

Dems Ask Trump To Get Tough On Palm Oil Slave Labor

By Jennifer Doherty

Law360 (December 15, 2020, 9:05 PM EST) -- Democrats pressed the Trump administration Tuesday over its action on forced labor in the production of palm oil, a ubiquitous component in goods from cookies to detergent, which is too often produced under "slave-like labor conditions," according to the lawmakers.

Reports in the media and from organizations like the European Commission and Amnesty International have since 2015 associated palm oil, the most widely consumed vegetable oil on the planet, to deforestation and human rights abuses in countries where it is produced.

In their letter to U.S. Customs and Border Protection acting Commissioner Mark Morgan, the 25 Democratic members of the House Ways and Means Committee applauded the agency's move to ban imports from Malaysian manufacturer FGV Holdings Bhd. In September, CBP issued a withhold release order, or WRO, against the company, which the congressmembers called "one of the worst actors" in the palm oil space.

But the scope of the problem calls for more sustained action, according to the lawmakers.

"Issuing a single WRO will clearly not address the ubiquitous forced labor problems in the palm oil sector described above," the committee members said, calling for "strengthened and focused forced labor enforcement" of palm oil entering the U.S.

The politicians included a list of questions about the agency's enforcement activity in the palm oil sector and about FGV's activities since the WRO went into effect, including whether the company had been allowed to re-export ethically questionable palm oil shipments from the U.S. to sell in other countries.

The committee members concluded by asking CBP whether it had considered a blanket WRO on Malaysia or Indonesia, two of the top palm oil exporters globally.

That question raised a red flag with Crowell & Moring LLP attorney Frances Hadfield, who worked to free a Malawi tobacco company of a countrywide WRO earlier this year.

"A regional or national ban doesn't necessarily address the forced labor problem in an effective way," she told Law360. "And making a sweeping statement that it's prevalent, without identifying a specific manufacturer with a problem, is overbroad."

For the veteran trade lawyer, a company-by-company approach such as the FGV ban made more sense.

"Once you have an opportunity to test a company's compliance policies, you can see what companies are doing to keep forced labor out of their supply chains and whether it is effective. But to make such sweeping and broad-brush claims just disregards the efforts companies are already making in many cases," Hadfield said.

Earlier in December, the Trump administration announced its sixth ban in three months on Chinese imports believed to be produced by detained members of the country's persecuted Uighur Muslim population.

Ken Cuccinelli, acting deputy secretary of the U.S. Department of Homeland Security, lauded the move as a sign of the agency's moral leadership.

"DHS is taking the lead to enforce our laws to make sure human rights abusers, including U.S. businesses, are not allowed to manipulate our system in order to profit from slave labor," he said.

--Additional reporting by Alyssa Aquino. Editing by Adam LoBelia.