



Trade Facilitation and Trade Enforcement Act of 2015

Repeal of the Consumptive Demand Clause - Frequently Asked Questions (FAQs)

Q: How did the Trade Facilitation and Trade Enforcement Act (TFTEA) change forced labor enforcement?

A: The law repeals the “consumptive demand” exception in 19 U.S.C. § 1307. The exception had allowed importation of certain forced labor-produced goods if the goods were not produced “in such quantities in the United States as to meet the consumptive demands of the United States.”

Q: Does the new law change the Withhold Release Order (WRO)/finding process?

A: Yes and no. The process is essentially the same, although the submission of information related to consumptive demand issues is no longer required. The significant change is that CBP is no longer legally required to weigh consumptive demand considerations to process information concerning forced labor.

Q: Will CBP use the Department of Labor’s (DOL) forced labor lists to stop shipments?

A: DOL produces forced labor lists pursuant to a statutory requirement and an executive order. DOL is required to use different standards to publish the commodities on its lists from the standards that CBP must follow to issue WROs/findings. Furthermore, CBP does not generally target entire product lines or industries in problematic countries or regions. However, CBP may use the DOL lists as source documents for research purposes.

Q: How will CBP update the regulations?

A: CBP will update the regulations at 19 C.F.R. § 12.42-12.44 to implement the legislation and insert clarifying language.

Q: What happens after issuance of WROs or findings?

A: Shipments of merchandise subject to WROs will be detained. Pursuant to 19 C.F.R. § 12.42, importers have the opportunity to either re-export the detained shipments or to submit information to CBP demonstrating that the goods are not in violation of 19 U.S.C. § 1307 – see regulation 19 C.F.R. § 12.43. Shipments subject to findings can be excluded or seized.

Q: Is the receipt of a forced labor petition sufficient to stop trade?

A: No - just the receipt of a petition is not enough. Forced labor petitions are reviewed to ensure the information supplied in the petitions meets the standards outlined in CBP regulations prior to the issuance of a WRO or finding.

Q: How long do WROs/findings last?

A: WROs/findings stay in place until revoked; WROs/findings may be revoked if evidence shows the subject merchandise was not made with forced labor; is no longer being produced with forced labor; or is no longer being, or likely to be, imported into the United States.

Q: Why had CBP enforced the forced labor statute only 39 (now 41) times in over 85 years?

A: This list on [the CBP website](#) shows all WROs issued by the Commissioner and findings published in the Federal Register. CBP does not generally publicize specific detentions, re-exportations, exclusions, or seizures of the subject merchandise that may have resulted from the WROs or findings.

Q: Why hadn’t CBP issued WROs in nearly 15 years?

A: CBP can only act when it obtains evidence regarding violation of section 1307 sufficient to warrant further activity. Additionally, the existence of the consumptive demand exception historically provided violators a defense to section 1307 enforcement action. Repeal of this exception provides CBP with a more robust ability to consider information and petitions alleging violations of 19 U.S.C. § 1307. Recent WRO’s issued were the result of petitions filed recently (within the past year) with CBP.

Q: How can an importer proactively avoid being affected by a WRO?

A: Importers must exercise due diligence over their supply chains and understand where and how their products are manufactured or produced in whole or in part. The Department of Labor produces reports on forced labor and importers may also monitor CBP’s website which lists all foreign entities and their commodities subject to an active WRO.