

# CLIENT ALERT

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## THE UFLPA GOES FRONT AND CENTER IN AUTOMOTIVE SUPPLY CHAINS

### 处在汽车供应链前沿和中心的《维吾尔强迫劳动预防法案》

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As we wrote in our [publication in March 2023](#), the United States Customs & Border Protection's (CBP) expansive powers under the recently enacted Uyghur Forced Labor Prevention Act (UFLPA) were about to lay siege on automotive imports from China. Particularly concerning for U.S. automakers was the fragile supply chains that support the nascent EV industry in North America, as OEMs were again thrust into the political center ring that is U.S./China relations, just as they were in 2019 when the prior administration rolled out the 301 Trade tariffs. The only difference this time is that the "forced labor agenda" has bipartisan support. The Democrats rallying around labor and human rights and the Republicans on anything involving China, national security, and yes, even their hesitation to electrify the U.S. in a massive way. Over the last six months, we have learned a great deal about the CBP's ability to keep up and administer its powers under the UFLPA, as well as how the UFLPA could derail the EV transition, as suppliers and OEMs are faced with managing the risk of detentions of parts or even the stigma of sourcing from Chinese suppliers on the Entity List.

正如我们在 [2023 年 3 月的简报](#) 中所报道的，美国海关与边境保护局（以下简称“美国海关”）根据最近颁布的《维吾尔族强迫劳动预防法案》（以下简称“《涉疆法案》”）下给予其更多的权力，即将对从中国进口的汽车产品进行围攻。尤其令美国汽车制造商担忧的是，支持北美新兴电动汽车行业的供应链，由于汽车制造商们正如2019 年上届政府推出 301 贸易关税一样再次被推入美中关系的政治中心圈，而变得更为脆弱。唯一不同的是，这次的“强迫劳动力”提案得到了两党的支持。民主党人在劳工和人权问题上团结一致，共和党人在涉及中国、国家安全的任何事情上都团结一致，是的，甚至他们仍对美国的大规模电气化转型表示犹豫不决。在过去的六个月中，由于供应商和汽车制造商们在面临着零部件被扣留，甚至从UFLPA实体名单上的中国供应商采购零部件的风险，我们深入地了解了美国海关执行《涉疆法案》的能力，以及《涉疆法案》是如何阻挠电动汽车的转型。

The UFLPA, signed into law in June 2022, took on greater meaning for the U.S. automotive industry earlier this year when the Forced Labor Enforcement Task Force (FLETF), the U.S. government inter-agency group responsible for designing the enforcement strategy for the UFLPA, confirmed that CBP would be enforcing the UFLPA beyond the "high-priority sectors" named in the law or in the Enforcement Strategy (i.e., cotton, polysilicon, and tomatoes).

《涉疆法案》于 2022 年 6 月签署成为法律。在今年早些时候，负责制定《涉疆法案》执法策略的美国政府跨机构小组强迫劳动执法工作组证实，美国海关将在原先法律或执法战略中指定的“先级领域”（即棉花、多晶硅和西红柿）之外执行《涉疆法案》，这一改变对美国汽车行业产生了更大的影响。

The UFLPA creates a rebuttable presumption that goods mined, produced, or manufactured wholly or in part in Xinjiang or by an entity on the UFLPA Entity List are prohibited from U.S. importation under 19 U.S.C. § 1307. This means that the CBP and the Centers of Expertise and Excellence, who are tasked with enforcing the UFLPA at the border as goods arrive in the U.S. can draw a presumption that certain Chinese goods were either manufactured with forced labor from Xinjiang or the supply chain for the finished goods relied on forced labor from this Province in China. This presumption can be rebutted by the importer of records, but only after it provides clear and convincing evidence that the goods were not dependent on forced labor from Xinjiang Province.

《涉疆法案》建立了一个可反驳的推定，即根据《美国法典》第 19 条，第 1307 款，全部或部分在新疆开采、生产或制造的商品或由 UFLPA 实体名单上的实体开采、生产或制造的商品禁止进口美国。这意味着负责在商品抵达美国时在边境执行《涉疆法案》的美国海关及其下属机构可以推定某些中国商品是用来自新疆的强迫劳动制造的，或该商品的供应链依赖于新疆的强迫劳动力。商品进口商可以反驳这一推定，但前提是其须提供“清晰且令人信服的证据”证明货物不依赖来自新疆省的强迫劳动生产。

But, what led to this interest in the Chinese auto industry as the next frontier for examining allegations of forced labor? For nearly two decades, Chinese automotive suppliers have been supplying OEMs and tier one and two suppliers in North America with quality and low cost options. And, U.S. OEMs and upper tier suppliers have been gladly receiving these automotive parts from an ever more sophisticated automotive supply chain, especially an EV supply chain that currently is more developed than those in Europe or North America. The UFLPA, like the 301 tariffs before it, however, has given another reason for OEMs and suppliers in the U.S. to evaluate their Chinese supply base. But, is this concern enough to avoid the realities that lithium batteries and related components are largely sourced from China, regardless of the battery supplier's country of origins.

然而，是什么导致中国汽车行业成为被审查强迫劳动指控的又一个领域呢？近二十年来，中国汽车供应商一直为北美汽车制造商和一、二级供应商提供优质且成本优惠的产品。并且美国汽车制造商和上游供应商很高兴在日益复杂的汽车供应链中购买来自中国汽车零部件，尤其是目前中国拥有比欧洲或北美更为发达的电动汽车供应链。然而，与之前的 301 关税一样，《涉疆法案》也为美国汽车制造商和供应商评估其中国供应基地提供了另一个理由。但

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是，这种担忧是否足以回避这样一个现实：无论电池供应商的原产国如何，锂电池及相关零部件仍主要来自中国。

Anyone familiar with the Chinese automotive supply chain realizes that most components are manufactured thousands of miles from the Xinjiang Uyghur Autonomous Region (XUAR), where attention on the UFLPA has focused – the XUAR is still a remote and largely undeveloped area on the western edges of the P.R.C. populated by ethnic minority groups, such as Uyghurs, Kazakhs, and Kyrgyzs. It is a region not known for its connection to automotive suppliers, especially those exporting products to the U.S. The XUAR, however, has become front and center in the battle for EV independence, but why?

任何熟悉中国汽车供应链的人都知道，大多数零部件都是在距离新疆维吾尔自治区数千英里之外的地方制造的，而《涉疆法案》的中心，新疆，仍然是中国西部边缘的一个偏远且基本上未开发的地区，居住着维吾尔族、哈萨克族、吉尔吉斯族等少数民族。该地区并不以汽车零部件而闻名，尤其是那些向美国出口产品的供应商。然而，新疆已成为电动汽车转型之战的前沿和中心，这是为什么呢？

It is likely not a coincidence that it may have something to do with researchers in the UK, who have published several reports directed at the U.S. automobile supply chain, tapping into their past reporting on human rights issues in XUAR. In December 2022, Sheffield Hallam University, located in the United Kingdom, published, “Driving Force – Automotive Supply Chains and Forced Labor in the Uyghur Region.” While Sheffield had been reporting on the situation in XUAR for years, it was not until December 2022, that Sheffield decided to focus on the Chinese automotive industry. In its report in December, the researchers declared: “The world’s largest steel and aluminum producers have shifted into the Uyghur Region under Chinese government subsidies and incentives. But tires, interiors, windshields, batteries and practically every other major part are also implicated. The auto industry cannot wait another day to trace their supply chains back to the raw materials. To do anything short of full tracing would be an enormous legal, ethical, and reputational risk.” <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/driving-force>

这可能并非巧合，或许与英国的一些研究人员有关，他们利用了过去对新疆人权问题的调查发表了几份针对美国汽车供应链的报告。2022年12月，英国谢菲尔德哈勒姆大学发表了一篇名为《驱动力——维吾尔地区的汽车供应链和强迫劳动》的报告。尽管谢菲尔德大学多年来一直在报道新疆的情况，但直到2022年12月，谢菲尔德大学才决定将重点放在中国的汽车行业。该校研究人员在12月的报告中宣称：“在中国政府的补贴和激励措施下，世界上最大的钢铁和铝生产商已转移到维吾尔地区。轮胎、内饰、挡风玻璃、电池和几乎所有其他主要部件也受到政策的影响。汽车行业迫不及待地想将其供应链转移到原材料产地。如果不进行全面追踪，这将会带来巨大的法律、道德和声誉风险。”

Sheffield University followed up its December publication in May 2023 with, “Products Made with Forced Labor in the Uyghur Region.” In this edition, Sheffield claimed:

谢菲尔德大学于2023年5月发布了继去年12月之后的又一篇名为《维吾尔地区强迫劳动制造的产品》的报道。在这个报道中，谢菲尔德大学声称：

*The automotive parts manufacturing market is expected to reach nearly US \$2 trillion by 2026. China is one of the world’s top auto parts suppliers, exporting upwards of US \$45 billion worth in 2021. The United States automotive industry is particularly reliant on Chinese parts, receiving approximately a quarter (US \$11.5 billion worth) in 2021. The manufacture of automotive parts is significantly exposed to forced labor with raw material inputs including aluminum, steel, and copper, whose connections to forced labor have been described in previous sections. There has also been an increase in production of other automotive component parts in the XUAR such as batteries (described above), electronics, car interiors, glass, and tires and wheels. Similar to other industries that have undergone rapid expansion, the PRC government has dedicated significant resources to moving the highly polluting and energy-intensive processing of these raw materials into the Uyghur Region.”* <https://www.shu.ac.uk/helena-kennedy-centre-international-justice/research-and-projects/all-projects/evidence-briefs>

到2026年，汽车零部件制造市场预计将达到近2万亿美元。中国是全球最大的汽车零部件供应国之一，2021年出口额将超过450亿美元。美国汽车工业尤其依赖中国零部件，到2021年，中国对美国的出口额已达到中国出口的约四分之一（价值115亿美元）。汽车零部件的制造明显依赖于强迫劳动，原材料投入包括铝、钢和铜。在新疆生产的其他汽车零部件的产量也有所增加，例如电池、电子产品、汽车内饰、玻璃以及轮胎和车轮。与其他经历快速扩张的行业类似，中国政府投入了大量资源，将高污染和能源密集型原材料加工地转移到维吾尔地区。”

By May 2023, CBPs ramped up efforts directed at the automotive industry was in full swing, and for all intents and purposes, seemed to be fueled by the reporting of Sheffield University. And, CBP was not alone in its reliance on Sheffield’s reporting. In December 2022, Senate Finance Chairman Ron Wyden (R-Oregon) questioned eight major automakers over reports that their supply chains may include materials sourced from the Xinjiang region of China. Sheffield’s December 2022 report was cited in the Senator’s letter. <https://www.finance.senate.gov/chairmans-news/senate-finance-committee-chair-wyden-expands-investigation-of-auto-supply-chain-links-to-forced-labor-in-xinjiang-china>. Senator Wyden then followed up in March 2023, sending a second letter to automakers and tier 1 suppliers, requesting information about how these companies sourced materials and oversaw their supply chains. Sheffield’s December 2022 report was again cited in the Senator’s letter. <https://www.finance.senate.gov/chairmans-news/senate-finance-committee-chair-wyden-expands-investigation-of-auto-supply-chain-links-to-forced-labor-in-xinjiang-china>.

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到 2023 年 5 月，美国海关边境保护局全面加大了针对汽车行业的审查力度，而且无论出于何种意图和目的，谢菲尔德大学的报告似乎都推动了这一举措。并且美国海关与边境保护局并不是唯一一家依赖谢菲尔德大学报告的机构。2022 年 12 月，美国参议院财政主席 RON WYDEN（俄勒冈州共和党人）就八家主要汽车制造商的供应链可能包括来自中国新疆地区的材料的报道对他们进行了质询。参议员的信中引用了谢菲尔德大学 2022 年 12 月的报告。随后，WYDEN 参议员于 2023 年 3 月跟进，向汽车制造商和一级供应商发送了第二封信，要求提供有关这些公司如何采购材料和监督其供应链的信息。参议员的信中再次引用了谢菲尔德 2022 年 12 月的报告。

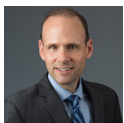
As reported by Axios in February of this year, Wyden is not the only member of Congress who has questioned the U.S.'s reliance on China. <https://www.axios.com/2023/02/06/congress-ev-china-oversight-incoming>. And, Senator Wyden is not the only member of Congress who has relied on Sheffield's reporting to support the concerns. In fact, Sheffield's reports have seemingly gained significant importance in supporting the U.S.'s policy towards China over forced labor issues and secure supply chains. And, while CBP and FLETF do not openly admit to relying on Sheffield's reporting, there are plenty of anecdotic reasons to believe the reporting is currently influencing decisions at the border.

据 AXIOS 今年 2 月报道，WYDEN 并不是唯一质疑美国对中国供应链依赖的国会议员。而且，WYDEN 参议员并不是唯一一位依靠谢菲尔德大学的报告来支持这些质疑的国会议员。事实上，谢菲尔德大学的报告似乎在支持美国在强迫劳动问题和安全供应链问题上对华政策方面发挥了重要作用。而且，虽然美国海关和执法小组没有公开承认其依赖谢菲尔德大学的报告，但我们有很多理由相信该报告目前正在影响美国海关的决策。

For now, the trend towards ramping up concerns and legislative actions over forced labor in China does not appear to be waning in the U.S., but as Beijing continues to deny these allegations, the question for the industry continues to be unsettled: How will this impact the U.S.'s initiative to electrify? Time will tell.

目前，美国对中国强迫劳动问题的担忧和立法行动似乎并未减弱，但随着北京继续否认这些指控，汽车行业仍面临一个悬而未决的问题：这将如何影响美国的电气化的已成？时间会告诉我们答案。

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