

# WROs & Forced Labor Regulations

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# Logistics of a WRO Hold in the Ports of Los Angeles and Long Beach

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The Seaport Customs Committee of the LACBFFA has had several virtual meetings and conversations with CBP in the Port of Los Angeles/Long Beach about the logistics of shipments detained under a Withhold Release Order (WRO). The following is intended for general guidance on the process and what to expect in responding to a WRO notification.

This guidance is not binding on CBP and CBP has the discretion to make necessary adjustment to the process based on the unique circumstances and on a case-by-case basis. It is recommended that Brokers work with the issuing officer to coordinate the appropriate action. The WRO process is fluid however, if there is something you encounter that needs to be addressed, please contact the LACBFFA Customs Committee.

***Note: This guidance is for Withhold Release Orders only. They will not apply to the Uyghur Forced Labor Prevention Act. CBP is working on guidelines for this program that will be announced in a Federal Register Notice soon.***



- Action to hold a shipment by CBP is taken only when the cargo arrives, and an entry is filed.
  - A WRO will not be issued against any in bond entry. The WRO detention will be acted on at the Port of destination
- The entry is designated as “Pending Intensive Exam”:
  - Broker transmits a copy of entry package to CBP via DIS
  - A detention notice, CBPF 6051D, is issued by a CBP Officer. This officer will be the Port contact for CBP for that WRO for all questions for that shipment.
  - The lines to be held are listed on the CBPF 6051D
  - The CES is set by the exam designation in the entry transmission
  - The detention notice will have any additional instructions attached.
- Cargo that is still at the terminal and the importer decides to immediately export the entire shipment, an Immediate Exportation In-Bond (CF 7512) may be submitted, and the cargo does not have to be delivered to the CES.

- Shipments containing detained merchandise are held at the CES or other designated site until a determination is made.
  - The broker will take the entry off statement since it is not released,
  - Shipments with cargo included that is not subject to the WRO can have that cargo released and delivered after the shipment is sorted between the detained cargo and the cargo not to be detained.
    - When the cargo is delivered to the bonded location, CBP will arrange to have the container devanned.
    - The cargo will be sorted at the importer's expense. A CF 3499 should be sent to the CES.
      - The importer can have the CES do the sorting.
- OR-
- The importer can request the CES to allow an importer's team to do the sort.
  - If the shipment does not have documents with a good breakdown to sort cargo, the importer will be responsible to provide information to allow a sort to be done.
- The articles under WRO detainment will be held and the rest can be released by CBP.
  - Cargo moved to a Consolidated Freight Station (CFS)
    - CBP will issue the WRO detention notice when the entry is filed. All the cargo for that entry must be moved to the CES.
    - On a consolidated shipment with multi house B/L's only the detained house B/L's will be required to be delivered to the CES.
    - However, entries that include multiple house B/L's will have all the cargo on **that** entry detained and delivered to the CES.

- Brokers will file new entry for the portion that is not to be held
  - The broker will do an extraction to the original entry of the merchandise that will not be held and transmit a separate entry for the goods to be released.
  - The broker will upload the entry into DIS to the CBP officer and notify the officer that the DIS package has been uploaded
  - CBP will process the release in ABI and provide a release to the CES.
  - The release will set an entry date for that entry and set date for the payment of the duty
  - IF a second portion of the shipment is allowed to be release, another new entry must be filed



- The Broker should confirm with the CES that they have the written release from CBP.
  - The cargo that can be released is made available for the trucker to pick up.
- If/when the balance of the detained goods is determined to be admissible, the goods will be released from the original entry.
  - After the release, but before pay-in the original entry will be corrected \*



- **WRO cargo can be detained for 3 months for CBP to receive supporting documents**
  - During the detention period the importer can provide relevant information for admissibility to the designated officer
  - Though the merchandise is detained by a Port of Entry, the Center of Excellence and Expertise will assist the Port Director by reviewing submitted documentation and serving as a resource for industry-specific expertise.
  - Cargo can be re-exported to any country at any time within 3 months of the detention notice.



- If after 3 months no documentation is submitted to CBP a letter will be issued that the cargo is excluded from entry.
  - The importer has a right to file a timely exclusionary protest in accordance with 19 U.S.C. § 1514
- If no response to the exclusion letter is received within 60 days, or if the cargo is not re-exported or destroyed within 60 days by the importer, the cargo will be destroyed by CBP at the importer's expense.
  - If CBP discovers findings, the cargo will not be released

For Cargo that the importer wishes to re-export, an in-bond entry will be transmitted.

- The broker will submit by DIS a printout of the CF 7512 with the QP message on it to the CBP officer
- The goods must be moved using a bonded trucker



Goods can be destroyed at the importer's request. The method of destruction must be coordinated with the CBP officer.

- The importer may request CES to perform the destruction
- The importer can provide labor and equipment to do the destruction at the CES with the approval of the CES
- The goods can be destroyed at another location approved by CBP
- The destruction must be done under CBP supervision.
- A CF 3499 must be submitted with
  - Importer's IRS no.
  - Importer's bond
  - Broker must include
    - Name and address of the broker
    - Name and phone number of the broker contact person
    - Broker file number
  - The CF 3499 must be signed by the applicant or applicant's agent under power of attorney

For goods that the final balance is destroyed, a copy of the signed off CF 3499 for the destruction will be sent to the CBP Officer.

- The broker will arrange to submit a ***cancellation*** request- The entry is not to be deleted



\*For held goods that have been determined to be admissible the officer will release the balance of the goods from the original entry. If the release is still only part with a balance still on hold, another new entry must be filed. If the entire final balance is released the broker will have 10 working days from that release to correct the entry for the extracted portion so that only the duty due on the admissible articles will be paid. The broker will transmit an update to the entry summary in ABI within 10 days of the release and attach the notated invoices with a cover sheet explaining the changes. The payment of duties and fees should be updated with the correct duties and fees due.





# Uyghur Forced Labor Prevention Act

*Briefing to NCBFAA*

Office of Trade

May 3-6, 2022



# Agenda

- UFLPA Background
- FLETF Actions
- Rebuttable Presumption
- Importer Guidance
- Communication and Outreach



# UFLPA Background

- The Uyghur Forced Labor Prevention Act (UFLPA) was signed into law on December 23, 2021. It expands upon Section 307 of the Tariff Act of 1930 to strengthen the prohibition against the importation of goods made with forced labor.
- The legislation directs the use of USG authorities that include visa and financial sanctions, export restrictions, and import controls.
- UFLPA establishes a rebuttable presumption that any good produced in whole or in part in the Xinjiang Uyghur Autonomous Region (XUAR) contains forced labor.
- UFLPA gives CBP authority to determine exceptions to the **rebuttable presumption** where clear and convincing evidence is given.





- The Forced Labor Enforcement Task Force was charged with soliciting public comments through the issuance of a Federal Register Notice (FRN), holding a public hearing, and developing a strategy to enforce prohibition on importation of goods made through forced labor in the People's Republic of China (PRC)
  - The U.S. Department of State was charged with developing a Diplomatic Strategy, due March 23, 2022
  - U.S. Customs and Border Protection was charged with implementing the Rebuttable Presumption provision, effective June 21, 2022

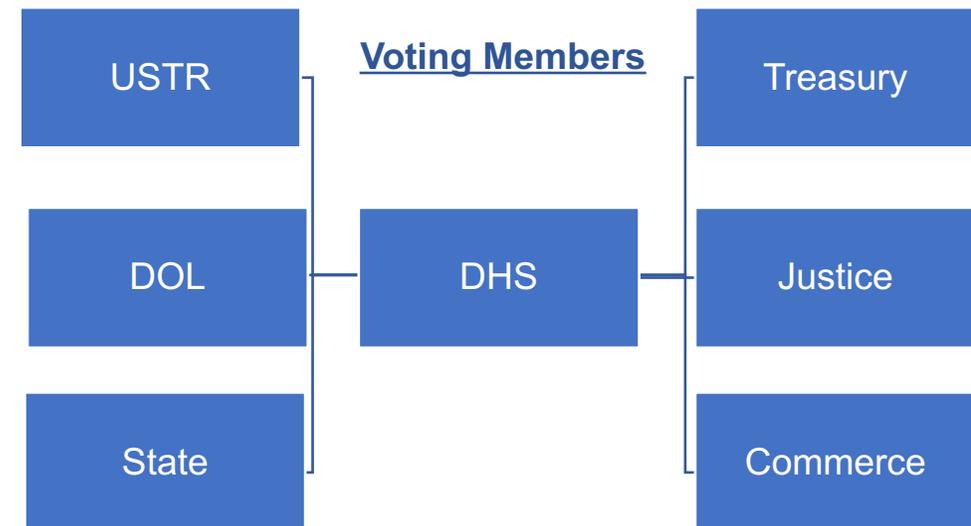
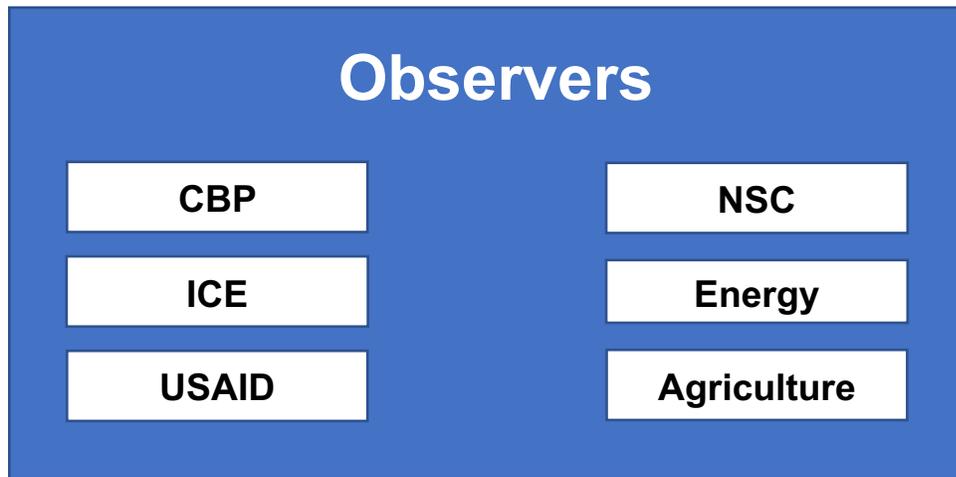
Enacted on 23 December 2021, the Uyghur Forced Labor Prevention Act (UFLPA) stipulates five primary requirements to be accomplished within 180 days (i.e., June 21, 2022)





# Forced Labor Enforcement Task Force (FLETF)

- The FLETF was established under the United States Mexico and Canada Implementation Act to monitor U.S. enforcement of the prohibition on importing goods made with forced labor.
- Executive Order 13923 (May 15, 2020) named the Secretary of Homeland Security as the Chair of the FLETF and named specific members/observers to the group.
  - On September 31, 2022, and January 12, 2022, the Secretary of Homeland Security signed memos delegating the role of FLETF Chair to the Under Secretary for Policy.
  - The groups hold quarterly principal-level meetings, and more regular staff-level meetings as needed



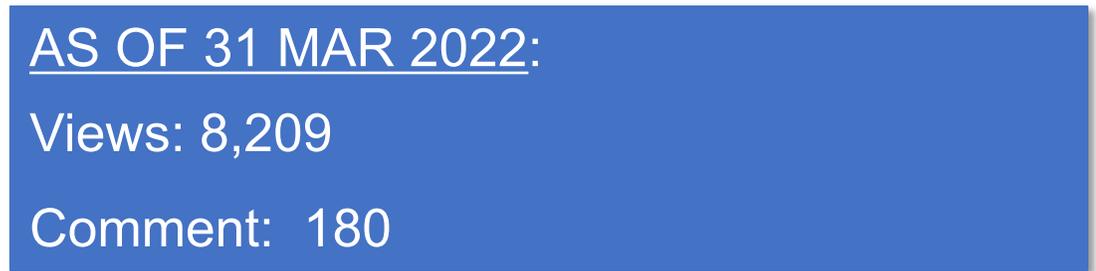


Federal Register Notice (FRN) was published to the Federal Registry on Monday, 24 January 2022

- Public Comment Period Closed on 10 March 2022
- Public comments are visible online
- DHS/Policy Trade & Economic Security (TES) also disseminated weekly batches of public comments to the FLETF working level Points of Contacts.
- TES monitored a dedicated mailbox for any business confidential information provided, consistent with instructions set forth in the FRN.



The screenshot shows the top portion of a Federal Register notice. On the left is the National Archives logo. In the center, the text reads "FEDERAL REGISTER" in large bold letters, with "The Daily Journal of the United States Government" underneath. On the right is the seal of the Archives and Records Administration. Below the header is a blue bar with a white "N" icon and the word "Notice". The main title of the notice is "Notice Seeking Public Comments on Methods To Prevent the Importation of Goods Mined, Produced, or Manufactured With Forced Labor in the People's Republic of China, Especially in the Xinjiang Uyghur Autonomous Region, Into the United States".



A blue rectangular box containing white text. The text reads: "AS OF 31 MAR 2022:" followed by "Views: 8,209" and "Comment: 180".



# CBP's Authority and Guidance



## Presumption

Any goods, wares, articles, merchandise that is mined, produced, or manufactured wholly or in part in XUAR of China will be prohibited under Section 307 and are not entitled to entry even absent a WRO.



## Guidance

CBP may determine whether an importer of record has fully complied with due diligence and evidentiary requirements and provided clear and convincing.



## Awareness

CBP has issued updates to several external stakeholder groups, including the trade community, C-TPAT members, and subscribers to the Cargo Systems Messaging Service.



## Regulations

CBP may implement or amend regulations to implement the presumption.



## Education

Educating the public, trade community, and CBP employees on the UFLPA.



# Rebuttable Presumption

- The UFLPA Establishes a rebuttable presumption that any good produced in whole or in part in the Xinjiang Uyghur Autonomous Region (XUAR) contains forced labor.

*\* ≤ No More Than, ≥ No Less Than; \*\* D+0 is 23 December 2021*

| No. | Task                                    | Days* | D+0** | Date      |
|-----|---|-------|-------|-----------|
| 5   | Rebuttable Presumption Enter Into Force | ≤ 180 | D+180 | 21 JUN 22 |

- Applies to any goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in the XUAR or produced by an entity on a list created by the FLETF.
- UFLPA gives CBP authority to determine exceptions where:
  - Importer of Record has complied with the guidance in strategy.
  - Completely and substantively responded to all inquiries by CBP.
  - Provides clear and convincing evidence that their supply chain is free of forced labor.
- CBP must report to Congress and make public any exceptions.



# Impact of Implementation

- CBP will target shipments subject to the UFLPA based on a thorough review of CBP databases and data holdings to identify any trade entities located in Xinjiang and will apply the presumption to those entities with imports in the past three years.
- CBP will develop a long-range strategy to identify entities that source raw materials from Xinjiang and incorporate them into finished goods that are exported to the United States, regardless of the manufacturer's location.
- In February, CBP identified approximately \$4.3 million worth of goods across that were directly attributable to the XUAR region. The figure for March was \$6.8 million worth of merchandise.
- Broadly speaking, the top three commodities by value imported from the region during this period consisted of chemicals, apparel, and base metal products.
- The top ports of entry for these goods were New York/Newark and Los Angeles/Long Beach.

Commonly exported commodities from XUAR include...

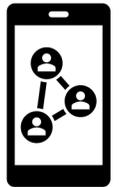
Textiles



Agriculture



Electronics



Chemicals

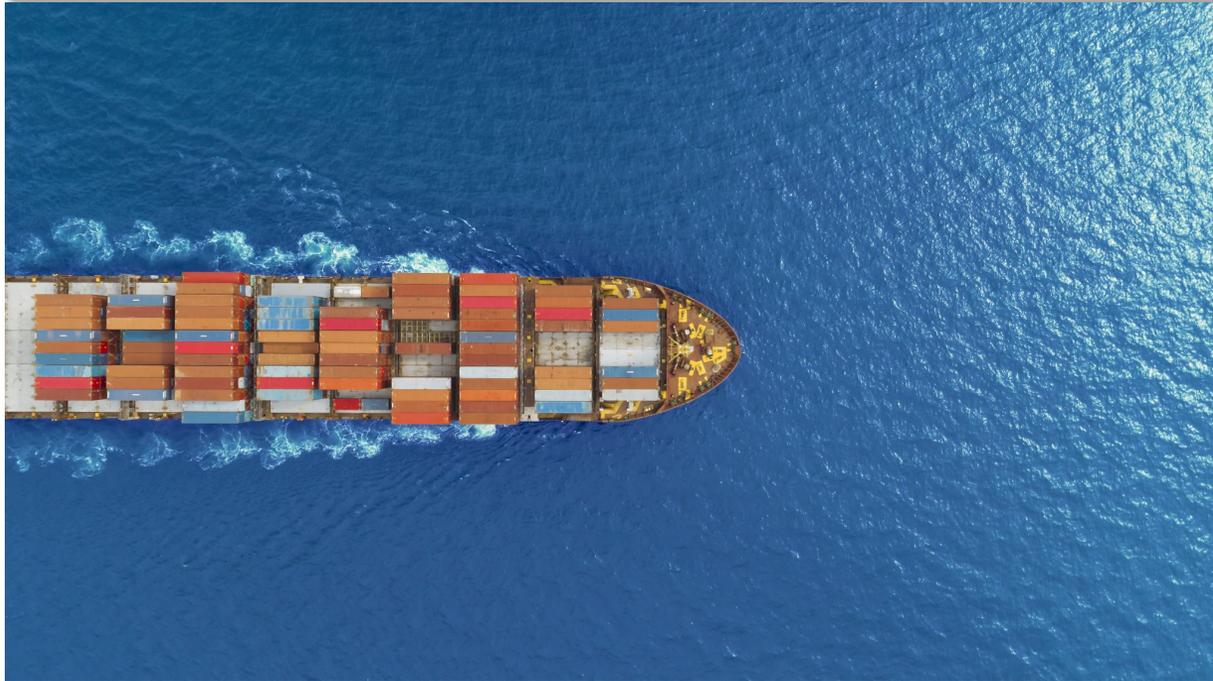


Equipment





# Importer Guidance

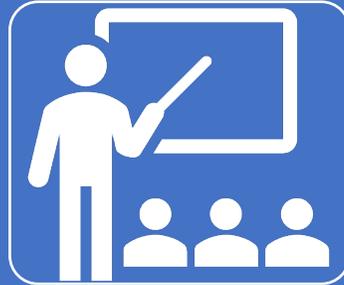


- CBP, working with the FLETF, will develop complementary importer guidance relating to due diligence, effective supply chain tracing, and supply chain management measures to ensure PRC forced labor goods do not enter any U.S. port.
- Specifically, CBP will issue guidance to importers on the type, nature, and extent of evidence needed for importers to demonstrate that goods originating in the PRC were not mined, produced, or manufactured wholly or in part in Xinjiang.
- CBP will publish guidance prior to the June 21 implementation date.



# Communications and Outreach

**CBP is taking a multi-layered approach to promoting implementation of UFLPA provisions**



## Education

- Educating the public, trade community, and CBP employees on the UFLPA



## Guidance

- Informed compliance publications, webinars, digital print materials, web revision, articles, media messages, social media, and education and training materials.



## Awareness

- CBP has issued updates to several external stakeholder groups, including the trade community, Customs-Trade Partnership Against Terrorism (C-TPAT) members, and subscribers to the Cargo Systems Messaging Service (CSMS).



**CBP has also started scheduling training webinars and speaking engagements to discuss the UFLPA with internal and external stakeholders. A sample of these include:**

| Host                            | Engagement  | Format  | Timeframe         |
|---------------------------------|---|---|-------------------|
| Office of Public Affairs        | Agency-wide communication highlighting the UFLPA      |    | June 2022         |
| UFLPA Implementation Task Force | Enforcement guidance to field personnel               |    | May 16, 2022      |
| CBP                             | (3) Field trainings on UFLPA enforcement              |    | June 8 – 20, 2022 |
| CBP                             | (4) Public webinars (UFLPA 101 and Importer Guidance) |   | May 23 – June 32  |
| CBP                             | Trade Association Outreach                            |  | June – July 2022  |





## To contact CBP's Forced Labor Division:

- [forcedlabor@cbp.dhs.gov](mailto:forcedlabor@cbp.dhs.gov)

## CBP's Forced Labor Web Page:

- <https://www.cbp.gov/trade/forced-labor>

## CBP's UFLPA Web Page:

- <https://www.cbp.gov/trade/forced-labor/UFLPA>

## UFLPA inquiries can directed to:

- [UFLPAInquiry@cbp.dhs.gov](mailto:UFLPAInquiry@cbp.dhs.gov)

## CTPAT Program Page:

<https://www.cbp.gov/border-security/ports-entry/cargo-security/ctpat>