

Those of you who attended our Annual Conference in May and who reviewed our transcripts and slides know we are prepared to take advantage of this global opening in sourcing.

A looming supply chain crisis will test just how far Washington will go to prove it's tough on China

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Over the past three years, the U.S. government has intervened frequently to shield American consumers from the pain of wrenching global supply chain disruptions caused by the pandemic, the Ever Given's misadventures in the Suez Canal, and labor shortages. Last October, President Joe Biden's newly created White House Supply Chain Disruption Task Force convinced port workers and terminal operators at the Port of Los Angeles to keep the facility running 24/7 to avert a Christmas supply chain crisis. This week, Congress passed the Ocean Shipping Reform Act that is aimed at clearing red tape and backlogs in U.S. ports to ease shortages and delays.

But in coming months, U.S. lawmakers and Biden administration officials may find themselves scrambling to contain a supply chain slowdown of their own device. U.S. lawmakers set the stage for a new wave of disruption last year by unanimously passing a sweeping new anti-forced labor law that they say embodies Washington's zero tolerance for China's alleged human rights abuses. The new law, which will take effect next week, may result in customs agents holding cargo ships offshore and seizing bulk orders, all at a time when the American public is already weary from shortages of toilet paper and PPE and lumber and bicycles and now tampons. Lawmakers have already concluded that taking a stand against China is worth more supply chain messiness, but the implementation of the law will test whether American consumers feel the same way.

The Uyghur Forced Labor Prevention Act

On June 21, the U.S. will enact legislation that will ban all imports from China's Xinjiang region where the government reportedly forces the minority Uyghur Muslims to work against their will. (Beijing denies such claims.) U.S. brands awaiting shipments from their Chinese manufacturers risk customs agents detaining the orders unless importers can prove their goods aren't tied to forced labor in the Xinjiang region.

Xinjiang is renowned for its cotton. Twenty percent of the world's cotton comes from China, and 80% of Chinese cotton comes from Xinjiang. But the arid northwest region of China also produces tomatoes and manufactured items like solar panels. China's largest reserves of oil, coal, and natural gas are also found in Xinjiang. The new law, called the Uyghur Forced Labor Prevention Act, applies to all goods from Xinjiang. And it goes beyond past enforcement measures by presuming that all items from Xinjiang are made with forced labor. Rather than the government having to prove a corporation is guilty of using forced labor, the corporation must prove its innocence.

"Companies thought they could simply place responsibility on to their suppliers," says Laura Murphy, professor of human rights and contemporary slavery at the Helena Kennedy Centre for International Justice at Sheffield Hallam University. "The [new law] calls their bluff. It requires companies to know where their goods are made down to the raw materials and verify it."

The law is the "most significant action" the U.S. government has taken in recent years to prohibit imported goods made with forced labor, says Marti Flacks, director of the Human Rights Initiative at bipartisan research organization the Center for Strategic and International Studies.

Directly, the law will cover the \$600 million in chemicals, agricultural products, **cotton** and other goods that enter the U.S. each year. Indirectly, the law covers a much larger pool of items since most products even partly made in Xinjiang—which had a GDP of \$271 billion in 2021, roughly the same size as Vietnam—will be barred from entering the U.S. **The law prohibits U.S. firms from importing the 1.5 billion garments, worth \$20 billion, made with Xinjiang cotton products each year**, and it cuts the U.S. off from Xinjiang's \$5.2 billion polysilicon industry and its \$10 millionworth of tomato exports.

U.S. companies recognize the law's magnitude. Brands from Apple to Niketo Coca-Cola reportedly lobbied Congress to dilute the law with little success.

How to map a supply chain

Today's complex overseas supply chains are notoriously difficult to map—especially when they involve cotton and especially in Xinjiang. (**NOTE:** on the other hand, **AAPN-member supply chains of the Americas** are transparent)

Cotton doesn't go straight from farm to fabric; it passes through various intermediaries—ginners, traders, yarn spinners, fabric mills—and is combined with other materials before it's transformed into clothing. One T-shirt can contain cotton from dozens of different sources, Alia Malik, senior director of data and traceability for the nonprofit Better Cotton Initiative, wrote for the World Economic Forum.

Many corporations point to independent audits as proof that they're adhering to international standards on eradicating forced labor in their supply chains. Yet credible audits "can't be conducted in Xinjiang" because police often block auditors' access to factories or surveil workers, compromising worker testimonials, says Allison Gill, forced labor program director at Global Labor Justice-International Labor Rights Forum. Some auditors have even stopped working in the region because they're unable to conduct legitimate inspections of factories and working conditions. Beijing also passed the anti-foreign sanctions law last year, which bars Chinese and foreign individuals and organizations from helping enforce measures that Beijing says are discriminatory against Chinese

entities. The law encourages Chinese suppliers to scuttle attempts by multinationals to meet the U.S.'s new legislation, says Dexter Roberts, senior fellow at the Atlantic Council's Asia Security Initiative and author of *The Myth of Chinese Capitalism*.

Beijing recently allowed United Nations human rights chief Michelle Bachelet to visit Xinjiang, but she says that she was barred from speaking to any Uyghurs detained in the province and was accompanied by Chinese officials for most of her trip.

Research from KnowTheChain, a nonprofit that focuses on forced labor in supply chains, has found that 81% of the world's largest multinationals that are exposed to forced labor don't provide a detailed supplier list beyond the factories that produce their final products, indicating that most companies aren't conducting full supply chain mapping or aren't disclosing their sub-suppliers. "If companies have not rolled out any type of traceability solution or tracking process, I don't see how they say they're complying," says supply chain optimization firm Logility.

The U.S. government has failed to provide clear guidance on how businesses can prove they are in compliance with the new law. Days before the law takes effect, the government hasn't publicly identified the Chinese suppliers that have already been implicated in forced labor practices, says Scott Nova, executive director at Worker Rights Consortium, a labor rights monitoring organization. The list is expected before June 21.

Earlier this week, the border services agency published guidelines stating importers must provide proof of supply chain tracing and mapping, which could include showing documents like certificates of origin, invoices for all suppliers and sub-suppliers, and independent verification of due diligence. But it's still unclear what level of compliance is needed from companies—whether they'll need to hand over all, or just some, of the documents in the guidance's long list, or if each shipment will be judged on a case-by-case basis.

The federal government spending bill passed in March committed \$27 million in new funding for customs to enforce the new law. The influx of cash could help border services boost inspection capacity and improve automated inspection processes, says Chris Tang, faculty director at UCLA's Center for Global Management, whose research focuses on global supply chains. Still, Tang acknowledges that it's "difficult to say if [the amount] is enough" given the new law's vast scope. Paul Hong, professor of global supply chain management at the University of Toledo, argues that the \$27 million won't sufficiently cover the broad mandate of the law or fully fund efforts to track and manage the flow of goods coming into the U.S.

The coming supply chain chaos

All told, the law's implementation next week could usher in **a new period of supply chain chaos**.

Companies will need at least a few quarters to figure out what the border agency expects in terms of due diligence. Until then, Americans could see fewer items on store shelves, says Brandon Daniels, CEO of Exiger, a platform that helps companies manage due diligence and supply chain risks. **"If you're wearing a shirt that's made in China,** or have a computer [with parts] made in China... you may see these goods inspected and seized in the near future," he says. Port wait times will likely spike this summer, but Daniels expects the inspection process to normalize by the fall since importers and border services will want to prevent another Christmas supply chain crunch. Unlike past shortages caused by China's COVID lockdowns or bad harvests or stuck cargo ships, this round of mayhem will be entirely of the U.S. government's own making.

Labor advocates say the new law, even if it's disruptive, is long overdue. "Companies should be required to know where their goods come from," says Murphy. "The U.S. government is just compelling companies to do the work that we all as consumers assumed they already did."

And lawmakers too want to show that their biggest effort yet to combat China's alleged human rights abuses has teeth. The Biden administration is "well aware" that the new law will cause headaches for American companies, Roberts says. Yet White House officials "view the law... as bolstering Biden's tough-on-China credentials just as much as stopping forced labor," he says.

Hong argues that the new act is more "appearance than substance," designed to show that the U.S. is clamping down on China's alleged human rights abuses. The law might lead to goods disappearing from the U.S. supply chain or result in a few "highly publicized cases of firms" caught violating the act, but the legislation isn't "genuinely" enforceable because companies can't say with absolute certainty that their goods are free of Xinjiang forced labor, he says.

When the law goes into effect next week, it will confront American consumers who are already frustrated. They're still haunted by the shortages and delays of the pandemic's early days and, with inflation at record highs, may be reaching their limit in how much they're willing to pay to support a moral stance. Take Russia's invasion of Ukraine, for example. Over half of U.S. adults—51%—say the U.S.'s top priority should be "limiting damage to the U.S. economy," compared to 45% who say sanctioning Russia "as effectively as possible" should be the U.S.'s key goal, according to a May poll conducted by the Associated Press and the NORC Center for Public Affairs Research. In April, the figures were reversed, when 55% of U.S. citizens said that sanctioning Russia should be the country's main goal.

The new U.S. law will increase the cost of procuring goods and contribute **to increased lead times and price hikes of 25-50%**, says Patrick Penfield, a professor of supply chain management at Syracuse University. Consumers might balk at buying an item they know for certain is made with forced labor, but generally, Penfield says, the price of a good is ultimately the top concern, and

shoppers generally select the cheapest option when "comparing items that are similar in form, fit and function."