

**U.S. CUSTOMS AND BORDER PROTECTION
OFFICE OF TRADE**

U.S. Customs and Border Protection Forced Labor Webinar

August 2018



**U.S. Customs and
Border Protection**

Section 307, Tariff Act of 1930 (19 U.S.C. § 1307)

“All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited...”



“Forced Labor” Defined

“All work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily...” 19 U.S.C. § 1307

Merchandise not entitled to entry:

- Slave labor
- Prison/convict labor
- Forced child labor
- Indentured labor under penal sanctions



Receipt of Information

19 CFR § 12.42

- CBP acts on information
- “Any port director or other principal Customs officer”
- “Any person outside the Customs Service”
 - For example: Human rights, labor rights civil society organizations, or member of the trade.

Anonymous submissions may be reported via the e-Allegations Online Trade Violation Reporting System at <https://apps.cbp.gov/eallegations>.



Reporting Suspected Forced/Forced Child Labor

19 CFR § 12.42(b)

Every such communication shall contain, or be accompanied by:

- (1) a full statement of the reasons for the belief;
- (2) a detailed description or sample of the merchandise;
- (3) all pertinent facts obtainable as to the production of the merchandise abroad



Withhold Release Orders

19 CFR § 12.42(e)

- When information reasonably but not conclusively indicates that merchandise within the purview of 19 U.S.C. § 1307 is being, or is likely to be imported, the Commissioner may issue withhold release orders (WROs)
- Withhold release orders are internal instructions to all port directors to withhold release of specific merchandise into the U.S. commerce pending instructions from the Commissioner as to whether the merchandise may be released otherwise than for exportation



Merchandise Subject to Withhold Release Orders

19 CFR § 12.43

- Merchandise subject to withhold release orders or findings will be withheld from release at all ports of entry.
- The importer may contend, within 3 months after the date of importation, that the merchandise is not produced by a prohibited form of labor
 - Submit a certificate of origin signed by the foreign seller
 - Submit a detailed statement demonstrating the goods were not manufactured with forced labor



Disposition of Detained Merchandise

19 CFR § 12.44

- The importer may **export the merchandise** to a location outside the United States within the 3-month detention period
- The detained shipment will be **excluded from entry** if:
 - The importer fails to either re-export the detained shipment or timely furnish the required Certificate and Statement
 - CBP determines the proof submitted by the importer does not establish admissibility of the merchandise
 - The importer may protest exclusions under 19 USC 1514



Disposition of Detained Merchandise (continued)

- If the proof submitted by the importer to effect release of the shipments is deemed satisfactory, then the goods will be **released**
 - CBP will consider if the agency should move to revoke the withhold release order or finding
- Merchandise withheld subject to a finding may be subject to **seizure**
 - An importer may challenge a seizure by filing a petition with CBP



Findings

19 CFR § 12.42(f)

- 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, i.e., probable cause, the Commissioner will publish a formal finding to that effect in the Customs Bulletin and in the Federal Register
- Probable cause may also be established by an ICE/HSI investigation



Newest Withhold Release Orders

CBP lists all withhold release orders and findings on CBP.gov

MONGOLIA

Detention Order (Withhold Release Order)

1	11/28/2000	Mens' and Girls' Wearing Apparel	Dong Fang Guo Ji, Wuxi Guangming (parent company)	REVOKED by Memo from Acting Commissioner dated 7/23/2001
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NEPAL

Detention Order (Withhold Release Order)



Countering America's Adversaries Through Sanctions Act (CAATSA)

SEC. 302A.

- a) In General.--Except as provided in subsection (b), any significant goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part by the labor of North Korean nationals or citizens shall be deemed to be prohibited under section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) and shall not be entitled to entry at any of the ports of the United States.
- b) Exception.--The prohibition described in subsection (a) shall not apply if the Commissioner of U.S. Customs and Border Protection finds, by clear and convincing evidence, that the goods, wares, articles, or merchandise described in such paragraph were not produced with convict labor, forced labor, or indentured labor under penal sanctions.

22 USC 9241a



Call To Action

CBP cannot act alone to prevent the practice of forced labor. CBP relies on everyone's help in combatting forced labor through detailed and accurate reporting of both infractions abroad and known bad actors in importers' supply chains.

“CBP is steadfast in its commitment to leveraging its travel and trade facilitation and enforcement missions to help stop human trafficking and forced labor.”

- CBP Acting Commissioner
Business Leadership Forum,
to Combat Human Trafficking





U.S. Customs and Border Protection