

Modern Slavery and Human Rights Policy and Evidence Centre (Modern Slavery PEC): Response to the Joint Committee on Human Rights Inquiry on Forced Labour in UK Supply Chains (February 2025).

Short summary

This submission focuses exclusively on questions 18 and 19 of the Committee's Call for Evidence.

Question 18: The US approach

While there is limited evidence on the effectiveness of the Uyghur Forced Labour Prevention Act (UFLPA), there are elements in it that would potentially be appropriate for consideration in the UK such as i) a rebuttable presumption of forced labour for state-imposed forced labour, ii) a risk-based approach to enforcement through an Entity List and a list of high-risk sectors for enforcement. However, we identify five weaknesses: i) it allows importers to re-export the banned goods, ii) the rebuttable presumption does not apply to online sales or shipments under \$800 USD, iii) the UFLPA Entity List does not list lead firms based in the Global North, iv) the UFLPA expanded existing sanctions that have resulted in counter-measures from China, v) it does not cover the full value chain.

Question 19: The EU approach

We respond to this question by focusing on the EU's Regulation prohibiting products made with forced labour on the Union Market. While this regulation is not yet fully applicable until 2027, there are elements in it that would be appropriate for consideration in the UK such as i) a prohibition to export products made with forced labour, ii) applicability of the prohibition to online sales iii) a requirement to coordinate with relevant authorities in third countries with similar instruments, iv) the use of a publicly available risk database to identify forced labour risks. However, we identify six weaknesses: i) it does not require remediation as a condition for lifting a ban, ii) it does not require engagement with workers and people with lived experience before or after issuing a ban, iii) the prohibition does not apply to the whole value chain, iv) the burden of proof lies on the authorities v) it does not enable authorities to issue a presumption of forced labour vi) it was not developed following an impact assessment or in consultation with people with lived experience.

The Modern Slavery and Human Rights Policy and Evidence Centre (Modern Slavery PEC)

The Modern Slavery PEC works to enhance understanding of modern slavery and transform the effectiveness of law and policies designed to address it. The Modern Slavery PEC is an impartial organisation that funds and co-creates research to provide policymakers and law-makers with independent and authoritative insight and analysis on modern slavery. The Centre is a consortium of three academic organisations led by the University of Oxford, and including the Universities of Liverpool and Hull, with the Bingham Centre for the Rule of Law as a

collaborative project partner. The Modern Slavery PEC is funded by the Arts and Humanities Research Council (AHRC) on behalf of UK Research and Innovation (UKRI).¹

This submission

This submission was drafted by Dr Sofia Gonzalez De Aguinaga, an expert in modern slavery in business supply chains at the Bingham Centre for the Rule of Law² part of the British institute for International and Comparative Law (BIICL), with input from the core Modern Slavery PEC team. It builds on the desk-based research on the effectiveness of forced labour import bans in addressing modern slavery undertaken by Dr Sofia Gonzalez De Aguinaga.³ Therefore, this submission does not necessarily represent the views of all partners making up the Modern Slavery PEC consortium. This submission focuses exclusively on questions 18 and 19 of the Committee's Call for Evidence.

Question 18. Are there particular elements of the Uyghur Forced Labor Prevention Act of 2021 in the USA that would be appropriate for consideration within a British Act? Please explain why you think such measures would be beneficial.

1. **Summary: While there is limited evidence on the effectiveness of the Uyghur Forced Labour Prevention Act⁴ (hereafter UFLPA), there are elements in it that would potentially be appropriate for consideration in the UK based on the author's assessment of the United Nations Guiding Principles⁵ (UNGPs hereafter), the OECD due diligence guidance,⁶ evidence from the more widely implemented section 307 of the US Tariff Act of 1930,⁷ and expert legal analyses. We discuss: i) a rebuttable presumption of forced labour for state-imposed forced labour, ii) a risk-based approach to enforcement through an Entity List and a list of high-risk sectors for enforcement.**
 - i) **Rebuttable presumption for state-imposed forced labour**
2. The UFLPA contains a rebuttable presumption that the import prohibition of goods made wholly or in part by forced labour established in sec. 307 of the US Tariff Act of 1930 applies to goods mined, produced or manufactured wholly or in part in Xinjiang Uyghur Autonomous Region (Uyghur Region hereafter) or by certain entities listed on the UFLPA Entity List. **Such a rebuttable presumption shifts the burden of proof from the authorities to importers sourcing from the Uyghur Region or listed or connected to entities in the UFLPA Entity List.**

¹ <https://www.modernslaverypec.org/>

² <https://binghamcentre.biicl.org/>

³ <https://www.modernslaverypec.org/resources/forced-labour-import-bans-2025>

⁴ Public Law 117 - 78 - An act to ensure that goods made with forced labor in the Xinjiang Uyghur Autonomous Region of the People's Republic of China do not enter the United States market, and for other purposes <https://www.govinfo.gov/app/details/PLAW-117publ78>

⁵ United Nations Human Rights Office of the High Commissioner (2012) Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework <https://www.ohchr.org/en/publications/reference-publications/guiding-principles-business-and-human-rights>

⁶ <https://mneguidelines.oecd.org/due-diligence-guidance-for-responsible-business-conduct.htm>

⁷ Codified 19 U.S.C. 1307 <https://uscode.house.gov/view.xhtml?req=granuleid%3AUSC-prelim-title19&saved=L3ByZWxpbUB0aXRzZTE5L2NoYXB0ZXI0%7CZ3JhbnVsZWlkOjVQy1wcmVsaW0tdGl0bGUxOS1jaGFnwGdGVyNA%3D%3D%7C%7C%7C0%7Cfalse%7Cprelim&edition=prelim>

3. **There are potential benefits of shifting the burden of proof onto importers through a rebuttable presumption. First, a rebuttable presumption eliminates the need for an evidentiary threshold to be met in order to impose a ban.** A historical comparative analysis of shipment detentions in the US found that the rebuttable presumption of the UFLPA was more effective in preventing the entry of products made with forced labour compared to section 307 of the US Tariff Act of 1930 as its enforcement did not depend on individual petitions being filed, the discretion of the authorities to undertake investigations, and the finding of reasonable or conclusive evidence necessary to trigger an enforcement action, as occurs under section 307 of the US Tariff Act.⁸ According to recent estimates, the direct imports from the Uyghur Region to the US have decreased by 12% since the implementation of the UFLPA.⁹ The rebuttable presumption has also allowed enforcing authorities to detain shipments that while not coming directly from China, their products have been found to contain components traced to the Uyghur Region. As of January 1st, 2025, 12,666 shipments¹⁰ valued at USD3.68 billion were subjected to UFLPA review or enforcement actions of which 5,443 were denied¹¹ entry into the US market.¹² Most of these shipments that were denied entry came from Malaysia, followed by Vietnam and Thailand.¹³

4. **Second, enforcement costs may be lower, but the economic cost of implementing a rebuttable presumption model in comparison to one that does not is yet to be estimated.** Costs may be lower for enforcing authorities as the burden of proof is on companies rather than on the enforcing authorities. Under a rebuttable presumption, companies covered by the presumption need to show, with clear and convincing evidence, that their goods were not produced by forced labour in order to import their goods, without authorities needing to undertake case-by-case investigations. Legal scholars suggest that importers are better suited to collect data from their supply chains more effectively and at a lower cost than the authorities themselves¹⁴ or civil society organisations (who often face several challenges including a lack of resources), especially when the evidential standards are high. However, in developing the UFLPA, it was recognized that monitoring the prohibition, developing a strategy, an Entity List, a list of high-risk sectors, and an

⁸ See Uribe (n.d.) The Continued Rise of Forced Labor: An Analysis of the Successes and Failures of U.S. Legislation Banning the Importation of Goods Made with Forced Labor (thesis).

https://polisci.ucsd.edu/undergrad/departmental-honors-and-pi-sigma-alpha/uribehannah_103059_12076164_Hannah-Uribe-Senior-Honors-Thesis-1.pdf

⁹ Greenfield et. al. (2025) Forced Labor in Global Supply Chains: Trade Enforcement Impacts and Opportunities. RAND Corporation. https://www.rand.org/pubs/research_reports/RR2534-1.html

¹⁰ Shipments are defined as the totality of goods subjected to review on one CBP cargo release entry. Shipments thus do not equal amount of goods. E.g., an entry was file for a shipment with 10 containers, this is counted as one shipment. See CBP's Data Dictionary. <https://www.cbp.gov/sites/default/files/assets/documents/2023-Jun/forced-labor-data-dictionary.pdf>

¹¹ That is, shipments were seized, excluded, exported or destroyed and did not enter the US market. See CBP's Data Dictionary <https://www.cbp.gov/sites/default/files/assets/documents/2023-Jun/forced-labor-data-dictionary.pdf>

¹² According to the US Customs and Border Protection dashboard statistics last accessed on February 14th, 2025. <https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics>

¹³ Ibid.

¹⁴ Higgins (2023) Closed Loophole, Open Ports: Section 307 of the Tariff Act and the Ongoing Importation of Goods Made Using Forced Labor. Stanford Law Review.

enforcement plan for each of those sectors, among other things, would require additional resources across agencies involved.¹⁵

5. **Third, a rebuttable presumption contributes to efforts aiming to increase supply chain tracing and transparency** as it enables authorities to require companies to trace their supply chains and disclose information in order to rebut the presumption. Under the UFLPA, importers can rebut the presumption (i.e., request an exception to the UFLPA's presumption)¹⁶ by meeting three criteria: i) provide 'clear and convincing evidence' that the goods were not made with forced labour (although sourced from the Uyghur Region or from an entity on the UFLPA Entity List) such as information on workers, wage payments and worker recruitment at each entity involved in the production of the goods, ii) demonstrate compliance with the Forced Labour Enforcement Task Force's Guidance to Importers (including documentation showing a due diligence system, effective supply chain tracing, and supply management measures), and iii) respond, completely and substantively, to all inquiries for information from the enforcing authorities. An importer can also contend that the UFLPA does not apply to its importation—i.e., that its imported goods were not mined, produced, or manufactured wholly or in part in the Uyghur Region or by an entity on the UFLPA Entity List, by requesting an applicability review and providing clear and convincing evidence that the goods, wares, articles or merchandise was not mined, produced, or manufactured wholly or in part by forced labour.
6. **According to an expert in China studies, reversing the burden of proof may be most appropriate in cases of state-imposed forced labour¹⁷ for geographical areas and products where a risk of state-imposed forced labour has been identified,¹⁸** such as in the case of the Uyghur Region. There are several reasons for this. First, by nature, state-imposed forced labour creates systemic coercive and pervasive risks across sectors in a given economy that transcends the practices of individual or group of companies in specific sectors.¹⁹ Where state-imposed forced labour has been identified, such as in the Uyghur Region²⁰ where the Chinese government has created a structurally coercive labour

¹⁵ Homeland Security (2024) 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. Homeland Security. Office of Strategy, policy and Plans. <https://www.dhs.gov/sites/default/files/2024-07/2024%20Updates%20to%20the%20Strategy%20to%20Prevent%20the%20Importation%20of%20Goods%20Mined%2C%20Produced%2C%20or%20Manufactured%20with%20Forced%20Labor%20in%20the%20People%E2%80%99s%20Republic%20of%20China.pdf>

¹⁶ See section 3(b) of the UFLPA.

¹⁷ State-imposed forced labour "refers to forms of forced labour that are imposed by state authorities, agents acting on behalf of state authorities, and organizations with authority similar to the state" (p.7) and is prohibited by Conventions Nos. 29 and 105, subject to certain exceptions (p. 148). [It] "operates through a pervasively coercive wider social context marked by a general lack of civic freedoms and a state apparatus that generates powerful coercive pressures through an extensive grassroots apparatus consisting of state and non-state institutions" (p. 149) ILO (2024) Hard to see, harder to count. Handbook on forced labour surveys <https://www.ilo.org/publications/hard-see-harder-count-handbook-forced-labour-surveys>

¹⁸ Zenz (2023) Measuring Non-Internment State-Imposed Forced Labor in Xinjiang and Central Asia: An Assessment of ILO Measurement Guidelines.

¹⁹ Ibid

²⁰ Coalition to End Uyghur Forced Labour (2022) Call to Action on human rights abuses in the Xinjiang Uyghur Autonomous Region. Coalition to End Forced Labour in the Uyghur Region. <https://enduyghurforcedlabour.org/call-to-action/>

environment through a centralized authoritarian state apparatus that deploys worker mobilisation efforts,²¹ it cannot be expected for any company to operate in such context in alignment with UNGPs expectations.²² Second, the identification of state-imposed forced labour is challenging due to the challenges of applying the 11 ILO indicators commonly used for doing so, making it particularly difficult for authorities to identify.²³ The ILO indicators were designed to detect privately forced labour evaluated at workplaces, while state-imposed forced labour is best assessed during mobilization stages including recruitment, training, and transfer, rather than just at the workplace itself.²⁴

7. **In 2022, legal experts based at the British Institute for International and Comparative Law (BIICL) developed a model law for a European forced labour import ban.** This model law proposed that authorities should be empowered to declare a presumption of forced labour in certain cases where wide-spread forced labour, including but not necessarily limited to state-imposed forced labour, has been identified through credible reports in an entire product group in a specific industry from specified countries or regions.²⁵ While it would need to be established what constitutes a credible report, these could include ILO reports, such as that which assessed a “systematic regionwide risk of forced labour” in Uzbekistan.²⁶ The model law also mentions that in cases where the economic operator’s products are not covered by the declaration of a presumption, the onus should be on the economic operator to provide complete and substantive evidence required by the authorities to implement the regulation.
8. **Reversing the burden of proof has also been suggested by legal scholars in relation to section 307 of the US Tariff Act of 1930 to target the alleged underenforcement of the law.**²⁷ Section 307 of the US Tariff Act of 1930 was the first ever forced labour import ban law developed worldwide and does not incorporate a rebuttable presumption. Under this law, the burden of proof is reversed onto the importer only once the authorities produce an order to withhold the goods. At this point, the importer has the burden of proof to show (within a period of three months) that the goods detained were not produced with forced labour. However, to detain or ban a product, the authorities need to have initiated (on their own or triggered by third-party allegations) an investigation into goods suspected of being produced with forced labour and find “substantive” or “conclusive” evidence of forced labour. The reversal of the burden of proof is recommended to counteract the

²¹ Zenz (2023) Coercive Labor in the Cotton Harvest in the Xinjiang Uyghur Autonomous Region and Uzbekistan: A Comparative Analysis of State-Sponsored Forced Labor. *Communist and Post-Communist Studies*, 56(2), 1–32. <https://doi.org/10.1525/cpcs.2023.1822939>

²² Cranston et. al., (2024) Respecting rights in renewable energy. Investor guidance to mitigate Uyghur forced labour risk in the renewable energy sector. <https://www.antislavery.org/wp-content/uploads/2024/01/ASI-HCIJ-IAHR-Investor-Guidance.pdf>

²³ Zens (2023) Measuring Non-Internment State-Imposed Forced Labor in Xinjiang and Central Asia: An Assessment of ILO Measurement Guidelines.

²⁴ *ibid.*

²⁵ Pietropaoli et. al., (2022) Progressing the proposed EU Regulation on prohibiting products made with forced labour: A Model Law. Anti-Slavery International, European Center for Constitutional and Human Rights and the Greens/EFA. https://www.annacavazzini.eu/wp-content/uploads/GreensEFA_Forced-Labour_A-Model-Law_.pdf

²⁶ The ILO’s evaluation in Uzbekistan assessed a systemic regionwide “risk of forced labour” (ILO, 2017c, p. xiii, 57; Tapiola, 2022, p. 32) in Zenz (2023).

²⁷ Higgins (2023) Closed Loophole, Open Ports: Section 307 of the Tariff Act and the Ongoing Importation of Goods Made Using Forced Labor. *Stanford Law Review*.

underenforcement of section 307, as it has partially been associated with targeting individual companies while facing significant identification issues, lack of access to information, insufficient funding, and the lack of transparency and reviewability of discretionary non-enforcement decisions.

ii) **Entity List and list of high-risk sectors**

9. **The UFLPA follows a risk-based approach to its enforcement as suggested by the OECD guidelines for multinational enterprises on responsible business conduct.**²⁸ For instance, the UFLPA requires the identification of specific entities across sectors to which the rebuttable presumption applies: the UFLPA Entity List.²⁹ According to the UFLPA, this list shall include (i) a list of entities in the Xinjiang Uyghur Autonomous Region that mine, produce, or manufacture wholly or in part any goods, wares, articles and merchandise with forced labour; (ii) a list of entities working with the government of the Xinjiang Uyghur Autonomous Region to recruit, transport, transfer, harbour or receive forced labour or Uyghurs, Kazakhs, Kyrgyz, or members of other persecuted groups out of the Xinjiang Uyghur Autonomous Region; (iii) a list of entities that exported products from the People's Republic of China into the United States; (iv) a list of facilities and entities, including the Xinjiang Production and Construction Corps, that source material from the Xinjiang Uyghur Autonomous Region or from persons working with the government of the Xinjiang Uyghur Autonomous Region or the Xinjiang Production and Construction Corps for purposes of the "poverty alleviation" program or the "pairing-assistance" program or any other government labour scheme that uses forced labour.
10. **It also follows a risk-based approach by requiring a list of priority sectors for enforcement, based on which entities are included into the UFLPA Entity List.** The UFLPA required this list to include cotton, tomatoes, and polysilicon, and since the passing of the UFLPA more sectors have been added.³⁰ For instance, polyvinyl chloride (PVC), aluminium and seafood were added in 2024.³¹ As reported in the 2024 updated strategy of the UFLPA, the Entity List consists of 68 entities, an increase of 48 entities since 2022.³²
11. **The publication of this Entity List has had an effect on industry behaviour.** For instance, in January 2025, the Solar Stewardship Initiative suspended Donghai JA Solar Technology Co Ltd and started investigations, after the company was added into the UFLPA Entity List due to a high-exposure risk to polysilicon from the Uyghur Region.³³ Moreover, there have been reports of lead firms allegedly cutting ties with entities listed in the UFLPA Entity list. For instance, according to Esquel, Nike and Tommy Hilfiger stopped sourcing from the company

²⁸ OECD (2023) <https://mneguidelines.oecd.org/mneguidelines/>

²⁹ The development of the UFLPA entity list is required by the UFLPA law under clause (i), (ii), (iv) or (v) of section 2(d)(2)(B).

³⁰ See Public Law 117-78 An act to ensure that goods made with forced labor in the Xinjiang Uyghur Autonomous Region of the People's Republic of China do not enter the United States market, and for other purposes. <https://www.govinfo.gov/app/details/PLAW-117publ78>

³¹ See US UFLPA Strategy Update 2024

³² See Homeland Security (2024) US strategy update 2024.

³³ [Statement: Updates to the UFLPA Entity List - 15 January 2025 | Solar Stewardship Initiative](#)

after it was listed in the UFLPA Entity List.³⁴ While only a few solar manufacturers have stopped sourcing from the Uyghur Region entirely, some businesses in the solar sector have started to reduce their reliance on the Uyghur Region for key materials in the production of solar panels by creating alternative supply chains to supply the US market.³⁵

12. **Exiting business relationships with entities in the Entity List, as recommended by the US’s Xinjiang Supply Chain Business Advisory,³⁶ does not necessarily contradict the UNGPs.** The nature and extent of the state-imposed forced labour in the Uyghur Region may be classified as a “situation where businesses lack the leverage to prevent or mitigate adverse impacts and is unable to increase its leverage” under the UNGPs.³⁷ In such cases where businesses cannot use their leverage, the UNGPs state that businesses should consider terminating business relationships considering assessments of potential adverse human rights impacts of doing so.³⁸ According to the Coalition to End Uyghur Forced Labour, Anti-Slavery International and affected communities and their representatives, exiting, disengaging and divesting from the Uyghur Region is the only responsible course of action for businesses.³⁹

a. Are there any weaknesses or flaws in the US approach?

13. **Summary: We answer this question in relation to the UFLPA and focus on five weaknesses based on the author’s assessment of the UNGPs, OECD guidelines, expert legal analyses, the limited evidence of the implementation of the UFLPA, and the more substantive evidence on the implementation of section 307 of the US Tariff Act of 1930. We discuss the following areas: i) the UFLPA allows importers to re-export the banned goods, ii) the rebuttable presumption does not apply to online sales or shipments under \$800 USD, iii) the UFLPA Entity List does not list lead firms based in the Global North, iv) the UFLPA expanded existing sanctions that have resulted in counter-measures from China, v) it does not cover the full value chain.**

i) Allows exportation of banned goods

14. **Goods that are denied entry to the US market under the UFLPA are allowed to be re-routed (re-exported) to other countries, resulting in a displacement of goods from one country to another.** This has led to a concern about other countries becoming “dumping grounds”⁴⁰ for forced labour goods as importing countries that do not have similar measures in place, would enable the entry of these goods into their market. While there is no evidence of specific goods being denied entry from the US under the UFLPA and then being re-

³⁴ See Vanderford (2024) Hong Kong’s Esquel Group Added to U.S. Forced Labor Ban List. Wall Street Journal. <https://www.wsj.com/articles/hong-kongs-esquel-group-added-to-u-s-forced-labor-ban-list-fec7faa9>

³⁵ Crawford and Murphy (2023) [Over-exposed: Uyghur region exposure assessment for solar industry sourcing](#).

³⁶ Grieger (2022) US approach to preventing imports of goods made using forced labour. European Parliament.

³⁷ UNGPs Principle 19, Commentary

³⁸ Ibid.

³⁹ Cranston et al. (2024) Respecting rights in renewable energy. Investor guidance to mitigate Uyghur forced labour risk in the renewable energy sector. <https://www.antislavery.org/wp-content/uploads/2024/01/ASI-HCIJ-IAHR-Investor-Guidance.pdf>

⁴⁰ There is not an agreed definition of what a “dumping ground” is. It can be understood as an increase in the importation of goods made with forced labour into a given market, or that a country imports more products likely to be made with forced labour than another which has regulatory measures in place to prevent this.

directed to other countries,⁴¹ there is evidence of goods prohibited from entry to the US market being imported into other countries without similar measures in place. For instance, a 2025 Guardian report found that Australia is allowing thousands of imports from Chinese companies blacklisted by the US over alleged links to forced Uyghur labour, including a supplier of parts to Sydney Metro vehicles.⁴²

15. There is also evidence of this occurring under section 307 of the US Tariff Act of 1930, which does not prohibit exportation of goods that are denied entry either.⁴³ For instance, under section 307 of the US Tariff Act of 1930, major rubber glove manufacturers in Malaysia, such as Top Glove and Supermax, were banned from entering the US market during the COVID-19 pandemic. However, these products were exported to other countries, such as the UK, which largely sourced gloves from these producers through existing NHS Framework Agreements and an emergency parallel supply chain.⁴⁴ Similarly, while the US banned cotton from Turkmenistan since 2018, products made with this cotton were imported directly and indirectly into Canada from 2020 to 2022.⁴⁵ Furthermore, imports from the Uyghur Region to the EU allegedly increased in the first half of 2021, while they decreased by more than fifty percent in that year in the US⁴⁶ where many goods from this region were banned from entry to the US under section 307 of the US Tariff Act.

16. There is also evidence of bifurcation strategies in the solar sector resulting from the UFLPA. According to a 2023 study, manufacturers in the solar sector sourcing from the Uyghur Region have developed alternative supply chains to supply the US while continuing to use Uyghur supply chains for goods to be exported to other countries without similar measures.⁴⁷ Moreover, there is evidence of commodities at high-risk of forced labour listed in the priority list of sectors for UFLPA enforcement, such as tomatoes and cotton from the Uyghur Region, entering other countries. For instance, a 2024 BBC report⁴⁸ found that UK supermarkets were sourcing tomatoes from China, likely from the Uyghur Region as around 80% of Chinese tomatoes are grown and harvested in that region, where minority groups work under state-imposed forced labour conditions.

⁴¹ Perhaps related to the lack of traceability systems to track those specific goods once they are denied entry.

⁴² Knaus and Davidson (2025) Thousands of imports enter Australia from firms blacklisted by US over alleged Uyghur forced labour links. The Guardian. <https://www.theguardian.com/world/2025/jan/20/thousands-of-imports-enter-australia-from-companies-blacklisted-by-us-over-claimed-uyghur-forced-labour-links-ntwnfb>

⁴³ 19 CFR § 12.42(e)

⁴⁴ Bhutta et al. (2021) Forced Labour in the Malaysian Medical Gloves Supply Chain before and during the COVID-19 Pandemic: Evidence, scale and solutions https://blogs.ncl.ac.uk/alexhughes/files/2021/07/Forced-Labour-in-the-Malaysian-Medical-Gloves-Supply-Chain-Full-Report-July-2nd-2.pdf?_gl=1*dj70al*_ga*MTA4Njl4NzA1NS4xNjI4MTcxNzcy*_ga_VH2F6S16XP*MTYyODI0NDIyOS4yLjEuMTYyODI0NDIzOC4w

⁴⁵ Turkmen (2023) [Time for Change: Forced labor in Turkmenistan Cotton 2022](#).

⁴⁶ Media article by Bermingham, 2021 as cited in Cockayne (2022): Making Xinjian sanctions work.

⁴⁷ Crawford and Murphy (2023) [Over-exposed: Uyghur region exposure assessment for solar industry sourcing](#). See also Cranston et. al., (2024) Respecting rights in renewable energy. Investor guidance to mitigate Uyghur forced labour risk in the renewable energy sector. <https://www.antislavery.org/wp-content/uploads/2024/01/ASI-HCIJ-IAHR-Investor-Guidance.pdf>

⁴⁸ <https://www.bbc.co.uk/programmes/m0025p5d>

ii) The prohibition does not apply to online sales or shipments under \$800 USD

17. **Under US trade law there is a loophole known as the “de minimis provision”, which allows shipments of goods valued below \$800 USD to be sent directly to the US.**⁴⁹ These are exempt from import duties and do not go through the formal entry process at the border, including scrutiny by the customs authorities, who also enforce section 307 of the US Tariff Act and the UFLPA. In a letter to the Department of Homeland Security,⁵⁰ the House of Representatives Select Committee on the Chinese Communist Party noted the de minimis provision was a barrier for the effective enforcement of the UFLPA. According to the letter, imports arriving in the US under this threshold have been increasing significantly. In particular, e-commerce companies alleged to have forced labour in their supply chains, such as Shein⁵¹ and Temu,⁵² account for nearly 30% of all packages shipped daily to the US under the de minimis provisions.⁵³ The “de minimis provision” also affects section 307 of the US Tariff Act. For instance, there is evidence of Turkmen cotton being sold on e-commerce platforms in the US such as K-mart and Sears despite a ban on all cotton from Turkmenistan under section 307 of the US Tariff Act being in place since 2018.⁵⁴

iii) The UFLPA Entity List does not list lead firms based in the Global North

18. **The UFLPA Entity List only lists Chinese companies. It does not list any multinational companies based in the Global North and at the top of supply chains which may be sourcing products from the Uyghur Region.** This may be limiting the potential of the UFLPA in preventing products made with forced labour from entering the US market. For instance, a 2025 study found that while direct imports from the Uyghur Region to the US have reduced, exposure to the Uyghur region remains within US business relationship networks, with many US businesses having second-, third-, or fourth-tier relationships with entities from the Uyghur Region, suggesting that connections to these entities remain in supply chains serving US markets.⁵⁵

iv) The UFLPA expanded existing sanctions that have resulted in counter-measures from China

19. **The UFLPA also expanded existing asset and visa blocking sanctions related to the Uyghur region to cover foreign individuals and entities responsible for serious human**

⁴⁹ Increased from USD200 with the passing of the TFTEA in 2016. <https://www.cbp.gov/trade/trade-enforcement/tftea/section-321-programs>

⁵⁰ Congress of the US House of Representatives. Select Committee on the Chinese Communist Party (2024) <https://selectcommitteeontheccp.house.gov/sites/evo-subsites/selectcommitteeontheccp.house.gov/files/evo-media-document/1-19-24-dhs-letter-on-uflpa.pdf>

⁵¹ For some reports on the alleged use of forced labour by these companies see <https://www.ft.com/content/4e7d8b28-0fd8-457f-9e96-cc01f0ec10fb> and <https://www.business-humanrights.org/en/latest-news/china-shein-factory-employees-work-18-hour-shifts-with-no-weekends-earning-just-two-cents-per-item-report-finds/>

⁵² See Freedom United (2023) https://www.freedomunited.org/news/temu-evades-responsibility/?utm_source=google&utm_medium=cpc&utm_campaign=%28ROI%29%20DSA&utm_id=1080780403&utm_content=138149034224&utm_term=&gad_source=1&gclid=Cj0KCQjw8MG1BhCoARIsAHxSiQnNdQU9CpJHNLRyLYW3ojT0LnnnirE_Hzv1FiYV5nh34uS9CSLd0waAiX3EALw_wcB#gad_source=1

⁵³ <https://selectcommitteeontheccp.house.gov/sites/evo-subsites/selectcommitteeontheccp.house.gov/files/evo-media-document/1-19-24-dhs-letter-on-uflpa.pdf>

⁵⁴ Turkmen News (2023) [Time for Change: Forced labor in Turkmenistan Cotton 2022](https://www.turkmennews.com/en/2023/05/10/forced-labor-in-turkmenistan-cotton-2022/).

⁵⁵ Greenfield et. al., (2025) Forced Labor in Global Supply Chains: Trade Enforcement Impacts and Opportunities. RAND Corporation. https://www.rand.org/pubs/research_reports/RRA2534-1.html

rights abuses in connection with forced labour⁵⁶ that the US had started implementing since 2019. For instance, in 2019 the US Department of State restricted visas for Chinese Communist Party officials associated with abuses in the Uyghur Region⁵⁷ and in 2020 began to impose sanctions on Chinese officials and entities involved in human rights abuses in the Uyghur Region under the Global Magnitsky Human Rights Accountability Act⁵⁸. Within one month of the passing of the UFLPA, the US government had sanctioned nine party officials and entities associated with forced labour in the Uyghur Region, including the Xinjiang Construction and Production Corps, the Xinjiang Public Security Bureau, and their respective leaders.⁵⁹ These coordinated actions have led to countermeasures by the Chinese government, including sanctions on western individuals and entities.⁶⁰ China also enacted an Anti-Foreign-Sanctions Law that prohibit companies operating in the country from complying with foreign sanctions targeting China and it has mobilised its consumers to retaliate with boycotts.⁶¹

- 20. Companies in the Global North operating in or sourcing from China have reported experiencing different types of retaliation from Chinese actors.** A 2025 study found that out of 6 case studies explored, 4 had experienced some type of retaliation from China, including from Chinese State actors. Retaliation activities included consumer boycotts, delisting of companies from China's e-commerce platforms, backlash on social media sites, and negative media coverage.⁶²

v) It does not cover the full value chain.

- 21. The UFLPA does not cover all actors in the supply chain, especially those in the downstream part of the value chain.** For instance, the UFLPA does not prevent investors from financing Uyghur forced labour.⁶³ Unlike the previous version that did not progress further in Congress, the UFLPA does not require securities issuers to disclose in their annual or quarterly reports with the Securities Exchange Commission information related to engaging in activities with entities linked to the state-forced labour in the Uyghur Region.⁶⁴

⁵⁶ See H.R.6256 <https://www.congress.gov/bill/117th-congress/house-bill/6256?q=%7B%22search%22%3A%22uyghur+forced+labor%22%7D&s=2&r=14>

⁵⁷ US Department of the Treasury (2020) Treasury Sanctions Chinese Entity and Officials Pursuant to Global Magnitsky Human Rights Accountability Act. <https://home.treasury.gov/news/press-releases/sm1055>

⁵⁸ Omer Kanat (2023) The Uyghur Human Rights Policy Act is US Law. Where Are the Sanctions? The Diplomat. <https://thediplomat.com/2023/06/the-uyghur-human-rights-policy-act-is-us-law-where-are-the-sanctions/>

⁵⁹ See US Sanctions Tracker by the Uyghur Human Rights Project (2024) <https://uhrp.org/sanctions-tracker/> and US Department of the Treasury (2020) Treasury Sanctions Chinese Entity and Officials Pursuant to Global Magnitsky Human Rights Accountability Act. <https://home.treasury.gov/news/press-releases/sm1055>

⁶⁰ See Schwarz et. al., (2022) External policy tools to address modern slavery and forced labour. European Parliament. [https://www.europarl.europa.eu/thinktank/en/document/EXPO_STU\(2022\)653664](https://www.europarl.europa.eu/thinktank/en/document/EXPO_STU(2022)653664) See also Cockayne (2022). Making Xinjiang sanctions work. The University of Nottingham. <https://www.xinjiangsanctions.info/wp-content/uploads/2022/07/Making-Xinjiang-Sanctions-Work-FINAL.pdf>

⁶¹ Grieger (2022) US approach to preventing imports of goods made using forced labour. European Parliament.

⁶² Greenfield et. al., (2025) Forced Labor in Global Supply Chains: Trade Enforcement Impacts and Opportunities. RAND Corporation. https://www.rand.org/pubs/research_reports/RRA2534-1.html

⁶³ For more information on how investors may be financing Uyghur forced labour see Hong Kong Watch (2022) Passively Funding Crimes Against Humanity found that MSCI investors were passively funding state-forced labour in Xinjiang. <https://static1.squarespace.com/static/58ecfa82e3df284d3a13dd41/t/648316485aef974222b0385f/1686312526570/ESG+report+20+May.pdf> Moreover, as of 2022 Western investment in the solar sector in Xinjiang had so far been relatively undisrupted. Cockayne (2022) Making Xinjiang sanctions work. The University of Nottingham. <https://www.xinjiangsanctions.info/wp-content/uploads/2022/07/Making-Xinjiang-Sanctions-Work-FINAL.pdf>

⁶⁴ Bill H.R.6210 Available at <https://www.congress.gov/bill/116th-congress/house-bill/6210>

This contradicts the UNGPs which state that all businesses regardless of size or sector have the responsibility to respect human rights.

Question 19. EU Member States have agreed two instruments to prevent the sale of goods linked to forced labour in the EU. Firstly the ‘Prohibiting products made with forced labour on the Union market’ and secondly the Corporate Sustainability Due Diligence Directive (CSDDD). Are there elements of either the regulation or the directive that would be appropriate for consideration in the UK? Please explain why you think such measures would be beneficial.

22. Summary: We respond to this question by focusing on the EU’s Regulation prohibiting products made with forced labour on the Union Market (EUFLR hereafter). While the regulation is not yet applicable until 2027, there are elements in it that would be appropriate for consideration in the UK based on the author’s assessment of the UNGPs, expert legal analyses, and the implementation of similar measures elsewhere: i) a prohibition to export products made with forced labour, ii) applicability of the prohibition to online sales iii) coordination with relevant authorities in third countries with similar instruments, iv) the use of a publicly available database to identify forced labour.

i) Prohibits the export of goods made with forced labour.

23. The EUFLR applies to exports from the EU market. According to Article 30, where the competent authorities conclude that a product, which has been notified to be made with forced labour, they shall require customs authorities not to release it for free circulation or to allow its export. This means that the importers with detained or banned goods would not be able to export them to other countries which may not have similar measures in place. This has the potential to reduce the risk of some countries becoming “dumping grounds” of forced labour goods as discussed in our response to Question 18.

ii) The prohibition applies to online sales

24. The EUFLR also applies to online sales. According to Recital 22, distance sales, including online selling, should also fall within the scope of the EUFLR. According to Article 4, a product should be considered to be made available on the market if the offer for sale is targeted at end users in the Union and an offer for sale shall be considered to be targeted at end users in the Union if the relevant economic operator directs, by any means, its activities to a Member State. This aligns to the UNGPs which state that all businesses regardless of size have the responsibility to respect human rights. By prohibiting online sales, it is expected that more products are covered under the prohibition, in contrast to the UFLPA which does not cover online sales.

iii) Requires coordination with relevant authorities in third countries with similar instruments

25. The EUFLR allows for cooperation between EU competent authorities and those of third countries with similar instruments in place. This cooperation entails sharing information on risk products or areas, best practices and decisions to ban products (including reasons and evidence). This has the potential to reduce costs for enforcing authorities on the

countries engaged in cooperation. Scholars⁶⁵ have also suggested for countries to take a coordinated effort to prevent the displacement of products made with forced labour from one country to another.

26. **A 2025 evidence review on the effectiveness of forced labour import bans⁶⁶ found that changes in a Malaysian rubber glove manufacturer (Supermax) was influenced to some extent by coordinated action** as Canada, following the US measures, also banned the company from their market. However, it is too early to assess the role of coordinated action among countries in triggering positive corporate change as Canada's import ban provision has just recently entered into force (in 2023) and the EUFLR is yet to apply in 2017.

iv) **Requires the use of a publicly available risk database to identify forced labour.**

27. **The EUFLR will establish a publicly available database to provide evidence-based and regularly updated information on forced labour risks in specific geographical areas or in relation to specific products or sectors, including and prioritising wide-spread and sever forced labour risks such as state-imposed forced labour.**⁶⁷ This database will have a similar function than that of the US Department of Labor, Bureau of International Labor Affairs' "List of Goods Produced by Child Labor or Forced Labor"⁶⁸ and the Findings on the Worst Forms of Child Labour, which, while not being an enforcement mechanism, have been used by advocacy groups and individuals to inform their filing of petitions under section 307 of the US Tariff Act and have informed the initiation of investigations by the enforcing authorities.⁶⁹ The List of Goods produced by Child Labour or Forced Labour aims to increase public awareness of forced labour and comprises 204 goods from 82 countries,⁷⁰ for which there is reason to believe are produced by child or forced labour wholly or in part.⁷¹ A 2022 study commissioned by the European Parliament recommended the European Commission to adopt a list similar to the ILAB's to facilitate the implementation of the ban and increase corporate transparency.⁷²

28. **A 2025 evidence review on the effectiveness of forced labour import bans⁷³ found that the use of an official list of goods at risk of forced labour may contribute to influencing changes from business and governments.** For instance, the changes enacted by

⁶⁵ Such as Cockayne, J. (2022) Making Xinjiang sanctions work: Addressing forced labour through coercive trade and finance measures. The University of Nottingham. <https://www.xinjiangsanctions.info/wp-content/uploads/2022/07/Making-Xinjiang-Sanctions-Work-FINAL.pdf> and Schwarz et. al. (2022) External policy tools to address modern slavery and forced labour. European Parliament.

[https://www.europarl.europa.eu/thinktank/en/document/EXPO_STU\(2022\)653664](https://www.europarl.europa.eu/thinktank/en/document/EXPO_STU(2022)653664)

⁶⁶ Gonzalez de Aguinaga (2025). Effectiveness of forced labour import bans. Modern Slavery and Human Rights Policy and Evidence Centre. <https://www.modernslaverypec.org/resources/forced-labour-import-bans-2025>

⁶⁷ Article 8.

⁶⁸ <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>

⁶⁹ Casey et. al., (2024) Section 307 and Imports Produced by Forced labour

<https://crsreports.congress.gov/product/pdf/IF/IF11360>

⁷⁰ As of September 5, 2024. Bureau of International Labour Affairs List of Goods Produced by Child Labor or Forced Labor. DOL. <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>
<https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>

⁷¹ As required under the [Trafficking Victims Protection Reauthorization Act \(TVPRA\)](#) of 2005 and subsequent reauthorizations, and the [Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018](#).

⁷² Jacob et. al., (2022) Trade related policy options of a ban on forced labour products. European Parliament. [https://www.europarl.europa.eu/RegData/etudes/IDAN/2022/702570/EXPO_IDA\(2022\)702570_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/IDAN/2022/702570/EXPO_IDA(2022)702570_EN.pdf)

⁷³ Gonzalez de Aguinaga, S. (2025) Effectiveness of forced labour import bans. Modern Slavery and Human Rights Policy and Evidence Centre. <https://www.modernslaverypec.org/resources/forced-labour-import-bans-2025>

Malaysian rubber glove manufacturers were associated to diverse pressures, including the addition of rubber gloves from Malaysia into the US List of Goods Produced by Forced Labour by the US Department of Labour in 2020.⁷⁴ The elimination of systemic state-imposed forced labour in Uzbekistan was also the result of diverse pressures, including the listing of Uzbek cotton in the US List of Goods produced by Child labor or Forced labor in 2010.⁷⁵ However, more research is needed to confirm the role of these lists in influencing changes in business and governments affected (or threatened) by a ban.

b. Are there any weaknesses or flaws in the EU approach?

29. Summary: We respond to this question by focusing on the EUFLR. While, the EUFLR is yet to be applicable in 2027, there are weaknesses in its design according to the author's assessment of the UNGPs, expert legal analyses and the implementation of similar measures elsewhere: i) it does not require remediation as a condition for lifting the ban, ii) does not require engagement with workers and people with lived experience before issuing a ban, iii) the prohibition does not apply to the whole value chain, iv) the burden of proof of the EUFLR lies on the authorities v) it does not enable authorities to issue a presumption of forced labour vi) it was not developed following an impact assessment or in consultation with people with lived experience.

i) it does not require remediation as a condition for lifting the ban.

30. The EUFLR does not require remediation as condition for lifting the ban. This diverges from the UNGPs as the provision of remedies to rights holders affected by adverse human rights impacts is one of its core pillars. According to the UNGPs, States should consider remedial measures in their policies and regulations⁷⁶ as part of their duty to protect human rights and facilitate access to remedy.⁷⁷ Businesses in turn, should provide for or cooperate in the remediation of human rights adverse impacts to meet their responsibility to respect human rights.⁷⁸ However, the EUFLR does establish remediation of harms to rightsholders as a condition for lifting a ban.

31. In 2023, legal scholars⁷⁹ suggested that the EUFLR should integrate remedy requirements when a ban has been imposed and should specifically establish a duty on economic operators to provide evidence that they have undertaken effective and appropriate remediation efforts. Where products have been prohibited from the market, a ban could then be lifted where appropriate and effective remediation measures have been implemented by the economic operator, considering victims' characteristics and context.⁸⁰

⁷⁴ These goods were added to the list in October 2020. See <https://www.business-humanrights.org/es/%C3%BAltimas-noticias/usa-department-of-labor-adds-malaysian-rubber-gloves-to-list-of-forced-labour-produced-goods-following-revelations-of-migrant-worker-abuse/>

⁷⁵ Department of Labour (2019) <https://www.federalregister.gov/documents/2019/03/25/2019-05360/notice-of-final-determination-to-remove-uzbek-cotton-from-the-list-of-products-requiring-federal>

⁷⁶ UNGPs Principle 1 Commentary.

⁷⁷ UNGPs Principle 25.

⁷⁸ UNGPs Principle 11 Commentary and Principle 22.

⁷⁹ Methven O' Bren and Weatherburn (2023) Commission Proposal for a Regulation on prohibiting products made with forced labour on the Union market: The issue of remedies. European Parliament. [https://www.europarl.europa.eu/thinktank/en/document/EXPO_BRI\(2023\)702583](https://www.europarl.europa.eu/thinktank/en/document/EXPO_BRI(2023)702583)

⁸⁰ Ibid.

32. **Such remedial efforts should include a “bouquet” of remedy measures outlined in the UNGPs.**⁸¹ apologies, restitution, rehabilitation, financial or non-financial compensation and punitive sanctions (whether criminal or administrative, such as fines), as well as the prevention of harm through, for example, injunctions or guarantees of non-repetition.
33. **The need to require remedial action from companies to lift a ban has also been discussed in the context of section 307 of the US Tariff Act.** Under this law, the enforcement authorities while using term “remediation” for lifting a ban, have generally understood it and applied it as the removal of indicators of forced labour rather than the provision of remedies to rightsholders.⁸² This is not consistent with the UNGPs which define remediation as “...the processes of providing remedy for an adverse human rights impact and the substantive outcomes that can counteract, or make good, the adverse impact”.⁸³ Only in limited cases, and using their ample discretionary power, have the authorities explicitly required remediation to harmed workers to lift a ban under section 307. For instance, in 2021 Top Glove allocated funds for reimbursement of recruitment fees and another to offer direct compensation for past harm suffered⁸⁴ after the enforcing authorities required the company to remediate workers in order to lift the ban on robber gloves from the company.
34. **However, remediation has often focused on past harm rather than prevention.**⁸⁵ For instance, in the Top Glove case, there was no evidence of other types of remedies being provided to prevent recurrence, such as guarantees of non-repetition. Prof Jennifer Gordon, a legal scholar with expertise on forced labour import bans, argued in 2024 that remediating forced labour must also be about the future to ensure that workers are not harmed again after they have been compensated. In particular, Prof Gordon argues that such remediation should be worker-led, including through collective bargaining agreements, supported by enforceable accords which hold brands accountable for conditions at their suppliers.⁸⁶
35. **When the EUFLR applies to state-imposed forced labour, a requirement for business to directly remediate affected individuals may not be applicable as under such contexts it is nearly impossible to do so.** For instance, under systemic state-imposed forced labour, such as that in the Uyghur Region in China, it is extremely difficult to access data on the ground to identify and access harmed workers.⁸⁷ However, the EUFLR could ask businesses to make donations to affected communities as a form of indirect remediation. Already some

⁸¹ UNGPs Principle 25, Commentary.

⁸² The Remedy Project (2023) Putting things right: Remediation of forced labour under the Tariff Act 1930. <https://static1.squarespace.com/static/5f846df102b20606387c6274/t/644b403dccc135fba5c64c2/1682653306884/TRP+-+CBP+Report+-+Final+-+20230428.pdf>

⁸³ United Nations Human Rights Office of the High Commissioner (2012) (p. 7). The Corporate Responsibility to Respect Human Rights. An interpretative Guide. United Nations. https://www.ohchr.org/sites/default/files/Documents/publications/hr.puB.12.2_en.pdf

⁸⁴ See The Remedy Project (2023). [Putting Things Right: Remediation of forced labour under the Tariff Act 1930](#).

⁸⁵ Gordon (2024) [Worker organising as a remedy for forced labour](#). Blog. Business and Human Rights Resource Centre.

⁸⁶ <https://www.business-humanrights.org/en/blog/worker-organizing-as-a-remedy-for-forced-labor/>

⁸⁷ Cranston et. al., (2024) Respecting rights in renewable energy. Investor guidance to mitigate Uyghur forced labour risk in the renewable energy sector. <https://www.antislavery.org/wp-content/uploads/2024/01/ASI-HCIJ-IAHR-Investor-Guidance.pdf>

businesses have already started doing so by donating to support the Uyghur refugee communities in Turkey, Kazakhstan and elsewhere.⁸⁸

- ii) It does not require engagement with workers and people with lived experience before or after issuing a ban.

36. **The EUFLR does not require engagement with workers and people with lived experience prior to or after issuing a forced labour import ban.** The regulation only mentions engagement with trade unions to inform investigations,⁸⁹ and that competent authorities should take into consideration the consequences of a ban on affected workers,⁹⁰ but it does not mention engagement with workers, vulnerable populations (such as indigenous groups), or people with lived experience. Legal scholars at BIICL in their model law for an EU forced labour regulation, suggested that if the competent authority or the Commission found, as a result of an investigation, that there is a substantiated concern that a product has been in-whole or in-part made with forced labour, it should launch an impact assessment which should include a determination of the impacts of such prohibition on workers and other affected stakeholders, through engagement with stakeholders, including vulnerable stakeholders.⁹¹ Anti-Slavery International and ECCHR also recommend engagement with affected workers when considering lifting a ban to verify that forced labour has been eliminated and appropriate remediation provided.⁹²

37. The case of Natchi Apparel in India, showed that if authorities engaged with workers before issuing the import ban under section 207 of the US Tariff Act, they would have known that the company had signed an enforceable brand agreement with workers before the imposition of the ban.⁹³ The potential negative impacts of the ban did not materialise as the authorities quickly lifted the ban after the worker union demonstrated that the Agreement had already remediated the indicators of forced labour at the factory.⁹⁴

- iii) The prohibition does not apply to the whole value chain

38. **The EUFLR does not cover the entire value chain, diverging from the UNGPs which apply to any business regardless of sector.** The EUFLR excludes the downstream part of the value chain, specifically services such as the distribution, transportation and storage of the goods.⁹⁵ There are also no penalties for investors financing the production of goods made with forced labour after they have been banned under the regulation. Under the

⁸⁸ Ibid.

⁸⁹ Article 14 (3)

⁹⁰ Recital 59.

⁹¹ Pietropaoli et al., (2022) Progressing the proposed EU Regulation on prohibiting products made with forced labour: A Model Law. Anti-Slavery International, European Center for Constitutional and Human Rights and the Greens/EFA. https://www.annacavazzini.eu/wp-content/uploads/GreensEFA_Forced-Labour_A-Model-Law_.pdf

⁹² ECCHR and Anti-Slavery International (2025) Understanding the EU Forced Labour Regulation: Assessment and recommendations. https://www.antislavery.org/wp-content/uploads/2025/02/ASI-ECCHR-FLR-Analysis-February-2025_Final.pdf

⁹³ Gordon (2024) Worker organising as a remedy for forced labour. Business & Human Rights Resource Centre. <https://www.business-humanrights.org/en/blog/worker-organizing-as-a-remedy-for-forced-labor/>

⁹⁴ The Remedy Project (2023). [Putting Things Right: Remediation of forced labour under the Tariff Act 1930](#)

⁹⁵ Transport and logistics are two high-risk sectors for forced labour. Shipping carries 90% of the world's trade and has been identified as susceptible to modern slavery. See Anti-Slavery International (2024) [A call for UK ban on products tainted with forced labour](#). Position paper.

EUFLR penalties are only in relation to importers and for non-compliance with a decision.⁹⁶ Legal scholars at BIICL who developed a model law for a labour import ban in the European Union, suggested that in addition to banning goods after it has been determined that they are made with forced labour, should require the importer or operator to pay a fine or require the confiscation of any revenues gained by the operator or importer as a result of a transaction with the relevant products concerned. This could also be applied to investors who may be financing the production of such goods.⁹⁷

iv) **The burden of proof of the EUFLR lies on the authorities**

39. **The burden of proof under the EUFLR lies on implementing authorities who need to investigate the use of forced labour in the making of a product or linked to a good before imposing a ban.** In contrast to section 307 of the US Tariff Act of 1930, the EUFLR also adds an additional step in the process that increases the burden of proof onto the authorities: a pre-investigation stage. The submission of petitions triggers a preliminary investigation phase where competent authorities collect and assess information following a risk-based approach. Only when the authorities determine that there is a “substantiated concern” that there has been a violation of the regulation during the pre-investigation phase, a full investigation is launched. According to a legal analysis, this is a higher evidentiary threshold than that of the US Tariff Act of 1930 where an investigation is initiated when there is a “reasonable suspicion” of forced labour.⁹⁸

v) **It does not enable authorities to issue a presumption of forced labour**

40. **The EUFLR does not allow for a rebuttable presumption to be established in cases of state-imposed forced labour despite the EUFLR acknowledging that the ILO indicators may be insufficient for the identification of forced labour imposed by state authorities.**⁹⁹ Legal experts at BIICL who developed a model law for a EU forced labour regulation suggested that the regulation should enable authorities to issue a presumption of forced labour in cases of state-imposed forced labour, which has also been supported by NGO.¹⁰⁰ The benefits and arguments in favour for a reversal of the burden of proof through a rebuttable presumption were discussed earlier under Question 18.

v) **It was not developed following an impact assessment or in consultation with people with lived experience.**

41. **The development of the EUFLR did not follow an impact assessment nor was it developed in consultation with people with lived experience as suggested by legal scholars.**¹⁰¹ Instead, the European Commission was granted a derogation as “forced labour

⁹⁶ Article 37.

⁹⁷ See for example Hong Kong Watch (2022)

⁹⁸ ECCHR and Anti-Slavery International (2023) OUT OF REACH Analysis of evidentiary standards in EU and US import bans to combat forced labour in supply chains.

⁹⁹ Recital 20.

¹⁰⁰ Anti-Slavery International and ECCHR (2021) [position paper on import controls to address forced labour in supply chains](#)

¹⁰¹ Pietropaoli et. al, (2022) Progressing the proposed EU Regulation on prohibiting products made with forced labour: A Model Law. Anti-Slavery International, European Center for Constitutional and Human Rights and the Greens/EFA. https://www.annacavazzini.eu/wp-content/uploads/GreensEFA_Forcled-Labour_A-Model-Law_.pdf

requires urgent action”.¹⁰² The lack of an impact assessment meant that costs and implications for businesses and implementing governments was not assessed and thus not considered for effective implementation. This is key as a recent evidence review exploring the effectiveness of forced labour import bans found that sufficient resources and capacities available to enforcement authorities influence the effectiveness of forced labour import bans in preventing products made with forced labour from entering a country.¹⁰³ Workers and people with lived experience were not consulted either despite a 2022 study found that developing policies and programmes aiming to tackle modern slavery with meaningful engagement with people with lived experience improves such measures.¹⁰⁴

¹⁰² See the European Commission (2022) Explanatory Memorandum for the Regulation (Section 3). <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX%3A52022PC0453>

¹⁰³ Gonzalez De Aguinaga (2025). Effectiveness of forced labour import bans. Modern Slavery and Human Rights Policy and Evidence Centre. <https://www.modernslaverypec.org/resources/forced-labour-import-bans-2025>

¹⁰⁴ Asquith, Wendy et al. (2022) A review of current promising practices in the engagement of people with lived experience to address modern slavery and human trafficking. <https://modernslaverypec.org/resources/best-practice-engagement-lived-experience>