Uyghur Forced Labor Prevention Act

Fiscal Year 2022 Obligation and Implementation Plan

October 12, 2022
Fiscal Year 2022 Report to Congress

Homeland Security

U.S. Customs and Border Protection

Message from the Deputy Commissioner

October 12, 2022

I am pleased to submit the "Uyghur Forced Labor Prevention Act Fiscal Year 2022 Obligation and Implementation Plan," which was prepared by U.S. Customs and Border Protection (CBP).

This plan was compiled pursuant to direction in the Joint Explanatory Statement that accompanies the Fiscal Year 2022 Department of Homeland Security Appropriations Act (P.L. 117-103).

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:

> The Honorable Lucille Roybal-Allard
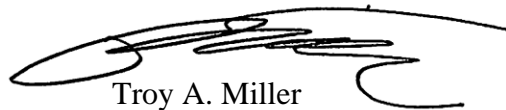> Chairwoman, House Appropriations Subcommittee on Homeland Security
>
> The Honorable Chuck Fleischmann
> Ranking Member, House Appropriations Subcommittee on Homeland Security
>
> The Honorable Chris Murphy
> Chair, Senate Appropriations Subcommittee on Homeland Security
>
> The Honorable Shelley Moore Capito
> Ranking Member, Senate Appropriations Subcommittee on Homeland Security

Inquiries relating to this report may be directed to me at (202) 344-2001.

Sincerely,

Troy A. Miller
Deputy Commissioner
U.S. Customs and Border Protection

Executive Summary

The Uyghur Forced Labor Prevention Act (UFLPA) was signed into law by President Biden on December 23, 2021. It supports CBP's enforcement of Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307), which states that any merchandise mined, produced, or manufactured, wholly or in part, in any foreign country by convict labor, forced labor, and/or indentured labor under penal sanctions, including forced child labor, shall not be entitled to entry at any U.S. port.

P.L. 117-103 and its accompanying Joint Explanatory Statement provide CBP with $27.5 million for implementation of the UFLPA and require establishment and submission of an obligation plan for these funds and implementation schedule within 30 days of enactment. Included within this report are the obligation plan and implementation schedule for personnel, strategy and outreach, and tools and technology for CBP's Office of Trade and its Laboratory and Scientific Services Directorate, as well as for specialized training requirements.

Uyghur Forced Labor Prevention Act
Fiscal Year 2022 Obligation and Implementation Plan

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I. Legislative Language

This document was compiled pursuant to direction set forth in the Joint Explanatory Statement that accompanies the Fiscal Year (FY) 2022 Department of Homeland Security (DHS) Appropriations Act (P.L. 117-103).

The Joint Explanatory Statement states:

> *Uyghur Forced Labor Prevention Act.*—The agreement provides $27,495,000 for the implementation of the Uyghur Forced Labor Prevention Act, which was enacted in December 2021. Not later than 30 days after the date of enactment of this Act, CBP shall provide an obligation plan for these funds and an implementation schedule for activities associated with the Act, to include resource and personnel requirements, over the next two fiscal years.

II. Background

The Uyghur Forced Labor Prevention Act (UFLPA) was signed into law by President Biden on December 23, 2021. It supports U.S. Customs and Border Protection's (CBP) enforcement of Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307), which states that any merchandise mined, produced, or manufactured, wholly or in part, in any foreign country by convict labor, forced labor, and/or indentured labor under penal sanctions, including forced child labor, shall not be entitled to entry at any U.S. port. The UFLPA establishes a rebuttable presumption, effective 180 days from enactment, that any goods, wares, articles, or merchandise mined, produced, or manufactured in whole or in part in the Xinjiang Uyghur Autonomous Region (XUAR), or by certain entities as described within Section 2(d)(2)(B)(i) of the UFLPA, are prohibited from entry into the United States.

The presumption exponentially increases the scope and volume of goods subject to examination and enforcement at ports of entry (POE) under 19 U.S.C. § 1307, and includes a proportionate increase in administrative regulatory requirements across CBP. Goods subject to the presumption are prohibited from entry into the United States unless CBP determines that there is clear and convincing evidence that the goods were produced without the use of forced labor. As a result of this presumption, CBP anticipates an increase in shipments subject to enforcement actions across all tariff codes at POEs. Importers across all sectors will have the opportunity to petition CBP for the admission of shipments subject to the presumption.

P.L. 117-103 provides $27.5 million to CBP for UFLPA enforcement. This report provides an obligation plan for those funds, as well as the planned implementation of UFLPA requirements.

III. Implementation Plan

CBP stood up the UFLPA Implementation Task Force on January 31, 2022, with leaders from the Office of Field Operations, Office of Trade, and Office of Congressional Affairs to plan and lead implementation of the UFLPA provisions specific to CBP. At the same time, CBP began to work with all stakeholders, including DHS, the Office of Management and Budget, and Congress, to address future UFLPA requirements.

The CBP Operations Support Working Group, one of three UFLPA Task Force Working Groups, is planning the implementation of technology tools and enhancements, as well as resource accountability, with timelines and milestones for CBP to aid in implementation and ongoing UFLPA enforcement.

CBP's 65 new positions in FY 2022 are critical for actions within the forced labor enforcement process, and include trade analysts, trade intelligence, investigators, scientists, and support staff.

CBP will develop and deploy increased supply chain tracing capabilities, enhancements to the Advanced Trade Analytics Platform, and targeting tools and services. Targeting tools include technology for global supply chain maps for entities, facilities, products, and shipments. The technology highlights, at scale, where product supply chains have links to the XUAR and forced labor more broadly.

Funding provided to CBP's Laboratory and Scientific Services Directorate will be used to expand a country-of-origin capability by purchasing specialized equipment and by hiring specialists to complete scientific analysis. Initial focus will be on country-of-origin cotton, and the plan will include expansion to additional commodities.

CBP strategy and outreach funding will support the UFLPA's mandate to develop and execute a communication implementation strategy. Funding will be used for efforts including strategic research, training development and delivery, multimedia information materials development, stakeholder workshops, facilitated labs, and stakeholder interviews.

The obligation plan in the following section identifies implementation planning with resources available from the FY 2022 appropriation and as proposed in the FY 2023 President's Budget.

IV. Obligation Plan

The following tables provide an obligation plan for funds enacted for FY 2022 and included in the FY 2023 President's Budget. Narrative descriptions follow.

FY 2022 Enacted Funding						
Program, Project, and Activity (PPA) ($ in thousands)	**Activity**	**First Quarter (Q1)**	**Second Quarter (Q2)**	**Third Quarter (Q3)**	**Fourth Quarter (Q4)**	**Total**
Trade and Travel Operations: Domestic Operations	Overtime	$0	$0	$3,000	$7,000	$10,000
	Subtotal	**$0**	**$0**	**$3,000**	**$7,000**	**$10,000**
Trade and Travel Operations: Office of Trade	Personnel (49 positions/ 12.25 full-time equivalents (FTE))	$0	$0	$1,000	$2,314	$3,314
	Tools and Technology	$0	$0	$2,000	$1,300	$3,300
	Specialized Training	$0	$0	$0	$500	$500
	Strategy and Outreach	$0	$0	$900	$2,100	$3,000
	Subtotal	**$0**	**$0**	**$3,900**	**$6,214**	**$10,114**
Trade and Travel Operations: Training & Development	Personnel (9 positions/2.25 FTEs)	$0	$0	$135	$287	$422
	Specialized Training	$0	$0	$0	$26	$26
	Subtotal	**$0**	**$0**	**$135**	**$313**	**$448**
Trade and Travel Operations: Assets and Support	Hiring Support	$0	$0	$100	$286	$386
	Subtotal	**$0**	**$0**	**$100**	**$286**	**$386**
Integrated Operations: Operations Support	Personnel (2 positions/0.50 FTE)	$0	$0	$35	$81	$116
	Laboratory and Scientific Services Directorate	$0	$0	$0	$4,400	$4,400
	Lab Supplies and Consumables	$0	$0	$300	$300	$600
	Subtotal	**$0**	**$0**	**$335**	**$4,781**	**$5,116**
Mission Support: Executive Leadership & Oversight	Personnel (5 positions/1.25 FTEs)	$0	$0	$137	$500	$637
	Subtotal	**$0**	**$0**	**$137**	**$500**	**$637**
Mission Support: Enterprise Services	Hiring Support	$0	$0	$79	$213	$292
	Subtotal	**$0**	**$0**	**$79**	**$213**	**$292**
Mission Support: Office of Professional Responsibility	Hiring Support	$0	$0	$102	$400	$502
	Subtotal	**$0**	**$0**	**$102**	**$400**	**$502**
FY 2022 Enacted Funding TOTAL		**$0**	**$0**	**$7,788**	**$19,707**	**$27,495**

FY 2023 President's Budget						
PPA ($ in thousands)	**Activity**	**Q1**	**Q2**	**Q3**	**Q4**	**Total**
Trade and Travel Operations: Domestic Operations	Personnel (201 positions/100 FTEs)	$3,546	$3,546	$3,546	$3,547	$14,185
	Overtime	$1,000	$3,000	$3,000	$3,000	$10,000
	Subtotal	**$4,546**	**$6,546**	**$6,546**	**$6,547**	**$24,185**
Trade and Travel Operations: Office of Trade	Personnel (87 positions/43 FTEs)	$2,319	$2,319	$2,319	$2,320	$9,277
	Tools and Technology	$3,600	$3,600	$3,600	$3,601	$14,401
	Specialized Training	$250	$250	$250	$250	$1,000
	Strategy and Outreach	$1,239	$1,240	$1,240	$1,240	$4,959
	Subtotal	**$7,408**	**$7,409**	**$7,409**	**$7,411**	**$29,637**
Trade and Travel Operations: Training & Development	Hiring Support	$81	$81	$81	$82	$325
	Specialized Training	$0	$0	$26	$0	$26
	Subtotal	**$81**	**$81**	**$107**	**$82**	**$351**
Trade and Travel Operations: Assets and Support	Hiring Support	$209	$209	$210	$210	$838
	Subtotal	**$209**	**$209**	**$210**	**$210**	**$838**
Integrated Operations: Operations Support	Personnel (5 positions/3 FTEs)	$139	$139	$139	$139	$556
	Technology	$0	$0	$5,000	$0	$5,000
	Subtotal	**$139**	**$139**	**$5,139**	**$139**	**$5,556**
Mission Support: Executive Leadership & Oversight	Personnel (6 positions/3 FTEs)	$152	$152	$152	$153	$609
	Subtotal	**$152**	**$152**	**$152**	**$153**	**$609**
Mission Support: Enterprise Services	Personnel (1 position/1 FTE)	$329	$330	$330	$330	$1,319
	Hiring Support	$1,313	$1,314	$1,314	$1,314	$5,255
	Subtotal	**$1,642**	**$1,644**	**$1,644**	**$1,644**	**$6,574**
Mission Support: Office of Professional Responsibility	Hiring Support	$640	$640	$640	$639	$2,559
	Subtotal	**$640**	**$640**	**$640**	**$639**	**$2,559**
FY 2023 President's Budget TOTAL		**$14,817**	**$16,820**	**$21,847**	**$16,825**	**$70,309**

UFLPA Personnel
FY 2022: $15.7 million; FY 2023: $44.9 million

These funds will be utilized for both pay and nonpay requirements. In the FY 2022 enactment, $15.7 million will support 65 new positions and overtime pay. FY 2023 funding supports an additional 300 positions. The new positions are critical for the many actions required for forced labor enforcement and include the following:

FY 2022 Enacted Personnel (65 Positions):
- Office of Trade: 49 positions (trade analysts, trade intelligence, investigators, and support staff)
- Office of Chief Counsel: 5 positions (attorneys)
- Office of Training and Development: 9 positions (instructors)
- Laboratory and Scientific Services Directorate: 2 positions (chemists)

FY 2023 President's Budget (300 Positions):
- Office of Field Operations: 201 positions (151 import specialists, 50 CBP officers)
- Office of Trade: 87 positions (trade analysts, trade intelligence, investigators, scientists, and support staff)
- Office of Chief Counsel: 5 positions (attorneys)
- Laboratory and Scientific Services Directorate: 5 positions (chemists)
- Office of Human Resource Management: 1 position (hiring specialist)
- Office of Finance: 1 position (budget analyst)

Tools and Technology: Office of Trade
FY 2022: $3.3 million; FY 2023: $14.4 million

Funding will be used to support supply chain tracing capabilities, enhancements to the Advanced Trade Analytics Platform, and targeting tools and services. Limited scope of requirements will be executed in FY 2022 and the remaining requirements will be executed in FY 2023, including operations and maintenance of initiatives started in FY 2022.
- *Targeting Tools* includes technology for global supply chain maps for entities, facilities, products, and shipments; the technology highlights, at scale, where product supply chains have links to the XUAR and forced labor more broadly.
- *Advanced Trade Analytics Platform* includes development of updated data analytic elements to promote greater supply chain visibility.
    - Utilizing satellite imagery to determine regions where commodities are sourced provides predictive analysis on farm production and the ability to follow materials (e.g., cotton) and the manufacturing process to form a supply chain picture for analysts as goods move.
    - Enhancements to the Forced Labor Case Management module and the deployment of a dashboard to inform internal and external partners on trends and data regarding the enforcement of the UFLPA.

Specialized Training: Office of Trade/Office of Training & Development
FY 2022: $0.5 million; FY 2023: $1.0 million

Specialized Training funding will allow CBP to continue to ensure that its personnel have the necessary knowledge of forced labor legislation and related policies and procedures to implement and enforce the UFLPA effectively. CBP will educate personnel at all levels about the requirements and operational impact of the UFLPA using various communication channels available to CBP. A robust training program for CBP personnel involved in forced labor enforcement will be initiated, to include webinars and a new forced labor curriculum at the Trade & Cargo Academy. The training will enable personnel involved in trade enforcement to adapt to the changing trade environment and to build expertise in the complexities of supply chains, risk management, and forced labor. Development of updated trade curriculum will begin in FY 2022 with estimated completion expected in FY 2023.

Strategy and Outreach: Office of Trade
FY 2022: $3.0 million; FY 2023: $5.0 million

Strategy and Outreach funding will support the UFLPA's mandates to develop an implementation strategy. Funding will support development of this strategy through a series of workshops, facilitated labs, stakeholder interviews, and research. Specific examples may include industry participation in working groups, as needed/appropriate, to elicit private-sector input, to re-engineer existing processes, and to develop new policies and procedures.

Tools and Technology: Laboratory and Scientific Services Directorate
FY 2022: $5.0 million; FY 2023: $5.0 million

Funding will be used to develop a country-of-origin capability by purchasing specialized equipment and by hiring specialists to complete scientific analysis. Initial focus will be on country-of-origin cotton, and the plan will include expansion to additional commodities. This funding covers the following initiatives:

FY 2022 Enacted:
- Isotope Ratio Mass Spectrometer (IRMS) – $1.5 million will be used to purchase two instruments that will be used to compare different isotope ratios in a product to determine its unique signature/fingerprint, which can be traced back to a specific location to support country-of-origin tracing to identify forced labor.
- Specialized IRMS and Country-of-Origin Training – $700,000 will be utilized via a contract vehicle already in place to support additional specialized training for laboratory personnel on utilizing IRMS to support country-of-origin identification.
- Specialized Nuclear Magnetic Resonance 400 Megahertz – $950,000 will be obligated for use of high-resolution nuclear magnetic resonance to identify the country of origin for the import of goods suspected of forced labor.
- Country-of-Origin Database Build – $1.25 million will allow for integrating the existing country-of-origin database developed by a contractor into the CBP operational and

analytic systems. Additionally, the CBP operational and analytic systems would include building a CBP reference database to be used for country-of-origin identification with a nexus to forced labor source identification.

- Supplies & Consumables – $600,000 to support the scientific analysis necessary for UFLPA enforcement. The supplies and consumables identified are tied directly to ensuring the functionality of the instruments to complete the required analysis. Examples of the supplies and consumables needed for the IRMS are gases for the instruments, which are very expensive, as well as consumables for sample analysis and sample prep, and supplies for analysis.

FY 2023 President's Budget:
FY 2023 funding will allow CBP to expand and improve its enforcement technology further, including the country-of-origin database, and to sustain FY 2022 planned activities.

V.   Appendix: List of Abbreviations

Abbreviation	Definition
CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
FTE	Full-Time Equivalent
FY	Fiscal Year
IRMS	Isotope Ratio Mass Spectrometer
POE	Port of Entry
PPA	Program, Project, and Activity
Q1	First Quarter
Q2	Second Quarter
Q3	Third Quarter
Q4	Fourth Quarter
UFLPA	Uyghur Forced Labor Prevention Act
XUAR	Xinjiang Uyghur Autonomous Region