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Think Tank

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As Forced Labor Prevention Enforcement Heats Up, the Focus is on Compliance



May 8, 2024 Jag Lamba, SCB Contributor

   

The task of strengthening and securing critical supply chains and the aim of stopping forced labor and modern slavery are often directly intertwined.

Recent U.S. governmental directives haven't been the only notable increase in efforts to stop forced labor lately. While the Uyghur Forced Labor Prevention Act (UFLPA) was passed in mid-2022, it wasn't clear how enforcement would be handled — similar legislation has resulted in few fines or other punishment noncompliance, attracting accusations of being rather toothless as a result.

UFLPA Inspections Lead to Roughly 50% Denied Shipments

As it turns out, a quick look at [the enforcement numbers published directly by the US Customs and Border Protection \(CBP\)](#) shows that “toothless” is not a term that can be applied to the UFLPA. Large number of shipments have been held for closer inspection on the chance they can trace part of their sourcing to the Xinjiang region in China — and plenty are denied entry altogether.

From June 2022, when the Act went into effect, through the end of 2023, 5,552 shipments totaling \$1.89 billion in goods were held for closer inspection. Nearly half of those shipments (2,691) were denied entry to the United States, with another 345 shipments at the time of writing still waiting for a final CBP ruling.

Companies ignore the UFLPA at their own peril. Given that identifying and reducing risk is right at the top of supply chain managers' list of priorities, any company without a plan in place for addressing the risks of possible noncompliance with the Act is courting serious disruption to its supply chain and business model.

The Dangers of Noncompliance

Businesses attempting to import goods that, knowingly or not, violate the UFLPA can be subject to monetary fines, but that's only the beginning of the risks if a company finds its shipments held by the CBP. Imagine a crucial shipment needed to meet a product launch or satisfy a seasonal trend held indefinitely. Even if the shipment is eventually released for entry, that delay can cost untold amounts.

It's also hard to overstate the damage to a brand's reputation; customers relying on timely fulfillment of their orders might look elsewhere. The same can be said for partners and resellers. Shareholders could lose confidence in leadership, and push for investor activism to replace key members of the company.

Which Companies Should Place Emphasis on UFLPA Compliance

The reality is that almost any company importing goods from other countries into the U.S. needs to be aware of the UFLPA and how to stay compliant. This is because any products tied to particular manufacturers, or the Xinjiang Uyghur Autonomous Region (XUAR), are in violation, and that holds true even if multiple intermediaries throughout the supply chain have handled it since it was in the XUAR. That said, some categories of products are more likely than others to be subject to inspection or to be in violation of the regulation. The vast majority of Chinese cotton can be tied to the XUAR, for example. But, according to the CBP's enforcement statistics, textiles and apparel are not the most common shipment type to be held and inspected. That title goes to electronic goods.

Companies not engaged with cotton imports or electronics still need to be wary. In October, the nonprofit journalism organization Outlaw Ocean published a report that found [47,000 metric tons of seafood that could be tied back to Uyghur forced labor](#) had found its way into U.S. products sold at retailers like Walmart, Albertsons, and others. Then in February, [thousands of high-end Volkswagen Group vehicles — Porsches, Bentleys, and Audis — were detained at port](#) when it was discovered that a part used in the vehicles might be in violation of the UFLPA.

Best Practices for Staying Compliant

Waiting for a shipment to be under the scrutiny of the authorities is not the best time to start worrying about compliance. There are several proactive measures to take and capabilities to enable in order to lessen risk.

Supplier surveying and mapping. Companies should aim to gather crucial supplier information on a single platform. With enough detailed information and a capable platform, supply chain maps can be enabled that make clear the dependencies, relationships, and related UFLPA risks of any supplier. Supply chain managers can send questionnaires to suppliers regarding their UFLPA risks and their own critical suppliers. They can collect key documentation and certifications, and have them tied to that supplier within the system. From there, automation tools can instantly build out important details and relationships in an easy-to-parse format right within the management platform, without the need for manual intervention.

Monitoring for UFLPA risk. With Tier N suppliers, key relationships, and ownership details gathered from surveys and other data collection steps, companies should screen all names for known UFLPA risk and other compliance risk factors on an ongoing basis. Many supplier management platforms can immediately flag names that appear in supplier details as being tied to compliance risks, such as being on the [UFLPA Entity List](#) or related to one of these entities. In the example of the VW Group's detained vehicles above, the Group was reportedly unaware of the part's origin that came from “deep within an indirect VW supplier's supply chain” until they were informed about allegations about a sub-supplier.

Rapid escalation and mitigation workflows. When a risk of UFLPA noncompliance is identified with a particular supplier, supply chain managers should review and make a data-driven decision on the right steps for mitigating the risk. Divest from the supplier — partially or fully? Address it with them? Replace with a substitute supplier? Detailed supplier maps can illuminate dependencies and connections to highlight the broader impacts of any particular remediation route. From there, clear escalation steps and workflows can be taken with minimal risk of disruption.

Documentation ready for reporting purposes. If UFLPA compliance is built into supplier contracts, that can be captured in supplier management systems. This will come in handy if the CBP wants to look closely at your contracts. A supplier confirming that they too are committed to abiding using materials tied to forced labor shows due diligence on your company's part and will go a long way in getting shipments through without being held or released quickly to minimize disruption to essential business operations.

Transparency is Critical

The most crucial tool a supply chain manager can have to fend off UFLPA or other compliance risks is a transparent view of your suppliers' critical relationships. As supply chains become more and more complex, enforcement ramps up, and the responsibilities for reducing risks falls more squarely on the shoulders of supply chain managers, leaning into automation and other innovations in the risk management space is crucial. UFLPA risks can be hiding within today's supply chains, so identifying and addressing them efficiently and effectively will strike a major blow against the use of forced labor both today and in the future — and protect companies from risk along the way.

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