

September 23, 2022

Commissioner Chris Magnus  
U.S. Customs and Border Protection  
1300 Pennsylvania Ave. NW  
Washington, D.C. 20229

The Honorable Alejandro Mayorkas  
Secretary  
U.S. Department of Homeland Security  
3801 Nebraska Ave. NW  
Washington, D.C. 20016

Re: Request to Investigate SHEIN Distribution Corporation on Suspicion of Selling Goods  
Made with Forced Labor to US Consumers

Commissioner Magnus and Secretary Mayorkas:

The Coalition for a Prosperous America (CPA) requests that CBP investigate SHEIN Distribution Corporation, the Chinese company dominating fast fashion online retail, out of a reasonable suspicion the cotton clothing items and goods sold to American consumers are sourced from cotton grown, picked, and processed using forced labor. Pursuant to Section 307 of the Tariff Act of 1930, as amended (19 U.S.C. § 1307), it is prohibited to import goods made wholly or in part with forced labor. Additionally, the Uyghur Forced Labor Prevention Act (UFLPA) creates a rebuttable presumption that goods and inputs sourced from Xinjiang are made with forced labor and therefore barred entry into the United States unless proven otherwise under a high evidentiary standard. This is due to the widely reported and officially recognized human rights abuses carried out by China's ruling Chinese Communist Party (CCP) against the region's ethnic minorities, particularly the Uyghurs.

### **Background**

SHEIN is the largest clothing retailer in the world by market capitalization, having recently been valued at \$100 billion by investors after a short period of staggering growth. For perspective, SHEIN is the third highest valued privately-held company in the world behind only SpaceX and Byte-Dance (TikTok parent company), making it worth more than the combined value of major clothing retailers H&M and Inditex (Zara parent company).<sup>1</sup> As reported in *Wired*, the company has quickly captured nearly 30% of the U.S. fast fashion market and updates its website with 6,000 new styles daily, on average—"an outrageous figure even in the context of fast fashion"—which is more than 18-times the *combined* amount of new styles listed by the Gap, H&M, and Zara in a 12-month period.<sup>2</sup>

SHEIN is able to produce thousands of new styles so rapidly through a web of manufacturers mostly located within Guangzhou, China. For its SHEIN branded lines, it designs products in-house and farms out the manufacturing to local contract manufacturers. For its third-party suppliers and brands, it sources from over 6,000 small- and medium-sized brands spanning over

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<sup>1</sup> [https://www.wsj.com/articles/shein-valued-at-100-billion-in-funding-round-11649126740?mod=Searchresults\\_pos4&page=1](https://www.wsj.com/articles/shein-valued-at-100-billion-in-funding-round-11649126740?mod=Searchresults_pos4&page=1); <https://www.wired.com/story/fast-cheap-out-of-control-inside-rise-of-shein/>

<sup>2</sup> Ibid.

17 categories.<sup>3</sup> Its business model relies on initially placing ultra-small batch orders for new designs that can be produced from initial conception to packaged finished good within a single week, far faster than any other company in the fast fashion space.<sup>4</sup> This allows it to constantly shuffle between new products.

### **Suspected Forced Labor**

Approximately 91% of all cotton grown in China is produced in the Xinjiang region,<sup>5</sup> which in turn represents 67% of China's total cotton consumption<sup>6</sup> and about 20% of the world's entire cotton supply.<sup>7</sup> CBP's own UFLPA strategy report lists cotton as a high-priority sector of enforcement given the widespread prevalence of forced labor known to exist in Xinjiang cotton cultivation. The Report acknowledges, "Raw or processed materials (e.g., cotton, thread or yarn) manufactured in Xinjiang may be shipped to another region or province in the PRC or to a third country for processing. Those materials could be commingled with inputs from other regions and obscure the origin of the materials imported into the United States."<sup>8</sup> Indeed, one textile industry CEO of a major American company, with intimate knowledge of the garment-making process from cotton picking to finished good—who wished to remain anonymous, remarked to CPA that "it would be virtually impossible for a company as large as SHEIN with a sprawling, decentralized network of over 6,000 smaller manufacturers all located in China to ensure that no cotton fibers harvested in Xinjiang with forced labor entered its supply chains, especially given the unprecedented volume and differentiation of products and the break-neck speed of production."

Given both the nature of SHEIN's unique business model, and how Xinjiang-cotton diffuses throughout and saturates China's domestic cotton supply, CBP should be able to conclude with a *reasonable suspicion*, as laid out in 19 U.S.C. § 1307 and the Code of Federal Regulation,<sup>9</sup> that SHEIN's cotton or mixed-cotton products are made with forced labor. After concluding such, CBP should issue a Withhold Release Order (WRO) against these goods to prevent their importation into the United States.

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<sup>3</sup> <https://us.shein.com/2021-Sustainability-and-Social-Impact-Report-a-1218.html>

<sup>4</sup> <https://stories.publiceye.ch/en/shein/>; "[That's] faster than Zara's famous three-week turnarounds and significantly quicker than the three-to-six months lead time typically needed by traditional apparel makers."  
<https://www.yahoo.com/now/trump-trade-war-built-shein-040117864.html>

<sup>5</sup> <https://www.scmp.com/economy/china-economy/article/3182177/how-us-xinjiang-labour-law-has-crippled-chinas-cotton>

<sup>6</sup> Ibid.

<sup>7</sup> *Strategy to Prevent the Importation of Goods Mined, Produced, or Manufactured with Forced Labor in the People's Republic of China*, June 17, 2022 Report to Congress.

<sup>8</sup> Ibid.

<sup>9</sup> 19 CFR § 12.42(e): "If the Commissioner of CBP finds at any time that information available reasonably but not conclusively indicates that merchandise within the purview of section 307 is being, or is likely to be, imported, he will promptly advise all port directors accordingly and the port directors shall thereupon withhold release of any such merchandise pending instructions from the Commissioner as to whether the merchandise may be released otherwise than for exportation."

## **Enforcement & Oversight of Forced Labor Suspicion**

SHEIN is a fully digital e-commerce platform with no brick-and-mortar stores;<sup>10</sup> it ships its clothing goods straight to American consumers because it has structured its core business model around exploiting the United States' gaping \$800 de minimis loophole that allows it to game our system by dodging tariffs and inspections. The company also benefits from a major change to China's tax code that slashed its Chinese tax burden by 13% for any package sent abroad. *Bloomberg* reported that in 2018, China "effectively waived export taxes for direct-to-consumer companies...Today, SHEIN pays neither export taxes on most of its products nor, in the case of the U.S., import taxes, an advantage that tilts the playing field heavily against its rivals, particularly as consumers shift to and stay online."<sup>11</sup> The *Bloomberg* article goes on to explain that, "Under the current [de minimis] rules, a typical cotton T-shirt is exempt from the standard 16.5% import duty and a 7.5% tariff specific to China."<sup>12</sup>

At the U.S. House Ways and Means Trade Subcommittee *Hearing On Supporting U.S. Workers, Businesses, And The Environment In The Face Of Unfair Chinese Trade Practices* that took place on December 2, 2021, Chairman Earl Blumenauer (OR-3) pressed this issue precisely and called out SHEIN specifically:

SHEIN...has developed a business model to exploit the de minimis provision in U.S. law to avoid paying any costs or go through oversight at the United States border, all of which undercuts American companies playing by the rules...SHEIN is also part of a Chinese textile industry that benefits from deplorable treatment and forced labor [of] the Uyghurs and other minorities in the Xinjiang region of China. Lack of oversight at U.S. borders makes it even more difficult for CBP to intercept the shipments...[T]hings shipped under the de minimis [exemption reached] two million packages a day in 2020.<sup>13</sup>

This is germane to CBP's ability to carry out effective enforcement and screening of any WRO or UFLPA action undertaken against SHEIN or any other goods entering the United States under the cover of de minimis.

The *Wall Street Journal* has done extensive reporting on this matter. Beyond the massive loss of tariff revenue (estimated at \$10 billion per year) created by the exponential increase in de minimis shipments over the last half decade, the *Journal* reported that the 800 million de minimis packages coming into the country annually—all individually wrapped and addressed to the end customer with no associated tariff codes and content data accompanying them—have overwhelmed CBP agents' ability to properly inspect these packages for anything other than illicit drugs and weapons. "Validating the value of millions of tiny packages a day, or estimating values for packages that only have been weighed, is neither a priority, nor something the agency

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<sup>10</sup> It only recently opened its first and only distribution center in Indiana. <https://www.wired.com/story/fast-cheap-out-of-control-inside-rise-of-shein/>

<sup>11</sup> <https://www.yahoo.com/now/trump-trade-war-built-shein-040117864.html>

<sup>12</sup> Ibid. This is all in addition to tax advantages it schemes out through its "opaque and tax-optimized corporate structure" that furthers its unfair competitive advantage over American producers. See <https://www.publiceye.ch/en/topics/fashion/opaque-and-tax-optimised-sheins-corporate-structure>

<sup>13</sup> <https://waysandmeans.house.gov/legislation/hearings/trade-subcommittee-hearing-supporting-us-workers-businesses-and-environment>

has resources for, [former Customs officials] say.”<sup>14</sup> In a March 4, 2020 expert witness testimony before Congress, many of the acute challenges CBP officers face in keeping up with their enforcement obligations in the face of this explosion in de minimis shipments, which overlook counterfeit and intellectual property infringements,<sup>15</sup> health and safety violations, and forced labor violations were well-documented.<sup>16</sup>

### **Concluding Questions**

Given that CBP does not collect data on the contents of de minimis packages that enter the U.S. by air freight and trucks, given that CBP officers do not have the bandwidth or resources to inspect de minimis packages for anything other than illicit drugs or weapons, and given the profound, widespread forced labor abuses in China, our largest import partner:

1. How is CBP currently fulfilling its mandate under 19 U.S.C. § 1307 and UFLPA to prevent the importation of goods manufactured in-whole or in-part with forced labor?
2. How would CBP ensure rigorous enforcement and screening of packages coming from SHEIN’s de minimis-only business model, should CBP issue a WRO and/or take UFLPA action?
3. Will CBP commit to investigating SHEIN and similarly suspicious Chinese e-commerce and textile businesses evading our laws to export goods tainted with Uyghur forced labor vis-à-vis the de minimis loophole?

Sincerely,



Michael Stumo, CEO  
Coalition for a Prosperous America



Zach Mottl, Chairman  
Coalition for a Prosperous America

CC: Forced Labor Enforcement Task Force

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<sup>14</sup> [https://www.wsj.com/articles/the-67-billion-tariff-dodge-thats-undermining-u-s-trade-policy-di-minimis-rule-customs-tourists-11650897161?mod=Searchresults\\_pos8&page=1](https://www.wsj.com/articles/the-67-billion-tariff-dodge-thats-undermining-u-s-trade-policy-di-minimis-rule-customs-tourists-11650897161?mod=Searchresults_pos8&page=1); [https://www.wsj.com/articles/the-tiny-loophole-that-understates-the-trade-deficit-with-china-11655458201?mod=Searchresults\\_pos8&page=1](https://www.wsj.com/articles/the-tiny-loophole-that-understates-the-trade-deficit-with-china-11655458201?mod=Searchresults_pos8&page=1)

<sup>15</sup> See SHEIN specifically: [https://www.wsj.com/articles/chinas-fast-fashion-giant-shein-faces-dozens-of-lawsuits-alleging-design-theft-11656840601?mod=Searchresults\\_pos3&page=1](https://www.wsj.com/articles/chinas-fast-fashion-giant-shein-faces-dozens-of-lawsuits-alleging-design-theft-11656840601?mod=Searchresults_pos3&page=1)

<sup>16</sup> <https://docs.house.gov/meetings/IF/IF17/20200304/110735/HHRG-116-IF17-Wstate-WallachL-20200304.pdf>