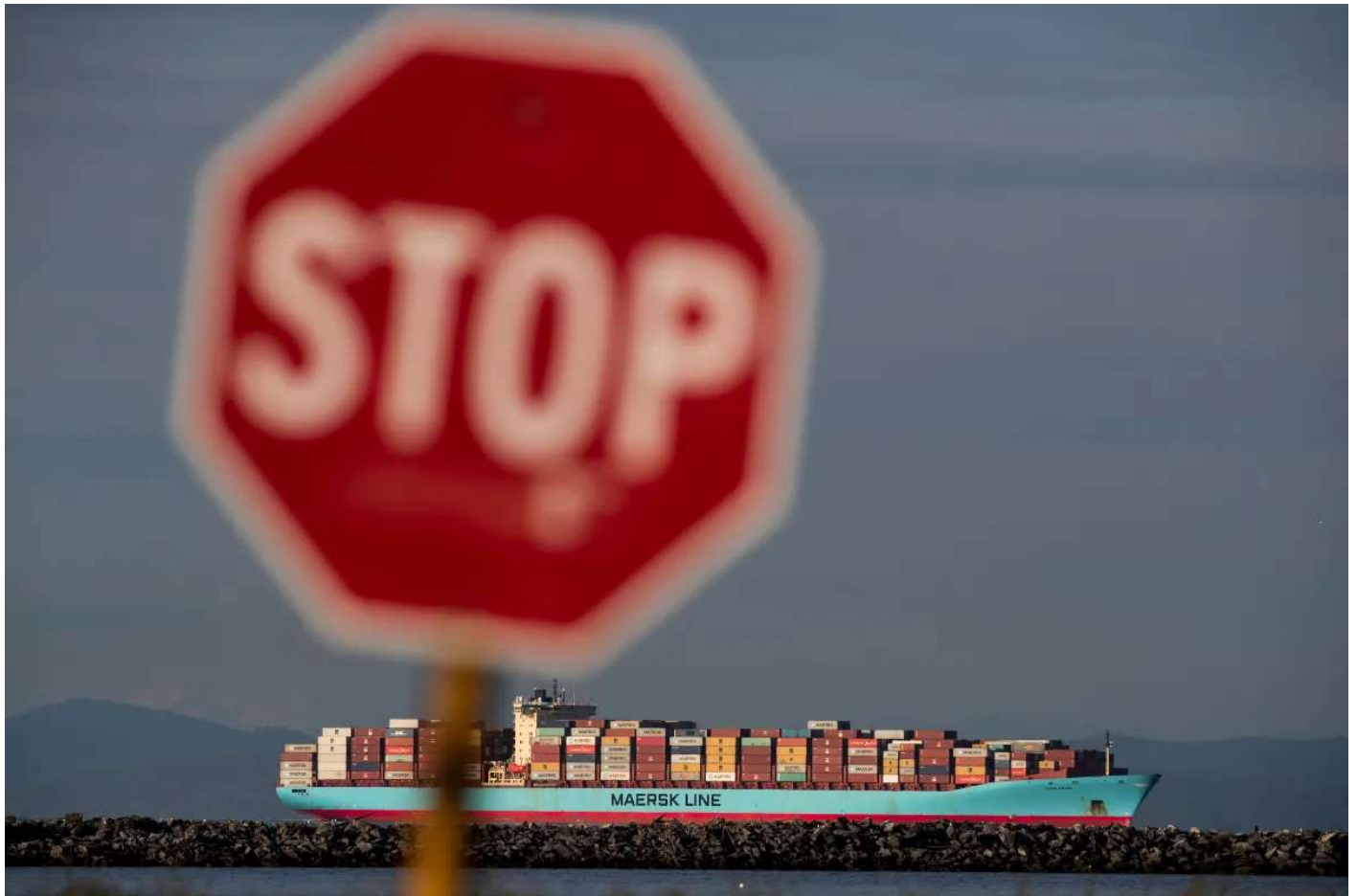




Canada Seizes First Shipment Over Forced-Labor Suspicions

By Jasmin Malik Chua



CREDIT: Darryl Dyck/The Canadian Press via AP

Rivet's 2021 winter issue has dropped! This in-depth issue examines the steps the global denim industry is taking to minimize its impact on the environment, from implementing zero waste production and design processes to establishing greenhouse gas emissions goals aligned with the Paris Agreement.

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The [Canada](#) Border Services Agency (CBSA) has intercepted a shipment of women's and children's clothing from [China](#) that it suspects of being manufactured, in whole or in part, using [forced labor](#).

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The seizure, made in the Quebec region “as of” Nov. 15, marks the first time authorities have enforced a rule that prohibits the importation of goods made with modern slavery, Rebecca Purdy, a spokeswoman from the agency, told Sourcing Journal. Accordingly, the shipment will not be released into the Canadian market but may be exported or abandoned to the Crown by the importers, she said, declining to identify the parties because of a provision in the [Customs](#) Act that allows the release of such information only under specific circumstances.

CBSA works collaboratively with Employment and Social Development Canada's labor program to determine the risk of forced labor for specific complaints or allegations pertaining to the import ban. “Unlike most other inadmissible goods, there is no visual indicator for a border services officer to validate the labor standards by which a particular good was produced,” Purdy said. “It takes research and coordination amongst all stakeholders to establish reliable and actionable sources of information to administer the prohibition.”

The blocked shipment is a “very big deal,” Dana Watts, a counsel at Miller & Chevalier who specializes in customs law, told Sourcing Journal. “While many countries have official policies against forced labor, few have actual laws against the importation of goods made with forced labor.”

Importing goods tainted with forced labor has been illegal in the Great White North since last July, when it amended its customs tariff following the passage of the United States-Mexico-Canada Agreement, the North America Free Trade Agreement's successor. Mexico's government has yet to pass a similar version.

Because details are scant, it's uncertain if the shipment hailed from the [Xinjiang](#) Uyghur Autonomous Region, where reports of state-sponsored forced labor programs for Uyghurs, Kazakhs and other Turkic Muslim minorities have stirred growing outrage among the international community, the United States in particular. Since January, U.S. Customs and Border Protection (CBP) has barred all cotton and [cotton-containing products](#) from Xinjiang, citing Beijing's use of extrajudicial imprisonment, torture, forced sterilization, forced labor and other repressive measures on the Uyghur community, which Chinese officials have repeatedly and vociferously denied. Should the [Uyghur Forced Labor Prevention Act](#) pass into law, all products from Xinjiang will be verboten unless clear and convincing evidence can be supplied.

“I'm guessing it came from Xinjiang and it was probably cotton apparel—and there is a lot of evidence that cotton products out of Xinjiang are being produced with forced labor,” said Angela Santos, who leads Arent Fox's task force on forced-labor risks in the supply chain. “This [prohibition] has been on the books for a long time. That the CBSA is actually finally using its enforcement action, I'm guessing it's due to political pressure.”

Canada, Santos noted, hasn't done anything "proactive" until now beyond issuing guidance against importing goods produced with forced labor and conducting business in Xinjiang. The burden of proof is higher in Canada than in the United States. Though American customs officials can bar the entry of products based on evidence that "reasonably but not conclusively" suggests that forced labor was involved in their supply chains, Canadian authorities have to gather "legally sufficient and defensible evidence" in order to do the same.

"So this is a signal to the industry that they are now enforcing these prohibitions, and that companies importing into Canada should be wary and do some [supply-chain due diligence](#) before they import goods that are suspected of coming from a region that produces goods with forced labor like Xinjiang, or products that are known to be produced with forced labor," she added.

This could just be the first of many seizures, Santos warned, which means Canadian brands and retailers need to be on alert like never before. "Canada companies likely haven't been doing the same type of due diligence that U.S. companies have been doing, just because there was no enforcement," she said. "So they should be aware and start reviewing their supply chain." Canadian retailer [Reitman's](#), for instance, recently caught flak for importing more than 100 shipments of clothing from a Chinese factory suspected of using North Korean forced labor. It has since dropped the supplier.

Bob Kirke, executive director of the Canada Apparel Federation, a trade association that represents manufacturers, designers and suppliers to the industry, said there needs to be more clarity from CBSA about what it requires from importers, "because in so many respects, you need to prove a negative."

The United States, too, he told Sourcing Journal, needs to "clean up" what it asks of companies, so there can be a better alignment on import requirements. "I'm not going to speak on behalf of U.S. importers, but I know a lot of them and they're not particularly fond of the process right now with CBP because, again, they have to prove a negative," he added. "At the end of the day, we're going to have to figure out what the balance is because you could seize every piece of cotton coming into the United States coming from anywhere, and I don't think we really want that."

But Canada will work through this, Kirke said, noting that CBP has detained nearly 1,500 shipments of goods suspected of being made with forced labor [this year alone](#). "The U.S. has been at it since 1930, so I would expect you to have a bit more practice there," he said, referring to section 307 of the [Tariff Act of 1930](#), which prohibits importing any product that was mined, produced or manufactured wholly or in part by forced labor, including forced or indentured child labor. "We've been at it since 2020."

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