



FREQUENTLY ASKED QUESTIONS

JUNE 2019

U.S. Tariff Act Investigations and Petitions Legal Fund

What is the U.S. Tariff Act?

The U.S. Tariff Act (19 U.S. Code § 1307) prohibits the import of any products made with forced labor into the United States. Under the Act, any person can petition the U.S. government to exclude goods at the point of entry if they are produced or manufactured with forced (including child) or prison labour.

How is the law enforced?

The U.S Customs and Border Protection Agency (CBP) has responsibility for enforcing the Tariff Act. Since 2016, CBP has established several working groups focusing on enforcement of this law, as well as a new Forced Labor Division within the Office of Trade, which conducts investigations and reviews evidence submitted.

While CBP can investigate any products coming into the United States that are known to be at risk for being made with forced labour, the agency has limited resources. Submitting evidence to CBP through filing a petition will prompt an investigation into that product. If CBP determines that there is forced labour in the supply chain and that the product is imported into the United States, they will issue a Withhold Release Order (WRO), which prohibits that product from entry. Once that product is prohibited, the company must provide evidence that they have improved their practices before the product can be imported into the United States.

What evidence is required?

There needs to be “reasonable suspicion” that the goods are being produced with forced labour, and “are or are likely to be” imported into the United States. Reasonable suspicion is based on specific facts that must be linked to a product that is likely to be imported into the United States, but those facts only need to present a picture that a reasonable person would conclude is forced labour. There does not need to be absolute proof.

However, in practice CBP prefers strong proof of forced labour that comes as close to first hand testimony as possible. For example, citing governmental or advocacy reports on abuses in certain industries is likely to be insufficient. CBP needs to be able to corroborate any evidence submitted so data submitted needs to be timely; the more recent the better.

What is the process of submitting a petition?

Petitions can be submitted via the [e-allegations portal](#) on the CBP website, or via mail.

[Can a petition be submitted anonymously?](#)

It is possible to submit information anonymously. However, it may be more challenging for CBP to corroborate evidence submitted anonymously and it can potentially be more challenging for you to follow-up on a petition filed. For these reasons, it is recommended that organisations wishing to remain anonymous submit through a proxy that can act as a point of contact.

[What happens after a petition is submitted?](#)

Once evidence is submitted, CBP will conduct an initial investigation during which time they may reach out for further information. CBP can confirm that they received a petition, but they cannot share information about an on-going investigation. There is no time limit by which CBP must act. If they determine that there is enough evidence to detain a shipment, then their next step is to complete an investigation with a higher burden of proof to issue a more permanent “Finding.” Findings have rarely been issued in the past (there have been six out of a total of 38 WROs since 1930) and are revocable when evidence is provided by that there is no longer forced labour.

[Additional resources](#)

[Repeal of the Consumptive Demand Clause](#)

[Repeal of the Consumptive Demand Clause- FAQs](#)

[Forced Labor – Points of Contact](#)

[Forced Labor Procedures](#)

Previous petitions filed with U.S. Customs and Border Protection

a) ILRF petition against cotton from Uzbekistan; May 2013

<https://laborrights.org/publications/tariff-act-complaint-ilrf-calls-us-customs-service-halt-imports-forced-labor-cotton>

b) ILRF petition against cotton from Turkmenistan; April 2016

<https://laborrights.org/releases/ilrf-files-complaint-halt-imports-forced-labor-made-goods-turkmenistan>

For further information, please contact the Freedom Fund on <https://www.sendsafely.com/u/tariff-act@freedomfund.org>

The Freedom Fund will host an information call for potential applicants to the Tariff Act Legal Fund on 11 July 2019 at 12pm EST/5pm GMT. Please contact the Freedom Fund to RSVP.