

FLETF Expands UFLPA Entity List with Chinese Cotton Traders: What It Means for Every Industry

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On May 16, 2024, the U.S. government's Forced Labor Enforcement Task Force ("FLETF") announced the addition of 26 new entities to the Uyghur Forced Labor Prevention Act ("UFLPA") Entity List. The announcement was published on the Department of Homeland Security ("DHS") website and can be found [here](#). The draft Federal Register notice can be found [here](#) and will be published on May 17th. This brings the total number of entities to the list, available [here](#), to 65.[1]

The Additions

All of the entities were added to the section 2(d)(2)(B)(v) list of the UFLPA, which identifies entities that source material from Xinjiang, participate in "poverty alleviation" programs, or facilitate other government programs connected to forced labor. According to Appendix 1 of the Federal Register notice, the 26 entities are "cotton traders or warehouse facilities" which FLETF has found to source cotton from the Xinjiang region. Of the 26 entities, 21 were found to have marketed cotton sourced from Xinjiang on an online wholesale platform, which Kelley Drye has identified as likely being Mcotway. The remaining five were identified as sourcing cotton from Xinjiang through "corporate documents, websites, or media reports." The majority of the 26 entities are located outside of Xinjiang.

The Takeaways

The addition of 26 new entities is a significant increase to the Entity List and the largest that FLETF has undertaken since the UFLPA was passed. This suggests that FLETF is responding to the calls from activists and Congress to further expand the Entity List.[2] It also suggests that FLETF is using a number of different tools to ease the burden of examining individual entities on its own, potentially including information received by CBP in connection with previous UFLPA detentions. There is significant overlap between the companies listed now by FLETF and companies which have made appearances in reports on forced labor from Sheffield Hallam University (including 17 out of this batch of 26), a reminder of the importance of paying attention to activist reporting in this space.

This update is significant not only for the *number* of companies added to the Entity List, but for the *type* of companies added. Notably, none of the entities on this list are producers of cotton in Xinjiang, or manufacturers engaged in a value-added process. Rather, these companies are trading

and logistics companies, only two of which are located in the Xinjiang region. The consequence of including these companies, which operate in a strictly buy-sell capacity, is that shipments which have *no* Xinjiang-origin cotton may now be detained *and not clearable through CBP custody* simply as a result of connection to such traders in their supply chains.

Cotton is one of the high-priority sectors designated for UFLPA enforcement. Should FLETF continue this strategy of adding intermediate buyers and sellers of goods to the Entity List in other high-priority UFLPA enforcement sectors (such as polysilicon, or other sectors that may be added as high-priority sectors in the near future), then ensuring that raw materials are not sourced from Xinjiang (or China) will not necessarily be sufficient to avoid UFLPA detentions, or to successfully navigate such detentions that occur. Supply chains that are compliant today—even supply chains already reviewed and approved by CBP—could become non-compliant overnight, simply because a Chinese party in the supply chain has received shipments from Xinjiang, even if that company is not transacting in Chinese material in the context of that specific supply chain. While isotopic testing and certificates of origin have never been able to secure the release of detentions on their own, this expansion of Entity List scope to include cotton purchasers further underscores that such certification is not sufficient proof of a supply chain devoid of forced labor.

These developments underscore the importance of developing an in-depth understanding of the parties at every level of the supply chain through traceability and risk assessment efforts and providing detailed and thorough vetted traceability packages when a shipment is detained. Should you need assistance with either, Kelley Drye is able to help.

[1] Note that FLETF began counting named subsidiaries individually in December 2023, increasing the Entity List count by nine.

[2] Kelley Drye has been tracking Congressional letters on forced labor and the UFLPA, and this information is available upon request.