

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. 21–08]

Notice of Finding That Certain Disposable Gloves Produced in Malaysia With the Use of Convict, Forced or Indentured Labor Are Being, or Are Likely To Be, Imported Into the United States

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: General notice of forced labor finding.

SUMMARY: This document notifies the public that U.S. Customs and Border Protection (CBP), with the approval of the Secretary of Homeland Security, has determined that certain disposable gloves, have been mined, produced, or manufactured in Malaysia by Top Glove Corporation Bhd with the use of convict, forced or indentured labor, and are being, or are likely to be, imported into the United States.

DATES: This Finding applies to any merchandise described in Section II of this Notice that is imported on or after March 29, 2021. It also applies to merchandise which has already been imported and has not been released from CBP custody before March 29, 2021.

FOR FURTHER INFORMATION CONTACT: Juan M. Estrella, Chief, Operations Branch, Forced Labor Division, Trade Remedy Law Enforcement Directorate, Office of Trade, (202) 325–6087 or forcedlabor@cbp.dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 307 of the Tariff Act of 1930, as amended (19 U.S.C. 1307), “[a]ll goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited.” Under this section, “forced labor” includes “all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily” and includes forced or indentured child labor.

The CBP regulations promulgated under the authority of 19 U.S.C. 1307 are found at sections 12.42 through

12.45 of title 19, Code of Federal Regulations (CFR) (19 CFR 12.42–12.45). Among other things, these regulations allow any person outside of CBP to communicate his belief that a certain “class of merchandise . . . is being, or is likely to be, imported into the United States [in violation of 19 U.S.C. 1307].” 19 CFR 12.42(a), (b). Upon receiving such information, the Commissioner “will cause such investigation to be made as appears to be warranted by the circumstances” 19 CFR 12.42(d). CBP also has the authority to self-initiate an investigation. 19 CFR 12.42(a). If the Commissioner of CBP finds that the information available “reasonably but not conclusively indicates that merchandise within the purview of section 307 is being, or is likely to be, imported,” the Commissioner will order port directors to “withhold release of any such merchandise pending [further] instructions.” 19 CFR 12.42(e). After issuance of such a withhold release order, the covered merchandise will be detained by CBP for an admissibility determination, and will be excluded unless the importer demonstrates that the merchandise was not made using labor in violation of 19 U.S.C. 1307. 19 CFR 12.43–12.44. The importer may also export the merchandise. 19 CFR 12.44(a).

These regulations also set forth the procedure for the Commissioner of CBP to issue a Finding when it is determined that the merchandise is subject to the provisions of 19 U.S.C. 1307. Pursuant to 19 CFR 12.42(f), if the Commissioner of CBP determines that merchandise within the purview of 19 U.S.C. 1307 is being, or is likely to be, imported into the United States, the Commissioner of CBP will, with the approval of the Secretary of the Department of Homeland Security (DHS), publish a Finding to that effect in the Customs Bulletin and in the **Federal Register**.¹ Under the authority of 19 CFR 12.44(b), CBP may seize and forfeit imported merchandise covered by a Finding.

On July 15, 2020, CBP issued a withhold release order on “disposable gloves” reasonably indicated to be

¹ Although the regulation states that the Secretary of the Treasury must approve the issuance of a Finding, the Secretary of the Treasury delegated this authority to the Secretary of Homeland Security in Treasury Order No. 100–16 (68 FR 28322). In Delegation Order 7010.3, Section II.A.3, the Secretary of Homeland Security delegated the authority to issue a Finding to the Commissioner of CBP, with the approval of the Secretary of Homeland Security. The Commissioner of CBP, in turn, delegated the authority to make a Finding regarding prohibited goods under 19 U.S.C. 1307 to the Executive Assistant Commissioner, Office of Trade.

manufactured by forced labor in Malaysia by Top Glove Corporation Bhd. Through its investigation, CBP has determined that there is sufficient information to support a Finding that Top Glove Corporation Bhd is manufacturing disposable gloves with forced labor and that such merchandise is likely being imported into the United States.

II. Finding

A. General

Pursuant to 19 U.S.C. 1307 and 19 CFR 12.42(f), it is hereby determined that certain articles described in paragraph II.B., that are mined, produced, or manufactured in whole or in part with the use of convict, forced, or indentured labor by Top Glove Corporation Bhd in Malaysia, are being, or are likely to be, imported into the United States. Based upon this determination, the port director may seize the covered merchandise for violation of 19 U.S.C. 1307 and commence forfeiture proceedings pursuant to 19 CFR part 162, subpart E, unless the importer establishes by satisfactory evidence that the merchandise was not produced in any part with the use of prohibited labor specified in this Finding.

B. Articles and Entity Covered by This Finding

This Finding covers disposable gloves classified under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 3926.20.1020, 4015.11.0150, 4015.19.0510, 4015.19.0550, 4015.19.1010, 4015.19.1050, and 4015.19.5000, which are mined, produced or manufactured wholly or in part by Top Glove Corporation Bhd in Malaysia.

The Secretary of Homeland Security has reviewed and approved this Finding.

Dated: March 23, 2021.

Brenda B. Smith,

Executive Assistant Commissioner, Office of Trade.

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