



ALERTS

U.S. To Ban Goods From China's Xinjiang Uyghur Autonomous Region

January 13, 2022

Highlights

Effective June 21, 2022, U.S. Customs and Border Protection will presume that all goods mined, produced or manufactured wholly or in part from China's Xinjiang Uyghur Autonomous Region are the result of forced labor and will prohibit entry into the U.S.

By Jan. 22, 2022, the Forced Labor Task Force must solicit comments from importers addressing the evidence needed to disprove that goods have been made with forced labor

The import ban will remain in effect until Dec. 23, 2029, or until the U.S. certifies human rights abuses have ended in Xinjiang

On Dec. 23, 2021, President Biden signed a [new law](#) – the Uyghur Forced Labor Prevention Act – that imposes an import ban on goods “mined, produced or manufactured wholly or in part with forced labor” from China's Xinjiang Uyghur Autonomous region (XUAR). The import ban is effective on June 21, 2022, (which is 180 days after the bill was signed into law) and will remain in effect for eight years or until the U.S. president certifies that China has ended human rights abuses in Xinjiang.

The act requires U.S. Customs and Border Protection (CBP) to presume

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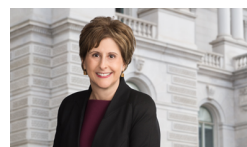
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that all goods (including raw materials), mined, produced, or manufactured wholly or in part in XUAR or produced by any of the entities using forced labor as identified by the Forced Labor Enforcement Task Force, are made with forced labor. Under 19 U.S.C. § 1307, CBP will prohibit entry to such goods produced from forced labor.

In developing a strategy to enforce the import ban, the Task Force must solicit public comment on how best to ensure that goods made with forced labor do not enter the U.S. by Jan. 22, 2022, (or 30 days after the enactment). The comment period must remain open for at least 45 days.

Prior to June 21, 2022, U.S. importers and other interested U.S. companies with supply chains that may involve China should quickly assess potential risks and identify any producers, goods, or materials linked to manufacture or production in the XUAR. While the act identifies cotton, tomatoes and polysilicon as high-priority sectors for enforcement, it covers all goods and raw materials incorporated into finished products, including electronic equipment, machinery, and consumer goods. As part of the review, importers and other interested companies should consider strengthening their import compliance programs, due diligence practices, and recordkeeping to prepare for the implementation date. Companies may wish to participate in the Task Force's comment and forthcoming hearing process so that the U.S. government fully understands industry best practices with respect to supply chain tracing and record-keeping.

According to the new law, U.S. importers may rebut or overcome the act's presumption by "fully complying" with forthcoming CBP guidance and any CBP regulations to implement that guidance, and by "completely and substantively" responding to CBP requests for information. CBP must then determine "by clear and convincing evidence" that the goods were not mined, produced, or manufactured wholly or in part by forced labor. If CBP determines, after receipt of such evidence, that certain detained goods are, in fact, eligible for entry, CBP is required to submit to Congress and make available to the public, within 30 days, a report identifying the specific goods and the evidence considered.

Previous CBP forced labor investigations into XUAR products have resulted in several [import bans](#) on commodities including a ban on [cotton products and tomato products](#) produced in Xinjiang. In July 2021, the U.S. Departments of State, Commerce, Treasury, and Homeland Security issued an updated joint [Xinjiang Supply Chain Business Advisory](#) to caution businesses with operations in Xinjiang about the reputational, economic, and legal risks of involvement with entities that engage in human rights abuses, including but not limited to forced labor in the manufacture of goods intended for domestic and international distribution.

This recent law further requires the interagency Task Force and the Department of State to develop strategies to eradicate forced labor, particularly in the Xinjiang region.

Within 45 days after the end of the public comment period, the Task Force must hold a public hearing and after the hearing, it must issue an enforcement strategy, which must include

1. lists of Xinjiang entities that produce goods with forced labor, products produced by these entities, and high-priority sectors for enforcement, including polysilicon
2. guidance for importers addressing due diligence, supply

chain tracing, and supply chain management, as well as the type, nature, and extent of evidence needed to disprove that goods were made with forced labor

3. a plan to coordinate with private sector entities

The Task Force, in coordination with the Commerce Department, must report to Congress on its strategy by June 21, 2022. Since the rebuttable presumption enters into force on the same date that the Task Force report is due, U.S. importers and other interested companies will have limited time to implement compliance measures developed through the public comment period.

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