

■ KEY INSIGHTS

Managing Supply Chain Integrity Risks

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The U.S. government is increasingly emphasizing the importance of supply chain integrity, particularly in relation to eliminating the use of forced labor and human trafficking for goods imported into the United States. These efforts include the Uyghur Forced Labor Prevention Act (UFLPA), which targets goods that are sourced in whole or in part from the Xinjiang Uyghur Autonomous Region (XUAR) within China, with all such goods presumed to be products made using the exploitation of the Uyghur people.

With this commitment comes increased enforcement, including from the Office of Foreign Assets Control (OFAC) on companies sourcing from sanctioned countries such as North Korea, and by Customs and Border Protection (CBP), regarding detentions of goods suspected to be made with forced labor. These developments particularly impact industries that rely on complex global supply networks such as the automotive industry. The U.S. Senate Finance Committee concluded in its May 2024 investigation report, “Insufficient Diligence: Car Makers Complicit with CCP Forced Labor,” that many major automakers have failed to vet their supply chains adequately for Chinese components made with forced labor.¹ This finding prompted Finance Committee Chair Ron Wyden to state that “automakers’ self-policing is clearly not doing the

job” as he called on CBP to “supercharge enforcement and crack down on companies that fuel the shameful use of forced labor in China.”²

Regardless of the industry, the message from the U.S. government is simple: Companies that source from abroad need to take full responsibility for ethical sourcing throughout their supply chains. Further, with all imported goods subject to the scrutiny of CBP — which now has augmented enforcement resources to identify goods suspected to be sourced in violation of supply chain integrity laws — companies need to understand the new enforcement paradigm and take steps to ensure they know how and where their products’ components are sourced, right down to the last sub-supplier.

A well-designed supply chain integrity program addresses all elements of supply chain risk, including forced labor, human trafficking, UFLPA, supply chain transparency requirements, conflict minerals, sourcing from sanctioned countries, and other regulations aimed at supply chain integrity. To this end, regulators expect that importers will (i) conduct systematic, regular due diligence; (ii) adopt appropriate risk-based compliance measures and internal controls; (iii) reinforce these compliance requirements and internal controls through regular training; and (iv) proactively gather and maintain information showing that goods comply with supply chain integrity requirements.

1 See U.S. Senate Committee on Finance, “[Automakers Shipped Cars and Parts Made by Chinese Company Banned for Forced Labor to the United States; Car Companies Are Failing to Police Their Supply Chains For Chinese Components Made with Forced Labor](#), Finance Committee Majority Staff Investigation Finds” (May 20, 2024).

2 *Id.*

To aid importers in complying with these new expectations, this white paper provides compliance best practices for managing supply chain integrity risks. Part I provides an overview of forced labor and UFLPA requirements and their implications for importers. Part II outlines six steps companies can take to strengthen their supply chains and ensure compliance with U.S. import laws. Part III outlines best practices for responding to CBP detentions and admissibility reviews under the UFLPA. Finally, the Annex addresses common supply chain risk-management failures, providing guidance on how to identify and remediate these issues effectively.

Part I. Forced Labor, Human Trafficking, and UFLPA Requirements

Forced labor and human trafficking are global concerns prompting regulatory responses from numerous countries and even California, all designed to prevent the availability of goods produced through labor exploitation. In the United States, the UFLPA establishes a rebuttable presumption that any goods mined, produced, or manufactured wholly or in part in the XUAR are made with forced labor and therefore prohibited from entry into the United States unless the importer can provide clear and convincing evidence to the contrary. The UFLPA builds upon existing U.S. laws, including the Tariff Act of 1930, which ban the importation of goods made with forced labor and expands enforcement measures available to CBP. Importers must understand CBP's stringent compliance expectations to ensure their supply chains are devoid of forced labor, human trafficking, or connections to the XUAR, including through enhanced supplier due diligence, supply chain tracing, and maintenance of supporting documentation.

A. Forced Labor and Human Trafficking Prohibitions

Forced labor refers to work or services that individuals are compelled to perform under threat or coercion, often involving debt bondage, restrictions on movement, withholding of wages, or threats to the worker or their family members. Human trafficking is the transporting of individuals through force, fraud, or coercion for labor or other purposes. These practices are not only serious human rights violations but also pose significant legal and reputational risks for companies with global supply chains. CBP actively scrutinizes imports for forced labor concerns, with the authority to detain goods suspected of being produced with forced labor or employees that are victims of human trafficking. CBP also can issue Withhold Release Orders (WROs), preventing the entry of such goods into the U.S. market until the importer provides sufficient evidence that the products are free of any taint of forced labor or human trafficking.

B. UFLPA Prohibitions

The UFLPA is the most prominent pillar of U.S. efforts to combat forced labor and human trafficking, specifically targeting goods linked to China's XUAR. As part of the broader legal framework targeting forced labor, this statute builds upon existing prohibitions against importing forced labor-made goods by mandating heightened supply chain due diligence, traceability, and transparency for U.S. importers. CBP enforces the UFLPA principally through detentions, making it a critical tool in the fight against forced labor and human trafficking and the goal of ensuring that companies uphold ethical sourcing practices.



1) Overview of the UFLPA Requirements

Under the UFLPA, the following goods are presumed to be the product of forced labor and are barred from entering the United States:

- Goods wholly or in part mined, manufactured, or produced in the XUAR;
- Goods produced by entities that work with the Xinjiang regional government to recruit, transport, transfer, harbor, or receive forced labor out of Xinjiang;
- Products exported to the United States that are (i) made wholly or in part in Xinjiang or (ii) made by entities that work with the Xinjiang regional government to recruit, transport, transfer, harbor, or receive forced labor out of Xinjiang;
- Goods from companies that source material from Xinjiang;
- Goods from companies that source material from persons working with the Xinjiang regional government or the Xinjiang Production and Construction Corps (XPCC) in connection with government programs that use forced labor, such as the “poverty alleviation” and “pairing-assistance” programs; or
- Goods linked with companies on the UFLPA Entity List.

Notably, this presumption is not limited to goods produced by companies located in Xinjiang. It also applies to products made by companies outside of the XUAR or China if they source material from the XUAR or if even a portion of the inputs to the product was sourced from the XUAR. A list of companies on the current UFLPA Entity List, or that otherwise have taken actions that violate the UFLPA, can be found on the regularly updated [DHS UFLPA Entity List](#).

Under the UFLPA, the presumption of forced labor is rebuttable only if an importer can demonstrate to CBP that:

- Even though the goods are linked to the XUAR, they in fact were not produced wholly or in part by convict labor, forced labor, or indentured labor;
- The importer has complied with diligence requirements; and
- The importer has been responsive to CBP follow-up inquiries.

In practice, these standards have proved very difficult to meet. The reality is, the only real way to have goods released after a UFLPA detention is to demonstrate that the goods do not in fact incorporate any parts and components from, and are not in any other way linked to, the XUAR or to a company on the UFLPA Entity List.



2) CBP's UFLPA Expectations

In 2024, the Forced Labor Enforcement Task Force (the U.S. government interagency group responsible for the enforcement strategy to implement the UFLPA) held a public meeting to discuss UFLPA enforcement, resulting in the release of several compliance-related documents. These publications represent good guidance regarding the government's expectations, not only for UFLPA compliance but also for supply chain integrity compliance in general:

- Four agencies released the [“Xinjiang Supply Chain Business Advisory”](#) and the [“Addendum to the Xinjiang Supply Chain Business Advisory,”](#) which provide strategies importers should use to prevent the use of forced labor relating to the XUAR.
- The Department of Homeland Security's guidance to importers, found in its Report to Congress on its [“Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China,”](#) provides due diligence and compliance best practices.
- CBP's [“Uyghur Forced Labor Prevention Act: U.S. Customs and Border Protection Operational Guidance for Importers”](#) provides strategies for complying with the UFLPA as well as guidance regarding what types of information CBP is seeking in an admissibility review.
- [CBP's Frequently Asked Questions on the UFLPA](#) provide responses to common questions on UFLPA compliance.
- CBP's [“Best Practices for Applicability Reviews: Importer Responsibilities”](#) provides advice regarding how to respond when CBP receives a UFLPA detention notice.
- CBP's [“Guidance on Executive Summaries and Sample Tables of Contents: Preparing a UFLPA Applicability Review Submission”](#) provides a sample organization for providing “documentation produced in the ordinary course of business that details the order, purchase, manufacture, and transportation of inputs throughout their supply chain,” thereby providing CBP with “clear and convincing evidence” that a given shipment should be released if the documentation shows the goods were not produced, in whole or in part, in violation of the UFLPA.





Parsing the import expectations found in these documents illustrates the following:

First, CBP expects importers to conduct systematic, regular due diligence. More specifically:

- Importers should engage with suppliers and other supply chain participants.
- Importers should assess forced labor risks throughout their supply chains, from raw material inputs to production of the product to be imported into the United States.
- Importers should map out and understand their supply chains, right down to the last sub-supplier.

Second, CBP expects importers to adopt appropriate, risk-based compliance measures and internal controls:

- Importers should incorporate terms and conditions into all of their long-term agreements, purchase

orders, and other legal documents that require compliance with forced labor, human trafficking, and UFLPA requirements.

- Importers should adopt a written supplier code of conduct forbidding the use of forced labor and the use of products obtained, in whole or in part, in violation of the UFLPA.
- Importers should monitor supplier compliance with the code of conduct.
- Importers should use effective supply chain tracing and supply chain management measures to support due diligence processes.
- Importers should obtain evidence of supplier remediation of any forced labor conditions identified or termination of the supplier.
- Importers should obtain independent verification of the implementation and effectiveness of importer's due diligence.

Third, CBP expects importers to use compliance training to reinforce UFLPA compliance requirements, including training on forced labor risks and the UFLPA for employees and agents who select, oversee, and interact with suppliers.

Fourth, CBP expects companies to proactively gather and maintain information showing their goods comply with the UFLPA requirements. The type, nature, and extent of evidence that can overcome the presumption that goods originating in China were not created “wholly or in part” in Xinjiang or are not otherwise products of forced labor programs includes:

- Evidence regarding inputs from China generally or the XUAR specifically, including the identity and location of all suppliers providing parts, components, and sub-components;
- Evidence permitting tracing of specific materials or component inputs, to negate any link to the XUAR;
- Evidence permitting tracing to specific manufacturing, mining, or production sites, again to negate any link to the XUAR;
- Evidence regarding compliance policies, internal controls, labor and recruitment policies, and other site-specific information verifying the lack of any forced labor or XUAR-related inputs; and
- Evidence of the conduct of risk-based audits to verify compliance.

Fifth, CBP expects importers to respect its advice regarding best practices for UFLPA compliance, including:

- **Using a risk-based approach to conduct due diligence:** DHS implementation guidance identifies designated UFLPA high-risk products/industries, which currently includes cotton, polysilica, polyvinyl chloride, aluminum, and seafood. Additional public information regarding other potential high-risk products is issued from time to time, with recent reports flagging vinyl flooring and batteries as products of concern. Importers should maintain awareness of red flags for UFLPA or forced labor concerns in their product lines and use those to guide due diligence priorities.
- **Effective supply chain tracing:** DHS has indicated that importers should use a combination of direct questionnaires for first-tier suppliers, contractual provisions and flow-down requirements, due diligence (including third-party due diligence), and screening of UFLPA-listed entities to all parties identified in the supply chain, including sub-suppliers.
- **Addressing problematic Chinese programs in regions other than Xinjiang:** Although not strictly a UFLPA concern, DHS and CBP also are focused on suppliers in China that use programs that may be presumed to

have forced labor inputs. Importers need to factor this into their due diligence on suppliers not sourcing products directly from Xinjiang.

Sixth, CBP expects importers to document that their products do not violate the UFLPA, to allow prompt responses to CBP admissibility reviews. At a minimum, this includes documentation for each tier of supplier, which includes:

- The name and address of the specific location from which items were sourced;
- A description of the item(s) supplied;
- The purchaser of the item(s) supplied;
- The date of transaction(s) and value of the transaction(s); and
- Evidence of controls or risk mitigation measure taken by specific supplier(s) and/or site location(s) to minimize the risk of forced labor inputs or sourcing in violation of the UFLPA.

With CBP having detained over 15,500 shipments, worth over \$3 billion, it is apparent that importers need to take this import guidance seriously. The next section provides a six-step compliance and due diligence program to help importers at risk of UFLPA or forced labor-based detentions implement these CBP expectations.



Part II. Supply Chain Integrity: Six Steps to Compliance

Maintaining supply chain integrity is essential for companies seeking to comply with forced labor and human trafficking laws, including avoiding detentions under the UFLPA. A robust compliance program helps businesses identify and mitigate risks, enhance supply chain transparency, and demonstrate appropriate due diligence to CBP. This part outlines six steps companies can take to strengthen supply chain integrity, minimize exposure to forced labor and UFLPA risks, and navigate the complex regulatory landscape effectively.

1 Map Your Supply Chain

The first step is to understand all actors in your supply chain. You should map out your supply chain, including sub-suppliers (and their sub-suppliers), to ensure you have identified potential risk points relating to potential sourcing from the XUAR or the use of forced labor or human trafficking in other high-risk areas. The review should cover the origin of the imported goods and any raw materials or components in the imported goods. Items to consider in a supply chain mapping exercise include the following:

- Identifying transactions among entities along the supply chain tied to specific imported goods.
- Identifying locations and identities of entities in the supply chain, their sub-suppliers, and their business relationships.
- Using publicly available resources to estimate the probability that raw materials or components originated in the XUAR or that indicate an enhanced probability of a supplier using forced labor.
- Staying alert to red flags that could indicate the use of unauthorized sub-suppliers, such as the sourcing of raw materials or components that do not originate from the stated location or inputs from countries that are known to lack production capacity.

- Requiring suppliers to regularly update you whenever they bring a new sub-supplier on board, so you can keep your supply chain map current.

2 Conduct Due Diligence on Key Suppliers

Due diligence is a key component of supply chain compliance. Key items to include in your supply chain due diligence strategy include a detailed description of the supply chain for the imported good and its components, including ties to the supply chain map. Items to cover include the following:

- Due diligence should include documentation regarding how (i) the imported good progressed from raw materials to finished good; (ii) by what entities (and where), including all in-house manufacturing, sub-assembly operations, and outsourced production related to the imported good; (iii) the roles of the entities involved at each stage of the supply chain; and (iv) the relationship between the entities, including whether a supplier also is a manufacturer.
- For goods originating in China or that rely on Chinese parts and components, which are at higher risk, there should be due diligence conducted to show there are no links to the XUAR, to companies on the UFLPA Entity List, or other links to the use of labor linked to the XUAR.





- Although UFLPA concerns are at the forefront, because they constitute the majority of CBP detentions, due diligence also should focus on general indicators of forced labor, including intimidation and threats, abuse of vulnerability, restriction of movement, isolation, abusive living and/or working conditions, and excessive hours. Evidence may include the following:
 - The previously mentioned supply chain map;
 - Evidence to demonstrate how and to whom wages are paid at each supplier and sub-supplier;
 - Evidence regarding whether the worker comes from the XUAR and the worker's residency status;
 - Evidence to demonstrate that production of the goods is consistent with the documented workers, including their number, the total materials produced, and the total volume of output; and
 - Information relating to hours worked and the output of the relevant goods.
- Information showing the supplier and sub-suppliers have controls in place to ensure all workers are voluntarily recruited.
- Evidence demonstrating that any worker is working voluntarily and without threat of penalty, including credible evidence that each worker:
 - Was voluntarily recruited to work;
 - Was recruited and continued at the job without coercion;
 - Was recruited free of any forced labor indicator, including detention, threats of detention, detention or threats of detention of family members, or forced transfer of land to the government;
 - Was transferred to the entity in a voluntary fashion, free of any forced labor indicator, including government surveillance; and
 - Was living and working in conditions free of any forced labor indicator, including government surveillance, reporting to the government, restriction of movement, or required indoctrination activities such as political, language, or cultural classes.

3

Ensure Due Diligence and Compliance Extend to Sub-Suppliers

Because both the UFLPA and forced labor liability under other regulations can arise from activities by sub-suppliers, it is essential to identify the provenance of each component of the imported good. Due to this possibility, supply chain mapping should work through to the last sub-supplier. This requires working with suppliers to identify sub-suppliers that might not be known to your company. When possible, you should use unique identifiers to track raw materials and other inputs through the supply chain. This may require the use of tracking methodologies to deal with inputs from different suppliers that might be commingled.

4 Develop Legal Protections

Appropriate forced labor and UFLPA risk management requires adopting a layered approach to compliance. One of the layers of protection is the adoption of appropriate legal protections.

The first step is to develop a vendor code of conduct, which lays out the legal obligations that govern the relationship with suppliers as well as the contractual obligations to abide by all ethical sourcing contractual provisions. The code of conduct should specifically address the risk of use of government labor schemes such as pairing assistance, poverty alleviation, or other labor transfer programs that involve potential violations of the UFLPA. The vendor code of conduct should also cover the requirement not to use any companies on the UFLPA Entity List.

As part of a layered approach to compliance, you should incorporate the code of conduct into all supplier contracts, whether through explicit contractual provisions in long-term agreements and purchase orders or through incorporation of the vendor code of conduct requirements by reference. These provisions should include not only the legal obligation to comply with forced labor and UFLPA regulations but also incorporate such compliance measures as allowing auditors and verification organizations necessary access to facilities.

Your legal agreement with your suppliers should require that they flow down all forced labor, human trafficking, and UFLPA compliance requirements to all of their suppliers. The flow-down requirements should mirror the strength of your own code of conduct and should require that your direct supplier (i) ensure that sub-suppliers train employees on detecting forced labor, (ii) conduct self-audits or obtain independent audits (including regarding recruitment of workers and use of government labor programs), (iii) track and report on their performance of these compliance requirements, and (iv) require and monitor subcontractor adherence to the code of conduct.

5 Communicate and Train Across the Supply Chain

You should provide training to employees or agents responsible for selecting suppliers, regarding (i) the conduct of a forced labor/UFLPA risk assessment, (ii) identifying the risks of forced labor identified by risk assessments, (iii) the legal restrictions and consequences of importing into the United States goods produced with forced labor, (iv) the presumption that goods made in the XUAR or by companies on the Entity List are made using forced labor, (v) the risks posed by products that incorporate goods using forced or UFLPA labor, (vi) the risks of suppliers being included on future additions to the UFLPA Entity List, and (vii) the requirements of the company's code of conduct.

You should communicate the applicable legal and contractual requirements to suppliers at all tiers of the supply chain. You also should provide training regarding forced labor, human trafficking, and UFLPA issues to all key suppliers while also providing such training to sub-suppliers or requiring such training from your own suppliers.

6 Monitor Compliance & Remediate Compliance Missteps

You should monitor supplier compliance with the code of conduct and all legal and contractual provisions requiring supply chain compliance. You also should remediate any forced labor conditions or UFLPA violations and terminate the supplier relationship if remediation is not possible or is not timely completed.

If your company identifies indicators signifying the presence of forced labor in the supply chain or violations of the UFLPA, the company should cease importing impacted goods prior to remediation. If you intend to continue sourcing inputs from the supplier, you must develop a corrective action plan that specifically addresses all indicators of forced labor or eliminates the UFLPA concerns.

Finally, you also should consider using, on a risk-adjusted basis, independent third-party verification regarding the effectiveness of your company's due diligence system. Third-party verification also can be helpful in periodically assessing the effectiveness of system components for ensuring that the supply chain is free of forced labor.

Part III. Best Practices for Handling CBP's UFLPA Detentions and Admissibility Reviews

In Parts I and II, above, we summarized forced labor requirements and supply chain integrity best practices. In this section, we provide guidance regarding steps that importers can take if they have goods detained by CBP for UFLPA concerns and now must go through a UFLPA admissibility review.

As noted in Part I, CBP has provided detailed guidance to the importing community. The new CBP guidance materials signal that CBP is putting significant emphasis on UFLPA enforcement, is looking to help the trade community submit uniform submissions to help CBP quickly finish each investigation, and has no plans to ease enforcement, particularly against identified high-priority sectors. Further, with CBP adding new high-priority sectors (PVC and aluminum, on top of already-identified focus areas of cotton, polysilicon, and tomatoes), it is apparent that CBP is enhancing its enforcement efforts.

Accordingly, companies that frequently import from Southeast Asia, or that otherwise have imports at a high risk for detention, should maintain information to support the clearance of such goods even before importation. This is especially true for items where a heightened risk of a detention under the UFLPA is concerned.

For these goods, an action plan of response includes the following:

1 Identify Potential UFLPA Issues

One frustration that importers have under the UFLPA is that CBP will not provide the importer with the reason for any given detention. While some detentions may be obvious, such as attempted imports of products made by companies on the UFLPA Entity List, products made from non-identified companies or from companies that have no suspected supply chain exposure to the XUAR may prove more difficult to solve. It appears, however, that CBP is targeting imports based mostly on public, open-source information as well as its prior enforcement activity. Thus, research into publicly available sources often is required to determine why a given set of entries is detained. This puts a premium on companies carefully monitoring reports occasionally released by the media, non-governmental organizations, and academic organizations that are focused on forced labor, human trafficking, and the use of labor from the XUAR.



Another useful tool that can help guide due diligence is the [UFLPA Dashboard](#), which provides UFLPA enforcement statistics that can be filtered by dollar value, country of origin, commodity, and the timing of detention. The UFLPA Dashboard currently shows there have been over 15,500 total detentions, at a value over \$3 billion, primarily in the electronics, apparel, industrial and manufacturing materials, agricultural, consumer products, pharmaceuticals, base metals, machinery, and automotive and aerospace sectors. Among other surprising facts that would not be immediately relevant, the Dashboard shows that China is not the most common source of detentions — that position belongs to Malaysia, with Vietnam, Thailand, China, and India rounding out the list. The presence of these other countries shows the key role that Chinese-origin components often play as inputs. The fact that most of the detained shipments are from countries other than China shows that importers should not limit their UFLPA risk assessment to suppliers located in just that country. This is consistent with the CBP Best Practices document, which states that importers should identify “manufacturers in regions and third world countries with a high risk of XUAR inputs.”



2

Promptly Respond to a UFLPA Notice from CBP

After a detention, it is critical to immediately contact the CBP point of contact listed on the detention notice to establish contact and to begin a dialogue to address all CBP concerns. CBP will give the importer 30 days to export the goods or submit documentation to dispute the detention. This is a serious deadline, and you must comply with it. If you need an extension, CBP will work with you provided you request it in advance of the due date. Also, if your company is a Customs-Trade Partnership Against Terrorism (CTPAT) partner, your admissibility packages will be prioritized for review by the appropriate Center for Excellence and Expertise.

3

Prepare a UFLPA Response Package

Although CBP has stated it will not provide an authoritative list of documentation and information needed to clear a shipment under the UFLPA (favoring instead a review that examines the “totality of information”), its guidelines for admissibility packages provide a useful starting point for putting together responses to UFLPA detention notices. Following these guidelines is important because it streamlines review. CBP estimates an admissibility review can take two or three weeks, but providing information that is incomplete or poorly organized can extend this timeline as importers engage in extended back-and-forth and collection of additional traceability documentation to allow CBP to clear a given shipment.

In preparing your response packet, you should ensure the documentation is complete and accurate and that English translations are available for ready comprehension by CBP. If the submission is a follow-up to a previously reviewed supply chain for which the goods were deemed admissible, you should provide a copy of the previous clearance and lay out the similarities with the current admissibility review. This can most easily be done by providing a summary report that includes the previous entry packet and a showing that the suppliers/producers at all stages of production and relevant commercial records support the same conclusion for the current shipment.

It is common for CBP to have follow-up questions. If so, you should provide the requested additional information promptly to avoid significant delays.

The task of putting together a UFLPA response is considerably aided by CBP’s publication of a model [“Table of Contents”](#) for a UFLPA Applicability Review Submission. You should provide information that follows this model, supplementing it where needed with information tailored to your particular proof. You also should uniformly follow the suggestion that each submission include an Executive Summary summarizing the documentation. The easier the submission is to follow, the quicker the potential release time by CBP.

To expand on the suggested UFLPA Table of Contents, consider providing detailed information regarding the following topics:

Evidence Pertaining to Overall Supply Chain

- A detailed description of the supply chain, including ties to the imported merchandise and components thereof and including all stages of mining, production, and manufacture. If you previously have prepared a supply chain map, this will allow you to put the information together quickly and easily.
- A list of suppliers and sub-suppliers associated with each step of the production process, including names and contact information.
- The roles of the entities in the supply chain, including manufacturers, shippers, and exporters, as well as any related persons;
- Affidavits from each entity involved in the production process.
- Items relating to the shipments that tie to the entries, such as purchase orders, packing lists, and shipping records (manifests and bills of lading).
- Invoices and receipts for all suppliers and sub-suppliers.
- Bills of materials and certificates of origin.
- Payment records.
- Buyer and seller inventory records, including dock/warehouse receipts.
- Any other relevant import/export records.

Information on Supply Chain Management Measures

This may include internal controls to prevent or mitigate forced labor risk and any remediation steps used to eliminate any forced labor in the mining, production, or manufacture of imported goods. You should include copies of all of your compliance documents, such as your vendor code of conduct and other information relating to compliance with forced labor, human trafficking, and UFLPA measures. This includes copies of any UFLPA audits done in the recent past, relating to the suppliers/sub-suppliers at issue.



Evidence Pertaining to Miner, Producer, or Manufacturer

- The evidence listed above pertaining to merchandise or components for raw materials applies equally to mined, produced, or manufactured goods. Any production records that help CBP understand the labor situation, in particular, are often helpful in clearing goods. These can include mining, production, or manufacturing records to allow CBP to trace raw materials to merchandise mined, produced, or manufactured; production orders; and reports regarding factory production capacity for the merchandise.
- Evidence that the volume of inputs of component materials matches the volume of output for the merchandise produced will help show the claimed supplier is in a position to actually have produced the merchandise.
- Reports on factory site visits by the importer, evidence of audits or compliance checks, or a downstream supplier sourcing from the factory or a third party, are other forms of important evidence.
- Additionally, consider including any other relevant evidence to demonstrate that a good was not mined, produced, or manufactured with forced labor.

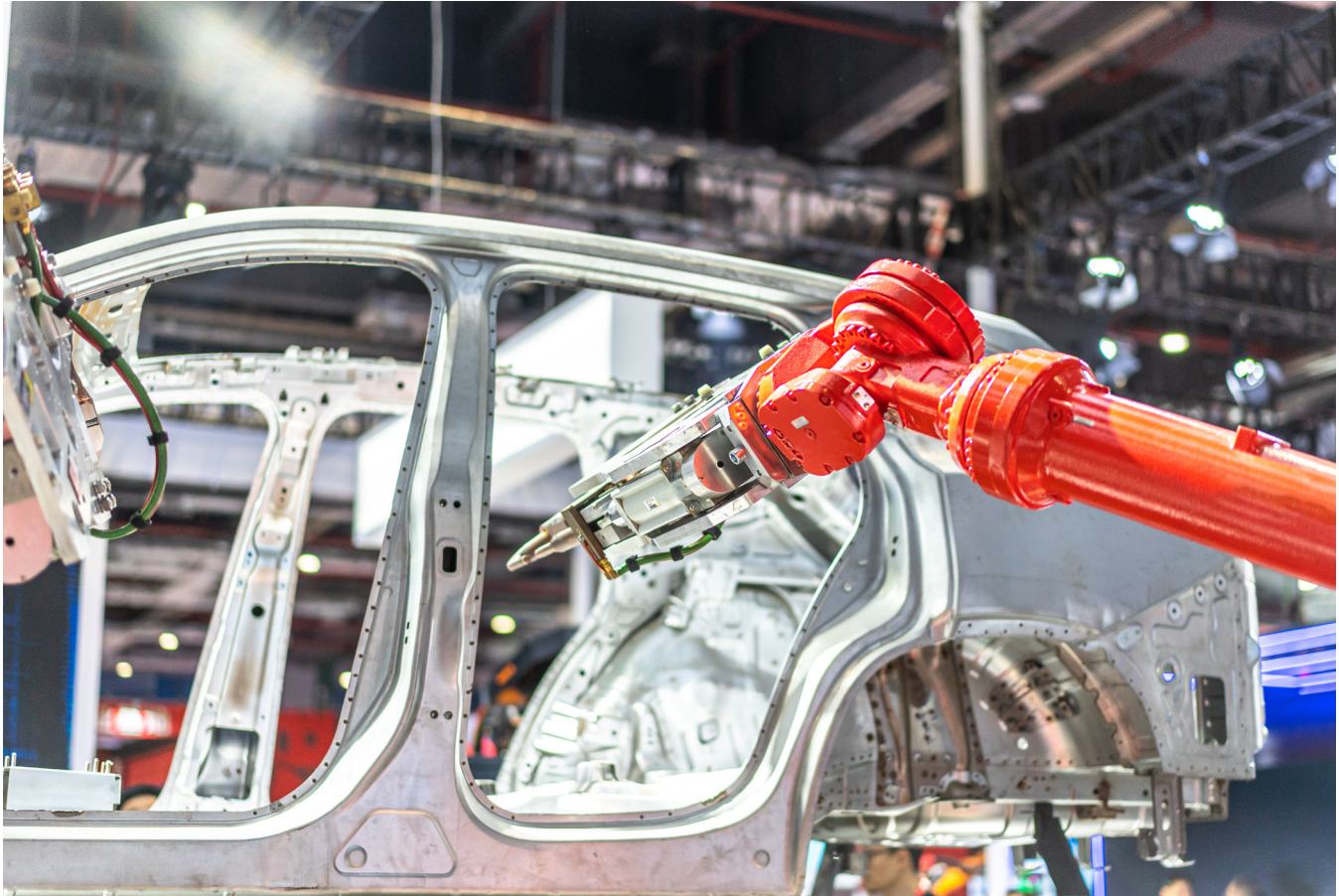
In addition, the CBP UFLPA Guidance contains suggested documents for high-risk goods that are under special scrutiny, which currently includes cotton, tomatoes, polysilicon, PVC, and aluminum. These are treated as enhanced risks because of the frequency with which they are sourced from the XUAR or use

XUAR-related labor in their production. Recommended information for these items includes:

- A supply chain map identifying all entities involved in the production of the goods relating to the entry.
- Information on workers at each entity involved in the production of the goods in China, such as wage payment and production output per worker. If the goods are coming from other countries, they can still implicate the UFLPA if they include parts and components, so you may need to work back through multiple supply chain areas.
- Information that there is no connection to the XUAR, or to persons from the XUAR region, to companies on the UFLPA Entity List or that any such connections are compatible with the UFLPA requirements.
- Information on worker recruitment and internal controls to ensure all workers in China were recruited and are working voluntarily.
- Credible audits and compliance check-ups to identify forced labor indicators and proof that any issues were remediated prior to shipment of the goods at issue.

A final issue that can come up is business-proprietary information held by other companies. For example, sometimes information held by suppliers is required to clear a shipment. CBP indicates in its FAQs that where necessary suppliers can submit materials directly to CBP if they have concerns about business confidentiality. This reinforces that CBP is willing to be flexible and to work with importers to clear shipments where it can be shown there is no link to the XUAR.





4 Prepare for Future Admissibility Reviews

CBP has indicated it will continue to detain shipments of goods made by manufacturers with “known or suspected ties to the XUAR,” even if CBP has vetted and released shipments from the same supply chain. According to CBP, while importers can use prior reviews to streamline admissibility reviews, it will continue to conduct admissibility reviews for such goods until CBP has confirmed that the links to the XUAR are no longer present.

Repeated admissibility reviews involving the same or similar merchandise can become more problematic for frequent importers, particularly if they rely on just-in-time manufacturing or have limited inventories. Fortunately importers can rely upon, and direct CBP toward, prior clearance of similar goods/supply chains. In addition, some importers are finding they can work proactively with Customs, providing supply chain and UFLPA admissibility review information to CBP before the goods arrive and are flagged by Customs, potentially as soon as the goods leave the foreign port. This mechanism can considerably shorten the time to finish

the admissibility review, ensuring the goods do not sit at the arrival port for long.

The consequences for companies importing finished goods or parts and components that are the product of forced labor or human trafficking, or that violate the UFLPA, can be severe: detained goods at the border, shutting down production due to missing critical components, potentially large penalties, reputational risks, and even threats to the company’s ability to import. Given the large and complex supply chains of many U.S. companies, paying attention to these supply chain risks is an essential part of the company’s regulatory risk management. By working through the six compliance steps outlined in Part II, above, importers can identify potential risk points, mitigate supply chain integrity risks, and be prepared for governmental inquiries or investigations of supply chain integrity compliance. It is only by taking full responsibility for the entire supply chain, right down to the last sub-supplier, that importers can identify, manage, and mitigate their supply-chain risks and ensure the integrity and smooth functioning of their critical supply chains.

Annex: Identifying and Remediating the Most Common Supply Chain Risk-Management Failures

Global supply chains are under intense scrutiny, with consumers, regulators, and investors demanding transparency and ethical sourcing. Understanding where compliance gaps commonly occur and how to address them is essential for businesses looking to maintain resilient and compliant supply chains that meet evolving regulator expectations. Key missteps in supply chain management often stem from institutional, resource-based, regulatory, and executional challenges.

To help avoid these common pitfalls, this Annex provides a summary of the most common supply chain issues we see at multinational companies and offers practical solutions to avoid them. From enhancing supplier oversight to adapting to evolving regulatory standards, being alert for the presence of these common missteps can help companies that operate in and source from foreign sources achieve a balanced, ethical, and sustainable approach to global supply chain management.

INSTITUTIONAL HURDLES	
Misstep	Practical Takeaway
Overcoming Institutional Inertia	
Many companies struggle to implement know-your-supplier measures because of institutional inertia — the resistance to change in established practices. This often stems from outdated practices, lack of priority given to supply chain integrity goals, and limited cross-departmental coordination. Addressing this inertia requires strong leadership that prioritizes supply chain integrity issues at all levels of the organization, integrating it into the company’s mission and culture.	A general counsel can help change this inertia by educating the C-suite on the potential for serious financial and reputational implications if supply chain integrity best practices are not implemented. An initial step for such education could include a customs and supply chain audit to identify areas of exposure. If your company is interested in this, please contact the authors of this white paper.
Inadequate Knowledge Distribution	
Even when goals are set, organizations need to take steps to communicate them effectively across the organization. All stakeholders — including employees, suppliers, and business partners — must understand supply chain expectations, including how they are rapidly evolving and imposing greater oversight requirements.	Companies that regularly source from abroad should hold regular training sessions, workshops, and updates to ensure everyone is aligned and knowledgeable about evolving goals and increasing regulatory expectations, including in the areas of forced labor and human trafficking, and UFLPA compliance.
Inconsistent Goal Implementation Across Affiliates	
For multinational corporations, ensuring compliance and consistency across all affiliates is a daunting task. Goals need to be uniformly implemented, with centralized oversight to prevent deviation. Having clear and enforceable policies across all branches and subsidiaries is important, as compliance failures abroad can lead to problems at home, especially when it involves imports that are subject to Customs scrutiny.	If your organization has not done an import compliance review in the last two years, consider conducting a customs audit and supply chain review to ensure that your import compliance meets current regulator expectations.

RESOURCE CONSTRAINTS

Misstep

Practical Takeaway

Inability to Trace Products

Product tracing is critical to verifying supply chain integrity, yet many companies lack sufficient tracking capabilities.

To improve traceability, companies increasingly are implementing digital tracking solutions such as blockchain or RFID technologies, or other forms of electronic tracing, to enable end-to-end visibility across the supply chain. Increasingly these efforts are required because of the need to trace products back to the very last sub-supplier, since compliance increasingly is expected for parts and components that may be supplied by companies not in direct contact with the final manufacturer.

Neglecting Sub-Suppliers

A common oversight is focusing only on direct suppliers while ignoring the risks posed by sub-suppliers. Sub-suppliers often carry equal or greater risks, especially if they operate in regions with lower regulatory oversight.

Establishing a comprehensive system that requires direct suppliers to monitor their suppliers can mitigate this risk. One step in the customs audit described above is analyzing existing supply chain mapping to help companies identify where gaps exist in their tracking systems.

Insufficient Resources for Supply Chain Integrity Goals

Companies sometimes set ambitious supply chain integrity goals without providing the necessary resources for their achievement. Without adequate funding, training, and technological tools, it is nearly impossible to meet supply chain integrity objectives. As an example, it does no good to set a goal of auditing a certain number of suppliers for forced labor and human trafficking concerns without setting aside sufficient compliance resources to accomplish the task.

Aligning budgets with supply chain integrity goals and securing management buy in and support for these risk-mitigation measures is necessary for effective implementation.



REGULATORY ISSUES	
Misstep	Practical Takeaway
Overlooking the Breadth of Forced Labor and Human Trafficking Regulations	
Regulations like the UFLPA require companies to demonstrate their products are free from forced labor. Many companies are unprepared to meet this standard, often due to insufficient know-your-supplier due diligence, lacking documentation, or insight into their full supply chains.	Comprehensive supply chain mapping and auditing of the supply chain can help companies comply with such laws and be prepared for potential UFLPA detentions, thus avoiding potential fines or blockages of goods at the border.
Regulatory Awareness	
Regulations affecting supply chains, particularly those concerning human rights (and environmental practices) are constantly evolving. In some cases, entirely new compliance regimes, such as the UFLPA, have come into play. Companies may find themselves out of compliance if they fail to monitor regulatory updates and evolving supply chain expectations.	Regular compliance training and a dedicated team to monitor regulatory developments can help organizations stay up to date and agile.
Failure to Fully Map Supply Chains	
It is surprising how often we confront companies that have not mapped out their supply chains and thus have little knowledge about the identity or compliance standards in place at sub-suppliers or even the identities of companies beyond their first-tier suppliers. Without a clear map of the entire supply chain, companies face heightened risk of disruption and are vulnerable to compliance breaches and risks brought on from companies of which they may not even have any knowledge.	A thorough supply chain map should extend to all tiers of suppliers and sub-suppliers, ensuring traceability and accountability at each level. The mapping can then be used as a Rosetta Stone for managing risk and compliance standards at all levels of supply chain risk.
EXECUTION CHALLENGES	
Misstep	Practical Takeaway
Outdated Supply Chain Mapping and Measurement	
Mapping and measurement efforts must be updated regularly to ensure ongoing visibility and accountability. Outdated information can lead to unforeseen problems.	Companies should adopt dynamic mapping technologies that provide real-time data and enable swift updates. Some vendors are now offering specialized supply chain mapping services to help identify hidden issues.
Insufficient Oversight of Sub-Suppliers	
Due diligence often stops at primary suppliers, neglecting sub-suppliers who may engage in non-compliant practices.	Companies should employ a cascading compliance system, requiring primary suppliers to audit and report on their sub-suppliers' practices on a regular cadence.
Over-Reliance on Contractual Terms	
Many organizations assume standardized terms and conditions in contracts are sufficient to protect against supply chain risks. In reality, the use of terms and conditions, without accompanying measures to ensure the proper implementation of the requirements, leaves the organization at significant risk.	Conducting routine risk assessments and supply chain audits, in addition to ensuring the application of appropriate contractual terms, provides a more proactive approach to compliance.



EXECUTION CHALLENGES

Misstep

Practical Takeaway

Ignoring Supply Chain Integrity Red Flags

Supply chain integrity red flags, such as questionable labor practices or inconsistent supplier records, are often downplayed or ignored, especially if people within the organization think these are issues to be managed solely by the supplier

Implementing a reporting system for red flags, coupled with a formal response protocol, can help companies act swiftly to address issues before they escalate.

Skipping Risk-Based Supply Chain Audits

Audits are essential for identifying and addressing supply chain risks, yet many companies underfund these processes, leaving potential problems unexamined. Companies conducting financial audits may be missing an audit opportunity if they solely focus on quality and financial issues.

Since supply chain issues pose potential reputational and financial risks to the organization, it is prudent to adopt a risk-based audit approach, which focuses resources on higher-risk areas of the supply chain (vendors in problematic areas like Southeast Asia, higher-volume suppliers, suppliers who use parts and components that are on the Customs UFLPA high-priority list). Companies can use these risk-based audits to uncover hidden vulnerabilities in the supply chain. (Foley offers such audits on a fixed-fee basis.)

Lack of Supply Chain Diversification

Over-dependence on a few suppliers increases vulnerability to disruptions.

Building a diversified supplier base allows companies to respond more flexibly to unexpected issues, ensuring continuity and resilience in supply chain operations. This ensures that if a problem arises at one supplier, other sources can step in while the issues are being worked out.

Over-Reliance on Customs Brokers

Overreliance on customs brokers and believing that “they take care of everything.” Under Customs regulations, it is the importer of record, not the customs broker, who is responsible for compliance with all import requirements. Further, if goods are detained at the border for potential violations, the impact is felt solely by the importer.

While customs brokers can be valuable parts of an importing team, compliance with import responsibilities falls on the importer, not the customs broker. Establish internal processes to oversee all elements of import-related risk, including the proper payment of tariffs, the accurate reporting of Form 7501 entry information, and compliance with all supply chain integrity requirements, including forced labor, human trafficking, and UFLPA requirements.

The Foley International Trade & National Security team regularly advises companies that source and import from overseas regarding the full range of import-related matters, including both for U.S. Customs & Border Protection (CBP) and supply chain integrity issues. The Foley Manufacturing — Supply Chain team is a multi-disciplinary group of lawyers who take a holistic approach to addressing supply chain issues. The Foley international trade and supply chain teams are working together to develop legal strategies to help multinational companies and importers adapt to the rapidly changing international trade environment.

Learn more:

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