SUBCOMMITTEE ON RURAL DEVELOPMENT ENTREPRENEURSHIP AND TRADE HEARING ON TEXTILE IMPORT ENFORCEMENT IS THE PLAYING FIELD LEVEL FOR AMERICAN SMALL BUSINESSES?

HEARING

BEFORE THE

COMMITTEE ON SMALL BUSINESS UNITED STATES HOUSE OF REPRESENTATIVES

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SUBCOMMITTEE ON RURAL DEVELOPMENT ENTREPRENEURSHIP AND TRADE HEARING ON TEXTILE IMPORT ENFORCEMENT: IS THE PLAYING FIELD LEVEL FOR AMERICAN SMALL BUSINESS?

Thursday, June 18, 2009

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SMALL BUSINESS,
Washington, DC.

The Committee met, pursuant to call, at 10:00 a.m., in Room 2360 Rayburn House Office Building, Hon. Heath Shuler [chairman of the Subcommittee] presiding.

Present: Representatives Shuler, Michaud and Luetkemeyer.

Also Present: Representative Kissell.

Chairman SHULER. The Subcommittee hearing is now called to order.

Before we get started, we are going to be having votes. We have 28 votes on the House floor probably in the next 15 to 30 minutes. Therefore, that is probably a couple of hours. So we're going to try to get to ask quickly as we can opening statements and hopefully some Q&A, and if not we will just have to come back. We apologize for the schedule. Sometimes we just do not have control over the schedule. So we will try to get through this as quickly as possible.

In recent weeks our economy has shown promising signs of recovery, but we are not out of the woods yet. With unemployment hovering at 9.4 percent, we cannot afford to let up now. We need every job we can get, particularly in core industries.

But for entrepreneurs and textile trade, keeping workers on payroll is harder than ever. Every year we export $16 billion worth of items like fabric and clothing. Textiles are a small business driving industry and make everything from mini yard to baseball caps.

Even more importantly, the sector employs one million American workers, but while textiles clearly play an important role in our economy, manufacturers are struggling. Like everyone else, these businesses have been battered by the recession, but unlike the rest of the country, textile firms are facing an additional crippling challenge.

In this morning's hearing, we're going to discuss the impacts of illegal imports on textile entrepreneurs. For small businesses, these are often overlooked, but it is an extremely important concern. Today we will shed some light on the issue.

A balance trade system is critical, particular to the health of small businesses. That is why the current situation is so troubling. While domestic firms are playing by the rules, foreign importers are dodging terrorists and getting around other trade laws. By gaming the system, they are managing to deliver impossibly cheap products, undercutting honest entrepreneurs.

For textile firms across the country, this has been devastating. Between 2002 and 2007, more than 1,300 textile mills have closed their doors. When these businesses shut down, they took countless jobs with them. In fact, the industry employment levels have dropped more than 40 percent since 2002.

And because most textile firms are located in rural regions, those areas are really suffering. When a textile plant closes, it sets off a domino effect. It is not just mill workers who are impacted. It is restaurants, where they eat, the clothing store where they go shopping, and the supermarkets where they get their groceries.

We often worry about shipping our jobs overseas. Well, that is exactly what happens with textiles. A properly functioning inspection system is essential not just to protect American consumers, but to protect American jobs. Yet textile examinations have dropped off considerably. If we are going to guard against illegal imports then we will need greater enforcement. It is critical that the Customs and border patrol make textile inspections a priority.

For centuries textiles have played an important role in the U.S. economy, but today the U.S. is struggling. It is suffering at the hands of foreign businesses that are cutting corners to cut costs. We need to be sure our homegrown firms have a level playing field.

Domestic textile businesses do not just keep Americans at work. They sustain an entire community.

I would like to thank all of the witnesses in advance for their testimony. I know that they have taken time from their businesses to be here, and I look forward to hearing from them.

With that I will yield to our Ranking Member for his opening statement.

Mr. LUETKEMEYER. Thank you, Mr. Chairman for holding this hearing on this very important issue. It is one I know is particularly pressing for folks back in your district.

The U.S. textile industry is a critical component of our nation's economy, boasting the third largest exporter of textile products in the world with over 16 billion in exports last year. The textile industry has experience dramatic changes in the past decade.

Today the U.S. textile industry is undergoing negative profits, countless plant closings, layoffs, and possible bankruptcies. In 1790, a British mechanic named Samuel Slater is said to have introduced the first successful American cotton spinning mill in Pawtucket, Rhode Island.

This occasion transferred New England from an agricultural to industrial region. The textile industry's focus on the individual rather than the family or community was a major shift in American society. It meant that the federal government would only encourage industry. The actual operation of mills would be left to individuals.

Today, in a lagging economy, individuals who own textile firms, the majority of whom are small business owners, are struggling to stay afloat. A real concern, especially given this country's mounting unemployment rate, is the fact that the textile industry employs nearly one million workers in the U.S. From 2002 to 2007, the levels of employment have fallen by over 41 percent.

In the decades following World War II, the American textile industry lost ground to firms in Asia and central and South America. In 1946, imports of cottons and wood in manufacturers were worth 45 million and 41 million, respectfully.

Within ten years, they had risen to 161 million and 196 million. However, textile communities throughout the nation were forced to develop new economic strategies, but many textile towns continued to decay reflecting the new realities of American industry in a global context.

Folks in the industry are saying that many of these jobs are being lost because of illegal imports, illegal textile transshipment, the shipment of goods to an intermediate destination and from there to yet another destination to circumvent trade laws and other applicable trade restrictions, and inbound diversion are methods being used to evade U.S. Customs duties.

To be sure, I am an ardent supporter of free trade so that we can expand markets for American products. However, we must insure that free trade is fair trade. We should not allow other nations to illegally exploit our trade agreements to avoid tariffs imposed by the U.S., eventually leading to job losses in domestic manufacturing. This is something this Subcommittee must examine.

I know the Small Business Committee and this Subcommittee recognize how critical U.S. textile industry is to the economic health of this country.

Again, thank you, Mr. Chairman, for holding this hearing. I look forward to hearing from the witnesses examining possible strategic issues for maintaining U.S. textile companies' competitiveness in global markets.

With that I yield back.

Chairman SHULER. Thank you, sir.

At this time I would like to just recognize Larry Kissell, also from North Carolina, who is talking about an area and a region that North Carolina has certainly suffered in the textile industry. So not on the Committee, but obviously, this is very important to the people in his community, and so, Larry, thank you for being on the dias today.

At this time I would like to yield to Mr. Michaud for his opening statement.

Mr. MICHAUD. Thank you very much, Mr. Chairman and Mr. Ranking Member, for having this very important hearing today. It is so important that, as you know, I chair the Veterans Affairs Committee. We have a hearing today over there with several bills. I chose to relinquish the gavel toe be here today because of the importance of this hearing.

Having read through the testimony last night, I am also pretty amazed and shocked, but not surprised at some of the testimony we're going to hear today. And although I have not been a proponent of contracting out, I'm willing to look at that provision as it relates to Customs. If it means that we are going to get better enforcement of what is happening at our borders, as well as retailers—I have been a strong supporter of small businesses, and reading some of the testimony from the retailers about their concern about over zealous enforcement because of the textile industry—I would be pleased with enforcement of the current laws and put the burden on some of the retailers if they knowingly import products that are illegal They actually could lose their license if caught. That's how strongly I feel about this.

When you look at the fact that the USTR—I am not too impressed with the current USTR, what he has been saying, and quite frankly, I do not think he understands what is happening when you look at trade and the lack of enforcement o trade.

It gets right back to CAFTA. when we passed CAFTA it passed by a slim vote. One of the reasons why it did pass unfortunately is some of the textile industry supported it because of the commitment by the Bush Administration that they would enforce the law.

The enforcement has not occurred not only on CAFTA but a lot of the other trade deals, and I think it is important when we look at the impact of trade, when we look at what is happening at our borders that we have that strong enforcement.

And I can tell you, Mr. Chairman, having talked to some border patrol folks after 9/11, one of the concerning issues that I have not only on the lack of enforcement when you look at, you know, trading issues, but also national security issues when some border patrol individuals have told me that when the line backs up, the supervisor will go out—and this on the Mexican border, not the Canadian border—the supervisor will go out and just tell the border patrol folks to let them through.

So that is not very encouraging when I hear that from those who are supposed to protect our borders, but I will be looking forward to hearing what U.S. Customs has to say and how we can improve and make sure that enforcement is strong enforcement, as well as hearing from the retail industry on why they are concerned about over zealous enforcement and if they are willing to make sure that the retailers who are knowingly breaking the law, that they are punished as well.

So I yield back my time, Mr. Chairman, and really want to thank you and the Ranking Member for having this very important hearing here today.

Chairman SHULER. Thank you, sir.

Our first witness is Dan Baldwin. Mr. Baldwin is Assistant Commissioner of the Office of International Trade with the U.S. Customs and Border Protection.

Mr. Baldwin, you are recognized for five minutes.

STATEMENT OF DAN BALDWIN, ASSISTANT COMMISSIONER, OFFICE OF INTERNATIONAL TRADE, U.S. CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY

Mr. BALDWIN. Chairman Shuler, Ranking Member Luetkemeyer and distinguished members of the Subcommittee, I am pleased to appear before you today to discuss the actions that we are taking today at Customs and Border Protection to insure that the laws governing the importation of goods in the United States, and particularly textiles, are properly enforced.

As you mentioned, my name is Dan Baldwin, Assistant Commissioner of our Office of International Trade. My office is responsible for formulating CBP's trade policy, developing trade programs and enforcing our U.S. import laws.

The mission of CBP is to prevent terrorist and terrorist weapons from entering the United States, while also facilitating legitimate trade and travel. Indeed, no other country has been as open to legitimate international trade or as committed to facilitating trade by simplifying and automating its trade processes.

As a result of America's free trade policies, in our increasing efficiencies in processing global trade over 50 percent of the goods we buy in this country are, in fact, imported. Legitimate trade is an integral part of our American business.

Last year we published the CBP trade strategy, our public blueprint for now CBP will carry out its trade mission, facilitating legitimate trade without depending on ever increasing cargo inspections at our 300-plus ports of entry.

As a practical matter, we can no longer inspect our way out of trade problems as an exclusive measure of our enforcement actions. Many of our ports of entry are already saturated and simply cannot accommodate escalating cargo examination regimes. Because of these constraints, the CBP trade strategy recognized the need for a more layered enforcement approach. This means working both upstream before the entry occurs and downstream after the merchandise has already been entered.

Pre-entry activities, including reaching out to other governments to leverage global partnerships to accomplish our common goals. Post entry enforcement includes conducting audits and taking civil or criminal action against those who ignore our trade laws.

Since we cannot physically inspect every shipments, we rely on risk analysis and targeting to identify those shipments most likely to violate our trade statutes and regulations. The domestic textile industry has achieved substantial productivity gains by investing billions in new plants and equipment and now ranks third globally in exporting textile products.

The industry has expressed strong concerns, however that it is not receiving the full benefits of its highly competitive productivity because of unfair trade practices by the countries. The elimination of textile quotas in 2009 largely removed the incentive through illegally transshipped textiles, but many risks were named. These include country of origin fraud, illegitimate trade preference claims, misdescription and misclassification, duty evasion, gross under valuation, and well as outright smuggling.

In response to these threats, CBP maintains a robust trade enforcement program to insure compliance with all laws and regulations governing imports. Our trade enforcement resources are concentrated on the most significant trade risks which are designated as priority trade issues.

Textiles and apparel continue to be economically sensitive commodities and have, in fact, been identified as one of our top seven priority trade issues. The goals of the textile PTIs to insure that textile imports which generate more than 42 percent of the duties collected by CBP fully comply with the applicable laws, regulations, free trade agreements, trade preference program requirements, and intellectual property provisions.

CBP uses the multi-faceted layered approach to enforce our trade laws and to insure the appropriate revenues collected. This includes trade pattern analysis, on-site verification, review of production records, audits and laboratory analyses.

Risk management driven textile enforcement operations are used to address noncompliance with these laws, free trade agreements, and other requirements. New tools are constantly being utilized to increase the effectiveness of these operations, including our automated targeting system which provides numerous targeting elements that were not available in the past to allow specific issues to be addressed while facilitating those legitimate shipments.

In addition, we continue to target entities for visits by textile product verification teams, make audit referrals, and work with foreign governments to enforce our trade laws.

While seizure statistics at the ports have fallen due to the elimination of quotas, our ability to review shipments and penalize violators reach as well outside the ports. I would strongly caution against the practice of relying solely on seizure statistics as an accurate measure of CBP textile enforcement activity.

In 2008, CBP performed 11,800 textile trade exams. Over 1,700 samples were tested by our laboratories. And 42 textile related audits and another 79 were initiated over last year. The textile product verification team visits, sometimes we find that the facility does not exist or lacks the capacity to produce the textile products in question.

Since 2000, we have visited over 4,500 factories, including 472 this last fiscal year alone. These on-site verification visits disclose major discrepancies, discourage future fraud, and help us target specific shipments into this country.

A major concern we have today, however, is that of the supply chain management within the industry itself. Currently our verification process and controls are limited to the manufacture and importation of the textile goods themselves. That leaves large gaps between those two points where we have little information, lack the authority to make in-country visits or require additional records to insure that manufacturers, processors, and importers are all complying with the goods within the entire supply chain process.

In summary, let me say that the U.S. Customs and Border Protection is committed to vigorous enforcement of the trade laws and regulations. We recognize the vital importance of the textile industry to this country, and we continue to focus a substantial amount of our trade enforcement resources in this priority area to help protect our domestic industry and its vital role as an employer in our economy.

Thank you for the opportunity to testify, and I am happy to field any questions you may have at this time.

[The prepared statement of Mr. Baldwin is included in the appendix.]

Chairman SHULER. Thank you, Commissioner.

At this time we will open it up for questions. The first question I have is if you were to give a grade by the agency, if you were to grade the agency on the overall, the numbers if you were to take every single container that comes in either from our ports or from I guess it would be the land ports, what would be the grade if you were to grade the overall agency in the last five years of being able to examine all?

You know, examine every single container would be an A. What grade would you give the agency?

Mr. BALDWIN. I would give it an incomplete for the following reason, sir. I think the point I was trying to make in my testimony, if I were to try to grade—

Chairman SHULER. We are in politics.

Mr. BALDWIN. I understand. Well, that is why I gave it an incomplete. While I would try to argue that inspecting, examining at the physical border every single shipment, I would probably give CBP an F for collapsing the American economy. It is just not possible to do, and I think what you will hear from the next panel is that nobody wants us to examine every shipment.

What we need to do a better job, and I think we do a fine job actually of being able to target the high risk commodities and take the verification activity that needs to take place at the right point in the supply chain.

I would suggest to you that the paradigm of intensive cargo examinations at the physical border in Detroit or Los Angeles or New York or Loredo, when we had a quota system in place and we suspected illegal transshipment from the Far East, that was the right point in the supply chain to take a look at that activity.

However, since those admissibility issues no longer exist for the most part and our risks are primarily related to free trade agreements and qualifications within those free trade agreements, physical inspection at the border looking for the sweater is really not the right place to be doing that, nor is it the right skill set for our uniformed officers to be looking at that.

This is where you might want to deploy better risk analysis with our targeters in our national targeting analysis groups in New York and in Headquarters, where we might want to use more robust use of our auditors and import specialists that understand production records and internal control system evaluation, looking at qualification processes by the supply chain as opposed to the goods themselves.

Chairman SHULER. So by not examining, we actually have a national security threat then, by not examining all of the containers.

Mr. BALDWIN. No, sir. We screen 100 percent of every shipment that comes in here, meaning our targeters take a look at and evaluate for risk every shipment that comes in this country, but we do not examine every container that comes into the country.

Chairman SHULER. All right. So what are some improvements? As members of Congress, you know, I think so often we want to beat up an agency or talk about it. What are the things that we can do to help?

Obviously national security is at the top of the list, but to protect our businesses, small business and entrepreneurs and especially textiles. What can we do in order to change the law or better to improve the work that is done in order for us to accomplish our goal, which is to protect American jobs?

Mr. BALDWIN. Well, one item that I would suggest and I tried to touch upon is sort of an evolution into evaluating our trade work along a supply chain model as opposed to the tangible good model. I think what we use in Customs and Border Protection certainly for security is trying to evaluate the entire supply chain. From the point the container has been stuffed abroad to the point it is here, we would like to evaluate who has control of the goods all along the way.

Certainly in the arena of import safety and intellectual property rights you are seeing that take greater hold as well; that while the goods are important to evaluate that they are, in fact, safe, it is also important to know the players involved throughout the supply chain, that they are upholding their obligations each and every step.

And I think there is a lot of promise in a lot of our trade enforcement actions if we evolve into that direction as well. One of the issues that I try to point out, and certainly having some discussions with some of our distinguished members on the next panel, is understanding how complex the supply chain process, the manufacturing process when it goes abroad, for example to CAFTA countries and how much work goes within those countries. Do we have the right visibility and traceability within those countries? It probably does not exist today.

But I think their way to address that is using a supply chain philosophy as a complement to our traditional enforcement methodologies to get more visibility and more accountability for some of our trading partners abroad.

Chairman SHULER. So what happens when you get, say, a container of sweaters that comes in and you have seen that they are trying to dodge the tariffs or, you know, that it is improperly imported? What do you do with that container?

Mr. BALDWIN. Depending upon the violation, let's hypothetically say it is misclassified and they should have paid a higher rate of duty. What we will do is we will issue them a bill and they can pay a higher rate of duty, but the sweaters go on their way and enter the stream of commerce in the United States.

If it is illegally marked, we may require them to put the proper marking on the goods or perhaps we will even seize the goods in those circumstances, but for the vast majority of circumstances where we would have kept those goods out of the stream of commerce when the quota regime went away through the WTO agreements, we no longer do that. Now it is usually a financial issue, a financial remedy that is applied.

Chairman SHULER. So how much money is recovered typically of the fines?

Mr. BALDWIN. That I would probably have to get back to you with some exact numbers.

Chairman SHULER. but it actually could be a source of revenue, probably lost revenue from the federal government and probably not collecting those tariffs.

Mr. BALDWIN. And I think what we could probably provide to you in a follow-up, sir, is to take a look at what does our compliance baseline show as the statistical risk for those kinds of issues and give you some sort of idea of what that dollar amount would be.

Chairman SHULER. So if someone—

Mr. BALDWIN. But—

Chairman SHULER. Oh, go ahead.

Mr. BALDWIN. But I was going to say in our larger compliance measurement program this is not textile specific, but all imports. We find that we collect 99 percent of the duties that are owed through a statistical baseline measure that we've had in place since 1995.

So while there might be several hundred million dollars at risk from time to time, given the 30-plus billion dollars we collect in revenue, we are not seeing revenue underpayment as a significant risk just yet.

Chairman SHULER. Okay. At this time I will yield to our ranking member, Mr. Luetkemeyer.

Mr. LUETKEMEYER. Thank you, Mr. Chairman.

Do you have a figure of roughly how much or what the value of textile goods is that comes into our country illegally?

Mr. BALDWIN. Illegally?

Mr. LUETKEMEYER. Yes.

Mr. BALDWIN. No, sir, I do not.

Mr. LUETKEMEYER. Well, do you acknowledge that some does come into our country illegally?

Mr. BALDWIN. I am certain that there are cases of smuggling in the inbound diversion as has been highlighted before.

Mr. LUETKEMEYER. Okay. You talked about being mischaracterized or mis-licensed or whatever. I mean, do you have figures on that?

Mr. BALDWIN. We would be happy to get you some more specific information in terms of the magnitude of the violation in the aggregate. The kind of numbers we do collect and I could provide for you is the amount of verification activities and what kind of activities we conduct and what results from that.

That in and of itself though does not show the amount of the risk that we have identified in the textile industry as a whole.

Mr. LUETKEMEYER. So how do we know what kind of job we are doing if we do not have an idea of how much we are stopping or that we are verifying?

Mr. BALDWIN. Well, sir, we do have an idea of how much were verified. My apologies if I misunderstood the question. I thought you were asking how much of a risk is it. How much are we missing? That is a number I could probably give you a statistical number for, but my degree of confidence is not the highest.

What I can tell you is how many examinations we do, how many import specialist verifications we do, how many audits we do, how many laboratory analyses we do, and what the results of that verification activity would be throughout the supply chain process.

Mr. LUETKEMEYER. A minute ago you said that you were able to collect dollars and fines on some of the things that have been coming into the country incorrectly or under wrong permit or whatever, but you indicated you kind of allowed the stuff to go on in and then collected the money after the fact.

Mr. BALDWIN. That is correct. We will issue a bill.

Mr. LUETKEMEYER. Is there any reason why you do not hold it until you get the dollars in hand?

Mr. BALDWIN. Because the issue at hand is not an admissibility issue. The goods are allowed into the country. It is just that we will assess a bill and pay the right amount of money and allow the goods to go downstream. There is no legal reason to seize or detain the goods at that time.

Mr. LUETKEMEYER. The fact that they have not gotten something correct, the fact that they owe the government some money and have not paid the bill, that is not enough to hold it?

Mr. BALDWIN. No, it is not. We will issue them a bill, and we will hold them accountable for paying the bill, but for delaying the cargo entry, that is not a legal reason to hold the goods as a detention or seizure.

Mr. LUETKEMEYER. How long does it take to get payment on those things?

Mr. BALDWIN. Usually from most reputable companies we will get 30, 60, 90 days, a short time.

Mr. LUETKEMEYER. What about the ones that are not reputable?

Mr. BALDWIN. Then we send them up to our Office of Finance for a collection action.

Mr. LUETKEMEYER. And how long does that take?

Mr. BALDWIN. For the most part it is usually collected within a reasonable amount of time.

Mr. LUETKEMEYER. Man, I am pulling teeth here. Do you have an answer of just the number of days other than "reasonable" and others?

Mr. BALDWIN. Off the top of my head, sir, no, I do not have an exact answer.

Mr. LUETKEMEYER. So we do not know how we can hold and how we can make sure that we get the dollars on the ones that we know are irreputable firms.

Mr. BALDWIN. Those that we know are damaged companies, those that we know are irreputable, as you put it, I will have to come back with you some answers, but as of right now I don't have a strong answer for that.

Mr. LUETKEMEYER. Have you identified some companies that are some problems so that if those companies ship goods to us that you can immediately target those?

Mr. BALDWIN. We do run special operations and do target certain companies for enforcement action, and we do our enforcements. We do our import specialist review and look at their corporate records, yes. We do take actions against those companies.

Mr. LUETKEMEYER. Do you look at their corporate records in their country?

Mr. BALDWIN. Here in the United States, the importers.

Mr. LUETKEMEYER. Okay. Whenever you target somebody like that, do you target it from the point that it is manufactured all the way through the chain to where it gets here or are you just catching them at the border?

Mr. BALDWIN. What we will do is we will target them, you know, through our risk analysis processes. We will target them for whatever the issue may be, for example, like under valuation. We will work through the importer trying to gain the records to understand

and decipher where the problem occurred, but some of the problems that have recently been brought to my attention, for example is not really with the importer or the foreign apparel manufacturer, but it is actually further downstream than that, perhaps through the knitter or a consolidator, and that is where some of the problems occur, and that is where we do not have visibility or traceability into their operations.

Mr. LUETKEMEYER. Okay. Thank you, Mr. Chairman.

Chairman SHULER. At this time I would like to yield to Mr. Michaud for his questions.

Mr. MICHAUD. Thank you very much, Mr. Chairman.

Thank you, Mr. Baldwin, for coming here today.

As I mentioned, I read all of the testimony and actually had a chance to talk to some of the people in the industry, and some of the concerns without mentioning the individual mentioned that they feel that you are the roadblock to custom enforcement, and that you actually facilitated the office from moving more of an enforcement role to a policy role.

In reading the testimony also from Mr. Stowe, he had mentioned in his testimony that Customs has not hired over 72 textile apparel specialists that Congress has appropriated. If that, in fact, is true, then I would probably agree with the statement that you are the problem as far as not enforcing.

Reading the GAO testimony, they talked about their previous findings suggesting that the shift in mission contributes to a reduction, reduced focus and resource devoted to custom revenue functions, and they also have a lot of concern.

So I guess my question to you, Mr. Baldwin, is: can you explain, in fact, why you have not hired the Customs officials to beef up the enforcement at the borders? And do you think Customs has dropped the ball on enforcement since you cannot state or give accurate numbers at this point to the Ranking Member?

And my third question is later on we are hearing testimony from a former U.S. Customs and Border Protection Agency individual who is going to speak, and he makes suggestions, and if you had a chance to read his testimony, do you agree with the recommendations that he is proposing for us?

Mr. BALDWIN. First off, I would comment that it is unfortunate if I am viewed personally as a barrier to our enforcement actions, but a couple of things I would point out.

First, when we formed the Office of International Trade back in 2007 through the Safe Port Act process, for the first time we actually created an Executive Director for commercial targeting enforcement. The agency never had a specific office dedicated to nothing except targeting and our enforcement action. So I think that should alleviate one point.

Second, I think it is unfortunate that there still continues, and it seems like I answer the question most every year, that we have not hired the personnel that was directed back in 2005. First, the $9 million that was provided was divided between Customs and Border Protection and Immigration and Customs enforcement.

Second, the statistics simply just do not prove that out. I can point to what is in my written testimony. In 2006 the import specialist position alone had 264 positions dedicated to textile enforcement; in 2008, two years later under my leadership, 329 positions.

I do not know where the misconception continues to go.

Mr. MICHAUD. But you are saying the 72 textiles and apparel specialists have been hired?

Mr. BALDWIN. They were hired, and I have actually testified on textile issues in the past and have consistently said they have been hired.

I think the problem results unfortunately in the perception that we still have not done enough with those positions. And while I am happy to continue to talk about what our enforcement actions have taken, I would be happy to give you more statistics on what actions we have taken and what successes we have had.

I do not want to diminish the fact that of the 329 positions we have for import specialist in our agency today, it composes about 35 percent of all important specialists for all issues, dwarfing the amount of resources we dedicate to intellectual property rights, import safety, anti-dumping and countervailing duty, dwarfs the amount of resources we have.

Mr. MICHAUD. My time is running out. So do you feel that your operation is more of enforcement or a policy?

Mr. BALDWIN. I would say what we do is we have both. What I would strongly suggest is we have—

Mr. MICHAUD. More on enforcement or more on policy?

Mr. BALDWIN. We have two separate divisions. One is dedicated solely to policy issues. One is dedicated solely to enforcement issues. We give them equal attention. We give considerable attention to our enforcement role. We have significantly stepped up the number of special operations we conduct on issues, the work we do with our sister agency, Immigration and Customs Enforcement, for criminal civil investigative matters has significantly increased not on just textiles but all trade enforcement issues.

Mr. MICHAUD. And do you support the recommendations on the next panel from the former U.S. Customs and Border Patrol Agency? Do you support his recommendation?

Mr. BALDWIN. Could you refresh my memory as to what that recommendation might be?

Mr. MICHAUD. Actually he makes several recommendations for improvement in textile verification teams as well as recommendations for better enforcement of the classification and evaluations of imports.

I know my time has run out, but we are going to have to run out for votes. So if you have not seen his testimony, hopefully during the break you can look at it.

Mr. BALDWIN. But certainly as a question for the record I would be happy to come back with a more formalized answer if we are not able to get to it after the break.

Mr. MICHAUD. Great. Thank you.

Chairman SHULER. Thank you, sir.

I have one last question.

Mr. BALDWIN. Yes, sir.

Chairman SHULER. If 40 percent of the duty tariffs coming into the U.S. is textiles and we are only examining on the basis of value of only a fraction of those and those that you are examining we are seeing at 44 percent of them are under valued from CAFTA, if 44 percent from the CAFTA agreement and only 44 percent of them are under valued, how many millions if not billions of dollars is the U.S. losing?

Mr. BALDWIN. First off, I would say most of the efforts we would take to evaluate those are targeted initiatives. So we have already gone through the process and said this is a high risk and we have high level suspicion that this is fraudulent. We could not statistically extrapolate from that number to say that that is the magnitude of the universe, but we do have programs that can give a statistical projection as to what those risks would be, and we do use those to help us improve our targeting for future actions.

Chairman SHULER. My last comment would be for every one that we do not fully examine, and I know that may be difficult, may cause, you know, us to hire more people; for every one that does not, there is a family and there is a job out there that Americans are losing every single day. If we are losing that much money and revenue, we are also losing even more of that in the quality of life in America for not having a job.

So I hope that we can collectively work together, and I think obviously from the Ranking Member, I think we are on the same page talking about there is a lot of money that is being lost, but more importantly, we are looking at lots of jobs in the U.S.

So hopefully we can work together. I think that is the most important thing we could do is actually work together and pull the rope in the same direction.

Yes, and if you could just identify a staff member who is going to be staying for our next witnesses.

Mr. BALDWIN. Jo Reese will be here, as well as members of our Congressional Affairs.

Chairman SHULER. Perfect. That would be great.

Well, at this time we are going to be in recess until the call of the Chair again, and we will be back shortly after the votes are over.

Thank you.

[Recess.]

Chairman SHULER. I call this hearing back to order.

Due to the length of the series of votes and the schedules of our witnesses, we will forego having the second panel of witnesses appear before the Subcommittee.

I ask unanimous consent that the witnesses' statements be submitted to the record and any necessary follow-up questions be conducted through written correspondence. Without objection, so ordered.

I ask unanimous consent that the members will have five days to submit statements and supporting material for the record. Without objection, so ordered.

This hearing is now adjourned.

[Whereupon, at 6:41 p.m., the Subcommittee meeting was adjourned.]

News from the
Committee on Small Business
Subcommittee on Rural Development, Entrepreneurship & Trade
Heath Shuler, Chairman

STATEMENT
of the
Honorable Heath Shuler, Chair
Subcommittee on Rural Development, Entrepreneurship and Trade of the
House Committee on Small Business
Hearing on Textile Import Enforcement: Is the Playing Field Level for American Small Businesses?
Thursday, June 18, 2009

In recent weeks, our economy has shown promising signs of recovery. But we're not out of the woods yet. With unemployment hovering at 9.4%, we can't afford to be complacent. We need every job we can get, particularly in core industries. But for entrepreneurs in the textile trade, keeping workers on payroll is harder than ever.

Every year, we export $16 billion worth of items like fabric and clothing. Textiles are a small business-driven industry, and make everything from knitting yarn to baseball caps. Even more importantly, the sector employs one million American workers. But while textiles clearly play an important role in our economy, manufacturers are struggling. Like everyone else, these businesses have been battered by the recession. But unlike the rest of the country, textile firms are facing an additional, crippling challenge.

In this morning's hearing, we're going to discuss the impact of illegal imports on textile entrepreneurs. For small businesses, this is an often overlooked, but extremely important concern. Today, we will shed some light on the issue.

A balanced trade system is critical, particularly to the health of small businesses. That's why the current situation is so troubling. While domestic firms are playing by the rules, foreign importers are dodging tariffs, and circumventing other trade laws. By gaming the system, they've managed to deliver impossibly cheap products, undercutting honest entrepreneurs. For textile firms across the country, this has been nothing short of devastating.

Between 2002 and 2007, more than 1,300 textile mills closed their doors. When those businesses shut down, they took countless jobs with them. In fact, industry employment levels have dropped more than 40% since 2002. And because most textile firms are located in rural regions, those areas are really suffering. When a textile plant closes, it sets off a domino effect. It's not just mill workers who are

---more---

impacted-- it's the restaurants where they eat, the clothing stores where they shop, and the supermarkets where they get their groceries. We often worry about shipping our jobs overseas. Well, that's exactly what's happening with textiles.

A properly functioning inspection system is essential--not just to protecting American consumers, but to protecting American jobs. Yet textile examinations have dropped off considerably. If we're going to guard against illegal imports, then we will need greater enforcement. It is critical that Customs and Border Patrol make textile inspections a priority.

For centuries, textiles have played an important role in the U.S economy. But today, the industry is struggling. It is suffering at the hands of foreign businesses that are cutting corners to cut costs. We need to be sure our homegrown firms have a level playing field. Domestic textile businesses don't just keep Americans at work, they sustain entire communities. At a time when our economy is just starting to recover, we can't afford to lose this vital sector.

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Statement
of
Assistant Commissioner Dan Baldwin
Office of International Trade
U.S. Customs and Border Protection
Department of Homeland Security
Before the
House Small Business Committee
Subcommittee on Rural Development,
Entrepreneurship and Trade
Regarding
"Textile Import Enforcement: Is the Playing Field Level for American Small Businesses?"

June 18, 2009

Chairman Shuler, Ranking Member Luetkemeyer and distinguished members of the subcommittee. I am pleased to appear before you today to discuss the actions we are taking at Customs and Border Protection, CBP, to ensure that the laws governing the importation of goods into the United States, particularly the importation of textiles, are properly enforced.

As the Assistant Commissioner for the Office of International Trade in CBP, my office is responsible for formulating CBP's policy for implementing and enforcing trade programs, and enforcing U.S. import laws.

The mission of Customs and Border Protection is to secure the United States through border enforcement actions, while also facilitating legitimate trade and travel. As a result of America's free trade policies and our increasing efficiency in processing global trade, over 50% of the goods we buy in this country are imported. Legitimate trade is an integral part of American business and we are committed to facilitating this by simplifying and automating its trade processes.

Last year we published the CBP Trade Strategy, our public blueprint for how Customs and Border Protection will facilitate legitimate trade at our 300-plus ports of entry.

Many of our ports of entry simply cannot accommodate escalating cargo examination due to infrastructure, technology and personnel requirements. Because of these constraints, the CBP Trade Strategy recognized the need for a layered enforcement approach. This means working both "upstream"—before entry—and "downstream"—after merchandise has been entered.

Pre-entry activities include reaching out to other governments to leverage global partnerships to accomplish our common goals. Post-entry enforcement includes conducting audits, and taking civil or criminal action against those who ignore our trade laws.

We also rely on risk analysis and targeting to identify those shipments most likely to violate our trade statutes and regulations.

As you well know, the textile industry is a key industry in the United States, generating more than 500,000 jobs that are especially vital during the global downturn.

The domestic textile industry has achieved substantial productivity gains by investing billions of dollars in new plants and equipment, and now ranks third globally in textile exports. The industry has expressed strong concerns, however, that it is not receiving the full benefits of its highly competitive productivity because of unfair trade practices by other countries.

The top supplier countries of textiles and apparel, by value, are:

1. **China 35.4%**
2. **Vietnam 5.9%**
3. **India 5.4%**
4. **Mexico 5.3%**
5. **Indonesia 4.6%**
6. **Bangladesh 3.9%**
7. **Pakistan 3.3%**
8. **Honduras 2.8%**
9. **Cambodia 2.6%**
10. **Italy 2.1%**
11. **Thailand 2.1%**
12. **Canada 1.7%**
13. **El Salvador 1.6%**
14. **Hong Kong 1.6%**

Textiles and apparel are highly complicated commodities for tariff purposes. They cover by far the greatest percentage of the Harmonized Tariff Schedule (HTS), including 23 out of the 99 chapters, 160 headings and nearly 4,000 HTS numbers. This complexity increases the enforcement challenges.

Although textile quotas ended at the beginning of 2009, under a World Trade Organization agreement, this was only one of many enforcement issues for textile imports. Other enforcement issues include country of origin fraud, illegitimate trade preference claims, misdescription and misclassification, duty evasion and gross undervaluation, as well as outright smuggling.

Origin fraud, including illegal transshipment, raises questions about supply chain security, as well as right-to-make-entry issues.

In Calendar Year 2008 there were over 68,000 textile importers—21% of the total number of all importers. Collectively they imported textiles and apparel valued over $105 billion (5% of the total value of all imports) and paid over $11 billion in duties (42% of the overall total collected).

Of the $105 billion in textile imports, approximately 19% claimed a trade preference. Of the trade preference claims reviewed, CBP found over 35% were ineligible for the claimed preference. In response to these concerns, CBP maintains a robust trade enforcement program to ensure compliance with all laws and regulations governing imports.

CBP trade enforcement resources are concentrated on the most significant trade risks, which are designated as Priority Trade Issues (PTI). Because textiles (and apparel) continue to be politically and economically significant commodities, they have been identified as one of seven Priority Trade Issues.

The goal of the Textiles PTI is to ensure that textile imports, which generate more than 42% of the duties collected by CBP, fully comply with applicable laws, regulations, Free Trade Agreements, trade preference program requirements, and Intellectual Property provisions.

CBP uses a risk-based layered approach to enforce our trade laws and to ensure that appropriate revenue is collected. This includes trade pattern analysis, on-site verification, review of production records, audits, and laboratory analysis.

In CY 2008, CBP Import Specialist resources increased by approximately 13%. Historically, the number of Import Specialists assigned to textiles at CBP ports of entry has ranged from 25-30% of the total on-board Import Specialist workforce. While most absolute quotas have been eliminated, CBP personnel involved in the verification and input of quota information will continue to perform similar duties to address the tariff-rate quotas that remain in place, and the many Free Trade Agreements (FTAs) with tariff preference levels.

There are other disciplines within CBP that are critical to the enforcement of the textile trade laws. The following table provides the staffing levels for these positions.

Textile Enforcement – Staff Level Estimates

Position Type	2003	2004	2005	2006	2007	2008
Import Specialists	242	242	263	264	285	329
International Trade Specialists	11	10	11	13	13	13
CBP Representatives Overseas	6	6	9	9	9	9
Attorneys	1	1	2	4	4	4
National Import Specialists	2	2	2	3	3	3
Auditors	25	25	26	31	31	31
Paralegals			2	3	3	3
Textile Transshipment Analysts			1	3	3	3
I.T. Programmers				1	2	1

In addition to the above personnel, CBP has highly trained scientists who work on classification issues. There are 21 scientists assigned to ensure correct classification of textile products. They have proven to be an important asset, for example, in ensuring that both China quota requirements and duty collections are accurate.

Import Specialists in CBP with specialized commodity knowledge analyze and review textile imports for possible violations, including compliance with the 5 trade preference programs and 11 Free Trade Agreements.

Trade preference programs present a significant enforcement challenge for CBP, due to complexities such as rules of origin and duty-free treatment. The United States has negotiated a number of bilateral and multilateral FTAs, and Congress has enacted legislative trade initiatives that give nations preferential access to the U.S. market.

These trade preference programs include the African Growth and Opportunity Acts I, II and III (AGOA); the Caribbean Basin Trade Partnership Act (CBTPA); the Andean Trade Promotion and Drug Eradication Act (ATPDEA); Haitian Hemispheric Opportunity through Partnership Encouragement Act (Haiti HOPE I); and the Australia, Bahrain, Chile, DR-CAFTA, Israel, Jordan, Morocco, NAFTA, Oman, Peru and Singapore FTAs .

Trade from countries benefiting from various preference programs has been increasing in accordance with the increase in negotiated trade agreements. The overall claims of preference for the textile industry are approximately **19 percent** of the total value of imports. Trade agreements have become a critical element in the overall foreign policy of the United States. Each agreement has unique qualifying rules.

CBP is continuing to prioritize the enforcement of FTAs and legislative mandates, as well as addressing instances of origin fraud and smuggling. These issues remain key concerns for the domestic textile industry. CBP plays a key role in ensuring that these unfair trade practices are identified and addressed effectively.

Given that textile products represent 42 percent of all duties collected by CBP, financial gain remains a strong incentive to circumvent these relatively high duty rates. CBP has developed an annual enforcement strategy to address fraudulent schemes and practices such as false invoicing, false marking/labeling, false claims of origin, misclassification, misdescription, undervaluation of products, and smuggling.

In FY 2008 CBP performed 11,833 textile trade exams, and 1,677 samples were tested by laboratory analysis. Of those samples tested, 43% were found to be discrepant.

In CY 2008, CBP seized $51 million in textile products which violated the China quota restraints, a $3 million increase in seized goods over CY 2007 seizures.

CBP personnel stationed at the ports of entry also performed reviews of goods making entry into the United States from 50 different countries by 833 importers. Of the importers reviewed, 248 were involved in a CBP enforcement action, e.g., seizure, penalty, or exclusion of merchandise.

In FY 2008 CBP completed 42 textile-related audits, resulting in recommended revenue recoveries of over $4.7 million, and initiated another 79 audits.

During FY 2008, CBP personnel conducted nine special enforcement operations. These operations targeted the misdescription of merchandise claiming China as the country of origin, use of the commercial availability provision (short supply) in trade preference legislation, misdescription of fiberglass fabric, classification and description of sock imports; and a special targeted verification of trade preference claims.

In addition, CBP sends Textile Production Verification Teams to visit foreign factories to verify that apparel shipped to the U.S. is actually produced at these facilities, and therefore eligible for the trade preferences claimed. Sometimes we find that the facility does not exist, or lacks the capacity to produce the textile products in question. Since FY 2000 we have visited, or attempted to visit, over 4,524 factories, including 472 during the last fiscal year.

In FY 2008, CBP personnel visited 15 countries to verify production of goods that were imported into the United States. These on-site verification visits disclose major discrepancies, deter fraud, and help us target specific shipments to this country.

As a result of the noncompliance we have found in textile imports, we have taken penalty actions amounting to several tens of millions of dollars.

On January 1, 2009, quotas were eliminated for China. As a result, CBP has prepared for a major shift in enforcement focus from quota admissibility issues to revenue protection and compliance with trade preference requirements.

CBP is addressing other risk areas such as the description and valuation of imported merchandise and training issues. Additionally, we are focusing on other concerns, such as the monitoring of China textile trade by the International Trade Commission and the potential for anti-dumping and countervailing duty cases. The 5-year strategic plan will continue to address textiles as a priority trade issue, and will include action plans and risk assessments that will take into consideration changes to the risk dynamics.

In summary, Customs and Border Protection is committed to vigorous enforcement of trade laws and regulations. We recognize the vital importance of the textile industry to this country. We will continue to focus a substantial amount of our trade enforcement resources in this priority area to help protect our domestic industry and its vital role as an employer in our economy.

Mr. Chairman, Members of the Subcommittee, thank you for inviting me to appear before you today. I am certain that with your continued support, CBP will succeed in meeting the need to facilitate the ever-increasing volume of legitimate trade and travel that fuels our nation's economy. I will be happy to answer any questions you may have.

Thank you.

TESTIMONY OF DAN NATION

TO U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON SMALL BUSINESS, SUBCOMMITTEE ON RURAL DEVELOPMENT, ENTREPENEURSHIP AND TRADE
TEXTILES ENFORCEMENT AND SMALL BUSINESS

THURSDAY, JUNE 18, 2009 – 10:00 A.M.
ROOM 2360 RAYBURN HOUSE OFFICE BUILDING

CHAIRMAN SHULER, RANKING MEMBER LUETKEMEYER AND MEMBERS OF THE SUBCOMMITTEE, MY NAME IS DAN NATION AND I AM DIVISION PRESIDENT WITH PARKDALE MILLS. I ALSO APPEAR BEFORE YOU TODAY ON BEHALF OF THE NATIONAL COUNCIL OF TEXTILE ORGANIZATIONS A TRADE ASSOCIATION REPRESENTING THE DOMESTIC TEXTILE INDUSTRY.

PARKDALE MILLS IS A PRIVATELY HELD YARN SPINNING COMPANY BASED OUT OF GASTONIA, NC. OUR COMPANY BEGAN OPERATIONS IN 1916. AT THE PEAK OF OUR GROWTH, PARKDALE OPERATED 38 FACILITIES IN FOUR STATES EMPLOYING OVER 4000 PEOPLE. IN THE LAST 12 YEARS, WE HAVE BEEN FORCED TO CLOSE 19 OF THESE FACILITIES; RESULTING IN OVER 2,200 JOBS LOST NOT INCLUDING ALL OF THE ADJACENT JOBS SUPPORTED BY THESE MANUFACTURING JOBS. ALL OF THESE FACILITIES WERE LOCATED

IN SMALL TOWNS THROUGHOUT THE SOUTHEASTERN U.S. THESE TOWNS HAVE LOST THE MAJORITY OF THEIR MANUFACTURING TAX BASE, CREATING FURTHER FINANCIAL STRESS.

CONSERVATIVELY, WE ESTIMATE THAT 1200 OF THE 2,200 PARKDALE HAD TO ELIMINATE COULD HAVE BEEN SAVED WITH 100% EFFECTIVE CUSTOMS ENFORCEMENT OVER THE LAST SIX YEARS. EVIDENCE OF CUSTOMS FRAUD IN YARN SHIPMENTS TO NAFTA AND CAFTA COUNTRIES HAS GROWN EXPONENTIALLY. AS SHIPMENTS TO CENTRAL AMERICA GREW AFTER CARIBBEAN BASIN INITIATIVE (CBI) AND CAFTA, DISTRIBUTORS AND CERTAIN CUSTOMERS WE WERE SELLING TO IN THE REGION BEGAN ASKING FOR MULTIPLE ORIGINAL AFFIDAVITS ON THE SAME SHIPMENT OF YARN. YARN SPINNERS ARE REQUIRED TO PROVIDE AN AFFIDAVIT CERTIFYING THAT THE YARN IS PRODUCED IN THE U.S., GIVING THE GARMENT IT IS MADE INTO DUTY-FREE ACCESS BACK TO THE U.S. ALSO, WE BEGAN TO SEE FORGED AFFIDAVITS FROM PARKDALE ORIGINALS AND FROM COMPANIES THAT WERE OUT OF BUSINESS OR THAT DO NOT EXIST. DUTY AVOIDANCE MAKES THESE COMPANIES MORE COMPETITIVE WITH PRICING, WHICH TAKES U.S. JOBS AWAY FROM VERY COMPETITIVE U.S. COMPANIES.

ONE OF THE MOST BLATANT CASES INVOLVES A SHELL COMPANY NAMED YARNS AMERICA (HTTP://YARNSAMERICA.COM). ON THEIR WEBSITE (COPY ATTACHED), THEY CLAIM TO HAVE 526,400 SPINNING SPINDLES IN NC, SC, AND AL, PRODUCING 5,000,000 POUNDS PER WEEK OF YARN. SPINDLE IS THE INDUSTRY TERMINOLOGY USED TO QUANTIFY THE YARN PRODUCING CAPACITY OF A MACHINE, PLANT, OR COMPANY. IF THIS INFORMATION WERE ACCURATE, YARNS AMERICA WOULD PRODUCE TWICE AS MUCH RING SPUN PRODUCT AS

PARKDALE. WE KNOW DETAILS OF EVERY YARN SPINNING COMPANY OPERATING IN THIS HEMISPHERE. THIS COMPANY DOES NOT EXIST. OUR SALESMEN THAT COVER THE CAFTA MARKET CONTINUALLY SEE AFFIDAVITS FOR YARN FROM THIS COMPANY CERTIFYING U.S. ORIGIN. THEY HAVE ALSO SEEN YARN IN CUSTOMER FACILITIES LABELED "YARNS AMERICA" THAT WAS OBVIOUSLY FOREIGN-MADE DUE TO THE PACKAGING AND IN FOREIGN CONTAINERS THAT COULD NOT HAVE BEEN SHIPPED FROM THE U.S. WE NOTIFIED JANET LABUDA AT U.S. CUSTOMS TWO YEARS AGO OF THIS ISSUE. WE KNOW THAT SHE HAS DONE SOME INVESTIGATION, BUT, TO-DATE, THERE HAS BEEN NO RESOLUTION AND YARNS AMERICA CONTINUES ITS ILLEGAL OPERATIONS.

DATA PUBLISHED BY THE U.S. GOVERNMENT (ATTACHED) ALSO SUPPORTS THAT NON-QUALIFYING YARNS ARE ILLEGALLY SUBMITTED AS U.S.-PRODUCED PRODUCT. IN 2008, THE DIFFERENCE BETWEEN DOMESTIC EXPORTS AND U.S. PRODUCTION TOTALS 42,768,751 KILOGRAMS (OR 196,023 BALES OF COTTON). THE DEFICIT BETWEEN EXPORTS AND THE TOTAL OF PRODUCTION AND IMPORTS WRONGLY INDICATES THAT NO COMBED COTTON YARN IS CONSUMED DOMESTICALLY. THE DIFFERENCE IS EQUIVALENT TO THE PRODUCTION OF NINE AVERAGE-SIZED U.S. MILLS. NOT COINCIDENTALLY, AT LEAST SEVEN U.S. COMBED COTTON YARN MILLS HAVE CLOSED SINCE THE BEGINNING OF 2008. BARRING A CHANGE IN THIS SITUATION, MORE CLOSINGS ARE IMMINENT. THIS IS CERTAINLY PROOF POSITIVE THAT THE LEVEL OF FRAUD IS IMMENSE.

THERE ARE NUMEROUS SMALLER ASIAN-OWNED APPAREL COMPANIES IN THE CAFTA REGION THAT WILL PURCHASE MULTIPLE CONTAINERS OF ASIAN YARN TO EVERY SINGLE

CONTAINER OF U.S. YARN. UTILIZING THE AFFIDAVIT ON THE U.S. YARN, WITH NO CONTINUOUS SYSTEM OF CHECKS AND BALANCES FROM U.S. CUSTOMS, THEY CAN REPORT ALL OF THESE GARMENTS MANUFACTURED FROM U.S. YARN, WHEN THE ACTUAL U.S. YARN CONSUMED IS A FRACTION OF THE TOTAL. WE CAN VERIFY THAT 2.5 TO 3 MILLION POUNDS OF ASIAN YARN PER MONTH IS IMPORTED INTO CAFTA, WHICH DOES NOT VIOLATE ANY TRADE LAWS. HOWEVER, WE CANNOT VERIFY THAT DUTY IS PAID ON ALL OF THE GARMENTS PRODUCED FROM THIS YARN. WE CAN LOOK AT ONE PRODUCT IN PARTICULAR, 40/1 COMBED COTTON, AND SEE THAT MANY MORE POUNDS OF GARMENTS ENTER THE U.S. DUTY-FREE MADE FROM THAT PRODUCT THAN IS EXPORTED FROM THE U.S. AND PRODUCED IN THE CAFTA REGION.

THERE ARE A LARGE NUMBER OF CENTRAL AMERICAN AND MEXICAN COMPANIES THAT DO FOLLOW CAFTA AND NAFTA RULES OF ORIGIN. THESE COMPANIES AND PROFESSIONAL ORGANIZATIONS THAT REPRESENT THEM (SUCH AS VESTEX IN GUATEMALA) ARE A RESOURCE FOR U.S. CUSTOMS TO IDENTIFY VIOLATIONS OF THE FTA'S. WE WOULD LIKE TO SEE THE ASIAN YARN THAT IS IMPORTED INTO CAFTA TRACKED THROUGH THE SUPPLY CHAIN TO SEE IF DUTIES ARE IN FACT PAID ON THESE GARMENTS.

THE SOLUTION CAN ONLY BE BETTER ENFORCEMENT OF FTA RULES OF ORIGIN. TO ELIMINATE FRAUDULENT AFFIDAVITS OF ORIGIN, FORGERY, AND SHELL COMPANIES, WE MUST HAVE AN ELECTRONIC SYSTEM WITH THE ABILITY TO FOLLOW PRODUCT THROUGH THE ENTIRE SUPPLY CHAIN. EACH ELECTRONIC AFFIDAVIT NEEDS A UNIQUE NUMBER SO THAT IT CANNOT BE REUSED OR COPIED. ADDITIONALLY, THERE HAS TO BE A QUALIFYING

REGISTRY OF COMPANIES ELIGIBLE FOR DUTY-FREE BENEFITS ISSUED UNIQUE CODES TO KEEP OUT SHELL COMPANIES SUCH AS YARNS AMERICA.

OTHER MEASURES THAT WILL HELP MAKE CUSTOMS ENFORCEMENT MORE EFFECTIVE INCLUDE:

- ELIMINATE BLANKET AFFIDAVITS
- INCREASE THE NUMBER OF CUSTOMS AGENTS
- BAN VIOLATORS FROM THE PRIVILEGE OF IMPORTING INTO THE U.S. FOREVER
- SEVERE PENALTIES FOR FALSE INFORMATION IN A FTA CLAIM
- SEIZURE OF UNDERVALUED GOODS
- PERMANENT CUSTOMS STAFF IN THE CAFTA REGION

THIS ISSUE CONTINUES TO PUT THE U.S., CAFTA, AND NAFTA COMPANIES AND EMPLOYEES IN PERIL. WE HAVE EXCELLENT LAWS AND REGULATIONS IN PLACE; HOWEVER, INADEQUATE ENFORCEMENT ALLOWS FRAUD AND CORRUPTION. THE PURPOSE OF NAFTA AND CAFTA IS TO CREATE AND SUSTAIN JOBS IN BOTH REGIONS. THE YARN-SPINNING ASSETS IN THE U.S. ARE THE MOST COMPETITIVE AND MODERN IN THE WORLD, AND REPRESENT HUGE INVESTMENTS. ILLEGAL ACTIVITIES, INCLUDING CHEATING AND FRAUD, ARE PUTTING LEGITIMATE HARD-WORKING PEOPLE IN THE UNEMPLOYMENT LINE.

CHAIRMAN SHULER AND MEMBERS OF THE SUBCOMMITTEE, I THANK YOU FOR THE OPPORTUNITY TO PRESENT TESTIMONY TO THIS COMMITTEE AND I WOULD BE PLEASED TO ANSWER YOUR QUESTIONS.

THANK YOU,

DAN NATION

PRESIDENT

PARKDALE MILLS, INC.

Combed Cotton Yarn: Production + Imports – Exports = Transshipment?

The Product: Combed Cotton Yarn, classified by the Office of Textiles and Apparel in Category 301

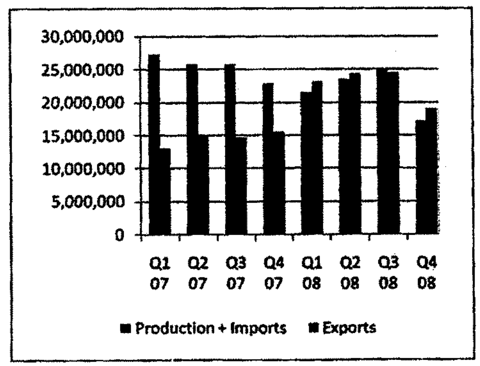
Definition of Combing: *A step that is subsequent to the carding process in both cotton and worsted spinning system yarn manufacture. In the cotton spinning system, card slivers are combined into a sliver lap before combing. The combing process separates the long, choice, desirable fibers from the neps and shorter stock (noil). The comber straightens and arranges them in parallel order in the form of combed sliver. Practically all remaining foreign matter is removed from the fiber sock. Only the best grades of cotton and wool may be combed. Combed yarns are finer, cleaner, more lustrous, and stronger than carded yarns. Combing is necessary for the production of fine yarns and also is applied to coarser yarns when high quality is desired.* Source: Short Staple Yarn Manufacturing, by McCreight, Feil, Booterbaugh, and Backe, Carolina Academic Press, 1997.

The Issue: Free trade and preference agreements have opened tremendous new opportunities for US yarn manufacturers exporting to markets in the Western Hemisphere. Duty-free benefits are granted to finished goods based on spinning the yarns with domestic fibers in a qualifying country. Unscrupulous entities have entered the market using Asian yarns by claiming falsely that the yarns were made in the US. **The scale of the problem led directly to at least nine plant closures so far in North Carolina, South Carolina, and Alabama over the last year. Two companies have been forced to close entirely in 2009 alone. More closures are imminent if the problem is not stopped immediately.** Trade cheats rob US and regional yarn producers of business and undermine the legitimacy of the agreements conferring special duty status. In 2008, the situation became impossible to ignore any longer when exports from the US exceeded the combined total of US production and imports. Trade data (see below) show this, but don't reflect the fact that at much of the domestically produced combed cotton yarn is never exported, but consumed in the US market.

Statistics (in kilograms):

	US Production	General Imports	Total Exports	Apparent Domestic Consumption
Q1 07	15,612,000	11,635,519	12,988,620	14,258,899
Q2 07	14,802,000	10,903,522	14,846,904	10,858,618
Q3 07	14,400,000	11,302,861	14,678,845	11,024,016
Q4 07	13,192,000	9,576,866	15,398,657	7,370,209
Q1 08	12,341,000	9,006,581	23,021,919	-1,674,338
Q2 08	12,816,000	10,636,129	24,349,166	-897,037
Q3 08	12,494,000	12,423,208	24,417,771	499,437
Q4 08	10,331,000	6,721,006	19,032,759	-1,980,753

Sources: US Production, US Census Bureau, Current Industrial Reports, "Textiles," Import/Export data, USITC Dataweb



Category 301 Combed Cotton Yarn

Data in Kilograms

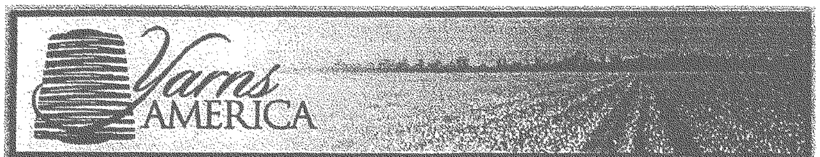
	US Production	Imports for Consumption	Domestic Exports	Apparent Domestic Consumption	Value of Imports	Value of Exports	Average Import Price ($/KG)	Average Export Price ($/KG)
Q1	15,612,000	11,635,519	12,975,643	14,271,876	$35,961,458	$39,395,924	3.091	3.036
Q2	14,802,000	10,906,697	14,803,760	10,904,937	$33,459,909	$41,797,200	3.068	2.823
Q3	14,400,000	11,302,861	14,644,554	11,058,307	$35,071,417	$41,343,911	3.103	2.823
Q4	13,192,000	9,576,866	15,393,699	7,375,167	$30,741,430	$44,631,295	3.210	2.899
2007	**58,006,000**	**43,421,943**	**57,817,656**	**43,610,287**	**$135,234,214**	**$167,168,330**	**3.114**	**2.891**
Q1	12,341,000	9,006,581	23,018,772	-1,671,191	$29,057,421	$72,665,938	3.226	3.157
Q2	12,816,000	10,636,129	24,342,244	-890,115	$33,897,019	$74,562,533	3.187	3.063
Q3	12,494,000	12,423,208	24,400,848	516,360	$38,523,436	$70,564,511	3.101	2.892
Q4	10,331,000	6,721,006	18,988,887	-1,936,881	$20,817,314	$54,597,186	3.097	2.875
2008	**47,982,000**	**38,786,924**	**90,750,751**	**-3,981,827**	**$122,295,190**	**$272,390,168**	**3.153**	**3.002**

Sources: Census, USITC

The difference between domestic exports and US production totals 42,768,751 kilograms (or 196,023 bales). The deficit between exports and the total of production and imports wrongly indicates that no combed cotton yarn is consumed domestically. **The difference is equivalent to the production of nine average-sized US mills.** Not coincidentally, at least seven US combed cotton yarn mills have closed since the beginning of 2008. Barring a change in this situation, more closings are imminent.

	100% cotton					50/50 poly/cotton			Total
	18/1	26/1	30/1	38/1	Avg	20/1	30/1	Avg	Average
Jan/Feb 07	$3.48	$3.81	$3.92	$4.93	**$4.03**	$4.05	$4.33	**$4.19**	**$4.08**
Mar/Apr 07	$3.48	$3.81	$3.92	$4.93	**$4.03**	$4.05	$4.33	**$4.19**	**$4.08**
May/Jun 07	$3.48	$3.78	$3.89	$4.93	**$4.02**	$4.05	$4.31	**$4.18**	**$4.07**
Jul/Aug 07	$3.48	$3.54	$3.63	$4.36	**$3.75**	$3.94	$4.16	**$4.05**	**$3.85**
Sep/Oct 07	$3.45	$3.56	$3.63	$4.36	**$3.75**	$3.96	$4.20	**$4.08**	**$3.86**
Nov/Dec 07	$3.23	$3.34	$3.39	$4.16	**$3.53**	$3.94	$4.16	**$4.05**	**$3.70**
Jan/Feb 08	$3.34	$3.48	$3.54	$4.27	**$3.66**	$3.94	$4.16	**$4.05**	**$3.79**
Mar/Apr 08	$3.34	$3.41	$3.45	$4.22	**$3.61**	$4.00	$4.25	**$4.13**	**$3.78**
May/Jun 08	$3.56	$3.83	$4.00	$4.66	**$4.02**	$4.38	$4.64	**$4.51**	**$4.18**
Jul/Aug 08	$3.70	$3.96	$4.16	$4.82	**$4.16**	$4.49	$4.77	**$4.63**	**$4.32**
Sep/Oct 08	$3.74	$4.03	$4.18	$4.88	**$4.21**	$4.58	$4.86	**$4.72**	**$4.38**
Nov/Dec 08	$3.45	$3.81	$3.94	$4.62	**$3.95**	$4.51	$4.77	**$4.64**	**$4.18**
Jan/Feb 09	$3.41	$3.74	$3.92	$4.60	**$3.92**	$4.58	$4.84	**$4.71**	**$4.18**
Mar/Apr 09	$3.34	$3.67	$3.85	$4.51	**$3.84**	$4.51	$4.75	**$4.63**	**$4.11**

US yarn prices are quoted bi-monthly in *Textile World*. The prices to the left have been converted to kilograms for comparison purposes. Note that the quoted US prices are significantly hgher than US import and export prices. Increasing regional demand in early 2008 pushed prices up as production moved out of Asia. Prices began to tumble in the fourth quarter. However, the gaping difference between US prices and export prices remain.



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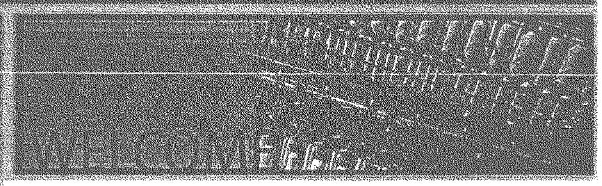

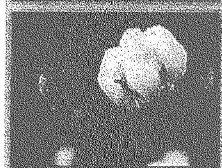

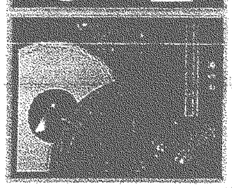

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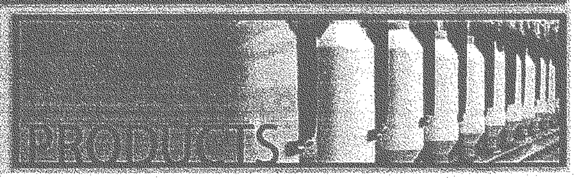

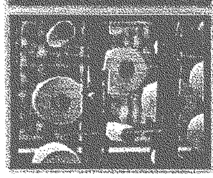

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4. Organic Cotton -
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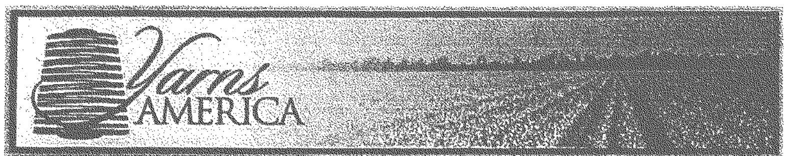

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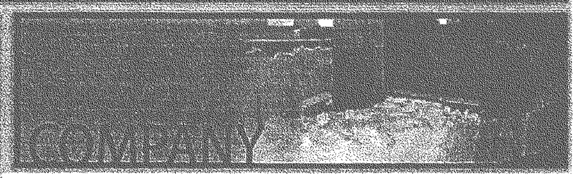

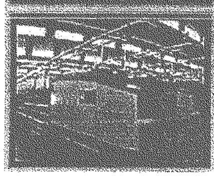

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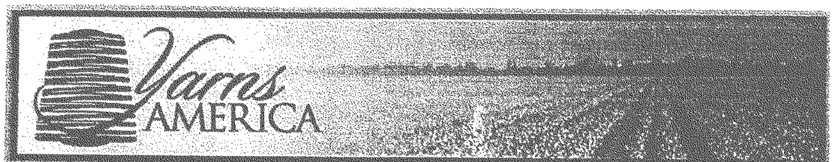

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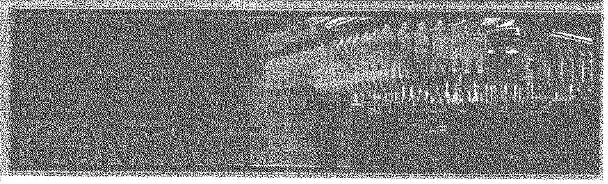

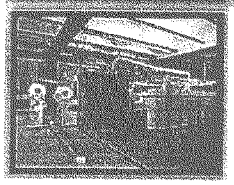

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United States Government Accountability Office

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Testimony
Before the Subcommittee on Rural Development, Entrepreneurship, and Trade, Committee on Small Business, House of Representatives

For Release on Delivery
Expected at 10:00 a.m. EDT
Thursday, June 18, 2009

INTERNATIONAL TRADE

Observations on U.S. Government Efforts to Address Textile Transshipment

Statement of Loren Yager, Director
International Affairs and Trade

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GAO-09-813T

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to appear today to provide our perspective on the issues associated with textile transshipment. I have had the opportunity to testify on a number of occasions before the Committee on Small Business, and learned more in each of those hearings about the importance of trade to the small business community. It is particularly important in the current economic environment that the United States does everything it can to ensure that U.S. laws regarding the entry of illegal goods are fully enforced at the U.S. borders. Effective monitoring of textile and apparel imports are also important because duties on textile and apparel products account for a significant share of U.S. duty collections. However, this enforcement takes place in the challenging and busy environment of U.S. ports of entry - - in fiscal year 2008, there were nearly 29 million trade entries processed at more than 300 ports of entry throughout the United States.

In my statement today, after providing some background on the role of Customs and Border Protection (CBP) with regard to textile imports and other goods, I will summarize key findings from our prior reports on (1) U.S. government efforts to enforce laws related to imports of textiles and other goods, including transshipment, and (2) the revenue implications of these efforts, as well as discuss the recommendations we made to improve those efforts.

GAO's last report on the subject of textile transshipment was published in 2004 and there have been many changes in world trade and in customs enforcement since that time. However, we have consulted with CBP since that report was issued on the status of their response to the GAO recommendations to improve that system. In addition, we have completed additional studies on customs enforcement issues, which provide important insights into the challenges CBP faces as it addresses textile transshipment. One of those reports covered the in-bond system, which was a key subject in the 2004 report on textiles, and a second is on CBP's ability to maintain an emphasis on revenue such as duties collected from textile and apparel imports. In addition, we have also completed numerous studies on intellectual property enforcement by CBP and other U.S. agencies, and there is considerable overlap between those efforts and textile enforcement efforts. We conducted our work in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

CBP is the agency primarily responsible for border enforcement, given its authority to detain and examine shipments and seize goods that violate U.S. law. These illegal goods could include textiles and apparel that are illegally entering the U.S., but could also include goods that violate U.S. laws related to intellectual property, illegal drugs, or product safety. CBP's priority mission is keeping terrorists and their weapons out of the U.S. CBP is also responsible for enforcing immigration and other border related laws and regulations. Two CBP offices are central to carrying out policies and procedures related to enforcement efforts at the U.S. border:[1]

- Office of Field Operations – This office houses CBP's border operations and is comprised of 20 field offices under which are CBP's more than 300 ports of entry. With more than 20,000 CBP officers, the office is responsible for carrying out CBP's cargo and passenger-processing activities related to security, trade, immigration, and agricultural inspection. Daily management of port operations is highly decentralized, with field offices overseeing but not directly managing port operations. CBP's port operations oversee an array of cargo- and passenger-processing environments, and port management structures are not uniform. For example, some ports' management oversees a single port of entry while others oversee multiple ports of entry (e.g., a seaport and nearby airport).
- Office of International Trade – Established in October 2006, this office consolidates the trade policy, program development, and compliance measurement functions of CBP into one office. It is responsible for providing uniformity and clarity for the development of CBP's national strategy to facilitate legitimate trade and managing the design and implementation of strategic initiatives related to trade compliance and enforcement. CBP has identified seven customs issues considered to be its priority trade issues, one of which is textiles.

Although all goods imported into the United States are subject to examination, CBP examines only a small portion of them. The total number of exams conducted each year increased dramatically after

[1]GAO, *Intellectual Property: Better Data Analysis and Integration Could Help U.S. Customs and Border Protection Improve Border Enforcement Efforts*, GAO-07-735, (Washington, D.C.: April 26, 2007).

September 2001, but most exams conducted between 2001 and 2005 were for security rather than trade reasons; the percent of exams conducted for trade purposes decreased during that time period. When CBP detects imported goods that violate U.S. law, additional law enforcement agencies such as the Department of Homeland Security's (DHS) Immigration and Customs Enforcement (ICE) and the Department of Justice may become involved to further investigate and/or prosecute violators.[2]

CBP Attempts to Address Textile Transshipment, but Significant Challenges Remain

GAO's prior work has shown that CBP targets potential textile transshipment on several levels. However, we have found that CBP's efforts continue to face challenges which inhibit its ability to fully address the risk of textile transshipment.

To identify potential illegal textile transshipments to the United States, CBP targets countries, manufacturers, shipments, and importers that it determines to be at a higher risk for textile transshipment. CBP uses a targeting process that relies heavily on analyzing available trade data and other information to focus limited review and enforcement resources on the most suspect activity.

First, CBP identifies the countries in which trade flows and other information indicate a large potential for transshipment. Second, it focuses on selected manufacturers in those high-risk countries for overseas factory visits, by what are known as Textile Production Verification Teams. The teams attempt to verify that factories are able to produce the shipments they have claimed or to discover evidence of transshipment, such as counterfeit documents. If evidence of transshipment is found, CBP uses this information to target shipments to the United States for review and potential exclusions, seizures, or penalties. CBP also targets importers based on high-risk activity, and conducts internal control audits that include verifying whether the importers have controls against transshipment. However, resource constraints limit the number of foreign factories and shipments that CBP can target and review annually to a small share of textile and apparel trade.

[2]GAO, *Intellectual Property: Federal Enforcement Has Generally Increased, but Assessing Performance Could Strengthen Law Enforcement Efforts*, GAO-08-157, (Washington, D.C.: March 11, 2008).

CBP's textile review process for preventing illegal textile transshipment has adapted to the changing security environment, but our past work found that CBP faces challenges in its monitoring and enforcement activities. The textile review process includes analysis of entry documents, inspection of shipments, and verification of foreign production. We found that CBP ports increasingly depend on information received from targeting the most high-risk shipments, the results of CBP's Textile Production Verification Team foreign factory visits, and other intelligence.

Our prior reports identified three key challenges to effectively addressing textile transshipment. First, in 2004 we found that CBP's Textile Production Verification Team reports were not always finalized and provided to CBP ports, other agencies, or foreign governments for follow-up in a timely manner.[3] CBP adopted our recommendation to improve the timeliness of this follow-up. We also found that information from overseas Customs Attaché offices and cooperative efforts by foreign governments can provide important information for port inspections. Since the time of our report, CBP has increased the number of attaches in foreign ports to 20 in 2009. In addition, ICE has also increased its overseas personnel to over 50 in 2009.[4]

Second, the in-bond program creates the risk that importers can circumvent trade rules, including those applying to textile imports. To facilitate trade, the U.S. customs system allows imported cargo intended for either U.S. or foreign markets to move from one U.S. port to another without being assessed duties or quotas and without officially entering U.S. commerce. This cargo—referred to as an in-bond shipment, requires a responsible party to be covered by a CBP-approved bond and to agree to comply with applicable regulations. Some CBP port officials have estimated that in-bond shipments represent from 30 percent to 60 percent of goods received at their ports.

In our original report on textile transshipment and in a later review, we found that CBP's ability to assess and manage the risks of the in-bond cargo system was impaired by both (1) the limited information it collected on in-bond cargo and (2) the limited analysis it performed on available

[3]GAO, *International Trade: U.S. Customs and Border Protection Faces Challenges in Addressing Illegal Textile Transshipment*, GAO-04-345, (Washington, D.C.: Jan. 23, 2004).

[4]GAO, *Overseas U.S. Government Personnel Involved in Efforts to Protect and Enforce Intellectual Property Rights*, GAO-09-402R, (Washington, D.C.: Feb. 26, 2009).

information.[5] Evidence indicates that the in-bond system has been used at times for moving unauthorized goods through the country. For example, in 2007, we reported that about one-third of the value of goods that CBP seized for intellectual property violations in 2004 and 2006 were moving through the in-bond system. With the tremendous volume of trade coming through U.S. ports, CBP needs detailed information and accurate monitoring systems to set priorities for targeting and tracking cargo shipments that pose security or revenue risks. However, we found that CBP did not collect detailed information on the value or type of in-bond cargo being transported through U.S. ports; the in-bond form asks only for a general description. As a result, CBP did not have the information needed to set priorities for targeting and tracking cargo moving within the in-bond program, so as to concentrate on cargo of highest security, law enforcement, or revenue impact.

To address these weaknesses, GAO recommended in 2004 and again in 2007 that CBP increase targeting and inspection of in-bond shipments and collect more detailed information about such shipments. In response, CBP issued new in-bond inspection and data collection guidance to its ports, as well as updated guidance on in-bond processing requirements. In 2008, CBP issued guidance to advise ports on using automated targeting systems to identify at-risk in-bond shipments. CBP has also been working under the SAFE Port Act of 2006 to establish new information requirements for all maritime cargo destined to the United States, through its Secure Freight Initiative.

Third, in reviewing the in-bond system, we also found that CBP had failed to perform basic analyses of available information. CBP was not able to tell us, for example, the extent of the system's use, what products are shipped in-bond, or what shipments are expected for entry (and thus expected revenue collection from applicable trade duties) at inland ports. Despite prior audit recommendations, important management weaknesses persisted in CBP's tracking of in-bond cargo, with the result that CBP still does not know whether in-bond cargo shipments of greatest security or revenue interest are in fact entered into U.S. commerce or exported as required. In particular, CBP continued to have high numbers of open in-bond transactions with uncertain disposition. As a result, GAO made a

[5] GAO, *International Trade: Persistent Weaknesses in the In-Bond Cargo System Impede Customs and Border Protection's Ability to Address Revenue, Trade, and Security Concerns*, GAO-07-561, (Washington, D.C.: April 17, 2007).

series of recommendations to improve the oversight and monitoring of cargo moving within the in-bond system.

In response to those recommendations, CBP has taken steps to improve monitoring and oversight of in-bond shipments. For example, it increased data collection requirements on in-bond shipments and updated its Automated Commercial System (ACS) to better track, link, and report on such shipments. These steps have reduced the number of open in-bond transactions. CBP also modified the development plans for its Automated Commercial Environment System (ACE) to ensure that ACE provides adequate in-bond tracking and reporting capabilities. CBP also developed proposed regulatory changes that are expected to address certain weaknesses with in-bond regulation, by shortening the time period during which in-bond shipments can transit the country and requiring importers to notify CBP if their shipment plans change. As of August 2008, these proposed changes were being reviewed within CBP. To the extent that these changes address problems with the in-bond system, they will also address one of the ways in which textiles and other goods might illegally enter the United States or enter without paying the appropriate duties.

CBP Needs to Renew Its Focus on Revenue Functions

In addition to needed improvements on specific programs, we also found that CBP had to find a way to better balance security and important trade functions such as revenue collection. Although CBP's priority mission relates to homeland security, it collected more than $34 billion in fiscal year 2008, making it the second largest revenue generator for the federal government. Because of the high concentration of duties collected on textiles and apparel—four percent of U.S. imports generate approximately 40 percent of U.S. duties collected—any efforts to focus on revenue functions would likely generate improved oversight of textile and apparel imports. When the Customs Service was created in 1789 under the Department of the Treasury, its mission was almost entirely focused on revenue collection. Over time, the agency was presented with new missions and challenges, including drug interdiction, immigration enforcement, and airport passenger processing. But customs revenue functions, such as assessing and collecting duties, excise taxes, and fees and penalties, were always central to the Customs Service's mission because they produced substantial revenue.

To preserve a high level of customs revenue collections, Congress required in Section 412(b) of the Homeland Security Act that CBP, at a minimum, maintain certain revenue function positions and the level of staff resources that were present in the U.S. Customs Service when it became part of DHS in March 2003. The nine specific revenue function positions Congress required CBP to maintain were Import Specialists; Entry Specialists; Drawback Specialists; National Import Specialists; Fines, Penalties, and Forfeiture Specialists; attorneys of the Office of Regulations and Rulings; Customs Auditors; International Trade Specialists; and Financial Systems Specialists. The act also mandated that CBP maintain, at a minimum, the levels of support staff associated with customs revenue positions. Associated support staff provide a variety of management, technical, and administrative support functions. Some staff considered associated support staff includes Liquidators, Seized Property Custodians, Customs Technicians, as well as, Assistant Port Directors, Account Managers, and Economists. In 2007 we reported that CBP had not maintained the minimum number of staff in each position.[6] In addition, other positions that were not specified in the act (e.g., CBP Officers) that previously performed primarily customs enforcement functions, were spending much of their time performing homeland security functions.

Our previous findings suggest that Congress' concerns about the potential effects of moving customs revenue functions into DHS, whose priority mission is homeland security, were warranted. We found that this shift in mission contributed to reduced focus and resources devoted to customs revenue functions. Specifically, the number of staff in most customs revenue positions declined since the creation of DHS, despite a legislative mandate that they should not. In addition, the number of Auditors in the Office of Inspector General dedicated to customs issues has declined as the office's resources were focused in other areas. As a result the DHS Office of Inspector General conducted no performance audits related to customs revenue functions until 2007.

As a result of these findings, GAO recommended that CBP perform workforce planning to ensure that they had the necessary expertise to perform the various functions related to collection of duties and penalties. In addition, we also recommended that the DHS Office of Inspector General should identify whether areas of high risk related to customs revenue functions exist and consider initiating performance audits to explore and mitigate those risks.

[6]GAO, *Customs Revenue: Customs and Border Protection Needs to Improve Workforce Planning and Accountability*, GAO-07-529, (Washington, D.C.: April 12, 2007).

In response the DHS Office of Inspector General initiated a broad survey of customs revenue functions to determine whether areas of high risk related to customs revenue functions exist and initiated additional work. For example, in February 2009, the DHS Office of Inspector General reported on CBP's management of revenue analysis functions.[7] In addition, in preparing its fiscal year 2010 budget request, CBP employed a resource allocation model to determine the resources necessary to perform trade functions. As a result, it requested funding for 103 positions related to import safety and trade enforcement.

Conclusion

Mr. Chairman, we appreciate the opportunity to summarize our work related to CBP's efforts to enforce U.S. laws regarding illegal shipments of textiles and other products. As I have noted in my statement, we have performed a number of studies for the U.S. Congress both on textile issues specifically as well as on a number of closely related issues such as the in-bond program, revenue collection, and intellectual property enforcement at the U.S. border. Over time, we have found that CBP has made improvements in its efforts to enforce trade laws, including those related to textiles, but trade enforcement issues continue to present long-term challenges with significant revenue implications for the U.S. government. This concludes my statement, but I welcome the opportunity to answer any additional questions from you or other members of the Subcommittee.

[7]Department of Homeland Security Office of Inspector General, *Management of CBP Revenue Analysis Functions*, OIG-09-29 (Washington, D.C.: Feb. 12, 2009).

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JUNE 18, 2009

TESTIMONY
D. HARDING STOWE, CEO R.L. STOWE MILLS
BEFORE THE U.S. HOUSE OF REPRESENTATIVES
SMALL BUSINESS SUBCOMMITTEE ON RURAL AND URBAN ENTREPRENEURSHIP

TEXTILE IMPORT ENFORCEMENT: IS THE PLAYING FIELD LEVEL FOR AMERICAN SMALL BUSINESSES

Good morning, Chairman Shuler, Ranking Member Luetkemeyer and members of the subcommittee, my name is Daniel Harding Stowe. I am President and CEO of R.L. Stowe Mills. R.L. Stowe Mills ceased operations in the first quarter of 2009 and is going through the process of liquidating its plants and real estate. I am testifying at the hearing today because lack of effective customs enforcement was an important factor in our decision to close the business. It is my hope that by contributing to this hearing other American textile companies that still remain in business will have a future in our industry.

Our company was organized in 1901 and began operations in 1902. At its peak the company employed over 1,500 people in eight facilities. We produced yarns for many markets and product applications. These markets included apparel, hosiery, home furnishings, industrial, medical and military. Being in business for more than a century caused R.L. Stowe Mills to react to changes involving the market and adapt our processes and products to the demands that the market dictated. One market that was especially important to us was the knitted shirt industry in Central America because we had developed an extensive customer base that purchased fine count cotton yarns. We were able to grow our export business from 3% of our sales in 1999 to over 40% of our sales in 2008.

Almost all of this growth came from the CAFTA region and much of it in Guatemala. The Caribbean Basin Initiative allowed us to build strong supply chains into the region with our yarn. R. L. Stowe along with the textile's industry's principle trade group, the National Council of Textile Organizations supported the Central America Free Trade Agreement. The industry felt that by joining together with our Central American trading partners and customers would allow us to best complete with the overwhelming Chinese trade flows that were rapidly taking market share in most of the textile and apparel product categories.

Customs enforcement is a critical component in any trade agreement. It is especially true with CAFTA because of the many countries involved and the volume of goods being transferred between countries. We sought and were given assurances from the White House on down that enforcement would be diligent and given the highest priority. This was particularly important because we had discovered during the CAFTA debate that Customs had not hired over 72 textile and apparel specialists that Congress had appropriated money for several years before. We therefore asked for and got assurances that the CAFTA enforcement efforts would be stronger and more comprehensive than ever before.

As a matter of fact, our company hosted a presidential visit during the critical time that CAFTA was being debated. Former President George W. Bush toured our mill in July of 2005 and spoke to our employees on the importance of the CAFTA agreement. Privately I discussed with him the threat that Chinese exports into the US were having on the mill. To be clear, the promise of a unified Western Hemisphere business strategy to better compete with Chinese goods was the driving force behind our support for CAFTA along with the all but guaranteed increase in enforcement in what is now the CAFTA region.

Based on these assurances the textile industry provided the needed support to win passage of CAFTA, yet after CAFTA passed, enforcement of our customs laws grew weaker, not stronger. In fact, lack of customs enforcement was an issue almost from the beginning of CAFTA. The agreement was only one year old when the textile enforcement division was abruptly moved from Operations to a new policy branch. The industry protested loudly at this action – it made no sense to take what was primarily an enforcement division and move it to a policy division. This was particularly upsetting because Customs had done exactly the same thing back in the late 1990s – and had such problems with its enforcement efforts that textiles was transferred back to Operations. Now, a year after our commitments from the government, it was happening again.

2006 was good year for R. L. Stowe. We shipped over 11 million pounds of 30/1 and 2.5 million pounds of 40/1 much of it into the CAFTA region. We were operating four ring spinning plants and had seen constant growth in the region since we had entered the market in 2001. It was at the end of 2006 and early 2007 that we began to see blatant evidence of imported yarn being used from companies that either didn't exist, or were shipped with forged Affidavits of Origin claiming U.S. origin. In some cases, affidavits claimed that the yarn was made by R.L. Stowe.

In 2007, the problem had gotten so bad that representatives from RL Stowe Mills, Frontier, Parkdale and Tuscarora met with Matt Priest, the head of the Office of Textile and Apparel (OTEXA) to discuss the problem of falsified customs documents (fake "affidavits of origin") and the precipitous drop in the prices for yarn "Made in U.S." for use in CAFTA goods.

It was about this time that we first began to hear discussions of US companies that we knew did not exist. Our customers in the CAFTA region were suddenly being offered cheap fabric from California that was labeled "CAFTA qualified", but at price points that were significantly lower than fabric that could be produced in either the United States or the CAFTA region.

As a result, for two of our primary yarn counts into the region, in 2007 our overall sales of 30/1 sales fell from 11 million to 5.8 million and 40/1 sales fell from 2.6 million to 1.9 million while our sales to California over-all were down by 70-80% for natural yarns. We were now regularly being told that U.S. made yarn was "too expensive" and could not compete – yet U.S. yarn [1]was required to get CAFTA benefits. Yet many of our traditional California customers were exporting CAFTA qualifying fabric to Central America. We reported our concerns to Customs through NCTO. As evidence, we provided proof of falsified documents alleging CAFTA origin but when we submitted them to Customs, we were told they could not do anything until the goods came back into the U.S. Then we were told that because we did not know the name of the importer of record who brought the goods in, it would be very difficult, if not impossible, for Customs to trace the records back and take action. This was all very frustrating because we knew the knitters and in certain cases the cut and sew companies who were getting illegal goods and we knew who was sending them the illegal goods but this was still not enough information for Customs to crack down. Getting this information sometimes put the sources of our information at risk in terms of both their jobs and their well being and the lack of Customs follow-through made it difficult to gather more information.

Even after new assurances from Customs that it would move aggressively, fraudulent activity continued to increase with shell companies openly advertising their product as U.S. made yarn and offering false certificates of origin. By the fourth quarter of 2008, Central America was flooded with fraudulent yarn. Shipments and prices declined rapidly and in December because of these conditions and softening in other markets we made the decision to close RL Stowe Mills after 108 years and three generations in business.

I urge Congress to take action to make customs enforcement the priority that we were promised and help this important part of the United States industrial base survive in the future. It is difficult enough to compete in this global industry when rules are maintained and almost impossible when they are not.

Thank you for the opportunity to share the story of my company and I'd be pleased to answer any of your questions.

[1] There was no significant yarn production in the CAFTA region, therefore U.S. yarn was "de facto" required.

JUNE 18, 2009

TESTIMONY OF RICHARD T. CRICHTON
FORMER INTERNATIONAL TRADE MANAGER
U.S. CUSTOMS AND BORDER PROTECTION AGENCY
BEFORE
THE U.S. HOUSE OF REPRESENTATIVES SMALL BUSINESS SUBCOMMITTEE ON RURAL AND URBAN ENTREPRENEURSHIP

Chairman Shuler, Ranking Member Luetkemeyer and members of the Sub-Committee:

My name is Richard Crichton. I retired from Customs and Border Protection Headquarters after a 40 year career in which my primary concentration was in the area of textile importation. I started working at Customs and Border Protection (formerly U.S. Customs Service) in 1964 in Champlain, N.Y. I transferred to Headquarters in 1986 where I spent the first year as a Program Officer, then 8 years as a Supervisory Import Specialist (Branch Chief), and lastly, 9 years as an International Trade Manager, until I retired in 2004.

With that brief introduction, I do feel that actions that were taken when I was working at Customs that assisted in detecting and preventing illegal textile transshipment and undervaluation are still relevant and with modification, could be used to improve the enforcement efforts now:

- While at Headquarters, my responsibilities included providing technical assistance to U.S. Customs field office personnel to assist in preventing and detecting illegal textile and apparel transshipments. Illegal transshipments were being used at the time to disguise the county of origin and thus evade the quota limits applicable to the true country of origin.
- Illegal transshipment intensified during the 1990's as demand grew in the United States for quality products at inexpensive prices, most often these products were being obtained from countries with quota limits.
- As quotas began to be phased out or eliminated during the mid to late 1990's, higher duty rates still applied to many textile products. This, as well as the implementation of a number of Free Trade Agreements, became the primary motivation for illegally claiming that exports met the requirements to obtain lower duty rates or free entry. This dynamic continues to this day.
- During this time, I participated in Customs textile verification teams, which initially, consisted of a textile import specialist from a field office, a representative from the textile division at headquarters and a Customs agent. These teams were conducting textile factory visits in a variety of foreign countries

to confirm that production was taking, or could take place at the site and at a level which corresponded to claims on entry documents.

- Initially, Customs provided the necessary funding, but after a few years, Congress provided separate funding each year for this program.

I am going to focus on two main areas: Textile Verification Teams and more effective review of the classification and valuation of textile products

Number 1: Textile Verification Teams

In my opinion, the creation and expansion of textile verification teams to visit foreign factories was one of the most effective ways to detect and prevent evasion of quotas by illegal transshipment. Later, this same method was successfully used to verify preference claims for duty-free rates under the various Free Trade Agreements (CAFTA, etc.)

Initially, the visits were very productive, but eventually became less so. It seemed likely that the factory operators had become aware of the kinds of items that would be reviewed and more skilled at preparing the site for our visits. At that point, the review of documentation became more essential. In my opinion, however, the teams were hampered by the brevity of each factory visit and the failure or inability of the local management to provide or maintain complete, on-site documentation for their review. These difficulties are compounded further as the number of Free Trade Preference claims and the number of countries and companies requiring visits increased.

Recommendations for Improvements in Textile Verification Teams:

1. Develop a larger pool of qualified import specialists or inspectors with the specialized training and knowledge to not only review the actual manufacturing operations necessary to produce a certain type of textile product, but also an ability to review applicable production documentation.
2. Increase the length of time for individual visits at the foreign factories.
3. Strengthen the requirement for Free Trade Preference documentation to be at the factory where the production is being done.
4. Provide for penalties if the documentation is not available at the factory at the time of visit.
5. Staff additional import specialists or inspectors at Customs Headquarters to be available to identify and target suspect companies and to participate in some of the actual foreign production verification visits.
6. Give specialized training in documentation verification for import specialists at ports with the greatest volume of textiles claiming trade preferences.
7. Create verification teams with personnel to be used only in selected areas (CAFTA. NAFTA, etc.), that have specialized training and knowledge of the type of textile products, but more importantly with knowledge of the trade preference rules.

8. Create teams of import specialists or inspectors that work regularly with and train foreign Customs or Enforcement personnel in the Free Trade Preference areas (CAFTA, Etc.) where the largest number of violations are occurring

Number 2: Recommendation for Better Enforcement of the Classification and Valuation on Imports:

Another area that in my opinion needs greater enforcement effort is the general review by import specialist teams of the classification and valuation used for entry on all imports of textiles

In order to do this, I recommend the following changes:

1. Provide additional staffing at Customs Headquarters that would be capable of providing timely information to the field offices on products or shippers, manufacturers, or importers, etc., where there is suspicion of a violation by entering textile products that are either undervalued or entered under an incorrect classification. The information could be the result of informers, statistical or shipping document reviews, or concerns expressed by competitors.
2. Provide a method that would allow for the feedback of the results from the field offices and a method to ensure that such feedback would be circulated to all field offices.
3. Change the entry requirements for textile shipments where a free trade preference claim is made to provide information as to the actual foreign manufacturer on the entry documentation, including a unique manufacturer identification number. If there is more than one manufacturer on the entry, then a separate line of data should be supplied, including the manufacturer's identification number, for each manufacturer.
4. Do not allow blanket affidavits to be used to satisfy Free Trade Preference Claims.

I hope that this will be of some assistance to you. Chairman Shuler and members of the Subcommittee, thank you for this opportunity to appear before you today, I would be pleased to answer your questions at this time.

National Retail Federation®
The Voice of Retail Worldwide

TESTIMONY OF

ERIK O. AUTOR
VICE PRESIDENT, INTERNATIONAL TRADE COUNSEL
NATIONAL RETAIL FEDERATION

**U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON RURAL DEVELOPMENT,
ENTREPRENEURSHIP AND TRADE**

***"TEXTILE IMPORT ENFORCEMENT AND
SMALL BUSINESS"***

THURSDAY, JUNE 18, 2009

Liberty Place
325 7th Street NW, Suite 1100
Washington, DC 20004
800.NRF.HOW2 (800.673.4692)
202.783.7971 fax 202.737.2849
www.nrf.com

Good morning, I am Erik Autor, Vice President and International Trade Counsel for the National Retail Federation. I appreciate the opportunity to testify at today's hearing on behalf of the NRF and its member companies in the U.S. retail industry.

I would like to begin my presentation on today's topic – textile import enforcement and small business – by providing some background information about NRF and the retail industry. NRF is the world's largest retail trade association, with membership comprising all retail formats and channels of distribution including department, specialty, discount, catalog, Internet, independent stores, chain restaurants, drug stores and grocery stores. NRF represents an industry with more than 1.6 million U.S. retail establishments, more than 24 million employees - about one in five American workers - and 2008 sales of $4.6 trillion.

The current economic crisis has been the most challenging period for the U.S. retail industry in decades. Since January 2008, over 750,000 jobs have been lost in the retail sector – about one-fifth of all U.S. job losses – and a growing number of retailers have filed for bankruptcy. The impact has particularly hit small retailers – those with fewer than 5 stores. In an industry seemingly dominated by large big-box stores, small retailers, including those selling clothing, constitute over 98 percent of all retail operations in the United States.

Another important fact about retailers both large and small is imports account for the great majority of consumer goods sold in their stores. In the case of many apparel products, over 90 percent of items sold in the United States is sewn outside the United States and then imported.

This global commerce in clothing as well as textile products, such as bedding, curtains, and tablecloths, is still subject to some of the most stringent trade barriers applied to any manufactured product imported into the United States. Although the last of the textile and apparel quotas ended on January 1, imported textiles and apparel still face exceptionally high U.S. tariffs. U.S. duties on all non-preferential trade now average just under 5 percent, and about 2 percent if one includes preferential trade. However, the average U.S. tariff on non-preferential imports of textile and apparel, which covers every Asian country except Singapore, is around 16 percent, with duties on some clothing categories, like wool sweaters, in excess of 30 percent. It is worth noting that, while textiles and apparel represent only 8 percent of U.S. imports, these two sectors alone account for 43 percent of all duties collected by Customs and Border Protection.

In addition, textiles and apparel are also subject to the most onerous and restrictive rules of origin under our free trade agreements and preference programs of any manufactured product, making it extraordinarily difficult for retailers generally – and next to impossible for small retailers in particular -- to use these programs to lower importing costs. Small retailers would need to dedicate staff to the complicated process of importing apparel or textile products – or outsource that cost to customs brokers, or pay for the effort with higher prices of goods bought from wholesalers.

It is the job of Customs and Border Protection to enforce this system to control and restrict commerce in textiles and apparel. With the problem of quota evasion no longer a significant issue, these enforcement activities now largely focus on guarding against duty evasion – such as ensuring that imports claiming duty-free treatment under our preferential trade programs and free trade agreements meet the relevant rules of origin, and that the value of imported merchandise is not being under-reported. The question for today's hearing is how well CBP is doing that job.

I think it would be incorrect to say that CBP does not take its job seriously. For example, one-third of all the import specialists at CBP are exclusively devoted to textiles and apparel and many line agents are as well. CBP also regularly sends "jump teams" to foreign countries to ferret out violations. It will also move aggressively to detain merchandise at the slightest suspicion of a problem. Despite all this activity, many in the textile industry continue to complain that CBP is not doing enough and to demand that even more resources be allocated to stop the "cheating."

At this juncture, I want to be clear that the U.S. retail industry fully supports effective and efficient enforcement by CBP of our laws regulating trade. Retailers take their customs compliance responsibilities very seriously. This is confirmed by the fact that apparel retailers have among the highest customs compliance rates of any importing sector.

However, we are concerned that pressure from the textile industry may lead to overzealous enforcement with little control or oversight that will have several adverse consequences. First, it must be recognized that CBP will never have sufficient resources to ferret out 100 percent of violations. At a time when setting budget priorities has never been more critical for Congress and the Administration, there is a great risk that shifting ever more scarce manpower and financial resources to textile and apparel enforcement will adversely impact other critical CBP activities, such as cargo security and drug interdiction.

Therefore, to be effective, CBP must work smarter and better. In this respect, a risk-based enforcement system is the only viable solution. It allows CBP to partner with the trade in a way that supports the objective under the Customs Modernization Act of informed compliance by importers, and allows CBP to focus its attention on targeting high-risk imports, while facilitating the movement of legitimate trade.

Second, if CBP is constantly forced to leave no stone unturned, overzealous enforcement will increasingly result in harassment and disruption of shipments for the vast majority of importers, who are compliant and low risk, and thereby become a non-tariff trade barrier to legitimate trade. This is a serious problem for apparel retailers, who face the possibility of having their goods detained. Small retailers typically do not sell their own branded merchandise, and, with limited resources, are as a rule not direct importers. Rather they procure their goods through a purchasing agent or a wholesaler, who acts as the importer of record. Thus, they are dependent on these entities for ensuring that the goods comply with customs laws and regulations. If problems arise, the consequences are that goods they ordered may be seized and even forfeited through no fault of their own, but with serious adverse consequences to their business. Under these circumstances, it is imperative for retailers to know their business partners.

At a time when many retailers are struggling for to stay in business and are facing an increasingly burdensome compliance requirements on labor, environment, supply chain security, and product safety, an overly heavy hand by CBP that only disrupts legitimate textile and apparel trade while adding little to improve enforcement is unwise policy. To avoid this problem, while ensuring effective enforcement, CBP should continue to focus on a post-entry enforcement approach with the posting of bonds, remote entry filing, paperless release of cargo, and post-entry compliance audits. Consistency in enforcement among ports is also important. In addition, we would caution against using security information collected through the so-called 10+2 initiative for purposes of commercial compliance. Such information is largely unverified, reliance on which would be inconsistent with the goal of informed compliance by importers.

Finally, the Automated Commercial Environment (ACE) is critical to ensure CBP has the tools and system to enhance the collection and dissemination of commercial information. It is an essential system not only for US security, but is key to enabling the free flow of legitimate trade. CBP faces tremendous challenges in its dual role of enhanced security and trade facilitation and cannot meet this goal without ACE.

Thank you for your attention, and I would be happy to answer any questions.

HEATH SHULER, NORTH CAROLINA
CHAIRMAN

BLAINE LUETKEMEYER, MISSOURI
RANKING MINORITY MEMBER

Congress of the United States

U.S. House of Representatives
Committee on Small Business
Subcommittee on Rural Development,
Entrepreneurship and Trade
2361 Rayburn House Office Building
Washington, DC 20515-0515

July 31, 2009

Mr. Dan Baldwin
Assistant Commissioner
Office of International Trade
U.S. Customs and Border Protection
Department of Homeland Security
1300 Pennsylvania Avenue, NW
Washington, DC 20229

Assistant Commissioner Baldwin:

Thank you for appearing before the Subcommittee on Rural Development, Entrepreneurship and Trade on Thursday, June 18, 2009. We appreciate you taking the time to discuss issues related to textile enforcement before the Subcommittee. Your testimony suggested additional questions and information that would be helpful to members of the Subcommittee as we work to ensure that trade laws are properly enforced so America's small textile businesses can compete on a level playing field. Therefore, please review the attached questions and submit CBP's answers via e-mail to erik.lieberman@mail.house.gov and lisa.christian@mail.house.gov by 6 pm on August 21, 2009.

Your cooperation in this matter is appreciated. If you have any questions regarding this request, please contact the Committee's Regulatory Counsel, Erik Lieberman, at 202-225-4038.

Sincerely,

Heath Shuler
Chairman

Blaine Luetkemeyer
Ranking Member

Assistant Commissioner Baldwin
7/31/2009

FOLLOW-UP QUESTIONS FOR CUSTOMS AND BORDER PROTECTION

1. How many NAFTA and CAFTA textile entries were processed by CBP in 2008?

2. How many verifications were done on NAFTA and CAFTA entries in 2008?

3. What ports handle the greatest volume of NAFTA and CAFTA textile entries? How many CBP employees are assigned to verify textile entries at these ports?

4. CAFTA gave CBP the authority to conduct surprise site visits on Central American textile producers, and to impose enforcement actions. Since CAFTA was implemented, how many of these visits and enforcement actions have taken place?

5. Has CBP identified the countries most likely to traffic illegal textiles into the U.S.? If so, what are those countries? How do you ensure that high risk shipments from these countries are properly examined?

6. GAO has reported that trade growth and expanded enforcement responsibilities have overwhelmed CBP. How many staff members do you have working exclusively on textile issues? Has this level been consistent for the last 5 years?

7. In recent years, textile enforcement activity at CBP has declined significantly. Between FY2007 and FY2008, the value of commercial fraud penalty actions plummeted 93 percent. How do you explain this decline? How will it affect CBP's ability to deter fraud?

8. In 2004, the GAO reported that CBP's in-bond textile enforcement was ineffective. What specific steps has CBP taken since 2004 to enhance its in-bond textile enforcement?

9. What is the methodology employed for targeting illegal textile shipments? In what ways do you believe that this methodology could be improved?

10. CBP processed more than 29 million trade entries at ports of entry to the United States in 2008. What percentage of these entries were textile and apparel goods and of those goods how many do you believe entered the United States illegally?

11. Do the responsibilities of CBP overlap with other federal agencies in the area of textile enforcement?

Follow-up Questions for Customs and Border Protection

Question 1. How many NAFTA and CAFTA textile entries were processed by CBP in 2008?

Answer 1. In 2008 there were 100,521 entries processed that claimed CAFTA preferences and for NAFTA there were 329,030 entries.

Question 2. How many verifications were done on NAFTA and CAFTA entries in 2008?

Answer 2. In 2008 there were 1,750 full verifications performed for CAFTA and 581 full verifications performed for NAFTA.

Question 3. What ports handle the greatest volume of NAFTA and CAFTA textile entries? How many CBP employees are assigned to verify textile entries at these ports?

Answer 3:

CY08 Top Ports NAFTA-Canada

#	Port_Name	ENTRIES	% Tot ENTRIES
1	CHAMPLAIN-ROUSES POINT, NY	36,142	20%
2	BUFFALO-NIAGARA FALLS NY	31,135	17%
3	DETROIT, MI	24,283	14%

CY08 Top Ports NAFTA-Mexico

#	Port_Name	ENTRIES	% Tot ENTRIES
1	LAREDO, TX	29,032	19%
2	OTAY MESA, CA	26,051	17%
3	EL PASO, TX	18,005	12%

CY08 Top Ports CAFTA

#	Port_Name	ENTRIES	% Tot ENTRIES
1	MIAMI, FL	20,419	20%
2	PORT EVERGLADES, FL	17,911	18%
3	GULFPORT, MS	12,158	12%

The number of Import Specialists currently assigned to verify textile entries at these ports:

Champlain – 11
Buffalo – 8
Detroit – 7
Laredo – 7
Otay Mesa – 5
El Paso – 5
Miami (includes the Port Everglades entries) – 8
Gulfport, MS – 0 (currently these entries are processed in New Orleans where 5 import specialists are assigned to verify textile entries)

Question 4. CAFTA gave CBP the authority to conduct surprise site visits on Central American textile producers, and to impose enforcement sanctions. Since CAFTA was implemented, how many of these visits and enforcement actions have taken place?

Answer 4. Since the implementation of CAFTA, CBP has visited 281 factory operations in the region. Certain countries have been visited more than once for a total of 12 country visits since the implementation of CAFTA. During fiscal year 09 we have visited 181 factories.

Question 5. Has CBP identified the countries most likely to traffic illegal textiles into the U.S.? If so, what are those countries? How do you ensure that high risk shipment from these countries are properly examined?

Answer 5. The primary violator of textile laws involve companies exporting and importing textile products that originate in China. Violations include the misdescription, smuggling and undervaluation of merchandise to avoid the payment of Customs duties. CBP uses a variety of tools to ensure compliance of textile products with U.S. laws. The agency regularly deploys Textile Production Verification Teams (TPVT) to visit foreign factory locations to ensure that the goods claiming a particular country of origin are in fact manufactured there. In 2008 CBP deployed TPVTs to 15 countries. While in these countries the teams visited 473 factories. In addition, our scientific laboratories tested 1,677 textile products to ensure that the fiber content was correct and the use of certain provisions in our trade preference programs were also in compliance. Although physical examination of the goods is not always the best tool to deploy except mainly to address smuggling, CBP officers conducted 11,833 examinations. Audits were initiated on 79 importers and CBP implemented 11 special enforcement operations to address specific areas of targeted risk. CBP regularly monitors the importation of textile products to identify shifts, changes, and anomalies in textile trading patterns. The textile industry has been designated as a Priority Trade Issue and an interdisciplinary team meets on a monthly basis to address identified risks and provide guidance to field resources to address these risks.

Question 6. GAO has reported that trade growth and expanded enforcement responsibilities have overwhelmed CBP. How many staff members do you have working exclusively on textile issues? Has this level been consistent for the last 5 years?

Answer 6. Currently, CBP has 339 Import Specialists assigned to a team that process textile and wearing apparel entries and issues. These Import Specialists, however, are not exclusively working or dedicated to textiles and wearing apparel. There has been an increase of 44 from FY 07 to FY 08. In FY 2005 there were 263 Import Specialists assigned to process textile entries.

Question 7. In recent years, textile enforcement activity at CBP has declined significantly. Between FY 2007 and FY 2008, the value of commercial fraud penalty actions plummeted 93%. How do you explain this decline? How will it affect CBP's ability to deter fraud?

Answer 7. In FY 2007 CBP issued 70 penalty actions and in FY 2008 62 penalty actions were issued. Penalty actions normally have a relationship to the value of the goods being imported. The lower dollar values of $50.1 million in 2007 and $5.5 million in 2008 are reflective of the fact that import value per shipment can vary, despite the same level of penalty actions being taken. In addition, CBP has specific legal guidelines that are used to determine the type of penalty and the level of penalty that is used to address infractions, and this level of culpability adds additional variance to the dollar value of an assessment, while the number of penalties remains at consistent levels from year to year.

Question 8. In 2004, the GAO reported that CBP's in-bond textile enforcement was ineffective. What specific steps has CBP taken since 2004 to enhance its in-bond textile enforcement?

Answer 8. All in-bond shipments are now either transmitted or input into the CBP's automated systems. This enables CBP to use automated resources to track in-bond shipments and more readily identify overdue shipments. The Automated Commercial Environment initiative has been developed to provide even greater capabilities over controlling the in-bond system.

HQ has put out guidance to all field offices regarding in-bond shipments. However, there will always be differences between northern and southern ports, large and small ports, etc. Furthermore, it must be understood that the anti-terror mission is CBP's number one priority, and port directors must assign resources based upon local criteria and risk factors.

In-bond regulation changes are being written at this time. One of these changes is to 19CFR18.5a, which will require the in-bond carrier to notify CBP of a change to the destination port, and obtain permission prior to diverting to another destination port. Also, another regulation change will require all in-bond shipments to transit from the origination port to the destination port in 30 days. This new single transit standard will make it easier for CBP to track in-bond shipments and identify overdue shipments.

CBP now collects the Mexican entry (Pedimento) on southbound in-bond shipments, and shares this information with Mexico to help ensure that proper exportations take place. This is an ongoing initiative and improvements on this issue are being worked out between the U.S. and Mexico. CBP has also improved its tracking and reporting systems to also more accurately report export in-bonds that are overdue for exportation.

Question 9. What is the methodology employed for targeting illegal textile shipments? In what ways do you believe that this methodology could be improved?

Answer 9. High risk transactions are identified by using advanced risk management techniques. In order to employ our resources effectively, CBP uses risk analysis and pinpoint targeting to identify non-compliant shipments. Risk-management driven special textile enforcement operations are used to address non-compliance with applicable laws, regulations, Free Trade Agreement requirements, and Intellectual Property Rights provisions. New tools are being utilized to increase the effectiveness of these operations. The Automated Targeting System (ATS) provides numerous targeting elements that were not available in the past to allow specific issues to be addressed while facilitating legitimate shipments. The use of ATS is being explored to enhance our targeting effectiveness. Each year a country risk assessment is performed which monitors trade from regions in the world to determine changes in trends and patterns of trade. Where anomalies are identified the analysis is then made at the country and then manufacturer level. This information is then used to deploy CBP and ICE teams to the foreign factory/manufacturer location to determine compliance.

Question 10. CBP processed more than 29 million trade entries at ports of entry in the United States in 2008. What percentage of these entries were textile and apparel goods and of those how many do you believe entered the United States illegally?

Answer 10. In 2008 approximately 5% of all goods entering the United States by value were textile products. Approximately 20% of all importers entered textile products in the United States and approximately 10% of entry lines contained a shipment of textile products. 42% of the duties collected by CBP involve textile products.

CY08 Textile Totals			
PTI	ENTRIES	LINES	VALUE
Textiles	3,349,246	10,217,394	$105.2 B

As with all illegal activity it is impossible to estimate what came into the United States illegally. However, we do know that approximately 33% of all textile products are claiming China as the country of origin. CBP is currently running a special operation to determine the scope of undervaluation of China textile goods.

Question 11. Do the responsibilities of CBP overlap with other federal agencies in the area of textile enforcement?

Answer 11. CBP is responsible for the enforcement of all textile import laws. Although the agency's responsibilities do not overlap with other agencies, CBP works closely with Immigration and Customs Enforcement (ICE), also within the Department of Homeland Security, to ensure a robust enforcement posture for textiles. In addition, CBP works very closely with those Departments that comprise the Committee for the Implementation of Textile Agreements (Commerce, State, Labor, Treasury and the U.S. Trade Representative) to coordinate actions involving the industry.