

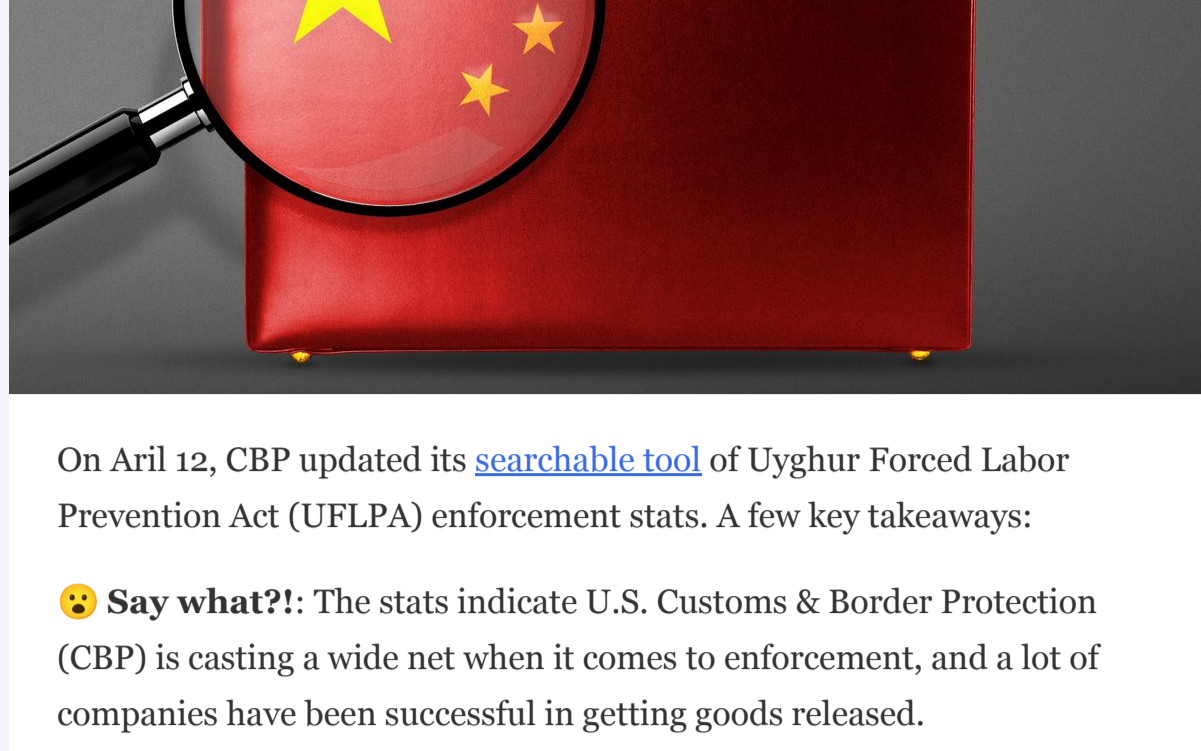
Customs Report

By Thomas Crockett • Apr 25, 2024

Smart Brevity® count: 4 mins...1082 words

A few quick updates from FDRA on UFLPA stats, the EU proposal on forced labor, e-Allegations, and recent classification decisions.

UFLPA stats: number of shipments released



On April 12, CBP updated its [searchable tool](#) of Uyghur Forced Labor Prevention Act (UFLPA) enforcement stats. A few key takeaways:

🚨 Say what?! The stats indicate U.S. Customs & Border Protection (CBP) is casting a wide net when it comes to enforcement, and a lot of companies have been successful in getting goods released.

- 43% of **📦** all shipments targeted under the UFLPA have been released.
- 25% of **👕** apparel, footwear, and textile (AFT) shipments have been released. 58% have been denied.
- Some industries are even higher when it comes to releases. For **📱** electronics, 52% of shipments have been released. For **🏭** machinery, 59% of shipments have been released.

📊 By the numbers: The stats show 1405 AFT shipments have been targeted under the UFLPA so far.

- **Yes, but:** The stats group footwear with apparel and textiles. To our knowledge, *no footwear shipments* have been detained as being produced in or containing materials or components from Xinjiang.

🌍 One more thing: With UFLPA enforcement, **🇨🇳** China and **🇻🇳** Vietnam are still neck-and-neck when it comes to value of shipments.

- China (730 shipments targeted) accounts for 38% of total AFT shipments by value. **🇻🇳** Vietnam (402 shipments targeted) accounts for 36%.

Go deeper: You can access the tool [here](#).

New EU proposal on forced labor



The U.S. led the charge on forced labor enforcement with enactment of the UFLPA. Now the EU is following suit with its own forced labor law.

😬 Unlike the UFLPA, the EU proposal does not create an Entity List of bad actors. Instead it creates a list of geographical areas and economic sectors deemed high risk.

💡 Similar to the UFLPA, for products from the areas on the list, the burden will be on the importer to show that there is no forced labor.

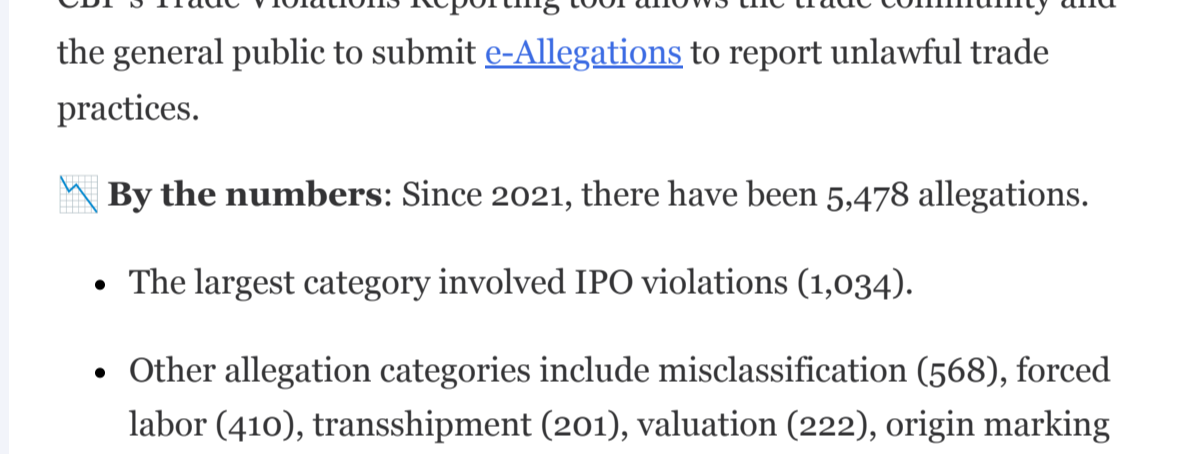
📌 Tell me more:

- The EU proposal covers all products where forced labor was used at any stage of the production. Forced labor is defined as “all work or service which is extracted from any person under the menace of any penalty and from which the said person has not offered himself or herself voluntarily.”
- Enforcement falls to the EU member states, although it is possible that there will be a lead state in cases involving cross-border investigations. Where the risk arises outside the EU (likely for imports into the EU, for example), the investigation will be done by the European Council.
- Proposed limitations on addressing a violation include: quantity made available to the EU market, part of the product made with forced labor, and whether the importer is close to the risk and has leverage to address the risk.

📅 What’s next: The rules have been endorsed and adopted by the European Commission. The European Parliament is taking up the issue now.

- Once final, member states must apply the rules within three years of adoption.

CBP’s e-Allegations



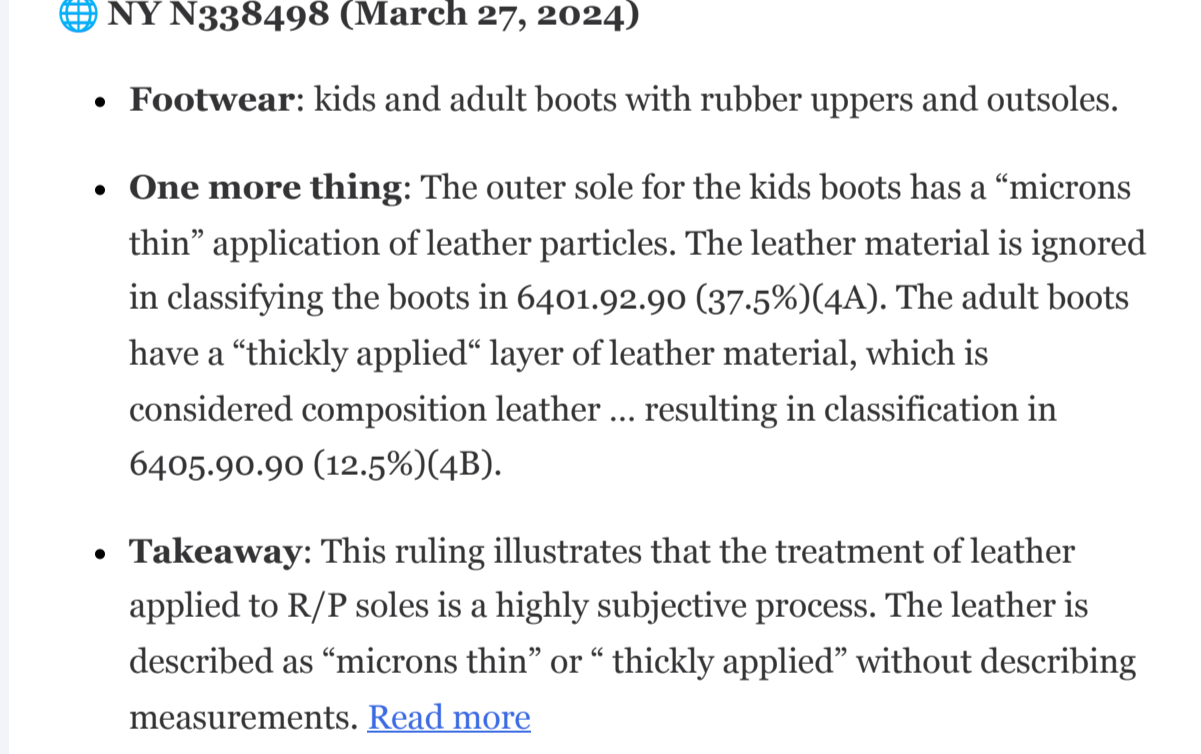
CBP’s Trade Violations Reporting tool allows the trade community and the general public to submit [e-Allegations](#) to report unlawful trade practices.

📊 By the numbers: Since 2021, there have been 5,478 allegations.

- The largest category involved IPO violations (1,034).
- Other allegation categories include misclassification (568), forced labor (410), transshipment (201), valuation (222), origin marking (331), trade agreements (303), and antidumping/countervailing duties (383).

📌 One more thing: The stats note that 71 allegations, or 1.3%, involve textiles and apparel. No other commodity or product line is mentioned.

Classification decisions: flocking



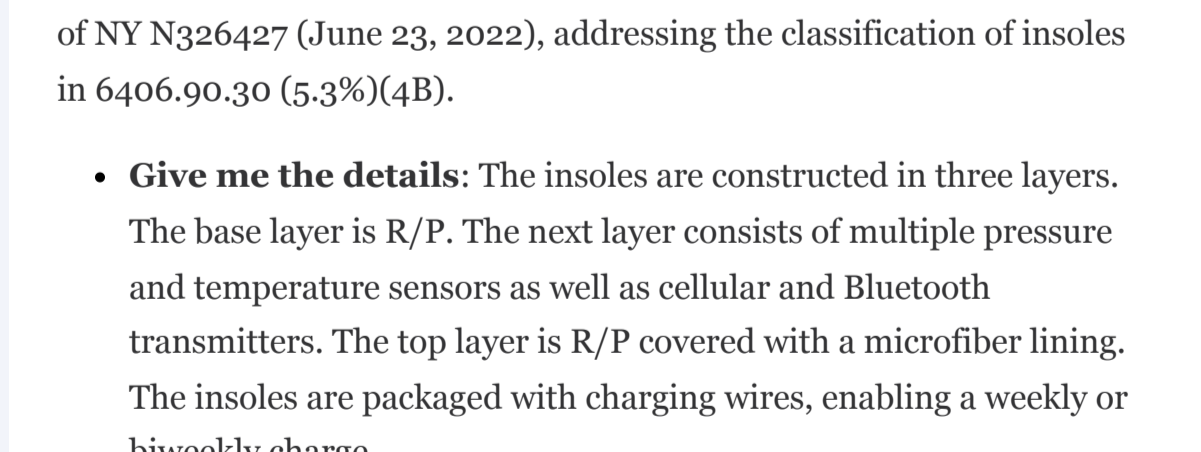
🌐 NY N338498 (March 27, 2024)

- **Footwear:** kids and adult boots with rubber uppers and outsoles.
- **One more thing:** The outer sole for the kids boots has a “microns thin” application of leather particles. The leather material is ignored in classifying the boots in 6401.92.90 (37.5%)(4A). The adult boots have a “thickly applied” layer of leather material, which is considered composition leather ... resulting in classification in 6405.90.90 (12.5%)(4B).
- **Takeaway:** This ruling illustrates that the treatment of leather applied to R/P soles is a highly subjective process. The leather is described as “microns thin” or “thickly applied” without describing measurements. [Read more](#)

🌐 NY N338343 (March 20, 2024)

- **Footwear:** women’s flats with uppers of PU, which represents less than 90% of the external surface of the upper (ESAU).
- **Takeaway:** For one flat, the outsole has applied textile material covering the majority of the surface area in contact with the ground. The flat was classified in 6402.99.41 (12.5%)(4B). The sole of the second shoe has a “thickly applied” leather material, covering the area in contact with the ground. That shoe was classified in 6405.90.90 (12.5%)(4B). [Read more](#)

Classification decisions: medical science and insoles?



🌐 HQ H330775 (March 12, 2024) responds to the importer’s appeal of NY N326427 (June 23, 2022), addressing the classification of insoles in 6406.90.30 (5.3%)(4B).

- **Give me the details:** The insoles are constructed in three layers. The base layer is R/P. The next layer consists of multiple pressure and temperature sensors as well as cellular and Bluetooth transmitters. The top layer is R/P covered with a microfiber lining. The insoles are packaged with charging wires, enabling a weekly or biweekly charge.
- **Oh, also:** When the insoles are worn, they collect physiologic data such as wear time, step count, orientation, and temperature. This data is transmitted to the Internet. The data may be accessed and monitored by the wearer and medical professionals with the goal of diagnosing diabetic foot ulcers and other foot problems. The insoles are not available in retail establishments and are targeted to patients of podiatrists.

The bottom line: On appeal, the importer argued for classification in heading 9018, as instruments or appliances used in **🏥** medical sciences. Upon review, CBP found the sensory insoles at issue are not classified in heading 9018 as instruments or appliances used in medical sciences.

- While the insoles collect data points that might provide info to a medical professional that suggests further investigation is necessary, these are not physiological parameters that directly point to medical diagnoses. HQ affirmed the NY ruling. [Read more](#)

The FDRA Customs Report is a newsletter of customs, administrative, and other developments affecting importers of footwear prepared as a service for FDRA members. Matters reported on or summarized herein may not be construed as legal advice on specific situations.

Thanks for reading this month’s FDRA Customs Report. Feel free to share this newsletter with others on your team. Have a great rest of the week!

Thomas

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