Trust, *but* Verify

How CBP textile teams protect America's jobs and economy

STORY AND PHOTOS BY MARCY MASON

It's a cool, cloudy day in mid-April and one of the U.S. Customs and Border Protection textile production verification teams is assembling in Guatemala City. The team is one of nearly a dozen that will be sent out this year to countries receiving preferential trade or duty-free treatment on textile and apparel goods exported to the U.S.

★ The U.S. is the third largest exporter of textile products in the world with $17 billion in exports. The export of U.S. yarns and fabric grew by 14 percent last year.

Their assignment is no small task. As a core element of CBP's enforcement efforts to protect the U.S. domestic textile industry, the team will be visiting textile and apparel factories in Guatemala to look for trade violations and circumvention of U.S. law. The team's work is critical to preserving American jobs and promoting the growth of the U.S. economy.

Like most of the teams, this one is comprised of two CBP textile specialists and a Homeland Security Investigations, HSI, special agent from U.S. Immigration and Customs Enforcement. Heading the team is Kelli Thompson, a senior import specialist based at Miami International Airport. Diane Liberta, an international trade specialist who works in CBP's textile operations branch in Washington, D.C., will assist as her shadow. Christopher Armstrong, an HSI special agent who is part of the agency's Border Enforcement Security Taskforce that investigates seaport-related smuggling and contraband, is from Seattle. This is the first time the three have met.

A fourth member joins the team for only a few days of the two-week visit. John Leonard is the director of CBP's textile/apparel policy and programs division in Washington, D.C. Leonard, who is new in his position, was most recently CBP's area port director in San Francisco. This will be his

★ John Leonard, director of CBP's textile/apparel policy and programs division, right, and members of the textile production verification team tour a factory in Guatemala to determine if the facility is capable of producing goods that have claimed duty-free preference.

first meeting with government officials from Guatemala's Ministry of Economy Executive Quota Office, the agency that regulates the country's textile and apparel imports and exports. The office also is the coordinating body for Guatemala's participation in the U.S.-Dominican Republic-Central America Free Trade Agreement, known as CAFTA.

CAFTA is the most complex free trade agreement for textiles, with seven partner countries including the U.S. and six Central American nations—Guatemala, El Salvador, Honduras, Nicaragua, Costa Rica, and the Dominican Republic. A third of the imported textile goods that enter the U.S. claim duty-free preference under CAFTA, which increases the region's potential risk for illegal transshipment, fraud, or other forms of noncompliance.

"Trade agreements are ripe for misuse because of their complexity," said Leonard. "They present an importer with an opportunity to substantially reduce his or her duty obligation by simply claiming the goods are coming from a certain country when, in fact, they're really not. In some instances, the fabric or goods are being produced by a third country that isn't one of the partner nations.

"The team visits are a critical piece of our enforcement strategy," said Leonard. "We're getting out from behind our desks and going right to the source of manufacturing to see firsthand what is happening, and there's no substitute for that."

And the results are sizable. During fiscal years 2010 and 2011, $1.7 million in revenue was recouped based on the textile teams' findings. That money, like all duties, was deposited into the U.S. Treasury's general fund, which is used to pay for core functions of the U.S. government.

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—John Leonard, director of CBP's textile/apparel policy and programs division

A learning process

The team's first order of business is meeting with their counterparts from the Guatemalan Executive Quota Office. "We invite members of the foreign government to go along with our textile teams," said Leonard. "If we do find a problem, they're right there with us when the problem is uncovered. In the course of a day, we learn about their process and they learn about ours."

At the opening meeting, the team shares a list of factories it wants to visit. The visits are unannounced and information is kept tight. "We don't tell the foreign governments in advance where we plan to go," said Leonard. "It's for obvious reasons. If the manufacturers and producers in the region know we're coming, word gets around and the factories can say they're closed so we can't interview them. Or they can doctor their records and make other adjustments that make them look compliant when they're not."

★ Members of the CBP textile team, from left, Diane Liberta, Kelli Thompson and Christopher Armstrong, inspect a T-shirt to determine if it qualifies for duty-free treatment.

Before arriving at the factory, Thompson, the team lead, instructs her colleagues on how they will proceed. She has gained valuable knowledge from a previous trip she took last May in Kenya. "We're first going to present them with an entry and we're going to verify that entry by requiring them to give us records," she said.

An entry is a document for goods that are shipped into the U.S. The team will be looking to verify compliance for one good that was produced at each factory. To qualify for duty-free treatment, the goods need to meet CAFTA requirements, which means that the yarn, thread, fabric, and other materials used to create the garment must originate from the U.S. or one of the other partner CAFTA countries.

"Then we'll interview them," said Thompson. "After that, we'll do a factory tour to make sure they're able to produce what they say they can produce, that they actually have the capacity."

The team is now waiting outside the first of the nearly 30 factories they plan to visit. The gates are closed and the factory, which is shielded by towering walls, is heavily guarded by armed security. The team's Guatemalan counterparts are on the phone requesting entrance into the facility. The factory primarily manufactures T-shirts and jerseys for NBA, NFL and college sports teams; however, the textile team is interested in substantiating a CAFTA claim on a shipment of well-known brand T-shirts.

Getting answers

Thompson explains that the factory was flagged because of record-keeping issues. "There were discrepancies in the paperwork that was submitted to CBP. It wasn't clear who produced the yarn or thread in the garments," she said.

At last, the team is given a green light to enter the facility. Eventually, the factory owner, a Korean man, meets with the team. He is surprised and communicates with difficulty in broken Spanish with the Guatemalan government officials, who serve as translators for the team.

The team proceeds with a long list of questions. They gather information about the factory's history, the type of goods that are produced, production quantities, the number of employees, how long the factory has been operating, its biggest customers, and if the factory has intellectual property rights authorization. They also meticulously check production records, tracing when the fabric arrived, when it was cut, when production began, etc. "We look at the timeline to see if it makes sense," explained Liberta. "Because you can't cut fabric before you receive it. The same is true about sewing. The cut dates should start before sewing begins."

The factory owner explains that he has no records onsite. He says he received the contract to produce the T-shirts from another manufacturer. But there is no record of when the factory received the fabric or other raw materials.

During the factory tour, the team is observing. They count the number of sewing machines, production lines and employees to determine if the factory is capable of producing the goods. They also look for signs of transshipment and other types of fraud. "We want to know if they have an inventory system in place so that fabric from China isn't used to make shirts that come into the U.S. claiming duty-free treatment," said Liberta.

After spending nearly four hours at the factory, the team is ready to leave. Their findings are inconclusive. They will begin writing their report that evening, but already their suspicions are aroused. "We're not sure that the T-shirts were actually produced at this factory," said Thompson. "The lack of documentation and bad record keeping are questionable signs."

The textile production verification team visits began in 1991 when there were quotas on apparel. At that time, there were limits on the amount of goods that could be shipped into the U.S. from various countries such as China. "Initially, our teams would go to countries where illegal transshipment of Chinese goods was suspected," said Nancy Mondich, an import specialist in CBP's textile operations branch. "The teams would check to see if facilities had the capability to produce the volume of merchandise that was coming in. That's when we would find out that a particular factory didn't actually exist or that it didn't produce those goods."

In one instance, a team found that a factory in Indonesia was making bottle caps. Another factory in South Africa turned out to be a casket store. There was also a team in Johannesburg that discovered the factory was actually an open field. "There was an address, but it was just an open field. The street was nonexistent," said Neda Baric, who at the time was an import specialist on the textile team at Los Angeles International

Airport. “Unless a team went to verify the factory’s existence, it really would have been impossible for us to definitively state that there was no factory there.”

As quotas for textiles and apparel were eliminated in 2005, and competitive safeguard restrictions were lifted against China in 2008, the textile teams shifted their focus to enforcing free trade agreements and trade preference programs. The free trade agreements provide market access opportunities for U.S. exports and the trade preference programs are legislated by the U.S. Congress to assist the economies of developing nations. Today, the textile teams are primarily concerned with ensuring that the benefits of the trade agreements and preference programs are only given to the participating countries.

“The reason that preferential treatment for clothing is so important is that the duty rates on clothing are the highest duty rates in the tariff schedule,” said Natalie Hanson, an international trade specialist in CBP’s textile policy branch. “Typically, the average duty rate collected on imported garments is 17 percent, but manmade fiber garments can be as high as 32 percent. This is significantly higher than non-textile goods such as pharmaceuticals, automobiles or agriculture and technology products, which average less than 2 percent.”

Protecting U.S. workers

The textile teams are highly valued. “These teams are the frontline of the effort to ensure that textile rules in free trade agreements are being followed, so they are very, very important,” said Cass Johnson, president of the National Council of Textile Organizations, the largest domestic textile association in the U.S. “The United States is the third largest exporter of textile products in the world with $17 billion in exports. Our companies would not be in business if these rules were not enforced. There are tens of thousands of jobs—direct jobs in the United States and many, many more indirect jobs--that depend on CBP to be a strong enforcer of these rules.”

The majority of U.S. textile exports are sent to free trade agreement partner countries, specifically those participating in CAFTA and the North American Free Trade Agreement, NAFTA. “These are the biggest export markets for our textile products,”

★ Textile workers sew T-shirts for a major American retailer at one of the largest apparel factories in Guatemala.

★ A textile worker affixes NBA hang tags to New York Knicks basketball jerseys headed to the U.S.

said Johnson. “We send $4 billion worth of textile products a year to Mexico, $3.3 billion to Canada and $3.5 billion to the CAFTA countries. The free trade areas of the Western Hemisphere represent about two-thirds of our total exports.”

The textile teams are integrally linked to the growth of exports and jobs too. “Our export of yarns and fabric grew by 14 percent last year,” said Kim Glas, the deputy assistant secretary of textiles and apparel for the Department of Commerce. Glas chairs the Committee for the Implementation of Textile Agreements, or CITA, the governing body responsible for negotiating and implementing textile provisions in free trade agreements and trade preference programs. “If these teams aren’t there to ensure that there’s compliance with an agreement and that any problems are addressed, exports are going to be affected. If those exports are affected, then the jobs are affected.”

According to Johnson, the U.S. domestic textile sector employs about 500,000. “We’re a growing industry. We added 4,000 jobs last year and opened four new textile plants including a $500 million textile fiber facility in South Carolina,” he said. American companies also have made investments in the partner countries. “Some of our members have built plants in Central America, Mexico, and the Andean region,” said Johnson. “We estimate that nearly 2 million textile and apparel jobs are supported by the free trade agreements in the Western Hemisphere and that includes the United States.”

The team visits also serve as a powerful deterrent. “It sends a message not only to the factories, but to the importing community as well,” said Johnson. “They’re aware that CBP is watching and going to take action if the teams find fraud.”

In Guatemala, the textile team has just arrived at another factory. Thompson explains that this factory was targeted because it was suspected of making false duty-free claims.

The factory manager is straightforward. He tells the team that the factory does not manufacture any goods exempt from duty. He says he sent a letter to the importer specifying this. When Thompson shows him the shipment’s invoice, he tells the team that this is not his invoice and that he has no control over the paperwork his customers give to the port.

“A lot of times brokers or importers in the United States see something from this region and automatically claim the shipment as duty free without abiding by the regulations,” said Thompson.

The factory will not be held accountable. “The importer is ultimately responsible for the shipment,” explained Liberta. “Even if the broker made the mistake, the importer is still responsible for paying the duty.”

Armstrong, the HSI special agent, is troubled by the different invoices. “There is no reason why an importer shouldn’t give the manufacturer’s original invoice to customs. It reflects the actual shipment,” he said. “When we see double invoicing, it’s an indication of possible fraud.”

At this point, the team tours the facility. Even though the manager has told the team that the factory does not make any duty-free claims, it is still necessary to inspect the premises. The factory is housed in a small, old building with two floors. Upstairs the team finds piles of plastic bags filled with ladies’ blouses and other inventory haphazardly strewn on the floor. It doesn’t take long before Thompson uncovers something suspicious. She finds a blouse with a label that says, “Made in USA.”

She then discovers two identical blouses in different colors—magenta and mint green—with tags that identify one as being made in the U.S. and the other in Guatemala. She asks Armstrong to take photos to document their find. “We’re concerned about transshipment,” she said, “and that these labels were just sewn into the garments.”

Armstrong notes that this is one of the reasons an HSI agent is part of the team. “If there is an investigation related to any of the factories or importers, having an agent here to document, photograph and talk to people will significantly enhance possible prosecution," he said.

For now, the factory will be targeted. All of its future shipments will be scrutinized by the ports. "When we get back to the states, we'll take a closer look at the broker and importer," said Liberta. "They should not be making duty-free claims with this factory, and we will be going after them for the lost revenue."

The textile team process begins each August when countries are selected for the team visits. CBP's textile targeting unit in New York prepares a country risk assessment, a data-driven report that identifies high-risk countries for noncompliance and textile fraud. Thirteen analysts from the targeting unit review every country that imports textiles into the U.S. Based on a number of factors including data, current events, input from the ports, enforcement actions and congressional interest, a complete analysis on each of the countries is done. Last year the unit reviewed 81 countries.

The targeting unit presents its findings to a textile working group in Washington, D.C., comprised of textile-related experts from various offices within CBP and a representative from HSI. From this meeting, the final selections of which countries will be visited for the following year are made.

To some extent the decisions are predetermined. "We can only visit the countries with which we have either a free trade agreement or a legislative trade program," said Jackie Sprungle, CBP's textile policy branch chief. "The visits have been negotiated into the terms of the agreements." There are other stipulations too. For example, as part of one of the preference programs, the African Growth Opportunity Act, or AGOA, the teams are required by Congress to visit four of the participating African countries each year.

The group also looks at factors like trade volume. "We take into account how much trade comes from these different areas," said Sprungle. "Nearly 36 percent of the imported textile goods during fiscal year 2011 claimed duty preference under CAFTA. We're going to look harder at those CAFTA claims because the volume that's coming into the U.S. is bigger, so it's a bigger risk for us." Pattern changes also are noted. "We look to see if there are a lot of new importers, new manufacturers, and one-to-one relationships because if a factory only sends goods to one importer, that could be an indicator of a problem," explained Sprungle.

Typically, the textile teams visit nine to 12 countries each year. For the high-risk countries the teams don't visit, CBP has other remedies. "The textile production verification teams are one of our strongest tools," said Salvatore Ingrassia, the lead international trade specialist at CBP's textile targeting unit in New York. "If we can use them, it's great, but if we can't, we don't just ignore a high-risk country. There are other actions that we take such as audits and special operations where we send information out to the field and identify shipments we want reviewed by import specialists."

Knowing the territory

The teams are staffed by approximately 30 CBP import specialists and international trade specialists from throughout the country. Five of the team members are from headquarters. An HSI special agent is also part of the team. All have had specialized training from CBP's textile policy branch. "It's important to have people on our teams who know the agreements, know what to ask for, know when to ask about anomalies, and know how to conduct themselves with foreign counterparts who may be on a ministry level," said Sprungle.

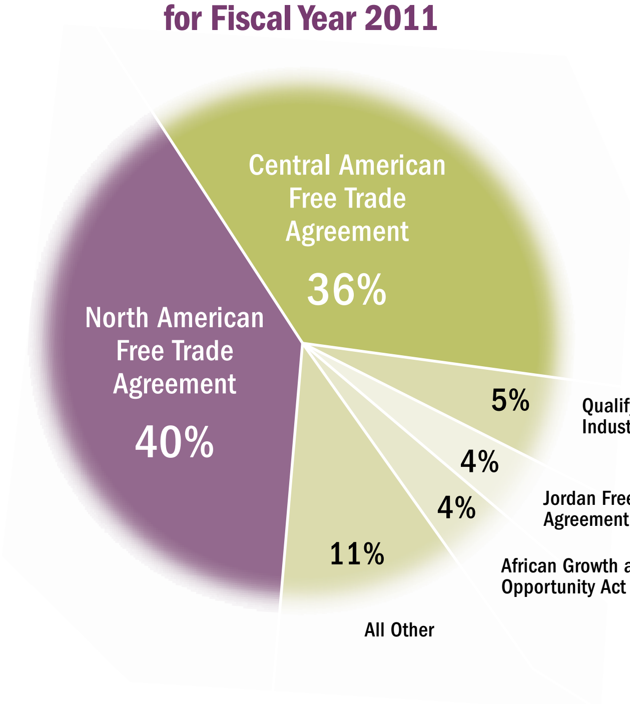
Sixty days before each trip analysts at the textile targeting unit in New York select potential factories for the teams to visit. "When we compile the list of factories that the teams will visit, we target only the ones we feel are questionable," said Leonard. As a result, the percentage of noncompliance and fraud that the teams find is high. During fiscal year 2011, nearly 30 percent of the factories the teams visited were found to be fraudulent or noncompliant.

Although 12 team visits are planned for each year, sometimes political situations arise and the schedule is altered. For example, in 2009, trips to Madagascar and Honduras were cancelled because of political coups. The visits are also kept hush-hush. The foreign countries generally aren't advised until less than a month before the teams arrive.

On average, the teams visit three to four factories a day during a two-week period. Factory visits take between three and four hours and then there is the hustle to get to the next factory, fighting through traffic or driving long distances in remote areas. The days are long and during the evenings the teams write their reports. "We encourage the teams to do

★ Diane Liberta, one of the members of the CBP textile team, observes a factory's inspection process.

Textile Trade Preference Claims for Fiscal Year 2011



A third of the imported textile goods that enter the U.S. claim duty-free preference under CAFTA.

the reports that night because after awhile everything starts merging," said Sprungle.

After the teams return, their reports must be completed within 45 days. The information is given to several sources that generate results. This includes the ports, which can then watch for shipments from the various factories and take appropriate action such as seize goods, issue financial penalties, or deny access into the U.S. "The information is put into CBP's automated targeting system and then anytime CBP sees a suspicious shipment—ping! The shipment is going to be flagged for review," said Leonard.

The information is also given to the participating countries and to CITA, the Committee for the Implementation of Textile Agreements, comprised of members from the Departments of Commerce, State, Treasury, Labor, and the Office of the U.S. Trade Representative. "CITA may have discussions with a foreign government based on the information received from the team visits," said Glas. "In many instances, these foreign governments have already initiated their own actions because they're participating in the visits. They don't want to see violators continue, and they will often have already reported to us that they have shut down a factory or withdrawn its right to export."

Economic impact

During fiscal year 2011, CBP processed $2.3 trillion in imports and collected $29.8 billion in duties. The lion's share of the money collected from the duties came from imported textiles. Last year, textile imports generated 42 percent or $12.6 billion in revenue for the U.S. Nearly $20 billion worth of goods claimed duty-free treatment.

"The impact that textiles have on the U.S. economy is so significant that CBP has designated it as one of the agency's priority trade issues," said Allen Gina, the assistant commissioner of CBP's Office of International Trade. "The contributions made by the textile production verification teams have been critically important to the success of the agency's mission and we're now looking at how we can use this program as a model for other initiatives that we're doing."

The textile team in Guatemala is ending its day. The team has visited three factories and is waiting patiently at the gates of its fourth destination, which is secured like a fortress. From the entry paperwork, Thompson believes this factory is closed. The team is tired and anxious to get inside.

After much deliberation, the armed guards at the gate allow the team's vehicle to enter. Much to everyone's surprise, behind the gates is a massive compound. When the team finally arrives at the correct building address, it becomes apparent that the factory is far from closed. The team learns that the factory has changed its name and instead of one factory, there are three sister factories on the premises.

The team is greeted by the factory manager and his boss, who are both Korean, but speak fairly good English. The team is ushered into a sophisticated showroom, where there is signage indicating the factories' prominent clientele. This is where goods for many of the major American retailers are produced.

The manager tells the team that last year for tax reasons the company changed its name. The team watches a short video about the company while the manager's staff collects the information requested by the team. The team discovers that this company is the largest employer in Guatemala, providing the country with 6,200 jobs.

When the manager returns with the factory's records, the team sees that they are meticulous. They learn that 97 percent of what the factory produces is T-shirts. They also find out that 98 percent of what the new factory manufactures is exported to the U.S. The factory uses yarns from North Carolina, and only 30 percent of the goods produced make duty-free CAFTA claims.

The team's tour of the factory is equally as impressive. The equipment at the facility is all state of the art and the inventory controls are exacting. The largest of the three plants has 60 production lines, 850 workers, and 434 sewing machines. The expanse of the facility is so huge, it's mind numbing.

"This is a perfect example of what is so important about these textile team visits," said Thompson. "When we did our targeting, we saw something suspicious that raised a red flag. But not until we looked deeper and came here to see this for ourselves could we have imagined the sheer magnitude of this operation." ■