

TYPES NOT MAPPED YET January 07, 2022 | TTR not mapped yet | Evelyn A. Clark, Robert A. Shapiro

Uyghur Forced Labor legislation passes House & Senate

The Senate has given final congressional approval to HR 6256, a bipartisan measure that creates a rebuttable presumption that goods from or containing materials from China's Xinjiang Uyghur Autonomous Region (XUAR), or produced by entities to be listed, are prohibited from importation unless certain conditions are met. The Uyghur Forced Labor Prevention Act seeks to hold China accountable for the repression of the predominantly Muslim Uyghur minority in the region, and to garner support for similar actions by other countries. The White House has indicated that Biden will sign HR 6252 into law. China has indicated that it will retaliate.

Rebuttable Presumption

- Goods that are mined, produced, or manufactured **in whole or in part** in the XUAR are presumed to be produced with forced labor and are prohibited importations.
- Therefore, if any part, component, or material of an imported product, no matter how small, is from the XUAR, the product will be considered to be prohibited.
- Importers will be required to trace even minute parts of goods they are purchasing.
- Importers may rebut the presumption by:
 - complying with the guidance to be provided by CBP
 - demonstrating through **clear and convincing evidence**, a high standard, that the goods were not produced wholly or in part with forced labor; and
 - completely and substantively responding to all inquiries for information submitted by CBP
- If Customs finds that the importer has satisfied its burden, Customs is then required to prepare a public report to be submitted to the congressional committee explaining the reasons for the determination, and identifying the goods and the evidence considered.
- This report is to be made available to the public no more than 30 days after Customs' determination.

CBP to Provide Guidance Regarding:

- Due diligence, effective supply chain tracing, and supply chain management measures to ensure that importers do not import any goods made with forced labor from China.
- The type, nature, and extent of evidence that demonstrates that the goods originating in China were not produced in the XUAR or not otherwise produced with forced labor.

A System for Listing Entities and Products

- The bill establishes a system for **listing entities** that have been determined to:
 - use forced labor,
 - work with the Xinjiang government to facilitate forced labor,

- Export, or
- source material from the XUAR or from other entities on the list
- The bill establishes a system for **listing products** mined, produced, or manufactured in whole or in part by certain listed entities.
- The task force will also identify high-priority sectors for enforcement which will include cotton, tomatoes, and polysilicon.

HR 6256 increases the need for importers to understand their supply chain, especially if items may be produced in the XUAR or contain items produced in the XUAR. While we await the publication of guidances from CBP, we anticipate that processes and procedures to be used will resemble, in part, those needed to examine supply chains for the presence of conflict minerals, or the procedures deployed to participate in the Customs-Trade Partnership Against Terrorism (C-TPAT). Importers are encouraged to review their social compliance programs and the information already published by CBP, *see* [Forced Labor | U.S. Customs and Border Protection \(cbp.gov\)](#), and monitor any actions that the People's Republic of China may take in retaliation.

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