

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, DC 20436

Investigation No. AGOA-003

**DENIM FABRIC: COMMERCIAL AVAILABILITY IN AGOA COUNTRIES
DURING FISCAL YEAR 2009**

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, pursuant to section 112(c)(2)(B)(ii) of the African Growth and Opportunity Act (AGOA),¹ determines that (1) denim fabric² produced in beneficiary sub-Saharan African (SSA) countries will be available in commercial quantities during the period October 1, 2008 through September 30, 2009 (fiscal year 2009)³ for use by lesser developed beneficiary (LDB) SSA countries in the production of apparel articles receiving U.S. preferential treatment, and (2) the quantity of such denim fabric that will be so available during fiscal year 2009 is 18,260,400 square meters equivalent.⁴

BACKGROUND: Section 112(c)(2)(B)(ii) of AGOA requires the Commission, in each year through 2012 after it has made an affirmative determination under section 112(c)(2)(A), to determine whether, during the next fiscal year, the fabric or yarn that is the subject of that affirmative determination will be available in commercial quantities for use by LDB SSA countries in the production of apparel articles receiving U.S. preferential treatment, and if so, the quantity that will be available. In the case of denim fabric, Congress, in section 112(c)(2)(C) of AGOA, deemed denim fabric to be available in commercial quantities in the amount of 30 million square meters equivalent (SMEs) during fiscal year 2007, as if the Commission had made an affirmative determination under section 112(c)(2)(A) of AGOA.

The determinations that the Commission made in this investigation are with respect to whether the subject denim fabric will be available in commercial quantities for such use during fiscal year 2009, and, if so, the quantity that will be so available. This is the second such set of determinations that the Commission has made under section 112(c)(2)(B)(ii) with respect to the subject denim fabric. In September 2007, the Commission, in investigation No. AGOA-001, determined that the subject denim fabric will be available in commercial quantities for such use during fiscal year 2008, and that the quantity that will be available is 21,303,613 SMEs.⁵

¹ 19 U.S.C. 3721(c)(2)(B)(ii).

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 Congress defined the term "fiscal year" to mean the period October 1 through September 30.

⁴ Commissioner Dean A. Pinkert determines that the quantity that will be so available during fiscal year 2009 is within a range from 19,054,860 to 20,515,692 SMEs.

⁵ In AGOA-001, Commissioner Dean A. Pinkert determined that the quantity that would be available in fiscal year 2008 was within a range from 21,303,613 to 25,017,171 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 12, 2007 (72 F.R. 70609). 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.

The views of the Commission are contained in USITC Publication 4027 (August 2009), entitled *Denim Fabric: Commercial Availability in AGOA Countries During Fiscal Year 2009*.

By order of the Commission.

/s/
Marilyn R. Abbott
Secretary to the Commission

Issued: August 1, 2008