The US Department of Homeland Security’s Customs and Border Protection agency (CBP) announced on September 14 the issuance of five new withhold release orders (WROs) on entities allegedly using forced labor in or from China’s western Xinjiang Uyghur Autonomous Region (XUAR). The WROs bar the import into the United States of various goods alleged to be produced by forced, indentured, and convict labor (“Forced Labor”), including cotton, apparel, hair, and technology products.

The product descriptions and companies targeted in the September 14 announcement are:

- “All products made with labor from the Lop County No. 4 Vocational Skills Education and Training Center” in XUAR (dated August 25)
- “Hair products made in the Lop County Hair Product Industrial Park” in XUAR (dated August 25)
- “Apparel produced by Yili Zhuowan Garment Manufacturing Co., Ltd. and Baoding LYSZD Trade and Business Co., Ltd. in Xinjiang Uyghur Autonomous Region, China” (dated September 3)
- “Cotton produced and processed by Xinjiang Junggar Cotton and Linen Co., Ltd.” in XUAR (dated September 8)
- “Computer parts made by Hefei Bitland Information Technology Co., Ltd.” in Anhui, China (dated September 8)

There now are a total of nine Xinjiang-related WROs, naming at least 10 companies. As a result of these orders, anyone importing restricted goods involving designated companies into the United States can face the detention of implicated goods pending the submission to CBP within three months of satisfactory proof that they were not produced with forced labor (failing which the goods will be excluded), and in certain circumstances civil and criminal investigation and penalties. Importers should be mindful that some of the language in the WROs can be read broadly and should be considered in implementing compliance steps. For example, the language describing the Lop County No. 4 Vocational Skills Education and Training Center (VSETC) order could be read to extend to factories and manufacturers sourcing labor from the VSETC. Additionally, Hefei Bitland Information Technology Co., Ltd. was added in July to the Commerce Department’s Bureau of Industry and Security’s Entity List.

The CBP announcement largely tracked prior news reporting, which had previewed a list of company names that were likely to be targeted. A notable exception from the list is the Xinjiang Production and Construction Corps (XPCC) – a massive quasi-military state-owned organization – which was added in July to the Treasury Department’s Office of Foreign Assets Control’s Specially Designated Nationals (SDN) list. An August 28 petition filed by civil society groups asked for CBP to issue a WRO to block goods produced by XPCC and its subsidiaries, as well as several other entities that are not covered by WROs issued to date. It is unclear whether CBP is considering further WROs, based on this petition or otherwise, at this time.
CBP’s announcement is just the latest in a wider US government interagency effort to crack down on alleged human rights abuses related to ethnic minorities in XUAR. For a more detailed summary of recent US government actions under customs, sanctions, and export control laws related to alleged reliance of supply chains on Forced Labor from XUAR, please refer to Steptoe’s alert from September 9.

Implications

Companies are encouraged to take a fresh look at how their existing compliance programs address the risks of Forced Labor and related labor and human rights issues in their supply chains. This review should include related economic sanctions and export controls risks. Following a careful risk assessment, enhancements to policies and procedures, due diligence and auditing processes, training, and reporting and response mechanisms may be warranted.

For specific advice on navigating the impacts of WROs or related US sanctions and export controls, and other legal risks described in our September 9 alert, contact a member of Steptoe’s Business & Human Rights, Economic Sanctions, Export Controls, or Customs teams.

Practices

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