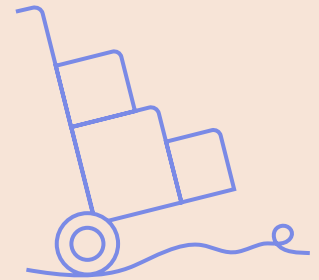


## Evidence review (updated):

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



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## Overview

This is an updated desk-based review of the evidence base on the effectiveness of Forced Labour Import Bans (FLIBs)— regulatory trade instruments developed by States that restrict the importation of goods into a given market on the grounds of forced labour<sup>2</sup> (private<sup>3</sup> and/or state-imposed<sup>4</sup>). Publicly available evidence in English of FLIBs developed and in force by December 2024 was reviewed and analysed against an effectiveness framework developed and used by the Modern Slavery Policy and Evidence Centre (MS PEC).<sup>5</sup>

This update is undertaken in light of the increasing development of FLIBs in Europe and North America and the need to better understand the role of trade measures,<sup>6</sup> in particular of FLIBs,<sup>7</sup> as a lever to address forced labour in global supply chains.<sup>8</sup>

On November 2024, the European Council [adopted a Regulation prohibiting products made with forced labour on the Union market \(EUFLR hereafter\)](#).<sup>9</sup> In October 2024, the government of Canada launched a [public consultation](#)

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2. As defined by the ILO, forced labour "is all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". <https://www.ilo.org/topics/forced-labour-modern-slavery-and-trafficking-persons/what-forced-labour#:~:text=According%20to%20the%20ILO%20Forced,offered%20himself%20or%20herself%20voluntarily.%22>

3. Privately-imposed forced labour "refers to forced labour in the private economy imposed by private individuals, groups, or companies in any branch of economic activity" (p. 6). International Labour Organization (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>

4. 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>

5. See [methodology section](#).

6. In the 2021 G7 Trade Ministers recognised the importance of trade as a lever in addressing forced labour in supply chains, albeit did not specifically refer to import bans <https://www.gov.uk/government/news/g7-trade-ministers-statement-on-forced-labour-annex-a>

7. The UK government has expressed interest in understanding the impact of FLIBs. See Home Office (2024) [Policy paper \(December 16th 2024\)](#): Government response to House of Lords Modern Slavery Act 2015 Committee report, 'The Modern Slavery Act 2015: becoming world-leading again'.

8. According to Walk Free, the UK imports US\$26.1 billion products at risk of being made using forced labour annually. <https://cdn.walkfree.org/content/uploads/2023/11/14130739/gsi-country-study-united-kingdom.pdf>

9. Published in the Official Journal of the European Union on December 12th, and entering into force a day after, on December 13th, 2024. See <https://eur-lex.europa.eu/eli/reg/2024/3015/oj>

to strengthen the forced labour import provision introduced in 2020 into its [Customs Tariff Act](#) in compliance with Article 23.6 of the 2020 North American trade agreement (the [US-Mexico-Canada Agreement](#), hereafter USMCA). In 2023 and also in compliance with the USMCA, Mexico introduced an [Agreement that establishes the goods which importation is subject to regulation](#). In 2021 the US passed the [Uyghur Forced Labour Prevention Act](#) (hereafter UFPLA) which targets the state-imposed forced labour in the Uyghur Autonomous Region (Uyghur Region hereafter) in China to complement its forced labour import prohibition contained in [section 307 of the US Tariff Act of 1930](#) (hereafter sec. 307). See Annex 1 for an overview of these instruments.

The desk-based review and analysis of the evidence on the effectiveness of FLIBs undertaken for this research is mostly based on sec. 307 and the UFLPA, as these have been the only FLIBs widely enforced so far. The evidence is expected to increase with time as the implementation of FLIBs increases.<sup>10</sup>

**While it is not yet possible to provide a conclusive answer as to their effectiveness,<sup>11</sup> due to limited, mixed and relatively low quality publicly available evidence,<sup>12</sup> FLIBs may be part of a “smart mix” of measures to address modern slavery in global supply chains as they have, to some extent, prevented some products made with forced labour from entering a market, and, in some cases influenced some changes in businesses and governments affected by these bans that relate to identifying, preventing, mitigating, monitoring and remediating forced labour in global supply chains.**

This desk-based review and analysis of the evidence is divided into the following seven thematic sections and the quality of the evidence was rated following the MS PEC’s quality of evidence framework.<sup>13</sup>

1. The concept of FLIBs and its relevance to modern slavery; **Green**
2. The development and implementation of FLIBs; **Green** for development, **Amber** for implementation.
3. The effectiveness of FLIBs in addressing modern slavery; **Amber** / **Red**
4. The actual or potential practical impacts of FLIBs on importing businesses and on governments that implement them; **Amber**
5. The connections between FLIBs with other related policy areas; **Red**
6. Actual or potential wider consequences of FLIBs; **Red**
7. Priorities for future research.

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10. For more details on the limitations of this research see [methodology section](#).

11. Defined and analysed according to the MS PEC’s Effectiveness Framework. See [methodology section](#).

12. See [methodology section](#) for details.

13. See [methodology section](#) for details.

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## Key findings

- So far, FLIBs have only been developed in the Global North, but they are not homogenous (see Annex 1).
- FLIBs have generally not been developed or implemented in consultation with people with lived experience or following impact assessments (see [section 2.1](#)).
- There is evidence of sec. 307 and the UFLPA preventing the entry of some products made with forced labour into the US market, but importers have found different routes of entry including through “transshipment” methods<sup>14</sup> and the “de minimis” exception (see [section 3.1](#)).
  - The “consumptive demand” exception of the US Tariff Act of 1930 significantly limited the enforcement of sec. 307 until 2016 (see [sections 2.2](#) and [3.1](#)).
  - There is no publicly available evidence of the Mexican or the Canadian bans preventing the entry of products made with forced labour despite the Canadian ban being in force since 2020 and the Mexican since 2023.
- A “rebuttable presumption” that shifts the burden of proof onto importers, the implementing authorities’ enforcement and investigative resources and capacities, and the ban’s interaction with associated domestic trade policies may influence the extent to which FLIBs prevent products made with forced labour from entering a market, but more research is needed to confirm this. (see [section 3.1](#)).
- There is evidence of sec. 307, among other pressures, influencing change in large suppliers in the Global South who were affected by a ban that directly targeted specific companies, but the evidence is limited to a few case studies (see [section 3.2](#)).
  - These include changes in corporate policy, governance, grievance mechanisms, and remediation.
  - The limited evidence suggests FLIBs influence change in suppliers in the Global South via direct and indirect economic pressures that can be attributed to these bans and that the more pressures are in place—from diverse stakeholders including international buyers—the more likely it may be that FLIBs, together with other tools, trigger changes in supplier behaviour.
  - It is unclear if and when these corporate changes translate into sustainable improvements in workers’ working conditions, especially from the workers’ perspectives.

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<sup>14</sup> Transshipment means the unloading of goods from one ship and its loading into another to complete a journey to a further destination. See [Eurostat Glossary](#).

- There is evidence of the UFLPA influencing lead firms' partial divestment from the Uyghur Region, and anecdotal evidence of lead firms exiting the region (see [section 3.2](#)).
  - Lead firms in the solar sector have reduced their sourcing from the Uyghur Region by bifurcating their supply chains.<sup>15</sup>
  - Some lead firms have announced their exiting from the Uyghur Region, but there is no evidence of this crystallising in practice.
  - There is no publicly available evidence of lead firms cutting ties with specific suppliers in association with bans issued under sec. 307 (see [section 6](#)).
- There is evidence of sec. 307, among other pressures, influencing change in the behaviour of governments affected by a ban that targets a whole industry (e.g., seafood in Taiwan, rubber gloves in Malaysia, cotton from Turkmenistan)—even if the bans do not explicitly aim to do so. (See [section 3.3](#))
  - These changes include public policy reforms (see [Malaysia case study](#)), prosecution of perpetrators (see [Taiwan case study](#)), and a reduction in the use of state-imposed forced labour (see [Turkmenistan case study](#)).
  - There is also evidence of government policy reforms aiming to address state-imposed forced labour when there is a threat of a ban under sec. 307 targeting specific companies (see [Thailand case study](#)).
- There is no evidence of the UFLPA and sec. 307 influencing a reduction in the use of state-imposed forced labour in the Uyghur Region—even if the bans do not explicitly aim to do so.
  - This may partially be related to the ethnopolitical goals that drive state-imposed forced labour in the Uyghur region,<sup>16</sup> which extent and mechanisms of coercion<sup>17</sup> differentiates it from other state-imposed forced labour contexts.<sup>18</sup>
- There is evidence of sustained economic pressures from multiple actors (including customers' boycotts), among other factors, influencing the elimination of systemic and systematic state-imposed forced labour in Uzbekistan—despite there not being a ban that targets that country<sup>19</sup> (see [Uzbekistan case study](#)).

15. "Supply chain bifurcation" refers to when a company creates an alternative product line using a separate supply chain dedicated for a specific market. See Crawford & Murphy (2023) Over-exposed: [Uyghur Region Exposure Assessment for Solar Industry Sourcing](#).

16. Zenz (2023) [Coercive Labor in the Cotton Harvest in the Xinjiang Uyghur Autonomous Region and Uzbekistan: A Comparative Analysis of State-Sponsored Forced Labor](#). Journal of Communist and Post-Communist Studies.

17. "Xinjiang currently operates the world's largest system of state-imposed forced labour", mainly through the non-internment state-imposed forced labour mobilisation system under the "Poverty Alleviation Through Labour Transfer Policy". See Zenz (2024) [Forced Labor in the Xinjiang Uyghur Autonomous Region: Assessing the Continuation of Coercive Labor Transfers in 2023 and Early 2024](#). <https://jamestown.org/program/forced-labor-in-the-xinjiang-uyghur-autonomous-region-assessing-the-continuation-of-coercive-labor-transfers-in-2023-and-early-2024/>

18. State-imposed forced labour is not homogeneous. It "includes labour exacted by the State as a means of political coercion or education or as punishment for expressing political views; as a punishment for participating in strikes; as a method of mobilizing labour for the purpose of economic development; as a means of labour discipline; and as a means of racial, social, national, or religious discrimination" (p. 7). 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>

19. Albeit there have been petitions from NGOs to ban Uzbek cotton from specific companies under sec. 307. See International Labor Rights Forum (2013) "Petition to exclude cotton yarn and fabric manufactured wholly or in part with forced labor in Uzbekistan by Daewoo International Corporation and Indorama Kokand Textile". [https://laborrights.org/sites/default/files/publications/Petition\\_to\\_US\\_Custom\\_April\\_30\\_2013.pdf](https://laborrights.org/sites/default/files/publications/Petition_to_US_Custom_April_30_2013.pdf)

- However, there are still instances of state-imposed and privately imposed forced labour in Uzbekistan partially related to an increasingly challenging economic situation in the country, the persistence of the state control system over the cotton harvest, and the lack of freedom of association and bargaining power for farmers.
- While so far none of the FLIBs in force mandate remediation to rightsholders as a condition to lift a ban, when remediation has been required under sec. 307 it has led to economic compensation to workers.
- There is little evidence of FLIBs preventing<sup>20</sup> forced labour (see [section 3.3](#)).
  - FLIBs allow economic actors (i.e., businesses and investors) to continue profiting from forced labour by not prohibiting the re-exportation of detained or seized goods, they do not target companies at different levels in the supply chain, and do not conceptualise remediation as prevention.
  - Advocates may play a role in the potential of FLIBs to prevent forced labour. For instance, advocates have used Sec. 307 to file petitions that target lead firms at the top of the supply chain, but a ban has never been issued in response. Advocates may also file a petition to shift power towards workers, but such petitions have not been filed yet.
- In theory, FLIBs could potentially complement other regulatory measures aiming to address forced labour in global value chains (such as trade sanctions and mandatory human rights due diligence legislation). However, it is too early to have evidence on this as FLIBs have not co-existed with these instruments at all or for long enough (see [section 5](#)).
- Lead firms and suppliers need to absorb the costs of complying with FLIBs, but these are likely to vary and the FLIB laws do not specify which businesses are to absorb which costs (see [section 4](#)).
  - Sec. 307 has mostly targeted suppliers at the centre of supply chains and as a result these have been absorbing significant costs (compared to lead firms), such as those related to remediation (see [Malaysia rubber gloves case study](#)).
- Governments need to absorb the costs of enforcing FLIBs, but these are likely to vary according to the enforcement mechanism of the ban, and the existing resources and capacities of the implementing authorities.
  - Governments that develop FLIBs may need to invest in additional human resources, capacity building, technology systems (especially traceability), and in producing guidance for companies (see [section 4.2](#)).

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20. Understood as "an ongoing process of avoiding and minimising exploitation and harm, which can be achieved through intervening before harm occurs, by intervening early and by treating harms". This definition of modern slavery prevention was informed by people with lived experience in Such et al. (2022) <https://files.modernslaverypec.org/production/assets/downloads/Modern-Slavery-PEC-Prevention-Research-Summary-final.pdf?dm=1646749698>

- There is limited and mixed evidence on whether FLIBs have negative consequences on trade. (See [section 6](#)).
  - There is only evidence of countermeasures by China, influenced by the UFLPA and sec. 307, among other factors. This may partially be related to factors external to the FLIB itself (e.g., existing geopolitical tensions), but more research is needed.
  - Production capacity for different materials largely produced in the Uyghur region is expanding into other countries, including the US.
- There is limited and mixed evidence on whether FLIBs have negative consequences on rightsholders (e.g., job and wage losses). See [section 6](#).
  - Allegedly, the bans on Malaysian glove manufacturers negatively impacted workers, but at the same time a systematic analysis of cases under sec. 307 did not find evidence of negative impacts on workers.
- Having FLIBs (that do not prohibit re-exportation) in some countries but not in others, may lead to some becoming “dumping grounds”<sup>21</sup> of products made with forced labour.



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21. There is not an agreed definition of what a “dumping ground” is, but here is understood as an increase in the importation of goods made with forced labour into a given market.

## Methodology

This research aimed to answer the following questions:<sup>22</sup>

1. What are Forced Labour Import Bans (FLIBs) and how are they *relevant* to modern slavery?
2. How have existing and emerging FLIBs been *developed* and *implemented* globally?
3. What does the evidence show about the *effectiveness* of FLIBs in addressing modern slavery?
4. What does the evidence show about *actual or potential practical impacts* of FLIBs on importing businesses and on governments that implement bans?
5. What does the evidence show about any *connections* between FLIBs and related policy areas?
6. What does the evidence show about any actual or potential *wider consequences* of FLIBs?
7. Future research.

To do so, a desk-based review and analysis of publicly available evidence up to December 2024 on the implementation of FLIBs developed and in force worldwide<sup>23</sup> was conducted in the English language.<sup>24</sup> The FLIBs covered in this brief are the following (see Annex 1).

1. [Section 307 of the US Tariff Act of 1930 \(amended 19 U.S.C. § 1307\)](#). In force since 1930 but only widely enforced since 2016.
2. Section 321 (b) of the [Countering America's Adversaries Through Sanctions Act](#) (CAATSA),<sup>25</sup> under section 307 of the Tariff Act of 1930. In force since 2017.
3. US [Uyghur Forced Labour Protection Act](#) (UFPLA), under section 307 of the Tariff Act of 1930. In force since June 2022.
4. Canada's [Import prohibition on Goods Produced by Forced Labour](#) as part of the 2020 Canada–United States–Mexico Agreement Implementation Act and Canada's [Fighting Against Forced Labour and Child Labour in Supply Chains Act](#). In force since July 2020.

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22. Note that question 1, 4 and 5 were not posed in the previous policy brief and question 2 was partially addressed in the Brief and in the Annex. See <https://www.modernslaverypec.org/resources/forced-labour-import-bans>

23. Those regulations proposed but that have not passed the legislative process are not included in this review. For example, in the UK a [Private Members' Bill](#) was introduced in 2022 to prohibit the import of products made by forced labour in the Xinjian region, and in Australia a private [Senator Bill](#) was also introduced seeking to ban imports of goods using Uyghur forced labour.

24. Documents in Spanish were reviewed only in relation to Mexico's FLIB.

25. This is the short title. The original 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.



5. Mexico's [agreement that establishes the goods which importation is subject to regulation](#)<sup>26</sup> as part of the [2020 United States–Mexico–Canada Agreement \(USMCA\)](#). In force since May 2023.
6. [Regulation of the European Parliament and of the Council on prohibiting products made with forced labour on the Union Market and amended Directive \(EU\) 2019/1937 \(EUFLR\)](#). In force since December 13<sup>th</sup>, 2024.

## Effectiveness

To answer question 3 (effectiveness), publicly available evidence on the implementation of the US, Canadian and Mexican bans was reviewed and analysed against the effectiveness framework outlined below, previously developed by the Modern Slavery PEC<sup>27</sup> and used in several PEC-funded research projects.<sup>28</sup> The EUFLR was not included in this assessment of effectiveness as while it is already in force, it will only become applicable from December 14<sup>th</sup>, 2027.<sup>29</sup>

The Effectiveness framework has been adapted to suit FLIBs as follows:

1. **Effectiveness Type 1: Preventing the entry of products made with forced labour into a market:** Effectiveness of the law in achieving the goals of the law. In this case, preventing the importation of goods into a country made wholly or in part with forced labour.
2. **Effectiveness Type 2: Changing business behaviour:** Effectiveness of the law at changing business behaviour as it relates to practices caught by the ban or in relation to the ban's requirements.<sup>30</sup>
3. **Effectiveness Type 3: Addressing Modern Slavery:** Effectiveness of the law at addressing forced labour, understood here in line with the UNGPs as identifying, preventing, mitigating and remediating for human rights abuses such as modern slavery.
  - a. **Evidence of behavioural change in governments affected by a ban** is discussed under this type of effectiveness due to their potential to address forced labour, either because the state itself is involved in imposing it or because it is introducing labour and other regulations with the potential to address it.

26. Translated by the author from the original title in Spanish: "Acuerdo que establece las mercancías cuya importación está sujeta a regulación a cargo de la Secretaría del Trabajo y Previsión Social".

27. Adapted from the Framework developed by Hsin et al., (2021) 'Effectiveness of Section 54 of the Modern Slavery Act Evidence and comparative analysis', Modern Slavery and Human Rights Policy and Evidence Centre.

28. See [effectiveness of section 54 of the Modern Slavery Act, effectiveness of mandatory human rights due diligence \(mHRDD\), and public procurement measures to address modern slavery](#).

29. See EUFLR Official Journal of the European Union, (2024)<https://eur-lex.europa.eu/eli/reg/2024/3015/oj> The EUFLR was included in this review for comparative purposes on design and future lessons for its implementation.

30. Including those related to human rights due diligence as per the UNGPs.

## Limitations

**The main limitation of this desk-based evidence review is the lack of publicly available evidence in English on the effectiveness of FLIBs, especially beyond type 1.** The limited evidence publicly available mainly comes from a few scholars, the US authorities, NGOs and the media. However, there is a lack of official evaluations and studies systematically analysing the impact of FLIBs on rightsholders, businesses and governments affected by the bans and the implications of this for addressing modern slavery in global supply chains.<sup>31</sup> This lack of evidence does not mean that FLIBs are ineffective. Rather, it means that the evidence has not been collected yet (in the case of some bans such as the Mexican and Canadian it may be too early to do so) or it is not in the public domain, limiting our understanding of their effectiveness. More evidence may become available with time as the implementation of FLIBs increases.

**Most publicly available evidence on the implementation of FLIBs comes from sec. 307 of the US Tariff Act of 1930 as it has been enforced for longer (since 2016), while others are yet to be enforced (e.g., the Mexican ban) or do not yet apply (e.g., the EUFLR).** For instance, all case studies of corporate change, and most of those of government change included in the evidence review are in relation to sec. 307. Moreover, the case studies discussed to illustrate changes in corporate behaviour are all from Malaysian rubber gloves' manufacturers as there are more reports and research on them, likely due to the significant media attention they attracted. This, however, does not mean that other businesses and governments may not be making internal changes as a response to sec. 307 or other FLIBs. Rather, it may mean that these are less documented.

**Establishing a causal relationship remains a limitation in research.** So far, the limited available evidence looking at the impacts of FLIBs has not established a causal relationship between the bans and impact on forced labour. Likely due to the difficulty of doing so as FLIBs do not operate in a policy vacuum. Therefore, the evidence discussed here, and the factors identified following the analysis of the existing evidence, suggest a correlation—that is, a relationship between business and government changes and FLIBs—but not causation. Future empirical studies should assess whether and how the identified factors in this brief influence the effectiveness of FLIBs.

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31. A notable exception is a 2023 report by The Remedy Project which analysed the effects of import bans issued under Section 307 of the US Tariff Act using nine case studies.

## Quality of the evidence

The general quality of the evidence analysed for this research is low due to the limitations outlined above. Each question analysed in this Brief was rated using the Modern Slavery PEC's rating framework as shown below in Box 1.

### Box 1: Evidence quality assessment – description of ratings

#### Green

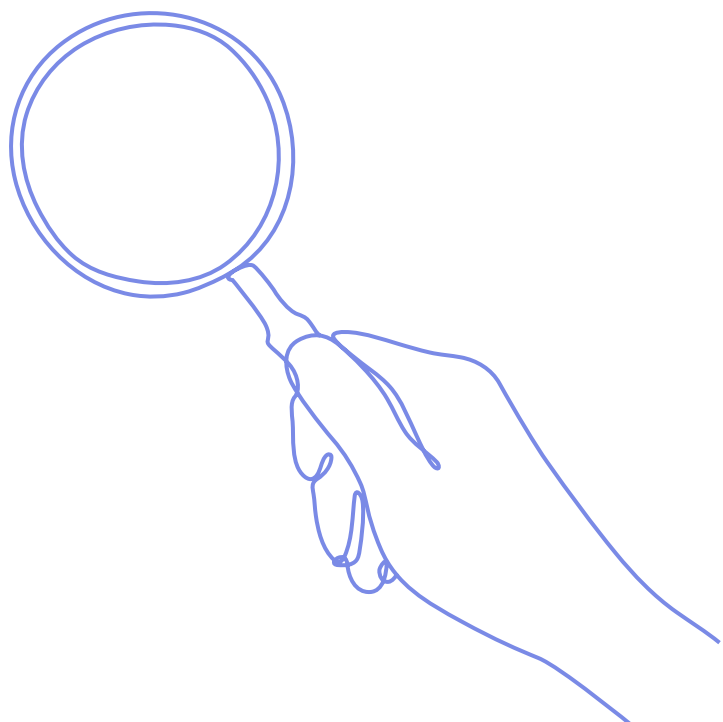
There is a well-established body of evidence on this issue; the overall landscape and evidence gaps are well understood; evidence is grounded in rigorous and peer reviewed research

#### Amber

There are some rigorous and peer reviewed research studies on this issue; evidence base is growing but there remain gaps in understanding

#### Red

There are no or very few rigorous research studies on this issue; evidence base is anecdotal; data sources are very limited



# 1. What are Forced Labour Import Bans (FLIBs) and how are they relevant to modern slavery?

Evidence quality rating: **Green**<sup>32</sup>

**Forced labour import bans are regulatory trade instruments developed by States that restrict the importation of goods into a given market on the grounds of forced labour**<sup>33</sup> (private and/or state-imposed forced labour).<sup>34</sup> They enable authorities to temporarily detain goods at the point of entry of a market if forced labour is suspected, and if presumed or confirmed, to seize and prohibit their entry until the evidential thresholds for lifting the ban are met.<sup>35</sup> FLIBs are part of a State's wider trade policy and one of a number of different regulatory measures available to States to address forced labour in global supply chains with direct impacts on third countries.<sup>36</sup> Given that they mainly block market access to business, they may represent a significant economic leverage.<sup>37</sup>

**Laws creating FLIBs are not homogenous** (see [Annex 1](#)). They all target goods, but they differ in scope in relation to the type of goods and their origin and whether they target specific companies.<sup>38</sup> For instance, they can allow enforcing agencies to take a flexible approach and target any type of goods made with forced labour whatever their origin.<sup>39</sup> They can also allow agencies to take a regional approach covering all goods made with forced labour with a link to specific geographies (regions or countries),<sup>40</sup> or a more targeted approach covering specific goods, categories or industries, with a link to specific geographies<sup>41</sup> or specific entities.<sup>42</sup> They may also allow agencies to prioritise categories of products for enforcement,<sup>43</sup> take a risk-based approach

32. Not rated in previous policy brief as it did not include this question.

33. Adapted from Pietropaoli et. al. (2021) [Effectiveness of forced labour import bans](#). Modern Slavery PEC Policy Brief 2021-3.

34. For instance, UFLPA only targets state-imposed forced labour. Sec. 307 of the Tariff Act mostly targets privately imposed forced labour, but it has also been used for state-imposed forced labour (i.e., Cotton from Turkmenistan). The EUFLR also targets both private and state-imposed forced labour.

35. So far, none of the forced labour import bans developed and in force mandate companies to provide effective remedy to workers as a pre-condition of lifting a ban. See [Annex 1](#).

36. Influence of forced labour import bans on governments at the receiving end of a ban is explored in [section 3.2.2](#) of this brief.

37. As discussed in [section 3.2.2](#) of this brief.

38. There is not yet an agreed typology of FLIBs in the scholarly. Anti-Slavery International & European Centre for Constitutional and Human Rights (ECCHR) (2021) envisage four types of bans: i) targeting one or multiple sites of production (a factory, vessel); ii) targeting one or multiple importers (companies); iii) targeting an entire industry from a particular country or region on the basis of State-imposed forced labour; iv) targeting an entire industry from a particular country or region based on privately imposed forced labour. See [position paper on import controls to address forced labour in supply chains](#).

39. For instance, the EUFLR, sec. 307 of the Tariff Act, and Mexico's and Canada's bans prohibit the importation of goods mined, produced or manufactured, wholly or in part, in any foreign country by forced labour. Section 307 is flexible in that it allows for more specific bans (in terms of products, importers, or geographies). For instance, it has mostly issued WROs against specific commodities from specific producers, factories, or exporters.

40. For instance, the UFLPA prohibits the importation of goods into the United States manufactured wholly or in part with forced labour from Xinjiang. CAATSA also prohibits goods manufactured by North Korean nationals or citizens.

41. For instance, in 2021, CBP issued a WRO (no. 43) covering any cotton, and tomatoes produced in Xinjiang Uyghur Autonomous Region. CBP has also issued WROs targeting [tobacco from Malawi](#) (in 2019), [cotton from Turkmenistan](#), and gold and diamonds mined from the DRC and Zimbabwe (in 2019). The ban on cotton from Turkmenistan was the first country or region-wide WRO to exclude an entire commodity. See [Turkmen News \(2023\) Time for Change: Forced labor in Turkmenistan Cotton 2022](#).

42. For instance, the UFLPA prohibits the importation of goods manufactured by an entity on the UFLPA Entity List on the basis of its direct or indirect association with the region or forced labour practices. Sec. 307 has also issued WROs and findings against specific companies (e.g., Malaysian glove manufacturers). Entities may also be excluded after establishing a WRO against a specific product from a specific region. For instance, the WRO against tobacco from Malawi was modified several times to gradually exclude tobacco products imported from specific companies. See for example <https://www.cbp.gov/newsroom/national-media-release/cbp-modifies-withhold-release-order-tobacco-imports-limbe-leaf>. Also, WROs against seafood from specific fishing vessels. <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>

43. For example, the UFLPA prioritises apparel, cotton, tomatoes and polysilicon (a key component in solar panels) and recently added aluminium. See Homeland Security, (2024d) Available at <https://www.dhs.gov/news/2024/07/09/forced-labor-enforcement-task-force-adds-aluminum-pvc-and-seafood-new-high-priority#:~:text=Labor%20Prevention%20Act-,Forced%20Labor%20Enforcement%20Task%20Force%20Adds%20Aluminum%2C%20PVC%2C%20and%20Seafood,Uyghur%20Forced%20Labor%20Prevention%20Act>

to enforcement,<sup>44</sup> create lists of entities covered by the ban<sup>45</sup>, include exports,<sup>46</sup> or a 'rebuttable presumption',<sup>47</sup> that presumes that certain goods are made with forced labour unless proven otherwise.<sup>48</sup> These characteristics may depend on the type of forced labour that the ban is targeting.<sup>49</sup> Moreover, depending on their enforcement model, they may place the burden of proof on the importers,<sup>50</sup> or the authorities,<sup>51</sup> and may have a petition process in place for enforcing the ban that allows civil society organisations and individuals to request an investigation.<sup>52</sup> Some FLIBs include administrative liabilities for failing to comply with the Authorities' decision,<sup>53</sup> and violations may result in civil penalties<sup>54</sup> and criminal prosecutions,<sup>55</sup> but none of them include remediation as a condition for lifting a ban.

**FLIBs differ from other trade instruments such as trade sanctions.**<sup>56</sup> Sanction regimes typically impose sanctions applicable to specific persons or entities,<sup>57</sup> often banning travel or freezing assets,<sup>58</sup> and may not necessarily be in relation to forced labour.<sup>59</sup> FLIBs on the other hand, impose restrictions on the basis of forced labour<sup>60</sup> and are focused on goods. Several scholars discuss FLIBs in conjunction with trade sanctions<sup>61</sup> or as a form of trade sanction.<sup>62</sup> While lessons can be drawn from the implementation of sanctions, especially those related to forced labour as they have been in place for longer than FLIBs,<sup>63</sup> they are discussed separately in this brief to account for their differences.

44. E.g., EUFLR aims to have a database of high-risk geographies.

45. E.g., the UFLPA Entity List. The lists are regularly updated. Listed entities may also request to be removed.

46. The EUFLR prohibiting products made with forced labour in the Union market also lays down rules prohibiting economic operations from exporting from the Union market products made with forced labour *with a view to improving the functioning of the internal market, while contributing to the fight against forced labour*. [https://www.europarl.europa.eu/doceo/document/TA-9-2024-0309\\_EN.html](https://www.europarl.europa.eu/doceo/document/TA-9-2024-0309_EN.html) The US regime also has export control elements as it requires American companies to not engage with companies listed in the UFLPA entity list. It also restricts American companies to engage with third parties that do not voluntarily comply with the entity list requirements. Cockayne, J. (2022). *Making Xinjian Sanctions Work*. The University of Nottingham.

47. A rebuttable presumption is a legal principle that presumes something to be true unless proven otherwise. In a rebuttable presumption model, the burden of proof lies with the party who wishes to rebut or disprove the presumption. The absence of such presumption changes the burden of proof to the authorities.

48. The UFLPA and CAATSA establish a rebuttable presumption. See Annex 1. In 2021 a Canadian Senator introduced a Bill (S-204) to amend the Customs Tariff to prohibit the importation of goods manufactured in the Uyghur Region. See <https://www.parl.ca/legisinfo/en/bill/44-1/s-204>

49. For instance, in the case of State-imposed forced labour is more likely that bans that target entire regions or industries are put in place.

50. E.g., The UFLPA.

51. E.g., EU, Canada, Mexico.

52. E.g., Section 307 allows this but not the UFLPA.

53. E.g., EUFLR Art. 37. the Tariff Act of 1930, and the Canadian Customs Act.

54. CBP can issue civil penalties against those who facilitate the importation of goods made with forced labour. See 19 U.S.C. §§ 1592, 1595a. <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>

55. E.g., CAATSA. See <https://www.dhs.gov/news/2021/02/11/countering-americas-adversaries-through-sanctions-act-faqs>

56. Masiko et al., (2024) *Harnessing UK trade and investment to address Indo-Pacific modern slavery risks*. Modern Slavery PEC.

57. For example, the sanctions imposed by States against Russia following its invasion of Ukraine.

58. For instance, the US *Magnitsky Act of 2012* imposed sanctions on individuals associated with human rights violations.

59. Sanctions in relation to forced labour are relatively new and mostly a response to the Xinjiang forced labour situation. For instance, States have put in place asset freezes and travel restrictions for entities connected to Xinjiang's forced labour. Cockayne (2022) *Making Xinjian Sanctions Work*. The University of Nottingham.

60. Schwarz et al., (2022) *External policy tools to address modern slavery and forced labour*; European Parliament

61. Pietropaoli I. et al. (2021) Effectiveness of forced labour import bans. Modern Slavery PEC Policy Brief 2021-3. <https://www.modernslaverypec.org/resources/forced-labour-import-bans>

62. Cockayne, J. (2022). *Making Xinjian Sanctions Work*. The University of Nottingham.

63. Sanctions imposed to China due to the forced labour in Xinjiang were imposed before the UFLPA.

**FLIBs should not be confused with mandatory human rights and environmental due diligence legislation (mHREDD).**<sup>64</sup> These are different types of instruments.<sup>65</sup> For instance, mHREDD laws are not trade measures (e.g., do not control imports) and are focused on processes, mandating companies to undertake human rights due diligence.<sup>66</sup> FLIBs on the other hand, are trade instruments that are focused on results, and do not mandate human rights due diligence or reporting obligations from companies.

**FLIBs also differ from sector-specific instruments that require transparency and due diligence.** For example, the conflict minerals provision<sup>67</sup> in the US Dodd's Frank Act of 2010,<sup>68</sup> albeit resulting in a 'de facto' ban on sourcing from the DRC, is not a ban,<sup>69</sup> neither is the EU's Conflict Minerals Regulation,<sup>70</sup> the EU Deforestation Regulation and the EU Batteries Regulation which require human rights due diligence (HRDD) from companies. This is discussed in more detail in [section 5.3](#).

**FLIBs are relevant to modern slavery because they target forced labour, a form of modern slavery.** FLIBs tend to cover both adult and child forced labour regardless of whether this is privately, or State imposed (see [Annex 1](#)). As defined by the ILO, forced labour "is all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily".<sup>71</sup> The focus on forced labour however means that other unlawful activities that fall within the term modern slavery, such as human trafficking, or less extreme forms of exploitation and other human rights violations may not be covered.

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64. The connections between FLIBs and mHREDD laws are discussed in [section 5.2](#) of this brief.

65. Masiko et. al., (2024) [Harnessing UK trade and investment to address Indo-Pacific modern slavery risks](#). Modern Slavery PEC.

66. See Modern Slavery PEC Policy Brief on the effectiveness of mHREDD laws.

67. The Dodd's Frank Act in Section 1502 ("the conflict minerals provision") requires public companies in the U.S. to trace and disclose their use of tin, tungsten, tantalum and gold 3TGs in their products and determine if they are sourced in an ethical manner.

68. Dodd-Frank Wall Street Reform and Consumer Protection Act. <https://www.govinfo.gov/app/details/PLAW-111publ203>

69. Companies were not required to stop sourcing from here but to show appropriate care or "due diligence" to ensure they are not funding armed groups or human rights abuses.

70. It requires EU companies to ensure they import minerals and metals from responsible and conflict-free sources only to ensure the ethical sourcing of critical minerals [https://policy.trade.ec.europa.eu/development-and-sustainability/conflict-minerals-regulation/regulation-explained\\_en](https://policy.trade.ec.europa.eu/development-and-sustainability/conflict-minerals-regulation/regulation-explained_en)

71. The 1930 Forced Labour Convention (ILO C029) codified a definition of forced labour for the first time in international law.

## 2. How have existing and emerging FLIBs been developed and implemented globally?

Evidence quality rating: Development: **Green**<sup>72</sup> Implementation: **Amber**<sup>73</sup>

### 2.1. Development

Evidence quality rating: **Green**

**The US is the only country with three pieces of legislation prohibiting the importation of goods made with forced labour: Section 307 of the US Tariff Act of 1930,<sup>74</sup> the Uyghur Forced Labor Prevention Act (UFLPA) and Countering America's Adversaries Through Sanctions Act (CAATSA).** Goods subject to these laws are not entitled to entry at any ports of the U.S. on the grounds of forced labour.

**Section 307 is the first and most mature FLIB regulation worldwide.** It was developed in 1930 as part of the country's protectionist measures at the time.<sup>75</sup> That is, it was developed with the aim of protecting the US market rather than protecting human rights. It contained a 'consumptive demand' exception that meant that goods produced with forced labour could enter the country if the US demand for such products could not be met domestically.<sup>76</sup> This exception hindered the enforcement of the Tariff Act until it was removed by Congress with the passing of the Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA)<sup>77</sup> in 2016.<sup>78</sup>

**An enforcement action of sec. 307 was added in 2017 under CAATSA.<sup>79</sup>** Section 321 (b) of CAATSA created a rebuttable presumption that 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-labour goods prohibited from importation under the Tariff Act of 1930.

72. The development of these instruments was not discussed in the previous policy brief, but it was partially addressed in the Annex without providing it a rating.

73. The previous policy brief rated the implementation of FLIBs as **Red**, but the questions was framed differently, and the answer included their interaction with wider regulatory contexts.

74. Updated as Act 19 U.S.C. section 1307.

75. Pietropaoli I. et al. (2021) Effectiveness of forced labour import bans. Modern Slavery PEC Policy Brief 2021-3. <https://www.modernslaverypec.org/resources/forced-labour-import-bans>

76. Thus, providing a legal defence to suppliers to import products that may have been produced involving forced labour.

77. <https://www.congress.gov/bill/114th-congress/house-bill/644/text>

78. Gordon (2024) *The US forced labor import ban as a tool to raise labor standards in supply chain contexts: strategic approaches to advocacy*. Fordham University School of law.

79. See <https://www.congress.gov/bill/115th-congress/house-bill/3364/text>

**More recent developments, such as the UFLPA in the US and the European Forced Labour Regulation (EUFLR) have arguably been developed as a response to the state-imposed forced labour in the Uyghur Region.**<sup>80</sup> In the US, the UFLPA was enacted to strengthen the existing prohibition under section 307, of the Tariff Act of 1930<sup>81</sup> by establishing a “rebuttable presumption” that all goods made in the Uyghur Region are made with forced labour. Its passing in 2021<sup>82</sup> was influenced by civil society movements,<sup>83</sup> calling on brands and retailers to exit the Uyghur Region. In 2020 the European Parliament condemned these violations, and a year later the European Commission President Ursula von der Leyen promised a ‘ban on products in our market that have been made by forced labour’ would be proposed. The UFLPA and the EUFLR however, are very distinct instruments. For instance, unlike the UFLPA, the EUFLR does not establish a rebuttable presumption (see [Annex 1](#)).

**The EUFLR was not developed based on an impact assessment, including impacts on workers and SMEs, setting out the empirical and theoretical foundations of the legislative approach.**<sup>84</sup> According to legal scholars, FLIBs should be developed based on an impact assessment which includes engagement with workers and vulnerable people.<sup>85</sup> However, the European Commission was granted a derogation as “forced labour requires urgent action”.<sup>86</sup> The EUFLR was [adopted](#) on November 19<sup>th</sup> 2024 by the European Council following the European Commission [proposal](#) in 2022 and the European Parliament [approval](#) in 2024.<sup>87</sup> (See [Annex 1](#)).

**Recent FLIB laws in North America have largely been driven by free trade agreements with the US.**<sup>88</sup> The development of forced labour import provisions in [Canada](#) and [Mexico](#) are part of the [US-Mexico-Canada Agreement \(USMCA\)](#) 2018 effective from 2020.<sup>89</sup> [Article 23.6](#) of this agreement requires the State Parties to prohibit the importation of goods into their respective territories from other sources produced in whole or in part by forced or compulsory labour. In line with this, Canada made changes to its Customs Tariff<sup>90</sup> in 2020 to prohibit products made with forced labour. Later in 2023, Canada amended the Customs Tariff

80. Evidence indicates that the State-imposed labour transfer programmes operating in the region where ethnic and religious minorities live (Muslim Uyghurs, Kazakhs, and Krygyz) meet the indicators for forced labour. (Sheffield Hallam University (2023) Forced Labour in the Uyghur Region: The Evidence. <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/evidence-briefs>)

81. WROs had already been issued to goods produced in the Xinjian region of China.

82. In 2021 the Bill was re-introduced in Congress. The previous version introduced in 2020 did not receive bipartisan support. See <https://www.congress.gov/bill/116th-congress/senate-bill/3471/text>

83. Including but not limited to a Call to Action launched by The Coalition to End Forced Labour in the Uyghur Region in July 2020. See [Coalition to End Forced Labour in the Uyghur Region](#).

84. Holly & Feld (2023) Setting the scene for an effective forced labour ban in the EU. The Danish Institute for Human Rights. <https://www.humanrights.dk/publications/setting-scene-effective-forced-labour-ban-eu>

85. Pietropaoli et al., (2022) [https://www.annacavazzini.eu/wp-content/uploads/GreensEFA\\_Forced-Labour\\_A-Model-Law\\_.pdf](https://www.annacavazzini.eu/wp-content/uploads/GreensEFA_Forced-Labour_A-Model-Law_.pdf)

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

87. It is yet to get a final formal approval from the EU Council. It will then be published in the Official Journal. EU countries will have to start applying it in 3 years.

88. Nissen & Gonzalez De Aguinaga (2024) [Drivers of Forced Labour Import Bans](#). BIICL blog.

89. This agreement replaced the 1994 North American Free Trade Agreement (NAFTA), which did not include labour rights provisions related to wages, collective bargaining and freedom of association.

90. Claimed to be also, at least partially, motivated by the Uyghur forced labour allegations. See Cockayne, J. (2022). [Making Xinjian Sanctions Work](#). The University of Nottingham.



to add products made with child labour to the prohibition through its Fighting Against Forced Labour and Child Labour in Supply Chains Act.<sup>91</sup> Moreover, as required by the USMCA, Mexico introduced new provisions in 2023 to ban the import of goods produced by forced labour.

**Before the USMCA provisions, Canada developed and applied other forced labour prohibitions.** For instance, in 1998 Canada adopted a narrower provision that allowed customs authorities to block goods made wholly or in part by prison labour.<sup>92</sup> Moreover, during the COVID-19 pandemic the Canadian government withheld imports from Malaysian rubber manufacturers after the US prevented their entry into the US market<sup>93</sup> (see [case study Supermax](#)).

**Only the USMCA and the EUFLR envision a cooperative framework.**<sup>94</sup> The USMCA explicitly mentions international cooperation as a mechanism for effective implementation<sup>95</sup> and the European Commission recognised the importance of international cooperation to facilitate the implementation and enforcement of the EUFLR.<sup>96</sup>

**In the UK, the Foreign Prison-Made Goods Act 1897<sup>97</sup>** prohibits the import into the UK of goods produced wholly or in part in any foreign prison, but not in relation to forced labour.

**Some FLIBs have been designed in consultation with stakeholders, including businesses and NGOs, (e.g., the EUFLR),<sup>98</sup> but none have been developed in consultation with people with lived experience.**

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91. Corporate Accountability Lab, (2024) <https://corpaccountabilitylab.org/calblog/2024/5/16/canada-renews-efforts-to-address-forced-labor-in-new-supply-chain-law-but-misses-the-mark>

92. Prison Manufactured or Produced Goods Regulations 1998. <https://laws-lois.justice.gc.ca/eng/regulations/SOR-98-41/page-1.html#h-1023212>

93. See CBC news article by Taylor et al., (2021) <https://www.cbc.ca/news/canada/canada-stop-forced-labour-imports-1.6252283>

94. Lim (Forthcoming) Symbiotic International Law: Combatting Uyghur Forced Labour [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4756957](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4756957)

95. According to Article 23.12, to assist in the implementation of the USMCA's the Parties must cooperate in the identification and movement of goods produced with forced labour, exchange information and share best practices, and in combatting forced labour and human trafficking, including on fishing vessels, among others.

96. EUFLR Article 13.

97. <https://www.legislation.gov.uk/ukpga/Vict/60-61/63#:~:text=Goods%20proved%20to%20the%20satisfaction,or%20of%20a%20description%20not>

98. The EUFLR was consulted on with a range of stakeholders most of which were business associations, representatives of NGOs, and companies, with a minority being trade union representatives. However, people with lived experience were not consulted. See Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Prohibiting Products Made with Forced Labour on the Union Market, (2022).

## 2.2. Implementation

Evidence quality rating: **Amber**

The existing bans are in different stages of implementation with sec. 307 being implemented for the longest time. Section 307 has mostly been enforced only since 2016,<sup>99</sup> albeit with a 15-month hiatus in 2023,<sup>100</sup> and the UFLPA has been enforced since 2022 without exceptions to the rebuttable presumption being granted. The Mexican ban has not yet been enforced and the Canadian has rarely been enforced. The EUFLR has just recently been adopted and while it entered into force in December 2024, it will only apply from December 2027.

**Sec. 307 is enforced by the US Customs and Border Patrol Agency (CBP)<sup>101</sup> through Withhold Release Orders (WROs) and Findings.** WROs are an enforcement measure that allow CBP to detain the importation of goods at the US border until the importers can prove the absence of forced labour in their product's supply chain.<sup>102</sup> Historically, CBP typically issued WROs against specific goods from specific producers, but then started issuing WROs against broader categories of goods<sup>103</sup> and targeted regions<sup>104</sup> and more recently has focused again on the entity level.<sup>105</sup> Findings are issued when CBP determines, based on conclusive evidence, that goods were made with forced labour and enable CBP to seize products. It is at this stage where the ban on the importation of goods is imposed.

**The UFLPA Entity list is central in the enforcement of the UFLPA.** The list is published by the Forced Labor Enforcement Task Force (FLETF), which monitors the implementation of enforcement actions by CBP,<sup>106</sup> and is a requirement in the FLETF strategy. The list includes entities in the Uyghur Region that produce goods using forced labour, entities working with the government of Xinjiang to recruit forced labour, entities that source from the Uyghur Region or from persons working with the Xinjian government. The list has been significantly expanded since 2022, from 20 to 68 entities<sup>107</sup> and polyvinyl chloride, aluminium and seafood were recently added to the list.<sup>108</sup>

99. Due to the consumptive demand exception. See [section 3.1](#) for details.

100. Gordon (2024). For instance, only 3 new WROs were issued in 2022, none in 2023 and 2024. This hiatus has partially been associated with lack of resources as discussed in [section 3.1.2](#).

101. CBP is the unified border agency within the Department of Homeland Security charged with the comprehensive management, control, and protection of our nation's borders, combining customs, immigration, border security, and agricultural protection at and between official ports of entry.

102. U.S. Customs and Border Protection, (2024) Withhold Release Orders and Findings. <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>

103. Since 2018, CBP issued five WROs targeting and entire industry or industry in a given region without targeting specific entities (Higgins, 2023). For instance, all cotton from Turkmenistan in 2018, and all tobacco products produced in Malawi in 2019. See U.S. Customs and Border Protection, (2024) Withhold Release Orders and Findings. <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>

104. Casey et al., (2024) Section 307 and Imports Produced by Forced Labour <https://crsreports.congress.gov/product/pdf/IF/IF11360> For instance in 2021 CBP issued its first region-wide WRO against cotton and tomato products from the Uyghur Region. Grieger, (2022).

105. Gordon (2024)

106. The FLETF was authorized by the [USMCA Implementation Act](#) to monitor the import prohibition on goods made with forced labour (19 U.S.C. § 1307), and was formally established by [Executive Order 13923](#) on May 15, 2020. <https://www.dhs.gov/forced-labor-enforcement-task-force>

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

108. Homeland Security, (2024d) Forced Labor Enforcement Task Force Adds Aluminium, PVC, and Seafood as New High Priority Sectors for Enforcement of Uyghur Forced Labor Prevention Act. Available at <https://www.dhs.gov/news/2024/07/09/forced-labor-enforcement-task-force-adds-aluminum-pvc-and-seafood-new-high-priority>#:~:text=Labor%20Prevention%20Act-,Forced%20Labor%20Enforcement%20Task%20Force%20Adds%20Aluminum%2C%20PVC%2C%20and%20Seafood,Uyghur%20Forced%20Labor%20Prevention%20Act

**The US Department of Labor, Bureau of International Labor Affairs' (ILAB) "List of Goods Produced by Child Labor or Forced Labor"<sup>109</sup> and the Findings on the Worst Forms of Child Labour can be used by advocacy groups or individuals to inform their filing of WRO petitions, or the initiation of investigations by CBP.<sup>110</sup>**

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,<sup>111</sup> for which there is reason to believe are produced by child or forced labour wholly or in part.<sup>112</sup>

**Some FLIB laws enable authorities to impose administrative penalties for non-compliance and start a criminal investigation on economic operators which goods are sized, but so far these have rarely been applied.** Under the Tariff Act of 1930, CBP has the authority to issue fines against importers for entering, introducing, or attempting to enter or introduce any merchandise into the commerce of the United States contrary to law.<sup>113</sup> However, the US has only issued financial penalties in relation to forced labour once in 2020.<sup>114</sup> Since then, there is no publicly available evidence of penalties being applied. The Department of Homeland Security's (DHS) investigative bodies<sup>115</sup> can bring criminal investigations into cases referred by CBP, but there is no publicly available evidence of criminal penalties in relation to the enforcement of the US FLIBs.<sup>116</sup> Under the EUFLR, competent authorities would be able to impose penalties on the economic operator if it fails to comply with the decision of the authorities after goods are denied entry.<sup>117</sup>

**In general, FLIBs have been implemented without consultation with workers or people with lived experience.** For instance, under sec. 307 WROs have been lifted without consulting workers<sup>118</sup> and there is no evidence of consultation with workers or people with lived experience before issuing a WRO.<sup>119</sup>

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109. [https://www.dol.gov/sites/dolgov/files/ilab/child\\_labor\\_reports/tda2023/2024-tvpra-list-of-goods.pdf](https://www.dol.gov/sites/dolgov/files/ilab/child_labor_reports/tda2023/2024-tvpra-list-of-goods.pdf)

110. Casey et. al., (2024) Section 307 and Imports Produced by Forced labour <https://crsreports.congress.gov/product/pdf/IF/IF11360>

111. As of September 5, 2024. (Bureau of International Labor Affairs, n.d.-b) <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>

112. 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](#).

113. U.S. Customs and Border Protection (2021) CBP Collects \$575,000 from Pure Circle U.S.A. for Stevia Imports Made with Forced Labor <https://www.cbp.gov/newsroom/national-media-release/cbp-collects-575000-pure-circle-usa-stevia-imports-made-forced-labor>

114. Ibid.

115. Immigration and Customs Enforcement (ICE) is responsible for investigating violations of related criminal statutes, including 18 U.S.C. § 1589, which prohibits forced labour. See Government Accountability Office (2020) Forced labor imports. <https://pkrlp.com/wp-content/uploads/imported-files/gao-21-106.pdf>

116. It was reported in 2022 that there were no prosecutions undertaken relating to import of forced labour goods from Uyghur Region. Cockayne, J. (2022). [Making Xinjian Sanctions Work](#). The University of Nottingham.

117. EUFLR Article 37.

118. The Remedy Project, (2023)

119. This is further discussed in [section 6](#).

### 3. What does the evidence show about the effectiveness of FLIBs in addressing modern slavery?<sup>120</sup>

#### 3.1. Preventing products made with forced labour from entering a market (effectiveness type 1)

Evidence quality rating: **Amber**

It is estimated that the U.S. imports 169.6 billion of products at risk of being made with forced labour a year.<sup>121</sup> According to CBP data, the US FLIB regime has prevented the entry of some products made with forced labour into the US market. From October 1, 2024, to December 31, 2024, a total of 2,672 shipments have been detained by CBP under all enforcement actions (e.g., WRO, Finding, UFLPA, CAATSA).<sup>122</sup>

Under sec. 307, CBP has prevented the entry of some products made with forced labour into the market (mostly after the consumptive demand was removed in 2016),<sup>123</sup> but the lack of transparency<sup>124</sup> and consistency<sup>125</sup> in the enforcement of sec. 307 challenges our understanding of the extent to which it prevents products made with forced labour from entering the US market. According to CBP statistics, as of December 5<sup>th</sup>, 2024, there are 51 active WROs, most of which were issued in connection to China, and 9 findings.<sup>126</sup> However, CBP enjoys significant discretionary power and while findings have been modified on multiple occasions, it is generally unclear what evidence was used for doing so.<sup>127</sup> CBP has also used different standards for lifting a ban in different cases<sup>128</sup> and has not always responded to NGOs' petitions to CBP issue WROs,<sup>129</sup> such as those

120. FLIBs are inherently limited to address forced labour, and not to other forms of modern slavery.

121. Walk Free Global Slavery Index 2023.

122. <https://www.cbp.gov/trade/forced-labor/enforcement>. Last accessed on January 20th, 2025.

123. Since the amendment, CBP has blocked the entry of more products than in the prior 85 years. See Casey et al. al (2024) Congressional Research Service (December 10, 2024). From 1991 to 1996 33 out of 34 WRO were issued against China. From 1996 to 2000 only 3 WROs were issued and between 2000 and 2016 no new WROs were issued. See <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>

124. For instance, the agency does not always disclose details on the issuing of WROs and findings. For instance, CBP does not make public the reasons for their decisions to implement, modify or lift a ban. See The Remedy Project (2023) [Putting things right: Remediation of forced labour under the Tariff Act 1930](#). See also International Labor Rights Forum (2020) Briefing Paper [https://laborrights.org/sites/default/files/publications/Tariff\\_Act\\_Briefing\\_Paper.pdf](https://laborrights.org/sites/default/files/publications/Tariff_Act_Briefing_Paper.pdf). Advocates have also noted that CBP is increasingly reluctant to share information with them and according to them, this lack of communication negatively affects the effective use of sec. 307. Gordon (2024).

125. Corporate Accountability Lab (2020) <https://corpaccountabilitylab.org/calblog/2020/8/28/using-the-masters-tools-to-dismantle-the-masters-house-307-petitions-as-a-human-rights-tool>

126. According to CBP's 2024 statistics. CBP, Withhold Release Orders and Findings List <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>

127. For instance, on December 2020, CBP issued a WRO on SDP based on reasonable evidence indicating the presence of forced labour indicators in its operations and in January 2022 issued a finding. In February 2023, CBP modified the Finding based on satisfactory evidence that the company and its subsidiaries and joint ventures no longer produced palm oil using forced labour. The Remedy Project (2023). [Putting Things Right: Remediation of forced labour under the Tariff Act 1930](#).

128. For instance, to lift the Malaysian rubber gloves bans, CBP required evidence demonstrating that the goods were no longer produced with forced labour while in the case of an import ban on tobacco from Malawi in 2019 it required that companies demonstrated efforts to minimise risks. See The Remedy Project (2023). [Putting Things Right: Remediation of forced labour under the Tariff Act 1930](#).

129. A recent analysis suggests that the inaction from CBP following petitions by NGOs has been partially influenced by the economic interests of the US, despite the closure of the consumptive demand exemption in 2016. See [https://polisci.ucsd.edu/undergrad/departamental-honors-and-pi-sigma-alpha/uribehannah\\_103059\\_12076164\\_Hannah-Uribe-Senior-Honors-Thesis-1.pdf](https://polisci.ucsd.edu/undergrad/departamental-honors-and-pi-sigma-alpha/uribehannah_103059_12076164_Hannah-Uribe-Senior-Honors-Thesis-1.pdf)

filed by NGOs since 2020 asking CBP to ban the importation of cocoa by specific companies with records of harvesting cocoa with forced child labour in Cote d'Ivoire.<sup>130</sup>

**As of December 2024, CBP has stopped 10,633 shipments,<sup>131</sup> valued at \$3.66B USD which were subjected to UFLPA review or enforcement actions of which 4,524 were denied<sup>132</sup> entry into the US market.<sup>133</sup> Most of the shipments that were denied entry were transporting electronic goods, followed by apparel, footwear and textiles which contain components traced to the Uyghur Region.<sup>134</sup> Most of these shipments came from Malaysia, followed by Vietnam, Thailand and China.<sup>135</sup> Direct imports from Uyghur Region to the US have been decreasing since the enforcement of the UFLPA,<sup>136</sup> including a considerable reduction of imports of Polyvinyl Chloride from the Uyghur Region.<sup>137</sup>**

**Unlike for the UFLPA, CBP does not currently publish special data regarding enforcement of the CAATSA.** There is evidence of CBP detaining goods from diverse manufacturers under CAATSA,<sup>138</sup> but the publicly available data is limited as under this process CBP would not issue WROs, or Findings. Instead, affected importers are informed directly through a Form.<sup>139</sup>

**Transshipment methods whereby companies find alternative routes of entry challenge the extent to which the US FLIBs prevent products made with forced labour from entering the US.** For instance, while there is a WRO order excluding all cotton from Turkmenistan, Turkmen cotton was allegedly still entering the US market via third countries (such as Italy, Turkey, China, Pakistan and Portugal) as finished or semi-finished products in 2023.<sup>140</sup>

130. In 2020 the International Rights Advocates and Corporate Accountability Lab filed a petition under sec. 307 to ban the importation of cocoa by specific companies with records of harvesting cocoa with forced child labour in Cote d'Ivoire. See Corporate Accountability Lab & International Rights Advocates, (n.d.-b) <https://static1.squarespace.com/static/5810dda3e3df28ce37b58357/t/5e460a665c4c40794018afd6/1581648486569/Final+PR+Sec.+307.pdf> See also Corporate Accountability Lab, (2020a) <https://corpaccountabilitylab.org/petition-to-cbp-challenging-the-importation-of-forced-labor-produced-cocoa-and-cocoa-products>. The advocates supplemented this petition in 2021, sent a letter to CBP in 2022, (See International Rights Advocates & Corporate Accountability Lab's letter, (2022) Request that you enforce the law to stop forced child labor in cocoa harvesting <https://static1.squarespace.com/static/608276df0e35bd790e38eff3/t/620a977132c4675d41ffb1eb/1644861297286/2.14.22+CBP+Cocoa+Letter.pdf>) and submitted further information on 2023 but CBP has not yet issued a WRO. See Corporate Accountability Lab (2023) <https://corpaccountabilitylab.org/calblog/2023/2/17/cal-provides-new-information-to-cbp-on-child-trafficking-and-forced-child-labor-in-the-cocoa-sector>

131. 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>

132. 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>

133. According to (US Customs and Border Protection, n.d.) last accessed on December 19th, 2024. <https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics>

134. Ibid.

135. Ibid.

136. Greenfield et al., (2025). See [https://www.rand.org/pubs/research\\_reports/RRA2534-1.html](https://www.rand.org/pubs/research_reports/RRA2534-1.html)

137. See Homeland Security, (2024b) Fact Sheet. <https://www.dhs.gov/news/2024/07/09/fact-sheet-just-two-years-forced-labor-enforcement-task-force-and-uyghur-forced> Moreover, according to Crawford and Murphy (2023) the global percentage of polysilicon sourced from the Uyghur region has decreased by 10% since 2020. See Over-Exposed <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/over-exposed>

138. For examples in the apparel sector see US Customs and Border Protection, (2022b) CBP Enforces Countering America's Adversaries Through Sanctions Act. Available at <https://www.cbp.gov/newsroom/national-media-release/cbp-enforces-countering-americas-adversaries-through-sanctions> and US Customs and Border Protection, (2022a) Available at <https://www.cbp.gov/newsroom/national-media-release/cbp-enforces-countering-americas-adversaries-through-sanctions-act>

139. See Homeland Security (2021) Countering America's Adversaries Through Sanctions Act FAQs. Available at <https://www.dhs.gov/news/2021/02/11/countering-americas-adversaries-through-sanctions-act-faqs>

140. The Cotton Campaign (2023) <https://www.cottoncampaign.org/forced-labor-turkmen-cotton-in-global-supply-chains/#legislation>

**There is limited publicly available data on the enforcement of the Canadian ban by the Canadian Border Services Agency (CBSA), partially due to a lack of transparency from the authorities,<sup>141</sup> but so far, there is no evidence that products suspected to have been made with forced labour have yet been denied entry to the market.<sup>142</sup> In 2021, a shipment was detained and its goods prevented from entering the country,<sup>143</sup> but following an appeal from the importer requesting a review of the tariff classification, this decision was reversed.<sup>144</sup> Since then, there is no publicly available evidence of further shipments being seized<sup>145</sup> despite Walk Free estimates that Canada imports over CAD27 billion annually in goods at risk of forced labour, with electronics accounting for half of these imports.<sup>146</sup>**

**There is no publicly available evidence of the Mexican government preventing the entry of products made with forced labour into the country. This is partially related to a lack of transparency from the authorities.**

### 3.1.1. Enforcement mechanism

**FLIBs may be more effective at preventing the entry of products made with forced labour when they reverse the burden of proof and create a “rebuttable presumption” that assumes that all products from specific geographies or entities are made with forced labour unless proved otherwise by importers, but more research is needed to confirm this.** Only the UFLPA and CAATSA establish a rebuttable presumption, while sec. 307, the Canadian<sup>147</sup> and Mexican bans, and the EUFLR rely on petitions or allegations largely submitted by third parties.<sup>148</sup> A comparative historical analysis<sup>149</sup> argues that the enforcement mechanism<sup>150</sup> of FLIBs plays a key role in their effectiveness in banning the importation of goods made with forced labour.<sup>151</sup> Shifting the burden of proof to importers has been suggested by many actors,<sup>152</sup> and legal scholars suggested in 2022 a FLIB model law where the authorities are empowered to declare a presumption on goods from specific region and industries.<sup>153</sup> However, more research is needed to understand the impact of this on preventing the entry of products made with

141. For instance, the Canadian authorities have not publicly disclosed on their official website the number of reports of alleged forced labour received, how many shipments have been investigated and detained, or the criteria used to prioritise investigations. Above Ground (2024) [Enforcing Canada's forced labour import prohibition](#).

142. See Ballingall, (2024) [https://www.thestar.com/politics/federal/its-a-disgrace-critics-slam-trudeau-governments-record-of-preventing-imports-of-goods-suspected-to/article\\_d2264c68-0bc4-11ef-8051-5f3d2b98f453.html](https://www.thestar.com/politics/federal/its-a-disgrace-critics-slam-trudeau-governments-record-of-preventing-imports-of-goods-suspected-to/article_d2264c68-0bc4-11ef-8051-5f3d2b98f453.html)

143. Yun (2021) CTV News <https://www.ctvnews.ca/canada/canadian-officials-seize-clothing-made-with-forced-labour-in-china-1.5669660>

144. Above Ground (2024)

145. According to a government statement tabled in Parliament on April 15, 2024. Above Ground (2024) [Enforcing Canada's forced labour import prohibition](#).

146. Walk Free (2024) [Canada needs a stronger forced labour import ban](#)

147. A private Bill in Canada would have amended the Customs Tariff to prohibit the importation of goods manufactured or produced in the Uyghur Region but it did not pass the senate.

148. CBP's approach to Sec. 307 has been defined as “complaint-driven” in Gordon (2024) whereby “the agency investigates the cases that individuals or organisations file with it and decides which to pursue based on whether the individual case reveals a violation of the law as the agency interprets it (p. 8).

149. A comparative historical analysis by Uribe (n.d.) [https://polisci.ucsd.edu/undergrad/departamental-honors-and-pi-sigma-alpha/uribehannah\\_103059\\_12076164\\_Hannah-Uribe-Senior-Honors-Thesis-1.pdf](https://polisci.ucsd.edu/undergrad/departamental-honors-and-pi-sigma-alpha/uribehannah_103059_12076164_Hannah-Uribe-Senior-Honors-Thesis-1.pdf)

150. The study differentiates between “proactive” (the rebuttable presumption) and “reactive” (petitions) mechanisms.

151. It concludes that the rebuttable presumption of the UFLPA more successfully resulted in the detention of goods made with forced labour.

152. Scholars such as Zenz (2023b) and Higgins, (2023), legal scholars such as and CSOs such as The Coalition to End Uyghur Forced Labour, (2024) Available at <https://enduyghurforcedlabour.org/submission-to-the-consultation-on-measures-to-strengthen-canadas-forced-labour-import-ban/>

153. Pietropaoli et al.(2022) Progressing the proposed EU Regulation on prohibiting products made with forced labour: A Model Law. [https://www.annacavazzini.eu/wp-content/uploads/GreensEFA\\_Forced-Labour\\_A-Model-Law\\_.pdf](https://www.annacavazzini.eu/wp-content/uploads/GreensEFA_Forced-Labour_A-Model-Law_.pdf)

forced labour into a market. Other factors may also be at play as there is no evidence of the rebuttable presumption reducing transshipment methods.

### 3.1.2. Investigative resources and capacities

**A key challenge for the effective enforcement of FLIBs is the investigative resources and capacities of the authorities<sup>154</sup> as the enforcement of FLIBs is a resource-intensive task.<sup>155</sup> While the necessary resources and capabilities would vary depending on how targeted the ban is<sup>156</sup> and where the burden of proof lies,<sup>157</sup> well-staffed and well-resourced authorities are likely to be more effective at enforcing FLIBs. For instance, the lack of enforcement by CBP of the sec. 307<sup>158</sup> for 15 months was partially due to limited personnel<sup>159</sup> and the lack of enforcement of the Canadian ban has been attributed to a lack of resources for inspections<sup>160</sup> and a high evidential standard for the ban.<sup>161</sup> While the US Congress recently allocated additional funding to CBP for enforcing the UFLPA,<sup>162</sup> there is no publicly available information yet on the budgets available to the European, Canadian and Mexican authorities for enforcing their respective bans.**

**Authorities also need access to data to identify forced labour or the elimination of it, but social audits on their own have generally been shown to fail to detect forced labour<sup>163</sup> and global supply chains are complex and generally lack transparency.** The existing evidence, including the Malaysia and Uzbekistan case studies shown later in this brief, suggests that the use of an official list of goods at risk of forced labour could support the enforcement of FLIBs, but more research is needed to confirm this.

**CSOs may be of great support to authorities for identifying<sup>164</sup> and monitoring supply chains and serve as an important source of on-the-ground intelligence,<sup>165</sup> including but not limited to informing when to lift a ban, but the lack of customs data, clarity on evidential standards and challenges accessing**

154. See for example Schwarz et al. (2022) [External policy tools to address modern slavery and forced labour](#). European Parliament

155. Pietropaoli et al., (2021) Effectiveness of forced labour import bans. Modern Slavery PEC Policy Brief 2021-3. <https://www.modernslaverypec.org/resources/forced-labour-import-bans>

156. Ibid

157. In the UFLPA, due to its rebuttable presumption, the burden of proof falls on companies. In the case of the EUFLR the burden of proof falls on the State authorities. More resources and capabilities would be expected when this falls on the authorities as opposed to companies.

158. CBP may initiate on its own or at a request, an investigation into whether goods were produced using forced labour. See Annex 1.

159. Partially related to the development of the UFLPA. See Homeland Security (2023). 2023 Updates to the Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China 12-13 (Report to Congress, July 26 2023) Available at [https://www.dhs.gov/sites/default/files/2023-08/23\\_0728\\_plcy\\_uflpa-strategy-2023-update-508.pdf](https://www.dhs.gov/sites/default/files/2023-08/23_0728_plcy_uflpa-strategy-2023-update-508.pdf)

160. After a 2023 visit to Canada to assess the country's efforts to prevent and address modern slavery, the Special Rapporteur on Contemporary Forms of Slavery, Tomoya Obokata noted this in his [End of Mission Statement in 2023](#) and recommended the government to allocate sufficient resources for implementation.

161. Lim, (Forthcoming) [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4756957](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4756957)

162. Skadden, Arps, Slate, Meagher & Flom LLP., (2024) [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](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). CBP also sought USD 70,309,000 to add to its enforcement personnel, technological capability, training and other activities to implement the UFLPA. See Merkley et al. 2022 in Cockayne, J. (2022). [Making Xinjian Sanctions Work](#). The University of Nottingham.

163. For instance, many companies against which WROs were issued, had previously had private audits that concluded there was no evidence of forced labour in their production of goods. The Remedy Project (2023). [Putting Things Right: Remediation of forced labour under the Tariff Act 1930](#).

164. Under all FLIBs in force, CSOs can raise petitions for authorities to investigate forced labour in the production of goods.

165. Schwarz et al. (2022) [External policy tools to address modern slavery and forced labour](#). European Parliament

**data on the ground in some cases of state-imposed forced labour, can challenge this.** Engagement with civil society may help the authorities to establish thresholds for lifting a ban.<sup>166</sup> In some cases, under sec. 307., CSOs have directly written to CBP to provide feedback on the adequacy of the corrective actions implemented by companies in response to the bans.<sup>167</sup> However, in some cases of state-imposed forced labour, such as that in the Uyghur region, authorities and CSOs face additional challenges due to a lack of transparency and access to worksites.<sup>168</sup> In other cases, the lack of clarity regarding evidential thresholds on WRO decisions has allegedly limit the ability of CSOs in supporting CBP in its enforcement.<sup>169</sup> The Cotton Campaign advocates for transparent customs data to enable effective monitoring of imports containing Turkmen cotton.<sup>170</sup>

**In theory, tracing mechanisms and geo-localisation technology can support enforcement, especially when a ban is geographically focused (e.g., UFLPA and WRO in Turkmenistan), due to supply chain complexities and importers' transshipment strategies, but there is no evidence of this yet.** For instance, a recent study showed that the distribution of Uyghur Region cotton through global supply chains is complex, often passing through intermediary manufacturers in third countries.<sup>171</sup> Moreover, some products may use a blend of materials from different locations making it difficult for governments and other stakeholders to ensure that such products are not tainted with forced labour.<sup>172</sup> Arguably CBP's ability to effectively enforce sec. 307 is also related to their limited access to supply chain traceability technologies.<sup>173</sup> Indeed, the Cotton Campaign advocates for the introduction of tracing mechanisms to enable effective monitoring of imports containing Turkmen cotton<sup>174</sup> and Fair Futures has advocated for the Canadian ban to establish a "minimum traceability process" requiring high-risk importers to provide more information on where their products come from and strengthen information-sharing systems across national agencies to prevent transshipment methods.<sup>175</sup>

**Schwartz and colleagues<sup>176</sup> argue that international cooperation could contribute to the effective enforcement of FLIBs through authorities sharing**

166. In the case of Natchi Apparels for example, CBP lifted the import ban based on evidence submitted by civil society organisations and trade unions. See Gordon (2024).

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

168. For instance, the Chinese government policies make identifying and engaging with victims of human rights abuses in Xinjiang both difficult and dangerous, including for those victims. See Cockayne, J. (2022). [Making Xinjian Sanctions Work.](#) The University of Nottingham.

169. Casey et al., (2024) See also ILRF Briefing Paper February 2020. And Gordon (2024)

170. The Cotton Campaign, (n.d.-b) Forced Labor Turkmen Cotton in Global Supply Chains <https://www.cottoncampaign.org/forced-labor-turkmen-cotton-in-global-supply-chains/#legislation>

171. Murphy, (2021) Laundering Cotton: How Xinjiang Cotton Is Obscured in International Supply Chains. Sheffield Hallam University Helen Kennedy Centre, 2021 <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/laundered-cotton#:~:text=Laundering%20Cotton%3A%20How%20Xinjiang%20Cotton,way%20into%20international%20supply%20chains.>

172. 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 risks in the renewable energy sector.](#)

173. Casey et al., (2024) <https://crsreports.congress.gov/product/pdf/IF/IF11360>

174. (The Cotton Campaign, n.d.-b) <https://www.cottoncampaign.org/forced-labor-turkmen-cotton-in-global-supply-chains/#legislation>

175. See Fair Futures' 2024 submission to Canada's consultation on their FLIB <https://fairfutures.com/media/mihlzto/fair-futures-consultation-on-canadas-forced-labour-import-ban.pdf>

176. Schwarz et. al. (2022) [External policy tools to address modern slavery and forced labour.](#) European Parliament. The study identified that the lack of existing infrastructure for sharing intelligence was a key barrier for the effective enforcement.



information, but it is too early to have evidence of this in practice. The USMCA and the EUFLR recognise international cooperation, but there is a lack of enforcement of forced labour ban provisions in Mexico and Canada under the USMCA and the EUFLR does not yet apply until 2027.

### 3.1.3. Interactions with domestic trade regulations

**FLIBs that are supported by the State's broader trade policy, may be more effective at ensuring products made with forced labour do not enter their market.**<sup>177</sup> For instance, under US trade law there is a trade loophole known as the de minimis provision, which allows shipments of goods valued below \$800 to be sent directly to the US.<sup>178</sup> These are exempt from import duties and do not go through the formal entry process at the border, including scrutiny by CBP, affecting the enforcement of both sec. 307 and UFLPA. In a letter to the DHS,<sup>179</sup> the House of Representatives Select Committee on the Chinese Communist Party noted the de minimis provision as 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 accused of forced labour in their supply chains, such as Shein<sup>180</sup> and Temu,<sup>181</sup> account for nearly 30% of all packages shipped daily to the US under the de minimis provisions.<sup>182</sup> There is also evidence of Turkmen cotton being sold on e-commerce platforms in the US such as K-mart and Sears despite the WRO on all cotton from Turkmenistan.<sup>183</sup> However, the DHS is expanding its enforcement efforts to address the risk of Uyghur forced labour cotton in de minimis shipments<sup>184</sup> through a Textile Enforcement Plan that includes improvement in the screening of packages claiming the Section 321 de minimis exception.<sup>185</sup> The EUFLR does not introduce a threshold or de minimis clause and covers online sales (see [Annex 1](#)). Instead, it establishes risk-based enforcement and support tools for SMEs.<sup>186</sup>

177. According to Uribe's (n.d.) study removing the de minimis standard would help improve the success of sec. 307 and the UFLPA at preventing the entry of products made with forced labour into the US market. See [https://polisci.ucsd.edu/undergrad/departamental-honors-and-pi-sigma-alpha/uribehannah\\_103059\\_12076164\\_Hannah-Uribe-Senior-Honors-Thesis-1.pdf](https://polisci.ucsd.edu/undergrad/departamental-honors-and-pi-sigma-alpha/uribehannah_103059_12076164_Hannah-Uribe-Senior-Honors-Thesis-1.pdf)

178. Increased from USD 200 with the passing of the TFTEA in 2016

179. Congress of the United States 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>

180. For some reports on the 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/>

181. See Freedom United, (2023) [https://www.freedomunited.org/news/temu-evades-responsibility/?utm\\_source=google&utm\\_medium=cpc&utm\\_campaign=%28R0I%29%20DSA&utm\\_id=1080780403&utm\\_content=138149034224&utm\\_term=&gad\\_source=1&gclid=Cj0KCCQjw8MG1BhCoARIsAHxSiQnNdQU9CpJHNLRYIYW3ojTOLnnirE\\_Hzvh1FiYV5nh34uS9CSLdOwaAiX3EALw\\_wcB#gad\\_source=1](https://www.freedomunited.org/news/temu-evades-responsibility/?utm_source=google&utm_medium=cpc&utm_campaign=%28R0I%29%20DSA&utm_id=1080780403&utm_content=138149034224&utm_term=&gad_source=1&gclid=Cj0KCCQjw8MG1BhCoARIsAHxSiQnNdQU9CpJHNLRYIYW3ojTOLnnirE_Hzvh1FiYV5nh34uS9CSLdOwaAiX3EALw_wcB#gad_source=1)

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

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

184. See Congress of the United States House of Representatives. Select Committee on the Chinese Communist Party, (2024) and Homeland Security, (2024b) <https://www.dhs.gov/news/2024/07/09/fact-sheet-just-two-years-forced-labor-enforcement-task-force-and-uyghur-forced>

185. Homeland Security, (2024c) <https://www.dhs.gov/news/2024/04/05/new-dhs-textile-enforcement-actions-crack-down-illicit-trade-support-500000>

186. See article 14 of the EUFLR.

## 3.2. Influencing change in corporate behaviour (effectiveness type 2)

Evidence quality rating: **Amber**

**Evidence from the implementation of sec. 307 and the UFLPA, suggests that FLIBs may play a role in influencing the behaviour of lead firms and suppliers affected by these bans.** However, the evidence is limited, partially due to the relatively recent implementation of these bans. Moreover, such changes cannot be solely attributed to FLIBs and establishing a causal relationship between FLIBs and corporate changes remains a limitation in research.

**The UFLPA may be contributing to lead importing companies' efforts to reduce their reliance on the Uyghur region for sourcing key materials.**<sup>187</sup> For instance, manufacturing firms in the solar sector are creating alternative supply chains to sell to the US market.<sup>188</sup> US polysilicon producers are also investing in increased production capacity elsewhere so as to reduce reliance in the Uyghur region.<sup>189</sup> However, only a few solar manufacturers have stopped sourcing from the Uyghur Region entirely.<sup>190</sup> Moreover, some German companies, such as BASF,<sup>191</sup> a German chemical manufacturing company, and Volkswagen,<sup>192</sup> have announced their exiting from Uyghur Region.<sup>193</sup> However, these exits have not crystalized yet.<sup>194</sup>

**There is evidence of section 307 influencing changes in supplier behaviour in the Global South (see Supermax, Top Glove and Malaysia glove industry case studies below).** These changes are observed at the company and industry levels, and in several dimensions including governance changes,<sup>195</sup> corporate policy changes,<sup>196</sup> purchasing practices,<sup>197</sup> remedial action,<sup>198</sup> grievance mechanisms,<sup>199</sup>

187. According to the Jewish World Watch 22% of the world's cotton comes from China and 75% of that is produced in Xinjiang. 45% of the world's supply of polysilicon used in solar panels is manufactured by Uyghur forced labour. See <https://jww.org/site/uyghur-china-forced-labor-database/>

188. Crawford and Murphy (2023) *Over-exposed: Uyghur region exposure assessment for solar industry sourcing*.

189. Homeland Security (2024b) Factsheet: In Just Two Years, Forced Labor Enforcement Task Force and the Uyghur Forced Labor Prevention Act Have Significantly Enhanced Our Ability to Keep Forced Labor Out of U.S. Supply Chains. <https://www.dhs.gov/news/2024/07/09/fact-sheet-just-two-years-forced-labor-enforcement-task-force-and-uyghur-forced>

190. Crawford and Murphy (2023) *Over-exposed: Uyghur region exposure assessment for solar industry sourcing*.

191. <https://cen.acs.org/business/BASF-pull-venture-Chinas-Xinjiang/102/web/2024/02> and <https://www.theguardian.com/world/2024/feb/09/german-firm-basf-to-pull-out-of-xinjiang-after-uyghur-abuse-claims>

192. <https://www.hrw.org/news/2024/12/02/volkswagens-china-joint-venture-exit-xinjiang>

193. See <https://www.nytimes.com/2024/02/18/business/volkswagen-basf-xinjiang-china.html> <https://www.asiafinancial.com/german-firms-may-exit-xinjiang-china-hopes-they-dont> <https://www.ucanews.com/news/us-expert-criticizes-eu-ban-on-goods-made-by-uyghur-forced-labor/104356> <https://www.rfa.org/english/news/uyghur/basf-xinjiang-02132024042714.html>

194. BASF for example has tried for a year to sell its stakes in two manufacturing joint ventures in the Uyghur Region unsuccessfully. BASF has allegedly not yet obtained Chinese government permission to sell its stakes and has not identified possible buyers yet. <https://www.nytimes.com/2024/11/27/business/volkswagen-xinjiang-saic.html>

195. For instance, in response to a WRO, a Malaysian palm oil company elevated forced labour to a board-level issue and engaged the company's board in oversee the remediation of forced labour. To do so, it increased the frequency of its meetings to fortnightly and introduced new ways to measure its performance in relation to labour issues. This evidence should be read with care as this is self-reported evidence. In *The Remedy Project (2023). Putting Things Right: Remediation of forced labour under the Tariff Act 1930*.

196. See case study below on Supermax. For more examples, see *The Remedy Project (2023). Putting Things Right: Remediation of forced labour under the Tariff Act 1930* including FGV holdings in Malaysia (palm oil), and cases in Nepal and Thailand.

197. For instance, Alliance One, Limbe Leaf and Premium Tobacco were excluded from the WRO on tobacco products (see <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>) partially due to their providing loans to contract farmers to pay workers monthly (e.g., Alliance One. See *The Remedy Project (2023)* or per task (e.g., Limbe Leaf and Premium Tobacco. See *The Remedy Project (2023)*), as opposed to at the end of the season.

198. In the form of recruitment fee reimbursement see Top Glove case study below. See also case studies in the Malaysia oil industry from Sime Darby and FGV holdings in the *Remedy Project (2023)*.

199. See Malaysia Palm Oil (Sime Darby) in the *Remedy Project (2023, p. 53)*

and training.<sup>200</sup> However, there is less publicly available evidence of FLIBs influencing corporate transparency.<sup>201</sup> Allegedly, FLIBs are also influencing lead firms' implementation of human rights due diligence processes such as supply chain mapping,<sup>202</sup> albeit these are not required by FLIBs. For instance, US companies in the apparel industry are allegedly enhancing their supply chain due diligence efforts with the use of technology and verification tools influenced by the UFLPA.<sup>203</sup>

**It is unclear whether the business changes observed under sec. 307 are sustainable in the long-term, translate into improvements in workers' living and working conditions, and address systemic issues so as to prevent human rights violations from reoccurring.** For instance, most evidence shows changes in the behaviour of large suppliers from specific regions, but there is no robust publicly available evidence of business changes from lead firms at the top of the supply chain whose business models play a key part in the existence of forced labour in global supply chains.<sup>204</sup> In some cases, despite a supplier making changes to its recruitment and employment policies, these do not translate into improved working conditions in practice from the workers' perspectives.<sup>205</sup> In other cases, while companies establish grievance mechanisms, they are not always fully accessible and credible to workers.<sup>206</sup> Moreover, while remedial action has been taken by suppliers affected by sec. 307, it remains unclear to what extent such remediation has included input from those harmed and whether, from the workers' perspective, this has been sufficient and adequate,<sup>207</sup> which may be related to the specific requirements of the bans implemented under sec. 307.

200. Alliance One, Limbe Leaf and Premium Tobacco provided training to farmers on child labour. See The Remedy project (2023).

201. See for example Malaysian glove manufacturers <https://thediplomat.com/2022/04/after-pressure-growing-transparency-in-malaysias-glove-industry/>

202. According to multiple stakeholders (representing EU institutions, international organisations, and civil society organisations) believe FLIBs to be effective in engaging the private sector in supply chain mapping, due diligence and addressing human rights risks, but no further details are provided. See Schwarz et al., (2022) *External policy tools to address modern slavery and forced labour*. European Parliament.

203. See <https://www.dhs.gov/news/2024/07/09/fact-sheet-just-two-years-forced-labor-enforcement-task-force-and-uyghur-forced>

204. Academic literature suggests that the business models, contracting and purchasing practices of companies at the top of the supply chain are significant causes of forced labour in global value chains, rather than "bad actors" at the bottom of the supply chain. See for example LeBaron et al., (2018) *Confronting root causes: forced labour in global supply chains*. Advocates share this view too. See Gordon, J. (2024) *The US forced labor import ban as a tool to raise labor standards in supply chain contexts: strategic approaches to advocacy*. Fordham University School of law.

205. For instance, employees of FGV reported no improvement in their working conditions after the company implemented changes. See FGV case study in the Malaysia palm oil industry in The Remedy project (2023). Moreover, there is still an active WRO against FGV and its subsidiaries and joint ventures since 2020. See <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>

206. According to an industry suitability body and certification standard's independent verification assessment. See Malaysia Palm Oil (Sime Darby) case study in the Remedy Project (2023, p. 53)

207. In the case of Top Glove (see case study below), remediation took the form of repayment of recruitment fees but did not offer compensation to workers. See The Remedy Project (2023). [Putting Things Right: Remediation of forced labour under the Tariff Act 1930](#).

## Case Study: Supermax

In 2021, CBP issued a WRO on the Malaysian rubber glove company Supermax Corporation Bhd and its subsidiaries on the grounds of forced labour. At the same time and informed by this WRO, the Canadian government stopped imports from Supermax subsidiary in Canada and terminated two existing contracts with Supermax Healthcare Canada.<sup>208</sup> As a response to these restrictions, Supermax introduced a new foreign worker management policy, enhanced its human resources policies, began refurbishment and renovations to improve working and living conditions, adopted an equal pay and benefit structure for foreign workers, and raised its minimum wages<sup>209</sup> These changes contributed to the lifting of the ban on Supermax in 2023.<sup>210</sup>

## Case Study: Top Glove

Top Glove, the world's largest rubber glove company in the world, provided remedy to workers after CBP issued a WRO in respect to disposable gloves produced by the company on July 15<sup>th</sup> 2020<sup>211</sup> on the grounds of suspected<sup>212</sup> debt bondage, excessive overtime, abusive working and living conditions, and retention of identity documents.<sup>213</sup> A couple of weeks after the issuing of the WRO, and after CBP required Top Glove to undertake remedial action, Top Glove agreed to refund millions of dollars to almost ten thousand workers<sup>214</sup> who had paid recruitment fees to agents, and agreed to improving the conditions of workers' accommodation.<sup>215</sup> It also blacklisted unethical recruitment agents, took steps to ensure workers were not tasked with excessive overtime.<sup>216</sup>

On March 2021, CBP issued a Notice of Finding against Top Glove for evidence of use of forced labour in the production of disposable gloves.<sup>217</sup> Top Glove then had an independent consultant confirm that it had remediated the forced labour

208. See news article by Russell, (2022) in Asia Financial. Accessible at <https://www.asiafinancial.com/canada-terminates-contracts-with-malaysian-glove-maker>

209. Lee, (2022) Malaysia: Supermax implements new policies for migrant workers after US import ban. <https://www.business-humanrights.org/en/latest-news/malaysia-supermax-implements-new-policies-for-migrant-workers-after-us-import-ban/> also cited in Schwarz et. al. (2022) External policy tools to address modern slavery and forced labour. European Parliament.

210. US Customs and Border Protection, (2023)

211. Also, on October 14th the Department of Labor added rubber gloves produced in Malaysia to its List of Goods Produced by Child Labor or Forced Labor in 2020. See (Bureau of International Labor Affairs, n.d.-a) <https://www.dol.gov/agencies/ilab/comply-chain/steps-to-a-social-compliance-system/step-6-remediate-violations/example-in-action-top-glove-wro-and-subsequent-modification>

212. The WROs were based on "reasonable" but not conclusive information.

213. Many reports of alleged forced labour and human rights abuses at Top Glove had been made since 2018. In 2020 The Guardian reported some of these abuses. See Pattison, (2020) NHS urged to avoid PPE gloves made in 'slave-like' conditions.

214. Lee, (2020) <https://www.reuters.com/article/us-topglove-labour/racing-to-reverse-u-s-ban-malaysias-top-glove-improves-workers-housing-idUSKCN2571ZL/>

215. Corporate Accountability Lab, (2020b) <https://corpaccountabilitylab.org/calblog/2020/8/28/using-the-masters-tools-to-dismantle-the-masters-house-307-petitions-as-a-human-rights-tool>

216. ILO (2022) [Addressing, preventing, and eliminating forced labour in the rubber industry in Malaysia.](#)

217. 'CBP Issues Forced Labor Finding on Top Glove Corporation Bhd.' (US Customs and Border Protection, 29 March 2021). An empirical study also found forced labour indicators in the Malaysian medical gloves supply chain between August 2020 and April 2021 (four out of the 11 indicators). See Bhutta et al., (2021) [Forced Labour in the Malaysian Medical Gloves Supply Chain before and during the COVID-19 pandemic: Evidence, Scale and Solutions.](#)

indicators found in their subsidiaries.<sup>218</sup> According to a summary assessment report published by Impactt in April 2021, Top Glove's remediation actions included systemic changes to its recruitment practices<sup>219</sup> and the establishment of two sinking funds:<sup>220</sup> one to allocate funds for reimbursement of recruitment fees and another to offer direct compensation for past harm suffered.<sup>221</sup> On September 10<sup>th</sup> that same year, CBP modified that finding and lifted the ban after concluding that there was sufficient evidence to suggest that Top Glove had addressed all indicators of forced labour.<sup>222</sup>

## Case Study: Malaysian glove industry

This case study shows responses to WROs not only by companies being directly affected by the bans but also indirectly. The WROs against Top Glove and other Malaysian glove manufacturers led to changes across Malaysia's glove industry. Indeed, several Malaysian glove manufacturers including those that had been issued WROs and those that had not, reimbursed or were considering reimbursing migrant workers' recruitment fees.<sup>223</sup>

Moreover, in March 2022 the Responsible Glove Alliance was launched as an industry-led initiative among glove manufacturers to commit to alignment with the Responsible Business Alliance Code of Conduct, and other standards to prevent and remediate forced labour in their operations including transparency, disclosure, and due diligence requirements.<sup>224</sup> Members, composed of buyers and suppliers of rubber gloves from Malaysia, commit to core principles of responsible recruitment and the Responsible Business Alliance Code of Conduct.<sup>225</sup> Furthermore, tackling social compliance issues in the rubber industry became the Malaysian Rubber Council's (MRC) top priority.<sup>226</sup> These changes contributed to the lifting of several bans against Malaysia rubber glove manufacturers (including Top Glove and Supermax mentioned above) and the Brightway Group in October 2024.<sup>227</sup>

218. International Labour Organization (ILO), (2022) [Addressing, preventing, and eliminating forced labour in the rubber industry in Malaysia](#).

219. Including terminating contracts with its current recruitment agencies. The Remedy Project (2023). [Putting Things Right: Remediation of forced labour under the Tariff Act 1930](#).

220. A sinking fund is dedicated pool of money set aside specifically to repay a debt obligation. The Remedy Project (2023). [Putting Things Right: Remediation of forced labour under the Tariff Act 1930](#).

221. Compensation to adjudicate and settle any forced labour related claims brought by migrant workers. This is one of the few cases known in which a company paid compensation to workers in addition to repayment of recruitment fees. See The Remedy Project (2023). [Putting Things Right: Remediation of forced labour under the Tariff Act 1930](#).

222. US Customs and Border Protection, (2021)'CBP Modifies Forced Labor Finding on Top Glove Corporation Bhd.' U.S. Customs and Border Protection, 9 Sept. 2021, <https://www.cbp.gov/newsroom/national-media-release/cbp-modifies-forced-labor-finding-top-glove-corporation-bhd>.

223. Including Supermax. See The Remedy Project (2023).

224. ILO (2022) [Addressing, preventing, and eliminating forced labour in the rubber industry in Malaysia](#). And The Remedy Project (2023). [Putting Things Right: Remediation of forced labour under the Tariff Act 1930](#).

225. ILO (2022).

226. Ibid

227. US Customs and Border Protection, (2020) <https://www.cbp.gov/newsroom/national-media-release/cbp-modifies-withhold-release-order-brightway-group-malaysia>

### 3.2.1. Economic pressures

**FLIBs may effect change in companies' behaviour through economic pressures that result directly and indirectly from these bans, including commercial pressures from international buyers.** For example, evidence on sec. 307 suggest that the changes implemented by Sime Darby Plantation (SDP) in 2022 may be related to the commercial pressures they faced from the world's largest agricultural trading company and other buyers.<sup>228</sup> Similarly, Felda Global Ventures' (FGV) stocks dropped following the WRO against palm oil products from the company.<sup>229</sup> The policy changes enacted by Supermax, may have also been influenced by the commercial pressures from the government of Canada who cancelled two pre-existing contracts with Supermax (see case study above). Moreover, the Malaysian rubber glove industry may have been influenced by pressures from stock exchange markets.<sup>230</sup>

**Whether and to what extent FLIBs influence company behaviour through economic pressures may depend on the value of the importing market to the source company and industry, but more evidence is needed to confirm this.** Scholars argue that large importing markets, such as the US,<sup>231</sup> may have greater economic leverage over trade relations and increase the likelihood of FLIBs influencing positive business changes.<sup>232</sup> In the Top Glove case discussed above, it has been argued that the company's fast response to remediating workers was partially related to the significant value that the US market represented to the company<sup>233</sup> as the US is one of the major export markets for the Malaysian rubber industry.<sup>234</sup> This may have also influenced changes at the industry level. For instance, the Malaysian Rubber Gloves Manufacturers Association estimated the cumulative loss to the industry in revenue from rubber glove exports resulting from the import bans at 3.6 billion Malaysian ringgit,<sup>235</sup> which were estimated to represent more than USD700 million.<sup>236</sup> Thus, as currently designed, FLIBs may particularly be effective on companies and industries for which the loss of market access resulting from the bans has significant economic repercussions,<sup>237</sup> but more evidence is needed.

228. See The Remedy Project (2023). [Putting Things Right: Remediation of forced labour under the Tariff Act 1930](#), (p. 56).

229. <https://financialpost.com/pmn/business-pmn/shares-of-malaysias-fgv-plunge-after-u-s-ban-on-its-palm-oil-products>

230. From the Malaysian stock market (see footnote 159) and Gordon (2024).

231. The US is the world's largest importing market importing USD170 billion worth of goods at risk of modern slavery (Walk Free, 2023b)

232. See Schwarz et. al. (2022) [External policy tools to address modern slavery and forced labour](#). European Parliament.

233. In Pietropaoli I. et al. (2021) Effectiveness of forced labour import bans. Modern Slavery PEC Policy Brief 2021-3. <https://www.modernslaverypec.org/resources/forced-labour-import-bans>

234. See ILO (2022) [Addressing, preventing, and eliminating forced labour in the rubber industry in Malaysia](#).

235. Tan Siew Mung, (2022) MARGMA: Estimated RM3.6b Top Glove loss from US import ban actually cumulative potential loss of export revenue from a few glove makers. Available at <https://theedgemalaysia.com/article/margma-estimated-rm36b-top-glove-loss-us-import-ban-actually-cumulative-potential-loss>

236. See Ebert et al., (2023). Walk Free also estimated that the bans resulted in a potential loss of US\$750 million in glove export revenue.

237. Justice and Care (2022). [Modern Slavery in Global Supply Chains: the state of evidence of key government and private approaches](#).

### 3.2.2. Mix of pressures

The more factors are in play, the more effective FLIBs, among other measures, may be at triggering corporate behavioural change. For instance, where there is evidence of corporate changes in relation to sec. 307, companies have faced multiple pressures. In the case of the Malaysian rubber gloves, these goods were added to the US List of Goods Produced by Forced Labour by the US Department of Labour in 2020,<sup>238</sup> and not one but several WROs and a finding were issued against large Malaysian rubber gloves producers between 2019 and 2022.<sup>239</sup> Malaysian rubber gloves manufacturers were also under heightened media attention,<sup>240</sup> investor pressure,<sup>241</sup> and, in some cases, legal pressure.<sup>242</sup> Moreover, there was, to some extent, coordinated action<sup>243</sup> as Canada, following the US measures, also banned Malaysian glove products from their market.<sup>244</sup> This meant higher economic consequences for these suppliers as during the COVID-19 pandemic there was an unprecedented increase in demand for personal protection equipment.<sup>245</sup> Moreover, where lead firms have announced exiting the Uyghur region, there has also been sustained pressures from civil society.<sup>246</sup>

## 3.3. Addressing Modern Slavery (effectiveness type 3)

Quality of the evidence: **Red**<sup>247</sup>

**There is limited evidence on the effectiveness of FLIBs in addressing modern slavery, that is, in identifying, preventing, mitigating and remediating for modern slavery abuses such as forced labour, even if not explicitly aiming to do so.**<sup>248</sup> For instance, a media report<sup>249</sup> suggested that the UFLPA influenced a reduction

238. 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/>

239. The WROs covered the whole industry of rubber glove manufacturers in Malaysia.

240. For instance, in the UK, a June 2020 Channel 4 investigation pointed to low wages, excessive overtime, illegal pay deductions, and debt-inducing recruitment fees at the Malaysian factories of the world's largest manufacturer of medical gloves - Top Glove. Cockayne, J. (2021) *Developing Freedom: The Sustainable Development Case for Ending Modern Slavery, Forced Labour and Human Trafficking* (United Nations University; New York, 2021).

241. For instance, Top Glove was removed from three stock market ESG indices: the FTSE4Good Bursa Malaysia Index, ASEAN 5, and Emerging Markets Index in June 2021. See The Remedy project (2023). Moreover, Top Glove's shares fell by 48% almost immediately after CBP issued a Notice of Finding on March 2021. Masiko et. al., (2024) *Harnessing UK trade and investment to address Indo-Pacific modern slavery risks*. Modern Slavery PEC. In regard to Supermax Norway's sovereign wealth fund put Supermax under observation in 2022. See <https://www.nbim.no/en/the-fund/news-list/2022/decisions-on-observation-and-exclusion2/>.

242. Top Glove also faced domestic proceedings. See <https://www.topglove.com/single-news-en?id=77&title=top-glove-all-is-well-despite-court-charges-committed-on-making-improvements>

243. It is too early to assess the role of coordinated action among countries in triggering positive corporate change as the USMCA forced labour restrictions and the EU forced labour ban, both of which require coordination among countries, have only recently been implemented. The effectiveness of coordinated action may also depend on how integrated an industry is in a given geographical region that covers more than one country.

244. Supermax. See case study above.

245. Bhutta et al., (2021)

246. Such as those from the Coalition to end Uyghur Forced Labour. <https://enduyghurforcedlabour.org/>

247. In previous policy brief the quality of the evidence on the effectiveness of import bans at reducing forced labour taking place in supply chains was scored as Amber. This disparity may be attributed to the fact that the evidence was not directly assessed against the Framework of Effectiveness as in this Policy Brief.

248. E.g., FLIBs aim to prevent the entry of products made with forced labour from entering a market and are enacted after the forced labour has occurred.

249. <https://www.scmp.com/economy/china-economy/article/3195043/chinas-cotton-harvest-begins-us-xinjiang-forced-labour-law?module=hard-link&pgtype=article>

of demand for cotton produced in Uyghur Region,<sup>250</sup> but it is unclear if this has necessarily led to a reduction in forced labour. More research measuring this type of effectiveness is needed, especially from the perspectives of rightsholders,<sup>251</sup> but in some cases, such as those of State-imposed forced labour, it may be particularly difficult due to the lack of transparency in supply chains and the difficulty of gathering data.

### 3.3.1. Preventing forced labour

**As currently designed, FLIBs do not entirely prevent actors (e.g., businesses and investors) from profiting from forced labour (either privately or state-imposed) as they do not prohibit the re-exportation of goods to countries with less stringent regulations.** So far, FLIBs have been designed to allow companies to re-export or continue to sell their goods to other countries, including those without comparable measures.<sup>252</sup> This results in either bifurcation strategies as seen in the solar sector<sup>253</sup> or in a displacement of goods from one country to another as opposed to ending and preventing forced labour. For instance, while the US banned Top Glove, Supermax and other Malaysian glove manufacturers during the Covid-19 pandemic due to findings of forced labour, the UK's NHS largely supplied gloves from these producers through existing Framework Agreements and an emergency parallel supply chain.<sup>254</sup> 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.<sup>255</sup> Moreover, so far, FLIBs do not cover all the value chain (diverging from the UNGPs) as they exclude the downstream part of the value chain (e.g., how the products are distributed, transported and stored)<sup>256</sup> and the financing activities of investors.<sup>257</sup>

**There is not yet evidence of FLIBs influencing systemic change in the way global supply chains operate so as to prevent forced labour from occurring.** This may partially be related to the lack of focus of FLIBs on changing purchasing practices from firms at the top of the supply chain, but CSOs may play a key role in this.<sup>258</sup> For instance, while sec. 307 does not target actors at different points in the global

250. See Siqi, (2022). As cited also in Turner, (2023) <https://www.antislavery.org/latest/uyghur-forced-labor-prevention-act-one-year-on/>

251. The EU official assessment report is expected to address the impact of the EUFLR on "victims" (especially women and children) and the need for a specific mechanism to address and remediate forced labour. EUFLR (2024) article 38.

252. For instance, under sec. 307 companies can re-export products to other countries after having been issued a WRO and prevented from entry to the US by CBP. Likewise, under the Canadian regulation, importers whose products are detained can export them to other countries.

253. In the solar sector, manufacturers continue, even if at a lesser extent, profiting from Uyghur forced labour. Alternative supply chains have been developed to supply the US where FLIBs are in place. See Cranston et al., (2024)

254. Bhutta et al. (2021)

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

256. 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, (2024a) [A call for UK ban on products tainted with forced labour](#). Position paper. Note that the CSDDD does cover distribution, transport and storage as part of the "chain of activities". To achieve policy coherence this needs to be considered.

257. For instance, in 2022 Hong Kong Watch report found that MSCI investors were passively funding state-forced labour in Xinjiang. As of 2022 Western investment in the solar sector in Xinjiang had so far been relatively undisrupted. Cockayne, J. (2022). [Making Xinjian Sanctions Work](#). The University of Nottingham.

258. Advocates for example have sought to influence systemic change by asking CBP to apply sec. 307 against all imports of a product from a given country aiming to incentivise all parties in the industry to sort the problem collectively. Gordon (2024)



supply chain,<sup>259</sup> civil society actors have filed petitions for WROs targeting key actors at the top and middle of supply chains in an effort to influence systemic change, albeit WROs that target lead firms at the top of the supply chain have never been issued in response.<sup>260</sup> CSOs may also use WROs to target the bottom of the supply chain, seeking to support efforts to build worker power in producer countries,<sup>261</sup> but such petitions have not been filed yet.<sup>262</sup>

### 3.3.2. Remediating forced labour

**None of the existing FLIBs require remediation for harm to workers as a necessary condition to lift a ban,<sup>263</sup> despite legal scholars' suggestions,<sup>264</sup> and FLIBs are not envisioned as a form of prevention.** There is evidence of sec. 307 contributing to more than more than \$200 million in compensation to victims of forced labour since 2016,<sup>265</sup> but remediation to rightsholders is not always a requirement for lifting a ban. For instance, while in some cases, like the Top Glove case, sec. 307 led the provision of remediation to rightsholders, in other cases it has not.<sup>266</sup> Moreover, the focus of CBP on audits (which have been proved to be ineffective at identifying forced labour)<sup>267</sup> as evidence that forced labour has been eliminated, questions the effectiveness of FLIBs at ensuring workers are remediated.<sup>268</sup> Moreover, remediation has often focused on past harm rather than as prevention.<sup>269</sup> 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.<sup>270</sup> In the case of the UFLPA, there is no evidence of FLIBs leading to remedy to workers in the solar sector in the Uyghur Region.<sup>271</sup> However, companies are unable to support the direct provision of remedy to workers under systemic state-imposed forced labour.<sup>272</sup>

259. i.e., top, middle, bottom.

260. Gordon, J. (2024) *The US forced labor import ban as a tool to raise labor standards in supply chain contexts: strategic approaches to advocacy*. Fordham University School of law.

261. Akin to the Natchi Apparel case but in reverse. See Gordon (2024).

262. See Gordon, J. (2024) *The US forced labor import ban as a tool to raise labor standards in supply chain contexts: strategic approaches to advocacy*. Fordham University School of law.

263. See [Annex 1](#).

264. See for example Methven O'Brien & Weatherburn, (2023).

265. Remarks of Eric Choy, U.S. Chamber of Commerce Event on Combating Forced Labor in Supply Chains (November 13, 2023), <https://www.youtube.com/watch?v=3p4dvZ4cx54&t=5655s>

266. Only two out of the nine cases explored in the Remedy Project (2023) involved direct payments to workers (Gordon, 2024). For instance, the WRO against Tobacco in Malawi was modified without evidence of remediation. The Remedy Project (2023). See also case study of the Da Wang vessel where workers reported to not have received direct compensation or remedy for violations of their rights (in the Remedy Project, 2023, p. 84), despite action taken by the Taiwanese government (see [Taiwan case study](#)).

267. Advocates for example have recommended the agency to limit its reliance on social audits for this same reason. See Gordon (2024)

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

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

270. As outlined in the UNGPs.

271. Cockayne, J. (2022). [Making Xinjian Sanctions Work](#). The University of Nottingham.

272. Cranston et al., (2024)

### 3.3.3. Influencing governments at the receiving end of a ban

There is evidence to suggest that sec. 307 has, at least partially, influenced change in governments of countries affected by—or under the threat of—a ban, despite not explicitly aiming to do so. Government changes after a WRO is enforced in a jurisdiction include the prosecution of individual perpetrators (see [Taiwan's case study](#)), public policy reforms (see the [Malaysian case study](#)), and commitment to collaborate with the ILO (see [Turkmenistan case study](#)). There is also evidence of policy reforms from governments aiming to address state-imposed forced labour when there is a threat of a ban under sec. 307 against specific companies (see [Thailand's case study](#) below).

In relation to the UFLPA, no positive changes in government behaviour have been documented (i.e., from the Chinese government in relation to the Uyghur Region).<sup>273</sup> This may partially be due the recent implementation of the UFLPA,<sup>274</sup> and the different nature of the state-imposed forced labour in the Uyghur Region, which has been categorised as a crime against humanity.<sup>275</sup> Scholars also suggest that other measures such as diplomatic, financial and civil society pressures may be needed alongside a ban to influence the practices of the Chinese government,<sup>276</sup> but there is no evidence of this yet.

There is evidence of government changes in relation to state-imposed forced labour where no ban was imposed, but this is limited to one case study (see [Uzbekistan case study](#)). This may be related to the significant CSOs' pressures faced and the economic-driven State-imposed forced labour in Uzbekistan, but more research is needed to understand this.

However, it remains unclear when and under which conditions FLIBs influence change in governments of countries affected by a ban and when such change addresses forced labour. The cases explored in this section suggest that FLIBs, alongside other pressures including those from the media and civil society, may influence government changes. However, empirical research exploring the relationship between government changes and the prevention, reduction, and remediation of forced labour is needed.

273. Zenz's (2024) assessment of coercive labour transfers between 2023 and early 2024 based on the Uyghur Region's State and media sources show that labour transfers continue and are likely to continue throughout 2025. <https://jamestown.org/program/forced-labor-in-the-xinjiang-uyghur-autonomous-region-assessing-the-continuation-of-coercive-labor-transfers-in-2023-and-early-2024/>

274. As the UFLPA continues to be enforced, more evidence may emerge on this. It may be too early to measure these changes.

275. See Obokata, (2022)

276. Cockayne, J. (2022). [Making Xinjian Sanctions Work](#). The University of Nottingham.

## Case Study: Taiwan

Following a report by CSOs, in August 2020 CBP imposed a WRO on seafood caught by the Da Wang fishing vessel, owned by a Taiwanese company, due to reasonable evidence of forced labour on board of the ship.<sup>277</sup> Further investigations led CBP to issue a final decision on 28 January 2022, which concluded that all ILO indicators of forced labour were met.<sup>278</sup>

On May 10<sup>th</sup>, 2022, the Taiwan Government implemented an official Action Plan for Fisheries and Human Rights.<sup>279</sup> This state-level policy plan encompasses a range of improvement measures, including an increase in the monthly minimum wage for distant water fishing workers and the improving of living and working conditions and in recruitment policies.<sup>280</sup> According to interviews undertaken by the Remedy Project, civil society groups in Taiwan associate the highlighted pressure generated by import bans and the inclusion of fish from Taiwan on the US Department of Labor's List of Good made Using Child Labour and Forced Labour to the development of the Human Rights in Fisheries Action Plan by the government of Taiwan.<sup>281</sup>

Moreover, the Taiwanese fishery authorities (the Fisheries Agency) revoked the right of the owner of the Da Wang to operate distant water fishing vessels and banned its fishing vessels from entering ports in Taiwan.<sup>282</sup> Prosecutors in Taiwan also charged nine people for exploiting and abusing foreign crew on a longline fishing boat.<sup>283</sup> This is the only case study where the WRO led to legal accountability for individual perpetrators in a third country.<sup>284</sup> However, a WRO against the fishing vessel Da Wang, remains active.<sup>285</sup>

277. See US Customs and Border Protection, (2020b)

278. See US Customs and Border Protection, (2022a)

279. See The Remedy Project (2023), *Putting Things Right: Remediation of forced labour under the Tariff Act 1930*.

280. Ibid.

281. Ibid

282. Ibid

283. Ibid

284. Ibid

285. See <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings> last consulted in December 2024.

## Case study: Malaysia

According to an ILO report, the Malaysian Government, its agencies and companies have been working to address forced labour in the industry since the Covid-19 pandemic when several WROs were issued against rubber glove manufacturers.<sup>286</sup> For instance, the Malaysian Ministry of Human Resources actively sought to establish a dialogue with the companies that faced forced labour import bans<sup>287</sup> and early on, in 2020, the Ministry had already created a taskforce on labour law and compliance for the rubber-related industry.<sup>288</sup> Moreover, the Government of Malaysia improved protections for migrant workers<sup>289</sup> (which comprise the majority of the workforce in this industry), including by amending the Anti-trafficking in Persons and Anti-smuggling of Migrants Act 2007 via the ATIPSOM Act 2022.<sup>290</sup>

The Malaysian Government also made policy reforms that cut across sectors. In November 2021 Malaysia launched a National Action Plan on Forced Labour for 2021-2025. Later, in March 2022, the Government of Malaysia ratified the ILO Protocol of 2014 to the Forced Labour Convention, which requires Member States to take effective action to prevent forced labour, to protect victims and to give them access to justice and remedies, including compensation.<sup>291</sup> Effective in May 2022, the national monthly minimum wage was increased. In 2023 forced labour was included as a criminal offence under the Employment (Amendment) Act.<sup>292</sup>

This broad response from the Malaysian government may be attributed, at least partially, to the fact that two of the country's key export industries, that is, rubber gloves and palm oil, were being targeted around the same time by the US Tariff Act. Allegedly, the first WRO against Malaysian rubber gloves manufacturers issued in 2019 triggered only limited concern at the domestic level as it was expected that other Malaysian companies would fill the market gap.<sup>293</sup> However, the government response changed when additional WROs that affected a broader range of companies in the industry were issued.<sup>294</sup> This also coincided with the issuing of two WROs and one Finding on Malaysian palm oil companies.<sup>295</sup> Similarly, Malaysia had been included on the Tier 3 list of the US Trafficking in Persons Report for States "whose governments do not fully meet the Trafficking Victims Protection Act's minimum standards and are not making significant efforts to do so".<sup>296</sup>

286. ILO (2022) [Addressing, preventing, and eliminating forced labour in the rubber industry in Malaysia](#).

287. Reuters (2022) as cited in Ebert et al., (2023) [Chapter 3: Tackling forced labour in supply chains. The potential of trade and investment governance](#). In [Integrating trade and decent work: The potential of trade and investment policies to address labour market issues in supply chains](#). International Labour Organisation (ILO).

288. Malay Mail (2020) as cited in Ebert et al., (2023) [Chapter 3: Tackling forced labour in supply chains. The potential of trade and investment governance](#). In [Integrating trade and decent work: The potential of trade and investment policies to address labour market issues in supply chains](#). International Labour Organisation (ILO).

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

290. ILO (2022) [Addressing, preventing, and eliminating forced labour in the rubber industry in Malaysia](#).

291. Ibid.

292. The Remedy project (2023) and ILO (2022).

293. In Ebert et al., (2023) [Chapter 3: Tackling forced labour in supply chains. The potential of trade and investment governance](#). In [Integrating trade and decent work: The potential of trade and investment policies to address labour market issues in supply chains](#). International Labour Organisation (ILO).

294. Ibid

295. Ibid. e.g., WRO against palm oil products made by FHV Holdings Berhad in 2020 (US Customs and Border Protection, 2020c)

296. In Ebert et al. (2023)

## Case study: Thailand

Reports of forced labour in fishing net production in Thailand were published in the media in December 2021 and by February 2022 a petition was submitted to CBP.<sup>297</sup> The petition called on a ban on imports of fishing nets produced by two Thai companies on the grounds of these being made using forced prison labour.<sup>298</sup> The petition also called for the Thai government to ensure that prison labour conditions were compliant with international standards and for the companies targeted to provide remedies for all prisoners affected.<sup>299</sup>

The petition did not lead to a WRO as only ten days after the petition was submitted, the Department of Corrections of the Royal Thai Government committed to end the manufacture of fishing nets using prison labour and to reform Thailand's prison work programme.<sup>300</sup> It announced it would develop measures to ensure there was no forced labour in prison work, including setting inmates' payment rates in line with minimum wage standards in the province, and improving living and working conditions.<sup>301</sup> In June 2022, the Department of Corrections published a summary of reforms to the employment of prisoners that had been implemented across Thailand's 10 prison districts, including the approval of pay rises.<sup>302</sup> However, there is a lack of publicly available evidence on the implementation of these measures. A prisoner interviewed by the Remedy Project mentioned there had been some improvements to working conditions in the prison, but that there had not been an increase in their pay rates.

This case shows that state-imposed forced labour may be influenced, at least to some extent, under sec. 307 via bans targeted to specific companies, rather than to an entire region.

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

298. Global Labor Justice, (2022) [https://globallaborjustice.org/portfolio\\_page/organizations-urge-us-block-imports-fishing-nets-from-thai-companies-evidence-forced-prison-labor/](https://globallaborjustice.org/portfolio_page/organizations-urge-us-block-imports-fishing-nets-from-thai-companies-evidence-forced-prison-labor/)

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

300. Ibid.

301. Ibid

302. Ibid

## Case study: Turkmenistan

In May 2018, CBP issued a WRO order on “all Turkmenistan Cotton or products produced in whole or in part with Turkmenistan cotton”.<sup>303</sup> After a decade of monitoring the cotton harvest in Turkmenistan, civil society organisations found evidence of the Turkmen government taking some steps to reduce forced labour in the 2023 harvest of cotton.<sup>304</sup> For instance, teachers and doctors were allegedly no longer forced to pick cotton or pay for replacement pickers and the government no longer mobilised children to pick cotton.<sup>305</sup> Furthermore, the Government of Turkmenistan has for the first time acknowledged the existence of and committed to address forced labour in the cotton sector by signing and publishing in May 2024 a Roadmap of cooperation with the ILO for the 2024-25 period.<sup>306</sup> The extent to which the WRO influenced these changes is difficult to establish, but the ban may have contributed to the sustained international pressure from civil society organisations such as the Cotton Campaign, who petitioned CBP to introduce a WRO against all cotton from Turkmenistan.

However, the WRO continues to be active,<sup>307</sup> and these changes have not been sufficient to address forced labour in the industry. For instance, child labour is still persistent in the harvest of cotton and there is no evidence of the government undertaking policy changes and holding individuals accountable.<sup>308</sup> There is also no evidence of the government creating conditions for worker empowerment and organising for social dialogue and bargaining.<sup>309</sup> In 2024 it was reported that local authorities continue forcing State employees to pick cotton.<sup>310</sup>

303. See The Cotton Campaign, (n.d.-c). See also CBP statistics available at <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>

304. Turkmen News, (2024)

305. Turkmen News, (2023b) <https://en.turkmen.news/news/teachers-and-doctors-in-turkmenistan-exempt-from-cotton-picking-could-this-be-permanent/>

306. International Labour Organization (ILO), (2024a) <https://www.ilo.org/resource/other/adopted-roadmap-cooperation-activities-between-ilo-and-government>

307. See CBP statistics <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings#wcm-survey-target-id>

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

309. Ibid.

310. Turkmen News, (2024) <https://turkmen.news/v-dashoguzskom-velayate-rabotnikov-kultury-otpravlyaut-sobirat-hlopok/> and Turkmen News, (2024b) <https://turkmen.news/v-turkmenistane-vrazrez-s-sotrudnichestvom-s-mot-budjetnikov-zastavlyaut-sdavati-dengi-na-hlopok/>

## Case study: Uzbekistan

In 2013 the ILRF filed an allegation with CBP seeking an import ban under sec. 307 to prevent the importation of goods made with cotton from Uzbekistan,<sup>311</sup> but no WRO was issued as the consumptive demand was still in place then. While the consumptive demand was removed in 2016 a WRO against Uzbek cotton has not been issued.

In 2009 Uzbek civil society launched a petition calling for a boycott of Uzbek cotton due to forced labour and in 2010 The Cotton Campaign launched the Uzbek Cotton Pledge.<sup>312</sup> While the US did not issue a WRO against Uzbek cotton, it was added in 2010 to the US List of Goods produced by Child labor or Forced labor.<sup>313</sup> Complaints were also filed with OECD National Contact Points against wholesalers who bought Uzbek cotton directly or indirectly.<sup>314</sup>

In 2017 and after a decade of civil society monitoring, boycotts, advocacy (with governments including the Uzbek government, international finance institutions and businesses themselves),<sup>315</sup> and the use of legal levers reporting to international actors the violation of human rights,<sup>316</sup> the Uzbek government implemented economic reforms to address forced labour.<sup>317</sup> Mainly, the government privatised the cotton sector through “clusters”<sup>318</sup> which allegedly resulted in a reduction of forced child labour.<sup>319</sup> However, in the 2018 and harvests systematic forced labour persisted. In the 2021 harvest, the monitoring organisation, Uzbek Forum for Human Rights, found that systematic, state-imposed forced labour was no longer used.<sup>320</sup> As a result, in 2022, the Cotton Campaign ended its call for a global boycott of cotton from Uzbekistan and lifted the Uzbek Cotton Pledge.<sup>321</sup> In that same year, cotton from Uzbekistan was removed from the US Department of Labor’s list of goods produced by child labor or forced labor.<sup>322</sup>

311. See International Labor Rights Forum’s (2013) petition [https://laborrightrights.org/sites/default/files/publications/Petition\\_to\\_US\\_Custom\\_April\\_30\\_2013.pdf](https://laborrightrights.org/sites/default/files/publications/Petition_to_US_Custom_April_30_2013.pdf)

312. More than 300 hundred companies committed to the pledge. See The Cotton Campaign, (n.d.) <https://www.cottoncampaign.org/uzbekistan>

313. 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>

314. Ebert et. al., (2023) Chapter 3: Tackling forced labour in supply chains. The potential of trade and investment governance. In Integrating trade and decent work: The potential of trade and investment policies to address labour market issues in supply chains. International Labour Organisation (ILO).

315. To stop sourcing from cotton suppliers in Uzbekistan.

316. <https://www.cottoncampaign.org/uzbekistan>

317. The Cotton Campaign, (n.d.) Consolidating reforms to end forced labor and promoting responsible sourcing from Uzbekistan. <https://www.cottoncampaign.org/uzbekistan>

318. Supplier textile companies that control multiple aspects of the textile value chain, from cotton growing, harvesting, and ginning, through to manufacturing of finished goods. See The Cotton Campaign (2022) As such these are private and vertically integrated enterprises.

319. See 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>

320. Uzbek Forum for Human Rights, (2022) A turning Point in Uzbekistan’s Cotton Harvest. <https://www.cottoncampaign.org/resources-uzbekistan/2021-harvest-report-no-central-government-imposed-forced-labor-freedom-of-association-needed-to-sustain-reforms>

321. The Cotton Campaign, (n.d.) Consolidating reforms to end forced labor and promoting responsible sourcing from Uzbekistan. <https://www.cottoncampaign.org/uzbekistan>

322. 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>

The large-scale boycotting led by The Cotton Campaign and the economic consequences of this for companies were a driving force behind these changes, but the Cotton Campaign has also acknowledged that the political will of the Uzbek government played a role.<sup>323</sup> There were also other economic pressures from development finance institutions, namely the World Bank and the IFC who were financing projects in the cotton industry of Uzbekistan,<sup>324</sup> and trade measures from Europe.<sup>325</sup> It has been suggested that the prospect of benefiting from the special preferences granted under the EU's GSP+ scheme may have also influenced government changes.<sup>326</sup>

However, these reforms have not led to sustainable changes under situations of increased pressures. In 2023 civil society organisations found that due to a shortage of voluntary pickers, local officials forced employees of several state organizations to pick cotton or pay for a replacement picker and that some clusters imposed below-market prices for cotton, unrealistic production targets, inflated costs for inputs, and failed to pay for delivered cotton, leaving many farmers in debt.<sup>327</sup> Some factors that led to the use of forced labour in the 2023 harvest include the persistence of the state control system over the cotton harvest, and the lack of freedom of association and bargaining power for farmers.<sup>328</sup> The Cotton Campaign is thus calling for the introduction of reforms to reduce restrictions on freedom of association and strengthen collective bargaining rights, as a primary lever to end forced labour.<sup>329</sup>

The Cotton Campaign also recommends that governments enact legislation that mandate HREDD but does not mention FLIBs.<sup>330</sup>

323. The Cotton Campaign, (n.d.) Consolidating reforms to end forced labor and promoting responsible sourcing from Uzbekistan. <https://www.cottoncampaign.org/uzbekistan>

324. Ebert et. al., (2023) Chapter 3: Tackling forced labour in supply chains. The potential of trade and investment governance. In Integrating trade and decent work: The potential of trade and investment policies to address labour market issues in supply chains. International Labour Organisation (ILO).

325. In 2011 the European Parliament rejected a proposal to extend a trade agreement with Uzbekistan to the textile sector because of concerns about forced labour in the country's cotton industry. Ebert et. al., (2023) Chapter 3: Tackling forced labour in supply chains. The potential of trade and investment governance. In Integrating trade and decent work: The potential of trade and investment policies to address labour market issues in supply chains. International Labour Organisation (ILO).

326. Ebert et. al., (2023) Chapter 3: Tackling forced labour in supply chains. The potential of trade and investment governance. In Integrating trade and decent work: The potential of trade and investment policies to address labour market issues in supply chains. International Labour Organisation (ILO).

327. See Uzbek Forum for Human Rights, (2024) Uzbek Cotton Harvest 2023. Risk of forced labor remains high: Government officials use coercion to address shortage of pickers. <https://www.uzbekforum.org/uzbek-cotton-harvest-2023-risk-of-forced-labor-remains-high/>

328. The Cotton Campaign, (2024) Uzbekistan should emphasize workers' rights to maintain momentum for responsible sourcing <https://www.cottoncampaign.org/news/uzbekistan-should-emphasize-workers-rights-to-maintain-momentum-for-responsible-sourcing>

329. Ibid

330. <https://www.cottoncampaign.org/uzbekistan>



## 4. What does the evidence show about *practical impacts* of FLIBs on importing businesses and on governments that implement bans?

Evidence quality rating: **Amber**<sup>331</sup>

The practical impacts of FLIBs on importing businesses and governments that implement bans are likely to differ according to several factors, including where the burden of proof lies and the characteristics of the businesses themselves. Both actors, however, would need to absorb additional costs for implementing or complying with the regulation.

### 4.1. On importing businesses

**When affected directly by a ban under sec. 307 or the UFLPA, importers need sufficient resources and capabilities to respond to them, but which costs are absorbed by lead firms and which by suppliers is not established in the FLIB laws.**

**Under the UFLPA importers can rebut the presumption (i.e., request an exception to the UFLPA's presumption)<sup>332</sup> 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 commissioner. No exceptions however have been granted to date.

**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, which would entail providing supply chain tracing information.<sup>333</sup>

**Under sec. 307, after a WRO or finding has been issued, importers either need to be able to demonstrate that forced labour was not used to produce the goods being imported, or that forced labour indicators have since been eliminated, in**

331. The previous policy brief rated the quality of the evidence answering this question as **Amber**.

332. See section 3(b) of the [UFLPA](#).

333. See US Customs and Border Protection, (2022) UFLPA'S Operational Guidance for Importers <https://www.cbp.gov/document/guidance/ufipa-operational-guidance-importers>

**order to modify or revoke it.** For instance, before a finding is issued, importers can submit evidence showing that the goods were not produced using forced labour.<sup>334</sup> Showing the elimination of forced labour may involve hiring social auditors or external advisors to undertake audits<sup>335</sup> and may need to incorporate data from worker interviews.<sup>336</sup>

**Importers need to absorb additional costs, some related to undertaking human rights due diligence.** While evidential thresholds may vary, it is likely that businesses would need to show their human rights due diligence efforts and provide information on their supply chains.<sup>337</sup> These costs would depend on whether companies already undertake HREDD (either voluntarily or because they are covered under existing mHREDD legislation).

**Importers also need to absorb the costs that result from having their goods withheld or prevented from entry into a market, from the actions needed from them to lift the ban, or from failing to comply with a decision.** Under UFLPA business need to absorb the costs of exiting the Uyghur Region or in the case of WROs, the costs of having their products stopped, seized or destroyed. In the case of the Malaysian rubber glove manufacturers case study, manufacturers absorbed the costs of remediation measures to workers, including the re-payment of recruitment fees,<sup>338</sup> allegedly without support from lead firms.<sup>339</sup> Under the Canadian ban businesses are responsible for associated storage fees while the goods are detained and under investigation.<sup>340</sup> In case of non-compliance, companies need to pay financial penalties.<sup>341</sup>

**FLIBs may also influence litigation actions against companies.** For instance, after the 2019 WRO against tobacco and tobacco products from Malawi, British American Tobacco and Imperial Brands, who both supplied tobacco from Malawi, were sued in the English Court by tobacco farmers and their families over forced labour and child labour.<sup>342</sup>

**Even without a FLIB, in some countries, like in the UK,<sup>343</sup> businesses may be prosecuted for importing goods tainted with forced labour.** For instance, CSOs recently won a case in the UK Court of Appeal that will have consequences for

334. The WRO, in effect, shifts the burden of proof to the companies to show their imports were not manufactured in any part using forced labour.

335. CBP suggests companies to support their petitions to modify or revoke an import ban with an audit report. For example, Top Glove hired Impactt to undertake the audits and submit a report that ended up in CBP lifting the ban on Top Glove. SDP also hired external auditors to respond to their WRO. However, social audits have failed to detect forced labour.

336. See for example the case of bone black from Bonechar in US Customs and Border Protection, (2020) media release <https://www.cbp.gov/newsroom/national-media-release/cbp-modifies-withhold-release-order-imports-bone-black-bonechar-carv>

337. According to the UFLPA guidance for importers (2022), CBP may require companies to show due diligence system information, supply chain tracing information, information on supply chain management measures (see p. 13). According to the EUFLR (2024) "before initiating an investigation, competent authorities should request from the economic operators under assessment information on actions taken to mitigate, prevent, bring to an end risk of forced labour or remediate forced labour cases in their operations and supply chains with respect to the products under assessment". Recital 45.

338. See the [Malaysian glove industry case study](#) on this brief.

339. See Bengsten, (2021) <https://thediplomat.com/2021/09/debt-bondage-payouts-flow-to-workers-in-malaysias-glove-industry/>

340. Baker & McKenzie, (2023). Canada: Enforcement update on Canada's Import Prohibition on forced and child labour.

341. For instance, under the EUFLR, financial penalties may apply. See The European Parliament & The Council of the European Union, (2024) Chapter V, Section I, Article 23 pursuant to Article 37 on Penalties.

342. Corporate Justice Coalition, (2023) [British American Tobacco and Imperial Brands: child and forced labour on tobacco farms \(Malawi\)](#).

343. The UK government has not yet established a FLIB but the UK's Foreign Prison-Made Goods Act of 1897 prohibits the importation of goods produced in foreign prisons, albeit it has never been enforced.

businesses in the UK.<sup>344</sup> For example, if a company knows or suspects that the imported goods were produced with forced labour, they could be prosecuted under the Proceeds of Crime Act 2002<sup>345</sup> for trading criminal property.<sup>346</sup>

**Large companies and SMEs are likely to experience different practical impacts from FLIBs, but there is little evidence on this.** The European Commission is expected to assess the scope and impact of the EUFLR on business, especially SMEs.<sup>347</sup>

**Private equity managers may also be indirectly impacted through their portfolio companies, but there is little evidence on this.**<sup>348</sup>

## 4.2. On Governments that implement bans

**Governments implementing the bans need to invest in resources and capacity building for the implementing authorities.**<sup>349</sup> This may involve investing in accompanying guidance for authorities to implement the bans,<sup>350</sup> increasing funding to hire and train staff,<sup>351</sup> data collection and sharing infrastructure (e.g., databases, communication systems), and traceability technologies.<sup>352</sup>

**Governments may need to invest in producing resources to support business compliance with the regulations.** Some authorities, such as the CBP<sup>353</sup> and the Mexican authorities,<sup>354</sup> have issued guidelines for business to facilitate compliance and others are expected to do so too.<sup>355</sup> It is also anticipated that the EU Commission issues specific guidance for non-EU businesses and develops accompanying measures to support SMEs, including specific guidance and competent authorities to designate contact points to provide information and assistance to SMEs.<sup>356</sup>

344. For more on this case see Anti-Slavery International, (2024) Press Release <https://www.antislavery.org/latest/court-of-appeal-win-shows-that-companies-risk-prosecution-if-they-continue-to-profit-from-forced-labour-goods/>

345. <https://www.legislation.gov.uk/ukpga/2002/29/contents>

346. Ochab, (2024) U.K. Companies Trading In Forced Labor Goods Risk Prosecution. <https://www.forbes.com/sites/ewelinaochab/2024/07/07/uk-companies-trading-in-forced-labor-goods-risk-prosecution/>

347. See EUFLR (2024) article 38

348. See Weiss, (2024) <https://www.paulweiss.com/practices/sustainability-esg/publications/eu-adopts-forced-labour-regulation-banning-products-made-by-forced-labor?id=55578>

349. Schwarz et. al. (2022) *External policy tools to address modern slavery and forced labour*. European Parliament

350. In the case of the EUFLR for example The European Commission will issue guidelines to support Member State enforcement authorities and advice on how to apply the regulation. See Official Journal of the European Union, (2024) Article 11.

351. For instance, CBP has directed significant resources to hiring and training personnel to implement UFLPA, as received by Congress. As cited in Gordon, J. (2024) *The US forced labor import ban as a tool to raise labor standards in supply chain contexts: strategic approaches to advocacy*. Fordham University School of law.

352. See [section 3.1.2](#) for more details on the investigative resources and capacities needed for the enforcement of FLIBs.

353. For instance, CBP published [guidance](#) for importers to assist them in preparing for the implementation of the UFLPA. Additional import guidance is provided in the updated FLETF [strategy](#) (released in 2022, updated in 2023, and once more updated in 2024) which aims to support the enforcement of section 307 of the Tariff Act of 1930.

354. See Guía para la instrumentación del mecanismo para restringir la importación de mercancías producidas con trabajo forzoso u obligatorio <https://www.gob.mx/stps/documentos/guia-para-la-instrumentacion-del-mecanismo-para-restringir-la-importacion-de-mercancias-producidas-con-trabajo-forzoso-u-obligatorio>

355. The European Commission will issue guidelines to support companies on how to comply with the regulation. See EUFLR Article 11.

356. See EUFLR Article 10.

## 5. What does the evidence show about any connections between FLIBs and related policy areas?

Evidence quality rating: **Red**<sup>357</sup>

Implemented by themselves, FLIBs may be seen as a blunt approach,<sup>358</sup> but they may be used in parallel with other State measures as part of a “smart mix” to address modern slavery in global supply chains. However, evidence on the interactions between FLIBs and other measures remains limited, partially due to the relatively recent implementation of these instruments.

### 5.1. FLIBs and sanctions

**FLIBs may be implemented alongside trade sanctions, but there is no evidence of the effectiveness of these sanctions on reducing forced labour in the Uyghur region or their interplay with FLIBs.** For instance, States have put in place asset freezes and travel restrictions for entities connected to Uyghur Region’s forced labour.<sup>359</sup> Most notably, the US government has implemented sanctions against officials of the Government of the People’s Republic of China related to forced labour in the Uyghur Region under the Uyghur Human Rights Policy Act of 2020<sup>360</sup> and the Global Magnitsky programme,<sup>361</sup> and sanctions against foreign persons employing North Korean Labour under CAATSA.<sup>362</sup> The UK has also sanctioned individuals associated with the State-imposed forced labour in the Uyghur Region.<sup>363</sup>

357. The previous policy brief rated the quality of the evidence answering this question as Amber.

358. Anti-Slavery International and ECCHR (2021) [position paper on import controls to address forced labour in supply chains](#) See also Cockayne, J. (2022). [Making Xinjian Sanctions Work](#). The University of Nottingham.

359. Cockayne, J. (2022). [Making Xinjian Sanctions Work](#). The University of Nottingham.

360. Under this Act (S.3744), the US government can freeze the assets of individuals and entities found responsible for human rights abuses in Xinjiang, as well as ban the identified individuals from entry to the United States. See Cockayne, (2021) [Developing Freedom: The Sustainable Development Case for Ending Modern Slavery, Forced Labour and Human Trafficking](#) (United Nations University: New York, 2021).

361. See Report to Congress (n.d.), as cited in Cockayne, J. (2021) [Developing Freedom: The Sustainable Development Case for Ending Modern Slavery, Forced Labour and Human Trafficking](#) (United Nations University: New York, 2021).

362. See Subtitle B Sec. 321 <https://www.congress.gov/bill/115th-congress/house-bill/3364/text>

363. <https://search-uk-sanctions-list.service.gov.uk/>

## 5.2. FLIBs and mHREDD laws

**In theory, FLIBs could be complementary to mHREDD laws, but evidence of this is lacking as the countries that have developed a FLIB have not yet developed HREDD laws or vice versa.** The evidence is expected to increase when the EUFLR is implemented alongside the CSDDD.

**In theory, they could complement each other due to their different nature (process vs outcomes),<sup>364</sup> but there is not yet evidence of this in practice.** For instance, mHREDD laws could support the transparency and traceability needed for the bans to be effective by requiring companies to undertake HREDD and to report on the steps taken. mHREDD laws could also support the role of consumers and CSOs in filing petitions against companies suspected to produce goods with forced labour. mHREDD laws may be particularly relevant in the preliminary phase of the enforcement of FLIBs, mainly during the preliminary investigations, as demonstrating implementation of HREDD may prevent further investigation of a company.<sup>365</sup> Some CSOs however have stated that HRDD should not be used to shield companies from investigations.<sup>366</sup> Moreover, where due diligence processes may be impossible or insufficient, such as in cases of State-imposed forced labour, FLIBs could allegedly complement HREDD laws.<sup>367</sup>

**In theory, FLIBs and mHREDD laws could complement each other due to their different focal points (imports vs domestic production, and goods vs entities), but there is not yet evidence of this in practice.** For instance, mHREDD laws leave significant room for the importation of goods produced using modern slavery in domestic markets, while most FLIBs (except for the EUFLR)<sup>368</sup> leave room for modern slavery in products produced internally.<sup>369</sup> They may also complement each other as FLIBs focus on goods while mHREDD laws focus on companies. This can lead to FLIBs having a broader scope than mHREDD laws (i.e., the scope of the EUFLR is significantly broader than that of the CSDDD). Moreover, mHREDD laws could complement FLIBs by including responsible disengagement requirements. However, there is no evidence of this in practice as it may be too early to have evidence on this due to the recent implementation of both instruments.

364. While FLIBs focus on goods and are a regulation of result, mHREDD laws focus on entities and are regulations of means

365. The enforcement of the EUFLR for example considers any HRDD undertaken in case of an investigation and may avoid the initiation of such investigation.

366. See Holly & Feld, (2023) Setting the scene for an effective forced labour ban in the EU.

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

368. The EUFLR covers exports from the EU. See [Annex 1](#).

369. A study found that forced labour in agri-food supply chains in the U.S. is most prevalent in the domestic system, as opposed to coming from imported food products from low-income countries, suggesting that the import ban regime was insufficient to address modern slavery in this context. See Blackstone et al., (2023) Forced labour risk is pervasive in the US land-based food supply. <https://doi.org/10.1038/s43016-023-00794-x>

### 5.3. FLIBs and sector specific EU measures with due diligence requirements

In theory, FLIBs could complement existing sectoral trade regulations that target specific products and geographical areas and that require some level of human rights due diligence, but there is no empirical evidence of this yet. For example, the EUFLR could complement the EU Conflict Minerals,<sup>370</sup> the EU Deforestation,<sup>371</sup> and the EU Batteries regulations.<sup>372</sup> However, given that the EUFLR is not yet in force, and some of the sectoral trade regulations have recently been implemented, there is not yet any evidence on this.<sup>373</sup>

### 5.4. FLIBs and Trade Agreements

In theory, FLIBs and trade agreements could support each other, but there is no evidence of this yet. Traditionally, labour issues as they relate to the ILO conventions, are considered during trade negotiations<sup>374</sup> and countries are increasingly including social clauses in their trade policies,<sup>375</sup> but research is needed to understand how FLIBs and trade agreements can support each other to address forced labour. Civil society actors suggest that trade agreements should be used to support producer government countries to ratify and implement labour rights protections, and to ensure that enforcement, access to remedy and justice is introduced in third countries affected by FLIBs.<sup>376</sup>

For the first time, a free trade agreement, the USMCA, explicitly requires the parties (Canada and Mexico) to develop laws that prohibit imports made by forced labour and to cooperate in their identification.<sup>377</sup>

370. Adopted in 2017 aiming to prevent the import of minerals and metals related to armed conflict into the EU market. See [https://policy.trade.ec.europa.eu/development-and-sustainability/conflict-minerals-regulation/regulation-explained\\_en](https://policy.trade.ec.europa.eu/development-and-sustainability/conflict-minerals-regulation/regulation-explained_en)

371. Adopted in 2023 aiming to prevent products linked to deforestation and forest degradation from entering the EU market. See [https://green-business.ec.europa.eu/deforestation-regulation-implementation\\_en](https://green-business.ec.europa.eu/deforestation-regulation-implementation_en)

372. See White & Case LLP, (2024) <https://www.whitecase.com/insight-alert/eu-adopts-forced-labour-ban-8-things-know>

373. For instance, the EU Deforestation regulation was adopted in 2023 and the requirements for company will start applying from 30 December 2024. See [https://green-business.ec.europa.eu/deforestation-regulation-implementation\\_en](https://green-business.ec.europa.eu/deforestation-regulation-implementation_en)

374. In the UK for example, the Department for Business and Trade considers modern slavery during trade negotiations: When they negotiate agreements, provisions are sought in a "labour chapter" or "trade and sustainable development chapter" where they seek to get the "partner countries to reaffirm and reinforce the ILO conventions or declarations. (House of Lords - The Modern Slavery Act 2015: Becoming World-Leading Again - Modern Slavery Act 2015 Committee, n.d.) Available at <https://publications.parliament.uk/pa/ld5901/ldselect/ldmodslav/8/808.htm>

375. Bermúdez, (2023) A New Protectionist Tool or a Needed Reaction? An Analysis of the EU Proposal Under the WTO Rules with a Pinch of Geopolitics. Available at <http://dx.doi.org/10.2139/ssrn.4661758>

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

377. Casey et al., (2024) Available at <https://crsreports.congress.gov/product/pdf/IF/IF11360>

## 6. What does the evidence show about any actual or potential wider consequences of FLIBs?

Evidence quality rating: **Red**<sup>378</sup>

Scholars<sup>379</sup> have been concerned that FLIBs may be challenged under the WTO rules,<sup>380</sup> however there is no evidence of this happening in practice.

**FLIBs targeting State-imposed forced labour and prohibiting the entry of products from a specific region may result in countermeasures by States in some cases.** For example, since issuing a significant number of WROs against China, particularly the Uyghur Region, the Chinese government has imposed a significant number and range of sanctions on western individuals and entities.<sup>381</sup> However, these countermeasures may be related to the accompanied sanction measures against Chinese officials and entities involved in human rights abuses in the Uyghur Region under the Global Magnitsky Human Rights Accountability Act,<sup>382</sup> and to the long geopolitical tensions between the US and China. In other cases, sec. 307 has not led to counter measures by States. For instance, when WROs have been issued to an entire region,<sup>383</sup> including to target State-imposed forced labour,<sup>384</sup> targeting specific products or categories from a country or region, rather than to all products from a specific region. So far, there is no evidence of countermeasures from States in cases of privately imposed forced labour.

**There is a concern that FLIBs may incentivise buyers to switch suppliers when risks are high or when forced labour occurs (except in the case of the state-imposed forced labour in the Uyghur region)<sup>385</sup> and discourage them from addressing forced labour (e.g., eliminate, prevent, and remediate it),<sup>386</sup> but there is no evidence of this in practice.** This concern has been associated to sec. 307's requirement to eliminate indicators of forced labour as a condition for lifting a ban without reference to remediation to workers or prevention.<sup>387</sup> Some buyers have announced divestment from suppliers that have been issued WROs,<sup>388</sup> but there is no evidence of this happening in practice. On the contrary,

378. Previous policy brief evidence quality **Red**.

379. See for example: Cockayne, J. (2021) *Developing Freedom: The Sustainable Development Case for Ending Modern Slavery, Forced Labour and Human Trafficking* (United Nations University: New York, 2021). And Jacob et al., (2022) *Trade-related policy options of a ban on forced labour products*. European Parliament.

380. WTO General Agreement on Tariffs and Trade (GATT) OF 1994. Especially concerns around whether a FLIB qualifies for an exception to the general GATT rules (including the MFN rule) under Article XX.

381. Schwarz et. al. (2022) *External policy tools to address modern slavery and forced labour*. European Parliament. See also Cockayne, J. (2022). *Making Xinjiang Sanctions Work*. The University of Nottingham. 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 (Grieger, 2022). Allegedly, companies such as Nike and H&M faced a backlash in China. See BBC article by Brant (2021) <https://www.bbc.co.uk/news/world-asia-china-56519411>

382. The US government sanctioned nine party officials and entities associated with XUAR, including the Xinjiang Construction and Production Corps, the Xinjiang Public Security Bureau, and their respective leaders. See Uyghur Human Rights Project Sanctions Tracker <https://uhrp.org/sanctions-tracker/> and US Department of the Treasury, 2020 Press Release <https://home.treasury.gov/news/press-releases/sm1073>

383. See for example the case of Malawi and the conflict minerals ban to the DRC.

384. For example, cotton in Turkmenistan.

385. In this case immediate disengagement is recommended by the Coalition to End Forced Labour in the Uyghur Region.

386. Holly & Feld, (2023) [https://www.humanrights.dk/files/media/document/SETTING%20THE%20SCENE%20FOR%20AN%20EFFECTIVE%20FORCED%20LABOUR%20BAN%20IN%20THE%20EU\\_accessible.pdf](https://www.humanrights.dk/files/media/document/SETTING%20THE%20SCENE%20FOR%20AN%20EFFECTIVE%20FORCED%20LABOUR%20BAN%20IN%20THE%20EU_accessible.pdf)

387. Ibid

388. Allegedly, major palm oil buyers were to block FGV Holdings and Sime Darby Plantations from their global supply chain after the US banned imports from the two Malaysian producers. Chu, (2021) <https://www.reuters.com/article/malaysia-palmoil-idUSL4N2K81Z3/>

in their assessment of the impacts of sec. 307, The Remedy Project did not find evidence of international companies disengaging or divesting from suppliers in the cases they examined. In relation to the UFLPA suppliers listed in the UFLPA Entity List have reported to have been dropped by lead firms,<sup>389</sup> but there is no evidence of this in practice. The EUFLR mentions that competent authorities should take into consideration the risk of disengagement and supporting in disengaging responsibly.<sup>390</sup>

**There is limited and mixed evidence on FLIBs having negative consequences on vulnerable populations.** Allegedly, “an unintended consequence of the September 2019 WRO for disposable rubber gloves produced in Malaysia, many workers’ employment was terminated, which had a negative effect on workers facing exploitation”<sup>391</sup> but no further details are provided. At the same time, a recent study examining a range of WRO case studies did not find that FLIBs result in job losses, reduced wages, or other adverse economic impacts for workers.<sup>392</sup> In a case where a WRO was issued while civil society and trade unions were in the midst of establishing an enforceable brand agreement to address gender and caste-based violence and harassment, the risks did not materialise as the WRO was quickly lifted.<sup>393</sup>

**Section 1502 of the US Dodd Frank Act is mostly cited as an example of the negative consequences of bans on vulnerable people, but this is not a trade ban and thus such evidence should not be directly extrapolated to FLIBs.** The Act required company disclosure of conflict minerals coming from the DRC and surrounding Great Lakes territories, but in practice it resulted in an unintended ‘de facto’ ban on sourcing from the DRC. Instead of justifying business associations in the DRC, companies decided to withdraw from the area<sup>394</sup> which negatively impacted the livelihoods of vulnerable people that relied on the mining and extractive industry<sup>395</sup> and increased violent conflict in affected territories.<sup>396</sup>

**Legal scholars<sup>397</sup> and NGOs<sup>398</sup> argue that before imposing a FLIB authorities should consult with workers, rightsholders, people with lived experience and their representatives to avoid further harm to workers, but so far, there is no evidence under the FLIBs in force of relevant authorities doing so.**

389. Allegedly, and according to Esquel, Nike and Tommy Hilfiger stopped sourcing from the company after it was listed in the UFLPA Entity List. See Vanderford, (2024) <https://www.wsj.com/articles/hong-kongs-esquel-group-added-to-u-s-forced-labor-ban-list-fec7faa9>

390. According to the EUFLR the lead competent authorities should take into consideration the risk of disengagement by economic operators and provide support to them in adopting and carrying out measures to bring forced labour to an end and to disengage responsibly, including complying with collective agreements and escalation measures. Recital 59.

391. Government Accountability Office, (2021) (p. 31)

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

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

394. Smit et al., (2020) European Commission study on due diligence. <https://op.europa.eu/en/publication-detail/-/publication/8ba0a8fd-4c83-11ea-b8b7-01aa75ed71a1/language-en>

395. Addaney & Lubaale, (2021) An Unintended Legacy: The External Policy Responses of the USA and European Union to Conflict Minerals in Africa. <https://doi.org/10.3390/laws10020050>

396. Stoop et al., (2018) More legislation, more violence? The impact of Dodd-Frank in the DRC. <https://doi.org/10.1371/journal.pone.0201783>

397. Pietropaoli et al., (2022) [https://www.annacavazzini.eu/wp-content/uploads/GreensEFA\\_Forced-Labour\\_A-Model-Law\\_.pdf](https://www.annacavazzini.eu/wp-content/uploads/GreensEFA_Forced-Labour_A-Model-Law_.pdf)

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



**There is also a lack of empirical research showing the impacts of FLIBs in the economies of the countries that FLIBs target.**<sup>399</sup> Allegedly, in 2023 China attracted the lowest level of foreign direct investment for 30 years.<sup>400</sup>

**There are also concerns that a FLIB could threaten the competitiveness of businesses in the country that implements them, but there is no evidence of this.** In the US, polysilicon producers have allegedly invested more than \$575 million in increased production capacity so as to reduce reliance in the Uyghur region, and production capacities for polyvinyl Chloride in the US, Mexico, India and Vietnam are expanding.<sup>401</sup> Other countries that do not yet have a FLIB are developing programmes to support domestic manufacturing of products which so far are largely based in the Uyghur Region.<sup>402</sup>

**Having FLIBs (that do not prohibit re-exportation) in some countries but not in others, may lead to those without FLIBs becoming “dumping grounds”<sup>403</sup> of products made with forced labour, but more evidence from trade flows is needed to confirm this.** Allegedly, imports from Uyghur Region to the EU increased in the first half of 2021 while they decreased by more than fifty percent in that year in the US<sup>404</sup> where sec. 307 was being enforced.<sup>405</sup> Moreover, companies in the solar sector continue to produce goods with forced labour to be sold in markets other than the US.<sup>406</sup> To avoid the displacement of forced labour goods from one market to another, scholars suggest for countries to take a coordinated effort.<sup>407</sup> The USMCA aims to reduce the diversion of products made with forced labour across North America through a collaborative enforcement, but it is yet too early to assess this due to its recent implementation. Similarly, under the EUFLR, EU Members States are expected to coordinate enforcement,<sup>408</sup> but it is yet too early to have evidence on this as the EUFLR applies only in 2027. Future research should explore this in due time.

399. Lim (2024) [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4756957](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4756957)

400. In a Financial Times report by Hollinger, (2024) <https://www.ft.com/content/02b0d782-4393-4926-9fb3-14f45f03ad2c>

401. Homeland Security Factsheet: In Just Two Years, Forced Labor Enforcement Task Force and the Uyghur Forced Labor Prevention Act Have Significantly Enhanced Our Ability to Keep Forced Labor Out of U.S. Supply Chains. <https://www.dhs.gov/news/2024/07/09/fact-sheet-just-two-years-forced-labor-enforcement-task-force-and-uyghur-forced>

402. For example, in Australia, the SunShot Solar Program promises to support the manufacturing of solar panels domestically and reduce reliance on the Uyghur Region. See David & Hobbs, (2024)

<https://fairfutures.com/insights/can-australias-sunshot-program-help-reduce-risk-of-forced-labour>

403. There is not an agreed definition of what a “dumping ground” is, but here it is understood as an increase in the importation of goods made with forced labour.

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

405. Note that the UFLPA was not yet in place.

406. Cranston C. et. al., (2024) [Respecting rights in renewable energy: Investor guidance to mitigate Uyghur forced labour risks in the renewable energy sector](#). Anti-Slavery International, Sheffield Hallam University, Investor Alliance for Human Rights

407. See Cockayne, J. (2021) [Developing Freedom: The Sustainable Development Case for Ending Modern Slavery, Forced Labour and Human Trafficking](#) (United Nations University: New York, 2021). See also Schwarz et. al. (2022) [External policy tools to address modern slavery and forced labour](#). European Parliament

408. See EUFLR article 16 on coordination of investigations and mutual assistance. <https://eur-lex.europa.eu/eli/reg/2024/3015/oj>

## 7. Future research

- Empirical research exploring the impact of FLIBs on workers affected by these instruments. This should include the voices of workers or their representatives and people with lived experience.
- Empirical research looking at the use of FLIBs by civil society, especially in relation to worker empowerment and the outcomes of this for workers.
- Empirical research on investor responses to FLIBs across different sectors and beyond the renewable energy sector.
- Empirical research looking at the interactions in practice between HREDD laws and FLIBs. Canada and the EU are potential future case studies as both will have these instruments simultaneously being implemented in practice.
- Empirical research looking at the interactions between FLIBs and Trade Agreements.
- Empirical research exploring where in the supply chain (i.e., top, middle, bottom) FLIBs may be more effective and what that means for the overall effectiveness of FLIBs.
- Empirical research measuring the extent to which the factors discussed here influence corporate behaviour. For instance, what combination of pressures are more likely to lead to business change.
- Comparative empirical research comparing impacts of different FLIBs and exploring the role of type of forced labour (private or state-imposed) on such impacts.
- More research is needed to understand when corporate policy changes resulting from FLIBs effectively translate into improvements for workers and when such changes may lead to more harm than good for workers.
- Quantitative research analysing trade data to understand changes in trade flows between countries and their association to FLIBs.
- Empirical research looking in detail to the internal corporate changes that businesses undertake as a response to FLIBs, whether affected (directly or indirectly) by FLIBs or to prevent them.
- Longitudinal studies looking at the longevity of measures implemented by businesses to respond to FLIBs.
- Robust evaluation studies looking to establish causal relationships between FLIBs and specific impacts in practice.

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