

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

October 2020



U.S. Customs and
Border Protection



Trade Remedy Law Enforcement Directorate/Office of Trade

Forced Labor

October 2020

Action Required: Informational

Background:

- CBP enforces Section 307 of the Tariff Act of 1930, which prohibits the importation of merchandise mined, produced, or manufactured, wholly or in part, with forced labor, forced child labor, or indentured labor under penal sanctions.
- CBP issues Withhold Release Orders (WROs) when information reasonably but not conclusively indicates that merchandise within the purview of 19 U.S.C. § 1307 is being, or likely to be, imported. CBP lists all active WROs on [CBP.gov](https://www.cbp.gov).
- If the CBP Commissioner receives 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).
- Other possible enforcement actions include detention, exclusion or seizure of merchandise in violation of applicable laws and regulations, and issuance of a civil penalty.
- Once a WRO has been issued, CBP fields submissions from importers to modify or revoke the WRO to allow future shipments of merchandise into the United States.
- Importers have the duty to exercise reasonable care and due diligence to ensure that goods produced with forced labor do not enter their supply chains. Cognizant of the impact WROs can have on importers and their supply chains, CBP prioritizes reviewing the submissions received.
- CBP may revoke or modify a WRO 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 U.S. After receiving voluminous documentation and engaging affected manufacturers, CBP revoked two and modified three WROs over the last year.
- A full list of CBP modifications and revocations can be found on CBP.gov's "[Withhold Release Orders and Findings](#)" webpage.
- CBP issues press releases to notify the public about WROs, including modifications and revocations. CBP has conducted webinars for industry and participated in CBP's Trade Symposia to provide information about its processes and answer questions about its work.
- The Commercial Customs Operations Advisory Committee (COAC), through the Intelligent Enforcement Subcommittee Forced Labor Working Group (FLWG), provides advice and recommendations on improving forced labor enforcement.

Issue:

- CBP is committed to enforcing 19 U.S.C. §1307 while facilitating legitimate trade.
- The FLWG's objectives include defining elements of a high-quality allegation, promoting industry collaboration and leadership to address forced labor, and developing guidance related to disclosure and mitigating factors.
- The U.S. Departments of State, Treasury, Commerce, and Homeland Security issued the [Xinjiang Supply Chain Business Advisory](#) to caution businesses about the risks of supply chain links to entities that engage in human rights abuses, including forced labor, in the Xinjiang Uyghur Autonomous Region (XUAR) and elsewhere in China.

Current Status:

- As CBP continues to look for ways to enhance the effectiveness of its forced labor mandate, CBP acknowledges COAC input, which adds clarity for the overall improvement of the forced labor allegation process.
- CBP and the FLWG, which includes critical stakeholders such as companies engaged in international trade, civil society organizations, and other U.S. government agencies, had productive discussions on enhancing the allegation submission process through CBPs e-allegation reporting mechanism.
- CBP values the recommendations put forth by COAC on CBP's forced labor allegation reporting mechanism. The 12 recommendations fall into three areas: the e-Allegations portal user interface, contents of the allegation submission template, and capabilities of the system. CBP supports the COAC's recommendations.

Next Steps:

- CBP will continue to engage with the COAC FLWG to improve the effectiveness of its forced labor mandate.