Event
“Responding to Egregious Abuses in Xinjiang: Latest State of Play”

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FEATURING
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Good morning.

According to experts, more than 1 million people in the Xinjiang Uyghur Autonomous Region of China have been detained and, quote, “reeducated,” particularly since 2017. The U.N. High Commissioner for Human Rights, in an important August 2022 report, found credible evidence of arbitrary arrests and detention, physical abuse, sexual violence, and gender-based violence and forced medical treatment, among other serious human rights abuses that she categorized as possible crimes against humanity.

Detainees and former detainees have been pressed into forced labor through so-called poverty alleviation programs, working in fields and factories to produce goods for export to the United States and other global markets.

In response to these egregious abuses, the United States has taken unprecedented steps to limit access to U.S. markets for goods produced in Xinjiang, alongside other steps to hold Chinese officials and companies accountable for abuse.

Chinese officials and senior company representatives have been subject to visa bans and targeted sanctions, and more than a dozen companies have been added to the Department of Commerce's Entity List, limiting their access to U.S. technology and other products.

In October, the U.S. was narrowly defeated in calling for an investigation by the U.N. Human Rights Council into abuses into Xinjiang as a result of the U.N. High Commissioner’s important report, and one year ago the U.S. Congress passed nearly unanimously the Uyghur Forced Labor Prevention Act, empowering U.S. Customs and Border Protection to stop goods suspected of being produced in Xinjiang from entering the United States.

Since the passage of that law, we’ve seen a significant whole of U.S. government effort to bring that law into effect and began enforcing it this past June. The UFLPA has incredibly important implications for how U.S. companies manage their global supply chains as well as for global efforts to end forced labor.

We’re here today coming up on the one-year anniversary of this important act to take stock of the current situation in Xinjiang and of implementation of the UFLPA.

I'm Marti Flacks and I'm the director of the Human Rights Initiative here at CSIS and Khosravi Chair in Principled Internationalism and I’m delighted that we’re going to begin our event today having a conversation with

Undersecretary Silvers is responsible for driving policy and implementation plans across a whole range of DHS priorities from counterterrorism to cybersecurity to immigration, and, importantly, for today’s discussion, trade and economic security. He chairs the congressionally mandated Forced Labor Enforcement Task Force and he’s led the process to develop guidance for and implementation of the UFLPA over the last year.

Undersecretary Silvers, welcome back to CSIS and thanks for joining us today.

Secretary Robert Silvers: Well, thank you so much. It’s good to be here today, Marti, and thank you to CSIS for having me.

Ms. Flacks: So let’s start with where we are today and how we got here.

As we approach the one-year anniversary of the UFLPA how do you assess implementation to date and how would you describe the department’s and the Forced Labor Enforcement Task Force’s priorities in the first part of implementation of this law?

Sec. Silvers: Thank you very much.

So we – first, I want to start by saying that forced labor is a cancer. It offends our values. It violates human rights. It also undercuts American workers and businesses. And so one of our critical missions at the Department of Homeland Security is to ensure that products made with forced labor or with components that were made with forced labor are not allowed to come into this country, and we’ve been doing that for decades.

The issue was really turbocharged, if you will, further by the new law that passed Congress last year that you mentioned, the Uyghur Forced Labor Prevention Act, which instituted a whole new regime for combating the importation of forced labor goods with ties to Xinjiang province specifically, which we all know has been tied to well-documented abuses of human rights atrocities, including the systematic use of forced labor.

We at the department chair the Forced Labor Enforcement Task Force. We implemented this new regime, really, in record time, just in six months, and I would say that our implementation to date has been surgical, speedy, and strong. We have really sent a message to the trade community that they need to ensure that they have compliance programs in place to rid their supply chains of forced labor.
But we’ve also been very targeted and risk-based in our enforcement, going after those shipments that we believe have indicators of forced labor while the overwhelming majority of cargo and commerce is coming into this country unimpeded, which is critical for the health of our economy. And so we believe that we’ve implemented it with success.

In terms of our priorities for the coming year as this new regime matures and settles into place is to increase our collaboration with the private sector, with the importer community, to ensure that they have information from us on what are the observed best practices as we all see how compliance is going together. Also to increase our collaboration with civil society groups, with nonprofits, with NGOs, that are really expert in forced labor and provide us with really valuable insight and intelligence and data about where forced labor products may be coming from.

And so we really think that we can fall into a routine with industry, with the civil society community, of ensuring that the products that can’t come here stay out while the vast majority of lawful imports are allowed to come in very swiftly.

Ms. Flacks: Thanks. I want to pick up on that point about stakeholder engagement because, obviously, you’ve done a tremendous amount of outreach over the last year engaging, as you said, civil society organizations, researchers, but also the private sector to help them understand your implementation strategy. You talked about the importance of that, going forward.

What does that look like in the day to day, in the week to week, in terms of engagement with those important stakeholders?

Sec. Silvers: Absolutely. So we have really undertaken an unprecedented level of engagement with stakeholders across the spectrum. It’s really been remarkable to see the number of different kinds of stakeholders there are when it comes to forced labor.

You have the importer community, which is the whole freight forwarder and logistics sector, the retail sector that sells products, manufacturers and those who trade in particular product categories that may have – that are imported.

You have a whole realm of academics and civil society and human rights advocacy organizations that track the use of forced labor and really have invaluable intelligence about what is going on out there and where we should be asking questions and training our efforts.
You have a range of U.S. government agencies that have come at the problem from different angles. We, at DHS, have Customs and Border Protection, which, of course, is at the ports inspecting cargo for compliance.

You have the State Department, which leads our diplomatic efforts. You have the economic agencies that have a piece of this and you have criminal investigative agencies as well that enforce our criminal laws when it comes to violation of forced labor laws.

And then, finally, of course, you have international partners. We don’t want forced labor products being imported into any country – it’s not just about the United States – and so we coordinate extensively with our partners and allies on this as well.

And so the engagement is really – it’s not ancillary. It’s a linchpin. It’s central to all the work that we’re doing.

Ms. Flacks: Absolutely. It’s been remarkable to see that evolution of outreach from the department on – to all of those stakeholders.

I want to follow up on the priority sectors and companies. So there’s about 20 companies – entities – on the list right now – Chinese entities – and in the implementation strategy you identified a handful of sectors that are high risk – cotton, solar, a few others.

There’s a perception out there, I think, among some stakeholders that, to some extent, if companies are not engaged with those actors or working in those particular sectors that this isn’t something they need to be focused on in the immediate term. This isn’t as high a risk for them.

How are you – how is the Forced Labor Enforcement Task Force thinking about other potential entities, other potential sectors, that might become higher priority? Can you say a little bit more about that process and how it will evolve and what kind of information you’ll be able to share and notice you’ll be able to share with stakeholders if you do add additional sectors or companies?

Sec. Silvers: Absolutely.

So, first, I think it’s important to note that the Forced Labor Enforcement Task Force is not just focused on the new law – the UFLPA – or on the use of forced labor in Xinjiang, though, obviously, that’s a highly prioritized focus. But we also are taking decisive action to eradicate the importation of forced labor from other places.
So just in the last couple of weeks, for example, we issued what’s called a withhold release order for sugar coming from a Dominican Republic-based company called Central Romana Sugar. And so we are sharply vigilant to the use of forced labor in any kind of product category and we will continue to enforce our forced labor laws wherever we see that, even beyond Xinjiang province.

When it comes to Xinjiang and the new law that passed Congress last year, we have – we did produce that Entity List with about 20 entities known to traffic in forced labor products. It is a priority of ours for that to be a living list.

We have created processes for federal agencies to nominate additional companies or organizations that they believe ought to be placed on that Entity List because they’re known to traffic in forced labor products and we’re – that’s an active process. So I don’t think that list is going to be static. It’s going to evolve and grow.

I also will say that a big success for us at the department is when we can remove an order or a designation on a company because they’ve mitigated and they’ve cleaned up their act. We’ve had some recent success stories in the last few years where we have designated a company for prohibiting their products from coming in but then they’ve worked on it.

They’ve been able to substantiate to us that they are no longer using force labor and that it’s out of their supply chains, and so we removed the designation and that’s really – that’s the greatest kind of success because that’s cleanup, that’s remediation, and that’s making the world a better place using our enforcement authority. So that’s part of our model, too.

Ms. Flacks: Yeah. So I want to pick up on your comments about the broader Tariff Act enforcement because – so you made some comments to the Wall Street Journal recently that grabbed some headlines, at least in this community, about preventing forced labor imports broadly being a top-tier compliance issue – enforcement issue for the Department of Homeland Security, for CBP, and you made the case that CEOs – corporate officers at the highest level – need to be treating this issue the way they do the FCPA – the Foreign Corrupt Practices Act – in terms of compliance, and that, I think, really seized the attention of both the corporate world and also the NGO world that’s looking for tools and strategies to end forced labor.

Talk a little bit more, if you would, about what’s driving this prioritization of forced labor at DHS. What’s the motivation behind making this a top-tier compliance issue? And also your own personal attention – I know you’re spending a lot of time on this issue as well – what’s driving that?
Sec. Silvers: The use of forced labor is – it’s just morally abhorrent. It's reprehensible. It shouldn’t be tolerable to any of us, and it’s also the law in this country that products that are made with forced labor are not coming in.

And so we couldn’t take it more seriously and so that's what's driving the approach and, you know, over recent decades you've seen certain – just pillars of corporate compliance emerge – anti-corruption programs, sanctions compliance, privacy compliance, anti-money laundering compliance. Most multinational companies have a standard compliance program that includes all of those elements and more.

Forced labor ought to be one of those core pillars of a standard corporate compliance program for any company that has a nexus with importing goods or products into the country and that’s really our clear message to the business community. And what we did as the Forced Labor Enforcement Task Force in June was we issued importer guidance on the key ingredients of such a corporate compliance program, which include supply chain risk management, having supply chain traceability, and knowing your – where you source from so that you can substantiate to yourself as well as to us where products are coming from and that they are not made with the fruits of forced labor.

And so, absolutely, this has become a top-tier compliance issue. We're seeing the corporate community come to understand that and be sincerely interested in engaging with us on that because the truth is the overwhelming majority of American companies do not want forced labor in their supply chains.

They view it as abhorrent – as an abhorrent feature of the modern world we live in and something that they don’t want to be a part of. But to get there you need to have the right kind of compliance tools and compliance program and so this is something that boards and CEOs need to be focused on.

Ms. Flacks: Yeah. That’s a really important statement, I think, for the business community that DHS is making in this area, and I think it’s getting the attention it deserves but, you know, we need to continue to raise the flag on this.

I want to ask you about something you referenced earlier around international coordination because the U.S. has been in this area a global leader in terms of using our – things like import bans to help shape global markets on these issues and, of course, we have enormous market power as the United States.

But if we're the only country in the world implementing laws like this, then we have a couple of risks there. We risk bifurcating international markets,
allowing companies to forum shop until they find somewhere that will take those goods made with forced labor. Or even worse, we have a situation where a shipment is turned around from the United States because of a forced labor issue and is then reexported to another market and the company continues to profit from that.

So, you know, if we don’t multilateralize this effort, ultimately, it won’t be successful. What can you tell us about your international engagement in terms of working with like-minded countries to adopt similar rules?

Sec. Silvers: So forced labor has made it onto our diplomatic agenda here at the Department of Homeland Security but at other U.S. departments as well, including, of course, the Department of State, with whom we work very closely and which is a core member of the Forced Labor Enforcement Task Force.

And that’s absolutely right, we don’t want forced labor products going anywhere, and whether a forced labor product is sold into the U.S. or sold into an EU or other economy, it offends human rights. It offends our values. It’s not something we should tolerate in this world.

It also undercuts American workers and American businesses regardless of where the end product is sold into. And so when we are engaging with partner countries we are talking to them about our approach to forced labor enforcement. We’re encouraging them to be as rigorous in their markets as we are in ours in protecting our markets from forced labor products.

We’re sharing information, we’re sharing best practices, and I think this is a space that is ripe for further international coordination and information sharing and a joint collaborative enforcement as we do in so many other areas of law enforcement.

When we’ve had recent engagements with countries from the EU, from India, from Japan, from Vietnam, and from other markets as well, forced labor has been right on the agenda and it absolutely will continue to be.

Ms. Flacks: Well, thanks so much, Undersecretary Silvers.

We’re going to have to leave it there. I know we have many more questions we could ask you and we really look forward to continuing to engage with DHS and the Forced Labor Enforcement Task Force on this.

But thank you for the work that you’re doing in this space and for being with us today.

Sec. Silvers: Great to be here. Thank you.
Ms. Flacks: Thanks.

So we'll now take a step back and turn to a panel of experts from outside the government to talk about the situation in Xinjiang and also the impact that the UFLPA has had on their work.

We are delighted to be joined by three folks who have long experience working on this issue and I’m going to introduce them in turn as I ask them some questions, and I’m going to start with Omer Kanat, who is the executive director of the Uyghur Human Rights Project. A longtime Uyghur human rights advocate, you also serve as executive committee chairman of the World Uyghur Congress and you've been in these roles for nearly two decades.

Omer, your team has been working to expose the human rights abuses in Xinjiang for many, many years and so I wonder if we could start by taking a bit of a step back and talking about the current situation on the ground in Xinjiang, what you’re seeing in terms of the current state of abuse and also a little bit more about your work to identify and expose those abuses – and publicize those abuses.

I’m not – I think you might be muted. So please unmute.

Omer Kanat: Yes. Can you hear me now?

Ms. Flacks: We can. Thank you.

Mr. Kanat: Yeah. OK. Thank you, Marti.

First, I would like to thank Undersecretary Silvers for his strong commitment and for leading Uyghur Forced Labor Prevention Act strategy with such drive and determination, and many thanks also to CSIS for organizing this panel.

This Friday is Uyghur Genocide Recognition Day. It has been one year since the final judgment of the independent Uyghur Tribunal in London headed by a Sir Geoffrey Nice, the former Yugoslavia war crime prosecutor.

The judgment was delivered on December 9th, 2021. The conclusion, as you know, was that the Chinese government was committing an ongoing genocide and crimes against humanity under international law.

The U.S. made this determination earlier in January 2021 and which was also confirmed as U.S. policy by Secretary Blinken just a few weeks after he took office. Ten parliaments – until now 10 parliaments in the world have recognized the situation as crimes against humanity and possible genocide.
Even U.N. High Commissioner, as you indicated, for Human Rights, whose report was delayed for one year under the Chinese government’s diplomatic pressure, was brave enough to conclude that the crimes she documented may constitute crimes against humanity.

Even with these positive steps in recognizing genocide and with the groundbreaking legislation like the Uyghur Forced Labor Prevention Act, nothing actually has changed for Uyghurs in East Turkistan, the name we prefer for our homeland.

The Urumqi fire on Thanksgiving Day makes this clear. Uyghurs around the world suffered intense grief and horror knowing that Urumqi officials would not open the gates even to let people escape from that fire. This brutality was obvious and so inhuman that it broke through censorship to trigger zero-COVID protests throughout China.

And that Uyghur – this Uyghur family was typical. The father and two brothers only escaped the fire because they were in prison. The grim reality is we are now six years into an active genocide. As we saw in Xinjiang police files leaked photographs, teenagers and elderly grandmothers were rounded up starting 2017.

The temporary detention centers and schools and offices have been replaced by massive permanent camps and prisons. The Tribunal reviewed 500 witness statements and heard live testimony from 30 eyewitnesses who had managed to leave China, and 40 expert witnesses. Altogether, the research team of Tribunal reviewed over 100,000 pages of documents.

But there is zero sign that the atrocities documented by the Tribunal have stopped. Indefinite detention, sexual and physical torture, children being separated from their parents, taken to the state orphanages, long prison sentences for imams, intellectuals, businesses, and ordinary people – we have documented thousands of these cases, despite the government’s total secrecy.

The Tribunal cited forced sterilization, forced abortion, and forced birth control as central to its conclusion that China is in violation of the Genocide Convention. UHRP just published our research on another mechanism of social control that prevents the birth of Uyghur children and shows the government’s determination to eliminate the Uyghur identity.

The report on state policies for interethnic marriage shows that the government is promoting, incentivizing, and coercing interethnic marriage between Uyghur women and Han men in East Turkistan. This is a campaign
to forcefully assimilate Uyghurs into Han Chinese society by means of mixed marriages, which had not previously been clearly documented.

On forced-labor thing, things have not improved. In fact, it is worse. The current policy is that every adult must be in a government-approved place of work. Mothers have been taken away from their children to work in factories. Hundreds of thousands of Uyghurs and other Turkic people have been transferred from East Turkistan to mainland China, away from their homes and families and under strict control. People have been forced out of their businesses to work in factories. In effect, this is a state-sponsored enslavement of an entire population.

The ban on prayer and all Islamic practices has not changed. Original Uyghur language books and literature have disappeared. All the Uyghur language news media is just materials translated from Chinese. Well known Uyghur intellectuals, professionals, and business owners have not been released from prison. Only a few Uyghurs abroad are finally able to talk by phone with their relatives at home from time to time.

This is the only thing I can say has changed, whatever propaganda the Chinese government has put out. The international response has been extremely slow and ineffective. It lacks international coordination. Member states of the U.N. have been – have had to resort to joint diplomatic letters such as the most recent letter from – for the U.N. General Assembly in October because the Chinese government is able to block all formal action by the U.N.

All states are obligated to suppress, of course, and punish acts of genocide under the Genocide Convention. The world has failed, I can say. There should be no mistake – the urgency of taking action cannot be overstated.

Thank you.

Ms. Flacks:

Thank you, Omer, and thank you for those sobering words and really important information.

I particularly appreciate you pointing to both current abuses, as you said, with the argument that the worst is in the past – it’s important to point to what’s ongoing – but also the more subtle forms of abuse that are taking place that are less obvious on satellite images but are equally troubling, as you said, like the promotion of interracial interethnic marriage and birth control and things like that. So really appreciate that context.
Let me bring in Laura Murphy now to talk particularly on forced labor. Laura Murphy is a professor of human rights and contemporary slavery at the Helena Kennedy Centre at Sheffield Hallam University.

Laura, you're the author of many books and academic articles on forced labor, on human trafficking. You and your team, over the last few years in particular, have done incredibly important work to identify where forced labor is happening in this region, which companies are involved in it, how it plays into global supply chains, and there's been a lot of focus to date on a few of those supply chains – on cotton and apparel, on solar panels.

Talk a little bit about your work but also tell us, from your view, what other sectors we should be paying attention to in terms of forced labor. And I know you released, particularly, a report today on this subject so I look forward to hearing about that as well.

Laura Murphy: Absolutely.

I, first, want to just thank you for having us and for focusing on this event on the anniversary of the UFLPA and also to sort of re-express my condolences to the Uyghur community this time for, of course, the fire and the fallout of the lockdown and to, you know, just sort of thank the Uyghur community for their resilience and their bravery through all of this. It’s an honor to get to do work to help support the cause of Uyghur freedom.

I am glad you asked us this question, Marti, because I think that a lot of people and a lot of businesses, as you said earlier, believe that as long as they’re not really touched by cotton or polysilicon or tomatoes they’re not actually – there’s no need to be concerned about Uyghur forced labor inputs and that couldn’t be further from the truth and, of course, we’ve done research to show that, in fact, the solar polysilicon supply chain is, in fact, rife with Uyghur forced labor and that much of the inputs into solar energy is made in the Uyghur region.

We looked at the – our research has looked at how Xinjiang cotton makes its way out to the rest of the world through intermediary countries and intermediary manufacturers who make the apparel and label it with made in Indonesia or made in Sri Lanka when, in fact, the origin of the cotton or the material is the Uyghur region.

But what about polyester? What about elastic? What about viscose? What about, you know, lyocell – all those things – also being made in the Uyghur region? And we can see that. We can – it’s easy to do the research to find that out.
But we’ve also done research on, you know, the World Bank’s development finance arm’s investments in the Uyghur region and in the process of that research we found companies making PPE, pharmaceuticals, spices, food additives, magnesium alloys, car batteries.

And then we did research on polyvinyl chloride – PVC – that goes into pipes and goes into the sort of fake wood flooring that we all buy or we all see being put into houses on HGTV house flips. Almost all of that comes from PVC being made in the Uyghur region.

We then looked at this massive government-corporate conglomerate that was making everything from, you know, doing construction projects themselves all over the world through development finance funding to, again, pharmaceuticals, all kinds of agricultural products, you name it.

The Xinjiang Production and Construction Corps, this massive corporate conglomerate that’s in charge of building and maintaining the internment camp system, also making things that are being sent out into the Uyghur region. And just today, as you said, we did a – we released a report that’s on the automotive industry.

But what we realized in the process of investigating the automotive industry is that it’s not just about, you know, the cars themselves. It’s about every part of the car. We looked at steel. We looked at copper, aluminum, nickel, lithium, batteries, interiors, auto glass, electronics that go in the cars.

It didn’t matter what we looked at. We found it being manufactured in the Uyghur region and this is happening deliberately because the PRC government has determined that the Uyghur region will be a hub for manufacturing and, in particular, they’ve put focus on some specific industries and polysilicon was one of them. The renewable energy sector in general is a focus of the PRC’s manufacturing push in the Uyghur region, but also automotive manufacturing and the raw materials processing that is the dirtiest kind of manufacturing that happens in the world.

Oftentimes what happens is in this region the PRC government will allow companies operating in the Uyghur region to do – to manufacture using processes that leech mercury, leech lead into the environment, are way more environmentally damaging than the processes they allow in other regions.

So they allow – they treat the Uyghur region as if it’s disposable and as if its people are disposable.

And so we, from our desks at home, are able to trace these – and I don’t expect anyone to be able to read this. It’s in tiny print here. But you can see it on our website. You know, we’re able to trace these Uyghur region
companies, companies operating in the Uyghur region abusing and exploiting the people of that region. We’re able to trace the products they make out to the rest of the world and we’re able to see that international brands are selling products made with Uyghur region-made goods all the time.

And so we’re demanding that companies do better, that they trace their supply chains, that they know where their goods come from all the way down to the raw materials. And it’s a shock to me that we’re still having to ask this. But this crisis is so horrific that I think finally people are starting to take notice and maybe take action, action that’s long overdue.

Ms. Flacks:

Thanks, Laura.

The research you’ve been able to do, as you said, from your desks is really remarkable and I want to pick up on that because it’s – your team is brilliant and you make it sound easy. But we know how complicated it is to decipher international supply chains and for companies to figure out their sourcing.

I want to turn now to Cynthia Whittenberg, who is associate director at the National Customs Brokers & Forwarders Association of America Educational Institute.

You work, of course, to provide content to equip, you know, our nation’s cross-border trade-related workforce and you are a former U.S. government official, a former U.S. Army veteran.

You used to work at Customs and Border Protection, so you’ve seen this issue from both sides – from the government side and now from the private-sector side. And you’re – of course, you’re now working with Customs Brokers, who are at the tip of the spear in terms of implementing the UFLPA.

Tell us a little bit about how your organization and your clients have responded to the UFLPA going into effect this past June and your perspective on enforcement up to now.

Cynthia Whittenberg:

Well, good morning, Marti, and thank you for inviting me to be here today and to be part of this august panel to discuss, I think, this problem of forced labor that exists, I think, in the most worst – in its worst – the most worst, I think, forum in China in the Uyghur region.

But I really see this as an awakening because, as the undersecretary talked about, these laws have been on the books for years, and you think about the U.N., the Forced Labor Convention. Been around since 1930, and in the U.S. – the Trade Act of 1930 there was a provision around forced labor and not –
and preventing goods with forced labor in the supply chain from entering, and back then it was more about undercutting, you know, labor standards.

And so here we are now, and when I talk to the community now, you know, in the private sector I say, you have to really think that this is not new. This is not new. And when we look at the convention that has been on the books with the U.N., unless countries had some sort of domestic laws in place they were really very – you know, there wasn’t much there without the teeth.

So now we have – we had in 2015 the Trade Facilitation and Trade Enforcement Act of 2015 that repealed the consumptive demand and so that, to me, was the beginning of that awakening, enabling, specifically, Department of Homeland Security and Customs and Border Protection the ability to go after and pursue these cases because, again, they had a tool now, the withhold release order.

And when I see now with – being in the government, I was in Customs and Border Protection when a lot of the data was coming in about the abuses in Xinjiang and the whole of government trying to decide what tools they could use to address these atrocities, and it came down to the law that was already on the books and what could we do to further, I think, target abuses in that area.

So now, you know, in talking with the industry, brokers are the linchpin in moving, you know, and facilitating movement of cargo in and out of the country. But they work with importers and brokers don’t have the insight to importers’ supply chains. I’ll even venture to say that importers don’t have the views that they need on their own supply chains in terms of, I think, exercising good corporate social responsibility.

So the brokers – everyone’s concerned and, as Laura mentioned, there are some businesses who may feel like they are not involved or can’t be touched. But there are many companies who are very, very concerned because they do understand the layers in supply chains and inputs now that have been created by our globalization, right.

And so components can be manufactured or produced with inputs from anywhere and so there is great concern, and I think the use of data is going to be very important as to how companies position themselves to enforce or to put in place good compliance programs.

And I think it’s – again, that – the Uyghur Forced Labor Prevention Act was, clearly, a shot across the bow that things are not going to ebb away, you know, from enforcement but that there’s going to be a continued escalation of enforcement efforts.
When we look at some of the data, between 2000 and 2016 there were no withhold release orders issued and now we have, like, over, like, 30. So Customs has built up its capabilities to address and to pursue these cases, working with civil society organizations and NGOs.

So I think, again, everyone sees that this is a global problem, it’s a human rights issue, and there are people at the end of this issue. And so companies cannot afford to be, in a sense, fatigued about compliance because we are in a world of – whether it’s anti-corruption, corporate social responsibility, these are the issues of the day, and where efficiency was the driver in past, you know, decades there’s a gravitation away from that and to really focusing on are we doing things the right way.

So my views today – a lot about my views and my experiences are not on behalf of the National Customs Brokers & Forwarders Association.

Thank you.

Ms. Flacks: Yeah. Yeah. I think that shift away from the perceived least cost, perceived most efficient supply chain, and now thinking about the strategic implications is happening, of course, across issue areas, right. It’s a national security conversation. It’s an economic security supply chain resilience conversation.

But forced labor is now, clearly, a piece of that. You know, that’s a supply chain risk now that companies need to be taking into consideration.

I want to ask each of you – you know, Undersecretary Silvers spoke a lot about stakeholder engagement and this law is unique in the sense that it relies so much on outside engagement from stakeholders. It relies on NGOs and academics to do the research to identify the high-risk sectors and companies. It relies on the private sector to trace their supply chains and identify the risks and prevent those goods from or try – and not try to import those goods into the United States.

Tell us from, your perspective, each as an NGO, as an academic, as the private sector, what that engagement has looked like for you over the last year as the UFLPA has gone into effect, and then what you would like to see, going forward, now that we’re in kind of a(n) implementation phase.

So maybe I’ll start with Omer.

Mr. Kanat: Yes, of course. But as Uyghurs we are very frustrated, for six years now not being able to help our loved ones who have been suffering under such, you know, brutality, atrocity, in East Turkistan.
But, of course, we have been – we were very happy when this law, this Uyghur Forced Labor Prevention Act, passed the Congress and became a law and started to be implemented in June ’21.

But it needs, I think, a(n) international coordination. Even with the strong action by the U.S. on this – forced labor goods, the world still has not – has an open door for profits from Uyghur forced labor. Still very large, well-known brands in the – brands in the world, you know, has this – they didn’t change their – haven’t changed their supply chains.

No other country other than the U.S. is stopping forced labor imports. So this is very frustrating, and societies around the world have to take action so they don’t become a dumping ground. The pending import measures in the EU, for example, will take another year to move – come into force.

We just returned from a trip to Australia. So they have been discussing this – reviewing the Modern Slavery Act so it might be a year before it passes and even longer for enforcement, and Canada has not stopped any shipments even though it is obligated to enforce the ban on forced labor goods under the U.S., Mexico, and Canada trade agreement.

So and, also, I think the U.S. should also provide more diplomatic support for Magnitsky sanctions here. So far only three other countries besides the U.S. have imposed any human rights sanctions for the perpetrators of this genocide. Canada, the EU, and U.K. imposed joint sanctions on five perpetrators of this genocide in March 2021. It has been nearly two years with no further actions.

Australia passed Magnitsky Act but has only used it for Russian criminals. When we – you know, during our meetings we found out that they imposed the Magnitsky sanctions on Russian generals who committed war crimes in Ukraine but not a single sanction has been imposed for the Chinese criminals who have been committing genocide against Uyghur people.

So these, you know, things should be, you know, corrected. You know, international community should have a coordinated action to make sure that China, you know, pay a price for what Xi has been, you know, doing.

But until now, there has not – of course, U.S. has taken strong actions. Most of the actions and measures have been taken by the U.S. administration, more than a hundred, you know, sanctions imposed on Chinese entities, individuals, who have been – who have responsibility in this ongoing genocide. But no other country has taken any action until now. So this is very frustrating for us.
Ms. Flacks: Yeah. Thanks, Omer.

Laura, let me come to you because you've been – I know you've been engaging with DHS on the UFLPA with your research, providing information about what sectors you think they should be targeting.

Talk a little bit about what you think that looks like, going forward. Will you continue to do research on new sectors? Would you like to see DHS sort of pick this up – this responsibility up themselves to do the investigations? Or is that something that you think the NGO and academic world should continue to be in the forefront of?

Ms. Murphy: I guess my answer is both. I think it’s been pretty remarkable, the efforts that civil society and researchers have put into understanding better what’s going on on the ground in the Uyghur region and to provide that expertise, and it’s been wonderful to be able to see that research, you know, have a real effect on government, on civil society actors, on advocacy, and as well on corporations, who are really taking note.

I think that – and I think it’s been important that there are these opportunities for providing feedback to the Forced Labor Enforcement Task Force and to CBP through the official channels. We used to have more regular meetings of civil society organizations with the CBP forced labor division that have sort of slowed, and I think a lot of people in the civil society end recognize that CBP is extremely busy but that we’d really like to see those meetings come back to regular – you know, regular status and we’d like to know more about what’s going on.

We know that shipments are being stopped and we know that CBP’s job is enormous. We know this because I’m just trying to trace some few supply chains and they have all of them that they’re responsible for for identifying where Uyghur forced labor may be involved.

So I know this is an enormous task. But, you know, part of what makes it hard, I think, for regular people, advocates, researchers, to really appreciate the work that CBP is doing is that we get so little information about it. We don’t know which sectors are being stopped unless a company themselves – or which companies are having goods stopped unless a company outs themselves or a sector outs themselves in some way.

We get some aggregate data about value of shipments that have been stopped, number of shipments that have been stopped. But I think that it’s not just the research community that needs to know or wants to know more about what’s being stopped but the business community also needs to know.
The lack of additional companies to the Entities List is very hard for the advocacy world and for the research world. It’s also hard for the business world. We all need to know what it is that’s being stopped so we can better understand the supply chains and so that we can better identify places where we have high risk, whether we’re consumers or researchers or businesses themselves.

And there’s – we know the companies that are operating in the Uyghur region. I, myself, have a list of 55,000 of them. I have 3,300 businesses just operating in the apparel sector. And, of course, you know, CBP has access to these lists. But we haven’t yet seen a change in that Entities List since June of this year when the bill went into effect, and this leaves companies in the lurch. They don’t know all of what we know about who’s operating in the Uyghur region and who they should be excluding from their supply chains, and it would be a real bonus for them to know and for us to see those companies named that are, indeed, engaging in labor transfers in the Uyghur region.

So I’m hoping that, you know, coming into the new year we’ll see a bit more visibility in what is happening within CBP and what we can expect – what products we can expect to be stopped by the UFLPA.

Ms. Flacks: Yeah.

Cynthia, I would imagine that the private sector would echo those comments in terms of the desire for transparency from DHS. But talk a little bit about what engagement has looked like through the development of the implementation guidelines and enforcement so far.

And you mentioned data before. What would you all like to see in terms of information that would help your members and the companies that they work with to do their due diligence and implement this law effectively?

Ms. Whittenberg: So if I could comment on something that Laura mentioned – the lack of transparency – and from having served inside of Customs and Border Protection, there are privacy issues and so a withhold release order is not a finding.

So, at that point, it’s in the category of an allegation until there’s a finding and until there’s a finding one. Once there’s a finding they can then publicize, you know, and name and shame at that point.

But until then, it’s a fine line that they have to walk in terms of what they can reveal to the larger trade community and then the rights of importers, right, until there’s a finding.
One of the things I’m starting to see happen, which is why I’m also happy to be here today, is that there has been engagement between CSOs and NGOs and the government but not so much CSOs, NGOs, and the business sector. And I had an opportunity to speak in Toronto at a forced labor seminar, talking to that side of the community about the business.

And so what I’m hoping to see is more of that type of engagement with CSOs, NGOs, and in the business sector because they need to see that there are humans – there are people at the end of this problem. It’s, you know, a little different than when you think of supply chain from a security standpoint, keeping the bomb out of the box.

But this problem involves human beings around the world, and so that is one thing that, Marti, I think, needs to really improve and we need to seek opportunities to get civil society in front of business groups so that they can then have – kind of get it in their heart that this is an issue that they would want to put some compliance plans in place and not think of it as yet another compliance area that’s going to cost my company business, right.

Ms. Flacks: Yeah. Put a human face on that issue.

Ms. Whittenberg: Exactly.

Ms. Flacks: That’s really important.

So I’m also going to bring in now some questions from our audience. For the folks online, you can – if you’re watching on our website, you can click the submit question button and send us a question to ask the panel. We’ve gotten a few so far and so I’m just going to go through a couple of them.

But one of them I wanted to ask, Laura, for you, which is, are we starting to see any impact on the ground from implementation of the UFLPA in terms of Chinese, either government behavior or company behavior? I know, anecdotally, early on, even before the UFLPA, there were some reports that maybe Chinese companies were moving out of Xinjiang – you know, going to other regions, making investments there because of the focus.

I’m curious what you’re seeing, if anything, on the ground.

Ms. Murphy: Yeah. Thanks for that.

I think we’re seeing a lot of change. We are seeing, for instance, the expansion of the solar energy manufacturing capacity expand within China and outside of China but outside of Xinjiang altogether much more rapidly than, I think, was anticipated or slated to happen before attention got put on
the Uyghur region and I think this is super important to highlight because I think a lot of people continue to behave as if a focus on Uyghur forced labor is in some way in tension with our climate goals, and I don’t think that’s the case at all.

I think that international outrage over what’s happened in the Uyghur region has sped up the urgency of expanding capacity elsewhere. It has highlighted how production of polysilicon in the Uyghur region is made entirely with coal energy. The highest carbon footprint of any polysilicon being made in the world is being made in the Uyghur region, and so there’s an environmental cost as well as the, you know, human rights costs of producing in the Uyghur region that are – that is being added to the solar panels that are made from products coming from the Uyghur region.

And so there’s been a real move – well, and when you have no environmental standards or very low environmental standards and low human rights standards, the price of a product is undercut substantially. So the Chinese polysilicon production was, like, artificially deflating the price of polysilicon so that companies in the United States and elsewhere around the world – Europe – were shutting their manufacturing for different stages – many stages of the solar supply chain.

But now we’re seeing those companies reopen. We’re seeing them reinvest. We’re seeing new investments in India and other parts of the world. And so what we’ve seen is that there’s been an ability to extract supply chains out of that sort of captivity that China has created by moving everything to the Uyghur region.

So that’s sort of a business angle. That’s a global economic angle. But it also seems to be having an effect on rights. So there are some companies who have been bold enough to openly admit that they have moved away from the labor transfer programs or state-sponsored labor transfer programs that experts all agree are tantamount to slavery and forced labor.

And while most companies won’t admit it, there does seem to be some recognition that in order to maintain their place in the international market they’re going to have to bow to international pressure on this and this is what we knew to be the case.

While we might not be able to get the PRC government to act on a human rights claim, this kind of economic pressure is what matters and I think that, you know, while we still don’t have access to Uyghur workers so we can’t know what their experiences are like and we have to maintain that pressure because we still can’t access the region and still can’t confirm – well, we can’t
we can’t do much to really help Uyghur people on the ground, what we do
know is that this message is being trumpeted.

It’s being repeated through businesses and they are having losses as a result
of it. We’ve started seeing major corporations say that they’ve lost money
based on this – the implementation of the UFLPA but also the WRO earlier.

And so I think we need to continue putting pressure. We need to keep
expanding investment in manufacturing outside of the Uyghur region. It’s
also important to note that Uyghur people don’t benefit from that
manufacturing in the Uyghur region, not only because they don’t – they
they’re forced to work within the manufacturing sectors but also because
they don’t own those companies. Those are all companies from outside of
the Uyghur region that are invading an economy that was vibrant and lively
and run by Uyghurs.

And so one day – it is appalling to me as someone who lived in the Uyghur
region that I have to be telling people to stop buying things from the Uyghur
region. That upsets me so much, and my hope is that one day Uyghur people
will own those businesses. They’ll have – they’ll be benefiting and profiting
from them and I’ll be able to encourage people to go out and buy things
made in the Uyghur region. But that’s not the case right now.

Ms. Flacks: Thanks, Laura.

Well, I know we’re running low on time but I have a question I really want to
ask Omer because I think it’s important, which is, we have a question about
what’s happening to Uyghurs outside of that region, so the transfer of people,
of workers, from the Uyghur region to other parts of China to work in forced
labor. (Coughs.) Excuse me.

How big of a concern is that? How much of a problem are you seeing and,
you know, how much should companies be paying attention to supply chains
that might be coming from other parts of China but may involve forced labor
from the Uyghur population?

Mr. Kanat: Yes. This is a big issue because, you know, it is part of the Chinese
government’s assimilation policy to transfer the hundreds of thousands of
Uyghurs from our homeland to the factories in mainland China.

Some of them, of course, were directly transferred from the concentration
camps to these, you know, factories. Some of them are from the villages.
They pick up from the villages and then are sent to these factories in
mainland China.
So they are – the intention is to keep them away from their culture, their tradition, because in these factories they are living in segregated dormitories and also they are working long – working hours and after long working hours they undergo Mandarin and also ideological training.

So this – and they are trying to indoctrinate also these people and they also are not – they are not allowed to speak their own language and practice their religion. So this is a way of, you know, eliminating the Uyghur identity and Uyghur culture.

And, of course, they are very clear now that they are being used as slave laborers. They are working in the factories. ASPI report in – you know, already documented how the Uyghur(s) who have been transferred from, you know, East Turkistan to mainland China have been used as slave labor and they – these are – you know, there are now, according to ASPI, 13 factories, you know, who are all in the supply chain of big brands, large brands, well known brands, in the world, you know, in technology and automotive, in clothing, all these, you know. ASPI – Australian Strategic Policy Institute – you know, documented this that, you know, until now – between 2017 and ’19, 80,000 Uyghurs have been transferred from East Turkistan to mainland China. But until now, hundreds of thousands already, as I said, transferred there.

So they are still working in the factories and they – these are brands, in spite of the, you know, these revelations they haven’t yet changed their supply chains. So this is very, very important. So these brands – these well-known brands – should, you know, change their supply chains in order not to, you know, import goods tainted with forced labor – Uyghur forced labor.

Ms. Flacks: Thank you so much.

Well, thank you, Omer. Thank you, Laura. Thank you, Cynthia. This has been a fascinating, really important discussion.

I want to thank our audience for being here. Bottom line is, certainly, in the words of Undersecretary Silvers, forced labor is a cancer on global supply chains and this issue is not going away in terms of enforcement from the Department of Homeland Security.

I think, really powerful statement to put it in line with counterterrorism, anti-money laundering, privacy, bribery in terms of enforcement, and an issue that companies, civil society, academics, and others need to be focused on and work together to end, particularly the situation in the Uyghur region in China, which is incredibly egregious.
And we appreciate our guests being here with us today and we appreciate the work that they are all doing to support that community on the ground.

So, on behalf of CSIS, thank you very much for being here, and have a great day.

(END)