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INTERNATIONAL TRADE

The Special Access Program for Caribbean Apparel Imports



**National Security and
International Affairs Division**

B-225332

March 15, 1989

The Honorable Bill Frenzel
The Honorable Frank J. Guarini
House of Representatives

This report responds to your request of July 1988 that we review the administration and enforcement of the Special Access Program for apparel assembled in certain Caribbean countries from fabric made and cut in the United States. In discussions with your staffs, we agreed to conduct a limited review so that we could provide information to you prior to congressional deliberations on revising the Program which will be conducted in conjunction with a review of the Caribbean Basin Economic Recovery Act (CBERA).

On February 20, 1986, the President announced a Special Access Program designed to increase apparel assembly in CBERA countries and expand sales of U.S. textiles. The Program gives Caribbean exporters relief from the U.S. import duties and quotas if the apparel is made from U.S. fabric and cut in the United States, exported to a CBERA country for assembly, and imported back into the United States.¹

The Special Access Program provides two incentives to conduct assembly operations in the Caribbean. First, duty is paid only on the value added in the Caribbean country and not on the value of the U.S. origin piece goods from which the apparel is assembled. Second, the Special Access Program provides virtually quota free access to the U.S. market for qualifying goods through bilaterally negotiated Guaranteed Access Levels. These access levels are separate from and usually higher than the quotas applicable to products not assembled from U.S. made and cut fabric. Furthermore, they may be negotiated upward at the request of the exporting country. According to Commerce officials, increases are practically automatic and unlimited unless greater access would cause market disruption.

The Special Access Program is administered by officials of the Department of Commerce and the Department of the Treasury's Customs Service on behalf of the interagency Committee for the Implementation of

¹The Special Access Program, also known as 807-A, comes under Item 807 of the Tariff Schedules of the United States Annotated (TSUSA). Item 807 involves tariff treatment for imported goods that contain U.S. made components, including apparel. While Item 807 permits reduced duty for apparel assembled offshore with fabric that has been cut in the United States, 807-A also requires that the fabric be made in the United States. With U.S. participation in the Harmonized System of tariff nomenclature, effective in January 1989, products under item 807 are now entered under item 9802.

Textile Agreements (CITA). The Program was formally implemented on September 1, 1986, when a bilateral textile agreement establishing guaranteed access levels for Jamaica went into effect. Since then, similar bilateral agreements have been signed with the Dominican Republic, Costa Rica, Haiti, and Trinidad and Tobago.²

For the 12-month period ending November 1988, imports under the Special Access Program totaled about 84.5 million of the 869 million square yards equivalent of apparel imported from CBERA countries, or 9.7 percent of the total, with Jamaica accounting for approximately 60 percent of Program imports. The leading products being assembled under the Program are cotton and man-made fiber underwear, hosiery, trousers and shorts, and knit shirts and blouses. (See app. II for 1988 import data by type of garment and country of origin.)

Results in Brief

To help enforce Program regulations, participating companies are required to maintain records and to submit detailed information on the cut fabric shipped to the Caribbean and the finished apparel returned to the United States. Customs does not physically inspect shipments of U.S. fabric going to the Caribbean under the Program, although it has the authority to do so. Customs inspects about 18 percent of the finished goods returned to the United States—a relatively high percentage compared to the approximately 2 percent of incoming shipments that Customs normally inspects. These inspections have a deterrent effect but do not guarantee that companies are fully complying with program regulations.

Customs currently has three companies under investigation for suspected evasion of program regulations. The most direct way to check on evasion is to conduct an investigation or a comprehensive audit of a participating company's records. Customs has completed one audit and is currently conducting four more.

The paperwork required of participating companies is cumbersome and has resulted in numerous clerical errors. The Commerce Department has responded to complaints on this matter by undertaking a revision of the required form.

²Trinidad and Tobago is not currently exporting to the United States under this Program.

Customs Procedures

Customs relies on the ITA-370P form, Special Access Program CBI Export Declaration (see app. I), to ensure participating firms compliance with program regulations, including those on the use of non-U.S. origin cloth. The form has three parts. It requires exporters, Caribbean assemblers, and importers to declare that the material shipped to the Caribbean, assembled, and returned to the United States was formed and cut in the United States. (The Program requires that the importer and exporter be the same entity.) The form requires the exporter to declare the number of goods that may be assembled from the fabric formed and cut in the United States. The exporter also must provide detailed information on the piece goods sent to the Caribbean, including fabric type, fiber content, and color. Specifications must be provided for all fabric parts of a garment, including linings and pockets.

Before exporting the piece goods, the exporter completes the shippers declaration part of the ITA-370P form, which it submits to the local Customs District Office officials at the port of export, who review it for completeness.³ Customs officials give each form a certification number and officials at the Miami Customs District Office track, on a computer, the movement of piece goods exported under each form. When the assembled garments are returned to the United States, Customs checks the incoming ITA-370P form from the assembler against the original for any incongruities, reconciling the number of finished goods returned to this country with the number of piece goods exported.

Discrepancies among the original and the assembler's copy of the ITA-370P form and other information, such as the involvement of companies with previous records of discrepancies, have led Customs to designate about 18 percent of incoming shipments to be physically examined (1,841 of 10,077 total entries since the inception of the Program through January 1989). However, Customs does not inspect outgoing shipments to verify whether the shipment contains the type and amount of formed and cut goods stated on the ITA-370P form.

According to Customs officials, of the 1,841 shipments inspected, 27 had one or more of the following problems.

- Invalid visas, wherein the Caribbean government visas stamped on the documentation accompanying completed apparel contain inaccurate information; e.g., characterizing the apparel as polyester when it is actually cotton.

³69 percent of all Program imports by value enter the United States through the port of Miami.

- Quantity violations, wherein the incoming shipment has more goods than the outgoing ITA-370P form stated could be assembled from the exported piece goods.
- Marking violations, involving improper "country-of-origin" statements as well as labels that are sewn in the wrong place on the garments.
- Classification violations, involving apparel that is incorrectly numbered under the TSUSA.
- Restriction violations, such as trademark violations.

Customs officials may send a sample of the finished garments to one of Customs' laboratories for analysis to ensure that the fabric is of the composition described on the ITA-370P form. If the material is not as stated on the form, fines may be levied against the importing company. Customs has made very limited use of this option; only three such analyses have been made since the Program's inception.

In many other cases, discrepancies on the ITA-370P form are cleared up without a physical inspection of the shipment. Most are determined to be obvious clerical mistakes, such as mistakes in category numbers or apparent computation errors. Frequently these errors appear on the assembler's declaration. In some cases, importers may obtain a corrected form from their Caribbean assembler. In others, importers may request that CITA issue a "certificate waiver" permitting the shipment to enter the country under a Guaranteed Access Level. When minor clerical errors are involved, CITA usually issues these waivers without further inquiry. Additional information is required, in some cases, to assure U.S. officials that the shipment in question adheres to the Program's regulations. Commerce officials representing CITA stated that they have requested importing companies to provide additional information (e.g. invoices showing purchase of U.S. cloth) in relatively few cases. According to these officials, waivers were denied in about two dozen cases because companies did not provide sufficient documentation to substantiate their claims that assembled goods should be brought in under a Guaranteed Access Level.

Opportunities for Evasion

Several company and industry representatives stated that the consequences of using non-U.S. material (e.g. exclusion from participation in the Program and criminal and civil penalties) are too serious to warrant taking a chance. There are, however, opportunities for evading the restrictions against the use of non-American material. Customs currently has three companies under investigation for suspected program violations (some of which could be fraudulent).

One opportunity for evasion would be that an exporter could ship non-U.S. origin fabric from the United States to the Caribbean, e.g., Asian cloth, which is usually less expensive than comparable American products. It is possible that an exporter could do this unknowingly. In many cases the exporter/importer purchases cloth from a "converter" or "jobber" who buys material from many sources, including U.S. and foreign textile manufacturers, and "converts" the material through such processes as dyeing and printing. These middlemen could conceivably sell the American exporter non-U.S. material while claiming that the material is in fact of U.S. origin. Another opportunity would be the exporter shipping containers loaded with substitute goods (e.g. waste cloth) or a fraction of the piece goods specified on the ITA-370P form and arrange for completed goods assembled from non-U.S. fabric to be returned to the United States. Customs officials' examination of paperwork accompanying shipments and physical inspections cannot in many cases determine whether fabric is American made.

To check on such potential evasions, investigations and audits of participating company records can be made. The exporter/importers are required to keep complete documentation on fabric origin and content in their files and Customs has the authority to check invoices and cutting documents to determine whether U.S. made and cut fabric was actually used to produce the assembled garments.

Customs has completed one audit of a participating company, finding no violations of Program regulations. According to Customs officials, four additional audits and three investigations are currently being conducted.

Difficulties With the ITA-370P Form

Program participants have expressed frustration with the detailed information that the form requires. A Jamaican government official, however, commented that the number of complaints his agency has received on this score has considerably decreased as Program participants have gained experience with the form. To lighten the administrative burden placed on participants, the Department of Commerce is revising the form to reduce the amount of detail required (without decreasing Customs ability to check on compliance with Program requirements) while also clarifying what type of information is required and how it should be presented.

As requested, we did not obtain agency comments on this report. However, we discussed it with appropriate officials of the Departments of

Commerce and the Treasury and made modifications to reflect their comments.

We are sending copies of this report to the Secretaries of Commerce and the Treasury and to other interested parties and will make copies available to others on request. The principal GAO staff members on this review were John Watson, Michael McAtee, and Elizabeth Morrison.

If you have any questions, please contact me on (202) 275-4812.

Allan I. Mendelowitz

Allan I. Mendelowitz, Director
Trade, Energy, and Finance Issues

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Abbreviations

CBERA	Caribbean Basin Economic Recovery Act
CBI	Caribbean Basin Initiative
CITA	Committee for the Implementation of Textile Agreements
GAO	General Accounting Office
MMF	Man-made fiber
TSUSA	Tariff Schedules of the United States Annotated

ITA-370P Form

FORM ITA-370P 0-88	U.S. DEPARTMENT OF COMMERCE INTERNATIONAL TRADE ADMINISTRATION
SPECIAL ACCESS PROGRAM CBI EXPORT DECLARATION	
No assembled textile products may be entered into the U.S. under TBSUS No. 807.0010 unless this form has been completed and is presented upon entry.	
PORT OF	CERTIFICATE NO.
SHIPPER'S DECLARATION: (To be completed by shipper prior to export of parts to the Caribbean)	
<p>I _____ of _____ certify that fabric parts for the assembly of _____ of _____ in this exportation to _____ were cut in the United States of fabric formed in the United States. Retained in my company's files are the invoice(s) for the fabric from which the parts were cut and my firm's cutting documents. Such invoices comply with the Textile Fiber Products Identification Act, 15 U.S.C. 70 et seq. and the Federal Trade Commission regulations thereunder (16 C.F.R. part 303) and will be retained for three years from the date of this exportation. Identify the parts, including the weight and quantity of parts, the fabric, including fabric weight, yarn size, thread count, fiber content, pattern, and color, the U.S. manufacturer(s) of the fabric, and the U.S. firm cutting the fabric:</p>	
I certify that all statements made and all information contained herein are true and correct. I understand that civil and criminal penalties, including forfeiture and sale, and prohibition from future participation in this Program, may be imposed for making false or fraudulent statements herein, failing to provide the requested information or for violation of U.S. laws on exportation.	
SIGNATURE	TITLE
ADDRESS	DATE
SIGNATURE OF RECEIVING CUSTOMS OFFICER	DATE
ASSEMBLER'S DECLARATION	
<p>I _____ of _____ declare that the articles described below and covered by this declaration were subject to assembling, manufacturing or processing operations by this firm in _____ from the parts described above.</p> <p>Describe the assembled product, including U.S. textile category number, fabric, quantity being shipped and the total weight:</p>	
I declare that the information set forth in this declaration is correct and true to the best of my information, knowledge and belief.	
SIGNATURE	TITLE
ADDRESS	DATE
IMPORTER'S DECLARATION: (To be completed and presented by importer for importation into the United States)	
<p>I _____ of _____ certify that this shipment of _____ of _____ assembled in _____ is of parts cut in the United States from fabric formed in the United States and exported to _____ under this CBI Export Declaration.</p>	
I certify that all statements made and all information contained herein are true and correct. I understand that civil and criminal penalties, including denial of entry or forfeiture and sale and prohibition from future participation in this Program, may be imposed for making false or fraudulent statements herein, failing to provide the requested information or for violation of U.S. laws on importation.	
SIGNATURE	TITLE
ADDRESS	DATE
Names of U.S. shipper of parts and U.S. importer of assembled products must match. This document may be copied as necessary, but no original signatures by the importer must accompany each shipment imported into the United States.	
OPTIONAL - Customs Control Office YELLOW - Exporter PINK - Port of export ISSUED 08-04-88	

Special Access Program Imports by Country of Origin and Type of Garment (January 1988 - August 1988)

(dozens)				
	Jamaica	Dominican Rep.	Haiti	Costa Rica
Man-Made Fiber (MMF) Hosiery	1,721,242	•	•	•
Cotton & MMF Underwear	794,305	•	•	•
Cotton & MMF Trousers & Shorts	661,035	256,853	248,597	•
Cotton & MMF Shirts & Blouses	621,688	•	•	•
Cotton & MMF Gloves & Mittens	98,614	•	79,052	•
Cotton & MMF Brassieres body-support garments	67,342	•	•	•
Cotton & MMF Woven Shirts	29,506	47,998	21,086	25,126
Cotton & MMF Woven Blouses	12,018	•	32,489	•
Cotton Dressing Gowns	•	•	22,334	•
Cotton & MMF Playsuits	•	•	6,562	•

Objectives, Scope, and Methodology

We discussed the Special Access Program with officials of the Customs Service in Washington D.C., and Miami, Florida, and with the Commerce Department's Office of Textiles and Apparel and obtained Program regulations and other instructions to participating firms and statistical material on Special Access Program trade from these officials. Customs operations in the Miami District Office and at the Port of Miami were observed. We discussed the Program with customs brokers and representatives of garment manufacturers, textile producers and apparel contractors. We visited several plants in Jamaica where Program assembly operations are conducted and discussed the Program with representatives of Jamaican and other participating Caribbean country firms and Jamaican government officials. We did not independently review the records kept by participating companies. Our review was performed from November 1988 to February 1989 in accordance with generally accepted government auditing standards.

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