

November 19, 2002

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TO: Directors, Field Operations

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

SUBJECT: TBT-02-038 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

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 Customs 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) sets forth those amendments. This administrative notice details these amendments set forth in Section 3108 of the Act, which is referred to as AGOA II in the trade community. Please take note to changes within the preference groupings and the addition of a new preference grouping. All other information in TBT-01-008 remains 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, (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, (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)**
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 (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 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. **(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)**

Please note that US or foreign components, including knit-to-shape components, may not be utilized in this provision.

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)**
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)**
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 yarn not formed in the United States or in one or more beneficiary Sub-Saharan countries, provided that such apparel articles of such fabrics or yarns would be considered an originating good under the terms of general note 12(t) to the HTSUS without regard to the source of the fabric or yarn if such apparel article had been imported from the territory of Canada or the territory of Mexico directly into the customs territory of the United States. 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)**

Please refer to TBT-01-047, TBT-01-054, TBT-02-017, and TBT-02-029 for the fabrics and yarns that have been designated as short supply by CITA.

10. Handloomed, handmade or folklore textile and apparel goods. This will be negotiated between The President and the sub-Saharan African countries. To date, Kenya and Botswana have agreements for handloomed fabric and handmade articles from such handloomed fabrics produced in the eligible country. The ports and the trade community will be notified when additional agreements are made. **(9819.11.27, visa grouping 9)**

Please refer to TBT-02-032 and TBT-02-039 for additional information.

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 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 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)**

Lesser Developed Beneficiary Countries (LDBC)

The Act has named Botswana and Namibia as LDBC's that may take advantage of the benefits outlined in grouping 5.

ACTION:

Claims for preferential tariff treatment under the new AGOA requirements may be made on qualifying merchandise entered, or withdrawn from warehouse, for consumption on or after August 6, 2002.

Importers who paid duties on apparel articles that are eligible for preferences under AGOA II and were entered on or after August 6, 2002, may now 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 II amendments, a modified textile certificate of origin will be required to reflect the AGOA II eligible article, and a commercial invoice with the necessary visa stamp issued by the host government customs administration. Modifications on the certificates of origin should reflect the description of the article and the applicable provision set forth in Presidential Proclamation 7626. Until a new format is established for the textile certificate of origin, the current format may be used and modified. After Customs modifies its regulations to establish a new format, claimants may need to perfect their certificates to conform to the new format.

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

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

(signed Janet L. Labuda)
for Elizabeth G. Durant