Importers News Flash: Ban on Xinjiang Cotton & Tomatoes

WHO: U.S. Customs & Border Protection will **detain** all tomato and cotton products containing cotton or tomatoes originating from the Xinjiang Uighur Autonomous Region in China.

WHAT: Cotton and tomatoes grown in China's Xinjiang Uyghur Autonomous Region. This includes any cotton and tomato products made therefrom, whether in whole or in part and regardless of where the products are produced.

Cotton and tomato products include:

- apparel,
- textiles,
- tomato seeds,
- canned tomatoes,
- tomato sauce, and
- Other goods made with cotton and tomatoes. –CBP Press Release January 13th, 2021

WHEN: JANUARY 13th, 2021

WHERE: All U.S. Ports of Entry

WHY: "CBP will not tolerate the Chinese government's exploitation of modern slavery to import goods into the United States below fair market value" –CBP Acting Commissioner Mark A. Morgan

HOW DOES THIS AFFECT YOU AS AN IMPORTER? If you import cotton or tomato products originating from the Xinjiang Uighur Autonomous Region in China, your product will be detained and you will receive a CBP detention notice. Products subject to detention may be either seized, exported, or destroyed.

To obtain release of the detained good, you must provide evidence to the port of entry where the shipment is detained that the good was **not** produced with forced labor.

Evidence includes:

- Certificate of origin signed by foreign seller as detailed in 19 CFR Sec. 12.43(a) (*See addendum*)
- Detailed Importer Statement
- Affidavits from yarn producers
- Raw cotton sourcing information
- Production and Transportation Records
- "Supporting documents related to [employees] that picked the cotton, time cards or the like, wage payment receipts, and daily process reports that relate to the raw cotton sold to the yarn producer" –CBP Press Release January 13th, 2021
- Other documents as requested
- Documentation similar to the above may be required for tomato products

Addendum

12.43 Proof of admissibility.

§ 12.43 Proof of admissibility.
(a) If an importer of any article detained under § 12.42(e) or (g) desires to contend that the article was not mined, produced, or manufactured in any part with the use of a class of labor specified in section 307, Tariff Act of 1930, he shall submit to th e port director or Commissioner of CBP within 3 months after the date the article was imported a certificate of origin, or its electronic equivalent, in the form set forth below, signed by the foreign seller or owner of the article. If the article was mined, prod uced, or manufactured wholly or in part in a country other than that from which it was exported to the United States, an additional certificate, or its electronic equivalent, in such form and signed by the last owner or seller in such other country, substituting the facts of transportation from such other country for the statements with respect to shipment from the country of exportation, shall be so submitted.

Certificate of Origin
I, _____, foreign seller or owner of the merchandise hereinafter described, certify that s uch merchandise, consisting of _____ (Quantity) of _____ (Description) in _____ (Number and kind of packages) bearing the following marks and numbers _____ was mined, produced, or manufactured by _____ (Name) at or near _____, and was lad en on board _____ (Carrier to the United States) at _____ (Place of lading) (Place of final departure from country of exportation) which departed from on _____; (Date); and that _____ (Class of labor specified in finding) was not employed in any stage of the mining, production, or manufacture of the merchandise or of any component thereof.

Dated _____

(Signature)
(b) The importer shall also submit to the port director or Commissioner of CBP within such 3-month period a statement, or its electronic equivalent, of the ultimate consignee of the merchandise, showing in detail that he had made every reasonable effort to determine the source of the merchandise and of every component thereof and to ascertain the character of labor used in the production of the merchandise and each of its components, the full results of his investigation, and his belief with respect to the use of the class of labor specified in the finding in any stage of the production of the merchandise or of any of its components.

(c) If the certificate or certificates and statements specified in paragraphs (a) and (b) of this section, or its electronic equivalent, are submitted within the time prescribed and the Commissioner finds that the merchandise is admissible, the port direct or concerned will be advised to that effect, whereupon he shall release the merchandise upon compliance with the usual entry requirements.

[28 FR 14710, Dec. 31, 1963, as amended by CBP Dec. 15-14, 80 FR 61285, Oct. 13, 2015; CBP Dec. 17-04, 82 FR 26584, June 8, 2017]

Should you have any questions, please contact International Trade Affairs and Compliance
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