

UFLPA Update

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Eurofins | MTS

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Forced Labor Enforcement Legislation

General Forced Labor Statute – Section 307, Tariff Act of 1930

“All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited...”

- The Tariff Act of 1930, 19 U.S.C. 1307, is the primary customs law authority to prevent the importation of goods made with forced labor.
- Trade Facilitation and Trade Enforcement Act (TFTEA) enacted into law February 24, 2016, repealed the “consumptive demand exception” in 19 U.S.C. 1307.
- Uyghur Forced Labor Prevention Act (UFLPA) which supports enforcement of 19 U.S.C. 1307, was signed into law on December 23, 2021.

Introduction to UFLPA

Purpose of UFLPA: The UFLPA aims to eliminate forced labor risks in supply chains linked to Xinjiang production.

Key Provisions Overview: The act presumes all goods from Xinjiang are produced with forced labor, emphasizing compliance necessity.

Burden of Proof Shift: “rebuttable presumption” – Importers must provide clear evidence that their products do not involve forced labor, ensuring accountability.

UYGHUR FORCED LABOR PREVENTION ACT



Forced Labor: ILO Indicators



Source: www.ilo.org

DHS's Textile Enforcement Plan

Published April 5, 2024. The new plan focuses on prioritizing examinations of entities implicated in forced labor practices.

- Cracking down on small package shipments to prohibit illicit goods from U.S. markets.
- Conducting joint CBP-HSI trade special operations to ensure cargo compliance.
- Better assessing risk by expanding customs audits and increasing foreign verifications.
- Building stakeholder awareness.
- Leveraging U.S. and Central American industry partnerships.
- Expanding the UFLPA Entity List

Recent UFLPA Activities Impacting Textiles

DHS Entity List Expansion:

- On May 16, 2024, DHS expanded the Entity List, adding 26 textile-related entities sourcing Xinjiang cotton.
- The largest ever one-time expansion. Only 10 textile entities prior to this.
- Advances DHS' Textile Enforcement Plan.
- Entities include cotton traders and warehouse facilities within China, the majority of which operate outside of the XUAR.
- The FLETF determined that 21 of the entities source and sell cotton from the XUAR on the wholesale market. The FLETF also determined that five additional entities also source cotton from the XUAR.

Recent UFLPA Activities

DHS Entity List Expansion:

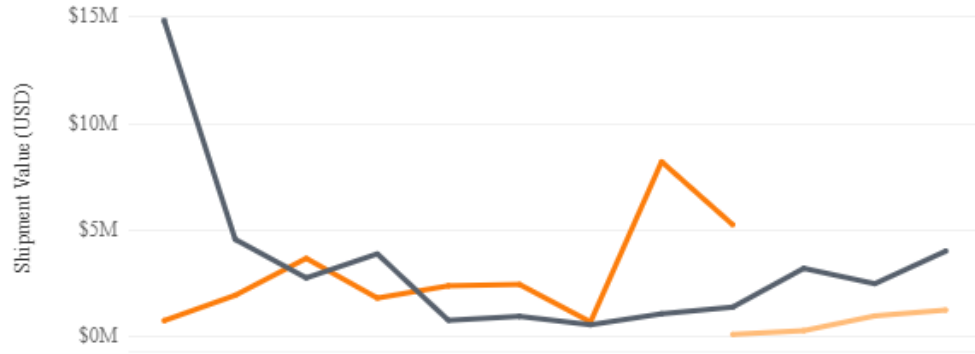
- On June 11, 2024, DHS expanded the Entity List, by adding 3 seafood, aluminum, and footwear companies.
- In the last 12 months alone, the Entities List has grown by 240 percent.
- The footwear company did not even make cotton-based products. It was listed according to FLETF that company cooperated with the Xinjiang Production and Construction Corps (XPCC) to recruit, transfer, and receive individuals from persecuted groups, including Uyghurs, out of the XUAR for labor at its factory in Guangdong.

UFLPA Enforcement Statistics



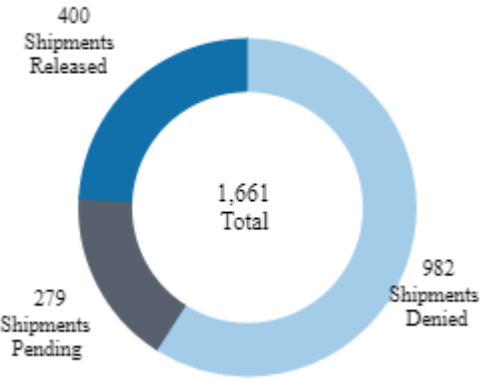
Sustainability Services

Shipment Value (USD) by Month

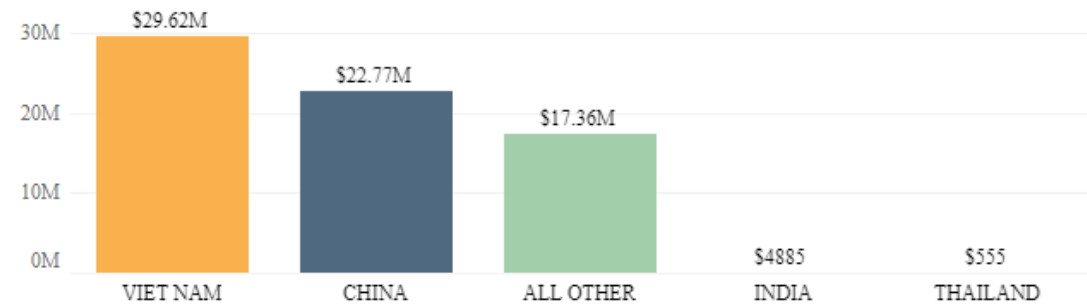


	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	Total
2024 FYTD	\$0.73M	\$1.92M	\$3.65M	\$1.79M	\$2.37M	\$2.43M	\$0.67M	\$8.18M	\$5.23M				\$26.98M
2023	\$14.81M	\$4.54M	\$2.74M	\$3.86M	\$0.75M	\$0.93M	\$0.54M	\$1.05M	\$1.37M	\$3.18M	\$2.46M	\$4.00M	\$40.24M
2022									\$87.55K	\$0.26M	\$0.96M	\$1.23M	\$2.54M

Source: CBP UFLPA Dashboard



Shipment Value (USD) by Country of Origin



Cotton Supply Chain Traceability Documentation

- Provide sufficient documentation, including any records that may be kept in the ordinary course of business (e.g., purchase orders, payment records, etc.), to show the entire supply chain, from the origin of the cotton at the bale level to the final production of the finished product.
- Provide a flow chart of the production process and maps of the region where the production processes occur. Number each step along the production process and number any additional supporting documents associated with each step of the process.
- Identify all the entities involved in each step of the production process, with citations denoting the business records used to identify each upstream entity with whom the importer did not directly transact

The cotton supply chain

Where is cotton produced?

This map shows the 40 countries that produced the highest volume of cotton in 2020, according to the US Department of Agriculture.

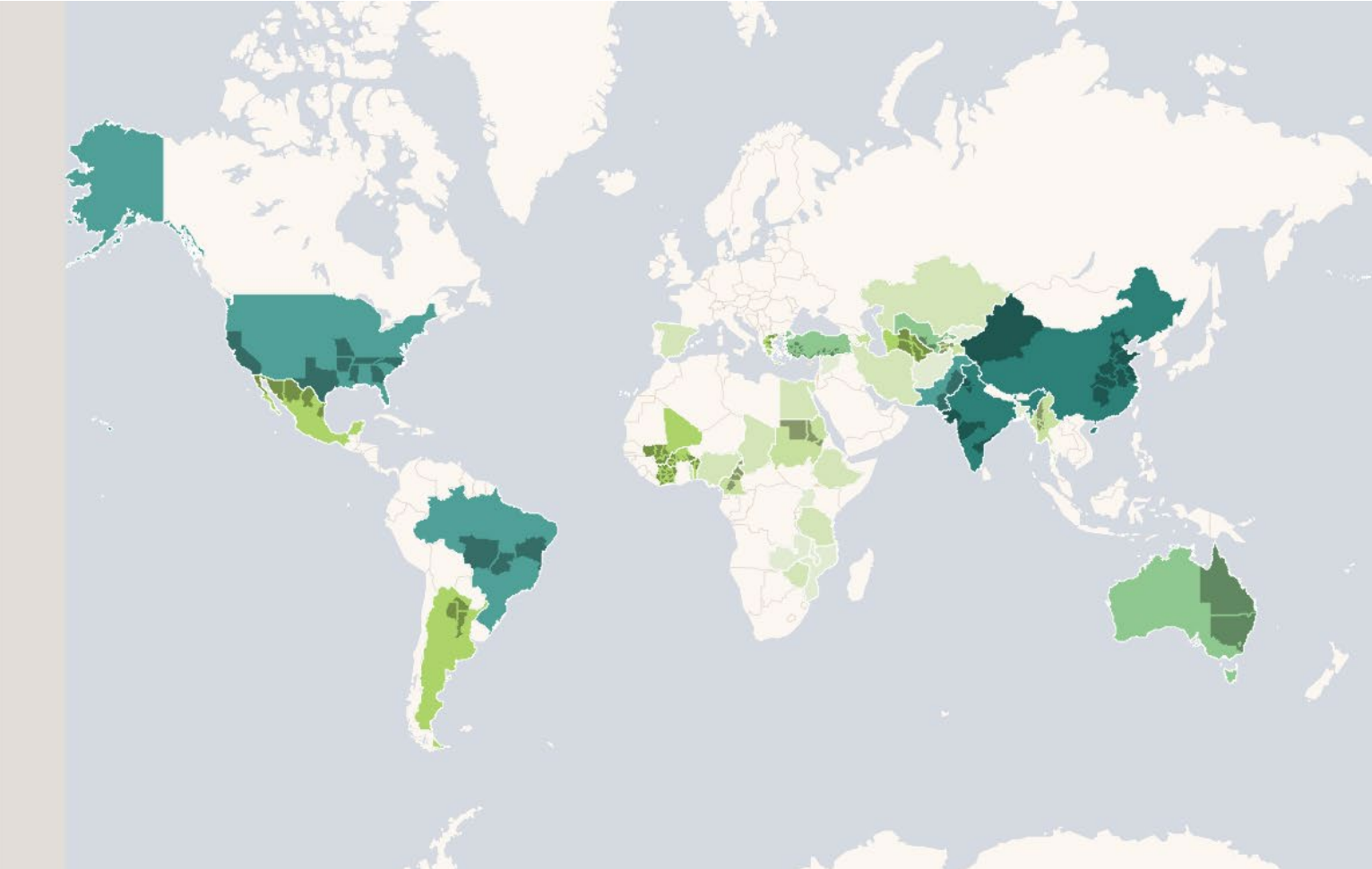
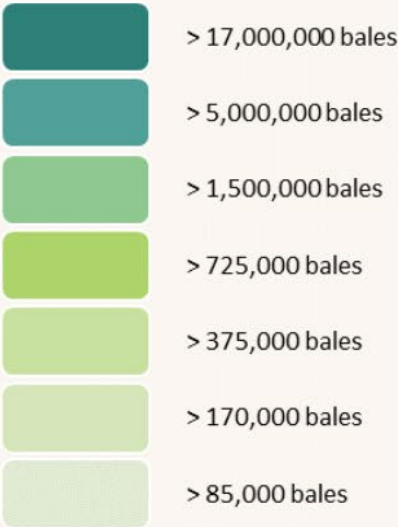


Image courtesy of Eurofins | BLC

CBP: UFLPA FAQ

Can DNA traceability or isotopic testing be used as evidence that the original cotton fiber was not from the XUAR?

Yes. CBP will consider laboratory test results as part of the total package of information submitted by an importer to document a supply chain. Importers providing this type of evidence should be prepared to show that the evidence is credible and specific to the goods under detention.

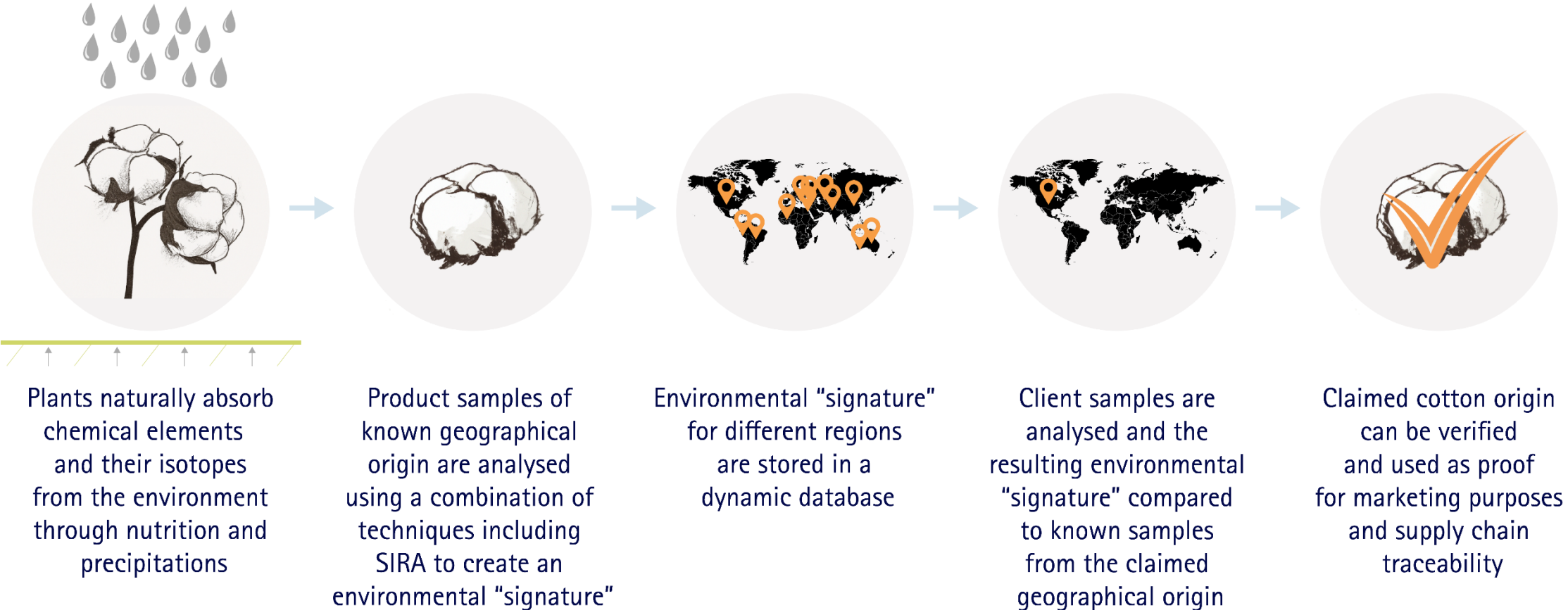
Should an importer want to obtain sample(s) from a detained shipment to conduct testing, the importer may make a manipulation request with the Port Director who detained the shipment. Chain of custody for obtained sample(s) for testing must be secure and the testing report must indicate that the sample(s) were from the detained shipment. In some cases, if requested and circumstances allow, CBP may assist by collecting a sample from the affected shipment and submitting it to a testing laboratory at the expense of the importer to maintain the chain of custody.

Isotope testing

- Isotope testing is a widely accepted methodology and has been used and trusted in the forensic space for many years
- Used extensively in the food industry and we have significant experience in this area
- Isotope testing in the textile industry is relatively new



How the process works



Three stage verification

- Isotope ratio mass spectrometry (IRMS)
- Inductively coupled plasma mass spectrometry (ICP-MS)
- Fourier transform infrared spectroscopy (FTIR)



FLETF 2024 UFLPA Strategy

FLETF updates its UFLPA enforcement strategy annually.

On July 9, 2024, FLETF issued most recent (2024) UFLPA Strategy.

The update identified three new high-priority sectors for CBP enforcement: polyvinyl chloride (PVC), aluminum, and seafood.

These are in addition to previously targeted cotton, silica and tomato sectors.



2024 Updates to the Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China

Report to Congress
July 9, 2024



Homeland Security

Office of Strategy, Policy, and Plans

CBP UFLPA Resources

Entity list: <https://www.dhs.gov/uflpa-entity-list>

UFLPA Strategy: <https://www.dhs.gov/uflpa-strategy>

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

FAQs: <https://www.dhs.gov/uflpa-frequently-asked-questions>

Factsheet: <https://www.dhs.gov/news/2024/07/09/fact-sheet-just-two-years-forced-labor-enforcement-task-force-and-uyghur-forced>

Thank you!



Sustainability Services



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