



The Bottom Line

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CBP'S FORCED LABOR ENFORCEMENT HITS PPE MANUFACTURER TOP GLOVE

Summary

CBP's forced labor enforcement comes in conflict with imports of personal protective equipment.

Background

Section 307 of the Tariff Act of 1930 prohibits the importation of merchandise mined, produced, or manufactured, wholly or in part, by forced or indentured labor – including forced child labor. Such merchandise is subject to exclusion and/or seizure and may lead to criminal investigation of the importer(s). The latest estimate by the International Labor Organization reveals about 25 million people in the world are trapped in forced labor. While victims can be found almost anywhere—even in the United States—most of the indentured work is found in Asia, Africa, and Latin America. Seventy-five countries, including China, Russia, Thailand, and India, are among the nations where forced labor exists, according to the Department of Labor. FBI investigations have shown that most forced labor in the U.S. is found in low-skilled jobs, temporary employment or in household domestic work. Sexually oriented businesses such as strip clubs and escort services are also destinations, according to the Justice Department's National Strategy to Combat Human Trafficking report.

For well over a century, the U.S. has taken steps to stop imports of products manufactured using forced labor beginning with the 1890 McKinley Tariff Act, that banned products made by prisoners. The Smoot-Hawley Tariff Act of 1930 went a step further by prohibiting imports made by slaves and later, forced labor or children. But there was a catch: Goods made by forced labor could still be imported into the U.S. if those goods couldn't be sufficiently provided domestically—cocoa or coffee beans, for instance. In 2016, the Trade Facilitation and Trade Enforcement Act removed the loophole, strengthening CBP's authority to stop suspected shipments. CBP expects importers to have procedures in place to show their goods comply with the law.

In 2020, the Office of Foreign Assets Control (OFAC) added China's Xinjiang Production and Construction Corporation (XPCC) to its Specially Designated Nationals List on July 31 for serious rights abuses against ethnic minorities in China's Xinjiang Uyghur Autonomous Region.

Current Status

U.S. Customs has found forced labor practices in Top Glove Corp Bhd's TPGC.KL production of disposable gloves and directed its ports to seize goods from the manufacturer.

In a statement overnight, U.S. Customs and Border Protection (CBP) said it has sufficient information to determine labor abuses at the world's largest medical glove maker. CBP issued a Withhold Release Order in July last year that barred imports from two of Top Glove's subsidiaries on suspicion of labor abuses. The ban now extends "to all disposable gloves originating in Top Glove factories in Malaysia," it told Reuters. "CBP has taken steps to ensure that this targeted enforcement action against Top Glove will not have a significant impact on total U.S. imports of disposable gloves," said John Leonard, CBP Acting Executive Assistant Commissioner for Trade. "We continue to work with our interagency partners to ensure that the personal protective equipment, medical devices and pharmaceuticals needed for the COVID-19 response are cleared for entry as expeditiously as possible while verifying that those goods are authorized and safe for use."

Impact

When information reasonably indicates that merchandise produced by forced labor is being, or is likely to be, imported into the United States, Customs will issue a Withhold Release Order (WRO). If information conclusively demonstrates that merchandise is being produced by forced labor, Customs will issue a Finding. Shipments of merchandise subject to WROs will be detained. Importers will have the opportunity to either re-export the detained shipment(s) or to submit information to CBP demonstrating that the goods are not in violation of the order. Shipments subject to Findings shall be excluded or seized, unless the importer establishes by satisfactory evidence that the merchandise is admissible. In issuing a WRO or Finding, CBP increases importers' responsibility to ensure that the products they seek to import are not made using forced labor at any point in their supply chain, including the production or harvesting of the raw material. Given the industrial realities of these supply chains, such as lack of visibility in upstream harvesters, aggregation/comingling of raw inputs, and information asymmetry, CBP's expanded enforcement posture will prove burdensome to importers that are caught off guard. It is now more critical than ever for importers to develop comprehensive compliance plans to reduce risk to operations.

RESOURCES

[CBP Takes Aim at Forced Labor](#) (U.S. Customs & Border Protection)

[US Customs Says Forced Labor Used at Malaysia's Top Glove](#) (NASDAQ)

[CBP Begins 2021 With Expansive New Enforcement Against Forced Labor](#) (Arent Fox)

[CBP Issues Forced Labor Finding on Top Glove Corporation Bhd](#) (U.S. Customs & Border Protection)