

Commercial Customs Operations Advisory Committee Government Issue Paper Forced Labor

December 2022



U.S. Customs and
Border Protection

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Trade Remedy Law Enforcement Directorate
Office of Trade
Forced Labor
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Action Required: Informational

Background:

- On December 23, 2021, the President signed the Uyghur Forced Labor Protection Act (UFLPA) into law. The Department of Homeland Security (DHS) chairs the Forced Labor Enforcement Task Force (FLETF) and maintains oversight over the UFLPA provisions specific to the Department, its component agencies, and the FLETF. U.S. Customs and Border Protection (CBP) worked with DHS to implement the UFLPA.
- The UFLPA requires CBP to apply a rebuttable presumption that all goods produced wholly or in part in China's Xinjiang Uyghur Autonomous Region or by entities on the Entity List in the *Strategy to Prevent Importation of Goods Mined, Produced or Manufactured with Forced Labor in the People's Republic of China* (Strategy) are produced by forced labor and prohibited entry to the United States under 19 U.S.C. 1307. The presumption applies to goods imported on or after June 21, 2022.
- CBP may grant an exception to the presumption if the agency determines the importer complied with the importer guidance in the Strategy, responded to all CBP requests for information, and clear and convincing evidence demonstrates the goods were not produced wholly or in part by forced labor.
- Within 30 days of granting an exception, CBP must report to Congress and make publicly available information on the good and the evidence considered.
- On June 17, 2022, as part of the Strategy, the FLETF published guidance for importers. CBP published operational guidance for importers regarding the rebuttable presumption on [cbp.gov](https://www.cbp.gov). This guidance complements the importer guidance published by the FLETF in the Strategy. Importers requesting an exception and submitting information to rebut the presumption must comply with the importer guidance in the Strategy.
- The agency's meticulous planning, including analysis of U.S. imports impacted by UFLPA, letters to importers advising them of risk, and educational events for both trade stakeholders and CBP employees helped ensure the smooth implementation of the rebuttable presumption.
- The agency continues to employ a dynamic, risk-based approach to enforcement that prioritizes action against the highest-risk goods based on current data and intelligence to prevent prohibited goods from entering the United States.
- On July 29, 2022, CBP issued a Withhold Release Order (WRO) on garments manufactured in India by Natchi Apparel (P) Ltd. Swift and successful collaboration between CBP, civil society, and the company resulted in CBP's modification (suspension of enforcement) of the WRO on September 6, 2022, based on information demonstrating the company changed its labor practices, implemented collective bargaining, and is no longer using forced labor.
- CBP looks forward to continued dialogue with the COAC regarding its recommendations and efforts to increase the effectiveness of CBP's forced labor enforcement mandate.

Issue:

- The COAC Forced Labor Working Group (FLWG) has completed work under the current Statement of Work (SOW) and is transitioning to a new SOW.

Current Status:

- CBP and the COAC are finalizing the new SOW for the Forced Labor Working Group.
- COAC plans to make forced labor recommendations at the COAC public meeting on December 7, 2022.

Next Steps:

- The FLWG will begin work under the new SOW.

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