

Forced Labor External Issue Paper

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U.S. Customs and
Border Protection



OVERVIEW OF PROHIBITION ON IMPORTATION OF FORCED LABOR PRODUCED GOODS

OVERVIEW

- Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307) prohibits the importation into the United States of merchandise mined, produced or manufactured, wholly or in part, in any foreign country by forced labor.
- When information reasonably but not conclusively indicates that merchandise within the purview of this provision is being imported, the Commissioner may issue withhold release orders (WROs) pursuant to 19 C.F.R. § 12.42(e).
 - A WRO requires information that is reasonable but not conclusive for issuance.
- If the Commissioner is provided with information sufficient to make a determination that the goods in question are subject to the provisions of 19 U.S.C. § 1307, the Commissioner will publish a formal finding to that effect in the Customs Bulletin and in the Federal Register pursuant to 19 C.F.R. § 12.42(f).
 - Findings require conclusive evidence, i.e., probable cause that the imported goods are made with forced labor.
- The Trade Facilitation and Trade Enforcement Act of 2015 repealed the “consumptive demand” clause in 19 U.S.C. § 1307, which allowed importation of forced labor goods, “if the goods were not produced in such quantities in the United States as to meet the consumptive demands of the United States.”
 - Repeal of the consumptive demand clause increases CBP’s ability to safeguard human rights through CBP’s authority to address violations, harmonize supply chain standards, and prevent future abuses related to forced labor.
 - CBP no longer is required to consider consumptive demand during its review of information.
 - CBP immediately implemented this change and initiated a review of its regulations to bring them into conformance with the new law.
- For more information, including the current list of WROs, and fact sheets on the forced labor process, and importer due diligence, please visit <https://www.cbp.gov/trade/trade-community/programs-outreach/convict-importations>.

BACKGROUND

- 19 U.S.C. § 1307 prohibits the importation of goods, made wholly or in part, with convict, indentured or forced labor (including forced child labor); the law contained a loophole, however, if the goods were needed to meet U.S. consumptive demands.
- The relevant CBP regulations are in 19 C.F.R. §§ 12.42-45; they provide for submission of information alleging use of forced labor with respect to imported goods.
- CBP will issue a withhold release order if it has evidence that reasonably, but not necessarily conclusively, shows that goods made wholly or in part with forced labor are being, or are likely to be, imported.
- Until signing of TFTEA, the consumptive demand clause complicated the submission to CBP of allegations concerning suspected use of forced labor.
- Repeal of the consumptive demand clause will expedite the review of information; after CBP determines that sufficient information has been provided to warrant a WRO, consumptive demand considerations will no longer hinder issuance of the order.

- CBP will investigate updating the regulations at 19 C.F.R. § 12.42-12.44 to implement the legislation and provide clarifying language in support of implementation and has engaged with the COAC to provide recommendations.
- CBP will continue to collaborate with ICE/HSI, the Department of Labor, the Department of State, and other agencies to enforce U.S. trade laws.

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