

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

Investigation No. AGOA-002

DENIM FABRIC: USE IN AGOA COUNTRIES DURING FISCAL YEAR 2007

AGENCY: United States International Trade Commission

ACTION: Notice of determination

DETERMINATION: Based on the information developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 112(c)(2)(B)(iii) of the African Growth and Opportunity Act (AGOA),¹ that the quantity of denim fabric² produced in beneficiary sub-Saharan African (SSA) countries for use by lesser-developed beneficiary (LDB) SSA countries that was used in the production of apparel articles receiving U.S. preferential treatment during the period October 1, 2006 - September 30, 2007 (fiscal year 2007) was 21,120,000 square meter equivalents (SMEs).

BACKGROUND: Section 112(c)(2)(B)(iii) of AGOA requires the Commission to determine, after the end of each year for which an availability determination is in effect, the extent to which the fabric or yarn determined to be available in commercial quantities for use in LDB SSA countries was used in the production of apparel articles receiving preferential treatment. To the extent that the quantity so determined was not so used, section 112(c)(2)(B)(iii) requires the Commission to add to the quantity of that fabric or yarn determined to be available in the next applicable 1-year period the quantity not so used in the preceding applicable 1-year period. Congress, in section 112(c)(2)(C) of AGOA, deemed the subject denim fabric to be available in commercial quantities for use in LDB SSA countries in the amount of 30 million SMEs during fiscal year 2007, as if the Commission had made such a determination.

Having determined that the quantity of subject denim fabric used in the production of apparel articles receiving preferential treatment during fiscal year 2007 (21,120,000 SMEs) was less than the 30 million SMEs deemed to be available by statute for that year, the Commission has added the shortfall of 8,880,000 SMEs to the quantity of subject denim fabric that it previously determined will be so available during fiscal year 2008 (21,303,613 SMEs).³ The adjusted quantity of subject denim fabric that will be so available during fiscal year 2008 is 30,183,613 SMEs.

Notice of the institution of the Commission's investigation and of the scheduling of a public hearing in connection therewith was given by posting a copy of the notice on the Commission's web site (www.usitc.gov) and by publishing the notice in the *Federal Register* of December 3, 2007 (72 F.R. 67961). The hearing was held on April 9, 2008, in Washington, D.C.; all persons who requested the opportunity were permitted to appear in person or by counsel.

¹ 19 U.S.C. 3721(c)(2)(B)(iii).

² Denim articles provided for in subheading 5209.42.00 of the Harmonized Tariff Schedule. See section 112(c)(2)(C) of AGOA, 19 U.S.C. 3721(c)(2)(C).

³ See the Commission's determination in investigation No. AGOA-001, *Commercial Availability of Fabric & Yarn in AGOA Countries: Certain Denim*, Publication 3950 (Sept. 2007) at 1; 72 F.R. 56382 (Oct. 3, 2007).

The views of the Commission are contained in USITC Publication No. 4021 entitled *Denim Fabric: Use in AGOA Countries During Fiscal Year 2007*.

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

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