

EXPLOITATION AND ENFORCEMENT PART II:
IMPROVING ENFORCEMENT IN COUNTERING
UYGHUR FORCED LABOR

HEARING
BEFORE THE
SUBCOMMITTEE ON
OVERSIGHT, INVESTIGATIONS,
AND ACCOUNTABILITY
OF THE
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EXPLOITATION AND ENFORCEMENT PART II: IMPROVING ENFORCEMENT IN COUN- TERING UYGHUR FORCED LABOR

Thursday January 11, 2024

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON OVERSIGHT, INVESTIGATIONS,
AND ACCOUNTABILITY,
Washington, DC.

The subcommittee met, pursuant to notice, at 10 a.m., at Room 310, Cannon House Office Building, Hon. Dan Bishop [Chairman of the subcommittee] presiding.

Present: Representatives Bishop, Ezell, Strong, Ivey, and Thanedar.

Chairman BISHOP. The Committee on Homeland Security Subcommittee on Oversight, Investigations, and Accountability will come to order. Without objection, the Chair is authorized to declare the committee in recess at any point.

The purpose of today's hearing is to investigate the Federal Government's efforts to prevent goods made with Uyghur forced labor in China from entering the United States. I now recognized myself for an opening statement.

Today's hearing of the subcommittee follows up on our previous hearing on enforcement of the Uyghur Forced Labor Prevention Act in October. During that October hearing, a panel of policy experts and industry representatives highlighted on-going issues and concerns relating to preventing goods made with Uyghur forced labor from being imported into the United States. While importing goods made with forced labor has been against Federal law since 1930, through implementation of the UFLPA, Congress recognized that China's state-sponsored system of forced labor represents a unique challenge on account of its mass scale and the regime's power to obstruct investigations into forced labor. This is an economic, strategic, and moral issue, and the UFLPA marked a significant step toward countering China's predatory and exploitative practices.

Unfortunately, China's use of forced labor in global supply chains continues to pose a significant enforcement challenge across a wide range of economic sectors, including textiles, minerals, and seafood. For example, the overwhelming majority of cotton used in Chinese textile products is grown in Xinjiang Province, which the UFLPA specifically singles out as a focal point of China's state-sponsored forced labor regime. Any cotton grown in the province is presumptively linked to forced labor under the UFLPA. Yet CBP's isotopic

testing of clothing samples still found items shipped to the United States made with cotton from Xinjiang, and CBP detained \$46 million worth of textile and clothing imports for suspected UFLPA violations since June 2022. Yet CBP's detention rate is just a sliver of the billions of dollars of textile products the United States imports annually from China, emphasizing the continuing challenge in effectively enforcing the UFLPA.

Furthermore, those seeking to profit off goods tainted with forced labor use a wide range of tactics to obscure forced labor in the supply chain, such as shipping products through other countries to disguise the country of origin, mixing inputs produced with forced labor with clean inputs, and misrepresenting the origin of the products in question. Technologies such as isotopic testing can help identify inputs traced to a geographic area, such as cotton grown in Xinjiang, but it is not clear how widely or routinely such forensic technologies are being used.

In our October hearing, several witnesses pointed to the rapid increase in *de minimis* shipments as an avenue for prohibited goods to enter the United States, with *de minimis* shipments more than doubling over the last 5 years and more than 1 billion *de minimis* shipments entering the United States in fiscal year 2023. As you would expect, an increase in shipments increases the chances of contraband getting through. The majority of these *de minimis* shipments originate in China.

Our witnesses also highlighted the limited scale of the UFLPA Entity List. This list contains 30 entities, only 10 of which have been added since the initial list was published. Notably, many of those entities on the initial list were already subject to withhold release orders blocking their imports, so they were already on the Government's radar. It seems that the Entity List is merely scratching the surface of the vast universe of potential entities that could be listed.

Is the interagency process to consider new additions too cumbersome? Are there ways this process might be improved? More broadly, given Beijing's resistance to supply chain investigations for forced labor and its control of information, does the task force have sufficient capabilities to monitor and analyze the use of forced labor within China? These are the questions we hope our witnesses today can help us answer.

The purpose of today's hearing is to examine current efforts to enforce the UFLPA, as well as the challenges encountered since the law went into effect a year and a half ago, and, ultimately, to identify ways that enforcement can be improved and made more effective. These are all serious matters to consider as this committee carries out its oversight responsibilities to ensure effective enforcement of the UFLPA.

I want to thank our witnesses from the Department of Homeland Security's Customs and Border Patrol and the Department of Labor for joining us today. I look forward to hearing their testimony.

[The statement of Chairman Bishop follows:]

STATEMENT OF CHAIRMAN DAN BISHOP

JANUARY 11, 2024

Today's hearing of the Subcommittee on Oversight, Investigations, and Accountability follows up on our previous hearing on enforcement of the Uyghur Forced Labor Prevention Act in October. During that October hearing, a panel of policy experts and industry representatives highlighted on-going issues and concerns related to preventing goods made with Uyghur forced labor from being imported into the United States.

While importing goods made with forced labor has been against Federal law since 1930, through implementation of the UFLPA, Congress recognized that China's state-sponsored system of forced labor presents a unique challenge on account of its mass scale and the regime's power to obstruct investigations into forced labor.

This is an economic, strategic, and moral issue, and the UFLPA marked a significant step toward countering China's predatory and exploitative practices.

Unfortunately, China's use of forced labor in global supply chains continues to pose a significant enforcement challenge across a wide range of economic sectors, including textiles, minerals, and seafood.

For example, the overwhelming majority of cotton used in Chinese textile products is grown in the Xinjiang province, which the UFLPA specifically singles out as a focal point of China's state-sponsored forced labor regime. Any cotton grown in the province is presumptively linked to forced labor under the UFLPA, yet CBP's isotopic testing of clothing samples still found items shipped to the United States made with cotton from Xinjiang and CBP detained \$46 million worth of textile and clothing imports for suspected UFLPA violations since June 2022.

Yet CBP's detention rate is just a sliver of the billions of dollars of textile products the U.S. imports annually from China, emphasizing the continuing challenge in effectively enforcing the UFLPA.

Furthermore, those seeking to profit off goods tainted with forced labor use a wide range of tactics to obscure forced labor in the supply chain, such as shipping products through other countries to disguise the country of origin, mixing inputs produced with forced labor with clean inputs, and misrepresenting the origin of the products in question.

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Our witnesses also highlighted the limited scale of the UFLPA Entity List. This list contains 30 entities, only 10 of which have been added since the initial list was published.

Notably, many of those entities on the initial list were already subject to Withhold Release Orders blocking their imports, so they were already on the Government's radar. It seems that the Entity List is merely scratching the surface of the vast universe of potential entities that could be listed.

Is the interagency process to consider new additions too cumbersome? Are there ways that this process might be improved?

More broadly, given Beijing's resistance to supply chain investigations for forced labor and its control of information, does the task force have sufficient capabilities to monitor and analyze the use of forced labor within China?

These are questions we hope our witnesses today can help us answer.

The purpose of today's hearing is to examine current efforts to enforce the UFLPA, as well as the challenges encountered since the law went into effect a year-and-a-half ago, and ultimately to identify ways that enforcement can be improved and made more effective.

These are all serious matters to consider as this committee carries out its oversight responsibilities to ensure effective enforcement of the UFLPA. I want to thank our witnesses from DHS, CBP, and the Department of Labor for joining us today, and I look forward to hearing their testimony.

Chairman BISHOP. If I can get it out of my throat here, I now recognize the Ranking Member, the gentleman from Maryland, Mr. Ivey, for his opening statement.

Mr. IVEY. Thank you, Mr. Chairman. I will pass the water down to you.

But I did want to say to the Chairman again, this is our second hearing. We had one before. I want to repeat, though, my deep appreciation for the fact that we are having bipartisan hearings, that, you know, I am looking at the witnesses, they are not Republican or Democratic witnesses on there per se. I think it is a fair opportunity to get actual information in a nonpartisan way so we can do the things that we need to do to address whatever issues there may be or provide whatever additional resources there are.

In fact, the opening statement he gave sounds a lot like what I had planned on raising as well. So, I do want to thank all of you all for coming today. My throat is getting bad too now, so maybe it is that time of year.

But, you know, in the first hearing, we went through a different panel. We had people come in and they talked about some of the issues they had from an industry perspective, in part, you know, with respect to the textile industry in particular. I did want to expand that out, as I did in the first hearing, and look at issues beyond the Uyghurs and textiles. African minerals, for example, is one that I have particular interest in and to the extent forced labor is involved there, I have come across articles and other types of reporting that discuss the extensive issue that is there and the great problem that it has generated there.

I know there are issues with respect to the supply chain and how the United States and some of the companies benefit potentially from that kind of forced labor, and I think we need to take a look at that as well. So to the extent we can discuss that today, and, hopefully, I am not blindsiding you because I don't know that that was the initial request on what to cover today, but that is certainly an interest of mine.

Then another twist, I guess, too, I know we talked a lot about the Government's role as a regulator, as an enforcer, and I will come back to that in a moment. But I also want to talk today a little bit about or hear from you a little bit about the Government as a consumer. To the extent we are talking about textiles, God only knows what the Department of Defense spends on uniforms and clothing and materials. Are there additional steps that we could take with respect to that angle, Government as customer, that could provide extra leverage that we are not taking advantage of?

Same with other issues, like the minerals. I know that a lot of those are used in, you know, high-tech devices and hardware. Are there additional things that the Federal Government can do?

I want to make sure that we are not just talking the talk, we are walking the walk as well on our part. So to extent there is guidance that you can give us or additional things that the Government can do, probably without legislation, but, you know, if that is needed, that is fine, but just from a procurement standpoint, are there additional things that we can do to help put extra leverage on this issue?

Expanding the Entity List, I know that the Chairman touched on that a moment ago. I remember from some of the research I have done and some of the testimony at the first hearing that it is a lot

smaller than I had expected when I started doing the research on this. The question is, why is that? The feedback we got was there is potentially risk of, you know, going too fast and getting the Government in trouble from a due process standpoint, in other words, putting businesses on the list that we couldn't prove belong there, even with the rebuttable presumption in place.

But even given that, you know, my thought, and I think the Chairman just suggested this as well, it seems to me that there should be more of these on the list, more businesses on the list. I don't know, you will have to help me out as well, too, from a jurisdictional standpoint, because I know there is a statute that governs the Uyghurs issue that doesn't necessarily cover all of the minerals or other types of forced labor. I guess fishing is another one of those, too, so there may be a separate statute that deals with that. Help walk us through which ones cover which, and if there are different types of resources or legislative fixes or regulatory fixes that we might need to take to address each.

But the Entity List is a big deal for me. The task force was another one. When I took a look at the statute and I saw I think it is like seven Federal agencies, and that struck me as maybe too many cooks in the kitchen. I have been in and out of Government for a long time, and I know sometimes, you know, we can get a little more bureaucratic than we need to, and, you know, especially when you have multiple departments that are involved. I wasn't able to see if there is somebody who gets to make the final call and pull the trigger there, because that might be one of the types of things that we need to revise. I think the task force may be a statutory arrangement. So if that is on us, you know, let us know, and we will try and figure out a way to fix that.

De minimis, the Chair, discussed that already.

Another thing that I remember from the first hearing that I found disturbing was the release order issue. My recollection of that, and you might have to set me straight on it, but sometimes the Government would seize materials that we had determined had been generated or had been connected or tainted by forced labor. But it sounded like instead of us, you know, retaining it or selling it or something like that, that we released it again. The concern I had about that was, you know, how does that actually punish the entity that was involved in this supply chain I'll call it a snafu, just to not be judgmental about it? But we don't want to do something that allows them to continue to profit from whatever that material was.

So if I am mistaken on that, please let me know. But if we are releasing these materials back to the entities and they are still benefiting and profiting from the materials that the Government has now identified was somehow—you know, there was value-added based on forced labor, I don't think that is the right way to go, and I am hoping we can figure out a way to address that.

So I look forward to your testimony. This is not an area that is my strong suit, so I am here to really listen and learn from what you are saying. I want to be an active and engaged partner in making sure that whatever it is that you all need, additional resources or, you know, statutory language or regulatory assistance or sup-

port, we want to make sure we get that to you because this is a critical issue.

Forced labor is a huge problem, obviously, for the people who are forced to do the labor. I think it is also a big problem for the United States and our labor community because it really puts businesses in the United States at a very unfair disadvantage. We want to make sure that we have a level playing field on that front.

So with that, I yield back to the Chair, and thank you again for this hearing.

Chairman BISHOP. As customary, Ranking Member Ivey opens with a very thoughtful and incisive opening statement.

So I want to remind other Members of the committee that opening statements may be submitted for the record.

[The statement of Ranking Member Thompson follows:]

STATEMENT OF RANKING MEMBER BENNIE G. THOMPSON

JANUARY 11, 2024

I am pleased that we are holding this subcommittee hearing to discuss the Biden administration's efforts to implement the Uyghur Forced Labor Prevention Act (UFLPA).

The Uyghurs and other ethnic minorities in the Xinjiang region of China have been systematically targeted by the Chinese government, repressed for their religious beliefs, and exploited for their labor.

The State Department noted in its most recent human rights report that the Chinese government has subjected the predominately Muslim Uyghur population to arbitrary imprisonment, forced sterilization, coerced abortions, rape, torture, and forced labor. UFLPA is an important means of combatting and addressing the genocide of the Uyghur people.

The bipartisan law—signed by President Biden 2 years ago—represents an ambitious new mandate to prohibit goods from entering the United States that were made wholly or in part using forced labor from the Xinjiang region of China. UFLPA provided the Department of Homeland Security (DHS) just 6 months to establish new policies and procedures, hire critical personnel, and begin enforcement.

I look forward to hearing about how DHS and its partners—including the Department of Labor—have carried out this important work in the 18 months since the law went into effect. As with all new efforts, there are likely lessons to learn and areas to improve. However, what I don't doubt is DHS's commitment to fully enforcing UFLPA, as its efforts to date show.

Consistent with the law, DHS has developed a strategy to prevent the importation of goods made with forced labor from China and provided an annual update to this strategy. DHS also publicly identifies businesses that benefit from Uyghur forced labor on its "Entity List." To date, DHS has listed 30 such businesses and continues to add more. These businesses are prohibited from importing goods into the United States absent compelling evidence that they have undertaken efforts to remove forced labor from their supply chain.

Finally, U.S. Customs and Border Protection (CBP) has stopped over 6,300 shipments—valued at over \$2 billion—to examine compliance with the law. CBP has denied entry to more than 2,500 of these shipments, valued at over \$500 million. But DHS has not done this work alone. DHS relies on a number of Federal partners through the Forced Labor Enforcement Task Force, including the Department of Labor.

The Department of Labor's Bureau of International Labor Affairs provides subject-matter expertise on forced labor, supply chain tracing, and due diligence to support UFLPA's implementation. The Bureau also serves as co-chair of the UFLPA Entity List Subcommittee to help identify businesses associated with Uyghur forced labor.

Additionally, the Bureau plays a key role in ensuring that goods made with forced labor do not enter the United States from Mexico and Canada by monitoring for adherence to the terms of our collective trade agreement. Ultimately, importers are responsible for knowing their supply chain, avoiding forced labor, and following the law.

However, today, I hope to learn what else Congress can do to support DHS, the Department of Labor, and the rest of the Federal Government in their efforts to ensure that importers fulfill their responsibilities under UFLPA.

In closing, I thank the Chairman and Ranking Member Ivey for holding this hearing on a topic of bipartisan interest. We all recognize the success of UFLPA is vital to upholding our Nation's commitment to the Uyghur people and standing against forced labor in China.

Chairman BISHOP. With our thanks to all of the witnesses for being here today, I ask that you please rise and raise your right hands.

[Witnesses sworn.]

Chairman BISHOP. Let the record reflect that the witnesses have answered in the affirmative. Thank you. Please be seated.

Let me now formally introduce our witnesses. Ms. Christa Brzozowski is the acting assistant secretary for Trade and Economic Security Policy in the Office of Strategy, Policy, and Plans of the U.S. Department of Homeland Security. Mr. Eric Choy is the executive director of the Trade Remedy Law Enforcement Directorate at the U.S. Customs and Border Protections Office of Trade. Ms. Thea Lee is the deputy under secretary for international affairs in the Bureau of International Labor Affairs of the U.S. Department of Labor.

I thank all of the witnesses for being here, and I now recognize Ms. Christa Brzozowski for 5 minutes for her opening statement.

STATEMENT OF CHRISTA BRZOWSKI, ACTING ASSISTANT SECRETARY, TRADE AND ECONOMIC SECURITY POLICY, OFFICE OF STRATEGY, POLICY, AND PLANS, U.S. DEPARTMENT OF TREASURY

Ms. BRZOWSKI. Thank you so much. Good morning, Chairman Bishop, Ranking Member Ivey, and distinguished Members of the subcommittee. Thank you again for the opportunity today to discuss the work of the Department of Homeland Security and the Forced Labor Enforcement Task Force to combat forced labor and global supply chains, including from the People's Republic of China or the PRC.

U.S. laws that prohibit importation of goods made with forced labor were established almost 100 years ago in the Tariff Act of 1930. The laws reflect our values to honor freedom and to protect human rights. They also serve to protect American workers and legitimate businesses from those who exploit the vulnerable for their own financial gain.

Congress established the Forced Labor Enforcement Task Force, or FLETF, in 2020 to facilitate a holistic approach to combating the scourge of forced labor by leveraging the authorities of the member agencies to ensure the U.S. Government is doing everything in its power to eradicate forced labor from supply chains.

Then, in 2021, Congress passed and the President signed into law the Uyghur Forced Labor Prevention Act, or UFLPA. This is the strongest tool the United States or any other country has forged in the fight against the atrocities of forced labor. The bipartisan passage of the law was a strong signal to malign actors that we would hold them accountable and that the United States will not be complicit in the exploitation of the oppressed.

At DHS, we're very proud to enforce our Nation's forced labor laws. The Department utilizes resources and authorities across multiple operational components, including Customs and Border Protection, Homeland Security Investigations, and a center that we have that is focused exclusively on countering human trafficking to advance these goals.

As the chair of the Forced Labor Enforcement Task Force, DHS, with the support and the leadership of the other agencies, is working hard to facilitate the flow of legitimate trade while collaborating with a wide range of stakeholders from across industry, civil society, and others to keep goods made with forced labor out of U.S. commerce.

The efforts of DHS and the task force also complement the goals and objectives of a new center set up under DHS, the Supply Chain Resilience Center, which seeks to minimize disruptions from all hazards that threaten the supply of key goods and services, including the risks of unsustainable supply chains that involve the use of forced labor.

Congress incorporated several key components of the law that make it uniquely powerful in addressing the PRC's state-sponsored cruel and inhumane forced labor regime, including the Entities List and a rebuttable presumption enforcement mechanism, and we appreciate those strong tools. The task force identified 20 entities for the inaugural Entity List and developed the practices and procedures since then for additions to the list as warranted by the facts and the law. As a result of those legal guidelines, the task force has expanded the Entities List by 50 percent, adding two new entities since June 2022, and there is an active pipeline of recommendations being developed now by the task force.

DHS is conducting a strategic review of every aspect of this process. We're working closely with our colleagues across the members of the task force, and our goal is to identify process improvements that can result in a transparent, consistent, and, importantly, a scalable process that will allow us to significantly increase the numbers of entities included on the Entity List.

We have established a team—DHS has established a team within my office that is solely devoted to the development and the administration of the Entity List. We have sought out subject-matter experts who are critical to our understanding of the ever-changing Chinese corporate landscape. While we have shifted considerable resources toward this very important mission, we look forward to working with Congress to sustain efforts to fulfill even further this law's mandate.

Since the implementation of the law, DHS has seen significant evidence that industry is taking responsibility of understanding their supply chains seriously, including by shifting and diversifying the supply chains. We think this is a positive development.

I thank the subcommittee for your support in the fight against forced labor and for the opportunity to appear here today, and I look forward to the discussion and to your questions. Thank you.

[The prepared statement of Mr. Brzozowski follows:]

PREPARED STATEMENT OF CHRISTA BRZOZOWSKI

JANUARY 11, 2024

INTRODUCTION

Good morning, Chairman Bishop, Ranking Member Ivey, and distinguished Members of the subcommittee. Thank you for the opportunity to discuss the work of the Department of Homeland Security (DHS or the Department) and the Forced Labor Enforcement Task Force (FLETF) to combat forced labor in global supply chains, including from the People's Republic of China's (PRC) systematic use of forced labor of certain ethnic and religious minorities.

U.S. laws that prohibit importation of goods made with forced labor were established almost 100 years ago in the Tariff Act of 1930, as we recognized the harm that can result from allowing these goods to enter our markets. The laws reflect our values—to honor freedom and protect human rights. They also serve to protect American workers and legitimate businesses from those who exploit the vulnerable for their own financial gain.

At DHS, we are proud to enforce our Nation's forced labor laws. These laws align with the administration's objectives to advance the rights of workers around the world, as outlined in President Biden's November 2023 memorandum on advancing worker empowerment, rights, and high labor standards globally. The memorandum represents the first whole-of-Government approach to advance workers' rights by directing Federal departments and agencies to elevate labor rights in their work abroad.

DHS reinforces that commitment with its own initiatives. In early 2023, the Department released the Quadrennial Homeland Security Review, which added combatting crimes of exploitation, including labor exploitation, as the sixth DHS mission. The Department continues to utilize resources and authorities from multiple operational components, including U.S. Customs and Border Protection (CBP), Immigration and Customs Enforcement's Homeland Security Investigations, and the cross-component Center for Countering Human Trafficking to advance our goals in this critical mission.

But DHS is not alone in this fight. Recognizing the breadth and depth of the Executive branch's experience and knowledge in our battle to end forced labor, Congress established the FLETF to facilitate a holistic approach to combatting this scourge. The interagency Task Force leverages the authorities of its member agencies to ensure the U.S. Government is doing everything in its power to eradicate forced labor from supply chains. The FLETF drives initiatives that support enforcement and enhance compliance, utilizing the resources and expertise of member agencies—DHS, along with the Departments of State, Labor, Commerce, Justice, and Treasury, and the Office of the U.S. Trade Representative—to collectively fulfill Congress' intent.

I am honored to support the Department's Under Secretary for Strategy, Policy, and Plans, Robert Silvers, in his role as Chair of the FLETF. Under the leadership of Secretary Mayorkas, and with the unwavering support from leadership of the other FLETF agencies, DHS is facilitating the flow of legitimate trade while collaborating with a wide range of stakeholders from industry and civil society to keep goods made with forced labor out of U.S. commerce.

The efforts of DHS and the FLETF also complement the goals and objectives of DHS's new Supply Chain Resilience Center within DHS's Office of Strategy, Policy, and Plans. The new center will enhance the Department's position to minimize disruptions from all hazards that threaten the supply of key goods and services and promote economic security. Toward that end, the center will produce a variety of tools and resources, to include current best practices, recommendations for process and policy enhancements, informational reports, and analysis to help the private sector identify, assess, and close risks to their supply chains, including the risks of unsustainable supply chains that involve the use of forced labor.

THE UYGHUR FORCED LABOR PREVENTION ACT (UFLPA)

The United States has long recognized and condemned the PRC's on-going genocide and crimes against humanity against Uyghurs and members of other ethnic and religious minority groups in the Xinjiang Uyghur Autonomous Region of China. These crimes involve abhorrent abuses, including arbitrary imprisonment, detention, torture, forced sterilization, sexual and physical assault, family separation, and cultural persecution.

The PRC also inflicts systematic forced labor on Uyghurs and other persecuted minority groups in the region, who must work in the mining, production, and manu-

facturing of goods. Civil society and other reporting indicate that the PRC uses Government directives to threaten anyone that would resist working in these “poverty alleviation” and other programs with detention or internment. The goods resulting from this exploitation are exported all over the world and found in the clothes we wear, the food we eat, and the vehicles we drive.

Recognizing the horrors of the PRC’s state-sponsored forced labor programs, Congress passed, and the President signed into law, the Uyghur Forced Labor Prevention Act (UFLPA) in December 2021—the strongest tool the United States or any other country has forged in the fight against the atrocities of forced labor. The bipartisan passage of the UFLPA was a strong signal to malign actors that we would hold them accountable, and that the United States will not stand by and be complicit in the exploitation of the oppressed.

Charged with full implementation of the UFLPA in 180 days, the agencies of the FLETF worked tirelessly to develop and implement a comprehensive and multi-pronged strategy to prevent the importation of goods made with forced labor in the PRC, and especially those made with the forced labor of Uyghurs and members of other ethnic and religious minority groups from Xinjiang.

Congress incorporated several key components into the UFLPA that make it uniquely powerful in addressing the PRC’s state-sponsored cruel and inhumane forced labor regime. The UFLPA requires the FLETF to publicly identify certain bad actors that meet the UFLPA Entity List criteria. The UFLPA also includes a key enforcement mechanism: a rebuttable presumption that goods mined, produced, or manufactured wholly or in part in Xinjiang, or by entities identified on the UFLPA Entity List, are prohibited from importation into the United States. DHS, and specifically CBP, has devoted significant efforts to enforcing the rebuttable presumption under the law.

THE UFLPA STRATEGY AND THE ENTITY LIST

As chair of the FLETF, DHS led the development of the UFLPA’s comprehensive strategy to prevent importation of goods made with forced labor from the PRC. A critical element of that development involved the FLETF’s collaboration and engagement with key stakeholders across government, industry, civil society, and like-minded international partners.

Almost immediately after passage of the UFLPA, the FLETF began an extensive engagement campaign with industry and non-governmental organizations (NGO’s), so that the benefit of these stakeholders’ perspectives and expertise could be incorporated in the FLETF’s implementation of the UFLPA and the development of an overarching strategy.

The UFLPA also called for the Department of State, our FLETF partner, to develop and implement a comprehensive diplomatic strategy to collaborate with like-minded international partners toward a global response in eradicating forced labor from legitimate trade. The diplomatic strategy was transmitted to Congress in April 2022, and sets forth the United States’ whole-of-Government approach toward increasing awareness of and addressing forced labor in Xinjiang with our partners abroad.

Armed with information from stakeholder engagements and our Federal partners, the FLETF’s strategy provides extensive guidance for importers, drawing from the Department of Labor’s (DOL) Comply Chain expertise on due diligence in examining supply chains and established a framework for robust partnerships with industry and civil society.

As part of the UFLPA Strategy, the FLETF identified 20 entities for the inaugural UFLPA Entity List. Following the passage of the UFLPA, FLETF member agencies consulted and collaborated, utilizing their knowledge and expertise in administering other sanctions regimes, to develop and establish the practices and procedures that would guide FLETF agencies in building recommendations for additions to the Entity List, as warranted by the facts and the law.

As a result of those guidelines, the FLETF has expanded the Entity List by 50 percent, adding 10 new entities since June 2022. DHS and the FLETF are committed to continuing our expansion of the Entity List, and fulfilling Congress’ intent to shine a light on entities that benefit from the exploitation of Uyghurs and other persecuted minorities.

DHS has an extraordinary partnership with civil society, whose research and monitoring efforts are critical to our understanding of forced labor schemes and efforts to obscure the true origin of goods. Through our collaboration with NGO’s and the development of our own knowledge base, the FLETF continues to expand our expertise in identifying and assessing suspected entities, and we anticipate more additions to the UFLPA Entity List in the coming months. There is an active pipeline

of referrals that our agencies are examining, and we will continue to move expeditiously to act on these referrals.

Working closely with our esteemed colleague from the DOL, Deputy Under Secretary Thea Lee and her staff, the FLETF established an Entity List Subcommittee, co-chaired by DHS and DOL. The subcommittee draws on its collective experience with other sanction and enforcement regimes involving forced labor to support and guide our FLETF partner agencies in developing recommendations and establishing best practices.

The Department continues to review and refine the Entity List process to better implement Congress' intent for the UFLPA. Internally, DHS is examining our own processes to identify where we can be more effective. With experience in building the Entity List and with new expertise added to the team, DHS is conducting a strategic review of every aspect of this process: from the way we receive and analyze information about potential entities, to our analysis of trends and patterns that can direct us to other suspect supply chains, and finally to our collaborations with our FLETF partner agencies in making our determinations. The goal is to identify improvements that can result in a transparent, consistent, and scalable process that will allow the FLETF to significantly increase the number of entities it can identify as meeting the UFLPA's statutory standards for the Entity List.

While we gain proficiency with each recommendation and explore how we can improve our processes, the FLETF does face challenges in expanding the Entity List. All FLETF agencies are committed to holding malign actors accountable for their facilitation and utilization of the PRC's state-sponsored forced labor programs. But, as the United States' actions under the UFLPA are gaining attention both here and abroad, those illicit actors that benefit from the use of forced labor seek new ways to obscure the true origin of their goods and circumvent our enforcement of the law.

Companies connected to forced labor in the PRC deploy a wide array of strategies to hide their wrongdoing, including erasing publicly-available evidence, shuffling ownership of subsidiaries, renaming companies known to be involved in forced labor, or bifurcating their supply chains so that they can maintain a forced labor-tainted supply chain while still attempting to sell in the U.S. market. We must stay ahead of those efforts, which are becoming more sophisticated as the level of scrutiny increases.

To meet the UFLPA's mandate related to the UFLPA Strategy and the UFLPA Entity List, FLETF agencies have shifted considerable resources from other priorities to meet this mission. DHS itself has established a team within my office solely devoted to development and administration of the UFLPA Entity List, and we have brought on subject-matter experts who are critical to our understanding of the ever-changing Chinese corporate landscape, including connections with PRC-sponsored programs and directives. We appreciate Congress' support, and we look forward to working with Congress to sustain efforts to fulfill the UFLPA mandate.

ENGAGEMENTS WITH THE PRIVATE SECTOR AND THE RESPONSE TO UFLPA

We recognize that the committee's focus today is on UFLPA enforcement. However, we would be remiss if we did not highlight another critical element of the UFLPA's strategy—to engage and support the trade community in its effort to implement effective due diligence protocols that provide transparency and traceability in its supply chains and identify the possible use of forced labor in their supply chains. To this end, DHS and CBP have held more than 600 engagements since passage of the UFLPA, to include representatives from industry, the NGO community, international partners, and Congress. These engagements provide the opportunity to arm the trade community with additional information and guidance so they can enhance their own compliance programs and conduct effective due diligence. But these dialogs also inform us of the challenges that industry faces.

DHS and CBP continuously review information to determine what can be shared with the trade community, whether through CBP's Digital Dashboard which provides categorized information on detentions made under the UFLPA, or guidance on current best practices for importers in providing documentation that traces a shipment's entire supply chain. With the growing availability of technological tools to monitor and verify supply chains, DHS showcased many of these resources in CBP's March 2023 Forced Labor Technology Expo, highlighting the different mechanisms by which importers can build a robust due diligence program.

We have found that the vast majority of industry leaders are as repulsed by forced labor as the Department—they share our values and our abhorrence of these crimes. But, while we support the trade community's efforts to conduct supply chains due diligence and fully comply with the UFLPA's requirements, we remind them that the consequences of producing goods made, wholly or in part, with forced

labor or importing such goods will be severe, and that they will be held fully accountable for their failure to conduct effective due diligence.

Following implementation of the UFLPA rebuttable presumption, DHS has seen significant evidence that industry is taking compliance seriously. We are still in the early stages of quantifying the impact of the UFLPA on private-sector behavior, but early data shows significant promise.

Various supply chain mapping and verification technology companies report a significant decrease in transactions from entities potentially subject to enforcement under the UFLPA. Additionally, extensive anecdotal reporting from the trade community indicates that industry is taking steps to ensure compliance, including moving their supply chains out of Xinjiang and diversifying away from suppliers that cannot deliver the requisite transparency.

We have even learned that some Chinese companies are refusing to participate in PRC forced labor programs to avoid the risk of losing access to the lucrative U.S. market. In response to the UFLPA, some companies looking to secure their supply chains are re-shoring and sourcing from suppliers in the United States, to the benefit of domestic producers that have struggled with China's domination in certain industry sectors.

CONCLUSION

With the passage of the UFLPA, the United States has an increased ability to prevent goods resulting from the PRC's on-going human rights abuse against Uyghurs and members of other ethnic and religious minority groups from entering U.S. commerce. With each shipment of tainted goods that is denied entry into the United States, we take another step toward justice, accountability, and fair competition. DHS and the FLETF are always mindful that there is real human suffering behind the goods that try to make their insidious way into legitimate markets. And that is why we are so committed to right this wrong.

We are proud to contribute, in partnership with our partner agencies in the FLETF and with Congress, to the impact of this landmark legislation. We recognize there is more we can accomplish, but with the collective will of Congress, the Executive branch, and our like-minded stakeholders, we can remove the financial incentives that support the use of forced labor and advance toward our goal of eliminating these goods from global supply chains.

I thank the subcommittee for your support in our fight against forced labor, and for the opportunity to appear before you today. I look forward to taking your questions.

Chairman BISHOP. Thank you, Mr. Brzozowski.

I now recognize Mr. Choy for 5 minutes.

STATEMENT OF ERIC CHOY, EXECUTIVE DIRECTOR, TRADE REMEDY LAW ENFORCEMENT DIRECTORATE, U.S. CUSTOMS AND BORDER PROTECTION

Mr. CHOY. Good morning, Chairman Bishop, Ranking Member Ivey, and distinguished Members of the subcommittee. It's an honor to testify today on U.S. Customs and Border Protection's role in enforcing the forced labor laws and regulations of the United States, including the Uyghur Forced Labor Prevention Act, or UFLPA.

Forced labor is an abhorrent issue, abuse of human rights. It not only affects the living and working conditions of millions of workers around the world, but it also creates unfair competition for U.S. business. As part of our critical mission to uphold our Nation's laws and facilitate legitimate trade, CBP is committed to preventing goods produced or manufactured with forced labor from entering U.S. commerce and promoting accountability for the on-going genocide and crimes against humanity afflicting Uyghurs and other religious and ethnic minority groups in the Xinjiang Uyghur Autonomous Region, or the XUAR, of the People's Republic of China.

Since the law took effect in June 2022, CBP has stopped more than 6,000 shipments of goods valued at more than \$2 billion for

UFLPA-related enforcement actions. Using resources provided by Congress, CBP is strengthening our forced labor enforcement efforts by investing in personnel, training, outreach, technology, and laboratory science capabilities. The agency is using technology to map supply chains and research high-risk commodities to ensure supply chains are free of forced labor inputs.

CBP is also increasing its analytical and threat detection capabilities. Through our advanced trade analytic platform, CBP developed and operationalized analytic models that identify entities operating in the XUAR, their affiliates, and entities with whom they share traits or characteristics and indicators of evasion to further our analysis and enforcement efforts related to the UFLPA.

Due to the success of utilizing these tools for UFLPA enforcement, CBP also adopted similar methodologies to identify routes by which fentanyl and pill presses enter the United States.

To support compliance efforts, in March 2023, CBP held a forced labor technical expo to provide private industry the opportunity to highlight tools and technologies that promote due diligence. We issue guidance, resources for importers, and developed an interactive dashboard with statistics on UFLPA enforcement that provides insights on stopped entries by industry sector and country of export.

Enforcement alone is not sufficient. CBP continues to engage with industry and importers to remind them to exercise reasonable care to ensure goods entering the United States comply with all laws and regulations. Companies have the most extensive insights into their supply chains and the responsibility to monitor their supply chains. CBP encourages companies to conduct audits, risk assessments, and other acts of due diligence. In fiscal year 2023, CBP conducted more than 500 such engagements, resulting in improved trade facilitation for compliant importers.

Although CBP is—additionally, through CBP’s 21st Century Customs Framework Strategic Initiative, we engaged with our stakeholders on ways to refine CBP’s regulatory and statutory framework to enhance and streamline forced labor enforcement efforts. We welcome the opportunity to work with Congress to address these challenges and advance these initiatives together.

CBP’s forced labor enforcement efforts are robust and effective, but we do face challenges. The record-level volume of *de minimis* or low-value shipments contain less detailed data available for CBP review. *De minimis* status does not exempt shipments from CBP review for violations of law, and there is no exception for *de minimis* shipments under UFLPA. CBP is firmly committed to meeting challenges in the *de minimis* context, including undertaking initiatives to increase information availability and assess risk. The agency is working closely with DHS to develop strategies to address these challenges that include regulatory changes to increase data collection and technology enhancements to improve risk management and targeting. We also look forward to working with Congress on these initiatives.

CBP’s enforcement efforts safeguard all industries from unfair trade practices. However, some industries, such as textiles, were highlighted in the UFLPA and have seen increased scrutiny due to the open-source reporting on the use of forced labor in the produc-

tion of raw materials used in their supply chains. Nearly 17 percent of all shipments stopped by CBP for UFLPA reviews are textiles, including apparel and footwear, and approximately 63 percent of these shipments were denied for noncompliance.

In addition to UFLPA enforcement actions in fiscal year 2023, CBP seized more than 5,000 textile shipments; issued approximately 19 million in commercial fraud penalties; and conducted audits, laboratory analysis, and factory verification visits to identify more than 2 million additional duties owed to the Government.

CBP continues to strengthen targeting enforcement activities across all industries to prevent and penalize those who violate and circumvent tariffs and trade laws, including forced labor. CBP's forced labor enforcement efforts not only ensure fair competition and economic security for us domestic industry, they also have a direct effect on the improvement of living and working conditions for workers across the world, including the repayment of millions of withheld wages and recruitment fees that trap workers in debt bondage.

We appreciate this subcommittee's continued support and we are grateful that Congress has entrusted us with this important mission. I'm proud of the incredibly hard work that my colleagues at CBP have undertaken in response. I look forward to your questions.

[The prepared statement of Mr. Choy follows:]

PREPARED STATEMENT OF ERIC CHOY

JANUARY 11, 2024

INTRODUCTION

Chairman Bishop, Ranking Member Ivey, and Members of the subcommittee, thank you for the opportunity to discuss U.S. Customs and Border Protection's (CBP) role in enforcing the forced labor laws and regulations of the United States, including the Uyghur Forced Labor Prevention Act (UFLPA) and Section 307 of the Tariff Act of 1930.¹ I am honored to represent the dedicated men and women of CBP who work tirelessly to uphold our Nation's laws and facilitate legitimate trade to protect our Nation's economy to ensure consumer safety and create a level playing field for American businesses.

Forced labor is an abhorrent abuse of human rights and an unfair trade practice. CBP is committed to eliminating forced labor practices in U.S. supply chains and promoting accountability for the on-going genocide and crimes against humanity afflicting Uyghurs and other religious and ethnic minority groups in the Xinjiang Uyghur Autonomous Region (XUAR) of the People's Republic of China (PRC) through its enforcement of the UFLPA rebuttable presumption.

CBP'S FORCED LABOR ENFORCEMENT ACTIVITIES

Playing a key role in the Department of Homeland Security (DHS)-led Forced Labor Enforcement Task Force (FLETF), CBP is responsible for enforcing the UFLPA and preventing entry of products made with forced labor into U.S. commerce.

As described in the FLETF's Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China,² the UFLPA charges CBP with enforcement of a rebuttable presumption that importation of goods mined, produced, or manufactured wholly or in part in Xinjiang, or produced by entities identified in the UFLPA Entity List,³ are prohibited under Sec-

¹ 19 U.S.C. § 1307.

² <https://www.dhs.gov/uflpa-strategy>.

³ The UFLPA Entity list is developed from recommendations submitted by FLETF member agencies based on the examination of information from a wide variety of sources, including trade data, reports from civil society organizations, news reports, and other public and non-public in-

tion 307 of the Tariff Act of 1930, as amended (19 U.S.C. § 1307) and not entitled to entry to the United States. Using resources provided by Congress, CBP leverages all available tools to enforce the UFLPA by applying a sophisticated, risk-based approach utilizing dynamic intelligence, analysis, and data-driven targeting to identify shipments that warrant further scrutiny while facilitating legitimate trade and support of human rights.

Since the UFLPA's rebuttable presumption took effect in June 2022, CBP has stopped more than 6,000 shipments of goods valued at more than \$2 billion for UFLPA-related enforcement action review.⁴ CBP made a final entry decision on 5,062 of these shipments, including 2,598 shipments, or 51 percent, which were denied entry to the United States. To date, CBP has received 5 requests for an exception to the rebuttable presumption, which the Commissioner of CBP may grant if, among other requirements, CBP determines the importer has provided clear and convincing evidence that the goods subject to the rebuttable presumption were not produced wholly or in part by forced labor. In each case, importers have withdrawn their request for an exception prior to CBP making its final determination.

Separately from the UFLPA, when CBP investigates forced labor allegations and has reasonable suspicion of the use of forced labor in the manufacturing or production of goods entering the United States, it issues a Withhold Release Order (WRO) that allows CBP to detain the goods in question at all U.S. ports of entry (POEs) until or unless importers can prove the absence of forced labor in their supply chain. In addition, CBP issues a Finding when the agency determines, based upon probable cause, that forced labor was used in the manufacturing or production of goods, which allows CBP to seize and forfeit the goods in question at all POEs and prevent the merchandise from being imported into the United States.⁵

In addition, once a WRO or Finding is issued, an impacted entity may file a modification petition to provide evidence to CBP that the forced labor conditions are fully addressed and resolved. CBP will evaluate this evidence and may choose to modify a WRO or Finding, as appropriate. CBP considers issuance of a modification to be a successful outcome in the effort to eradicate forced labor from supply chains.

In fiscal year 2023, CBP issued 1 WRO and modified 1 Finding and 3 WROs. Over the past 4 years, CBP's forced labor enforcement efforts resulted in the improvement of living and working conditions for tens of thousands of workers including repayment of more than \$62 million in withheld wages and recruitment fees trapping workers in debt bondage.

Industry-Specific Enforcement

CBP employs a dynamic, risk-based approach to enforcement that prioritizes action against the highest-risk goods based on current data and intelligence to prevent prohibited goods from entering the United States. CBP enforcement efforts safeguard all industries from unfair trade practices. However, some industries, such as solar and textiles, have seen increased scrutiny due to open-source reporting on the use of forced labor in the production of raw materials used in their supply chains.

The domestic textile industry is critical to the U.S. economy, employing more than half-a-million people in this country. Because imported textiles typically carry a higher duty rate compared to other U.S. imports, with some as high as 32 percent, violators try to lower costs through unlawful practices. For example, violators use forced labor to lower manufacturing costs or misrepresent the country of origin and mislabel and undervalue shipments to circumvent trade duties. These types of activities, which undermine legitimate trade, can be the result of human rights abuses, and threaten U.S. jobs, are a continuous focus for CBP enforcement.

Regarding forced labor enforcement, nearly 17 percent of all shipments stopped by CBP for UFLPA review since June 2022 were textiles, including apparel and footwear. Of these shipments, CBP released 29 percent after a thorough review process by our Apparel, Footwear, and Textiles Center of Excellence and Expertise to confirm the supply chains for those shipments were free of any materials produced in XUAR or by companies on the UFLPA Entity List. Of all the shipments reviewed by CBP for UFLPA compliance, approximately 63 percent were denied entry based on the importer's failure to determine the shipments were free of any materials produced in XUAR or by companies on the UFLPA Entity List.

In addition to UFLPA enforcement actions, in fiscal year 2023, CBP seized more than 5,000 textile shipments valued at more than \$129 million, issued approxi-

formation. The decision to add an entity to the UFLPA Entity List is determined by majority vote of FLETF member agencies.

⁴<https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics>.

⁵A list of current WROs can be found at <https://www.cbp.gov/trade/forced-labor/withhold-release-orders-and-findings>.

mately \$19.3 million in commercial fraud penalties, and conducted audits that identified over \$2 million in additional duty owed to CBP.⁶ Additionally, CBP conducted laboratory analysis on 323 shipments, 42 percent of which were found to be misdeclared or mis-described when arriving in the United States. CBP also conducted 57 factory verification visits around the world through its Textile Production Verification Team program resulting in approximately \$340,000 in duties recovered and potential further enforcement action. CBP continues to strengthen targeting and enforcement activities within this industry to prevent and penalize individuals and entities violating or circumventing textile tariffs and trade laws—including forced labor—thus ensuring fair competition and economic security for U.S. domestic industry.

Industry Compliance and Due Diligence Support

In conjunction with our enforcement activities, DHS and CBP are committed to supporting industry's forced labor compliance and due diligence efforts. Recognizing the value of predictability to our trade partners, CBP is committed to providing consistent processing and uniformity of practices across all POEs through our Centers of Excellence and Expertise (Centers)⁷—including forced labor enforcement. Centers include subject-matter experts that are focused on industry-specific areas to increase facilitation and maximize trade enforcement Nation-wide. They are an essential part of our forced labor enforcement efforts, providing timely, efficient reviews of shipments from law-abiding importers and good-faith trade actors and releasing legitimate shipments into U.S. commerce in as quickly as 7–14 days, on average. CBP invested in, and continues to provide, training to its officers Nation-wide who inspect shipments subject to the UFLPA, to Center import specialists who review supply chain documentation for connections to the XUAR, and to its regulatory auditors who review supply chain tracing information during audits of high-risk companies for forced labor.

CBP continues to engage with industry and importers to remind them to exercise reasonable care and take all necessary and appropriate steps to ensure goods entering the United States comply with all laws and regulations. Companies have the most extensive insight into their supply chains and a responsibility to proactively monitor their supply chains to mitigate the risk of importing goods into the United States that were produced with forced labor. CBP encourages companies to conduct thorough independent, third-party audits, risk assessments, and increased supply chain transparency, in addition to other acts of due diligence, including isotopic testing to determine geographic origins of materials such as cotton.

CBP acknowledges that many in the trade community may not have sufficient resources, expertise, or mechanisms to identify indicators of forced labor in their supply chains. To support our trade partners, in March 2023, CBP held a Forced Labor Technical Expo to provide private industry the opportunity to highlight tools and technologies that promote due diligence by enhancing transparency and verifying provenance of goods. We also issued guidance on best practices for importers to demonstrate their merchandise is not subject to the UFLPA based on lessons learned to date, including documentation that trace a given product through the entire supply chain.⁸ Additionally, CBP developed an interactive Dashboard with statistics on UFLPA enforcement that provides insight for the public on stopped entries by industry sector and country of export.⁹ As part of our commitment to transparency and accountability, we continue to assess what additional data we can publicly report.

Private-sector engagement is a vital part of ensuring CBP is enforcing forced labor laws while facilitating ethical trade. CBP routinely engages with civil society organizations, private industry, and interagency stakeholders on matters related to forced labor enforcement. In fiscal year 2023, CBP conducted more than 500 such engagements, including coordination with industry on forced labor issues through the Commercial Customs Operations Advisory Committee and Forced Labor Working Group, resulting in improved trade facilitation for compliant importers while helping to ensure products entering the United States are free of forced labor. Collaboration with stakeholders is a critical component of all of CBP's trade enforcement efforts, and

⁶ See www.cbp.gov/trade/priority-issues/textiles/textile-enforcement-statistics.

⁷ See www.cbp.gov/trade/centers-excellence-and-expertise-information.

⁸ See CBP Factsheets “Due Diligence in Supply Chains,” www.cbp.gov/document/fact-sheets/due-diligence-global-supply-chains, “Forced Labor—Importer Due Diligence,” www.cbp.gov/document/fact-sheets/forced-labor-importer-due-diligence, and Informed Compliance Publication, “What Every Member of the Trade Community Should Know: Reasonable Care,” www.cbp.gov/document/publications/reasonable-care.

⁹ See www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics.

we are committed to continuing our high level of engagement with the trade community, including on matters specific to forced labor enforcement and compliance.

Additionally, through CBP's 21st Century Customs Framework strategic initiative, we are also engaging with our stakeholders on ways to refine CBP's regulatory and statutory framework to enhance and streamline forced labor enforcement efforts. We welcome the opportunity to work with Congress to address these challenges, and advance these initiatives, together.

Enforcement Challenges and Initiatives

CBP's forced labor enforcement efforts are robust and effective, but we do face challenges. For example, 19 U.S.C. 1321(a)(2)(C) provides for duty- and tax-free admission of a shipment of merchandise with an aggregate fair retail value in the country of shipment of \$800 or less, imported by 1 person in 1 day. These low-value, *de minimis* shipments could contain articles made with forced labor. Presently there are fewer data elements collected on *de minimis* shipments, but CBP and the Treasury Department are considering regulatory changes to increase the data available for review. This would help address risks these shipments present, including in the forced labor context. *De minimis* status does not exempt shipments from CBP review and interdiction for violations of law, and there is no exception for *de minimis* shipments under the UFLPA. CBP is firmly committed to meeting challenges in the *de minimis* context implicating forced labor, including undertaking initiatives to increase information availability and assess risk.

Using the resources provided by Congress, CBP is strengthening our forced labor enforcement efforts by investing in personnel, training, outreach, technology, and laboratory science capabilities. The agency is using technology to map supply chains and research high-risk commodities to ensure supply chains are free of forced labor and XUAR inputs. Using funding provided by Congress, CBP is increasing its analytical and threat detection capabilities.

CBP developed and operationalized analytic models that identify entities operating in XUAR, their affiliates, entities with whom they share traits or characteristics, and indicators of evasion activities (e.g., illegal transshipment) to help further our analysis and enforcement efforts related to UFLPA. Due to the success of utilizing these tools for UFLPA enforcement, CBP analysts adopted similar methodologies to identify routes by which fentanyl and pill presses were entering the United States.

CONCLUSION

Forced labor is a detestable violation and abuse of human rights and an unfair trade practice; eradicating its existence is an irrefutable moral imperative. CBP is committed to—and proud of—our role in combatting forced labor, upholding the rule of law, promoting respect for human rights, and promoting free and fair trade. CBP will continue enforcing the UFLPA through implementing the UFLPA rebuttable presumption and supporting our Government and industry partners.

CBP appreciates the continued support of Congress to execute the full range of our trade enforcement and facilitation mission. We will continue to combat fraudulent trade practices and penalize violators, while promoting lawful trade and protecting domestic industry.

Thank you for the opportunity to testify today. I look forward to your questions.

Chairman BISHOP. Thank you, Mr. Choy.

I now recognize Ms. Thea Lee for 5 minutes for her opening statement.

STATEMENT OF THEA LEE, DEPUTY SECRETARY FOR INTERNATIONAL AFFAIRS, BUREAU OF INTERNATIONAL LABOR AFFAIRS, U.S. DEPARTMENT OF LABOR

Ms. LEE. Good morning, Chairman Bishop, Ranking Member Ivey, Members of the subcommittee. Thank you for the opportunity to testify today.

Forced labor is all around us. It is an invisible thread in the fabric of global commerce, woven through the global supply chains of too many products and industries. Unraveling this thread requires a multipronged approach involving governments, business unions, consumers, journalists, academics, and civil society. With over 75

years of experience working at the intersection of labor rights, human rights and the global economy, the Department of Labor's Bureau of International Labor Affairs, or ILAB, is uniquely positioned to guide the U.S. Government's efforts to address forced labor throughout global supply chains. I would like to focus this morning on two areas of our work.

First, ILAB's reporting and deep expertise bring attention to global labor abuses and provide a foundational knowledge that is used by our counterparts throughout the U.S. Government. Second, ILAB's holistic approach allows us to address forced labor from multiple perspectives, including in our role on the Forced Labor Enforcement Task Force and the implementation of the Uyghur Forced Labor Prevention Act.

ILAB is the leading provider of in-depth research on global labor abuses. Our 3 flagship reports serve as valuable resources for research, advocacy, Government action, and corporate responsibility.

First, our annual findings on the worst forms of child labor assesses the efforts of U.S. trade beneficiary countries and territories to eliminate child labor through legislation, enforcement, policy, and social programs.

Second, our list of products produced by forced or indentured child labor is intended to ensure that us Federal agencies do not procure goods made by forced or indentured child labor as required by Executive Order 13126.

Third, our biennial list of goods produced by child labor or forced labor, also called the TVPRA, Trafficking Victims Protection Reauthorization Act list, serves as a sobering reminder of how labor exploitation infiltrates our daily lives through the coffee we drink, the produce we eat, and the garments we wear. The current TVPRA list includes 159 goods from 78 countries and areas. Of those goods, 18 are produced by forced labor in China, including several, like polysilicon, which is a key element in the production of solar panels, that involve the use of forced labor from the Xinjiang Uyghur Autonomous Region.

Xinjiang is China's far western region, of course, where hundreds of thousands of Uyghurs, ethnic Kazakhs, Kyrgyz, and members of other persecuted groups are being arbitrarily detained and subjected to forced labor, producing goods that too often enter the U.S. domestic and global supply chains. The TVPRA list also includes lithium ion batteries from China made with cobalt that was found to be mined with child labor from the Democratic Republic of the Congo. These batteries are found in dozens of downstream products that we use in our daily lives, including computers, cell phones, vacuum cleaners, electric vehicles, and hearing aids.

ILAB's supply chain research underlying the TVPRA list represents one of the most comprehensive efforts world-wide to identify labor risks in global supply chains. It supports our work to enforce U.S. trade laws, enabling ILAB to work with our partners across the administration and globally to combat forced labor and child labor in China, the DRC, and around the world.

As an active and critical member of the Forced Labor Enforcement Task Force, ILAB is committed to contributing and leveraging our expertise to support our partner U.S. Government agencies to take enforcement actions to address labor rights abuses

in global supply chains. ILAB has prioritized work on the Uyghur Forced Labor Prevention Act, which is an essential element in the Biden-Harris administration's efforts to eradicate forced labor from U.S. supply chains.

Along with DHS, ILAB serves as co-chair of the task force's UFLPA Entity List subcommittee. My team worked closely with the other task force agencies developing a methodology and process to consider in reviewing additions to the Entity List. ILAB is committed to moving with speed and integrity to expand the list, ensuring that the process is both robust and legally sound.

The UFLPA is a powerful new tool in the fight against forced labor and human rights abuses. While it presents significant challenges for businesses entangled in complex global supply chains, it is clearly having a profound impact on promoting human rights and ethical business practices, even in its early stage.

As interest in global supply chains continues to grow, ILAB is in a unique position within the U.S. Government to improve working conditions and end forced labor. We will use all available trade enforcement tools, as well as labor diplomacy, multilateral engagement, and technical assistance to identify and raise awareness of the risks of labor exploitation world-wide and to incentivize meaningful actions by both governments and private companies to prevent egregious violations of labor and human rights.

Thank you, and I look forward to your questions.

[The prepared statement of Ms. Lee follows:]

PREPARED STATEMENT OF THEA MEI LEE

JANUARY 11, 2024

INTRODUCTION

Chairman Bishop, Ranking Member Ivey, and Members of the subcommittee, thank you for the opportunity to testify today.

Forced labor is all around us. It's an invisible thread in the fabric of global commerce, woven through the global supply chains of too many products and industries. Unraveling this thread requires a multipronged approach involving a range of stakeholders, including governments, businesses, labor unions, and worker organizations.

According to the International Labor Organization's 2021 Global Estimates of Modern Slavery, the crime of forced labor affects nearly 28 million people of all ages, backgrounds, and nationalities—nearly 3 million more than in 2016. Fourteen percent of forced labor victims, or nearly 4 million people, are in state-imposed forced labor. Forced labor touches virtually all parts of the private economy—services, manufacturing, construction, agriculture, and mining. And forced labor appears in businesses of all sizes, in both the formal and informal sectors. The informal sector includes businesses that operate outside the legal and regulatory framework established by the government, such as day labor hired without contract; small-scale farming and fishing; artisanal mining and quarrying; and manufacturing work performed in home-based workshops.

With over 75 years of experience working at the intersection of labor rights, human rights, and the global economy, the Department of Labor's Bureau of International Labor Affairs (ILAB) is uniquely positioned to guide the U.S. Government's efforts to address forced labor in global supply chains. ILAB works with governments, civil society, unions, and businesses to strengthen global labor standards, enforce labor commitments among trading partners, promote racial and gender equity, and combat international child labor, forced labor, and human trafficking.

For almost 30 years, ILAB has been a leading actor in efforts to combat child labor and forced labor around the globe. Child labor is a subset of working children. It is work below the minimum age for work, as established in national law, and is often defined as work that deprives children of their childhood, their potential and their dignity, and that is harmful to their physical and mental development. The

worst forms of child labor are defined as including all forms of slavery, including the sale or trafficking of children; debt bondage and serfdom; forced or compulsory labor; using, procuring or offering a child for prostitution, for the production of pornography or pornographic purposes; or for illicit activities, in particular for the production and trafficking of drugs, and any work that is likely to harm the health, safety, or morals of children. Forced labor is defined by ILO Convention 29 as all work or service exacted from any person under the menace of any penalty and for which the said person has not offered themselves voluntarily.

To increase the capacity of governments and other stakeholders to combat forced labor and child labor and support robust strategies for improving compliance with international labor standards in global supply chains, ILAB's Office of Child Labor, Forced Labor, and Human Trafficking funds 49 active projects in 45 countries worth over \$286 million. In total, our programs and partnerships have built the capacity of over 85 countries to address labor exploitation and have helped countries develop and implement over 400 specific policies, plans, and programs to combat child labor and forced labor.

Within the U.S. Government, ILAB is the leading provider of in-depth research on global labor abuses. Our reporting brings attention to problems and incentivizes governments to address them. Our work with companies and trade associations advances social compliance and supply chain transparency. Our capacity-building projects and engagement with governments help countries pass and enforce labor laws that protect children and adults from exploitation, including safeguarding collective bargaining and strengthening worker rights. Our holistic approach allows us to effectively address forced labor from multiple perspectives.

PIONEERING RESEARCH: INFORMING EFFORTS TO ERADICATE CHILD LABOR AND FORCED LABOR

ILAB's 3 flagship reports on international child labor and forced labor serve as valuable resources for research, advocacy, Government action, and corporate responsibility. First, the annual Findings on the Worst Forms of Child Labor report (TDA Report), mandated by the Trade and Development Act of 2000, was first released in 2002. It assesses the efforts of 131 U.S. trade beneficiary countries and territories to eliminate child labor through legislation, enforcement mechanisms, policies, and social programs. In our latest edition, released in September 2023, just 4 countries (Argentina, Colombia, Côte d'Ivoire, and Uzbekistan) received the highest assessment toward the elimination of the worst forms of child labor, down from 9 countries the previous year.

The findings also reveal that weak legal frameworks world-wide allow the worst forms of labor exploitation to persist. To that end, 63 percent of the country-specific recommendations in the report focus on improving laws and strengthening enforcement, indicating the urgent need for additional progress in holding accountable those who perpetrate abuses.

Second, mandated by the Trafficking Victims Protection Reauthorization Act (TVPRA) and first published in 2009, the biennial List of Goods Produced by Child Labor or Forced Labor (TVPRA List) is a sobering reminder of how labor exploitation infiltrates our daily lives through the coffee we sip, the produce we eat, and the garments we wear.

The current TVPRA List includes 159 goods from 78 countries and areas. In the latest edition, published in September 2022, we added 32 goods, including, for the first time, 10 downstream goods produced with inputs made with forced labor or child labor. These include solar cells and modules from China made with polysilicon that have been identified as being made with adult forced labor from the Xinjiang Uyghur Autonomous Region (Xinjiang), and lithium-ion batteries from China made with cobalt ore that was mined with child labor from the Democratic Republic of the Congo. These additions were a result of our expanded mandate under the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018 (TVPPRA of 2018), which requires ILAB to report on goods made with inputs made with forced labor and reflects the Government's commitment to addressing the worst forms of labor exploitation in global supply chains.

Finally, the List of Products Produced by Forced or Indentured Child Labor (EO List), required under Executive Order 13126, is intended to ensure that U.S. Federal agencies do not procure goods made by forced or indentured child labor. Under procurement regulations, Federal contractors who supply products on the EO List must certify that they have made a good-faith effort to determine whether forced or indentured child labor was used to produce the items supplied. Currently, this EO List includes 34 products (ranging from cocoa to garments to electronics) from 26 countries.

SAFEGUARDING GLOBAL SUPPLY CHAINS

ILAB's supply chain research represents one of the first comprehensive efforts to identify goods produced with inputs made with forced labor or child labor and further aligns our work with U.S. enforcement mechanisms in looking at goods made wholly or in part with forced labor. We see our downstream supply chain research as a critical step forward in the growing global consensus on the importance of clean and transparent supply chains and the role that everyone—including governments, companies, investors, unions, civil society, and consumers—needs to play to make sure products sold here in the United States, and globally, are not tainted with forced labor. Our research is a vital resource for advocacy organizations and companies carrying out risk assessments and engaging in due diligence on labor rights in their supply chains and for consumers looking to make ethical choices.

To date, ILAB has completed extensive studies on lithium-ion batteries, solar panels, and palm fruit. For the past year, ILAB has also looked at global supply chains in over 30 countries to identify goods that have inputs made with child labor or forced labor or carry a significant risk of labor abuse and exploitation in the supply chain. The sectors cover mining (including critical minerals), agriculture, seafood, and garments. The research will be published in September 2024, along with ILAB's updated TVPRA List, with the aim of raising awareness of the global scope of goods made with child labor or forced labor and catalyzing governments to protect workers, businesses to ensure their entire supply chain is free from labor abuses, and unions, civil society, and consumers to hold governments and businesses accountable.

We know addressing supply chain issues can be daunting for businesses, so we have also created tools to make it easier to implement or improve due diligence. The Sweat & Toil mobile app showcases over 1,000 pages of our research on child labor and forced labor in an easy-to-use and accessible format. The Better Trade Tool integrates existing ILAB data on international child labor and forced labor with U.S. and global trade data to show which global imports have a higher risk of being made with child labor and forced labor.

Finally, Comply Chain is a comprehensive set of best practices for businesses to address child labor and forced labor across global supply chains. These due diligence tools are especially useful to small and medium-sized enterprises to strengthen compliance efforts.

We are also using technology to innovate around supply chain traceability. In December 2020, ILAB funded two projects to increase the downstream tracing of goods made by child labor or forced labor, with a focus on building a blockchain-powered platform and traceability matrix to help users identify supply chain traceability elements, methods, and technologies to address labor risks in diverse supply chains. Our goal is to expand the number of tracing tools in high-risk supply chains and to get those tools into the hands of a broad range of stakeholders to help eliminate child labor and forced labor.

First, the Global Trace Protocol project is in the process of building a blockchain-powered platform that brings all members of the cotton supply chain in Pakistan to a single platform, including farmers, spinners, and fabric mills. The project has also released reports on the cotton supply chain in Pakistan, the cobalt supply chain in the Democratic Republic of the Congo, and a context analysis report on traceability, which includes an overview of traceability and how to undertake it in supply chains.

Second, the STREAMS project, which is working in the garment supply chain in India, is developing a supply chain traceability matrix that users such as businesses, government officials, and civil society stakeholders can use to identify which supply chain traceability elements, methods, and technologies can address relevant forced labor and child labor risks in diverse upstream and downstream supply chains.

Our supply chain work aims to eliminate labor abuses, including child labor, in international critical mineral supply chains, many of which are dominated by Chinese companies. For example, thousands of children work in informal, artisanal, and small-scale cobalt mines in the Democratic Republic of the Congo. That cobalt is then exported to China where it ends up in lithium-ion batteries. To create a cobalt supply chain free of labor exploitation, ILAB's technical assistance programs focus on building the capacity of the Democratic Republic of the Congo's government to enforce its labor laws, creating systems to identify and remediate child labor and promote traceability. For example, one ILAB-funded project is working with the Congolese Ministry of Labor to recruit and train more than 2,000 new labor inspectors and controllers to improve labor law enforcement, including within the mining sector.

Another ILAB-funded project recently launched a Child Labor Monitoring and Remediation System to combat child labor in cobalt supply chains. Since the launch of this system in April 2023 at four mining sites in the Democratic Republic of the Congo, over 2,500 child laborers have been identified and are being assessed for services. Similar work is happening in other countries. Through our research, reporting, and technical assistance, ILAB will continue to address labor abuses in critical mineral supply chains world-wide.

DOCUMENTING FORCED LABOR IN XINJIANG, CHINA

For over a decade, ILAB has been highlighting the use of forced labor in the production of goods from China.

ILAB included 12 goods from China on the original TVPRA List in 2009. The latest TVPRA List includes 18 goods produced by forced labor in China, including several that involve the use of forced labor in Xinjiang, China's far western region where hundreds of thousands of Uyghurs, ethnic Kazakhs, Kyrgyz, and members of other persecuted groups are being arbitrarily detained and subjected to forced labor producing goods that enter the domestic and global supply chains. The Chinese government has given subsidies to companies moving to Xinjiang or employing members of persecuted groups from Xinjiang in labor transfer programs. These practices increase demand for workers from persecuted groups in Xinjiang. Uyghurs and other minorities are often sent to camps (referred to as Educational Training Centers or Legal Education Centers) where they are subjected to constant surveillance and isolation and undergo political indoctrination.

Though the production of these goods through forced labor takes place primarily in Xinjiang, there have also been credible reports of mass transfers of Uyghurs and others from Xinjiang to factories across China. This increases the number of goods potentially made with forced labor. ILAB continues to monitor the developments and risks in global supply chains in the region.

Last year, ILAB published two supply chain studies that documented exploited labor in global supply chains with production points in China. The first study found forced labor in the production of polysilicon, a key material used to produce solar panels. Xinjiang produces nearly half of the world's polysilicon, and its use of forced labor taints the entire global solar supply chain. China is also a major producer of photovoltaic ingots and wafers, which often incorporate and co-mingle polysilicon from Xinjiang with polysilicon from other sources. These ingots and wafers are used in the production of solar cells and modules. America's top 4 solar trade partners (Malaysia, Vietnam, Thailand, and South Korea) also import large quantities of solar inputs from China. As a result of this study, ILAB included photovoltaic ingots and wafers, solar cells, and solar modules in the TVPRA List, and we further highlight other downstream goods at risk of having forced labor inputs, such as silica-based products, solar generators, and semiconductors.

The second study examined cobalt supply chains, a key input to lithium-ion batteries, which has been found to be mined with child labor in the Democratic Republic of the Congo. With enormous volumes of this cobalt shipped to China, electronic products around the world are at risk of being linked to child labor. In 2020, China imported 89.4 percent of its cobalt from the Democratic Republic of the Congo. Most of China's cobalt is further refined and used to produce battery chemicals and components, such as cathodes. China then uses these parts to produce rechargeable lithium-ion batteries, which are on ILAB's TVPRA List for having an input made with child labor. In 2020, countries around the world imported over 41 percent of their lithium-ion batteries (valued at \$16.5 billion) from China. Chinese-manufactured lithium-ion batteries are found in dozens of downstream products that we use in our daily lives, including computers, cell phones, vacuum cleaners, electric vehicles, and hearing aids.

INTERAGENCY COORDINATION ON FORCED LABOR ENFORCEMENT

As an active and critical member of the Forced Labor Enforcement Task Force (FLETF), ILAB is committed to contributing and leveraging our research, reporting, and tools to support our partner U.S. Government agencies to take enforcement actions that ensure global supply chains are free of human rights abuses.

The Uyghur Forced Labor Prevention Act (UFLPA), which directs the FLETF to develop a strategy for supporting enforcement of the prohibition on the importation of goods into the United States manufactured wholly or in part with forced labor in Xinjiang and other parts of China, is an essential component of the trade enforcement strategy to address forced labor. The global demand for cheap labor, including the use of state-sponsored forced labor, makes workers vulnerable in every part of our global economy. ILAB is committed to using our research and all of the tools

at our disposal to meaningfully address labor rights violations and abuses, advance efforts to combat forced labor, and improve transparency and accountability throughout global supply chains.

The UFLPA provided the U.S. Government with powerful new tools to combat forced labor, which align with the Biden-Harris administration's efforts to eradicate forced labor from U.S. supply chains. We take seriously the mandate from Congress to enforce these provisions and to prevent American consumers from inadvertently purchasing goods made with forced labor. The intent of the law is clear: the onus is on importers to demonstrate they are not in violation of the UFLPA. The United States has zero tolerance for businesses profiting from genocide and crimes against humanity.

Since the UFLPA passed in December 2021, ILAB and the FLETF have prioritized implementing certain UFLPA mandates. ILAB served as co-lead in drafting substantial portions of the UFLPA Strategy, released in June 2022, including the comprehensive risk assessment and evaluation of forced labor schemes, as well as the guidance to importers. The FLETF drew on ILAB's expertise from Comply Chain, which has guided U.S. Government due diligence for 10 years and created a standard set of practices to reduce the likelihood of goods being produced by labor exploitation, including forced labor. We also heard of the significance of the UFLPA to the Uyghur American community and the broader Uyghur diaspora. Addressing forced labor in Xinjiang through the full implementation and enforcement of the UFLPA is of critical importance to preventing goods made with forced labor of Uyghurs and members of persecuted groups from entering the United States.

Upon the release of the UFLPA Strategy, the FLETF established an internal sub-committee dedicated to developing recommendations for adding entities to the UFLPA Entity List. ILAB serves as co-chair, developing a methodology and process for FLETF member agencies to consider in reviewing entity referrals, as well as guidance for interpretation of UFLPA Entity List criteria for supporting information and evidence required for addition. We draw from existing procedural guidelines to ensure the review and evaluation of information considers relevant factors, such as source of information, including credibility and reliability.

ILAB prioritizes the addition of entities that are violating the law to the UFLPA Entity List. We are committed to ensuring this process is robust and legally sound. Our teams have applied dynamic and evolving solutions to new and different pressure points as they arise. We also acknowledge there are limitations to these efforts, including the lack of available and current information on forced labor, especially in China and particularly in Xinjiang. Forced labor is challenging to identify because many of the indicators are hidden, and it often happens in legitimate business supply chains. We need to support organizations, including academics, journalists, civil society, and labor groups, who are advocating on behalf of vulnerable workers and risking their lives to make information public.

Our work on the FLETF, implementing the UFLPA, and our mandated reporting reflect ILAB's commitment to addressing forced labor in global supply chains and increasing supply chain transparency and accountability. These expanded forced labor enforcement tools and mechanisms have also enabled increased engagement with like-minded partners around the world. Counterparts in Canada, Mexico, the European Union, the United Kingdom, Germany, Australia, and others have sought out our expertise in research and reporting on identifying and addressing labor exploitation, in particular forced labor risks, in global supply chains. These measures have provided opportunities to leverage our work globally.

CONCLUSION

As attention and interest in global supply chains continue to grow, ILAB is in a unique position within the U.S. Government to improve working conditions and end forced labor in these supply chains. We are also leveling the playing field for responsible businesses. ILAB will continue to work with our U.S. interagency partners in a whole-of-Government effort to ensure that there are economic consequences for those who continue to break laws and profit from labor abuses.

ILAB is committed to ensuring that we use our trade enforcement tools, as well as labor diplomacy, multilateral engagement, and technical assistance, to identify and raise awareness of the risks of labor exploitation in countries and supply chains world-wide.

The UFLPA is a landmark law in the fight against forced labor and human rights abuses. While it presents significant challenges for businesses entangled in complex global supply chains, its broader impact on promoting human rights and ethical business practices is undeniable. We must continue to implement the UFLPA to its fullest extent.

Thank you, and I look forward to your questions.

Chairman BISHOP. Thank you, Ms. Lee.

Members will be recognized by order of seniority for their 5 minutes of questioning. An additional round of questioning may be called after all Members have been recognized. I now recognize myself for 5 minutes of questioning.

I will say at the inception, I think, as I have learned more about this issue and I listened, actually, to Ranking Member Ivey's comments last hearing and his opening statement today, what seems to elude me is, you know, you got the Uyghur Forced Labor Protection Act, which is new. You all have made the point very well that we have got almost 100 years of experience attempting to control products from forced labor entering the United States. I don't really discern that much, really, in your statement so far, or in the report that I read on this on UFLPA in particular, how big the problem is, any kind of metric to indicate what, you know, the size of the problem we confront and how effective we are interdicting the problem.

There are some indications, like I have heard from textile industry questions about how broadly and actively we are applying isotopic testing to indicate maybe we are not doing enough. The number of entities on the list seems awfully small. That is what I think Mr. Ivey was saying.

So let me begin with Ms. Brzozowski and say, how does DHS assess the effectiveness of the efforts in slowing down the flow of goods made with forced labor in China entering the United States and more broadly?

Ms. BRZOZOWSKI. Thank you for the question, and you're right out of the gate with a very good one.

This is something that, as I came on board recently and took over the position I'm now in, I asked my team, how are we measuring? How are we inspecting our progress? How do we know that we're doing all that we can do? We say that we're committed and we want to be making a dent in this.

I'll have to say that the size and extent of the challenge I think has been well-documented. We know what we're up against. Our ability to add entities to the list, I think we do—we are absolutely committed, we agree 100 percent that we need to scale that. Enactment, work since enactment has really been focused on setting up a robust and methodologically-sound process. But I am confident that we're now at the point where we can really start to grind those wheels and move forward much quicker.

As to how we are actually—what metrics we're using and how we're measuring success, right now it is a bit anecdotally what we're hearing from companies, the types of seizures we're seeing. We do have confidence that industry is hearing, getting the message, shifting supply chains, looking at their sources of where they're getting products.

We also have money that was allocated by Congress to our science and technology division to do some of that assessment. We're appreciative of those funds to be able to give us some of those metrics going forward.

Chairman BISHOP. Thank you, ma'am.

Same sort of question to you, Mr. Choy, at CBP. Speak, if you can, to how rapidly you are implementing isotope testing, just because I have heard of that a good bit. Also, how do you measure success in enforcement? Does this amount to sort-of a posturing of the U.S. Government is not really getting the job, you know, that sort-of shows our values? Or are we actually making a tremendous dent and clamping down on this in a way that is, you know, notable within the supply chain?

Mr. CHOY. Thank you, Chairman Bishop, for that question.

I'll start off with addressing kind-of the authorities with regards to the agencies in our Nation's forced labor enforcement laws. This goes back to, as mentioned earlier, to the Tariff Act in 1930, which did create the prohibition of goods produced with forced labor, prison labor, or the worst forms of child labor. But, however, there was a consumptive demand clause within the Tariff Act that said that if the country didn't produce goods in enough quantity that satiated the domestic demand, then it was still OK. Right? So it wasn't until 2016, through the Trade Facilitation, Trade Enforcement Act, that repealed the consumptive demand clause out of the Tariff Act.

So we've really been kind-of gone full bore since 2016 to ramp up the agency's program, but also to supplement a lot of the efforts that were already on-going within the U.S. Government, like the Department of Labor's effort as well as departments—

Chairman BISHOP. That is helpful. Address specifically, if you will, isotopic testing and the degree to which it has been implemented.

Mr. CHOY. Yes, sir. So, we have definitely been going out in the sense that we have tested the technology and, in fact, using the Congress—the resources that Congress did provide for us, we did acquire this past year capabilities in isotopic testing. So we have—our first lab just stood up in Savannah, Georgia.

Chairman BISHOP. Good to know.

Mr. CHOY. Just this past quarter. We expect the other two labs in New York City and Los Angeles to also stand up here within the next 6 to 8 months as well. The equipment was acquired back in fiscal year 2022 and is now getting delivered and installed, and we've got staff and scientists that we brought on board as well to do that. So that'll increase our capacity.

We anticipate we'll be doing more isotopic testing. We leverage that isotopic testing to investigate where we see allegations of risk or use of forced labor or in this case, say, what the XUAR and cotton—where the cotton may be used in the supply chain.

Chairman BISHOP. That is encouraging to hear. I have got a lot of other great questions, but, unfortunately, my time has expired, so I will recognize Ranking Member Ivey for his 5 minutes of questioning.

Mr. IVEY. Well, I appreciate that, Mr. Chairman.

Just sort-of along the lines on the isotopic testing, since we are on that, so my understanding is that that is primarily for textiles.

Mr. CHOY. Yes, Ranking Member, I appreciate that question.

Yes. Right now, that is currently the capability that is principally used and proven for textiles. I know that industry is exploring that. I think there's also national labs that are looking at that capability to expand, potentially, to see where it could also be leveraged in

other types of commodities. But right now, it's principally in textiles.

Mr. IVEY. OK. By the way, the textiles industry was here and was very eager to get an expansion of the isotopic testing and said that they would be happy to lobby on your behalf for additional resources to expand that out. I am certainly open to that as well.

But I did have this question. So with respect to back to the African minerals issue, and my understanding is that a lot of the minerals are mined in Africa, but maybe not solely, using forced labor and child labor; that they are then sent, in many instances, to China, and then whatever steps are taken there to integrate those materials into the final product; and then they get shipped either directly or through other, you know, other countries to the United States.

How are we able—is there an equivalent to isotopic testing for minerals? Or, I mean, and if not, how are you able to figure out—how are we as a Nation able to figure out that these materials are coming to us via forced labor or child labor?

Mr. CHOY. Thank you, Ranking Member Ivy, for that question.

Certainly, currently, to my understanding, and I can certainly take it back as well, is that for extractives, there isn't really a scientific capability to—which includes the minerals and things like gold and whatnot, to be able to leverage scientific testing to determine the origin. So, basically, what we use and rely upon is in our surveillance and our analysis of supply chains, as well as doing deep in-depth supply chain reviews with importations we suspect that leverage sources of forced labor.

Mr. IVEY. Ms. Lee? Yes.

Ms. LEE. I didn't want to interrupt you, sir.

Thank you, Ranking Member Ivey.

I wanted to weigh in on this question because this is something that the Department of Labor ILAB has also focused our technical assistance resources on. We have funded a technical assistance project in the Democratic Republic of the Congo that can begin to trace the cobalt from its origin in the artisanal and small mines all the way through to its end use. Much of it ends up in lithium ion batteries, which are, in fact, manufactured in China. As we know, China owns maybe 70 percent of the cobalt mines in the Democratic Republic of the Congo, and then does process most of that cobalt into lithium ion batteries that end up in our supply chain.

But so we have a new project that is starting with the artisanal mines, and that is going to follow the cobalt to every stage of its subsequent production.

Mr. IVEY. I might, since we are just time-constrained, you know, you might have to, if you could, send me some sort of written explanation about the details on that, and if you need additional resources to build that out, that would be good to know.

But back to you, Secretary Choy. I mean, I think you mentioned something about the mineral detection, I think you said gold. Now, is that—I think from Ms. Lee's perspective, if she is talking about just tracing it through the supply chain, if I am hearing you correctly, is there a scientific test for the actual minerals themselves, Mr. Choy, that you were referencing or is that something different?

If that is the case, does that mean you have to dismantle whatever the product is to get the material to test?

Mr. CHOY. Ranking Member Ivey, so there is not a scientific capability to test the origin. What I was referring to was similar to what Deputy——

Mr. IVEY. Oh.

Mr. CHOY [continuing]. Secretary Lee was saying, was that we rely upon that supply chain tracing, understand who the entities are at risk, and then following it through the entire supply chain to the actual us importation.

Mr. IVEY. OK. Then, boy, time runs short, doesn't it? I did have the question about the addition of entities to the list. You said something, I guess the list was established in June.

Well, I think I heard from Ms. Brzozowski, was that June 2022 that you mentioned, that 2 have been added since then?

Ms. BRZOWSKI. Sorry, the initial inaugural list included 20 entities, and since then, so since 2022, we've added an additional 10.

Mr. IVEY. Ten. OK. All right. Then you mentioned that there have been more resources—I am running over.

Well, I will yield back, but perhaps we could have a next round, Mr. Chairman.

Chairman BISHOP. Thank you, Mr. Ranking Member. The gentlemen yields back.

I now recognize Mr. Ezell for 5 minutes of questioning.

Mr. EZELL. Thank you, Mr. Chairman.

Mr. Ivey, if I don't use my time, you are welcome to take some of my time. This is so important. Thank you, Mr. Chairman.

You know, as we uncovered in our previous hearing, the Chinese Communist Party is using the Uyghur slave market to process seafood caught around the world. This product, of course, is making it to the American markets using slave labor. The CCP, who do not care about people, let's just make that—we know that, they are using their product to sell at artificially low prices. This creates clear disadvantages for shrimpers and fishermen along the Mississippi Gulf Coast, which is my district. It is very concerning, as the fishermen and shrimpers have contacted me numerous times about this.

Ms. Lee, as a member of the Forced Labor Enforcement Task Force, we know that seafood that is produced by slave labor is still reaching the American market. Doesn't this suggest the Uyghur Forced Labor Prevention Act is not being enforced properly?

Ms. LEE. Thank you so much, Congressman, for that question.

The allegations of forced labor use in the processing and also on the fishing of seafood are very, very serious, and we take them very seriously. I think the Forced Labor Enforcement Task Force is looking into whether we should be adding seafood as one of the priority sectors when we update the enforcement strategy.

I have the privilege of sitting on the Congressional-Executive Commission on China, and we heard some very alarming testimony from Mr. Ian Urbina, Professor Robert Stumberg from Georgetown University, with respect to this. We are looking into all of the allegations. We are also looking into what tools we have at our disposal to address the allegations of forced labor and the allegations

that Uyghur workers are being used to process some of the seafood that ends up back in the United States.

Mr. EZELL. Thank you very much. You know, I strongly believe that the seafood should be identified, you know, as a high priority here under the UFLPA. Do you agree with that? If approved, you know, how quickly could we identify so this could be, you know, officially recognized?

Ms. LEE. The Forced Labor Enforcement Task Force is looking into that right now. But even before we formally identify seafood as a priority area, there is nothing that stops our colleagues in CBP and DHS from looking into shipments or companies that might be suspicious. I think that is something that we see as a very high priority indeed. So I share your sense of urgency, sir.

Mr. EZELL. Thank you. What are some of the factors that you would consider before adding a new entity to the list? Mr. Choy? Anybody?

Ms. BRZOWSKI. Yes, actually, I probably am better able to take that.

We don't get into this, sharing some of the specific criteria, but what we are going to look at in general are the allegations that we are—or recommendations that we're receiving from member agencies, importantly from the nongovernmental organizations that are really closest to the ground in monitoring and doing research on these entities. They provide some vital inputs.

We are looking at, of course, the supply chain mapping and other types of research that could give us an indication of the providence of either the good or the corporate structure of the entities involved.

Mr. EZELL. Thank you. Mr. Choy, Gulf Coast shrimpers advocated for the elimination of the consumptive demand loophole in section 307. Since this loophole was repealed, I would expect robust enforcement of the prohibition of imports of goods produced by forced labor. However, CBP did not issue any withhold release orders in 2023, and CBP has not taken any additional action regarding seafood since January 2022. Can you talk to me about this, please?

Mr. CHOY. Thank you, Congressman Ezell, for that question.

CBP does take the allegations in the seafood and seafood industry very seriously. We have enforced robustly by issuing withhold release orders against fishing vessels and also a fleet of Chinese vessels as well. Certainly, I think with the implementation of the UFLPA has had an impact with regards to our ability to continue or push more rapidly investigations of the allegations that we have received.

So, but we are right now working robustly where we've increased staffing to look at the allegations that have come in, and we are looking at the allegations received in the seafood industry. We have been in close contact with Ian Urbina from the Outlaw Ocean Project, as well as other stakeholders that were involved in that. We have the information that they have, and we're looking into those allegations. Where we find kind-of the violations of the law and violations under 307, we will—you have a commitment, we will enforce.

Mr. EZELL. You will do that?

Mr. CHOY. Yes, sir.

Mr. EZELL. Yes. You know, I get—you know, growing up there on the Mississippi Gulf Coast, just about every Saturday during shrimp season, you can go down on the docks and get fresh shrimp. But our shrimpers are just being put out of business. I mean, for generations, they have been doing this stuff, and, you know, we need to stop that. These people are hard working and have done this their whole lives, and I need your help. So I want your commitment from all of you that you will do everything you can within your power to help us get this back on track.

So thank you very much, Mr. Chairman. I yield back.

Chairman BISHOP. The gentlemen yields back.

The subcommittee has its own expert on isotope testing, and he is sitting on my left. That is Mr. Thanedar, and I recognize him for 5 minutes of questioning.

Mr. THANEDAR. Thank you, Chairman Bishop. Thank you for holding this hearing and certainly welcome the expertise of our witnesses.

Just, Mr. Choy, we have spoken a lot today about what the Government can be doing to stop forced labor goods from entering the country. However, at the end of the day, private companies, including importers and retailers, are the ones responsible for following the U.S. laws.

A few questions. How can companies help ensure that their supply chain are free of forced labor? How has CBP engaged with private sector to educate them on their responsibilities?

Mr. CHOY. Congressman Thanedar, thank you for that question.

CBP has engaged very robustly with industry. Together with the Department, we have engaged—have well over 500 engagements with industry, with stakeholders, international stakeholders, with civil society, and with our partners across the Government, principally to highlight, especially when we engage with industry, the responsibility that you mentioned, that industry has to maintain good due diligence within their supply chains.

With regards to the effects that Assistant Secretary Brzozowski had mentioned is that we have seen effects where industry has been leveraging the tools and technologies that we brought folks in last March during our tech expo to introduce some of the tools and technologies and solutions that private industry has been creating to help industry do due diligence in this space. We've seen that industry has taken a very proactive stance in bringing on these capabilities to help them get better visibility into supply chains beyond tier 2, to also leverage isotopic testing at certain points within the supply chain. If you look at textiles, we've seen industry leverage testing capabilities, whether it's at the spinning, where the raw materials come in, or at certain parts maybe where the textiles themselves are made, or further where the garments are made.

So at certain checkpoints, the isotopic testing or scientific testing capabilities are a tool in the kitbag that industry can use to help them exercise due diligence in their supply chains.

Mr. THANEDAR. What can we in Congress do? How can we support CBP in this investment?

Mr. CHOY. Well, certainly we're very appreciative of the investment that Congress has already made with the agency. What we're

looking for as far as prioritizing our resources from now and forward is being able to use those resources smartly, right, and take those resources and make our work force more efficient.

So we appreciate the continued support from Congress in the sense that we will integrate the capabilities that we brought on board to look at our—to integrate into our more broad kind-of enforcement platforms, like our advanced trade analytics platform, which brings in a significant amount of data, Government data, public and open-source data, to help us identify risks within the supply chain.

We're also looking at opportunities to enhance our advanced—our automated commercial environment, which all trade transactions occur, which needs to be modernized. We have efforts under way to modernize that to keep pace with the advancements that industry has made and in global trade overall, and to help us to continue to force.

Just last, I just wanted to highlight that with the investments, I mean, we did invest significantly in additional staffing, both officers and nonuniform staff within CBP. Certainly we continue to focus on that professional development for our nonuniform staff, especially for basic entry and advanced training for them, focusing in on things like learning supply chain, doing supply chain reviews, gathering intelligence, those types of capabilities that we really need to cultivate within our nonuniform capability within the agency.

Mr. THANEDAR. Well, I certainly thank the hard-working women and men of the CBP, and thank you for your testimony today.

Mr. Chair, I am out of time.

Chairman BISHOP. The gentleman yields back.

I now recognize Mr. Strong for 5 minutes of questioning.

Mr. STRONG. Thank you, Mr. Chairman Bishop, Ranking Member Ivey.

It is a lot more pleasant today in this hearing room than it was yesterday—

Mr. IVEY. Yes, it is.

Mr. STRONG [continuing]. But I can promise you we have got a commonality here that both sides of the aisle understands what is at risk.

Ms. Brzozowski and Mr. Choy, at a previous hearing, our witnesses discussed the impact of *de minimis* shipments, Uyghur Forced Labor Prevention Act enforcement. According to these witnesses, the rapid increase in *de minimis* packages, particularly from China, undermines the ability of CBP to detect forced labor products or contraband.

How concerned are you that the Chinese companies could take advantage of *de minimis* to ship goods potentially made with forced labor to the United States?

Ms. BRZOZOWSKI. Maybe I'll start briefly, but can say that I share your concern with this challenge. As my colleague from CBP had mentioned, there is a difference in data that we get for these types of shipments, and that can complicate enforcement. Also, given the volume of these shipments, it's a complex environment what we're doing to it. But I do want to make clear that the tar-

getting and the laws do apply in this environment, and we do our best with the information that we do have.

We have a—in the short term, we are looking to enhance that targeting to do better, using software and other different technical capabilities. In the medium term, we are looking to enhance the data that we do get through regulatory action. Over the longer term, we would be open to a conversation with Congress.

Mr. STRONG. Thank you. How much visibility do we have regarding the scale of potential UFLPA violations related to the diminish-ment shipments?

Mr. CHOY. So, Congressman, I appreciate that question, and certainly I echo Assistant Secretary Brzozowski's comments in the sense that we recognize the challenge and issues in a *de minimis* environment. Certainly, when we look at the challenges within a *de minimis* environment, a lot of it goes back to the lack of information that we gather as compared to traditional shipments that come in through our ports of entry.

So with that, I mean, we have, since 2019, initiated two programs. One is we created a new entry type, which we call the entry type 86. It was kind of a pilot program for folks to enter *de minimis* shipments in through a formal process. We also had a section 321 data pilot, which we were looking to look into the environment to see what additional information elements that would be helpful for us to understand who are the parties within the shipment, what's inside the box, and who the customers are.

So we've come to the culmination of both of those data pilots. That's where we're working together with the Department in a regulatory effort to introduce different ways to file entries for *de minimis* shipments and then also what data elements that we would require for *de minimis* shipments. We feel that with that kind of expanded information and data for each of the shipments that comes in would give us greater flexibility and greater access for our targeting systems to be able to identify risk factors and be able to stop specific shipments coming in at our ports of entry.

Mr. STRONG. Thank you. A significant percentage of the U.S. textiles and apparel imports come from Central and South America, countries with whom we have free trade agreements. I can think back just a matter of years ago, Alabama was home to Russell Athletics, Champion Apparel, and we were known in one area of Alabama as the sock capital of the world. But that has gone away.

These agreements require firms to show that the goods they are shipping to the United States were produced in the region to qualify for duty-free status. What actions has DHS and CBP taken to determine whether this system is being abused to allow goods made with Uyghur forced labor to enter the United States?

Mr. CHOY. Thank you again for that question, Congressman Strong.

So we do definitely see that as a focus area for us. I mean, textiles is a priority trade initiative which was codified in the Trade Facilitation Trade Enforcement Act, which also means that as a priority trade initiative, it also prioritizes where we focus our resources in.

So with that, we've had consistent and continued focus within the textile area and we focus our resources means that we identify,

you know, targeting candidates. We do audits. We do foreign verification visits, verification visits here. We also identify—do cargo inspections, both at entry and also at post release, to identify where misdescriptions of the actual shipments may be.

Mr. STRONG. Thank you, Mr. Choy. I want to try to get one more real quick here. What actions does CDP take if it detects specific products made with forced labor being diverted to third-party countries? What actions do you take?

Mr. CHOY. So if there's illegal transshipment that's occurring through third countries, that is something that we would stop. We would detain those shipments. We would—then we would issue duty requirements to make the Government whole. Then we would issue—or we could potentially, if there's recidivism or it continues, repeat offenders, we would issue penalties against those.

Mr. STRONG. Thank you. I thank each of you for being here today.

Mr. Chairman, I yield back.

Chairman BISHOP. The gentleman yields back.

At the Chair's discretion, we will proceed to a second round of questions.

Let me go back to, so, Mr. Choy, some of that was very interesting because you addressed a number of things. You know, the robustness of your answer was very helpful, I thought.

Ms. Brzozowski, let me go back to you and maybe Ms. Lee, also, if I can work it in about the UFLPA Entity List or—yes, I think that is the right way to refer to it. So if what I understood is about 85 percent of China's, you know, cotton produce or cotton products produce is sourced from Xinjiang, which is the region where the forced labor issue is most pronounced, and just thinking about the size of the Chinese economy and general knowledge or general perception about the amount of commerce in those goods to the United States, I am always—you know, we don't have the expertise maybe to gauge everything that you guys are doing, but we can certainly hear when what you are saying sounds like it is really—you know, you are getting after it, and we want to hear that, obviously. When I hear the size of the list in contrast to those facts, it just seems striking.

Ms. Lee, before I ask, Ms. Brzozowski, you mentioned the TVPRA list, so I guess that is—you have got some sort of a list. Sort-of like, you know, I hear about these lists of Treasury designating lists of foreign bad actors and so forth. So I understand all these things exist in law. How many entities or people on the TVPRA list? Any idea?

Ms. LEE. Sure. They're not entities. There aren't specific companies on the TVPRA list.

Chairman BISHOP. I see.

Ms. LEE. What we identify is a product and a country. So, for example, cobalt from the Democratic Republic of Congo.

Chairman BISHOP. I see.

Ms. LEE. It's really what our list is meant to be is sort-of a starting point, and I think it is a resource that CBP and DHS would use to say, oh, there might be a problem with, for example, cobalt.

Chairman BISHOP. So maybe—and that is helpful. My question is probably not that very apt, though, because I don't know there is any comparison to be drawn here or anything.

But, Ms. Brzozowski, just back to you. You talked about your team. You got a bunch of things in the works. When you guys come back, maybe I won't still be here, but at the end of this year or shortly thereafter, we will hear about a lot of additional entities added to the list. But I would like you speak to that a little bit more.

What is flawed about my perception of what I just suggested? China is a massive economic actor, big market, 85 percent was the figure that I heard of their products are sourced to Xinjiang. So why so few people even on the initial list? Why wasn't it hundreds or thousands of entities?

Ms. BRZOZOWSKI. Thank you for your question.

Again, I find myself in the good position of being able to agree with you on the ultimate goal of wanting to get this list up and expanded. I think that the team has done very impressive work since the relatively short time of the enactment of the law, setting up not only frameworks, but a robust methodology that is going to stand not only the test of time, but legal scrutiny.

So we were pulling together from a broad array of expertise across agencies of administrative processes and managing and running and creating other types of Entity Lists. So that is where we were able to leverage the expertise and the resources and the know-how of the broad array of the task force members.

But you're right that the numbers themselves might not reflect the totality of that work.

Chairman BISHOP. You talk about legally sound. Is this something that, like, companies that are listed litigate against the United States Government?

Ms. BRZOZOWSKI. Yes, sir.

Chairman BISHOP. OK. So, Mr. Choy, Mr. Ivey made reference to this issue. What happens when CBP stops its shipment and determines it shouldn't be admitted into the United States? Is it released back to the shipper, or is it seized?

Mr. CHOY. Thank you for that question, Chairman Bishop.

So when the shipment is stopped or when it comes in, and we've identified this as potentially something that could be stopped pursuant to the UFLPA, there's two somewhat scenarios in this. The one that, where we have clear, say, direct shipments, say, from the XUAR, where we know specifically that this shipment is attributed back to a Xinjiang manufacturer or producer or an entity that's identified on the Entity List, those shipments are excluded, meaning that they are denied entry into the U.S. commerce. So the importer does have the ability to reexport that shipment.

But then also where we have shipments, where we feel that we know that there's ties within the supply chain not necessarily produced in the Xinjiang region of China, where it's, say, manufactured further downstream with inputs from the Xinjiang region of China, those shipments are detained. Then we work together with the importer where they have the ability to submit matters on behalf of those entries to demonstrate whether the UFLPA does or doesn't apply to those specific shipments. In that case, we request

a full supply chain documentation from the raw materials to all inputs to the actual importation of the goods.

Chairman BISHOP. My time has expired, so I yield to Mr.—or recognize Mr. Ivey for his 5 minutes in the second round.

Mr. IVEY. Thank you, Mr. Chairman.

I want to follow up on that question and, actually, a question earlier with respect to perishables, in that instance, seafood. So you identify a shipment that is in violation, I guess. By the way, the description of the process you just outlined, is that only for textiles or would that apply for minerals or seafood as well?

Mr. CHOY. That applies across the board.

Mr. IVEY. All right. OK. So you detain it, you mentioned. How fast is that process? Because if you got perishables, I would assume it would have to move very, very quickly for you to run your traps and make a determination about whether there is a violation there or not. How would that work?

Mr. CHOY. So, according to the regulations, the importer has 30 days to submit matters on behalf of the specific entry to the responding center of excellence and expertise. So it's really up to the importer to have their documentation ready. So if they don't have that documentation ready, they can go up to 30 days. They can request an extension, but if the importer has their documentation ready, the centers have been able to clear through shipments relatively quickly within 7 to 14 days.

Mr. IVEY. OK. So, how does that work for seafood? I mean, because that is a very long—especially 30 days. That is just too long. So, I mean, what do you do in that instance?

Mr. CHOY. Well, in that instance, I mean, it would be incumbent upon the importer to make a decision of whether they would either reexport those shipments or figure out ways to store and maintain those shipments.

Mr. IVEY. When you say reexport, you mean send it to someplace other than the United States?

Mr. CHOY. That's correct. Yes, sir.

Mr. IVEY. All right. So then the importer, whether it is seafood or minerals or textiles, still would have the opportunity to profit from the child labor or forced labor that we had identified?

Mr. CHOY. So, and if the importer reimports those goods, yes.

Mr. IVEY. All right. Let me—have we—has Congress given you the legal authority to seize these imported materials, not just detain, but to seize them?

Mr. CHOY. So we do have the regulatory authority to seize those goods. It would depend based upon the case and the scenario by which those entries are. But also, statutorily, there are challenges with regards to the seizure process that is lengthy and with regards to the burden on the agency as well.

Mr. IVEY. OK. We will set perishables to the side for the moment just because of the time sensitivity, obviously, with those. But let's say minerals with respect to the batteries or with respect to textiles, how is there a determination made?

Because from my—I will just say this. My perspective is if we really want to put sanctions in place that punish these companies that are involved in the supply chain that we have effectively traced back to forced labor or child labor, allowing them to just

send it to Plan B and get the same amount of money doesn't seem to really get the message across in the same way.

I know the United States is a gigantic market and everybody wants to continue with that, but, you know, if they—and I think this is what we got from the textiles association testimony. If they just keep pushing the mass over and hoping that the vast majority of it will get through, but every now and then something will get caught, but it still just gets redirected, they just sell it somewhere else, it seems to me that we are not, you know, using our tools sufficiently to send the message back.

This isn't a criticism of you all. I am just—you know, this is a question, but this is my sense of it from what I think I am hearing.

So what is your take, out to the whole panel, what is your take on that issue?

Ms. BRZOZOWSKI. From a—maybe not from the operational perspective at the border, but I could also say that this is why it's so absolutely imperative that we have partnerships with foreign governments, so that as these—if seizures are not able to be accommodated on each and every instance, that these goods are not finding their way into other countries, and that as a collective, we're working against the reimport of these violative goods.

I'll give one more note, that as the task force, this is one of our primary responsibilities. So in addition to creating the Entities List, one of the key responsibilities is to actually conduct that engagement to go out to not only the private-sector companies for education, which is largely being—

Mr. IVEY. Well, just to reclaim quickly.

Ms. BRZOZOWSKI. Yes, please.

Mr. IVEY. I have expired on time to reclaim, but just to follow up, do we have the legal authority? So you are working to make sure there are other countries that aren't taking it, but, apparently, that means that there are other countries that do. No offense to any, no criticism, but do we have the legal authority, do you have the legal authority to just say, you know what, forget all of that? This is an illegal shipment. We are using forced labor. We are going to seize it. I don't know, the Government, like, the Government seizes, certainly in the criminal world, seizes materials all the time and, you know, deals with it in that way.

Do you have the authority to do that or is that something that Congress would have to give you?

Mr. CHOY. Thank you. The agency has the authority to seize. So, in the context of the UFLPA, where we have specific shipments, where we have the specific confidence or the exact confidence that we know that these are prohibited goods, we do have that authority to seize.

The challenge that we have is where—and those are things that, as we implement things like a withhold release order or have entities on the Entity List or we have specific shipments, and we do provide notification to the importers when shipments are entered into the system that are going to be subject to the UFLPA that come directly from the Xinjiang region, so we see a decline in those specific shipments coming into the United States.

So where the challenge being is where the inputs then are taken, either through third countries or those inputs are used in down-

stream manufacturing processes, and also the importer then has the ability to demonstrate their entire supply chain. So during that time, you know, we don't necessarily have the specific standing to seize the shipment at that point in time. So during any time during that process, you know, the importer does have the right to be able to reexport those shipments.

Mr. IVEY. Well, I thank the Chair for—well, thank you for your candor with the panel, and I thank the Chair for letting me run over time.

Chairman BISHOP. The gentlemen yields back.

I think it has been very helpful, and I think we will proceed to a discretionary third round for just a minute, you and I. I think Mr. Ezell doesn't care to ask, doesn't have more questions, so he waives.

So let me just, again, sort-of pursue the line that you were on.

No, let me take it different because there a couple of thoughts conflicting in my mind.

Mr. Choy, I think you said earlier that the *de minimis* exemption or exception, whatever it is called, does not apply to the UFLPA. Did I get that straight?

Mr. CHOY. Chairman Bishop, the *de minimis* exemption does apply to the—

Chairman BISHOP. Does?

Mr. CHOY. Doesn't apply to the—

Chairman BISHOP. Doesn't?

Mr. CHOY. I mean—

Chairman BISHOP. It does not apply?

Mr. CHOY. There is no UFLPA exception in *de minimis*.

Chairman BISHOP. OK.

Mr. CHOY. For *de minimis*.

Chairman BISHOP. I am sorry, say that part again. There is no UFLPA exception?

Mr. CHOY. So there is no *de minimis* exception within the UFLPA. So the *de minimis* doesn't—or does apply. Or doesn't apply, sorry.

Chairman BISHOP. Take another shot and just explain to me what that means. How does that—what is the implications of that?

Mr. CHOY. So, meaning that in all environments where cargo or shipments or entries are filed, that if something is coming through *de minimis*, it's still going through all our screening systems.

Chairman BISHOP. OK. So like, otherwise, I mean, the basic notion of the *de minimis* exemptions, I understand it is like if you are getting—purchasing a certain amount, and I don't remember, somebody told me \$800 or something like that—

Mr. CHOY. No, \$800 per one—per day per person.

Chairman BISHOP. Yes. So if somebody gets some goods from abroad, they can kind-of bring them in and they are not subject to the same usual scrutiny by CBP, basically. Is that the idea?

Mr. CHOY. Well, it's not subject to duties and taxes.

Chairman BISHOP. OK. But there is no such *de minimis* exemption for anything that is covered by the UFLPA?

Mr. CHOY. Right, there isn't. So even if it comes in through *de minimis*, the UFLPA still applies.

Chairman BISHOP. Still applies.

Mr. CHOY. Right.

Chairman BISHOP. Got it. So as far as—well, let me ask this question, though, about the *de minimis* exemption. Ms. Brzozowski, maybe I will go to you in this part of it.

You know, I sketched out in my opening statement some of the massive numbers, the massive increases in goods that come in with respect to the *de minimis* exemption. I think some suspect that that becomes a huge source of evasion of the interdiction of forced labor produced goods. Is our—and I know you have some background in large ecommerce platforms. To what degree or can you comment at all on whether e-commerce platforms are a driver of that massive expansion of the exploitation of the *de minimis* exemption?

Ms. BRZOZOWSKI. In my current role what I can comment on is the challenge that this environment presents for our folks at the border for targeting, and that we have seen an exponential rise over the last number of years. I think there's any number of variety of factors that go into this, key points being we are working hard in a very, very challenging environment.

These requirements, as maybe to put it in another way, we are enforcing on forced labor laws in this particular channel. But it's more challenging because of the limited amount of data that we get, which, of course, drives our targeting capabilities and our decision making.

Chairman BISHOP. All right. Mr. Choy, thank you very much for trying to persist through my torturous series of questions about the *de minimis* exemption. I am not sure I understand it fully, but I kind-of get the gist.

Let me ask about this. You talked about three isotope testing labs or testing labs being stood up. One is already in operation. That sounds good. What kind of quantity of—can you quantify the amount of testing in some way that you anticipate those labs being able to do, the one that has been set up and the other two that you expect to be coming on-line and the difference that it will make?

Mr. CHOY. Well, I can certainly take back the quantification. I don't have those—

Chairman BISHOP. OK.

Mr. CHOY [continuing]. Stats in front of me currently right now. But I can just generally talk about with regards to how we leverage the isotopic testing and how we anticipate that it would be leveraged. I mean, certainly we've used isotopic testing at this point to investigate supply chains, investigate where we have perceived—we have received allegations and have perceived risk of entities and entities that are involved in the use of using inputs from the Xinjiang region, and that informs our targeting.

But then, also, you know, we do educate and we do inform our folks out in the field. So this also—that education and training also gives the ability to our officers at our port of entry and our import specialists to identify shipments, pull samples, and then send them off for testing as well.

Chairman BISHOP. How, if at all, are the capacities of CBP to address this problem, how have they been affected or impaired by sort-of conditions at the border more generally that we have heard about? A lot of, you know, agents being moved from different re-

gions to come to the Southwestern Border and service. Does that have any impact on this part of CBP's responsibilities?

Mr. CHOY. I would just say that, you know, the agency's, you know, border security mission is foremost, and then, you know, our focus with regards to the security within the cargo environment as well, is also foremost as well. You know, we continue to, regardless of the conditions, continue to focus on that and maintain that as a high priority.

Chairman BISHOP. So I take that as you keep trying to do your job, but, yes, there is probably an impact. Unless you are telling me something dramatically different, that is what I read in what you just shared.

So I yield back and recognize Mr. Ivey for his final round of questions.

Mr. IVEY. Thank you, Mr. Chairman.

Just to follow up on the Chair's question about the testing, I was kind-of curious about the logistics of that. So you have got a test facility. I think you said it is in Georgia?

Mr. CHOY. Yes, sir. We have one in Savannah, Georgia, that's operational currently.

Mr. IVEY. OK. So whatever you want to test gets shipped from whatever port the material is stopped at, and then you ship it to Georgia? Is that how it works?

Mr. CHOY. That's correct. So there's a chain of custody that's established, and then it's shipped to the labs to test. So the samples are pulled and then—but for the isotopic testing, there is the highlight that it does take—those samples are pulled, but those samples then are subsequently destroyed by the testing.

Mr. IVEY. Yes. How long does it take to ship, test, and then make a decision? While the testing is being done, I am assuming nothing is being withheld or seized at that point. These tests are done independently of a seizure determination, is that right?

Mr. CHOY. It depends. So the test could be conducted when the shipment has already—has been detained, or they could be conducted when we're conducting our risk assessments and our surveillance of specific shipment lines.

As far as the time it would take to go from the port to the lab, it's just kind-of—it would be fairly quick with regards to the express carriers taking those shipments. So as far as the time it would take to actually conduct the test, I can certainly take that back.

Mr. IVEY. OK. I had a question with respect to the seize-release issue that we were discussing a few minutes ago. Apparently someone decides at some point where, OK, we have identified this, it is a problem, but we are going to release it. Then there is another scenario where it gets seized. Who makes that determination? Is there a department or agency that does that, or who makes that decision?

Mr. CHOY. Thank you for that question, Ranking Member Ivey. So the port director has the authorities to make those decisions.

Mr. IVEY. OK. You also mentioned 19 million in fraud and penalties, I think, at one point, that had been imposed. What is that on? Is that on the textiles piece or is that across the board?

Mr. CHOY. Those were for textiles specifically in fiscal year 2023. So those were for a couple of various issues, whether it's from valuation, misdeclaring the items, or declaring that—you know, claiming, you know, free trade agreement.

Mr. IVEY. Have there been civil penalties imposed with respect to the minerals issue that we were discussing?

Mr. CHOY. I'll have to take that back, Member Ivey. I can certainly discuss that with your staff.

Mr. IVEY. OK. Then I think you mentioned and I think the Chair referenced this as well, border security. I think someone, it might have been your testimony, Mr. Choy, with respect to fentanyl, and I was kind-of curious about that.

Using a test to inspect supply chains, threat detection, and my notes have that fentanyl was mentioned in there somewhere, but I wasn't clear on it, so I want to get a follow-up explanation.

Mr. CHOY. Thank you, Ranking Member Ivey, for that question.

Certainly, the agency's effort in the fight against fentanyl has been one of the top priorities for the agency. Certainly the efforts behind the UFLPA and the capabilities that we brought on board and the capabilities we created through our advanced trade analytical platform to provide modeling of how trade flows based upon kind-of known risks and threats has given us the ability to look at where potential risks and where that fentanyl may be entering in through our ports of entry. So that's where I'd mentioned fentanyl within my opening statement or my opening remarks.

But certainly I just want to highlight that, you know, that CBP's—of course, are a combination of interdiction and intel capabilities. Our border search authorities puts us in a very unique position with regards to the fight against fentanyl.

So we issued our new strategy to combat fentanyl and synthetic drugs in October of last year, which really is addressing kind-of the current environment, the changing threat. In that focus, and working together with our Department colleagues, our fellow law enforcement colleagues within the Department, as well as with the interagency, have really kind-of focused significantly on that effort and just kind-of the stats alone that in fiscal year 2023 CBP seized well over 27,000 pounds of fentanyl at our border and, you know.

Mr. IVEY. Let me reclaim my time. I apologize. I am curious about, you know, which ports are which with respect to fentanyl, textiles, minerals. I don't know how extensive the Border Patrol—I guess you are probably at every port of entry, but, you know, hearing more about how that works and which testing is done where would be great.

Then if I could get one last question in. One of the issues that I have heard the challenge is for putting more entities on the list is bad companies have figured this out and they are starting to take steps to cover their tracks. I guess that goes to some extent to the supply chain mapping piece that was mentioned a moment ago.

But what sorts of things can we do? To the extent—I don't want you giving tips to the importers about what is there and what to circumvent, but to the extent you can tell us about it, what sorts of things are you doing to defeat that effort to cover their tracks?

Ms. BRZOWSKI. I'd actually maybe take a first stab at this, but maybe put it in a slightly different light with regard to the importers. I think the vast majority of importers are as repulsed by this abhorrent practice as we are and actively taking steps to eradicate it from their supply chain. So I think we've got partners in them and need to leverage not only their capabilities, but also use them to enhance ours. So a lot of these tools and a lot of these analytic tools and anecdotes that we're getting about the impact it's having are coming from importers and from the private sectors who have really extensive capabilities to be mapping their own supply chain.

I think what we're trying to do is send a very strong demand signal with our enforcement, with our ramping up of the Entities List that this is serious and that we'll work with importers to make sure they have the information they need to be compliant, but that the consequences for noncompliance will be severe and that they will be held accountable.

In the flip side of that, making sure that there's an appreciation of the fact that diverse and resilient supply chain, not only in this case, have a—are the right thing to do to combat forced labor, but have an economic and resiliency benefit to companies as well.

Mr. IVEY. I am noting I am running over my time and I apologize to the Chair, but if we could get comments from the last two on the panel on the same. I apologize for cutting you off, but.

Ms. LEE. Thank you, Ranking Member Ivey.

Just to add to what Assistant Secretary Brzowski said, I think there's no question that companies and the Chinese government are taking steps to obfuscate the supply chain and so on. So I think that just speaks to how important it is that we ramp up all the work that we've talked about today with respect to supply chain tracing, with respect to enforcement.

I think that the point that Assistant Secretary Brzowski made also that there is an enormous burden and an obligation on the part of the ultimate companies, the companies at the top of the supply chain, to make sure that they are aware of and taking steps to remove these entities from their supply chain. They have the power to do that. I think that the Uyghur Forced Labor Prevention Act, the rebuttable presumption, the forced labor import ban in whole or in part, is a tremendously powerful tool and that we are, I think, doing everything within our power.

I think the resources that CBP and DHS and DOL and the other Forced Labor Enforcement Task Force agencies have are essential to making sure that we can do the research and follow through, to make sure that we are able to trace the complicated corporate structures and the complicated supply chains in order to be able to do our best job to enforce this law.

Mr. IVEY. Let me give Mr. Choy the last word.

Mr. CHOY. Well, I echo Deputy Under Secretary Lee's comments and as well as Assistant Secretary Brzowski's. I couldn't say that any better. Thank you.

Mr. IVEY. Thank you so much. I appreciate it.

Chairman BISHOP. The gentleman yields back.

It is perfunctory in these hearings to thank the witnesses for appearing, but I really want to do that earnestly today. I have had occasion more than once to be critical of the either forthcomingness

or the preparedness of witnesses before committees. This has been an exceptional panel of witnesses. I always have particularly high regard for Customs and Border Patrol, and certainly those of you at serving in the other departments' agencies represented here. But thank you very much.

The Members of the subcommittee may have additional questions for the witnesses, and we would ask you to respond to those in writing if they are forthcoming. Pursuant to committee rule VII(D), the hearing record will be held open for 10 days.

Without objection, the subcommittee stands adjourned.

[Whereupon, at 11:26 a.m., the subcommittee was adjourned.]

APPENDIX

QUESTION FROM HONORABLE MIKE EZELL FOR ERIC CHOY

Question. Major solar panel manufacturers Hanwha Q-Cells and Maxeon have been the supplier for utility scale projects in Mississippi. According to the Sheffield Hallam University report titled “Over-Exposed: Uyghur Region Exposure Assessment for Solar Industry Sourcing,” Q-Cells and Maxeon have a “very high” risk of ties to forced labor in Xinjiang. With respect to Q-Cells, the Sheffield Report found Meike Solar Technology, a Chinese company which gets raw material from Xinjiang, reported Q-Cells as one of its largest customers in the first half of 2022, even though Q-Cells claims it cut off the supplier’s relationship in 2021. When major solar manufacturers are allowed to import panels made with Xinjiang polysilicon it hurts domestic manufacturing, including the Mississippi polysilicon industry. Without detaining Q-Cells and Maxeon imports, how can you be sure they’re not using Chinese polysilicon tainted with forced labor from Xinjiang?

Answer. The Uyghur Forced Labor Prevention Act (UFLPA) presumes that all commodities and inputs, from raw material to parts to finished products, from the Xinjiang Uyghur Autonomous Region (XUAR) are made with forced labor. U.S. Customs and Border Protection (CBP) has reviewed the Sheffield Hallam University report cited in your question extensively and has used this, along with CBP analytical tools and resources, to evaluate risk of solar products subject to enforcement and we have adjusted our targeting of shipments accordingly. Unfortunately, CBP cannot comment on specific investigations or provide details pertaining to specific detentions because this information may be law enforcement sensitive and/or subject to business confidentiality.

CBP employs a dynamic, risk-based approach to enforcement that prioritizes action against the highest-risk goods based on current data and intelligence to prevent prohibited goods from entering the United States. CBP enforcement efforts safeguard all industries from unfair trade practices. However, some industries, such as solar and textiles, have seen increased scrutiny due to open-source reporting on the use of forced labor in the production of raw materials used in their supply chains.

Using the resources provided by Congress, CBP is strengthening our forced labor enforcement efforts by investing in personnel, training, outreach, technology, and laboratory science capabilities. The agency is using technology to map supply chains and research high-risk commodities to ensure supply chains are free of forced labor and XUAR inputs.

Additionally, CBP is increasing its analytical and threat detection capabilities. CBP developed and operationalized analytic models that identify entities operating in XUAR, their affiliates, entities with whom they share traits or characteristics, and indicators of evasion activities (e.g., illegal transshipment) to help further our analysis and enforcement efforts related to UFLPA. Solar panel shipments are subject to close UFLPA review and CBP’s team of specialists conduct extensive supply chain reviews to ensure shipments released into the United States are not made with raw materials from the XUAR. CBP understands that there are companies actively trying to evade CBP enforcement of the UFLPA, which is why CBP is continuously revising and strengthening its enforcement procedures to stop those importers who are still seeking to import forced-labor tainted products. Since UFLPA implementation began on June 22, 2022, CBP has conducted over 3,700 reviews of supply chain tracing documentation provided by solar importers subject to detention under the UFLPA and will continue to strengthen its processes to maximize enforcement in this sector.

CBP continuously engages with importers and emphasizes that they have the ultimate responsibility to proactively monitor their supply chains, which they know better than anyone, to mitigate the risk of importing goods into the United States that were produced with forced labor. As stated in the Xinjiang Supply Chain Business Advisory updated on July 13, 2021, “businesses that do not exit supply chains, ven-

tures, and/or investments connected to Xinjiang could run a high risk of violating U.S. law.” All entities whose supply chains touch the XUAR should undertake due diligence to ensure compliance with U.S. law. Section VI of the Forced Labor Enforcement Task Force’s UFLPA Strategy provides due diligence and supply chain guidance for importers.

