

Debevoise National Security Update: Increased UFLPA Enforcement

December 10, 2024

On November 25, 2024, the Department of Homeland Security (“DHS”) [announced](#) that it added 29 China-based companies to the Uyghur Forced Labor Prevention Act (the “UFLPA”) Entity List, the list’s largest single expansion to date. The newly listed companies span industries including food and agriculture, aluminum, gold and critical minerals, polysilicon, and nonferrous metals (see Appendix).

This Client Update addresses potential implications for companies whose supply chains could have a nexus to Xinjiang or direct or indirect ties with companies on the UFLPA Entity List (“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 entity can prove, among other things, that the goods were not produced using forced labor. The entity must prove this by clear and convincing evidence—a relatively high bar that no entity yet has managed to meet. Under the law, companies may be designated as Listed Entities based on their connection to alleged forced labor in the Xinjiang province. Companies whose suppliers (or suppliers’ suppliers) become Listed Entities face potentially significant and sudden supply-chain disruptions because the effective import ban takes effect immediately and without notice.

DHS has been significantly expanding the UFLPA Entity List. As detailed in our [Debevoise National Security Update: UFLPA Entity List Expansion](#) and [Debevoise National Security Update: Increased UFLPA Enforcement](#), we expected DHS to expand the UFLPA Entity List after announcing it would crack down on certain trade in the textile industry. In addition, a bipartisan [letter](#) from the House Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party spurred DHS to intensify its enforcement. Specifically, the Committee urged DHS to “include numerous companies [on the UFLPA Entity List] and entities located outside the XUAR because of the affiliation to companies and entities in the region.” Since then, DHS has ratcheted up enforcement, including by adding [26 textile companies](#) to the list on

May 16, 2024 and subsequently adding entities in the agriculture, critical mineral, seafood, aluminum, aspartame, steel, construction, and other sectors.

DHS has signaled repeatedly its commitment to enforcing the UFLPA. In particular, DHS Under Secretary for Policy and Chair of the interagency Forced Labor Enforcement Task Force (the “FLETF”) Robert Silvers has pronounced:

- [that](#) “[c]ompanies must conduct due diligence and know where their products are coming from” and that the FLETF “will continue to designate entities known to violate our laws”;
- [that](#) “U.S. Customs and Border Protection [(“CBP”)] will continue its vigilant enforcement at our ports”; and
- [that](#) DHS will use the UFLPA “to its full potential.”

To date, DHS has made good on these statements:

- CBP has [detained](#) more than 10,000 shipments valued at more than \$3.6 billion under the UFLPA, covering a broad range of products from apparel, automotive parts, chemicals, electronics, flooring and solar panels, and [countries of origin](#), such as China, Malaysia, Vietnam, Thailand and India.
- In April, DHS issued a [Textile Enforcement Plan](#) and reported that it has issued 1,859 penalties and liquidated damages against alleged UFLPA violators.
- CBP reportedly has [impounded](#) thousands of automobile vehicles under the UFLPA, purportedly following a car manufacturer’s voluntary disclosure that the vehicles contained a transformer built by an entity on the UFLPA Entity List.
- In 2024, DHS expanded the UFLPA Entity List to 107 entities—more than a five-fold increase since designating 20 entities in June 2022.

UFLPA Entity List designations have immediate effect, such that companies whose supply chains have a nexus to these Listed Entities could face prompt enforcement, including immediate detention of goods, civil penalties, and criminal investigations. Further additions to the UFLPA Entity List could be forthcoming, including during the final weeks of the Biden Administration.

We anticipate the Trump Administration will carry forward the UFLPA’s increased enforcement. The UFLPA has strong bipartisan support in Congress, where it unanimously passed in the Senate and passed the Houses of Representatives with only

one dissenting vote. Since then, Congress under Republican leadership has held several [oversight hearings](#) regarding DHS's UFLPA implementation and issued multiple [letters](#) and [statements](#) calling for even greater UFLPA enforcement. Senator Marco Rubio, President Trump's nominee to serve as Secretary of State, co-authored the UFLPA and repeatedly has [called](#) for [enhanced enforcement](#) and for "[fully implement\[ing\]](#)" the law. The Trump Administration may use the UFLPA to achieve broader U.S. government policy goals regarding China should a trade war or escalation occur.

Compliance and Mitigation Measures. Given these developments, companies should consider assessing their UFLPA compliance, including determining whether they contract with any Listed Entities. Crucially, there is no *de minimis* forced labor exception or intent requirement under the UFLPA. The presence of a Listed Entity's goods in a company's supply chain therefore could trigger enforcement regardless of whether the company is aware of alleged forced labor in its supply chain.

Possible steps for companies to take include the following:

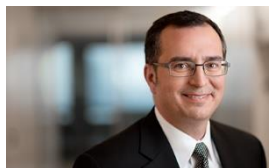
- **Inventory supply chains** to identify if and how they are exposed to forced labor risks from suppliers, including risk-based supply-chain mapping to ascertain if components are exposed to alleged Xinjiang forced labor.
- **Conduct due diligence of suppliers**, including on Chinese-based suppliers and audits of high-risk supply chains.
- **Establish active monitoring programs** to track movements of goods and products throughout the supply chain.
- **Diversify suppliers as necessary**, such as away from those listed on the UFLPA Entities List.
- **Develop a supply-chain mitigation and response plan** to reduce the risk of supply-chain and operational disruption in case of UFLPA enforcement against a supplier.
- **Establish enforceable standards for suppliers.** In relevant agreements, prohibit the use of forced labor both by suppliers and their upstream counterparts.

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APPENDIX

The new [Listed Entities](#), announced on November 25, 2024, are:

- Anhui Yaozhiyuan Biotechnology Development Co., Ltd. (also known as Anhui Yaozhiyuan Chinese Herbal Medicine Co., Ltd.; Anhui Yaozhiyuan Chinese Medicinal Materials Co., Ltd.; and Anhui Yaozhiyuan Biological Technology Development Co., Ltd.)
- Annan Canned Food Co., Ltd. (also known as Nanling County Annan Canned Food Co., Ltd.)
- Dalian Sunspeed Foods Co., Ltd. (also known as Dalian Shengchi International Trade Co., Ltd.)
- Gansu Yasheng International Trading Co., Ltd. (also known as Gansu Yasheng International Trade Co., Ltd.; and Yasheng International Trade; and formerly known as Gansu Yasheng International Trade Group Co., Ltd.)
- Hangzhou Union Biotechnology Co., Ltd. (also known as Hangzhou Youer Biotechnology Co., Ltd.; Youer Biotech; and Union Biotech)
- Hebei Suguo International Trade Co., Ltd. (also known as Suguo International)
- Hebei Tomato Industry Co., Ltd. (also known as Hebei Temeite Industrial Group Co., Ltd. and formerly known as Hebei Temeite International Trade Co., Ltd.)
- Hunan Nanmo Biotechnology Co., Ltd. (also known as Hunan Nanmomo Technology Co., Ltd.)
- Inner Mongolia Qileyuan Food Co., Ltd.
- Inner Mongolia Xuanda Food Co., Ltd. (also known as Xuanda Food and formerly known as Wuyuan County Xuanda Cereals, Oils and Foods Co., Ltd.)
- Jinan Haihong International Trade Co., Ltd. (formerly known as Jinan Haifang Trading Co., Ltd.)
- Jining Pengjie Trading Co., Ltd.
- Junan Jinsheng Import & Export Co., Ltd. (also known as Junan County Jinsheng Import and Export Co., Ltd.)

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- Kingherbs Limited (also known as Changsha Jincao Biotechnology Co., Ltd.)
 - Qingdao Vital Nutraceutical Ingredients BioScience Co., Ltd. (also known as Qingdao Weiyikang Biotechnology Co., Ltd.)
 - Shanghai JUMP Machinery & Technology Co., Ltd. (also known as Shanghai Jiapai Machinery Technology Co., Ltd. and formerly known as Shanghai Chituma Food Machinery Technology Co., Ltd.)
 - Sichuan Yuan'an Pharmaceutical Co., Ltd. (also known as Sichuan Yuanan Pharmaceutical Co., Ltd.)
 - Taiyuan Weishan International Economic Business Co., Ltd. (also known as Taiyuan Weishan International Trade Co., Ltd.)
 - The TNN Development Limited (also known as Dehui (Dalian) International Trade Co., Ltd.)
 - Tianjin Dunhe International Trade Co., Ltd. (also known as Dunhe Foods)
 - Tianjin Kunyu International Co., Ltd. (also known as China Kunyu Industrial Co., Ltd.)
 - Tianjin Tianwei Food Co., Ltd. (formerly known as Tianjin Sanhe Fruit and Vegetable Co., Ltd.)
 - Weifang Alice Food Co., Ltd.
 - Western Gold Co., Ltd.
 - Western Gold Hami Gold Mine Co., Ltd.
 - Western Gold Karamay Hatu Gold Mine Co., Ltd.
 - Xinjiang Daqo New Energy Co., Ltd. (also known as Xinjiang Great New Energy Co., Ltd.; Xinjiang Daxin Energy Co., Ltd.; and Xinjiang Daqin Energy Co., Ltd.)
 - Xinjiang Nonferrous Metals Industry Group Co., Ltd.
 - Xinjiang Zhonghe Co., Ltd. (also known as Xinjiang Joinworld Co., Ltd.)

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- Zhangzhou Hang Fat Import & Export Co., Ltd. (also known as Zhangzhou Hengfa Import and Export Co., Ltd.)