

December 19, 2003

TO : Directors, Field Operations

FROM : Executive Director, Trade Compliance and Facilitation
Office of Field Operations

SUBJECT: TBT-03-039 Niger Textile Visa Arrangement for Claims
Under the African Growth and Opportunity Act (AGOA)

REF : TBT-01-008 AGOA Implementation Instructions

BACKGROUND:

The Trade and Development Act of 2000 ("the Act"), which was signed into law on May 18, 2000, authorized a new trade and investment policy for sub-Saharan Africa. The President is authorized to designate a sub-Saharan African country as an eligible beneficiary country based on several criteria established in the Act. The criteria includes that the sub-Saharan African country has adopted an effective visa system and has implemented and follows, or is making substantial progress toward implementing and following, certain Customs and Border Protection (CBP) procedures that assist CBP in verifying the origin of the products. Per a December 17, 2003, Federal Register Notice (68 FR 70333), the United States Trade Representative (USTR) has notified CBP that Niger has met the above requirements. Qualifying merchandise entered, or withdrawn from warehouse, for consumption on or after December 17, 2003, may be claimed for preferential tariff treatment described in section 112(a) of the Act if all requirements have been met.

Per a January 25, 2001, Federal Register Notice (66 FR 7837), the President delegated USTR the authority to direct CBP to ensure that textile and apparel articles described in Section 112 of the Act are entered, or withdrawn from warehouse, for consumption accompanied by an appropriate export visa when preferential tariff treatment is claimed with respect to such articles.

Importers claiming preferential tariff treatment under AGOA for entries of textile and apparel articles should ensure that those entries meet the following visa requirements:

The Government of Niger shall issue a visa for each shipment of textiles or apparel articles, regardless of value, as identified in groupings 1 to 9 and exported to the United States. The visa shall be presented to CBP at time of entry, or withdrawal from warehouse, for consumption into the CBP territory of the United States, if preferential tariff treatment is claimed.

A shipment shall be visaed by the stamping of the original circular visa, in blue ink only, on the front of the original commercial invoice. The original visa shall not be stamped on duplicate copies of the invoice. The original invoice with the original visa stamp will be required to enter the shipment into the United States if claiming the preferential tariff treatment. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp must include the following information:

Visa number: The visa stamp shall be in the standard nine digit-letter format beginning with one numeric digit for the designated grouping (1 to 9), as defined below, followed by the two-character alpha code specified by the International Organization for Standardization (ISO), followed by a six-digit numerical serial number identifying the shipment, e.g., 1NE512345.

Grouping 1: Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States.

Grouping 2: Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States if, after such assembly, the articles would have qualified for entry under 9802.00.80 of the Harmonized Tariff Schedule of the United States (HTSUS), but for the fact that the articles were embroidered or subject to stone-washing, enzyme-washing, acid washing, perma-pressing, oven baking, bleaching, garment-dyeing, screen printing, or other similar processes.

Grouping 3: Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States and cut in one or more beneficiary sub-Saharan African countries from fabrics wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both.

Grouping 4: Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, or from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns

originating either in the United States or one or more beneficiary sub-Saharan African countries, or apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries.

Grouping 5: Apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries regardless of the country of origin of the fabrics or yarns used to make such articles.

Grouping 6: Sweaters in chief weight of cashmere, knit-to-shape in one or more beneficiary sub-Saharan African countries and classifiable under subheading 6110.10 of the HTSUS.

Grouping 7: Sweaters, 50 percent or more by weight of wool measuring 21.5 microns in diameter or finer, knit-to-shape in one or more beneficiary sub-Saharan African countries.

Grouping 8: Apparel articles both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics or yarns not formed in the United States or any beneficiary sub-Saharan African country, if (1) apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabric or yarn, under Annex 401 to the North American Free Trade Agreement, or (2) the President proclaims that apparel articles of such fabrics or yarns may be accorded preferential tariff treatment under AGOA.

Grouping 9: Handmade, handloomed, or folklore articles (qualifying articles will be determined following bilateral consultations).

The date of issuance: The date of issuance shall be the day, month and year on which the visa was signed by an authorized government official.

Authorized Signature: The original signature of an authorized official of Niger or his designate.

The correct grouping, the quantity, and unit of quantity in the shipment shall be provided within the visa stamp, e.g., "Grouping 5 - 510 DZ."

Quantities must be stated in whole numbers. Decimals or fractions will not be accepted.

For groupings 1 to 8, the quantity shown on the visa for all wearing apparel will be reported in dozens, except for:

1. Men's, boys', women's or girl's suits, which will be reported in number
2. Panty hose, tights, stockings, socks, other hosiery, gloves, mittens and mitts will be reported in dozen pairs

If there are items in the same grouping that are mixed such as suits (which require number) and pants (which require dozen) or shirts and pants (which both require dozen), then a separate quantity will be shown for each of the items. For example, a visa for grouping 1 could indicate 105 suits with 10 dozen shirts or 10 dozen shirts and 12 dozen pants.

For grouping 9, the quantity shown on the visa will be the normal reporting quantity for the type of imported merchandise. For example, if rugs or hand loomed fabric were imported, the reported quantity will be in square meters; if bedspreads, towels or other household furnishings are imported, the reported quantity will be in kilos; and if it is wearing apparel, it will be reported as in groupings 1 to 8.

If the quantity indicated on the visa is less than that of the shipment, only the quantity shown on the visa is eligible for preferential tariff treatment.

If the quantity indicated on the visa is more than that of the shipment, only the quantity of the shipment is eligible for preferential tariff treatment. Any overage cannot be applied to any other shipment.

The visa will not be accepted and preferential tariff treatment will not be permitted if the visa number, date of issuance, authorized signature, correct grouping, quantity or unit of quantity are missing, incorrect, illegible or have been crossed out or altered in any way.

If the visa is not acceptable, a new visa must be obtained from an authorized official of Niger, or its designate before preferential tariff treatment can be claimed. Waivers are not permitted.

If the visaed invoice is deemed invalid, CBP will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice.

ACTION:

Please amend U.S. note 7(a) to subchapter II of chapter 98 of the HTSUS and U.S. note 1 to subchapter XIX of chapter 98 of the HTSUS by inserting "Niger" in alphabetical sequence in the list of countries.

Effective December 17, 2003, a valid visa, as described above, must accompany all claims for AGOA preferential tariff treatment from Niger.

Please pass this memorandum to Interim Port Directors, Interim Assistant Port Directors, Import Specialists, Inspectors, Entry Specialists, Brokers and Importers.

INFORMATION:

If you have any questions concerning the visa arrangement, please call Ms. Susan Thomas, at (202) 927-3719 or Mr. Robert Abels, at (202) 927-1959.

/s/ Janet Labuda for
Elizabeth G. Durant

Distribution: Director, Field Operations Atlanta
Director, Field Operations Baltimore
Director, Field Operations Boston
Director, Field Operations Buffalo
Director, Field Operations Chicago
Director, Field Operations Detroit
Director, Field Operations El Paso
Director, Field Operations Houston
Director, Field Operations Laredo
Director, Field Operations Los Angeles
Director, Field Operations Miami
Director, Field Operations New Orleans
Director, Field Operations New York
Director, Field Operations Portland
Director, Field Operations San Diego
Director, Field Operations San Francisco
Director, Field Operations San Juan
Director, Field Operations Seattle
Director, Field Operations Tampa
Director, Field Operations Tucson