/export-administration-regulations-ear>) and BIS’ [Online Training Room](#).

The U.S. Department of Commerce also provides the Consolidated Screening List tool (<https://www.trade.gov/consolidated-screening-list>), a searchable list of parties for which the United States Government maintains restrictions on certain exports, reexports or transfers of items. The tool consolidates multiple export screening lists of the U.S. Department of Commerce, U.S. Department of State, and U.S. Department of the Treasury.

## Annex 6: Relevant Reports and Guidance

Information Source	Description
<b>U.S. Government Resources</b>	
<a href="#">Department of State China Human Rights Reports</a>	The Department of State’s annual Country Reports on Human Rights Practices cover internationally recognized individual, civil, political, and worker rights, as set forth in the Universal Declaration of Human Rights and other international documents. The reports can include specific information on foreign government agencies, including Chinese government agencies.
<a href="#">Department of State China Trafficking in Persons Report</a>	The Department of State’s annual Trafficking in Persons Report assesses 188 governments, including China’s, on their efforts to meet the Trafficking Victims Protection Act’s minimum standards for the elimination of trafficking in persons, and assigns each of them a tier ranking based on that assessment. Each narrative in the report provides content specific to human trafficking, including forced labor, in each country.
<a href="#">Department of State China International Religious Freedom Report</a>	The Department of State’s annual Report on International Religious Freedom details the status of religious freedom in about 200 countries and territories, including China, and contains a section focused on Xinjiang.
<a href="#">Department of Labor List of Goods Produced by Child Labor or Forced Labor Report</a>	The Department of Labor maintains a list of goods and their source countries, including China, which it has reason to believe are produced by child labor or forced labor in violation of international standards, as required under the Trafficking Victims Protection Reauthorization Act of 2005 and subsequent reauthorizations. Artificial flowers, Christmas decorations, coal, fish, footwear, garments, gloves, hair products, nails, polysilicon, thread/yarn, and tomato products are included for forced labor of adults; and bricks, cotton, electronics, fireworks, textiles, and toys are included for both forced labor of adults and child labor. Gloves, hair products, polysilicon, textiles, thread/yarn, and tomato products were added due to evidence that they were produced by the forced labor of Uyghurs, ethnic Kazakhs, ethnic Kyrgyz and other Muslim minorities specifically.

<a href="#">Department of Labor List of Products Produced by Forced or Indentured Child Labor Report</a>	<p>The Department of Labor maintains a list of products and their source countries, including China, which it has a reasonable basis to believe are produced by forced or indentured child labor, pursuant to Executive Order 13126. This List is intended to ensure that U.S. federal agencies and contracted parties do not procure goods made by forced or indentured child labor. The List currently includes bricks, cotton, electronics, and toys from China as goods made with forced or indentured child labor.</p>
<a href="#">Department of Labor website “Against Their Will: The Situation in Xinjiang”</a>	<p>The Department of Labor’s website dedicated to compiling information related to state-sponsored forced labor in Xinjiang.</p>
<a href="#">Comply Chain: Business Tools for Labor Compliance in Global Supply Chains</a>	<p>The Department of Labor’s mobile app and web-based platform provides information on due diligence measures specific to forced labor and child labor in supply chains, offering an interactive resource to help companies assess risks and impacts and draw on lessons and good practices from over 50 real-life examples of due diligence in various sectors. Comply Chain is available in English, French, and Spanish.</p>
<a href="#">Congressional-Executive Commission on China: Annual Report</a>	<p>The Congressional-Executive Commission on China (CECC) report published in March 2019 highlights multiple concerning human rights issues, including the mass, arbitrary internment of Uyghurs and other Muslim ethnic minorities.</p>
<a href="#">Responsible Sourcing Tool</a>	<p>The Responsible Sourcing Tool, developed by the State Department and Verité, assists U.S. federal contractors, procurement officials, and companies to better identify, prevent, and address the risks of human trafficking in their global supply chains.</p>
<a href="#">Xinjiang Uyghur Autonomous Region WRO Frequently Asked Questions</a>	<p>The Department of Homeland Security’s U.S. Customs and Border Protection (CBP) provides frequently asked questions on the Xinjiang Uyghur Autonomous Region Withhold Release Order (WRO).</p>
<a href="#">Forced Labor Importer Due Diligence Fact Sheet</a>	<p>CBP’s fact sheet sets out resources to assist companies with strengthening their policies and procedures to mitigate the risk of child and forced labor in their global supply chains.</p>
<a href="#">Withhold Release Orders and Findings</a>	<p>WROs can be found on CBP’s website. CBP does not generally publicize specific detentions, re-exportations, exclusions, or seizures of the subject merchandise that may have resulted from the WROs or findings.</p>
<a href="#">Fact Sheet: Forced Labor Procedures</a>	<p>CBP’s fact sheet provides information on resources related to forced labor enforcement authorities and enforcement action.</p>

<a href="#">Forced Labor Detained Shipments Fact Sheet</a>	<p>CBP’s fact sheet provides information for companies on the procedures for when goods suspected to be produced with forced labor are detained.</p>
<a href="#">Fact Sheet: The Moiety Statute</a>	<p>CBP provides information on the possibility of an award of compensation to informers.</p>
<a href="#">ICE Forced Labor Program Fact Sheet</a>	<p>The Department of Homeland Security’s Immigration and Customs Enforcement Homeland Security Investigation’s fact sheet provides information on the Forced Labor Program that coordinates criminal investigations into allegations of forced labor (including forced child labor) resulting in the manufacturing or production of goods overseas imported into the United States.</p>
<a href="#">U.S Department of State Guidance on Implementing the “UN Guiding Principles” for Transactions Linked to Foreign Government End-Users for Products or Services with Surveillance Capabilities</a>	<p>The Department of State’s first-of-its-kind tool intended to provide practical and accessible human rights guidance to U.S. businesses seeking to prevent their products or services with surveillance capabilities from being misused by government end-users to commit human rights abuses.</p>

## Annex 7: Other Countries' Measures

The U.S. Departments of State, the Treasury, Commerce, Homeland Security, Labor, and the Office of the U.S. Trade Representative are committed to working with and supporting partner nations in combating human rights abuses in Xinjiang and elsewhere.<sup>14</sup> The United States-Mexico-Canada Agreement (USMCA), which entered into force on July 1, 2020, includes a section in Article 23.6 requiring all three countries to prohibit the importation of goods produced wholly or in part with forced or compulsory labor. Also, the US, UK, Australia, Canada, and New Zealand subscribe to the 2018 Principles to Guide Government Action to Combat Human Trafficking in Global Supply Chains.<sup>15</sup>

Below is information on other countries' regulatory provisions on forced labor in supply chains.

Country	Measure	Link
Australia	Australia's Modern Slavery Act 2018 requires some entities to report on the risks of modern slavery in their operations and supply chains and actions to address those risks. The legislation allows for other entities based or operating in Australia to report voluntarily.	<a href="#">Modern Slavery Act 2018</a>
Canada	Global Affairs Canada and the Canadian Trade Commissioner Service issued an advisory to bring attention to human rights violations in China affecting Uyghurs and other ethnic minorities from the Xinjiang Uyghur Autonomous Region (XUAR) to help Canadian firms and stakeholders understand the legal and reputational risks posed to companies whose supply chains engage with entities possibly implicated in forced labor.	<a href="#">Global Affairs Canada advisory on doing business with Xinjiang-related entities</a>
Canada	Canada's <i>Customs Tariff Act</i> and the Schedule to the Customs Tariff were amended to include a prohibition on the importation of goods produced wholly or in part by forced labor, and not just prison labor as was already prohibited. Customs Notice 20-23 includes a tip line to report allegations of violations of this prohibition to the Canada Border Services Agency's Border Information Service. The Government of Canada expects companies to take every step	<a href="#">Integrity Declaration on Doing Business with Xinjiang Entities</a>  <a href="#">Customs Notice 20-23 - Import Prohibition on Goods Produced Wholly</a>

<sup>14</sup> For example, see a statement by the U.S. Department of State on the commitment to working multilaterally to promote accountability for the atrocities in Xinjiang: <https://www.state.gov/promoting-accountability-for-human-rights-abuse-with-our-partners/>

<sup>15</sup> <https://www.state.gov/wp-content/uploads/2019/03/286369.pdf>

	possible to ensure that their supply chains conform to Canadian law with respect to the prohibition on the import of forced labor.	<a href="#">or In Part by Forced Labour</a>
European Union	The European Union passed Regulation (EU) 2017/821 of the European Parliament and of the Council on supply chain due diligence obligations for EU importers of tin, tantalum, tungsten, their ores, and gold originating from conflict-affected and high-risk areas.	<a href="#">Conflict Minerals Regulation</a>
European Union	The European Union passed a corporate sustainability reporting measure that requires large companies to publish regular reports on the social and environmental impacts of their activities.	<a href="#">Non-Financial Reporting Directive</a>
European Union EEAS	The Commission and the European External Action Service (EEAS) provides Guidance on due diligence to help EU companies to address the risk of forced labor in their operations and supply chains, in line with international standards. The Guidance explains the practical aspects of due diligence and provides an overview of EU and international instruments on responsible business conduct that are relevant for combatting forced labor.	<a href="#">EEAS Guidance on Due Diligence to Address the Risk of Forced Labor</a>
France	France’s Law No. 2017-399 of March 27, 2017 designates that some companies establish and effectively implement a vigilance plan that identifies risks and prevents serious violations of human rights and fundamental freedoms, human health and safety, and the environment.	<a href="#">Corporate Duty of Vigilance</a>
Germany	Germany’s Due Diligence in Supply Chains Law, in force from 2023, legally obliges some companies to implement human rights due diligence practices including: monitoring Tier-1 suppliers for human rights risks, creating and publishing a plan to identify human rights risks in supply chains, and establishing a grievance mechanism.	<i>Not yet available</i>
New Zealand	New Zealand’s laws prohibit slavery, trafficking in persons and forced labor. New Zealand’s trade policy recognizes the need to respect and incorporate the observance of fundamental labor rights into trade agreements.	<a href="#">Foreign Affairs and Trade Combatting Modern Slavery</a>
Norway	On June 10, 2021, Norway passed the Transparency Act to oblige companies to	<a href="#">International Development Ministry</a>

	conduct due diligence for human rights issues throughout all business relationships in their value chain. Norway also adopted a strategy to combat modern slavery on July 1, 2021 to leverage development assistance globally.	<a href="#">Strategy to combat modern slavery</a>
United Kingdom	The United Kingdom's Modern Slavery Act 2015 issued provisions about slavery, servitude, and forced or compulsory labor, and about human trafficking, including provisions for the protection of victims.	<a href="#">Modern Slavery Act 2015</a>