

VI. Guidance to Importers

The UFLPA requires the Commissioner of CBP to apply a rebuttable presumption that all goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in Xinjiang, or by entities on the UFLPA Entity List, are prohibited from entry into the United States under 19 U.S.C. § 1307. The rebuttable presumption applies to downstream products that incorporate these goods as inputs, regardless of where the products are produced, *i.e.*, to goods produced in the PRC outside Xinjiang, as well as goods produced in third countries or shipped through third countries, if they contain inputs mined, produced, or manufactured in Xinjiang or by an entity on the UFLPA Entity List.

It should be noted that an importer may provide information to CBP indicating that the goods are not in any way subject to the UFLPA, *i.e.*, its importations, and inputs, are sourced completely from outside Xinjiang and have no connection to the UFLPA Entity List. CBP will release such shipments, provided they are otherwise in compliance with U.S. law. If CBP has taken an enforcement action under the UFLPA on an importation, but an importer believes that its importation is outside the scope of the UFLPA, an importer may provide information to CBP to that effect, *i.e.*, information that the imported goods and their inputs are sourced completely from outside Xinjiang and have no connection to the UFLPA Entity List. Providing such documentation in English will facilitate CBP's efficient review of these exception requests. For the types of information required to establish that the importation is outside the scope of the UFLPA, refer to Section IV (B) of this strategy.

For an importation that is within the scope of the UFLPA, an importer may request an exception, which requires the importer to demonstrate that it has complied with the guidance set forth in this section, responded completely and substantively to all CBP requests for information, as well as demonstrate, by clear and convincing evidence that its imports were not mined, produced, or manufactured wholly or in part with forced labor. For guidance on the evidence relevant to the latter, refer to Section IV (C) of this strategy.

Section 2(d)(6) of the UFLPA requires the FLETF to provide guidance to importers on the following topics:

- due diligence, effective supply-chain tracing, and supply-chain management measures to ensure that importers do not import any goods mined, produced, or manufactured wholly or in part with forced labor from the PRC, especially from Xinjiang;
- the type, nature, and extent of evidence that demonstrates that goods originating in the PRC were not mined, produced, or manufactured wholly or in part in Xinjiang; and
- the type, nature, and extent of evidence that demonstrates that goods originating in the PRC, including goods detained or seized pursuant to 19 U.S.C. § 1307, were not mined, produced, or manufactured wholly or in part with forced labor.

An importer seeking an exception to the rebuttable presumption must demonstrate that it has fully complied with the requirements set forth in this section, and with any regulations that may

be issued in the future by CBP to implement this section. Barriers to performing due diligence, to supply-chain tracing, and supply-chain management, and to obtaining evidence to demonstrate that goods were not made wholly or in part in Xinjiang or by an entity on the UFLPA Entity List, may make it difficult for importers to fully comply with this guidance. Such barriers may prevent an importer from qualifying for an exception to the rebuttable presumption. Goods that do not qualify for an exception are subject to exclusion, or seizure and forfeiture.

In addition, the UFLPA requires that an importer seeking an exception to the rebuttable presumption must completely and substantively respond to all CBP requests for information to ascertain whether the goods were made wholly or in part with forced labor. CBP must also determine that there is clear and convincing evidence that the goods, wares, articles, or merchandise at issue were not mined, produced, or manufactured wholly or in part by forced labor. Importers may identify additional shipments that have identical supply chains to those that have been reviewed previously and determined to be admissible by CBP, to facilitate the faster release of identical shipments.

To facilitate implementation of the rebuttable presumption, CBP has also provided complementary guidance that is operational in nature, and which is available on CBP's UFLPA website.¹²⁰

Shipments imported prior to June 21 will be adjudicated through the WRO/Findings process. Shipments imported on or after June 21 that are subject to the UFLPA, which previously would have been subject to a Xinjiang WRO, will be processed under UFLPA procedures, and detained, excluded, or seized.

A. Due diligence, effective supply chain tracing, and supply chain management measures to ensure that importers do not import any goods mined, produced, or manufactured wholly or in part with forced labor from the People's Republic of China, especially from Xinjiang

Due Diligence

To overcome the rebuttable presumption, importers must conduct due diligence to ensure they do not import any goods mined, produced, or manufactured wholly or in part with forced labor. For the purposes of this guidance, due diligence includes assessing, preventing, and mitigating forced labor risk in the production of goods imported into the United States.

DOL's *Comply Chain*¹²¹ lays out in detail the ways in which an importer may demonstrate due diligence by developing a due diligence system. While systems may vary from industry to industry, an effective due diligence system in any industry may include the following elements:

- Engage stakeholders and partners

¹²⁰ *Uyghur Forced Labor Prevention Act*, U.S. Customs and Border Protection, <https://www.cbp.gov/trade/forced-labor/UFLPA> (last visited May 19, 2022).

¹²¹ *Comply Chain*, U.S. Department of Labor, <https://www.dol.gov/ilab/complychain/> (last visited May 19, 2022).

- Assess risks and impacts
- Develop a code of conduct
- Communicate and train across supply chain
- Monitor compliance
- Remediate violations
- Independent review
- Report performance and engagement

Importers may refer to DOL’s *Comply Chain* for more information on the elements of an effective due diligence system. The following information summarizes these elements.

1) Engage stakeholders and partners

Due diligence includes identifying and engaging with stakeholders. Stakeholders may include individuals and communities affected by the operations and practices of a business, including those who work for suppliers throughout the supply chain.

Importers must engage with suppliers involved directly in the production of goods that will be imported into the United States and either work through those suppliers to engage, or engage directly, with producers of raw materials and components used in the imported goods to assess and address forced labor risk.

Sufficient due diligence may not be possible with regard to goods made in Xinjiang or made using the labor of workers from PRC-labor schemes if barriers prevent safe and secure engagement with the workers.

2) Assess risks and impacts

Forced labor risk assessments identify those places in supply chains where goods or materials are at risk of being made wholly or in part with forced labor.¹²² To conduct a forced labor risk assessment, importers must map supply chains for their imported goods and then identify steps at risk of using forced labor.

In making a forced labor risk assessment, factors to consider include, but are not limited to:

- Origin of imported goods and any raw materials or components in the imported good;
- Transactions among entities along the supply chain tied to the specific imported goods;
- Locations and identities of entities in the supply chain;

¹²² *ILO Indicators of Forced Labour*, *supra* note 87. The ILO has developed 11 forced labor indicators to identify the most common signs that point to the possible existence of forced labor. With respect to PRC’s forced-labor schemes (including transfer of workers from Xinjiang), the most common ILO indicators of forced labor are: intimidation and threats; exploitation of a position of dependency and vulnerability; restriction on freedom of movement; isolation; abusive working and living conditions; and excessive hours, as described in Section II.

- Business relationships among entities in the supply chain;
- Use of publicly available datasets to estimate probability that raw materials or components originated in Xinjiang (when there are indications that raw materials or components do not originate from the stated location, such as inputs from countries that are known to lack production capacity that matches its output volume, additional due diligence is needed); and
- Indications that a supplier at any tier of the supply chain is using detainee or ex-detainee labor or is receiving workers from Xinjiang through PRC government-labor programs. For examples, see Strategy Section II.

3) Develop a code of conduct

A written code of conduct or equivalent statement of supply-chain standards that provides a framework for addressing the risk of forced labor in supply chains is an important element of due diligence. For supply chains that touch Xinjiang or involve entities that use labor transferred from Xinjiang under PRC-labor programs, the code of conduct must specifically forbid the use of forced labor and address the risk of use of PRC government-labor schemes, such as pairing assistance, poverty alleviation, or other labor transfer programs.

The importer should incorporate its code of conduct into its supplier contracts, including specification of all activities that a supplier is required to undertake as part of the importer's due diligence system, such as allowing auditors and verification organizations necessary access to facilities. In addition, if the importer plans to rely on direct suppliers to ensure its upstream suppliers implement standards consistent with the importer's code of conduct, the contract with the direct supplier should require the direct supplier to ensure that upstream suppliers train employees on detecting forced labor; conduct self-audits or obtain independent audits, including on recruitment of workers and use of PRC government-labor programs; implement corrective action plans; track and report on its performance of the contract's requirements; and require and monitor subcontractor adherence to the code of conduct.

4) Communicate and train across supply chain

Importers must provide training to their employees or agents responsible for selecting suppliers, including on risks of forced labor identified by the risk assessments, the prohibition on importation of goods produced by forced labor into the United States, the presumption that goods made in Xinjiang or by companies on the UFLPA Entity List are made using forced labor, risks of suppliers being included on future additions to the UFLPA Entity List, and the importer's code of conduct. Importers' employee and agent training should integrate efforts to eliminate forced labor risk into the supplier selection and contracting process.

Communicating the standards included in the code of conduct to agents (if applicable); suppliers at all tiers of the supply chain; labor brokers, recruiters, and employment agencies (if applicable); workers and trade unions; and communities and civil society groups is also an important element of a due diligence system. Importers should provide a thorough and comprehensive overview of coercive recruitment through PRC poverty alleviation, pairing assistance, and other labor transfer

programs; what to expect from an audit or verification process; and opportunities for worker input including grievance mechanisms.

5) Monitor compliance

Importers should monitor supplier compliance with their code of conduct, particularly for those suppliers and subcontractors in Xinjiang or on the UFLPA Entity List. This may be accomplished by conducting credible audits or through processes that go beyond traditional auditing and may involve the use of technology or partnerships with civil society.

A credible audit includes the following core elements: (1) unannounced arrival at the worksite and at a time when the workforce, especially workers at risk of forced labor, are likely to be present; (2) examination of ILO indicators of forced labor, in particular those described in Section II; (3) worker, management, and labor broker or recruiter interviews completed in the interviewee's native language and free of employer or government intimidation; (4) unrestricted access to the worksite and any associated locations, such as cafeterias and dormitories, to observe conditions; and (5) review of documents and other information to provide additional proof of compliance and to identify or corroborate discrepancies in the information and observations of the worksite and associated facilities. Because coercion often occurs at the recruitment stage, a credible audit should include documentation of the supplier's involvement with PRC-labor transfer programs, receipt of workers from Xinjiang, and measures to ensure voluntary participation by all workers in the supply chain.¹²³

As discussed in the updated *Xinjiang Supply Chain Business Advisory*¹²⁴ (issued in July 2021), audits, including third-party audits, are not alone sufficient to demonstrate due diligence and may not be a credible source of information for indicators of forced labor in Xinjiang. It is difficult to conduct a credible audit in Xinjiang (or of the use of ethnic and religious minority workers transferred from Xinjiang) due to the extent in which forced labor has been integrated into the regional economy, the restrictions on access to Xinjiang, the commingling of involuntary labor with voluntary labor, the inability of witnesses to speak freely about working conditions given government surveillance and coercion, and the incentives of government officials and entities doing business in the PRC to conceal government-sponsored forced labor. These due diligence barriers do not relieve importers seeking an exception to the rebuttable presumption of the statutory requirement to comply with this guidance. See Strategy Section VI (C) for information on credible audits and other evidence that demonstrates that goods originating in the PRC were not mined, produced, or manufactured wholly or in part with forced labor.

¹²³ Even where companies are not directly involved in the coercion, the PRC government may be providing workers who were recruited through coercion by threat of detention. Entities receiving ethnic and religious minority workers from Xinjiang through the labor transfer program may also be involved in creating coercive conditions at the entity itself, including limiting freedom of movement, pervasive surveillance, or failure to pay workers directly. Where there are multiple indicators of forced labor, all indicators must be addressed.

¹²⁴ *Xinjiang Supply Chain Business Advisory*, *supra* note 8.

6) Remediate violations

If forced labor indicators (see Strategy Section II) are identified, thus signifying the presence of forced labor in the supply chain, all importations of goods made prior to remediation are prohibited from entry into the United States. In order to import goods made by that supplier, the importer must demonstrate that it has fully remediated all such indicators of forced labor. Any imported goods that were produced prior to full remediation are prohibited. The importer must therefore develop a corrective action plan if it intends to continue sourcing inputs from the supplier. The corrective action plan must specifically address all indicators of forced labor.

Some abuses, including PRC-sponsored forced labor, may be impossible to fully remediate. Similarly, it may not be possible to require additional monitoring or transparency due to the PRC laws or policies. Corrective action in such cases may be limited to terminating the relationship with the supplier. When ending a business relationship, it is also recommended that the importer mitigate impacts on the workers, where possible, such as by communicating and engaging with the supplier and workers on the decision and timeline for disengagement.¹²⁵

7) Independent review

Independent third-party verification can demonstrate the implementation and effectiveness of an importer's due diligence system and is part of due diligence. Importers should periodically assess performance of their due diligence and evaluate the effectiveness of system components for ensuring that the supply chain is free of forced labor.

8) Report performance and engagement

An importer is encouraged to provide regular and timely public reporting on its due diligence system, including the auditing and verification processes. Such reporting may take many forms, such as a formal annual report or periodic web-based updates. Such reporting does not entail the disclosure of business proprietary information or other confidential data.

Effective Supply-Chain Tracing

Effective supply-chain tracing is a critical first step of due diligence. Importers must know their suppliers and labor sources at all levels of the supply chain.

The first step in conducting supply-chain tracing is “mapping” the entire supply chain, up to and including suppliers of raw materials used in the production of the imported good or material. Mapping is an exercise by which a company or a third-party collects information on the suppliers

¹²⁵ Failure to terminate the relationship with the supplier or take other appropriate remedial action could expose an importer to potential criminal liability if the importer continues to benefit, financially or by receiving anything of value, from participating in a venture engaged in forced labor, while knowing of or recklessly disregarding the forced labor. *See* 18 U.S.C. § 1589(b).

throughout the supply chain. It should also allow the importer to identify who is doing the work at each step in the process and the conditions under which the work is being done. The more comprehensively an importer can map its supply chains, the more accurately it can identify those places along the chain with the greatest risks of forced labor.

Beyond mapping, supply-chain tracing is the ability to demonstrate chain of custody of goods and materials from the beginning of the supply chain to the buyer of the finished product. Some established methods for supply-chain tracing include identity preservation and segregation. Identity preservation requires each product input to be packaged, processed, and traced separately from other product inputs or modifications throughout the supply chain. Most importantly, it does not allow any commingling of product inputs at any point in the supply chain. Alternative approaches such as segregation permit commingling of inputs, provided that each batch to be commingled is fully traced and documented to be free of forced labor prior to mixing. Segregated products must be kept separate from other products that cannot be identified as free of forced labor both physically and in documentation.

Importers should be aware that if their importations involve inputs from factories that source materials both from within Xinjiang and outside of Xinjiang, they risk having their importations subject to detention, as it may be harder to verify that the supply chain for imports to the U.S. is using only non-Xinjiang materials that have not been replaced by or commingled with Xinjiang materials at any point in the manufacturing process.

Supply-Chain Management Measures

Supply-chain management measures are also part of due diligence; they are measures taken to prevent and mitigate identified risks of forced labor.¹²⁶ Effective supply-chain management measures include having a process to vet potential suppliers for forced labor prior to entering a contract with them; requiring that supplier contracts necessitate corrective action by the supplier if forced labor is identified in the supply chain; and outlining the consequences if corrective action is not taken, such as termination of the contractual relationship. Effective supply-chain management also includes having access to documentation, personnel, and workers for verification of the absence of forced labor indicators, including at the recruitment stage.

Importers should have an information system to manage supply-chain management data, including all mapping and risk and impact assessment information, which should be entered into this system and updated on a regular basis. Importers should be able to demonstrate how risk and impact assessment information is used to inform forced labor risk prevention and mitigation.

¹²⁶ Failure to take appropriate remedial action could expose an importer to potential criminal liability if the importer continues to benefit, financially or by receiving anything of value, from participating in a venture engaged in forced labor, while knowing of or recklessly disregarding the forced labor. *See* 18 U.S.C. § 1589(b).

Importers may leverage U.S. government and NGO publications and other information to assist in implementing due diligence, effective supply-chain tracing, and supply-chain management measures to limit risks of forced labor in their supply chains. The following list provides resources to help importers and others address forced labor abuses in global supply chains (this list is illustrative, and the practices described in these documents do not supersede this guidance):

International Standards:

- The United Nations Guiding Principles on Business and Human Rights;¹²⁷
- The Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises (including sector-specific guidance);¹²⁸
- The ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy;¹²⁹
- The ILO publication, *Combating Forced Labour: A Handbook for Employers and Business*;¹³⁰
- ILO Guidelines Concerning the Measurement of Forced Labor;¹³¹
- ILO General Principles and Operational Guidelines for Fair Recruitment;¹³²
- International Organization for Migration’s ethical recruitment standards;¹³³ and
- The Office of the High Commissioner for Human Rights guide on *The Corporate Responsibility to Respect Human Rights* (OHCHR guide).¹³⁴

U.S. Government:

- The U.S. Department of State’s *Responsible Sourcing Tool*;¹³⁵

¹²⁷ *UN Guiding Principles on Business and Human Rights*, Business & Human Rights Resource Centre, <https://www.business-humanrights.org/en/big-issues/un-guiding-principles-on-business-human-rights/> (last visited May 19, 2022).

¹²⁸ *Guidelines for Multinational Enterprises*, Organisation for Economic Co-operation and Development, <https://www.oecd.org/corporate/mne/> (last visited May 19, 2022).

¹²⁹ *Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy*, International Labour Organization, <https://www.ilo.org/empent/areas/mne-declaration/lang--en/index.htm> (last visited May 19, 2022).

¹³⁰ *Combating Forced Labour: A Handbook for Employers and Business*, International Labour Organization, (June 25, 2015) https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_101171.pdf.

¹³¹ *Guidelines Concerning the Measurement of Forced Labor*, International Labour Organization (2018), https://www.ilo.org/wcmsp5/groups/public/---dgreports/---stat/documents/meetingdocument/wcms_648619.pdf.

¹³² *General Principles and Operational Guidelines for Fair Recruitment*, International Labour Organization (2019), https://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---migrant/documents/publication/wcms_536755.pdf.

¹³³ *The IRIS Standard Report Version 1.2*, International Organization for Migration: IRIS Ethical Recruitment, (2019) <https://iris.iom.int/sites/g/files/tmzbdl201/files/documents/IRIS%20Standard%20Report%20.pdf>.

¹³⁴ *The Corporate Responsibility to Respect Human Rights*, UN Human Rights Office of the High Commissioner (June 1, 2012), https://www.ohchr.org/sites/default/files/Documents/Publications/HR.PUB.12.2_En.pdf.

¹³⁵ Responsible Sourcing Tool, *supra* note 104.

- The U.S. Department of Labor’s *Comply Chain*;¹³⁶
- The U.S. Department of Labor’s *Findings on the Worst Forms of Child Labor*;¹³⁷
- The U.S. Department of Labor’s *List of Goods Produced by Child Labor or Forced Labor*;¹³⁸
- The U.S. Department of Labor’s *List of Products Produced by Forced or Indentured Child Labor*;¹³⁹
- The U.S. Department of Labor’s *Better Trade Tool*;¹⁴⁰
- Federal Acquisition Regulations;¹⁴¹
- National Action Plan on Responsible Business Conduct;¹⁴²
- The updated *Xinjiang Supply Chains Business Advisory* (July 2021);¹⁴³
- The U.S. Customs and Border Protection’s *Reasonable Care: An Informed Compliance Publication* and other relevant publications;¹⁴⁴
- The U.S. Customs and Border Protection’s Forced Labor website resources;¹⁴⁵ and
- The U.S. Customs and Border Protection’s Withhold Release Orders and Findings, including those involving China and Xinjiang, and related FAQs that may aid importers in identifying additional merchandise, regions, and producers whose imports into the United States may be subject to exclusion and/or seizure.¹⁴⁶

Other:

- Group of Seven (G7) Trade Ministers’ Statement on Forced Labor;¹⁴⁷ and
- The Human Trafficking Legal Center’s guide, *Importing Freedom: Using the U.S. Tariff Act to Combat Forced Labor in Supply Chains*.¹⁴⁸

¹³⁶ *Comply Chain: Business Tools for Labor Compliance in Global Supply Chains*, *supra* note 114.

¹³⁷ *Findings on the Worst Forms of Child Labor*, U.S. Department of Labor, <https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings> (last visited June 15, 2022).

¹³⁸ *2020 List of Goods Produced by Child Labor or Forced Labor*, *supra* note 14.

¹³⁹ *List of Products Produced by Forced or Indentured Child Labor*, *supra* note 110.

¹⁴⁰ *Better Trade Tool*, *supra* note 111.

¹⁴¹ FAR, Acquisition.gov, <https://www.acquisition.gov/browse/index/far> (last visited May 19, 2022). Contractors or other suppliers of the U.S. Government that violate U.S. law or the FAR prohibition on human trafficking in U.S. Government acquisitions, per FAR clauses 52.222-18, -19, and -50, are subject to administrative enforcement action.

¹⁴² *National Action Plan on Responsible Business Conduct*, U.S. Department of State (June 22, 2021), <https://www.state.gov/responsible-business-conduct-national-action-plan/>.

¹⁴³ *Xinjiang Supply Chain Business Advisory*, *supra* note 8.

¹⁴⁴ *Reasonable Care: An Informed Compliance Publication*, U.S. Customs and Border Protection (Oct. 25, 2017), <https://www.cbp.gov/sites/default/files/assets/documents/2020-Feb/icprescare2017revision.pdf> (last updated Feb. 26, 2020).

¹⁴⁵ *See Forced Labor*, U.S. Customs and Border Protection, <https://www.cbp.gov/trade/forced-labor/> (last visited May 19, 2022).

¹⁴⁶ *Withhold Release Orders and Findings List*, *supra* note 12.

¹⁴⁷ *G7 Trade Ministers’ Statement on Forced Labor*, GOV.UK (Oct. 22, 2021), <https://www.gov.uk/government/news/g7-trade-ministers-statement-on-forced-labour-annex-a>.

¹⁴⁸ *Importing Freedom: Using the U.S. Tariff Act to Combat Forced Labor in Supply Chains*, The Human Trafficking Legal Center (June 2020), https://htlegalcenter.org/?smd_process_download=1&download_id=4935.

B. Evidence to demonstrate that a good was not mined, produced, or manufactured, wholly or in part, in Xinjiang

CBP is responsible for determining whether goods have been mined, produced, or manufactured wholly or in part with forced labor and imported into the United States in violation of the UFLPA. This section outlines the forms of evidence that typically facilitate this determination.

This section also reflects the forms of evidence that would facilitate a determination that an importation is not subject to the UFLPA—*i.e.*, information that the imported goods and their inputs are sourced completely from outside Xinjiang and have no connection to the UFLPA Entity List.

The type, nature, and extent of evidence required from the importer, however, will vary based on the facts and circumstances of the import in question. The following information is not intended to be an exhaustive list of the documentation CBP may request, and the goal is to provide importers flexibility to provide documentation consistent with their business operations.

Translation of documents into English will allow CBP to properly and more efficiently evaluate the information.

Supply-chain tracing is the general method to demonstrate that imported goods were not mined, produced, or manufactured in Xinjiang. In some instances, transshipment of goods made in Xinjiang, as described in Section I of this report, may be used to obscure the good's origin. Based on the facts and circumstances of a particular entry, CBP may request evidence to demonstrate supply-chain tracing of the entire supply chain of an imported good or a specific component of the good. When requested, importers should be able to trace the complete supply chain of the good under CBP review. Documentation should include:

- Detailed description of the supply chain for the imported good and components thereof, including all stages of mining, production, or manufacture, including any step of the sourcing, manufacturing, or processing of goods in third countries. This includes documenting how the imported good was made from raw materials to finished good, by what entities, and where, including all in-house manufacturing, sub-assembly operations, and outsourced production related to the imported good. This also includes documenting the roles of the entities involved at each stage of the supply chain, as well as the relationship between the entities (e.g., whether a supplier is also a manufacturer).
- Evidence that indicates the provenance of each component of the imported good. When possible, unique identifiers should be used to track raw materials and other inputs through the supply chain. When raw materials/inputs from different suppliers are commingled, there should be an auditable process for demonstrating the origin and control of each raw material or input.

DNA traceability or isotopic testing may make it possible to identify the origin of particular goods or materials without tracing the supply chain. For such evidence to be considered, its reliability must be demonstrated; it must relate to the part of the supply chain for which the

alternative evidence is being substituted, and the test results must be traceable to the specific import under CBP review.

C. Evidence to demonstrate that a good originating in the PRC, including goods detained or seized pursuant to 19 U.S.C. § 1307, was not mined, produced, or manufactured wholly or in part by forced labor

To obtain an exception to the UFLPA presumption, the importer must provide “clear and convincing evidence, that the good, ware, article, or merchandise was not mined, produced, or manufactured wholly or in part by forced labor” to CBP. CBP is responsible for determining whether goods have been mined, produced, or manufactured wholly or in part with forced labor and imported into the United States in violation of the UFLPA. This section outlines the forms of evidence that will typically facilitate this determination. The type, nature, and extent of evidence required from the importer, however, will vary based on the facts and circumstances of the import in question. The following information is not intended to be an exhaustive list of the documentation CBP may request, and the goal is to provide importers flexibility to provide documentation consistent with their business operations.

Translation of documents into English will allow CBP to properly and more efficiently evaluate the information.

Evidence must demonstrate that indicators of forced labor, including intimidation and threats, abuse of vulnerability, restriction of movement, isolation, abusive living and/or working conditions, and excessive hours, do not exist or are fully remediated.

Evidence to demonstrate that goods originating in the PRC were not made wholly or in part with forced labor may include:

- Evidence mapping the entire supply chain, and transport along the supply chain, including which entities were involved at each stage;
- Complete list of all workers at an entity subject to the rebuttable presumption in the production of the imported goods, including:
 - Evidence to demonstrate how and to whom wages are paid at each workplace;
 - Evidence to identify whether each worker comes from Xinjiang, as well as the worker’s residency status;
 - Evidence to demonstrate that output is consistent with the documented workers, including:
 - number of workers in each job category, total volume of material or goods input, and total volume of outputs of materials or goods; and,
 - documents relating to hours worked and daily production output of goods.
- Evidence that none of the workers who were involved in the production of the product were a) recruited, b) transported, c) transferred, d) harbored, or e) received with the involvement of the government of the PRC, XPCC, or entities on the UFLPA Entity List. Evidence should specifically address the controls each entity has in place to ensure that all workers are recruited voluntarily;

- Evidence that reliably demonstrates that every worker from Xinjiang is working voluntarily, and without menace or threat of penalty, including credible evidence that demonstrates for each such worker that:
 - recruitment to work, including recruitment to any job fair, was fully voluntary;
 - recruitment and continuation at the job were and are not subject to government or entity coercion;
 - recruitment was free of any forced labor indicator (see Strategy Section II), including detention, prior detention or threats of detention, detention or threats of detention of family members, or forced transfer of land to the government;
 - transport from Xinjiang was voluntary and free of any forced labor indicator, including government surveillance or control of worker movements during transport from Xinjiang;
 - transfer to the entity was voluntary and free of any forced labor indicator, including government surveillance;
 - living and working conditions at the entity are free of any forced labor indicator, including government surveillance or reporting by the entity to the government, restriction of movement, or required activities such as political, language, or cultural classes; and,
 - receipt of the worker by the entity was undertaken voluntarily and without any indicators of forced labor, including government surveillance or reporting.

Any audit performed to demonstrate that goods originating in the PRC were not made wholly or in part with forced labor including such evidence must explain its methodology, how it determined the presence or absence of forced labor indicators, a description of all evidence upon which the determination was based, and a description of how the auditor determined the reliability of the evidence used to reach the audit's conclusions. See Strategy Section VI (A) for additional information on due diligence and credible audits.