



**Statement by  
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**“Textile Import Enforcement: Is the Playing Field Level for American Small  
Businesses?”**

**Subcommittee on Rural Development, Entrepreneurship and Trade  
Committee on Small Business  
U.S. House of Representatives**

**June 18, 2009**

Thank you for providing us an opportunity to submit this statement for the record in connection with the Subcommittee’s review of textile trade enforcement in free trade agreements (FTAs) and preference programs. I submit this statement on behalf of the American Apparel & Footwear Association (AAFA), the national trade association representing the apparel and footwear industries, and its suppliers. Many of our members are small businesses.

At the outset, let me state our strong support for U.S. FTAs and preference programs. These programs, including their benefits, rules of origin, and the anti-circumvention provisions, have been carefully crafted to ensure that they provide predictable opportunities for the development of international trade. In the case of both FTAs and preference programs, duty free access provides an additional sourcing opportunity for apparel companies who can meet a particular program’s rules of origin. Depending on the exact nature of the rules of origin, that additional business creates a demand for exports of U.S. textiles.

While the overwhelming majority of apparel companies and textile firms who participate in these programs play by the rules, there are some unscrupulous players who do not. It is for this reason that all such agreements contain provisions that guard against circumvention. U.S. Customs law also provides additional tools to prevent customs fraud. Compliance with these rules is of utmost concern for all AAFA members.

AAFA members support fair and balanced implementation and enforcement of these agreements. These companies institute comprehensive systems to guarantee proper customs compliance and due diligence to ensure correct classification, customs procedures, and recordkeeping. These systems are a basic cost of doing business, and one that companies willingly incur to meet the legal requirements in order to participate

in the FTAs or preference programs. But these additional costs become a competitive disadvantage if other companies are allowed to circumvent the rules or cheat.

But while we support these enforcement activities, we are also concerned when implementation and enforcement occurs in a manner that erodes the value of the program itself. In this regard, it is imperative that the compliance issues do not further complicate the ability of these companies to compete globally or to use the preference programs and FTAs. Intrusive factory visits, burdensome documentation requirements (including requirements that a second set of documents be retained offshore even though the documents are generated in the United States), and invasive port exams all create obstacles for the legitimate use of these FTAs and preference programs. This additional burden of compliance often completely offsets the duty savings, encouraging apparel companies to shift their sourcing out of the preference and FTA models entirely. When this sourcing shift sends business to Asia that had been previously done in Central America, U.S. textile companies lose business opportunities since Asian imports are less likely to contain U.S. content (such as yarns and fabrics).

It is with this in mind that we would like to offer several thoughts for the Subcommittee to consider as it reviews this issue.

**First**, CBP should be commended for the way in which it has approached the rapidly changing sourcing dynamics in the textile and apparel trade world. The proliferation of FTAs and preference programs with differing (and sometimes complicated) rules of origin, the elimination of quotas (which has eliminated the main historical reason for textile transshipment), and the introduction of new mandates related to security have made it difficult for Customs to adopt a single model. We look forward to working with CBP as it continues to reassess and re-evaluate its enforcement approaches so it can focus limited resources on the riskier companies and less on those with a demonstrated history of compliance. Moreover, we will also work with Customs to advocate a predictable, full, and quick implementation of programs so companies know and have a common understanding of the rules from the first day.

**Second**, we should resist the temptation to blame importers. Compliance with these programs must be implemented equally at all levels of the supply chain. All segments of the textile and apparel supply chain must be subject to the same level of scrutiny and compliance requirements. The U.S. exporters/manufacturers of yarns and fabrics must be held accountable for the documentation they provide to the importers, just as the importers are liable for the documentation they provide to their customers or to Customs. The end user, or the importer of record, should not be saddled with facing penalties from Customs for non-compliance when it in good faith relied upon the documentation and certifications provided to it by the fabric maker or the yarn maker.

**Third**, we should recognize that other factors are influencing textile and apparel trade patterns. A drop in trade with the countries of Central America, for example, owes as much to the fact that there was a five year delay between the conclusion of the U.S./Central American-Dominican Republic Free Trade Agreement (CAFTA-DR) and its

full implementation. Failure to look at the big picture may lead one to overstate the Customs compliance problems, resulting in incorrect policy prescriptions.

**Fourth**, CBP should follow up clearly on cases where there is documented evidence of Customs fraud. We understand that textile companies have raised concerns that bear investigation. As we noted earlier, complacency that allows some companies to circumvent the rules becomes a competitive disadvantage to those law-abiding Customs that do the right thing. Moreover, if companies feel their legitimate complaints have gone unanswered, then their support for the overall trade program erodes.

**Finally**, any changes or approaches to the enforcement or implementation scheme should be designed so as not to impose increased burdens on the legitimate traders. Increasing enforcement activities may curtail illegal activities but it may do so by stifling legitimate activity as well. The goal of the FTAs and preference programs should be to generate trade opportunities for all involved. Enforcement activities should support, and not work against, that goal.

The FTAs and preference programs can benefit all parties involved: the fiber industry, the yarn industry, the fabric industry, the apparel making industry, and the retailers. We seek to find effective measures to ensure compliance with our trade laws while at the same time seeking to find ways to ensure that all parties, especially the small businesses are able to benefit under our FTAs. AAFA is a strong supporter of the FTAs and preference programs, and will continue to work with its members to assist in compliance with all the rules and regulations and to help small businesses thrive in a global marketplace.