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INTERNATIONAL TRADE

U.S. Customs and Border Protection Faces Challenges in Addressing Illegal Textile Transshipment



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Highlights

Highlights of [GAO-04-345](#), a report to the Chairmen and Ranking Minority Members, Committee on Finance, U.S. Senate, and Committee on Ways and Means, House of Representatives

Why GAO Did This Study

U.S. policymakers and industry groups are concerned that some foreign textile and apparel imports are entering the United States fraudulently and displacing U.S. textile and apparel industry workers. Congress mandated GAO to assess U.S. Customs and Border Protection's (CBP) system for monitoring and enforcing textile transshipment and make recommendations for improvements, as needed. Therefore, GAO reviewed (1) how CBP identifies potential illegal textile transshipment, (2) how well CBP's textile review process works to prevent illegal textile transshipment, and (3) how effectively CBP uses its in-bond system to monitor foreign textiles transiting the United States.

What GAO Recommends

GAO is making several recommendations to the Commissioner of CBP to improve the information available for textile transshipment reviews, to encourage continued cooperation by foreign governments, to improve CBP's monitoring of in-bond cargo, and to strengthen the deterrence value of in-bond enforcement provisions.

The Department of Homeland Security agreed with GAO's findings and recommendations.

www.gao.gov/cgi-bin/getrpt?GAO-04-345.

To view the full product, including the scope and methodology, click on the link above. For more information, contact Loren Yager at (202) 512-4347 or YagerL@gao.gov.

INTERNATIONAL TRADE

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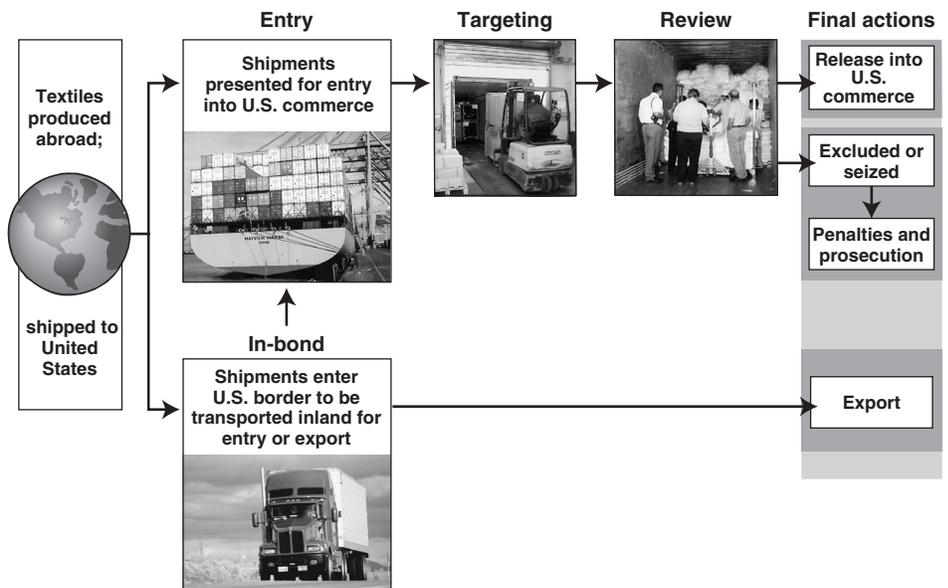
What GAO Found

To identify potential illegal textile transshipments, CBP uses a targeting process that relies on analyzing available trade data to focus limited inspection and enforcement resources on the most high-risk activity. In 2002, CBP targeted about 2,500 textile shipments out of more than 3 million processed, or less than 0.01 percent.

Given resource constraints at CBP ports, CBP's textile review process for preventing illegal textile transshipment increasingly depends on information from foreign factory visits that CBP conducts, based on the targeting results. However, CBP's foreign factory visit reports are not always finalized and provided to ports, other agencies, or the foreign governments for timely follow-up. Further, after the global textile quotas end in 2005, CBP will lose its authority to conduct foreign factory visits in former quota countries. U.S. overseas Attaché offices and cooperative efforts by foreign governments can supplement information provided to the ports.

Under CBP's in-bond system, foreign textiles and apparel can travel through the United States before formally entering U.S. commerce or being exported to a foreign country. However, weak internal controls in this system enable cargo to be illegally diverted from its supposed destination, thus circumventing quota restrictions and payment of duties. Moreover, CBP's penalties do not deter in-bond diversion. Bond amounts can be set considerably lower than the value of the cargo, and violators may not view the low payments as a deterrent against diverting their cargo.

CBP's Process for Processing and Inspecting Goods



Sources: GAO, Nova Development, and Corbis.

Contents

Letter

Results in Brief	1
Background	3
CBP Uses a Targeting Process to Identify Potential Textile Transshipment	5
CBP Has Adapted Textile Review Activities to Changing Environment but Faces Further Challenges	8
Weak Internal Controls Hinder Effectiveness of CBP's In-bond System	18
CBP Has Experienced Serious Challenges in Enforcing Textile Transshipment	32
Conclusions	45
Recommendations for Executive Action	53
Agency Comments	55
	56

Appendixes

Appendix I: Objectives, Scope, and Methodology	57
Appendix II: U.S. Textile and Apparel Trade, Production, and Employment	61
Imports of Textile and Apparel	61
Top U.S. Ports	65
Textile and Apparel Products Affected by Quotas	67
Future Barriers to Trade in Textile and Apparel	67
Appendix III: Comments from the Department of Homeland Security	72
Appendix IV: GAO Contacts and Staff Acknowledgments	76
GAO Contacts	76
Staff Acknowledgments	76

Tables

Table 1: U.S. Trade Partners Visited by Textile Production Verification Teams, 2000-2003	12
Table 2: Total number of In-bond Cases and Assessed Amount for Liquidated Damages, 2001-2003	37
Table 3: CBP Port-Level Exclusions, Penalties, and Seizures of Textiles, 2000-2002 (Dollars in millions)	48

Figures

Figure 1: U.S. Textile and Apparel Domestic Production, Employment, Imports, and Exports, 1993-2002	7
Figure 2: CBP's Process for Targeting Textile Transshipment	10

Figure 3: CBP's Monitoring of U.S.-Vietnam Trade Indicates Role and Limitations of Targeting	14
Figure 4: An Overview of CBP's Textile Monitoring and Enforcement Process, with Results for 2002	21
Figure 5: TPVT Officials Verifying Production in El Salvador Textile Factories, in July 2003	25
Figure 6: Main Hong Kong-China Commercial Control Point at Lok Ma Chau, August 2003	31
Figure 7: Total In-bond Entries for 11 Major U.S. Ports, January 2002-May 2003	34
Figure 8: Example of In-bond Diversion of Goods Supposedly Going to Mexico	36
Figure 9: Weaknesses in the In-bond Process	42
Figure 10: Major Components of Textile and Apparel Imports, 1993-2002	62
Figure 11: Share of U.S. Textile and Apparel Imports by Trade Partner, 2002	64
Figure 12: Share of U.S. Textile and Apparel Imports by Service Port, 2002	66
Figure 13: Employment in Major Sectors of the Textile and Apparel Industry, 1993-2002	70
Figure 14: U.S. Production (Shipments) in Textile and Apparel Sectors, 1997-2001	71

Abbreviations

ACE	Automated Commercial Environment
ACS	Automated Commercial System
AGOA	African Growth and Opportunity Act
ATC	Agreement on Textiles and Clothing
ATPDEA	Andean Trade Promotion and Drug Eradication Act
BICE	Bureau of Immigration and Customs Enforcement, Department of Homeland Security
CAFÉ'S	Customs Automated Form Entry System
CBP	U.S. Customs and Border Protection
CBTPA	Caribbean Basin Trade Partnership Act
CITA	Committee for the Implementation of Textile Agreements
FTA	Free Trade Agreements
FTAA	Free Trade Area of the Americas
I.E.	Immediate Exportation
I.T.	Immediate Transportation
NAFTA	North American Free Trade Agreement
STC	Strategic Trade Center
T&E	Transportation and Exportation
TPVT	Textile Production Verification Team
USTR	Office of the U.S. Trade Representative
WTO	World Trade Organization

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United States General Accounting Office
Washington, D.C. 20548

January 23, 2004

The Honorable Charles E. Grassley
Chairman
The Honorable Max S. Baucus
Ranking Minority Member
Committee on Finance
United States Senate

The Honorable William M. Thomas
Chairman
The Honorable Charles B. Rangel
Ranking Minority Member
Committee on Ways and Means
House of Representatives

With overall U.S. imports of textile and apparel products running about \$81 billion in 2002, or about 7 percent of all U.S. imports, U.S. policymakers and industry groups have been concerned that some foreign textile and apparel imports are entering the United States fraudulently and displacing U.S. textile and apparel industry workers. Illegal textile transshipment is one form of such illegal import activity and occurs when false country-of-origin information is provided for imported goods in order to evade U.S. textile quotas and customs duties.¹ U.S. Customs and Border Protection (CBP)² does not have a reliable estimate of the overall amount of illegal textile

¹As defined in the Trade Act of 2002, illegal textile transshipment occurs when preferential treatment under any provision of law has been claimed for a textile or apparel article on the basis of material false information concerning the country of origin, manufacture, processing, or assembly of the article or any of its components. False information is material if disclosure of the true information would mean or would have meant that the article is or was ineligible for preferential treatment under the provision of law in question. "Country of origin" for customs purposes generally refers to the country, territory, or insular possession where a textile or apparel product is grown, produced, or manufactured. Exceptions to this general principle exist and are briefly discussed in later sections of this report. Quotas are quantitative restrictions on the amount of a good that can be entered into commerce. A tariff is a duty or tax levied at the border on goods going from one country to another.

²On March 1, 2003, the U.S. Customs Service was transferred to the new Department of Homeland Security. The border inspection functions of the Customs Service, along with other U.S. government agencies having border protection responsibilities, were reorganized into the U.S. Customs and Border Protection (CBP). The U.S. Customs Service's Office of Investigations was transferred into the Department's new Bureau of Immigration and Customs Enforcement (BICE).

transshipment that occurs annually, but restrictive U.S. quotas and relatively high tariffs on certain textile and apparel products create incentives to foreign suppliers and importers to avoid these trade restrictions.³

Congress included a mandate in the Trade Act of 2002 (P.L. 107-210, Aug. 6, 2002) directing that we assess CBP's system for monitoring and enforcing textile transshipment⁴ and make recommendations for improvements, as needed. As discussed with representatives of the Senate Committee on Finance and the House Committee on Ways and Means, we have focused on answering the following questions:

- How does CBP identify potential textile transshipment?
- How well does CBP's textile review process work to prevent illegal textile transshipment?
- How effectively does CBP monitor foreign textiles transiting the United States in its in-bond system before entering U.S. commerce or being exported? and
- What challenges, if any, has CBP experienced in using penalties and other means to deter illegal textile transshipment?

To answer these questions, we conducted fieldwork at seven ports of entry (New York/Newark, New York; Los Angeles/Long Beach, California; Laredo, Texas; Columbus and Cleveland, Ohio; and Seattle and Blaine, Washington) to review how CBP reviews textile shipments at the major land, sea, and inland ports. Together, these ports represent CBP service ports that processed 55 percent of textiles and apparel imported into the United States in 2002. We also reviewed CBP's data analysis at its Strategic Trade Center in New York, observed a Textile Production Verification Team conduct foreign factory visits in El Salvador, and discussed CBP's efforts to coordinate textile enforcement activities with the customs authorities in El Salvador, Hong Kong, Macau, Mexico, and Canada. We conducted a survey

³Textile transshipment is difficult to detect, and CBP has not attempted to systematically determine the size of illegal transshipment occurring.

⁴For purposes of this report, the term "transshipment" refers to illegal textile and apparel transshipment; and "textiles" refers to textiles and apparel, unless otherwise specified.

of 29 CBP ports, including the 11 largest ports that process textiles and apparel imports. (See app. I for details about our scope and methodology.)

Results in Brief

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, CBP focuses on selected manufacturers in those high-risk countries for overseas factory visits, 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. In 2002, CBP targeted and selected for review about 2,500 textile and apparel shipments out of more than 3 million such shipments it processed that year. 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.

CBP's textile review process for preventing illegal textile transshipment has adapted to the changing security environment, but 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. 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 to do so, given the decreasing level of resources available at the ports for illegal textile transshipment enforcement. However, CBP's Textile Production Verification Team reports are not always finalized and provided to CBP ports, other agencies, or the foreign governments for follow-up in a timely manner. With the expiration of the World Trade Organization's textile quota regime in 2005, CBP will lose its authority to conduct foreign factory visits in former quota countries. Additionally, supplementing the enforcement information provided to the ports will be important because textile transshipment will remain a

concern due to tariff differentials resulting from free trade agreements and trade preference programs. Information from overseas Customs Attaché offices, now used on a limited basis, and cooperative efforts by foreign governments can provide important information for port inspections.

CBP has not effectively monitored movements of textiles in its in-bond system, due to weak internal controls that enable cargo to be illegally diverted from the supposed destination. The in-bond system allows cargo, including foreign textiles, to be transported from the original U.S. port of arrival (such as Los Angeles) to another U.S. port (such as Cleveland) for formal entry into U.S. commerce or for export to a foreign country. The effect of illegal diversion is that quota restrictions have been circumvented and payment of duties avoided. For example, a 2003 CBP investigation of in-bond diversion of foreign textiles found that the U.S. importer was filing false CBP documents reflecting export into Mexico when, in fact, the textile shipments were turned around before reaching the border and diverted into the U.S. market. Internal control weaknesses include

- lack of an automated system to track in-bond shipments,
- inconsistencies across ports in targeting and inspecting in-bond shipments,
- in-bond regulations that allow importers to change in-bond shipments' final destinations without notifying CBP and allow extensive time intervals for in-bond shipments to reach their final destination, and
- inadequate verification that in-bond shipments destined for Mexico are actually exported.

Although we reported on the in-bond system in 1994 and 1997 and made recommendations to CBP, not all have been implemented. Since we began our recent review, CBP has implemented some new measures and has made some improvements to the in-bond system. However, internal control problems remain.

CBP has experienced serious challenges in deterring illegal textile transshipment due to a lengthy and complex investigative process and competing priorities. CBP has extensive authority to enforce textile transshipment violations—from seizing the textiles, to penalizing or prosecuting the violator, to totally excluding the textiles from entering U.S. commerce. However, CBP relies on exclusions because, among other

reasons, they require less evidence than seizures and eliminate the need to penalize or prosecute the violator. Furthermore, enforcing violations under the in-bond system presents challenges due to CBP's weak internal controls and mitigation guidelines that can allow reduction of liquidated damages to a fraction of the total amount. CBP also employs other means to deter illegal transshipment by informing the U.S. importer community of violations. Additionally, CBP and the interagency Committee for the Implementation of Textile Agreements⁵ maintain various lists of foreign violators, in part to help deter transshipment by the importer community. CBP also regularly meets with the textile trade community to keep it informed of the latest enforcement information.

In this report, we are making recommendations to improve information available for textile reviews at the ports, to encourage continued cooperation by foreign governments, and to strengthen CBP's monitoring of in-bond goods.

We received written comments on a draft of our report from the Department of Homeland Security, which agreed with our recommendations. (See app. III.)

Background

The United States, like the European Union and Canada, maintains annual quotas on textile and apparel imports from various supplier countries. When a country's quota fills up on a certain category of merchandise, that country's exporters may try to find ways to transship its merchandise through another country whose quota is not yet filled or that does not have a quota. Transshipment may also occur because obtaining quota can be very expensive and the exporters want to avoid this expense. The actual illegal act of transshipment takes place when false information is provided regarding the country-of-origin to make it appear that the merchandise was made in the transited country. The effects of the illegal act of transshipment are felt in both the transited country (potentially displacing its manufactured exports) and the United States, increasing competition for the U.S. textile and apparel industry.

⁵The Committee for the Implementation of Textile Agreements is an interagency group composed of members from the Office of the U.S. Trade Representative and the departments of Commerce, Labor, State, and the Treasury.

These U.S. quotas, embodied in approximately 45 bilateral textile agreements, are scheduled for elimination on January 1, 2005, in accordance with the 1995 World Trade Organization (WTO) Agreement on Textiles and Clothing. However, U.S. quotas will remain for approximately five countries that are not members of the WTO and for specific product categories when trade complaint actions, resulting in reinstated quotas, are approved. Incentives to engage in transshipment will also continue due to the differing tariff levels resulting from the various bilateral or multilateral free trade agreements and preference programs that the United States has signed with some countries.⁶ U.S. tariffs on certain types of sensitive textile and apparel products range up to 33 percent,⁷ but such tariffs can fall to zero for imports from trade agreement countries. As with quotas, manufacturers from countries facing higher U.S. tariffs may find ways to transship their merchandise to countries benefiting from lower or no U.S. tariffs, illegally indicate the merchandise's country-of-origin, and enter the merchandise into the U.S. market.

Imports Nearly Double over Past Decade, While Production and Employment Decline

Over the past decade, U.S. imports of textile and apparel products have grown significantly, while domestic production and employment have declined. For example, textile and apparel imports in 2002 were about \$81 billion, nearly double their value in 1993.⁸ The largest suppliers to the U.S. market in 2002 were China (15 percent), Mexico (12 percent), and Central America and the Caribbean (as a group, 12 percent). See appendix II for

⁶The United States has negotiated free trade agreements or enacted trade preference programs with numerous countries or regions. The Trade and Development Act of 2000 includes the African Growth and Opportunity Act (AGOA) and the Caribbean Basin Trade Partnership Act (CBTPA) and gives nations of both regions quota-free and duty-free access to the U.S. market for products meeting rules of origin requirements. In addition, the Trade Act of 2002 provides for expanded access to U.S. markets from AGOA countries and also provides duty-free and quota-free treatment for merchandise from Colombia, Peru, Ecuador, and Bolivia. In addition, the United States, Mexico, and Canada participate in the North American Free Trade Agreement (NAFTA), and in 2003 the United States entered into free trade agreements with Chile and Singapore. The rule-of-origin provisions differ in these various trade agreements.

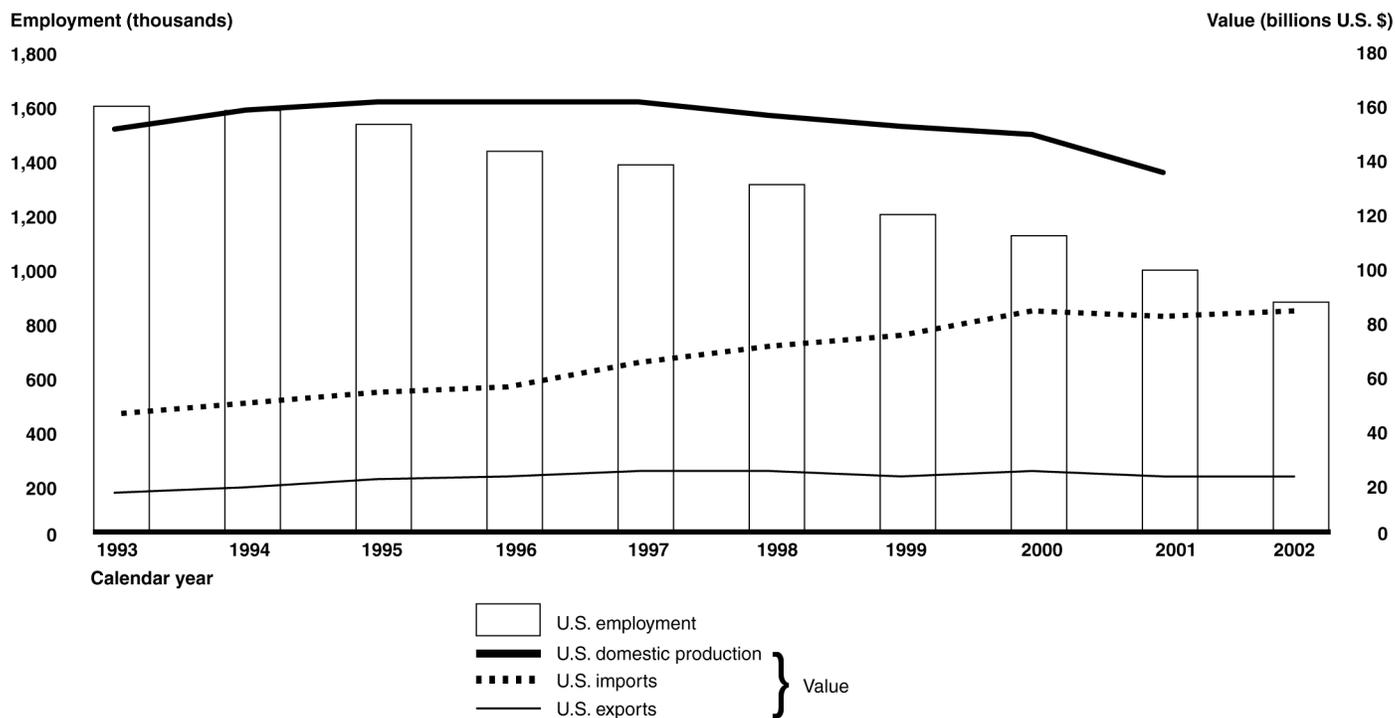
⁷This compares to an overall average U.S. tariff rate of less than 5 percent.

⁸Textile and apparel imports, as we define them in this report, include all textile and apparel products, whether or not quotas or other restrictions cover them. See appendix II for more information on textile and apparel trade and appendix I for more information on our methodology.

more information on textile and apparel trade, production, and employment.

While imports have grown over the decade, domestic production and employment have declined. Figure 1 shows U.S. domestic production, imports, exports, and employment in the U.S. textile and apparel sector. From 1993 through 2001 (latest year available), textile and apparel production (as measured by shipments to the U.S. market or for export) declined by 11 percent, and employment fell by 38 percent. However, the United States still maintains significant production (over \$130 billion) and employment (about 850,000 jobs) in the textile and apparel sector.

Figure 1: U.S. Textile and Apparel Domestic Production, Employment, Imports, and Exports, 1993-2002



Source: GAO analysis based on U.S. domestic production (shipments) data from the *Annual Survey of Manufacturers*, Census Bureau; U.S. employment data from the Bureau of Labor Statistics; and U.S. trade statistics from the Census Bureau.

Note: Data on production (shipments) was not available for 2002. Production, import and export values are in current dollars, not adjusted for inflation. Producer price changes in the domestic textile products and apparel sector were low over this period.

U.S. Government Roles in Monitoring Textile Transshipment

CBP has responsibility for ensuring that all goods entering the United States do so legally. It is responsible for enforcing quotas and tariff preferences under trade agreements, laws, and the directives of the interagency Committee for the Implementation of Textile Agreements (CITA) involving the import of textiles and wearing apparel. CBP has established a Textile Working Group under its high-level Trade Strategy Board that prepares an annual strategy for textiles and apparel. This annual strategy establishes national priorities and an action plan to carry out its goals. Within the framework of this overall strategy, CBP administers quotas for textiles, processes textile and apparel imports at U.S. ports, conducts Textile Production Verification Team (TPVT) visits to foreign countries, provides technical input for trade agreement negotiations, and monitors existing trade agreements. In addition to staff at CBP's headquarters, officials at 20 Field Operations Offices⁹ and more than 300 CBP ports of entry oversee the entry of all goods entering the United States. CBP has a specific unit, the Strategic Trade Center (STC) in New York City, assigned to analyze textile trade data and other information sources for the targeting process.

In addition to CBP, the departments of Commerce, Justice, State, and Treasury, and the Office of the U.S. Trade Representative (USTR) also play a role in transshipment issues. Further, as an interagency committee, CITA determines when market-disrupting factors exist, supervises the implementation of textile trade agreements, coordinates U.S. administration efforts to combat illegal textile and apparel transshipment, and administers the phase-out of textile and apparel quotas on WTO countries required under the 1995 Agreement on Textiles and Clothing.

CBP Uses a Targeting Process to Identify Potential Textile Transshipment

CBP's process for identifying potential illegal textile transshipments depends on targeting suspicious activity by analyzing available data and intelligence. Due to increased trade volumes and shifted priorities, CBP seeks to focus its limited enforcement resources on the most suspect activity. CBP targets countries, manufacturers, shipments, and importers that it determines to be at a higher risk for textile transshipment. First, CBP identifies the countries in which trade flows and other information indicate a high potential for transshipment. CBP then targets selected

⁹Field Operations Offices provide centralized management oversight and technical assistance for port operations within their regions.

manufacturers in those high-risk countries for overseas factory visits. Information from the factory visits is then used to target shipments to the United States for review and potential exclusions or penalties. Finally, CBP also targets importers based on high-risk activity and conducts internal control audits that include verifying that controls against transshipment exist. However, CBP selects only a small share of foreign factories and shipments for review due to limited resources.

Targeting Is Essential, Due to High Trade Volumes and Shifting Priorities for Resources

In response to a rapidly growing volume of trade at the border and limited resources for enforcement, CBP relies on a targeting process to identify shipments that have a high risk of being transshipped. According to CBP officials, trade growth and expanding law enforcement efforts have nearly overwhelmed its staff and resources. In addition, CBP's modernization of its processes and technology, as called for in the Customs Modernization and Informed Compliance Act of 1993, recognizes that the nearly 25 million entries (shipments) CBP processes annually cannot all be inspected.¹⁰ Furthermore, since the terrorist attacks of September 11, 2001, CBP has shifted resources to security concerns as its priority mission. Inspection and some other port-level staff have been diverted from detecting commercial violations to ensuring security. In addition, during higher alert levels (such as code orange and above), additional staff is also refocused to assist in port and national security.

CBP Targets Risky Countries, Manufacturers, Shipments, and Importers

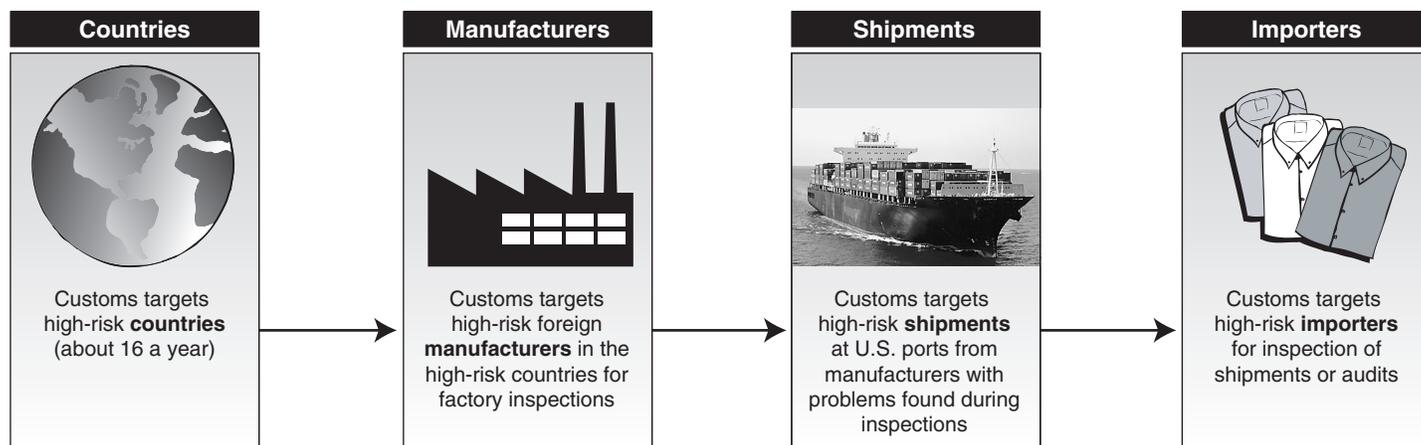
CBP's process of targeting high-risk activity begins by identifying the countries that supply textile imports that pose the greatest risk of illegal textile transshipment.¹¹ Applying a risk-management approach, CBP targets shipments for review based on trade data, such as sudden surges of products restricted by quotas from nonquota countries, production data,

¹⁰Public Law 103-182, title VI of the North American Free Trade Agreement Implementation Act, subtitles A, B. The Customs Modernization and Informed Compliance Act 1993 (also known as the "Mod Act") places part of the responsibility for compliance on importers while requiring CBP, then known as Customs, to modernize its processes and technology to enforce trade laws.

¹¹By identifying a country as high risk for textile transshipment, CBP is not making a determination that the country's *government* is involved in transshipment. Rather, the significance of the trade and the intelligence data concerning certain of that country's manufacturers identify the country as a potentially important transit point for transshipped goods.

results of past factory and port inspections, suspicious patterns of behavior, and tips from the private sector. CBP then reviews the targeted shipments for evidence of transshipment, while expediting the processing of nontargeted shipments. From its country-level review, CBP targets 16 countries per year on average, and actually visits 11 of them on average. For the countries CBP selects, it targets on average about 45 high-risk manufacturing plants to visit. These visits seek to find evidence of transshipment or to verify that the factories are in compliance with U.S. trade laws and regulations regarding the origin of the goods exported to the United States. If problems are found, CBP uses that information to target shipments (entries) entering the United States for possible detention and exclusion. CBP targeted 2,482 shipments in 2002. CBP has begun to target high-risk importers' shipments for review while also conducting internal audits of selected importers. Figure 2 shows the general process CBP uses to target suspicious activity.

Figure 2: CBP's Process for Targeting Textile Transshipment



Source: GAO analysis of CBP information.

CBP Targets about 16 Countries Annually

Before the beginning of each fiscal year, CBP analyzes trade and production data, as well as other available intelligence, to assess the relative risk of each major U.S. trade partner for engaging in illegal textile transshipment. CBP generally identifies 16 countries a year on average as being at high risk for transshipment or other trade agreement violations and updates its assessment at least once during the fiscal year. The risk level (high, moderate, or low) is based largely on the volume of trade in

sensitive textile categories, such as certain types of knit apparel and fabric, and the likelihood of transshipment through that country. For example, as of November 1, 2003, quotas on men and women's knit shirts and blouses were approximately 80 percent or more filled for China, India, and Indonesia. This situation creates an incentive for producers in those countries concerned that the quotas will close before the end of the year to transship their goods. CBP may increase its monitoring of trade in these products through neighboring countries. The likelihood of transshipment is a qualitative judgment that CBP makes based on available intelligence.

Countries with high production capabilities and subject to restrictive quotas and tariffs, such as China, India, and Pakistan, are considered potential source countries. These countries could produce and export to the United States far more textile and apparel products than U.S. quotas allow. Countries that have relatively open access to the U.S. market, either through relatively generous quotas (Hong Kong and Macau) or trade preferences programs (Central America and the Caribbean, and sub-Saharan Africa) are considered potential transit points for textile transshipment.¹² CBP focuses its efforts on targeting and reviewing goods from these transit countries rather than source countries because any evidence that goods were actually produced elsewhere, such as closed factories or factories without the necessary machinery to produce such shipments, would be found in the transit country.

After selecting the high-risk countries, CBP then selects a subset of these countries to visit during the year to conduct TPVT factory visits. During the past 4 years, CBP conducted 42 TPVT visits to 22 countries. Cambodia, Hong Kong, Macau, and Taiwan in Asia, and El Salvador in Latin America received three or more visits between 2000 and 2003. Table 1 shows the U.S. trade partners that CBP visited on a TPVT trip in those years, along with their share of U.S. imports of textile and apparel products in 2002.¹³ For some U.S. trade partners, their share of overall textile and apparel trade may be relatively low, but for certain products they are significant

¹²Although a good may be physically transshipped through a country with available quota or tariff preferences, it is also possible that the good would never enter the transit country. Rather, the product's documentation can be falsified to claim a certain country of origin without it ever entering that country.

¹³See appendix II for a list of top U.S. trade partners that supply textile and apparel products to the U.S. market.

suppliers. For example, although Thailand is the tenth largest supplier overall, it is the fifth largest supplier of cotton bed sheets.¹⁴

Table 1: U.S. Trade Partners Visited by Textile Production Verification Teams, 2000-2003

Partner	Number of TPVT visits, 2000-2003	Rank in U.S. textile and apparel imports, 2002	U.S. imports 2002 (million US\$)	Share of U.S. imports 2002
All Countries	42		\$80,864	100%
Hong Kong	6	3	4,099	5
Macau	4	20	1,149	1
Taiwan	3	8	2,483	3
El Salvador	3	16	1,713	2
Cambodia (Kampuchea)	3	21	1,062	1
Honduras	2	7	2,513	3
Thailand	2	10	2,322	3
Guatemala	2	18	1,676	2
Vietnam	2	22	960	1
Nicaragua	2	31	434	1
Lesotho	2	38	321	^a
Korea	1	6	3,275	4
Dominican Republic	1	12	2,252	3
Philippines	1	13	2,066	3
Bangladesh	1	15	2,017	2
Sri Lanka (Ceylon)	1	19	1,553	2
Mauritius	1	44	255	^a
Republic of South Africa	1	46	220	^a

¹⁴Due to an increase in imports of these products from Thailand, CBP selected Thailand for a TPVT visit. The visit uncovered that three of the top five exporters were illegally transshipping bed linens to the U.S. market. According to CBP, the Government of Thailand cooperated fully with U.S. authorities and revoked the companies' export rights.

(Continued From Previous Page)

Partner	Number of TPVT visits, 2000-2003	Rank in U.S. textile and apparel imports, 2002	U.S. imports 2002 (million US\$)	Share of U.S. imports 2002
Kenya	1	54	126	^a
Madagascar	1	62	90	^a
Swaziland	1	63	89	^a
Botswana	1	108	6	^a

Sources: U.S. Department of Commerce official trade statistics and CBP.

^aIndicates less than 1 percent of total U.S. imports of textile and apparel products. Imports are general imports measured at the entered Customs value.

The number of countries CBP visits each year has varied, but from 1996 through 2003 CBP visited 11 countries per year on average. Although the overall size of trade is an important factor in targeting countries, CBP also looks at a range of information in making its determination. For example, several relatively small suppliers, such as Nicaragua, Swaziland, and Botswana, were visited because they receive special preferences as developing countries. Also, Vietnam, which only accounted for about 1 percent of U.S. imports in 2002, was selected partly due to trade anomalies occurring during a period when Vietnam's quota-free access to the U.S. market made it a potential transit country.¹⁵ Figure 3 describes the case of Vietnam as an example of the role and limitations of the targeting process. However, Canada and Mexico are both top U.S. trade partners and designated as high-risk countries, but CBP has not made any TPVT visits. Under the NAFTA, producers in these countries are subject to visits to verify NAFTA eligibility. However, these visits do not focus on transshipment specifically and although CBP has sought to send a TPVT visit to Canada, it has not yet been successful in persuading the Canadian government.

¹⁵Between December 10, 2001, when Vietnam received lower tariff rates under normal trade relations, and July 17, 2003, when bilateral quotas were effective, there were no quotas on imports of Vietnamese textile and apparel products into the United States. Until December 10, 2001, Vietnam was subject to higher tariffs reserved for countries with which the United States does not maintain normal trade relations.

Figure 3: CBP's Monitoring of U.S.-Vietnam Trade Indicates Role and Limitations of Targeting

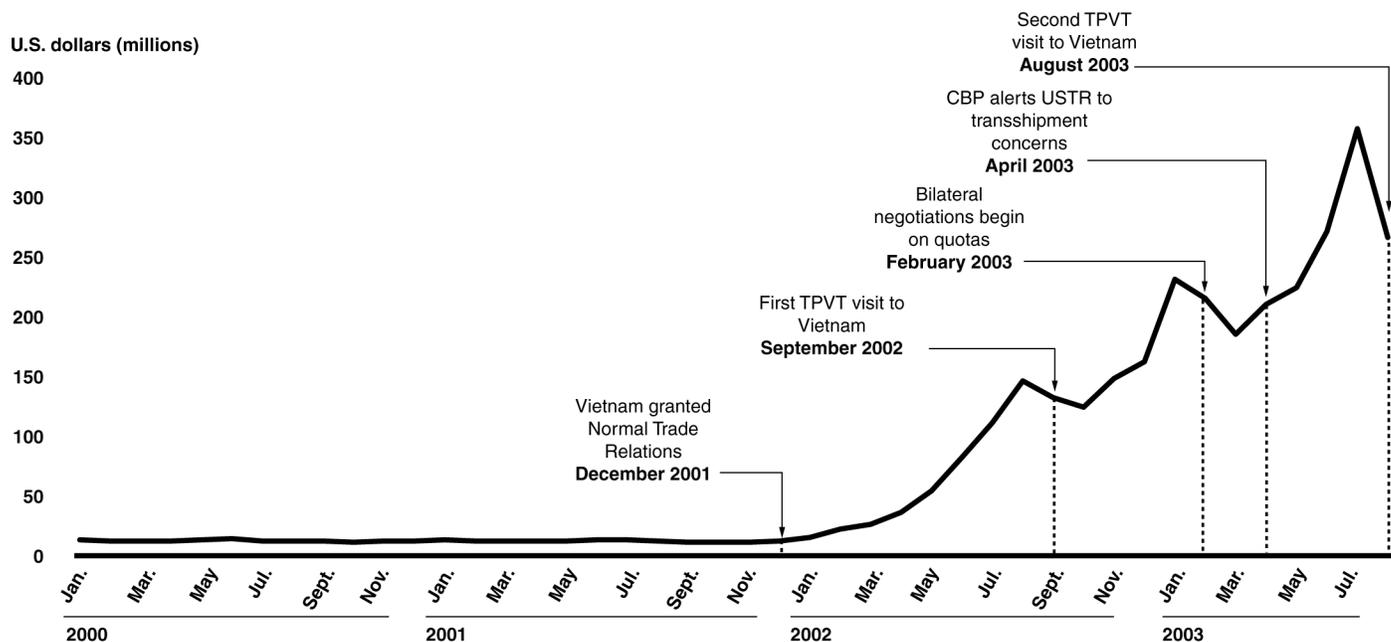
When Vietnam achieved normal trade relations (or nondiscriminatory tariff treatment) with the United States in December 2001, it also became more attractive as a location to manufacture textiles and apparel for export to the U.S. market, especially since quotas did not restrict these exports. As the graph below shows, Vietnam's exports of textile and apparel products to the United States began to increase rapidly in January 2002. Monthly imports from Vietnam rose from an average of about \$4 million per month between January 2000 and December 2001 to a peak of about \$349 million in July 2003.

The STC monitored Vietnamese textile exports to the U.S. market and identified Vietnam as a high-risk country for textile transshipment in 2002. In September 2002, CBP conducted its first TPVT visit after Vietnam received normal trade relations treatment and generally found the same kinds of issues there as CBP finds in most high-risk countries, especially poor record-keeping. CBP continued to monitor Vietnam's trade patterns, because Vietnam's exports were growing very quickly.

In February 2003, USTR began bilateral textile negotiations with Vietnam. About this time, CBP started having increased concerns about transshipment based on more concrete evidence. By the time USTR was finalizing an agreement in April 2003, CBP had serious concerns, according to a senior CBP official. When these concerns became public, a controversy ensued over whether the quota levels that had been negotiated based on Vietnam's existing import levels may have been inflated with non-Vietnamese transshipped imports. The result was a provision in the bilateral agreement that the United States could reduce the quota by the amount of any transshipped imports it might identify. To this end, CBP responded with a major initiative to review and verify Vietnamese textile imports, including a TPVT with three teams for 3 weeks in August 2003. Of the 102 factories they visited, 6 were closed or refused entry, 13 had their names used in counterfeit documents, and 18 were deemed high risk. CBP ports issued redelivery notices to 22 importers to return their merchandise to the ports for review. CBP also consulted the Vietnamese government about hundreds of questionable certificates of origin.

This example indicates the strength of targeting in identifying transshipment, as well as the limitations in doing so only retrospectively, especially in highly fluid situations. CBP was able to find evidence of transshipment, but only after many months had passed. In addition, intelligence information also played an important role in discovering the transshipment, underscoring that having other information sources is important in supplementing the information gained from targeting and conducting TPVTs.

U.S. Monthly Imports of Textile and Apparel Products from Vietnam, January 2000 to August 2003



Source: GAO based on U.S. trade statistics from the Census Bureau and CBP information.

CBP Visits About 45 Manufacturers Per Country

CBP targets about 45 factories on average per country visit, although this number varies depending on the characteristics of each country. For example, the proximity of factories to one another and the length of trip (1 to 2 weeks) will affect the number of factories that can be visited. The importance of the trade partner in U.S. textile and apparel trade will affect the length of the trip and number of factories targeted. On the November 2003 Hong Kong TPVT trip, for example, CBP visited over 200 factories. Before undertaking a TPVT visit in a foreign country, CBP conducts a special targeting session to identify the manufacturers in that country that it suspects may be involved in textile transshipment. Similar to its targeting of countries, CBP import and trade specialists consider the recent trade flows, available intelligence, experience from past factory visits, and reviews of merchandise at U.S. ports in order to narrow down from the total list of factories in the country to a list of the highest-risk factories that they will target for a visit.¹⁶ The process involves collaboration between the STC trade specialists, the port-level import specialists that will travel to the factories, and headquarters staff.

During the past 4 years, CBP found that about half the manufacturers that it targeted as high risk were actually found by TPVT visits to have serious problems. These problems included actual evidence of transshipment, evidence that indicated a high risk of potential transshipment, permanently closed factories, and factories that refused admission to CBP officials. Each of these problems is considered a sufficient reason to review and detain shipments from these factories as they reach U.S. ports. In addition, some factories were found to warrant additional monitoring by the STC. They were listed as low risk and their shipments were not targeted for review when they reached U.S. ports.

Although the share of targeted factories found to have problems is relatively high, the factories that CBP targeted were those that generally had some indication of risk, based on intelligence or trade data analysis. Also, the targeted manufacturers that were visited (about 1,700) during the 4-year period generally make up a small share of the total number of manufacturers in each country. However, for smaller trade partners, such as those that receive trade preferences under the Caribbean Basin Trade

¹⁶Import specialists generally are the port-level experts that are responsible for processing textile and apparel shipments and potentially detaining and examining the products and documentation before entry. Headquarters staff are also generally import specialists. International trade specialists conduct the trade data analysis and targeting at the STC.

Partnership Act (CBTPA) or African Growth and Opportunity Act (AGOA), CBP can visit a sizable share of the factories within the country because their overall number of factories is smaller. For El Salvador and Nicaragua, CBP has visited about 10 percent of the factories, and for Swaziland and Botswana, CBP has visited about 22 and 28 percent of the factories, respectively.

Due to the small share of factories that CBP can actually visit, the STC says it is developing evaluation tools to improve CBP's process of targeting foreign manufacturers for TPVT visits. Currently, the STC tracks the number and results of the TPVT visits in order to assess whether the targeted factories were actually found to have problems by the TPVT visits. CBP says it is developing a database to keep track of the specific criteria it used to target manufacturers for TPVT visits. It plans to use the results of the TPVT visits to identify which criteria were most useful in its targeting process.

CBP Identified More Than 2,400 Shipments in 2002

In 2002, CBP identified 2,482 high-risk shipments (entries) for greater scrutiny or review—less than one-tenth of 1 percent of the more than 3 million textile and apparel entries that year. CBP actually reviewed 77 percent of the shipments that were identified.¹⁷ Of the shipments reviewed, about 24 percent resulted in exclusions from U.S. commerce, 2 percent in penalties, and 1 percent in seizures. To choose shipments for review, CBP headquarters uses information collected from TPVT factory visits as well as other intelligence information to create criteria for its targeting system. When shipments match these criteria, they are flagged at the ports for a review.¹⁸ For instance, when a TPVT visit finds that a foreign factory has been permanently closed, CBP will place this information in its automated system to be used as criteria for targeting any shipments destined for entry into the United States that claimed to have been produced in that factory. In addition, other information such as prior shipment reviews or intelligence information concerning possible illegal activity by manufacturers, importers, or other parties can be entered as criteria to stop shipments. Criteria can be entered nationally for all ports, or individual ports can add criteria locally that only affect shipments to their own port.

¹⁷Not all shipments (entries) identified for review were actually inspected, since some were low-valued shipments that were exempted or entered during a security alert period in which nonsecurity inspections were limited.

¹⁸“Review” refers to the entire process of analyzing entry documents, inspecting shipments, and verifying foreign production documents.

CBP Identifies High-Risk Importers for Review and Audit

CBP has recently begun to increase targeting of U.S. importers of textile and apparel products who demonstrate patterns of suspicious behavior. For example, CBP identified more than 40 importers in the past year who have a pattern of sourcing from foreign manufacturers involved in transshipment. According to CBP officials, they can pursue penalties against these companies, because this pattern of behavior may violate reasonable care provisions¹⁹ of U.S. trade laws. CBP also uses this information and other intelligence it collects to target for review shipments that these importers receive. In addition to this targeting, CBP's Regulatory Audit division has traditionally conducted internal control audits of importers, and it uses a separate targeting process to identify the importers that it will audit. One component of its audits focuses on whether the importer has and applies internal controls for transshipment. The STC has also provided information about the companies it targets to Regulatory Audit for its own investigations or audits.

Number of Targets Identified Is Limited by CBP Resource Constraints

Although CBP's textile transshipment strategy relies on targeting, resource constraints limit both the number of targets that CBP generates and the type of targeting analysis that CBP can conduct. First, the number of foreign factories and shipments targeted is limited by the ability of CBP to conduct the reviews.²⁰ As previously discussed, CBP is able to visit only a small share of the foreign factories exporting textile and apparel products to the United States. The results of these visits then provide key information for targeting shipments for review as they arrive at U.S. ports. Similarly, CBP targets only a small share of textile and apparel shipments to U.S. ports for review. CBP officials with whom we met said CBP limits the number of shipments it targets for port reviews because port staff are unable to effectively examine a significantly larger number of shipments.²¹

¹⁹Reasonable care provisions require importers entering textile or apparel products into the commerce of the United States to ensure that the documentation covering the imported merchandise is accurate as to the country of origin. These provisions require that the importer not solely rely on information provided by the foreign supplier of the merchandise.

²⁰Since no reliable estimates exist of the amount of imports that are illegally transshipped, CBP is unable to assess whether the number of inspections is a sufficient tool to detect and deter textile transshipment.

²¹In addition, CBP does not want to adversely affect importers by detaining shipments without some evidence of transshipment besides trade data anomalies. However, even if a shipment is not targeted, CBP port staff can still select the shipment for inspection.

In addition to resource constraints due to security (previously discussed), reviewing shipments for textile transshipment is labor intensive and involves more than a simple visual inspection of the merchandise. Unlike cases involving narcotics in which physical inspections alone can lead to discovery of the drugs, physical inspections of textile or apparel products rarely provide sufficient evidence of transshipment. Port staff generally needs to scrutinize detailed production documentation, which is time consuming, to determine a product's origin and assess the likelihood of transshipment.²²

Second, staff constraints restrict the extent to which CBP can utilize and develop its targeting process. As of December 2, 2003, the STC had 25 percent of its staff positions unfilled (3 out of 12 positions), while its responsibilities are growing as trade agreements are increasing. For each new trade agreement, STC staff monitor trade and investment patterns to detect whether anomalies are developing that should be targeted. Consequently, CBP officials said that resource constraints have meant that several types of analysis that the STC planned on conducting have either been delayed or not conducted at all. These included analyses of high-risk countries, improvements to existing targeting processes, and studies of alternative targeting techniques. Despite these resource limitations, CBP and the STC, in particular, have made regular improvements to the targeting process. For example, CBP's targeting of countries and manufacturers for TPVT visits has become more systematic, relying on trade data and other intelligence to select factories for visits.

CBP Has Adapted Textile Review Activities to Changing Environment but Faces Further Challenges

CBP has consolidated textile functions at headquarters and has adapted textile review activities at the ports to changing resource levels. In response to national security priorities, CBP inspectors at the ports are being shifted to higher-priority duties, leaving import specialists at the ports to play the critical role in making decisions on excluding or seizing illegal textile shipments. CBP now relies on TPVT visits as an essential part of its targeting process, but CBP has not always finalized these TPVT

²²In addition, preference and free trade agreements have particular "rules of origin" requirements that must be met in order to obtain reduced or zero tariffs. These requirements are part of the complexity port staff face in determining whether transshipment has occurred. Rules of origin are the conditions that specify how a product must be produced or what materials must be used for the product to claim a particular country as its origin and qualify for trade preferences.

results and provided them to CBP ports, CITA, and the foreign governments for follow-up in a timely manner. With the expiration of the WTO global textile quota regime in 2005, CBP will lose its authority to conduct TPVTs in the former quota countries, and supplementing the enforcement information provided to the ports will be important. Information from overseas Customs Attaché offices and cooperative efforts with foreign governments can provide additional important information for port inspections.

CBP Has Consolidated Its Textile Activities Amid National Security Priorities

CBP has moved most textile functions into a single headquarters division to foster a coordinated agency approach to monitoring textile imports and enforcing textile import laws, but it must still depend on its port staff to identify and catch illegal textile transshipments. As CBP inspectors are shifted to higher-priority functions, such as antiterrorism and drug interdiction efforts, import specialists at the ports are playing an increasingly central role in scrutinizing the growing volume of textile imports. They review the entry paperwork for all textile imports covered by quotas or needing visas²³ in order to exclude shipments that are inadmissible or to seize those that are illegal, according to port officials. However, resource constraints at the ports have forced them to depend increasingly on STC targeting, results of TPVTs, and information from headquarters to identify suspect shipments and enforce textile laws.

CBP Has Centralized Textile Transshipment Activities, but Ports Still Key

In 2001, CBP consolidated oversight of most of its textile operations into one headquarters division in the Office of Field Operations, creating the Textile Enforcement and Operations Division. One important exception to that consolidation was the Textile Clearinghouse in the New York STC, which remained in the Office of Strategic Trade. The Textile Enforcement and Operations Division is responsible for monitoring and administering textile quotas; providing technical input to textile negotiations; overseeing implementation of textile import policies at the ports; and for planning, reporting, and following up on TPVT visits. It uses the results of targeting by the STC, the findings of the TPVTs, and input from the ports to oversee

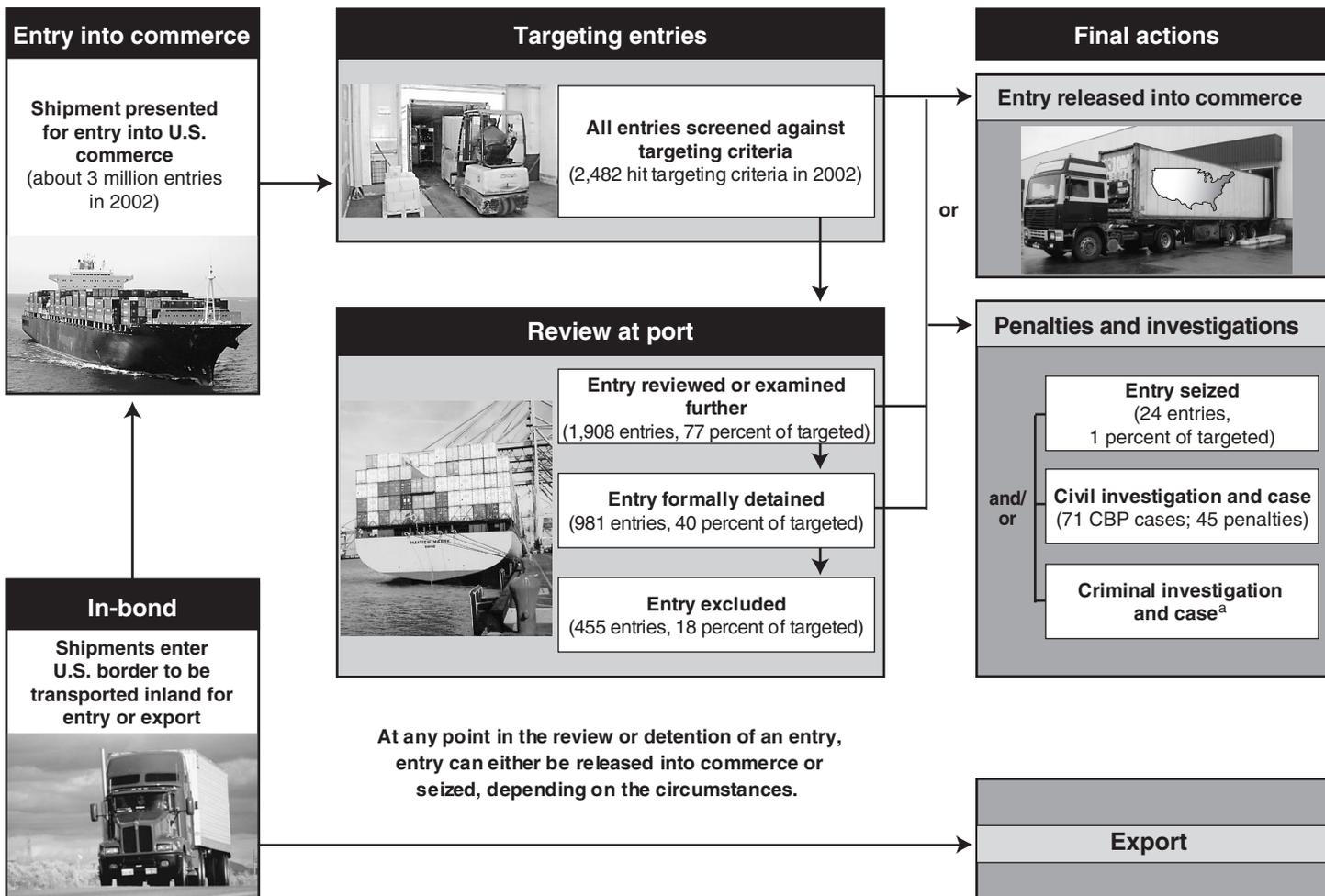
²³A textile visa is an endorsement in the form of a stamp on an invoice or export control license that is provided by an authorized official of a foreign government. It is used to control the exportation of textiles and textile products to the United States and to prevent their unauthorized entry into U.S. customs territory. A visa may cover either quota or nonquota merchandise; and conversely, quota merchandise may or may not require a visa, depending upon the terms of negotiated bilateral textile agreements with the particular country of origin.

the daily implementation of textile policy at the ports. It also works with CITA, the domestic textile industry, the importing community, and the Bureau of Immigration and Customs Enforcement (BICE).

Notwithstanding this, the critical point in identifying and preventing illegally transshipped textiles from entering the United States is at the ports. There are more than 300 CBP ports across the country—including seaports, such as Los Angeles/Long Beach, California; land border crossings for truck and rail cargo such as Laredo, Texas; and airports handling air cargo such as JFK Airport in New York, New York. The top 10 of 42 CBP service ports that processed textile imports accounted for about 75 percent by value of all shipments in 2002, according to the official trade statistics of the Commerce Department. The key staff resources for textile enforcement at the ports are the inspectors and the import specialists.

Figure 4 provides an overview of CBP's textile monitoring and enforcement process, including targeting, port inspections, and penalty investigations. The figure also provides data for the results obtained at each stage of the process in 2002. CBP processed about 3 million entries in that year, with 2,482 entries triggering targeting criteria, of which 981 entries were detained, 455 excluded, and 24 seized.

Figure 4: An Overview of CBP's Textile Monitoring and Enforcement Process, with Results for 2002



Sources: GAO, Nova Development, and Corbis.

^aData was not available on the number of criminal investigations and cases specifically involving textile transshipment.

As national security and counternarcotics concerns have become CBP's top priorities, CBP inspectors' roles have shifted away from textile and other commercial inspection. The result is that, even at the larger ports, fewer CBP inspectors are knowledgeable about a specific commodity, such as textiles. These inspectors now have less time and expertise to inspect textile shipments. For example, at all but one of the ports we visited, inspectors were mainly pulling sample garments from shipments for import

specialists to examine rather than acting as an additional, knowledgeable source on textiles who could do a first level of review.

As a result, the import specialists have become more critical in preventing textile transshipment. About 900 import specialists work at the ports, of which approximately 255 are assigned to work on textiles, according to a senior CBP official.²⁴ These specialists have always been central to determining whether illegal textile transshipment has occurred, because visual inspection is usually not sufficient. While physical clues such as cut or resewn labels can provide an indicator that a garment should be further examined, in many cases nothing about the garment itself indicates that a problem exists. To establish textile transshipment, import specialists must request production documents from the importer (who, in turn, requests them from the manufacturer) and review them to see if they support the claimed country of origin. This is a highly complex, technical, and labor-intensive process.²⁵

Import specialists (or at some ports, entry specialists or inspectors) review the basic entry paperwork for all textile shipments arriving at the ports that are covered by quotas or need visas.²⁶ They will place a hold on a textile shipment:

1. if there are “national criteria,” that is, if headquarters has entered an alert in the Automated Commercial System (ACS), CBP’s computer system for imports, based on targeting, TPVT findings, and other risk factors, to detain all shipments from that manufacturer or to that importer and request production documents;

²⁴As of September 30, 2003, there were 892 import specialists. While approximately 255 import specialists were assigned to textile teams, CBP estimates that only 214 handled textiles and wearing apparel exclusively. This is because many of the teams handle other commodities as well.

²⁵The rule of origin determines the country of origin that can be claimed for goods that include components manufactured in more than one country. For apparel products, the country of origin is generally determined to be the country where the “most important” assembly process occurred. The import specialist reviews the production documents to be sure that they substantiate the requirements for claiming origin. In addition, free trade or preference programs may have additional requirements, such as using domestic or U.S. fabric, yarn, or thread. The rules of origin for any particular product differ under various free trade agreements and preference programs.

²⁶They would also be reviewing any nonquota or nonvisa textiles that were presented for entry.

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2. if there are “local criteria,” that is, the port has entered an ACS alert based on concerns particular to that port;
 3. if the port has conducted its own targeting on shipments arriving at the port and found questionable entries;
 4. if there are abnormalities in the paperwork that warrant further review; or
 5. if there is other information that may be provided by domestic industry, the Office of Textiles and Apparel at the Commerce Department, CITA, foreign governments, or informants.

In most cases, shipments with national criteria will automatically be detained, a sample pulled from the shipment, and production verification documents requested. For shipments held due to local criteria, port targeting, abnormalities, or other information, the import specialist may request that the CBP inspectors pull a sample from the shipment, which must be done within 5 days. The import specialist examines the sample garments and determines whether shipments being held can be released or require further review. If further review is warranted, they detain the shipment and send the importer a detention letter, in which they ask the importer to provide the production verification documentation for an in-depth review. CBP must receive and review the documents within 30 days, or the shipment is automatically excluded.

Based on the in-depth review of the documentation, the import specialist decides whether to release the goods into commerce, exclude them if found to be inadmissible, or seize them if found to be illegal. Goods are inadmissible and are denied entry when the importer has not provided sufficient information to substantiate the claimed country of origin or if documents required for entry have not been provided. Goods may be seized when the import specialist has evidence that the law has been broken; this requires a higher level of evidence than exclusion.

Port Staff Review “National Criteria” Shipments but Have Less Time for Local Monitoring

In the post-September 11, 2001, environment, the ports have become more likely to rely on national criteria. At all of the ports we visited, CBP officials said that, in response to national criteria in ACS for textile shipments, they will detain all such shipments and request production documents. However, only a few large ports that handle a high level of textile imports, such as Los Angeles/Long Beach and New York/Newark, have been able to do much proactive local targeting. At most of the other

ports, officials said that they do as much local criteria or targeting as they can but rarely get the spare time to do very much. CBP data support these statements. While national criteria accounted for about 75 percent of inspections in 2002, local criteria and self-initiated reviews accounted for 25 percent. Further, local criteria and self-initiated reviews had declined by half, from 2000 to 2002; and most of the local criteria in 2002 were generated by the ports in Los Angeles and New York.

According to a senior CBP official, headquarters directs the input of national criteria to improve communications to the ports and foster greater uniformity of response and action by all affected ports. National criteria are continually tracked, analyzed, and adjusted as appropriate. One reason is that smaller ports have fewer import specialists; and in some cases, no import specialists are dedicated to specific commodities. In some ports, the import specialist is responsible for the entire range of products that can enter the country.

TPVTs Are Critical to Enforcement, but Follow-up Reporting Is Not Always Timely

TPVTs are a critical enforcement tool, and the conduct and reporting of TPVT visits have been made more uniform and rigorous in recent years. However, while the TPVT reports are an important part of the targeting process, they are not always provided in a timely manner to CBP ports, CITA, and the foreign governments.

TPVT Process Triggers Port Textile Reviews

TPVTs are critical to enforcement because the ports increasingly depend on the national criteria that headquarters supplies to trigger enforcement. These national criteria primarily result from STC targeting and the findings of the TPVTs conducted in high-risk countries. Additionally, CBP may receive enforcement information provided by a foreign government or other sources.

The TPVT process has two main objectives: (1) to verify that the production capacity of the factory matches the level and kind of shipments that have been sent to the United States and (2) to verify production of the specific shipments for which they have brought copies of the entry documents submitted to CBP. If a factory is closed, refuses entry, or the team finds evidence of transshipment, the team immediately notifies headquarters so that national criteria can be entered into ACS. Any further shipments from the closed factories will be excluded. Shipments from factories refusing entry or found to be transshipping will be detained, and importers will be asked for production verification documents. If a factory is deemed to be at high risk for transshipment, but no clear evidence has

been found, CBP has generally waited until the TPVT report is approved before entering the criteria.²⁷ Figure 5 shows a TPVT team verifying production in El Salvador textile factories.

Figure 5: TPVT Officials Verifying Production in El Salvador Textile Factories, in July 2003



A BICE special agent participating in the TPVT examines rolls of fabric for country of origin.



The team investigates the contents of a truck supplying a textile factory.



Workers sewing apparel in an El Salvador textile factor.

Source: GAO.

²⁷According to a senior CBP official, this provision was implemented in a flexible manner, so that in some cases, if a high-risk factory were deemed sufficiently risky, they would immediately enter criteria.

TPVT report drafting and approval involves several steps. First, the import specialists on the team write the initial draft of their TPVT results report while in country. When the team members return to their home ports, the team leader completes the report and forwards it to headquarters, where it is reviewed, revised, and finally approved by CBP management. Once the TPVT report is approved, the remaining national criteria for the high-risk factories are entered into ACS.

TPVT Follow-Up Is Not Always Timely

CBP's standard operating procedures for TPVTs, dated September 21, 2001, state that the TPVT team leader should finalize the reports within 21 calendar days after completing the trip and get headquarters approval within 2 weeks afterwards, or 5 weeks total. However, when we examined the approval timeline for TPVT reports during the past 4 years, we found that, in practice, report approvals have averaged 2.3 months, or almost twice as long as the procedural requirement. For example, the El Salvador TPVT we observed was conducted from July 21 through August 1, 2003, but headquarters did not approve the TPVT report until October 20, 2003.

More importantly, during such interim periods, although national criteria have been identified for high-risk factories, they are generally not entered into ACS until the report is approved within CBP.²⁸ The result is that questionable shipments for which criteria are intended can continue to enter commerce for another 2.3 months on average. From 2000 to 2003, an average of 37 percent of TPVT-generated criteria were for high-risk factories. This means that import specialists at the ports may not see more than a third of the criteria for about 2.3 months after the TPVT visits. At that time, if examination of these high-risk factories' production documents show transshipment of textiles during the interim period, the import specialists will not be able to exclude these shipments, because they will have already entered commerce. Instead, import specialists will have to ask for redelivery by the importer to the port. At that point, most garments will likely have been sold. Although, according to CBP, it can charge the importer liquidated damages²⁹ for failure to redeliver, additional transshipped garments will have entered commerce nevertheless.

²⁸In some instances, import specialists have immediately entered criteria for high-risk factories of particular concern, according to a senior CBP official.

²⁹"Liquidated damages" are a charge against the bond for a breach of a bond condition.

CITA Uses TPVTs to Generate Information Exchange with Foreign Governments

The TPVT reports are also sent to CITA and trigger another set of actions in the textile enforcement process. If the TPVT cannot verify the correct country of origin in all shipments being investigated, then CITA will ask the foreign government to investigate, which also provides it with an opportunity to respond before CITA takes an enforcement action. CITA's goal is to get foreign governments to monitor and control their own plants—essentially to self police. According to a CITA official, if the government does not provide a satisfactory response, CITA is then obligated to direct CBP to exclude the illegal textiles.³⁰

When CBP provides CITA with information that the TPVT (1) was refused entry to the factory, (2) found evidence of textile transshipment, or (3) found the factory was unable to produce records to verify production, CITA will send a letter to the foreign government requesting that it investigate whether transshipment has occurred and report back to CITA.³¹ The foreign government has 30 days to respond; if there is no response, CITA can also direct CBP to block entry of that factory's goods, generally for 2 years. In such cases, CBP ports do not even have to review production documents first; the goods will be denied entry. Notice of this prohibition is published in the *Federal Register* to inform U.S. importers.

When CITA sends a letter to the foreign government, CITA officials said that most governments respond with an investigation of the manufacturer. Sometimes governments penalize the factory with a suspended export license, or they report back that the factory has closed. As long as they are taking steps to prevent further transshipment, CITA is satisfied, according to CITA officials.

CITA officials stated that TPVT reports are essential to CITA's efforts to address illegal transshipment and that CBP has made progress in providing CITA, through the TPVT reports, with useful information to identify suspect factories and to determine the nature and extent of illegal transshipment. However, CITA officials continue to seek improvement in these reports, in particular for the reports to contain factual, verifiable information with definitive conclusions regarding whether a visited factory is involved in illegal transshipment and for this information to be provided clearly and

³⁰Under 19 C.F.R. 12.130, CBP, then known as Customs, is required to make a country-of-origin determination before allowing entry of textiles and textile products.

³¹When TPVTs find the factory was closed, it results in automatic criteria and exclusion. CITA does not have to be consulted first, and it would not be included in the CITA letter.

concisely. While CITA officials acknowledged that it may be extremely difficult to CBP to find a “smoking gun” necessary to make this type of conclusion, CITA officials believe that increased clarity and more definitive conclusions are possible. Also, delay in receiving the reports hamper prompt action by CITA, and CBP in many instances does not advise CITA of follow-up action it has taken against factories that the CBP found to be unable to verify production or otherwise suspect.

A CITA official estimated that about one-half to three-quarters of TPVTs result in CITA letters. He estimated that CITA sent about six to seven letters between October 2002 and October 2003.³² Overall, CBP’s TPVTs and TPVT reports are more geared toward providing CBP with national criteria, as recognized by a CBP official. However, CITA officials said that they need more detailed evidence to better support CITA enforcement actions.

Information from Attaché Offices, Cooperation of Foreign Governments Crucial

CBP faces further challenges to which it must adapt with the expiration of the Agreement on Textiles and Clothing—the global textile quota regime—on January 1, 2005. The end of the quota regime will mean that the United States will also lose its authority under that agreement to conduct TPVTs in former quota countries, unless customs cooperation provisions with the foreign governments are renewed. CBP has other means by which it can supplement the enforcement information it receives from targeting and TPVTs, including placing import specialists in overseas Customs Attaché offices in high-risk countries and obtaining greater foreign government cooperation.

End of Global Quota Regime Could Affect CBP’s Cooperation with Foreign Governments

Finding means of supplementing the enforcement information provided to CBP ports will be critical once the global textile quota regime, embodied in the WTO Agreement on Textiles and Clothing, expires on January 1, 2005. The numerous U.S. bilateral quota agreements with WTO-member textile exporting countries were all subsumed in the global regime. The textile enforcement provisions in these agreements provided the authority for CBP to conduct TPVTs. All of these provisions will expire together with the global textile quota regime. CBP will have continued authority to conduct TPVTs in countries with free trade agreements and preference

³²A CITA letter to a foreign government may include requests to investigate more than one factory.

agreements (such as the Caribbean Basin Trade Preference Act), as well as in non-WTO countries whose bilateral quota agreements will not expire (such as Vietnam).

However, certain incentives for transshipment will continue to exist. For example, special provisions that apply to imports of Chinese textiles have recently been invoked under the safeguard provision of China's Accession Agreement to the WTO to limit growth of imports of certain textile categories.³³ The safeguard provision allows individual categories of textiles to remain under quota for up to an additional 12 months, if the domestic industry petitions CITA for relief and CITA affirms the petition. The petition must establish that imports of Chinese origin textiles and apparel products are threatening to impede the orderly development of trade in these products, due to market disruption.³⁴

The U.S. government currently maintains a Memorandum of Understanding with Hong Kong under which customs cooperation has been conducted. Given the possibility of additional safeguard quotas being imposed on Chinese textiles after the global quota regime expires, it will be critical that U.S.-Hong Kong customs cooperation continues. However, the United States does not have such memorandums of understanding with other high-risk countries in the region, such as Taiwan, Macau, and Bangladesh. CBP will no longer have the authority to conduct TPVTs in these high-risk countries unless customs cooperation agreements are renewed.

³³The Accession Agreement textile and apparel safeguard allows U.S. and other WTO member countries that believe imports of Chinese origin textile and apparel products are, due to market disruption, threatening to impede the orderly development of trade in these products to request consultations with China to ease or avoid such market disruption. Upon receipt of the request, China has agreed to hold its shipments to a level no greater than 7.5 percent (6 percent for wool categories) above the amount entered during the first 12 months of the most recent 14 months preceding the request for consultations. The limit is effective beginning on the date of the request for consultation and may not remain in effect for more than 1 year, without reapplication, unless otherwise agreed between the United States and China. The domestic industry has the right to petition for safeguard relief until Dec. 31, 2008, including reapplying for additional years of protection for categories that have quota imposed.

³⁴As of November 1, 2003, the domestic textile industry had already applied for safeguards for four categories of textiles that had been removed from quotas in 2002. CITA reviewed three petitions received on July 24, 2003, related to knit fabric, dressing gowns, and brassieres, and declined to review a fourth petition for cotton gloves. On November 17, 2003, CITA approved the three petitions it had reviewed.

CBP Has Other Possible Means to Supplement Its Enforcement Information

CBP has sought to supplement the enforcement information it receives by placing some import specialists in overseas Customs Attaché offices in high-risk countries and by obtaining greater foreign government cooperation. CBP started sending import specialists to its overseas Customs Attaché offices in 2000. The reason for this effort was that most staff in the Customs Attaché offices were special agents who were criminal investigators and had no trade background. Import specialists were to provide this missing trade experience. CBP identified the countries that would most benefit from having an import specialist in the Attaché office, and by November 2003, six import specialists were assigned to Canada, Hong Kong, Japan, Mexico, Singapore, and South Africa.

A CBP official said that the import specialists are assisting with providing information. They have been able to help in following up on TPVT findings. They also have been useful in uncovering counterfeit visa cases in which fake company names and addresses are given in import documents. If more import specialists were in Customs Attaché offices in high-risk countries to assist with textile monitoring and enforcement, additional benefits would result, according to the CBP official. In between TPVT visits, they would be able to assist the targeting effort with activities such as checking to see whether a particular factory really exists or has the level of capacity claimed. They could also verify factory addresses and licensing. Finally, they would be able to facilitate cooperation and coordination with the foreign government on transshipment issues, including conducting training on transshipment prevention.

Another means by which CBP can also supplement the enforcement information it receives is by encouraging foreign government cooperation and self-policing. A good example of such an arrangement is CBP's present relationship with Hong Kong customs authorities. The Hong Kong Trade and Industry Department has established an extensive system for regulating Hong Kong's textile industry, which it enforces together with the Customs and Excise Department. Hong Kong officials work closely with the U.S. Customs Attaché Office in Hong Kong and CBP's Textile Enforcement and Operations Division at headquarters. Hong Kong also provides self-policing assistance to CBP. Hong Kong officials conduct follow-up investigations on findings by the TPVTs, called Joint Factory Observation Visits in Hong Kong, which have resulted in numerous cancelled or suspended export licenses. Hong Kong officials have also actively prosecuted and convicted individuals violating Hong Kong's textile

transshipment laws.³⁵ As it is a matter of public record, CBP gets the names of those companies that have been convicted of violations. Macau and Taiwan also provide CBP with such information. CBP creates national criteria for these manufacturers, and the ports would detain any future shipments for production verification documentation. Figure 6 shows the high volume of commercial traffic coming into Hong Kong from Shenzhen, China, at the Lok Ma Chau Control Point.

Figure 6: Main Hong Kong-China Commercial Control Point at Lok Ma Chau, August 2003



Source: GAO.

The view from the roof of the Hong Kong control point on the border with Shenzhen, China, showing the high volume of commercial truck traffic coming into Hong Kong from China. Shenzhen is seen in the background.

However, it is not clear whether many other high-risk countries have the capacity to self-police. In some countries, customs authorities may be constrained by domestic laws that either limit their authority or do not

³⁵It is a violation of Hong Kong law to falsely claim Hong Kong as a country of origin for textiles, according to Hong Kong officials. See later discussion of penalties and Customs' administrative list for further details.

extend sufficient authority to adequately enforce textile transshipment provisions in their bilateral agreements with the United States. For example, government officials in El Salvador said that they do not have the same authority that U.S. CBP has in requesting production documentation from Salvadoran factories, because such authority is not provided in their customs laws. Such lack of authority was also an issue that USTR addressed when it negotiated the U.S.-Singapore Free Trade Agreement (FTA), finalized in 2003. CBP, which is a technical advisor to such negotiations, encouraged the addition of a provision to require the government of Singapore to enact domestic legislation that provided the authority needed to fully enforce the agreement's textile transshipment provisions.

The United States is currently negotiating numerous new FTAs. As with the Singapore FTA negotiations, USTR may be able to include such provisions in new FTAs, providing an opportunity for the United States to buttress textile transshipment enforcement provisions and enhance the ability of foreign governments to conduct more effective self-policing. Such provisions have generally been included in the FTAs negotiated since NAFTA, according to a senior CBP official.

Weak Internal Controls Hinder Effectiveness of CBP's In-bond System

CBP uses its in-bond system to monitor cargo, including foreign textiles, transiting the U.S. commerce or being exported to a foreign country. However, weak internal controls in this system enable cargo to be illegally diverted from the supposed destination, thus circumventing U.S. quota restrictions and duties. At most of the ports we visited, CBP inspectors we spoke with cited in-bond cargo as a high-risk category of shipment because it is the least inspected and in-bond shipments have been growing. They also noted that CBP's current in-bond procedures allow too much reliance on importer self-compliance and that little actual monitoring of cargo using this system takes place. Lack of automation for tracking in-bond cargo, inconsistencies in targeting and examining cargo, in-bond practices that allow shipments' destinations to be changed without notifying CBP and extensive time intervals to reach their final destination, and inadequate verification of exports to Mexico hinder the tracking of these shipments. Although CBP has undertaken initiatives to tighten monitoring, limitations continue to exist. These limitations pose a threat not only to textile transshipments but also to other areas related to national security. Without attention to this problem, enforcement of national security, compliance with international agreements, and proper revenue collection cannot be ensured.

In-bond System Designed to Expedite Flow of Commerce

To expedite the flow of commerce into the United States, Congress established in-bond movements to allow cargo to be transported from the port of arrival to another U.S. port for entry into U.S. commerce or for export to a foreign country.³⁶ Cargo can be transported in several ways using the in-bond system. When a vessel arrives with containers, an importer may elect to use the in-bond system to postpone payment of taxes and duties while moving the goods from the original port of arrival to another port. By doing this, the importer delays paying duties until the goods are closer to their ultimate destination—for example, goods arriving by ship in Los Angeles may transit the country and ultimately be inspected and have duties levied in Chicago. Or goods may pass through the United States on their way to another destination, such as goods that are transported from Los Angeles to Mexico or from Canada to Mexico.

There are three types of in-bond movements:

- *Immediate transportation (I.T.)*. This is merchandise that is moved from one U.S. port to another for entry into U.S. commerce.
- *Transportation and exportation (T&E)*. This is merchandise “in transit” through the United States. Export to another country is intended at the U.S. destination port.
- *Immediate exportation (I.E.)*. This is merchandise exported from the port at which it arrives in.

Once the shipment leaves the port of arrival, the bonded carrier³⁷ has 30 days to move the merchandise to the U.S. destination port. Upon arrival at the destination port, the carrier has 48 hours to report arrival of merchandise. The merchandise must then be declared for entry or exported within 15 days of arrival (see fig. 4).

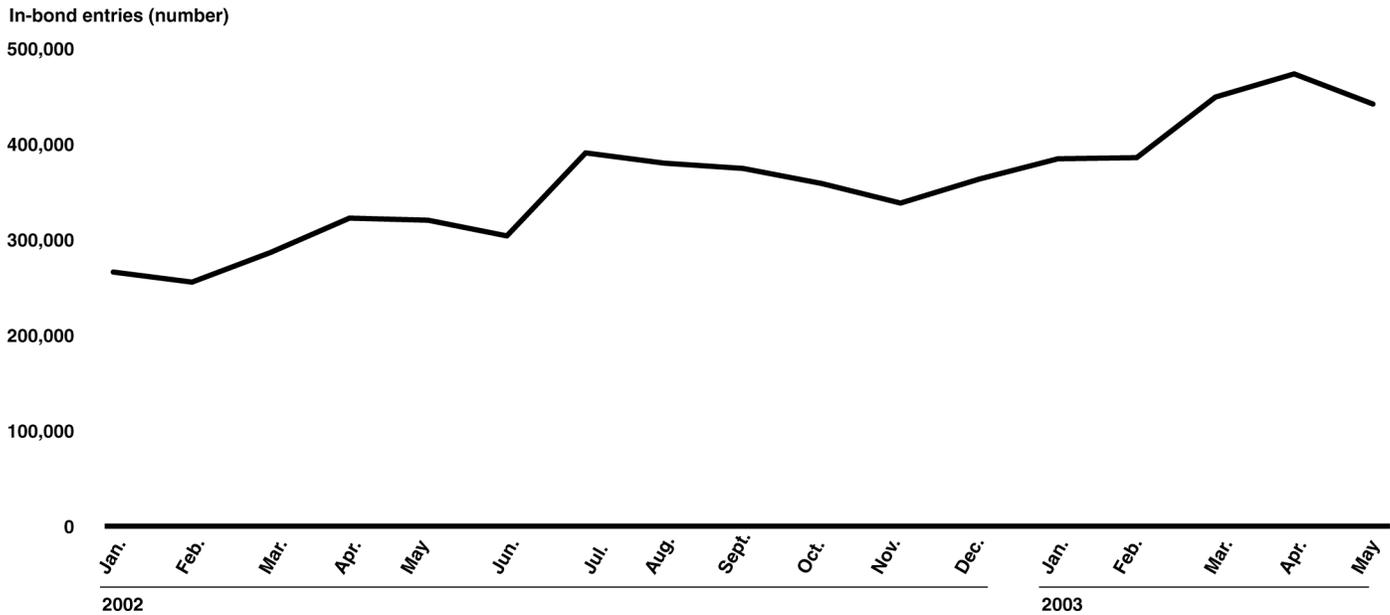
³⁶See 19 U.S.C. 1552 and 1553.

³⁷A bonded carrier is a carrier company that is allowed to move goods that have not been entered into commerce from one place to another under a Customs bond. A Customs bond is a contract between all parties that import merchandise and CBP; it is given to insure the performance of an obligation or obligations imposed by law or regulation, backed by a monetary guarantee.

Use of the In-Bond System Growing Rapidly

Based on responses from our survey of 11 of 13 major area ports, the use of the in-bond system as a method of transporting goods across the country nearly doubled from January 2002 through May 2003. For our study, we surveyed the 13 ports across the country that process the largest amount of textiles and apparel and asked them about in-bond operations at their port. Figure 7 shows the increase in in-bond shipments processed in the past 17 months at 11 of these ports.³⁸ From January 2002 through May 2003, in-bond entries increased 69 percent. A recent study on crime and security at U.S. seaports estimated that approximately 50 percent of all goods entering the United States use the in-bond system and projects that this figure will increase.³⁹

Figure 7: Total In-bond Entries for 11 Major U.S. Ports, January 2002-May 2003



Source: GAO survey.

³⁸Data for Miami, Florida and Charlotte, North Carolina were excluded because they did not have complete data for this period.

³⁹Report of the Interagency Commission on Crime and Security in U.S. Seaports, Fall 2000.

Note: This graph represents growth for 11 major U.S. ports and may not be representative of overall in-bond growth across all CBP ports.

Based on our survey, the top three U.S. ports that were the most frequent reported destinations for in-bond shipments from October 2002 to May 2003 were Miami, New York, and Los Angeles. In-bond entries comprised a significant portion of the total entries for these ports, with 58.2 percent of total entries in Miami, 60 percent in New York, and 45.9 percent in Los Angeles. For goods arriving at the Los Angeles-Long Beach seaport, the top three intended in-bond destination ports for fiscal year 2002 were Chicago, New York, and Dallas-Fort Worth, Texas.

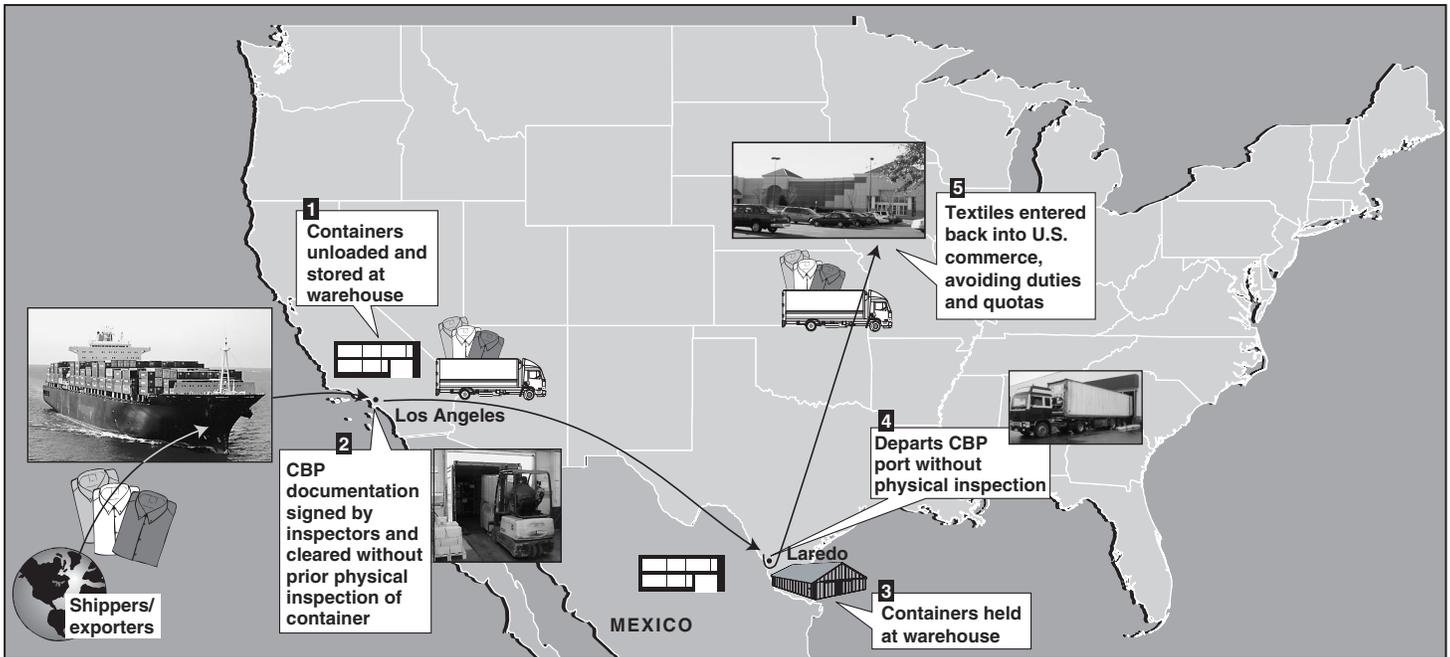
In-bond System May Facilitate Textile Transshipment

Many officials at the ports we surveyed expressed concern in their responses over the growth of in-bond shipments and their lack of additional resources to examine and track these shipments. In addition, some port officials we spoke with also expressed concern that the in-bond system is increasingly being used for diverting goods that are quota restricted (such as textiles) or that have high duty rates.

One example of how illegal in-bond diversion occurs is when textile shipments arrive by vessel at Los Angeles and are transported by truck to a port such as Laredo, Texas, where the carrier (trucking company) may declare immediate exportation to Mexico (see fig. 5). However, instead of exporting the goods to Mexico, they are shipped to another U.S. location for sale. This can occur because CBP relies heavily on importer compliance, and it requires only that carriers drop off paperwork showing exportation, without actually requiring physical inspection of the cargo.⁴⁰

⁴⁰Since our investigation began, CBP has issued Directive 3240-036A requiring that merchandise declared for exportation (T&E and I.E. shipments) be physically inspected before the merchandise can be exported to Mexico. As of October 20, 2003, all merchandise must be presented to CBP before export certification.

Figure 8: Example of In-bond Diversion of Goods Supposedly Going to Mexico



Sources: GAO and Nova Development.

CBP and BICE presently have ongoing investigations to address the problem of illegal diversion of in-bond merchandise. For example, a 2003 in-bond diversion investigation found that 5,000 containers of apparel were illegally imported, thus avoiding quota restrictions and payment of \$63 million in duties. Between May 2003 and October 7, 2003, the ports of Long Beach and El Paso made 120 seizures with cases involving a textile in-bond diversion smuggling scheme. The total domestic value for these goods was more than \$33 million. Table 2 shows the number of in-bond cases and the penalty amounts assessed by CBP for the past 3 fiscal years. Total penalty amounts assessed were more than \$350 million.

Table 2: Total number of In-bond Cases and Assessed Amount for Liquidated Damages, 2001-2003

Fiscal year	Total number of in-bond cases	Total assessed amounts for liquidated damages
2001	3,466	\$93,696,618
2002	2,677	151,292,457
2003	3,717	64,226,161

Source: U.S. Customs and Border Protection.

Note: An insured party must pay "liquidated damages"—or a monetary fine— to CBP if the insured party has breached the terms of the bond.

In-bond System Lacks Automation and Critical Information to Properly Monitor Cargo Movement

At present, CBP lacks a fully automated system that can track the movement of in-bond transfers from one port to another. Much shipment information must be entered manually—a time-consuming task when thousands of in-bond shipments must be processed every day—and as a result, recorded information about in-bond shipments is minimal and records are often not up to date. In addition, in-bond arrival and departure information recording is not always timely; and according to our survey results, insufficient cargo information, along with a lack of communication between U.S. ports about in-bond shipments, makes it difficult for ports of destination to monitor cargo and know the number of in-bond shipments to expect. CBP has begun to automate its in-bond system but concerns remain.

Under Current CBP Procedures, In-bond Shipments Transit with Minimal Information Provided to CBP

By definition, an in-bond movement is entry for transportation without appraisal. CBP collects significantly less information on in-bond shipments than regular entries that are appraised. While CBP has the ability to collect additional information for textile products, our survey results show that very little information is collected by CBP for in-bond shipments in general.

To process an in-bond shipment, all in-bond paper transactions require a Customs Form 7512, Transportation and Entry form. This form is filled out by brokers and submitted to the port of arrival. According to many in-bond personnel responding to our survey, the information that is provided on this form to allow the shipment to travel in-bond is often minimal, capturing some, but not all, shipment manifest information, shipment data, and carrier data. They also responded that the information on the Customs Form 7512 is often vague, with not enough descriptions of the commodities

shipped. The form also lacks any invoice or visa information—information that is critical for shipment targeting. This lack of information causes difficulty in tracking. Without this information, CBP is unable to effectively track in-bond shipments.⁴¹

In-bond shipments of textiles or textile products have specific description requirements. CBP regulations require that these shipments be described in such detail as to allow the port director to estimate any duties or taxes due. In addition, the port director may require evidence of the approximate correctness of value and quantity or other pertinent information.⁴² However, our survey results show that such additional information has not been obtained in practice.

CBP's Recording of Arrival and Departure In-bond Information Is Not Always Timely

In-bond data are not entered in a timely, accurate manner, according to some port in-bond personnel we spoke with, as well as some survey respondents. Currently, CBP accounts for goods that initially arrive at one CBP port (port of arrival) but are shipped immediately to the port of entry (port of destination) through an in-bond module in CBP's ACS.⁴³ For automated entry forms submitted on electronic manifests, departure data can be entered in ACS automatically showing that an in-bond transfer is planned from the port of arrival. For nonautomated entries (paper), CBP officials are supposed to input departure data manually at the port of arrival to establish accountability for the merchandise. When the goods arrive at the port of destination, personnel are to input data indicating that the goods have arrived, at which time accountability is transferred from the port of arrival to the port of destination.

However, at three of the seven ports we visited, officials stated that the departure and arrival information was not consistently maintained, because personnel did not input data promptly. As the volume of shipments transiting via in-bond has increased, the workload for ports

⁴¹CBP issued a directive in August 2003 requiring all CBP officers reviewing Form 7512 documents to ensure that all required information is furnished and correct at time of presentation.

⁴²19 C.F.R. 18.2 (b), 18.11 (e).

⁴³ACS is CBP's current automated import system. Originally designed in 1984, ACS will be replaced in order for CBP to be able to meet the increasingly complex, long-term requirements resulting from the growth in trade, enforcement responsibilities, and legislation. Consequently, the first modernization project will focus on the trade system, replacing ACS with the Automated Commercial Environment (ACE).

across the country to enter this information has created a backlog, often resulting in entries that are never entered into the system. More than half of the 29 ports we surveyed reported that between 50 and 100 percent of their in-bond entries were paper entries. At two of the largest ports processing the highest volume of in-bond entries, officials reported that more than 75 percent of the entries received were paper entries requiring that staff manually enter information. CBP personnel at two major ports told us that in-bond data are often not entered into the system at the port of arrival, because CBP lacks the personnel to enter in-bond information for every shipment.

Communication between Ports
Regarding In-bond
Arrival/Departure Data Is
Minimal

Results from our survey showed that 80 percent of the ports did not track in-bond shipments once they left the port of arrival. A CBP official at the Port of Laredo, Texas, a major port of destination, said that they have no way of knowing the number of shipments intended to arrive at their port. Without proper communication between them, ports are unable to determine the location of a shipment traveling in-bond until it reaches its destination. As a result, personnel at the port of destination were unable to anticipate a shipment's arrival and thereby identify and report any delayed arrivals, because a record of departure had never been set up. However, some ports such as Laredo, Texas are beginning to communicate with other ports more frequently to anticipate and track in-bond shipments.

Finally, although CBP has computer-generated reports available to identify in-bond shipments that were not reported and closed within the required 30 days, 70 percent of ports we surveyed report that they have never used these reports. They said they do not do so because (1) they either did not consider the report to be reliable or (2) they had never heard of these reports. Tracking overdue shipments is a critical internal control, because it alerts CBP to shipments that never made it to their stated destinations. Without consistent examination of overdue shipments, CBP cannot account for in-bond shipments that failed to meet the time requirements for delivery.

CBP Is Making Progress in Automating Its In-bond System; However, Concerns Remain

We reported these limitations in 1994 and 1997, and we made several recommendations to CBP on improving the monitoring of in-bond shipments.⁴⁴ In 1998, CBP initiated the TINMAN Compliance Measurement Program to address some of the weaknesses noted in our 1997 report, including the ability to generate reports to follow-up on overdue shipments. In 2001, the Treasury Department's Inspector General conducted a financial management audit and found that although TINMAN resolved some of the weaknesses found in prior audits, CBP was still unable to ensure that goods moving in-bond were not diverted into U.S. commerce, thereby evading quotas and proper payment of duties. Results from our survey show that this compliance program is not consistently implemented across ports.

In March 2003, CBP launched an initiative to automate the in-bond system with a pilot program called the Customs Automated Form Entry System (CAFÉ's), currently being tested at six U.S. ports.⁴⁵ CAFÉ's is an interim step toward full automation. It is intended to allow more detailed shipment data to be entered into the system electronically, thus reducing the amount of time personnel must spend entering shipment data. The CAFÉ's program is currently voluntary, and, so far, about 8 to 10 percent of the brokers at the pilot ports are participating. However, according to a 2003 CBP Action Plan, all land border truck ports will be required to use the automated in-bond system by midyear 2004. Nevertheless, no time frame yet exists for deploying CAFÉ's at other locations.

Although CAFÉ's will improve automation of the in-bond system, it will not resolve the tracking of in-bonds until full automation occurs. When we spoke to CBP headquarters officials about this continuing weakness, they stated that they had not made additional improvements to the in-bond program, because those improvements will be made when their new Automated Commercial Environment (ACE) computer system is rolled out. CBP stated that it does not have a time frame for deploying the system to

⁴⁴See U.S. General Accounting Office, *Examination of Customs' Fiscal Year 1993 Financial Statements*, GAO/AIMD-94-119 (Washington, D.C., June 15, 1994); U.S. General Accounting Office, *Financial Management: Control Weaknesses Limited Custom's Ability to Ensure That Duties Were Properly Assessed* GAO/AIMD-94-38 (Washington, D.C. March 7, 1994); and U.S. General Accounting Office, *High-Risk Program: Information on Selected High-Risk Areas* HR-97-30 (Washington, D.C., May 16, 1997).

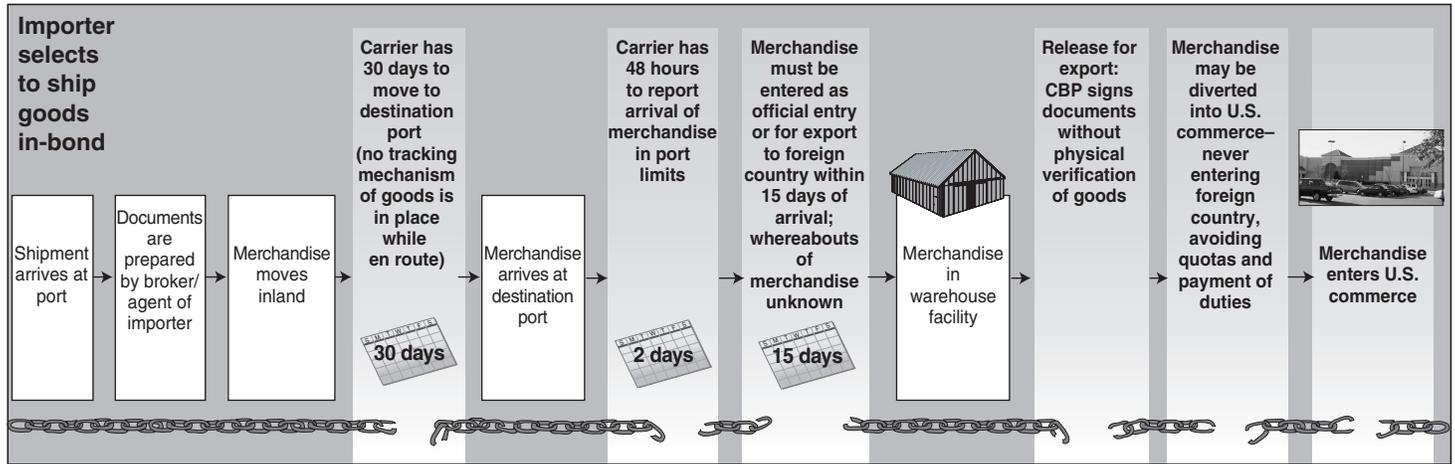
⁴⁵Pilot testing is being conducted in three seaports and three land ports: Los Angeles, California; New York, New York; Miami, Florida; Port Huron, Michigan; Buffalo, New York; and Laredo, Texas.

fully automate in-bonds because development is still under way but it estimated this might be accomplished within 3 years. Without a definite time frame, it is not clear if the automation of in-bonds will actually be implemented.

In-bond Shipments Are Not Consistently Targeted and Examined Before Leaving the Arrival Port

Although all incoming cargo is targeted for national security purposes, once the paperwork is filled out for a shipment to travel in-bond, CBP does not generally perform any additional targeting for these shipments. CBP instead focuses on targeting shipments making an official entry into U.S. commerce. The New York STC also does not analyze information from in-bond shipments in order to perform additional targeting. Conducting additional targeting for in-bond is also critical because in-bond shipments that are not identified as high-risk shipments by Container Security Initiative may go through CBP undetected and without inspection. Recognizing the need for targeting in-bond shipments, some ports we surveyed responded that they have begun to target in-bond shipments. However, targeting is not consistently performed because ports do not have the staff to conduct targeting or exams. Port management officials we spoke with at two major ports stated that since the September 11 attacks, resources have shifted to other antiterrorism areas. In addition, because brokers for in-bond shipments at the port of arrival provide very little information regarding shipments, targeting of in-bond shipments is difficult to conduct (See fig. 9 for illustration of in-bond shipment process and points of concern).

Figure 9: Weaknesses in the In-bond Process



Weak point in process
Sources: GAO and Nova Development.

CBP officials at most of the ports we visited cited resource constraints as a top reason for not inspecting in-bond shipments. For example, CBP officials at the Los Angeles/Long Beach, California, port—one of the busiest, with the highest volume of in-bond entries—told us that the current understaffing does not allow examination for many in-bond shipments. Moreover, results from our survey showed that more than 80 percent of the 13 area ports we surveyed do not have full-time staff dedicated to inspecting in-bond shipments. Some ports responded that if they had more staff dedicated to in-bond shipments, they would have a greater ability to inspect in-bond shipments. In addition, seven of the eight largest ports that responded to our survey stated that inspectors dedicate less than 10 percent of their time to in-bond inspections. For example, CBP officials at the port of New York/Newark said that they estimated that less than 2 percent of in-bond entries are actually inspected.

Nature of In-bond Regulations May Make It Difficult to Monitor In-bond Shipments

According to several CBP in-bond personnel we spoke with at two ports, certain provisions in the in-bond regulations make it more difficult to track in-bond shipments. These regulations pertain to (1) whether importers can change a shipment’s final destination without notifying CBP and (2) the time allowed for in-bond shipments to reach their final destination.

Under the regulations, an in-bond shipment can be diverted to any Customs port without prior notification to CBP, except where diversions are specifically prohibited or restricted. For example, an importer with a shipment arriving in Los Angeles may declare that it will travel in-bond to Cleveland, Ohio. However, after filing the paperwork, the importer may then elect to change the final destination to New York, without filing new paperwork or informing CBP. The information provided to CBP at the port of arrival will still state Cleveland as a final destination. CBP has no way of knowing where the shipment is going until and if it shows up at another port.

For in-bond shipments of textiles or textile products, a change in destination requires approval of CBP's director at the port of origin.⁴⁶ However, officials at three ports that handle high volumes of textile in-bond shipments said that they were either unaware of the regulation or that it was too difficult to enforce due to the high volume of shipments they processed.

Another problem CBP in-bond personnel mentioned in monitoring in-bond movements is the extensive time allowed to carriers to transport merchandise across the country. The Tariff Act of 1930 established the in-bond system and CBP regulations set time limits at 30 days for the delivery of merchandise at the port of destination for entry or for exportation.⁴⁷ Port officials stated that this time limit is excessive and may contribute to the diversion of cargo by giving carriers too much time to move merchandise to different locations. Tracking would be easier if a carrier had a more restricted time period during which brokers or carriers would have to close out the in-bond, such as 10 to 20 days, depending on the distance between the port of arrival and the final port of destination, according to these CBP officials.

Mexico's in-bond system works differently than the U.S. system. In fact, when we spoke with Mexican Customs officials at the port of Nuevo Laredo in Mexico regarding illegal textile transshipment, they said that their in-bond system could track the movement of goods more easily because (1) importers were not allowed to change the final destination and

⁴⁶19 C.F.R. 18.5(a), (f).

⁴⁷19 C.F.R. 18.2.

(2) carriers are given a certain time limit to deliver merchandise, depending on the distance between the port of arrival and the port of destination.

Shipments Declaring Exportation to Mexico Lack Sufficient Monitoring to Ensure Actual Exportation

Several BICE investigations have uncovered in-bond fraud concerning textile shipments that were allegedly exported to Mexico but instead entered into U.S. commerce to circumvent quota and duty payment. To cope with this problem, BICE officials in Laredo, Texas, initiated an effort to improve the verification of exports to Mexico by requiring that for shipments processed for immediate exportation, brokers had to submit a Mexican document known as a “pedimento,” as proof that shipments were exported to Mexico. However, these documents are easily falsified and can be sold to willing buyers for submission to CBP, according to Laredo CBP officials. When we spoke with Mexican Customs officials at the Nuevo Laredo, Mexico, port, they acknowledged that reproducing false government pedimentos is easy to do and that it is not a reliable method for verifying exportations. The broker community in Laredo, Texas, also expressed serious concerns with fraudulent activity by some Mexican government officials. They suspected that pedimentos were being sold by some Mexican Customs officials to facilitate the diversion of goods into the United States. In fact, in August 2003, the port director of Nuevo Laredo, Mexico, was indicted for selling false Mexican government documents for \$12,000 each.

Moreover, many ports along the U.S.-Mexican border do not have export lots where trucks with shipments bound for Mexico can be physically examined to ensure that the shipments are actually exported to Mexico instead of entering the U.S. commerce.⁴⁸ Although export lots were opened at one time, they have been closed at many ports as a result of resource constraints. When export lots were open, inspectors were able to verify exportation because carriers were required to physically present the truck with the shipments for inspection.

Since our review began, CBP has opened an export lot in Laredo, Texas, and has required that all shipments declared for export to Mexico be presented and inspected at the export lot. However, not all ports along the border have export lots, and Laredo in-bond personnel have noticed that as a result many trucks were now choosing to clear their goods through those

⁴⁸There are 24 ports of entry along the U.S.-Mexico border of which only 5 have export lots: Otay Mesa, Calexico, Nogales, Laredo, and El Paso.

ports without export lots. CBP officials we interviewed in Laredo, along with the members of the Laredo broker community, have raised this concern and have noted the need to reopen export lots as a way to minimize fraud.

As of October 20, 2003, a CBP directive mandated that all merchandise to be exported should be presented for export certification. Certification is not to take place until the merchandise is physically located where export is reasonably assured. According to a senior CBP official, as a result of this directive, ports with export facilities have reopened them or provided a reasonable alternative such as reporting to the import facility. He also stated that CBP has developed plans to verify that at least a representative sample of reported exports are actually reported. However, officials we spoke with at two ports are not sure whether they will have the resources to verify every in-bond export. A senior CBP official confirmed this problem, saying that verification of exports might not occur during periods of staffing constraints.

CBP Has Experienced Serious Challenges in Enforcing Textile Transshipment

CBP has broad enforcement authority regarding illegal textile transshipment, but it has experienced challenges in implementing enforcement actions. These challenges include a complex and lengthy investigative process, as well as competing priorities. As a result of these challenges, CBP generally has relied on excluding transshipped textiles from entry into the United States, rather than seizing merchandise or assessing penalties. In addition, addressing in-bond violations presents special challenges due to weaknesses in CBP's internal controls and in the nature of the penalty structure. CBP also employs other means to deter illegal transshipment, such as informing the importer community of violations of textile transshipment laws and by making available lists of foreign violators.

CBP Has Extensive Authority to Address Textile Transshipment Violations

CBP has broad authority to act when violations of textile transshipment occur. Depending on the circumstances, CBP may pursue the following enforcement actions:

- **Exclusion of the textile shipment.** CBP can exclude textiles from entry if the importer has not been able to prove country of origin. Before admitting goods into the United States, CBP may ask for production records, review them, and then make a determination on origin. The

importer must be able to prove the textiles' country of origin. If CBP cannot clear the goods within 30 days, the textiles are automatically excluded. CBP may also deny entry of textiles if production documents reveal that the textiles were produced at a factory identified in the *Federal Register* by the Committee for the Implementation of Textile Agreements, as discussed below.

- Seizure of the textile shipment. CBP can seize the textiles, if it has evidence that violations of a law have occurred. By law,⁴⁹ seizure is mandatory if textiles are stolen, smuggled, or clandestinely imported. In other instances, CBP can exercise discretion in deciding whether seizure is the most appropriate enforcement action. When seizure is invoked, CBP takes physical possession of the merchandise. In order for textiles to be seized, there must be specific statutory authority that allows for the seizure.
- Imposition of penalties. CBP has several administrative penalties available, based on the nature of the violation. CBP may levy administrative penalties locally at the port level without conducting an investigation. Alternatively, CBP may refer a suspected violation for an investigation by BICE. The outcome of the BICE investigation may be a referral to (1) CBP for an administrative penalty or (2) a referral to the U.S. Attorney for possible criminal prosecution of the importer and its principal officers and the imposition of criminal monetary penalties. Thus, some monetary penalties result from investigations performed by BICE, while others simply result from activity within a port. In addition to civil administrative penalties, CBP may also assess liquidated damages claims against bonded cartmen (carriers) implicated in violations involving cargo transported in-bond. CBP's Office of Fines, Penalties and Forfeitures is responsible for assessing certain penalty actions for transshipment violations and is responsible for adjudicating penalties, liquidated damages claims and seizures occurring at the ports, up to a set jurisdictional amount.
- Pursuit of judicial criminal or civil prosecutions. CBP may refer unpaid civil administrative penalty or liquidated damages cases to the Department of Justice for the institution of collection proceedings either in federal district court or in the Court of International Trade. Additionally BICE investigates potential violations to establish the

⁴⁹19 U.S.C. §1595a (c)(1)(A).

evidence needed for criminal prosecution of the violations. When BICE deems sufficient evidence can be established, cases may be referred to the appropriate U.S. Attorney's Office for criminal prosecution.

CBP Relies Primarily on Exclusions Due to Lengthy and Complex Investigative Processes

CBP has increasingly relied on exclusions rather than seizures or penalties for textile transshipment enforcement for two primary reasons. First, it is easier to exclude transshipped goods than to seize them because exclusions require less evidence. Second, although excluded textile shipments may incur penalties, often CBP does not assess penalties against importers of excluded merchandise because it is impossible to attach specific culpability to the importer. According to CBP officials, absent the evidence to conclude the importer failed to exercise reasonable care, it would be difficult to sustain a penalty against an importer of excluded merchandise. CBP also avoids the lengthy and complex process associated with criminal and civil prosecutions and penalties by excluding the shipments.

CBP Relies on Exclusions for Enforcement

In enforcing textile transshipment violations, CBP has relied more on exclusions than on seizures or penalties. Textiles may be excluded if the importer is unable to prove country of origin, whereas seizures may occur when false country of origin documents are presented to evade quota or visa restrictions—a situation requiring a higher standard of evidence. Exclusions usually have an immediate effect, although if the importer chooses to protest the decision to exclude, the importer can appeal CBP's decision to the Court of International Trade. Import specialists in Long Beach/Los Angeles said that when an exclusion determination is made, they are ready to go to court if needed. The importer can ship to another country, abandon, or destroy the excluded textiles.

CBP may elect not to levy penalties on excluded goods where culpability of the importer cannot be established, and generally issues penalties against the importer only if the importer is implicated or the transshipped textiles entered the commerce of the United States. However, a senior CBP official said that the exclusion of textiles is considered a better deterrent than penalties because the importer cannot receive the goods and, therefore, cannot get them into U.S. stores that are waiting for them—often for seasonal shopping. Also, the complexity and length of investigations and litigation are no longer of concern, since the goods are simply excluded from entering the United States. Table 3 presents port-level data on selected enforcement actions in 2000 to 2002.

Investigative Processes for Seizures and Penalties Are Complex and Lengthy

Table 3: CBP Port-Level Exclusions, Penalties, and Seizures of Textiles, 2000-2002 (Dollars in millions)

	2000		2001		2002	
	Number	Value	Number	Value	Number	Value
Seizures	43	\$2.10	14	\$0.31	24	\$0.79
Penalties	54	4.4	19	0.13	45	0.37
Exclusions	402	20.2	308	22.2	455	20.0

Source: CBP's Strategic Trade Center.

Note: CBP was not able to provide data on prosecutions.

The investigative phase for textile transshipment cases can be a complex and lengthy effort, resulting in few criminal penalties. Investigators often must follow convoluted paper trails for the movement of goods and money, obtain accounting records—sometimes having to get Internal Revenue Service records (which can be a 6 to 9 month process). They also may have to subpoena banks, interview brokers and shippers, get foreign government cooperation, and pursue new leads as they arise. A BICE official noted that it is often difficult to pursue textile transshipment criminal cases because, unlike with some crimes, there is no “smoking gun” at the port. For example, when drugs are found, the drugs themselves are evidence of the violation. With textile transshipment, an illegal T-shirt will look no different than a legal one. The basis for the violation is established by proving that a false country of origin was knowingly claimed and that the importer intended to commit fraud, committed negligence, or gross negligence.

Although CBP does not keep records on the length of time for disposition of cases, import specialists and inspectors voiced concern that investigations can be lengthy. For example, a senior CBP official noted that in 1989, there were 83 illegal entries. Although some civil cases went to the Court of International Trade in 1990, the first decisions were made in 1993, and the last were not decided until 1995, 1997, and 1999. Two of the larger civil cases against multinational corporations took 7 and 10 years to pursue at the Court of International Trade. Accordingly, CBP has a process in place to determine whether to accept offers to settle civil cases out of court, which includes evaluating the litigation risk and the resources CBP would have to devote to a trial.

One factor relating to the length of the case is that, if BICE initiates a criminal investigation, any action relating to that case is held in abeyance

pending possible criminal prosecution of the case. If sufficient evidence exists to justify a criminal prosecution, the case then goes to the U.S. Attorney's Office. This move delays related civil proceedings. BICE officials in Los Angeles/Long Beach noted that U.S. attorneys are short on resources, since they are also working on drug-smuggling and money-laundering investigations; and in the past 10 years in that district, fewer than 10 cases have been sent to the U.S. Attorney's Office and prosecuted. They noted, though, that the U.S. attorneys had not rejected any textile transshipment cases that BICE had brought to them. Neither CBP nor the Justice Department could provide exact figures on the numbers of prosecutions of illegal textile transshipments, but CBP officials noted that the figures were low.

In addition, investigating a case may entail allowing the suspect textile transshipments to continue for a while, to obtain sufficient evidence. However, investigators can be pulled off a particular textile investigation for a higher priority; and then the textile case sits, with CBP sometimes never getting back to it, according to a senior CBP official.

When CBP pursues a case, the monetary amounts of the penalties may get reduced, according to CBP staff, in line with CBP's mitigation guidelines. CBP data are not available to summarize the penalty amounts assessed and the final mitigated penalty amounts. But in one example, CBP discovered that a company transshipped \$600,000 worth of blue jeans to evade quota and visa restrictions. Company officials pled guilty and, in the end, paid CBP civil penalties totaling only \$53,000. CBP officials in the field expressed concern that substantial penalty reductions may be a disincentive to pursuing penalties or investigations.

CBP's Enforcement of In-bond Violations Presents Challenges

CBP has experienced two basic challenges in deterring in-bond diversions through enforcement actions. First, the previously discussed weaknesses in the system make it difficult for CBP to track in-bond movements and catch the violators. Second, when CBP discovers a breach of a bond by a bonded cartman (carrier), the total liability associated with the bond breach is limited to the value of the bond, rather than the value of the merchandise. Additionally, it is difficult for CBP to enforce payment of unpaid penalties and liquidated damages because the Department of Justice does not have sufficient resources available to prosecute all the referrals for collections actions.

Because in-bond shipments are not tracked, CBP cannot account for all the in-bond shipments that fail to fulfill the requirements of timely cargo delivery. According to a senior BICE official involved in in-bond investigations, when an investigation is initiated, BICE must physically track the cargo to prove a violation has occurred. This is difficult because the cargo is often not at the port but at a warehouse, and CBP's surveillance must be constant in order to establish that the cargo was not exported.

When CBP does find in-bond diversion occurring, it typically seeks liquidated damages⁵⁰ for breach of the bond. When CBP demands payment of liquidated damages, the claim cannot exceed the amount of the bond. Several CBP and BICE officials stated that the bond amounts set by CBP regulations are low, compared with the value of the merchandise.⁵¹ The original bond amount for textile entries relates to the total value of shipments. However, according to BICE officials, convention has allowed bonds for bonded cartmen (carrier) to be generally set at \$25,000-\$50,000 a year—a minimal amount that, as one BICE investigator put it, is the “cost of doing business.”⁵² For example, if a textile shipment with a domestic value of \$1 million is illegally diverted, liquidated damages can be set at three times the value of the merchandise. However, if the bond is set at \$50,000, the demand for payment of liquidated damages cannot go above this bond amount. Furthermore, violators may request mitigation of the \$50,000 fine so that the resulting mitigation may only be as little as \$500.⁵³ Bond amounts are usually set every calendar year and, if the liquidated damages claims in one year exceed that year's bond amount, the next year's bond cannot be used to pay the liquidated damages incurred the previous year.⁵⁴

In 1989, CBP recognized the problem in which the amount of delinquent liquidated damages claims against a bonded carrier exceeded the amount of the bond. CBP then issued a directive that required district directors to

⁵⁰See 19 C.F.R. 18.8.

⁵¹19 C.F.R. 113 sets forth the general requirements applicable to bonds.

⁵²Bond amounts are not set by regulation but by the port director's exercise of sound discretion.

⁵³Amount of penalty may vary between \$100 to \$500, depending on the presence of aggravating or mitigating factors.

⁵⁴Multiple claims can be made against the same bond.

periodically review bond sufficiency.⁵⁵ CBP again issued directives in 1991 and 1993 to provide guidelines for the determination of bond sufficiency.⁵⁶ However, CBP and BICE officials we spoke with stated that inadequate bond amounts continue to make liquidated damages for in-bond diversion a weak deterrent.

CBP Also Uses Informed Compliance and Outreach to the Community as Deterrence Methods

CBP also employs methods to deter illegal transshipment by informing the importer community of violators of illegal textile transshipment. CBP officials view the publication of violators as a means to deter transshipment. CBP and CITA maintain various lists of foreign violators, in part, for this purpose. In addition, under the Customs Modernization Act,⁵⁷ CBP is obligated to use informed compliance and outreach with the trade community. CBP regularly meets with the trade community to keep it informed of the latest enforcement information and to help encourage reasonable care on its part. CBP is looking increasingly at patterns of company conduct to establish lack of reasonable care. It currently is investigating or monitoring 40 U.S. importers it suspects may have violated the reasonable care standard.

CBP Maintains Lists to Serve as Deterrence

CBP maintains three lists associated with illegal transshipment violations: the “592A list,” the “592B list,” and the “administrative list.”

- The 592A list is published every 6 months in the *Federal Register* and includes foreign manufacturers who have been issued a penalty claim under section 592A of the Tariff Act of 1930.
- The 592B list enumerates foreign companies to which attempts were made to issue prepenalty notices, but were returned “undeliverable” and therefore could not be included on the 592A list.
- The administrative list identifies companies that have been convicted or assessed penalties in foreign countries, primarily Hong Kong, Macau, and Taiwan. CBP decided that because these companies had due

⁵⁵U.S. Customs Directive No. 4410-012, dated December 1, 1989.

⁵⁶U.S. Customs Directive No. 099 3510-004 dated July 23, 1991; and Customs Directive No. 099 3510-005 dated May 17, 1993.

⁵⁷Public Law 103-182, Title VI. The Customs Modernization and Informed Compliance Act 1993 (also known as the “Mod Act”).

process in their countries and were determined by that country's law to have illegally transshipped textiles (false country of origin), CBP could legally make this information public, according to a senior CBP official. This list is updated as necessary. Between 1997 and October 2003, the names of 488 companies from Hong Kong, 7 from Taiwan, and 34 from Macau have been published in the administrative list.

CITA Maintains an Exclusion List and May Issue Chargebacks

CITA has a policy in place whereby a letter is sent to the government of an offending country requiring it to address what is being done to enforce anti-transshipment policies. If the government does not respond, the company is placed on an "exclusion" list; and goods from that company may not be shipped to the United States. This exclusion could run anywhere from 6 months to 5 years, but the standard period is 2 years. In 1996, CITA issued a new policy stating that all goods could be banned if a TPVT visit was not allowed in that factory. After the policy was issued, Hong Kong began allowing the United States to observe enforcement efforts in factories, although it does not allow CBP access to companies' books and records. Extensive enforcement efforts led to 500 convictions in Hong Kong courts for origin fraud from 1997 to October 2003.

When CITA has evidence of textile transshipment from CBP's TPVTs or other sources, it may also apply chargebacks if it has evidence of the actual country of origin and the goods have entered the commerce of the United States. Chargebacks occur when goods were not charged against quotas as they should have been. CITA then will go ahead and "charge those goods back" against the appropriate levels for an appropriate country. For example, if textiles have been transshipped through Vietnam, but their actual country of origin was found to be China, China's quota will be reduced by the appropriate amount. CITA also has the authority to "triple charge" goods. Although CITA has the authority to issue chargebacks, over the last decade it has only issued chargebacks against China and Pakistan. The last chargebacks were issued in 2001 for a sum of \$35 million. From 1994 to 2001, chargebacks totaled \$139 million. Chargebacks require a higher burden of proof because they require that the actual country of origin be established.

CBP Conducts Outreach with the Textile Trade Community

When the Customs Modernization Act became effective on December 8, 1993, CBP, then known as Customs, was given the responsibility of providing the public with improved information concerning the trade community's rights and responsibilities. In order to do so, Customs created initiatives aimed at achieving informed compliance, that is, to help ensure that the importers are meeting their responsibilities under the law

and to help deter illegal transshipment. Accordingly, Customs issued a series of publications and videos on new or revised Customs requirements, regulations, or procedures. CBP also has the responsibility to inform importers of their duty to act in accordance with its reasonable care standard. To that end, CBP provides guidance to help importers avoid doing business with a company that may be violating CBP laws. For example, CBP suggests the U.S. importer ask its supplier questions regarding the origin of the textiles, the labeling, and the production documentation, among others. CBP is currently investigating 40 importers for potential violations of the reasonable care standard. In a continuing effort to deter transshipment and meet its own responsibilities, CBP officials regularly meet with members of the trade industry to share information about the latest developments regarding textile transshipment.

Conclusions

Despite increasing trade volumes and heightened national security priorities, CBP has maintained a focus on textile transshipment by consolidating its various textile enforcement activities and by using its expertise to target its review process at the most suspect shipments. The actual number of textile and apparel shipments CBP reviews at the ports is low (less than 0.01 percent), and in 2002 about 24 percent of these reviews resulted in exclusions, 2 percent in penalties, and 1 percent in seizures. CBP's overall efforts at deterrence are aimed more at excluding problem shipments from U.S. commerce and emphasizing importer compliance responsibilities rather than at pursuing enforcement actions in the courts, due to the complexity and length of the investigative process and past experiences with ultimate imposition of minimal penalties. The low likelihood of review and minimal penalties limit the system's deterrent effect and make high-quality intelligence and targeting essential to focusing limited resources on the highest risk overseas factories and shipments. Although textile import quotas on WTO members will be eliminated on January 1, 2005, with the expiration of the Agreement on Textiles and Clothing, the roles of the STC and the port import specialists will continue to be important, because incentives will continue to exist to illegally transship merchandise through countries benefiting from trade preferences and free trade agreements. In addition, quotas will remain on Vietnam until its WTO accession, and quotas may be placed into effect on certain imports from China under the safeguard provision of China's WTO Accession Agreement.

Because transshipment will remain a concern beyond this coming year, CBP will still face challenges in implementing its monitoring system. First,

CBP has been slow to follow up on some of the findings from the TPVT factory visits, which are one of the key sources of information used in decisions on what textile shipments to review. CBP has not fully made the results of these trips known and acted quickly by entering all national criteria at an earlier stage rather than waiting until CBP approves the TPVT report. CBP has the authority to review any shipments presented for import. The result of waiting for TPVT report approval may mean that some suspect shipments are not reviewed or inspected at the ports. Second, CBP faces challenges in ensuring that additional import specialists are placed in Customs Attaché Offices overseas to assist with textile monitoring and enforcement activities. CBP would be able to further facilitate cooperation on textile issues, follow up on TPVT findings, and supplement the enforcement information it needs to trigger port textile reviews if it placed more import specialists in Customs Attaché Offices in high-risk countries.

In addition, we found weaknesses in CBP's current monitoring of in-bond cargo transiting the United States, and CBP has only in the last year begun to intensively address the issue of in-bond textile and apparel shipments being diverted into U.S. commerce. CBP's current in-bond procedures may facilitate textile transshipment by allowing loosely controlled interstate movement of imported cargo upon which no quota or duty has been assessed. Internal control weaknesses have meant that CBP places an unacceptably high level of reliance on the integrity of bonded carriers and importers. Without an automated system and detailed and up-to-date information on in-bond shipments, CBP cannot properly track the movement of in-bond cargo. In addition, limited port targeting and inspections of in-bond shipments constitute a major vulnerability in monitoring possible textile transshipments and other areas of national security. CBP's regulations regarding delivery time and shipment destination also hinder proper monitoring. Unless these concerns are addressed, proper revenue collection, compliance with trade agreements, and enforcement of national security measures cannot be ensured. While CBP has taken some preliminary steps, much remains to be done before the in-bond system has an acceptable level of internal controls.

Moreover, CBP's system for assessing liquidated damages does not provide a strong deterrent against in-bond diversion. With bond amounts set considerably lower than the value of the merchandise and mitigation of liquidated damages down to a fraction of the shipment value, violators may see paying the bond as a cost of doing business and may not perceive it as a deterrent against the diversion of goods. CBP has the authority to review

bond sufficiency and can change the bond amounts to provide an effective deterrent against the illegal diversion of goods.

Recommendations for Executive Action

To improve information available for textile transshipment reviews at CBP ports and to encourage continued cooperation by foreign governments, we recommend that the Commissioner of U.S. Customs and Border Protection take the following two actions:

- Improve TPVT follow-up by immediately entering all criteria resulting from overseas factory visits into ACS to trigger port reviews.
- Assign import specialists to Customs Attaché Offices in high-risk textile transshipment countries to assist with textile monitoring and enforcement activities, including conducting follow-up to TPVTs.

To improve its monitoring of in-bond cargo and ensure compliance with U.S. laws and enforcement of national security, we also recommend that the Commissioner of U.S. Customs and Border Protection take the following four steps:

- Place priority on timely implementation of a fully automated system, including more information to properly track the movement of in-bond cargo from the U.S. port of arrival to its final port of destination.
- Increase port targeting and inspection of in-bond shipments.
- Routinely investigate overdue shipments and, pending implementation of an improved automated system, require personnel at ports of entry to maintain accurate and up-to-date data on in-bond shipments.
- Assess and revise as appropriate CBP regulations governing (1) the time intervals allowed for in-bond shipments to reach their final destinations, taking into consideration the distance between the port of arrival and the final port of destination and (2) whether importers or carriers can change the destination port without notifying CBP.

Finally, to strengthen the deterrence value of in-bond enforcement provisions, we recommend that the Commissioner of U.S. Customs and Border Protection review the sufficiency of the amount of the bond for deterring illegal diversion of goods.

Agency Comments

The Department of Homeland Security provided written comments on a draft of this report, which is reproduced in appendix III. The Department agreed with our recommendations and stated that it would take the appropriate steps needed to implement the recommendations. In its letter, the department listed its key planned corrective actions for each of our recommendations. In addition, we received technical comments from the Departments of Homeland Security, Commerce, and the Office of the U.S. Trade Representative, which we incorporated in this report as appropriate.

We are sending copies of this report to appropriate congressional Committees and the Secretaries of Homeland Security, Commerce, and State and the Office of the U.S. Trade Representative. We will also make copies available to others upon request. In addition, this report will be available at no charge on the GAO Web site at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me on (202) 512-4128. Additional contacts and staff acknowledgments are listed in appendix IV.



Loren Yager
Director, International Affairs and Trade

Objectives, Scope, and Methodology

In a legislative mandate in the Trade Act of 2002 (P.L. 107-210, Aug. 6, 2002), Congress directed GAO to review U.S. Customs and Border Protection's (CBP)¹ system for monitoring and enforcing textile transshipment and make recommendations for improvements, as needed, to the Chairman and the Ranking Minority Member of the Senate Committee on Finance and the Chairman and the Ranking Minority Member of the House Committee on Ways and Means. As discussed with Committee representatives, we have focused on answering the following questions: (1) how CBP identifies potential textile transshipment, (2) how well CBP's textile review process works to prevent illegal textile transshipment, (3) how effectively CBP monitors foreign textiles transiting the United States in its in-bond system before entering U.S. commerce or being exported, and (4) what challenges CBP experienced in using penalties and other means to deter illegal textile transshipment.

To examine how CBP identifies potential textile transshipment, we reviewed and analyzed internal planning documents and trade studies from the Office of Strategic Trade's Strategic Trade Center (STC) in New York City, which conducts analysis and targeting of textile transshipment. We also analyzed CBP foreign factory and cargo shipment reports and summaries from the STC; the Office of Field Operations' Textile Enforcement and Operations Division at CBP's headquarters; and some ports of entry, from 2000 to 2003. We collected and analyzed data from 2000 to 2003 on the targeting process from CBP's internal database and documents and reviewed how CBP collected the data. We examined the data for their reliability and appropriateness for our purposes. We found the data to be sufficiently reliable to represent CBP's targeting activity. In addition, we also collected official U.S. international trade statistics from the Census Bureau for 1993 to 2002, textile and apparel production statistics from the Census Bureau (Annual Survey of Manufacturers) for 1993 to 2001, and employment statistics from the Bureau of Labor Statistics (Current Employment Survey) for 1993 to 2002. We defined "textile and apparel goods for international trade," based on the definition in the World Trade Organization's (WTO) *Agreement on Textiles and Clothing* (Annex), as well as additional textile and apparel goods not covered by the

¹On March 1, 2003, the U.S. Customs Service was transferred to the new Department of Homeland Security. The border inspection functions of the Customs Service, including specifically the Office of Field Operations, along with other U.S. government agencies having border protection responsibilities, were reorganized into the U.S. Customs and Border Protection (CBP). The Office of Investigations was moved into the new Bureau of Immigration and Customs Enforcement (BICE).

agreement but identified as textile and apparel goods by the Department of Commerce's Office of Textiles and Apparel on the Department of Commerce's Web site. We reviewed these statistics for their reliability and appropriateness for our purposes and found them sufficiently reliable to represent the trends and magnitude of trade, production, and employment in the textile and apparel sector. We also observed a targeting session at the STC in preparation for a foreign factory visit to El Salvador. In addition, we interviewed CBP officials in the Office of Strategic Trade's STC and Regulatory Audit Division, the Office of Field Operations, and in seven ports of entry (New York/Newark, New York; Los Angeles/Long Beach, California; Laredo, Texas; Columbus and Cleveland, Ohio; and Seattle and Blaine, Washington) about their targeting activities and roles. Together, these ports represent CBP service ports that processed 55 percent of textiles and apparel imported into the United States in 2002. However, we recognize that activities among individual ports of entry within CBP service port areas may vary from ports that we visited. To gain additional perspectives on CBP's targeting operations, we interviewed officials of the Department of Commerce and the Office of the U.S. Trade Representative (USTR), as well as former Customs officials and private sector business associations.

To examine CBP's textile review process to prevent illegal textile transshipment, we reviewed internal planning documents, directives, and reports of the Office of Field Operations' Textile Enforcement and Operations Division, the Office of International Affairs, and the Office of Strategic Trade's STC and Regulatory Audit Division covering the years 1999 to 2003. We visited seven ports of entry and observed operations. To review CBP's foreign factory visits, we observed a Textile Production Verification Team (TPVT) visit in El Salvador. To report on CBP's overall textile review activity, we collected data on TPVT visits and port-level textile review activity from 1996 to 2003 from CBP's internal database and documents. We reviewed how CBP collected the data and examined the data for their reliability and appropriateness for our purposes. We found the data to be sufficiently reliable to represent CBP's foreign factory inspections and port-level activity. We interviewed CBP officials in the Office of Field Operations, the Office of International Affairs, the Office of Strategic Trade, and the seven ports of entry we visited. We also interviewed officials of the Department of Commerce, including the Committee for the Implementation of Textile Agreements (CITA) and the Office of Textiles and Apparel; USTR; and the Department of State; as well as former Customs officials and private sector business associations. In addition, we interviewed customs and trade officials in Hong Kong and

Macao, as well as a Mexican embassy trade official in Washington, D.C., and Mexican port officials in Nuevo Laredo, Mexico. We communicated with Canadian officials through an exchange of written questions and answers.

To review how CBP uses its in-bond system to monitor foreign textiles transiting the United States before entering U.S. commerce or being exported, we observed in-bond operations at six of the ports of entry we visited: Newark, New Jersey/New York, New York; Long Beach/Los Angeles, California; Cleveland and Columbus, Ohio; Laredo, Texas; and Blaine, Washington. We reviewed documents on CBP's in-bond operations from the Office of Field Operations' Cargo Verification Division, as well as documents on in-bond penalties from the Office of Field Operations' Fines, Penalties, and Forfeitures Branch. We conducted interviews on the in-bond system with CBP officials in the Cargo Verification Division; the Fines, Penalties, and Forfeitures Branch; and the Textile Enforcement and Operations Division at headquarters; and at the ports of entry and Bureau of Immigration and Customs Enforcement (BICE) headquarters and Field Offices.

In addition, we conducted a survey of in-bond activities at 11 major U.S. area ports that process the highest levels of textile and apparel imports and 2 smaller area ports that also process textile and apparel imports. For each area port, we also requested that the survey be distributed to two additional subports that also processed textile and apparel imports. We asked ports to respond to the survey, based on in-bond activities from October 2001 to May 2003. We received responses from all 13 area ports and 29 subports we surveyed. We selected ports for our survey, based on four criteria: (1) ports with the highest value of textile and apparel imports; (2) geographic distribution that included coastal, in-land, northern, and southern border ports; (3) ports with the highest value of textile and apparel imports by trade preference program (such as the African Growth and Opportunity Act and the Caribbean Basin Trade Partnership Act); and (4) ports of various sizes, allowing us to include smaller ports that also process textile and apparel imports. We found the data to be sufficiently reliable to review how the in-bond system monitors foreign textiles transiting the United States. Not all ports were able to provide data for the entire time period requested; therefore, we were not able to use some of the data for the missing time period. In addition, although we received a 100-percent response rate, the in-bond data we received from the 13 area ports and 29 subports are not representative of in-bond operations at all Customs ports. Copies of the survey are available from GAO.

To examine the challenges CBP experienced in using penalties and other means to deter illegal textile transshipment, we reviewed internal planning documents, memorandums, and reports, dating from 1999 to 2003, from former Office of Investigations officials now in the BICE, as well as from CBP's Offices of Chief Counsel; Field Operations (including the Textile Enforcement and Operations Division and the Fines, Penalties, and Forfeitures Division); Strategic Trade, (including the STC and Regulatory Audit Division); and Regulations and Rulings. We also reviewed CBP's enforcement authorities in the relevant statutes and federal regulations, as well as reviewing informed compliance publications and other information on CBP's and BICE's Web sites. We collected data on CBP's enforcement and penalty actions for the years 2000 to 2002, from CBP's internal databases and documents. We reviewed how CBP collected the data and examined the data for their reliability and appropriateness for our purposes. We found the data to be sufficiently reliable to represent CBP's enforcement and penalty actions. We interviewed officials in BICE and in CBP's Offices of Chief Counsel; Field Operations (including the Textile Enforcement and Operations Division and the Fines, Penalties, and Forfeitures Division); Strategic Trade (including the STC and Regulatory Audit Division); and Regulations and Rulings, as well as at the seven ports of entry we visited, and associated BICE Field Offices. We also interviewed officials of the Department of Commerce, including CITA and OTEXA; as well as former Customs officials and private sector business associations.

We performed our work from September 2002 through December 2003 in accordance with generally accepted government auditing standards.

U.S. Textile and Apparel Trade, Production, and Employment

U.S. textile and apparel imports have grown considerably over the past decade and have been comprised largely of apparel products. In 2002, China surpassed Mexico as the largest foreign supplier of textile and apparel to the U.S. market, followed by Caribbean Basin countries that benefit from preferential access.¹ New York and Los Angeles are the service ports that receive the largest share (by value) of textile and apparel imports, with Miami, Florida, and Laredo, Texas, important service ports districts for imports from Latin America. The United States is in the process of gradually phasing out textile and apparel quotas under a 1995 World Trade Organization (WTO) agreement, but a significant number of quotas are still to be eliminated at the end of the agreement's phase-out period on January 1, 2005. Elimination of these quotas is likely to affect trade patterns as more efficient producers acquire greater market share. Tariffs and other potential barriers, however, such as antidumping and safeguard measures, still exist and could still affect trade patterns and create an incentive for illegal textile transshipment. Also, as quotas are removed, a more competitive market may place increasing pressure on the U.S. textile and apparel industry. Industry production and employment in the United States has generally been declining in recent years, with employment in the apparel sector contracting the most.²

Imports of Textile and Apparel

U.S. imports of textile and apparel products have nearly doubled during the past decade (1993 to 2002), rising from about \$43 billion to nearly \$81 billion.³ Because overall imports have also nearly doubled during the decade, textile and apparel products have maintained about a 7 percent share of total U.S. imports throughout this period. As figure 10 shows, the majority of U.S. textile and apparel imports are apparel products (about 73 percent in 2002). The remaining imports consist of yarn (10 percent),

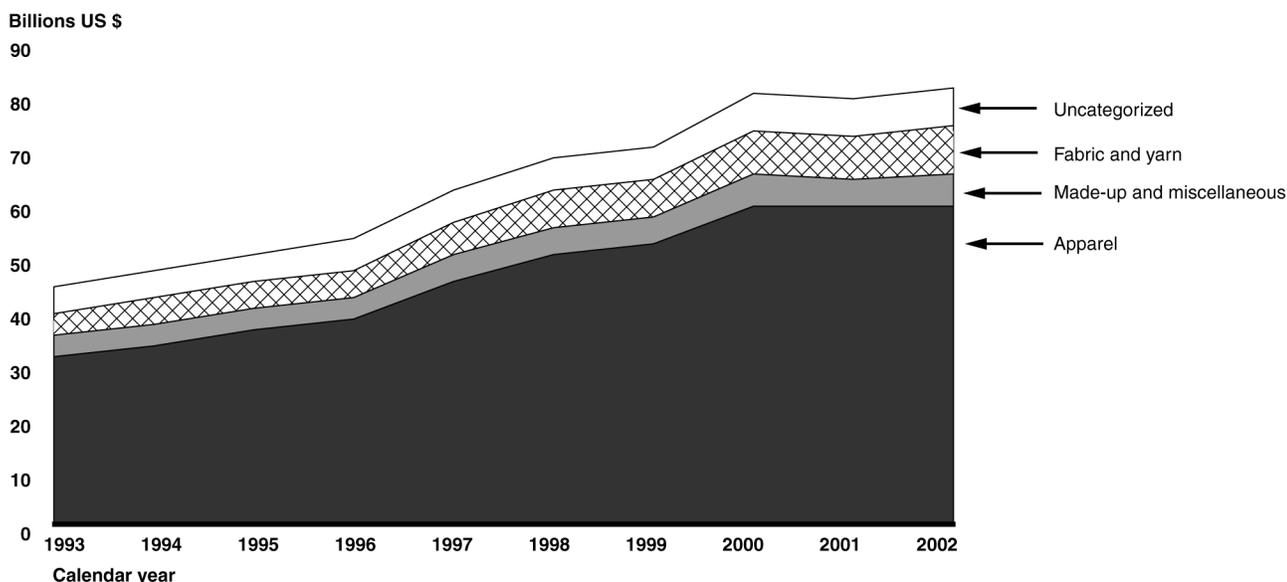
¹The Caribbean Basin Trade Partnership Act (CBTPA) provides Caribbean Basin countries (see note to fig. 11 for list of countries) reduced or eliminated tariff rates for qualifying textile and apparel products.

²The textile and apparel industry we refer to in this report is the manufacture of textile and apparel products, but not the distribution and retail of textile and apparel products.

³Textile and apparel imports, as we define them in this report, include all textile and apparel products, whether or not quotas or other restrictions affect them. See appendix I for more information on our methodology.

uncategorized textile and apparel products (9 percent), made-up and miscellaneous textile products (7 percent), and fabric (2 percent).⁴

Figure 10: Major Components of Textile and Apparel Imports, 1993-2002



Source: GAO analysis based on U.S. trade statistics from the Census Bureau.

Note: Uncategorized imports of textile and apparel are those products not listed under the U.S. quota category system. These products may still fall into one of the four other categories, such as yarn or fabric.

The major foreign suppliers of textile and apparel to the U.S. market are China, Mexico, and the Caribbean Basin countries. However, as figure 11 shows, no major supplier had more than a 15 percent share of overall textile and apparel imports in 2002. Also, after the top 10 suppliers, remaining suppliers still provided more than a third of imports. These smaller suppliers include Africa Growth and Opportunity Act (AGOA) countries, which supplied \$1.1 billion (about 1.4 percent) of imports, and

⁴Made-up and miscellaneous textile products include such products as bedspreads, blankets, pillow cases and sheets; towels; floor coverings; handbags; and luggage. Uncategorized imports of textile and apparel are those products not listed under the U.S. quota category system. These products may still fall into one of the four other categories, such as yarn or fabric.

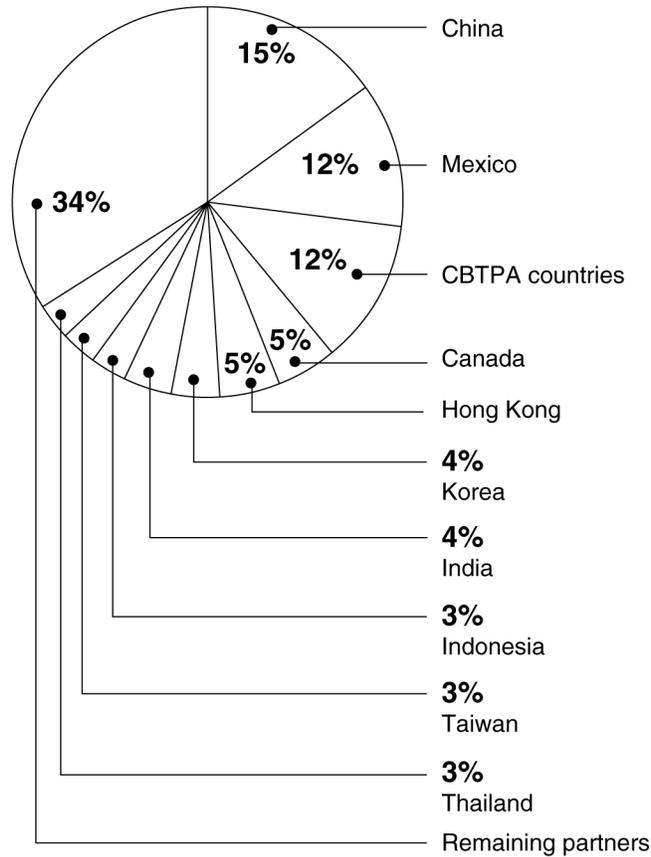
Appendix II
U.S. Textile and Apparel Trade, Production,
and Employment

Andean Trade Promotion and Drug Eradication Act (ATPDEA) countries, which supplied \$790 million (about 1 percent) of imports.⁵

⁵AGOA beneficiary countries are Benin, Botswana, Cameroon, Cape Verde, Central African Republic, Chad, Republic of the Congo, Cote d'Ivoire, Democratic Republic of the Congo, Djibouti, Eritrea, Ethiopia, Gabon, the Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, So Tome and Principe, Senegal, Seychelles, Sierra Leone, South Africa, Swaziland, Tanzania, Uganda, and Zambia. However, not all beneficiary countries are eligible for textile and apparel benefits. According to CBP, Botswana, Cameroon, Cape Verde, Cote d'Ivoire, Ethiopia, Ghana, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Rwanda, Senegal, South Africa, Swaziland, Tanzania, Uganda, and Zambia are eligible for these benefits. Countries eligible for ATPDEA benefits are Bolivia, Colombia, Ecuador and Peru.

Appendix II
U.S. Textile and Apparel Trade, Production,
and Employment

Figure 11: Share of U.S. Textile and Apparel Imports by Trade Partner, 2002



Source: GAO analysis based on U.S. trade statistics from the Census Bureau.

Note: Caribbean Basin Trade Partnership Act (CBTPA) beneficiary countries include Antigua and Barbuda, Aruba, Bahamas, Barbados, Belize, British Virgin Islands, Costa Rica, Dominica, Dominican Republic, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Montserrat, Netherlands Antilles, Nicaragua, Panama, St. Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, and Trinidad and Tobago. However, not all beneficiary countries are eligible for textile and apparel benefits. According to CBP, Barbados, Belize, Costa Rica, Dominican Republic, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Saint Lucia, and Trinidad and Tobago are currently eligible for these benefits.

Countries with free trade agreements (FTA) with the United States accounted for 18.8 percent of total textile and apparel imports in 2002. This includes the North American Free Trade Agreement (NAFTA) countries, Mexico and Canada, which supplied 17.1 percent. Other FTA partners—Chile, Israel, Jordan, and Singapore—supplied the remaining 1.7 percent.⁶ In addition, the United States is negotiating FTAs with several other countries, which combined accounted for 15 percent of U.S. imports.⁷ The most important (in terms of imports) of these potential FTA partners are the countries in the Central American FTA negotiations (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic, all of which are also part of the overall Free Trade Area of the Americas (FTAA) negotiations.

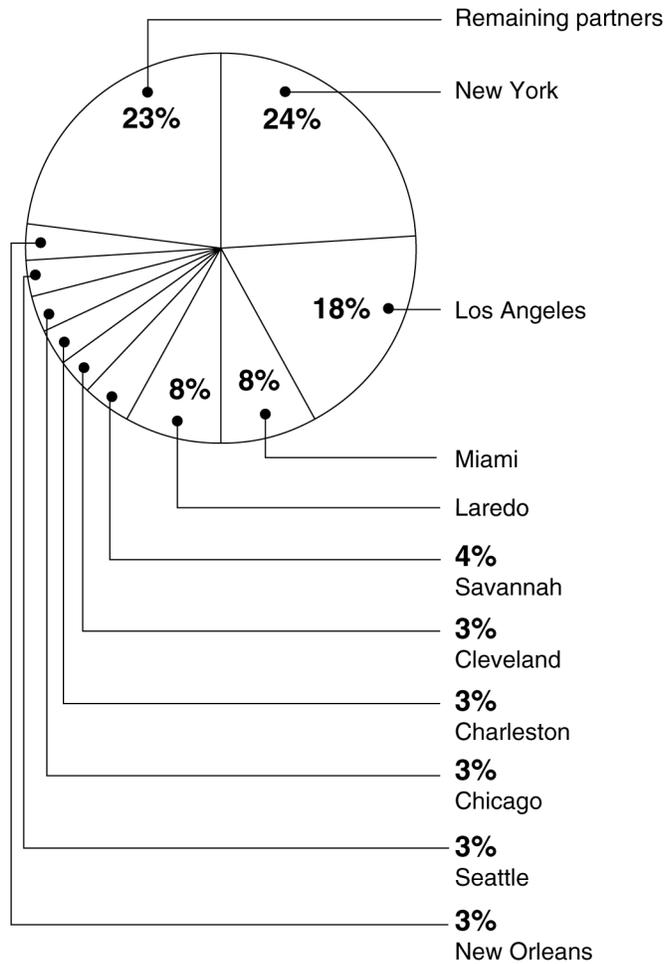
Top U.S. Ports

The service ports of New York and Los Angeles were the top two recipients of textile and apparel imports into the United States in 2002. Together they accounted for more than 40 percent of imports. Furthermore, the top 10 U.S. service ports accounted for about 77 percent of textile and apparel imports in 2002 (see fig. 12). Overall, Customs has 42 service ports, encompassing more than 300 individual ports of entry. For example, the New York service port encompasses the individual ports of JFK Airport; Newark, New Jersey; and New York City.

⁶However, imports in 2002 from Chile and Singapore did not yet qualify for free trade status. In addition, some textile and apparel imports from FTA countries may not have qualified for free trade status if they did not meet rules of origin requirements.

⁷Countries with which the United States had publicly announced its intent to negotiate free trade agreements as of November 25, 2003, include Australia, Bahrain, and Morocco; the countries of the Southern African Customs Union (Botswana, Lesotho, Namibia, South Africa, and Swaziland); and the 34 countries of the Free Trade Agreement of the Americas (FTAA). In addition to the FTAA, the United States is intent on negotiating separate free trade agreements with Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua), Andean countries (Bolivia, Colombia, Ecuador, and Peru), and the Dominican Republic.

Figure 12: Share of U.S. Textile and Apparel Imports by Service Port, 2002



Source: GAO analysis based on U.S. trade statistics from the Census Bureau.

On the West Coast, Los Angeles receives a large portion of its imports from Asian suppliers such as China and Hong Kong; while in the South, Miami and Laredo receive a large portion of their imports from Caribbean countries. In-land ports, such as Columbus, Ohio, receive imports shipped across country by truck or rail from other ports or flown directly into the airports in its district.

Textile and Apparel Products Affected by Quotas

Under the WTO's 1995 Agreement on Textiles and Clothing (ATC), the United States and other WTO members agreed to gradually eliminate quota barriers to textile and apparel trade during a 10-year transition period, ending by January 1, 2005.⁸ By 1995, the United States, the European Union, Canada, and Norway were the only WTO members to maintain quotas on textile and apparel. Each agreed, however, to remove a share of their quotas by January 1 in 1995, 1998, 2002, and 2005. Based on 2002 Department of Commerce import statistics and our analysis, the United States still maintains quotas on products that account for about 61 percent of its textile and apparel imports by value. Not all of these imports, however, are subject to quotas because not all U.S. trade partners are subject to quotas on these products. For instance, U.S. textile and apparel categories 338 and 339 (men and women's cotton knit shirts and blouses) account for over 12 percent of U.S. imports of textile and apparel products, and categories 347 and 348 (men and women's cotton trousers and shorts) account for about another 13 percent. Although several countries face U.S. quotas in each of these categories, not all countries are restricted. Therefore, quotas only limit a portion of the 25 percent of imports accounted for by products in these categories. Customs, though, is concerned with the trade flows relating to all the products under quotas, despite which country they originate in because the country of origin may be misrepresented.

Future Barriers to Trade in Textile and Apparel

Under the ATC, the United States agreed to remove by 2005 textile and apparel quotas maintained against other WTO members. These quotas have created significant barriers to imports of certain types of textile and apparel products from quota-restricted countries. For example, in 2002, the U.S. International Trade Commission estimated that quota barriers amounted to an approximately 21.4 percent tax on apparel imports and a 3.3 percent tax on textile imports.⁹ However, these estimates were calculated across all textile and apparel products and countries. Therefore, actual barriers may be significantly higher for certain highly restricted products. Upon removal of these quotas, trade patterns are likely to

⁸Of the \$81 billion in U.S. imports of textile and apparel products in 2002, the ATC covered about 95 percent.

⁹See U.S. International Trade Commission, *The Effects of Significant U.S. Import Restraints* (Washington, D.C.: International Trade Commission, 2002).

change, with more efficient foreign suppliers that were formerly restricted under the quotas capturing a larger share of the U.S. market.

FTAs, though, will still provide preferential access to products that meet rules of origin requirements from FTA partners. FTAs generally provide tariff-free access, while 2002 tariff rates on more restricted textile and apparel products ranged from 15 to 33 percent. Also, the United States provides similar preferential access unilaterally to countries from the Caribbean Basin, sub-Saharan Africa, and the Andean region under the CBTPA, AGOA, and ATPDEA preferential programs.¹⁰ Officials and experts that we spoke with said they believed these tariff differentials to be a significant incentive for continued illegal textile transshipment because they act as a tax on textile and apparel products from non-FTA partners. Also, under WTO rules, the United States may impose antidumping or countervailing duties on imports from certain countries if it can be shown that these products have either been “dumped” in the U.S. market or were subsidized.¹¹ Furthermore, under China’s accession agreement with the WTO, members may impose a special safeguard mechanism on imports from China if they are shown to cause market disruption.¹² In fact, in December 2003 the United States imposed this mechanism against imports from China of certain types of knit fabrics, dressing gowns and robes, and brassieres.

¹⁰Some of these programs may be eliminated, as the countries become members of FTAs with the United States.

¹¹Antidumping or countervailing measures take the form of increased duties on imports. Dumping is generally considered to be the sale of a commodity in a foreign market at a lower price than its normal value. WTO rules allow for the imposition of antidumping duties, or fees, to offset dumping. Countervailing duties are special customs duties imposed to offset subsidies provided on the manufacture, production, or export of a particular good. Subsidies essentially lower a producer’s costs or increase its revenues.

¹²A safeguard is a temporary import control or other trade restriction that a WTO member imposes to prevent serious injury to domestic industry caused by increased imports. Upon joining the WTO, China agreed to a unique safeguard provision that allows WTO members to impose restrictions if imports from China disrupt their markets, as well as a special textile safeguard that also allows restrictions on textile and apparel products specifically. The China-specific safeguard provision expires in 2013, and the textile-specific safeguard expires in 2008.

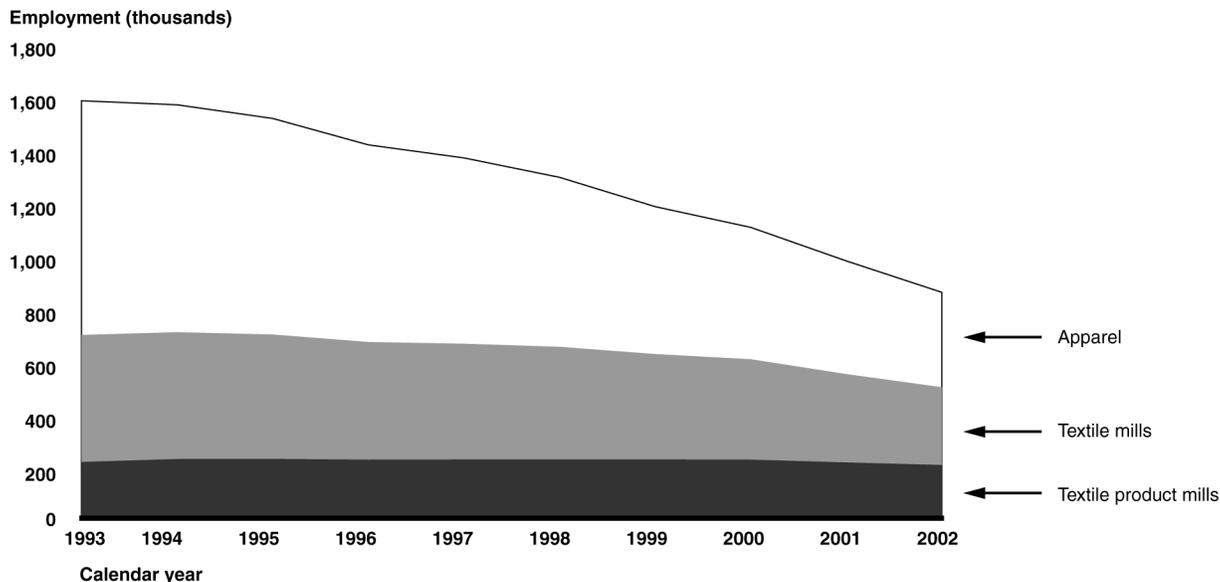
U.S. Textile and Apparel
Production and
Employment

U.S. textile and apparel employment has declined over the past decade (1993 through 2002), while production has declined from 1995 through 2001 (latest year statistics were available for production data). Production of apparel (and textiles to a lesser extent) in the United States tends to be relatively intensive in its use of labor. Consequently, the U.S. industry has faced strong competition from developing countries, such as China and India, where labor rates are significantly lower than in the United States. Employment in the U.S. apparel sector is higher than in the textile sector, overall; however, employment declines in the U.S. textile and apparel industry have primarily been due to declines in the apparel sector. As figure 13 shows, employment in the overall textile and apparel industry fell from about 1,570,000 jobs in 1993 to about 850,000 jobs in 2002. The majority of this decline was due to the fall in apparel employment from more than 880,000 workers in 1993 to about 360,000 workers in 2002.¹³ However, employment in the other sectors of the industry—textile mills (yarns, threads, and fabrics) and textile product mills (carpets, curtains, bedspreads, and other textile products besides apparel)—also declined.

¹³The industry sectors described here (apparel, textile product mills, and textile mills) are based on the North American Industry Classification System (NAICS).

Appendix II
U.S. Textile and Apparel Trade, Production,
and Employment

Figure 13: Employment in Major Sectors of the Textile and Apparel Industry, 1993-2002



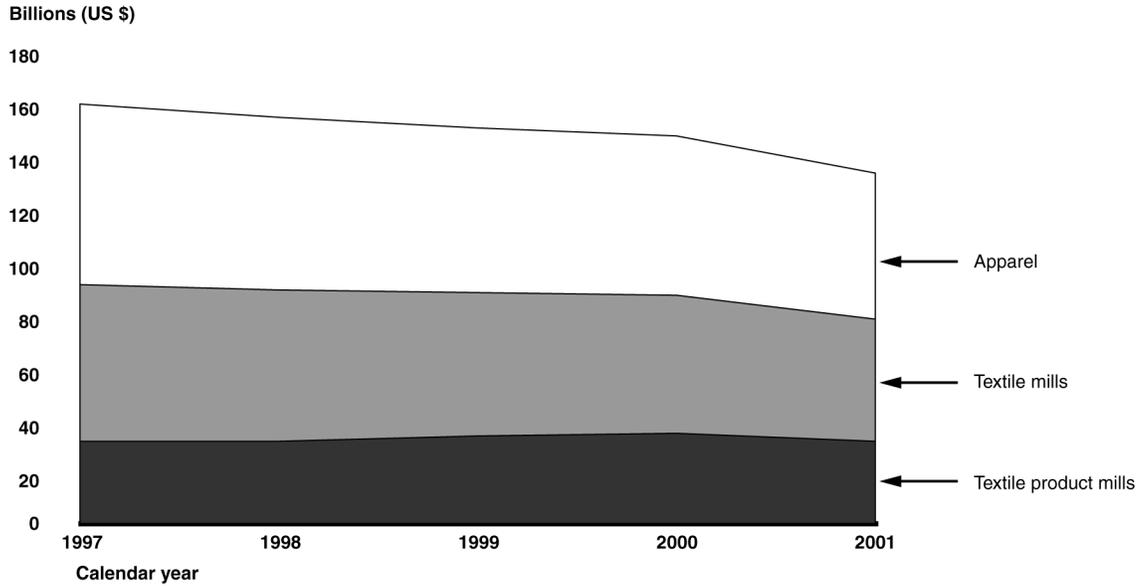
Source: Bureau of Labor Statistics.

Regarding U.S. production (as measured by shipments) in the textile and apparel sectors, figure 14 shows overall textile and apparel production declined between 1997 and 2001.¹⁴ During that period, the value of U.S. shipments of textile and apparel products (either to the U.S. market or overseas) fell from nearly \$158 billion to about \$132 billion. This decline was due to contraction in the apparel and textile mills sectors. However, the textile product mills sector remained relatively stable during the same time period.

¹⁴Prior to 1997, production data was classified by the Standard Industry Classification (SIC) system into two industry sectors, rather than three. Therefore, we do not show the individual sectors of the industry prior to 1997 for production data, as we do with employment data.

Appendix II
U.S. Textile and Apparel Trade, Production,
and Employment

Figure 14: U.S. Production (Shipments) in Textile and Apparel Sectors, 1997-2001



Source: Annual Survey of Manufacturers, Census Bureau.

Note: Data from the Annual Survey of Manufacturers only available through 2001.

Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

January 14, 2004

Loren Yager
Director, International Affairs and Trade
U.S. General Accounting Office
441 G St., NW
Washington, DC 20548

Dear Mr. Yager:

Thank you for providing us with a copy of your draft report entitled "INTERNATIONAL TRADE: U.S. Customs and Border Protection Faces Challenges in Addressing Illegal Textile Transshipment" and the opportunity to discuss the issues in this report.

We agree with the General Accounting Office's (GAO) observations that the U.S. Customs and Border Protection (CBP) needs to take additional steps to improve the information available for textile transshipment reviews, to improve monitoring of in-bond cargo and to strengthen the deterrence value of in-bond enforcement provisions. We have taken, and will continue to take, prudent steps to address these factors. Attached are comments specific to the recommendations, as well as technical corrections.

If you have any questions concerning this response, please contact me at (202) 772-9580.

Sincerely,

A handwritten signature in black ink that reads "Anna B. Smith for".

Anna Dixon
Director, Bankcard Programs
And GAO/OIG Liaison

www.dhs.gov

Department of Homeland Security Comments on GAO Draft Report
INTERNATIONAL TRADE: U.S. Customs and Border Protection Faces Challenges
in Addressing Illegal Textile Transshipment

Response to Recommendations and Planned Corrective Actions

GAO has made several recommendations to the Commissioner of Customs and Border Protection to improve the information available for textile transshipment review, to encourage continued cooperation by foreign governments, to improve CBP's monitoring of in-bond cargo and to strengthen the deterrence value of in-bond enforcement provisions.

CBP agrees with the recommendations and will take the appropriate steps needed to implement the recommendations. Key actions are listed below:

Recommendation #1

Improve Textile Production Verification Team (TPVT) follow-up by immediately entering all criteria resulting from overseas factory visits into ACS to trigger port reviews.

Corrective Action

U.S. Customs and Border Protection plans to complete an update of its September 21, 2001 Standard Operating Procedure (SOP) for TPVT's in Spring, 2004. The update will incorporate the immediate input of high-risk factories into the Automated Commercial System (ACS), diminishing the five-week time period for input and headquarters approval.

Recommendation #2

Assign import specialists to Customs Attaché Offices in high-risk textile transshipment countries to assist with textile monitoring and enforcement activities, including conducting follow-up to TPVTs.

Corrective Action

DHS will evaluate the assignment of import specialists to Customs Attaché Offices in high-risk textile transshipment countries to assist with textile monitoring and enforcement activities, including conducting follow-up to TPVTs, given available resources and an assessment of associated threat.

Recommendation #3

Place priority on timely implementation of a fully automated system, including more information, to properly track the movement of in-bond cargo from the U.S. port of arrival to its final port of destination.

Corrective Action

The Trade Act of 2002 requires the implementation of a fully automated system to track in-bond shipments. CBP will complete implementation of this increase in automation in FY 2004 and 2005. This newly implemented automated system, along with the Automated Commercial Environment (ACE) system, will allow for the automated tracking of most in-bond shipments.

Recommendation #4

Increase port targeting and inspection of in-bond shipments.

Corrective Action

U.S. Customs and Border Protection is developing an in-bond action plan to increase enforcement actions. This action plan, combined with CBP Directive 3240-036A (dated August 7, 2003) which improves data quality and ensures electronic tracking of in-bond merchandise, will refine the inspection and targeting of in-bond shipments. An Automated Targeting System is being implemented for in-bond shipments as well. In FY 2004, six to eight enforcement operations led by headquarters level program staff will also be undertaken.

Recommendation #5

Routinely investigate overdue shipments and, pending implementation of an automated system, require personnel at ports of entry to maintain accurate and up-to-date data on in-bond shipments.

Corrective Action

CBP Directive 3240-036A, issued in August 2003, provides direction for CBP Officers on data collection and maintenance until full automation is complete.

Recommendation #6

Revise CBP regulations governing (1) the time intervals allowed for in-bond shipments to reach their final destinations depending on the distance between the port of arrival and the final port of destination and (2) the ability of importers or carriers to make changes in the intended destination port without notifying CBP.

Corrective Action

U.S. Customs and Border Protection will consider appropriate revisions in these two areas. CBP believes that any regulatory changes should be made with appropriate automation and is therefore assessing the creation of flexible automation that supports these regulatory changes. Time frames for implementation of a new process are dependent upon the completion of the automation systems.

Recommendation #7

Review the sufficiency of the amount of the bond for deterring illegal diversion of goods.

Corrective Action

New guidelines for determining bond sufficiency are currently being developed which will use a more risk-based approach based on type of commodity, history of carrier and potential loss of revenue. CBP will evaluate methods for determining bond sufficiency, including setting a more reasonable minimum bond amount.

GAO Contacts and Staff Acknowledgments

GAO Contacts

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Staff Acknowledgments

In addition to those individuals named above, Margaret McDavid, Michelle Sager, Josie Sigl, Tim Wedding, Stan Kostyla, Ernie Jackson, and Rona Mendelsohn made key contributions to this report.

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