

Debevoise National Security Update: UFLPA Entity List Expansion

May 22, 2024

On May 16, 2024, the Department of Homeland Security (“DHS”) [announced](#) that it added 26 China-based textile companies to the Uyghur Forced Labor Prevention Act (“UFLPA”) Entity List, the largest single expansion of the list ever. As detailed in the [Debevoise National Security Update: Increased UFLPA Enforcement](#) and [Debevoise National Security Update: Supply Chain Security in 2024](#), we expected DHS to expand the UFLPA Entity List after announcing it would crack down on illicit trade in the textile industry, as well as in response to a bipartisan [letter](#) spurring it to do so from the House Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party. A few days later, on May 20, 2024, the Senate Committee on Finance [called for](#) an additional expansion of the UFLPA Entity List after issuing a report concluding that certain auto manufacturers utilized forced labor in Xinjiang in their supply chains. This client alert addresses the implications for companies on the UFLPA Entity List (“Listed Entities”) and those with direct or indirect ties to Listed Entities.

UFLPA ENTITY LIST AND EXPANSION

The UFLPA establishes a rebuttable presumption that goods produced in whole or in part by Listed Entities are prohibited from entering the United States unless the importer can prove, among other things, that the goods were not produced using forced labor. The importer must prove this by clear and convincing evidence – a very demanding standard. Under the law, companies may be designated as Listed Entities based on their alleged connection to forced labor in the Xinjiang province. Companies whose suppliers (or supplier’s suppliers) become Listed Entities face significant and sudden supply chain disruptions because the effective import ban which results takes immediate effect with little to no notice.

To date, DHS has issued at least 1,859 penalties and liquidated damages orders against violators, and the agency has detained and reviewed over 780 shipments related to forced labor. On April 5, 2024, DHS [announced](#) that it would expand the UFLPA Entity List and issue civil penalties and conduct criminal investigations into textile companies

that it alleges utilize forced labor in their supply chains. On May 16, 2024, DHS delivered on its promised and added 26 textile companies to the UFLPA Entity List for sourcing or selling (or both) cotton from Xinjiang. These 26 [new Listed Entities](#) are:

1. Binzhou Chinatex Yintai Industrial Co., Ltd.
2. China Cotton Group Henan Logistics Park Co., Ltd., Xinye Branch
3. China Cotton Group Nangong Hongtai Cotton Co., Ltd.
4. China Cotton Group Shandong Logistics Park Co., Ltd.
5. China Cotton Group Xinjiang Cotton Co.
6. Fujian Minlong Warehousing Co., Ltd.
7. Henan Yumian Group Industrial Co., Ltd.
8. Henan Yumian Logistics Co., Ltd. (formerly known as 841 Cotton Transfer Warehouse)
9. Hengshui Cotton and Linen Corporation Reserve Library
10. Heze Cotton and Linen Co., Ltd.
11. Heze Cotton and Linen Economic and Trade Development Corporation (also known as Heze Cotton and Linen Trading Development General Company)
12. Huangmei Xiaochi Yinfeng Cotton (formerly known as Hubei Provincial Cotton Corporation's Xiachi Transfer Reserve)
13. Hubei Jingtian Cotton Industry Group Co., Ltd.
14. Hubei Qirun Investment Development Co., Ltd.
15. Hubei Yinfeng Cotton Co., Ltd.
16. Hubei Yinfeng Warehousing and Logistics Co., Ltd.
17. Jiangsu Yin Hai Nongjiale Storage Co., Ltd.
18. Jiangsu Yinlong Warehousing and Logistics Co., Ltd.

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19. Jiangyin Lianyun Co. Ltd. (also known as Jiangyin Intermodal Transport Co. and Jiangyin United Transport Co.)
 20. Jiangyin Xiefeng Cotton and Linen Co., Ltd.
 21. Juye Cotton and Linen Station of the Heze Cotton and Linen Corporation
 22. Lanxi Huachu Logistics Co., Ltd.
 23. Linxi County Fangpei Cotton Buying and Selling Co., Ltd.
 24. Nanyang Hongmian Logistics Co., Ltd. (also known as Nanyang red Cotton Logistics Co., Ltd.)
 25. Wugang Zhongchang Logistics Co., Ltd.
 26. Xinjiang Yinlong Agricultural International Cooperation Co.

This designation has immediate effect, such that companies whose supply chains have a nexus to these Listed Entities could face prompt enforcement, including civil penalties and criminal investigation. [According](#) to DHS Under Secretary for Policy and the Chair of the Forced Labor Enforcement Task Force (“FLETF”) Robert Silvers, “[c]ompanies must conduct due diligence and know where their products are coming from;” the FLETF “will continue to designate entities known to violate our laws.” This suggests further additions to the UFLPA Entity List could be forthcoming.

Companies, especially those in textiles, apparel, and retail, should immediately assess their UFLPA compliance by reviewing their supply chains and removing any Listed Entities as practical. Crucially, there is no *de minimis* forced labor exception or intent requirement under the UFLPA, so any presence of a Listed Entity’s goods in a company’s supply chain could trigger enforcement regardless of whether an importer is aware of forced labor in its supply chain, including immediate detention of goods, civil penalties, and criminal investigations. Appropriate compliance measures could include performing isotopic, composition, or DNA testing as practicable; conducting supply chain mapping and due diligence on Chinese suppliers; and implementing supply chain response plans to diversify supplier bases and mitigate against operational disruption should DHS and the FLETF designate an entity in the company’s supply chain on the UFLPA Entity List. Companies whose supply chains involve Listed Entities should seek immediate counsel to ensure they maintain compliance with the UFLPA.

Congress continues to closely monitor DHS’s UFLPA enforcement. On May 20, 2024, the Senate Committee on Finance issued a [report](#) concluding that certain auto

manufacturers utilized forced labor from Xinjiang in their supply chains. Committee Chair Ron Wyden stated that “self-policing is clearly not doing the job” and urged DHS to enhance enforcement against automakers by, among other things, further expanding the UFLPA Entity List, identifying additional high-priority sectors for enforcement, and providing clearer guidance on how companies can comply with the UFLPA.

KEY TAKEAWAYS

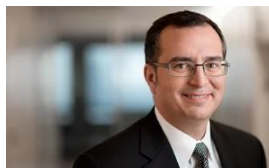
- DHS is continuing to aggressively implement its UFLPA enforcement strategy in the textile sector. The Forced Labor Enforcement Task Force, chaired by DHS, has added 26 companies to the UFLPA Entity List. Congress is closely monitoring DHS’s enforcement, and is urging it to even further expand the UFLPA Entity List.
- Companies, especially those in textiles, apparel, and retail, should assess their UFLPA compliance by reviewing their supply chains and removing any Listed Entities as practical. There is no *de minimis* exception to the UFLPA, so any supply chain exposure to them could trigger enforcement, including immediate detention of goods, civil penalties, and criminal investigations.
- Appropriate compliance measures could include performing isotopic, composition, or DNA testing as practicable; conducting supply chain mapping and due diligence on Chinese suppliers; and implementing supply chain response plans to diversify supplier bases and mitigate against operational disruption should DHS and the FLETF designate an entity in the company’s supply chain on the UFLPA Entity List.

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Please do not hesitate to contact us with any questions.



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