

Commercial Customs Operations Advisory Committee (COAC) Trade Enforcement /Revenue Subcommittee / Forced Labor Work Group

October 2018



U.S. Customs and
Border Protection



Trade Remedy Law Enforcement /Office of Trade
Forced Labor Work Group

Action Required:

- Informational

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.
- In the first quarter, the Forced Labor Work Group (FLWG) focused on recommendation #010289 made at the November 2017 COAC meeting:
 - “COAC appreciates CBPs efforts to implement the Forced Labor Working Group’s (FLWG’s) prior recommendations, especially the recent issuance of an updated Informed Compliance Publication. As CBP continues to self-initiate and enforce forced labor allegations, COAC recommends that CBP seek additional feedback from the FLWG on how CBP Form 28 Requests for Information (CBPF 28 requests) are being handled uniformly at all centers of excellence and expertise. For example, some requests are more akin to an audit of an importer’s entire supply chain and sourcing factors rather than a request for information related to one set of transactions and/or supplier. Instructions must be clear so importers know how to properly and timely respond to CBPF 28 requests.”
 - The FLWG discussion revolved around providing CBP with additional feedback on how some of the questions currently being asked could be worded to ensure a better response from the trade.
- During the last quarter, FLWG focused on the seven recommendations.
 - COAC recommended several updates to CBP technology used to communicate forced labor updates.
 - CBP strives to update cbp.gov with current and relevant information related to forced labor. CBP has activated RSS feeds for the forced labor page on cbp.gov. The forced labor page is the primary means of communicating changes in the forced labor arena and has added publications on Due Diligence, Responsible Business Conduct, and a detailed trade advisory on the implementation of the Countering America’s Adversaries Through Sanctions Act. CBP has determined the use of the CSMS messaging system would not be feasible for forced labor policy issues, rather the CBP Forced Labor landing page updates through RSS feeds should be subscribed to by the public. Any questions the trade may have concerning forced labor may be addressed to the trade.enforcement@cbp.dhs.gov mailbox. The trade community may report forced labor allegations through the eAllegations portal and/or through the mailbox ICE.ForcedLabor@ice.dhs.gov. CBP regards investigative processes as confidential information not to be discussed with the public. COAC recommended CBP add new forced labor questions to the existing COAC survey to gauge the trade industry's knowledge of these issues, and share the survey results with the trade industry.

- Forced Labor questions have been provided to CBP Office of Trade Relations (OTR) for inclusion to the COAC Survey to gauge the trade and industry's knowledge of forced labor issues and due diligence.
- COAC recommended the CBP Commissioner leverage the resources of the appropriate CBP Center, which has knowledge of the industry and is responsible for managing importer accounts, when making an allegation assessment or the decision to issue, revoke, or modify a withhold release order (WRO).
 - The appropriate Center is engaged when CBP considers action on a WRO.
- COAC recommended CBP work with key stakeholders to develop and publish an Informed Compliance Publication (ICP) on Forced Labor.
 - CBP has updated the ICP on Reasonable Care to include a section on Forced Labor.
- COAC recommended that CBP continue to actively engage with the DHS Interagency Group as a best practice for cross-agency collaboration to improve forced labor enforcement and facilitation.
 - CBP remains actively engaged with the DHS Interagency Group to foster cross-agency collaboration to improve forced labor enforcement and facilitation. Currently, the DHS working group will remain a U.S. Government interagency body. The working group may reach out to COAC as needed, if feedback is needed from non-government stakeholders.
- COAC recommended that CBP conduct additional outreach using a variety of methods.
 - CBP participated in the American Association of Exporters and Importers conference in Baltimore, Maryland, in June 2018. Additionally, CBP has determined the effective use of limited resources by utilizing local Trade Days, which are CBP-sponsored events at targeted ports that provide outreach and access to local companies and stakeholders.
 - EAC Smith conducted a questions and answer session on the Turkmenistan cotton WRO with key industry stakeholders, including COAC members. On August 23, CBP, the Department of Labor, the Department of State, and a representative from a Civil Society Organization conducted a stakeholder outreach webinar to answer questions provided by the COAC.
- CBP recommended that CBP continue to have the FLWG act as a standing forum of subject matter experts that can be called together by CBP when any forced labor issues arise to solicit feedback and advice from the trade and all stakeholders within the FLWG.
 - CBP remains engaged with the COAC FLWG to solicit feedback and advice from the trade and other stakeholders.

Issue:

- CBP is developing a forced labor allegation application, with a simplified process for submitting forced labor allegations to CBP through the eAllegations portal.
- The Forced Labor Division is engaging with CBP's Office of International Affairs at earlier stages of the investigation.

- The Forced Labor Division is conducting onsite and remote training soliciting leads for enforcement, and educating the trade on forced labor and due diligence.

Next Steps:

- The FLWG continues to act as a standing forum of subject matter experts that can be called together by CBP when any Forced Labor issues arise to solicit feedback and advice from the trade.
- Continue review of communications outreach and discussion of using survey to measure the level of awareness and engagement by importers and brokers regarding forced labor.
- This COAC working group is comprised of trade members and civil society organizations (CSO). CBP is participating with its partner government agencies in a CSO work group to capitalize on this group's expertise.

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