



U.S. Bans Importation of Malaysian Palm Oil Products by FGV Holdings Berhad, Following Petition Filed by the Grant & Eisenhofer’s ESG Institute

U.S. Customs and Border Protection issued Sept. 30 withhold release order against all palm oil and palm oil products made by FGV, Malaysia’s biggest palm oil producer, and its subsidiaries; ESG Institute’s 2019 petition challenged company’s illegal child labor and forced-labor abuses at FGV oil-palm plantations

NEW YORK (Oct. 5, 2020) – In an important human rights order issued Sept. 30, U.S. Customs and Border Protection banned all palm oil and palm oil products manufactured by Malaysia’s biggest palm oil producer, FGV Holdings Berhad.

The CBP’s order comes after the **Grant & Eisenhofer ESG Institute**, a policy group focused on environmental, social and governance issues for institutional investors, petitioned the agency last summer to ban U.S. importation of FGV’s palm oil and palm oil products. The petition alleged widespread evidence of forced labor and illegal child labor practices on the company’s palm oil plantations in Malaysia.

The CBP, an agency within the Department of Homeland Security responsible for enforcing the Tariff Act and its amendments, issued the ban against FGV and its subsidiaries on its website as a “withhold release order.” Here is a link to the Sept. 30 order: <https://www.cbp.gov/trade/programs-administration/forced-labor/withhold-release-orders-and-findings>

“The ban of FGV products from entering into the U.S. stream of commerce is an important milestone in combating forced labor in the palm oil industry,” notes **Olav Haazen**, a director at the law firm of **Grant & Eisenhofer**, who filed the petition with the CBP for the firm’s ESG Institute. “We’re gratified that the U.S. government, by issuing a withhold release order against FGV, acknowledges the seriousness of this problem. Bringing it to the U.S. Customs and Border Protection’s attention through the petition was our main objective.”

The ESG Institute filed its CBP petition in June 2019 as part of ongoing efforts to advocate for sustainable and ethically responsible business practices. The petition contended that FGV exploited foreign migrant workers, some of whom are likely trafficking victims. Based in part on confidential information, the petition also cited various news reports as well as a November 2018 **decision letter** to FGV from nonprofit trade organization Roundtable on Sustainable Palm Oil, which sanctioned the company and found numerous indicators of forced labor present on FGV plantations. A copy of the Grant & Eisenhofer ESG Institute’s press release announcing the filing of the petition can be viewed [here](#), and the petition itself can be viewed [here](#).

Grant & Eisenhofer director **Deborah Elman**, who filed the petition with Mr. Haazen, notes that in addition to being a human rights victory, the CBP order is significant, given the ubiquity of palm oil and palm oil products throughout the U.S. supply chain.

“Palm oil is found in roughly half of all packaged food products sold in the U.S.,” said Ms. Elman. “It is also an ingredient in pharmaceuticals, hygiene products and detergents.” She noted that America is the eighth-largest importer of Malaysian palm oil-based products, and that some of the largest U.S. companies have sourced palm oil from FGV mills, while others have joint ventures with the Malaysian company.

Ms. Elman pointed out that legal basis of the petition relied on the Trade Facilitation and Trade Enforcement Act, signed in 2016 by President Obama, which repealed the consumptive demand exception of the Tariff

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Act of 1930. While the Tariff Act prohibited the importation of goods produced in any foreign country by forced labor, it also contained an exception which allowed for importation of forced-labor goods, if the goods were not produced in such quantities stateside as to meet U.S. domestic consumptive demand.

“By repealing the consumptive demand exception, the Trade Facilitation and Trade Enforcement Act closed a legal loophole that for years had permitted the import of goods made from forced labor,” said Ms. Elman. Commenting on the CBP’s order to ban FGV palm oil products, Ms. Elman stated: “We are gratified that our petition helped focus much-needed attention on the forced labor and human suffering associated with the Malaysian palm oil industry and that the CBP has issued its order banning products by FGV from entering the United States.”

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