

New U.S. Law May Impede Imports of Wide Range of Products from Xinjiang, China

[David Coffin](#), [Dixie Downing](#), and [Marin Weaver](#), Office of Industries; [Eric Heath](#), Office of Operations

The Uyghur Forced Labor Prevention Act (UFLPA) establishes new rules to prevent U.S. imports of products produced or manufactured wholly or in part in Xinjiang, China because they are presumed to use forced labor. The UFLPA covers both products produced in Xinjiang and those with inputs from Xinjiang. Tracking and preventing entry of these inputs into the U.S. can be challenging, particularly if the final product is produced outside China. Some inputs that appear to be affected include polysilicon for solar panels, cotton, and motor vehicle parts.

On December 23, 2021, President Biden signed the UFLPA into law to prevent goods made with forced labor in China from entering the United States. The UFLPA establishes a rebuttable presumption for U.S. Customs and Border Protection (CBP) that all imports manufactured wholly or in part in Xinjiang, China have been produced using forced labor and are therefore not entitled to entry to the United States, superseding previous CBP Withhold Release Orders (WRO) for goods imported on or after June 21, 2022.¹ This presumption may be rebutted if CBP determines that 1) the importer complied with the UFLPA's guidance on effective due diligence measures for importers, 2) the importer responded to all relevant inquiries from CBP, and 3) the product was not produced using forced labor either wholly or in part. Many industries use inputs produced in Xinjiang, and thus may be affected by this law. This EBOT highlights three of these inputs: polysilicon, cotton, and automotive parts.

Tracking Xinjiang inputs can be quite difficult, particularly if the final product is produced in a third country before being imported into the United States. According to one industry group, firms (and CBP) may find it challenging to determine whether any inputs to a product originated in Xinjiang and if necessary whether any forced labor was involved in production – especially with upstream raw materials that can be commingled. To comply with the UFLPA, a firm may need to map its supply chain to determine whether any inputs came from Xinjiang; if so, an audit of the supply chain may be needed to determine whether forced labor was used in the production of that input.

Despite these challenges, the difficulty of compliance may depend on how CBP implements the law. Some products, including those highlighted here, were subject to CBP WRO prior to the UFLPA going into effect, so many of the checks required by the new law are already being done. While supply chain mapping may still be challenging for these products, the implementation of the UFLPA is likely to only represent a very small additional burden over the WRO.

[Polysilicon for Solar Panels](#)

Solar-grade polysilicon is one of the major inputs along the solar photovoltaics supply chain. According to industry estimates, China produces 80 percent of the world's silicon, and Xinjiang specifically produces 45 percent of the world total. On June 14, 2021, U.S. Department of Labor's Bureau of International Labor Affairs added polysilicon from China to the List of Goods Produced by Child Labor or Forced Labor.² Subsequently, on June 24, 2021, CBP issued a WRO on silica-based products produced by China-based Hoshine Silicon Industry Company - the world's largest provider of metallurgical-grade silicon.³ As of July

¹ A rebuttable presumption is an assumption of fact that is accepted as true until disproven with evidence. Uyghur Forced Labor Prevention Act of 2021 (UFLPA), [Pub. L. No. 117-78, § 3\(a\)](#), 135 Stat. 1529. This authority derives from Section 307 of the Tariff Act of 1930.

² [86 FR 32977](#).

³ During a chemical purification process known as the Siemen's Process, some polysilicon is produced from metallurgical-grade silicon. Bernreuter Research, "[Polysilicon Production Processes](#)," June 29, 2020.

The views expressed solely represent the opinions and professional research of the authors. The content of the EBOT is not meant to represent the views of the U.S. International Trade Commission, any of its individual Commissioners, or the United States government.

2022, global prices for polysilicon had risen to \$43 per kilogram – up from \$13 per kilogram in January 2021, largely because of COVID-related factory shutdowns in China. While prices are expected to continue to rise due to UFLPA and China’s continued aggressive COVID mitigation policies, some industry analysts estimate that non-Xinjiang sources of polysilicon will be enough to fulfill U.S. demand.

Cotton

In 2021, China was the largest cotton producing country in the world. Xinjiang is China’s primary cotton producing province, accounting for roughly one-fifth of total global cotton production. The U.S. government and others have identified a number of human rights abuses, including the use of forced labor, in the cotton supply chain (e.g., cotton production) largely originating in Xinjiang. Starting in 2019, CBP issued a series of WROs impacting entities in the cotton supply chain and, on January 13, 2021, it issued a WRO on all cotton and cotton products produced in Xinjiang or incorporating inputs from the region. CSIS reports that many suppliers to the United States have begun shifting sourcing from China because of the WROs and UFPLA. However, estimates by Carlson and Weaver (forthcoming) indicate that the United States is still exposed to Xinjiang-derived products through direct and indirect imports. The cotton-containing products supply chain is generally complex, involving many stages of production and materials. Most Xinjiang cotton is consumed by Chinese yarn spinners where it is mixed with cotton from other sources and with other fibers (e.g., synthetics) as it enters the supply chain. A large share of Xinjiang cotton enters global markets through Chinese exports of cotton-containing consumer goods (e.g., apparel, linens), of which the United States is a major buyer. However, some Xinjiang-origin cotton is exported as part of intermediate products (e.g., yarn and fabric) and utilized in downstream production in other countries’ supply chains, especially those heavily reliant on Chinese intermediate products (e.g., Cambodia and Nigeria). Thus, depending on the CBP’s enforcement measures, U.S. imports of cotton-containing consumer goods from other countries may be affected as well.

Automotive Parts

Vehicle manufacturers use thousands of components from hundreds of suppliers to produce their vehicles. A recent report by a consulting firm highlighted several producers in Xinjiang that supply vehicle manufacturers or parts suppliers with aluminum. A trade association argued that it is impossible for vehicle manufacturers to completely map their supply chain, and that they cannot be sure of the source of all of their indirect inputs.

Sources: [USCBC Public Comment](#), 3/10/22; [Oliver Brown Public Comment](#), 3/7/22; Pickerel, “[China’s Share of World’s Polysilicon](#),” 4/27/22; 86 FR 32977; Bernreuter, “[Polysilicon Production Processes](#),” 6/29/20; CBP, “[The DHS Issues WRO on Silica-Based Products](#),” 6/24/21; Bernreuter, “[What the U.S. Ban on Hoshine Silicon Means](#),” 6/25/21; Kennedy, “[Polysilicon Prices Rise Over 200%](#),” 7/6/22; Beetz, “[Stepping UP in 2021](#),” 12/28/21; U.S. State Dept. published jointly with other departments and USTR, “[Xinjiang Supply Chain Business Advisory](#),” 7/13/21; DOL, ILAB, “[List of Goods Produced by Child Labor or Forced Labor \(2020\)](#),” 6/23/21; CBP, [WROs and Findings List](#), accessed 6/6/22; Murphy et al., [Laundering Cotton](#), 11/21; Government of China, NBS, [CEIC database](#), AFF Production Data, accessed 2/4/22; USDA, FAS, [PS&D Online](#), accessed 2/9/22; Ford and Wilcox, “[Shedding Light on the Dark Side of Maritime Trade](#),” 1/19; Applied DNA Sciences, “[How to Protect Your Brand](#),” 6/9/22; Nadi, Schecter, and Martinez, “[Major Brands Try to Determine](#),” 9/22/20; [Autos Drive America Public Comment](#), 3/10/22; Wards Intelligence, “[World Vehicle Assembly Plants](#),” 3/30/22; Stringer, “[BMW, Volkswagen Suppliers Face Scrutiny](#),” 4/8/22; Horizon Advisory, [Base Problem](#), 4/22; Murphy, Vallette, and Elimä, [Built on Repression](#), 6/22; S&P Global, [Global Trade Atlas](#), accessed 3/24/22; Carlson and Weaver, “Disentangling the Knot” (USITC working paper forthcoming); USITC, [DataWeb](#) HTS 2002.10.00, 2002.90.80, 2103.20.20, 2103.20.40, accessed 7/26/22; Flacks and Songy, [The UFLPA Goes into Effect](#), 6/27/22.

The views expressed solely represent the opinions and professional research of the authors. The content of the EBOT is not meant to represent the views of the U.S. International Trade Commission, any of its individual Commissioners, or the United States government.