

September 16, 2004

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MEMORANDUM FOR: DIRECTORS, FIELD OPERATIONS

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

SUBJECT: TBT-04-024-01 Amendments to the African Growth and  
Opportunity Act (AGOA) for Textile and Apparel Products

REF: TBT-01-008 Implementation Information on the AGOA for  
Textiles and Apparel Products  
TBT-02-038 Amendments to AGOA for Textile and Apparel  
Products  
TBT-04-022 Retroactive Benefits under the AGOA

BACKGROUND:

The Trade and Development Act of 2000, which was signed into law on May 18, 2000, authorized a new trade and investment policy for sub-Saharan Africa. Section 112 of the Act outlines the treatment of certain textiles and apparel articles for AGOA. Apparel articles that are imported directly into the CBP territory of the United States from a designated beneficiary sub-Saharan African country shall enter free of duty and free of any quantitative limitations (excluding any tariff preference levels identified in the act) if the country has satisfied the requirements set forth in section 113.

The Trade Act of 2002, which was signed into law by President Bush on August 6, 2002, authorized amendments to the AGOA. Presidential Proclamation 7626, which was signed November 13, 2002 and published in the November 18, 2002 Federal Register (67 FR 69459) set forth those amendments.

The AGOA Acceleration Act of 2004, which was signed into law by President Bush on July 13, 2004, authorized amendments to the AGOA. Presidential Proclamation 7808, which was signed on September 7, 2004 and published in the September 9, 2004 Federal Register (69 FR 54739) sets forth those amendments. This administrative notice details these amendments set forth in Sections 7 of the Act, which is referred to as AGOA III in the trade community. Please take note to changes within the preference groupings and special rules. All other information in TBT-01-008 and TBT-02-038 remain in effect.

INFORMATION:

PREFERENTIAL GROUPINGS

A claim for preferential tariff treatment under AGOA may be made if the textile or apparel article qualifies under one of these groupings:

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, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under subheading 9802.00.80 of the HTSUS. **(9802.00.8042, visa grouping 1)**
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, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States), the foregoing which (1) are embroidered or were subjected to stone-washing, enzyme-washing, acid washing, permapressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes, and (2) but for such embroidery or processing are of a type otherwise described in heading 9802.00.80 of the HTSUS. **(9819.11.03, visa grouping 2)**
3. Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary sub-Saharan African countries 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 (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed in the United States). **(9819.11.06, visa grouping 3) – no changes in AGOA III**
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 former beneficiary sub-Saharan African countries, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in 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 former beneficiary sub-Saharan African countries, or both, 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 or former beneficiary sub-Saharan African countries, or both, whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in groupings 1, 2, and 3 (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in groupings 1, 2, and 3. **(9819.11.09, visa grouping 4)**

This preference grouping continues to have limitations on benefits. A QBT will be issued by the Quota Branch regarding the new tariff preference levels.

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 fabric or the yarn used to make such articles. **(9819.11.12, visa grouping 5)**

Use of this provision has been extended to September 30, 2007. This preference grouping continues to have limitations on benefits. A QBT will be issued by the Quota Branch with the new tariff preference levels.

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. **(9819.11.15, visa grouping 6) – no changes in AGOA III**
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. **(9819.11.18, visa grouping 7) – no changes in AGOA III**
8. Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more such beneficiary sub-Saharan African countries to the extent that apparel articles of such fabrics or yarns would be eligible for the tariff treatment provided in general note 12 of the HTSUS, without regard to the source of the fabrics or yarns. The fabrics and yarns in question include:
  - a) fine count cotton knitted fabrics for certain apparel (see general note 12[t], Chapter 61, chapter rules 61.27[A], 61.30[A] and 61.32[A]),
  - b) linen fabrics and yarns of flax, except knitted or crocheted fabrics,
  - c) silk fabrics and yarns, except knitted or crocheted fabrics,
  - d) cotton velveteen,
  - e) fine wale corduroy,

- f) Harris Tweed,
- g) certain woven fabrics made with animal hairs (see general note 12[t], chapter 62, chapter rule 2 [D]),
- h) certain lightweight, high thread count cotton poly-cotton woven fabrics (see general note 12[t], chapter 62, chapter rule 2 [E]),
- i) certain lightweight, high thread count broadwoven fabrics used in production of men's and boys' shirts (see general note 12[t], chapter 62.SR30, subheading rule a-i), and
- j) quilted textile products in the piece of heading 5811.00.

**(9819.11.21, visa grouping 8)**

See TBT-01-004-01 for more information on short supply fabrics and yarns.

9. 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 yarn designated by the appropriate U.S. Government authority in the Federal Register as fabrics or yarn not available in commercial quantities in the United States, under any terms as such authority may provide. **(9819.11.24, visa grouping 8) – no changes in AGOA III**

Please refer to TBT-01-047, TBT-01-054, TBT-02-017, TBT-02-029, TBT-03-030, TBT-03-033, TBT-04-009, TBT-04-019, and TBT-04-021 for the fabrics and yarns that have been designated as short supply by CITA.

10. Handloomed, handmade or folklore articles; ethnic printed fabrics

Handloomed, handmade and folklore items are negotiated between The President and the sub-Saharan African countries. To date Botswana, Ghana, Kenya, Lesotho, Malawi, Namibia, Swaziland, Tanzania and Zambia have agreements for handloomed fabric and handmade articles from such handloomed fabrics produced in the eligible country. Ghana and Tanzania also have an agreement for certain folklore articles. The ports and the trade community will be notified when additional countries and/or products are eligible. **(9819.11.27, visa grouping 9)**

Please refer to TBT-02-032, TBT-02-039, TBT-02-042, TBT-02-044, TBT-03-009, TBT-03-011, TBT-03-021, TBT-03-028, and TBT-04-029 for additional information.

Requirements for ethnic printed fabrics are as follows:

- (i) containing a selvage on both edges, having a width of less than 50 inches, classifiable under subheading 5208.52.30 or 5208.52.40 of the HTSUS;
- (ii) of the type that contains designs, symbols, and other characteristics of African prints:
  - (I) normally produced for and sold on the indigenous African market; and
  - (II) normally sold in Africa by the piece as opposed to being tailored into garments before being sold in indigenous African markets;
- (iii) printed, including waxed, in one or more eligible beneficiary sub-Saharan countries; and
- (iv) formed in the United States, from yarns formed in the United States, or from fabric formed in one or more beneficiary sub-Saharan African countries from yarn originating in either the United States or one or more beneficiary sub-Saharan African countries.

The ports and the trade community will be notified when the President has determined that fabric of a beneficiary sub-Saharan African country is eligible. To date, no countries are eligible.

11. Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States, the foregoing (i) from components cut in the United States and in one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries from fabrics wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the HTSUS), or (ii) from components knit-to-shape in the United States and one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or (iii) from any combination of two or more of the foregoing knitting-to-shape or cutting operations. **(9819.11.30, visa grouping 3)**

Definitions:

Former Beneficiary sub-Saharan African Country: A country that, after being designated as a beneficiary sub-Saharan African country under the AGOA, ceased to be designated as such a country by reason of its entering into a free trade agreement with the United States.

Special Rules:

Certain Components: An article otherwise eligible for preferential treatment will not be ineligible for such treatment because the article contains the items listed below that do not meet the requirements set forth in the above preference groupings, regardless of the country of origin of the item:

- (a) any collars or cuffs (cut or knit-to-shape),
- (b) drawstrings,
- (c) shoulder pads or other padding,
- (d) waistbands,
- (e) belt attached to the article,
- (f) straps containing elastic, or
- (g) elbow patches

De Minimis Rule: An article otherwise eligible for preferential treatment shall not be ineligible for such treatment because the article contains fibers or yarns not wholly formed in the United States or one or more beneficiary Sub-Saharan African countries if the total weight of all such fibers and yarns is not more than 10 percent of the total weight of the article.

**ACTION:**

Claims for preferential tariff treatment under the new AGOA requirements covered by this TBT may be made on qualifying merchandise entered, or withdrawn from warehouse, for consumption on or after July 13, 2004.

Importers who paid duties on apparel articles that are eligible for preferences under AGOA III and were entered on or after July 13, 2004, may apply for a full refund of duties paid. Importers can avail themselves of all the applicable post entry procedures. In order for an importer to make a claim under the AGOA III amendments, documentation requirements must be met, e.g. a textile certificate of origin and a commercial invoice with the necessary visa stamp issued by the government of the sub-Saharan African country.

Please pass this administrative message to Port Directors, Assistant Port Directors, Import Specialists, Inspectors, Entry Specialists, Brokers, Importers and Other Interested Parties.

**INFORMATION:**

If you have any questions concerning this notice, please call Ms. Susan Thomas at (202) 344-3719, or Mr. Robert Abels at (202) 344-1959.

/s/

Elizabeth G. Durant