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eBook

The UFLPA Handbook

How to Prevent Supply Chain Disruption

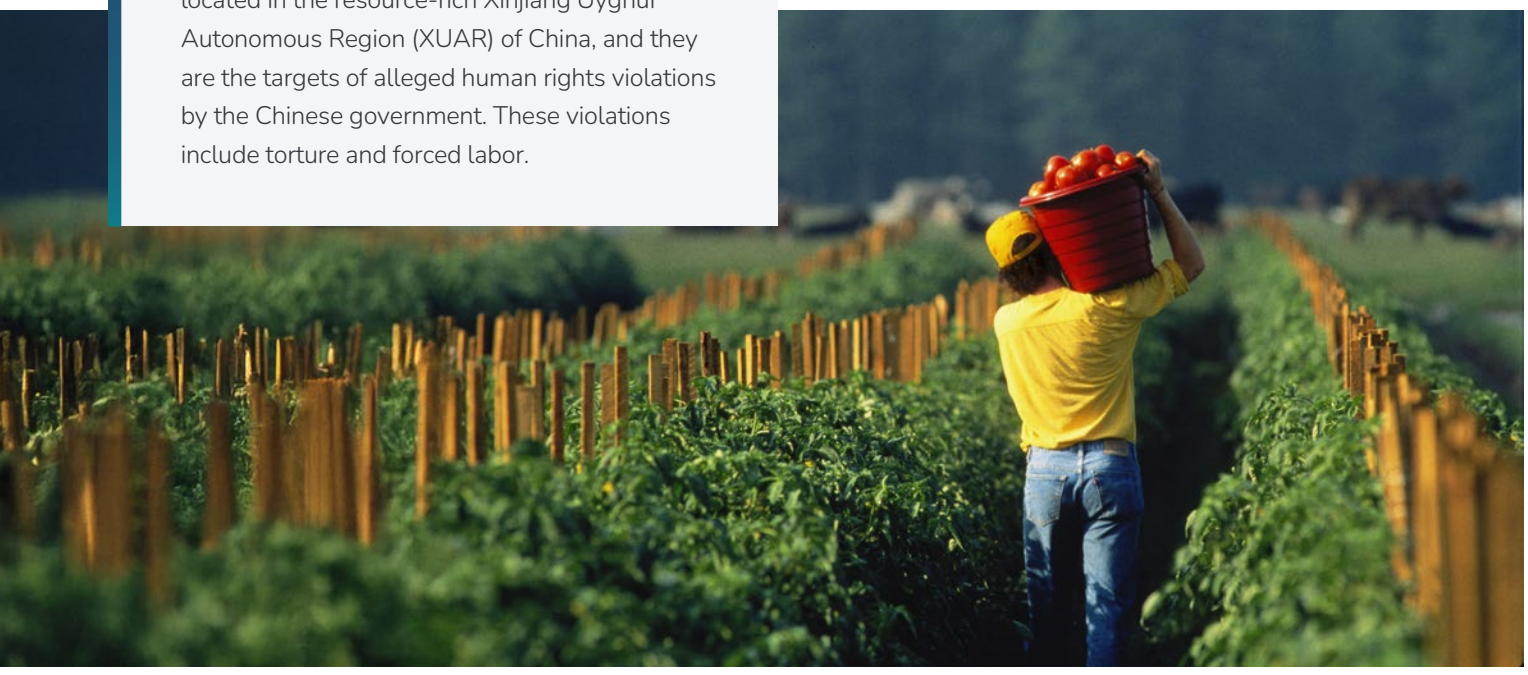
What Is the Uyghur Forced Labor Prevention Act?

If you're importing products to the U.S. market, you need to ensure your suppliers aren't using forced labor to manufacture your parts. Under Section 307 of the Tariff Act of 1930, U.S. Customs and Border Protection (CBP) has the legal authority to detain and deny any goods it identifies as produced with forced labor.

The Uyghur Forced Labor Prevention Act (UFLPA) sets out a rebuttable presumption that any goods mined, produced, or manufactured wholly or in part in the Xinjiang Uyghur Autonomous Region (XUAR) of China are made with forced labor. As such, they are prohibited from entering the United States.

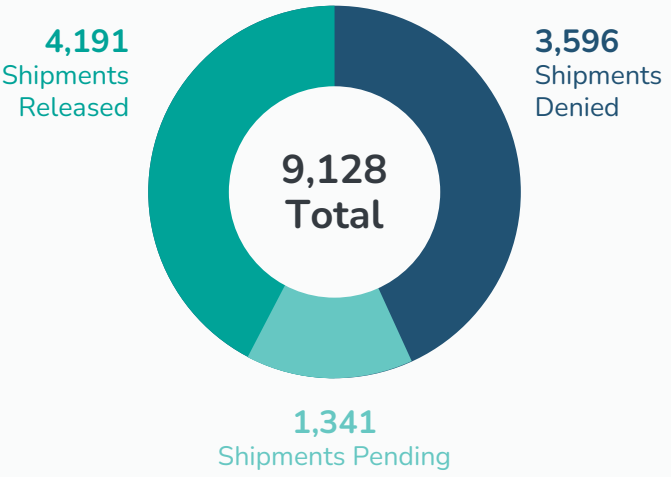
In addition, the UFLPA extends to suppliers known to use forced labor that fall outside the XUAR. These suppliers are found on the Entity List, which is maintained and updated by the U.S. Forced Labor Enforcement Task Force (FLETF). For example, the Entity List covers goods made through forced labor by persecuted minorities such as Kazakhs, Kyrgyz, and Tibetans in other parts of China.

> Uyghurs are a Turkic-speaking ethnic group located in the resource-rich Xinjiang Uyghur Autonomous Region (XUAR) of China, and they are the targets of alleged human rights violations by the Chinese government. These violations include torture and forced labor.



Shipment Count by Industry & Exam Result





Source: https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics

Responsive by Design

The UFLPA was designed to rapidly adapt to new forced labor risks, giving the CBP and FLETF the ability to add new entities and enforcement priorities as needed. For example, in the first two years after UFLPA passed in 2022, 48 entities were added to the Entity List, and multiple sectors were added as high priority for enforcement.[1]

The UFLPA's Impact

Since UFLPA came into effect:[2]

- Over **9,100** shipments, valued at over **$3.4 billion USD**, were reviewed
- Over **3,500** shipments were denied entry
- Over **4,000 shipments containing electronic components** were reviewed
- Malaysia, Vietnam, and Thailand are the top countries of origin for detained shipments

1 U.S. Department of Homeland Security. (2024, July 9). *Fact Sheet: In Just Two Years, Forced Labor Enforcement Task Force and the Uyghur Forced Labor Prevention Act Have Significantly Enhanced Our Ability to Keep Forced Labor Out of U.S. Supply Chains.* https://www.dhs.gov/news/2024/07/09/fact-sheet-just-two-years-forced-labor-enforcement-task-force-and-uyghur-forced

2 CBP. (n.d.) *Uyghur Forced Labor Prevention Act Statistics.* https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics



Enforcement & Business Risks

A Risk-Based Enforcement Approach

CBP is taking a risk-based approach to enforcement, prioritizing certain shipments for inspection. While CBP can detain any shipment it suspects has ties to forced labor, the FLETF enforcement strategy identifies the following as high-priority:

- Silica-based products (including polysilicon)
- Cotton and cotton products
- Tomatoes and downstream products
- Apparel
- Aluminum
- Polyvinyl chloride (PVC)
- Seafood

The Enforcement Process

1. After your shipment has been presented for examination, CBP has **five days** (excluding weekends and holidays) to determine if it should be released or detained.

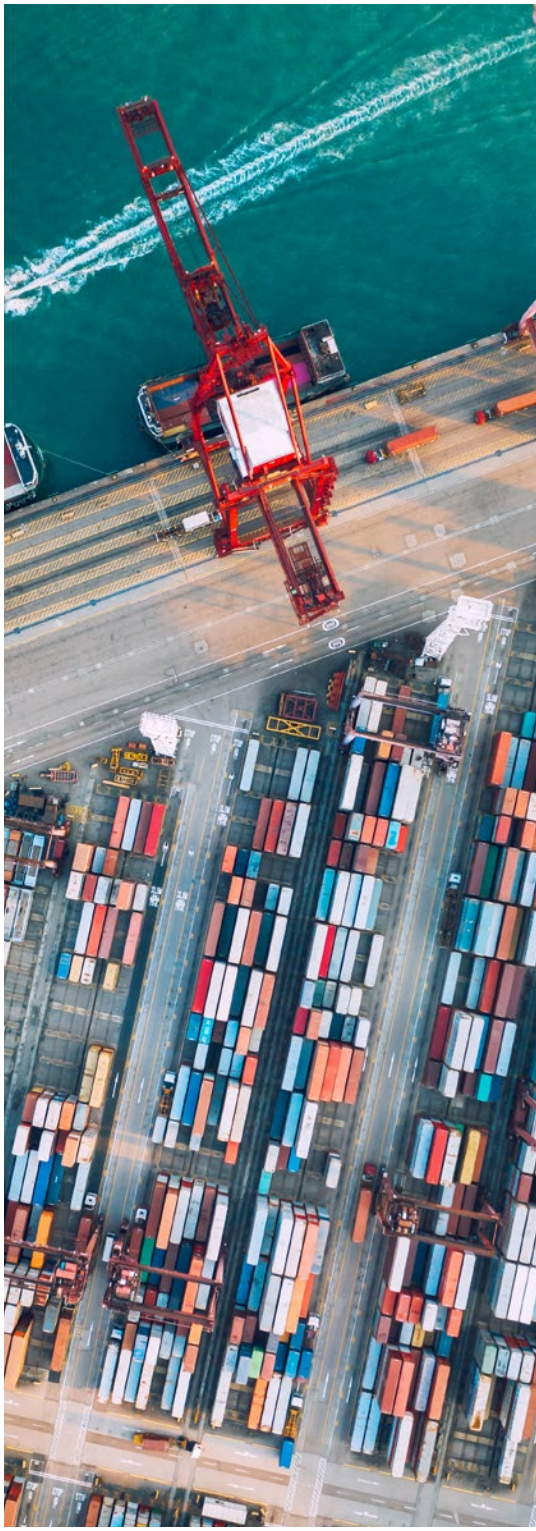
2. If it is detained, CBP will issue you a detention notice with instructions on what your next steps are. You will have **30 days** to either challenge the detention or export the shipment before it is officially seized.

3. After those **30 days**, CBP will issue a ruling on the admissibility of your shipment.

4. If CBP chooses to exclude your shipment, you'll have **180 days** to protest that decision.

5. CBP has **30 days** to respond to your protest. If you don't have clear and convincing evidence, after that, your shipment will be denied.

6. You will have **180 days** to file a court action to challenge CBP's decision.



This enforcement process doesn't give you much time to collect complex forced labor data from your global supply chain. In fact, it's unlikely that any business can collect enough documentation or complete third-party on-site audits within the timeframe. To be prepared for potential UFLPA detainments, you should proactively collect forced labor data from your suppliers for any shipment entering the U.S.



Responding to a UFLPA Detention

If the CBP detains your shipment under the UFLPA, you have three options:

1. Export the goods, provided they are not yet subject to seizure or forfeiture.
2. Prove that the goods are out of the UFLPA's scope with evidence that their inputs are completely sourced from outside XUAR and they have no connection to any entity on the Entity List. You'll require:
    - A detailed description of the supply chain for your goods and their components, including all stages of mining, production, or manufacture, and any steps involving the sourcing, manufacturing, or processing of goods in third countries.
    - Proof that each component of the imported good originated outside of the XUAR.
3. If the shipment is linked to the XUAR or an entity on the UFLPA Entity List, request an exception to the UFLPA and defensibly rebut the forced labor presumption using clear and convincing evidence. The burden of proof for this is extremely high; as of publication of this handbook, no company has been able to meet it.

Risks to Your Business

The UFLPA's potential impacts on your organization extend beyond having a shipment denied at the U.S. border. Unless you already have your defensible supply chain due diligence data available prior to a detention, even a detention ending in your favor can become lengthy and time consuming.

Expensive Delays

During a detention, you'll be responsible for the storage cost of detained goods. The faster you can provide forced labor documentation, the better. Plus, there are potential additional costs to consider, such as retaining legal counsel and the employee hours spent gathering data. If you need third-party audits, that will add further expenses.

Loss of Customers & Contracts

Having your goods delayed or denied at the border can damage your reputation and prevent you from meeting contractual obligations. You may need to pay penalties and lose future business. Because forced labor violations receive a lot of media scrutiny, a brush with non-compliance can also jeopardize future contracts.

Negative Investor Sentiment

Public reports on forced labor in supply chains have made it easier for investors to identify risky investments. Investors are also facing rising public and congressional scrutiny on whether they're funding companies with ties to forced labor.



Proactive UFLPA Compliance

Given how difficult it is to get forced labor data within the UFLPA's timelines, your best approach is to prevent detentions in the first place. You'll need to proactively conduct forced labor due diligence and collect data on labor practices deep in your supply chain.

CBP documentation lays out steps to defensible forced labor due diligence.[3] They include:

- Direct stakeholder engagement to assess risk
- Supply chain mapping down to raw materials
- Forced labor requirements written into your supplier code of conduct
- Training suppliers, employees, and agents on requirements
- Monitoring supplier human rights compliance
- Dealing with forced labor risks or terminating supplier relationships
- Third-party verification of due diligence
- Public supply chain sustainability reporting



3 U.S. Customs and Border Protection. (2022, June 13). *U.S. Customs and Border Protection Operational Guidance for Importers*. https://www.cbp.gov/sites/default/files/assets/documents/2022-Jun/CBP_Guidance_for_Importers_for_UFLPA_13_June_2022.pdf



Proactive Compliance Strategies

Global supply chains are complex, They are full of language and cultural barriers, and competing priorities. To top it all off, forced labor data is notoriously difficult to capture, as bad actors take steps to conceal it. Here are some strategies to streamline your forced labor due diligence, reducing your overall effort and improving data quality.

Direct Engagement

It can be difficult and costly to regularly reach out to suppliers and ask them for forced labor data. Suppliers may not understand what you're asking for, they might not understand the language you're using, and they may need to contact their own supply chains to get the data you need.

To improve supplier engagement with your forced labor program, focus on removing supplier barriers and automating as much manual work as possible:

- Provide education on the UFLPA and forced labor due diligence so suppliers know what types of risk you're looking for
- Give suppliers a secure online portal where they can submit data, rather than ask them to send you spreadsheets
- Ensure communications are done in a language they understand; for overseas suppliers covered by the UFLPA, this may not be English
- Automate supplier outreach to reduce manual effort
- Use technology to automate supplier response screening to flag forced labor risks and validate data submissions
- Streamline your supplier surveys to minimize the number and frequency of forms you're asking them to submit; this will reduce supplier fatigue



For a deep dive into these strategies and even more expert tips to reduce your forced labor risks, download Assent's guide, *Three UFLPA Compliance Tactics: Critical Steps to Avoid Disruption & Improve Your Program.*

Read Now

Indirect Engagement

Because forced labor can be hidden deep in your supply chain, you need a risk assessment process in addition to direct engagement. After all, a supplier with ties to forced labor isn't likely to come clean just because you asked nicely.

Indirect engagement means taking measures like monitoring government and non-governmental organization (NGO) lists for mentions of your suppliers. It also includes researching the parent companies and any business associations of your suppliers. For example, Assent's Forced Labor solution includes enhanced supplier screening that monitors:

- Millions of traditional media sources, including paywalled and print media
- Sanctions and watch lists, including the Office of Foreign Assets Control (OFAC) and denied parties lists
- Social media
- Other publicly available sources
- Sources from 182 countries and 18 languages



Supply Chain Data Best Practices

The U.S. Department of Homeland Security and CBP officially recommend that "importers should have an information system to manage supply chain management data, including mapping and risk and impact assessment information, which should be entered into this system and updated on a regular basis."[4] Having a supply chain sustainability management solution in place is essential to proactive due diligence for the UFLPA.

Assent's Forced Labor solution gives you a 360-degree view of the forced labor risks in your supply chain. We support direct supplier engagement to survey for labor practices, plus indirect monitoring to catch forced labor risks that surveys might miss. Our monitoring services alert you if ties to sanctioned entities are discovered, so you aren't caught by surprise. You'll have the data you need to avoid the risk of forced labor hidden in your supply chain, and defensible due diligence documentation every step of the way.

The Assent platform makes it easier and faster for your suppliers to submit data. They'll have access to a secure digital data portal, regulatory training materials, and multiple language options for surveys and support.

4 Department of Homeland Security. (2022, June 17). *Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China. Report to Congress.* https://www.dhs.gov/sites/default/files/2022-06/22_0617_fletf_uflpa-strategy.pdf.

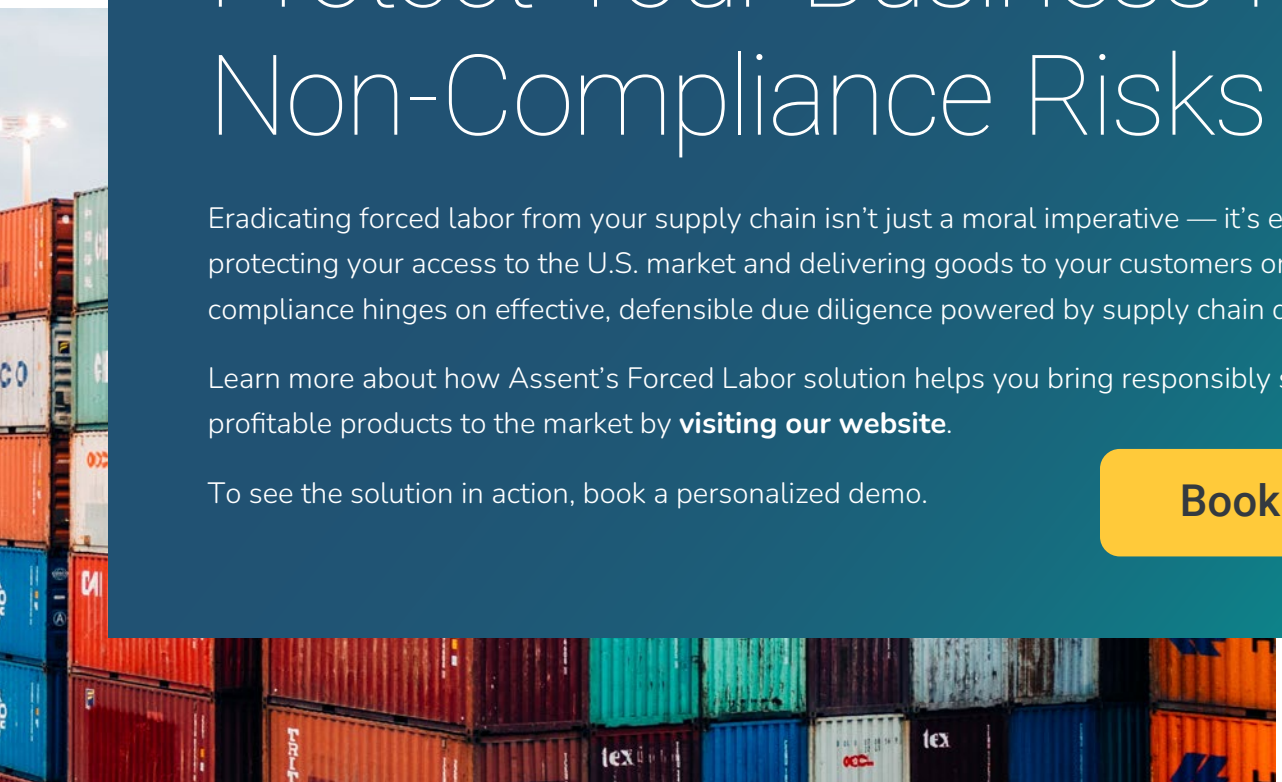
Protect Your Business From Non-Compliance Risks

Eradicating forced labor from your supply chain isn't just a moral imperative — it's essential to protecting your access to the U.S. market and delivering goods to your customers on time. UFLPA compliance hinges on effective, defensible due diligence powered by supply chain data.

Learn more about how Assent's Forced Labor solution helps you bring responsibly sourced and profitable products to the market by **visiting our website**.

To see the solution in action, book a personalized demo.

Book a Demo



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