

Republic of Djibouti (Djibouti).
 Republic of Equatorial Guinea (Equatorial Guinea).
 State of Eritrea (Eritrea).
 Ethiopia.
 Gabonese Republic (Gabon).
 Republic of the Gambia (Gambia).
 Republic of Ghana (Ghana).
 Republic of Guinea (Guinea).
 Republic of Guinea-Bissau (Guinea-Bissau).
 Republic of Kenya (Kenya).
 Kingdom of Lesotho (Lesotho).
 Republic of Liberia (Liberia).
 Republic of Madagascar (Madagascar).
 Republic of Malawi (Malawi).
 Republic of Mali (Mali).
 Islamic Republic of Mauritania (Mauritania).
 Republic of Mauritius (Mauritius).
 Republic of Mozambique (Mozambique).
 Republic of Namibia (Namibia).
 Republic of Niger (Niger).
 Federal Republic of Nigeria (Nigeria).
 Republic of Rwanda (Rwanda).
 Democratic Republic of Sao Tomé and Príncipe (Sao Tomé and Príncipe).
 Republic of Senegal (Senegal).
 Republic of Seychelles (Seychelles).
 Republic of Sierra Leone (Sierra Leone).
 Somalia.
 Republic of South Africa (South Africa).
 Republic of Sudan (Sudan).
 Kingdom of Swaziland (Swaziland).
 United Republic of Tanzania (Tanzania).
 Republic of Togo (Togo).
 Republic of Uganda (Uganda).
 Republic of Zambia (Zambia).
 Republic of Zimbabwe (Zimbabwe).

(Pub. L. 106-200, title I, §107, May 18, 2000, 114 Stat. 256.)

SUBCHAPTER II—TRADE BENEFITS

§ 3721. Treatment of certain textiles and apparel

(a) Preferential treatment

Textile and apparel articles described in subsection (b) of this section that are imported directly into the customs territory of the United States from a beneficiary sub-Saharan African country described in section 2466a(c) of this title, shall enter the United States free of duty and free of any quantitative limitations in accordance with the provisions set forth in subsection (b) of this section, if the country has satisfied the requirements set forth in section 3722 of this title.

(b) Products covered

Subject to subsection (c), the preferential treatment described in subsection (a) of this section shall apply only to the following textile and apparel products:

(1) Apparel articles assembled in one or more beneficiary sub-Saharan African countries

Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, or both (including fabrics

not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in the United States) that are—

(A) entered under subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States; or

(B) entered under chapter 61 or 62 of the Harmonized Tariff Schedule of the United States, if, after such assembly, the articles would have qualified for entry under subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States but for the fact that the articles were embroidered or subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes.

(2) Other apparel articles assembled in one or more beneficiary sub-Saharan African countries

Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or from components knit-to-shape in the United States from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in the United States).

(3) Apparel articles from regional fabric or yarns

Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries from yarns originating in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both (including fabrics not formed from yarns, if such fabrics are classified under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in one or more beneficiary sub-Saharan African countries), or from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns originating in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both, or apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both, whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2)), subject to the following:

(A) Limitations on benefits**(i) In general**

Preferential treatment under this paragraph shall be extended in the 1-year period beginning October 1, 2003, and in each of the 11 succeeding 1-year periods, to imports of apparel 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.

(ii) Applicable percentage

For purposes of this subparagraph, the term “applicable percentage” means—

(I) 4.747 percent for the 1-year period beginning October 1, 2003, increased in each of the 5 succeeding 1-year periods by equal increments, so that for the 1-year period beginning October 1, 2007, the applicable percentage does not exceed 7 percent; and

(II) for each succeeding 1-year period until September 30, 2015, not to exceed 7 percent.

(B) Surge mechanism**(i) Import monitoring**

The Secretary of Commerce shall monitor imports of articles described in this paragraph on a monthly basis to determine if there has been a surge in imports of such articles. In order to permit public access to preliminary international trade data and to facilitate the early identification of potentially disruptive import surges, the Director of the Office of Management and Budget may grant an exception to the publication dates established for the release of data on United States international trade in covered articles, if the Director notifies Congress of the early release of the data.

(ii) Determination of damage or threat thereof

Whenever the Secretary of Commerce determines, based on the data described in clause (i), or pursuant to a written request made by an interested party, that there has been a surge in imports of an article described in this paragraph from a beneficiary sub-Saharan African country, the Secretary shall determine whether such article from such country is being imported in such increased quantities as to cause serious damage, or threat thereof, to the domestic industry producing a like or directly competitive article. If the Secretary's determination is affirmative, the President shall suspend the duty-free treatment provided for such article under this paragraph. If the inquiry is initiated at the request of an interested party, the Secretary shall make the determination within 60 days after the date of the request.

(iii) Factors to consider

In determining whether a domestic industry has been seriously damaged, or is

threatened with serious damage, the Secretary shall examine the effect of the imports on relevant economic indicators such as domestic production, sales, market share, capacity utilization, inventories, employment, profits, exports, prices, and investment.

(iv) Procedure**(I) Initiation**

The Secretary of Commerce shall initiate an inquiry within 10 days after receiving a written request and supporting information for an inquiry from an interested party. Notice of initiation of an inquiry shall be published in the Federal Register.

(II) Participation by interested parties

The Secretary of Commerce shall establish procedures to ensure participation in the inquiry by interested parties.

(III) Notice of determination

The Secretary shall publish the determination described in clause (ii) in the Federal Register.

(IV) Information available

If relevant information is not available on the record or any party withholds information that has been requested by the Secretary, the Secretary shall make the determination on the basis of the facts available. When the Secretary relies on information submitted in the inquiry as facts available, the Secretary shall, to the extent practicable, corroborate the information from independent sources that are reasonably available to the Secretary.

(v) Interested party

For purposes of this subparagraph, the term “interested party” means any producer of a like or directly competitive article, a certified union or recognized union or group of workers which is representative of an industry engaged in the manufacture, production, or sale in the United States of a like or directly competitive article, a trade or business association representing producers or sellers of like or directly competitive articles, producers engaged in the production of essential inputs for like or directly competitive articles, a certified union or group of workers which is representative of an industry engaged in the manufacture, production, or sale of essential inputs for the like or directly competitive article, or a trade or business association representing companies engaged in the manufacture, production, or sale of such essential inputs.

(4) Sweaters knit-to-shape from cashmere or merino wool**(A) Cashmere**

Sweaters, in chief weight of cashmere, knit-to-shape in one or more beneficiary sub-Saharan African countries and classifiable under subheading 6110.10 of the Har-

monized Tariff Schedule of the United States.

(B) Merino wool

Sweaters, 50 percent or more by weight of wool measuring 21.5 microns in diameter or finer, knit-to-shape in one or more beneficiary sub-Saharan African countries.

(5) Apparel articles wholly assembled from fabric or yarn not available in commercial quantities in the United States

(A) In general

Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 to the NAFTA.

(B) Additional apparel articles

At the request of any interested party and subject to the following requirements, the President is authorized to proclaim the treatment provided under subparagraph (A) for yarns or fabrics not described in subparagraph (A) if—

(i) the President determines that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner;

(ii) the President has obtained advice regarding the proposed action from the appropriate advisory committee established under section 2155 of this title and the United States International Trade Commission;

(iii) within 60 calendar days after the request, the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth—

(I) the action proposed to be proclaimed and the reasons for such action; and

(II) the advice obtained under clause (ii);

(iv) a period of 60 calendar days, beginning with the first day on which the President has met the requirements of subclauses (I) and (II) of clause (iii), has expired; and

(v) the President has consulted with such committees regarding the proposed action during the period referred to in clause (iii).

(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.

(6) Handloomed, handmade, folklore articles and ethnic printed fabrics

(A) In general

A handloomed, handmade, folklore article or an ethnic printed fabric of a beneficiary sub-Saharan African country or countries that is certified as such by the competent authority of such beneficiary country or countries. For purposes of this section, the President, after consultation with the beneficiary sub-Saharan African country or countries concerned, shall determine which, if any, particular textile and apparel goods of the country (or countries) shall be treated as being handloomed, handmade, or folklore articles or an ethnic printed fabric.

(B) Requirements for ethnic printed fabric

Ethnic printed fabrics qualified under this paragraph are—

(i) fabrics containing a selvedge on both edges, having a width of less than 50 inches, classifiable under subheading 5208.52.30 or 5208.52.40 of the Harmonized Tariff Schedule of the United States;

(ii) of the type that contains designs, symbols, and other characteristics of African prints—

(I) normally produced for and sold on the indigenous African market; and

(II) normally sold in Africa by the piece as opposed to being tailored into garments before being sold in indigenous African markets;

(iii) printed, including waxed, in one or more eligible beneficiary sub-Saharan countries; and

(iv) fabrics formed in the United States, from yarns formed in the United States, or from fabric formed in one or more beneficiary sub-Saharan African country from yarn originating in either the United States or one or more beneficiary sub-Saharan African countries.

(7) Apparel articles assembled in one or more beneficiary sub-Saharan African countries from United States and beneficiary sub-Saharan African country components

Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from components cut in the United States and one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States).

(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) Lesser developed countries

(1) Preferential treatment of products through September 30, 2012

(A) Products covered

In addition to the products described in subsection (b)¹ 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) Applicability of other provisions

Subsection (b)(3)(B) 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).

(3) Definition

In this subsection, the term “lesser developed beneficiary sub-Saharan African country” means—

- (A) 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;
- (B) Botswana;
- (C) Namibia; and
- (D) Mauritius.

(d) Treatment of quotas on textile and apparel imports from Kenya and Mauritius

The President shall eliminate the existing quotas on textile and apparel articles imported into the United States—

- (1) from Kenya within 30 days after that country adopts an effective visa system to prevent unlawful transshipment of textile and apparel articles and the use of counterfeit documents relating to the importation of the articles into the United States; and
- (2) from Mauritius within 30 days after that country adopts such a visa system.

The Customs Service shall provide the necessary technical assistance to Kenya and Mauritius in the development and implementation of the visa systems.

(e) Special rules

(1) Findings and trimmings

(A) General rule

An article otherwise eligible for preferential treatment under this section shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if the value of such findings and trimmings do not exceed 25 percent of the cost of the components of the assembled article. Examples of findings and trimmings are sewing thread, hooks and eyes, snaps, buttons, “bow buds”, decorative lace trim, elastic strips, and zippers, including zipper tapes and labels. Elastic strips are considered findings or trimmings only if they are each less than 1 inch in width and used in the production of brassieres.

(B) Certain interlinings

(i) General rule

An article otherwise eligible for preferential treatment under this section shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article.

(ii) Interlinings described

Interlinings eligible for the treatment described in clause (i) include only a chest type plate, a “hymo” piece, or “sleeve header”, of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.

(iii) Termination of treatment

The treatment described in this subparagraph shall terminate if the President makes a determination that United States manufacturers are producing such interlinings in the United States in commercial quantities.

(C) Exception

In the case of an article described in subsection (b)(2) of this section, sewing thread shall not be treated as findings or trimmings under subparagraph (A).

(2) De minimis rule

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

(3) Certain components

An article otherwise eligible for preferential treatment under this section will not be ineli-

¹ So in original. Probably should be followed by a comma.

gible for such treatment because the article contains—

- (A) any collars or cuffs (cut or knit-to-shape),
- (B) drawstrings,
- (C) shoulder pads or other padding,
- (D) waistbands,
- (E) belt attached to the article,
- (F) straps containing elastic, or
- (G) elbow patches,

that do not meet the requirements set forth in subsections (b) and (c) of this section, regardless of the country of origin of the item referred to in the applicable subparagraph of this paragraph.

(f) Definitions

In this section and section 3722 of this title:

(1) Agreement on textiles and clothing

The term “Agreement on Textiles and Clothing” means the Agreement on Textiles and Clothing referred to in section 3511(d)(4) of this title.

(2) Beneficiary sub-Saharan African country, etc.

The terms “beneficiary sub-Saharan African country” and “beneficiary sub-Saharan African countries” have the same meaning as such terms have under section 2466a(c) of this title.

(3) NAFTA

The term “NAFTA” means the North American Free Trade Agreement entered into between the United States, Mexico, and Canada on December 17, 1992.

(4) Former sub-Saharan African country

The term “former² sub-Saharan African country” means a country that, after being designated as a beneficiary sub-Saharan African country under this chapter³, ceased to be designated as such a beneficiary sub-Saharan country by reason of its entering into a free trade agreement with the United States.

(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.

(g) Effective date

This section takes effect on October 1, 2000, and shall remain in effect through September 30, 2015.

(Pub. L. 106–200, title I, §112, May 18, 2000, 114 Stat. 258; Pub. L. 107–210, div. C, title XXXI, §3108(a), Aug. 6, 2002, 116 Stat. 1038; Pub. L. 108–274, §7(b)–(f), July 13, 2004, 118 Stat. 824–826; Pub. L. 108–429, title II, §2004(k)(1), Dec. 3, 2004, 118 Stat. 2595; Pub. L. 109–432, div. D, title VI, §§6002–6004, Dec. 20, 2006, 120 Stat. 3190–3194; Pub. L. 110–436, §3(a), (d), Oct. 16, 2008, 122 Stat. 4980, 4981.)

REFERENCES IN TEXT

The Harmonized Tariff Schedule of the United States, referred to in subsec. (b), is not set out in the Code. See

²So in original. Probably should be followed by “beneficiary”.

³See References in Text note below.

Publication of Harmonized Tariff Schedule note set out under section 1202 of this title.

This chapter, referred to in subsec. (f)(4), was in the original “this Act”, and was translated as reading “this title”, meaning title I of Pub. L. 106–200, May 18, 2000, 114 Stat. 252, which is classified principally to this chapter, to reflect the probable intent of Congress. For complete classification of title I to the Code, see Short Title note set out under section 3701 of this title and Tables.

AMENDMENTS

2008—Subsec. (b)(3)(B), (C). Pub. L. 110–436, §3(d), made technical correction to directory language of Pub. L. 109–432, §6002(a)(2)(B). See 2006 Amendment note below.

Subsec. (b)(6)(A). Pub. L. 110–436, §3(a)(1), substituted “ethnic” for “ethic” in second sentence.

Subsec. (c)(1)(A). Pub. L. 110–436, §3(a)(2)(A), struck out “, and subject to paragraph (2),” after “described in subsection (b)”.

Subsec. (c)(2). Pub. L. 110–436, §3(a)(2)(B), (C)(ii), redesignated par. (4) as (2) and struck out former par. (2) which provided special rules for products in commercial quantities in Africa.

Subsec. (c)(3). Pub. L. 110–436, §3(a)(2)(B), (D), added par. (3) and struck out former par. (3) which provided for removal of designation of fabrics or yarns not available in commercial quantities.

Subsec. (c)(4). Pub. L. 110–436, §3(a)(2)(C), substituted “Subsection (b)(3)(B)” for “Subsection (b)(3)(C)” and redesignated par. (4) as (2).

Subsec. (c)(5). Pub. L. 110–436, §3(a)(2)(D), struck out par. (5) which defined “applicable 1-year period”, “Commission”, “enter” and “entry”, and “lesser developed beneficiary sub-Saharan African country”.

2006—Subsec. (b). Pub. L. 109–432, §6002(a)(2)(A), substituted “Subject to subsection (c), the” for “The” in introductory provisions.

Subsec. (b)(3)(B), (C). Pub. L. 109–432, §6002(a)(2)(B), as amended by Pub. L. 110–436, §3(d), redesignated subpar. (C) as (B) and struck out former subpar. (B), which related to extension of preferential treatment though Sept. 30, 2007, for apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries.

Subsec. (b)(5)(C). Pub. L. 109–432, §6003(1), added subpar. (C).

Subsec. (b)(8). Pub. L. 109–432, §6002(b), added par. (8).

Subsecs. (c), (d). Pub. L. 109–432, §6002(a)(1), (3), added subsec. (c) and redesignated former subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 109–432, §6002(a)(1), redesignated subsec. (d) as (e). Former subsec. (e) redesignated (f).

Subsec. (e)(3). Pub. L. 109–432, §6002(c), substituted “subsections (b) and (c)” for “subsection (b)” in concluding provisions.

Subsec. (f). Pub. L. 109–432, §6002(a)(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (f)(5). Pub. L. 109–432, §6003(2), added par. (5).

Subsec. (g). Pub. L. 109–432, §6004, substituted “2015” for “2008”.

Pub. L. 109–432, §6002(a)(1), redesignated subsec. (f) as (g).

2004—Subsec. (b)(1). Pub. L. 108–274, §7(b)(1), substituted “or both (including)” for “(including)”.

Subsec. (b)(3). Pub. L. 108–274, §7(b)(2)(A), in introductory provisions, substituted “in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both” for “either in the United States or one or more beneficiary sub-Saharan African countries” wherever appearing and “whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2)), subject to the following:” for “subject to the following:”.

Subsec. (b)(3)(A), (B). Pub. L. 108-274, §7(b)(2)(B), added subpars. (A) and (B) and struck out headings and text of former subpars. (A) and (B) which set forth differing percentages and time periods applicable to the preferential treatment of imports of apparel articles from beneficiary countries and to special rules for lesser developed countries.

Subsec. (b)(3)(B)(iv). Pub. L. 108-429 added cl. (iv).

Subsec. (b)(5)(A). Pub. L. 108-274, §7(b)(3), amended heading and text generally. Prior to amendment, text read as follows: "Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries, from fabric or yarn that is not formed in the United States or a beneficiary sub-Saharan African country, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabric or yarn, under Annex 401 to the NAFTA."

Subsec. (b)(6). Pub. L. 108-274, §7(c), amended heading and text generally. Prior to amendment, text read as follows: "A handloomed, handmade, or folklore article of a beneficiary sub-Saharan African country or countries that is certified as such by the competent authority of such beneficiary country or countries. For purposes of this paragraph, the President, after consultation with the beneficiary sub-Saharan African country or countries concerned, shall determine which, if any, particular textile and apparel goods of the country (or countries) shall be treated as being handloomed, handmade, or folklore articles."

Subsec. (b)(7). Pub. L. 108-274, §7(d), inserted "or former beneficiary sub-Saharan African countries" after "and one or more beneficiary sub-Saharan African countries" in two places.

Subsec. (d)(2). Pub. L. 108-274, §7(e)(2), inserted "or former beneficiary sub-Saharan African countries" after "countries" and substituted "10 percent" for "7 percent".

Subsec. (d)(3). Pub. L. 108-274, §7(e)(1), added par. (3).

Subsec. (e)(4). Pub. L. 108-274, §7(f), added par. (4).

2002—Subsec. (b)(1). Pub. L. 107-210, §3108(a)(1), substituted "Apparel articles assembled in one or more beneficiary sub-Saharan African countries" for "Apparel articles assembled in beneficiary sub-Saharan African countries" in heading and amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: "Apparel articles assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in the United States) that are—"

Subsec. (b)(2). Pub. L. 107-210, §3108(a)(2), substituted "Other apparel articles assembled in one or more beneficiary sub-Saharan African countries" for "Apparel articles cut and assembled in beneficiary sub-Saharan African countries" in heading and amended text generally. Prior to amendment, text read as follows: "Apparel articles cut in one or more beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in the United States) if such articles are assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States."

Subsec. (b)(3). Pub. L. 107-210, §3108(a)(3)(A), substituted "Apparel articles from regional fabric or yarns" for "Apparel articles assembled from regional and other fabric" in heading and amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: "Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or

more beneficiary sub-Saharan African countries from yarn originating either in the United States or one or more beneficiary sub-Saharan African countries (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in one or more beneficiary sub-Saharan African countries), subject to the following:"

Subsec. (b)(3)(B). Pub. L. 107-210, §3108(a)(3)(B), amended heading and text generally. Prior to amendment, text read as follows:

"(i) IN GENERAL.—Subject to subparagraph (A), preferential treatment shall be extended through September 30, 2004, for apparel articles wholly assembled in one or more lesser developed beneficiary sub-Saharan African countries regardless of the country of origin of the fabric used to make such articles.

"(ii) LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY.—For purposes of this subparagraph the term 'lesser developed beneficiary sub-Saharan African country' means a beneficiary sub-Saharan African country that had a per capita gross national product of less than \$1,500 a year in 1998, as measured by the World Bank."

Subsec. (b)(4)(B). Pub. L. 107-210, §3108(a)(4), substituted "21.5 microns" for "18.5 microns".

Subsec. (b)(7). Pub. L. 107-210, §3108(a)(5), added par. (7).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-436, §3(b), Oct. 16, 2008, 122 Stat. 4980, provided that: "The amendments made by subsection (a) [amending this section] apply to goods entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act [Oct. 16, 2008]."

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-429, title II, §2004(k)(2), Dec. 3, 2004, 118 Stat. 2595, provided that: "Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, upon proper request filed with the Bureau of Customs and Border Protection before the 90th day after the date of the enactment of this Act [Dec. 3, 2004], any entry, or withdrawal from warehouse for consumption, of any good—

"(A) that was made on or after October 1, 2004, and before the date of the enactment of this Act, and

"(B) with respect to which there would have been no duty if the amendment made by this subsection applied to such entry or withdrawal, shall be liquidated or reliquidated as if such amendment applied to such entry or withdrawal."

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

DELEGATION OF AUTHORITY

For delegation of certain authority of the President under this section to the Committee for the Implementation of Textile Agreements and the United States Trade Representative, see Ex. Ord. No. 13191, §§1-3, Jan. 17, 2001, 66 F.R. 7271, set out as a note under section 2703 of this title.

INCREASE IN LIMITATION ON CERTAIN BENEFITS

Pub. L. 107-210, div. C, title XXXI, §3108(b), Aug. 6, 2002, 116 Stat. 1039, provided that: "The applicable percentage under clause (ii) of section 112(b)(3)(A) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(3)(A)) shall be increased—

“(1) by 2.17 percent for the 1-year period beginning on October 1, 2002, and

“(2) by equal increments in each succeeding 1-year period provided for in such clause, so that for the 1-year period beginning October 1, 2007, the applicable percentage is increased by 3.5 percent, except that such increase shall not apply with respect to articles eligible under subparagraph (B) of section 112(b)(3) of that Act.”

PROC. NO. 7350. TO IMPLEMENT THE AFRICAN GROWTH AND OPPORTUNITY ACT AND TO DESIGNATE ERITREA AS A BENEFICIARY DEVELOPING COUNTRY FOR PURPOSES OF THE GENERALIZED SYSTEM OF PREFERENCES

Proc. No. 7350, Oct. 2, 2000, 65 F.R. 59321, provided in par. (5) that the United States Trade Representative is authorized to determine whether Kenya and Mauritius have satisfied the requirements of section 3721(c)[d] of this title, is directed to set forth the determination in a notice to be published in the Federal Register and to cause the existing quotas on textile and apparel articles imported into the United States from such country to be eliminated within 30 days after the determination, and is authorized to exercise the authority provided to the President under section 2483 of this title to embody modifications and technical or conforming changes in the Harmonized Tariff Schedule of the United States.

§ 3722. Protections against transshipment

(a) Preferential treatment conditioned on enforcement measures

(1) In general

The preferential treatment under section 3721(a) of this title shall not be provided to textile and apparel articles that are imported from a beneficiary sub-Saharan African country unless that country—

(A) has 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 the articles into the United States;

(B) has enacted legislation or promulgated regulations that would permit United States Customs Service verification teams to have the access necessary to investigate thoroughly allegations of transshipment through such country;

(C) agrees to report, on a timely basis, at the request of the United States Customs Service, on the total exports from and imports into that country of covered articles, consistent with the manner in which the records are kept by that country;

(D) will cooperate fully with the United States to address and take action necessary to prevent circumvention as provided in Article 5 of the Agreement on Textiles and Clothing;

(E) agrees to require all producers and exporters of covered articles in that country to maintain complete records of the production and the export of covered articles, including materials used in the production, for at least 2 years after the production or export (as the case may be); and

(F) agrees to report, on a timely basis, at the request of the United States Customs Service, documentation establishing the country of origin of covered articles as used

by that country in implementing an effective visa system.

(2) Country of origin documentation

For purposes of paragraph (1)(F), documentation regarding the country of origin of the covered articles includes documentation such as production records, information relating to the place of production, the number and identification of the types of machinery used in production, the number of workers employed in production, and certification from both the manufacturer and the exporter.

(b) Customs procedures and enforcement

(1) In general

(A) Regulations

Any importer that claims preferential treatment under section 3721 of this title shall comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations promulgated by the Secretary of the Treasury.

(B) Determination

(i) In general

In order to qualify for the preferential treatment under section 3721 of this title and for a Certificate of Origin to be valid with respect to any article for which such treatment is claimed, there shall be in effect a determination by the President that each country described in clause (ii)—

(I) has implemented and follows; or

(II) is making substantial progress toward implementing and following,

procedures and requirements similar in all material respects to the relevant procedures and requirements under chapter 5 of the NAFTA.

(ii) Country described

A country is described in this clause if it is a beneficiary sub-Saharan African country—

(I) from which the article is exported; or

(II) in which materials used in the production of the article originate or in which the article or such materials, undergo production that contributes to a claim that the article is eligible for preferential treatment.

(2) Certificate of Origin

The Certificate of Origin that otherwise would be required pursuant to the provisions of paragraph (1) shall not be required in the case of an article imported under section 3721 of this title if such Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico.

(3) Penalties for exporters

If the President determines, based on sufficient evidence, that an exporter has engaged in transshipment as defined in paragraph (4), then the President shall deny for a period of 5