



Traceability Solution Product DNA for UFLPA



Traceability Solution Product DNA for UFLPA

How the traceability solution Product DNA can help companies meet the UFLPA requirements.

Vocabulary	3
Overview of the regulation	5
Who is concerned?	6
How to deal with the detention under UFLPA	7
List of evidence and Guidance for importers	9
Recommendations from CBP and Product DNA on UFLPA applicability	19

Vocabulary

UFLPA – Uyghur Forced Labour Prevention Act

Rebuttable Presumption - fact assumed true unless disproved.

XUAR – Xinjiang Uyghur Autonomous Region

U.S. CBP – United States Customs and Border Protection

UFLPA Entity List is a consolidated register consisting of companies which are subject to the UFLPA, and products they produce, wholly or in part, are prohibited from entry into the United States.

UFLPA Guidance – A guide advising a plan of action in the event of detention under the UFLPA.

Due Diligence - is an investigation, or review performed to confirm facts or details of a matter under consideration.



Supplier

organization or person that provides a product or service used in your supply chain. The supplier can have a direct or indirect relationship with your organization.



Supply Chain

sequence of activities or parties that provides products or services.



Chain of Custody

sequential documentation of evidence.



Importer

person or organization that brings goods from a foreign country for use, sale, processing, reexport, or services.

Overview of the regulation

The Uyghur Forced Labor Prevention Act (UFLPA) is a law that came into force on 21 June 2022.

The UFLPA creates a "rebuttable presumption" which states the following:

all goods produced in the Xinjiang Uyghur Autonomous Region (XUAR) are made using forced labour.

The same presumption applies to goods produced by any entity included in the UFLPA Entity List.

The requirement of the law is to "ensure that goods mined, produced, or manufactured wholly or in part with forced labor are not imported into the United States".

To disprove this claim, the importer must provide clear and convincing evidence that the goods were not produced using forced labor.



Proof requires a level of traceability that most, if not all, companies are likely to find incredibly difficult without comprehensive **Supplier Mapping and Due Diligence.**

Who is concerned?

U.S. Customs and Border Protection (CBP) has identified a million industries that could be subject to forced labor in XUAR. It applies very broadly to all goods imported into the United States. There is no size and value exception, it continues to apply even if you have a small shipment or temporary importation.

Cotton, tomato products and polysilicon have been identified as high-risk sectors under the UFLPA.



If you are a textile company, you must show full **Visibility** of the entire **Supply Chain** to prove that your raw materials are not sourced from XUAR.

How to deal with the detention under UFLPA

CBP has brought authorities to detain, exclude or seize and forfeit merchandise under this statute UFLPA. In case of detention the importer has 30 days to respond to it.

There are various possibilities to avoid detention under the enforcement of UFLPA.

The first of these concerns the applicability, it means the subject shipment is **outside the scope of the UFLPA**. What the importers need to demonstrate with that path is that UFLPA does not apply.

Supply Chain Traceability

The primary way to demonstrate this is to have a good mechanism in place
Supply Chain Traceability



The required documentation and information to make this argument will focus on traceability, and less on proof of the lack of forced labor in the supply chain.

Another solution, which is a high evidentiary standard is to overcome the presumption and demonstrate by clear and convincing evidence that the good, product was not mined, produced wholly or in part by one of the entities from UFLPA entity list and there was no labor force in the supply chain.

List of evidence and Guidance for importers

The CBP and Department of Homeland Security released an **enforcement strategy** and operational guidance for importers, explaining very clearly how to overcome the presumption. The guidance covers three main topics[1], what we call, the keys to rebut the presumption:



A. Due diligence



B. Effective supply chain tracing



C. Supply chain management

With those 3 keys and provided evidence the importers can:



D. Prove that their products are out of scope of UFLPA[2]



E. Demonstrate there's no labor force in the supply chain[3]

Below is the type of information (A, B, C) and list of evidence (D, E) required by CBP, and to the right next to the requirement is the available solution from Product DNA.

[1] Section IV.A, B, C of the Operational Guidance for Importers

[2] Section IV.D of the Operational Guidance for Importers

[3] Section IV.E of the Operational Guidance for Importers

CBP REQUIREMENT	SOLUTION PRODUCT DNA
<p>A. Due Diligence System Information</p>	
<p>Engagement with suppliers and other stakeholders to assess and address forced labor risk;</p>	<p>Our due diligence process tailored for the UFLPA subject includes inviting suppliers and questionnaires to gather specific information about forced labour risk.</p>
<p>Mapping of the supply chain and assessment of forced labor risks along the supply chain from raw materials to production of the imported good;</p>	<p>To help managing the ongoing traceability process, we have created a supply chain visualization tool, which helps to build and discover your supply chain.</p> <p>The goal of the tool is to make it easier to identify where data has to be added to the supply chain, and what data should be added to each step.</p> <p>A user can easily come into a supply chain, and quickly identify which supplier is working on each step, and quickly add data to the specific step if necessary.</p>

It also helps visualize the different phases of a supply chain allowing to upload the evidence, like purchase orders or certificates to corresponding step of the supply chain to build a digital chain of custody.

In complex supply chains, you can also identify where key raw materials go through all the processes and make an assessment (with provided documentation according to each step) if there are any risks of the force labour occurred.

A key part of the supply chain mapping is the collaboration with the suppliers. For this purpose, we have established a supplier invitation and questionnaire to collect the data from a supplier. It happens in a cascading way: the brand invites the suppliers; the supplier creates their profile and invites their suppliers.

In this process the indirect suppliers can be onboarded on the platform by the direct suppliers.

Using this methodology (supply chain discovering, cascading supplier invitation and data gathering), the material flow chart will be created, that can be visualized and downloaded with all corresponding documentation and confirming each step of the production process.

Finally, by building the digital chain of custody, the suppliers can be verified if they are in the UFLPA entity list published regularly updated by CBP. Or, if the detention was proved out of scope of UFLPA, to make a crosscheck with Withhold Released Order (WRO).

<p>Written supplier code of conduct, forbidding the use of forced labor and addressing the risk of use of Chinese government labor schemes;</p>	<p>These requirements refer to our supplier collaboration methodology, where the supplier is invited and onboarded to the platform to upload relevant documentation confirming their compliance.</p>
<p>Training on forced labor risks for employees and agents who select and interact with suppliers;</p>	
<p>Monitoring of supplier compliance with the code of conduct</p>	

B. Supply Chain Tracing Information	
<p>Detailed description of supply chain including imported merchandise and components thereof, including all stages of mining, production, or manufacture;</p>	<p>Refers to section A, B about supply chain due diligence and mapping process.</p> <p>By creating the “supply chain tree” starting by creating products, components, visualizing and describing all steps of the product manufacturing from raw materials to the final product all required information can be added to the corresponding step.</p>
<p>The role(s) of the entities in the supply chain, including shippers and exporters: for example, CBP will need to determine whether a supplier is also a manufacturer;</p>	<p>Refers to section A, B about supply chain due diligence and mapping process.</p> <p>By discovering the supply chain and collaboration with the suppliers, the contact information about the supplier is added in this step.</p>
<p>A list of suppliers associated with each step of the production process, including names and contact information: addresses, email addresses, phone number.</p>	<p>Refers to section A, B about supply chain due diligence and mapping process.</p> <p>By discovering the supply chain and collaboration with the suppliers, the contact information about the supplier is added in this step.</p>

<p>Evidence Pertaining to Merchandise or Any Component Thereof:</p> <ul style="list-style-type: none"> • Purchase orders • Invoice for all suppliers and sub-suppliers • Packing list • Bill of materials • Certificates of origin • Payment records • Seller’s inventory records, including dock/warehouse receipts. • Shipping records, including manifests, bills of lading (e.g., airway/vessel/trucking) • Buyer’s inventory records, including dock/warehouse receipts. • Invoices and receipts for all suppliers and sub-suppliers • Import/export records 	<p>Refers to section A, B about supply chain due diligence and mapping process.</p> <p>By building the “supply chain tree” each required document can be attached to the corresponding step of manufacturing and recorded in the SaaS. After saving the documents it can be also downloaded in format zip and provided to CBP.</p>
--	--

<p>Evidence Pertaining to Miner, Producer, or Manufacturer:</p> <ul style="list-style-type: none"> • Evidence listed for raw materials. • Mining, production, or manufacturing records • Production orders • Reports on factory production capacity • Reports on factory site visits by the importer, a downstream supplier sourcing from this factory, or a third party • Evidence that the volume of inputs of component materials matches the volume of output for the merchandise produced 	<p>Refers to section A, B about supply chain due diligence and mapping process.</p> <p>By building the “supply chain tree” each required document can be attached to the corresponding step of manufacturing and recorded in the SaaS. After saving the documents it can be also downloaded in format zip and provided to CBP.</p>
--	--

C. Information on Supply Chain Management

<p>Internal controls to prevent or mitigate forced labor risk and remediate any use of forced labor identified in the mining, production, or manufacture of imported goods.</p>	<p>The solution Product DNA enables the importers gather all required information about their suppliers from mining to manufacturing of the imported products, which can help to make an internal control to prevent or mitigate forced labor risk.</p>
<p>An importer should be able to demonstrate that documents provided are part of an operating system or an accounting system that includes audited financial statements.</p>	<p>The importer must make a declaration that documents provided are part of their operating system.</p>

D. Evidence Goods Were Not Mined, Produced, or Manufactured Wholly or In Part in Autonomous Region (Prove that pro UFLPA)

<p>Documentation that traces the supply chain for the goods</p>	<p>This refers to section A, B on supply chain tracing information and due diligence process</p>
---	--

<p>E. Evidence Goods Originating in China Were Not Mined, Produced, or Manufactured Wholly or In Part by Forced Labor (Prove there's no force labor)</p>	
<p>Supply chain map identifying all entities involved in production of the goods;</p>	<p>This refers to section A, B on supply chain tracing information and due diligence process</p>
<p>Information on workers at each entity involved in the production of the goods in China such as wage payment and production output per worker;</p>	<p>This step refers to the to the section A, B about collaboration with the suppliers, when the supplier will be invited and onboarded to upload the corresponding documentation.</p>
<p>Credible audits to identify forced labor indicators and remediation of these if applicable.</p>	<p>The solution Product DNA enables the importers gather all required information which can help importers to make an audit to identify forced labor indicators.</p>

Recommendations from CBP and Product DNA on UFLPA applicability

According to the UFLPA, importers must provide proof that the goods are not from XUAR.

CBP want to know the entire supply chain and what is going on inside the supply chain, which is not limited to the finished product.

This requires a product traceability management system that shows the entire supply chain from raw materials to finished products.

Traceability is not mandatory, but it is the only way to prove the origin of materials by mapping all the components of a product.

Recommended best practices for applicability reviews include:

- Prepare a plan for responding to a detention under the UFLPA. This includes confirming that suppliers are aware of the UFLPA and maintaining supply chain documentation for ready/immediate submission to CBP. Set expectations for the types of supply chain documentation required and put in place processes to protect trade secrets. Suppliers may be hesitant to share business documentation that may reveal sensitive information but may be willing to provide that documentation directly to CBP.
- Communicate early with the appropriate CBP Center of Excellence and Expertise (“Center”) regarding a high-risk import before it arrives at a U.S. port of entry.

- Notify the appropriate Center when the supply chain for a particular import is identical to that previously reviewed by CBP to facilitate faster review.
- Be responsive to CBP requests for information and documentation.
- Submit a complete, well-organized package with English translations that document the supply chain of the imported merchandise.
- Provide a list of suppliers that identifies each supplier's role in the production of the goods and the documents associated with each supplier.
- Demonstrate that supply chains do not rely on inputs commingled with materials manufactured or produced with forced labor.

These practices facilitate CBP's review and determination of whether to exclude or release detained goods. Furthermore, CBP cannot decide unless the document package is complete. Once the document package is complete, CBP conducts its review of the package. Although review times vary based on the complexity of the supply chain and other factors, the average review period for a complete package is two to three weeks. Product DNA monitor and shares CBP best practices for UFLPA processing and will publish updates as they become available.

Product DNA helps to discover your products by inviting your suppliers to collaborate and build a robust traceability system.

Know your business and stay compliant.

Book a demo with Product DNA.

Product DNA

Switzerland +41 21 311 04 32

USA +1 305 850 30 97

Canada +1 581 994 69 00

info@productdna.com

support@productdna.com

www.productdna.com