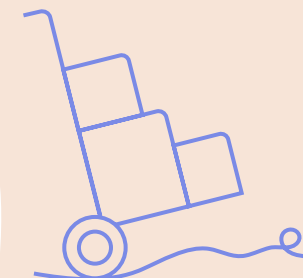


Policy Brief (updated):

Effectiveness of forced labour import bans in addressing modern slavery in global supply chains

Annex



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Annex 1: Forced Labour Import Bans developed and in force worldwide.¹

Regulation	Country	Entered into force	Coverage of human rights violations	Approach to enforcement	Scope (goods, entities, geography)	Human Rights Due diligence obligation	Burden of proof	Evidential threshold to establish ban	Conditions to lift the ban	Remediation ² as a necessary condition to lift the ban	Enforcement Authority
Section 307 of the Tariff Act of 1930 (codified 19 U.S.C. § 1307).	U.S.	1932 but largely enforced only since 2016.	Convict labour, forced labour and forced child labour. ³	CBP may initiate an investigation on its own initiative ⁴ or following the submission of allegations which can be reported and submitted through the Allegations Online Trade Violation Reporting System by any person.	All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by forced labour. Bans have been issued to specific producers, categories of goods, and specific regions.	No.	On the authorities. ⁵	If the investigation finds reasonable but not conclusive evidence that goods were made by forced labour, CBP can issue a Withhold Release Order (WRO). A Finding is issued when CBP finds conclusive evidence and seizes affected products remaining within its jurisdiction.	CBP can modify the WRO when forced labour indicators are remediated (i.e., removed). CBP can also revoke the WRO indicating that forced labour was not present at the time the WRO was imposed. ⁶	No. The term "remediation", is understood and applied as the removal of indicators of forced labour rather than the provision of substantive remedies to people. ⁷	Enforcement: US Customs and Border Protection (CBP). Monitoring: The Forced Labor Enforcement Task Force (FLETF).

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Uyghur Forced Labor Prevention Act (UFLPA) 2021 under s. 307	U.S.	June 2022	Convict labour, forced labour and forced child labour. ⁸	Rebuttable presumption, ⁹ using an Entity List ¹⁰ and a List of Priority sectors ¹¹ for enforcement.	Goods mined, produced, manufactured wholly or in part in Xinjiang or by entities on the UFLPA Entity List.	No. ¹²	On the importer.	Entity List and list of products made by certain listed entities. ¹³ Importers can rebut the presumption by showing “clear and convincing evidence” that the goods were not produced using forced labour or that the UFLPA does not apply to the goods in question. ¹⁴	Removal from the Entity List. ¹⁵	No.	US Customs and Border Protection (CBP). Monitoring: The Forced Labor Enforcement Task Force (FLETF).
Section 321 (b) of the Countering America’s Adversaries Through Sanctions Act (CAATSA) ¹⁶ , under section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307)	US	2017	Convict labour, forced labour and forced child labour. ¹⁷	Rebuttable presumption.	Significant goods, wares, merchandise, and articles mined, produced, or manufactured wholly or in part by North Korean nationals or North Korean citizens anywhere in the world are forced-labor goods prohibited from importation under the Tariff Act of 1930 (19 U.S.C. § 1307). ¹⁸	CBP and ICE HSI may consider a company’s due diligence before enforcement action. ¹⁹	On the importer.	The rebuttable presumption may be overcome by “clear and convincing evidence.” ²⁰	Elimination of North Korean workers in supply chain.	No.	CBP and U.S. Immigration and Customs Enforcement (ICE), both components of DHS. ²¹

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Custom Tariff Act Under tariff item 9897.00.00	Canada	July 2020	Forced labour, prison labour and forced child labour. ²²	An investigation can be started based on the information shared by the Labour Programme of the Employment and Social Development Canada (ESDC) or received from the public or any other source. ²³	Goods mined, manufactured or produced wholly or in part by forced labour regardless of their origin. ²⁴	The importer may submit information on their due diligence ²⁵ when under investigation. It is the responsibility of the importer to conduct due diligence on its supply chains to ensure that goods were not made with forced labour. ²⁶	On authorities.	A “reasonable suspicion” to detain goods. Determinations are made on a case-by-case basis. ²⁷ “sufficient evidence” would trigger a ban. ²⁸	If an importer satisfies CBSA that no forced labour was used to produce the goods, these will be released. Importers can request a change in determination by providing new evidence.	No.	Canada Border Service Agency (CBSA) which is overseen by the Minister of Public Safety. The CBSA relies in part on ESDC to inform its investigations.
Mexico’s Agreement that establishes the goods which importation is subject to regulation 2023	Mexico	May 18 th 2023 ²⁹	Forced labour and forced child labour	The Ministry may initiate, on its own or at the request of a private party legally registered in Mexico, an investigation into whether goods were produced using forced labour.	Goods under any tariff number in the Law of General Import and Export Taxes (TIGIE) ³⁰ regardless of their origin and made wholly or in part with forced and child labour. The list of the tariff numbers in scope is not yet publicly available.	No obligation to undertake HRDD. But when starting an investigation, the authorities can ask the importer for information on the goods that demonstrated the implementation of human rights due diligence.	On authorities.	“Sufficient elements” to start an investigation. If another country has issued a determination against such goods, these will be automatically added to the “resolutions list” ³¹ . If not, the Ministry will use the ILO’s indicators of forced labour as criteria. ³²	Confirm through new evidence that forced labour has stopped being used in the production of such goods. The ban can also be lifted when authorities from other countries lift the ban on such goods.	No.	Ministry of Labour and Social Welfare (Secretaria del Trabajo y Prevision Social).

Regulation	Country	Entered into force	Coverage of human rights violations	Approach to enforcement	Scope (goods, entities, geography)	Human Rights Due diligence obligation	Burden of proof	Evidential threshold to establish ban	Conditions to lift the ban	Remediation ² as a necessary condition to lift the ban	Enforcement Authority
Regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union Market. ³³	E.U.	December 14 th , 2024. It will apply 3 years after this date (i.e., 2027).	Forced labour and forced child labour. ³⁴	Competent Authorities may initiate investigations taking a risk-based approach for prioritising investigations. Also, any person can submit information to the competent authorities on alleged violations via a Single information Submission Point made available on the Forced Labour Single Portal.	All products made wholly or in part with forced labour in the EU for domestic consumption and exports and imported goods. ³⁵ It applies to all importers and exporters and covers online sales to the Union Market or exporting from the EU.	Does not impose additional due diligence obligations on businesses in relation to forced and child labour. Instead, it is intended that the Regulation will operate alongside other existing or future due diligence obligations (e.g., those in the CSDDD).	Competent authorities in EU members states.	“Substantiated concern” ³⁶ triggers investigations. Lower threshold for cases of state-imposed forced labour. ³⁷ The final decision will be taken by the leading investigative authority. Implementing Act to specify the details to be contained in such decisions. ³⁸	Evidence from the economic operator that they have eliminated forced labour with regard to the product concerned. ³⁹	No.	The Commission (in the case of the use of forced labour outside the EU) or member state authorities (in the case of the use of forced labour within their territory) may initiate an investigation.

Endnotes

1. As of December 2024.
2. To affected rightsholders.
3. Expanded in 2000 to cover forced child labour. The Act states that "For purposes of this section [section §130] the term "forced labor or/and indentured labor" includes forced or indentured child labor.
4. Albeit there is not a legal obligation for CBP to seek out information that would initiate an investigation. Gordon (2024) argues that CBP's approach to Sec. 307 is complaint-driven (p. 8).
5. Only once a product has been detained the importer has the burden of proof to show that the goods were not produced with forced labour.
6. See Gordon (2024).
7. See The Remedy Project (2023). [Putting Things Right: Remediation of forced labour under the Tariff Act 1930](#).
8. As stated under sec. 307.
9. A rebuttable presumption is a legal principle that presumes something to be true unless proven otherwise.
10. The UFLPA Entity List is pursuant to the UFLPA. 2023 additions to the UFLPA list include Network technology, chemical and biotechnology companies. See <https://www.skadden.com/-/media/files/publications/2024/02/the-informed-board/seven-myths-about-the-us-law-banning-imports-made-with-forced-labor.pdf?rev=6ca92f9951a0456f8c934656d184b451>
11. The list includes cotton, tomatoes and polysilicon. Polyvinyl chloride, aluminium and seafood were recently added to the list. See [EU Should Add Xinjiang, Aluminum to Forced Labor Database | Human Rights Watch \(hrw.org\)](#). While CBP does take listed high-priority sectors for enforcement into consideration, CBP focuses on prohibiting the importation of goods produced wholly or in part in Xinjiang or produced by an entity on the Entity List. See [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](#).
12. Albeit a necessary condition to rebut the presumption is to demonstrate compliance with the Forced Labour Enforcement Task Force's Guidance to Importers which includes documentation showing a due diligence system, effective supply chain tracing, and supply management measures.
13. Any FLETF member agency may submit a recommendation to add an entity to the UFLPA Entity List. In addition to the UFLPA Entity List, the UFLPA calls for a list of products mined, produced, or manufactured wholly or in part by entities on the UFLPA Entity List sub-lists. See [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](#)
14. See <https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics>
15. Using the criteria set under the Export Administration Regulations. See [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](#).
16. This is the short title. The long title is: An act to provide congressional review and to counter aggression by the Governments of Iran, the Russian Federation, and North Korea, and for other purposes.
17. As stated under sec. 307.
18. <https://www.dhs.gov/news/2021/02/11/countering-americas-adversaries-through-sanctions-act-faqs>
19. <https://www.dhs.gov/news/2021/02/11/countering-americas-adversaries-through-sanctions-act-faqs>
20. Sec. 302A (b) <https://www.congress.gov/bill/115th-congress/house-bill/3364/text>
21. <https://www.dhs.gov/news/2021/02/11/countering-americas-adversaries-through-sanctions-act-faqs>
22. The [Fighting Against Forced Labour and Child Labour in Supply Chains Act](#) (in force from January 1st, 2024) amended the Custom Tariff to prohibit imports produced with child labour, including child labour that is not forced. See <https://www.ropesgray.com/en/insights/alerts/2023/05/canada-to-implement-new-modern-slavery-reporting-requirements-and-child-labor-import-ban> and Corporate Accountability Lab (2024)
23. Above and Beyond (2024) [Enforcing Canada's forced labour import prohibition](#). <https://aboveground.ngo/wp-content/uploads/2024/05/Enforcing-Canadas-forced-labor-import-prohibition-May2024.pdf>
24. CBSA currently prioritises Cotton and cotton products from the Xinjian region, tomatoes and tomato paste and Polysilicon for enforcement. See Baker McKenzie (2023). [Canada: Enforcement update on Canada's Import Prohibition on forced and child labor](#).
25. Such as audits and inventory records.
26. See Canada Border Services Agency (2021) Memorandum D9-1-6. <https://www.cbsa-asfc.gc.ca/publications/dm-md/d9/d9-1-6-eng.html>
27. Above Ground (2024) [Enforcing Canada's forced labour import prohibition](#). See also Baker McKenzie (2023). [Canada: Enforcement update on Canada's Import Prohibition on forced and child labor](#).
28. Sufficient evidence defined as that in a "balance of probabilities" (greater than 50%) the goods were not made with forced labour. See Baker McKenzie (2023). [Canada: Enforcement update on Canada's Import Prohibition on forced and child labor](#).
29. <https://www.gob.mx/stps/prensa/entra-en-vigor-el-acuerdo-para-prohibir-la-importacion-de-mercancias-producidas-con-trabajo-forzoso?idiom=es>
30. TIGIE can be accessed here https://www.diputados.gob.mx/LeyesBiblio/pdf/LIGIE_2022.pdf
31. Such products will be prohibited from entering the country.
32. See Mejia Martinez and Salazar Monreal (2023) ["Guía para la instrumentación del mecanismo para restringir la importación de mercancías producidas con trabajo forzoso u obligatorio"](#).
33. The proposal was [approved version of the EUFLR by the European Parliament early in 2024](#) and adopted by the European Council on November 19th.
34. As defined in article 2 of the Convention on Forced Labour 1930 of the ILO.
35. It does not apply to the provision of transport services. See EUFLR (2024) Recital 18. Competent authorities will use a database to identify products and regions that present a high-risk of forced labour, including state-imposed forced labour.
36. Defined as a "reasonable indication, based on objective, factual and verifiable information, for the competent authorities to suspect that products were likely made with forced labour". See EUFLR (2024) Recital 16.
37. Competent authorities may establish that there is a violation on the basis of any other facts available where there is not possible to gather information and evidence. Including when an economic operator or public authority impedes the investigation. See EUFLR (2024) Art. 20 (2).
38. EUFLR (2024) Recital 49.
39. EUFLR (2024) Recital 48.

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