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No Safe Harbor for Forced Labor

*The Case for a Law in Japan Banning the Importation of Products of
Forced Labor and Lessons and Recommendations for Its Design*

Human Rights Now



Human Rights Now

I

Executive Summary

This report discusses reasons that should compel policymakers in Japan to introduce legislation banning the importation of products produced by or linked to forced labor, as well as complementary laws including rules on mandatory human rights due diligence (HRDD) and supply chain traceability and transparency, to help end forced labor in the supply chains of Japanese businesses. There are legal, ethical, and economic reasons for the Japanese government to pass such an import ban, including the support of the values of human rights, a fair global trade system, and the competitiveness of Japanese businesses and workers throughout their supply chains not subject to forced labor.

Aside from these general considerations, there are specific factors this report discusses that makes Japan's participation in the growing circle of countries with forced labor import bans particularly important. These include the fact that the Japanese government and Japanese companies have a wide range of supply chains throughout the world that import a great variety of products, and human rights abuses including forced labor occur in these supply chains. At the same time, the Japanese government and companies also have some regional power, including market power and diplomatic influence, enabling them to have a real impact in ending forced labor in the region and globally with an import ban when they respect human rights and their own commitments to combat forced labor more seriously. There are also particular vulnerabilities for Japan as long as it does not ban the importation of products of forced labor, including the problem of dumping, as products of forced labor increasingly restricted in other countries get dumped into Japan, which may eventually damage the reputation of Japan as well as the competitiveness of Japanese companies striving to be aligned with international human rights standards.

This report then offers lessons for policymakers from several other laws in constructing the design of a law banning the importation of products of forced labor, both positive lessons (features the government can constructively learn from) and negative lessons (challenges of or criticisms against the laws that the government can avoid with recommended measures). These laws include Section 307 and Uyghur Forced Labor Prevention Act in the United States, as well as several import ban case studies under these laws; import ban legislation in Canada, Mexico, and the EU; and several laws related to the import bans on Illegal, Unreported, and Unregulated (IUU) seafood.

The report ends with consideration of several institutional reforms that policymakers should consider in enacting and implementing import ban legislation, including the creation of a National Human Rights Institution, recruiting for and training staff in human and labor rights expertise, passing complementary laws such as rules on mandatory HRDD and supply chain traceability and transparency, creating a system to flag states for high risks of forced labor which facilitates import bans, and coordination mechanisms for countries with import ban laws to share best practices, forced labor evidence, banned entity lists, and other relevant information.

II

Forced Labor and Import Ban Overview

According to the International Labour Organization (ILO), an estimated 27.6 million people were subjected to forced labor globally in 2021, including 3.3 million children.¹ The prevalence of forced labor continues to rise, particularly in the private sector, where exploitative labor practices are deeply embedded in various supply chains. The Asia-Pacific region accounts for more than half of the global total, with 15.1 million individuals affected, more than any other region.² While manufacturing and agriculture are among the most impacted sectors, mineral extraction and fisheries also pose significant risks. Japan is not exempt from these challenges, as repeated allegations of forced labor have emerged in the global supply chains of Japanese companies,³ highlighting the pressing need for enhanced measures to address these risks. As a large economy with strong trade ties in the Asian region, Japan's market and consumers are unwittingly financing forced labor in the region by importing products produced by or linked to forced labor, undermining both its human rights values and the competitiveness of its businesses and workers.

Root causes of forced labor in supply chains are complex and systemic, often linked to poverty, discrimination, social exclusion, exploitation, and developing states' reliance on cheap, frequently migrant, labor and remittances. It persists due to systemic failures across supply chains—from the recruitment of vulnerable workers, including migrants, and abusive conditions at production sites to weak oversight by companies and governments in migrant-origin, exporting, transit, importing, and consumer countries. Addressing these failures thus requires action at multiple levels. As argued in this report, one effective tool to combat forced labor is an import ban on products of or linked to forced labor. However, it is important to note from the start that a single regulatory measure is unlikely to be effective in sustainably reducing forced labor on its own, and other complementary regulatory and non-regulatory instruments should be considered alongside its implementation.⁴ Otherwise, the root causes mentioned above are likely to remain in place.

Nevertheless, import bans can serve as a powerful tool to push companies that profit from forced labor, even if unintentionally, to take appropriate and effective action to remediate identified cases, conduct preemptive due diligence,⁵ mitigate forced labor across their supply chains, and encourage reform at the lower tiers of supply chains in export countries. These pressures can also motivate reform in importing countries. Historically, developed countries importing from developing countries have tended to “race to the bottom” in terms of protections for workers in their supply chains to keep labor costs low. However, as more stakeholders in importing countries have recognized the eventual unsustainability of this approach for their economy in the long run, these countries have gradually shifted to a “race to the top” for worker protection. The introduction of import bans could motivate exporting countries to go in this more constructive direction as well.

This chapter reviews the main regulatory tools available to importing countries and focuses on the effectiveness of import bans, with a particular focus on the context in Japan. It first examines existing global efforts and their limitations, highlighting the need for import bans as a more effective measure than the current alternatives. It then considers import bans as a policy tool for the Japanese government, assessing their potential to influence corporate practices and strengthen government regulation and enforcement in exporting companies and countries.

1 ILO, Walk Free, and IOM, “Global Estimates of Modern Slavery: Forced Labour and Forced Marriage”, 2022, https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_norm/%40ipec/documents/publication/wcms_854733.pdf.

2 *Id.*

3 Malay Mail, “HR Ministry opens probe into slave labour claims against contractor for Sony, Panasonic and Daikin”, 6 September 2024, https://www.malaymail.com/news/malaysia/2024/09/06/hr-ministry-opens-probe-into-slave-labour-claims-against-contractor-for-sony-panasonic-and-daikin/149493#google_vignette; The Oriental Economist, “Allegations of Forced Labor at Japanese Auto Parts Supplier in Taiwan”, 4 June 2024, <https://toyokeizai.net/articles/-/757969>.

4 *Id.*

5 Verity McCullagh, Ben Vanpeperstraete, “Understanding the EU Forced Labour Regulation”, Anti-Slavery International, ECCHR, February 2025, https://www.antislavery.org/wp-content/uploads/2025/02/ASI-ECCHR-FLR-Analysis-February-2025_Final.pdf.

A. Global Approach to Forced Labor and its limitations

1. Existing Global Efforts

Japan has joined or expressed support for several international initiatives to reaffirm its commitment to combating forced labor, including the ILO Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy,⁶ the OECD Guidelines for Multinational Enterprises,⁷ and Goal 8 of the Sustainable Development Goals.⁸ In 2021, the G7 Leaders' Communiqué explicitly reaffirmed this commitment, stating: "We commit to continue to work together, including through our own available domestic means and multilateral institutions, to protect individuals from forced labor and to ensure that global supply chains are free from the use of forced labor."⁹ In 2023, Japan established with the US the US-Japan Task Force on the Promotion of Human Rights and International Labour Standards in Supply Chains, although it has not led to significant actionable or effective initiatives.¹⁰ In May 2023, the Japanese government hosted the G7 Conference in Hiroshima aimed to facilitate cooperation toward "eradicating all forms of forced labour from global supply chains" and to promote "decent work and protect rights-holders in global supply chains."¹¹

At both domestic and regional levels, various jurisdictions have introduced HRDD frameworks to address human rights violations, including forced labor. Some states, such as Japan,¹² have adopted voluntary guidelines on responsible business conduct, while others—including the United Kingdom,¹³ France,¹⁴ Germany,¹⁵ Canada,¹⁶ and Australia¹⁷—have enacted mandatory legislative measures such as HRDD requirements and/or rules focusing on companies reporting the existence of forced labor in their supply chains. In 2024, the EU introduced its regulatory framework with the Corporate Sustainability Due Diligence Directive (CSDDD),¹⁸ mandating companies to conduct HRDD aiming to prevent and end forced labor consistent with international standards.

An increasing number of countries have also implemented import bans on products made with forced labor. In 2016, the United States removed a long-standing exemption in the Tariff Act of 1930 increasing its use of such an import ban law,¹⁹ and it strengthened it further with the Uyghur Forced Labor Prevention Act (UFLPA) in 2022.²⁰ Following the entry into force of the United States-Mexico-Canada Agreement (USMCA) in 2020, Canada introduced an import ban that same year, while Mexico followed with its own ban in 2023, both in compliance with USMCA labor provisions.²¹ In 2024, the European Union adopted its own regu-

6 ILO, "Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy", 2022, https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40ed_emp/%40emp_ent/%40multi/documents/publication/wcms_094386.pdf.

7 OECD, "OECD Guidelines for Multinational Enterprises on Responsible Business Conduct", 2023, <https://doi.org/10.1787/81f92357-en>.

8 G7 2023 Hiroshima Summit, "G7 Hiroshima Leaders' Communiqué", 20 May 2023, <https://www.mofa.go.jp/files/100506878.pdf>.

9 G7 2021 Carbis Bay Summit, "Carbis Bay G7 summit communiqué: Our Shared Agenda for Global Action to Build Back Better", 13 June 2021, https://assets.publishing.service.gov.uk/media/60ec1a17d3bf7f568ffe86df/Carbis_Bay_G7_Summit_Communique_PDF_430KB_25_pages.pdf.

10 Office of the United States Trade Representative (USTR), "United States and Japan Launch Task Force to Promote Human Rights and International Labour Standards in Supply Chains", 6 January 2023, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2023/january/united-states-and-japan-launch-task-force-promote-human-rights-and-international-labor-standards>.

11 Marti Flack & Steven Orientale, "Operationalizing the G7 Commitment to End Forced Labour in Global Supply Chains", CSIS, 31 May 2023, <https://www.csis.org/analysis/operationalizing-g7-commitment-end-forced-labor-global-supply-chains>.

12 The Inter-Ministerial Committee on Policy Promotion for the Implementation of Japan's National Action Plan on Business and Human Rights, "Guidelines on Respecting Human Rights in Responsible Supply Chains", 2022, https://www.meti.go.jp/english/press/2022/pdf/0913_001a.pdf.

13 UK Modern Slavery Act 2015, 2015 c.30, <https://www.legislation.gov.uk/ukpga/2015/30/contents>.

14 France Corporate Duty of Vigilance Law, LOI n° 2017-399, <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000034290626/>.

15 Germany Act on Corporate Due Diligence Obligations in Supply Chain, <https://www.bmas.de/SharedDocs/Downloads/DE/Internationales/act-corporate-due-diligence-obligations-supply-chains.pdf>.

16 Canada Fighting Against Forced Labour and Child Labour in Supply Chains Act, S.C. 2023, c. 9, <https://laws.justice.gc.ca/eng/acts/F-10.6/>.

17 Australia's Modern Slavery Act 2018, <https://www.legislation.gov.au/C2018A00153/latest/text>.

18 European Union Directive (EU) 2024/1760 of the European Parliament and of the Council of 13 June 2024 on corporate sustainability due diligence and amending Directive (EU) 2019/1937 and Regulation (EU) 2023/2859, <https://eur-lex.europa.eu/eli/dir/2024/1760/oj>.

19 US Tariff Act of 1930, 19 USC Ch. 4, <https://uscode.house.gov/view.xhtml?path=/prelim@title19/chapter4&edition=prelim>.

20 US Uyghur Forced Labor Prevention Act, Public Law No. 117-78, <https://www.govinfo.gov/app/details/PLAW-117publ78>.

21 Canada Customs Tariff, S.C. 1997, c. 36, Section 136, <https://laws-lois.justice.gc.ca/eng/acts/c-54.011/page-26.htm>. Note that the USMCA is expected to be renegotiated in the near future.

lation on banning the import and export of products made with forced labor.²²

2. The Limitations of Voluntary Approaches and Need for Mandatory HRDD

Japan has primarily relied on voluntary HRDD required by the UN Guiding Principles on Business and Human Rights (UNGPs),²³ promoted through its 2020 National Action Plan (NAP) on Business and Human Rights,²⁴ the 2022 Guidelines on Respecting Human Rights in Responsible Supply Chains,²⁵ relevant guidelines for public procurement,²⁶ and 2023 Reference Material on Practical Approaches for Business Enterprises to Respect Human Rights in Responsible Supply Chains.²⁷ This environment encouraged industry to at least make statements indicating a commitment to addressing forced labor in supply chains, such as the Japan Business Federation's (Keidanren) November 2017 revision the Charter of Corporate Behaviour for the Realization of a Sustainable Society, which in Principle 4 calls on businesses to "conduct business that respects the human rights of all persons"²⁸ and December 2022 revision emphasizing the need for establishing "sustainable capitalism ... by encouraging behavioural changes not only within their own corporations but also in their group corporation and supply chains."²⁹ Despite statements like this, however, as of FY2024, only 16.4% of Japanese firms that responded to a survey (33.5% response rate) had implemented HRDD, while 44% had no plans to do so. Among importing firms, the situation is even more concerning, with 94.1% responding that they were not currently conducting HRDD.³⁰ This highlights that regardless of some proactive actions by a few companies, voluntary policy frameworks have failed to bring systemic change, and corporate participation in voluntary systems remains low.

A key weakness of voluntary measures is that they fail to create a level playing field in the global market. The cost burdens of HRDD and capacity limits of companies make HRDD difficult to sustain under a voluntary regime due to competitive pressures from companies not conducting HRDD, contributing to the high number of firms unwilling to adopt it. Even among companies conducting HRDD, the level of scrutiny on suppliers will vary by each company, and even if HRDD identifies forced labor, the company conducting the HRDD may not publicize the result and might not take effective action against the supplier to address the forced labor. Thus, mandatory measures are necessary to abolish the most serious human rights abuses. Under mandatory HRDD, all affected companies will have a comparable cost burden, creating a more level playing field that reduces unnecessary competitive pressures on companies conducting effective HRDD. It will also establish common and effective standards for HRDD by clarifying what the UNGPs require, standardizing methods and results, and it can ensure that the results are released publicly. Such laws can also include measures to reduce the cost burdens of HRDD, particularly for small and medium sized enterprises (SMEs), including targeted financial assistance, facilitating shared HRDD, and temporarily reduced burdens for SMEs with the ultimate aim of full compliance with the UNGPs.

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- 22 European Union Regulation (EU) 2024/3015 of the European Parliament and of the Council of 27 November 2024 on prohibiting products made with forced labour on the Union market and amending Directive (EU) 2019/1937, <https://eur-lex.europa.eu/eli/reg/2024/3015/oj>; For the overview of these regulations, see also Japan External Trade Organization (JETRO) "Sapuraichēn to jinken' ni kansuru hōsei-ka dōkō [Legislative trends regarding "supply chains and human rights"]", November 2024, https://www.jetro.go.jp/ext_images/Reports/01/aea11c7aa332ac1f/20240021.pdf (in Japanese); and ILO, "Integrating Trade and Decent Work Volume 2: The Potential of Trade and Investment Policies to Address Labour Market Issues in Supply Chains", 2023, https://www.ilo.org/sites/default/files/wcmsp5/groups/public/%40dgreports/%40inst/documents/publication/wcms_903192.pdf.
 - 23 OHCHR, "Guiding Principles on Business and Human Rights", HR/PUB/11/04, 2011, https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinesshr_en.pdf.
 - 24 The Government of Japan, "National Action Plan on Business and Human Rights (2020-2025)", October 2020, <https://www.mofa.go.jp/files/100173319.pdf>.
 - 25 The Inter-Ministerial Committee on Policy Promotion for the Implementation of Japan's National Action Plan on Business and Human Rights, "Guidelines on Respecting Human Rights in Responsible Supply Chains", 2022, https://www.meti.go.jp/english/press/2022/pdf/0913_001a.pdf.
 - 26 Japan Cabinet Secretariat, "Kōkyō chōtatsu ni okeru jinken hairyo ni tsuite [Consideration of human rights in public procurement]", 3 April 2023, https://www.cas.go.jp/jp/seisaku/business_jinken/dai7/siryou4.pdf.
 - 27 Japan Ministry of Economy, Trade and Industry, "Reference Material on Practical Approaches for Business Enterprises to Respect Human Rights in Responsible Supply Chains", 4 April 2023 https://www.meti.go.jp/english/press/2023/0404_004.html.
 - 28 Keidanren (Japan Business Federation), "Charter of Corporate Behaviour", December 2022, <https://www.keidanren.or.jp/en/policy/csr/charter2022.pdf>.
 - 29 *Id.*, at 3.
 - 30 JETRO, "FY 2024 Survey on the International Operations of Japanese Firms: JETRO Overseas Business Survey", March 2025, https://www.jetro.go.jp/ext_images/en/reports/survey/pdf/jafirms2024.pdf.

3. The Need for an Import Ban Law to Complement a HRDD Law

While individual company efforts are necessary, an import ban law is needed to complement mandatory HRDD and address the limitations that mandatory HRDD law entails. Since it is conducted by public officials, in Japan's case the Customs and Tariff Bureau (CTB), with a presumed mandate and resources to conduct effective investigations, an import ban law is unaffected by the capacity limits, competitive pressures, and profit-focused incentives to which private companies are subject. Companies may be incentivized to conduct superficial HRDD, limited to first- or second-tier suppliers, lacking stakeholder engagement, and with different companies using different methods and standards. This approach treats HRDD as a procedural formality rather than a meaningful effort to identify violations and take appropriate action, ultimately prioritizing economic interests over human rights. It would also be likely to overlook forced labor as it is often concentrated in lower-tier suppliers, particularly informal micro- and small enterprises in high-risk sectors and locations.³¹ Also, even if a company withdraws from a supplier discovered to use forced labor, the supplier can simply redirect its goods to alternative buyers, limiting the impact.

In contrast, CTB's incentives involve border security, and its investigations potentially apply to all imports into Japan under the same methods and standards. When forced labor is identified, the result is a ban on targeted products from a specific producer accessing the entire national market, which exerts large-scale financial pressure for more substantial, systemic, and holistic transformations by both exporting countries and companies involved. It is worth highlighting that the import ban is lifted when evidence that forced labor has ceased is provided, creating the incentive for supplier reform and transparency, which is not likely in the case of a single company conducting HRDD.

To give one example of the difference an import ban makes over HRDD alone, in the case of Top Glove, a Malaysian glove producer linked to forced labor in 2021 and discussed in more detail further below, the producer was subjected to at least 28 private audits 2017-2018 that failed to identify forced labor or lead to action before the government-led investigation of the US's import ban mechanism confirmed it in 2021, leading to an immediate nation-wide import ban.³²

4. The Limitations of Import Bans Without Japan's Participation

Some may argue that Japan does not need to introduce its own import ban since other jurisdictions have already done so. However, the effectiveness of import bans in driving systemic change at the wider industrial level is closely tied to the market share of the economies enforcing them.³³ The European Parliament has explicitly acknowledged this by stating that the effectiveness of forced labor product exclusions "depends on the percentage of global demand that participates in the boycott."³⁴ If Japan fails to impose restrictions, it will keep serving as a safe harbor for goods that are rejected elsewhere, undermining the efficacy of existing bans and creating even greater exposure of Japan to risks of importing products of forced labor. This issue will be explored further in Part III of the report.

Japan also has a large regional influence in Asia, the region with the highest rate of forced labor. This gives Japan a chance to have a distinct role as a regional power that has made public commitments to combating forced labor in supply chains with significant diplomatic, economic, and cultural influence to facilitate reforms against forced labor among Asian countries and companies. One may expect that appropriate reforms to combat forced labor in the region may not be forthcoming without Japan's active participation.

31 ILO, et al, *supra*, note 1.

32 Dato' Lee Kim Meow, "Alleged Violation of Migrant Workers' Rights", Top Glove, 28 November 2018, https://finnwatch.org/images/top-glove-letter-to-stakeholders-on-Migrant-Workers-Rights_ex.pdf.

33 Modern Slavery & Human Rights, "Policy Brief: Effectiveness of forced labour import bans", 2021, https://modern-slavery.files.svdcdn.com/production/assets/downloads/ImportBans_briefing-updated-final.pdf?dm=1639503511; Katarina Schwarz, Ergul Celiksoy, Joanna Smętek, Ewelina Wolosik, Katarzyna Lubianiec, Agnieszka Makulec, & Todd Landman, "External policy tools to address modern slavery and forced labour. European Parliament", 2022, [https://www.europarl.europa.eu/RegData/etudes/STUD/2022/653664/EXPO_STU\(2022\)653664_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/STUD/2022/653664/EXPO_STU(2022)653664_EN.pdf).

34 European Parliament, Resolution of 9 June 2022 on a new trade instrument to ban products made by forced labour, 2022/2611(RSP), 9 June 2022, https://www.europarl.europa.eu/doceo/document/TA-9-2022-0245_EN.pdf.

By passing import ban legislation, Japan will also be harmonizing its trade policy with other large market countries, the US and EU, as well as other states with import ban laws, which will allow for synergies and efficiencies that make all import ban laws more effective. This can be achieved, for example, by the law (1) allowing for the countries to share information and forced labor determinations, (2) closing off Japan as a potential dumping country, (3) reinforcing common regulatory standards on the global level, (4) reducing the financial and administrative burdens of complying with different standards in different countries for global companies operating in all of the jurisdictions with import bans under common standards, and (5) providing a level playing field for Japanese companies doing business in the US and EU to avoid a competitive disadvantage in Japan.

5. Import Ban Legislation's Compatibility with WTO Obligations and Consistency with Fair Trade Principles

Some may question whether import bans on products made with forced labour are consistent with the principles of free trade under the World Trade Organization (WTO). While the WTO generally prohibits quantitative prohibitions or restrictions on imports under Article XI of the General Agreement on Tariffs and Trade (GATT) 1994, GATT Article XX(a) provides an exception permitting members to adopt trade-restrictive measures “necessary to protect public morals,” provided they are not applied in a manner that constitutes arbitrary or unjustifiable discrimination or a disguised restriction on international trade.³⁵

The WTO dispute settlement body interpreted “public morals” broadly and acknowledged that each Member has the right to determine its own conception of public morals “according to its own systems and scales of values.”³⁶ In previous cases, such as US – Gambling and EC – Seal Products, the Appellate Body and panels confirmed that public concerns about practices violating ethical standards, including animal welfare and social harm, may qualify as public morals. Given the established international obligations and standards prohibiting forced labour, including under fundamental ILO Conventions ratified by most WTO Members and ILO standards, such as the responsibility to ensure their market practices do not contribute to forced labor abroad, there is strong support for the view that trade measures targeting goods produced with forced labour fall within the scope of this exception.³⁷ An import ban on products of forced labor also does not discriminate against foreign products relative to domestic products as forced labor practices are also prohibited in domestic production in the states with such bans.

Accordingly, import bans serve a legitimate function within the rules-based multilateral trading system. Import bans that are designed transparently, applied consistently, and based on credible evidence help align trade with international human rights obligations, reinforcing—not undermining—the integrity, legitimacy, and fairness of global trade governance.

35 GATT, 61 Stat. A-11, 55 U.N.T.S. 194, 30 Oct. 1947, https://www.wto.org/english/docs_e/legal_e/gatt47_e.htm. Article XX(a) may also be informed by Article XX(b), which permits import restrictions to protect human life and health, and Article XX(e), which permits import restrictions against products of prison labour, both of which involve similar harms as those caused by forced labor.

36 WTO, “European Communities – Measures Prohibiting the Importation and Marketing of Seal Products: Reports of the Panel”, WT/DS400/R and WT/DS401/R, adopted 25 November 2013 [7.383], <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/WT/DS/400R.pdf>.

37 Carolina de Almeida Bermúdez, “Forced Labour and Trade: A New Protectionist Tool or a Needed Reaction? An Analysis of the EU Proposal Under the WTO Rules with a Pinch of Geopolitics, 22 June 2023, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4661758.

B. Import Bans and Its Effects on Corporate Practice

Given the persistent failures and limitations of self-regulatory frameworks and HRDD, as discussed in the previous sections, more proactive state intervention appears necessary to eliminate forced labor from trade relationships. There are multiple mechanisms to address forced labor that a state can implement, including trade policies, diplomatic pressure, and an import ban. This section focuses on the advantages of import bans restricting the entry of goods made with forced labor as a particularly effective intervention that the Japanese government can take to drive change in corporate behavior.

1. Import Ban as Means For the Japanese Government to Eradicate Forced Labor from Trade Oriented Business Activities

The Asia-Pacific region being host to more than half of the global total of forced labor cases³⁸ indicates that both governmental authorities and corporations have weaker labor rights protections despite the region's rich human and natural resources. Japan's heavy reliance on countries in the region³⁹ with weak labor rights protections have often hindered efforts to eradicate forced labor at multiple levels, at the factory where workers are directly employed, lower tier suppliers, buyers of the products of these suppliers, and the exporting government. An example of this multi-level challenge described in our October 2024 report on workers subjected to forced labor conditions in factories in Malaysia within the supply chain of a Japanese bicycle company, Shimano.⁴⁰ The report identified failures at different levels contributing to the problem, including in the home country of the migrants workers (Nepal and Bangladesh), the country where the violations occurred in the supplier factory (Malaysia), the country of Shimano's headquarters (Japan), and countries importing Shimano bicycles (many countries).

Supply chain regulations provide a way for importing countries to influence environmental and human rights standards for third-party suppliers and their host governments through multinational corporations.⁴¹ Among high-income economies, Japan is the seventh leading importer in 2023, with an import market worth 226 billion US dollars.⁴² Seizing products suspected of being produced with or linked to forced labor and restricting market access can serve as a powerful motivator for companies to take immediate action,⁴³ driving significant and meaningful change by both domestic buyers and international suppliers. Such actions can create ripple effects, encouraging exporting countries to strengthen their own labor rights protections and enforcement to ensure their alignment with the international human rights standards.

2. How Do Import Bans Influence Actors?

a. Influence on Corporations

Import bans such as Section 307 of the Tariff Act and the UFLPA in the US are blunt, case-based tools which simply stop goods at the border and they do not formally require remediation of harm or improvement of working conditions of the people involved in producing the goods, although the ban will not be lifted until evidence is provided by the entity subject to the ban that the forced

38 ILO, et al, *supra*, note 1.

39 Kei Komura, "Nihon kigyō ga shinshutsu shite iru 'kuni chiiki' rankingu [Ranking of countries and regions where Japanese companies have operations]", Toyo Keizai Inc., 8 May 2023, <https://toyokeizai.net/articles/-/669377?page=2>.

40 Human Rights Now (HRN), "Addressing Forced Labor in Japanese Supply Chains: A Case Study of Shimano and the Need for an Import Ban on Products of Forced Labor", 18 October. 2024, https://hrn.or.jp/wpHN/wp-content/uploads/2024/10/FNL-EN-HRN_Addressing_Forced_Labor_in_Japanese_Supply_Chains_Shimano_Case_Study_2024_EN_18Oct.pdf.

41 Galit A. Sarfaty, "Shining Light on Global Supply Chains", Harvard International Law Journal, Vol.56, 2015, <https://journals.law.harvard.edu/ilj/wp-content/uploads/sites/84/562Sarfaty.pdf>.

42 "Bulletin Trade in Services", UN Trade and Development, September 2024, https://unctad.org/system/files/official-document/statinf2024d4_en.pdf.

43 McCullagh, et al, *supra*, note 5.

labor conditions have been remediated.⁴⁴ However, these bans create financial and reputational risks for companies, encouraging them to strengthen their human rights due diligence and compliance mechanisms. As shown in Case 1, the Top Glove case in Malaysia, restoring access to the highly profitable US market serves as a strong motivation to end forced labor at its source.⁴⁵ Additionally, oversight of third-party suppliers may be increased to ensure compliance with international labor standards, and legal and economic consequences are imposed on those that fail to uphold ethical labor standards.

Import bans will be most effective combating forced labor if they respect international business and human rights (BHR) standards, however. For example, the UNGPs call on global companies, when rights violations are identified among a supplier directly linked to them, to first use their leverage to ensure that the supplier implements reforms that benefit the workers and withdrawal from business with the supplier only as a measure of last resort.⁴⁶ An import ban will be effective if it facilitates this approach, for example by ensuring the underlying rights issues are addressed (e.g., as a condition of lifting the import ban) to avoid causing suppliers to shut down and lay off their workers, leaving workers and the local economy in a worse situation.⁴⁷ This is best combined with complementary policies, such as actively supporting companies to have and use leverage on suppliers to address forced labor conditions. In this way, multinational companies would be more than just regulated entities; they would also contribute to regulation themselves by ensuring standards on their third-party suppliers in other countries, facilitated and enforced by state measures. For such a system to sustainably work, however, companies must also implement responsible purchasing practices in which they enable acceptable working conditions among their suppliers by providing sufficient resources and support to their suppliers to sustain such conditions.⁴⁸ This again calls for state action and legislation such mHRDD and import ban legislation which necessitate such practices.

Case 1: WRO issued against TOP Glove, a Malaysian Rubber Gloves Producer

The effectiveness of import bans can be seen in the Malaysian rubber glove case. Prior to U.S. enforcement actions, reports of forced labor in Malaysia's rubber glove industry had been widely documented, yet little was done to address them. However, after the U.S. imposed an import ban on glove companies linked to forced labor in 2021, labeled a Withhold Release Order (WRO), manufacturers and the Malaysian government introduced significant reforms, including reimbursing recruitment fees to affected workers and the establishment of a dialogue between the Malaysian Ministry of Human Resources and the companies that faced forced labor import bans, ultimately resulting in the WRO being lifted 17 months later.⁴⁹ These changes were a direct response to economic pressure created by the import restriction, demonstrating the power of trade-based measures in driving structural change.

44 Ben Vanpeperstraete, "Towards an EU import ban on forced labour and modern slavery", February. 2021, MEP Anna Cavazzini, https://www.annacavazzini.eu/wp-content/uploads/Towards_an_EU_import_ban_on_forced_labour_and_modern_slavery_February.pdf.

45 *Id.*

46 UNGPs, *supra*, note 23, Article 19 and commentary.

47 Charity Ryerson, "Using the Master's Tools to Dismantle the Master's House: 307 Petitions as a Human Rights Tool", Corporate Accountability Lab, 31 August 2020, <https://corpaccountabilitylab.org/calblog/2020/8/28/using-the-masters-tools-to-dismantle-the-masters-house-307-petitions-as-a-human-rights-tool>.

48 Sarfaty, *supra*, note 41.

49 ILO News, "New ILO initiative to help protect migrant worker wages in Malaysia", 3 February. 2023, <https://www.ilo.org/resource/news/new-ilo-initiative-help-protect-migrant-worker-wages-malaysia>; Remedy Project, "Putting Things Right: Remediation of Forced Labour under the Tariff Act 1930", 2023, <https://static1.squarespace.com/static/5f846df102b20606387c6274/t/644b403dced135fba5c64c2/1731461346631/TRP+-+CBP+Report+-+Final+-+20230428.pdf>; Reuters, "Malaysian Firms Facing U.S. Bans over Forced Labour Summoned by Ministry", 30 January 2022, <https://www.reuters.com/world/asia-pacific/malaysian-firms-facing-us-bans-over-forced-labour-summoned-by-ministry-2022-01-30/>; Reuters, "US lifts import ban on Malaysia's Smart Glove", 27 April 2023, <https://www.reuters.com/markets/asia/us-lifts-import-ban-malaysias-smart-glove-2023-04-27/>.

b. Influence on Governments

As the Malaysia Glove case indicates, an import ban can serve to shape the behavior of governments where suppliers are located, such as Malaysia. Faced with pressure from third-party suppliers, exporting countries may enhance their regulations to prevent global companies from relocating their supply chains to other countries.⁵⁰ As noted earlier, Japan's trading partners often have weaker governance and labor rights protections. It is worth noting, however, that although some forced labor conditions were addressed by Malaysia's reforms, forced labor cases have continued in Malaysia after the reforms, indicating the limits of external pressures on reforms in foreign countries also subject to internal pressures. This is discussed further below in Part III C, indicating the need for continued efforts to ensure a sustainable end to forced labor. Even given these limits, implementing an import ban is an effective tool for Japan to incentivize supplier countries to nevertheless strengthen labor standards compared to a situation of no external pressure. At the same time, it is also necessary for the Japanese government and businesses to similarly do their part by taking measures, such as requiring responsible purchasing practices, to ensure that suppliers are given the resources and support to do business with Japanese companies in a sustainable manner with fair labor conditions.

Case 2: IUU Fishing in Thailand

The European Union (EU) Regulation of 2008 on illegal, unreported and unregulated (IUU) fishing identifies non-EU states with inadequate measures in place to prevent, deter and eliminate IUU fishing through a third-country carding (green, yellow, red) system. A state's non compliance with the standards ultimately leads to exclusion of its fish from the EU market.⁵¹

On 21 April 2015, a "yellow card" was issued to Thailand, constituting a formal warning of the possibility that Thailand may be identified as non-cooperating.⁵² Following receipt of the yellow card, the Thai government took immediate action signalling its strong motivation to ensure the card's revocation, and it launched strategies to reform its fisheries laws, which incorporated many of the EU recommendations. The resulting new Fisheries Act in 2015 includes elimination of all forms of forced labor and the improvement of working conditions for workers as key principles.⁵³ Between 2015 and 2018, Thai authorities prosecuted more than 4,200 IUU cases and issued fines of over THB 100 million (USD 2.7 million) to overseas fishing vessels.⁵⁴ Although the Thai fisheries regulations were later amended in ways that may restrict transparency following the removal of the EU's yellow card in 2019,⁵⁵ it is undeniable that the EU action, putting Thailand on alert to the possible restriction of the importation of seafood caught by Thailand-regulated fishing vessels, contributed to improving labor conditions for workers in Thailand's fishing industry.⁵⁶

50 Li-Wen Lin, "Legal Transplants through Private Contracting: Codes of Vendor Conduct in Global Supply Chains as an Example", Oxford University Press, 20 December 2008, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1318745.

51 The EU IUU Fishing Coalition, "EU Carding Decisions," (Accessed 12 May 2025) <https://www.iuuwatch.eu/map-of-eu-carding-decisions/>.

52 European Commission, "EU acts on illegal fishing: Yellow card issued to Thailand while South Korea & Philippines are cleared", 20 April 2015, https://ec.europa.eu/commission/presscorner/detail/en/ip_15_4806.

53 Food and Agriculture Organization, "Royal Ordinance on Fisheries B.E. 2558 (2015)", 13 November 2015, <https://copenhagen.thaiembassy.org/en/content/63866-highlights-of-thailand%E2%80%99s-new-fisheries-legislation?page=5d81f04615e39c16140034e5&menu=5d81f04615e39c16140034e6>.

54 Nanticha Ocharoenchai, "After a Decade of Progress, Thailand is Rolling Back Fishery Regulations", Maritime Executive, 4 August 2024, <https://maritime-executive.com/editorials/after-a-decade-of-progress-thailand-is-rolling-back-fishery-regulations>.

55 *Id.*

56 Environmental Justice Foundation, "Thailand's progress in combatting IUU, forced labour & human trafficking," 26 November 2023, <https://ejfoundation.org/resources/downloads/20231126-technical-report-2023-compressed.pdf>.



The Impact of Global Policy to Japan

A. How Japan is Affected by US and EU Import Bans

As concerns about forced labor in global supply chains grow, including concerns over its economic consequences, there has been a shift in major economies adopting import bans as enforcement tools to prevent the entry of goods produced with forced labor. Japan, as a major importing country, risks severe trade, economic, and reputational consequences if it fails to align its policies with this global trend.

1. Section 307 of the Tariff Act 1930 and the Uyghur Forced Labor Prevention Act in the United States

In the US, forced labour import bans are implemented through section 307 of the Tariff Act 1930 and the Uyghur Forced Labor Prevention Act (UFLPA). Section 307 prohibits “any product that was mined, produced, or manufactured wholly or in part by forced labor, including forced or indentured child labor.” Its use in addressing forced labor increased notably since 2016, when the “consumptive demand” exception—which had previously allowed the importation of goods made with forced labor if they were not produced in sufficient quantities domestically—was repealed, demonstrating, along with related policy changes at the time, a shift away from purely protectionist goals towards labor rights concerns.⁵⁷

The process starts with a petition by any individual (NGOs, lawyers, labor unions, investigative journalists, individuals both in and outside the United States, etc.) to the US’s Customs and Border Protection office (CBP) that there is “reason to believe” a class of merchandise being imported into the US is produced with forced labor. After receiving a petition, the CBP Commissioner initiates an investigation “as appears warranted” (a relatively low standard) by the significance and credibility of the communication. CBP decision making is not transparent, however, so the standard to initiate an investigation (as with other stages) is unclear, making it vulnerable to ineffectiveness or misuse. As described below, while in many cases the system is still effective in bringing about reforms that improve the situation for workers, sometimes the non-transparency in standards, along with the lack of independence of CBP, can be a problem and allow WROs to be mistakenly issued or lifted. For this reason, we recommend the addition of rules for greater transparency and independence to avoid these problems. These issues will be discussed in detail below.

After the preliminary investigation, if the Commissioner concludes that the report “reasonably but not conclusively indicates” that imports may be the product of forced labor (a medium standard), then CBP issues a Withhold Release Order (WRO) of the designated goods, in which CBP seizes the goods. The burden of proof then shifts to the importer, which has three months to contest the WRO by demonstrating an absence of forced labor with “every reasonable effort” to determine it (a quite strict standard). CBP can also issue a Finding when its investigation finds probable cause that a product linked to forced labor is or is likely to be imported into the US, allowing customs officials to seize the product entering the US. If the seized goods are not removed or the WRO rebutted within three months, they may be destroyed. The entity subject to the WRO or Finding may petition for their modification to end them by submitting information demonstrating that the foreign producer has remediated all forced labor conditions in their facilities and/or supply chain.⁵⁸ Again, beyond the text of the law, the standard in practice for applying and lifting WROs and Findings are unclear, although past practice provides some guidance.

⁵⁷ Temisan Fanou, “Literature Review: Forced Labour Import Bans”, GFLC, 5 January 2023, <https://gflc.ca/wp-content/uploads/2020/10/Forced-Labour-Import-Bans.pdf>.

⁵⁸ CBP, “Forced Labor Division Withhold Release Order (WRO) and Finding Modifications Guide”, May 2025, https://www.cbp.gov/sites/default/files/2025-05/FLD_Withhold_Release_Order_and_Finding_Modifications_Guide.pdf.

There have been more WROs against countries in Asia than in any other region. This includes even Japan with a 1994 WRO issued on video games and connectors linked to prison labor in Fuchu Prison, Japan in addition to the most recent case against Fast Retailing described below, together with WROs against China, Nepal, India, Mongolia, and Malaysia.

Case 3: Fast Retailing textiles allegedly linked to Xinjiang

In January 2021, Fast Retailing Co Ltd's Uniqlo brand shirts were blocked at the US border under a region-wide WRO against cotton products produced in the Xinjiang region of China. The WRO was announced by CBP in December 2020, covering all shipments containing cotton and cotton products originating from the Xinjiang Production and Construction Corps (XPCC),⁵⁹ one of China's largest producers. It was alleged that raw materials of the Uniqlo shirts contain cotton that the Xinjiang Production and Construction Corps (XPCC) was involved in producing.⁶⁰ Fast Retailing challenged the CBP's import ban and completed the necessary procedure by April 19, arguing that the XPCC was not involved in the cotton production used in the shirts, as stated in the CBP document. However, the CBP rejected the claim due to insufficient evidence to rebut the WRO's findings. This situation presents a significant risk for Japan's international trade reputation. Continued association with goods linked to forced labor—whether produced domestically or sourced through global supply chains—could lead to increasing scrutiny and exclusion from major markets like the United States.

Furthermore, insofar as producers in Asian markets are restricted from the US, they will likely disproportionately divert trade towards Japan (dumping), putting Japan at a higher risk of receiving goods of forced labor. When a WRO begins, CBP publishes its date, type of goods, manufacturer, and WRO status of the product, but not other information about holding status, reexport, exclusions, or seizures. From 2015 to 2025, there were over 40 WROs issued, with 10,633 shipments blocked as of December 2024 and 4,524 denied entry.⁶¹ Recent Section 307 enforcement includes a WRO issued in April 2025 on Taepyeong Salt Farm in South Korea.⁶² All 10 of the International Labour Organization indicators for forced labor were identified on the farm, including abuse of vulnerability, deception, restriction of movement, retention of identity documents, abusive living and working conditions, intimidation and threats, physical violence, debt bondage, withholding of wages, and excessive overtime. Salt from the Taepyeong Salt Farm has been found on sale in Japan.⁶³ Due to the lack of import controls on products made with forced labor, Japan currently has no effective means to block goods banned in other countries. As a result, as this case indicates, the Japanese market remains vulnerable to receiving products linked to forced labor, and the US restriction on Taepyeong Salt Farm sourced salt may lead to further dumping of it into Japan's unrestricted market.

Considering that countries in the Asia region are the most targeted by Section 307 WROs, Japan, a large Asian market with deep trade ties within the region, is particularly vulnerable to such dumping. Since the 1990s, the majority of WROs were against producers in China (39 of 49 WROs 1990-2020, 80%),⁶⁴ leading to the introduction of the Uyghur Forced Labor Prevention Act (UFLPA), enacted in December 2021. This law aims to reinforce the existing ban on importing goods produced with forced labor into the United States and to address the state-sponsored forced labor against Turkic minorities in the Xinjiang Uyghur Autono-

59 CBP, "CBP Issues Detention Order on Cotton Products Made by Xinjiang Production and Construction Corps Using Prison Labor", 18 August 2021 (last modified), <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-detention-order-cotton-products-made-xinjiang-production>.

60 Donald R. Kusser, "RE: Application for Further Review", CBP, 10 May 2021, https://www.customsmobile.com/rulings/docview?doc_id=HQ%20H318182&highlight=HQ%20H318182.

61 Christopher Casey, Cathleen Cimino-Issacs, Michael Weber, "Section 307 and Imports Produced by Forced Labor", In Focus, 10 December 2024, <https://www.congress.gov/crs-product/IF11360>.

62 CBP, "CBP Issues Withhold Release Order on Taepyeong Salt Farm", 3 April 2025, <https://www.cbp.gov/newsroom/national-media-release/cbp-issues-withhold-release-order-taepyeong-salt-farm>.

63 SUKUNET Online Shop, "Go-riyō gaido [User Guide]", Accessed 10 June 2025, <https://sukunet.official.ec/> (in Japanese).

64 the Congressional Research Service, "Section 307 and Imports Produced by Forced Labor", 14 November 2019, <https://www.wita.org/wp-content/uploads/2019/11/Section-307.pdf>.

mous Region (Xinjiang), which is difficult to document due to its administration by the Chinese government.⁶⁵ Under the UFLPA, a product linked to Xinjiang (mined, produced, or manufactured wholly or in part in the Xinjiang region) is presumed to be in violation of Section 307 and subject to a WRO.

There are two major differences between an import restriction under UFLPA and a Section 307 WRO. First, for a UFLPA restriction, CBP is not required to investigate nor issue a WRO or Finding, as the targeted goods are presumed to be in violation of Section 307 and banned from import. The initial burden of proof for triggering the presumption is also quite low, only requiring a link to the Xinjiang region or to an entity listed on a UFLPA Entity List, even if it is only a small component or a material in small quantities from the region or a listed entity in the product, which expands its scope.⁶⁶

Second, the standard to lift the presumption is “clear and convincing” evidence of an absence of forced labor, higher than the standard to lift a normal WRO.⁶⁷ Enforcement of the UFLPA began in June 2022, with over 12,500 products detained and reviewed (428 per month in 2024) worth over \$3.68 billion US dollars. At least 107 entities have also been listed in the UFLPA entity list linked to Xinjiang, subjecting their products to presumptive restriction. The UFLPA can be criticized for its singular focus on one state, China, which fragments the import ban regime and arguably unduly politicizes its implementation and undermines the goal of holistically combating forced labor. In Box 1, we propose a more flexible system similar to the EU’s yellow/red card system for IUU fishing regime to incentivize reforms by states in a way that does not singularly focus on one country and avoids the issues with the UFLPA.

2. Forced Labor Regulation in the United States-Mexico-Canada Agreement (USMCA) and EU

Two other import ban frameworks relevant to Japan’s situation are the United States-Mexico-Canada Agreement (USMCA) and the EU’s The Forced Labor Regulation (FLR). Both mandate that their state parties ban the import of goods produced by forced labor.

The USMCA is a regional trade agreement between the US, Mexico, and Canada that entered force on 17 February 2023 and includes a package of mandated reforms under Chapter 23 on labor rights such as reforms for work visas and migrant worker protections. One of the mandates is for members to pass a law banning the importation of products of forced labor. Accordingly, Canada enacted such a law on 1 July 2020 and Mexico on 18 May 2023.⁶⁸ However, as of February 2025, Canada has blocked only about 50 imports under its law,⁶⁹ and as of June 2025, Mexico has not blocked any imports, with the only one petition being rejected on 14 November 2023.⁷⁰ The USMCA also includes a dispute settlement mechanism specifically for labor disputes, the Rapid Response Labor Mechanism (RRM); however, it has not been used much, with only 31 uses by the US and none by Canada or Mexico.⁷¹ The minimal use of the import ban laws and dispute settlement mechanism by Canada and Mexico can be very loosely explained by asymmetries in their economic, political, and administrative positions relative to the US, for example as more export-oriented countries and in

65 JETRO, “Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People’s Republic of China”, 17 June 2022, https://www.jetro.go.jp/ext_images/_Reports/01/03b41b9b8644e519/20220016rev1.pdf (in Japanese).

66 U.S. Department of Homeland Security, “UFLPA Entity List”, accessed 10 June 2025, <https://www.dhs.gov/uflpa-entity-list>.

67 U.S. Customs and Border Protection (CBP), “UFLPA Operational Guidance for Importers”, 13 June 2022, <https://www.cbp.gov/document/guidance/uflpa-operational-guidance-importers>.

68 HR Policy Association, “Following Global Trend, Mexico Implements Forced Labor Import Ban Under USMCA”, 24 March 2023, https://www.hrpolity.org/insight-and-research/resources/2023/hr-workforce/public/03/following-global-trend-mexico-implements-forced-la?utm_source=chatgpt.com.

69 Julia Webster, Jing Xu, Madison Bruno, “2025 Canadian Trade and Customs Outlook: Forced Labour”, Baker McKenzie, 13 February 2025, <https://supplychaincompliance.bakermckenzie.com/2025/02/13/2025-canadian-trade-and-customs-outlook-forced-labour/>.

70 Empower, “Mexico is only USMCA country not to investigate forced labor; citizen request for action rejected”, 23 January 2024, <https://empowerllc.net/en/2024/01/23/mexico-usmca-forced-labor/>.

71 Claussen K, Bown CP, “Corporate Accountability by Treaty: The New North American Rapid Response Labor Mechanism”, 16 November 2023, American Journal of International Law, <https://www.cambridge.org/core/services/aop-cambridge-core/content/view/EBFEA2D185357FD4CB1CC36C0647C271/S0002930023000647a.pdf/corporate-accountability-by-treaty-the-new-north-american-rapid-response-labor-mechanism.pdf>.

Mexico's case as an emerging market economy, with related industry pressure and political and administrative challenges.⁷²

The USMCA may offer several lessons to Japanese policymakers if they are considering import ban partnerships with other countries. The agreement was successful in motivating other states surrounding the US to pass import ban legislation and related labor reforms, including labor migration reforms, and it is a positive model of a worker-centered approach that links import ban laws with labor reforms, which would undoubtedly be useful in Japan's case with regional partners to address root causes of forced labor. However, it also demonstrates the need for such partnerships to address political, economic, and administrative asymmetries, such as through capacity building and fair trade practices, in order for such cooperative mechanisms to function well, effectively ban products of forced labor, and ensure equitable benefits for all members, especially if the partnership includes developing countries.

The EU's relevant legislation, the Forced Labor Regulation (FLR), will be applied from 14 December 2027 and is broader than an import ban in that it bans products of forced labor being sold in the EU market.⁷³ It mandates that authorities in all EU member states ban products or components made, in whole or in part, with forced labor already within or from entering the EU market. Its goal is to eliminate the incentives that allow companies to profit from forced labor within their supply chains. The FLR will apply to all economic operators and all products (including components) placed on, made available on, or exported from the EU market, irrespective of the sector or origin.

The EU is a key trading partner for Japan, accounting for approximately 10% of Japan's total imports and exports. According to the Ministry of Foreign Affairs, in 2023, Japan's total exports to the EU reached ¥10.4 trillion, a figure that has been increasing annually in recent years.⁷⁴ Additionally, there are over 6,700 Japanese business locations operating in the EU, including, but not limited to, overseas branches, wholly-owned subsidiaries of Japanese companies, and businesses established abroad by Japanese nationals. These businesses, as well as Japanese businesses that operate from non-EU countries and export to the EU, are also likely to be subjected to the new regulation. As described below, as with the US import ban law, because of the significant economic connections between Japanese companies and EU countries, the EU's FLR will make Japan vulnerable to greater levels of dumping and Japanese companies vulnerable to losing access to the EU's large market as long as Japanese companies are at risk of being linked to forced labor through their suppliers abroad.

B. Japan's Economic and Trade Risks Without an Import Ban

Japan's lack of an import ban indicates a failure to fully recognize the use of forced labor in the supply chains of Japanese companies. As a result, Japanese companies exporting such products have faced restrictions and will continue to face restrictions when exporting to the United States, the EU, and potentially other markets that may implement import bans in the future. An import ban would ensure that Japan's trade policies are in sync with global efforts to eradicate forced labor, helping to maintain the country's role in global markets. Currently, Japan is the only member of the G7 that does not have mandatory legislation addressing forced labor, such as an import ban or mandatory reporting rules, making its failure to uphold the high standards held by other G7 members stand out. By implementing such a policy proactively, Japan could demonstrate leadership in the region and globally in promoting a commitment to addressing forced labour in global supply chains, further strengthening its standing as a responsible member of the G7, as a regional partner, and in the global economic order.

72 *Id.* Alejandra Ancheita Pagaza, et al, "The Labour Chapter of the USMCA. A window of opportunity to ensure human rights at work", ProDESC, December 2022, <https://prodesc.org.mx/wp-content/uploads/2023/01/The-Labour-Chapter-of-the-USMCA-prodesc-workers-rigths-hr.pdf>.

73 Anti-Slavery International, European Center for Constitutional and Human Rights, "Anti-Slavery International and European Center for Constitutional and Human Rights' position on import controls to address forced labour in supply chains", June 2021, <https://www.antislavery.org/wp-content/uploads/2021/06/Anti-Slavery-International-ECCHR-Import-Controls-Position-Paper-1.pdf>.

74 The Ministry of Foreign Affairs, "Ni EU keizai kankei shiryō [Japan-EU Economic Relations]", November 2024, <https://www.mofa.go.jp/mofaj/files/100510867.pdf> (in Japanese).

1. Risk of Becoming a Dumping Ground

Japan's lack of an import ban on goods linked to forced labor leaves the country vulnerable to becoming a haven for products produced under exploitative conditions. As international markets, such as the United States and the EU, increasingly adopt strict import bans on goods linked to forced labor, Japan, where there is currently no legislation in place, may become a dumping ground for these products. This situation exposes Japan to reputational and legal risks, as the international community becomes more focused on corporate social responsibility as represented by the UNGPs and ethical trading principles.

One notable example involves the UK government facing legal action over its decision to continue using a Malaysian company, Supermax, accused of forced labor, as a supplier for personal protective equipment (PPE) to the NHS.⁷⁵ In October 2021, the U.S. banned imports from Supermax following an investigation that found evidence of forced labor, and Canada halted federal imports in November 2021 for similar reasons. Despite these actions, the UK government approved Supermax as a supplier under NHS Supply Chain's framework agreement. This led to the first legal challenge against the UK government under public procurement law, highlighting concerns over forced labor in government contracts. This leads to direct economic losses, reputational damage, and disrupted supply chains. Japan can strengthen oversight of its supply chains at the point of entry by implementing an import ban, reducing the likelihood that problematic materials or products enter Japanese markets and manufacturing.

2. Impact on Japanese Companies' Competitiveness and the Need for Harmonization

The absence of an import ban in Japan also directly affects the competitiveness of Japanese companies. First, the use of forced labor among suppliers unfairly reduces labor costs that drive competitors using fair labor practices out of business, for example in a country like Japan that enforces labor standards more effectively than developing countries, and Japan's use of an import ban will help eliminate forced labor. Secondly, while countries like the US and EU impose import bans on goods linked to forced labor, Japanese companies that are suspected to engage in supply chains with these practices risk facing sanctions and being excluded from critical markets, as seen in the cases of Fast Retailing and Muji as described above and below. This trend is likely to persist as other markets adopt similar measures. An import ban also creates a level playing field for Japanese companies already investing in effective HRDD to ensure market access to the US and EU by ensuring that their supply chain is free from forced labor. It does this by relieving them of competitive pressures or from being run out of business by other companies doing business in Japan which take no or inadequate HRDD measures to identify or address forced labor in their supply chains in the absence of an import ban law. In light of the growing global efforts toward import bans and stricter regulations on forced labor, Japan should implement an import ban for its companies to remain competitive in the global market in a responsible manner.

⁷⁵ Peter Bengtsen, "UK faces legal action for approving firm accused of using forced labour as PPE supplier", The Guardian, 6 January. 2022, <https://www.theguardian.com/global-development/2022/jan/06/uk-faces-legal-action-for-approving-firm-accused-of-using-forced-labour-as-ppe-supplier>.

C. Lessons from Section 307 and UFLPA's Enforcement for Japan Policymakers

Several lessons can be drawn from the structure and history of Section 307 WROs for Japanese policymakers and stakeholders in considering an import ban mechanism for Japan, including positive lessons (features the government can constructively learn from) and negative lessons (challenges or criticisms that Section 307 has faced which Japanese policymakers have the opportunity to address for Japan's own legislation). The first lesson is that import bans under Section 307 WROs have generally had a positive impact in combating forced labor. One can analyze the impact from three perspectives: (1) facilitating changes among importing companies, (2) assisting workers suffering from forced labor, and (3) facilitating reforms in the countries where abuses occur.

1. Facilitating Change among Companies Sourcing from Banned Suppliers

There is significant evidence that WROs apply real economic pressure to change the behavior of companies sourcing from banned suppliers using forced labor. In April 2021, after forced labor in the cotton industry had been publicized, Muji issued a press release finding no serious violations of laws or its own Code of Conduct by their suppliers in Xinjiang and that it would continue sourcing cotton from them.⁷⁶ A month later, CBP banned imports of cotton (and tomatoes) from Xinjiang under Section 307, and a month after that, Muji announced that it would halt exports of cotton products originating from Xinjiang to the United States "to comply with U.S. laws and regulations."⁷⁷

In another example, a BBC investigation published in December 2024 found that 17 out of 64 tested tomato purees branded as "Italian" and sold in the UK and Germany were discovered to contain tomatoes with a trace element profile of having been grown in the Xinjiang region, even by supermarkets that had made voluntary public commitments not to buy tomatoes from the Xinjiang region and claiming to have had an audit to verify the absence of Xinjiang-sourced tomatoes.⁷⁸ However, the investigation found that none of the tested purees sold in the US were found to have a trace element profile linking them to the Xinjiang region, despite the ability of companies to fraudulently or unknowingly source such tomatoes, demonstrating the strong deterrent effect of import bans.

One negative lesson from the US is that WROs have also periodically and perversely prompted these companies to pressure CBP to slow or halt WRO issuances for periods of time, such as the 15 month hiatus from late 2022 to early 2024 following several region-wide WROs.⁷⁹ This argues in favor of reforms which increase the political independence of the agency administering WROs to avoid external pressures on their actions.

2. Assisting Workers

The positive impacts of import bans may also extend to helping workers. In the case of a WRO against Bonechar from Brazil, the supplier submitted data to CBP showing the five indicators of forced labor under the ILO standard that justified the WRO had been addressed (including the ability of workers to leave and not being subjected to any punishment), including worker in-

76 Ryohin Keikaku Co., Ltd., "Muinryōhin no wata to sapuraichēn ni tsuite [MUJI's Cotton and Supply Chain]", 14 April 2021, https://www.ryohin-keikaku.jp/news/2021_0414.html.

77 Radio Free Asia, "Japan's Muji Stops Short of Ban on Cotton From Xinjiang, Where Forced Labor is Rife," 12 February 2021, <https://www.rfa.org/english/news/china/japan-cotton-02122021141610.html>; JETRO, "Jinken shingai ni taisuru shisaku ga nikkei kigyō ni mo eikyō (kome-koku) [Measures against human rights violations affect Japanese companies (US)]", 25 June 2021, <https://www.jetro.go.jp/biz/areareports/2021/7d71c95432ad0c76.html>.

78 Mike Rudin and Sarah Buckley, "Italian' purees in UK supermarkets likely to contain Chinese forced-labour tomatoes", BBC, 1 Dec. 2024, <https://www.bbc.com/news/articles/crezlw4y152o>; BBC, "Blood on the shelves", 5 December 2024, <https://www.bbc.co.uk/programmes/w3ct7hyp>.

79 Jennifer Gordon, "The US Forced Labor Import Ban as a Tool to Raise Labor Standards in Supply Chain Contexts: Strategic Approaches to Advocacy", 4 March 2024, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4756721.

interviews, an auditor site visit, and document reviews, which led to the WRO being lifted.⁸⁰ In the Malaysia Top Glove case, when lifting the WRO against Top Glove in September 2021, CBP affirmed that that Top Glove gave “more than \$30 million in remediation payments to workers and [is] improving labor and living conditions at the company’s facilities.”⁸¹ Top Glove is a good case to demonstrate the effectiveness of WROs over their absence when one considers that it was reported that Top Glove was subject to 28 audits from 2017 to 2018, all of which failed to identify forced labor or see reforms and worker compensation implemented, before the CBP investigation found enough evidence to issue a WRO and action was promptly taken.⁸²

One aspect of WROs worth highlighting here is that they provide a constructive avenue for importers to engage with suppliers to address labor conditions by engaging with the process to lift the WRO and resume imports. In the past, a common practice was for importing companies to simply cut suppliers linked to forced labor, which only worsened workers’ situation by reducing the chances they would be remedied or compensated and that the supplier would implement labor reforms. WROs provide another way forward. That said, it is important to note at least four possible limits to WROs helping workers as follows.

First, only a small percent of WROs are ever lifted.

Second, even successful outcomes are often limited, for example leaving out some costs workers suffer or leaving out entire categories of workers, such as past workers, which was reported to have occurred in the Top Glove, Kawaguchi, and Shimano cases following the initial conclusion of employer-worker negotiations.⁸³ In the Top Glove case, the company stated that they would remediate workers with \$12.65 million for recruitment fees, while the labor advocate Andy Hall estimated that Top Glove actually owes its workers closer to \$100 million in compensation when all costs are taken into account.⁸⁴ The case of the Japanese bicycle company Shimano also highlights the fact that even when forced labor is discovered and addressed for one supplier factory, other supplier factories can be suspected or alleged to use forced labor practices, in that case eight other supplier factories for Shimano, that are not investigated at the same time.⁸⁵

Third, in some cases the WRO can even complicate labor negotiations of workers. In the India Natchi apparel case, a WRO was implemented after a remediation agreement had been completed between the the factory owners and workers, as well as a series of labor reforms and commitments in an agreement (the Dindigul Agreement) between major brand companies and supplier companies in the region, but before CBP became aware of these developments. While the developments eventually led to a later lifting of the WRO when evidence of the agreements were submitted, one can imagine cases where a late WRO undermines workers’ negotiating position as they cannot control the WRO’s issuance, and cooperating companies may be punished or left vulnerable to liability despite their positive negotiation with workers.⁸⁶

Fourth, WROs can be lifted despite a complete failure to address the forced labor problem at all, such as the WRO against the Dominican sugar producer Central Romana, which was lifted without worker compensation or even a credible finding that the

80 Foley Hoag, "CBP Modifies WRO After Brazilian Co. Demonstrates Compliance with Forced Labor Regulations", 16 December 2020, <https://foleyhoag.com/news-and-insights/publications/alerts-and-updates/2020/december/cbp-modifies-wro-after-brazilian-co-demonstrates-compliance-with-forced-labor-regulations/>.

81 US Department of Labor ILAB, "Example in Action: Top Glove WRO and Subsequent Modification", accessed 10 June 2025, <https://www.dol.gov/agencies/ilab/comply-chain/steps-to-a-social-compliance-system/step-6-remediate-violations/example-in-action-top-glove-wro-and-subsequent-modification>.

82 Dato' Lee Kim Meow, *supra*, note 32.

83 Corporate Accountability Lab, "Using the Master's Tools to Dismantle the Master's House: 307 Petitions as a Human Rights Tool", 31 August 2020, <https://corpaccountabilitylab.org/calblog/2020/8/28/using-the-masters-tools-to-dismantle-the-masters-house-307-petitions-as-a-human-rights-tool>; HRN, "Panasonic and Sony Must Fulfill their Responsibility to Respect Human Rights by Ensuring that Workers of Former Supplier Kawaguchi Manufacturing are Paid their Full Wages and Compensated for Human Rights Violations", 14 February 2025, <https://hrn.or.jp/eng/news/2025/02/14/kawaguchi-statement/>; HRN, *supra*, note 40.

84 Corporate Accountability Lab, "Using the Master's Tools to Dismantle the Master's House: 307 Petitions as a Human Rights Tool", 31 August 2020, <https://corpaccountabilitylab.org/calblog/2020/8/28/using-the-masters-tools-to-dismantle-the-masters-house-307-petitions-as-a-human-rights-tool>.

85 HRN, *supra*, note 40, at 7.

86 Gordon, *supra*, note 79; "Joint Statement: TTCU, AFWA, GLJ - ILRF and Eastman Exports", October 2022, <https://asia.floorwage.org/ttcu-afwa-glj-ilrf-and-eastman-exports-make-joint-statement-after-natchi-apparels-us-import-ban-lifted/>; Global Labor Justice, et al, "Fact Sheet: The Dindigul Agreement to End Gender-Based Violence and Harassment", April 2025, <https://globallaborjustice.org/media/uploads/2025/04/Dindigul-Agreement-Fact-Sheet-Jan.-2023.pdf>.

forced labor had even ended, in a context in which Central Romana has political and financial ties to the Trump administration.⁸⁷ This demonstrates the vulnerability of Section 307 to political interference, calling for measures to ensure its political independence and reliance solely on evidence based on transparent standards, to avoid perverse decisions implementing or lifting WROs without justification.

We recommend new standards and procedures for Section 307 to prevent all of the above risks, including for CBP to be in contact with worker representatives throughout their investigation to ensure they have the latest information and do not compromise workers' needs, for CBP to make their standards and decision making transparent for every stage of the WRO process, to ensure that workers receive sufficient remedy before a WRO is lifted, and to ensure CBP decision making is independent from external influence.

3. Facilitating Reforms in Supplier Countries

WROs have had mixed results facilitating reforms in supplier countries, as WROs generally target company behavior. A typical reaction from countries, if any, remains denials, minimization, or at best aspirational statements without actionable plans for real reform, demonstrated recently by the South Korean government's dismissive statement in response to the US's WRO against Taepyeong Salt farm that it was "merely a case of unpaid wages by a tenant of Taepyeong Salt Farm, and that no forced labor had occurred since" 2021, despite an investigation by the local government that indicated otherwise.⁸⁸

In some cases, governments have instituted reforms following a WRO, but even these may have limited effectiveness. Following the Malaysia Top Glove WRO, Malaysia instituted several reforms to address risks and vulnerability of migrant workers to forced labor, including a National Action Plan in 2021 and new measures to protect workers' visa status while making complaints against employers.⁸⁹ However, there are indications the reforms' effectiveness has been limited. The report that HRN published last year regarding the Shimano case mentioned above discussed a case of forced labor in a supplier factory for Shimano, Kwang Li Industry (KLI), which occurred after the above reforms went into effect.⁹⁰ The report discussed the structural sources of migrant vulnerability to forced labor, including the political incentives of supplier countries to maintain high exports and migrant-origin countries to maintain high numbers of migrants working overseas, creating vulnerability for forced labor which continued despite the reforms. While WROs do create pressure for legal reforms, they should be combined with diplomatic and other forms of pressure and engagement to ensure the reforms are effective.

87 Ana Swanson and James Wagner, "Trump Administration Quietly Lifted Ban on Dominican Sugar Company Over Forced Labor", New York Times, 19 March 2025, <https://www.nytimes.com/2025/03/19/business/economy/trump-sugar-forced-labor-ban-lifted.html>.

88 *Id.*

89 ILO News, *supra*, note 49; Government of Malaysia, "National Action Plan on Forced Labour (2021-2025)", https://www.dol.gov/sites/dolgov/files/ILAB/NAPFL_2021-2025.pdf.

90 HRN, *supra*, note 40.

D. Challenges and Recommendations with the Section 307 System

The following points summarize two challenges or criticisms of the Section 307 system, with recommendations for addressing them, about which Japanese policymakers should be aware.

1. Political and Industry Pressure

As mentioned above, like many trade policy mechanisms, an import ban mechanism is vulnerable to industry and political pressure to take actions that do not promote fighting forced labor. This calls for measures to protect the independence of the agency and staff implementing an import ban on products of forced labor.

2. Non-Transparency and Lack of Guidance

One source of external pressure on and inefficiencies in the Section 307's decision making is CBP's non-transparency, as it does not publicly release information on the status of WRO decision making, nor standards for its decision making, nor maintains contacts with stakeholders throughout the process. This creates costs and burdens among civil society bringing WRO petitions, unsure of what evidence to gather and the cost-benefit of gathering it, delays in processing, and errors in decision making when CBP's information is out-of-date due to non-contact with civil society, such as in the Natchi case. It also makes companies uncertain of the standards they must comply with to avoid WROs or lift existing WROs, creating, again, uncertainty in the cost-benefit of preemptive or responsive measures.⁹¹ This calls for transparency of the agency implementing the import ban, including continued consultation with civil society to ensure the WRO is beneficial for workers and does not disrupt worker negotiations, and the publication of clear and consistent standards and guidelines that advocates and companies can follow.

BOX 1: Lessons for a Forced Labor Import Ban from the Import ban on IUU Fishing in Japan

One source of lessons for policymakers designing a law banning the importation of products of forced labor is import rules banning Illegal, Unreported, and Unregulated (IUU) seafood in Japan and other countries, which is typically linked to labor exploitation, although current law in Japan does not directly ban seafood linked to forced labor. As discussed in detail in our December 2023 report “Tuna in the Black Box”, Japan's Tuna Management Law regulates tuna imports by requiring an authorizing agency from the flag state of the vessel catching seafood to certify that it is legally caught, which Japan's Fisheries Agency confirms after possible investigation.⁹² The system demonstrates that customs officials in Japan have relevant experience implementing import bans relevant to the methods of a product's production. The following summarizes three basic lessons that policymakers can take from commentaries on fisheries management in designing a system for banning the importation of products of forced labor.

- **The benefit of regional and international networks for implementing import bans.** While there are legitimate reasons for a forced labor ban mechanism to maintain secrecy—for example to prevent suppliers from taking steps to hide forced labor or retaliate against workers once they know an investigation is occurring, or even states for state-sponsored forced labor—nevertheless the Tuna Management regime also shows that the governments of supplier countries can assist in the identification illegal imports when properly administered. Another relevant aspect of the

⁹¹ Casey, et al, *supra*, note 61.

⁹² HRN, “Tuna in the Black Box: Human rights risks hidden in the opaque tuna supply chain from Korean fishing vessels to the Japanese market”, 27 December 2023, <https://hrn.or.jp/eng/news/2023/12/27/tuna-in-the-black-box-report>.

tuna regime is its integration with regional fishery management organizations, such as the Western and Central Pacific Fisheries Commission (WCPFC), which collectively regulate IUU standards and facilitates information sharing among state parties, making enforcement more effective, demonstrating a useful model for regional state cooperation that an import ban on products of forced labor can utilize. For example, all states with import ban legislation may benefit by sharing information on investigations, entity lists, and supply chains linked to forced labor.

- **The practice of flagging high risk states.** As mentioned in the Case 2 Box above, the EU fishery import regime labels countries with moderate risk (yellow card) and high risk (red card) for IUU fishing, with a warning and import ban, respectively, for flagged states, which is a model that is worth considering for forced labor restrictions. For example, the method may apply to high risk industries in certain states or regions, with red cards triggering a presumptive ban and yellow cards a warning or lowering of the evidentiary burden. Then there may be a heightened burden for lifting the bans. Other methods may also be effective. This gives states an incentive to eliminate the source of the risk to lift the card status, as was the case with Thailand's fishery reforms to lift its IUU yellow card status in 2019 as described in Case 2 Box.⁹³ This may be especially helpful for addressing state-sponsored forced labor, where effective private due diligence and public investigations may be virtually impossible, or cases where states have strong political incentives to avoid labor reforms, which may call for more targeted pressure on states. This may be one way to address state-wide forced labor risks in the regime while avoiding the fragmented and non-dynamic approach of the UFLPA.
- **The need for traceability and transparency measures to ensure products of forced labor cannot be hidden in opaque supply chains.** One of the challenges facing the Tuna Management Law is the complexity and opaqueness of supply chains, where it can be difficult to trace fish to the vessel that caught it, and where IUU seafood can get illegally mixed in with certified seafood. As one Fisheries Agency official noted, "the fisheries product distribution structure is more complicated in Japan. It was tough to create a new act amid a complicated situation that we couldn't fully grasp."⁹⁴ In order for import ban legislation to work, customs officials must understand complex supply chain structures. Some methods to address this challenge are collaborations or communications with customs officials in other states and civil society experts as well as supplier disclosure requirements, mandatory human rights due diligence, traceability requirements, and transparency requirements to publicly release the results of all of these to ensure their accuracy by public scrutiny. These methods allow officials to trace goods to the bottom of supply chains where violations are most likely to occur.⁹⁵ Fisheries traceability mechanisms in the EU and US are models worth considering, taking into account some criticisms discussed in our 2023 Tuna report, such as the insufficiency of regulations and transparency for complex arrangements in supply chains that are difficult to trace and vulnerable to banned products fraudulently entering a "certified" supply chain. This includes, for example, the practice of transshipment in the fisheries industry which made hide the original vessel catching seafood (which may have equivalents in other industries) and storage, processing and transportation within vertically integrated supply chains (where the importing company also owns overseas production, transportation, and storage facilities enabling the possible mixing of legal and banned products).

93 FishWise, "Advancing Traceability in the Seafood Industry", February 2018 http://fishwise.org/wp-content/uploads/2018/03/2018.02.22_Trace-WP_February-2018-Update.pdf; Enrico Brivio, "Commission lifts 'yellow card' from Thailand for its actions against illegal fishing", European Commission https://ec.europa.eu/commission/presscorner/detail/en/IP_19_61.

94 Seafood Legacy Times, "Putting a stop to a system that abets poaching by Act The Changing Future of Fishery Products Distribution in Japan", 29 April 2022, <https://times.seafoodlegacy.com/en/archives/7891>.

95 Jess Mackie, "Japan has an Illegal Seafood Problem", Hakai Magazine, 18 October 2019, <https://www.hakaimagazine.com/news/japan-has-an-illegal-seafood-problem/>.

IV

The Legal and Institutional Context inside Japan Relevant to Import Ban Legislation

For an import ban to be most effective in Japan, there are a set of legal and institutional considerations that should be taken into account. As discussed in Part III above, the Section 307 law in the US serves as a constructive model, taking into account the challenges and criticisms discussed.

To summarize the model applied to Japan, Japan's Customs and Tariff Bureau (CTB) would be the primary administering body. Like the US law, Japan's law will be effective if it allows external bodies, including labor and civil society groups, to submit evidence on the basis of which CTB may initiate an investigation. The use of two levels of burdens of proof is also useful, an initial lower standard which justifies the application of an import ban, and a higher standard by which an affected company can lift the WRO by demonstrating an absence of forced labor linked to the targeted product. The standard will also be most effective in combating forced labor if a WRO is not lifted until not only forced labor by the supplier has ended, but also only after all workers have been sufficiently compensated for all costs and effective measures have been passed to prevent future forced labor.

The previous section also noted the importance of public transparency of customs officials' work and its engagement with civil society throughout its investigation, to avoid situations where a WRO may actually complicate or harm workers' position in negotiations to resolve the forced labor situation. A duty for CTB officers to maintain up-to-date contact with labor activists or civil society actors would avoid this risk. In addition, the evidentiary and decision making standards both to apply and lift import bans should be clarified and made public to stakeholders. Publishing clear standards will make it easier for civil society actors to know how to bring petitions and for industry actors to know what they need to do to comply with the international human rights standard and avoid an import ban and how to ensure a ban is lifted by properly preventing or addressing the forced labor situation and workers' needs on the ground.

In order for this structure to be best realized in Japanese law, several institutional reforms are called for. First, in order for CTB to conduct effective investigations, it will need staff specifically recruited for or trained in relevant human rights and labor rights law and practice to understand how forced labor occurs, the significance of different types of evidence, and how to use investigatory resources like databases, government information, and relevant stakeholders including experts and labor representatives. Such training should include mechanisms for meetings and consultations with customs agents in other states implementing similar import bans to learn best practices and effective investigation methods.

One institutional challenge for Japan is that the 2020 NAP fragments responsibility for BHR matters between the ministries METI and the MoFA, neither of which have significant staff with expertise in BHR, which could hinder the government's ability to form a coherent and unified policy to combat forced labor, of which an import ban mechanism would be one part. While an inter-ministerial committee was created in 2021 to monitor the implementation of Japan's NAP and de facto led by Gen Nakatani, then Special Advisor to the prime minister on human rights, it currently appears inactive, and Nakatani was dismissed from the position in December 2023.⁹⁶ These developments disincentivize relevant ministries from working closely, collaboratively, and holistically together on rights issues.⁹⁷ The fragmentation of responsibilities could be addressed by establishing a National Human Rights Institution which could establish a unified policy on human and labor rights for all agencies, including to coordinate CTB with

96 Japan Cabinet Secretariat, "Bijinesu to jinken ni kansuru kōdō keikaku no jisshi ni kakaru kankei-fu shōchō shisaku suishin renraku kaigi [Inter-agency policy promotion and liaison conference for the implementation of the Action Plan on Business and Human Rights]", accessed 18 June 2025, https://www.cas.go.jp/jp/seisaku/business_jinken/index.html (in Japanese).

97 Sam Baron, "Kishida's puzzling decision to ax his human rights adviser", Japan Times, 1 December 2023, <https://www.japantimes.co.jp/commentary/2023/12/01/japan/cabinet-human-rights-adviser-removed/>; Kyodo News, "Japan PM's human rights initiative stalls as adviser post left vacant", 10 March 2024, <https://english.kyodonews.net/news/2024/03/46120694371f-japan-pms-human-rights-initiative-stalls-as-adviser-post-left-vacant.html>.

that policy. An additional measure would be to follow the model of the US, which has a specified office dedicated to coordinating BHR matters across government agencies, the Bureau of Democracy, Human Rights and Labour, and an interagency group to coordinate action combatting forced labor abroad, the Forced Labor Enforcement Task Force. Such offices should be established in Japan with sufficient resources, mandates, and independence to allow them to continue their work without interference or pressure to halt their work as with the aforementioned inter-ministerial committee.

Such coordination may include, for example, coordinating import bans with Japan's diplomatic engagement with supplier countries in advocating for laws and best practices to combat forced labor, so that import bans and diplomatic engagement work together. As mentioned above, regional and international mechanisms to connect CTB in Japan with USMCA and European counterparts, including sharing of best practices, databases, supplier information, listed entities, and import bans, are also means of constructive coordination.

As mentioned before in this report, there is also a need for complementary legislation to be passed along with import ban legislation that will make it more effective, including rules on mandatory HRDD so companies can identify forced labor early without threatening their competitiveness, rules on traceability and transparency of supply chains down to the source level, and other reforms recommended by the UN Working Group on Business and Human Rights in a May 2024 report following their visit to Japan.⁹⁸

Finally, all of these measures and proposals should be designed and grounded by a worker-centered approach, in which all elements are directed towards the well-being of workers at all levels of supply chains. Such an approach was adopted by the US in June 2021 when the US Trade Representative announced that the goal of worker-centered trade is an important element of US trade policy, establishing a precedent which the Japanese government should follow.⁹⁹ To achieve this, meaningful stakeholder engagement should be embedded at all the levels of communication and implementation of policies and practices.

98 Human Rights Council, "A/HRC/56/55/Add.1: Visit to Japan - Report of the Working Group on the issue of human rights and transnational corporations and other business enterprises", A/HRC/56/55/Add.1, 1 May 2024, <https://www.ohchr.org/en/documents/country-reports/ahrc5655add1-visit-japan-report-working-group-issue-human-rights-and>.

99 USTR, "Remarks of Ambassador Katherine Tai Outlining the Biden-Harris Administration's 'Worker-Centered Trade Policy' ", June 2021, <https://ustr.gov/about-us/policy-offices/press-office/speeches-and-remarks/2021/june/remarks-ambassador-katherine-tai-outlining-biden-harris-administrations-worker-centered-trade-policy>.



Conclusion

To summarize the basic arguments of this report, first, there are compelling reasons for Japan to combat forced labor linked to goods imported to Japan, including legal arguments grounded in duties to respect human rights and the UNGPs standards, ethical arguments—Japan is the only G7 country that does not have mandatory legislation addressing forced labor, such as an import ban or mandatory reporting rules, and Japanese businesses and consumers are financing forced labor by paying for its products, contradicting Japan’s values to respect human rights—and economic arguments—overseas forced labor makes Japanese companies that respect labor rights unfairly less competitive and burdened by the costs of preventing forced labor without a level playing field.

There are also compelling reasons for Japan to pass legislation creating a mechanism for banning products of forced labor including: voluntary measures by companies to address forced labor are demonstrably ineffective; Japan is particularly vulnerable to importing products of forced labor due to its prevalence in the Asia region, and it is vulnerable to receiving even more dumped products of forced labor as other countries pass import bans; international efforts to combat forced labor need Japan’s participation to be effective; and Japan has great economic and diplomatic influence in the region such that its leadership in passing an import ban law will be highly effective in motivating its trade partners for reforms.

Additionally, import bans can be effective in changing the policies and practices of companies and supplier states to combat forced labor, as well as to provide better conditions and remediation to workers, particularly when import bans are part of a package with other forms of influence, although Japan’s commitment to respect human rights is compelling even aside from the practical effects of an import ban.

This report went into detail describing the operation and outcomes of the US Section 307 import ban system, arguing that many of its features may serve as a useful model for legislation in Japan, such as the ability of civil society to petition investigations, the implementation of import bans with a reasonable threshold of evidence of forced labor, and the lifting of import bans with a high threshold of evidence of an absence of forced labor. One beneficial idea offered by the IUU regime is the ability for the government to flag countries at high risk of forced labor, lowering the threshold for implementing an import ban.

Despite many constructive features that make it a good model, there are several challenges and criticisms that the Section 307 system has faced which policymakers in Japan should address in designing a mechanism for Japan. These include making the process politically independent, establishing clear and publicly available standards for implementing and lifting import bans and transparency in decision making, and ensuring that import bans are lifted only when all workers subjected to forced labor receive sufficient remediation.

Import ban legislation also calls for institutional reforms to bolster its effectiveness, including the establishment of a National Human Rights Institution, a government office with the specific mandate to coordinate Business and Human Rights priorities across the government including the import ban mechanism, and the recruitment and training of staff in human and labor rights expertise. Regional and international coordination mechanisms are also called for, including mechanisms for sharing and coordinating best practices, supplier information, banned entity lists, and import ban decisions among states with import ban laws.

For import ban legislation to be effective, further complementary legislation is also called for, including a mandatory HRDD law, rules on disclosure of suppliers down to the source level, transparency rules to publicly release information about due diligence and supplier disclosures, and rules for mandatory engagement with stakeholders including civil society and labor organizations and experts when making decisions.

As mentioned several times in this report, Japan is the only G7 member without mandatory legislation addressing forced labor, such as an import ban or mandatory reporting rules. Such an import ban is not only an ethical imperative, but it also makes economic sense and will improve the competitiveness of Japanese businesses and workers in a more responsible and sustainable manner. At a time when the values of human rights and a fair and just global trade system are being attacked and undermined by authoritarian governments around the world, Japan's government has the opportunity and duty to show leadership, alongside the other G7 countries, in ending the practice of forced labor in the supply chains of its companies with import ban legislation.