



Forced Labor Enforcement and the Uyghur Forced Labor Prevention Act

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Urgent Convergence of Issues

POLICY

Increasingly stronger mandatory human rights due diligence legislation and policies.

ECONOMIC SECURITY

Unfair trade practices supply chains undercuts legitimate trade and competitiveness.

HUMAN RIGHTS ABUSES

Inextricably linked to poverty, exploitation, and degradation of environment.



Global Trends in Forced Labor

Over 24.9 million people are victims of forced labor worldwide, trapped in jobs they cannot leave

Source: ILO.org



Forced Labor Definition in U.S. Law

“All work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer [themselves] voluntarily.”

- Section 307, Tariff Act of 1930, as amended (19 U.S.C. 1307)

Tariff Act Statutory Authority and TFTEA: Trade Facilitation and Trade Enforcement Act of 2015

Prohibition of imports made with forced labor in U.S. law

“All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited...”

- Section 307, Tariff Act of 1930, as amended (19 U.S.C. 1307)

- TFTEA enacted into law February 24, 2016
- Repeal of the “consumptive demand” clause in 19 U.S.C. 1307 expanded CBP’s enforcement authority



ILO indicators of Forced Labor



Uyghur Forced Labor Prevention Act

P.L. 117-78 was signed into law December 23, 2021 and supports CBP's enforcement of 19 U.S.C. 1307.

Rebuttable Presumption

Any goods, wares, articles, merchandise mined, produced, or manufactured wholly or in part in XUAR of China or by certain entities are prohibited from entry.

Exception

CBP may determine whether an importer of record has fully complied with due diligence and evidentiary requirements, responded to CBP inquiries, and there is clear and convincing evidence the goods were not made with forced labor.

Reporting

Within 30 days of determination, CBP must report to Congress and make public the information identifying the excepted good(s) and the evidence upon which the determination was based.





UFLPA Statutory Requirements

- The UFLPA requires that the FLETF to:

No.	Task	Days*	D+0**	Date
1	Publish FRN & Solicit Public Comment	≤ 30	D+30	24 JAN 22
2	Public Comment Period	≥ 45	D+75	10 MAR 22
3	Public Hearing	≤ 45	D+120	8 APR 22
4	Develop and Submit Strategy to Congress	≤ 60	D+180	21 JUN 22

- Sec. 2 of the UFLPA directs the FLETF to develop a strategy to support enforcement of the prohibition on goods from the XUAR made with forced labor.
- Strategy includes how CBP plans to enhance legal authorities and other tools, additional resources required, guidance to importers, and evidence required.



Enforcement of the Rebuttable Presumption

Enforcement



- Shipments subject to the UFLPA rebuttable presumption will follow the typical detention process, pursuant to 19 U.S.C. § 1499. CBP will detain, exclude or seize shipments subject to the UFLPA rebuttable presumption.

Exceptions



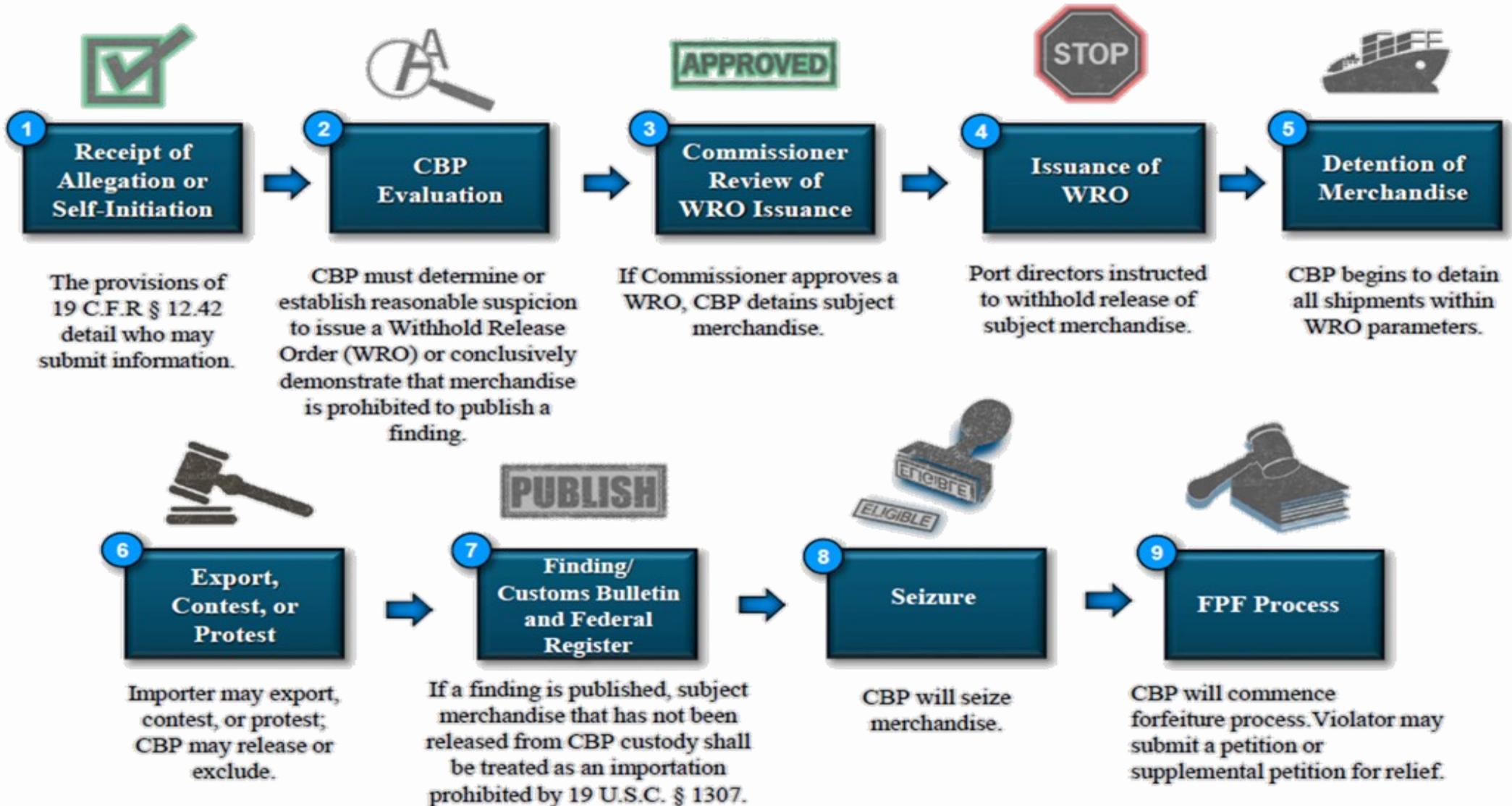
- Importers will have the opportunity to rebut the presumption by submitting clear and convincing evidence on each shipment.
- (1) fully comply with the guidance in Section and any implementing regulations (2) completely and substantively to respond to all inquiries for information submitted by CBP, and (3) demonstrate by clear and convincing evidence that the merchandise is not mined, produced, or manufactured wholly or in part by forced labor.
 - Due Diligence, Supply Chain Management, Supply Chain Tracing
- Exceptions to the UFLPA will be reported to Congress within 30 days and will be subject to public disclosure.



Background



Forced Labor Enforcement Process





Modifications and Revocations

How are WRO and/or finding modifications and revocations processed?

Modification or revocation requests may be submitted to forcedlabor@cbp.dhs.gov. The evidence must show the subject merchandise was not produced, manufactured, or mined in whole or in part using forced labor.

What is a Modification?

CBP suspends enforcement of a WRO once it determines the foreign entity subject to the WRO has remediated all indicators of forced labor.

What is a Revocation?

CBP removes a foreign entity from the scope of the WRO once it has determined it was not engaged in forced labor.



Petitioner Submits Information to CBP



CBP & Petitioner Engagement



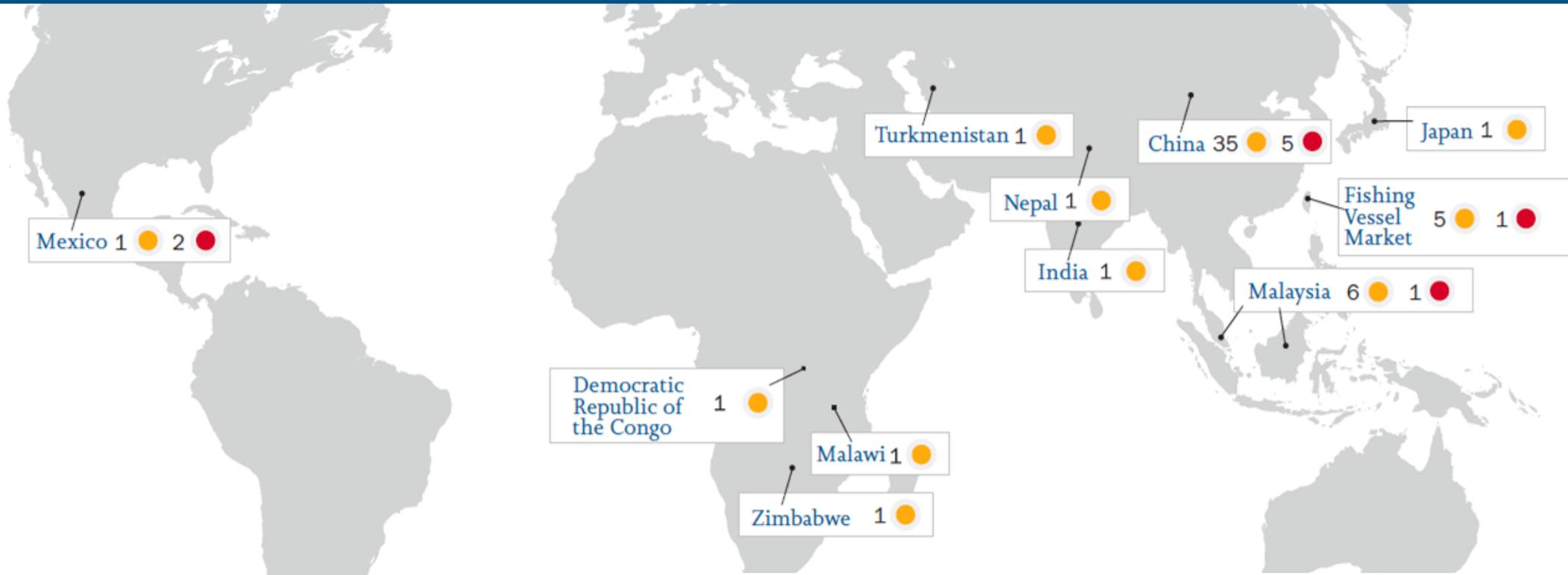
CBP Determines ILO Indicators Remediated



CBP Modifies or Revokes



Active WROs and Findings



LEGEND

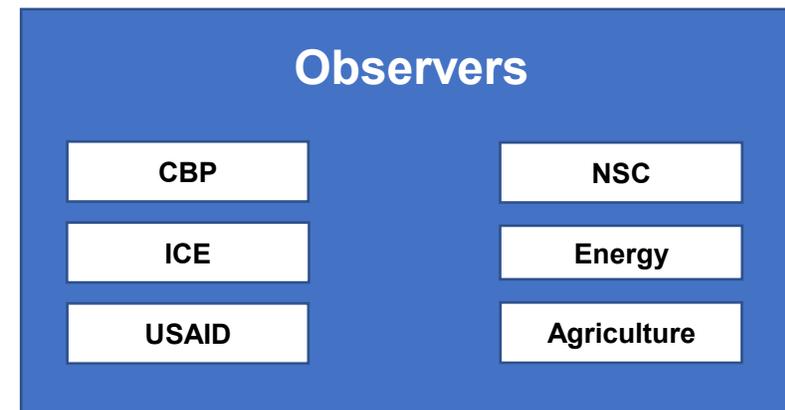
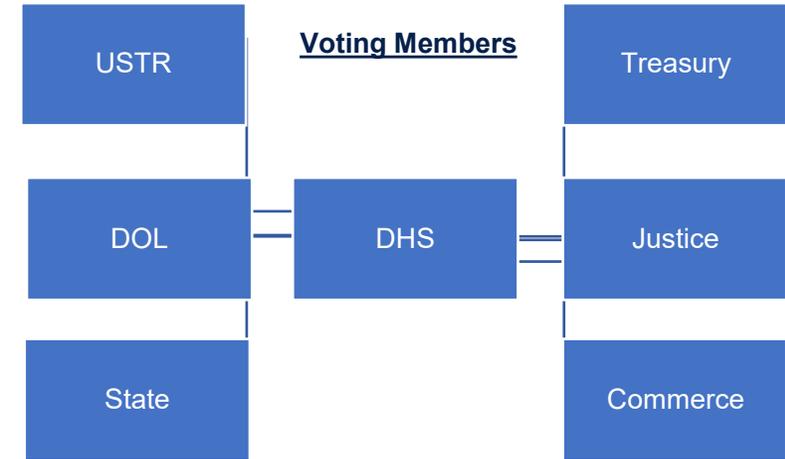
- Withhold Release Order (WRO)
- Finding

- CBP Currently enforces 55 active Withhold Release Orders and 9 Findings.
- Detained 1,469 shipments and seized 57 shipments that had a combined value of approximately \$486 million in FY2021
- Processed \$2.8 trillion in imports, from 36.9 million entries and more than 32.7 million imported cargo containers at U.S. ports of entry in FY2021
- CBP has modified 10 WROs and one Finding since 2019.
- Enforcement has impact globally.



Forced Labor Enforcement Task Force

- The FLETF was established under the United States-Mexico-Canada Implementation Act to monitor U.S. enforcement of the prohibition on importing goods made with forced labor.
- Executive Order 13923 (May 15, 2020) named the Secretary of Homeland Security as the Chair of the FLETF and named specific members/observers to the group.





UFLPA Strategy and Guidance

UYGHUR FORCED LABOR PREVENTION ACT



U.S. CUSTOMS AND BORDER PROTECTION
OPERATIONAL GUIDANCE FOR IMPORTERS

June 13, 2022

CBP Publication No. 1793-0522



Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China

Report to Congress
June 17, 2022



Office of Strategy, Policy, and Plans

Additional Resources



CBP's Forced Labor Division:

forcedlabor@cbp.dhs.gov

CBP's Forced Labor Web Page:

<https://www.cbp.gov/trade/forced-labor>

CBP's UFLPA Web Page:

<https://www.cbp.gov/trade/forced-labor/UFLPA>

UFLPA inquiries can directed to:

UFLPAInquiry@cbp.dhs.gov

Department of State's Xinjiang Supply Chain Business Advisory:

<https://www.state.gov/xinjiang-supply-chain-business-advisory/>

CTPAT Program Page:

<https://www.cbp.gov/border-security/ports-entry/cargo-security/ctpat>