

# Commercial Customs Operations Advisory Committee (COAC) (Government Issue Paper: Forced Labor)

(November 2017)



U.S. Customs and  
Border Protection

**Office of Trade**  
**Overview of Prohibition on the Importation of Forced Labor Produced Goods**  
**October 27, 2017**

**Action Required:** Informational

**Issue:** U.S. Customs and Border Protection (CBP) enforcement of Forced Labor produced goods.

**Background:**

- 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. However, the law contained a loophole if the goods were needed to meet U.S. consumptive demand.
- 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 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 has initiated a technical revision of its forced labor regulations with a substantive update to follow.
- 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.

**Current Status:**

- The Trade Facilitation and Trade Enforcement Act of 2015 (Pub. L. 114-125) repealed the “consumptive demand” clause in 19 U.S.C. § 1307, which allowed importation of forced labor goods, “if the goods were not produced in such quantities in the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 considers consumptive demand during its review of information.
- CBP immediately implemented this change and published a technical amendment to its regulations on June 8, 2017.
  - CBP continues a review of its regulations to identify efficiencies.

**Next Steps:**

- CBP will investigate updating the regulations at 19 C.F.R. § 12.42-12.44 to implement the legislation, continue to provide information to the trade, and engage with the COAC.
- CBP will continue to collaborate with ICE/Homeland Security Investigations, the Department of Labor, the Department of State, and other agencies to enforce U.S. trade laws.

**Prepared by:** Thomas Kendrick, thomas.kendrick@dhs.gov, 202-863-6057; Office of Trade, Trade Remedy Law Enforcement Directorate

**Date:** November 2, 2017