



March 26, 2021

Honourable Bill Blair
Minister of Public Safety and Emergency Preparedness
House of Commons
Ottawa, ON
K1A 0A6

CC:

Mr John Ossowski
President of the Canada Border Services Agency

280 Albert Street, Suite 100
Ottawa, ON, K1P 5G8, Canada

+1 (613) 791-7532

www.aboveground.ngo

Dear Minister Blair,

I'm writing to you on behalf of Above Ground, a human rights project that seeks to ensure companies based in Canada or supported by the Canadian state respect human rights wherever they operate.

We were very interested to learn of Canada's adoption last July of a prohibition on the importation of goods made by forced labour, and we look forward to working alongside various civil society partners to promote awareness of this new provision and the need for a strong enforcement regime.

We would like to learn more about the government's current enforcement plans. Please see our questions below. While some of these questions have been partially addressed in recent media coverage, we are requesting a written response from your office, given your oversight of the Canada Border Services Agency (CBSA), to gain a more complete understanding.

On a few points, for instance regarding the complaints process, we have directed similar questions to the labour minister, as we are unsure if these matters fall under the responsibility of Employment and Social Development Canada (ESDC) or the CBSA.

We would be grateful for a response to our questions by April 9, if possible. We trust you appreciate the urgent nature of this issue, given media investigations showing that Canada is importing a steady stream of goods from factories where people are reportedly forced to work under abusive and in some cases life-threateningly dangerous conditions.

Thank you for your time and attention to this matter.

Sincerely,
Karen Hamilton

Questions regarding the *Customs Tariff* prohibition on the importation of goods produced wholly or in part by forced labour

1. Has the government adopted or will it adopt regulations regarding the enforcement of this legal provision?
2. Would it constitute a civil or criminal offence for an importer to import goods made by forced labour? If so, could the importer face any legal penalties (e.g., fines)?
3. Which government department(s), agencies or offices are responsible for enforcing this legal provision, and what role does each play?
4. At the CBSA, how many full-time equivalent staff have been designated to carry out work enforcing or supporting the enforcement of this provision?
5. According to the [Toronto Star](#), a spokesperson for the labour minister's office reports that "enforcement actions on shipments or supply chains are usually complaint driven."
 - o Is it the government's intention that enforcement of the prohibition on imports involving forced labour will be largely complaint driven?
 - o Who may make such complaints, and how? Is this information publicly posted, or will it be, and where?
 - o Have any such complaints been made to date?
6. The *Toronto Star* [reports](#) that Employment and Social Development Canada (ESDC) is "supposed to develop the criteria by which shipments can be stopped over forced labour concerns," and may recommend "entities to the CBSA to apply the tariff."
 - o Is this correct?
 - o Will the CBSA consider information from sources other than ESDC in deciding whether to stop shipments?
 - o Will the CBSA initiate its own research on companies, sectors or countries of concern?
7. How would shipments be stopped by the CBSA? For instance, would it issue an order that shipments of the goods in question be detained at the border? By what criteria would these goods be released, or the detention order revoked?
8. Beyond targeting goods produced by a particular company, has the government decided whether the CBSA may block the import of certain types of goods produced in a particular region or country?

9. To date, have Canadian authorities taken any enforcement action(s) in relation to this tariff provision?
10. Have any goods been detained at the border under this provision?
11. Is there anything else you can tell us about the CBSA's plans for enforcing this provision?



Canada Border Services Agency Agence des services frontaliers du Canada

President Président

Ottawa, Canada
K1A 0L8

Ms. Karen Hamilton
Above Ground
100 - 280 Albert Street
Ottawa, Ontario K1P 5G8

Dear Ms. Hamilton:

Thank you for your correspondence of March 26, 2021, to the Honourable Bill Blair, Minister of Public Safety and Emergency Preparedness, concerning the importation into Canada of goods produced by forced labour. I appreciate your providing me with a copy of your correspondence, and I am responding on behalf of Minister Blair.

As you are aware, Canada has imposed an importation ban on goods that were produced by forced labour, as described in *An Act to implement the Agreement between Canada, the United States of America and the United Mexican States*, which received Royal Assent on March 13, 2020. As described in subsection 202(8), Chapter 98, tariff item no. 9897.00.00 of the *Customs Tariff*, the law has been amended to include a reference prohibiting goods mined, manufactured, or produced wholly or in part by forced labour. The Canada-United States-Mexico Agreement came into effect on July 1, 2020.

On June 30, 2020, the Canada Border Services Agency (CBSA) published Customs Notice 20-23 (<https://www.cbsa-asfc.gc.ca/publications/cn-ad/cn20-23-eng.html>), advising the importing community of the import prohibition on goods that were mined, manufactured, or produced wholly or in part by forced labour.

Employment and Social Development Canada (ESDC) is the Government of Canada's lead department for labour-related programs. The CBSA works closely with ESDC to identify goods that have been produced by forced labour in order to prevent their entry into Canada. ESDC's Labour Program is actively monitoring and researching evidence related to problematic supply chains. Documented evidence of goods being produced using forced labour is transmitted for the CBSA's consideration. The Agency may use this information to identify and intercept shipments containing goods that have been identified as suspected to have been produced by forced labour.

Shipments containing goods suspected of being produced by forced labour are detained at the border for inspection by a border services officer (BSO). If in the judgement of the BSO the goods were produced by forced labour, the officer will apply the classification under tariff item no. 9897 of the *Customs Tariff* and prohibit the goods from entering Canada. Determinations are made on a case-by-case basis for each specific shipment intercepted, based on available supporting evidence and analysis.

Importers of goods classified under tariff item no. 9897.00.00 may appeal the classification, re-export the goods, or abandon the goods to the Crown. To date, the CBSA has not applied the import prohibition for production by forced labour.

Unlike most other inadmissible products, there is no visual clue for a BSO to understand the labour standards by which a particular import was produced. Establishing that goods were produced by forced labour and compiling evidence requires a significant amount of research and analysis in coordination with other government department partners. The CBSA requires legally sufficient and defensible evidence of production by forced labour in order to be in a position to apply the tariff classification and prohibit the goods from entering Canada.

Importers are responsible for ensuring that any goods that they are importing to Canada are compliant with Canadian law. The Government of Canada expects companies to take every step possible to ensure that their supply chains conform to Canadian law with respect to the import prohibition on goods that were produced by forced labour. It is the responsibility of the importing company to conduct due diligence on its supply chains to ensure that it is not directly or indirectly sourcing products from entities implicated in forced labour or other human rights violations. To aid in these efforts, Global Affairs Canada has published *A Strategy for the Future: Responsible Business Conduct for Canadian Companies Abroad* (https://www.international.gc.ca/trade-commerce/consultations/responsible_business-conduit_responsable/issue-travail.aspx?lang=eng), which includes guidance with respect to forced labour.

A number of other resources are available to assist companies in conducting their due diligence. Canadian companies can contact the National Contact Point (https://www.international.gc.ca/trade-agreements-accords-commerciaux/ncp-pcn/index.aspx?lang=eng&menu_id=1&menu=R), or the Canadian Ombudsperson for Responsible Enterprise (https://core-ombuds.canada.ca/core_ombuds-ocre_ombuds/index.aspx?lang=eng), whose mandate includes advising Canadian companies on meeting high standards of responsible business conduct.

In addition, the Trade Commissioner Service, through its offices in China (please consult <https://www.tradecommissioner.gc.ca/china-chine/index.aspx?lang=eng#to>), can provide information. In terms of non-governmental resources, companies can work with or reference third-party entities with specialization in supply-chain risks, such as KnowTheChain, the Responsible Sourcing Tool, and the Responsible Business Alliance.

Anyone wishing to share general information on forced labour or problematic global supply chains that can support ESDC-Labour in conducting its research and analysis can contact EDSC.AIIT.TravailForce-ForcedLabour.IILA.ESDC@labour-travail.gc.ca. More information on forced labour and the role of ESDC-Labour in supporting the forced labour import prohibition can be found at <https://www.canada.ca/en/employment-social-development/services/labour-relations/international/support.html>.

Persons seeking to report suspected cases of prohibited goods being imported to Canada, including goods produced wholly or in part by forced labour, can contact the CBSA's Border Watch Line at 1-888-502-9060.

Thank you again for writing.

Yours sincerely,

A handwritten signature in blue ink, appearing to read "JOSSOWSKI".

April 29, 2021

John Ossowski



May 19, 2021

Honourable Bill Blair
Minister of Public Safety and Emergency Preparedness
House of Commons
Ottawa, ON
K1A 0A6

CC:

Mr John Ossowski
President of the Canada Border Services Agency

280 Albert Street, Suite 100
Ottawa, ON, K1P 5G8, Canada
+1 (613) 791-7532
www.aboveground.ngo

Dear Minister Blair,

Thank you for your response to our letter of March 28, 2021. We have two additional questions.

1. The *Toronto Star* reports that “once finished its research and analysis, ESDC said it doesn’t plan to name suspect companies publicly.” To your knowledge, will any government body make public the names of any of these:
 - o Manufacturers whose products are identified by ESDC as being produced or likely produced by forced labour?
 - o Manufacturers whose products are subject to a detention order or any other measure aimed at restricting their entry into Canada?
 - o Goods of a certain type from a certain region that are subject to a detention order or similar measure?
 - o Companies found to still be importing into Canada goods that are subject to a detention order or similar measure?
 - o Companies that are issued fines or other penalties for importing goods produced by forced labour?

2. Will the government publish other information about enforcement actions taken? (Eg., periodic reporting on the number of recommendations made by ESDC, number of detention orders issued, shipments detained, importers investigated or charged, etc.)

Thank you for your time and attention to this matter. We hope to receive your response by May 25, 2021.

Sincerely,
Karen Hamilton
Interim director, Above Ground



Canada Border
Services Agency

Agence des services
frontaliers du Canada

President

Président

Ottawa, Canada
K1A 0L8

Ms. Karen Hamilton
Above Ground
100 - 280 Albert Street
Ottawa, Ontario K1P 5G8

Dear Ms. Hamilton:

Thank you for your follow-up correspondence of May 19, 2021, to the Honourable Bill Blair, Minister of Public Safety and Emergency Preparedness, concerning the importation into Canada of goods produced by forced labour. Once again, I am pleased to address your additional questions on behalf of Minister Blair.

As previously stated, the Canada Border Services Agency (CBSA) works closely with ESDC to identify goods produced by forced labour in order to prevent their entry into Canada pursuant to the Canada-United States-Mexico Agreement (CUSMA).

ESDC's Labour Program, the lead department for labour-related programs, is actively monitoring, researching, and working towards the establishment of documented evidence related to problematic supply chains and goods being produced by forced labour. Such information is transmitted by ESDC to the CBSA for consideration and may be used, pursuant to the *Customs Tariff*, to detect and intercept shipments of goods that are suspected to have been produced by forced labour.

The CBSA cannot disclose the names of businesses that have been subject to enforcement action at the border, as this information is protected under the *Privacy Act* and the *Customs Act*. However, the Agency may disclose statistical data related to the number of shipments and the types of commodities that have been intercepted. Requests for this type of information can be submitted via the CBSA's Client Support Contact Form (www.cbsa-asfc.gc.ca/contact/csform-formulaire-sc-eng.html), and will be reviewed on a case-by-case basis. As matters related to labour practices in foreign countries fall under the purviews of Global Affairs Canada and ESDC, I have taken the liberty of forwarding a copy of your correspondence to my counterparts, Ms. Marta Morgan, Deputy Minister of Foreign Affairs, and Ms. Sandra Hassan, Deputy Minister of Labour and Associate Deputy Minister of Employment and Social Development, for their information and consideration.

Canada 

For more information on the forced-labour import prohibition, please consult CBSA Memorandum D9-1-6, *Goods Manufactured or Produced by Prison or Forced Labour*, at www.cbsa-asfc.gc.ca/publications/dm-md/d9/d9-1-6-eng.html.

Thank you again for writing.

Yours sincerely,



June 09, 2021

John Ossowski

c.c.: Ms. Marta Morgan, Deputy Minister of Foreign Affairs
Global Affairs Canada

Ms. Sandra Hassan, Deputy Minister of Labour and
Associate Deputy Minister of Employment and Social Development
Employment and Social Development Canada