



March 2021

FORCED LABOR

CBP Should Improve Communication to Strengthen Trade Enforcement



A Century of Non-Partisan Fact-Based Work

GAO@100 Highlights

Highlights of [GAO-21-259](#), a report to congressional committees

Why GAO Did This Study

Globally, millions of adults and children are subjected to forced labor, compelled to perform work or service under various forms of threat or coercion. Section 307 of the Tariff Act of 1930 prohibits the importation into the United States of goods produced in any foreign country wholly or in part by forced labor. CBP has sole responsibility for enforcing this law.

The Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018 included a provision that GAO review CBP's efforts to enforce Section 307 and other entities' roles in indirectly supporting CBP's enforcement. This report examines, among other things, CBP's approach to enforcing Section 307 and the extent to which CBP has communicated with other federal agencies and nonfederal stakeholders with respect to Section 307 enforcement.

GAO reviewed laws and CBP documents and interviewed officials from CBP, other federal agencies, and 24 NGOs and private sector entities with knowledge of Section 307. GAO met with officials from the United States, Brazil, China, Malawi, and Malaysia.

What GAO Recommends

GAO recommends that CBP make a description of its WRO revocation and modification process publicly available. CBP agreed with GAO's recommendation.

View [GAO-21-259](#). For more information, contact Kimberly Gianopoulos at (202) 512-8612 or gianopoulosk@gao.gov.

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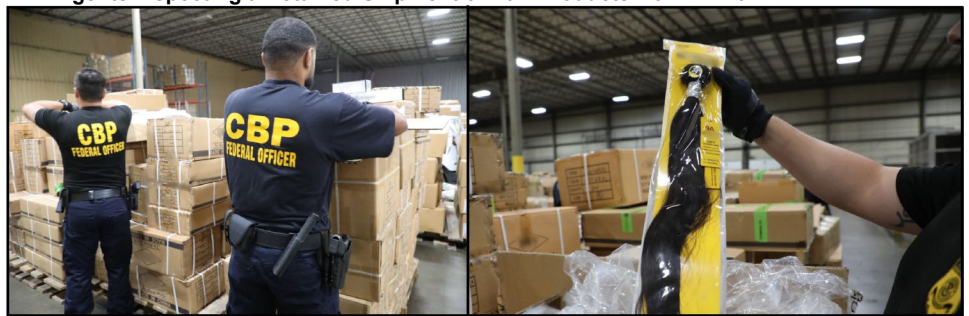
FORCED LABOR

CBP Should Improve Communication to Strengthen Trade Enforcement

What GAO Found

The Department of Homeland Security's U.S. Customs and Border Protection (CBP) uses several tools to enforce Section 307 of the Tariff Act of 1930 (Section 307), which prohibits the importation of goods made with forced labor. For example, CBP may issue a withhold release order (WRO) when information reasonably but not conclusively indicates that merchandise produced with forced labor is being, or likely to be, imported into the United States. CBP may detain shipments of merchandise pursuant to WROs at U.S. ports of entry, unless an importer provides sufficient evidence that it was not made with forced labor. In addition, CBP may revoke or modify a WRO if evidence shows the merchandise was not made with forced labor; is no longer being produced with forced labor; or is no longer being, or likely to be, imported into the United States.

CBP Agents Inspecting a Detained Shipment of Hair Products from China



Source: U.S. Customs and Border Protection (CBP). | GAO-21-259

CBP has taken steps to communicate with other federal agencies as well as nonfederal stakeholders about its enforcement of Section 307.

- CBP communicates with other agencies, including the Departments of Labor and State, through monthly meetings of an interagency working group. During these meetings, members discuss their agencies' forced labor-related efforts and CBP reports its planned enforcement actions.
- CBP officials told GAO that they may communicate separately with other agencies' officials to obtain or share information relevant to CBP's investigations.
- CBP officials communicate with nongovernmental organizations (NGO) and private sector entities that address forced labor, according to CBP officials.

However, one aspect of CBP's communication with other federal agencies and nonfederal stakeholders lacks transparency. CBP has published a description of its process for issuing WROs as well as the types of information it requires to revoke or modify them. But CBP has not published a description of its WRO revocation and modification process, comparable to a description of its WRO issuance process posted on its website. As a result, other agencies and stakeholders lack knowledge of the process. This may limit the agencies' ability to support CBP's enforcement and the private sector's ability to comply with Section 307.

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Abbreviations

CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
DOL	Department of Labor
ICE	U.S. Immigration and Customs Enforcement
ILAB	Bureau of International Labor Affairs
ILO	International Labour Organization
NGO	nongovernmental organization
Section 307	Section 307 of the Tariff Act of 1930
State	Department of State
TFTEA	Trade Facilitation and Trade Enforcement Act of 2015
USAID	U.S. Agency for International Development
USTR	Office of the U.S. Trade Representative
WRO	withhold release order

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March 1, 2021

Congressional Committees

Globally, millions of adults and children are subjected to forced labor, compelled to perform work or service involuntarily and under penalty or threat of penalty. In addition to raising urgent humanitarian concerns, forced labor overseas adversely affects the American economy by undermining legitimate trade and competition, according to the Department of Homeland Security's (DHS) U.S. Customs and Border Protection (CBP).

Section 307 of the Tariff Act of 1930 (Section 307) prohibits the importation of goods, wares, articles, and merchandise mined, produced, or manufactured, wholly or in part, in any foreign country by forced labor.¹ CBP has sole responsibility for enforcing Section 307 and may detain shipments at a U.S. port of entry to determine imports' compliance with U.S. laws, including Section 307.² In enforcing Section 307, CBP may use information compiled by other federal agencies, such as the Departments of Labor (DOL) and State (State), which conduct activities and collect information related to forced labor. CBP may also use information from nonfederal stakeholders, such as nongovernmental organizations (NGO) and private sector entities.

The Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018 includes a provision for us to review the enforcement of Section 307.³ This report (1) describes CBP's approach to enforcing Section 307; (2) examines CBP's communication with other federal agencies and nonfederal stakeholders in addressing Section 307; and (3) describes challenges related to enforcement of Section 307 that

¹Section 307 of the Tariff Act, codified at 19 U.S.C. § 1307, also addresses convict labor and indentured labor under penal sanctions.

²DHS's U.S. Immigration and Customs Enforcement (ICE) is responsible for investigating violations of related criminal statutes, including 18 U.S.C. § 1589, which prohibits forced labor, and 18 U.S.C. § 1761, which prohibits the transportation in interstate commerce or importation from any foreign country of certain prison-made goods.

³Pub. L. No. 115-425, § 132 (2019).

CBP, other federal agencies, and nonfederal stakeholders identified.⁴ This report adds to a series of reports that we have recently published related to forced labor and the enforcement of Section 307.⁵

To describe CBP's approach to enforcing Section 307, we reviewed relevant agency documents and interviewed CBP officials in the Office of Trade's Forced Labor Division who are involved in forced labor investigations and enforcement. We also collected and analyzed information from CBP's website regarding CBP's enforcement actions, including withhold release orders (WRO), findings, and civil penalties, from February 2016 through January 2021.⁶

To examine CBP's communication with other federal agencies and nonfederal stakeholders, we evaluated information from interviews and documents. We determined that the information and communication component of internal control was significant to this objective.⁷ We evaluated documents from federal agencies, primarily DHS, DOL, and State, including reports, press releases, and interagency notifications and cables, to determine whether CBP management externally communicated the necessary quality information to achieve CBP's objectives. In addition, we assessed the extent to which government, private sector, and NGO officials reported communication with CBP and any gaps in this communication. We conducted interviews with CBP officials, including officials in the Forced Labor Division. In addition, we interviewed officials

⁴This report addresses sections (c)(1), (c)(2), (c)(3), (c)(4), (c)(8), (c)(9), and (c)(10) of section 132 of the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, Pub. L. No. 115-425 (2019). Two recent related reports address sections (c)(5), (c)(6), and (c)(7) of section 132 of the act, and section (c)(6)(d) of section 132 of the act, respectively. See GAO, *Forced Labor Imports: CBP Enforcement Actions, Jan. 1, 2009–Sept. 8, 2020*, GAO-21-33RSU (Washington, D.C.: Nov. 30, 2020); and *Forced Labor Imports: DHS Increased Resources and Enforcement Efforts, but Needs to Improve Workforce Planning and Monitoring*, [GAO-21-106](#) (Washington, D.C.: Oct. 27, 2020).

⁵We recently published three related reviews of, respectively, (1) CBP's process to enforce Section 307 for seafood imports, (2) CBP's actions to enforce Section 307, and (3) DHS's resources for enforcing Section 307. See GAO, *Forced Labor: Better Communication Could Improve Trade Enforcement Efforts Related to Seafood*, [GAO-20-441](#) (Washington, D.C.: June 18, 2020); GAO-21-33RSU; and [GAO-21-106](#).

⁶In February 2016, Congress enacted the Trade Facilitation and Trade Enforcement Act (TFTEA), which amended Section 307. See Pub. L. No. 114-125 (2016).

⁷GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

from (1) six other federal agencies with forced labor–related efforts;⁸ (2) 10 private sector entities affected by WROs, representing industry interests, or working with industry; (3) 14 organizations, including NGOs representing labor rights and research-based organizations knowledgeable about, or active in addressing, forced labor and the prohibition of imports made with forced labor; and (4) two national organizations representing states’ interests. We selected the federal agencies because CBP officials reported interacting with them most frequently about forced labor–related issues. We used several methods to identify the nonfederal stakeholders, including conducting a literature search and following recommendations from officials at U.S. agencies, private sector entities, and NGOs that we contacted.

In addition, we interviewed government, private sector, and NGO officials in four countries—Brazil, China, Malawi, and Malaysia—from which goods subject to recent WROs had originated. We selected these countries on the basis of the presence of CBP attachés at the U.S. embassy, the availability of private sector entities and NGOs in the country to discuss their engagement with CBP, and the number of embassy staff available to speak with us about forced labor–related issues. We developed a standard set of questions to ask these officials about CBP’s communication regarding Section 307 enforcement and posed these questions to officials. To describe any forced labor–related efforts undertaken by relevant state or local government agencies, we conducted interviews with representatives of the selected national organizations representing states’ interests and officials from federal agencies, NGOs, and private sector entities who were likely to have knowledge of such efforts.

To describe challenges related to Section 307 identified by CBP, other federal agencies, and nonfederal stakeholders, we interviewed officials from CBP; the other selected federal agencies, including DOL and State; and the selected NGOs and private sector entities. While interviewing officials based in Brazil, China, Malawi, Malaysia, and the United States, we asked them to identify challenges they had faced in addressing Section 307 both domestically and overseas. We also asked these officials to identify tools and resources to assist the private sector with

⁸We interviewed officials from ICE; the Departments of Labor, Justice, and State; the Office of the U.S. Trade Representative; and the U.S. Agency for International Development.

Section 307 compliance. For more information about our scope and methodology, see appendix I.

We conducted this performance audit from September 2019 to March 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Forced Labor

The International Labour Organization (ILO) defines forced labor as “all work or service which is exacted from any person under the threat of a penalty and for which the person has not offered himself or herself voluntarily.” According to the ILO, workers in forced labor experience various forms of coercion from employers or recruiters to prevent them from leaving, such as threats of violence or nonpayment of wages, actual violence, and threats against family members.

The ILO has published 11 indicators to help identify persons who are possibly trapped in forced labor.⁹ These indicators include abusive working and living conditions, retention of identity documents, withholding of wages, debt bondage, intimidation and threats, and physical and sexual violence.¹⁰ The presence of a single indicator in a given situation may, in some cases, indicate the existence of forced labor; in other cases, several indicators taken together may point to forced labor, according to the ILO. (See app. II for more information about the ILO’s forced labor indicators.)

Forced labor is used in a range of sectors, such as domestic work, construction, manufacturing, and agriculture, according to a 2017 report from the ILO, the Walk Free Foundation, and the International

⁹International Labour Organization, *ILO Indicators of Forced Labour* (Geneva: Oct. 1, 2012). According to the ILO, a forced labor situation is determined by the nature of the relationship between a person and an employer and not by the type of activity performed, however hazardous the working conditions may be.

¹⁰The remaining five indicators of forced labor are abuse of vulnerability, deception, restriction of movement, isolation, and excessive overtime.

Organization for Migration.¹¹ The report estimated that about 25 million people worked in forced labor in 2016 and that two-thirds of forced labor victims were located in the Asia–Pacific region. Of these estimated 25 million, about 16 million worked in the private economy, 5 million were victims of sexual exploitation, and 4 million performed forced labor imposed by state authorities, according to the report.¹² DOL reported in 2020 that forced labor or child labor was used in the production of 155 types of goods in 77 countries.¹³ The ILO estimated in 2014 that forced labor generated global profits of about \$150 billion every year.¹⁴

Prohibition on Imports Produced with Forced Labor

Section 307 of the Tariff Act of 1930, codified as amended at 19 U.S.C. § 1307, prohibits the importation of goods, wares, articles, and merchandise mined, produced, or manufactured, wholly or in part, in any foreign country by convict labor, forced labor, or indentured labor, including forced or indentured child labor.¹⁵ Section 307 defines forced labor as all work or service that is exacted from any person under the

¹¹International Labour Organization et al., *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Geneva: 2017).

¹²This estimate of victims of forced labor in the private economy includes those subject to forced labor imposed by private individuals, groups, or companies in all sectors except the commercial sex industry. Victims of forced labor imposed by state authorities include citizens recruited by such authorities to participate in agriculture or construction work for purposes of economic development, young military conscripts forced to perform work that is not of a military nature, and prisoners forced to work against their will outside the exceptions established by the ILO.

¹³Department of Labor, *2020 List of Goods Produced by Child Labor or Forced Labor* (Washington, D.C.: September 2020).

¹⁴International Labour Organization, *Profits and Poverty: The Economics of Forced Labor* (Geneva: 2014).

¹⁵In August 2017, Congress enacted the Countering America’s Adversaries Through Sanctions Act (CAATSA), which created a rebuttable presumption that significant goods, wares, merchandise, and articles mined, produced, or manufactured wholly or in part by North Korean nationals or citizens are the products of forced labor and therefore prohibited from importation under Section 307. Pub. L. No. 115-44, § 302A (2017). According to CBP, goods found to be produced with North Korean labor anywhere in the world are subject to detention, seizure, and forfeiture. CAATSA violations may result in civil penalties as well as criminal prosecution, according to DHS. Pursuant to CAATSA, such goods may be imported into the United States if the commissioner of CBP finds by clear and convincing evidence that the goods were not produced with convict labor, forced labor, or indentured labor. However, according to CBP officials, the importation of goods from North Korea may be otherwise prohibited—for example, by Executive Order 13570, “Prohibiting Certain Transactions with North Korea” (April 18, 2011).

menace of any penalty for its nonperformance and for which the worker does not offer himself or herself voluntarily.¹⁶

Section 910 of the Trade Facilitation and Trade Enforcement Act (TFTEA) of 2015, enacted in February 2016, amended Section 307 by repealing a clause that allowed the importation of certain forced labor–produced goods if they were not produced “in such quantities in the United States as to meet the consumptive demands of the United States.”¹⁷ This clause, known as the consumptive demand clause, permitted the importation of goods, wares, articles, or merchandise mined, produced, or manufactured by forced labor if those items were not mined, produced, or manufactured in the United States in sufficient quantities to meet U.S. demand. According to CBP, TFTEA’s repeal of the consumptive demand clause allowed CBP to enforce Section 307 more fully and made conditions fairer for U.S. manufacturers by reducing competition from importers and foreign manufacturers that benefitted from the use of forced labor.

Selected Federal Agencies’ and Other Stakeholders’ Efforts Related to Forced Labor

While CBP has sole responsibility for enforcing Section 307, a number of other federal agencies, such as DOL and State, and nonfederal stakeholders—including NGOs, private sector entities, and state and local entities—conduct activities and collect information related to forced labor and have expertise in the prevention and remediation of forced labor in supply chains. See table 1 for information about CBP’s and other selected federal agencies’ and stakeholders’ efforts related to forced labor.

Table 1: Selected Federal Agencies’ and Other Stakeholders’ Efforts Related to Forced Labor

Entity	Efforts related to forced labor
Federal agencies^a	
Department of Homeland Security (DHS)	<p>DHS’s U.S. Customs and Border Protection (CBP) has sole responsibility for enforcing Section 307 of the Tariff Act of 1930 (Section 307), which prohibits the importation of goods, wares, articles, and merchandise mined, produced, or manufactured, wholly or in part, in any foreign country by forced labor.^b</p> <p>DHS’s U.S. Immigration and Customs Enforcement (ICE) is the department’s principal criminal enforcement component and is responsible for enforcing laws pertaining to cross-border crime, including those related to the importation of goods in violation of U.S. law, according to ICE.^c</p>

¹⁶CBP defines indentured labor as work or service performed pursuant to a contract, the enforcement of which can be accomplished by process or penalties.

¹⁷TFTEA was enacted on February 24, 2016. See Pub. L. No. 114-125 (2016). Section 910 of TFTEA amended Section 307 of the Tariff Act of 1930, codified at 19 U.S.C. § 1307, by eliminating the consumptive demand exception to the prohibition on the importation of goods made with convict labor, forced labor, or indentured labor.

Entity	Efforts related to forced labor
Department of Labor (DOL)	DOL's Bureau of International Labor Affairs (ILAB) provides training, relevant information, and technical assistance on issues to identify, monitor, and remediate forced labor violations. For example, ILAB maintains the <i>List of Goods Produced by Child Labor or Forced Labor</i> , as required under the Trafficking Victims Protection Reauthorization Act of 2005. ^d In addition, ILAB maintains the Comply Chain website and mobile application to help businesses reduce forced labor in global supply chains through the use of a social compliance system. ^e
Department of State (State)	<p>State's Bureau of Democracy, Human Rights, and Labor helps to coordinate State's reporting on human rights in countries around the world, including forced labor. In addition, the bureau supports and coordinates the activities of State's labor officers at U.S. embassies around the world.</p> <p>State's Bureau of Economic and Business Affairs works with other State bureaus, offices, and embassies to coordinate communication with CBP regarding forced labor issues. In addition, the bureau works with other agencies to assess countries' eligibility with respect to U.S. trade preference programs, including whether the countries meet criteria concerning forced labor.</p> <p>State's Office to Monitor and Combat Trafficking in Persons leads the department's efforts to combat trafficking in persons and is responsible for the annual <i>Trafficking in Persons Report</i>, which assesses governments' efforts to eliminate human trafficking, including forced labor.^f</p> <p>State officials working in U.S. embassies worldwide and in regional bureaus are responsible for maintaining bilateral relationships with host governments. In addition, State embassy officials engage with nongovernmental organizations (NGO) and the private sector overseas on forced labor–related issues.</p>
Office of the U.S. Trade Representative (USTR)	USTR leads the U.S. government's efforts to negotiate U.S. trade agreements and administer U.S. trade preference programs, which include provisions regarding forced and child labor, according to USTR officials.
U.S. Agency for International Development (USAID)	USAID supports efforts throughout the world to reduce trafficking in persons, including trafficking for the purpose of forced labor, from a development perspective. However, the agency does not directly support the prohibition on imports produced with forced labor, according to USAID officials.
Other stakeholders	
NGOs	Various NGOs investigate forced labor issues, advocate for eradicating forced labor, and identify forced labor in supply chains.
Private sector entities	CBP encourages importers, and manufacturers that import goods, to take steps to conduct supply chain due diligence to ensure that there is no forced labor in their supply chains. ^g
U.S. state and local entities	State and local entities in the U.S. may take actions related to forced labor, such as passing legislation that deals with forced labor–related issues or instituting laws or guidance to promote supply chain transparency or combat human trafficking. ^h

Source: GAO interviews with agency and stakeholder officials and open source documents. | GAO-21-259

^aIn addition to the agencies shown, the Department of Justice (DOJ) works with ICE, the Federal Bureau of Investigation, the Diplomatic Security Service, DOL, and other federal enforcement agencies to investigate and prosecute forced labor cases. DOJ's Civil Rights Division and U.S. Attorneys' Offices have authority to criminally prosecute violations of forced labor and related crimes. The Department of Commerce's Bureau of Industry and Security maintains an "Entity List" to inform the public about entities that have engaged in activities contrary to U.S. national security or foreign policy interests, among other things. According to the agency's documents, as of July 2020, the list included 48 entities because of their connection with forced labor and other activities targeting Muslim minority groups in China. In June 2020, we reported that CBP may use certain data collected through the Department of Commerce's National Oceanic and Atmospheric Administration, which administers and enforces a number of statutes that include prohibitions on the importation of illegally harvested seafood. See GAO, *Forced Labor: Better Communication Could Improve Trade Enforcement Efforts Related to Seafood*, [GAO-20-441](#) (Washington, D.C.: June 18, 2020). The Department of the Treasury's Office of Foreign Assets Control administers and enforces economic and trade sanctions. The office has sanctioned North Korean entities and officials for engaging in forced labor and,

together with DHS, State, and the Department of Commerce, issued business advisories regarding the risks of forced labor in supply chains in North Korea and Xinjiang, China.

^bSection 307 of the Tariff Act, codified at 19 U.S.C. § 1307, also addresses convict labor and indentured labor under penal sanctions.

^cICE is responsible for investigating violations of related criminal statutes, including 18 U.S.C. § 1589, which prohibits forced labor, and 18 U.S.C. § 1761, which prohibits the transportation in interstate commerce or importation from any foreign country of certain prison-made goods.

^dDOL publishes its *List of Goods Produced by Child Labor or Forced Labor* every 2 years, which is required by section 105(b)(2)(C) of the Trafficking Victims Protection Reauthorization Act of 2005, Pub. L. No. 109-164 (2006), as subsequently amended, codified at 22 U.S.C. § 7112(b)(2)(C). DOL also publishes its *List of Products Produced by Forced or Indentured Child Labor*, which is intended to ensure that federal agencies do not procure goods made by forced or indentured child labor and is required by Executive Order 13126.

^eAccording to DOL, a social compliance system is an integrated set of policies and practices through which a company seeks to ensure maximum adherence to the elements of its code of conduct that cover social and labor issues. DOL's "Comply Chain" website and mobile application describe eight steps to help businesses reduce forced labor in global supply chains by implementing a social compliance system, including assessing risks and impacts of forced labor, developing a code of conduct, and conducting independent reviews (ILAB Comply Chain, Department of Labor, accessed Dec. 15, 2020, <https://www.dol.gov/ilab/complychain>).

^fIn addition, State's Office to Monitor and Combat Trafficking in Persons supports the President's Interagency Task Force to Monitor and Combat Trafficking in Persons, a cabinet-level entity consisting of 20 federal agencies.

^gSee CBP, *Fact Sheet: Supply Chain Due Diligence* (Feb. 28, 2020). Additionally, importers are required to use reasonable care in making entry and, when filing electronically, to certify that the information is true and correct to the best of their knowledge. 19 U.S.C. § 1484. CBP has issued guidance regarding reasonable care in the forced labor context. See U.S. Customs and Border Protection, *What Every Member of the Trade Community Should Know: Reasonable Care* (September 2017).

^hFor example, the California Transparency in Supply Chains Act of 2010 requires companies that are subject to the act to disclose the extent of their efforts in five areas: verification, audits, certification, internal accountability, and training. In Texas, the city of Houston's Executive Order 1-56, "Zero Tolerance for Human Trafficking in City Service Contracts and Purchasing," urges contractors to engage subcontractors with employee recruitment and labor practices that do not violate human trafficking laws and declares that the city will use its best efforts to conduct business with enterprises that take steps to safeguard against human trafficking, among other things.

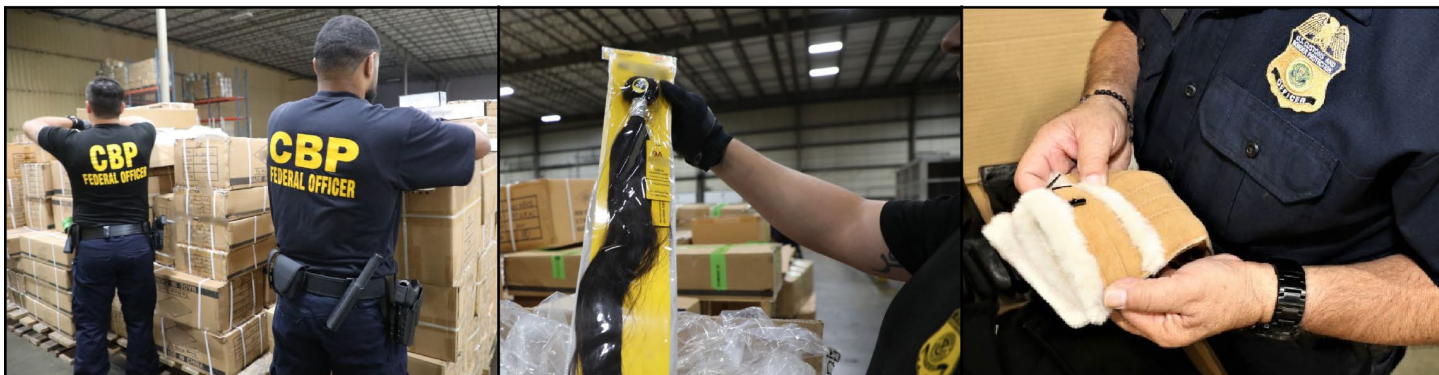
CBP Uses Several Tools to Enforce Section 307

CBP uses several tools to enforce Section 307, including issuing WROs, findings, and civil penalties.¹⁸ CBP generally uses a four-phase process to investigate and collect evidence about imports potentially produced with forced labor and to take any warranted actions. In addition, in April 2020, CBP developed a process for revoking and modifying WROs.

WROs

The commissioner of CBP (or a delegate) may issue a WRO when information reasonably but not conclusively indicates that merchandise within the purview of Section 307 is being, or is likely to be, imported into the United States.¹⁹ CBP may issue a WRO for merchandise from a specific manufacturer or for a type of good produced in a particular location, country, or region. CBP may then detain a shipment of the relevant merchandise subject to a WRO at a U.S. port of entry.²⁰ (See fig. 1.)

Figure 1: CBP Officials Inspecting Detained Goods Subject to Withhold Release Orders at U.S. Ports of Entry



Source: U.S. Customs and Border Protection (CBP). | GAO-21-259

¹⁸Since 2016, the first year on which we focused our review, WROs have constituted the entirety of CBP's enforcement actions, with the exception of a finding issued in October 2020 and a civil penalty collected in August 2020. According to CBP documents, CBP also plans to work to prevent the importation of goods produced with forced labor by incorporating forced labor requirements in the Trade Compliance component of its Customs Trade Partnership Against Terrorism program by March 2021.

¹⁹19 C.F.R. § 12.42(e).

²⁰See 19 C.F.R. § 12.44(a). CBP may hold or detain a shipment until it has made an admissibility decision, according to CBP officials.

When CBP detains a shipment subject to a WRO, the importer has the option to reexport the shipment to a different country.²¹ Alternatively, according to CBP officials, the importer can contest the detention and provide additional information, which CBP refers to as proof of admissibility, to show that the shipment's merchandise was not produced with forced labor.²² If CBP determines that the importer has provided sufficient evidence, CBP allows the shipment to enter U.S. commerce. According to CBP officials, detaining goods subject to a WRO keeps products made with forced labor out of the U.S. market and serves as a deterrent for importers.

WROs remain in effect until revoked or modified. According to CBP documents, CBP may revoke or modify a WRO when the entity subject to the WRO, such as the manufacturer, producer, or supplier, has provided sufficient evidence that the merchandise was not produced with forced labor; is no longer being produced with forced labor; or is no longer being, or likely to be, imported into the United States. On the basis of evidence presented in petitions from, and in subsequent discussions with, manufacturers or importers, CBP may revoke WROs; modify WROs targeting a manufacturer, by removing specific types of products; or modify WROs covering commodities from a particular location, region, or country, to allow imports from certain importers or manufacturers.

From February 2016, when TFTEA was enacted, through January 2021, CBP issued 29 WROs.²³ Of these 29 WROs, four had been revoked and

²¹According to CBP officials, the importer is the entity that imports merchandise from the manufacturer and is responsible for ensuring there is no forced labor in the merchandise it is importing. Section 307 targets imports produced with forced labor. CBP enforces Section 307 in part by issuing WROs that identify manufacturers whose merchandise may be produced with forced labor. If a shipment is detained pursuant to a WRO, importers are responsible for providing evidence that the merchandise is not produced with forced labor before the merchandise is allowed to enter the United States. In certain cases, the importer and the manufacturer may be the same entity.

²²CBP can request additional information from an importer whose shipment was detained, according to CBP officials. Importers have up to 3 months after a detention to provide the relevant information to CBP. See 19 C.F.R. § 12.43.

²³Before 2016, CBP's most recent WRO was issued in November 2000, for men's and girl's apparel manufactured by Dong Fang Guo Ji, Wuxi Guangming in Mongolia. CBP revoked this WRO in July 2001. CBP issued 31 WROs from 1953 to 2015, according to CBP documents. See Withhold Release Orders and Findings, U.S. Customs and Border Protection, accessed Feb. 17, 2021, <https://www.cbp.gov/trade/programs-administration/forced-labor/withhold-release-orders-and-findings>. According to CBP information, 47 WROs were active as of January 28, 2021.

three had been modified as of January 31, 2021. The 29 WROs applied to a variety of merchandise.

- Twenty WROs covered merchandise from specific manufacturers, such as hair products produced by Hetian Haolin Hair Accessories Co., Ltd., in China.
- Five WROs covered a type of good produced in a specific location, country, or region, such as tobacco from Malawi.
- Four WROs covered seafood imports from a fishing vessel, such as seafood from the Taiwan-flagged Yu Long No. 2.

More than half of the WROs (16 of 29) pertained to products from China. The remaining 13 WROs pertained to products from Brazil, the Democratic Republic of the Congo, Malawi, Malaysia, Turkmenistan, and Zimbabwe and from four fishing vessels whose country of origin CBP identified as “other.” See appendix IV for more details of the 29 WROs that CBP issued from February 2016 through January 2021.

Findings

When the commissioner (or a delegate) receives conclusive evidence that merchandise within the purview of Section 307 is being, or is likely to be, imported into the United States, the commissioner, with approval of the Secretary of the Treasury, will publish a finding in CBP’s weekly *Customs Bulletin* and in the *Federal Register*.²⁴ Shipments subject to findings may be denied entry into the United States or seized by CBP, unless the importer establishes by satisfactory evidence that the merchandise is admissible.²⁵ CBP issued its first finding in 24 years in October 2020.²⁶

²⁴19 C.F.R. § 12.42(f).

²⁵Like WROs, findings remain in effect until revoked or modified.

²⁶In October 2020, CBP issued a finding for stevia extracts and derivatives manufactured in China by Inner Mongolia Hengzheng Group Baoanzhao Agriculture, Industry, and Trade Co. Ltd. CBP had issued a WRO for these products in 2016. The WRO and the finding remained active as of January 2021. CBP issued eight findings from 1953 through 1996 and did not issue any findings from 1997 through 2019, according to CBP documents. Seven findings were active as of January 28, 2021, according to CBP information.

Civil Penalties

CBP may issue civil penalties to importers that have violated Section 307.²⁷ CBP officials told us that CBP bases its decisions to issue civil penalties for Section 307 violations on each case's facts and circumstances.²⁸ According to CBP officials, although Section 307 does not have a penalty provision, CBP relies on other statutory provisions to assess civil penalties.²⁹ The amount of a civil penalty would depend on the statute used to assess the penalty, and the maximum penalty would equal the domestic value of the merchandise.³⁰ In August 2020, CBP announced that it had closed its first penalty case for imports produced with forced labor and had collected \$575,000 in penalties from Pure Circle USA, Inc., for at least 20 shipments of stevia powder and its derivatives that were processed in China with prison labor in violation of U.S. law.³¹

CBP's Process for Issuing WROs and Findings

CBP's Forced Labor Division, which began operations in January 2018, investigates allegations of forced labor and collects evidence to support the issuance of WROs and findings.³² The division also coordinates with offices throughout CBP to implement enforcement actions related to

²⁷While WROs serve to notify port officials to detain any future shipments of imports potentially produced with forced labor, CBP may issue civil penalties to importers for merchandise that was produced with forced labor and has already been imported, according to CBP officials. The officials also said that a civil penalty can be issued without a corresponding WRO.

²⁸The Civil Enforcement Division of CBP's Office of Trade, in consultation with the Office of Chief Counsel and the Forced Labor Division, initiates civil penalties for forced labor violations, according to CBP officials.

²⁹See 19 U.S.C. § 1595a(b), which provides penalties for aiding unlawful importation, and 19 U.S.C. § 1592, which authorizes CBP to assess penalties for certain types of fraud, gross negligence, and negligence that occur when a person enters, introduces, or attempts to enter or introduce any merchandise into the commerce of the United States.

³⁰According to CBP officials, the maximum penalty amount for a violation of 19 U.S.C. § 1595a(b) or a nonrevenue violation of 19 U.S.C. § 1592(a) is the domestic value of the merchandise.

³¹According to CBP, this penalty was related to a May 2016 WRO for stevia and its derivatives produced by Inner Mongolia Hengzheng Group Baoanzhao Agricultural and Trade LLC in China. The WRO remained active as of January 2021.

³²From 2016 to 2018, CBP's Trade Enforcement Task Force developed procedures for enforcing Section 307 and investigated forced labor allegations. Before TFTEA was enacted in 2016, officials in the Cargo Security, Carriers, and Restricted Merchandise Branch of CBP's Rulings and Regulations Directorate conducted enforcement efforts related to forced labor as part of their larger trade enforcement responsibilities.

Section 307.³³ CBP generally uses a four-phase process to enforce Section 307 by investigating allegations of forced labor in imports' supply chains and issuing WROs and findings.³⁴

- **Phase 1: Initiation.** The Forced Labor Division receives allegations of forced labor in the supply chain of imported goods through a number of channels, including its e-allegations system and communication with NGOs.³⁵ Analysts may also initiate cases based on research or media reports, according to CBP officials. The division performs an initial review of each external allegation to assess its credibility and determine whether there is sufficient evidence to initiate a case and proceed to phase 2.
- **Phase 2: Investigation.** Forced Labor Division analysts investigate allegations by collecting import data and other evidence, according to CBP officials. If the division management determines that there is sufficient evidence to propose a WRO or finding, analysts draft an allegation report, which includes the allegation, the necessary supporting documentation, and the results of the division's review.³⁶
- **Phase 3: Legal review.** The Forced Labor Division presents the allegation report to CBP's Office of Chief Counsel for a legal review, according to CBP officials. Once the Office of Chief Counsel provides

³³For more information about the roles and responsibilities of CBP offices involved in enforcing Section 307, see [GAO-21-106](#).

³⁴These four phases correspond to the first five steps in CBP's Forced Labor Process Map (see app. III). The process map identifies nine steps: (1) receipt of allegation or self-initiation; (2) CBP evaluation; (3) commissioner review of WRO issuance; (4) issuance of WRO; (5) detention of merchandise; (6) export, contest, or protest; (7) publication of finding in the *Customs Bulletin* and *Federal Register*; (8) seizure and subsequent fines, penalties, and forfeitures process; and (9) judicial forfeiture. See U.S. Customs and Border Protection, "Forced Labor Process Map," accessed Dec. 17, 2020, <http://cbp.gov/document/guidance/forced-labor-process-map>. For more information about CBP's process to enforce Section 307 by investigating allegations of forced labor in imports' supply chains and issuing WROs and findings, see [GAO-20-441](#) and [GAO-21-106](#).

³⁵CBP regulations state that any person who has reason to believe that merchandise produced by forced labor is being, or is likely to be, imported into the United States may communicate this belief to CBP. See 19 C.F.R. § 12.42(b). According to the regulations, such communication must contain or be accompanied by (1) a full statement of the reasons for the belief, (2) a detailed description or sample of the merchandise, and (3) all pertinent facts obtainable as to the production of the merchandise abroad.

³⁶According to CBP officials, the Forced Labor Division may share case information with ICE if the investigation reveals potential criminal violations.

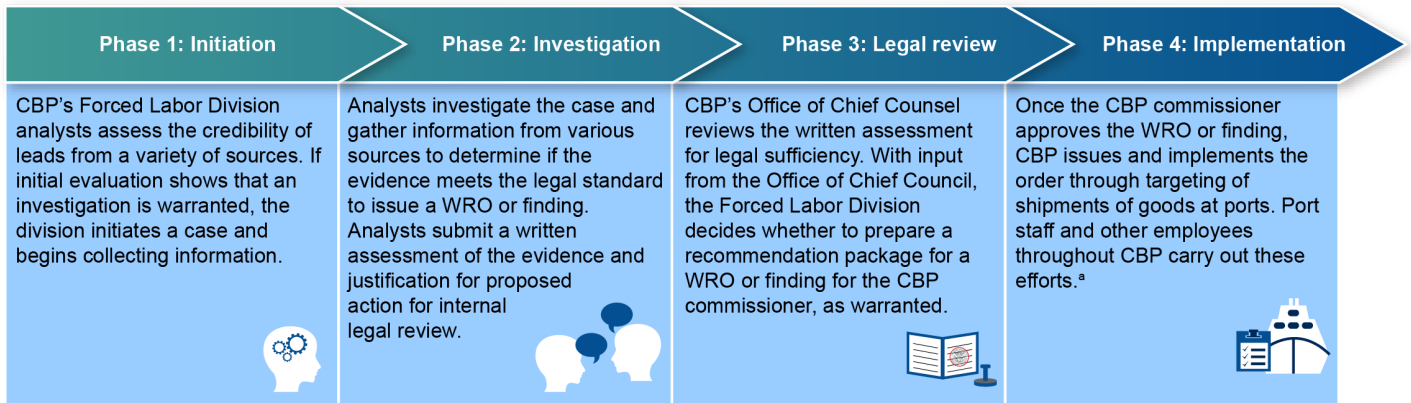
input on the allegation report's legal sufficiency, division management reviews the report to decide whether to prepare a recommendation package for the executive assistant commissioner of the Office of Trade. The acting commissioner of CBP has delegated authority to the Office of Trade's executive assistant commissioner to issue WROs and findings.

- **Phase 4: Implementation.** If the CBP commissioner or a delegate—in this instance, the executive assistant commissioner of the Office of Trade—approves the recommendation package, CBP issues the WRO or finding, according to CBP officials. CBP may then detain shipments to determine whether they are subject to the WRO or finding. Once CBP confirms that a shipment is subject to the WRO or finding, CBP issues a detention notice to the importer, which then has 3 months to provide evidence that the shipped goods were not produced with forced labor. If an importer provides sufficient evidence, CBP releases the detained shipment into the United States. If a shipment is detained pursuant to a WRO, the importer can choose to reexport the goods to another country rather than provide additional documentation to CBP at any time during this 3-month period.³⁷ However, if a shipment is detained pursuant to a finding, the goods may not be reexported.

Figure 2 illustrates CBP's four-phase process for issuing WROs and findings.

³⁷When a shipment is detained pursuant to a WRO, if CBP determines that information provided by the importer is insufficient to establish admissibility, and if the importer does not reexport the goods, CBP may seize the goods as abandoned merchandise, according to CBP officials. CBP may also seize goods subject to findings, unless the importer produces satisfactory evidence that the merchandise is admissible.

Figure 2: CBP Process for Issuing Withhold Release Orders (WRO) and Findings



Source: GAO based on U.S. Customs and Border Protection (CBP) information. | GAO-21-259

^aCBP may detain a shipment to determine whether it is subject to a WRO or finding. If CBP determines that the shipment is subject to a WRO or finding, it may issue a detention notice to the importer. The importer has 3 months to provide information to CBP demonstrating that the merchandise was not made with forced labor. If the importer provides sufficient evidence that the merchandise was not produced with forced labor, CBP releases the detained shipment into the United States. If the shipment was detained pursuant to a WRO, the importer can choose to reexport the goods to another country at any time during this 3-month period rather than provide information showing that the merchandise was not produced with forced labor. If the shipment was detained pursuant to a finding, the importer is not allowed to reexport the merchandise. If the importer does not produce satisfactory evidence that the shipment is admissible, CBP may seize the merchandise.

CBP's Process for Revoking and Modifying WROs

In April 2020, the Forced Labor Division developed a process for reviewing and making determinations about WRO revocations and modifications. According to CBP's internal guidance, the purpose of this process is to determine whether to (1) revoke a WRO or (2) modify a WRO to allow imports from a particular entity.³⁸ Forced Labor Division officials told us that they consider revoking or modifying WROs at the request of private sector entities rather than as part of a systematic approach. Each case is unique, based on the industry, the structure of the individual company, and the supply chain, according to Forced Labor Division officials.

CBP's internal guidance for WRO revocation and modification states that the Forced Labor Division reviews the information the company provides and examines the reliability of this information to determine whether it offers sufficient evidence to revoke or modify the WRO. In general, CBP

³⁸U.S. Customs and Border Protection, Forced Labor Division, "CBP Withhold Release Order Revocation & Modification Procedures," April 2020.

does not prescribe how companies should address forced labor risks or should implement due diligence or corporate social responsibility practices. Rather, CBP asks the companies to either prove that forced labor does not exist in their supply chains or demonstrate that they have implemented remediation plans.

For example, in April 2020, CBP decided to revoke a WRO on tuna and tuna products from a specific fishing vessel after it obtained information showing that these goods were no longer produced under forced labor conditions, according to a CBP press release published on its website. In another case, CBP modified a WRO on Malawian tobacco in July 2020 to allow imports from a particular manufacturer after evaluating the company's social compliance program and efforts to identify and minimize the risks of forced labor from its supply chain. According to a CBP press release, these actions provided evidence that sufficiently supported the company's claims that tobacco from its farms was not produced or harvested with forced labor.

In some cases, the Forced Labor Division requests additional information from the company if necessary. For example, in March 2020, CBP revoked a WRO on disposable rubber gloves after communicating with the company to address concerns over working conditions and adherence to ILO's labor standards, according to CBP's press release. In response to the information that the company presented to CBP about its remediation efforts, the Forced Labor Division suggested that the company adjust its manufacturing and labor practices to ensure compliance with international labor standards. The division did not specify the steps that the company should take.

According to Forced Labor Division officials, there is no strict time line for companies to address forced labor issues after requesting that CBP revoke or modify a WRO; instead, the time line depends on the size and scope of each review and the time needed for the company to address the cited issues. In general, according to the officials, when the division receives a request for a WRO revocation or modification, it endeavors to contact and set up a meeting with the submitting company within 24 hours, to review the submitted material within a week, and to make a decision within 3 to 6 weeks from the date when it receives all necessary information.

The Forced Labor Division, with input from the Office of the Chief Counsel, considers the sufficiency of the evidence and determines whether the WRO should be revoked or modified. According to division

officials, they generally communicate by phone and email with the company or legal representative requesting the revocation or modification to convey the outcome of their decision. In addition, the Forced Labor Division posts notifications of the outcomes publicly on its website, listing the WRO issuance date; merchandise type and manufacturer; types of merchandise removed from the WRO, if applicable; revocation or modification date; and, for modifications of countrywide or regional WROs, the name of the manufacturer or importer now allowed to import goods.

CBP Takes Steps to Communicate with Other Agencies and Stakeholders, but Its Process for Revoking WROs Lacks Transparency

CBP's Forced Labor Division takes steps to communicate about forced labor with DOL, State, and other federal agencies and nonfederal stakeholders, including NGOs and private sector entities. Specifically, the Forced Labor Division communicates with other agencies during monthly meetings of the Interagency Group on Goods Produced through Forced Labor, also known as the Interagency Forced Labor Working Group, and division officials communicate separately with other agencies' officials, according to CBP, State, and DOL officials. Moreover, CBP reported plans to provide additional information about its process for issuing WROs and findings, including the types of information stakeholders can collect and submit to help the agency initiate and investigate forced labor cases. The Forced Labor Division has published general information about WRO revocations and modifications, such as the types of information it requires to revoke or modify WROs. However, it has not published a description of its process for revoking and modifying WROs, which would enhance the process's transparency.

CBP Takes Steps to Communicate about Forced Labor with Other Agencies and Nonfederal Stakeholders

CBP communicates with State, DOL, and other agencies through the Interagency Forced Labor Working Group's monthly meetings, which the division chairs. In addition, CBP officials may communicate separately with other agencies' officials about forced labor cases as necessary. CBP also communicates with NGOs and private sector entities about forced labor.

CBP Communicates with Other Agencies through Interagency Forced Labor Working Group

CBP communicates with other agencies during the Interagency Forced Labor Working Group's monthly meetings, according to CBP, State, and

DOL officials.³⁹ These officials described the working group as CBP's formal mechanism for communicating with other federal agencies about issues related to forced labor imports worldwide.⁴⁰ DHS established the working group in 2017, and CBP's Forced Labor Division has chaired it since May 2019.⁴¹ According to CBP officials, the working group's purpose is to facilitate information sharing about government-wide forced labor-related efforts. Members of the working group include officials from DHS's U.S. Immigration and Customs Enforcement, DOL, and State, among other federal agencies.⁴²

During the working group's meetings, CBP invites the other participating agencies to share information about their forced labor-related efforts. For example, in meetings that we observed, DOL officials shared information about upcoming web-based seminars, plans to fund forced labor-related activities, and new items on DOL's *List of Goods Produced by Child Labor or Forced Labor*. In addition, CBP informs the agencies about ongoing work related to forced labor, according to officials. CBP officials

³⁹We previously found that it is important for agencies to establish ways to communicate across agency boundaries, to address organizational differences in order to enable a cohesive working relationship, and to create the mutual trust required to enhance and sustain the collaborative effort. See GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C., Sept. 27, 2012).

⁴⁰In addition, the Forced Labor Enforcement Task Force was recently established by Executive Order 13923, pursuant to Section 741 of the United States–Mexico–Canada Agreement Implementation Act. Executive Order 13923, Establishment of the Forced Labor Enforcement Task Force Under Section 741 of the United States–Mexico–Canada Agreement Implementation Act (May 15, 2020); United States–Mexico–Canada Agreement Implementation Act, Pub. L. No. 116-113, § 741 (2020). The Secretary of Homeland Security chairs the task force, which comprises representatives from the Departments of State, the Treasury, and Justice; DOL; the Office of the U.S. Trade Representative; and other members that DHS deems appropriate. The task force is required to monitor U.S. enforcement of Section 307. According to DHS officials, the task force meets quarterly and had met twice as of November 6, 2020. CBP officials told us that CBP's Forced Labor Division is not part of this task force because representation is at the department level.

⁴¹Since the enactment of TFTEA in 2016, a number of other working groups or task forces, primarily involving federal agencies, have been established to share information related to forced labor and imports in general. See appendix V for information about these other working groups and task forces.

⁴²Representatives of the Department of Justice, Office of the U.S. Trade Representative, and U.S. Agency for International Development also participate in the Interagency Forced Labor Working Group. In addition, representatives of the Departments of Commerce, Defense, and the Treasury; General Services Administration; and National Oceanic and Atmospheric Administration are invited to participate.

aim to provide 2 weeks' written notice to other agencies in the working group before issuing a WRO, according to CBP procedures.

According to CBP officials, it is important for agencies to be aware of each other's efforts to address forced labor prevention and remediation in addition to CBP's enforcement actions. For this purpose, in March 2020, CBP began inviting representatives from other agencies in the working group to present information about relevant projects, according to CBP officials. In addition, during a May 2020 meeting of the group that we attended, CBP officials announced that the Forced Labor Division was seeking ways to leverage other agencies' information about forced labor and would accept any information they could offer. State officials at the meeting noted that State officials at U.S. embassies can provide context to CBP in the initial phases of its investigations of forced labor allegations.

CBP Officials May Communicate Separately with Other Agencies' Officials

In addition to communicating with other agencies through the Interagency Forced Labor Working Group's monthly meetings, CBP officials may contact officials at DOL's Bureau of International Labor Affairs (ILAB) and State to obtain or share information related to CBP's enforcement of Section 307 for particular cases,⁴³ according to CBP officials.⁴⁴ CBP's standard operating procedures for Section 307 enforcement state that the Forced Labor Division's analysts conduct a high-level overview of each case as well as an initial review to confirm whether the alleged prohibited

⁴³Our review of selected allegations reports (i.e., reports that the Forced Labor Division prepares for legal sufficiency review) found that, in addition to contacting agencies and other stakeholders to obtain information to support investigations, the Forced Labor Division's analysts incorporated information from other agencies in allegations reports accompanying investigations of forced labor allegations. In particular, the division's analysts incorporated information from State's annual *Trafficking in Persons Report*, DOL's *List of Goods Produced by Child Labor or Forced Labor*, and email communication with U.S. embassy staff, among other sources. The Forced Labor Division did not share the information in its allegations reports with other federal agency officials, because the division deems the details related to ongoing investigations to be law enforcement sensitive.

⁴⁴According to Forced Labor Division officials, the division also shares information with the Departments of the Treasury and Commerce through executive and working-level relationships, informal discussions, and established interagency forums. The Departments of the Treasury and Commerce generally share information that may help to inform investigations.

goods are being, or likely to be, imported.⁴⁵ According to the procedures, the division's analysts are encouraged to obtain additional information from other agencies and stakeholders if it is needed.⁴⁶ In addition, CBP officials told us that the division encourages analysts to use professional judgement regarding the necessity and timing of outreach to these agencies.⁴⁷

ILAB provides consultative support for CBP's enforcement of Section 307, supplying expertise if requested, according to ILAB officials. ILAB's expertise derives from its research to identify, monitor, and remediate forced labor violations and from maintaining the *List of Goods Produced by Child Labor or Forced Labor*, among other things. Accordingly, CBP's Forced Labor Division analysts have requested to speak with ILAB researchers about specific commodities, countries, and regions of interest. CBP and ILAB officials told us that the agencies communicate informally and with varying frequency, depending on the cases CBP is investigating.

State's Bureau of Economic and Business Affairs shares information it receives from country desks and embassies with CBP and communicates information about CBP enforcement actions to relevant embassies

⁴⁵In particular, the high-level overview includes an overview of the commodity (i.e., background, status, and import history); geospatial analysis (i.e., the manufacturer or agribusiness footprint and supply chain); impact analysis (i.e., potential impacts to CBP, including at ports of entry); and counterarguments, including analysis of arguments that the manufacturer may make to refute allegations of forced labor. In addition to the initial review confirming whether the alleged prohibited goods are being or are likely to be imported, the high-level overview aims to ascertain the goods' tariff classification and to identify involved trade entities and any other pertinent information.

⁴⁶CBP's standard operating procedures for forced labor enforcement state that the Forced Labor Division will work with other stakeholders (e.g., other agencies) to obtain additional information if the division's initial review finds the provided information to be deficient.

⁴⁷In October 2020, we reported that the Forced Labor Division's analysts may lack the specialized skill set and knowledge base required to carry out the division's mission (see [GAO-21-106](#)). In addition, we reported that because of a shortage of staff, the division had suspended some ongoing investigations and had considered requesting that additional personnel be stationed abroad to support investigative needs, according to CBP officials. Our October 2020 report recommended that CBP ensure that the Office of Trade performs and documents a needs assessment to identify potential gaps in the workforce of its Forced Labor Division. CBP agreed with this recommendation, and in October 2020, CBP officials noted that they were working to address it by January 29, 2021.

through State's country desks, according to State officials.⁴⁸ State's expertise derives from its coordination of human rights reporting, including reporting on forced labor. State's expertise also derives from its research related to the annual *Trafficking in Persons Report*, which assesses the efforts of governments to eliminate human trafficking, including forced labor. In addition, State's expertise includes on-the-ground-information that embassy officials collect through their engagement with foreign governments, NGOs, and the private sector overseas on forced labor-related issues.

State officials working in U.S. embassies worldwide generally have greater access to information and details related to forced labor overseas than CBP has, because, according to CBP and State officials, CBP has a limited number of attachés at U.S. embassies and generally does not interface with host governments on forced labor-related issues. According to State officials, labor officers at embassies draft cables that provide on-the-ground information to State, CBP, DOL, and other agencies' officials, which may include information about the use of forced labor in specific industries or countries. For example, State officials at U.S. embassies in Brazil, Malawi, and Malaysia indicated to us that they had contextual information about broader forced labor issues that may have been relevant to CBP's Section 307 investigations. If there is no CBP or DHS attaché at an embassy, the labor officer often serves as CBP's point of contact at the embassy after CBP issues, revokes, or modifies a WRO.

Officials from CBP's Forced Labor Division told us that division officials communicate with State officials regarding forced labor import issues a number of times monthly by phone and email. In addition, CBP officials said that they work closely with their colleagues at U.S. embassies abroad and are available to engage with foreign governments and private sector entities overseas as requested. CBP officials also told us that the Forced Labor Division's analysts have reached out to State officials at U.S. embassies to gather information that they thought could be useful to their investigations. According to CBP and State officials, such outreach is determined by need and is relationship based.

⁴⁸In February 2019, the Secretary of State issued a worldwide cable to all U.S. embassy staff—drafted jointly by DHS and State officials—that included an overview of Section 307; CBP's role; general messaging and press guidance; and answers to selected, frequently asked questions.

CBP Communicates with
Nonfederal Stakeholders

In addition to communicating with other federal agencies regarding forced labor issues, CBP communicates with NGOs and private sector entities.

- **NGOs.** CBP officials said they may use information from NGOs to initiate or investigate cases. NGOs, among others, can also submit information or allegations directly to CBP. Officials from several NGOs and CBP officials noted that CBP's interactions with NGOs are typically informal and take place as needed. In August 2020, CBP created the CBP Civil Society Organization Round Table to bolster CBP's partnerships with NGOs and civil society organizations on forced labor issues, according to CBP information. Fifty-seven organizations participated in the initial meeting in August 2020, and CBP planned to hold subsequent meetings on a recurring basis.
- **Private sector entities.** Selected private sector entities participate with CBP in a working group of the Commercial Customs Operations Advisory Committee to discuss a variety of issues related to the implementation of Section 307. As of October 2019, the group comprised 48 members, including 26 representatives of private sector entities, among others.⁴⁹ CBP officials told us that they conduct outreach to private sector entities to inform them of their duty to comply with Section 307. For example, in September 2020 CBP held its first virtual Trade Week, which addressed forced labor, among other topics. This event included a panel of officials from federal agencies, NGOs, and the private sector that discussed forced labor–related challenges and opportunities, among other things. In addition, the officials said they provide information about the WRO process and may answer private sector entities' questions about particular WROs that CBP has issued. For example, in the summer of 2020, CBP met with the Malaysian rubber glove manufacturers association and answered questions about the WRO process, according to the officials. CBP had issued a WRO on disposable rubber gloves from a Malaysian manufacturer in September 2019 and revoked the WRO in March 2020.

⁴⁹The Commercial Customs Operations Advisory Committee is a longstanding partnership between the federal government and the private sector that advises DHS on matters involving commercial operations, including forced labor. This working group, which is part of the Commercial Customs Operations Advisory Committee's Intelligent Enforcement Subcommittee, also includes 17 federal government officials—representing DHS, CBP, ICE, and DOL—and five civil society representatives.

CBP Plans to Publish Information about Its Process for Issuing WROs and Findings but Has Not Provided a Description of Its Process for Revoking and Modifying WROs

The Forced Labor Division has shared with federal agencies and nonfederal stakeholders selected details of its process for issuing WROs and findings, and CBP officials reported that the division plans to provide additional details of this process. However, although the division has provided stakeholders with some details of the types of information it requires to revoke or modify WROs, it has not published a description of its revocation and modification process, comparable to information it has published about its process for issuing WROs and findings.

CBP Reported Plans to Provide Additional Details of Its Process for Issuing WROs and Findings

CBP has provided some information to other federal agencies and the public about its process for issuing WROs and findings, although agency officials acknowledged that CBP should share with federal agencies and nonfederal stakeholders additional details of the types of information it considers in determining whether to initiate an investigation or issue a WRO. CBP officials reported that the agency has taken, and will continue to take, steps to improve its information sharing about forced labor enforcement with federal agencies and nonfederal stakeholders.

In June 2018, CBP issued an interagency notification to inform other federal agencies about Section 307, interagency collaboration, and its enforcement process. This document stated that CBP would endeavor to provide relevant information to other agencies in the Interagency Forced Labor Working Group 2 weeks before issuing a WRO or finding.

In addition, CBP's website displays the [Forced Labor Process Map](#), which provides high-level details of CBP's process to enforce Section 307 (see app. III). According to CBP officials, CBP added the process map to its website to clarify the steps it takes when determining whether to issue a WRO, including reviewing allegations and evaluating evidence for its investigations.⁵⁰ However, the process map does not specify, or provide examples of, the types of information that entities may submit, such as photographs or firsthand accounts of forced labor. Several State officials told us that they were unsure about the information they should provide to CBP to support its investigative efforts. DOL officials also said that they were unsure about the types of information they should provide, other than what they already share with CBP from DOL's forced labor research.

⁵⁰Phase 1 of the process map states that "[t]he provisions of 19 C.F.R. § 12.42 detail who may submit information." Phase 2 of the process map states that "CBP must determine or establish reasonable suspicion to issue a [WRO] or conclusively demonstrate that merchandise is prohibited to publish a finding." See 19 C.F.R. § 12.42(b).

In addition, representatives from six of 24 NGOs and private sector entities told us that they needed more clarity about the types of information they should submit to CBP to support an allegation of forced labor.

CBP officials said that they had not shared information with other agencies about the types of information CBP has used in determining whether to issue WROs because CBP considers such information to be law enforcement sensitive or to be protected, privileged, and confidential business information under privacy and trade secrets protections.⁵¹ DOL and State officials noted that they have the requisite clearances to protect law enforcement–sensitive information in accordance with proper security guidelines.

In June 2020, we found that because of this lack of communication, CBP may be missing opportunities to gather relevant information that it could use in determining whether to issue a WRO. We recommended that CBP better communicate to stakeholders the types of information they could collect and submit to CBP to help it initiate and investigate forced labor cases related to seafood and, as appropriate, other goods.⁵² CBP agreed with this recommendation. In October 2020, officials noted that the agency had taken, and would continue to take, the following steps to improve information sharing about forced labor enforcement with federal and nonfederal stakeholders.

- In January 2020, CBP provided a forced labor–related training to State officials, according to CBP information. The training included an overview of the Forced Labor Division’s enforcement actions and its processes for issuing, revoking, and modifying WROs. In addition, CBP participates in trainings or events held by other government agencies and the ILO. These forums provide an opportunity for CBP to informally educate, and build working relationships with, counterparts from other organizations, according to CBP information.
- CBP has engaged in several activities with the private sector, including holding trade symposiums and meeting with representatives of individual private sector entities at their request, to explain forced

⁵¹According to CBP officials, these protections are provided in the Trade Secrets Act, which is codified at 18 U.S.C. § 1905 and the Privacy Act, which is codified at 5 U.S.C. § 552a.

⁵²See [GAO-20-441](#).

labor indicators and the types of evidence that companies can submit for WRO revocation or modification, according to CBP information.

- In October 2020, CBP officials reported that the agency took measures in April 2020 to improve communication and information sharing with federal agencies during monthly meetings of the Interagency Forced Labor Working Group by expanding the number of participating agencies and by varying the topics discussed. Officials also told us that CBP had developed procedures to include or solicit information about forced labor in U.S.-bound goods from other federal agencies and NGOs for its Section 307 investigations. Officials noted that the agency had established a stakeholder contact list that it planned to use regularly to communicate with federal stakeholders and other entities about sector-specific investigations, among other procedures.
- In commenting on our June 2020 report, CBP stated that its Office of Trade would continue to lead the Commercial Customs Operations Advisory Committee's Intelligent Enforcement Subcommittee Forced Labor Working Group, which involves government agencies, the private sector, and NGOs.⁵³ In April and October 2020, the subcommittee's working group made recommendations to CBP regarding, among other things, the types of information that substantiate a comprehensive forced labor allegation, according to working group documents.⁵⁴ According to CBP information, as of October 2020, CBP was reviewing the subcommittee's recommendations and engaging with stakeholders to determine whether and how to implement them.
- As of December 2020, CBP had held two meetings of the CBP Civil Society Organization Round Table, which it had created in August 2020 to bolster its partnerships with NGOs and civil society organizations on forced labor issues, according to CBP information.

⁵³See [GAO-20-441](#).

⁵⁴In October 2020, the subcommittee's Forced Labor Working Group provided recommendations to CBP suggesting, among other things, that CBP provide clear guidance regarding the types of violations it would consider to be forced labor violations rather than other human rights violations.

CBP Has Not Published a Description of Its WRO Revocation and Modification Process

Although CBP has provided some information to the public and other federal agencies about revocation and modification of WROs, it has not published a description of its process comparable to the information it published about its process for issuing WROs and findings.

In August 2020, CBP published on its website a fact sheet with high-level information about WRO revocations and modifications and guidance for requesting them.⁵⁵ Specifically, the fact sheet notes the existence of a process for providing evidence supporting a request to revoke or modify a WRO. The fact sheet states that WROs and findings may be revoked or modified if evidence shows the subject merchandise was not made with forced labor; is no longer being produced with forced labor; or is no longer being, or likely to be, imported into the United States. The fact sheet instructs interested parties to send requests to revoke or modify WROs and relevant evidence to CBP. It also provides a list of selected documentation that, according to the fact sheet, could be helpful, such as copies of policies and evidence of their implementation, recent unannounced third-party audits, and remediation plans. Finally, the fact sheet lists examples of things to avoid, such as providing information without explaining its relevance. However, the fact sheet includes no descriptive information about CBP's process for revoking and modifying WROs, such as the titles of officials involved in reviewing and approving the requests and the actions they take to do so.

Other CBP documents that we reviewed—CBP's Forced Labor Process Map; press releases announcing WROs, which are available on its website; and its interagency notifications—either do not mention WRO revocations and modifications or, if they mention them, do not provide any information about the revocation and modification process.

- **Forced Labor Process Map.** The Forced Labor Process Map, available on CBP's website since February 2019, shows CBP's nine-step process for initiating, investigating, and carrying out forced labor cases, including issuing WROs and findings (see app. III). The process map includes information such as the actions involved and the title of the official who reviews evidence and determines whether to issue a WRO or finding. However, the process map does not

⁵⁵U.S. Customs and Border Protection, Forced Labor Division, Forced Labor Enforcement, *Fact Sheet: Helpful Hints for Submitting Proof of Admissibility and WRO Revocation/Modification Requests*, CBP Publication No. 1165-0620, accessed Dec. 18, 2020, https://www.cbp.gov/sites/default/files/assets/documents/2020-Aug/Final%20Helpful%20Hints_FactSheet_508comp_2_0.pdf.

mention revocation or modification of WROs. CBP officials told us that the process map was designed to provide transparency regarding CBP's process for issuing WROs but not its process for revoking or modifying them. In addition, CBP officials said that they must be cautious in providing information about the WRO revocation and modification process, because the Privacy Act and the Trade Secrets Act require the agency to protect certain types of information. However, providing general information, similar to that shown in the Forced Labor Process Map, would not require disclosing sensitive information, according to CBP officials.

- **CBP press releases.** We found that CBP press releases announcing WRO issuance, which are available on CBP's website, do not contain any information about WRO revocation or modification. As of January 31, 2021, CBP had issued 14 press releases announcing more than three-quarters of the WROs (19 of 29) it had issued since 2016;⁵⁶ none of the 14 press releases announcing the issuance of WROs included information about the revocation or modification of a WRO.⁵⁷ Forced Labor Division officials told us that the press releases do not directly serve an operational notification purpose; rather, the division issues press releases to publicly demonstrate its successful actions and amplify key messages. In addition, officials noted that WROs are internal notifications rather than notifications to the entities affected by the WROs; in other words, the division does not intend to use its press releases to communicate to entities affected by the WROs. However, as documents that the division distributes publicly, press releases could be a useful vehicle for sharing some information about the WRO revocation and modification process with affected entities and other stakeholders.

⁵⁶In addition, as of January 31, 2021, CBP had issued five press releases announcing revocation or modification of, respectively, five WROs issued since 2016. These press releases include details related to WRO revocation and modification. For example, CBP issued a press release on December 7, 2020, announcing the revocation of a WRO it had issued for bone char in Brazil. This press release includes details of the type of information CBP considered and the actions the importer took that resulted in the WRO revocation. CBP did not publish press releases for the six WROs it issued before February 2019. CBP also did not publish a press release for the WRO it issued on July 15, 2020, for disposable gloves in Malaysia.

⁵⁷According to CBP officials, in addition to having access to the press releases and selected fact sheets that inform private sector entities of the option to request revocation or modification of WROs, many of those entities affected by WROs retain legal counsel to engage with CBP regarding revocation or modification of the WROs. According to the CBP officials, these companies are well informed about customs law and generally know how to engage with CBP about the WROs.

-
- **Interagency notifications.** We reviewed three types of interagency notifications and found that only one type included information about WRO revocations or modifications. First, CBP's June 2018 interagency notification for forced labor enforcement—a memo providing an overview of Section 307 enforcement—includes only high-level information about revocation or modification of a WRO. Specifically, the notification states that WROs stay in effect until revoked and presents the general conditions for revocations and modifications, but it does not provide general information about the revocation process. Second, CBP's notifications to other federal agencies about upcoming WROs, which it provides approximately 2 weeks in advance, include high-level information about the individual WROs, according to CBP officials. However, none of the interagency notifications we reviewed, covering 20 of the 29 WROs issued since 2016, include information about the option to request revocation or modification of a WRO.⁵⁸ Third, a cable providing an overview of Section 307, CBP's role, and answers to selected frequently asked questions—which DHS drafted for all U.S. embassy staff in collaboration with State officials and which the Secretary of State issued in February 2019—does not mention the option to request revocation or modification of a WRO.

Lack of access to information about the process for revoking and modifying WROs may limit other federal agencies' ability to support CBP's enforcement of Section 307 and the private sector's ability to comply with the provision. DOL officials told us that their inability to answer questions about the revocation process puts a strain on relationships with stakeholders who share information for DOL's *List of Goods Produced by Child Labor or Forced Labor*. State officials said that they lacked information about CBP's process and were limited in the information that CBP enabled them to provide to the public. For this reason, it was difficult for U.S. embassy officials in Malaysia to explain to industry officials and the host government the March 2020 revocation of the WRO on disposable rubber gloves from Malaysia. In addition, State officials at the U.S. embassy in Malawi noted that, when CBP modified a countrywide WRO for tobacco from that country to allow imports from a certain company, CBP did not specify the process it used to make this decision. As a result, the State officials did not have clear guidance for

⁵⁸We reviewed interagency notifications for 20 of the 29 WROs CBP had issued since 2016. According to CBP officials, the agency did not provide interagency notifications for nine of the 29 WROs. In addition, CBP officials told us that although CBP does not routinely issue interagency notifications of WRO revocations or modifications, it has issued notifications of the revocation or modification of certain WROs.

responding to representatives of other tobacco companies that expressed interest in obtaining WRO modifications or to officials of the Malawi government who inquired about the revocation. Further, representatives from two private sector entities told us that they were unsure about the steps they must take to obtain a WRO revocation.

According to standards for internal control in the federal government, management should externally communicate the necessary quality information to achieve an agency's objectives.⁵⁹ Making a description of CBP's WRO revocation and modification process publicly available would enhance the transparency of the process and increase federal agencies' ability to support CBP's efforts to enforce Section 307 and the private sector's ability to comply with the provision.

Federal Agencies and Nonfederal Stakeholders Generally Considered Section 307 an Effective Mechanism but Identified Related Challenges

Officials from CBP, other federal agencies, NGOs, and private sector entities generally characterized Section 307 as an effective mechanism to help prevent the import of goods produced with forced labor from entering U.S. commerce. However, officials identified several challenges related to Section 307 enforcement, including difficulties in tracing supply chains and the effects of WROs on other agencies' priorities, such as remediating forced labor and fostering positive diplomatic relations.

Federal Agencies and Nonfederal Stakeholders Generally Viewed Section 307 as an Effective Enforcement Mechanism

Officials from federal agencies, NGOs, and private sector entities we spoke with generally described Section 307 as an effective mechanism to help prevent the importation of goods produced with forced labor. According to CBP officials, importers typically stop trying to import goods subject to a WRO about a month after it is issued, which demonstrates WROs' deterrent effect. Additionally, at a meeting with various NGOs, representatives told us they agreed that Section 307 was a helpful mechanism to eradicate forced labor. Further, according to State officials, Section 307 enforcement is a powerful tool to advance the U.S. government's mission to combat forced labor.

⁵⁹GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

Officials from NGOs and private sector entities said that they thought Section 307 was an effective mechanism for a variety of reasons. For example, an NGO representative said that trade laws, such as Section 307, that include a civil enforcement mechanism are considered to have more authority than laws that require private sector entities to report on the risks of forced labor in their supply chains and the actions taken to address those risks. According to the representative, trade laws such as Section 307 can affect companies' profits and compel companies to integrate forced labor standards into their business models. Another NGO representative told us that the United States has the power to encourage the private sector to eliminate forced labor from supply chains because of the size of its economy and the strength of the U.S. dollar. A private sector representative said that Section 307 is an effective signal that all companies involved in supply chains need to address forced labor violations. In addition, representatives from a private sector entity commented that Section 307 is an important law, in part because it has intensified companies' focus on forced labor in their supply chains.

In addition, State officials and an NGO representative noted that WROs are effective in raising awareness of, and increasing emphasis on forced labor issues with host governments and the private sector. According to State officials, CBP's Section 307 enforcement actions can motivate private sector entities to conduct due diligence, address forced labor violations, and implement safeguards against the risk of forced labor. For instance, State officials at one U.S. embassy noted that a modification of an existing countrywide WRO could encourage other importers to comply by indicating a specific company's actions as an example of how to address forced labor violations effectively.

Federal Agencies and Nonfederal Stakeholders Cited Several Challenges Related to Section 307 Enforcement

Officials from federal agencies, NGOs, and private sector entities cited several challenges related to the enforcement of Section 307, including limited traceability in supply chains and CBP's approach to enforcement.

Limited Traceability in Supply Chains

Forced Labor Division officials and representatives from several private sector entities and NGOs said that difficulty in tracing supply chains presents a challenge for Section 307 investigations and compliance. Forced Labor Division officials noted that CBP often cannot trace goods produced with forced labor overseas and imported into the United States because of the complexity of the goods' supply chains.

Although identifying forced labor in the first and second tiers of products' supply chains may be reasonably simple, identifying it in subsequent tiers is more challenging, according to the Commercial Customs Operations Advisory Committee's Intelligent Enforcement Subcommittee Forced Labor Working Group and representatives from two private sector entities. For example, U.S. importers may not own and operate all factories, farms, mines, or other enterprises that produce raw materials or manufacture them into intermediary parts or finished products, which can make it difficult to identify forced labor in these importers' supply chain. In addition, tracing goods made with raw materials such as cotton is challenging because of the difficulty of determining where the cotton originated and whether it was mixed with cotton picked elsewhere, potentially with forced labor. Similarly, other products, such as shoes, have multiple components that may be manufactured in a number of places, complicating efforts to identify forced labor. (See app. VI for information about tools and resources identified by agencies and stakeholders that could assist importers with Section 307 compliance.)

Challenges Resulting from CBP's Enforcement Approach

Officials from other federal agencies and representatives from private sector entities and NGOs noted that they have faced challenges as a result of CBP's approach to implementing its enforcement mechanisms for preventing imports produced with forced labor. For example, although State officials considered WROs to be helpful in raising awareness of forced labor issues, State officials also said that the issuance of WROs can be a "sledgehammer-type" approach that may make it more difficult for other agencies, such as State and DOL, to implement more collaborative or remediation-focused approaches to eliminate and prevent forced labor. According to some State officials, State's forced labor-related efforts focus on protecting vulnerable populations and helping foreign governments address and reduce labor rights violations and trafficking in persons, and CBP's enforcement actions are not always helpful in this regard. According to these officials, a WRO is a punitive measure for dealing with an issue that may call for more finesse.

Similarly, ILAB officials told us that, as an unintended consequence of the September 2019 WRO for disposable rubber gloves produced in Malaysia, many workers' employment was terminated, which had a negative effect on workers facing exploitation. The officials said that it is important that the U.S. government be prepared to support workers who are placed in a position of increased vulnerability as a result of enforcement actions to prevent forced labor. Forced Labor Division officials said that the agency's enforcement of Section 307 can reinforce

other federal agencies' forced labor–related efforts by providing consequences.

State officials at U.S. embassies also told us that they had faced challenges in maintaining diplomatic relationships when a WRO was issued. For example, State officials at three embassies told us that, because they do not know the types of information CBP considers for its investigations, they are unable to explain to host governments and the private sector how CBP makes its determinations. In addition, State officials at one U.S. embassy said that because they were unable to share information about the WRO before its issuance, the host government had questioned the U.S. government's willingness to cooperate on law enforcement actions. The officials suggested that before issuing a WRO, CBP could consider allowing State officials at U.S. embassies discretion to engage with the host government to mitigate any potential negative diplomatic effects. According to the officials, engagement with the host government before WRO issuance could better support overall bilateral cooperation. A State official working closely with U.S. embassy officials in another country noted that, as representatives of the U.S. government, State officials at U.S. embassies could work with the host governments to develop strategies for remediating forced labor before CBP issues WROs.

In response, Forced Labor Division officials said that they work closely with their colleagues at U.S. embassies abroad and are available to engage with foreign governments and private sector entities overseas as requested. For example, according to officials, in June 2020, after the issuance and revocation of the WRO on disposable rubber gloves produced by a Malaysian manufacturer, Forced Labor Division officials worked with State officials at the U.S. embassy in Malaysia to hold a web-based seminar for the private sector that explained CBP's authorities under Section 307. In addition, the officials said that CBP had provided training to State officials about CBP's Section 307 authorities and processes, such as the January 2020 training that included an overview of the division's enforcement actions and WRO issuance process.

Representatives of private sector entities and an NGO said that CBP's enforcement of Section 307 may discourage the private sector's remediation or reporting of forced labor. The representatives commented that CBP's Section 307 enforcement may lead companies to take a "cut-and-run" approach to forced labor—that is, to cut ties with foreign suppliers instead of encouraging them to remediate unacceptable labor practices. In addition, representatives from three private sector entities

said that private sector entities may be reluctant to share information with CBP about forced labor risks in their supply chains or efforts to address forced labor, fearing that CBP will issue a WRO against them if they do. As a result, CBP's approach to enforcing Section 307 may inadvertently discourage transparency because businesses have no "safe harbor" to communicate about forced labor, according to the representatives.

Forced Labor Division officials told us that CBP has regulations in place that allow private sector entities to submit "prior disclosures" of forced labor. According to CBP documents, prior disclosure may result in reduced or cancelled penalties.⁶⁰ In addition, the officials noted that any penalties that may result from private sector entities' prior disclosure of forced labor are outside the purview of the division's Section 307 enforcement, because the division is not responsible for conducting social compliance audits to determine whether businesses comply with standards protecting the rights, health, and safety of workers.

Conclusions

Forced labor is both a pressing global humanitarian concern and a persistent economic problem that harms the competitiveness of U.S. businesses. While CBP is responsible for enforcing Section 307's prohibition of the importation of goods made with forced labor into the United States, various other federal agencies and nonfederal stakeholders have expertise about forced labor that can support CBP's enforcement efforts.

The Forced Labor Division has shared selected details of its process for issuing WROs and findings with federal agencies and nonfederal stakeholders, and CBP officials reported plans to provide additional details. However, the division has not published a description of its process for revoking and modifying WROs comparable to information it has published about its process for issuing WROs and findings. Publishing a description of the WRO revocation and modification process, to the extent practicable and consistent with relevant Privacy Act and Trade Secrets Act requirements, would increase the process's transparency and would also enhance agencies' ability to support CBP's

⁶⁰U.S. Customs and Border Protection, *What Every Member of the Trade Community Should Know: Prior Disclosure. An Informed Compliance Publication* (Washington, D.C.: August 2017). The document states that "[t]he prior disclosure provision contained in 19 U.S.C. § 1592 provides reduced penalties to a person who notifies CBP of the circumstances of a violation of the customs laws and regulations, before CBP...discovers the possible violation and notifies the party of the discovery of the possible violation. In certain cases, a valid prior disclosure may result in either substantial mitigation or cancellation of a penalty in full."

Section 307 enforcement efforts and the private sector's ability to comply with the provision.

Recommendation for Executive Action

The Commissioner of CBP should ensure that the Forced Labor Division makes a description of its WRO revocation and modification process publicly available, to the extent practicable and consistent with relevant requirements of the Privacy Act and Trade Secrets Act. (Recommendation 1)

Agency Comments

We provided a draft of this report to DHS, DOL, State, and USAID for review and comment. We received comments from DHS and USAID, which we have reproduced in appendixes VII and VIII, respectively. In addition, DHS, State, and USAID provided technical comments, which we incorporated as appropriate. DOL did not provide comments.

In its comments, DHS concurred with our recommendation and noted that CBP's efforts to communicate with relevant stakeholders about its enforcement actions have increased as the number of its enforcement actions has grown. In addition, DHS noted that CBP is committed to continued communication with stakeholders, including other U.S. agencies, NGOs, and the private sector. CBP described the actions it plans to take to address the recommendation, including developing a process map that clearly describes the WRO revocation and modification process and publishing this process map on its website.

We are sending copies of this report to the appropriate congressional committees, the Secretary of Homeland Security, the Acting Secretary of Labor, the Secretary of State, the Acting Administrator of USAID, and other interested parties. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact Kimberly Gianopoulos at (202) 512-8612 or gianopoulosk@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix IX.

A handwritten signature in black ink that reads "Kimberly M. Gianopoulos". The signature is written in a cursive, flowing style.

Kimberly M. Gianopoulos
Director, International Affairs and Trade

List of Committees

The Honorable Maria Cantwell
Chairwoman
The Honorable Roger Wicker
Ranking Member
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Ron Wyden
Chairman
The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate

The Honorable Robert Menendez
Chairman
The Honorable James Risch
Ranking Member
Committee on Foreign Relations
United States Senate

The Honorable Patty Murray
Chairwoman
The Honorable Richard Burr
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Richard Durbin
Chairman
The Honorable Chuck Grassley
Ranking Member
Committee on the Judiciary
United States Senate

The Honorable Frank Pallone, Jr.
Chairman
The Honorable Cathy McMorris Rodgers
Ranking Member
Committee on Energy and Commerce
House of Representatives

The Honorable Maxine Waters
Chairwoman
The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
House of Representatives

The Honorable Gregory Meeks
Chairman
The Honorable Michael McCaul
Ranking Member
Committee on Foreign Affairs
House of Representatives

The Honorable Jerrold Nadler
Chairman
The Honorable Jim Jordan
Ranking Member
Committee on the Judiciary
House of Representatives

The Honorable Richard Neal
Chairman
The Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
House of Representatives

Appendix I: Objectives, Scope, and Methodology

This report (1) describes the Department of Homeland Security (DHS) U.S. Customs and Border Protection's (CBP) approach to enforcing Section 307 of the Tariff Act of 1930 (Section 307); (2) examines CBP's communication with other federal agencies and nonfederal stakeholders in addressing Section 307; and (3) describes challenges related to enforcement of Section 307 that CBP, other federal agencies, and nonfederal stakeholders identified.

To describe CBP's approach to enforcing Section 307, we reviewed relevant laws and agency documents such as internal guidance and press releases. We also interviewed CBP officials in the Office of Trade's Forced Labor Division about the division's investigations, processes, and enforcement actions. In addition, we collected and examined information regarding CBP's enforcement actions from February 2016 through January 2021.¹ Specifically, we analyzed information from CBP's website about the withhold release orders (WRO) and findings that CBP issued during this period. Further, we interviewed CBP officials regarding the civil penalties that CBP issued during this period, and we reviewed CBP documents relevant to this topic.

To examine CBP's communication with other federal agencies and nonfederal stakeholders, we reviewed information from documents and interviews. We determined that the information and communication component of internal control was significant to this objective. We evaluated information from interviews and documents to determine whether CBP management externally communicated the necessary quality information to achieve the entity's objectives.² We also assessed the extent to which government, private sector, and nongovernmental organization (NGO) officials reported collaboration with CBP and any gaps in this collaboration.

We examined documents from federal agencies, including CBP's WRO-related guidance, procedures, press releases, and interagency notifications; the Department of State's (State) forced labor-related cables; and the Department of Labor's (DOL) and State's descriptions

¹In February 2016, Congress enacted the Trade Facilitation and Trade Enforcement Act (TFTEA). See Pub. L. No. 114-125 (2016). Section 910 of TFTEA amended Section 307 of the Tariff Act of 1930, codified at 19 U.S.C. § 1307, by eliminating the consumptive demand exception to the prohibition on the importation of goods made with convict labor, forced labor, or indentured labor.

²GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: Sept. 10, 2014).

and lists of forced labor violations worldwide and in specific countries. We conducted interviews with cognizant officials from CBP, other federal agencies, private sector entities, and NGOs. We asked these officials to answer a standard set of questions about CBP's communication regarding Section 307 enforcement that we had developed. We interviewed CBP officials in the Office of Trade who were involved in Section 307 enforcement, including officials from the Forced Labor Division and the Customs Trade Partnership Against Terrorism, about their roles and responsibilities and their communication with other federal agencies and nonfederal stakeholders. We also interviewed CBP officials in the Office of Trade about their roles and responsibilities pertaining to the Commercial Customs Operations Advisory Committee.

Moreover, we interviewed officials from six other federal agencies that have forced labor–related efforts and that CBP officials identified as the agencies they interacted with most often regarding forced labor:

- DHS's U.S. Immigration and Customs Enforcement
- DOL, including the Bureau of International Labor Affairs
- The Department of Justice
- State, including the Bureau of Democracy, Human Rights, and Labor; Bureau of Economic and Business Affairs; Office to Monitor and Combat Trafficking in Persons; and U.S. embassies and consulates in Brazil, China, Malawi, and Malaysia
- The Office of the U.S. Trade Representative
- The U.S. Agency for International Development

Further, we interviewed officials from 10 private sector entities that are affected by WROs, that represent industry interests, or that work with industry. We also interviewed officials from 14 organizations, including NGOs that represent labor rights and research-based organizations that are knowledgeable about, or active in, addressing, forced labor and the prohibition of imports made with forced labor. We identified these officials by conducting a literature search; using a snowball selection process;³ and following recommendations from officials at U.S. agencies, private sector entities, and NGOs we contacted. In addition, we interviewed the cochairs of the Commercial Customs Operations Advisory Committee's Intelligent Enforcement Subcommittee Forced Labor Working Group.

³A snowball selection process may use multiple methods to identify entities within a group and generally includes asking members of the population to recommend other members.

Further, we interviewed representatives of two national organizations representing states' interests.

We interviewed federal agency, NGO, and private sector officials in four countries for which CBP recently issued WROs: Brazil, China, Malawi, and Malaysia. The criteria that we considered in selecting these case-study countries included, among others, the presence of CBP attachés at the U.S. embassy, the availability of private sector entities and NGOs in the country to discuss their engagement with CBP, and the number of embassy staff who were available to speak with us about forced labor–related issues.

Moreover, we interviewed officials from the International Labour Organization about the organization's forced labor prevention efforts and its collaboration with the U.S. government, NGOs, and private sector entities to carry out these efforts, among other things. To describe any forced labor–related efforts undertaken by relevant state or local government agencies, we conducted interviews with officials from selected national organizations representing states' interests and with officials from federal agencies, NGOs, and private sector entities who were likely to be knowledgeable about any such efforts.

To describe the challenges related to Section 307 enforcement that CBP, other federal agencies, and nonfederal stakeholders identified, we interviewed officials from CBP and the six other federal agencies, 10 private sector entities, and 14 NGOs we had selected. We interviewed officials based in Brazil, China, Malawi, Malaysia, and the United States about challenges they had faced related to Section 307 enforcement domestically and overseas. We also interviewed these officials to identify tools and resources that could assist the private sector, particularly importers, with Section 307 compliance (see app. VI).

We conducted this performance audit from September 2019 to March 2021 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.








Appendix II: Indicators of Forced Labor Established by the International Labour Organization

The International Labour Organization (ILO) is a United Nations agency that sets labor standards, develops policies, and devises programs promoting decent work for all people across the world. Figure 3 shows 11 indicators that the ILO published to help frontline law enforcement officials, nongovernmental organization workers, and others identify persons who are possibly trapped in a forced labor situation and who may require urgent assistance.¹

¹International Labour Organization, *ILO Indicators of Forced Labour* (Geneva: Oct. 1, 2012).

**Appendix II: Indicators of Forced Labor
Established by the International Labour
Organization**

Figure 3: Forced Labor Indicators Identified by the International Labour Organization

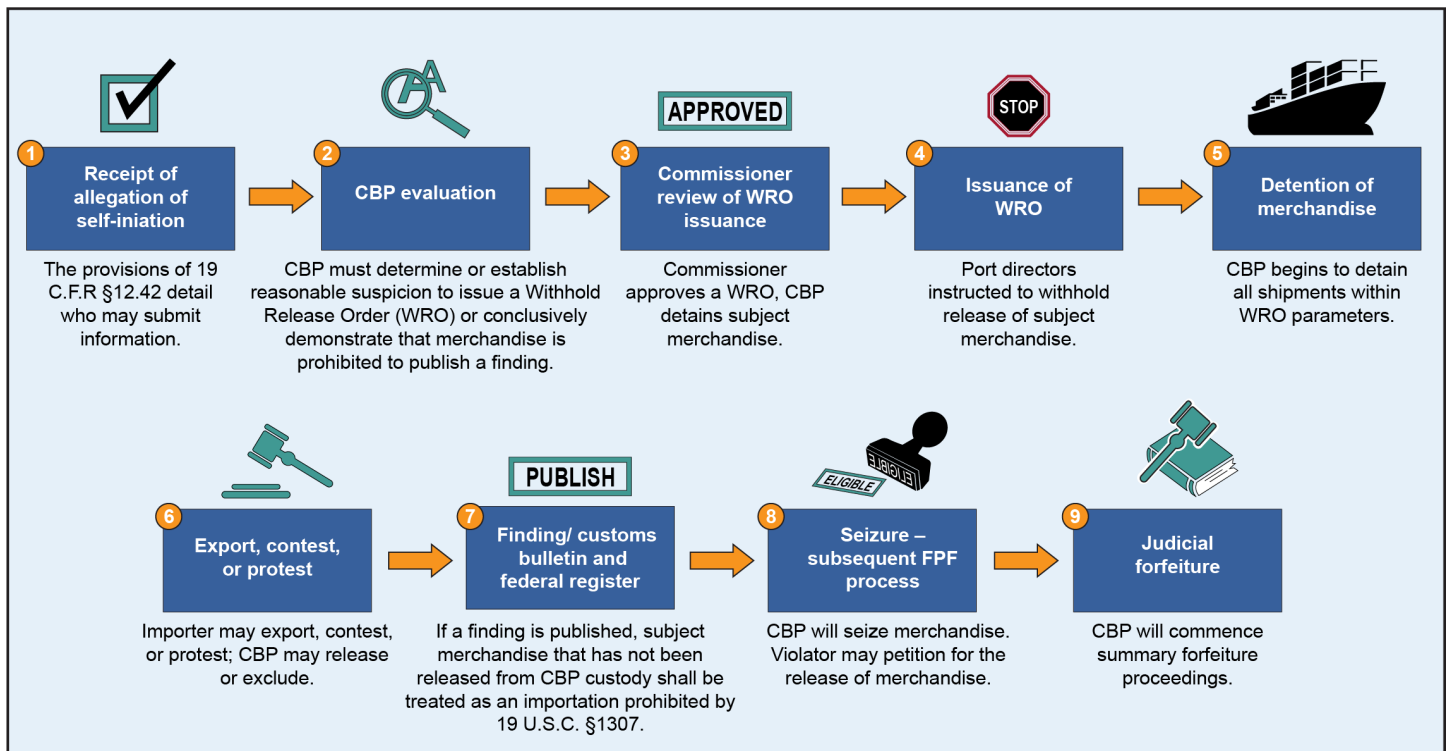
Indicators	Description of indicators
 <p>Abuse of vulnerability</p>	<p>An employer taking advantage of a worker's vulnerable position, such as a lack of knowledge of local laws and languages, being part of a minority population, or having few other employment options.</p>
 <p>Deception</p>	<p>A failure to deliver what has been promised to a worker; for example, false promises about wages or working conditions.</p>
 <p>Restriction of movement</p>	<p>Workers being denied free entry and exit of work premises beyond reasonable restrictions, such as those relating to safety and security at hazardous work sites.</p>
 <p>Isolation</p>	<p>Isolation of workers either geographically (e.g., a work site far from habitation with no means of transportation) or through denial of communication (e.g., confiscating cell phones).</p>
 <p>Physical and sexual violence</p>	<p>Violent acts against a worker which, in some cases, may be used to force a worker to undertake tasks not part of the initial agreement, such as domestic work in addition to normal duties.</p>
 <p>Intimidation and threats</p>	<p>Common threats used against workers can include denunciation to immigration authorities, loss of wages, or worse working conditions.</p>
 <p>Retention of identity documents</p>	<p>An employer retaining identity documents or other valuable personal possessions that workers cannot access on demand, and workers feel they cannot leave the job without risking loss of the items.</p>
 <p>Withholding of wages</p>	<p>Systematic and deliberate withholding of payment as a means to compel a worker to remain on a job.</p>
 <p>Debt bondage</p>	<p>Working for wages to pay off a debt incurred as a condition of employment, such as a recruitment fee or a wage advance. Employers can further exploit debt bondage by undervaluing work performed, inflating interest rates, or charging workers for food and lodging.</p>
 <p>Abusive working and living conditions</p>	<p>Degrading or hazardous working environments or substandard living conditions associated with employment.</p>
 <p>Excessive overtime</p>	<p>Work hours exceeding limits prescribed by national law or collective agreement, or denial of breaks or days off.</p>

Source: GAO presentation of International Labour Organization information. | GAO-21-259

Appendix III: U.S. Customs and Border Protection's Forced Labor Process Map

U.S. Customs and Border Protection (CBP) provides the Forced Labor Process Map on its website (see fig. 4). The map identifies nine steps in CBP's process for investigating imports potentially produced with forced labor, issuing withhold release orders (WRO) and findings, and detaining shipments of goods at U.S. ports of entry to determine whether they are subject to the WROs or findings.¹

Figure 4: CBP's Forced Labor Process Map



Source: U.S. Customs and Border Protection (CBP). | GAO-21-259

Notes: 19 C.F.R. § 12.42(b) provides that any person who has reason to believe that merchandise produced by forced labor is being, or is likely to be, imported into the United States may communicate this belief to CBP. According to the regulation, such communication must contain or be accompanied by (1) a full statement of the reasons for the belief, (2) a detailed description or sample of the merchandise, and (3) all pertinent facts obtainable as to the production of the merchandise abroad.

19 U.S.C. § 1307 codifies Section 307 of the Tariff Act of 1930 and prohibits the importation of goods, wares, articles, and merchandise mined, produced, or manufactured, wholly or in part, in any foreign country by convict labor, forced labor, or indentured labor, including forced child labor.

"FPF process" refers to the process of assessing fines, penalties, and forfeitures.

¹U.S. Customs and Border Protection, "Forced Labor Process Map," accessed Dec. 17, 2020, <https://www.cbp.gov/document/guidance/forced-labor-process-map>.

Appendix IV: Withhold Release Orders Issued by U.S. Customs and Border Protection, February 2016–January 2021

From February 2016, when the Trade Facilitation and Trade Enforcement Act (TFTEA) was enacted, through January 2021, U.S. Customs and Border Protection (CBP) issued 29 withhold release orders (WRO).¹ See table 2 for details of each WRO, including the date issued, merchandise, country of origin, and status as of January 2021.

Table 2: Withhold Release Orders Issued by CBP, February 2016–January 2021

Date issued	Merchandise	Country of origin	Status
March 2016	Soda ash, calcium chloride, and caustic soda produced by Tangshan Sanyou Group and its subsidiaries	China	Partially active ^a
March 2016	Potassium, potassium hydroxide, and potassium nitrate produced by Tangshan Sunfar Silicon Industries	China	Inactive as of February 2018
May 2016	Stevia and its derivatives produced by Inner Mongolia Hengzheng Group Baoanzhao Agricultural and Trade LLC	China	Active
September 2016	Peeled garlic produced by Hongchang Fruits & Vegetable Products Co., Ltd.	China	Active
March 2018	Toys produced by Huizhou Mink Industrial Co., Ltd.	China	Active
May 2018	Cotton and all goods produced with Turkmen cotton	Turkmenistan	Active
February 2019	Seafood from the Tunago No. 61 fishing vessel	Other	Inactive as of March 2020
September 2019	Bone black produced by Bonechar Carvao Altivado Do Brazil Ltda.	Brazil	Inactive as of December 2020
September 2019	Garments produced by Hetian Taida Apparel Co., Ltd.	China	Active
September 2019	Gold extracted from artisanal small mines	Democratic Republic of the Congo	Partially active ^b
September 2019	Artisanal rough cut diamonds extracted from the Marange Diamond Fields	Zimbabwe	Active
September 2019	Disposable rubber gloves produced by WRP Asia Pacific Sdn. Bhd.	Malaysia	Inactive as of March 2020
November 2019	Tobacco and products containing Malawian tobacco	Malawi	Partially active ^c
May 2020	Hair products produced by Hetian Haolin Hair Accessories Co., Ltd.	China	Active
May 2020	Seafood from the Yu Long No. 2 fishing vessel	Other	Active

¹TFTEA was enacted on February 24, 2016. See Pub. L. No. 114-125 (2016). Section 910 of TFTEA amended Section 307 of the Tariff Act of 1930, codified at 19 U.S.C. § 1307, by eliminating the consumptive demand exception to the prohibition on the importation of goods made with convict labor, forced labor, or indentured labor.

**Appendix IV: Withhold Release Orders Issued
by U.S. Customs and Border Protection,
February 2016–January 2021**

Date issued	Merchandise	Country of origin	Status
June 2020	Hair products produced by Lop County Meixin Hair Products Co., Ltd.	China	Active
July 2020	Disposable gloves produced by Top Glove Sdn. Bhd. and TG Medical Sdn. Bhd.	Malaysia	Active
August 2020	Garments produced by Hero Vast Group	China	Active
August 2020	Seafood from the Da Wang fishing vessel	Other	Active
August 2020	Hair products produced by Lop County Hair Product Industrial Park	China	Active
August 2020	Products produced with labor from No. 4 Vocation Skills Education Training Center	China	Active
September 2020	Apparel produced by Yili Zhuowan Garment Manufacturing Co., Ltd. and Baoding LYSZD Trade and Business Co., Ltd.	China	Active
September 2020	Cotton and processed cotton produced by Xinjiang Junggar Cotton and Linen Co., Ltd.	China	Active
September 2020	Computer parts produced by Hefei Bitland Information Technology Co., Ltd.	China	Active
September 2020	Palm oil and palm oil products produced by FGV Holdings Berhad and its subsidiaries and joint ventures	Malaysia	Active
November 2020	Cotton and cotton products produced by Xinjiang Production and Construction Corporation and its subordinate and affiliated entities	China	Active
December 2020	Palm oil and palm oil products produced by Sime Darby Plantation Berhad and its subsidiaries and joint ventures	Malaysia	Active
December 2020	Seafood from the Lien Yi Hsing No. 12 fishing vessel	Other	Active
January 2021	Cotton, tomatoes, and downstream products from the Xinjiang Uyghur Autonomous Region	China	Active

Source: GAO analysis of U.S. Customs and Border Protection (CBP) documents. | GAO-21-259

Notes: The information shown reflects information provided on CBP's website as of February 17, 2021. See <https://www.cbp.gov/trade/programs-administration/forced-labor/withhold-release-orders-and-findings>.

According to CBP officials, an active WRO is one that has not been modified or revoked for any entity, a partially active WRO is one that has been modified for one or more entities, and an inactive WRO is one that has been modified or revoked for all entities.

Before 2016, CBP issued its most recent WRO in November 2000 for men's and girl's apparel manufactured by Dong Fang Guo Ji, Wuxi Guangming, in Mongolia. CBP revoked this WRO in July 2001.

In October 2020, CBP issued its most recent finding in 24 years for stevia extracts and derivatives manufactured in China by Inner Mongolia Hengzheng Group Baoanzhao Agriculture, Industry, and Trade Co., Ltd.

³In October 2016, CBP removed viscose and rayon fiber from the categories of merchandise covered under this WRO. The rest of the WRO remained active as of January 2021.

**Appendix IV: Withhold Release Orders Issued
by U.S. Customs and Border Protection,
February 2016–January 2021**

^bIn May 2020, CBP removed from this order artisanal small mine gold from the Democratic Republic of the Congo imported by the Chambers Federation. The rest of the WRO remained active as of January 2021.

^cIn June and July 2020, CBP removed from this order tobacco from Malawi, and products containing such tobacco, produced by Alliance One International and by Limbe Leaf Tobacco Company, respectively. The rest of the WRO remained active as of January 2021.

Appendix V: Working Groups Focused on Preventing the Import of Goods Produced with Forced Labor

Since the enactment of the Trade Facilitation and Trade Enforcement Act (TFTEA) in 2016, a number of working groups or task forces, primarily involving federal agencies, have been established to share information related to forced labor and imports in general.¹

- **Interagency Group on Goods Produced through Forced Labor.** The Department of Homeland Security (DHS) established this working group—also known as the Interagency Forced Labor Working Group—in 2017, and DHS’s U.S. Customs and Border Protection’s (CBP) Forced Labor Division has chaired the group since May 2019. According to CBP officials, the group’s purpose is information sharing and collaboration on forced labor topics with interagency partners. Members include officials from the Departments of Labor (DOL), State (State), and Justice; DHS’s U.S. Immigration and Customs Enforcement (ICE); the Office of the United States Trade Representative (USTR); and the U.S. Agency for International Development (USAID), among other federal agencies.² The group generally meets monthly.
- **Forced Labor Working Group of the Commercial Customs Operations Advisory Committee’s Intelligent Enforcement Subcommittee.** After the enactment of TFTEA, the Forced Labor Working Group of the Commercial Customs Operations Advisory Committee’s Intelligent Enforcement Subcommittee began discussing a variety of issues related to the implementation of Section 307 of the Tariff Act of 1930 (Section 307), according to CBP officials. This

¹TFTEA was enacted on February 24, 2016. See Pub. L. No. 114-125 (2016). Section 910 of TFTEA amended Section 307 of the Tariff Act of 1930, codified at 19 U.S.C. § 1307, by eliminating the consumptive demand exception to the prohibition on the importation of goods made with convict labor, forced labor, or indentured labor.

²The Departments of Commerce, Defense, and the Treasury; the General Services Administration; and the National Oceanic and Atmospheric Administration are also invited to participate in the Interagency Forced Labor Working Group.

working group was initially established in July 2016.³ As of October 2019, the group comprised 48 members, including 26 representatives of private sector entities; 17 federal government officials representing DHS, CBP, ICE, and DOL; and five civil society representatives.

- **Forced Labor Enforcement Task Force under Section 741 of the United States–Mexico–Canada Agreement Implementation Act.** The Forced Labor Enforcement Task Force was established in May 2020 by Executive Order 13923, pursuant to Section 741 of the United States–Mexico–Canada Agreement Implementation Act.⁴ The Secretary of Homeland Security chairs the task force, which consists of representatives from State, the Departments of the Treasury and Justice, DOL, USAID, USTR, and other members that DHS deems appropriate. The task force is required to monitor U.S. enforcement of the prohibition on importing goods produced with forced labor in Section 307.⁵ Although the task force was established pursuant to a provision in the United States–Mexico–Canada Agreement Implementation Act, the task force’s scope of responsibility applies to Section 307 enforcement broadly and is not limited to enforcement with respect to Canada and Mexico.⁶ According to CBP officials, the task force meets quarterly and had met twice as of November 6, 2020. CBP officials told us that CBP’s Forced Labor Division is not

³The Forced Labor Working Group was reestablished in September 2019 after a hiatus, according to CBP documents. The Commercial Customs Operations Advisory Committee is a longstanding public–private partnership between the federal government and the private sector. The committee advises the Secretaries of the Treasury and Homeland Security about the commercial operations of CBP, including significant proposed changes to regulations, policies, or CBP practices, and about related functions of the Department of the Treasury and DHS. The committee has several subcommittees that examine issues such as intelligent enforcement and secure trade lanes and make recommendations, primarily to CBP. In October 2018 the committee’s Secure Lanes Subcommittee initiated the Trusted Trader Working Group, whose purpose includes providing input regarding the implementation of forced labor requirements into the Customs Trade Partnership Against Terrorism Trade Compliance program.

⁴Executive Order 13923, Establishment of the Forced Labor Enforcement Task Force Under Section 741 of the United States–Mexico–Canada Agreement Implementation Act (May 15, 2020); United States–Mexico–Canada Agreement Implementation Act, Pub. L. No. 116-113, § 741 (2020), codified at 19 U.S.C. § 4681.

⁵See 19 U.S.C. § 4681.

⁶According to USTR officials, the United States–Mexico–Canada Agreement is the first trade agreement to include both a provision to prohibit the importation of goods produced by forced labor into the United States and broader provisions to eliminate forced or compulsory labor; previous trade agreements included only the broader provisions.

part of the task force, because representation is at the department level.

- **Task Force on Human Trafficking in Fishing in International Waters.** In 2017, the Senate Appropriations Committee directed the Department of Justice to lead a multi-agency task force to examine the issue of human trafficking in seafood supply chains and report to Congress on the status of such issues, along with any related funding, policy recommendations, and legal decisions.⁷ The Department of Justice drafted a report that was in the clearance process as of November 2020, according to officials. In addition, according to Department of Justice officials, in October 2018 the department launched the Task Force on Human Trafficking in Fishing in International Waters, which includes officials from the Department of Commerce’s National Oceanic and Atmospheric Administration, DHS, State, DOL, the Departments of Justice and the Treasury, and USTR. USAID has also participated in this task force, according to agency officials.

⁷See Senate Report 115-139, which accompanied the fiscal year 2018 appropriations bill for the Departments of Commerce and Justice, Science, and Related Agencies. According to the report, “the [Senate Appropriations] Committee is disturbed by recent reporting on the use of labor that may have been subject to human trafficking to harvest fish in international waters.” The report also states that “[d]ue to the complex legal and jurisdictional issues involved, the Committee directs the [Department of Justice] to lead a multi-agency task force to address this issue. The task force should convene experts from federal agencies that handle law enforcement, labor law and international issues to develop a coordinated response regarding the proper application of U.S. law and resolution of any jurisdictional issues.” Further, the report states that “[t]he Department is directed to report back to the Committee on the establishment and progress of this multi-disciplinary task force not later than 90 days after the date of enactment of this act and issue a final report along with any related funding, policy recommendations and legal decisions within 1 year of enactment of this act.”

Appendix VI: Selected Tools and Resources Identified by Federal Agencies and Nonfederal Stakeholders to Assist the Private Sector with Section 307 Compliance

Officials from federal agencies and nonfederal stakeholders—including nongovernmental organizations (NGO) and private sector entities—identified tools and resources to assist the private sector, particularly importers, in complying with Section 307 of the Tariff Act of 1930.¹ These tools and resources include information about forced labor in specific countries, ways to improve supply chain due diligence and identify risks of forced labor, and examples of transparency pledges and codes of conduct.

Country-Specific Forced Labor Information

The Departments of Labor (DOL) and State (State) publish reports with information about forced labor around the world.

- DOL publishes the biennial *List of Goods Produced by Child Labor or Forced Labor*. An official from DOL’s Bureau of International Labor Affairs (ILAB) told us that the list is a useful resource for companies to learn about the countries and commodities in which forced labor is prevalent. U.S. Customs and Border Protection’s (CBP) guidance for importers on informed compliance and reasonable care suggests, among other things, that private sector companies review DOL’s *List of Goods Produced by Child Labor or Forced Labor* to familiarize themselves with at-risk country and commodity combinations.²
- On the basis of the research included in the list, ILAB’s “Sweat & Toil” mobile application provides portable and searchable information about goods produced with child labor or forced labor (see fig. 5).³

¹Section 307, codified at 19 U.S.C. § 1307, prohibits the importation of goods, wares, articles, and merchandise mined, produced, or manufactured, wholly or in part, in any foreign country by forced labor.

²U.S. Customs and Border Protection, *What Every Member of the Trade Community Should Know: Reasonable Care. An Informed Compliance Publication* (Washington, D.C.: September 2017). This document is part of a series of informed compliance publications advising the public of CBP regulations and procedures and provides guidance on the use of reasonable care in entering merchandise.

³Department of Labor, “Sweat & Toil: Child Labor, Forced Labor, and Human Trafficking around the World,” accessed Nov. 18, 2020, <https://www.dol.gov/general/apps/ilab>.

Figure 5: ILAB “Sweat & Toil” Mobile Application



Source: GAO based on Department of Labor’s Bureau of International Labor Affairs (ILAB) information. | GAO-21-259

- State publishes an annual *Trafficking in Persons Report*, which compiles information on countries’ actions to combat human trafficking, including forced labor. According to State officials, the

report is based on transparent and public sources to ensure the information is verifiable.⁴

Supply Chain Due Diligence and Mitigation of Forced Labor Risk

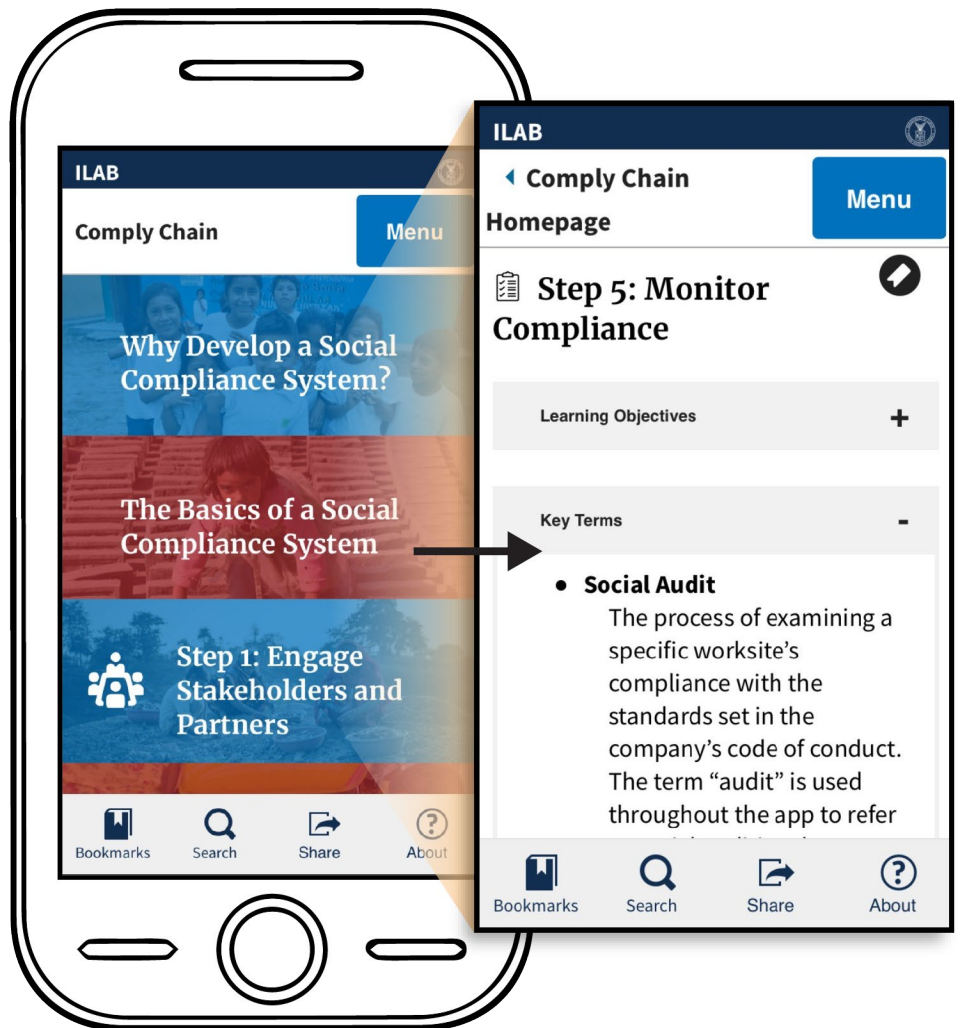
Federal agencies, NGOs, and private sector entities have developed some tools to help companies conduct due diligence and mitigate the risk of forced labor in their supply chains. According to a white paper that the Commercial Customs Operations Advisory Committee's Intelligent Enforcement Subcommittee Forced Labor Working Group issued in July 2020, "U.S. importers should carry out due diligence to identify, prevent, mitigate and account for how they address adverse human rights impacts that the business . . . may cause or contribute to through its own activities, or which may be directly linked to its operations, products or services by its business relationships."

- DOL's ILAB offers the "Comply Chain" website and mobile application, which describe eight steps to help businesses reduce forced labor in global supply chains by implementing a social compliance system, including assessing risks of forced labor, creating a code of conduct, and conducting independent reviews.⁵ (See fig. 6.) The website shares information about the key elements of social compliance systems, guidance on best practices, and tips for assessing the risks and impacts of forced labor. CBP guidance for importers on informed compliance, reasonable care, and responsible business practices suggests that private sector companies review the Comply Chain website to assist with creating a comprehensive and transparent social compliance system.

⁴In addition, according to Forced Labor Division officials, the United Nations has published a map that identifies organizations working on issues of forced labor and human trafficking. These organizations can help fill information gaps about forced labor in specific countries.

⁵ILAB Comply Chain, Department of Labor, accessed Dec. 11, 2020, <https://www.dol.gov/ilab/complychain/>; and Department of Labor, "Comply Chain: Business Tools for Labor Compliance in Global Supply Chains," accessed Dec. 11, 2020, <https://www.dol.gov/general/apps/ilab-comply-chain>.

Figure 6: ILAB “Comply Chain” Mobile Application



Source: GAO based on Department of Labor's Bureau of International Labor Affairs (ILAB) information. | GAO-21-259

- With financial support from State's Office to Monitor and Combat Trafficking in Persons, Verité, an NGO that works to promote labor rights around the world, maintains and updates the Responsible Sourcing Tool website, which aims to help private sector companies and federal contractors identify human trafficking risks in their supply chains.⁶ According to a Verité official, the Responsible Sourcing Tool

⁶Responsible Sourcing Tool, Department of State et al., accessed Jan. 5, 2021, <https://www.responsiblesourcingtool.org/>.

is the only comprehensive free source of information about human trafficking risks and about actions that companies can and should take to mitigate risk in various circumstances. In its *Fact Sheet: Supply Chain Due Diligence*, CBP identifies the Responsible Sourcing Tool as a source of guidance for companies.

- ILAB and the U.S. Department of Agriculture developed *Guidelines for Eliminating Child and Forced Labor in Agricultural Supply Chains*. With support from ILAB, the Fair Labor Association—an association of companies, colleges, universities, and civil society organizations that aims to promote and protect workers’ rights—tested the guidelines in Turkey’s hazelnut supply chain. The Fair Labor Association also developed a guide to help companies apply the guidelines, a self-assessment tool to help companies work to prevent and manage child and forced labor risks, and a training toolkit to help companies address child labor and forced labor in agricultural supply chains.⁷
- The Modern Slavery Map, an interactive map of anti-human trafficking organizations, lists 172 NGOs, initiatives, social enterprises, and funds or foundations that work on forced labor issues.⁸ These groups can be further filtered by type (e.g., fund or NGO); geographical focus; industry; or service provided (e.g., prevention or remediation). According to the July 2020 white paper from the Commercial Customs Operations Advisory Committee’s Intelligent Enforcement Subcommittee Forced Labor Working Group, these initiatives represent the wide variety of tools and resources that importers may leverage as part of a due diligence program.
- The Consumer Goods Forum, a global organization of approximately 400 retailers, manufacturers, and service providers, works through its Human Rights Coalition to help provide members with some of the knowledge and tools needed to address forced labor, according to private sector representatives we spoke with. In particular, the Consumer Goods Forum has encouraged its members to adhere to

⁷Fair Labor Association, *USDA’s Guidelines for Eliminating Child and Forced Labor in Agricultural Supply Chains: Practitioner’s Guide* (June 28, 2018), accessed Feb. 1, 2021, <https://www.fairlabor.org/report/fla-practitioners-guide-applying-usda-guidelines>; Fair Labor Association and BSD Consulting, *Self-Assessment Tool: Prevention and Management of Child and Forced Labor Risks* (Oct. 26, 2018), accessed Feb. 2, 2021, <https://www.fairlabor.org/report/self-assessment-tool-prevention-and-management-child-and-forced-labor-risks>; and Fair Labor Association, *ENABLE Training Toolkit: Implementing Responsible Sourcing and Production in Agricultural Supply Chains* (Dec. 12, 2018), accessed May 28, 2020, <https://www.fairlabor.org/report/training-toolkit-addressing-child-labor-and-forced-labor-agricultural-supply-chains>.

⁸An Interactive Map for Business of Anti-Human Trafficking Organisations, 8.7 Alliance et al., accessed Jan. 5, 2021, <https://www.modernslaverymap.org/>.

three priority industry principles to respect workers' rights: (1) every worker should have freedom of movement, (2) no worker should pay for a job, and (3) no worker should be indebted or coerced to work. According to Consumer Goods Forum officials, complying with these three principles helps private sector entities reduce 80 percent of their risk of forced labor. In addition, the forum has developed forced labor benchmarks for its members and has encouraged its members to implement human rights due diligence systems and work collectively to address the problem of forced labor in supply chains.

Transparency Pledges and Codes of Conduct

Increased use of transparency pledges and codes of conduct may encourage private sector entities to address forced labor in their supply chains, according to officials from federal agencies, NGOs, and private sector entities. Companies that adopt transparency pledges commit to transparency to eradicate forced labor in their supply chains, according to an NGO official. For example:

- A global coalition of nine labor and human rights organizations encouraged corporations in the garment and footwear industry to agree to a common minimum standard for supply chain disclosures by signing the Transparency Pledge.
- The Cotton Campaign encouraged companies to pledge not to source cotton from Turkmenistan and Uzbekistan because of these countries' use of state-sponsored forced and child labor.
- The Responsible Sourcing Network created the "YESS: Yarn Ethically and Sustainably Sourced" initiative, which works to eradicate forced labor by enabling yarn spinners to identify and eliminate cotton produced with forced labor.

Officials from ILAB and private sector entities told us that codes of conduct prohibiting forced labor in supply chains and corporate social responsibility programs and reports could help companies address forced labor.

In addition, at the state level, California's Transparency in Supply Chains Act requires companies to disclose their efforts to eradicate slavery and human trafficking from their supply chains.

Appendix VII: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

January 27, 2021

Kimberly M. Gianopoulos
Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Management Response to Draft Report GAO-21-259, "FORCED LABOR: CBP Should Improve Communication to Strengthen Trade Enforcement"

Dear Ms. Gianopoulos:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS or the Department) appreciates the U.S. Government Accountability Office's (GAO) work in planning and conducting its review and issuing this report.

The Department is pleased to note GAO's recognition of the numerous efforts U.S. Customs and Border Protection (CBP) took to increase communication with other agencies and stakeholders about forced labor. As the number of CBP's enforcement actions has grown, so too have the agency's efforts to communicate with relevant stakeholders. CBP leadership took, and will continue to take, steps to improve communication with stakeholders, including other government agencies, non-governmental organizations, and the private sector in forums such as the Interagency Forced Labor Working Group, CBP's Civil Society Round Table, and the Commercial Customs Operations Advisory Committee.

In Fiscal Year 2020, for example, CBP's Office of Trade (OT) issued an unprecedented 13 Withhold Release Orders (WRO), detaining over 300 shipments with a value of more than \$50 million as a result. As CBP maintains a list of all WROs issued on its public-facing website and issues press releases to demonstrate successful actions by the agency, this amplification of key messages is one step of several CBP efforts to strengthen trade enforcement through communication. CBP recognizes that increased communication on WRO revocation and modification will be critical for achieving mission success as part of its trade enforcement responsibilities.

The draft report contained one recommendation, with which the Department concurs. Attached find our detailed response to the recommendation. DHS previously submitted technical comments addressing several accuracy, contextual, sensitivity and other issues under a separate cover for GAO's consideration.

Again, thank you for the opportunity to review and comment on this draft report. Please feel free to contact me if you have any questions. We look forward to working with you again in the future.

Sincerely,

JIM H
CRUMPACKER

Digitally signed by JIM H
CRUMPACKER
Date: 2021.01.27 10:19:01
-05'00'

JIM H. CRUMPACKER, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Attachment

**Attachment: Management Response to Recommendation
Contained in GAO-21-259**

GAO recommended that the Commissioner of CBP:

Recommendation 1: Ensure that the Forced Labor Division makes a description of its WRO revocation and modification process publicly available, to the extent practicable and consistent with relevant requirements of the Privacy Act and Trade Secrets Act.

Response: Concur. The CBP OT's Forced Labor Division will develop a process map that clearly describes the WRO revocation and modification process. To ensure that other agencies and stakeholders have full knowledge of the WRO revocation and modification process, the finalized map will be published on CBP's public-facing website (www.cbp.gov) and will be similar to the process map detailing CBP's process to enforce Section 307, which are some of the steps CBP took to communicate with other agencies and stakeholders regarding CBP enforcement. Estimated Completion Date: September 30, 2021.

Appendix VIII: Comments from USAID



Kimberly Gianopoulos
Director, International Affairs and Trade
U.S. Government Accountability Office
441 G Street, N.W.
Washington, D.C. 20226

Re: **Forced Labor: CBP Should Improve Communications to Improve Trade Enforcement (GAO-21-259)**

Dear Ms. Gianopoulos:

I am pleased to provide the formal response of the U.S. Agency for International Development (USAID) to the draft report produced by the U.S. Government Accountability Office (GAO) titled, *Forced Labor: CBP Should Improve Communications to Improve Trade Enforcement (GAO-21-259)*.

Through our development programming, USAID is committed to assisting in the efforts to reduce forced labor.

I am transmitting this letter and the enclosed comments from USAID for inclusion in the GAO's final report. Thank you for the opportunity to respond to the draft report, and for the courtesies extended by your staff while conducting this engagement. We appreciate the opportunity to participate in the complete and thorough evaluation of the CBP's role in trade enforcement regarding the importation of goods made by forced labor and USAID related efforts.

Sincerely,

Colleen R. Allen
Colleen R. Allen
Acting Assistant Administrator
Bureau for Management

Enclosure: a/s

**COMMENTS BY THE U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT ON
THE DRAFT REPORT PRODUCED BY THE U.S. GOVERNMENT
ACCOUNTABILITY OFFICE (GAO) TITLED, FORCED LABOR: CBP SHOULD
IMPROVE COMMUNICATIONS TO IMPROVE TRADE ENFORCEMENT (GAO-21-
259)**

The U.S. Agency for International Development (USAID) would like to thank the U.S. Government Accountability Office (GAO) for the opportunity to respond to this draft report. We appreciate the extensive work of the GAO engagement team and the specific findings that will help the U.S. Government achieve greater effectiveness in improving trade enforcement of goods made with forced labor.

USAID supports efforts throughout the world to reduce trafficking in persons in all its forms, including for the purpose of forced labor, through an interdisciplinary development perspective which includes its counter-trafficking development programming and beyond, utilizing central, regional and bilateral operating unit platforms. More broadly, USAID promotes labor rights and the role of worker organizations including through its Global Labor Program, implemented in more than 30 countries.

Appendix IX: GAO Contact and Staff Acknowledgments

GAO Contact

Kimberly M. Gianopoulos, (202) 512-8612 or gianopoulosk@gao.gov

Staff Acknowledgments

In addition to the contact named above, Christina Werth (Assistant Director), Jaime Allentuck (Analyst in Charge), Diana Chung, Daniela Rudstein, and Reid Lowe made key contributions to this report. Martin De Alteriis, Michele Fejfar, Christopher Keblitis, and Nicole Willems also contributed to the report.

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