



DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2022-0001]

Notice Seeking Public Comments on Methods to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China, especially in the Xinjiang Uyghur Autonomous Region, into the United States

AGENCY: Department of Homeland Security.

ACTION: Request for public comments.

SUMMARY: The U.S. Department of Homeland Security, on behalf of the Forced Labor Enforcement Task Force (FLETF), is seeking comments from the public, as required by the Uyghur Forced Labor Prevention Act, on how best to ensure that goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China are not imported into the United States. Such goods, wares, articles and merchandise include those mined, produced, or manufactured wholly or in part with forced labor by Uyghurs, Kazakhs, Kyrgyz, Tibetans, and members of other persecuted groups in the People's Republic of China, and especially in the Xinjiang Uyghur Autonomous Region. After receiving comments, the FLETF will conduct a public hearing and develop a strategy for supporting enforcement of section 307 of the Tariff Act of 1930, as amended.

DATES: Comments must be received on or before [INSERT DATE 45 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] at 11:59 PM EST.

ADDRESSES: You may submit comments on this notice, identified by Docket No. DHS-2022-0001, through the Federal e-Rulemaking Portal at <https://www.regulations.gov>. Follow the website instructions for submitting comments.

Comments submitted in a manner other than those discussed in this Notice will not be considered by the Forced Labor Enforcement Task Force (FLETF). Please note that the FLETF cannot accept any comments that are hand-delivered or couriered. In addition, the FLETF cannot accept comments contained on any form of digital media storage devices, such as CDs/DVDs and USB drives. The FLETF is also not accepting mailed comments at this time. If you cannot submit your comment by using <https://www.regulations.gov>, please contact DHS Trade Policy at FLETF.PUBLIC.COMMENTS@hq.dhs.gov or 202-938-6365 for alternate instructions.

For additional instructions regarding submitting comments, see section I of this notice, “Submission Instructions for Public Comments.”

FOR FURTHER INFORMATION CONTACT: Cynthia Echeverria, Acting Director of Trade Policy, U.S. Department of Homeland Security at 202-938-6365 or at FLETF.PUBLIC.COMMENTS@hq.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Submission Instructions for Public Comments

The FLETF invites all interested parties to provide written data, views, and comments on all aspects of this notice.

Instructions: If you submit a comment, you must include the task force name (the Forced Labor Enforcement Task Force) and DHS Docket No. DHS-2022-001. All comments or materials submitted in the manner described above will be posted, without change, to the Federal eRulemaking portal at <https://www.regulations.gov> and will include any personal information you provide. You may wish to consider limiting the amount of personal information that you provide in any voluntary public comment submission to the FLETF. DHS may withhold from public view information provided in comments that it determines may impact the privacy of an individual or is offensive. For

additional information, please read the Privacy Notice available at

<https://www.regulations.gov/privacy-notice>.

Confidential Business Information Submissions: To submit a public comment that includes confidential business information, you must follow these instructions. If you do not follow these instructions, your comment may be posted without change to <https://www.regulations.gov>. For purposes of this notice, confidential business information is protected information which includes business confidential information, trade secrets, or commercial or financial information that is confidential or privileged; information that, if disclosed, would invade another individual's personal privacy; and other Freedom of Information Act (FOIA) exemption-qualifying information.

To submit any confidential business information to the FLETF, please submit your comment, with the confidential business information included, by email to FLETF.PUBLIC.COMMENTS@hq.dhs.gov. Please include a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL BUSINESS INFORMATION." Please clearly identify the portions of the emailed comment which constitute protected information. The FLETF will review the claimed confidential business information in its consideration of comments.

If you submit a confidential business information submission by email, please also submit a public version of the comment with identified confidential information removed. The FLETF will place the public version of the comment in the docket at <https://www.regulations.gov>. Public comments with confidential information submitted only by email, and not in conjunction with a public submission via <https://www.regulations.gov> may not be reviewed by the FLETF.

Docket: For access to the docket to view comments, go to <https://www.regulations.gov/> and search for DHS Docket No. DHS-2022-0001. You may

also sign up for email alerts on the online docket to be notified when comments are posted.

II. Background

A. The Forced Labor Enforcement Task Force

Pursuant to section 307 of the Tariff Act of 1930, as amended (19 U.S.C. § 1307), “[a]ll 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.” Under this section, the term “forced labor” includes “all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily” and includes forced or indentured child labor.

Section 741 of the United States-Mexico-Canada Agreement Implementation Act established the FLETF to monitor United States enforcement of the prohibition under section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307). *See* 19 U.S.C. 4681. Pursuant to DHS Delegation Order No. 23034, the DHS Under Secretary for Strategy, Policy, and Plans serves as Chair of the FLETF, an interagency task force that includes the Department of Homeland Security, the Office of the U.S. Trade Representative, and the Departments of Labor, State, Justice, the Treasury and Commerce.¹ *See* 19 U.S.C. 4681; Executive Order 13923 (May 15, 2020). The Chair may invite other federal departments or agencies to participate as members or observers. *See* Executive Order 13923 (May 15, 2020).

The FLETF must meet quarterly to discuss active Withhold Release Orders, ongoing investigations, petitions received, enforcement priorities, and other relevant

¹ The U.S. Department of Homeland Security, as the FLETF Chair, has the authority to invite representatives from other executive departments and agencies, as appropriate. *See* Executive Order 13923 (May 15, 2020). The U.S. Department of Commerce is a member of the FLETF as invited by the Chair.

issues with respect to enforcing the prohibition under section 307. *See* 19 U.S.C. § 4681(b). The FLETF must also submit biannual reports to appropriate congressional committees. *See* 19 U.S.C. § 4683. These reports must include DHS enforcement priorities for and activities taken pursuant to section 307; the number of times merchandise was denied entry pursuant to the prohibition within the preceding 180 days and a description of the merchandise denied entry; an enforcement plan regarding goods described under recent Department of Labor (DOL) reports on international child labor and forced labor; and any other information the FLETF considers relevant with respect to monitoring and enforcing compliance under section 307 of the Tariff Act of 1930, as amended. *See* 19 U.S.C. § 4683.

B. Uyghur Forced Labor Prevention Act: Preventing Goods Made with Forced Labor from the People’s Republic of China from Being Imported into the United States.

The Uyghur Forced Labor Prevention Act (Pub. L. 117-78) (“UFLPA”) requires, among other things, that the FLETF, in consultation with the Secretary of Commerce and the Director of National Intelligence, develop a strategy for supporting enforcement of section 307 of the Tariff Act of 1930, as amended (19 U.S.C. § 1307), to prevent the importation into the United States of goods, wares, articles and merchandise mined, produced or manufactured wholly or in part by forced labor in the People’s Republic of China, and especially in the Xinjiang Uyghur Autonomous Region. In developing and presenting this strategy, the UFLPA requires that the FLETF:

- Publish this notice in the *Federal Register* to solicit public comments, for not less than 45 days, on how best to ensure that goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People’s Republic of China, including by Uyghurs, Kazakhs, Kyrgyz, Tibetans, and members of other persecuted groups in the People’s Republic of China, and

especially in the Xinjiang Uyghur Autonomous Region, are not imported into the United States. *See* Pub. L. No. 117-78, § 2(a);

- Not later than 45 days after the close of the comment period, conduct a public hearing inviting witnesses to testify with respect to the use of forced labor in the People’s Republic of China and potential measures to prevent the importation into the United States of goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People’s Republic of China. *See* Pub. L. No. 117-78, § 2(b); and
- Not later than 180 days after the enactment of the UFLPA, in consultation with the Secretary of Commerce and the Director of National Intelligence, submit to the appropriate congressional committees an initial report that includes the strategy for supporting enforcement of section 307 of the Tariff Act of 1930, as amended, to prevent the importation into the United States of goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People’s Republic of China. Updates to the strategy shall be submitted to the appropriate congressional committees on an annual basis. *See* Pub. L. No. 117-78, §§ 2(c), (e).

III. Request for Public Comments

A. Importance of Public Comments

Public comments will be vital to robust implementation of the UFLPA.

Comments from all relevant stakeholders are encouraged to ensure that the FLETF accounts for a diverse and wide range of perspectives in developing a strategy to prevent the importation of goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People’s Republic of China.

Comments should be detailed and provide sufficient information to understand and assess concerns related to the risk of importing goods, wares, articles and merchandise mined, produced, or manufactured from specific regions, sectors, facilities, and entities in the People’s Republic of China. Proposed approaches and measures to implement the UFLPA should be as detailed as practicable.

B. List of Questions for Commenters

To assist in the development of comments, members of the public may consider the following non-exhaustive list of questions. This list is not intended to restrict the issues that commenters may address.

1. What are the risks of importing goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part with forced labor in the People’s Republic of China, including from the Xinjiang Uyghur Autonomous Region or made by Uyghurs, Kazakhs, Kyrgyz, Tibetans, or members of other persecuted groups in any other part of the People’s Republic of China?
2. To the extent feasible, as part of the assessment of risks, what mechanisms, including the potential involvement in supply chains of entities that may use forced labor, could lead to the importation into the United States from the People’s Republic of China, including through third countries, of goods, wares, articles and merchandise mined, produced, or manufactured wholly or in part with forced labor?
3. What procedures can be implemented or improved to reduce the threats identified in Question 2?
4. What forms does the use of forced labor take in the People’s Republic of China and the Xinjiang Uyghur Autonomous Region? For example, what “pairing assistance” and “poverty alleviation” or other government labor schemes exist in the People’s Republic of China that include the forced labor of Uyghurs, Kazakhs,

Kyrgyz, Tibetans, or members of other persecuted groups outside of the Xinjiang Uyghur Autonomous Region? What similar programs exist in which work or services are extracted from Uyghurs, Kazakhs, Kyrgyz, Tibetans, or members of other persecuted groups under the threat of penalty or for which they have not offered themselves voluntarily?

5. What goods are mined, produced, or manufactured wholly or in part with forced labor in the Xinjiang Uyghur Autonomous Region or by entities that work with the government of the Xinjiang Uyghur Autonomous Region to recruit, transport, transfer, harbor, or receive forced labor?
6. In addition to cotton, tomatoes, and polysilicon, are there any other sectors which should be high-priority for enforcement?
7. What unique characteristics of such high-priority sector supply chains, including cotton, tomato, and/or the polysilicon supply chains, need to be considered in developing measures to prevent the importation of goods mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China?
8. How can the United States identify additional entities that export products that are mined, produced, or manufactured wholly or in part with forced labor in the Xinjiang Uyghur Autonomous Region or by entities that work with the government of the Xinjiang Uyghur Autonomous Region to recruit, transport, transfer, harbor, or receive forced labor?
9. How can the United States most effectively enforce the UFLPA against entities whose goods, wares, articles, or merchandise are made wholly or in part with forced labor in the People's Republic of China and imported into the United States?

10. What efforts, initiatives, and tools and technologies should be adopted to ensure that U.S. Customs and Border Protection can accurately identify and trace goods entered at any U.S. ports in violation of section 307 of the Tariff Act of 1930, as amended?
11. What due diligence, effective supply chain tracing, and supply chain management measures can importers leverage to ensure that they 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 the Xinjiang Uyghur Autonomous Region?
12. What type, nature, and extent of evidence can companies provide to reasonably demonstrate that goods originating in the People's Republic of China were not mined, produced, or manufactured wholly or in part with forced labor in the Xinjiang Uyghur Autonomous Region?
13. What tools could provide greater clarity to companies on how to ensure upcoming importations from the People's Republic of China were not mined, produced, or manufactured wholly or in part with forced labor in the Xinjiang Uyghur Autonomous Region? To what extent is there a need for a common set of supply chain traceability and verification standards, through a widely endorsed protocol, and what current government or private sector infrastructure exists to support such a protocol?
14. What type, nature, and extent of evidence can demonstrate that goods originating in the People's Republic of China, including goods detained or seized pursuant to section 307 of the Tariff Act of 1930, as amended, were not mined, produced, or manufactured wholly or in part with forced labor?
15. What measures can be taken to trace the origin of goods, offer greater supply chain transparency, and identify third-country supply chain routes for goods

mined, produced, or manufactured wholly or in part with forced labor in the People's Republic of China?

16. How can the U. S. Government coordinate and collaborate on an ongoing basis with appropriate nongovernmental organizations and private sector entities to implement and update the strategy that the FLETF will produce pursuant to the UFLPA?
17. How can the U.S. Government improve coordination with nongovernmental organizations and the private sector to combat forced labor in supply chains, and how can these serve as a model to support implementation of the UFLPA?
18. Is there any additional information the FLETF should consider related to how best to implement the UFLPA, including other measures for ensuring that goods mined, produced, or manufactured wholly or in part with forced labor do not enter the United States?

Robert Silvers,
Under Secretary,
Office of Strategy, Policy, and Plans.