

**FEBRUARY 9, 2023**

For more information,
contact:

Stephen J. Orava
+1 202 661 7937
sorava@kslaw.com

Christine E. Savage
+1 202 626 5541
csavage@kslaw.com

J. Michael Taylor
+1 202 626 2385
jmtaylor@kslaw.com

Jamieson L. Greer
+1 202 626 5509
jgreer@kslaw.com

Patrick J. Togni
+1 202 626 2958
ptogni@kslaw.com

Christopher Hyner
+1 202 626 2623
chyner@kslaw.com

Eric Xie
+1 202 626 2933
exie@kslaw.com

King & Spalding

Washington, D.C.
1700 Pennsylvania Avenue,
NW
Suite 900
Washington, D.C. 20006
Tel: +1 202 737 0500

New U.S. Customs Anti-Forced Labor Tool Will Require Submission Of Chinese Supplier Postal Codes

Xinjiang Province Postal Codes Will Trigger Forced Labor “Warning Message”

On January 26, 2023, U.S. Customs and Border Protection (“CBP”) provided more detail on its imminent implementation of another tool to detect potential forced labor imports into the United States. CBP confirmed that it will officially deploy the Uyghur Forced Labor Prevention Act (“UFLPA”) Region Alert (“Region Alert”) to the Automated Commercial Environment (“ACE”) on March 18, 2023. CBP intends to incorporate the reporting and screening of postal codes and additional manufacturer details to help detect imports of products that may have been produced in the Xinjiang Uyghur Autonomous Region (“XUAR”) of the People’s Republic of China.

CBP previously announced the development of the Region Alert in Fall 2022. After the trade community expressed concerns with the implementation timeline, CBP postponed the deployment “until further notice.” CBP’s most recent notice, however, confirms that the agency will deploy the Region Alert on March 18, 2023.

BACKGROUND ON UFLPA

Signed into law on December 23, 2021, the UFLPA took effect on June 21, 2022 and created a “rebuttable presumption” that all goods produced, wholly or in part, in the XUAR, or by certain entities, are made with forced labor and, thus, are not entitled to entry into the commerce of the United States pursuant to 19 U.S.C. § 1307. UFLPA enforcement applies to *any* product made wholly or in part in the XUAR or involving parties listed on the UFLPA Entity List. Initial enforcement actions, however, have focused on certain high-risk product areas such as cotton and textiles, polysilicon and solar power modules, metals, and tomatoes.



CBP, as the lead agency of the Forced Labor Enforcement Task Force (“FLETf”), an interagency task force established under the UFLPA, released the UFLPA enforcement strategy and issued an initial guidance to importers. In this guidance, CBP committed to “adopt enhanced supply-chain tracing technology that can connect imported goods to Xinjiang and other parts of the world at high-risk for forced labor.” Third-party stakeholders (e.g., non-governmental organizations and other research institutions) also are performing independent research on key industry supply chains (e.g., the automotive supply chain) and are alleging that UFLPA and forced labor risks go far beyond the “high-risk” supply chains that have been identified to date. Reporting Chinese postal codes and additional manufacturer details on a shipment-specific basis will require thoughtful coordination between importers, their supply chains, and their customs brokers.

THE UFLPA REGION ALERT WILL SERVE AS AN “EARLY NOTIFICATION” OF GOODS THAT POTENTIALLY ARE MADE WITH FORCED LABOR AND ARE PROHIBITED FROM ENTRY INTO THE UNITED STATES

The Region Alert is designed to provide CBP an “early notification to importers and their representative of goods that may have been produced in the [XUAR] and may be excluded from importation into the United States.” Specifically, the Region Alert “adds three new validations that will be performed when the Country of Origin is China for Entry and for Manufacturer Identification Code (‘MID’) creation for both Trade and CBP [ACE] users.” These three new validations are:

- Postal code will be a required field;
- Users will receive an error message if the postal code provided is not a valid Chinese postal code; and
- Users will receive a warning message when a XUAR region postal code is provided.

In its January 26, 2023 notice, CBP also explained that “[i]f the user receives a warning message, they should notify the importer(s) of the rebuttable presumption established by the UFLPA.” CBP stated that “[i]mporters may request an exception to the rebuttable presumption from CBP during a detention, after an exclusion, or during the seizure process as described in the UFLPA Operational Guidance for Importers on page 9.” CBP’s operational guidance is publicly available on CBP’s website.

CBP clarified in a webinar on January 26, 2023, that importers of non-textile products will not be required to report a Chinese MID for Chinese-origin products sourced from a seller in another country. For non-textile imports, the MID may be constructed to refer to the actual manufacturer or invoicing party supplier. Pursuant to 19 C.F.R. § 102.23(a), however, importers of textile and apparel products are required to report the MID of the manufacturer “performing the origin-conferring operations” (i.e., the actual manufacturer of the goods). CBP stated during that webinar that CBP does not intend to change this practice with respect to the Region Alert. Accordingly, importers of Chinese-origin non-textile products sourced directly from a non-Chinese supplier may continue to report the MID for that supplier.

During the webinar, CBP also confirmed that the agency does not intend to release a list of postal codes associated with the XUAR when deploying the Region Alert. CBP explained that importers need to perform the necessary due diligence to know from where their products originate and the manufacturers’ names and addresses, including the postal codes. As a result, importers will need to perform their own forced labor diligence and leverage transaction data from all stages of the supply chain.

EFFECTS AT THE BORDER AND BUSINESS IMPLICATIONS

CBP’s upcoming deployment of the UFLPA Region Alert confirms that the agency continues to aggressively deploy enforcement tools that will require importers to implement UFLPA compliance programs across their supply chains. We anticipate CBP will use the Region Alert as a primary detection tool to initiate detentions and seizures of goods from, or



with a nexus to, the XUAR and/or potentially made with forced labor. Importers should take steps now to mitigate detention and seizure risks at the U.S. border, including by working with resources within the company to enhance the supply chain and forced labor due diligence efforts and by working with experienced customs counsel when implementing policies and procedures and responding to any actions taken by CBP at the border.

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