



TESTIMONY OF

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BEFORE

Congressional-Executive Commission on China

ON

“Corporate Complicity: Subsidizing the PRC’s Human Rights Violations”

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Good morning, Chairman Smith, Co-Chairman Merkley, and distinguished Commissioners. Thank you for the opportunity to discuss the critical work of the Department of Homeland Security (DHS) and the Forced Labor Enforcement Task Force (FLETF) to combat the scourge of forced labor in global supply chains, including that stemming from the People's Republic of China's (PRC) systematic use of forced labor to profit on the backs of ethnic and religious minorities.

The United States has long recognized and condemned the PRC's ongoing genocide and crimes against humanity against predominantly Muslim Uyghurs and other members of ethnic and religious minority groups in the Xinjiang Uyghur Autonomous Region (Xinjiang). This includes the abhorrent practice of using these groups' forced labor in the mining, production, and manufacture of goods.

U.S. laws that prohibit the importation of goods made with forced labor reflect our values. We are proud at DHS to enforce our forced labor laws. We do so because they are the law of the land. And we do so because it is the right thing to do.

Congress charged the FLETF with driving initiatives that support enforcement and enhance compliance by leveraging the authorities and expertise of the Task Force's member agencies – DHS, along with the Departments of State, Labor, Commerce, Justice, and Treasury, and the Office of the U.S. Trade Representative.

In my role as Chair of the FLETF, I focus on ensuring that the U.S. government is doing everything it can to eradicate forced labor from global supply chains. Under the leadership of Secretary Mayorkas, we are facilitating the flow of legitimate trade while working across the government and with non-governmental organizations (NGOs) and industry to keep goods made with forced labor out of U.S. commerce.

Our country has enforced forced labor laws for many years. But it was the unwavering commitment and determination of the Congressional-Executive Commission on China (Commission) and other supporting Members of Congress that, on a broad and bipartisan basis, led to the passage of the Uyghur Forced Labor Prevention Act (UFLPA). This new law has brought a sea change to the way we approach these issues.

UFLPA Implementation

Our implementation of the UFLPA has been speedy, strong, and surgical. Speedy, because we implemented ahead of the schedule required by the law. Strong, because we devote the full weight of our resources to enforcing the law. We made it clear that when it comes to forced labor in Xinjiang or goods made by persecuted minorities removed from their homes in Xinjiang, we will brook no quarter. And surgical because our enforcement is based on sophisticated risk assessment, intelligence, and data-driven targeting.

There are several components of the UFLPA that make it uniquely powerful in addressing the PRC's state-sponsored cruel and inhumane forced labor regime. These, among other things, include the public identification of illicit actors through the UFLPA Entity List and

the law's key enforcement mechanism: a rebuttable presumption that goods mined, produced, or manufactured wholly or in part in Xinjiang, or by entities identified on the UFLPA Entity List, are prohibited from importation into the United States.

The UFLPA Rebuttable Presumption and U.S. Customs and Border Protection (CBP) Enforcement

The UFLPA charges CBP with the enforcement of a rebuttable presumption that the importation of goods mined, produced, or manufactured wholly or in part in Xinjiang, or by entities identified in the UFLPA Entity List, are prohibited from entry to the United States under Section 307 of the Tariff Act of 1930, as amended (19 U.S.C. § 1307).

Since the UFLPA's rebuttable presumption took effect in June 2022, CBP has targeted more than 4,200 shipments under the law, valued at over \$1.4 billion, sending a clear message to importers that we take our mandate seriously.

CBP uses a risk-based methodology leveraging dynamic models that utilize the latest intelligence and analysis to identify shipments that warrant further scrutiny. DHS is partnering with industry to test innovative artificial intelligence and machine-learning technologies that can streamline supply chain tracing and improve CBP's analytical capabilities. We are also exploring more precise scientific testing for cotton and other commodities that can help us determine the true origin of goods.

Our early enforcement posture has been robust, but we do face challenges. The UFLPA mandate came without additional funding for CBP enforcement efforts, the FLETF's work on the UFLPA Entity List, or other FLETF enforcement-related activities. We appreciate Congress's subsequent support provided to CBP, but more is needed. To meet the FLETF's UFLPA mandate, we have shifted resources toward this mission, and we look forward to working with Congress to secure much-needed additional funding.

We also are pursuing strategies to address the risk of goods made with forced labor entering the United States through low value, *de minimis* shipments that have less detailed data available for our review. As there is no *de minimis* exception to the UFLPA, we are firmly committed to meeting this challenge, including undertaking initiatives to increase information availability and assess risk in the *de minimis* environment. We welcome the opportunity to work with Congress to address these challenges together.

Alongside our enforcement activities, DHS and CBP are committed to supporting industry's compliance and due diligence efforts to prevent illicit goods from entering legitimate commerce in the first place. Toward that end, we have held more than 400 engagements with the trade community and provided extensive information and guidance to industry to help our trade community partners understand our implementation and enforcement of the UFLPA and support their own complementary efforts.

Recognizing that many in the trade community may not have sufficient resources or mechanisms to identify indicators of forced labor in their supply chains, CBP recently held its

first Forced Labor Technical Expo to highlight tools and technologies that promote due diligence by enhancing transparency and verifying the provenance of goods. We also issued best practices guidance based on lessons observed to date, including documentation that traces a given product through the entire supply chain. Additionally, CBP developed an interactive Digital Dashboard with statistics on UFLPA enforcement that provides insight for the public on stopped entries by industry sector and country of export. As part of our commitment to transparency and accountability, we will continue to assess what additional data we can publicly report.

The Private Sector’s Response to the UFLPA

Since we began enforcement of the UFLPA, we have seen significant evidence that industry is taking compliance seriously. Private sector decision-makers are rapidly coming to understand that there is collective will on the part of Congress and the Executive Branch to stand firmly behind a zero-tolerance policy for goods made with forced labor. They understand that they have a responsibility to examine their entire supply chains for any indicators of forced labor and to take immediate steps to mitigate the risks from suspect suppliers.

We are still in the early stages of quantifying the impact of the UFLPA on private sector behavior, but early data show significant promise. For example, one respected supply chain mapping and verification technology company reports that “transactions from entities potentially subject to enforcement under the law decreased by approximately 40 percent between June 2022 and March 2023. The same period also saw the overall value of transactions decrease by approximately 50 percent.”¹ We are seeing similar trends from other providers which support extensive anecdotal reporting from the trade community that industry is taking UFLPA enforcement seriously and taking steps to ensure compliance, including moving their supply chains out of Xinjiang and away from suppliers that cannot deliver the requisite transparency.

We will continue to monitor the data for trends and act on that data, and continue every effort necessary to ensure that the United States is not a dumping ground for goods produced through the suffering of others.

UFLPA Strategy and the Entity List

As Chair of the FLETF, DHS led the development and implementation of a comprehensive strategy that identified illicit actors through the UFLPA Entity List and called for strategic partnerships and collaboration with key stakeholders across government, industry, civil society, and like-minded international partners.

Since passage of the UFLPA, the FLETF initiated extensive engagements with industry and NGOs in the development and implementation of a strategy to prevent the importation of goods made with forced labor in the PRC. We continue to solicit and review information about

¹ Altana Technologies (2023, June), *The fight against forced labor is a struggle. As we pass the one-year anniversary of the Uyghur Forced Labor*. *Linkedin*. [https://www.linkedin.com/posts/altana-ai_altana-illuminating-the-xinjiang-forced-activity-7078081734608617472-JqRg]

the PRC's forced labor schemes, as well as regarding effective corporate compliance programs and other industry efforts to conduct due diligence.

With the information collected from stakeholders and our federal partners, the FLETF issued the *Strategy to Prevent the Importation of Goods Mined, Produced or Manufactured with Forced Labor in the People's Republic of China* (the UFLPA Strategy) in June 2022, identifying 20 entities for the inaugural UFLPA Entity List. This strategy provides extensive guidance for how we expect importers to examine their supply chains for indicators of forced labor and establishes a framework for partnership with industry and civil society.

We continue to refine and implement the UFLPA Strategy. The FLETF is committed to expanding the UFLPA Entity List by identifying companies that utilize or facilitate the use of forced labor in or from Xinjiang in line with the statutory standards. This commitment was recently demonstrated by the addition of two new entities to the UFLPA Entity List. There is more work to do, and the FLETF will continue to add entities to the UFLPA Entity List as warranted by the facts and the law.

We have an extraordinary partnership with the NGO community, whose research and monitoring efforts are critical to our understanding of forced labor schemes and efforts to obscure the true origin of goods. Through our collaboration with NGOs and the development of our own knowledge base, the FLETF is expanding our expertise in identifying and assessing suspected entities, and we anticipate more additions to the UFLPA Entity List in the coming months. There is an active pipeline of referrals that our agencies are examining, and we will continue to move expeditiously to act on these referrals.

Collaboration and engagement with stakeholders across the trade community is a critical component of our work to fully implement the UFLPA Strategy. We have engaged with hundreds of representatives from the private sector, including meetings with C-Suite executives and board directors, to emphasize our message that forced labor must be a top-tier compliance issue. In the same way that corporate compliance programs routinely include safeguards to address corrupt foreign practices, money laundering, export controls, sanctions, and privacy laws, the private sector must direct institutionalized attention to compliance with forced labor laws. My engagements have taught me that the overwhelming majority of corporate leaders want to do the right thing. Through our enforcement actions, we are making clear that it is incumbent on them to do so, and we have provided detailed guidance to show them what we expect to see in terms of due diligence.

Conclusion

The PRC's ongoing genocide and crimes against humanity against Uyghurs and other minorities in Xinjiang has continued for years, but with the passage of the UFLPA, we have taken a significant step towards justice, accountability, and fair competition. This is a testament to the impact that Congress and the Executive Branch can have when they work together. There is much more work to do. But we are all in on this mission.

We will further our collaboration with civil society to expand our intelligence on forced labor schemes and their presence in global supply chains. We will continue our enforcement

activities wherever the facts lead. We will build on our partnerships with the private sector to share information and guidance that can enhance due diligence practices and compliance policies. We will press forward with further innovation and deployment of technologies that support this mission. And we will continue to work closely with the Commission and Congress to advise you of the important work being done.

I thank the Commission and Congress for your support in the fight against forced labor. Thank you again for the opportunity to appear before you today, and I look forward to taking your questions.