



CAFTA Facts

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CAFTA GETS TOUGH ON ILLEGAL TRANSSHIPMENT

CAFTA strengthens ability to shut down illegal transshipment in the region

OVERVIEW

CAFTA-DR contains stricter customs enforcement provisions than NAFTA. Among the provisions, U.S. Customs and Border Protection (CBP) can conduct surprise site visits to Central American producers suspected of illegal transshipment. The U.S. can also undertake a variety of enforcement actions, including denial of entry to suspect goods.

CAFTA-DR CUSTOMS ENFORCEMENT

The CAFTA-DR has specific customs enforcement tools, available to CBP, built right into the actual text of the Agreement to shut down illegal transshipment of textile and apparel goods coming in from South Asia, including China.

CBP ENFORCEMENT RULES IN...			
RULES	NAFTA	CBTPA	CAFTA-DR
Penalties for circumvention specific to agreement or legislation	None	Deny preferential treatment for 2 years	Deny preferential treatment and other appropriate action ad infinitum (includes denying entry)
Textile-specific verification procedures	None	None	YES
Verification of non-preference claims	None	None	YES
Unannounced factory visits	None	None	YES
Special provision for publication of names of violators	None	None	YES

Here's how CAFTA-DR's stricter customs enforcement provisions provide CBP with tools to fight against illegal transshipment in the region:

TOP 5 WAYS THAT CAFTA-DR'S CUSTOMS ENFORCEMENT PROVISIONS ARE STRONGER THAN NAFTA'S

CAFTA-DR's customs enforcement provisions are stronger than NAFTA in several key areas: NAFTA contained no textile specific enforcement language; NAFTA did not provide CBP with the ability to make unannounced visits; and NAFTA did not provide CBP with the ability to make visits based on non-originating claims.

CAFTA-DR DELIVERS ON ALL THREE OF THE ABOVE AND THEN GOES FURTHER

1. Half of the text of the CAFTA-DR's Textiles Chapter is dedicated to customs enforcement and cooperation rules;
2. Under CAFTA-DR, CBP can not only conduct surprise site visits to Central American producers suspected of illegal transshipment, CAFTA-DR provides CBP with the ability to make visits whether or not a claim under the FTA is made for a duty-break, or if China, for example, falsely claims that the goods are coming from any of the CAFTA-DR countries;

3. CAFTA-DR then allows CBP to publish the names of illegal transshippers and undertake a variety of enforcement actions (including barring entry of suspect goods);
4. CAFTA-DR contains penalties for illegal transshippers, up to and including jail time;
5. The Agreement's direct shipment rule will address any articles transiting a third country which is not a Party to CAFTA; if an article transits a country that is not a Party to CAFTA, that article must remain in the custody of the local customs authority. In short, no subsequent production or any other operation can be performed outside the territory covered in the free trade agreement if the final product is to claim preferential status.

CAFTA-DR BUILDS ON THE CARIBBEAN BASIN TRADE PARTNERSHIP ACT (CBTPA) BASE OF EXISTING US-CENTRAL AMERICA CUSTOMS COOPERATION

Central American factories have a strong customs compliance record regarding instances of illegal transshipment; the U.S.-Central American customs cooperation partnership remains strong. However, this partnership is grounded in a one-way trade preference program – the CBTPA - which expires in three years. CAFTA-DR will ensure that strong customs enforcement provisions are in place to deepen this current partnership by creating permanent opportunities for U.S. and Central American customs officials to effectively collaborate and verify shipments to prevent illegal transshipment.

CAFTA-DR STRENGTHENS CBP TEXTILE-VERIFICATION OPERATIONS

The ability to enforce claims of country of origin is crucial to the enforcement of illegal textile transshipment -- as might occur with the safeguard quotas currently in place on specific categories of Chinese apparel. CAFTA-DR's rules allow CBP to perform verifications not only on goods claiming a preferential tariff rate, but also for those goods which falsely claim a CAFTA-DR member as the country of origin. CAFTA-DR provides a sound enforcement platform to address these risks.

TWO OTHER PROVISIONS FURTHER STRENGTHEN THE AGREEMENT

SPECIAL TEXTILE-SPECIFIC SAFEGUARD

CAFTA-DR contains a special textile safeguard which allows the U.S. to re-impose tariffs on apparel if damage to the U.S. market occurs due to import surges. *This is the only product-specific safeguard in the entire CAFTA-DR Agreement.*

(CONDITIONAL) CUMULATION – HERE'S HOW IT HELPS CBP

In order to gain access to CAFTA-DR's limited cumulation provisions, Mexico and Canada must agree to work with the United States in building a strong enforcement posture in the region by making improvements to their own customs enforcement and cooperation rules. The net result is that CBP will be able to focus resources – be they in Central America, Mexico or elsewhere – on individuals seeking to evade Customs rules and therefore address the greatest areas of risk.

THE BOTTOM LINE

CAFTA-DR strengthens CBP's ability to shut down illegal transshipment in the region and enforce this Agreement. U.S. Customs already has a robust enforcement program and CAFTA-DR's rules only serve to enhance that. Throughout the CAFTA negotiations, Customs representatives participated in the negotiations to ensure that the CAFTA-DR's customs enforcement and cooperation provisions contained the strictest provisions of any U.S Free Trade Agreement. Indeed, CAFTA-DR's textile customs procedures now serve as the model for other FTAs, such as the Panama and Andean FTAs.