



FedEx Regulatory Alerts & Updates

Regulatory Alert: U.S. Customs Withhold Release Order on Certain Products from China

January 20, 2021

On January 13, 2021, U.S. Customs and Border Protection (CBP) issued a Withhold Release Order (WRO) against cotton products and tomato products produced in the Xinjiang Uyghur Autonomous Region (Xinjiang) of China.

In effect, this WRO will direct CBP personnel at all U.S. ports of entry to detain cotton products and tomato products grown or produced by entities operating in Xinjiang. These products include apparel, textiles, tomato seeds, canned tomatoes, tomato sauce, and other goods made with cotton and tomatoes.

Importers are responsible for ensuring the products they are attempting to import do not include these goods at any point in their supply chain, including the production or harvesting of the raw material.

CBP will detain any shipment of goods being imported in violation of this WRO. Importers of detained shipments will have the opportunity to export their shipments or demonstrate that the merchandise was not produced with forced labor.

Q&A

Q1: If one of my shipments is detained by CBP in conjunction with this WRO, how can I demonstrate that the merchandise was not produced with forced labor?

A1: The CBP regulation 19 CFR § 12.43 covers proof of admissibility for goods that have been detained in conjunction with a WRO against “Merchandise Produced by Convict, Forced, or Indentured Labor”. These regulations (link in the References section below) provide the process for an importer to submit a signed and dated certificate of origin and a detailed statement demonstrating that the subject merchandise was not produced with forced labor to the CBP Port Director or Commissioner within 3 months after the date the article was imported. If goods subject to a WRO arrive in the US, CBP will detain those goods. Importers may either re-export the goods or submit evidence that the goods were not produced with forced labor. If the shipment in question was not produced with forced labor, the importer should submit proof of admissibility to the CBP Port Director at the port of entry. Evidence will be evaluated on a case-by-case basis.

Q2: What is the effective date of this WRO?

A2: The same date as the announcement by CBP – January 13, 2021. WRO's stay in effect until revoked.

Q3: Does this WRO only apply to the tomato and cotton products that are manufactured in the Xinjiang Region?

A3: No, this WRO also applies to goods made in third-countries using inputs that were produced in the Xinjiang Region.

References:

CBP National Media Release

<https://www.cbp.gov/newsroom/national-media-release/cbp-issues-region-wide-withhold-release-order-products-made-slave>

19 CFR 12.43 “Proof of Admissibility”

<https://ecfr.io/Title-19/Section-12.43>

CBP Helpful Hints for Submitting Proof of Admissibility

[https://www.cbp.gov/sites/default/files/assets/documents/2020-Aug/Final%20Helpful%20Hints FactSheet_508comp_2_0.pdf](https://www.cbp.gov/sites/default/files/assets/documents/2020-Aug/Final%20Helpful%20Hints%20FactSheet_508comp_2_0.pdf)

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