

Risky Imports and Forced Labor in Xinjiang Require Extra Due Diligence

On December 23, 2021 President Biden [signed](#) the Uyghur Forced Labor Prevention Act ([UFLPA](#)) prohibiting the importation of goods into the United States that were manufactured wholly or in part with forced labor in China's Xinjiang Uyghur Autonomous Region (XUAR). To ensure compliance with the law, American businesses importing goods from China must be able to provide clear and convincing evidence that their imports were not manufactured wholly or in part with forced labor.

FiveBy assesses that US companies must conduct in-depth investigations not just into their business partners, but also into their supply chains to ensure compliance with UFLPA. This research will require strong area and cultural knowledge as well as language skills and a holistic understanding of both China and the sanctions and other restrictions instituted by the US government.

Background

Leaked PRC government [documents](#) recovered by the New York Times confirm that forced labor is part of the government's campaign of repression, mass internment and indoctrination of ethnic minorities in Xinjiang. More than a [million](#) Uyghurs and other Muslim minorities in Xinjiang have been detained, sent to manufacturing sites, and subjected to forced labor.

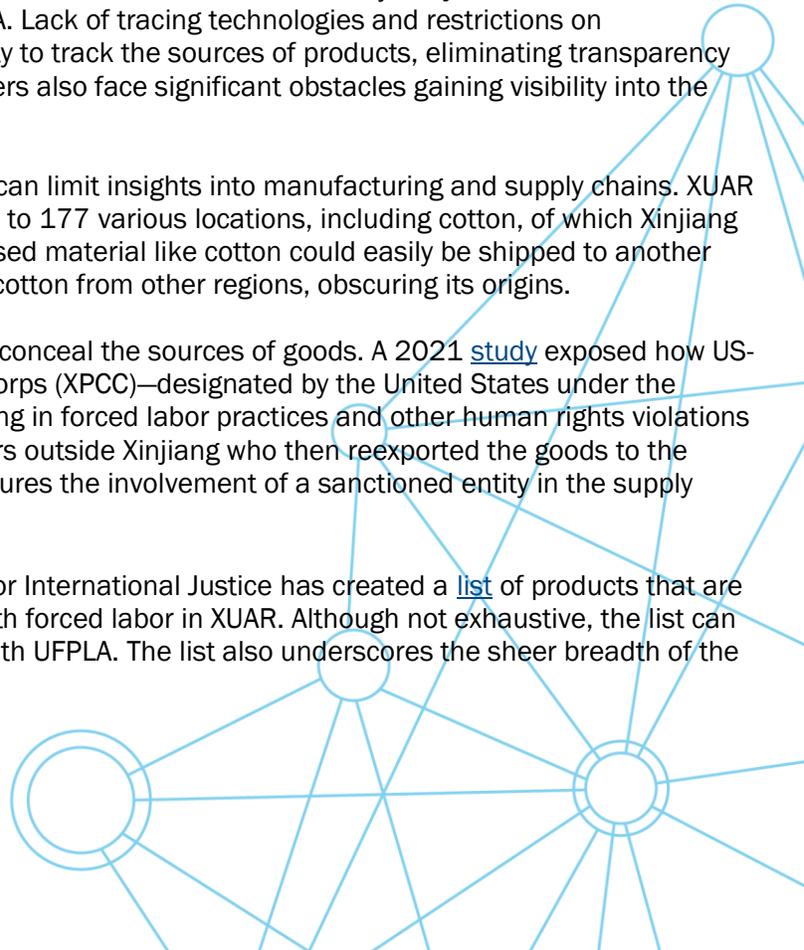
Challenges

Opaque supply chains, multiple manufacturing locations, and CCP tactics to evade scrutiny are just some of the challenges companies face when complying with the UFLPA. Lack of tracing technologies and restrictions on independent auditors in XUAR [often hinder](#) importers' ability to track the sources of products, eliminating transparency around the [raw](#) or near-raw, material supplier level. Importers also face significant obstacles gaining visibility into the early stages of the [manufacturing process](#).

Multiple production sites in China or even other countries, can limit insights into manufacturing and supply chains. XUAR in 2020 [exported](#) 4,761 different kinds of products directly to 177 various locations, including cotton, of which Xinjiang produces about one-fifth of the world's total. A raw, processed material like cotton could easily be shipped to another province or country where it could then be comingled with cotton from other regions, obscuring its origins.

Companies also have used illegal transshipment tactics to conceal the sources of goods. A 2021 [study](#) exposed how US- and EU-designated Xinjiang Production and Construction Corps (XPCC)—designated by the United States under the Global Magnitsky Human Rights executive order for engaging in forced labor practices and other human rights violations in the XUAR—exported 4,559 shipments to its trade partners outside Xinjiang who then reexported the goods to the United States and other countries. This tactic not only obscures the involvement of a sanctioned entity in the supply chain, but also helps hide possible use of forced labor.

The Sheffield Hallam University's Helena Kennedy Centre for International Justice has created a [list](#) of products that are known to have been mined, manufactured, or produced with forced labor in XUAR. Although not exhaustive, the list can help importers identify red flags when working to comply with UFLPA. The list also underscores the sheer breadth of the products that could possibly conceal forced labor issues.



metallurgical grade silicon and other silicates
polysilicon and polysilicon ingots
cotton (including cotton seed, cotton oil, cotton lint, etc.)
fabric, apparel, and shoes (including those made of cotton, wool, cashmere, leather, and synthetic materials such as polyester and spandex/elastane, or viscose)
tomatoes and tomato paste
marigolds
peppers, capsicum, paprika, and other spices
walnuts
grapes
dates
food additives
supplements (including lutein)
traditional Chinese medicines
spices
food additives and dyes
electronics
magnesium fertilizer
magnesium alloys
aluminum alloys
chemicals and plastics
polyvinyl chloride (PVC)
coal
personal protective equipment (or PPE, including masks and equipment)
lead acid batteries (used in cars and in photovoltaic systems)
vermiculite
artificial hair
railroad/train parts
pharmaceuticals
furniture
home appliances

Solutions

Halting the import of goods made with forced labor is a humanitarian issue as well as a legal one. Companies that import these and other goods that are possibly tainted with forced labor risk violating US laws that include the Tariff Act, the Trafficking Victims Protection Act, and the UFLPA. In addition, importers that fail to properly vet their supply chains face potential reputational risk and violation of their own internal social responsibility policies.

To mitigate the risk of running afoul of US laws that strive to prevent goods manufactured with forced labor from entering the country, US importers must perform enhanced due diligence research not just on supply chains, but also their own business partners. This type of assessment includes research into location, ownership structure, business partners, history, and reputation, requiring analysis by experts with a strong understanding of the country, region, language, and US sanctions laws. FiveBy's team of expert language and cultural analysts who have extensive knowledge of US sanctions, BIS restrictions, and jurisdictional risk can provide clients with a tailored solution to help identify and avoid Chinese companies that use forced labor.

