

Risk & Resilience

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Navigating
Forced Labor
Trade Regulation

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Abstract

Forced labor—work extracted through coercion, fraud, or menace of penalty—is one of the most prevalent and severe human rights risks in global supply chains. It is also an increasing regulatory and litigation risk for business. While much attention has been paid to emerging due diligence, disclosure, and civil liability regimes, the most complex arena for companies to navigate is arguably trade regulation. This piece focuses on three forced labor-related trade measures: Section 307 of the US Tariff Act; the Uyghur Forced Labor Prevention Act; and the EU Forced Labour Regulation. We compare the scope, enforcement, and sanctions regimes and explain some notable implications for business.

Forced Labor and Non-Tariff Trade Measures

The International Labor Organization (ILO) estimates that more than 27.6 million people are subject to forced labor worldwide—an increase of over 3 million since 2019. The harm spans diverse supply chains and source countries, with the RAND Corporation estimating that the US alone accounts for 20 percent of the import of goods “at risk of being made with forced labor.” In recent years, addressing corporate involvement in forced labor has become a notable arena for litigation and regulation. Of the latter, forced labor-related trade measures may pose the most serious risk to companies importing goods into the US and the EU.

Comparison of Forced Labor Regulations in the US and EU

Three regulations exemplify corporate, forced labor-related trade risks: Section 307 of the US Tariff Act (Section 307); the Uyghur Forced Labor Prevention Act (UFLPA); and Regulation (EU) 2024/3015 of the European Parliament and of the Council of 27 November 2024 on prohibiting products made with forced labour on the Union market (the EU Forced Labour Regulation), which entered into force in December 2024 and will be fully applicable in all EU Member States on 14 December 2027.

1 Scope

Section 307 and the EU Forced Labour Regulation have a similar scope. Both concern goods that are made, in whole or in part, by forced labor (Section 307 also includes convict or indentured labor). Section 307 applies specifically to imports into the U.S. while the EU Forced Labour Regulation applies more generally to all products, whether they are domestic or imported, that are placed or made available on the EU market, as well as products exported from the EU. The UFLPA plays a distinct role by creating a rebuttable presumption that goods produced in Xinjiang have been made with forced labor and are thus inadmissible under Section 307. By contrast, no such rebuttable presumption exists under the EU's regulatory framework. Instead, EU competent authorities are required to conduct investigations and substantiate the existence of forced labor practices based on a risk-based approach.

2 Agency

Section 307 and the UFLPA are enforced by U.S. Customs and Border Protection (CBP). Any person may report forced labor concerns under Section 307 by submitting a petition through CBP's e-allegation portal or by email. Enforcement of the UFLPA is supported by the Forced Labor Enforcement Task Force (TLETF), which is responsible for maintain the UFLPA Entity List—a register of entities known to be involved in forced labor in Xinjiang or related regions—and for identifying and updating the list of high-priority sectors considered most at risk, such as cotton, aluminum, PVC and seafood.

The EU Forced Labour Regulation splits enforcement responsibilities between EU Member States and the European Commission, depending on where the forced labor occurs. If it takes place within the EU, the relevant national authority is responsible for conducting investigations and imposing sanctions. If it occurs outside the EU, the European Commission, through a dedicated team yet to be established, will conduct the investigation, while the relevant Member State will be responsible for enforcing the European Commission's decision and imposing penalties in case of non-compliance with such a decision. In both instances, the European Commission and the Member States' authorities will cooperate with each other. That being said, the Commission is expected to have an important coordination role overall, whereby it would, for instance,

issue guidelines to streamline the implementation of the Regulation and create a publicly available database of forced labor risks, areas, and products.

The EU Forced Labour Regulation also requires the Commission to establish a dedicated mechanism to submit information related to alleged violations. The mechanism will enable anyone—NGOs, whistleblowers, journalists, trade unions, concerned members of the public—to file a submission related to products, companies, supply chains or production sites suspected of being linked to forced labor. Such whistleblowers also have the right to be informed of the outcome of the assessment of the information they submitted.

3 Enforcement procedures

The enforcement process differs under each regime. Section 307 affords CBP broad discretion. Where a CBP officer has "reason to believe" that a product has been produced using forced labor, they should report it to the Commissioner of the CBP, who will launch an investigation. Where the investigation findings reasonably indicate that there is a Section 307 violation, the Commissioner should issue a Withhold Release Order (WRO) to detain the goods at the port of entry.

Under the UFLPA, goods linked to Xinjiang are presumed to involve forced labor and may be automatically detained at the border. In the past three years, CBP has denied entry to over 8,900 shipments under the UFLPA. Enforcement is guided by a risk-based approach, focusing on: (i) goods imported directly from Xinjiang or from entities on the UFLPA Entity List; (ii) goods suspected of illegal transshipment that include Xinjiang-sourced inputs; (iii) goods from companies outside Xinjiang that have ties to entities located there; and (iv) goods in sectors flagged as high priority by FLETF.

The EU Forced Labour Regulation also adopts a risk-based enforcement model, requiring authorities to consider several factors before launching an investigation: (i) the scale and severity of suspected forced labor based on verifiable information; (ii) the volume of the product placed on the EU market; and (iii) the proportion of the product that is likely linked to forced labor. The enforcement procedure has two stages. In the preliminary phase, authorities request due diligence information from the company to assess whether a substantiated risk of forced labor exists. If such a risk is confirmed, the investigation phase is initiated, ideally within nine months, during which

the authorities may request additional information, conduct inspections, and interview relevant stakeholders to determine whether the product was made with forced labor.

It is important to highlight that while, in principle, the burden of proof remains with the investigating authorities, the active participation of the economic operator can greatly influence the resolution of the case. Specifically, an economic operator's failure to cooperate with the competent authorities by providing the requested information may allow the competent authority to determine a violation based on "any other facts available." This underscores the significance of the operator's cooperation and the timely submission of relevant evidence, which can be pivotal to the final outcome of the investigation.

4 Challenging enforcement

Under Section 307, companies can lift a WRO by providing "satisfactory evidence" that the product has not been made using forced labor. CBP does not define what qualifies as satisfactory, leaving the standard flexible. Under the UFLPA, the threshold for challenging enforcement is higher: companies must provide "clear and convincing evidence" to rebut the presumption that the goods were made with forced labor. The CBP guidance document—the [UFLPA Strategy](#)—also requires importers to conduct due diligence (including supply chain tracing and management), although due diligence alone is not enough to secure the release of detained goods. To meet the evidentiary standard under UFLPA, companies may submit a range of documentation, such as: (i) supply chain map identifying all entities involved in the production of the goods; (ii) information on workers at each entity, including wage payments and production output per worker; (iii) information on worker recruitment and internal controls to ensure workers were recruited and are working voluntarily; and (iv) credible audits to identify forced labor indicators and remediation, where applicable.

The EU Forced Labour Regulation does not set out a uniform standard for challenging enforcement decisions but provides that economic operators should have the opportunity to request a review of decisions made by the lead competent authority. To request such a review, operators must provide substantial new information that was not submitted during the investigation, demonstrating compliance with the Regulation.

In addition, enforcement decisions made by competent authorities of EU Member States are subject to judicial review under the applicable national laws. Similarly, decisions adopted by the European Commission under the EU Forced Labour Regulation can be challenged through an application for annulment before the Court of Justice of the European Union ("CJEU").

5 Sanctions

Sanctions under Section 307 and the UFLPA are straightforward: denial of goods at border entry. The EU Forced Labour Regulation envisions three types of sanctions if forced labor is confirmed: (i) an order prohibiting the product from being sold, offered, or distributed in the EU; (ii) an order withdrawing the product where it is already on the EU market; and (iii) an order to dispose or destroy the product—or the part made with forced labor—particularly when the market withdrawal is not feasible or could result in the goods re-entering circulation.



Key Implications for Companies

Forced labor risks are often systemic and intractable for global companies. Short of full supply chain traceability and effective protocols immediately to replace suppliers where forced labor is detected—both practically challenging, if not impossible—it is not plausible for a company to immunize itself from forced labor-related trade measures. There are nonetheless several actions that companies can take to mitigate trade risk and harm to workers while navigating proliferating forced-labor regulation.

1 Invest in supply chain traceability

While supply chain traceability is practically challenging and technologically limited, it is the cornerstone of any effective response to forced labor-related trade measures. The shortest path to addressing a regulator inquiry based on allegations against a specific entity is to demonstrate that the entity is not in the relevant supply chain.

2 Monitor areas deemed to be high-risk by relevant agencies

Both the UFLPA and the EU Forced Labour Regulation take a risk-based approach to enforcement, with a particular focus on high-risk regions and sectors. Corporate due diligence should be similarly tiered, so that most resources are devoted to the priority risks.

3 Conduct due diligence prior to engagement with new suppliers

Early and thorough supplier assessment is the most efficient way to mitigate forced labor-related trade risk, since there are no sunk costs or dependencies that may be difficult to address later. That due diligence can also help instill a culture of compliance, which may be much harder to introduce later.

4 Conduct due diligence where there is a risk of forced labor and keep adequate records of findings

Carrying out robust due diligence to identify and address supply-chain forced-labor risks is important for compliance under all three regulations. Where goods are seized, evidence based on thorough due diligence is integral to challenge decisions made by relevant authorities. The need for detailed documentation is arguably more acute in the EU, as enforcement procedures may commence long after the subject goods have entered the market.

5 Do not rely solely on accreditation systems

Certifications can promise a false sense of assurance. While certain certifications are extremely credible, regulators have expressed distrust of their findings based on the country where they are conducted, and there is little reason to believe that a certification will be deemed sufficient by itself to displace a finding of forced labor. They should thus be only a part of the supplier due diligence protocol, particularly in high-risk jurisdictions.

Annex: Comparison Table

Criteria	EU Forced Labour Regulation	Section 307 of Tariff Act	Uyghur Forced Labor Prevention Act (UFLPA)
1. Scope	All products placed or made available on the EU market or exported from EU, made wholly or partially by forced labor. Also applies to online sales targeting EU users.	All imports into the U.S. that are wholly or partially produced using forced, convict or indentured labor in any foreign country.	All imports that are made wholly or partially in Xinjiang.
2. Enforcement Authority	Inside EU: competent national authorities investigate and sanction. Outside EU: EU Commission leads investigation and Member States enforce sanctions. Commission will set up a mechanism to receive submissions.	U.S. Customs and Border Protection (CBP). Any person can report concerns to CBP.	CPB. Forced Labor Enforcement Task Force (TLETF)—maintains Entity List and list of high-risk sectors.
3. Enforcement Mechanism	Two-phase investigation: <ul style="list-style-type: none"> Preliminary phase—assess risk with info from the company Investigation phase—where risk is substantiated within 9 months. 	If CBP has reason to believe goods were made with forced labor, it can issue a WRO. Importers must present satisfactory evidence to secure release.	Rebuttal presumption—goods from Xinjiang or listed entities are assumed to be made with forced labor. Importers must present clear and convincing evidence to import.
4. Risk-Based Approach	Yes. Authorities to consider: <ul style="list-style-type: none"> Scale/severity Volume of products Share of product made with forced labor Authorities will also be guided by relevant guidelines to be issued by the Commission and information in the database to be set up by the Commission on forced labour risks with respect to specific geographic areas and products	None formally codified. CBP has broad discretion for enforcement.	Yes. CBP targets: <ul style="list-style-type: none"> Goods directly from Xinjiang Goods from listed entities Transshipped goods with Xinjiang inputs High priority sectors
5. Due Diligence Requirement	Yes. To be provided by the company in the preliminary phase.	None. But may be helpful to provide “satisfactory evidence.”	Yes. CBP guidance document requires companies to conduct due diligence, but this is not necessarily sufficient to rebut the presumption.
6. Sanctions	If forced labor is confirmed: <ul style="list-style-type: none"> Prohibition on placing or making available on market Withdrawal from the market Disposal of product or component Penalties in case of failure to comply with the above. 	Goods are detained at the border.	Goods are denied entry.

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June 2025

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