

PUBLICATION

Uyghur Forced Labor Prevention Act Effective June 21 – Per Customs, Due Diligence and Supply Chain Tracing Needed

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As previously discussed in this December Alert, the Uyghur Forced Labor Prevention Act (UFLPA) is effective as of June 21. Customs and Border Protection (Customs) now presumes that all goods produced in Xinjiang, China are made with forced labor and blocks entry of those goods and items containing such goods. To rebut this presumption, Customs' Operational Guidance advises importers to implement a due diligence system and supply chain tracing. High-risk commodities such as polysilicon will receive special attention. Customs also provided some detail on avenues for relief.

Operational Guidance for Importers Released

Customs' UFLPA [Operational Guidance for Importers](#) provides that the presumption may be overcome by demonstrating with "clear and convincing evidence" that a good was not mined, produced, or manufactured in whole or in part with forced labor. To meet this standard, an importer must implement a due diligence system, effective supply chain tracing, and supply chain management measures.

A Due Diligence System and Supply Chain Tracing Is Needed

As part of the due diligence system, the importer must engage with its suppliers to assess and address the forced labor risk and must implement a written supplier code of conduct which forbids the use of forced labor. Independent verification of the importer's due diligence system and compliance with the code of conduct will be needed.

For supply chain tracing, importers will need documents that trace the supply chain from raw materials to the imported good. The importer should also identify the roles of each entity in its supply chain. Affidavits from companies involved in the production process can be used as evidence that forced labor is not included in the supply chain. Customs, however, will request additional information and importers must respond "completely and substantively" to such requests.

Special Attention To High-Risk Commodities

Certain high-risk commodities — such as cotton, polysilicon, and tomatoes — have specific guidance and importers must provide additional information to rebut the presumption for merchandise that contains these products. For polysilicon, Customs advises that importers should be aware that imports of goods from factories that source polysilicon, whether from within or outside of Xinjiang, risk being subject to detention due to the difficulty in verifying that non-Xinjiang polysilicon has not been replaced with Xinjiang polysilicon. Manufacturers of solar panels and semiconductors, including those located outside of China, need to pay special attention to the rules on polysilicon to ensure compliance.

Avenues For Relief

Importers demonstrating an absence of forced labor in their supply chains may be granted relief from the presumption for future shipments. An importer also may provide information to Customs to show that the goods and their inputs are sourced outside of Xinjiang. The chair of the Department of Homeland Security's Forced Labor Enforcement Task Force will soon publish its *Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China*. If an importer fully complies

with the Strategy guidance, it will be eligible for an exception to the rebuttable presumption. Additional guidance is expected.

For assistance with compliance or if you have questions, please contact [Lee Smith](#) or any member of Baker Donelson's [Global Business](#) Team.