

# The UFLPA explained for apparel & textile companies



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Proving the responsible sourcing of cotton products is now compulsory under the USA's Uyghur Forced Labor Prevention Act (UFLPA). Our UFLPA white paper explores this legislation and its implications for apparel brands and retailers and importers entering the US.

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# What is the UFLPA?

The UFLPA was introduced to end forced labor as a moral, economic, and national security imperative. The Act decrees that any imported goods produced either wholly or in part in identified risk origins are presumed to be made using forced labor and therefore prohibited from the US.

The new law puts in place a rebuttable\* presumption that the goods have been manufactured with forced labor, even if the finished goods are not themselves coming from these risk origins, and therefore will be detained pending the provision of clear and convincing evidence to the contrary.

**That is unless an importer can prove, by clear and convincing evidence, that the goods, wares, articles, or merchandise were not mined, produced, or manufactured wholly or in part by forced labor.**

To be prepared for the enforcement of this law, all businesses must conduct due diligence, auditing measures, and supply chain tracing to verify that their supply chains are clean. This now includes forensic testing to verify the origin of the imports.

\*An assumption that is deemed fact unless rebutted by reliable conflicting evidence



# Key features of the UFLPA legislation

- One of the key features of the bill requires that CBP applies the presumption that any goods, wares, articles or merchandise mined, produced, or manufactured in risk origins are prohibited importation and not entitled to entry at any port of the United States.
- This strategy and the accompanying required updates provide flexibility in the bill so that the rebuttable presumption can apply to entities outside the risk origins.
- **A significant proposed change is to remove the UFLPA's de minimis exception**, which establishes the threshold dollar value at which shipments are subject to UFLPA enforcement. When the de minimis threshold was raised from \$200 to \$800 in 2016, shipments valued at \$800 or less effectively did not have to comply with the UFLPA, other Tariff Act bans on importing forced labor goods, or US tariffs.
- CBP is currently exploring ways to track de minimis shipments and Congress has introduced two bipartisan bills to limit the applicability of the de minimis exception: the Uyghur Genocide Accountability and Sanctions Act (UGASA) and De Minimis Reciprocity Act of 2023.



The four high risk sectors: Apparel, Cotton, Tomatoes, Polysilicon

# How will the UFLPA affect your business?

## The global impact of forced labor cotton: A closer look

### Forced labor cotton in global supply chains

Risk-origin cotton from risk regions is insidious and far-reaching within global supply chains.

# 28 million

Of the 28 million people living in forced labor globally, nearly two-thirds are connected to global supply chains.

# 877 Shipments Detained

As of September 2023, CBP detained 877 apparel, footwear and textiles shipments worth \$36 million.<sup>1</sup>

# 27%



CBP statistics show that 27% of footwear and garments collected in May showed links to cotton from risk origins.<sup>2</sup>

The above statistics highlight the challenges of complying with the USA's UFLPA regulations, despite the best of intentions by brands and importers.

<sup>1</sup> Uyghur Forced Labor Prevention Act Statistics | U.S. Customs and Border Protection (cbp.gov)

<sup>2</sup> US Customs finds garments made with banned Chinese cotton | Reuters

# Forced labor cotton: a global supply chain challenge



**Cotton manufactured using forced labor is inherent and insidious throughout global supply chains. Despite the ESG claims of many brands and retailers, the depth, opacity, and complexity of cotton supply chains makes tracing and eliminating forced labor cotton extremely difficult.**

Led by the US, Western nations are intensifying their efforts through government legislation to combat forced labor in cotton production. The UFLPA is a significant step towards addressing the issue and other markets are rapidly following suit with tougher Modern Slavery Acts and ESG-related legislation, including actions in the EU, UK, and Canada.

However, this regulatory push presents a new challenge for manufacturers and suppliers: how to demonstrate compliance. Unlike previous forced labor enforcement acts, the UFLPA grants CBP the authority to detain goods under the legislation without the need for prior investigation or establishing suspicion.

Because this enforcement covers the entire production process of the goods, including sourcing of raw materials, traditional supply chain traceability systems and documentation fall short in meeting the stringent evidentiary standards required by the UFLPA.

# Isotopic testing reveals risk origin cotton

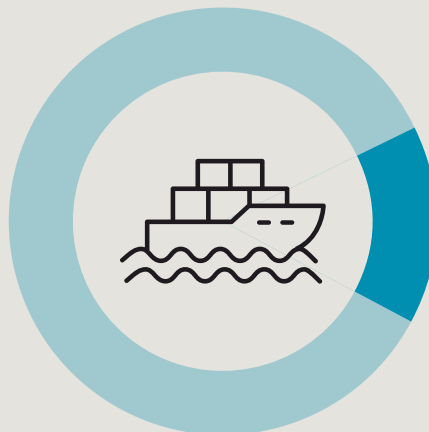


To test the products, customs officials used isotopic testing, which can link cotton to specific geographic areas by analyzing the concentration of isotopes present in both the product and the environment in which it has been grown.



**27%**

of footwear and garments tested by CBP in May include risk origin cotton.



**15%**

of total shipments tested included risk origin cotton.

In May 2023<sup>3</sup>, 27% of garments collected by CBP showed links to risk origin cotton. These items encompassed a diverse range of apparel, including boxers, jeans, T-shirts, baby onesies, and dresses, all of which contained cotton, sometimes in combination with other textiles like spandex and rayon.

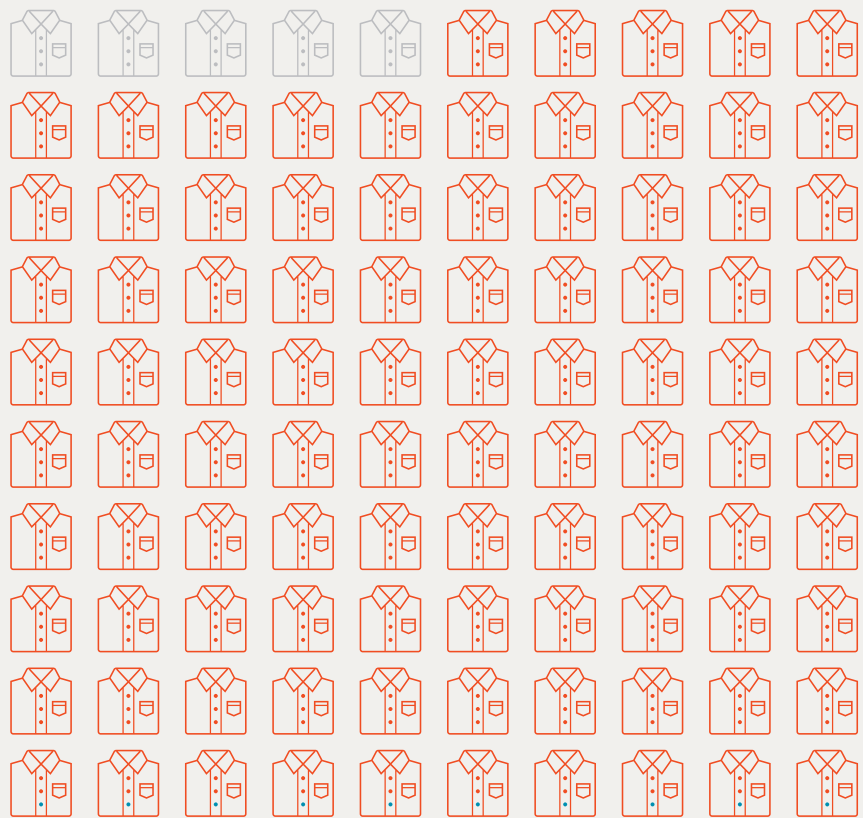
<sup>3</sup> US Customs finds garments made with banned Chinese cotton | Reuters

As part of our Market Insights Program, Oritain conducts independent and random investigations into the presence of risk origin cotton in the global apparel market, utilizing our unique forensic analysis methodology.

Our 2022 investigations showed that a **staggering 95% of brands tested had at least one garment containing cotton from high-risk regions**. The survey included 1,000 samples from over 40 brands collected from retail shops and online in six Western markets.

# 95%

of brands had at least one garment containing cotton from risk regions





# The growing concern of cotton trans-shipment

**While the USA's sweeping ban on risk origin cotton should be a boon for other manufacturing nations, it has created a new issue: cotton laundering. In response to the UFLPA, claims are being made that other countries are enabling the bypassing of these sanctions.<sup>4</sup>**

It is claimed that many of the cotton and cotton-based yarn, textiles and finished goods grown and manufactured in risk origins are now being transported through Bangladesh, India, Vietnam, Cambodia, Sri Lanka, Malaysia and other Asian countries involved in weaving, knitting, and cutting-and-sewing to foreign manufacturing hubs before being shipped internationally.<sup>5</sup>

For manufacturers in these countries, it can be extremely difficult to distinguish cotton products from different sources because they may have been mixed while being transported - whether deliberately or inadvertently.

This means international brands and wholesalers can now buy from factories that have no obvious ties with companies based in risk origins, guaranteeing a stable supply of high-risk cotton to the international market while governments, brands, and consumers continue to protest and legislate.

<sup>4</sup> Bangladesh and Vietnam: Businesses alarmed over risk of 'cotton laundering'

<sup>5</sup> China Uyghurs 'moved into factory forced labour' for foreign brands - BBC News

# Tough new ESG regulations underway in other key markets

While not as stringent as the USA's UFLPA legislation, Canada, the EU and the UK are moving towards tighter ESG and traceability regulation. Other Western markets are also under increasing pressure to update their ESG legislation as more and more larger powers take action.

- **Canada's S-211 regulation starts in 2024**

In 2024, Canada will implement the Fighting Against Forced Labor and Child Labor in Supply Chains Act in 2024 (S-211).

Larger businesses will be required to submit a comprehensive annual report on their efforts to prevent and reduce the risk of exploitative labor practices in their supply chains.

- **Tightened regulations in the EU**

In Europe, tough new corporate sustainability and reporting regulations are in place, as the EU seeks to strengthen global value chains. From 2024, all large businesses operating in or exporting to the EU will need to be ready to provide credible proof that products are sourced from socially responsible and sustainable sources.<sup>6</sup>

- **New Green Claims Code in the UK**

The UK's CMA (Competition and Markets Authority) has cracked down on greenwashing through its new Green Claims Code. Companies making environmental claims need to ensure their sustainability or environmental claims are properly substantiated and do not mislead consumers.

It's worth noting that the **CMA is currently reviewing code compliance in the fashion retail sector, including cotton**. To date, several international companies have been found to breach this new code.

<sup>6</sup> New social and environmental reporting rules for large companies | News | European Parliament (europa.eu)

# The proof is in the paperwork

In conclusion, the path forward for cotton importers into the US market is clear: prioritizing supply chain due diligence and accurate reporting is paramount, while recognizing that change can be a lengthy and resource-intensive process due to the complexity and opacity of global supply chains.

Cotton brands, manufacturers and exporters need to get ahead of the regulation, rather than risk substantial losses to both revenue and reputation. As our white paper: [How businesses can prepare for the UFLPA](#) demonstrates, being able to verify authenticity of origin will be key.

For those sourcing cotton from any high-risk manufacturing country, isotopic testing is a viable solution, as it can identify whether cotton has been sourced from risk origins, regardless of the country of manufacture or the complexity of the supply chain.



To learn how your company can stay ahead of the game and prepare for the UFLPA, download our white paper: [How businesses can prepare for the UFLPA](#)



This white paper was a collaborative effort between Dr. Katherine Jones, Oritain Senior Science Advisor; Ana Hinojosa, Oritain Advisor, Government & Regulatory Affairs; and Oritain's Market Insights Team.

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