



October 2020

FORCED LABOR IMPORTS

DHS Increased
Resources and
Enforcement Efforts,
but Needs to Improve
Workforce Planning
and Monitoring

GAO Highlights

Highlights of [GAO-21-106](#), a report to congressional requesters

Why GAO Did This Study

Forced labor is a global problem in which individuals are exploited to perform labor or services. The International Labour Organization estimates that forced labor generates profits of \$150 billion a year globally. CBP is responsible for enforcing Section 307 of the Tariff Act of 1930, which prohibits the importation of goods made with forced labor. CBP has authority to detain shipments when information indicates that forced labor produced the goods. ICE is responsible for investigating potential crimes related to forced labor, and importers may be subject to prosecution.

GAO was asked to review the status of DHS resources for implementing the Section 307 prohibition on forced labor imports, following an amendment of the law in 2016. This report examines (1) the extent to which CBP assessed agency needs for the enforcement of the prohibition on forced labor imports, (2) the outcome of CBP enforcement activities and monitoring of such efforts, and (3) ICE resources for investigations on forced labor. GAO reviewed CBP and ICE documents and data, and interviewed agency officials. This is a public version of a sensitive report GAO issued in July 2020. Information that CBP deemed sensitive has been omitted.

What GAO Recommends

GAO is making three recommendations, including that CBP assess the workforce needs of the Forced Labor Division, and improve its forced labor summary case data. CBP concurred with all three recommendations.

View [GAO-21-106](#). For more information, contact Kimberly Gianopoulos at (202) 512-8612 or gianopoulosk@gao.gov.

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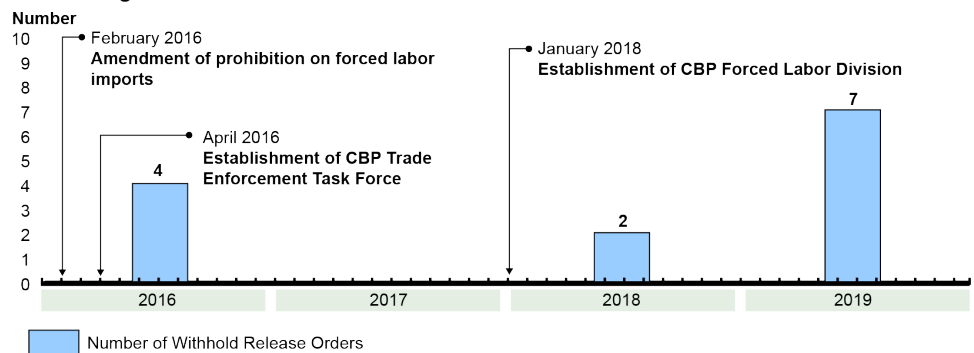
DHS Increased Resources and Enforcement Efforts, but Needs to Improve Workforce Planning and Monitoring

What GAO Found

Since 2016, U.S. Customs and Border Protection (CBP), within the Department of Homeland Security (DHS), has increased its resources to enforce a prohibition on importing goods made with forced labor, but has not determined its workforce needs. CBP formed the Forced Labor Division in 2018 to lead its efforts, and increased expenditures for the division from roughly \$1 million in fiscal year 2018 to \$1.4 million in fiscal year 2019. However, CBP has not assessed and documented the staffing levels or skills needed for the Forced Labor Division. For example, the division suspended some ongoing investigations due to a staff shortage and has plans to expand and train its workforce; however, the division has not assessed the number, type, locations, or specialized skills of positions it needs to achieve programmatic results. Without assessing its workforce needs, the division lacks reasonable assurance that it has the right number of people, with the right skills, in the right places.

CBP has increased forced labor investigations and civil enforcement actions, but managers lack complete and consistent data summarizing cases. CBP detained shipments under 13 Withhold Release Orders (WRO) from 2016 through 2019, as shown in the figure below. However, the Forced Labor Division uses incomplete and inconsistent summary data to monitor its investigations. For example, data were missing on the sources of evidence collected for almost all active cases. Incomplete and inconsistent summary data on the characteristics and status of cases may hinder managers' effective monitoring of case progress and enforcement efforts.

Figure: U.S. Customs and Border Protection (CBP) Forced Labor Withhold Release Orders, 2016 through 2019



Source: GAO analysis of U.S. Customs and Border Protection data and documents. | GAO-21-106

With regard to criminal violations, DHS's U.S. Immigration and Customs Enforcement (ICE) has increased its resources to investigate allegations of forced labor, including those related to U.S. imports. ICE coordinates criminal investigations of forced labor, conducted in the U.S. and abroad. ICE reported spending about \$40 million on forced labor investigations in fiscal year 2019, an increase of over 50 percent since 2016. Forced labor investigations often involve a range of criminal violations, including violations that are not related to the importation of goods. As such, reported expenditures include costs for cases on related issues, such as human trafficking.

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Abbreviations

CAATSA	Countering America's Adversaries Through Sanctions Act
CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
DOJ	Department of Justice
FTE	full-time equivalent
HSI	Homeland Security Investigations
ICE	Immigration and Customs Enforcement
ILO	International Labour Organization
Operation FLORA	Forced Labor Outreach and Targeting Initiative
TFTEA	Trade Facilitation and Trade Enforcement Act
TRLED	Trade Remedy Law Enforcement Directorate
U.S.C.	United States Code
WRO	Withhold Release Order

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October 27, 2020

Congressional Requesters

Forced labor is a global problem in which millions of adults and children are exploited for the purpose of compelled labor or services. In addition to raising urgent humanitarian concerns, forced labor overseas has an adverse impact on the American economy because it undermines legitimate trade and competition. Section 307 of the Tariff Act of 1930 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 Within the Department of Homeland Security (DHS), U.S. Customs and Border Protection (CBP) monitors and takes civil enforcement actions to uphold the prohibition on forced labor imports. U.S. Immigration and Customs Enforcement (ICE) is responsible for investigating criminal violations related to the importation of such goods. Merchandise detained under Section 307 is prevented from entering the U.S. market, and may lead to criminal investigation of potential violators.² In 2016 Congress enacted the Trade Facilitation and Trade Enforcement Act (TFTEA), which, among other things, amended Section 307 to remove the consumptive demand clause, which had permitted the importation of certain forced labor-produced goods if they were not produced “in such quantities in the United States to meet the consumptive demands of the United States.”³

You asked us to review the status of DHS resources for implementing the prohibition on imports of goods produced with forced labor following the enactment of TFTEA in 2016. This report examines (1) the extent to

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

²Violations of Section 307 of the Tariff Act of 1930 may lead to civil enforcement actions by U.S. Customs and Border Protection (CBP). 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.

³The Trade Facilitation and Trade Enforcement Act of 2015 (TFTEA) 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.

which CBP has assessed agency needs to enforce the prohibition on forced labor imports; (2) the outcomes of CBP's efforts to enforce the prohibition, and the extent to which CBP monitored its progress; and (3) the resources ICE has dedicated to investigate forced labor activities, and how it has used these resources.

This report is a public version of a sensitive report that we issued in July 2020.⁴ DHS deemed some of the information in our July report to be sensitive, which must be protected from public disclosure. Therefore, this report omits sensitive information about the investigative process, and certain facts concerning investigations and trade enforcement actions. Although the information provided in this report is more limited, the report addresses the same objectives as the sensitive report and uses the same methodology. We have also reported on CBP's process to enforce Section 307 for seafood imports, and have another ongoing review related to the prohibition on imports made with forced labor.⁵

To examine the extent to which CBP has assessed agency needs to enforce the prohibition on forced labor imports and to examine the outcomes of these efforts, we reviewed CBP documents and data pertaining to Section 307 enforcement. We analyzed CBP's expenditures and human capital resources dedicated to Section 307 enforcement, as well as CBP processes to assess resource needs for such enforcement efforts following TFTEA. We obtained and analyzed CBP summary data on the characteristics and status of forced labor cases, as well as data on shipment detentions and other key performance indicators. We assessed the reliability of such data by analyzing the data for consistency and logic to identify observable issues and by consulting CBP officials on the accuracy and completeness of the data. In instances where we identified potential weaknesses in the data, we contacted relevant agency officials and obtained information to resolve the inconsistencies. We determined that the data we used were sufficiently reliable for our purposes of reporting certain aspects of CBP cases and shipment detentions, such as

⁴GAO, *Forced Labor Imports: DHS Increased Resources and Enforcement Efforts, but Needs to Improve Workforce Planning and Monitoring*, [GAO-20-605SU](#) (Washington, D.C.: July 2020).

⁵GAO, *Forced Labor: Better Communication Could Improve Trade Enforcement Efforts Related to Seafood*, [GAO-20-441](#) (Washington, D.C.: June 2020). We also have a related, ongoing review of CBP's and other stakeholders' efforts to prohibit imports produced with forced labor under Section 307 of the Tariff Act of 1930, which is being conducted in response to the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, Pub. L. No. 115-425 § 132 (2019).

the number of cases, commodity, source country, and investigative phase for active cases and the number of suspended and inactive cases. We found certain elements of CBP's summary data on forced labor cases to be unreliable due to incomplete and inconsistent information, which we discuss in our report, and we chose not to report on certain elements of the data that we found to be unreliable. We also interviewed CBP officials representing offices that have a role in supporting CBP's Section 307 enforcement efforts in order to identify the roles and responsibilities of each CBP office.

To examine the resources ICE has dedicated to investigate forced labor activities, and how it has used these resources, we reviewed ICE documents and data, and interviewed ICE officials. We obtained and analyzed ICE's expenditures on investigative and outreach activities related to forced labor, and reviewed reports on the enforcement activities resulting from ICE's forced labor investigations. We also interviewed ICE officials on the roles and responsibilities of each ICE office in conducting forced labor investigations and outreach activities.

Our analysis covers the period since TFTEA was enacted in February 2016 through 2019. See appendix I for a complete description of our objectives, scope, and methodology.

The performance audit upon which this report is based was conducted from May 2019 to July 2020 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. We subsequently worked with DHS officials from August 2020 to October 2020 to prepare this version of the original sensitive report for public release. This public version was also prepared in accordance with these standards.

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.”⁶ 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 identified 11 indicators of forced labor intended to help recognize persons who are possibly trapped in a forced labor situation. 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.⁷ About 25 million people in 2016 worked in forced labor, about two-thirds of them in the Asia-Pacific region, according to the ILO. Forced labor was used in a range of sectors, such as domestic work, construction, manufacturing, and agriculture, according to the ILO. Of the estimated 25 million people in forced labor, 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.⁸ The U.S. Department of Labor reports that forced labor or child labor is used in the production of 148 types of goods in 76 countries,⁹ and the ILO estimates that forced labor generates global profits of \$150 billion every year.

Prohibition on Imports Made with Forced Labor

Prohibition under Section 307

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—

⁶According 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.

⁷The remaining five indicators of forced labor are abuse of vulnerability, deception, restriction of movement, isolation, and excessive overtime. The presence of a single indicator or multiple indicators could point to forced labor depending on the situation, according to the ILO.

⁸International Labour Organization, Walk Free Foundation, and International Organization for Migration, *Global Estimates of Modern Slavery: Forced Labour and Forced Marriage* (Geneva: 2017). Forced labor imposed by state authorities includes citizens recruited by their state 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.

⁹U.S. Department of Labor, *2018 List of Goods Produced by Child Labor or Forced Labor* (Washington, D.C.: September 2018).

including forced child labor. Section 307 defines “forced labor” as 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 or herself voluntarily. CBP defines “indentured labor” as work or service performed pursuant to a contract, the enforcement of which can be accomplished by process or penalties.

Section 307 contained an exception, referred to as the consumptive demand clause, prior to the enactment of TFTEA in 2016. The consumptive demand clause allowed 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. TFTEA amended Section 307 by repealing the consumptive demand clause. According to CBP, the repeal leveled the playing field so that U.S. manufacturers do not compete with importers and foreign manufacturers benefiting from the use of forced labor.

In August 2017, Congress enacted the Countering America’s Adversaries Through Sanctions Act (CAATSA), which, among other things, 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 307.¹⁰ According to CBP, goods found to be produced with North Korean labor are subject to detention, seizure, and forfeiture.¹¹ CAATSA violations may result in civil penalties, as well as criminal prosecution, according to DHS.

Enforcement of Section 307

The Commissioner of CBP (or a delegate) may issue a Withhold Release Order (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.¹² CBP withholds from release, or detains, a shipment of merchandise subject to a WRO. If the importer is

¹⁰Pub. L. No. 115-44, § 302A (2017).

¹¹Pursuant 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. According to CBP, however, other prohibitions may prevent the import of the goods, such as the prohibition found in Executive Order 13570, Prohibiting Certain Transactions with Respect to North Korea, April 18, 2011.

¹²19 C.F.R. § 12.42(e).

unable to provide documentation to establish the admissibility of the merchandise, CBP excludes the shipment from entering the United States. WROs remain in effect until revoked, or modified, if evidence shows that 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, according to CBP. If the Commissioner is provided with conclusive evidence that the imported goods are made with forced labor, subject to Section 307, the Commissioner publishes a Finding.¹³ Shipments subject to Findings are seized by CBP, unless the importer establishes by satisfactory evidence that the merchandise is admissible. CBP 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 any port director or the Commissioner of CBP.¹⁴

Agencies Responsible for Enforcement of Civil and Criminal Forced Labor Prohibitions

Department of Homeland Security

DHS enforces trade, travel, and victim protection laws to prevent harm to American interests from illicit activity including human trafficking,¹⁵ child sexual exploitation, and the importation of goods produced with forced labor. DHS is the primary federal department tasked with enforcing the prohibition on the importation of forced labor goods. Within DHS, CBP investigates potential civil violations of Section 307; ICE investigates potential criminal violations of various other statutes related to forced labor.

¹³According to 19 C.F.R. § 12.42(f), if it is determined that the merchandise is subject to the provisions of Section 307, the Commissioner of CBP, with the approval of the Secretary of the Treasury, will publish a finding to that effect in a weekly issue of the Customs Bulletin and in the Federal Register.

¹⁴See 19 C.F.R. § 12.42(b). 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.

¹⁵Human trafficking is a longstanding worldwide problem involving the use of force, fraud, or coercion in exchange for labor, services, or a commercial sex act. Victims are often forced to work in the commercial sex trade, garment factories, fishing boats, agriculture, domestic service, and other types of servitude.

CBP

CBP enforces U.S. customs and trade laws in its mission to protect public safety and the nation's economy. CBP processes about \$3 trillion in trade annually, and imported goods enter the United States by air, land, or sea at more than 300 ports. CBP processes legitimate trade and works to identify any harmful or noncompliant shipments coming into the country, such as counterfeit goods, goods that are misclassified to evade duties, and goods that are made using forced labor.

Within CBP, the Office of Trade and the Office of Field Operations are involved in carrying out trade enforcement.¹⁶ The Office of Trade is the lead entity for trade policy and operational guidance, responsible for developing policy and practices to ensure that importers comply with U.S. trade laws and regulations, directing enforcement when compliance does not occur, and facilitating processes with industry partners. The Office of Trade guides the Office of Field Operations' trade enforcement efforts at the ports through policy documents and directives, according to CBP officials.

Within the Office of Trade, the Trade Remedy Law Enforcement Directorate (TRLED) develops and implements processes for detecting fraudulent activities and supports immediate enforcement action, including enforcement of Section 307. The Forced Labor Division in TRLED acts as the lead CBP component in reviewing forced labor allegations, conducting investigations, and providing guidance on how to identify shipments subject to a WRO. The Forced Labor Division collaborates with other divisions within the Office of Trade and other offices in CBP, primarily the Office of Field Operations and Office of Chief Counsel.

The Office of Field Operations is responsible for both border security and the facilitation of lawful trade and travel at U.S. ports of entry. It operates 20 U.S. field offices that manage the more than 300 ports where cargo enters, as well as 10 Centers of Excellence and Expertise. The Centers of Excellence and Expertise are organized to assess trade risks on an industry basis in order to process goods arriving at ports of entry and increase compliance with import law.

ICE

ICE, as the principal criminal enforcement component of DHS, is responsible for enforcing laws pertaining to cross-border crime and illegal

¹⁶Other CBP offices, including Enterprise Services, Operations Support, and Chief Counsel, provide the Office of Trade and the Office of Field Operations with technical and administrative support for trade enforcement.

immigration. ICE's Homeland Security Investigations (HSI) is responsible for investigating a wide range of criminal activity arising from the illegal movement of people and goods into, within, and out of the United States. HSI may initiate criminal investigations for violations of U.S. law, including smuggling, exploitation of children and child sex tourism, trade crimes such as commercial fraud and intellectual property theft, and human smuggling and trafficking, according to ICE.

HSI investigations can lead to criminal prosecution of individuals or corporations for their roles in the importation of goods in violation of U.S. law, according to ICE.¹⁷ HSI's Forced Labor Program, within the National Intellectual Property Rights Coordination Center, coordinates HSI investigations into allegations of forced labor. Entities found to be benefiting from, or which had knowledge of, forced labor, such as U.S.-based importers and their corporate officials, may be subject to criminal prosecution as well as the seizure and forfeiture of their merchandise, according to ICE.¹⁸

HSI has resources in the United States and abroad to investigate crimes related to forced labor. HSI's Domestic Operations Division oversees HSI's domestic field offices, with 5,900 criminal investigators who can conduct forced labor investigations. The HSI International Operations Division manages more than 200 criminal investigators in ICE's attaché offices in U.S. embassies and consulates overseas. International Operations personnel serve as liaisons to governments and law enforcement agencies and work with foreign law enforcement personnel on HSI investigations overseas. The International Operations Division supports domestic operations by coordinating investigations with foreign counterparts, disrupts criminal efforts to smuggle people and materials into the United States, and builds international partnerships through outreach and training.

¹⁷Within HSI, the Global Trade Investigations Division provides oversight and support for investigations of U.S. import and export laws to ensure national security, protect health and safety, and stop predatory and unfair trade practices. The National Intellectual Property Rights Coordination Center, within HSI's Global Trade Investigations Division, leads enforcement of international trade laws and responds to intellectual property theft.

¹⁸According to ICE, ICE investigations related to forced labor are aimed at identifying importers and criminal organizations that are seeking to import merchandise into the United States in violation of 18 U.S.C. § 1761, which provides criminal penalties for the transportation or importation of merchandise made by prisoners or convicts. ICE may also investigate potential forced labor violations of 18 U.S.C. § 1589, which is a criminal statute that prohibits forced labor.

CBP Increased Its Enforcement Resources for the Prohibition on Forced Labor Imports since 2016, but Did Not Determine Workforce Needs

CBP Formed the Forced Labor Division to Lead Enforcement Efforts with Support from Other Agency Offices

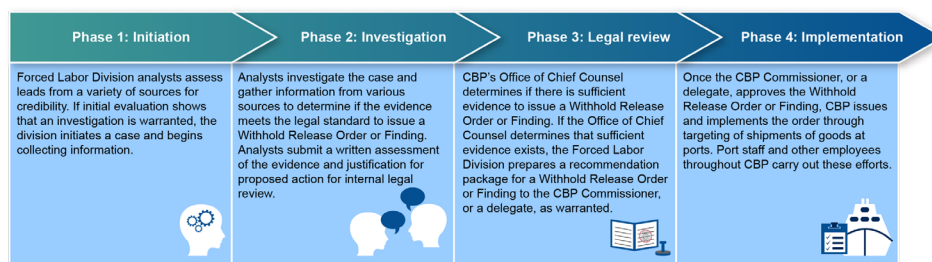
CBP established a Trade Enforcement Task Force in April 2016 to develop procedures for enforcing the prohibition on forced labor imports and to implement other trade policy changes resulting from TFTEA. Prior to the enactment of TFTEA in February 2016, CBP did not allocate resources specifically to enforcing the prohibition on forced labor imports. Instead, trade personnel in the Office of Trade's Civil Enforcement Division conducted enforcement efforts related to forced labor as part of their larger trade enforcement responsibilities. The Trade Enforcement Task Force aimed to promote robust enforcement of the prohibition on forced labor imports with outreach to solicit information from external sources and initiate investigations into allegations of forced labor. In fall 2017, the Director of the Trade Enforcement Task Force recommended that CBP establish a permanent division to enforce the prohibition on forced labor imports.

The CBP Forced Labor Division began operations in January 2018 as part of a larger reorganization within the Office of Trade following the enactment of TFTEA, primarily to investigate forced labor allegations and develop evidence for issuing WROs and Findings. The Forced Labor Division is organized under the Trade Remedy Law Enforcement Directorate within the Office of Trade. The establishment of the division is part of the ongoing reorganization of TRLED. According to CBP officials, this reorganization began in 2018 and is still in the process of being implemented, but had not yet been approved by the CBP Commissioner as of July 2020. Because the reorganization is still being implemented, according to CBP officials, the Forced Labor Division has not prepared division-level submissions for CBP's budget development or resource

allocation process since it was established.¹⁹ Instead, the Office of Trade has supported the Forced Labor Division by reassigning some existing TRLED resources and dedicating some of its new resources that CBP requested in order to implement a number of trade initiatives mandated by TFTEA, including the enforcement of the prohibition on forced labor imports.

CBP officials described to us the four-phase process that the Forced Labor Division uses to investigate allegations of forced labor in the supply chain of U.S. imports (see fig. 1).

Figure 1: U.S. Customs and Border Protection (CBP) Forced Labor Investigative Process



Source: GAO based on U.S. Customs and Border Protection information. | GAO-21-106

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 nongovernmental organizations, according to CBP officials. The division performs an initial review of each allegation to assess its credibility and determine whether there is sufficient evidence to initiate a case and proceed to phase 2.

Phase 2: Investigation. The division conducts an investigation in phase 2, collecting import data and other evidence, according to CBP officials. If the division management determines that the evidence meets the legal standard to issue 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. During phase 2, the division also informs other U.S. government agencies of the case.

¹⁹CBP officials said that the Office of Trade and TRLED nevertheless take the Forced Labor Division's budget requirements into account when formulating their budget requests.

Phase 3: Legal review. The division presents the allegation report to the CBP Office of Chief Counsel for a legal sufficiency review, according to CBP officials. The Office of Chief Counsel evaluates the report and provides a legal opinion on whether the evidence reasonably but not conclusively indicates that merchandise was produced with forced labor, which is the standard to issue a WRO. CBP can also issue a Finding if the evidence conclusively demonstrates that merchandise was produced by forced labor. According to CBP officials, if the Office of Chief Counsel determines that sufficient evidence exists, the division prepares a recommendation package for the Executive Assistant Commissioner of the Office of Trade, to whom the Acting Commissioner of CBP has delegated authority to issue WROs and Findings.²⁰ During phase 3, the division also contacts the relevant National Threat Analysis Center, which provides analytic support during investigations, develops targeting criteria for WROs that cover the goods within its portfolio, and conducts an impact analysis for the potential WRO.²¹

Phase 4: Implementation. According to CBP officials, 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. During the 2 weeks prior to the issuance of the WRO, the division coordinates with offices throughout CBP, including the relevant ports of entry, Centers of Excellence and Expertise, National Targeting Center, and National Threat Analysis Centers, to prepare for implementation of the WRO. The division also notifies other U.S. government agencies of the impending WRO.²²

²⁰While CBP detains shipments subject to WROs upon arrival into the United States, port personnel seize goods subject to Findings, unless the importer produces satisfactory evidence that the merchandise is admissible.

²¹The National Threat Analysis Centers are organized within the Trade Remedy Law Enforcement Directorate of the Office of Trade and provide analytic support for forced labor investigations. According to CBP officials, there are six National Threat Analysis Centers, in New York City; Washington, D.C.; Miami; Chicago; Dallas; and Los Angeles. The Washington, D.C., National Threat Analysis Center supports stakeholders in CBP's headquarters, while the five other centers each support two Centers of Excellence and Expertise in their industries of focus.

²²The Centers of Excellence and Expertise are located at field offices within CBP's Office of Field Operations. There are 10 Centers of Excellence and Expertise that serve as a resource for industry outreach and trade intelligence in their industry of focus. For example, the Center of Excellence and Expertise in San Francisco focuses on the apparel, textile, and footwear industries.

Once CBP issues the WRO, the Center of Excellence and Expertise point of contact for the WRO assists port personnel as needed in verifying if shipments are subject to the WRO. Once the point of contact confirms that a shipment is subject to the WRO, port personnel issue a detention notice to the importer. Importers have 3 months to provide information to CBP demonstrating that their shipment is not made with forced labor. If the importer provides sufficient evidence that the merchandise specific to the detained shipment was not produced with forced labor, CBP releases the detained shipment into the United States. At any time during this 3-month period, importers can also choose to export their goods out of the United States rather than provide additional documentation to CBP to prove that their merchandise was not produced with forced labor. The point of contact for the Center of Excellence and Expertise coordinates with port personnel to obtain the necessary information from the importer and determine final disposition of the detained goods.

Throughout this four-phase process, offices across CBP provide the Forced Labor Division with technical expertise, analytical assistance, and logistical support to conduct investigations and enforce WROs. According to CBP officials, other CBP offices support the Forced Labor Division's enforcement efforts as part of their larger portfolios, and CBP does not have detailed information on resources used by these offices specifically for enforcing the prohibition on forced labor imports. The National Threat Analysis Centers provide technical expertise and the Office of Chief Counsel provides legal advice during phase 3 of the investigative process. Offices in the field, such as the ports of entry and Centers of Excellence and Expertise, implement enforcement actions during phase 4. CBP officials emphasized the role of these various offices in their forced labor mission and the resources they contribute to investigations, legal reviews, penalty collections, and actions at the port. See table 1, detailing the roles and responsibilities of the Forced Labor Division and key offices in CBP that support the division's efforts. See appendix II for the additional CBP offices that support the Forced Labor Division in its enforcement efforts.

Table 1: Roles and Responsibilities of U.S. Customs and Border Protection (CBP) Key Offices Conducting or Supporting Investigations into Allegations of Forced Labor

CBP office	Roles and responsibilities related to forced labor enforcement
Office of Trade, Trade Remedy Law Enforcement Directorate	
Forced Labor Division	<ul style="list-style-type: none"> Leads CBP investigations into allegations of forced labor in the supply chain of U.S. imports. Engages with external stakeholders to increase awareness of forced labor regulations. Coordinates with offices throughout CBP to implement enforcement actions related to the prohibition on forced labor imports.
National Threat Analysis Division and National Threat Analysis Centers	<ul style="list-style-type: none"> Develop targeting criteria to identify U.S. imports subject to Withhold Release Orders (WRO). Provide analytic support to forced labor investigations.
Civil Enforcement Division	<ul style="list-style-type: none"> Acts as the point of contact, through its Enforcement Policy Branch, for forced labor and for communication to field offices. Determines the appropriate value of civil penalties assessed for violations of the prohibition on forced labor imports.
Office of Trade, Regulatory Audit and Agency Advisory Services	
Regulatory Audit and Agency Advisory Services	<ul style="list-style-type: none"> Administers importer surveys to examine supply chain labor practices.
Office of Field Operations, Field Offices	
Centers of Excellence and Expertise	<ul style="list-style-type: none"> Assist ports of entry in determining if shipments are subject to a WRO. Review information about detained goods submitted by the importer and make recommendations for final disposition of the merchandise. Serve as a resource for industry outreach and trade intelligence.
Ports of entry	<ul style="list-style-type: none"> Detain shipments and coordinate with Centers of Excellence and Expertise to review importer documentation. Track all shipment detentions and report such shipments to headquarters.
Office of Field Operations, National Targeting Center	
National Targeting Center	<ul style="list-style-type: none"> Develops national policies governing utilization of CBP targeting systems and rule development, and ensures that CBP personnel comply with such policies. Provides analytical support to CBP personnel on forced labor cases.
Operations Support	
Office of International Affairs	<ul style="list-style-type: none"> Staffs CBP attachés abroad who engage with in-country stakeholders to foster relationships and provide information about U.S. forced labor laws.
Office of Chief Counsel	
Associate Chief Counsel, Enforcement and Operations	<ul style="list-style-type: none"> Determines legal sufficiency of forced labor allegations. Makes recommendations on issuance, revocation, or modification of WROs or Findings.

Source: GAO analysis of U.S. Customs and Border Protection documents. | GAO-21-106

According to CBP officials, the Forced Labor Division also coordinates outside of CBP with ICE HSI to share information and contribute to efforts to combat forced labor throughout the division’s investigative process, as needed. The division notifies HSI when a civil investigation reaches the

investigation phase and in the 2 weeks prior to the issuance of a WRO. The division also shares case information with HSI when an allegation appears to have a criminal nexus. When division analysts seek information for ongoing civil investigations, the HSI Forced Labor Program can connect them with ICE officers in the field who have relevant commodity or regional expertise. CBP and ICE also share information collected by international personnel. For example, CBP attachés, who represent CBP in the countries within their areas of responsibility, meet frequently with ICE attachés located in the same country to share information on a number of trade enforcement matters, including forced labor, according to a CBP official.

In addition to leading CBP's enforcement efforts for the prohibition on forced labor imports, the Forced Labor Division coordinates outreach activities with other government agencies, private industry, and domestic nongovernmental organizations. In 2019, DHS delegated to the Forced Labor Division the responsibility for leading the DHS Interagency Group on Goods Produced through Forced Labor. The interagency group consists of various government agencies that have some responsibility related to forced labor issues, and the Forced Labor Division leads the monthly group discussions in an open forum. The division also participates in the CBP Commercial Customs Operations Advisory Committee and its Intelligent Enforcement Subcommittee Forced Labor Working Group, which includes representatives from U.S. government agencies, private industry, and nongovernmental organizations. According to CBP documents, the working group is focused on identifying the elements of a credible forced labor allegation, clarifying information that importers can provide to CBP, and identifying industry best practices.

The Forced Labor Division also performs outreach with foreign governments, international nongovernmental organizations, and U.S. government representatives stationed in other countries to raise awareness about CBP's authority to enforce the prohibition on forced labor imports. The division also coordinates with these entities to gather information for ongoing and future investigations and provide training on forced labor issues. According to CBP officials, division personnel have performed 18 outreach trips to 15 countries since 2018. CBP officials stated that these outreach activities allow the division to foster productive working relationships with stakeholders, support ongoing investigations, and raise awareness about CBP's enforcement efforts.

CBP Increased the Forced Labor Division's Enforcement Resources since It Began Operations

CBP increased the resources it dedicated to enforcing the prohibition on forced labor imports since the enactment of TFTEA in 2016. The Trade Enforcement Task Force had no more than four personnel working on forced labor issues and no official budget while operating from May 2016 to late 2017. The task force had one full-time equivalent (FTE) employee, one full-time contractor, and one or two temporarily assigned staff members, all of whom had responsibility for establishing processes to enforce the prohibition on forced labor imports, according to CBP officials.

CBP increased the Forced Labor Division's financial and personnel resources since the division began operations in January 2018. In fiscal year 2018, expenditures for the division totaled approximately \$1 million. In fiscal year 2019, expenditures increased to about \$1.4 million, or by 33 percent,²³ with over two-thirds of the total going to salaries and benefits and the rest to administrative costs, translation services, and travel for outreach activities. Between fiscal years 2018 and 2019, the Office of Trade's enacted budget grew by 11 percent, from \$234 million to \$260 million. Forced Labor Division expenditures account for less than 1 percent of the total Office of Trade budget.

The Forced Labor Division has filled FTE positions, but has also experienced turnover. In fiscal year 2018, the Office of Trade allocated a number of FTE positions to the new division, followed by additional positions in fiscal year 2019.²⁴ In fiscal year 2020, the Office of Trade again allocated additional positions to the division as part of the TRLED reorganization, bringing its total FTEs to the current level. As of May 2020, more than a third of the division's positions were vacant, including the Forced Labor Division Director position, which was vacated in April 2020. The division has experienced personnel turnover, with a number of employees leaving since it began operations two and a half years ago. Most of the current personnel have joined the Forced Labor Division since March 2019.

²³The actual number of positions is law enforcement sensitive. The fiscal year 2018 expenditures also include some costs associated with the activities of the Trade Enforcement Task Force, which preceded the Forced Labor Division, according to CBP officials.

²⁴In fiscal year 2018, the Office of Trade requested 140 new FTEs to implement TFTEA, including positions that were allocated to the Forced Labor Division. The additional positions allocated to the division in 2019 were reallocated from elsewhere in CBP.

CBP Has Not Assessed or Documented the Staffing Levels or Skills Needed for the Forced Labor Division

CBP has not conducted and documented a human capital needs assessment for the Forced Labor Division to inform its workforce planning decisions or the development of training requirements for division personnel. Leading practices in human capital management state that agencies should determine the critical skills and competencies that their personnel need to achieve programmatic results and develop strategies tailored to address any relevant gaps or deficiencies.²⁵ A needs assessment should determine current and future workforce needs, create an inventory of employee skills and competencies, and establish a process to address any gaps in the skills and competencies of the workforce. GAO has identified mission-critical skills gaps as a government-wide high-risk area.²⁶

According to CBP officials in the Mission Support Division, there is no need to conduct a workforce needs assessment for the Forced Labor Division now because the reorganization of TRLED is drawing to a close. However, as noted, needs assessments should determine current and future workforce needs. Officials in TRLED told us that although CBP has not conducted a human capital needs assessment for the Forced Labor Division, TRLED continually assesses resources to meet forced labor enforcement needs. However, TRLED has not documented such an assessment of its resource needs for forced labor enforcement. Specifically, we found the following with regard to workforce planning and specialized skills and training:

Workforce planning. CBP did not conduct and document a needs assessment before determining the funding and number of FTEs for the Forced Labor Division. CBP officials could not describe the process through which the Office of Trade determined the initial funding levels and number of FTEs for the division, nor could CBP officials provide documentation supporting the division's initial resource allocations. According to CBP officials, the TRLED reorganization packet contained documents supporting the establishment of the division. However, during our review, we found that none of the documents in the TRLED

²⁵GAO, *Human Capital: Key Principles for Effective Strategic Workforce Planning*, [GAO-04-39](#) (Washington, D.C.: Dec. 11, 2003).

²⁶Our High-Risk Series report for 2019 calls for agencies to design and implement action plans for closing skills gaps, which can include insufficient staffing levels and staff without the critical competencies needed to achieve an agency's mission. GAO, *High-Risk Series: Substantial Efforts Needed to Achieve Greater Progress on High-Risk Areas*, [GAO-19-157SP](#) (Washington, D.C.: March 2019).

reorganization packet mention the Forced Labor Division or its initial funding and FTE levels. According to CBP officials, they have no information on past officials' reasoning behind the initial allocation of FTEs, or subsequent allocation of additional FTEs.²⁷ However, the division management used the initial FTE allocation as a baseline to request funding for more FTEs. According to CBP officials, the division is now using its current allocation of FTEs as the baseline for subsequent resource requests and workforce planning.

CBP has not conducted and documented a needs assessment to identify mission-critical gaps in the Forced Labor Division's current staffing levels. Although the division is in the process of filling vacant positions, CBP has not conducted and documented a needs assessment to determine the types of positions needed or the appropriate staffing levels for the division. The Forced Labor Division faces challenges enforcing the prohibition on forced labor imports with its current staffing levels. The division does not have enough personnel on board to investigate all allegations of forced labor and respond to congressional requests and media inquiries, according to a CBP official.

Because of a shortage of staff, the division has had to suspend some ongoing investigations. The Forced Labor Division's case tracking spreadsheet indicated a lack of personnel resources as the reason for two-thirds of the suspended investigations. Furthermore, although CBP detained goods that were in violation of the Countering America's Adversaries Through Sanctions Act (CAATSA) in 2017, the division's shortage of staff limits its ability to pursue forced labor investigations into CAATSA violations, according to CBP officials.²⁸ CBP officials told us the division aims to establish procedures to periodically review existing WROs. However, the officials also said the division does not have enough resources and staff to reassess the effectiveness of existing WROs to determine if revocation or modification is warranted. Instead, the division

²⁷CBP officials said CBP conducted an agency-wide needs assessment in response to the January 2020 DHS Strategy to Combat Human Trafficking, the Importation of Goods Produced with Forced Labor, and Child Sexual Exploitation.

²⁸According to CBP officials, the division is responsible for enforcing CAATSA, which prohibits the importation of goods made with North Korean labor under Section 307 by creating a rebuttable presumption that those goods are the products of forced labor. In April 2020, CBP officials informed us that they are in the process of determining the appropriate role for the division in CAATSA enforcement.

staff currently reviews active WROs only in response to importers' requests to modify or revoke WROs, according to CBP officials.

CBP officials said the division considered requesting additional personnel stationed abroad to support investigative needs. However, no formal proposal has been made and the division has not assessed how many people it needs in the field, or in which countries these positions would most effectively be located. Until CBP conducts and documents a human capital needs assessment for the Forced Labor Division, it does not have information to determine the number of FTEs the division needs in headquarters and the field to effectively enforce the prohibition on forced labor imports.

Specialized skills and training. To carry out its mission, the Forced Labor Division requires a workforce with a specialized skill set and knowledge base that is unique within the Office of Trade, according to CBP officials. For example, division analysts need an understanding of forced labor, familiarity with indicators of forced labor, and the ability to apply those indicators to investigate imports, according to CBP officials. Division officials told us the division has hired analysts without experience in these specialized forced labor investigations. The division hired these analysts under common CBP job titles, and the position descriptions did not mention forced labor or the skills and competencies required of a Forced Labor Division analyst.²⁹ As a result, CBP officials stated, the Forced Labor Division needs to train its analysts to be able to conduct the division's specialized work, which involves, among other things, gathering evidence of forced labor in complex global supply chains. In doing so, analysts must follow diplomatic channels when investigating allegations of forced labor in another country and may face resistance from foreign officials during this process, according to CBP officials.

To address its analysts' training needs, the Forced Labor Division developed a training plan of courses that analysts should take during their first 2 years, including courses in data analytics, CBP targeting systems, and forced labor investigations. As of May 2020, the division was still in the process of updating and implementing this training plan, and analysts had taken only one course in the plan, covering introductory law enforcement investigative analysis, according to CBP officials.

²⁹Analysts in the Forced Labor Division are hired under two job titles: international trade specialist and management program analyst.

Although development of this training plan is a positive step, we found that the plan is not based on an assessment of mission-critical skills and competencies, which would help ensure that analysts have the skills they need to conduct forced labor investigations. Given that the division has hired analysts without specialized skills, existing staff members have been providing new analysts with ad-hoc training on the forced labor investigative process. For example, staff members give new analysts an overview of how to use indicators of forced labor to gather evidence during investigations. While such on-the-job training may be helpful to staff, as we have previously reported, well-designed training plans are linked to division goals and the skills and competencies needed for the division to perform effectively.³⁰ As previously mentioned, CBP officials told us the division is currently updating its training plan, which provides an opportunity to ensure that the plan includes courses that address any identified mission-critical skills and competencies. Without first conducting a needs assessment to identify the mission-critical skills necessary for its workforce, the division cannot address gaps in these skills through training. As a result, the division's training courses may not equip staff, most of whom joined the division within the last year and a half, with the required expertise to effectively carry out its mission.

³⁰GAO, *Human Capital: A Guide for Assessing Strategic Training and Development Efforts in the Federal Government*, [GAO-04-546G](#) (Washington, D.C.: March 2004).

CBP Has Increased Forced Labor Investigations and Enforcement Actions, but Lacks Complete and Consistent Summary Data and Has Not Set Performance Targets

The Number of Forced Labor Investigations Has Grown since the Forced Labor Division Began Operations

CBP has increased the number of forced labor investigations and has used evidence from those investigations to issue 13 WROs, as of March 2020. While operating in 2016 and 2017, the Trade Enforcement Task Force investigated allegations of forced labor in the supply chains of U.S. imports. Task force records show that it had a number of forced labor investigations when it ended in October 2017.³¹ From the time the Forced Labor Division began operations in 2018 to March 2020, it conducted more than five times as many investigations as the task force had in 2016 and 2017, including active, suspended, and inactive cases.³² As of March 2020, more than 100 investigations had been initiated since 2018. Since 2016 there were also 13 cases that resulted in WROs, as of March 2020. The Forced Labor Division's investigations into allegations of forced labor have resulted in nine of these 13 WROs.

The division continues to track most of the same information on forced labor investigations as the Trade Enforcement Task Force, but has expanded its data monitoring. The task force collected information on its forced labor investigations that included the country of origin, commodity, referral source, and status of each case, among other information. In addition to the information that the task force collected, the division collects information on the current phase of the investigative process for

³¹The actual number of investigations is law enforcement sensitive. The Trade Enforcement Task Force's investigation records did not include entries for the WROs issued by CBP in 2016 covering soda ash, potassium, and stevia manufactured in China.

³²According to CBP officials, active cases are ongoing investigations within the Forced Labor Division. Suspended cases are those the division does not have enough resources or information to pursue currently, but which may result in a WRO. Inactive cases are those without sufficient evidence or a clear violation or connection to the U.S. market.

each case, the date the case entered each phase, sources of evidence, and investigative challenges. About three-quarters of the division's active cases were in the initiation phase of the investigative process, about one in seven of the cases were in the investigative phase, and fewer than one in 10 were in the legal review phase, as of March 2020. The majority of active cases focus on goods manufactured in China. The division is also investigating cases in Taiwan, Malaysia, Fiji, and Ivory Coast. The majority of active cases cover apparel, footwear, and textiles; the remaining cover a range of commodities, including agriculture; consumer goods; and pharmaceuticals, health, and chemicals.

The Office of Regulatory Audit and Agency Advisory Services supports the division's forced labor investigations with the use of importer surveys. Regulatory Audit administers surveys to better understand the various measures that importers take to address forced labor risks in their supply chains. According to Regulatory Audit, it increased its workload related to forced labor enforcement from five forced labor surveys in fiscal year 2017 to 28 in fiscal year 2018. Since fiscal year 2018, when the Forced Labor Division began operations, Regulatory Audit reported devoting over 16,000 hours to work related to enforcing the prohibition on forced labor imports and completing just over 50 surveys.³³

CBP Has Increased Enforcement Actions since 2016

Since the enactment of TFTEA in 2016, CBP has undertaken various actions to enforce the prohibition on forced labor goods, including issuing WROs, detaining shipments that violate CAATSA, and issuing civil enforcement penalties. From the enactment of TFTEA in 2016 through the end of 2019, CBP issued 13 WROs and detained imports covered by these WROs, conducted one enforcement action under CAATSA, and issued a civil penalty associated with one WRO totaling nearly \$8.4 million.³⁴ CBP has not issued a Finding since the enactment of TFTEA in 2016.³⁵ The number of WROs and shipment detentions and the reported value of shipment detentions have varied from year to year. However, the

³³According to Regulatory Audit, the number of importer surveys and hours spent on this work increased greatly after 2017. Officials reported completing five importer surveys and spending under 1,000 hours on this work in that year, and 24 surveys and over 9,000 hours in 2019.

³⁴CBP issued four WROs in May, June, and July 2020, outside of our analytical time frame: two covering hair products manufactured in China, one for seafood from the Yu Long No. 2 fishing vessel, and one for disposable gloves from Malaysia.

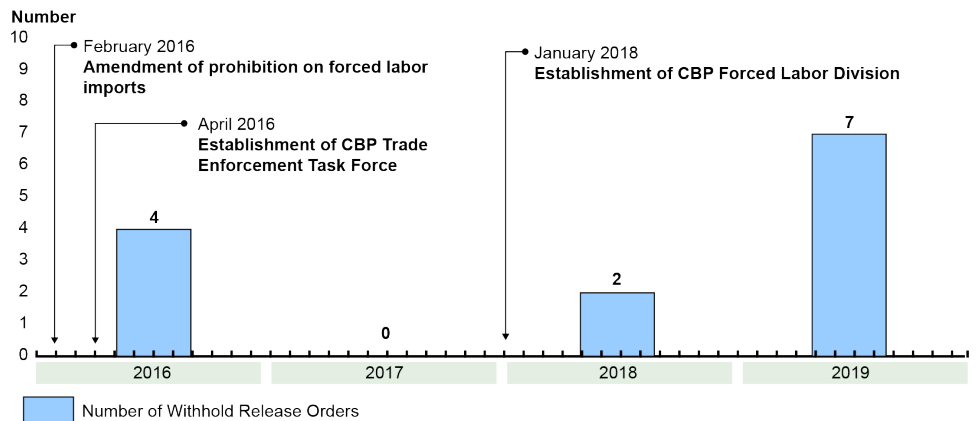
³⁵CBP issued its most recent Finding, against malleable iron pipe fittings manufactured in China, in April 1996.

Forced Labor Division has increased CBP's enforcement actions since the division began operations in 2018. In the first 2 years of the Forced Labor Division, CBP issued nine WROs; prior to the enactment of TFTEA, CBP had not issued a WRO since 2000.³⁶ Specifically:

- In 2016, CBP issued four WROs.
- In 2017, CBP's Trade Enforcement Task Force did not issue any WROs.
- In 2018, after the Forced Labor Division began operations, CBP issued two WROs.
- In 2019, CBP issued seven WROs, the highest yearly number since the enactment of TFTEA.

See figure 2 showing a timeline of CBP's efforts to enforce the prohibition on forced labor imports from the amendment of the prohibition on forced labor imports in 2016 through 2019.

Figure 2: U.S. Customs and Border Protection (CBP) Forced Labor Withhold Release Orders, 2016–2019



³⁶In October 2016, CBP partially revoked a WRO covering soda ash, calcium chloride, and caustic soda; in February 2018, CBP revoked a WRO covering potassium, potassium hydroxide, and potassium nitrate; in March 2020, CBP revoked a WRO covering disposable rubber gloves and a WRO covering seafood from the Tunago No. 61 fishing vessel; in May 2020, CBP partially revoked a WRO covering gold extracted from artisanal small mines in the Democratic Republic of Congo; and in June 2020, CBP partially revoked a WRO covering tobacco produced in Malawi. The seven other WROs that CBP has issued from 2016 through 2019 remain active.

The 13 WROs issued from 2016 through 2019 cover a variety of merchandise. CBP has detained as many as 70 shipments under one WRO, although some WROs have resulted in no shipment detentions. According to CBP officials, detaining goods subject to a WRO keeps products of forced labor out of the U.S. market and also serves as a deterrent for importers. Among the 13 WROs, eight cover merchandise from specific manufacturers, one covers seafood imports from a fishing vessel, and four cover a type of good produced in a specific region or country. See table 2 for dates, descriptions, and the status of each WRO.

Table 2: Withhold Release Orders Issued by U.S. Customs and Border Protection (CBP), 2016–2019

Date issued	Merchandise	Source country	Status
March 2016	Soda ash, calcium chloride, and caustic soda produced by Tangshan Sanyou Group	China	Partially active ^a
March 2016	Potassium, potassium hydroxide, and potassium nitrate produced by Tangshan Sunfar Silicon Industries	China	Revoked
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	All goods produced with Turkmenistan cotton	Turkmenistan	Active
February 2019	Seafood from the Tunago No. 61 fishing vessel	Other	Revoked
September 2019	Bone black produced by Bonechar Carvao Altivado Do Brazil Ltd ^a	Brazil	Active
September 2019	Garments produced by Hetian Taida Apparel Co., Ltd.	China	Active
September 2019	Gold extracted from artisanal small mines	Democratic Republic of Congo	Partially active ^b
September 2019	Rubber gloves produced by WRP Asia Pacific Sdn. Bhd.	Malaysia	Revoked
September 2019	Artisanal rough cut diamonds extracted from the Marange Diamond Fields	Zimbabwe	Active
November 2019	Tobacco produced in Malawi	Malawi	Partially active ^c

Source: GAO analysis of U.S. Customs and Border Protection data and documents. | GAO-21-106

Note: CBP issued four WROs in May, June, and July 2020, outside of our analytical time frame: two for hair products manufactured in China, one for seafood from the Yu Long No. 2 fishing vessel, and one for disposable gloves from Malaysia.

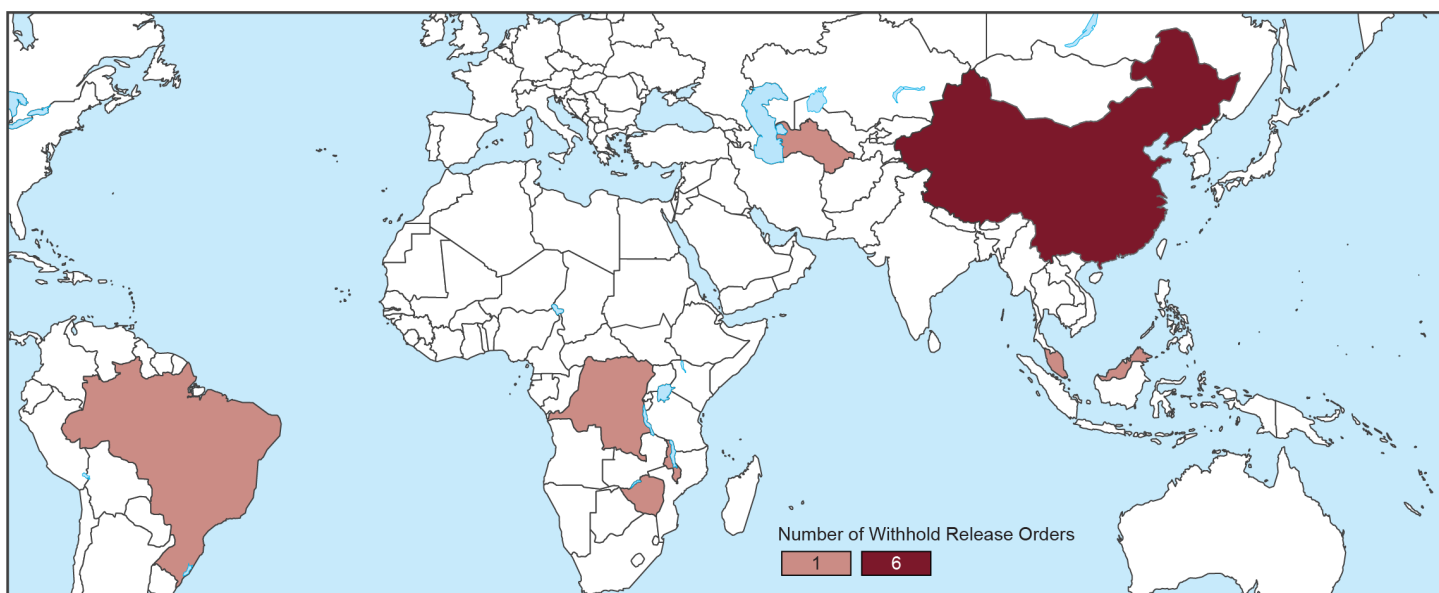
^aIn October 2016, the CBP Commissioner removed viscose and rayon fiber from merchandise prohibited from entering the United States under this WRO, while the rest of the WRO remains active.

^bIn May 2020, the CBP Commissioner modified this WRO to remove artisanal small mine gold from the Democratic Republic of Congo imported by the Chambers Foundation, while the rest of the WRO remains active.

^cIn June 2020, the CBP Commissioner modified this WRO to remove tobacco produced in Malawi imported by Alliance One International, while the rest of the WRO remains active.

Almost half of the WROs (six of 13) pertain to products from China. Among the remaining seven WROs, three cover imports from other Asian countries, three pertain to imports from Africa, and one covers merchandise from South America. See figure 3 for the geographic distribution of all WROs that CBP issued from 2016 through 2019.

Figure 3: Distribution of U.S. Customs and Border Protection’s (CBP) Withhold Release Orders by Country, 2016–2019



Source: GAO analysis of U.S. Customs and Border Protection data. | GAO-21-106

In addition to issuing WROs, CBP has detained shipments in violation of CAATSA and has issued civil penalties to enforce violations of the prohibition on forced labor imports in Section 307 since 2016. According to CBP officials, the Forced Labor Division has not pursued CAATSA investigations since it began operations in 2018. In April 2020, CBP officials informed us that they are in the process of determining the appropriate role for the division in CAATSA enforcement. In December 2019, CBP issued its first civil penalty associated with violations of the prohibition on forced labor imports in Section 307 since the enactment of TFTEA. According to CBP officials, after issuing a WRO in May 2016 for stevia produced by Inner Mongolia Hengzheng Group Baoanzhao Agricultural and Trade LLC, the Forced Labor Division continued its investigation, which resulted in the issuance of a civil penalty of approximately \$8.4 million.

The Forced Labor Division Collects Incomplete and Inconsistent Summary Data on Investigations

Forced Labor Division management uses a spreadsheet to collect summary information about the division's investigations of forced labor in the supply chains of U.S. imports. According to CBP officials, the division managers monitored this information about investigations to inform annual civil enforcement priorities. The division also uses data summarizing the characteristics and status of cases to calculate key performance indicators and report them to the Office of Trade on a monthly basis. Additionally, the division managers used this investigative information to assign staff to new and ongoing investigations, track the investigative process, and monitor the progress of individual cases. Since November 2019, the division has experienced a large increase in its active caseload. From November 2019 to March 2020, the Forced Labor Division's number of active cases more than doubled. Fewer than half of the active cases from November 2019 remained active in March 2020; most of the division's caseload consisted of new investigations. According to CBP officials, CBP works to continuously improve its data collection on forced labor investigations, but we found incomplete and inconsistent data in the division's case tracking spreadsheet with data as of June 2019, November 2019, and March 2020.

We found that the spreadsheet the division uses to collect summary data about its investigations contains incomplete information, such as entries with missing data for a specific field, and inconsistent data, such as entries in a field that are not standardized. We also found that the division does not have written guidance for maintaining these records in its case tracking spreadsheet, including clear and consistent definitions for terms, and how or when personnel should input and manage data. Federal internal control standards state that management should use quality information to achieve the entity's objectives.³⁷ Because the division does not have guidance in place that ensures analysts populate the division's case tracking spreadsheet with complete and consistent summary information, management does not have reasonable assurance that it uses quality data to inform enforcement priorities, track performance indicators, and make resource and management decisions to effectively achieve its objectives. Specifically, we found the following:

Incomplete data. We found that the Forced Labor Division maintains some incomplete summary data on its forced labor investigations. When we reviewed the data, 11 of the 21 fields on which the division collects summary information about the characteristics and status of

³⁷GAO, *Standards for Internal Control in the Federal Government*, Principle 13, [GAO-14-704G](#) (Washington, D.C.: September 2014).

active cases were missing data entries in the March 2020 spreadsheet. For example, the Forced Labor Division collects information on the sources of evidence used in investigations, such as reports from nongovernmental organizations or letters from attorneys alleging forced labor violations. The March 2020 case tracking spreadsheet was missing data on the sources of evidence collected for almost all active cases. Similarly, about eight in 10 suspended cases were missing data on the sources of evidence used during the investigation. Of these suspended cases, the division suspended more than seven in 10 cases due to a lack of personnel resources. If the division reactivates these cases when its workforce has the capacity to continue these investigations, the new analysts on these cases will not have the benefit of complete summary information on the sources of evidence used earlier in the investigations.

Forced Labor Division management can also use summary case information to inform annual civil enforcement priorities. One of the division's enforcement initiatives for fiscal year 2020 is to determine the elements of a good forced labor allegation. This initiative aims to provide guidance to internal and external stakeholders on making useful allegations, such as what types of evidence the division has found fruitful in previous investigations. However, without recording complete information summarizing the sources of evidence used in investigations, the division is limited in its ability to advise stakeholders on what types of evidence are most useful for investigations, which can help the division achieve its objectives.

Inconsistent data. We also found that the Forced Labor Division maintains some inconsistent summary data on its forced labor investigations. When we reviewed the data, five of the 21 fields on which the division collects summary information about active cases contained inconsistent information in the March 2020 spreadsheet. For example, the spreadsheet includes a field with current updates for each case, in which two-thirds of active cases listed the manufacturer of the goods instead of an update on the progress of the case. Additionally, the status updates for some active cases conflicted with their current case phases. For example, the most current update for one case noted that the division sent an allegation report to the Office of Chief Counsel for a legal sufficiency review, which occurs during the legal review phase. However, the division's data summarizing case status showed that this case was in the investigative phase.

Similarly, entries in the March 2020 case tracking spreadsheet for suspended and inactive cases contained inconsistent information. For example, the spreadsheet includes a field on the case's status, that is,

where it is in the investigative process, but the division does not have a consistent definition for this data field. As a result, almost nine in 10 of suspended cases contained inconsistent information in this field. More than a quarter listed a number, such as “1” or “2”; and more than six in 10 listed a narrative status, such as “Exploration” or “Investigation.” There was further inconsistency in terminology among these narrative entries. For entries that described where they were in the investigative process as “Investigation,” some listed “Investigation (2),” one listed “Investigation Complete (3) Civil Penalty,” and one listed “Investigation Civil Penalty (2).” Without creating guidance to standardize the information collected on the status of investigations, division managers do not have complete and accurate data to monitor analysts’ workload and progress.

CBP Has Not Set Targets for Key Performance Indicators on Forced Labor

The Office of Trade has not set targets for the Forced Labor Division’s key performance indicators to monitor its civil enforcement efforts. The division tracks eight key performance indicators internally and reports these figures to the Office of Trade on a monthly basis. According to CBP officials, the Forced Labor Division developed these indicators for fiscal year 2019 and maintains rolling year-to-date information on them, but is still determining what the appropriate targets should be for each indicator. (See table 3, detailing the key performance indicators for fiscal year 2019.) More than 2 years after the Forced Labor Division was established, it has not established baseline figures for its key performance indicators from which to set targets to evaluate the division’s performance. The Office of Trade’s Planning, Programming, Accountability, and Evaluation Division works with each division to set targets for performance indicators, which are used during the annual resource allocation process. According to CBP officials, because the Forced Labor Division has not prepared its own budget submission for the resource allocation process, it has not worked with the Planning, Programming, Accountability, and Evaluation Division to determine appropriate targets for its key performance indicators. Federal internal control standards state that management should establish a baseline to monitor and evaluate the internal control system and establish activities to monitor performance measures and indicators.³⁸ Until it sets targets for these performance indicators, the Office of Trade will not be able to fully evaluate the effectiveness of the Forced Labor Division’s enforcement efforts and determine division priorities and resource levels.

³⁸GAO, *Standards for Internal Control in the Federal Government*, Principles 10 and 16, [GAO-14-704G](#) (Washington, D.C.: September 2014).

Table 3: Key Performance Indicators for U.S. Customs and Border Protection’s (CBP) Forced Labor Division for Fiscal Year 2019

Key performance indicator
Number of outreach and engagement activities
Enforcement actions taken:
Number of Withhold Release Orders
Number of penalties
Number of seizures
Number of shipment detentions
Active investigations
Investigations suspended
Investigations closed

Source: GAO analysis of U.S. Customs and Border Protection documents. | GAO-21-106

The lack of baseline figures and targets has several implications. First, managers in the Forced Labor Division use its key performance indicators internally to assess workload, staffing, outcomes of outreach and engagement efforts, and results of enforcement actions. According to CBP officials, division managers also used these indicators to inform the division’s annual enforcement priorities. For example, the division tracked the number of outreach and engagement activities as a performance indicator. The division also set a priority for fiscal year 2020 on promoting effective enforcement of the prohibition on forced labor imports through engagement with the business community and foreign governments. Until the Office of Trade sets targets for forced labor key performance indicators, managers in the Forced Labor Division cannot perform thorough internal evaluations of its enforcement efforts.

Second, officials in the Office of Trade track and report on key performance indicators for each division to monitor ongoing operations and progress toward CBP’s strategic goals. For example, the Office of Trade tracked the number of WROs as an indicator of forced labor enforcement in its key performance indicator report for fiscal year 2019. However, officials in the Office of Trade did not use a baseline figure to set a target for this forced labor indicator. The Office of Trade did set targets for indicators for other offices included in its Key Performance Indicator Report for fiscal year 2019. Until the Office of Trade sets targets for these forced labor indicators, officials will not have information necessary to assess the performance of the Forced Labor Division and evaluate the degree to which it has achieved its objectives.

Third, officials in the Office of Trade use each division's key performance results to make resource allocation decisions. During the Office of Trade's annual resource allocation process, divisions submit budget justifications that evaluate the extent to which each division met the agreed-upon targets for its key performance indicators during the previous fiscal year. Because the Forced Labor Division has not yet prepared its own division-level budget submission for the annual resource allocation process and worked with the Office to Trade to establish baseline figures or targets for its key performance indicators, resource decisions cannot be based on performance. According to CBP officials, the Forced Labor Division anticipates preparing its own division-level budget submission once the TRLED reorganization is fully implemented. Until the Office of Trade sets targets for the Forced Labor Division's key performance indicators and uses them to assess operations, it will be unable to determine the degree to which the current alignment of resources and priorities within the division efficiently uses division resources to achieve its objectives.

ICE Increased Its Resources to Investigate Forced Labor Criminal Violations, including Those Related to U.S. Imports

ICE Personnel in the United States and Abroad Conduct Criminal Investigations and Outreach about Forced Labor

ICE's Forced Labor Program is organized under Homeland Security Investigations (HSI), which is responsible for cross-border criminal enforcement. The Forced Labor Program coordinates ICE criminal investigations into allegations of forced labor. These investigations are conducted by personnel in ICE's Domestic Operations and International Operations divisions in field offices across the United States and internationally. ICE forced labor investigations related to the importation of goods differ from CBP's investigations because ICE investigations relate to potential criminal violations by people or companies, whereas CBP Forced Labor Division investigations focus on civil violations by importers, according to ICE officials. The ICE Forced Labor Program also coordinates criminal investigations into other types of forced labor violations, such as sex trafficking involving U.S. citizens abroad or across U.S. borders, according to an ICE official. These investigations are not

related to the importation of forced labor–produced goods, and therefore may have a broader scope than Section 307 investigations conducted by CBP’s Forced Labor Division.

The ICE Forced Labor Program draws on resources and staff from different parts of HSI to conduct investigations. The Forced Labor Program consists of one full-time staff member who works exclusively on forced labor issues at HSI headquarters. ICE criminal investigators in the Domestic Operations division, located in HSI field offices across the United States, and in the International Operations division, located in ICE attaché offices in other countries, conduct investigations into potential criminal violations related to forced labor, among their other duties and areas of responsibility. ICE personnel investigate a broad array of potential cross-border crimes, including financial crimes, narcotics and weapons smuggling, cybercrimes, intellectual property theft, and transnational gang activity. An investigator in any domestic or international field office can begin an investigation into potential forced labor violations, according to an ICE official. HSI Domestic Operations has approximately 5,900 criminal investigators in 30 regional offices and 225 local field offices throughout the United States who can work on forced labor cases. HSI International Operations has more than 200 criminal investigators in 80 offices in 53 countries. According to an ICE official, the Forced Labor Program also relies on the work of the ICE Office of the Principal Legal Advisor, which regularly assists on forced labor activities.

Investigative activities. Criminal investigators initiate cases involving forced labor through a variety of methods, according to ICE officials. ICE officials described the activities of the ICE Forced Labor Program and investigators in the field when initiating forced labor cases. According to ICE officials, forced labor cases may begin as a result of information developed or received by HSI investigators. For example, investigators can receive reports of forced labor cases directly, and ICE can receive reports through an electronic mailbox. In international field offices, ICE investigators often receive tips or allegations from local nongovernmental organizations or other contacts in the country. ICE investigators can also initiate forced labor cases based on credible research from nongovernmental organizations or academic reports. Before opening a case, ICE personnel conduct pre-investigative work to determine the credibility of an allegation. ICE personnel coordinate with the ICE Forced Labor Program in conducting pre-investigative and investigative activities. For example, the ICE Forced Labor Program provides assistance in determining whether the allegation is credible and evaluating whether the

claim falls under the relevant definition of forced labor. If the ICE Forced Labor Program deems the allegation credible, the program official advises the ICE investigators to open an investigation into the potential violation. Investigations and cases can take years to develop.

Outreach activities. The ICE Forced Labor Program and ICE criminal investigators domestically and internationally conduct a range of outreach activities to educate others and collaborate to end forced labor worldwide. For example, the ICE Forced Labor Program official meets frequently with nongovernmental organizations, corporations, and trade associations to strategize about ways to collaborate to end forced labor worldwide, according to an ICE official. In 2017, the National Intellectual Property Rights Coordination Center, where the Forced Labor Program is located, and the International Operations division launched a campaign known as the Forced Labor Outreach and Targeting Initiative (Operation FLORA) to raise awareness of the effects of forced labor on society and trade. The initiative aims to forge additional partnerships with private industry, foreign governments, civil society organizations, academics, and others and leverage information from these partners to advance investigative efforts targeting criminal activity. The initiative also provides information to organizations that have a unique role in combating forced labor worldwide.

In 2019 and 2020, ICE announced new partnerships with nongovernmental organizations that are intended to provide ICE access to new information to combat forced labor in global commerce. These partnerships aim to assist HSI in gathering data, knowledge, and research that will improve transparency, assist in law enforcement approaches, and support prosecutions to try to eliminate forced labor. An ICE official told us these partnerships will support ICE forced labor investigations and strengthen the evidence collected.

Enforcement training. ICE provides training in forced labor criminal enforcement to all ICE investigators. Specifically, all ICE investigators receive training in trade and commercial fraud, which includes training on forced labor laws, as part of the ICE academy basic training. ICE's training efforts on forced labor increased after the passage of TFTEA in 2016, when ICE began providing additional training on forced labor investigations to personnel overseas, according to an ICE official. These personnel are briefed on country conditions relating to forced labor allegations, as well as resources and mechanisms available in conducting investigations. The ICE Forced Labor Program also provides training on forced labor and provides additional materials to ICE personnel overseas,

which those personnel, in turn, can use to train U.S. embassy officials, trade associations, foreign government officials, and others about U.S. forced labor laws, according to an ICE official. The ICE Academy also offers an advanced 2-week commercial fraud training course, available to domestic and international ICE investigators. The course covers forced labor laws, indicators of forced labor, and online and business resources available for conducting investigations. In 2017, the ICE National Intellectual Property Rights Coordination Center enhanced its course curriculum, particularly regarding trade enforcement, to reflect priority programs and initiatives, including forced labor.

Coordination with other U.S. agencies. ICE coordinates with CBP and other U.S. government agencies to share information and contribute to efforts to combat forced labor throughout the investigative process. Given the difficulty of documenting forced labor through complex supply chains, ICE and CBP coordinate extensively during forced labor investigations, according to an ICE official. ICE and CBP sometimes have related ongoing cases in which CBP focuses on civil enforcement of the import prohibition while ICE pursues criminal investigations. According to ICE officials, ICE notifies CBP of ongoing investigations and shares investigative findings, where appropriate, to assist CBP in detaining imported goods made with forced labor. Because ICE has more overseas personnel than CBP, ICE personnel sometimes assist CBP investigative efforts in regions where CBP does not have a presence, according to ICE officials. ICE and CBP international attachés meet regularly when located in the same country, according to ICE officials.

In addition, ICE investigators stationed domestically work closely with their CBP counterparts, according to an ICE official. For example, the ICE official told us that if ICE investigators receive a concrete allegation of imminent importation of goods made with forced labor, they notify CBP officers at the port of entry. ICE also coordinates with other U.S. agencies on its forced labor efforts. For example, according to ICE officials, ICE participates in the DHS-led Interagency Group on Goods Produced through Forced Labor, which meets monthly to share information on forced labor issues and ongoing investigations. ICE also coordinates with the Department of Justice to pursue potential criminal prosecutions related to forced labor.

ICE Reported Increased Spending on Forced Labor Criminal Enforcement Activities since 2016

ICE expenditures for forced labor criminal enforcement activities have increased annually since 2016. ICE reported total expenditures on investigations of forced labor of about \$40 million in fiscal year 2019, an increase of 7 percent since 2018 and more than 50 percent since 2016 (see fig. 4).³⁹ ICE's data systems do not enable a breakout for activities or funding specifically related to criminal violations associated with the importation of forced labor-produced goods into the United States. As a result, ICE expenditures on forced labor criminal enforcement activities include costs for cases on other types of forced labor issues. For example, ICE's reported expenditures include costs for criminal cases related to other countries' imports made with forced labor and sex trafficking violations involving U.S. nationals or migrants to the United States, according to an ICE official.

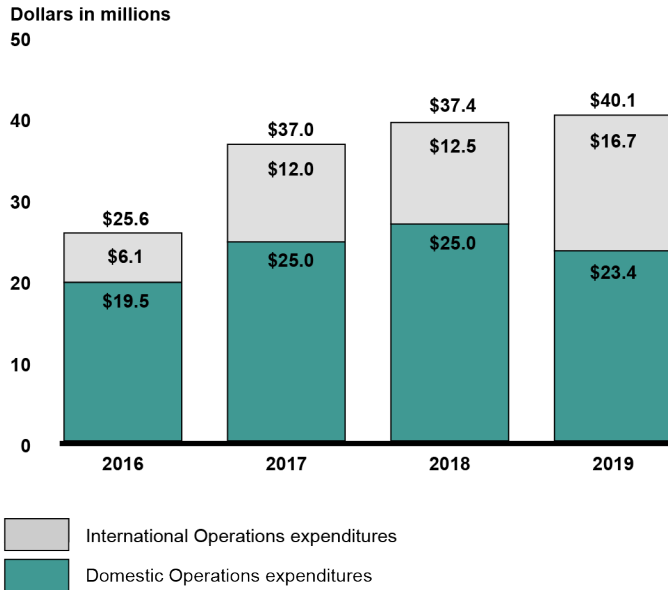
ICE reported increased expenditures on forced labor criminal enforcement activities in both its HSI Domestic Operations and International Operations divisions since 2016. ICE tracks and reports spending on these activities by the two divisions separately using different methodologies.⁴⁰ ICE reported Domestic Operations expenditures of \$23.4 million on forced labor investigations in fiscal year 2019, a 20 percent increase from 2016.⁴¹ ICE reported International Operations expenditures of about \$16.7 million on forced labor investigations in fiscal year 2019, more than double such expenditures in 2016.

³⁹ICE expenditures on forced labor investigations have not been adjusted for inflation.

⁴⁰ICE reports expenditures for International Operations using actual expenses for payroll, operating expenses, and general agency overhead, while it reports expenditures for Domestic Operations using an activity-based accounting method. ICE Domestic Operations has approximately 5,900 Special Agents, whose casework varies and can include forced labor cases. ICE Domestic Operations' activity-based accounting method tracks resources by investigative areas, including forced labor, rather than designating specific positions or employees and their supporting resources in the financial management system. As a result, ICE derives the analysis of budget expenditures based on the percentage of domestic investigative hours for forced labor against the ICE Domestic Operations budget.

⁴¹The data for Domestic Operations expenditures include forced labor case hours of criminal investigators in the Domestic Operations Division, as well as funding for the Forced Labor Program. According to ICE officials, the Global Trade Investigations Division, which houses the Forced Labor Program, is reported as part of the domestic portfolio.

Figure 4: Immigration and Customs Enforcement’s (ICE) Domestic and International Operations Expenditures for Forced Labor Criminal Enforcement Activities, Fiscal Years 2016–2019



Source: GAO analysis of U.S. Immigration and Customs Enforcement data. | GAO-21-106

Note: ICE expenditures on forced labor investigations have not been adjusted for inflation. Numbers might not sum to totals due to rounding.

ICE reports expenditures for International Operations using actual expenses for payroll, operating expenses, and general agency overhead, while it reports expenditures for Domestic Operations using an activity-based accounting method. ICE Domestic Operations expenditures for fiscal years 2016 through 2019 also include approximately \$500,000 annually in expenses from the Forced Labor Program within the Homeland Security Investigations (HSI) Global Trade Investigations Division.

ICE tracks its expenditures on forced labor criminal enforcement activities to ensure compliance with recurring congressional direction to spend no less than \$15.77 million on forced labor investigations annually, according to ICE officials.⁴² ICE periodically assesses the portion of funding for each

⁴²For example, the Joint Explanatory Statement and House Report 115-239, which accompanied the Fiscal Year 2018 DHS Appropriations Act, Pub. L. No. 115-141, Div. F (2018), directs ICE to allocate no less than \$15.77 million for domestic investigations of forced labor law violations, to include forced child labor.

international office that is allocated to forced labor investigations and outreach activities. It does so to ensure that this funding is allocated in proportion to the level of activities focused on forced labor at each post, which conducts a range of activities in addition to forced labor investigations, according to ICE officials. ICE data on International Operations expenditures from fiscal years 2016 through 2019 show that most funding was allocated to posts in Asia and South and Central America. The posts with the highest forced labor expenditures during this period were in Thailand, Brazil, Argentina, Cambodia, and India, which accounted for 45 percent of International Operations forced labor expenditures allocated to individual posts.

ICE criminal enforcement activities related to forced labor in importation have increased since Congress enacted TFTEA in 2016, according to ICE officials. Although ICE data systems do not enable a breakout for activities specifically related to importation, according to ICE officials, criminal enforcement activities related to forced labor in importation have increased for the ICE Forced Labor Program, as well as in the Domestic and International Operations Divisions, since 2016. Specifically, ICE officials said:

- The proportion of time devoted to investigations and outreach regarding forced labor in importation has grown for the ICE Forced Labor Program.
- The Forced Labor Program has also received more requests for support from Domestic Operations criminal investigators regarding importation-related cases.
- International Operations Division criminal investigators have increased criminal enforcement activities related to forced labor in importation as part of the new Forced Labor Outreach and Targeting Initiative, and ICE officials reported an increase in the number of International Operations positions supported by forced labor funding.

According to ICE officials, the increase in Domestic Operations investigative hours and expenditures on forced labor between fiscal years 2016 and 2017 was due to a new emphasis on these activities. In fiscal years 2019 and 2020, HSI specifically named these investigations among its priorities, which encourages ICE personnel in field offices to undertake investigations in these areas. The priority document for fiscal year 2019 stated that HSI “will increase our partnership with individual corporations, trade associations, nongovernmental organizations, foreign government officials, foreign and international law enforcement authorities, and

academics to prevent the exploitation of human beings to produce goods for consumption.” Moreover, ICE’s overall increase in investigations and outreach related to forced labor imports is a result of a number of factors, including the enactment of TFTEA, prioritization by HSI, and ICE’s priority on combating forced labor, according to ICE officials.

Although ICE has reported forced labor enforcement activities in its annual reports to Congress, some of the prosecutions and convictions reported pertained to other, related crimes such as fraud or smuggling, and not specifically to forced labor or the importation of forced labor products. ICE is directed to submit an annual report to Congress on expenditures and performance indicators associated with forced labor law enforcement activities.⁴³ ICE reported that it initiated 151 domestic and international forced labor cases in fiscal year 2017, the earliest year ICE reported such data, and 217 such cases in fiscal year 2018. According to ICE officials, these reported cases may include related criminal activities, such as human trafficking. ICE also reported 560 criminal arrests, 88 indictments, 92 convictions, 1,275 seizures, and \$1.4 million seized related to forced labor cases in 2018.⁴⁴ According to an ICE official, ICE forced labor investigations have not led to any prosecutions of importers for criminal violations of 18 U.S.C. § 1589, which specifically pertains to forced labor, but have led to prosecutions and convictions for other crimes, such as fraud or smuggling.⁴⁵ ICE is unable to identify specific investigations or resulting criminal charges that relate to Section 307 cases handled by CBP. As a result, the extent to which criminal charges

⁴³The fiscal year 2018 ICE Report to Congress on Forced Labor and Forced Child Labor was compiled in response to the Joint Explanatory Statement and House Report 115-239, which accompanied the Fiscal Year 2018 DHS Appropriations Act, Pub. L. No. 115-141, Div. F (2018).

⁴⁴For fiscal year 2017, ICE reported 311 criminal arrests, 161 indictments, 83 convictions, 4,397 seizures, and \$1.1 million seized related to forced labor cases. Seizures include drugs, guns, computers, counterfeit goods, vehicles, real estate, and drug paraphernalia, relating mostly to domestic sex and labor trafficking cases, according to ICE.

⁴⁵See 18 U.S.C. § 1589. ICE officials are currently working with officials at the U.S. Department of Justice to develop an understanding of the evidence needed to satisfy the elements of the law, and to identify a situation in which such a case could be brought under 18 U.S.C. § 1589, according to an ICE official. ICE criminal investigations must be accepted and prosecuted by the U.S. Department of Justice, so close coordination and alignment of priorities between the two agencies is needed for any type of prosecution, according to an ICE official.

related to Section 307 cases have been brought as a result of ICE investigations is unknown.⁴⁶

Conclusions

Forced labor is a pressing global humanitarian concern that involves all types of economic activity and affects an estimated 25 million people. Forced labor in the production of goods is also a persistent economic problem that harms the competitiveness of U.S. businesses. Following the enactment of TFTEA, which removed an exception from Section 307 that allowed items made with forced labor to be imported under certain circumstances, CBP created the Forced Labor Division and took steps to enforce the newly amended prohibition on goods made with forced labor. As of spring 2020, CBP has increased the division's financial and personnel resources, as well as enforcement efforts and investigations, to address forced labor. CBP is also considering further increases in resources. However, more than 2 years after it was established, CBP's Forced Labor Division has not undergone and documented a needs assessment to identify gaps in its workforce, and does not have a reasonable assurance that it has the right number of people, with the right skills, in the right places. In addition, CBP relies on incomplete and inconsistent information to manage its workload and performance. Furthermore, CBP does not use baseline figures to set targets for key performance indicators related to forced labor and, as a result, may be unable to assess performance and efficiently use division resources to achieve its objectives. As CBP continues to develop its Forced Labor Division workforce and goals, it could benefit from taking steps to enhance its performance management.

⁴⁶The Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018, Pub. L. No. 115-425, § 132 (2019), required GAO to identify instances in which the formal charging of criminal charges relating to forced labor schemes had occurred as a result of petitions received and cases initiated by CBP in enforcing Section 307 during the most recent 10 years. Because ICE has the responsibility for criminal enforcement related to forced labor at DHS, we spoke to ICE officials about the data collected by ICE and found that ICE does not track whether criminal charges brought as a result of ICE investigations related to specific Section 307 cases handled by CBP. We also spoke with the U.S. Department of Justice (DOJ) because DOJ works with ICE HSI, FBI, Diplomatic Security Service, Department of Labor, and other federal enforcement agencies to investigate and prosecute forced labor cases. According to DOJ, there have not been any criminal charges resulting from or related to Section 307 petitions or investigations during the period covering our mandate. DOJ does not systematically track cases based on their connection to Section 307 petitions, but it should be feasible to identify such cases in the future given the small number of potential such cases, according to DOJ officials. A future GAO report will address the remaining mandated reporting elements in response to the Frederick Douglass Trafficking Victims Prevention and Protection Reauthorization Act of 2018.

Recommendations for Executive Action

We are making the following three recommendations to CBP:

The Commissioner of CBP should ensure that the Office of Trade performs and documents a needs assessment to identify potential gaps in the workforce of its Forced Labor Division. (Recommendation 1)

The Commissioner of CBP should ensure that the Forced Labor Division issues guidance or takes other steps to improve the completeness, consistency, and accuracy of its summary data on active, suspended, and inactive forced labor investigations. (Recommendation 2)

The Commissioner of CBP should ensure that the Office of Trade sets targets for key performance indicators related to the enforcement of the prohibition on forced labor imports. (Recommendation 3)

Agency Comments and Our Evaluation

We provided a draft of this report to DHS for review and comment. The department's comments are reproduced in appendix III; DHS concurred with all three of our recommendations. In its comments, DHS stated that CBP's Office of Trade will develop a needs assessment to identify resource requirements to enforce the prohibition on forced labor imports. DHS also stated that the Office of Trade has begun developing a case management system for investigative programs, including forced labor. DHS further stated that the Office of Trade will examine whether additional key performance indicators related to forced labor enforcement are needed, and will revise its indicators and set targets if suitable. In addition, DHS, CBP, and ICE provided technical comments, which we incorporated as appropriate.

We are providing copies of this report to the appropriate congressional committees, the Acting Secretary of Homeland Security, the Acting Commissioner of CBP, the Acting Director of ICE, and other interested parties. In addition, the report is available at no charge on the GAO website at <https://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. GAO staff who made key contributions to this report are listed in appendix IV.

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 Requesters

The Honorable Richard E. Neal
Chairman
Committee on Ways and Means
House of Representatives

The Honorable Bill Pascrell Jr.
Chairman
Subcommittee on Oversight
Committee on Ways and Means
House of Representatives

The Honorable Earl Blumenauer
Chairman
Subcommittee on Trade
Committee on Ways and Means
House of Representatives

The Honorable Judy Chu
House of Representatives

The Honorable Danny K. Davis
House of Representatives

The Honorable Suzan K. DelBene
House of Representatives

The Honorable Lloyd Doggett
House of Representatives

The Honorable Brian Higgins
House of Representatives

The Honorable Ron Kind
House of Representatives

The Honorable John B. Larson
House of Representatives

The Honorable Linda T. Sánchez
House of Representatives

The Honorable Terri A. Sewell
House of Representatives

The Honorable Mike Thompson
House of Representatives

Appendix I: Objectives, Scope, and Methodology

In this report, we examine (1) the extent to which U.S. Customs and Border Protection (CBP) has assessed agency needs to enforce the prohibition on forced labor imports; (2) the outcomes of CBP's efforts to enforce the prohibition on forced labor imports, and the extent to which CBP monitored its progress; and (3) the resources that U.S. Immigration and Customs Enforcement (ICE) has dedicated to investigate forced labor activities, and how it has used these resources.

To examine the extent to which CBP has assessed agency needs to enforce the prohibition on forced labor imports since the enactment of the Trade Facilitation and Trade Enforcement Act (TFTEA) in 2016, we reviewed relevant CBP documents and data, and laws and regulations. We reviewed CBP's Standard Operating Procedures for Forced Labor Enforcement to identify the roles and responsibilities of CBP divisions in forced labor enforcement and map out the process by which CBP enforces the prohibition on forced labor imports. We interviewed cognizant CBP officials in the Office of Trade and Office of Field Operations involved in such enforcement about each office's roles and responsibilities in the process, including officials from the Trade Remedy Law Enforcement Directorate, Forced Labor Division, National Threat Analysis Division, Office of International Affairs, Office of Regulatory Audit and Agency Advisory Services, and Centers of Excellence and Expertise.

To describe the financial and human capital resources that CBP allocates to enforcing the prohibition on forced labor imports, we obtained expenditure data from CBP for the Forced Labor Division since it was established, covering fiscal years 2018 and 2019. Based on our review of the funding data and interviews with cognizant CBP officials on the accuracy and completeness of these data, we determined that the data we used were sufficiently reliable for our purposes of describing CBP expenditures for these enforcement efforts. We also reviewed CBP documentation of Forced Labor Division human resources, including the number of full-time equivalent (FTE) positions allocated to the division, position descriptions for division personnel, and appointment and release dates for current and former division staff. We reviewed agency documentation of the division's establishment, resources, outreach activities, training plans, and strategic planning and enforcement priorities related to forced labor. We also interviewed CBP officials in the Office of Trade about CBP's processes to assess resource needs for its enforcement efforts following the enactment of TFTEA, including officials representing the Forced Labor Division; Human Resources and Training Division; Financial Management Division; and Planning, Programming, Accountability, and Evaluation Division. We assessed the Forced Labor

Division's workforce planning and development of training requirements for its personnel against leading human capital management practices related to identifying mission-critical skills gaps and designing strategies to address such gaps.¹

To examine the outcomes of CBP's efforts to enforce the prohibition on forced labor imports since the enactment of TFTEA in 2016 and the extent to which CBP has monitored its progress on these enforcement efforts, we reviewed CBP documents and data, and interviewed CBP officials. We interviewed CBP officials in the Office of Trade and Office of Field Operations about the results of CBP's forced labor investigations and enforcement actions and how CBP measures and records outcomes. The officials we spoke with represented the Forced Labor Division, the Centers of Excellence and Expertise, and the Office of Regulatory Audit and Agency Advisory Services. We collected and analyzed the Forced Labor Division's case-tracking information on all of its active, suspended, and inactive forced labor investigations.² CBP provided us with updated information in July 2019, November 2019, and March 2020. We assessed the reliability of such data by analyzing the data for consistency and logic to identify observable issues and consulting with CBP officials on the accuracy and completeness of the data. In instances where we identified potential weaknesses in the data, we contacted relevant agency officials and obtained information from them necessary to resolve the inconsistencies. We determined that the data we used were sufficiently reliable for our purposes of analyzing certain information about CBP forced labor investigations, namely the number of cases and commodity, source country, and investigative phase for active cases and the number of suspended and inactive cases. We found certain elements of CBP's summary data about the characteristics and status of forced labor cases to be unreliable due to incomplete and inconsistent information, which we discuss in further detail in our report, and we chose not to report on certain elements of the data that we found to be unreliable.

As we discuss in our report, the Forced Labor Division's spreadsheet that tracks active, suspended, and inactive cases contained incomplete and inconsistent data. For example, data on sources of evidence and case

¹[GAO-04-39](#) and [GAO-19-157SP](#).

²Active cases are ongoing investigations the Forced Labor Division is pursuing; suspended cases are those the division does not have enough resources or information to pursue currently; and inactive cases are those without sufficient evidence or without a clear violation or connection to the U.S. market.

progress for active and suspended cases contained missing or inaccurate information. We assessed the Forced Labor Division's data management of its case tracking against Principle 13 of the federal internal control standards, which states that management should use quality information to achieve the entity's objectives.³ We also collected and analyzed the CBP data on detentions of shipments under enforcement actions regarding the prohibition on forced labor imports from 2016 through 2019. We interviewed cognizant CBP officials on the accuracy and completeness of these data. In instances where we identified potential issues or inconsistencies in the data, we contacted relevant agency officials and obtained information from them necessary to resolve or correct the issues or discrepancies. We determined that the data we used were sufficiently reliable for our purposes of describing CBP's detained shipments under forced labor enforcement actions.

We reviewed and analyzed data that the Forced Labor Division maintains to track its key performance indicators from September 2018 through September 2019. We interviewed cognizant CBP officials on the accuracy and completeness of these data. We determined that the data were not sufficiently reliable for our purposes of reporting CBP's key performance indicators related to forced labor. We reviewed agency documentation describing the Forced Labor Division's key performance indicators and strategic planning and enforcement priorities related to forced labor. We also interviewed CBP officials in the Office of Trade's Forced Labor Division, Financial Management Division, and Planning, Programming, Accountability, and Evaluation Division regarding the process through which CBP divisions develop and use key performance indicators as part of CBP's resource allocation process. We assessed the Forced Labor Division's management of its key performance indicators against Principle 16 of the federal internal control standards, which states that management should establish and operate monitoring activities to monitor internal control systems and evaluate their results.⁴

To examine the resources ICE has dedicated to investigate forced labor activities, and how it has used these resources since the enactment of TFTEA in 2016, we reviewed ICE documents and data, and interviewed ICE officials. We reviewed ICE's fiscal year 2017 and 2018 Forced Labor

³GAO, *Standards for Internal Control in the Federal Government*, [GAO-14-704G](#) (Washington, D.C.: September 2014).

⁴[GAO-14-704G](#).

and Forced Child Labor Reports to Congress, which include information on ICE expenditures and performance indicators associated with its forced labor law enforcement activities.⁵ We discussed the content and methodology for compiling the reports with agency officials from the Homeland Security Investigations (HSI) budget and data management offices responsible for gathering the information. We obtained additional expenditure data from ICE for all forced labor investigative and outreach activities covering fiscal years 2016 through 2019.

As discussed in our report, ICE's data systems do not enable a breakout for activities or funding specifically related to criminal violations related to the importation of forced labor-produced goods into the United States. As a result, ICE expenditures and performance indicators on forced labor criminal enforcement activities include other forced labor issues, such as sex trafficking violations involving U.S. nationals or migrants to the United States, according to an ICE official.

We then reviewed and analyzed the funding data and interviewed cognizant ICE officials on the accuracy and completeness of the data. In the small number of instances where we identified potential issues or inconsistencies in the data, we contacted relevant agency officials and obtained information from them necessary to resolve the discrepancies. We determined that the data we used were sufficiently reliable for our purposes of describing ICE forced labor expenditures.

We interviewed ICE HSI officials responsible for conducting forced labor investigations and outreach activities about the roles and responsibilities of each office, including the HSI Forced Labor Program, HSI Domestic Operations Division, and HSI International Operations Division. We reviewed agency documents describing ICE forced labor investigative and outreach plans and activities, HSI documents outlining its strategic plans and priorities, and ICE reports to Congress on its training, enforcement, and strategic planning related to forced labor. ICE forced labor enforcement activities included in its reports to Congress were beyond our scope focused on importation of forced labor products; therefore, we attributed this information to ICE. We also spoke with the

⁵The fiscal year 2017 ICE Report to Congress on Forced Labor and Forced Child Labor was compiled in response to the Joint Explanatory Statement which accompanied the Fiscal Year 2017 DHS Appropriations Act, Pub. L. No. 115-31, Div. F (2017). The fiscal year 2018 ICE Report to Congress on Forced Labor and Forced Child Labor was compiled in response to the Joint Explanatory Statement and House Report 115-239, which accompanied the Fiscal Year 2018 DHS Appropriations Act, Pub. L. No. 115-141, Div. F (2018).

U.S. Department of Justice (DOJ) on any criminal charges resulting from or related to Section 307 petitions or investigations during the period covering our mandate.

We conducted this performance audit from May 2019 to July 2020 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: U.S. Customs and Border Protection (CBP) Offices Supporting Forced Labor Investigations

Table 4 presents additional offices in U.S. Customs and Border Protection (CBP) that provide support for the Forced Labor Division's efforts to enforce the prohibition on forced labor imports.

Table 4: Roles and Responsibilities of U.S. Customs and Border Protection (CBP) Additional Offices Supporting Investigations into Allegations of Forced Labor

CBP office	Roles and responsibilities related to forced labor enforcement
Office of Trade, Regulations and Rulings	
Border Security and Trade Compliance Division	<ul style="list-style-type: none"> Reviews importers' applications, through its Cargo Security, Carriers and Restricted Merchandise Branch, which challenge CBP actions against their goods under a Withhold Release Order (WRO).
Office of Field Operations, Cargo and Conveyance Security	
Trade Operations Division	<ul style="list-style-type: none"> Distributes WRO instructions to field personnel. Maintains reports on forced labor merchandise detention and exclusion.
Customs Trade Partnership Against Terrorism	<ul style="list-style-type: none"> Collects information on social compliance programs of private sector partners.
Office of Field Operations, Field Offices	
Field Offices	<ul style="list-style-type: none"> Provide detention and seizure reports for all ports of entry under their area of responsibility.
Operations Support	
Laboratories and Scientific Services	<ul style="list-style-type: none"> Provides technical assistance in analyzing merchandise and entry documentation, and in detaining shipments.
Office of Chief Counsel	
Associate and Assistant Chief Counsel, Field Offices	<ul style="list-style-type: none"> Assist centers and ports in making recommendations on the disposition of merchandise detained under the prohibition on forced labor imports.

Source: GAO analysis of U.S. Customs and Border Protection documents. | GAO-21-106

Appendix III: Comments from the Department of Homeland Security

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



**Homeland
Security**

October 1, 2020

Ms. 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-21-106, "FORCED LABOR IMPORTS: DHS Has Increased Resources and Enforcement Efforts, but Needs to Improve Workforce Planning and Monitoring"

Dear Ms. Gianopoulos:

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

The Department is pleased with GAO's recognition that U.S. Customs and Border Protection's (CBP) increased its resources to enforce a prohibition on the importation of goods made with forced labor. The importation of goods produced with forced labor threatens the reliability of the U.S. supply chain and introduces unfair competition into the global market, which can negatively affect the competitiveness and integrity of American businesses. As part of its trade enforcement responsibilities, CBP vigilantly monitors U.S.-bound supply chains for products made with forced labor.

CBP's Office of Trade (OT), in collaboration with its Office of Field Operations and other CBP Offices: 1) leads the enforcement of prohibiting the importation of goods made from forced labor; 2) conducts investigations into allegations of forced labor; and 3) when substantiated, directs the associated enforcement actions. As part of this, CBP utilizes a risk-based approach to ensure that limited resources are focused on allegations that present the highest risk to U.S. commerce. Every day, CBP interdicts shipments containing goods that are unlawfully produced using forced labor, or that violate other trade laws.

The draft report contained three recommendations, with which Department concurs. Attached find our detailed response to each recommendation. DHS previously submitted technical comments 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

JIM H. CRUMPACKER, CIA, CFE

Director

Departmental GAO-OIG Liaison Office

Digitally signed by JIM H
CRUMPACKER
Date: 2020.10.01 16:04:18
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Attachment

**Attachment: Management Response to Recommendations
Contained in GAO-21-106**

GAO recommended that the Commissioner of CBP:

Recommendation 1: Ensure that the Office of Trade performs and documents a needs assessment to identify potential gaps in the workforce of its Forced Labor Division.

Response: Concur. With the release of the “DHS Strategy to Combat Human Trafficking, the Importation of Goods Produced with Forced Labor, and Child Sexual Exploitation,” on January 15, 2020, DHS asked CBP to provide an analysis of resource requirements to meet the forced labor enforcement objectives of the strategy, which was provided the following month. CBP’s OT will develop a needs assessment to identify resource requirements that meet CBP’s anticipated needs to meet the evolving and burgeoning 19 U.S. Code §1307, enforcement requirements. Estimated Completion Date (ECD): January 29, 2021.

Recommendation 2: Ensure that the Forced Labor Division issues guidance or takes other steps to improve the completeness, consistency, and accuracy of its data on active, suspended, and inactive forced labor investigations.

Response: Concur. CBP’s Forced Labor Division (FLD) within OT uses a spreadsheet, as identified in GAO’s report, as a supervisory administrative management tool to maintain oversight of casework. It is important to note, however, that this spreadsheet is not intended to be a case-management system. Rather, FLD uses a protected shared file space that manages case files, and the Division has operating procedures that guide its file structures and use. With the growth in forced labor and other investigative casework, CBP’s OT identified the need for an automated case management system. During Fiscal Year (FY) 2020, OT began developing a case management system for investigative programs under the Advanced Trade Analytics Platform program of record. ECD: June 30, 2021.

Recommendation 3: Ensure that of the Office of Trade sets targets for key performance indicators related to the enforcement of the prohibition on forced labor imports.

Response: Concur. OT currently has Forced Labor Key Performance Indicators (KPI) that serve as investigative outcomes for trade enforcement actions. Forced labor investigations, however, derive from allegations and sources that make it difficult to establish annual baselines and targets for the number of Withhold Release Orders (WRO) and their outcomes. OT will examine the need for additional KPIs associated with the resources needed in the enforcement of the prohibition on forced labor imports. Should additional KPIs be required, OT will establish revised KPIs and set targets, as appropriate, for FY 2021. ECD: October 30, 2020.

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Appendix IV: GAO Contacts and Staff Acknowledgments

GAO Contact

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Staff Acknowledgments

In addition to the contact named above, Adam Cowles (Assistant Director), Diana Blumenfeld (Analyst in Charge), Mary Edgerton, Martin De Alteriis, Lilia Chaidez, Bill Johnson, Christopher Keblitis, Aldo Salerno, and K. Nicole Willems made key contributions to this report.

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