

**Commercial Availability of Fabric & Yarns
in AGOA Countries: Certain Denim**

Investigation No. AGOA-07-001

Publication 3950

September 2007

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

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Determination

Based on the information developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 112(c)(2)(B)(ii) of the African Growth and Opportunity Act (AGOA),¹ (1) that denim fabric² produced in beneficiary sub-Saharan African (SSA) countries will be available in commercial quantities during the period October 1, 2007 - September 30, 2008 (fiscal year 2008) for use by lesser developed beneficiary (LDB) SSA countries in the production of apparel articles receiving U.S. preferential treatment, and (2) that the quantity of such denim fabric that will be so available during fiscal year 2008 is 21,303,613 square meter equivalents.³

Background

Section 112(c)(2)(A) of AGOA requires the Commission, following receipt of a petition, to determine whether a fabric or yarn is available in commercial quantities for use by LDB SSA countries, and if the Commission makes an affirmative determination, section 112(c)(2)(B)(i) of AGOA requires the Commission to determine the quantity of such fabric or yarn that will be so available in the following fiscal year. Section 112(c)(2)(B)(ii) of AGOA requires the Commission to make similar determinations for the following year in each year thereafter through 2012 with respect to whether the fabric or yarn will be available in commercial quantities and the quantity so available. Section 112(c)(2)(B)(iii) of AGOA requires the Commission to determine, after the end of each year for which an availability determination was made, 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 U.S. preferential treatment. Section 112(c)(2)(C) of AGOA deemed denim fabric to be available in commercial quantities in the amount of 30 million square meter equivalents (smes) during fiscal year 2007, as if the Commission had made an affirmative determination in response to a petition.

The determinations that the Commission has made here are made under section 112(c)(2)(B)(ii) of AGOA and concern whether the subject denim fabric will be available in commercial quantities during fiscal year 2008, and the quantity that will be so available.

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 April 9, 2007 (72 F.R. 17578). The hearing was held on June 5, 2007, 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)(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 Commissioner Dean A. Pinkert determines that the quantity that will be so available during fiscal year 2008 is within a range from 21,303,613 smes to 25,017,171 smes.

Views of the Commission

INTRODUCTION AND DETERMINATION

The African Growth and Opportunity Act (AGOA) deemed certain denim fabric to be available in commercial quantities during the period October 1, 2006 - September 30, 2007 (fiscal year 2007). The statute here requires the U.S. International Trade Commission (Commission) to determine whether the subject denim fabric produced in beneficiary sub-Saharan African (SSA) countries will be available in commercial quantities during fiscal year 2008 for use by lesser developed beneficiary (LDB) SSA countries in the production of denim apparel receiving U.S. preferential (duty free) treatment under AGOA on entry into the United States and, if so, the quantity available.¹

Based on the information before us, we have determined that the subject denim fabric² produced in beneficiary SSA countries will be available in commercial quantities during the period October 1, 2007 - September 30, 2008 (fiscal year 2008) for use by lesser developed beneficiary SSA countries in the production of apparel articles receiving preferential treatment. We also have determined that the quantity of such denim fabric that will be so available during fiscal year 2008 is 21,303,613 square meter equivalents (smes).³

I. STATUTORY OVERVIEW

These are the first determinations that the Commission has made under section 112(c)(2) of AGOA (19 U.S.C. 3721(c)(2)) since section 112(c) was amended in December 2006 to provide for Commission investigations and determinations. Section 112(c)(2)(A)-(B) of AGOA provides for three types of Commission investigations⁴:

- (1) in response to a petition, the Commission must determine whether a fabric or yarn produced in beneficiary SSA countries is available in commercial quantities for use by lesser developed beneficiary SSA countries and, if so, the quantity that will be available in the applicable 1-year period beginning after the determination is made;
- (2) if such an affirmative determination is made under paragraph (1), the Commission must determine before the end of the applicable 1-year period whether the fabric or yarn will be available in commercial quantities in the succeeding 1-year period and, if so, the quantity that will be available; and
- (3) if such an affirmative determination is made under paragraph (1), the Commission must determine after the end of the applicable 1-year period the extent to which the quantity of fabric or yarn available in the preceding year was used in lesser developed beneficiary AGOA countries in the production of apparel receiving U.S. preferential treatment under AGOA on entry into the United States.⁵

¹ The Commission must make comparable determinations each subsequent year through 2012.

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 Commissioner Pinkert determines that the subject denim fabric produced in beneficiary SSA countries will be available in commercial quantities during fiscal year 2008 within a range from 21,303,613 smes to 25,017,171 smes.

⁴ The full text of section 112(c) of AGOA is set out in Appendix C of the Commission's report.

⁵ No petitions were filed this year. Therefore, the Commission is required to make determinations only with respect to the availability of the subject denim fabric and quantity available during fiscal year 2008.

In the case of denim, Congress in section 112(c)(2)(C) of AGOA deemed the subject denim fabric to be available in commercial quantities in the amount of 30 million square meter equivalents for the period October 1, 2006 - September 30, 2007 (fiscal year 2007), as though a petition had been filed and the Commission had made an affirmative determination under section 112(c)(2)(A).⁶ As a result, the Commission was not required to make the first type of determination. The Commission is required to determine: (1) whether the subject denim fabric will be available in commercial quantities during fiscal year 2008, and, if so, (2) the quantity of subject denim fabric that will be available during fiscal year 2008.⁷

The statute defines a number of the statutory terms, but does not define others. For example, it defines the term “beneficiary sub-Saharan African country” to include those listed in section 107 of AGOA that the President has designated as eligible for benefits under 19 U.S.C. 2466a(a),⁸ and it defines “lesser developed beneficiary sub-Saharan country” to mean those with a per capita GNP of less than \$1500 in 1998 as measured by the International Bank for Reconstruction and Development, as well as Botswana and Namibia.⁹ It also defines the term “1-year period” to mean October 1-September 30.¹⁰ However, it does not define other terms such as “available,” “commercial quantities,” or “use,” or set out a specific method for calculating the quantity available. As explained below, we conclude that the meaning of these other terms and the appropriate method for calculating the quantity available can be reasonably determined from the ordinary meaning of the terms themselves and the statutory context.

⁶ Section 112(c)(2)(C) uses the term “abundant supply.” In view of the cross reference in section 112(c)(2)(C) to section 112(c)(2)(A) of AGOA, which uses the term “available in commercial quantities,” and in the absence of instruction to the contrary, we view the term “abundant supply” used here to have the same meaning as the term “available in commercial quantities” used elsewhere in section 112(c)(2). We also note that the term “abundant supply” is sometimes used as a shorthand for the term “available in commercial quantities” in this and other textile and apparel provisions in the trade laws. *See, for example*, Office of the United States Trade Representative, *2007 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act*, at 8.

⁷ During fiscal year 2008, the Commission will be required to make the third type of determination, with regard to the quantity of subject denim fabric used during fiscal year 2007. The Commission expects to announce its schedule for that determination and the related investigation in the near future.

⁸ 19 U.S.C. 3721(f)(2), cross-referencing the list in 19 U.S.C. 2466a(c). The list includes 38 sub-Saharan African countries, including South Africa and Mauritius. Designation as a beneficiary country does not automatically entitle a country to U.S. preferential treatment. Under section 113 of AGOA (19 U.S.C. 3722), U.S. preferential treatment is conditioned on the adoption of certain enforcement measures by the country regarding transshipment. In particular, section 113(a) provides that preferential treatment under section 112(a) “shall not be provided” to textile and apparel articles imported from a beneficiary sub-Saharan African country unless that country has, among other things, adopted an effective visa system, domestic laws, and enforcement procedures applicable to covered articles to prevent unlawful transshipment of the articles and the use of counterfeit documents relating to the importation of articles into the United States, and allows U.S. Customs and Border Protection verification teams to have access necessary to investigate transshipment. The 26 countries that have adopted visa systems are listed in the report at SR-1, n. 1.

⁹ 19 U.S.C. 3721(c)(5)(D). The list includes all 38 beneficiary sub-Saharan African countries except South Africa and Mauritius.

¹⁰ 19 U.S.C. 3721(c)(5)(A).

II. DETERMINATION CONCERNING WHETHER THE SUBJECT DENIM FABRIC WILL BE AVAILABLE IN COMMERCIAL QUANTITIES DURING FISCAL YEAR 2008

Statutory framework. The first of the two determinations that we must make concerns whether subject denim fabric “produced in beneficiary sub-Saharan African countries will be available in commercial quantities in the succeeding applicable 1-year period.” As noted above, the statute defines the term “applicable 1-year period” to mean the annual period October 1-September 30, and also defines the term beneficiary SSA countries.¹¹ However, the statute does not define the terms “will be available” or “commercial quantities,” or expressly state where the fabric would be available and for what purpose, or provide a list of factors that the Commission should consider. As the statute indicates, we first focus on whether the subject denim fabric will be available in commercial quantities during fiscal year 2008. Under the statute, we determine the quantity of subject denim fabric that will be available during fiscal year 2008 only if we determine that the subject denim fabric will be available in commercial quantities during fiscal year 2008.

Arguments of the parties. The African Coalition for Trade (ACT), whose membership reportedly includes most SSA denim textile and apparel producers, filed pre-hearing and post-hearing briefs and provided testimony at the Commission’s public hearing on June 5, 2007. ACT asserted that it played a lead role in working with Congressional and Administration officials on these amendments.¹² ACT indicated that the new provisions were part of an integrated package intended to address the effects of termination of the Multifiber Arrangement (MFA) quota system on the SSA textile and apparel sector,¹³ and said that the sector had the best chance of surviving in the post-MFA era if it could improve competitiveness through vertical integration while maintaining a healthy downstream apparel industry.¹⁴ ACT asserted that the statute requires that the Commission focus only on denim fabric that will be available in LDB SSA countries for use in the production of apparel for export to the United States.¹⁵ ACT also expressed the view that the commercial availability provisions here are not a mirror image of the short supply provisions administered by the Committee for the Implementation of Textile Agreements (CITA), notwithstanding similar terminology.¹⁶

Levi Strauss & Co. similarly argued that the Commission, in calculating the quantity of subject denim fabric that will be available during fiscal year 2008, should not include denim fabric destined for European and other non-U.S. markets.¹⁷ China Garment Manufacturing Group (CGM), with operations in both South Africa and Lesotho, provided testimony to similar effect.¹⁸

Finding and analysis. The statute requires that we determine whether the subject denim fabric will be available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries in the production of apparel articles eligible for preferential treatment during the period October 1, 2007 - September 30, 2008. Based on the facts obtained in the investigation, we find that this requirement is satisfied and make an affirmative determination.

The statute and statutory context make clear that the subject denim fabric at issue is that which will be available in commercial quantities for use by LDB SSA countries in the production of apparel

¹¹ See 19 U.S.C. 3721(c)(5)(A) and 19 U.S.C. 3721(f)(2), respectively.

¹² ACT pre-hearing brief at 2.

¹³ ACT pre-hearing brief at 2.

¹⁴ ACT pre-hearing brief at 3-4.

¹⁵ ACT pre-hearing brief at 6. See also transcript of hearing at 65-67 (Ryberg).

¹⁶ ACT post-hearing brief at 5.

¹⁷ Levi Strauss & Co., post-hearing brief at 1.

¹⁸ Transcript at 28-29 (Chang).

articles receiving U.S. preferential treatment. The three types of determinations that the Commission makes under section 112(c)(2) all relate to an exception to the general rule regarding the apparel that is eligible for preferential treatment under AGOA and to a limitation on the use of that exception. The specific determination we must make here is set out in section 112(c)(2)(B)(ii), which requires that we determine “whether the fabric or yarn produced in beneficiary sub-Saharan African countries will be available in commercial quantities in the succeeding applicable 1-year period.” Although section 112(c)(2)(B)(ii) does not specifically state that the Commission’s determination is with respect to the quantity of fabric or yarn available “for use by lesser developed beneficiary sub-Saharan African countries,” it refers to the determination that the Commission makes under section 112(c)(2)(A) in response to a petition which contains such wording, and makes it clear that the Commission is making a determination for the following year that parallels in scope the determination made under section 112(c)(2)(A). Similarly, although section 112(c)(2)(B)(ii) does not specifically state that the fabric or yarn must be for use in those countries “in the production of apparel articles receiving preferential treatment,” section 112(c)(2)(B)(ii) links the determination the Commission must make here to the one it must make in section 112(c)(2)(B)(iii) when it states that the Commission’s determination is “subject to clause (iii).”¹⁹ Section 112(c)(2)(B)(iii) specifically states that the use would be “in the production of apparel articles receiving preferential treatment.” Thus, the three determinations are linked, and, in the absence of any direction to the contrary, we conclude that our determinations should be parallel in scope. We attribute the absence of certain phrases in section 112(c)(2)(B)(ii) to reflect an economy of wording, and not an intent to require that the Commission use different methods to calculate availability and use.

The above conclusion is also supported by the statutory context. Section 112(c)(2) is part of a statutory provision that provides U.S. preferential treatment for certain textiles and apparel imported from beneficiary sub-Saharan African countries. Section 112(b) of AGOA sets out the general rule regarding the textiles and apparel that are eligible for U.S. preferential treatment – only apparel articles from SSA countries made from U.S. or regional fabric or yarn are eligible.²⁰ Section 112(c)(1) provides an exception to that rule: subject to certain volumetric limitations, it effectively makes apparel made in *lesser developed* beneficiary SSA countries from *third country*²¹ fabric or yarn eligible for preferential treatment. However, section (c)(2) provides for possible removal of this exception: section 112(c)(2)(D)(i) authorizes the President to remove preferential treatment for apparel made from third-country fabric if regional fabric or yarn was available in the previous year, but was not used; and section 112(c)(2)(D)(ii) requires the President to remove preferential treatment if regional fabric or yarn was available but not used in the two consecutive prior years. The three types of investigations that the Commission is required to conduct with regard to the availability and use of regional fabric or yarn all relate to the question of the continuation of preferential treatment for apparel made from third-country fabric or yarn.

The term “will be available” indicates a future condition. The use of the term “will,” as opposed to “may” or “might,” and unmodified by the term “likely,” suggests a relative degree of certainty as opposed to mere possibility. Accordingly, we find that the term “will be available” refers to the quantity

¹⁹ Clause (iii) requires that the Commission “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.”

²⁰ The term “regional” fabric or yarn as used here and elsewhere in these views refers to fabric or yarn that is produced in a beneficiary SSA country.

²¹ “Third-country” fabric or yarn here means fabric or yarn produced in a country other than a beneficiary sub-Saharan African country or the United States. For example, fabric or yarn produced in China or India would be considered to be third-country fabric or yarn. Fabric and yarn produced in Mauritius and South Africa are considered to be regional fabric or yarn because Mauritius and South Africa are beneficiary SSA countries.

of fabric or yarn that can be expected with reasonable certainty to be available in the next fiscal year.²² We believe that evidence of recent production and sales, particularly during the past year; inventories and pending orders; evidence that the fabric or yarn of a company has been pre-qualified with respect to performance or technical characteristics for use in apparel by an apparel importer; and evidence that necessary plant and equipment are in place would represent the best information in this regard. The relative importance of each of these indicators will likely vary from case to case. We will give appropriate weight to projected data as well as historic data, provided that the projections are supported by evidence such as orders, continuation of business relationships into the new year, and trends in shipments.²³

The term “commercial quantities” suggests a quantity of goods that would be in an amount sufficient to meet the needs of one or more purchasers. While no minimum quantity is indicated in the statute, the use of the modifier “commercial” suggests that this amount would be something more than the amount that might constitute a sample. Because average production runs can vary widely from one fabric or yarn to another, the minimum amount that might qualify as a commercial quantity will likely vary from product to product. We believe that factors such as demand, price, size of production runs, and industry practice may be useful in determining whether a fabric or yarn is available in commercial quantities, with their relative importance likely to vary from case to case.

We note that the term “commercial quantities” is used elsewhere in AGOA in a different context, where it also is not defined. Section 112(b)(5) of AGOA, enacted in 2000, authorizes the President to provide preferential treatment for imports of AGOA apparel when he determines, following receipt of Commission advice, that yarns or fabrics cannot be supplied by the U.S. industry “in commercial quantities in a timely manner.”²⁴ Neither the statute nor the legislative history defines the term “commercial quantities” in that context.²⁵ The Commission has provided advice under this AGOA provision on numerous occasions. However, CITA makes the determination concerning commercial quantities. In its reports the Commission has focused principally on indicating whether there was domestic production and in providing advice on the effects of duty-free and quota-free imports of the SSA goods.²⁶

In this investigation the Commission gathered information from producers of the subject denim fabric and denim apparel and from U.S. importers of denim apparel that was made in LDB SSA countries from regional and third-country denim fabric. The information gathered include data on production, capacity, inventories, shipments to various markets, orders, contract terms, and pricing. It included actual data for fiscal years 2005, 2006, and the first half of fiscal year 2007, and projections for the second half

²² Commissioner Pinkert finds that the statute indicates both a significant degree of precision and a future circumstance. Thus, he infers that Congress intended for him to determine the amount that is reasonably expected to be available during the time period in question.

²³ Commissioner Pinkert would not necessarily discount the probative value of projections of future production, sales, and shipments, provided they are based upon a reasonable methodology.

²⁴ The statute requires the President to make such a determination at the request of “any interested party.” Within 60 days of receiving a request, the President must consult with the Committee on Ways and Means and Committee on Finance and submit a report to the committees. A 60-day layover period follows submission of the report to the committees.

²⁵ Although it does not define the term, the conference report refers to the fabric or yarn as “not available in the United States.” House Conference Report 106-606 at page 79, reprinted in *2000 U.S. Code Cong. and Adm. News* at 250.

²⁶ The term is also used in a different context that provides only very limited instruction in title VII of the Tariff Act of 1930 (19 U.S.C. 1677(17)) as part of the term “usual commercial quantities.” The statute defines “usual commercial quantities” to mean “the quantities in which such merchandise is there sold at the price or prices for one quantity in an aggregate volume which is greater than the aggregate volume sold at the price or prices for any other quantity.” In its regulations, the U.S. Department of Commerce states that, in determining whether the test is met, it considers the absolute volume of sales, the number of transactions, and the period versus period (or other appropriate benchmark) comparative sale volumes (see 19 CFR 351.222(d)).

of fiscal year 2007 and for all of fiscal year 2008. In making our determination, we focused principally on the most recent actual data on production and shipments and the projections supplied by producers in beneficiary SSA countries. Certain types of data proved to be of only limited utility because of the nature of trade in denim fabric and denim apparel. For example, because most denim fabric is produced in response to specific contracts²⁷ rather than purchased from inventory,²⁸ inventories were small relative to shipments throughout the period and were not a meaningful indicator of the quantity of denim fabric available, at least in this investigation. Similarly, while some producers of denim fabric who responded to the Commission's foreign producer questionnaire reported information on orders for denim fabric in fiscal year 2007, none reported information on orders either originating in or extending into fiscal year 2008. The latter may be due in part to the fact that contract periods for denim fabric average only about 3 months.²⁹

Producers of the subject denim fabric in beneficiary SSA countries reported shipping quantities of the subject denim fabric to LDB SSA countries during the first half of fiscal year 2007 that were sufficiently large so as to meet the requirements for specific types of denim fabric, in terms of quantity, quality, timeliness, and price, of plants in those countries producing denim apparel for the U.S. market.³⁰ These questionnaire responses indicate that these denim fabric producers expect to ship *** amount in the second half of fiscal year 2007.³¹ The responding denim fabric producers reported that during fiscal year 2007 they either shipped or expect to ship approximately *** smes of subject denim fabric to LDB SSA countries for use in the production of denim apparel for sale in the U.S. market.³² *** of such denim fabric was produced by ***.³³ Thus, data confirm that the subject denim fabric was available in commercial quantities in LDB SSA countries during fiscal year 2007.

In their questionnaire responses producers of the subject denim fabric in beneficiary SSA countries projected that they will ship in excess of 20 million smes of subject denim fabric to LDB SSA countries for use in the production of apparel articles for the U.S. market during fiscal year 2008.^{34 35} While questionnaire respondents did not provide evidence of actual contracts for the subject denim fabric for fiscal year 2008, information available to the Commission with respect to past sales (and purchases), fiscal year 2008 projections, and a continuing relationship in the relevant countries between producers of denim fabric and producers of denim apparel for sale in the U.S. market, lead us to conclude that the

²⁷ SR-22.

²⁸ Aggregated questionnaire responses for producers in beneficiary SSA countries show that end-of-period inventories for all subject denim fabric (including denim fabric for use in the production of apparel for local and European markets) were less than 10 percent of total shipments in ***. SR at Table D-1.

²⁹ SR-22. It should also be noted that the responses to the questionnaires were due in July 2007, nearly 3 months before the start of fiscal year 2008.

³⁰ The actual data and estimates received from questionnaire respondents are believed to account for all or virtually all production of the subject denim fabric available for use in LDB SSA countries in the production of apparel articles receiving U.S. preferential treatment during fiscal year 2007.

³¹ SR at Table D-1.

³² Table D-4. The number excludes data reported by *** because the Commission was unable to confirm that any of the subject denim fabric produced by *** was made available for use in the production of apparel shipped to the United States. SR at Table D-4, note b.

³³ SR-6.

³⁴ Table D-4. As indicated above, *** did not report any data projections in its questionnaire response. The Commission was unable to confirm that any of the subject denim fabric produced by *** was available in commercial quantities during fiscal year 2007 for use in LDB SSA countries in the production of apparel receiving U.S. preferential treatment. SR at table D-4, note b.

³⁵ In making our determination, we also considered projections furnished by ***. In its questionnaire response, *** of subject denim fabric to LDB SSA countries during fiscal year 2008. However, as explained in more detail below in the section of these views that relates to our determination on the quantity of denim fabric available in fiscal year 2008, we lack sufficient information that would support a finding that some portion of the denim fabric made by *** will be available in commercial quantities for use in LDB SSA countries in the production of denim apparel receiving U.S. preferential treatment.

subject denim fabric will be available in commercial quantities for use in LDB SSA countries in the production of apparel receiving U.S. preferential treatment during fiscal year 2008.

III. DETERMINATION CONCERNING THE QUANTITY OF SUBJECT DENIM FABRIC THAT WILL BE AVAILABLE IN COMMERCIAL QUANTITIES DURING FISCAL YEAR 2008

Statutory framework. Having determined that the subject denim fabric will be available in commercial quantities for use in LDB SSA countries during fiscal year 2008, we must now determine the quantity of such denim fabric that will be available during fiscal year 2008. Section 112(c)(2)(B)(ii)(II) of AGOA states that we must determine “the quantity of fabric or yarn that will be so available in that succeeding 1-year period, subject to clause (iii).”³⁶ The statute does not list the factors the Commission should consider or otherwise provide specific guidance on how the Commission should calculate this number.

Arguments of the parties. ACT testified that the Commission, in calculating the quantity available, should place emphasis on the quantity actually produced in SSA countries and used in LDB countries in the prior 12-month period, which ACT said is a quantity that can be confirmed and that would be indicative of what the market found was reasonably competitive in both price and quality.³⁷ ACT said that the Commission should make appropriate adjustments for plant closures and openings and other factors that affect competitiveness, but it urged that the Commission be cautious in making such adjustments “in order to achieve maximum predictability.”³⁸ Levi Strauss and CGM asserted that the statutory quantity of 30 million smes for fiscal year 2007 was too high³⁹ and argued, by implication, that a similar number for fiscal year 2008 would also be too high. However, Nien Hsing asserted that 30 million smes was a reasonable quantity for fiscal year 2007 and cited in support its own shipments to LDB SSA countries of over 21 million smes during fiscal year 2007.⁴⁰

Finding and analysis. The statute requires that we determine the quantity of the subject denim fabric that will be available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries in the production of apparel articles receiving preferential treatment during fiscal year 2008. Based on the facts obtained in the investigation, we have determined that the quantity that will be available in fiscal year 2008 is 21,303,613 square meters.⁴¹

The statutory language, through use of the term “so available,” clearly links the determination that the Commission makes under section 112(c)(2)(B)(ii)(II) with that which the Commission makes under section 112(c)(2)(B)(ii)(I), indicating that the approach the Commission takes in making the two determinations should be consistent. Thus, we conclude that our determination with respect to the quantity available should be the quantity available for use in LDB SSA countries in the production of apparel articles receiving U.S. preferential treatment. Accordingly, our calculation will not include fabric or yarn which record evidence shows has been or will be used in the production of apparel for other markets, such as the local African market or European markets.

³⁶ Clause (iii) refers to a possible later addition to this quantity of fabric or yarn available in the next fiscal year should the Commission under section 112(c)(2)(B)(iii) determine that the quantity previously determined to be available in the current fiscal year was not used.

³⁷ ACT post-hearing brief at 3.

³⁸ ACT post-hearing brief at 3.

³⁹ Transcript at 21-23 (Palafox); transcript at 30-31 (Chang).

⁴⁰ Transcript at 34, 49, 110-11 (Han).

⁴¹ Based on the information obtained in this investigation, Commissioner Pinkert determined that the quantity that will be available in fiscal year 2008 will be within a range from 21,303,617 smes to 25,017,171 smes.

We also conclude that the term “will be available” connotes the idea of “reasonably certain to be available,” as opposed to theoretically possible.⁴² We find that evidence of recent past production and sales, particularly during the past year, inventories and pending orders; evidence that the fabric or yarn of a company has been pre-qualified with respect to performance or technical characteristics for use in apparel by an apparel importer; and evidence that necessary plant and equipment are in place would represent the best information in this regard. We will give appropriate weight to projected data as well as historic data, provided that the projections are supported by evidence such as orders, continuation of business relationships into the new year, and trends in shipments.⁴³

Also consistent with our finding above, we find that the term “commercial quantities” means a quantity of goods that would be in an amount sufficient to meet the needs of one or more purchasers, and something more than a sample. We note that one of the witnesses at the Commission’s public hearing raised the possibility that the term also conveys the idea of availability in a commercial sense, and could be interpreted to mean that we should not regard fabric consumed internally by a vertically integrated fabric/apparel producer as fabric “available in commercial quantities” because such fabric would not be available to third party purchasers.⁴⁴ We do not read the statute as requiring us to find that the fabric is also available commercially to third parties. The term “available in commercial quantities” is used in each of the three types of determinations that the Commission must make. The word “commercial” is used only as a modifier for the word “quantities,” indicating a threshold level for measuring whether fabric or yarn is available. The fabric, whether consumed internally or purchased by a third party, would still be “available,” in the statutory sense, if it is for use in LDB SSA countries in the production of apparel articles receiving U.S. preferential treatment. Moreover, exclusion could later make it more difficult to compare data relating to the quantity of fabric available and the quantity of fabric used, if the internally consumed fabric is used in apparel receiving preferential treatment and included in the calculation that measures the quantity used.

In calculating the quantity that will be available, we considered carefully the data in our record supplied by the four SSA denim fabric companies that indicated they intend to produce denim fabric during fiscal year 2008. We focused in particular on information relating to several possible indicators, including recent production and shipments, markets served and likely to be served, evidence of any pending orders, and company projections.⁴⁵ In the case of possible new producers, we considered, in addition, information with respect to several other indicators, including the status of the plant and equipment and when it might be available to produce denim fabric, whether the plant was likely to produce denim fabric for apparel destined for the U.S. market, and whether the plant had been pre-qualified to produce denim fabric by a U.S. apparel importer.

The Commission received relatively complete data responses from *** current AGOA producers of denim fabric, ***, on their capacity, inventory, production, and shipments, and received data

⁴² Commissioner Pinkert finds that the term “will be available” refers to the quantity of fabric or yarn that is reasonably expected to be available.

⁴³ Commissioner Pinkert would not necessarily discount the probative value of projections of future production, sales, and shipments in his analysis, provided they are based upon a reasonable methodology.

⁴⁴ Paul Ryberg, president of the African Coalition for Trade, transcript at 66-67 (Ryberg). Ryberg further said that he hadn’t made up his mind on the answer. Id at 67.

⁴⁵ As indicated in our views on the first determination, information relating to several possible indicators, such as inventories and fiscal year 2008 orders, proved to be of only limited use in this case, either because of the nature of denim fabric trade (for example, SSA denim fabric generally is produced in response to a contract and not sold from existing inventories), or because no information was available (for example, although the Commission requested information on contracts for denim fabric for fiscal year 2008, questionnaire respondents did not provide information on such contracts, perhaps because such contracts average only about 3 months in duration and most contracts known or pending at the time of their responses expired before or just after the start of fiscal year 2008).

projections from *** firms (***) for fiscal year 2008. The Commission also received data projections from ***; the firm also supplied the Commission with information about its plant and equipment. The Commission also received information from a ***.⁴⁶

Based on the information in the investigation, there is reasonable certainty that *** of the *** firms, *** will make the subject denim fabric available in commercial quantities during fiscal year 2008 for use in LDB SSA countries in the production of apparel receiving U.S. preferential treatment.⁴⁷ There is *** that ***, the other *** that currently *** the subject denim fabric in beneficiary SSA countries, will make the subject denim fabric available for use in LDB SSA countries in the production of apparel for the U.S. market during fiscal year 2008. DDI, a ***. Frame, which produces the subject denim fabric in South Africa and ***⁴⁸***.⁴⁹ Frame ***.⁵⁰ However, the ***.⁵¹

RS Denim, which is owned by the RS Group,⁵² a producer of denim apparel, has indicated that ***. RS Denim ***.⁵³ RS Denim provided the Commission with information about ***. Other information available to the Commission suggests that ***. According to one apparel importer, the ***.⁵⁴ While it is possible that ***, we have no information that would support such a finding or even provide a basis for ***.

Finally, we are unaware of any specific plans by *** to produce subject denim fabric in the *** plant. *** reported that ***.

Nien Hsing is ***. Nien Hsing is a large vertically integrated textile and apparel producer. It produces the subject denim in Lesotho, and uses the denim fabric produced in Lesotho in three related apparel plants, also in Lesotho, in the production of denim apparel, such as jeans. Its customers include U.S. importers such as ***.⁵⁵ Nien Hsing also ***.⁵⁶ Nien Hsing also ***.

In its questionnaire response, Nien Hsing provided ***.

On the basis of the information before us, we find that the quantity of subject denim fabric that will be available for use in LDB SSA countries during fiscal year 2008 in the production of apparel for the U.S. market is 21,303,617 smes. This is the same quantity as preliminary data indicate was available for this purpose during fiscal year 2007. We reached this conclusion because we believe that the best information we have regarding the quantity that will be available during fiscal year 2008 is preliminary information concerning the quantity that was actually used during fiscal year 2007. In our analysis, we considered information furnished by *** the quantity of subject denim fabric available in fiscal year 2008 in LDB SSA countries for apparel for the U.S. market. However, we placed limited weight on that ***

⁴⁶ SR-7.

⁴⁷ Commissioner Pinkert finds that, based on the information in the investigation, there is a reasonable expectation that *** of the *** firms, ***, will make the subject denim fabric available in commercial quantities during fiscal year 2008 for use in LDB SSA countries in the production of apparel receiving U.S. preferential treatment.

⁴⁸ Frame ***. OP-EE-011 at 3, SR-10, Table 3, note b.

⁴⁹ OP-EE-011 at 3.

⁵⁰ OP-EE-011 at 3.

⁵¹ OP-EE-011 at 3.

⁵² The RS Group includes RS Fashions Ltd., which has been producing jeans of denim fabrics, since 1985. SR-6.

⁵³ For further information, see the staff report at SR-11-12.

⁵⁴ Staff report at SR-11, n. 43.

⁵⁵ SR-6, and transcript at 34 (Han).

⁵⁶ SR-6.

because ***, which could satisfy our interpretation of the statutory term “will be available” to require reasonable certainty. We also considered the fact that ***.⁵⁷

We also considered statements and information provided by U.S. importers of apparel concerning recent trends in their imports and their plans for fiscal year 2008. The information we obtained is essentially neutral with respect to their demand for denim apparel produced that would qualify for U.S. preferential treatment. ***,⁵⁸ although Levi Strauss also stated that its plans for further increases are “on hold.”⁵⁹ On the other hand, at least ***. We have little information on the plans of other U.S. importers with respect to imports of apparel made of the subject denim fabric from LDB SSA countries. However, U.S. apparel importers, including those sourcing from LDB SSA countries, report that they can change suppliers with relative ease because they already source from multiple suppliers and often have already pre-qualified many others.⁶⁰

IV. FUTURE PROCEEDINGS

Pursuant to section 112(c)(2)(B)(iii) of AGOA, the Commission will be required in the next few months to commence an investigation for the purpose of determining the extent to which the subject denim fabric deemed to be available in commercial quantities in LDB SSA countries during fiscal year 2007 was used in the production of apparel articles receiving U.S. preferential treatment during fiscal year 2007. Under section 112(c)(2)(C) of AGOA, the subject denim fabric was deemed to be in “abundant supply” during fiscal year 2007 in the amount of 30 million smes. Section 112(c)(2)(B)(iii) will require the Commission to add the quantity of subject denim fabric deemed to be available during fiscal year 2007 but not used during fiscal year 2007 to the quantity earlier determined to be available in fiscal year 2008.

On the basis of actual data and estimates provided by questionnaire respondents believed to account for all or virtually all production of the subject denim fabric available for use in LDB SSA countries in the production of apparel articles receiving U.S. preferential treatment during fiscal year 2007, it appears at this time that the Commission will determine that the quantity of subject denim fabric actually used for the statutory purpose during fiscal year 2007 was substantially less than the 30 million smes deemed to be available by statute during fiscal year 2007. Estimates in the record indicate actual use of about *** smes during fiscal year 2007, or about *** than the quantity deemed to be available by statute for fiscal year 2007. If this shortfall is confirmed by the Commission in its determination under section 112(c)(2)(B)(iii), the Commission will be required to add this shortfall to the quantity it has determined to be available in fiscal year 2008 in this investigation. This would raise the quantity deemed available in fiscal year 2008 to *** million smes, well above the quantity that the Commission has determined will in fact be available.⁶¹

⁵⁷ Commissioner Pinkert does not join this paragraph. He finds that the quantity of subject denim fabric that will be available for use in LDB SSA countries during fiscal year 2008 in the production of apparel for the U.S. market will be within a range from 21,303,671 smes to 25,017,171 smes. He finds that a range is appropriate due to shipment projections made by regional producers for fiscal year 2008. In reaching these conclusions, Commissioner Pinkert has relied on *** to LDB SSA countries for use in apparel destined for the United States, which appear to be based upon a reasonable methodology. He notes that these projections are consistent with estimates of shipment data of this type which indicate increases in these data from fiscal year 2005 to fiscal year 2006 and then to fiscal year 2007 for ***, ***.

⁵⁸ Questionnaire response from Levi Strauss; email to Commission staff from Jordache.

⁵⁹ Transcript at 23 (Palafox).

⁶⁰ Transcript at 54, 139-40 (Palafox).

⁶¹ Commissioner Lane notes that the determination of the 21.3 million smes found to be available in commercial quantities is “subject to clause iii”. She considered interpreting this language to mean that the quantity determined in this proceeding must be the total amount of such denim fabric that will be reasonably available in commercial quantities in fiscal year 2008 after the subsequent addition pursuant to clause iii, which would have required reducing the determination in this proceeding to

V. CONCLUSIONS

For reasons set forth above, we have determined that the subject denim fabric will be available in commercial quantities during fiscal year 2008 for use by lesser developed beneficiary sub-Saharan African countries in the production of apparel articles receiving U.S. preferential treatment, and also determine that the quantity of such denim fabric that will be so available is 21,303,613 smes.⁶²

approximately *** million smes. However, although the result of subsequently increasing the 21.3 million smes pursuant to clause iii will produce an unrealistic result, she does not find any clear legislative intent directing the alternative interpretation which she considered and has therefore not adjusted her finding in this proceeding downward.

⁶² Commissioner Pinkert determines that the quantity of such denim fabric that will be so available will be within a range from 21,303,617 smes to 25,017,171 smes.

Information Obtained in the Investigation

Introduction

This report provides information on the production and use of certain denim fabric in beneficiary sub-Saharan African (SSA) countries.¹ The information was developed as a part of the Commission investigation on the commercial availability of the subject denim fabric required by the African Growth and Opportunity Act (AGOA).²

In this investigation the Commission must determine, before September 30, 2007 –

- whether certain denim fabric produced in beneficiary SSA countries will be available in commercial quantities in the succeeding one-year period (October 1, 2007-September 30, 2008 (FY 2008))³; and
- if so, the quantity of such denim fabric that will be so available for use in lesser developed beneficiary (LDB) SSA countries in that succeeding one-year period.⁴

The 2006 amendments to section 112 of AGOA provide potentially for three types of Commission investigations and determinations:

- in response to a petition (concerning whether a fabric or yarn is commercially available in beneficiary SSA countries and, if so, the quantity for the next fiscal year);
- for each fabric or yarn the subject of an affirmative determination in response to a petition, with respect to the commercial availability and quantity available for use in LDB SSA countries in the next year, through 2012; and
- for each fabric or yarn the subject of an affirmative determination in response to a petition, with respect to the quantity of fabric or yarn available in the preceding year that was actually used in the production of apparel in AGOA countries that received U.S. preferential (duty-free) treatment under AGOA on entry into the United States.⁵

The determination that the Commission must make here with respect to denim falls into this second category. However, in the case of denim, no petition and Commission determination with respect thereto was required because Congress, in section 112(c)(2)(C) of AGOA, deemed certain denim to be available in commercial quantities in the amount of 30 million square meter equivalents for FY 2007.

¹ Beneficiary sub-Saharan African (SSA) countries are Benin, Botswana, Burkina Faso, Cameroon, Cape Verde, Chad, Ethiopia, Ghana, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Swaziland, Tanzania, Uganda, and Zambia. The fabric in question is described herein.

² The denim articles at issue are defined in the statute as “denim articles provided for in subheading 5209.42.00 of the Harmonized Tariff Schedule.” 19 U.S.C. 3721(c)(2)(C).

³ 19 U.S.C. 3721(c)(5)(A).

⁴ Section 112(c)(2)(B)(ii) of the African Growth and Opportunity Act (AGOA), as amended (19 U.S.C. 3721(c)(2)(B)(ii)). LDB SSA countries include all of the beneficiary SSA countries except South Africa and Mauritius. 19 U.S.C. 3721(c)(5)(D).

⁵ 19 U.S.C. 3721(c)(2)(A)-(B).

It should be noted that the Commission will also be required annually to make similar determinations through 2012 and also to make determinations beginning in FY 2008 with respect to the quantity of such denim that was used in apparel that entered the United States from LDB SSA countries during the previous fiscal year (i.e., the third type of determination). If the Commission determines that the quantity of the subject fabric or yarn used in apparel articles entered into the United States in FY 2007 is less than 30 million SMEs, the Commission will be required to add the quantity not used to the quantity determined by the Commission to be commercially available for FY 2008.⁶ If the Commission determines that the quantity of regional fabric found to be available was not used in the production of apparel articles receiving preferential treatment in the previous year, section 112(c)(2)(D)(i) of AGOA states that the President may remove from eligibility for preferential treatment apparel articles made from third country fabrics. If the Commission determines that the quantity of regional fabric found to be available was not so used for 2 consecutive years, section 112(c)(2)(D)(ii) of AGOA directs the President to remove such apparel articles made from third country fabrics from eligibility for preferential treatment.

Table 1 illustrates the determination process as it pertains to the subject denim fabric through FY 2010. A summary of AGOA, as it pertains more generally to textiles and apparel products, is set forth in appendix C.⁷

TABLE 1 Commission determination process for subject denim fabric

Actions taken during:			
FY 2007	FY 2008	FY 2009	FY 2010
<p>The subject denim is deemed by statute to be available in commercial quantities in the amount of 30 million square meter equivalents during FY 2007.</p> <p>The Commission must determine whether subject denim will be available in commercial quantities in FY 2008 and, if so, the quantity available.</p>	<p>The Commission must determine the quantity used in apparel receiving AGOA preferential treatment during FY 2007.</p> <p>The Commission must determine whether the subject product will be available in commercial quantities in FY 2009 and, if so, the quantity available.</p>	<p>The Commission must determine the quantity used in apparel receiving AGOA preferential treatment during FY 2008.</p> <p>The Commission must determine whether the subject product will be available in commercial quantities in FY 2010 and, if so, the quantity available.</p>	<p>The Commission must determine the quantity used in apparel receiving AGOA preferential treatment during FY 2009.</p> <p>The Commission must determine whether the subject product will be available in commercial quantities in FY 2011 and, if so, the quantity available.</p>
Year 1	Year 2	Year 3	Year 4

Source: 19 U.S.C. 3721(c)(2).

⁶ 19 U.S.C. 3721(c)(2)(B)(iii).

⁷ Appendix C also provides information on AGOA legislation, including the text of the most recent amendments.

Throughout this report, the term “AGOA” refers to the 26 beneficiary SSA countries and “LDB AGOA” refers to the 24 LDB SSA countries (see footnotes 1 and 4, above). The following sections provide information regarding:

- the subject product (certain denim fabric);
- AGOA countries’ supply of certain denim fabric; and
- the market for denim fabric in AGOA countries.

In conducting its investigation, the Commission obtained information from a variety of sources, including from questionnaires received from AGOA producers of the subject denim fabric, AGOA producers of apparel made of the subject denim fabric, and U.S. importers of apparel made of the subject denim fabric; from public submissions and information presented at the June 5, 2007, hearing; and from other publically available sources where relevant. The Commission received information from four denim fabric producers that accounted for all known subject denim fabric production in AGOA countries during the period for which data were collected. Another firm that *** also submitted information to the Commission. Seven U.S. importers of apparel made of subject denim fabric produced in AGOA countries submitted information. These firms’ imports accounted for approximately 52 percent of AGOA shipments (including internal consumption) of the subject denim fabric used in the production of LDB apparel exports to the United States in FY 2007.⁸ Five LDB AGOA apparel producers that purchase the subject denim fabric responded to the Commission’s questionnaire. Three of the five submitted complete information in response to the Commission questionnaire. These firms’ total purchases accounted for about *** percent of commercial shipments of the subject fabric by AGOA denim producers to AGOA countries in FY 2006.

The Subject Product

The denim fabric that is the subject of this investigation is provided for in subheading 5209.42.00 of the HTS (2007). According to the HTS, the subject denim is a woven fabric containing 85 percent or more by weight of cotton, and weighing more than 200 grams per square meter, or 5.89854 ounces per square yard.⁹ Denim is one type of 3-thread or 4-thread twill fabric, including broken twill weave.¹⁰ The warp yarns (yarns that run vertically in the construction of a fabric) are of a color different from the color of filling yarns (yarns that run horizontally in a woven fabric). The fabric is warp faced, meaning the warp yarns make up the appearance of the outside of the fabric, and therefore, the color of the warp yarns is the predominant color of the fabric. The filling yarns may be unbleached, bleached, dyed gray, or dyed a lighter shade of color than the warp yarns. Hence, blue denim is blue because the

⁸ Based on reported actual data for October 1, 2006–March 31, 2007, and projected data for April 1, 2007–September 30, 2007. Another U.S. importer provided partial information.

⁹ A conversion factor of .02949 was used to convert the specified weight of 200 grams per square meter to ounces per square yard.

¹⁰ A 3-thread or 4-thread, warp-faced, twill weave is constructed by two warp yarns (for a 3-thread twill) and three warp yarns (for a 4-thread twill) passing over one filling yarn and progressing by one to the right or the left, thus creating the diagonal line prevalent in denim fabric. A broken twill is a type of twill fabric characterized by a zig-zag effect, such as herringbone, where the diagonal line does not run the entire length of the fabric.

warp yarns are dyed blue. Twill woven fabric is characterized by the appearance of a diagonal line running from the bottom left to the top right of the fabric or vice versa.

There are many types of denim fabrics that meet the description above and are considered to fall in HTS subheading 5209.42.00. Variations of the subject denim are created by varying the size, uniformity, and types of yarns used, i.e., an open-end spun (OE) yarn versus a more expensive ring-spun (RS) yarn;¹¹ by varying the shade of the dyes used; by varying the cotton content (e.g., 100 percent cotton versus a blend containing 85 percent or more but less than 100 percent cotton), and by varying the type of twill weave, i.e., a 4-thread versus a 3-thread twill. The industry commonly describes denim fabrics by their weight, shade or color, and finish; for example, a pre-shrunk, 12-ounce, medium indigo. Denim fabrics may also be referred to as “rigid fabric,” meaning fabric with no stretch, or as “stretch denim,” meaning fabric made with stretch fibers or yarns (e.g., spandex).

The variations in the finished appearance of denim apparel are created by finishes or washes applied to the apparel, such as jeans, by the apparel manufacturer in its laundry after the garments are sewn. Four “finishing or wash techniques” believed to be commonly or globally applied to denim jeans include rinse, stonewash, stonewash with bleach, and stonewash with laccase (a copper-containing enzyme).¹² In addition, apparel manufacturers may use various dry applications.¹³

Denim fabrics are classified under a number of HTS subheadings depending on constituent materials and weight. For example, denim fabrics containing *less than* 85 percent by weight of cotton are provided for in HTS subheading 5211.42.00. Except for the cotton content, such denim fabrics have the same characteristics as the subject denim. Denim containing less than 85 percent cotton is made of cotton mixed mainly or solely with man-made fibers.¹⁴ According to industry information, the use of such denim is not as prevalent as use of denim with greater than 85 percent cotton.¹⁵

Apparel articles made of the subject denim fabrics include jeans, shorts, jackets, and skirts. Such apparel items are classified in the HTS in chapter 62 (apparel, not knitted or crocheted)

¹¹ Marjory L. Joseph, *Introductory Textile Science*. 2nd ed. (New York: Holt Rinehart and Winston, Inc., 1972), 222, and 239-243. In OE spinning, cotton fibers are forced by air suction through a spinning tube where twist is imparted to the fibers. In RS spinning, cotton fibers move through a traveler that moves around a stationary ring. The action of a turning bobbin and the moving traveler impart twist to the yarn. RS spinning is slower than OE spinning and produces a smoother yarn. RS yarns are more expensive than OE spun yarns.

¹² Information on washes obtained from official of ***, e-mail correspondence, April 25, 2007.

¹³ For example, Jordache reports that its operation in Madagascar (Mklen International) has the capability to apply various types of dry applications including “hand sanding, sand blasting, whiskers, grinding, tacking, destruction and potassium spraying.” Jordache Enterprises, “Manufacturing Summary,” section on Madagascar, <http://www.jordachecorporate.com/2006/globalnew.shtml>. Viewed May 28, 2007.

¹⁴ The HTSUS includes statistical reporting numbers for certain other denim fabrics that are also outside the scope of this investigation. HTS statistical reporting number 5212.24.6020 covers blue denim of woven cotton fabrics other than those containing 85 percent or more by weight of cotton and other than fabrics not made from cotton blended with primarily manmade fibers. There are numerous HTS statistical reporting numbers referring to blue denim and other denim fabrics in chapter 55 of the HTS, entitled Man-Made Staple Fibers. These statistical reporting numbers cover woven denim fabrics that are made primarily of manmade fibers, including polyester, rayon, and acrylic staple fibers, and blends of these manmade fibers with other fibers. U.S. importers that responded to the Commission’s questionnaire also indicated that other types of denim fabric generally were not substitutable for denim fabric of HS 5209.42. However, one firm (***) reported that cross-dyed and cross-weave fabrics were substitutes in its apparel products. ***.

¹⁵ ***, telephone interview by Commission staff, May 9, 2007.

under HTS subheadings covering apparel of all types of blue denim, along with apparel of most other woven fabrics.

Information Pertaining to Beneficiary Sub-Saharan African Supply of Denim Articles

Beneficiary Sub-Saharan African Producers of Denim Articles

The Commission identified three producers currently manufacturing the subject denim fabric in AGOA countries for use in apparel products destined for the export market. A fourth firm has built a plant in Mauritius to produce the subject denim fabric and it reported that ***. Table 2 provides information regarding these producers.

TABLE 2 AGOA producers of subject denim fabric

Company name	Country located	Total shipments of subject denim Oct. 2005-Sept. 2006 (<i>in SMEs^a</i>)
Nien Hsing Textile Co., Ltd.'s Formosa Textile Co. (Pty) Ltd.	Lesotho	***
Denim de l'île Ltd.	Mauritius	***
Frame Denim	South Africa	***
RS Denim Ltd.	Mauritius	Not applicable

Source: Compiled from data collected from foreign producer questionnaire responses.

^a Square meter equivalents.

A fifth firm—De-nim Textile (Pty) Ltd.—***.¹⁶

Nien Hsing Textile Co., Ltd. (Nien Hsing), a large Taiwan-based textile and apparel company with production sites in Taiwan, Nicaragua, Mexico, and Lesotho, is vertically integrated with one textile factory (Formosa Textiles) and three apparel factories (C&Y Garments, Global Garments, and Nien Hsing) in Lesotho. The apparel factories produce denim apparel using the subject denim fabric. These factories produce jeans and other denim apparel for companies such as ***. Formosa Textiles in Lesotho imports cotton from Benin, Malawi, Mozambique, Tanzania, and Zambia.¹⁷ The firm also ***.¹⁸ The firm has a large ring-spun yarn operation and reportedly sells its ring-spun yarn primarily to South African

¹⁶ ***.

¹⁷ U.S. International Trade Commission (USITC) hearing transcript in connection with Inv. No. AGOA-07, *Commercial Availability of Fabric and Yarns in AGOA Countries*, Washington, D.C., June 5, 2007, 35.

¹⁸ ***.

knit fabric producers.¹⁹ ***.²⁰ In addition to supplying the subject denim fabric to ***, Formosa Textiles also ***.²¹

Denim de l'île, Ltd. (DDI) located in Riviere du Rempart, Mauritius, is ***.²² ***.²³

Frame Textile Group (Frame) located just outside Durban, South Africa, is horizontally and vertically integrated. The firm produces a wide assortment of textile products, including yarn, various types of knit and woven fabrics, and home furnishings.²⁴ Frame reported that it has ***.²⁵ Frame has also ***.²⁶ Frame reports that it sells most of its denim ***.²⁷

The fourth firm, RS Denim Ltd., is the latest addition to the RS Group. The RS Group includes RS Fashions Ltd., which has been producing jeans of denim fabrics, since 1985.²⁸ RS Denim, located in Quartier Militaire, Mauritius, reported that ***.²⁹ RS Denim indicated that ***.³⁰ Based on its reported ***.³¹

Figure 1 shows the channels of distribution of LDB AGOA and non-LDB AGOA (Mauritius and South Africa) producers of subject denim fabric, and LDB AGOA and non-LDB AGOA producers of apparel made from denim fabric. Figure 1 shows that both LDB AGOA and non-LDB AGOA producers of subject denim fabric internally consume subject denim fabric, and sell subject denim fabric to LDB AGOA apparel producers, non-LDB AGOA apparel producers, and producers in other markets. In turn, LDB AGOA and non-LDB AGOA apparel producers sell denim apparel to their home markets, and export denim apparel to the United States and other markets. LDB AGOA producers of denim apparel are eligible for preferential tariff treatment under AGOA for their exports to the United States, regardless of the country of origin of the denim fabric. Alternatively, non-LDB AGOA producers are eligible for preferential tariff treatment under AGOA for their U.S.-destined exports of denim apparel made from regional subject denim fabric, but are not eligible for preferential tariff treatment under AGOA for their U.S.-destined exports of denim apparel made from third-country denim fabric.

¹⁹ Government of Lesotho, "United States' International Trade Commission Investigation (AGOA-07) into the Commercial Availability of Fabrics & Yarns in AGOA Countries: Position of the Government of Lesotho," August 22, 2007, 8.

²⁰ ***.

²¹ ***.

²² ***.

²³ ***.

²⁴ Frame reportedly produces cotton, polyester, acrylic, and specialty yarns; all types of knit and woven fabrics, including shirting, sheeting, and broadwoven fabrics (including denim); and homefurnishing products, including duvets, pillows, comforters, bedspreads, and sheets. Frame Textile Group website, "Overview," <http://www.frame.co.za/divisions/denim/index.php>.

²⁵ ***.

²⁶ ***.

²⁷ ***.

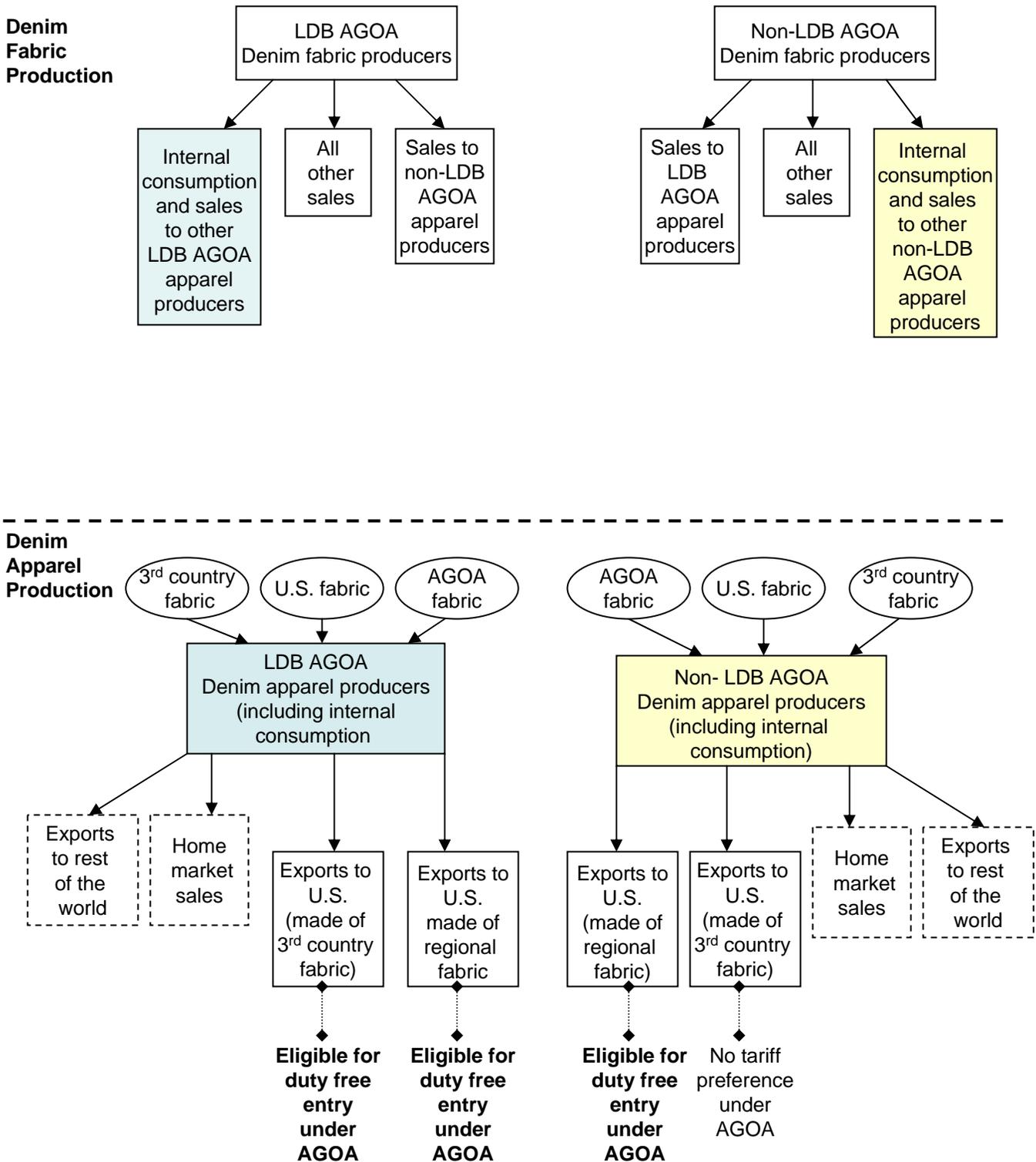
²⁸ RS Group website, "RS Group of Companies," <http://www.rsgroupmu.com/index.asp>.

²⁹ ***.

³⁰ ***, e-mail to Commission staff, July 26, 2007.

³¹ ***.

Figure 1 AGOA denim fabric production and distribution



* Regional fabric includes fabric produced in the United States or beneficiary AGOA countries

Production, Sales, Inventories, Capacity, and Estimated Quantity Available in FY 2008³²

The Commission requested capacity, inventory, production, and shipments data from the three AGOA producers currently producing subject denim fabric (Nien Hsing, Frame, and DDI),³³ from CGM, an AGOA producer ***,³⁴ and from RS Denim, a new entrant to the industry that ***.³⁵ The Commission received relatively complete data responses from ***. The available data are presented in table 3 and figure 2.³⁶ The data projections for FY 2008 shown in table 3 and figure 2 are likely understated, as ***.³⁷

Current AGOA producers reported that average production capacity for subject denim fabric increased by 17.2 percent from 42.1 million SMEs in the period October 1, 2004-September 30, 2005 (FY 2005) to 49.3 million SMEs in FY 2006. Capacity is projected to increase by 7.1 percent to 52.8 million SMEs in FY 2007, ***.

Reported AGOA production of subject denim fabric increased by 18.4 percent from 36.5 million SMEs in FY 2005 to 43.2 million SMEs in FY 2006. Production is projected to increase by 11.4 percent to 48.2 million SMEs in FY 2007 ***.

Reported total shipments of AGOA-produced subject denim fabric increased by 16.1 percent from 37.0 million SMEs in FY 2005 to 43.0 million SMEs in FY 2006. Total shipments are projected to increase by 10.6 percent to 47.55 million SMEs in FY 2007, ***.

The composition of AGOA producers' total shipments of subject denim fabric ***. Reported internal consumption ***. Internal consumption is projected to ***. Reported home market sales ***. Home market sales are projected to ***. Reported exports to LDB AGOA countries ***. Exports to LDB AGOA countries are projected to ***. Reported exports to all other markets ***. Exports to all other markets are projected to ***. Shipments by AGOA producers to LDB AGOA countries ***. Shipments by AGOA producers to LDB AGOA countries are projected to ***.³⁸ It is important to note that the reported data do not include projections for one firm that accounted for *** percent of total production in FY 2006. Therefore, the trends for FYs 2007 and 2008 should be treated accordingly.

Table 3 shows the projected FY 2008 average production capacity, production, shipments, inventories, and exports when the projections of the ***, are added to the projections of the

³² The percent changes shown in the text of this section are based on the un-rounded numbers reported in the tables, and may differ from the percent changes based on the rounded numbers shown in the text of this section.

³³ USITC Hearing transcript, June 5, 2007, 34.

³⁴ ***, e-mail to Commission staff, August 8, 2007.

³⁵ ***, e-mail to Commission staff, July 19, 2007.

³⁶ Tables D-1 and D-2 provide reported interim data as well as annual data for FYs 2006-07.

³⁷ Table D-3 of app. D shows capacity, production, and shipments projections for ***, the current producers of subject denim fabric that provided projections for FY 2008.

³⁸ ***.

TABLE 3 Production capacity, inventories, production, and shipments of AGOA-produced subject denim fabric, October 2005 – September 2008^a

	Actual		Projections ^b		
	FY 2005	FY 2006	FY 2007	FY 2008 (***)	FY 2008 (***)
	<i>Quantity (SMEs)</i>				
Average production capacity	42,061,711	49,300,345	52,781,828	***	***
Capacity utilization (<i>percent</i>)	86.8	87.7	91.2	***	***
Beginning-of-period inventories . . .	2,098,794	1,533,529	1,730,871	***	***
Production	36,503,773	43,228,650	48,157,347	***	***
Shipments:					
Internal consumption/transfers . . .	***	***	***	***	***
Home market sales (local)	***	***	***	***	***
Exports to:					
Lesser developed beneficiary sub-Saharan African countries	***	***	***	***	***
All other export markets	***	***	***	***	***
Total exports	***	***	***	***	***
Sales of sub-standard product	***	***	***	***	***
Total shipments	37,048,597	43,003,583	47,548,194	***	***
End-of-period inventories ^c	1,533,529	1,730,871	1,757,533	***	***

Source: Compiled from data collected from foreign producer questionnaire responses.

^aThe Commission received capacity, inventory, production, and shipment data from ***, e-mail to Commission staff, August 5, 2007, and telephone interview by Commission staff, August 23, 2007. ***.

^b*** did not report any data projections, so the data projections may be understated. ***.

^cReported inventory, production, and total shipment data do not reconcile. On average, beginning inventories + production are less than 0.1 percent greater than ending inventories + total shipments, for actual data reported. ***.

Figure 2 Production capacity, inventories, production, and shipments of AGOA-produced subject denim fabric, October 2005 – September 2008

* * * * *

Source: Compiled from data collected from foreign producer questionnaire responses.

AGOA denim fabric producers currently in operation. ***.^{39 40} RS Denim's ***.⁴¹ RS Denim plans ***.^{42 43}

Including RS Denim's projections in the data set results in ***. Including RS Denim's capacity projections, AGOA producers' total capacity to produce subject denim fabric is projected to ***. AGOA producers' production of the subject denim is projected to ***.

Including RS Denim's projections, AGOA denim fabric producers' total shipments are projected to ***. Internal consumption is projected to ***. Home market sales are projected to ***. Exports to LDB AGOA countries are projected to ***. Exports to all other markets are projected to ***. Shipments by AGOA producers to LDB AGOA countries are projected to ***.⁴⁴ AGOA denim fabric producers were also asked to provide data concerning the regional destinations of the final products produced from their subject denim fabric. Responding AGOA denim fabric producers reported that *** SMEs of AGOA subject denim fabric were used in their internal production of final apparel products that were exported from LDB AGOA countries to the United States during October 1, 2006-March 31, 2007 (table 4). The denim fabric producers projected that *** SMEs of subject denim fabric

TABLE 4 Reported destination of AGOA subject denim fabric producers' internal consumption, October 2006 – September 2007^a

Destination	Actual	Projections
	October 2006 – March 2007	April 2007 – September 2007
	<i>Quantity (SMEs)</i>	
Final apparel products exported from LDB AGOA countries to the United States	***	***
Final apparel products exported from AGOA beneficiary countries (excluding LDB AGOA countries) to the United States	***	***
Final apparel products sold in AGOA beneficiary countries	***	***
Final apparel products exported to all other markets	***	***
Total	***	***

Source: Compiled from data collected from foreign producer questionnaire responses.

^aIncludes data reported by ***.

will be used in their internal production of final products that will be exported from LDB AGOA countries to the United States during the period April 1-September 30, 2007. Responding denim fabric producers reported that *** SMEs of their commercial shipments of subject denim fabric were used (by their customers) in the production of final apparel

³⁹ A dobby weave is a type of decorative weave where small figures, such as dots, and other geometric and floral designs, are woven into the fabric. The designs are created by combining two or more basic weaves with a dobby pattern chain, which controls the lowering and raising of the warp yarns to create the patterns. Dobby weave fabric is not denim fabric.

⁴⁰ ***.

⁴¹ *** U.S. importers reported that they require pre-qualification of the denim fabric with respect to performance or technical characteristics. Some firms reported that the process can take up to four to six weeks. See the section of this report titled "Factors Affecting Purchasing Decisions."

⁴² ***.

⁴³ ***.

⁴⁴ ***.

products that were exported from LDB AGOA countries to the United States during the period October 1, 2006-March 31, 2007 (table 5). AGOA denim fabric producers also projected that *** SMEs of subject denim fabric will be used (by their customers) in the production of final apparel products to be exported from LDB AGOA countries to the United States during the period April 1-September 30, 2007. Combining actual data and projections (shown in tables 4 and 5) results in a projection of *** SMEs of AGOA subject denim fabric to be used in the production of final products to be exported from LDB AGOA countries to the United States during FY 2007. Table D-4 provides additional information regarding the production and ultimate destination of the subject denim fabric.

TABLE 5 Reported destination of denim apparel produced by LDB AGOA denim apparel producers, using AGOA-produced subject denim fabric, October 2006 – September 2007^a

Destination	Actual	Projection
	October 2006 – March 2007	April 2007 – September 2007
	<i>Quantity (SMEs)</i>	
Commercial shipments of denim fabric used in the production of final products exported from LDB AGOA countries to the United States	***	***

Source: Compiled from data collected from foreign producer questionnaire responses.

^aIncludes data reported by ***.

Orders from Apparel Producers

The Commission requested information from AGOA denim fabric producers regarding orders of certain denim fabric from their customers. *** provided detailed documentation of orders for the first three quarters of FY 2007.⁴⁵ None of the producers provided documentation regarding orders for the period Oct. 1, 2007 – Sept. 30, 2008.

The Market for Denim Fabric in Beneficiary SSA Countries

Demand

The AGOA countries’ demand for denim fabric of HS 5209.42 is primarily derived from the demand for apparel products produced from denim fabric, such as denim jeans, shorts, skirts, and jackets. AGOA apparel producers sell denim apparel to distinct markets, including their home markets, the United States, and third-country markets (e.g., the EU). The type of denim apparel demanded can vary depending on the particular market to which it is being sold. For example, the EU market reportedly tends to demand higher end denim apparel products made from more expensive denim fabric. By contrast, the U.S. and AGOA country markets tend to exhibit greater demand for lower end denim apparel products made from less expensive, basic types of denim fabric.

⁴⁵ ***, e-mail to Commission staff, August 6, 2007.

Apparel producers located in South Africa and Mauritius ***. *** of these firms' apparel is destined for markets other than the United States. ***.⁴⁶ LDB AGOA apparel producers source denim fabric of HS 5209.42 from ***, from third-country suppliers (e.g., China), and to a lesser extent, from suppliers located in *** countries.

Apparel producers reportedly require a wide range of different types or styles of denim fabric for their various product lines that are destined for the United States.⁴⁷ In general, producers of the subject denim fabric in South Africa, Mauritius, and Lesotho can competitively produce a variety of basic types of such fabric, but reportedly are less able to competitively produce the range of fabrics including specialty fabrics in a timely manner.⁴⁸ LDB AGOA apparel producers also reportedly buy subject denim fabric from third-country sources in order to fill out their product lines.

AGOA denim fabric producers' responses concerning changes in demand for the subject denim fabric within LDB AGOA countries were mixed. ***, reported that demand for such fabric within LDB AGOA countries had increased since January 1, 2004. ***.⁴⁹ *** reported that demand has not changed since 2004.⁵⁰ *** reported that demand has decreased since 2004 and attributed the decline in demand to exchange rate fluctuations.⁵¹ *** also reported that demand has decreased since 2004. *** maintained that price pressure from denim apparel buyers had forced the market exit of a large number of denim apparel manufacturers.⁵²

Most responding U.S. importers of denim apparel reported that there has been an increase in demand for denim apparel made of denim fabric of HS 5209.42 from LDB AGOA countries. *** reported that their demand for such denim apparel from LDB AGOA countries increased since January 1, 2004, *** reported no change in demand, and *** reported declining demand. ***.⁵³ One importer stated that the following principal factors affect changes in its demand: ***.⁵⁴

Available data indicate that shipments (including internal consumption) of the subject denim fabric to AGOA countries *** (table 6).

⁴⁶ Based on information from the ***.

⁴⁷ For discussion regarding the importance of access to a variety of denim fabrics, see LS&CO, written submission to the U.S. International Trade Commission in connection with Inv. No. AGOA-07-01, *Commercial Availability of Fabric and Yarns in AGOA Countries: Certain Denim*, 2007, April 30, 2007.

⁴⁸ ***.

⁴⁹ ***.

⁵⁰ ***.

⁵¹ ***.

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⁵³ ***.

⁵⁴ ***.

Table 6 AGOA producers' AGOA shipments of subject denim fabric, by shipment type

Item	Fiscal year		October-March-	
	2005	2006	2005-2006	2006-2007
	<i>Quantity (in SMEs)</i>			
Internal consumption	***	***	***	***
Home market sales	***	***	***	***
Exports to LDB AGOA countries	***	***	***	***
Total AGOA producers' AGOA shipments	24,692,053	31,710,456	13,011,132	18,665,056

Source: Compiled from data collected from AGOA producer questionnaire responses.

Total world exports of denim fabric of HS 5209.42 to the AGOA countries fell by 7.0 percent from \$63.2 million in 2004 to \$58.8 million in 2005, the latest year for which comprehensive data are available (tables 7 and 8). The top five country exporters of such denim fabric to the AGOA countries in 2005 were China, Taiwan, Hong Kong, India, and Turkey. Exports of such fabric from China increased sharply, by 60.9 percent from \$14.1 million in 2004 to \$22.8 million in 2005. Sharp declines in exports of such fabric from (Taiwan 39.4 percent or \$9.7 million) and Mauritius (93.6 percent or \$3.7 million) partially offset the increase in Chinese exports. The top five importers of such denim fabric among AGOA countries in 2005 were South Africa, Kenya, Madagascar, Lesotho, and Mauritius. Exports of such fabric to Mauritius and Lesotho fell by \$2.2 million (70.6 percent) and \$1.9 million (20.6 percent), respectively, in 2005.

Beneficiary SSA Production of Apparel Made of the Subject Denim Fabric

Commission staff attempted to contact 45 apparel producers in AGOA countries that accounted for a significant share of AGOA country exports of apparel made from the subject denim fabric to the United States during the period January 2006–January 2007.⁵⁵ These firms are located in Kenya, Lesotho, Mauritius, South Africa, Madagascar, Swaziland, and Botswana. Commission staff received *** questionnaire responses representing *** AGOA apparel producers. Two of the firms reported partial information. The other three responding firms reported complete information and collectively accounted for approximately *** percent of AGOA commercial shipments in FY 2006.⁵⁶

Responding LDB AGOA apparel producers reported that total LDB AGOA purchases of the subject denim fabric ***. The LDB AGOA apparel producers reported that purchases of such fabric produced in AGOA countries ***. LDB AGOA purchases of denim fabric of HS 5209.42 that was produced in Asian countries ***. LDB AGOA apparel producers reported purchasing ***.

⁵⁵ Commission staff constructed the sample based on ***.

⁵⁶ ***.

TABLE 7 World exports of denim fabric of HS 5209.42 to AGOA countries, by country of origin, customs value, 2004 and 2005

Country of origin	2004	2005
	<i>U.S. dollars</i>	
Third-country suppliers:		
Australia	78,202	87,862
Belgium	91,258	144,930
Brazil	25,618	1,299,507
Canada	21,364	5,809
Chile	-	340
China	14,147,829	22,768,627
France	197,538	29,867
Germany	43,000	24,000
Greece	702,838	405,728
Hong Kong	9,448,619	8,927,906
India	3,545,972	4,029,097
Italy	561,916	745,642
Japan	79,578	81,462
Korea	66,294	5,597
Malaysia	340,772	-
Malta	82,010	48,349
Mexico	-	66
Netherlands	37,326	65,915
Pakistan	441,668	1,538,561
Poland	570	-
Portugal	6,239	106,989
Spain	580,710	683,175
Sri Lanka	21,113	27,425
Taiwan	24,512,943	14,857,648
Thailand	-	197,714
Turkey	1,290,867	1,619,674
United States	1,595,184	85,179
Sub-total	57,919,428	57,787,069
Beneficiary AGOA country suppliers:		
Cote d' Ivoire ^a	-	4,121
Mauritius	3,940,919	250,561
Namibia ^a	4,931	-
South Africa	1,373,948	790,503
Sub-total	5,319,798	1,045,185
Total	63,239,226	58,832,254

Source: World Bank, WITS.

^aThere are no known producers of certain denim in Cote d' Ivoire or Namibia. Therefore, it is likely that the data in this table showing exports of certain denim from these countries to AGOA countries represent transshipments.

TABLE 8 World exports of denim fabric of HS 5209.42 to AGOA countries, by destination country, customs value, 2004 and 2005^a

Destination country	2004	2005
	<i>U.S. dollars</i>	
Benin	31,105	3,920
Botswana	193,047	465,476
Burkina Faso	-	4,121
Cameroon	91,345	52,014
Cape Verde	6,239	106,989
Ethiopia	48,802	-
Ghana	105,145	54,874
Kenya	14,913,356	15,248,279
Lesotho	9,186,001	7,289,270
Madagascar	14,164,836	14,120,403
Malawi	364,677	279,169
Mali	310,708	-
Mauritius	3,155,134	926,277
Mozambique	-	221,586
Nigeria	116,029	38,554
Senegal	21,364	65,351
Sierra Leone	7,459	-
South Africa	20,286,423	19,917,544
Swaziland	230,079	34,793
Tanzania	116	-
Uganda	6,741	-
Zambia	620	3,634
Total	63,239,226	58,832,254

Source: World Bank, WITS.

^aThese export data include exports of certain denim from AGOA producers to other AGOA countries. AGOA producers exported \$5.3 million to AGOA countries in 2004, and \$1.0 million in 2005.

TABLE 9 LDB AGOA apparel producers' purchases of denim fabric (HS 5209.42), by region of origin and quantity

Item	2004	2005	2006	January-March 2007
	<i>SMEs</i>			
Quantity purchased of certain denim produced in beneficiary AGOA countries	***	***	***	***
Quantity purchased of certain denim produced in Asian countries	***	***	***	***
Quantity purchased of certain denim produced in all other countries	***	***	***	***
Total	***	***	***	***

Source: Compiled from data collected from LDB AGOA apparel producers' questionnaire responses.

U.S. Imports of Denim Apparel from Beneficiary SSA Suppliers

U.S. importers of apparel made from denim fabric of HS 5209.42 were asked to report their imports of such apparel made in LDB AGOA countries from the subject fabric produced in AGOA countries; apparel made in non-LDB AGOA countries (i.e., South Africa and Mauritius) from the subject fabric produced in AGOA countries; and apparel made in LDB AGOA countries from denim fabric of HS 5209.42 produced in non-AGO countries (i.e., third-country fabric). Commission staff contacted eight U.S. importers of denim apparel from LDB AGOA countries. The Commission received relatively complete import data from *** U.S. importers, accounting for approximately *** percent of reported AGOA shipments of the subject denim fabric used in the production of LDB apparel exports to the United States in FY 2007.⁵⁷ Commission staff converted the reported data to SMEs of denim, which are presented in tables 10-12.⁵⁸

The reported disaggregated import data show *** of U.S. imports of LDB AGOA apparel made from AGOA subject fabric. Based on this data set, U.S. imports of LDB AGOA apparel made from third-country denim fabric of HS 5209.42 ***. The addition of the aggregated *** import data reported for the period October 2006-March 2007 ***. It is important to note that some of the reporting firms indicated that it was difficult to separate imports of apparel made from the subject fabric from imports made from non-AGO denim fabric. These firms reported their imports from LDB AGOA countries in the non-AGO denim fabric category. Therefore, the data shown in table 10 may be understated and the data shown in table 12 may be correspondingly overstated.

U.S. importers were asked to describe how the volume of their imports from the LDB AGOA countries might change if they were no longer able to import apparel made of third-country denim fabric of HS 5209.42 on a duty-free basis. All of the firms indicated that their imports from LDB AGOA countries would drop significantly, as they shifted operations or sourcing to non-AGO countries. For example, one firm stated that it would not produce any of its apparel made from denim fabric of HS 5209.42 in LDB AGOA countries if it could not import fabric from non-AGO countries.⁵⁹ Another firm indicated that as a result of sourcing uncertainties, it had placed its business in LDB AGOA countries “on hold.”⁶⁰ Another firm reported that demand would “***.”⁶¹

Pricing and Sales Practices

Virtually all sales of the subject denim fabric by the AGOA producers were under contracts with minimum requirements.⁶² ***. The average duration of the contracts was generally

⁵⁷ Six U.S. importers provided relatively complete, detailed import data responses. One U.S. importer reported aggregate import data for the period October 1, 2006-March 31, 2007, and aggregate projections for the periods March 1-September 30 2007, and October 1, 2007-September 30, 2008. Another U.S. importer provided no import data.

⁵⁸ The Commission requested information in terms of dozens of garments. Firms responding to the questionnaires also provided information on the amount of fabric used to produce the different types of garments, which were used to convert the data into SMEs.

⁵⁹ ***.

⁶⁰ LS&CO, USITC hearing transcript, June 5, 2007, 23.

⁶¹ ***.

⁶² ***.

Table 10 U.S. imports of apparel produced in LDB AGOA countries from the subject denim fabric produced in AGOA countries, by product type

Item	Actual				Projections	
	Fiscal year		October-March		April-September	October-September
	2005	2006	2005-2006	2006-2007	2007	2007-2008
	<i>Quantity (SMEs)^a</i>					
Men's and boys' casual jackets of certain denim	***	***	***	***	***	***
Men's and boys' jeans of certain denim	***	***	***	***	***	***
Boys' jeans and shorts of certain denim, imported as parts of playsuits	***	***	***	***	***	***
Men's and boys' shorts of certain denim	***	***	***	***	***	***
Women's and girls' skirts of certain denim	***	***	***	***	***	***
Women's and girls' jeans of certain denim	***	***	***	***	***	***
Girls' jeans and shorts of certain denim	***	***	***	***	***	***
Women's and girls' shorts of certain denim	***	***	***	***	***	***
Women's and girls' casual jackets of certain denim	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***
Subject imports disaggregated by HTS categories ^b	***	***	***	***	***	***
Total	***	***	***	***	***	***

Source: Compiled from data collected from U.S. importer questionnaire responses.

^aData represent the amount of fabric used to produce the respective apparel items in terms of SMEs.

^bOne importer was unable to report data for October 2004 through March 2006. The firm reported annual data for the current fiscal year October 2006 through September 2007). Consequently, these data should be treated as estimates.

Table 11 U.S. imports of apparel produced in non-LDB AGOA countries from the subject denim fabric produced in AGOA countries, by product type^a

Item	Actual				Projections	
	Fiscal year		October-March		April-September	October-September
	2005	2006	2005-2006	2006-2007	2007	2007-2008
	<i>Quantity (SMEs)^b</i>					
Men's and boys' casual jackets of certain denim	***	***	***	***	***	***
Men's and boys' jeans of certain denim	***	***	***	***	***	***
Boys' jeans and shorts of certain denim, imported as parts of playsuits	***	***	***	***	***	***
Men's and boys' shorts of certain denim	***	***	***	***	***	***
Women's and girls' skirts of certain denim	***	***	***	***	***	***
Women's and girls' jeans of certain denim	***	***	***	***	***	***
Girls' jeans and shorts of certain denim	***	***	***	***	***	***
Women's and girls' shorts of certain denim	***	***	***	***	***	***
Women's and girls' casual jackets of certain denim	***	***	***	***	***	***
Total	***	***	***	***	***	***

Source: Compiled from data collected from U.S. importer questionnaire responses.

^aData reflect imports provided by ***. Another firm was unable to report data.

^bData represent the amount of fabric used to produce the respective apparel items in terms of SMEs.

Table 12 U.S. imports of apparel produced in LDB AGOA countries from denim fabric of HS 5209.42 produced in non-AGOA countries, by product type

Item	Actual				Projections	
	Fiscal year		October-March		April-September	October-September
	2005	2006	2005-2006	2006-2007	2007	2007-2008
	<i>Quantity (SMEs)^a</i>					
Men's and boys' casual jackets of certain denim	***	***	***	***	***	***
Men's and boys' jeans of certain denim	***	***	***	***	***	***
Boys' jeans and shorts of certain denim, imported as parts of playsuits	***	***	***	***	***	***
Men's and boys' shorts of certain denim	***	***	***	***	***	***
Women's and girls' skirts of certain denim	***	***	***	***	***	***
Women's and girls' jeans of certain denim	***	***	***	***	***	***
Girls' jeans and shorts of certain denim	***	***	***	***	***	***
Women's and girls' shorts of certain denim	***	***	***	***	***	***
Women's and girls' casual jackets of certain denim	***	***	***	***	***	***
Subtotal	***	***	***	***	***	***
Subject imports disaggregated by HTS categories ^b	***	***	***	***	***	***
Total	30,011,843	45,635,744	15,073,279	26,548,998	19,249,167	31,790,191

Source: Compiled from data collected from U.S. importer questionnaire responses.

^aData represent the amount of fabric used to produce the respective apparel items in terms of SMEs.

^bOne importer was unable to report data for October 2004 through March 2006. The firm reported annual data for the current fiscal year October 2006 through September 2007). Consequently, these data should be treated as estimates.

three months, except for ***. The flexibility of the contracts varied from firm to firm. ***. U.S. importers, for the most part, reported that their purchases of denim apparel were on a contract basis. The majority reported that prices and quantities were fixed. Contract duration varied from 3 to 12 months, with 3 months being most common.

U.S. importers were asked to report pricing information for the four standard fabrics shown in table 13. Two firms provided the information as requested (table 14) and two additional firms reported pricing information for the final product (men's or women's jeans) (table 15). Although the data are limited, the reported prices are consistent in two respects: prices reported for fabric sourced from beneficiary AGOA suppliers are consistently higher than the prices reported for third-country suppliers, and reported prices declined slightly in 2007.

Factors Affecting Purchasing Decisions

There are a number of factors that influence sourcing decisions for the subject denim fabric. Important factors include quality, the range of available products or styles, R&D capabilities, available quantities, and price. U.S. importers reported that, for the most part, they select the denim fabric supplier, rather than leaving the decision to the apparel manufacturers from which they source their denim apparel. U.S. importers provided comparative information covering a wide range of countries including Lesotho, Mauritius, South Africa, China, Hong Kong, India, and Pakistan.⁶³

Quality⁶⁴

U.S. importers all indicated that they specify the particular type of denim fabric in HS 5209.42 to be used in their denim apparel. All of these firms reported that they require prequalification of the denim fabric with respect to performance or technical characteristics.

Although there are differences in their respective qualification processes, the firms generally indicated that they test for technical characteristics such as shrinkage, color consistency, crocking,⁶⁵ weight range, and fabric content. Some firms reported that they use third-party inspection. Some firms reported that the qualification process can take up to four to six weeks. The firms also generally reported that they consider a number of factors when they qualify new suppliers. Factors identified for denim mills included quality and consistency of the product(s), capacity and technical abilities of the mill, overall average quality level, type and methods of dyeing, availability of yarn supply, shipping points, development capabilities, product range, and price competitiveness.⁶⁶ Firms were asked whether any AGOA producers had failed in their attempts to qualify their subject denim fabric or if any AGOA producers had lost their approved status. One firm indicated that *** had failed on

⁶³ Other countries covered include Taiwan, Brazil, Turkey, Israel, United States, Mexico, the United Arab Emirates (UAE), Indonesia, Turkmenistan, Colombia, Bangladesh, Japan, Italy, and Egypt.

⁶⁴ For additional discussion regarding quality and quality standards, see USITC hearing transcript, June 5, 2007, 85-86.

⁶⁵ Crocking occurs when the color on one fabric or garment rubs off onto a different fabric or garment.

⁶⁶ ***.

TABLE 13 Examples of fabric specifications for denim fabric of HS 5209.42

Product	Weight (oz./yd ²)	Warp yarn ^a	Fill yarn ^a	No. of picks ^b	Indigo shade	Fabric finish	Type of twill weave
No. 1	13-14.50	6.00/1OE	6.00/1OE	38	Medium	Preshrunk	3x1
No. 2	11-12.00	8.50/1OE Slub	7.00/1OE Slub	40	Medium/dark	Preshrunk	2x1
No. 3	13-14.50	7.25/1RS	5.75/1OE	40	Medium	Preshrunk	3x1
No. 4 (99/1 cotton/spandex) ^c	12.00	7.75/1OE	10.0/OE +12.0/1 spandex core-RS	48	Medium/dark	Preshrunk	3x1

Source: Compiled from information supplied by ***.

^aThe numbers in the warp and fill yarn columns refer to the yarn count. In general, yarn count may be used as an indicator of the diameter of yarn when the yarn is compared to other yarns of the same fiber. Joseph, *Introductory Textile Science*, 198-99. The higher the yarn count, the finer the yarn. OE refers to an open-end spun yarn and RS refers to a ring-spun yarn.

^bThe number (No.) of picks or filling yarns denotes how light or heavy (size or thickness) the filling yarns used in the denim fabrics are. The larger the number indicates that more light or thinner filling yarns are used and thus increases the cost of the denim.

^cProduct No. 4 would be described generally in the industry as a 12.00 oz., stretch denim. comparative information covering a wide range of countries including Lesotho, Mauritius, South Africa, China, Hong Kong, India, and Pakistan.

Table 14 Reported price ranges for denim fabric of HS 5209.42, 2006-07 (U.S. dollars/linear yard)

Company	Product	Source	2006		2007		
			F.O.B.	Delivered	F.O.B.	Delivered	
***	1	AGOA ^a	***	***	***	***	
		3 rd country ^b	***	***	***	***	
	2	AGOA ^a	***	***	***	***	
		3 rd country ^b	***	***	***	***	
	3	AGOA ^a	***	***	***	***	
		3 rd country ^b	***	***	***	***	
***	1	3 rd country	***	***	***	***	
		2	3 rd country	***	***	***	***
		3	3 rd country	***	***	***	***

Source: Compiled from U.S. importers' questionnaires.

^aReported fabric prices are for denim supplied by ***.

^bReported fabric prices represent a range or an average of prices from mills located in Taiwan, Pakistan, Hong Kong, and/or China.

Table 15 Reported price ranges for jeans made of denim fabric of HS 5209.42, 2006-07 (U.S. dollars/unit)^a

Company	Product	Source	2006		2007	
			F.O.B.	Delivered	F.O.B.	Delivered
***	1	AGOA	***	***	***	***
		3 rd country	***	***	***	***
	2	AGOA	***	***	***	***
		3 rd country	***	***	***	***
	3	AGOA	***	***	***	***
		3 rd country	***	***	***	***
	4	AGOA	***	***	***	***
		3 rd country	***	***	***	***
***	1	AGOA	***	***	***	***
		3 rd country	***	***	***	***
	2	3 rd country	***	***	***	***

Source: Compiled from U.S. importers' questionnaires.

^a Prices reported are U.S. dollars/pair of jeans.

certain specific fabrics due to either price or quality.⁶⁷ None of the other U.S. importers reported qualification problems.⁶⁸

Product Range and Mill Selection

U.S. importers reported that they require their denim apparel suppliers to order denim fabric in HS 5209.42 from specific sources. One firm stated that it selects specific fabric mills because it has to “prebook” its fabrics before it selects the garment factory in order to meet its delivery timeliness.⁶⁹ For the most part, firms reported that the selection is based on the qualifications of specific fabric mills rather than country of origin per se. Firms reported various selection criteria. One importer noted that denim fabric is selected and purchased based on a combination of factors such as the weave and texture of the fabric, color, the ability to wash or process the fabric to achieve specific effects, weight, and price points. The firm also noted that denim fabric producers offer different product ranges and that “****.”⁷⁰ Examples of differences in the fabric mills’ abilities, on a regional basis, that were reported by one firm include:

⁶⁷ ***.

⁶⁸ *** of the AGOA denim producers reported problems with mill or product qualification.

⁶⁹ ***.

⁷⁰ ***.

<u>Mill location</u>	<u>Attributes and product type</u>
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	*** ⁷¹

Although some firms indicated that specific types of such denim fabric were available from only a single source, the examples of such single-source denim fabric that were provided by these firms focused on specialty fabrics.⁷²

U.S. importers reported that AGOA denim mills' offerings generally are limited to basic fabric styles and do not include, for example, light-weight denims (e.g. less than 6 oz.), narrow-loom vintage denims, various coated denims, flat-finished denims, shrink-to-fit denims, various proprietary denims, organic denims, certain multicolor yarn-dyed denims and denims of solid color other than indigo, and certain textures and washes.⁷³ One importer described the differences as follows:

***.⁷⁴

With the exception of one importer, all of the U.S. importers stated that the AGOA denim fabric producers do not have the research and development or engineering capability to develop new fabric styles or to match buyers' samples in a timely manner.⁷⁵ However, the importers, for the most part, indicated that the quality of the subject denim fabric produced by AGOA suppliers (i.e., basic denim) is comparable to the same types of basic denim fabric produced elsewhere.⁷⁶

U.S. importers reported that many of the mills located outside of the AGOA region are capable of producing different specialty or premium denim fabrics (of HS 5209.42). The non-AGOA mills also can generally produce a much greater range of fabrics than mills located in AGOA countries. In addition, the non-AGOA mills reportedly have the capability and willingness to develop new products at the request of their customers.

⁷¹ ***.

⁷² ***.

⁷³ For additional information on product availability in AGOA countries, see USITC hearing transcript, June 5, 2007, 77 and 84-87.

⁷⁴ ***.

⁷⁵ For additional information regarding research and development in AGOA countries, see USITC hearing transcript, 78 and 87.

⁷⁶ However, one firm, ***, reported that there were quality differences between denim fabric produced by AGOA mills and mills in China, India, and Pakistan, such as inconsistent shrinkage, dye quality, weight, and limited fabric widths (leading to more waste). ***.

Lead Times, Delivery Costs, and Delivery Reliability

The majority of firms indicated that differences in lead times, delivery costs, and delivery reliability are factors in their decisions regarding whether to source denim fabric of HS 5209.42 from AGOA producers rather than from non-AGO country producers.⁷⁷ One firm stated:

***⁷⁸

Another firm reported that its sourcing considerations include lead time, cost, and reliability, but that other considerations such as risk, political stability, and available capacity within the region were also important.⁷⁹ An example of differences in fabric lead times, not including transit time, is shown below.⁸⁰

<u>Product</u>	<u>Production country</u>	<u>Fabric country of origin</u>	<u>Sourcing factors</u>	<u>Fabric lead time (days)</u>
***	***	***	***	***
***	***	***	***	***
***	***	***	***	***
***	***	***	***	***
***	***	***	***	***
***	***	***	***	***
***	***	***	***	***

Firms were asked to report average lead times for their 2006 imports from the AGOA countries. The average lead times reported by U.S. importers for their imports of apparel made from denim fabric of HS 5209.42 varied significantly across firms. However, most firms that reported imports of apparel containing AGOA-produced denim fabric and apparel containing third-country denim fabric noted that the lead time for apparel containing third-country fabric was longer (table 16).⁸¹

⁷⁷ For additional discussion on transportation costs, see USITC hearing transcript, 37 and 72-73.

⁷⁸ ***.

⁷⁹ ***.

⁸⁰ ***.

⁸¹ Shipping times reported by certain AGOA denim producers varied depending on the destination. For example, ***.

Table 16 Average lead times from date of apparel order to date of delivery from beneficiary AGOA suppliers

Firm	Imports of apparel made of	Share of imports of certain denim apparel, 2006 (percent)	Average lead time (Days)
***	Non-AGOA denim	***	***
***	AGOA denim	***	***
	Non-AGOA denim	***	***
***	AGOA denim	***	***
	Non-AGOA denim	***	***
***	AGOA denim	***	***
	Non-AGOA denim	***	***
***	(^a)	***	***
***	AGOA denim	***	***
	Non-AGOA denim	***	***
***c	Non-AGOA denim	***	***
***	Non-AGOA denim	***	***

Source: Compiled from U.S. importers' questionnaires.

a***

^bNot applicable.

^cLead time from order placement to ex country date.

Role of Third-Country Fabric

U.S. importers were asked to evaluate the potential capabilities of LDB AGOA apparel producers if these firms were to lose access to third-country denim fabric of HS 5209.42.⁸² These U.S. firms reported that LDB AGOA apparel producers would not be able to meet the importers' volume requirements. One firm stated that "***."⁸³ Two importers indicated that certain mills would be able to meet their quality requirements, while the other importers indicated that they would not be able to meet their requirements. All of the U.S. importers reported that the LDB AGOA apparel producers would not be able to provide a full range of denim products with adequate delivery times. The U.S. importers also indicated that LDB AGOA producers would have a difficult time remaining cost competitive under these circumstances. Although one firm indicated that certain firms might remain competitive, another stated:

***⁸⁴

⁸² Two firms did not address these questions. ***. For discussion regarding the uncertainty created by the possibility of limiting access to third-country fabrics, see LS&CO, written submission to the USITC, April 30, 2007, and American Apparel and Footwear Association, written submission to the USITC in connection with inv. No. AGOA-07, *Commercial Availability of Fabric and Yarn in AGOA Countries: 2007*, August 3, 2007, 2.

⁸³ ***.

⁸⁴ ***.

APPENDIX A
***Federal Register* Notice**

submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Dated: April 3, 2007.

Michael Fris,

Manager, California/Nevada Operations Office, U.S. Fish and Wildlife Service.

[FR Doc. E7-6592 Filed 4-6-07; 8:45 am]

BILLING CODE 4310-55-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY-923-1310-FI; WYW137943]

Wyoming: Notice of Proposed Reinstatement of Terminated Oil and Gas Lease

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of proposed reinstatement of terminated oil and gas lease.

SUMMARY: Under the provisions of 30 U.S.C. 188 (d) and (e), and 43 CFR 3108.2-3(a) and (b)(1), the Bureau of Land Management (BLM) received a petition for reinstatement from Ryder Oil and Gas LLC for noncompetitive oil and gas lease WYW137943 for land in Fremont County, Wyoming. The petition was filed on time and was accompanied by all the rentals due since the date the lease terminated under the law.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, Pamela J. Lewis, Chief, Branch of Fluid Minerals Adjudication, at (307) 775-6176.

SUPPLEMENTARY INFORMATION: The lessee has agreed to the amended lease terms for rentals and royalties at rates of \$5.00 per acre or fraction thereof, per year and 16⅔ percent, respectively. The lessee has paid the required \$500 administrative fee and \$163.00 to reimburse the Department for the cost of this **Federal Register** notice. The lessee has met all the requirements for reinstatement of the lease as set out in Sections 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease WYW137943 effective November 1, 2006, under the original terms and conditions of the lease and the increased rental and royalty rates cited

above. BLM has not issued a valid lease affecting the lands.

Pamela J. Lewis,

Chief, Branch of Fluid Minerals Adjudication.

[FR Doc. E7-6543 Filed 4-6-07; 8:45 am]

BILLING CODE 4310-22-P

DEPARTMENT OF THE INTERIOR

National Park Service

Availability of the Abbreviated Final Environmental Impact Statement and General Management Plan Amendment for Dayton Aviation Heritage National Historical Park, OH

AGENCY: National Park Service, Interior.
SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(c)), the National Park Service (NPS) announces the availability for the Abbreviated Final Environmental Impact Statement and General Management Plan Amendment (EIS/GMPA) for Dayton Aviation Heritage National Historical Park, Ohio.

DATES: The Abbreviated Final EIS/GMPA will remain available for public review for 30 days following the publishing of the notice of its availability in the **Federal Register** by the U.S. Environmental Protection Agency.

ADDRESSES: Requests for copies should be sent to the Superintendent, Dayton Aviation Heritage National Historical Park, P.O. Box 9280, Wright Brothers Station, Dayton, Ohio 45409-7705. You may also view the document via the Internet through the NPS Planning, Environment, and Public Comment (PEPC) Web site (<http://parkplanning.nps.gov>); simply click on the link to Dayton Aviation Heritage National Historical Park.

SUPPLEMENTARY INFORMATION: The NPS prepared a Draft EIS/GMPA for Dayton Aviation Heritage National Historical Park pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969. The draft was made available for public review for 60 days (January-March) during which time the NPS distributed over 200 copies of the draft. In addition to the distribution, the draft EIS/GMPA was also made available at the park, on the Internet, and at area libraries. A total of 10 written comments were received, and 20 participants attended 2 open houses. The consensus from the public comment period was that the NPS is pursuing the correct path for the site in Alternatives C, the preferred alternative. Comments from individuals and public agencies did not

require the NPS to add other alternatives, significantly alter existing alternatives, or make changes to the impact analysis of the effects of any alternative. Because of the lack of substantive comments, the NPS is issuing an abbreviated final EIS/GMPA. **FOR FURTHER INFORMATION CONTACT:** The Superintendent, Dayton Aviation Heritage National Historical Park, P.O. Box 9280, Wright Brothers Station, Dayton, Ohio 45409-7705, telephone 937-225-7705.

Dated: August 15, 2006.

Ernest Quintana,

Director, Midwest Region.

Editorial Note: This document was received at the Office of the Federal Register on April 3, 2007.

[FR Doc. 07-1711 Filed 4-6-07; 8:45 am]

BILLING CODE 4312-88-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. AGOA-07]

Commercial Availability of Fabric and Yarns in AGOA Countries

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: Following enactment of legislation that amends the African Growth and Opportunity Act (AGOA) to provide for certain determinations by the Commission, the Commission has instituted investigation No. AGOA-07, *Commercial Availability of Fabric and Yarns in AGOA Countries*, for the purpose of gathering information and making the determinations required through September 30, 2007, with respect to the denim articles identified in the statute.

DATES: April 2, 2007: Institution of investigation.

May 22, 2007: Deadline for filing requests to appear at the hearing.

May 24, 2007: Deadline for filing pre-hearing briefs and statements.

June 5, 2007: Public hearing.

June 19, 2007: Deadline for filing post-hearing briefs and statements.

August 3, 2007: Deadline for filing all written submissions.

August 24, 2007: Deadline for filing supplemental written submissions.

September 25, 2007: Transmittal of Commission report to the President.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission

Building, 500 E Street SW., Washington, DC. All written submissions, including requests to appear at the hearing, statements, and briefs, should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT:

Information specific to this investigation may be obtained from Linda Linkins, Project Leader (202-205-3231; linda.linkins@usitc.gov), Office of Operations, United States International Trade Commission, Washington, DC, 20436 or Jackie Jones, Co-Project Leader (202-205-3466; jackie.jones@usitc.gov), Office of Industries. For information on the legal aspects of this investigation, contact William Gearhart of the Office of the General Counsel (202-205-3091; william.gearhart@usitc.gov). General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on (202) 205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

BACKGROUND AND SUPPLEMENTARY

INFORMATION: On December 20, 2006, the President signed into law amendments to section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721) (AGOA), included in Public Law 109-432, that require the Commission to make certain determinations relating to the commercial availability of regional fabric or yarn for use in lesser developed beneficiary sub-Saharan African countries. Specifically, section 112(c)(2)(A) of the AGOA (as amended) requires the Commission, upon receipt of a petition (properly filed), to determine whether a fabric or yarn produced in beneficiary sub-Saharan African countries is available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries. If the Commission makes an affirmative determination, section 112(c)(2)(B)(i) requires that the Commission determine the quantity of the fabric or yarn that will be so available in lesser developed beneficiary sub-Saharan African countries in the applicable 1-year period (October 1–September 30) after the determination is made.

Thereafter, in each case in which the Commission determines that a fabric or

yarn is available in commercial quantities for an applicable 1-year period, section 112(c)(2)(B)(ii) requires that the Commission determine, before the end of that applicable 1-year period, whether the fabric or yarn produced in beneficiary sub-Saharan African countries will be available in commercial quantities in the succeeding applicable 1-year period, and if so, the quantity of the fabric or yarn that will be so available in the succeeding 1-year period, subject to section 112(c)(2)(B)(iii). After the end of each applicable 1-year period for which such a determination under section 112(c)(2)(B)(i) is in effect, the Commission must make the determination required by section 112(c)(2)(B)(iii) with respect to the quantity of fabric or yarn used in the production of apparel articles receiving preferential treatment under section 112(c)(1) that was entered in the applicable 1-year period and, to the extent that the quantity so determined was not so used, 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 1-year period.

Section 112(c)(2)(C) of AGOA states that denim articles provided for in subheading 5209.42.00 of the Harmonized Tariff Schedule of the United States shall be deemed to be available in commercial quantities and specifies the quantity available for the 1-year period beginning October 1, 2006. Accordingly, pursuant to section 112(c)(2)(B)(ii), the Commission must determine before September 30, 2007, whether such denim articles produced in beneficiary sub-Saharan African countries will be available in commercial quantities in the succeeding 1-year period and, if so, the quantity that will be so available in that succeeding 1-year period, subject to clause (iii).

On February 27, 2007, the Commission published an interim rule in the **Federal Register**, that became effective upon publication (72 FR 8624), describing the procedures it will follow in making determinations in response to petitions received and accepted from interested parties under section 112(c)(2)(A) of AGOA. The interim rule also describes the information that must be included in a petition if it is to be accepted by the Commission. The Commission indicated that it will make its determinations under section 112(c)(2)(A) by September 25, 2007, with respect to petitions received on or before March 28, 2007, and accepted on or before April 11, 2007, and, for any such determinations that are in the

affirmative, it will make its determinations with respect to the quantity available in fiscal 2008 (October 1, 2007–September 30, 2008) by September 25, 2007.

For docketing and other purposes, the Commission's proceedings and actions with respect to denim articles have been designated as investigation No. AGOA-07-001. No petitions were filed on or before March 28, 2007.

Public Hearing: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC beginning at 9:30 a.m. on June 5, 2007. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., May 22, 2007, in accordance with the requirements in the "Submissions" section below. In the event that, as of the close of business on May 22, 2007, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary (202-205-2000) after May 22, 2007, to determine whether the hearing will be held.

Statements and Briefs: In lieu of or in addition to participating in the hearing, parties and non-parties are invited to submit written statements or briefs concerning the investigation in accordance with the requirements in the "Submissions" section below. Any prehearing briefs or statements should be filed not later than 5:15 p.m., May 24, 2007; the deadline for filing post-hearing briefs or statements is 5:15 p.m., June 19, 2007. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and must be received no later than the close of business on August 3, 2007. Any parties and non-parties who filed timely submissions may file supplemental submissions. Such supplemental submissions must be filed no later than the close of business on August 24, 2007, and the information contained therein shall be limited to information not available at the time of the August 3 submission.

Submissions: All written submissions including requests to appear at the hearing, statements, and briefs should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. All written submissions must conform with § 201.8 of the Commission's Rules of Practice and Procedure (19 CFR 201.8). Section 201.8

of the rules requires that a signed original (or copy designated as an original) and fourteen (14) copies of each document be filed. In the event that confidential treatment of the document is requested, at least four (4) additional copies must be filed, in which the confidential business information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules do not authorize the filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf). Persons with questions regarding electronic filing should contact the Secretary (202-205-2000 or edis@usitc.gov).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "nonconfidential" version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of this investigation in the report it sends to the President. After transmitting its report, the Commission intends to publish a public version of its report, with any confidential business information deleted. Any confidential business information received by the Commission in this investigation and used in preparing the report will not be published in the public version of the report in a manner that would reveal the operations of the firm supplying the information.

Issued: April 3, 2007.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7-6600 Filed 4-6-07; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731-TA-1111-1113 (Preliminary)]

Glycine from India, Japan, and Korea

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase antidumping investigations Nos. 731-TA-1111-1113 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from India, Japan, and Korea of glycine,¹ provided for in subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by May 14, 2007. The Commission's views are due at Commerce within five business days thereafter, or by Monday, May 21, 2007.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: March 30, 2007.

¹ The imported product covered by these investigations is glycine, which in its solid (*i.e.*, crystallized) form is a free-flowing crystalline material, like salt or sugar. These investigations cover glycine in any form and purity level, regardless of additives. Glycine's chemical composition is C₂H₅NO₂ and generally is classified under subheading 2922.49.4020 of the Harmonized Tariff Schedule of the United States ("HTSUS").

In addition, precursors of dried crystalline glycine, including, but not limited to, glycine slurry (*i.e.*, glycine in a non-crystallized form) and sodium glycinate are included in these investigations. Glycine slurry is classified under the same HTSUS as crystallized glycine (2922.49.4020) and sodium glycinate is classified under HTSUS 2922.49.8000. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

FOR FURTHER INFORMATION CONTACT:

Russell Duncan (202-708-4727, russell.duncan@usitc.gov), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 615-U, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server (<http://www.usitc.gov>). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

SUPPLEMENTARY INFORMATION:

Background. These investigations are being instituted in response to a petition filed on March 30, 2007, by GEO Specialty Chemicals, Inc., Lafayette, IN.

Participation in the investigations and public service list. Persons (other than petitioners) wishing to participate in the investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigations under the APO issued in the investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference. The Commission's Director of Operations has scheduled a

APPENDIX B

List of Hearing Participants

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Commercial Availability of Fabric and Yarns in AGOA Countries
Inv. No.: AGOA-07
Date and Time: June 5, 2007 - 9:30 a.m.

Session were held in connection with this investigation in the Main Hearing Room, (room 101), 500 E Street, S.W., Washington, D.C.

EMBASSY APPEARANCE:

Embassy of the Republic of Mauritius
Washington, D.C.

His Excellency Kailash Ruhee, Ambassador to the United States of America

ORGANIZATION AND WITNESS:

Levi Strauss & Co.
San Francisco, CA

Mary Palafox, Director, Product Management

Laurie Goldman, Senior Manager, Worldwide
Government Affairs and Public Policy

Jay Sweeney, DC Consultant

ORGANIZATION AND WITNESS:

African Coalition for Trade, Inc.
Washington, D.C.

Eugenia Chang, Founder and Representative,
China Garment Manufacturers (CGM);
and Member of Parliament, National
Assembly, Republic of South Africa

Stephen Lande, President, Manchester Trade

Nien Hsing Textile Co., Ltd.
Taipei, Taiwan

Chia-Liang Han, Assistant Vice President

Paul Ryberg, Ryberg & Smith; *and* President,
African Coalition for Trade

-END-

APPENDIX C

Background Information on the African Growth and Opportunity Act

This appendix provides additional information on the Commission’s AGOA determination process (table C-1). It also provides a brief description of changes that have been made to the AGOA over time, as they pertain to textiles and apparel (text box C-1), as well as the text of the amended statute.

Table C-1 Example of AGOA determination process for a new petition filed by January 15, 2008

Actions taken during:			
FY 2008	FY 2009	FY 2010	FY 2011
<p>Petition must be filed with the Commission by January 15, 2008.</p> <p>By August 1, 2008 the Commission must determine the current commercial availability for subject fabric or yarn.</p> <p>If the determination is affirmative, the Commission must determine the quantity that will be commercially available in FY 2009.</p>	<p>The Commission must determine whether the subject product will be available in commercial quantities in FY 2010 and, if so, the quantity that will be available.</p>	<p>The Commission must determine the quantity used in apparel receiving AGOA preferential treatment during FY 2009.</p> <p>The Commission must determine whether the subject product will be available in commercial quantities in FY 2011 and, if so, the quantity that will be available.</p>	<p>The Commission must determine the quantity used in apparel receiving AGOA preferential treatment during FY 2010.</p> <p>The Commission must determine whether the subject product will be available commercial quantities in FY 2012 and, if so, the quantity that will be available.</p>
	Year 1	Year 2	Year 3

Box C-1: Background on the African Growth and Opportunity Act

The following provides a brief summary of selected textile and apparel provisions included in AGOA. Additional information is included in appendix A.

AGOA I

The African Growth and Opportunity Act was signed into law on May 18, 2000. AGOA I provided preferential treatment (duty-free, quota-free) for textile and apparel articles that are imported directly into the United States from beneficiary SSA countries. In particular, it allowed imports of apparel made of U.S. and regional fabric from beneficiary SSA countries and apparel made of third-country fabric from LDB SSA countries to enter the United States duty and quota-free, subject to a cap. The third-country provision expired September 30, 2004. The other provisions expire September 30, 2008.

AGOA II

The Trade Act of 2002 modified certain provisions of AGOA. With respect to textiles and apparel, AGOA II clarified that "fabric" includes "knit-to-shape" components. It expanded the third-country fabric provision to include fabric regardless of the origin of its yarn. It designated Botswana and Namibia as LDCs. Hybrid cutting (cutting that takes place in the United States and in AGOA countries) was allowed. The applicable percentages for the caps were doubled.

AGOA III

The AGOA Acceleration Act of 2004 extended preferential access for imports from beneficiary SSA countries until September 30, 2015, and extended the third-country fabric provision until September 30, 2007. The cap remained at the FY 2004 level during FYs 2005 and 2006; it was reduced by 50 percent in FY 2006. The Act contained a number of clarifications that essentially provide for expanded access to the U.S. market. The Act also granted LDB status to Mauritius, but limited Mauritius to a cap of 5 percent of the Special Rule cap. Mauritius lost its LDB status on September 30, 2005.

AGOA IV

The Africa Investment Incentive Act of 2006 amends parts of the AGOA. It extends textile and apparel provisions until 2015 and extends the third-country provision for five years (through September 30, 2012). It contains amendments to section 112 regarding commercial availability. It also expands duty-free treatment for textiles or textile articles originating entirely in one or more LDB SSA countries.

Source: www.agoa.gov

H.R.6111

Tax Relief and Health Care Act of 2006 (Enrolled as Agreed to or Passed by Both House and Senate)

TITLE VI--AFRICAN GROWTH AND OPPORTUNITY ACT

SEC. 6001. SHORT TITLE.

This title may be referred to as the `Africa Investment Incentive Act of 2006'.

SEC. 6002. PREFERENTIAL TREATMENT OF APPAREL PRODUCTS OF LESSER DEVELOPED COUNTRIES.

(a) In General- Section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721) is amended--

(1) by redesignating subsections (c) through (f) as subsections (d) through (g);

(2) in subsection (b)--

(A) in the matter preceding paragraph (1), by striking `The' and inserting `Subject to subsection (c), the' ; and

(B) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B); and

(3) by inserting after subsection (b) the following new subsection:

`(c) Lesser Developed Countries-

`(1) PREFERENTIAL TREATMENT OF PRODUCTS THROUGH SEPTEMBER 30, 2012-

`(A) PRODUCTS COVERED- In addition to the products described in subsection (b), and subject to paragraph (2), the preferential treatment described in subsection (a) shall apply through September 30, 2012, to 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, in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.

`(B) APPLICABLE PERCENTAGE- For purposes of subparagraph (A), the term `applicable percentage' means--

`(i) 2.9285 percent for the 1-year period beginning on October 1, 2005; and

`(ii) 3.5 percent for the 1-year period beginning on October 1, 2006, and each 1-year period thereafter through September 30, 2012.

`(2) SPECIAL RULES FOR PRODUCTS IN COMMERCIAL QUANTITIES IN AFRICA-

`(A) PETITION PROCESS- Upon a petition filed by an interested party (which may include a foreign manufacturer), the Commission shall determine whether a fabric or yarn produced in beneficiary sub-Saharan African countries is available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries.

`(B) EFFECT OF AFFIRMATIVE DETERMINATION-

`(i) DETERMINATION OF QUANTITY AVAILABLE- If the Commission determines under subparagraph (A) that a fabric or yarn produced in beneficiary sub-Saharan African countries is available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries, the Commission shall determine the quantity of the fabric or yarn that will be so available in lesser developed beneficiary sub-Saharan African countries in the applicable 1-year period beginning after the determination is made.

`(ii) DETERMINATIONS- In each case in which the Commission determines that a fabric or yarn is available in commercial quantities under subparagraph (A) for an applicable 1-year period, the Commission shall determine, before the end of that applicable 1-year period--

`(I) whether the fabric or yarn produced in beneficiary sub-Saharan African countries will be available in commercial quantities in the succeeding applicable 1-year period; and

`(II) if so, the quantity of the fabric or yarn that will be so available in that succeeding 1-year period, subject to clause (iii).

`(iii) DETERMINATION REGARDING IMPORTED ARTICLES- After the end of each applicable 1-year period for which a determination under clause (i) is in effect, the Commission shall determine to what extent the quantity of the fabric or yarn determined under clause (i) to be available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries was used in the production of apparel articles receiving preferential treatment under paragraph (1) that were entered in that applicable 1-year period. To the extent that the quantity so determined was not so used, then the Commission shall 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.

`(C) DENIM- Denim articles provided for in subheading 5209.42.00 of the Harmonized Tariff Schedule of the United States shall be deemed to have been determined to be in abundant supply under subparagraph (A) in an amount of 30,000,000 square meter equivalents for the 1-year period beginning October 1, 2006.

`(D) PRESIDENTIAL AUTHORITY TO RESTRICT IMPORTS-

`(i) IN GENERAL- Subject to clause (ii), the President may by proclamation provide that apparel articles otherwise eligible for preferential treatment under paragraph (1) that contain a fabric or yarn determined to be available in commercial quantities under subparagraph (A) may not receive such preferential treatment in an applicable 1-year period unless--

`(I) the fabric or yarn in such articles was produced in 1 or more beneficiary sub-Saharan African countries; or

`(II) the Commission has determined that the quantity of the fabric or yarn determined under subparagraph (B) (or (C), as the case may be) to be available in lesser developed beneficiary sub-Saharan African countries for that applicable 1-year period has already been used in the production of apparel articles receiving preferential treatment under paragraph (1) that were entered in that applicable 1-year period.

`(ii) MANDATORY RESTRICTION- If a fabric or yarn is determined to be available in commercial quantities under subparagraph (A) in an applicable 1-year period, and for 2 consecutive applicable 1-year periods the quantities determined to be so available are not used in the production of apparel articles receiving preferential treatment under paragraph (1) that were entered during those 2 applicable 1-year periods, then beginning in the succeeding applicable 1-year period, apparel articles containing that fabric or yarn are ineligible for preferential treatment under paragraph (1) in any succeeding applicable 1-year period unless the Commission has determined that the quantity of the fabric or yarn determined under subparagraph (B) (or (C), as the case may be) to be available in lesser developed beneficiary sub-Saharan African countries for that applicable 1-year period has already been used in the production of apparel articles receiving preferential treatment under paragraph (1) that were entered in that applicable 1-year period.

`(E) PROCEDURES- The Commission shall use the procedures prescribed in subsection (b)(3)(C)(iv) for the Secretary of Commerce in making determinations under this paragraph.

`(3) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES- If the President determines that--

`(A) any fabric or yarn described in paragraph (2)(A) was determined to be eligible for preferential treatment, or

`(B) any fabric or yarn described in paragraph (2)(B) was designated as not being available in commercial quantities,

on the basis of fraud, the President may remove the eligibility or designation (as the case may be) of that fabric or yarn with respect to articles entered after such removal.

`(4) APPLICABILITY OF OTHER PROVISIONS- Subsection (b)(3)(C) applies to apparel articles eligible for preferential treatment under this subsection to the same extent as that subsection applies to apparel articles eligible for preferential treatment under subsection (b)(3).

`(5) DEFINITIONS- In this subsection:

`(A) APPLICABLE 1-YEAR PERIOD- The term `applicable 1-year period' means each of the 12-month periods beginning on October 1 of each year and ending on September 30 of the following year.

`(B) COMMISSION- The term `Commission' means the United States International Trade Commission.

`(C) ENTER; ENTRY- The terms `enter' and `entry' refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.

`(D) LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY- The term `lesser developed beneficiary sub-Saharan African country' means--

`(i) a beneficiary sub-Saharan African country that had a per capita gross national product of less than \$1,500 in 1998, as measured by the International Bank for Reconstruction and Development;

`(ii) Botswana; and

`(iii) Namibia.'.

(b) Additional Preferential Treatment- Section 112(b) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)) is amended by adding at the end the following new paragraph:

`(8) TEXTILE ARTICLES ORIGINATING ENTIRELY IN ONE OR MORE LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES- Textile and textile articles classifiable under chapters 50 through 60 or chapter 63 of the Harmonized Tariff Schedule of the United States that are products of a lesser developed beneficiary sub-Saharan African country and are wholly formed in one or more such countries from fibers, yarns, fabrics, fabric components, or components knit-to-shape that are the product of one or more such countries.'.

(c) Technical Amendment- Section 112(e)(3) of the African Growth and Opportunity Act (as redesignated by subsection (a)(1) of this section) is amended by striking `subsection (b)' and inserting `subsections (b) and (c)'.

SEC. 6003. TECHNICAL CORRECTIONS.

Section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721) is amended as follows:

(1) Subsection (b)(5) is amended by adding at the end the following new subparagraph:

`(C) REMOVAL OF DESIGNATION OF FABRICS OR YARNS NOT AVAILABLE IN COMMERCIAL QUANTITIES- If the President determines that any fabric or yarn was determined to be

eligible for preferential treatment under subparagraph (A) on the basis of fraud, the President is authorized to remove that designation from that fabric or yarn with respect to articles entered after such removal.'

(2) Subsection (f), as redesignated by section 6002(a)(1), is amended by adding at the end the following:

`(5) ENTER; ENTERED- The terms `enter' and `entered' refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States.'

SEC. 6004. EFFECTIVE DATE FOR AGOA.

Subsection (g) of section 112 of the African Growth and Opportunity Act (19 U.S.C. 3721), as redesignated by section 6002(a)(1), is amended by striking `2008' and inserting `2015'.

APPENDIX D

Information on Production of Subject Denim Fabric in Beneficiary SSA Countries

TABLE D-1 Production capacity, inventories, production, and shipments of AGOA subject denim fabric, October 2005 – September 2008 (excluding ***)^a

Item	Actual				Projections ^b	
	FY 2005	FY 2006	October 2005 – March 2006	October 2006 – March 2007	April 2007 – September 2007	FY 2008
	<i>Quantity (SMEs)</i>					
Average production capacity	42,061,711	49,300,345	25,576,180	27,731,201	***	***
Capacity utilization (<i>percent</i>)	86.8	87.7	81.6	92.4	***	***
Beginning-of-period inventories	2,098,794	1,533,529	1,533,529	1,730,871	***	***
Production	36,503,773	43,228,650	20,873,223	25,631,824	***	***
Shipments:						
Internal consumption / transfers	***	***	***	***	***	***
Home market sales (local)	***	***	***	***	***	***
Exports to lesser developed beneficiary sub-Saharan African countries	***	***	***	***	***	***
Exports to all other export markets	***	***	***	***	***	***
Sales of sub-standard product	***	***	***	***	***	***
Total shipments	0	0	0	0	***	***
End-of-period inventories ^c	1,533,529	1,730,871	1,705,552	2,299,094	***	***

Source: Compiled from data collected from foreign producer questionnaire responses.

^aThe Commission received capacity, inventory, production, and shipment data from ***, ***. Based on staff communications with ***, RS Denim a new entrant to the industry that is scheduled to begin production in August of 2007 provided capacity, inventory, production, and shipment data projections.

^b*** did not report any data projections, so the data projections may be understated.

^cReported inventory, production, and total shipment data do not exactly reconcile. On average, beginning inventories + production are less than 0.1 percent greater than ending inventories + total shipments, for actual data reported. The reason for this slight discrepancy is that ***.

TABLE D-2 Production capacity, inventories, production, and shipments of AGOA subject denim fabric, October 2005 – September 2008 (including ***)^a

Item	Actual				Projections ^b	
	FY 2005	FY 2006	October 2005 – March 2006	October 2006 – March 2007	April 2007 – September 2007	FY 2008
	<i>Quantity (SMEs)</i>					
Average production capacity	42,061,711	49,300,345	25,576,180	27,731,201	***	***
Capacity utilization (<i>percent</i>)	86.8	87.7	81.6	92.4	***	***
Beginning-of-period inventories	2,098,794	1,533,529	1,533,529	1,730,871	***	***
Production	36,503,773	43,228,650	20,873,223	25,631,824	***	***
Shipments:						
Internal consumption / transfers	***	***	***	***	***	***
Home market sales (local)	***	***	***	***	***	***
Exports to lesser developed beneficiary sub-Saharan African countries	***	***	***	***	***	***
Exports to all other export markets	***	***	***	***	***	***
Sales of sub-standard product	***	***	***	***	***	***
Total shipments	0	0	0	0	***	***
End-of-period inventories ^c	1,533,529	1,730,871	1,705,552	2,299,094	***	***

Source: Compiled from data collected from foreign producer questionnaire responses.

^aThe Commission received capacity, inventory, production, and shipment data from ***, ***. Based on staff communications with ***, RS Denim a new entrant to the industry that is scheduled to begin production in August of 2007 provided capacity, inventory, production, and shipment data projections.

^b*** did not report any data projections, so the data projections may be understated.

^cReported inventory, production, and total shipment data do not exactly reconcile. On average, beginning inventories + production are less than 0.1 percent greater than ending inventories + total shipments, for actual data reported. The reason for this slight discrepancy is that ***.

TABLE D-3 Production capacity, inventories, production, and shipments of AGOA-produced subject denim fabric, October 2005 – September 2008, not including ***^a

Item	Actual			Projections
	FY 2005	FY 2006	FY 2007	FY 2008
	Quantity (SMEs)			
Average production capacity	***	***	***	***
Capacity utilization (<i>percent</i>)	***	***	***	***
Beginning-of-period inventories	***	***	***	***
Production	***	***	***	***
Shipments:				
Internal consumption / transfers	***	***	***	***
Home market sales (local)	***	***	***	***
Exports to:				
Lesser developed beneficiary sub-Saharan African countries	***	***	***	***
All other export markets	***	***	***	***
Total exports	***	***	***	***
Sales of sub-standard product	***	***	***	***
Total shipments	***	***	***	***
End-of-period inventories ^b	***	***	***	***

Source: Compiled from data collected from foreign producer questionnaire responses.

^aThe Commission received actual and projected capacity, inventory, production, and shipment data from ***. Data from these *** firms are presented in table D-3.

^b Reported inventory, production, and total shipment data do not exactly reconcile. On average, beginning inventories + production are less than 0.1 percent greater than ending inventories + total shipments, for actual data reported. The reason for this slight discrepancy is that ***.

Table D-4 Alternative FY 2008 quantity calculations and data reported for FY 2007 (in SMEs unless noted otherwise)

	Without full year estimate for ***	With full year estimate for ***	Without ***	With *** full year estimate for 2007 but not ***	With *** but not ***	With *** full year estimate for 2007
	FY 2007	FY 2007	FY 2008	FY 2008	FY 2008	FY 2008
Average production capacity	52,781,828	***	***	***	***	***
Production	48,157,347	***	***	***	***	***
Unused capacity	4,624,481	***	***	***	***	***
Capacity utilization	91%	***%	***%	***%	***%	***%
Shipments of fabric to non-LDBC's (including non-LDBC internal consumption):						
Internal Consumption	***	***	***	***	***	***
Commercial shipments to non-LDBC's (including exports)	***	***	***	***	***	***
Substandard products	***	***	***	***	***	***
Total fabric destined for non-LDBC's	***	***	***	***	***	***
Shipments of fabric to LDBC's (including LDBC internal consumption):						
Internal consumption	***	***	***	***	***	***
Internal consumption destined for non-U.S. markets ^a	***	***	***	***	***	***
Internal consumption destined for the U.S. market ^a	***	***	***	***	***	***
Commercial shipments to LDBC's (including exports)	***	***	***	***	***	***
Commercial shipments of final products destined for non-U.S. markets ^b	***	***	***	***	***	***
Commercial shipments of final products destined for the United States ^b	***	***	***	***	***	***
Total to United States from LDBC's	***	***	***	***	***	***

Source: Compiled from data collected from foreign producer questionnaire responses.

^a ***

^b ***