Background, Purpose and Risks of the Withhold Release Order (WRO) for Cotton, Tomatoes and Downstream Products Produced in the Xinjiang Uyghur Autonomous Region (XUAR) Forced Labor Reporting Requirement

DHL Express U.S. Fact Sheet

Updated February 2021

What is the Background of Forced Labor Shipments?
Forced Labor Law: Section 307 of the Tariff Act of 1930 (19 U.S.C. § 1307), known as "Section 307", prohibits the importation of merchandise that has been mined, produced, or manufactured, wholly or in part, in any foreign country by forced labor – including prison labor and forced or indentured child labor. Such merchandise is subject to exclusion and/or seizure, and may lead to criminal investigation of the importer(s).

The Trade Facilitation and Trade Enforcement Act of 2015, signed by the President on February 24, 2016 (19 U.S.C. § 4301 et seq.), strengthened the capabilities of U.S. Customs and Border Protection (CBP) to enforce U.S. trade laws and regulations.

More specifically, the new law repeals the "consumptive demand" clause in 19 U.S.C. § 1307, which allowed importation of forced-labor goods, "if the goods were not produced in such quantities in the United States as to meet the consumptive demands of the United States." The repeal of the consumptive demand exception enhances CBP's ability to prevent products made with forced labor from being imported into the United States. Under the enhance authorities an investigation was conducted by U.S. Congress and CBP, which lead to discoveries of the forced labor indicators: debt bondage, restriction of movement, isolation, intimidation and threats, withholding of wages, and abusive living and working conditions.

What are the Current Forced Labor Requirements?
Effective January 13, 2021, at all U.S. ports of entry, U.S. Customs and Border Protection (CBP) will detain cotton products and tomato products produced in China's Xinjiang Uyghur Autonomous Region (XUAR). CBP issued a Withhold Release Order (WRO) against cotton products and tomato products produced in Xinjiang based on information that reasonably indicates the use of detainee or prison labor and situations of forced labor.

What is the Purpose of Forced Labor Requirements?
Prevent products made by forced labor (i.e., slave, convict, indentured, or forced or indentured child labor,) from being imported into the United States. CBP's new rule seeks to eliminate inputs linked to XUAR forced labor from the supply chain until: (1) the capacity to trace products back to their source is significantly strengthened; and (2) stakeholders develop alternative sourcing hubs that provide cost-effective alternatives that abide by labor rights.

What are the Three Major Costs and Risks to DHL Express?

- Shipments/merchandise that fall under the de-minimis threshold are subject to the Forced Labor laws and can be detained by CBP. CBP will issue a WRO when shipments/merchandise are suspected to be made with forced labor. As a result of a WRO, many shipments/merchandise can be detained until importers submit evidence that the imported merchandise was not produced in whole or in part in the XUAR using forced labor. It is incumbent upon the importer to prove admissibility of the merchandise within three months.
- DHL Express is assumed the Importer of Record and in that role must be able to explain what the shipments/merchandise/products are, and if they are produced by forced labor.
- DHL Express must also be vigilant for downstream products produced outside the XUAR that incorporate cotton or tomatoes produced in the XUAR region. For example, personal protective equipment, apparel, textile, tomato seeds, canned tomatoes, tomato sauce and other goods made with cotton or tomatoes.
- DHL Express is a Trusted Shipper and CTPAT certified and are subject to the Forced Labor Law regardless of certification.

Any Opportunities/Benefits to DHL Express?

- Outreach to our customers and SME's on forced labor laws, WRO, and CBP's compliance policy.

What are the Next Policy Steps for DHS/CBP?

- CBP has issued an FAQ which seeks to explain and clarify the WRO: https://www.cbp.gov/trade/programs-administration/forced-labor/xinjiang-uyghur-autonomous-region-wro-frequently-asked-questions