

A practical guide to UFLPA compliance

Everything you need to deliver a proactive strategy rooted
in multi-tier supply chain due diligence.





The road ahead for automotive supply chain compliance

The automotive industry is shifting gears. The converging forces of global environmental and human rights legislation, green transition, and changing consumer behaviors are fundamentally altering the sector.

While the transition to electric vehicles (EVs) promises huge environmental benefits it also presents numerous challenges. The critical raw materials essential for battery production, including lithium, cobalt, manganese and composite minerals like polysilicon, used in advanced automotive electronics raise huge ethical concerns due to their scarcity and association with regions susceptible to human rights offenses.

The industry faces heightened scrutiny with the swift global implementation of due diligence legislation, particularly concerning forced labor in the lower tiers of the supply chain. Chief among these in the U.S., is the Uyghur Forced Labor Prevention Act (UFLPA), which has resulted in billions of dollars worth of goods detained at

the border for suspected non-compliance. Globally, forced labor legislation, albeit less China-focused is becoming the norm and is likely to expand in scope in the coming years. This underscores the need for automotive organizations to have visibility across every tier of the supply chain.

While the UFLPA presents significant challenges for those importing to the U.S., it also presents an opportunity to demonstrate commitment to principled sourcing practices and social responsibility, which will enhance your organization's reputation and competitiveness in the long run.

This guide will provide practical and actionable information to help you understand the background of the UFLPA, the key requirements, and how your organization can shift to a proactive strategy rooted in multi-tier supply chain due diligence.





UFLPA: Implications for the automotive industry

Effective from June 2022, the UFLPA aims to stop goods manufactured wholly, or in part, by forced labor from entering the U.S. It specifically targets goods that include components or materials produced by entities in the Xinjiang Uyghur Autonomous Region, as this region is suspected to be of high-risk for poor working conditions. The legislation operates on a “rebuttable presumption” - meaning that Customs & Border Protection (CBP) will detain goods suspected of being tainted by forced labor whether they come directly from China or via intermediary countries. It is then the importer's responsibility to prove that the goods are free from forced labor.

The automotive sector, with raw materials and components sourced from all over the world and intricate industry processes, requires a level of multi-tier supply chain traceability that most organizations currently lack.

Traditionally, global legislation, whether relating to forced labor, emissions, or sustainability, has been tied to specific revenue or employee thresholds. As a result, it has targeted OEMs (Original Equipment Manufacturers) and tier 1 suppliers, with those upstream in the supply chain often being exempt.

The UFLPA stands out for its equal application to both behemoth brands known the world over and the smallest enterprises. If you're importing goods into the U.S., compliance with the legislation is mandatory, regardless of company size or revenue.

For organizations of any size, legislation to eradicate forced labor from supply chains is of course, welcomed. However, given the complexity and opacity of supply chains, it presents something of a headache - monitoring hundreds, if not thousands of multi-tier supply chains and tracing the origin of a product is a mammoth and painstaking task.

The automotive industry is not immune. A 2024 report from the U.S. Senate Committee on Finance found that several world-renowned OEMs were impacted by forced

labor risks, leading Committee Chair Ron Wyden to state:

“Automakers' self-policing is clearly not doing the job. I'm calling on CBP to take a number of specific steps to supercharge enforcement and crack down on companies that fuel the shameful use of forced labor in China.”

Adherence requires a proactive approach with a strategy rooted in robust due diligence, transparency, and collaboration with suppliers to promote ethical practices throughout the supply chain. Failure to do so could see shipments detained at the U.S. border, resulting in inevitable increases in costs and considerable supply chain disruption.

UFLPA in action: Compliance obligations and enforcement

The UFLPA legislation operates on a “rebuttable presumption” - importers have to prove that goods imported from China or intermediaries are not tainted by forced labor.

The UFLPA applies to organizations importing to the U.S., irrespective of any size.

\$1.42 billion worth of goods have been detained at the U.S. border under UFLPA legislation in 2023 alone.*

*Data from CPD UFLPA statistics dashboard - <https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics>



Why was the UFLPA introduced?

Instances of large-scale forced labor have a long history. In recent years, the plight of the Uyghur people, and their connection to forced labor in China has garnered significant media and legislative attention.

Escalating reports of state-orchestrated forced labor and involuntary labor transfers have emerged, with an estimated one million Uyghurs believed to be held against their will in detention camps. Allegations of coercion and human rights abuses are distressingly common.

The U.S. Government considered this a priority; responding promptly, implementing the UFLPA, and requesting 300 dedicated personnel for its enforcement. Given China's status as the world's largest manufacturer and second-largest economy, as well as its role as the primary global source of refined critical raw materials - essential in EV battery production, it cannot be easily excluded from commerce. Put into context, China holds 80% of the global refining capacity of cobalt, graphite, lithium, manganese, and nickel and 85% of the world's supply of polysilicon - heavily utilized in advanced automotive electronics.

In today's era of ethical consumerism, one case of forced labor in an organization's supply chain can undo decades of carefully built brand identity overnight. With safety, trust, and reliability being cornerstones of the automotive sector and fundamental to buyer considerations, falling foul of forced labor legislation risks eroding public trust.

While the Chinese government is reluctant to facilitate companies' efforts to investigate forced labor, legislation like the UFLPA places the onus on the automotive industry to ensure that human rights are respected throughout its supply chain. With a strategy of comprehensive supply chain traceability, evidence collection, and robust due diligence, organizations can do business in China and not fall foul of UFLPA legislation.

It should be noted that the Chinese government strenuously denies all allegations of forced labor and states that the UFLPA is part of a campaign of "anti-China voices trying to smear China."

CBP's vigilance under UFLPA

The CBP has a 300-strong team of personnel dedicated to UFLPA enforcement - dwarfing that of other departments.

The CBP has the personnel, tools, and expertise to go deep into a product's material and manufacturing origins to establish whether or not it is connected to forced labor.

85% of global polysilicon supply comes from China - a key element of advanced electronics used in cars.





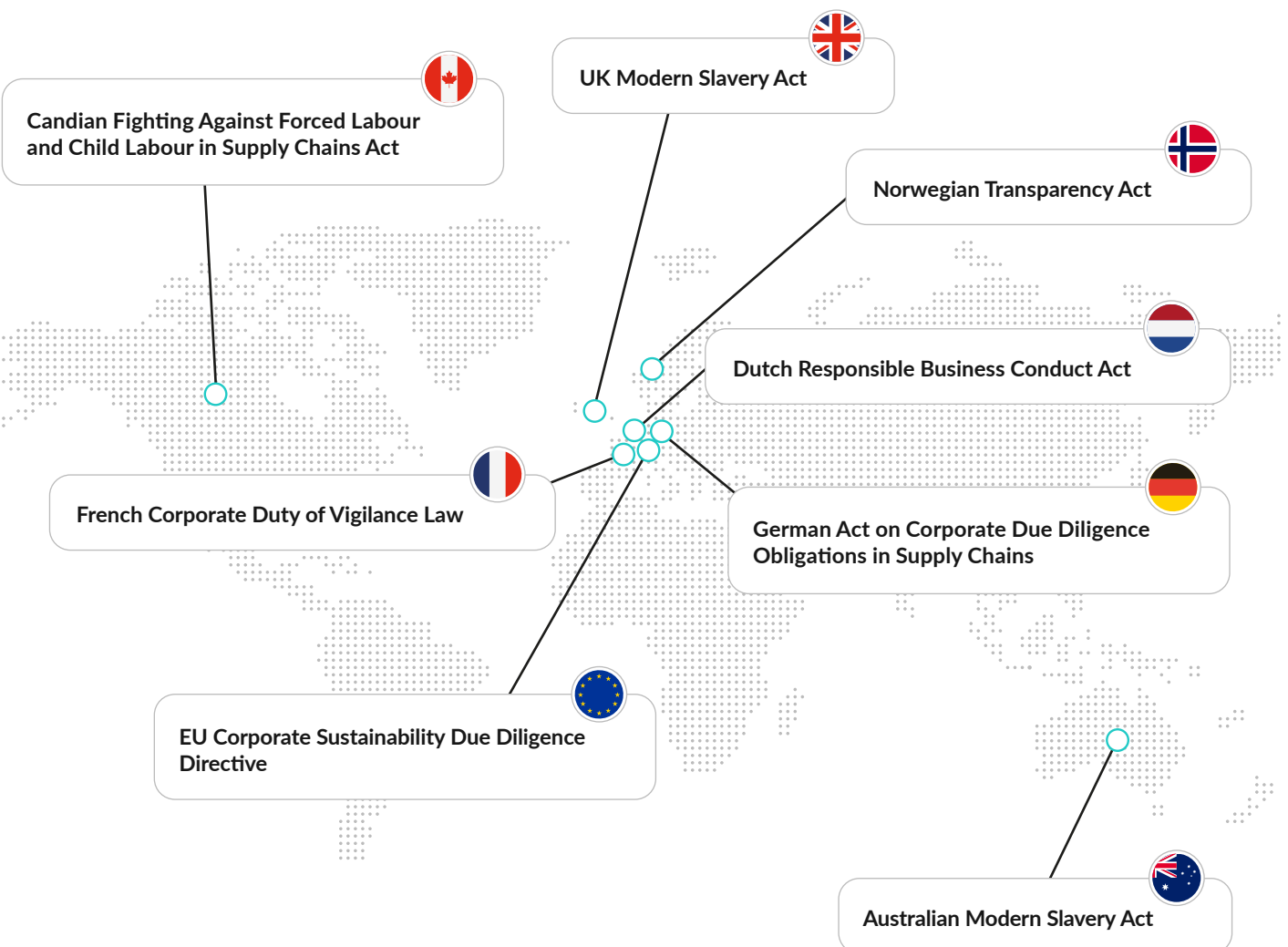
It's not just the UFLPA, forced labor legislation is far-reaching

Forced labor and human rights legislation is sweeping the globe, with more countries and regions implementing mandatory due diligence policies that impact organizations operating in or importing to that country.

Where the UFLPA applies to any organization of any size, other global forced labor legislation is tied to specific revenue or employee thresholds. For example, the German Supply Chain Due Diligence Act applies only to organizations with over 1,000 employees, the

UK Modern Slavery Act those with a turnover exceeding £36 million, and the EU Due Diligence Directive targets EU companies with a turnover of €150 million.

This is merely a snapshot of existing or upcoming legislation, with more on the way. In most cases, legislators are seeking to further tighten restrictions. For the automotive industry, supply chain traceability is no longer a choice, it's a necessity.





The Uyghur Forced Labor Prevention Act

The UFLPA is part of a growing global list of due diligence laws designed to stamp out forced labor by imposing mandatory reporting and supply chain audit requirements on companies of any size. The law is stringent and unambiguous, with requirements to "ensure that goods mined, produced, or manufactured wholly or in part with forced labor are not imported into the United States."

When a shipment is flagged under the UFLPA, importers have just 30 days to challenge its detention. However, in the two years since the law came into effect, only 24% of automotive shipments that were detained have successfully demonstrated compliance and been allowed entry to the U.S.

Successfully challenging detention involves providing a complete evidence set of the suppliers that contributed to the manufacture of the imported item, and their

human rights practices, back to the raw material. For automotive supply chains to demonstrate compliance within 30 days, organizations need to be proactive and have such evidence ready ahead of time.

The majority of detained shipments come not directly from China, but shipped via countries such as Malaysia, Thailand, and Vietnam. This puts any organization with international supply chains that is importing goods into the U.S. under the CBP's scrutiny for UFLPA compliance.

Protocol is that the CBP seizes any goods that appear on the UFLPA Entity List (a list of entities in Xinjiang that mine, produce, or manufacture goods with forced labor). It is expected that the UFLPA Entity List will grow over time.

UFLPA: Key insights and implications:

The UFLPA initially prioritized products or components containing polysilicon, cotton, and tomatoes, but has expanded to textiles, apparel, aluminum products, batteries, PVC products, steel products, and tires.

The majority of detained shipments do not come directly from China but from intermediary countries such as Malaysia, Thailand, and Vietnam.

The UFLPA is not just expanding, but broadening, including additional regions and other minority groups, such as Kazakhs, Krygrz, and Tibetans - meaning its application could extend beyond Xinjiang.

Importers whose shipments have been detained under the UFLPA have just 30 days to challenge it.

To date, 76% of automotive shipments detained at the U.S. border have been denied entry.*

*Data from CPD UFLPA statistics dashboard - correct as of 12 June 2024
<https://www.cbp.gov/newsroom/stats/trade/uyghur-forced-labor-prevention-act-statistics>





What does the law require of the automotive industry?

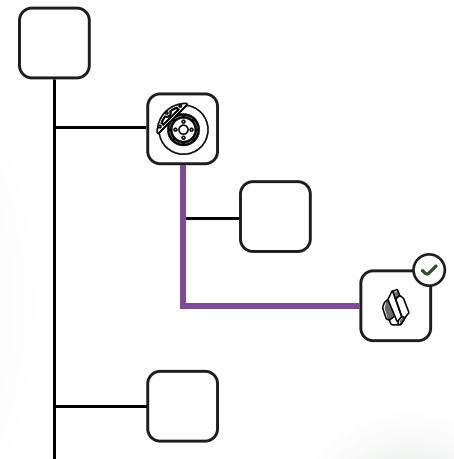
The CBP will detain imported goods that are believed to be tainted by forced labor. The onus is on the importer to demonstrate that their goods and materials are not produced in the Xinjiang region of China, by any company on the UFLPA Entity List, or that goods from that region are not produced in any part with forced labor.

If the CBP detains an importer's goods, there are two pathways to securing the release of the shipment.

1.

Demonstrate that goods have no connection to the at-risk region

Automotive organizations need to map the supply chain from raw material to finished product to demonstrate that the detained shipment has no connection to the at-risk region. This needs to be backed up with an auditable catalog of documentary evidence from sub-tier suppliers to build a commercial chain of custody for a given product supply chain.



2.

Provide clear and convincing evidence to rebut forced labor presumption

If, in the process of supply chain mapping, one (or more) organizations are discovered to be involved in the production of goods using a high-risk material or in an at-risk region, the importer must conclusively prove that no forced labor was present in its production. This requires engagement, training and monitoring of forced labor risks, independent verification of due diligence systems, and remediation of any identified issues.

Guidance for UFLPA compliance

To align with the CBP's requirements and demonstrate goods are not linked to an at-risk region or tainted by forced labor, this step-by-step guidance ensures ongoing screening and assessment of new and existing suppliers. It serves to prove UFLPA compliance effectively.



Step 1: Engage stakeholders



Step 2: Assess risks and impacts



Step 3: Develop a code of conduct



Step 4: Communicate and train across a supply chain



Step 5: Monitor compliance



Step 6: Remediate violations



Step 7: Independent review



Step 8: Report performance and engagement



Be proactive: Gather evidence to release a detained shipment

Mapping supply chains to the nth tier and conducting thorough due diligence is a colossal yet essential task. In their guidance, CBP has detailed the evidence required to release detained shipments. The key requirements are listed below.

Due diligence

Automotive organizations must undertake due diligence to ensure UFLPA compliance and implement comprehensive risk management strategies to demonstrate that their suppliers operate with fair and ethical forced labor practices.

- Engaging with suppliers to address forced labor risks
- Mapping the supply chain from raw materials to imported goods
- Establishing and monitoring a written code of supplier conduct
- Training on forced labor risks for employees who interact with suppliers
- Remediation of any forced labor conditions or termination of the supplier
- Independent verification of the implementation and effectiveness of due diligence systems
- Reporting performance on due diligence system

A commercial chain of custody

To prove the supply chain does not include organizations on the UFLPA Entity List, importers should provide documentation from their suppliers produced in the ordinary course of business. It comprises primary evidence including transactions and supply chain records, documents demonstrating the parties participating in the transactions, and documentation related to the payment and transportation of materials.

Upstream documents evidencing links to suppliers

- Production orders
- Purchase orders
- Payment records
- Import record

Internal documents evidencing internal handling

- Evidence of material input / output volumes
- Bill of materials
- Certificate of origin
- Inventory records
- Mining, production, or manufacturing records
- Reports on factory visited

Downstream documents evidencing links with buyers that are relevant to the finished product

- Reports on factory production capacity
- Invoices
- Payment receipts
- Export manifests
- Shipment records
- Packing lists

Streamline evidence collection

This due diligence and evidence collection is rigorous and unambiguous. Manually screening and assessing suppliers is time-intensive and error-prone, making it well worth the effort to invest in the right digital tools to manage this end-to-end process automatically. One that delivers a robust and accessible digital record of due diligence and compliance.





A tech-driven solution to demonstrable due diligence

With vehicles comprising tens of thousands of components produced by numerous suppliers, complying with the legal requirements of the UFLPA manually would be a complex and resource-intensive process. For best results, automotive organizations can benefit from digital tools to facilitate the mapping of their supply chain from the raw material to the final product or component. Technology can also support the collection and verification of compliance evidence and provide robust and efficient due diligence tools.

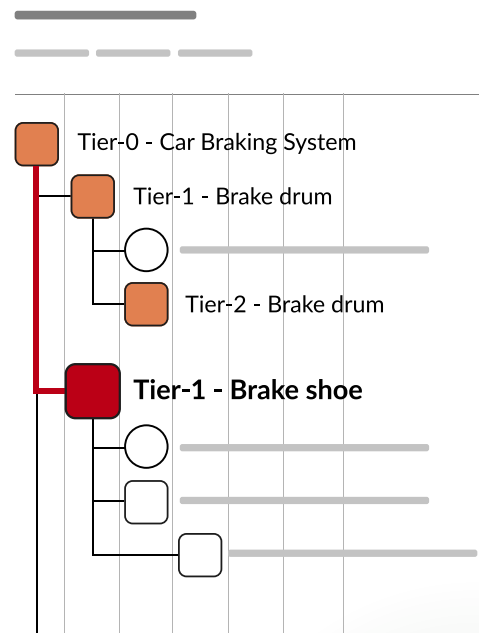
When it comes to mapping the origin of a product, AI is useful as it can swiftly use publicly available records and open-source data to build a preliminary outline of a given supply chain. However, unless every supplier upstream is making supply chain documentation publicly available (and they don't) there's no concrete evidence that products have been sourced ethically.

Crucially, while the majority of organizations report tangible benefits from AI, if goods are flagged at the U.S. border, it's not defensible, and it's certainly not going to get shipments released by the CBP.

Mapping the supply chain to the nth tier, conducting thorough due diligence, and collecting multiple pieces of

documentary evidence for each of the suppliers in the supply chain is a colossal undertaking. Given the dynamic nature of supply chains, this is not a one-off exercise.

Organizations need to conduct ongoing due diligence in order to be prepared to present the evidence if their shipments are detained. There is a need for organizations to leverage technology to continuously trace their supply chain, assess it for risk, and have visibility - so that when they need to present relevant documentation they can access it at the click of a button.



Demonstrate defensible due diligence

Multi-tier due diligence to remediate forced labor risks.



Build your supply chain from raw material to finished product



Reveal location-based, material, or sanctions-related UFLPA risk



Interrogate high-potential forced labor risk suppliers



Implement corrective actions and remediate with assurance



An AIAG Preferred Provider for human rights and supply chain traceability

SUPPLIERASSURANCE

SUPPLIERASSURANCE creates more ethical and sustainable global supply chains. Our platform is trusted by global automotive brands, including BMW, Volkswagen and Ford, to manage supplier sustainability and compliance performance for more than 128,000 supplier locations.

Our UFLPA solution is specifically designed to support automotive organizations to proactively collect demonstrable due diligence at scale for seamless UFLPA compliance.

Developed alongside leading automotive OEMs and legal firms, and recognized as an AIAG preferred provider, our platform is trusted for its expertise in human rights due diligence and UFLPA compliance.

AIAG

The Automotive Industry Action Group (AIAG) is a unique not-for-profit mobility industry association where automakers, suppliers, service providers, government entities, and individuals in academia have worked collaboratively for over 41 years to drive down cost and complexity within the supply chain. Now the largest global association, we're comprised of more than 4,800 companies in over 70 countries.



Demonstrate human rights due diligence in your supply chain

Contact SUPPLIERASSURANCE today and let us help you mitigate forced labor risk in your supply chain and ensure your goods are delivered on time.

