Specifically, the two statutes administered by Customs that are subject to the Act are 46 U.S.C. App. 289 and 46 U.S.C. App. 316(a). Section 289 prohibits foreign vessels from transporting passengers between ports or places in the United States; the penalty assessed under 46 U.S.C. App. 289 is $200 for every passenger transported in violation of the statute (§ 4.80(b)(2), Customs Regulations (19 CFR 4.80(b)(2))). Section 316(a) prohibits certain vessels from towing any vessel, other than a vessel in distress, between ports or places in the United States embraced within the coastwise laws; the penalties assessed for violations of 46 U.S.C. App. 316(a) are a minimum of $250 to a maximum of $1,000 per violation, plus $50 per ton on the measurement of every vessel towed in violation of the statute (§ 4.92, Customs Regulations (19 CFR 4.92)).

Section 5 of the Act (28 U.S.C. 2461 note, section 5) provides that civil monetary penalties must be adjusted based upon the cost of living, either by increasing the maximum civil monetary penalty or by increasing the range of minimum and maximum penalties for each civil monetary penalty, as appropriate. Any increase determined under section 5 of the Act is to be rounded to the nearest multiple of $10 in the case of penalties less than or equal to $100, and multiples of $100 in the case of penalties greater than $100 or less than or equal to $1,000.

In calculating the specific amount of the adjustment to any civil monetary penalty covered by the Act, section 5 required that the first such adjustment, which was to be made by October 23, 1996, could not exceed 10 percent of the penalty. Thereafter, in determining the proper adjustment to any civil monetary penalty covered by the Act, section 5 provides for a cost-of-living adjustment that would be determined based on the percentage by which the Consumer Price Index (CPI) for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.

Hence, consistent with the provisions of Section 5 of the Act, as described, the civil penalty for violating 46 U.S.C. App. 289 is adjusted to $300 for every passenger transported in violation of the statute; and the civil penalties for violating 46 U.S.C. App. 316(a) are adjusted to a minimum of $350 and a maximum of $1,100, plus $60 per ton on the measurement of every vessel towed in violation of the statute.

Accordingly, this document amends §§ 4.80 and 4.92 of the Customs Regulations (19 CFR 4.80 and 4.92) in order to make the necessary inflation-induced adjustments to the penalties assessed for violations that are incurred under 46 U.S.C. App. 289 and 46 U.S.C. App. 316(a), as mandated by the Act. Furthermore, the specific authority citations for §§ 4.80 and 4.92 are revised to add a reference to the codification of the Act at 28 U.S.C. 2461 note.

Administrative Procedure Act, the Regulatory Flexibility Act, and Executive Order 12866

This final rule merely brings the Customs Regulations into conformance with the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended. As such, pursuant to 5 U.S.C. 553(b)(B) of the Administrative Procedure Act (APA), prior notice and public procedure are unnecessary in this case, and, pursuant to 5 U.S.C. 553(d)(3) of the APA, a delayed effective date is not required. Since this document is not subject to the notice and public procedure requirements of 5 U.S.C. 553, it is not subject to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Nor do these amendments meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

List of Subjects in 19 CFR Part 4

Administrative practice and procedure, Coastal zone, Inspection, Passenger vessels, Penalties, Reporting and recordkeeping requirements, Vessels.

Amendments to the Regulations

Part 4, Customs Regulations (19 CFR part 4), is amended as set forth below:

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

1. The general authority citation for part 4 continues, and the specific authority citations for §§ 4.80 and 4.92 are revised, to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1431, 1433, 1624; 46 U.S.C. App. 3, 91;

* * * * *

Section 4.80 also issued under 28 U.S.C. 2461 note; 46 U.S.C. 12106; 46 U.S.C. App. 251, 289, 319, 802, 808, 883, 883–1;

* * * * *

Section 4.92 also issued under 28 U.S.C. 2461 note; 46 U.S.C. App. 316(a);

* * * * *

2. Section 4.80 is amended by revising paragraph (b)(2) to read as follows:

§ 4.80 Vessels entitled to engage in coastwise trade.

* * * * *

(b) *Penalties for violating coastwise laws.* * * *

(2) The penalty imposed for the unlawful transportation of passengers between coastwise points is $300 for each passenger so transported and landed (46 U.S.C. App. 289, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990).

* * * * *

3. Section 4.92 is amended by revising its second sentence to read as follows:

§ 4.92 Towing.

* * * The penalties for violation of this provision are a fine of from $350 to $1100 against the owner or master of the towing vessel and a further penalty against the towing vessel of $60 per ton of the towed vessel (46 U.S.C. App. 316(a), as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990).

Robert C. Bonner,

Commissioner of Customs.

Approved: February 25, 2003.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 03–6754 Filed 3–20–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 03—15]

RIN 1515–AD20

Trade Benefits Under the African Growth and Opportunity Act

AGENCY: Customs Service, Department of the Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document sets forth interim amendments to those provisions of the Customs Regulations that implement the trade benefits for sub-Saharan African countries contained in the African Growth and Opportunity Act (the AGOA). The interim regulatory amendments involve the textile and apparel provisions of the AGOA and in part reflect changes made to those statutory provisions by section 3108 of the Trade Act of 2002. The specific statutory changes addressed in this document involve the amendment of several provisions to clarify the status of apparel articles assembled from knit-to-

shape components, the inclusion of a specific reference to apparel articles formed on seamless knitting machines, a change of the wool fiber diameter specified in one provision, and the addition of a new provision to cover additional production scenarios involving the United States and AGOA beneficiary countries. This document also includes a number of other changes to the AGOA implementing regulations to clarify a number of issues that arose after their original publication.

DATES: Interim rule effective March 21, 2003; comments must be submitted by May 20, 2003.

ADDRESSES: Written comments are to be addressed to the U.S. Customs Service, Office of Regulations and Rulings, Attention: Regulations Branch, 1300 Pennsylvania Avenue NW., Washington, DC 20229. Submitted comments may be inspected at U.S. Customs Service, 799 9th Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Operational issues: Robert Abels, Office of Field Operations (202–927–1959). Legal issues: Cynthia Reese, Office of Regulations and Rulings (202–572–8790).

SUPPLEMENTARY INFORMATION:

Background

The African Growth and Opportunity Act

The African Growth and Opportunity Act (the AGOA, Title I of Public Law 106–200, 114 Stat. 251) authorizes the President to extend certain trade benefits to designated countries in sub-Saharan Africa. Section 112 of the AGOA, codified at 19 U.S.C. 3721, provides for the preferential treatment of certain textile and apparel articles from designated beneficiary countries. The provisions of section 112 of the AGOA are reflected for tariff purposes in Subchapter XIX, Chapter 98, Harmonized Tariff Schedule of the United States (HTSUS).

Sections 10.211 through 10.217 of the Customs Regulations (19 CFR 10.211 through 10.217) set forth the legal requirements and procedures that apply for purposes of obtaining preferential treatment on textile and apparel articles pursuant to section 112 of the AGOA. Those regulations were adopted on an interim basis in T.D. 00–67, published in the **Federal Register** (65 FR 59668) on October 5, 2000, and took effect on October 1, 2000. Action to adopt those interim regulations as a final rule was withheld pending anticipated action on the part of Congress to amend the underlying statutory provisions.

Trade Act of 2002 Amendments

On August 6, 2002, the President signed into law the Trade Act of 2002 (the ''Act''), Public Law 107–210, 116 Stat. 933. Sections 3108(a) and (b) of the Act amended section 112(b) of the AGOA (19 U.S.C. 3721(b)) which specifies the textile and apparel articles to which preferential treatment applies under the AGOA. The amendments made by section 3108(a) of the Act to section 112(b) of the AGOA were as follows:

1. The article description in the introductory text of paragraph (b)(1) was amended to refer to apparel articles ''sewn or otherwise'' assembled and to include a reference to articles assembled ''from components knit-to-shape.'' The amended statutory text reads as follows:

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

2. The article description in paragraph (b)(2) was reorganized in order to accommodate the addition of references to apparel articles ''sewn or otherwise'' assembled and to apparel articles assembled ''from components knit-to-shape in the United States from yarns wholly formed in the United States.'' The amended statutory text reads as follows:

> 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. The article description in the introductory text of paragraph (b)(3) was amended by removing the words ''and cut'' after ''wholly formed'' within the parenthetical phrase, by adding a reference to articles assembled ''from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries,'' and by adding a reference to ''apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries.'' The amended statutory text reads 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 yarns originating either in the United States or one or more beneficiary sub-Saharan African countries (including fabrics not formed from yarns, if such fabrics are 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 either in the United States or one or more beneficiary sub-Saharan African countries, or apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries, subject to the following:

4. The article description in paragraph (b)(3)(B)(i), which sets forth a special rule for lesser developed beneficiary sub-Saharan African countries, was amended to refer to preferential treatment ''under this paragraph,'' to refer to apparel articles wholly assembled ''or knit-to-shape and wholly assembled, or both,'' and to refer to preferential treatment regardless of the country of origin of the fabric ''or the yarn.'' The amended statutory text reads as follows:

> Subject to subparagraph (A), preferential treatment under this paragraph shall be extended through September 30, 2004, 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 regardless of the country of origin of the fabric or the yarn used to make such articles.

5. The definition of ''lesser developed beneficiary sub-Saharan African country'' in paragraph (b)(3)(B)(ii) was amended by replacing the reference to the World Bank with a reference to the International Bank for Reconstruction and Development and by the addition of separate subparagraph references to Botswana and Namibia. The latter amendment in effect removes those two countries from the maximum per capita gross national product standard that applies to other countries covered by the definition. Neither of these changes affects the AGOA implementing regulations.

6. In paragraph (b)(4)(B), the reference to wool measuring ''18.5'' microns in diameter or finer was amended to read ''21.5'' microns in diameter or finer.

7. Finally, a new paragraph (b)(7) was added to cover hybrid operations, that is, combinations of various production scenarios described in other paragraphs under section 112(b). This new provision reads as follows:

> 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 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 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).

Section 3108(b) of the Act amended section 112(b) of the AGOA by increasing the applicable percentage used for determining the quantitative limits that apply to apparel articles entitled to preferential treatment under paragraph (b)(3). This change does not affect the AGOA implementing regulations.

On November 13, 2002, the President signed Proclamation 7626 (published in the **Federal Register** at 67 FR 69459 on November 18, 2002) which, among other things, in Annex II sets forth modifications to the HTSUS to implement the changes to section 112(b) of the AGOA made by section 3108 of the Act. The Proclamation provides that the HTSUS modifications that implement the changes made by section 3108(a) of the Act are effective with respect to eligible articles entered, or withdrawn from warehouse for consumption, on or after August 6, 2002. The Proclamation further provides that the HTSUS modifications that implement the change to the applicable quantitative limit percentage made by section 3108(b) of the Act are effective with respect to eligible articles entered, or withdrawn from warehouse for consumption, on or after October 1, 2002.

Changes to the Interim Regulatory Texts

As a consequence of the statutory changes described above and as a result of the modifications to the HTSUS made by Proclamation 7626, the interim AGOA implementing regulations published in T.D. 00–67 no longer fully reflect the current state of the law. In addition, following publication of those interim regulations, a number of other issues came to the attention of Customs that warrant clarification in the AGOA implementing regulations. Accordingly, this document sets forth interim amendments to the AGOA implementing regulations, with provision for public comment on those changes, to reflect the amendments to the statute mentioned above and to clarify or otherwise improve those previously published regulations. It is the intention of Customs, after the close of the public comment period prescribed in this document, to publish one document that (1) addresses both the comments submitted on the interim regulations published in T.D. 00–67 and the comments submitted on the interim regulations set forth in this document and (2) adopts, as a final rule, the AGOA implementing regulations contained in the two interim rule documents with any additional changes as may be appropriate based on issues raised in the submitted public comments. The interim regulatory changes contained in this document are discussed below.

Amendments To Reflect the Statutory Changes

The interim regulatory amendments set forth in this document that are in response to the statutory changes made to section 112(b) of the AGOA by section 3108 of the Act are as follows:

1. In § 10.212, a new definition covering knit-to-shape components is added to reflect the inclusion of references to ''components knit-to-shape'' in paragraphs (b)(1), (b)(2), (b)(3), and (b)(7) of the statute. Also, as a consequence of the addition of this new definition, the interim definition of ''knit-to-shape'' is recast as a definition covering knit-to-shape articles but without any other change to the wording of the definition.

2. In § 10.212, a new definition of ''wholly formed on seamless knitting machines'' is added to clarify the meaning of this expression as used in the amended text of paragraph (b)(3) of the statute (§ 10.213(a)(4) of the regulatory texts).

3. In § 10.213, paragraphs (a)(1) and (a)(2) are revised to conform to the amendment of the product description in the introductory text of paragraph (b)(1) of the statute.

4. In § 10.213, paragraph (a)(3) is revised to conform to the amendment of the product description in paragraph (b)(2) of the statute.

5. In § 10.213, paragraph (a)(4) is revised to conform to the amendment of the product description in the introductory text of paragraph (b)(3) of the statute.

6. In § 10.213, paragraph (a)(5) is revised to conform to the amendment of the product description that applies to lesser developed beneficiary countries in paragraph (b)(3)(B)(i) of the statute.

7. In § 10.213, the reference to ''18.5'' microns in paragraph (a)(7) is changed to read ''21.5'' microns to reflect the amendment made to paragraph (b)(4)(B) of the statute.

8. In § 10.213, a new paragraph (a)(11) is added to cover the hybrid operations described in new paragraph (b)(7) of the statute.

9. Finally, the preference group descriptions on the Certificate of Origin set forth under paragraph (b) of § 10.214 are revised to reflect the amended product descriptions in the statute and to include a reference to articles covered by new paragraph (b)(7) of the statute and paragraph (a)(11) of § 10.213.

Other Amendments

In addition to the regulatory amendments described above that result from the changes made to section 112(b) of the AGOA by section 3108 of the Act, Customs has included in this document a number of other changes to the interim regulations published in T.D. 00–67. These additional changes, which are intended to clarify or otherwise improve the interim regulatory texts, are as follows:

1. In the definition of ''wholly formed'' as it relates to yarn in the interim regulations, Customs failed to provide for textile strip of headings 5404 and 5405, HTSUS. Textile strip of headings 5404 and 5405, HTSUS, may be formed by extrusion, similar to the formation of filaments, or may be formed by slitting plastic film or sheet. With regard to what may be considered to be a yarn, Customs notes that ''yarn'' is defined in the *Dictionary of Fiber & Textile Technology* (KoSa, 1999), at 222, as follows: ''A generic term for a continuous strand of textile fibers, filaments, or material in a form suitable for knitting, weaving, or otherwise intertwining to form a textile fabric. Yarn occurs in the following forms: (1) A number of fibers twisted together (spun yarn), (2) a number of filaments laid together without twist (a zero-twist yarn), (3) a number of filaments laid together with a degree of twist, (4) a single filament with or without twist (a monofilament), or (5) a narrow strip of material, such as paper, plastic film, or metal foil, with or without twist, intended for use in a textile construction.'' The identical definition is found in *Dictionary of Fiber & Textile Technology* (Hoechst Celanese, 1990) at

181. There is nothing to indicate that Congress intended textile strip to be excluded from use in the AGOA, and Customs believes the term ''yarn'' may be understood to include that type of material. Accordingly, this document revises the § 10.212 definition of ''wholly formed'' as it relates to yarn to include a reference to textile strip. In addition, this document divides that definition of ''wholly formed'' into two definitions, one with reference to wholly formed fabrics and the other with reference to wholly formed yarns (and the latter definition is further corrected by removing the words ''and thread'' to reflect the fact that the statute and regulations do not use the word ''wholly'' in the context of thread formation); Customs believes that this approach will better clarify that there are distinct contexts in which ''wholly formed'' is used in the statute and regulations, which now also include the new seamless knitting machine context referred to above. Finally, at the end of the ''wholly formed fabrics'' definition, the words ''in a single country'' are replaced by ''in the United States or in one or more beneficiary countries'' in order to reflect the fact that fabric may be wholly formed in more than one beneficiary country in the case of articles covered by section 112(b)(3) of the AGOA and § 10.213(a)(4) of the regulatory texts.

2. As noted above, quantitative limits apply for preferential treatment purposes in the case of articles covered by section 112(b)(3) of the AGOA which is reflected in § 10.213(a)(4) and (5) of the regulatory texts. Those quantitative limit provisions are set forth in U.S. Note 2 to Subchapter XIX of Chapter 98, HTSUS, which requires the Committee for the Implementation of Textile Agreements to publish in the **Federal Register** the applicable aggregate quantity of imports allowed for each 12-month period. Customs believes that it would be helpful for a reader of the regulatory texts to know that those quantitative limits apply to the subject products. Accordingly, revised paragraphs (a)(4) and (a)(5) of § 10.213 as set forth in this document also include appropriate references to the quantitative limit provisions of U.S. Note 2 to Subchapter XIX of Chapter 98, HTSUS.

3. Section 112(b)(5)(A) of the AGOA, which is reflected in § 10.213(a)(8) of the regulatory texts, covers apparel articles that are constructed of either fabrics or yarns that are considered to be in ''short supply'' for purposes of Annex 401 of the NAFTA (that is, the fabrics or yarns are not required to be originating within the meaning of the NAFTA, if those fabrics or yarns undergo the specified tariff shift for that article and that article meets all other applicable requirements for an originating good). For example, sweaters of wool classified under subheading 6110.11.00 of the HTSUS that are knit to shape in a NAFTA country from 40 percent non-originating silk yarn and 60 percent originating wool yarn may qualify as originating goods because a tariff shift from silk yarn is allowed by the applicable tariff shift rule, but sweaters knit to shape from 40 percent originating silk yarn and 60 percent non-originating wool yarn will not qualify as originating goods because the non-originating wool yarn is classified under a heading (5106) from which a tariff shift is not allowed. Customs notes that the corresponding HTSUS provision (subheading 9819.11.21) contains a more explanatory description of the Annex 401 short supply rule; the regulatory text is revised in this document to conform to the approach used in the HTSUS provision. Customs further notes that the same short supply language appears within the textile provisions of the United States-Caribbean Basin Trade Partnership Act (the CBTPA) and the Andean Trade Promotion and Drug Eradication Act (the ATPDEA), and in those contexts the short supply provision can only be interpreted to not apply to brassieres classifiable under subheading 6212.10 of the HTSUS because applying it would render meaningless the extensive provisions on brassieres in those Acts. Consequently, Customs has decided that the short supply provision does not apply to brassieres under the CBTPA and ATPDEA and that the same interpretation must apply for purposes of the AGOA. Customs notes in this regard that the NAFTA Annex 401 rule for articles classified in subheading 6212.10 of the HTSUS requires only the performance of certain specified production processes (that is, ''both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the NAFTA parties'') and includes no requirements regarding the source of the fabrics or yarns. There is little logic in applying the short supply provision to a product where the NAFTA rule makes no mention of excluded materials. Thus, Customs believes that brassieres of subheading 6212.10, HTSUS, are not covered by section 112(b)(5)(A) of the AGOA and § 10.213(a)(8) of the regulations. The revised text of § 10.213(a)(8) set forth in this document therefore also includes appropriate exclusionary language to reflect this interpretation.

4. With reference to the findings, trimmings and interlinings provisions under § 10.213(b)(1), Customs believes that it would be useful to specify in the regulatory texts an appropriate basis for determining the ''cost'' of the components and the ''value'' of the findings and trimmings and interlinings. Customs further believes that the standard should be based on the regulations that apply to components and materials under subheading 9802.00.80, HTSUS (in particular, 19 CFR 10.17), and under the GSP (in particular, 19 CFR 10.177(c)). Accordingly, this document adds a new subparagraph (2) to § 10.213(b) to address this point and redesignates former subparagraph (2) of the interim regulatory texts as subparagraph (3).

5. In addition to the modification of the preference group descriptions on the Textile Certificate of Origin set forth under § 10.214(b) as discussed above, the format of the Certificate is modified and some of the blocks are moved and renumbered, solely for purposes of clarity. The instructions for completion of the Certificate in paragraph (c) of § 10.214 are also revised to reflect the changes made to the Certificate and to provide additional clarification regarding its completion, including provision for signature by an exporter's authorized agent having knowledge of the relevant facts.

6. In the case of articles described in § 10.213(a)(1), interim § 10.215(a) provided for the inclusion of the symbol ''D'' as a prefix to the applicable Chapter 98, HTSUS, subheading (that is subheading 9802.00.80) as the means for making the required written declaration on the entry documentation. This procedure was adopted because, contrary to the case of the other articles described in § 10.213(a), no unique HTSUS subheading had been identified for the articles covered by § 10.213(a)(1) when the interim regulations were published. A unique HTSUS subheading now exists for those articles (that is, subheading 9802.00.8042). Accordingly, § 10.215(a) is revised in this document to prescribe the same entry documentation declaration procedure for all articles described in § 10.213, that is, inclusion of the HTSUS Chapter 98 subheading under which the article is classified.

7. In § 10.216(b)(4)(ii), the cross-reference to ''§ 10.214(c)(14)'' is changed to read ''§ 10.214(c)(15)'' to reflect the addition of the provision regarding signature by the exporter or the exporter's authorized agent.

8. Finally, in § 10.217(a)(2) and (a)(3), the words ''in a beneficiary country'' are removed in recognition of the fact that

verification of documentation and other information regarding country of origin and verification of evidence regarding the use of U.S. materials might take place outside a beneficiary country, for example, within the United States.

Comments

Before adopting these interim regulations as a final rule, consideration will be given to any written comments timely submitted to Customs, including comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.5 of the Treasury Department Regulations (31 CFR 1.5), and § 103.11(b) of the Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Office of Regulations and Rulings, U.S. Customs Service, 799 9th Street, NW., Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572–8768.

Inapplicability of Notice and Delayed Effective Date Requirements and the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 553(b)(B), Customs has determined that prior public notice and comment procedures on these regulations are unnecessary and contrary to the public interest. The regulatory changes provide trade benefits to the importing public, in some cases implement direct statutory mandates, and are necessary to carry out the preferential treatment and United States tariff changes proclaimed by the President under the African Growth and Opportunity Act. For the same reasons, pursuant to the provisions of 5 U.S.C. 553(d)(1) and (3), Customs finds that there is good cause for dispensing with a delayed effective date. Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Paperwork Reduction Act

The collection of information contained in this interim rule has previously been reviewed and approved by the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) under OMB control number 1515–0224.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 10

Assembly, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Reporting and recordkeeping requirements, Trade agreements.

Amendments to the Regulations

For the reasons set forth in the preamble, part 10 of the Customs Regulations (19 CFR part 10) is amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The authority citation for part 10 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 23, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

Sections 10.211 through 10.217 also issued under 19 U.S.C. 3721;

* * * * *

2. In § 10.212, the definition of ''knit-to-shape'' and the definition of ''wholly formed'' are removed and new definitions of ''knit-to-shape articles'' and ''knit-to-shape components'' and ''wholly formed fabrics'' and ''wholly formed on seamless knitting machines'' and ''wholly formed yarns'' are added in appropriate alphabetical order to read as follows:

§ 10.212 Definitions.

* * * * *

Knit-to-shape articles. ''Knit-to-shape,'' when used with reference to sweaters or other apparel articles, means any apparel article of which 50 percent or more of the exterior surface area is formed by major parts that have been knitted or crocheted directly to the shape used in the apparel article, with no consideration being given to patch pockets, appliques, or the like. Minor cutting, trimming, or sewing of those major parts will not affect the determination of whether an apparel article is ''knit-to-shape.''

Knit-to-shape components. ''Knit-to-shape,'' when used with reference to textile components, means components that are knitted or crocheted from a yarn directly to a specific shape containing a self-start edge. Minor cutting or trimming will not affect the determination of whether a component is ''knit-to-shape.''

* * * * *

Wholly formed fabrics. ''Wholly formed,'' when used with reference to fabric(s), means that all of the production processes, starting with polymers, fibers, filaments, textile strips, yarns, twine, cordage, rope, or strips of fabric and ending with a fabric by a weaving, knitting, needling, tufting, felting, entangling or other process, took place in the United States or in one or more beneficiary countries.

Wholly formed on seamless knitting machines. ''Wholly formed on seamless knitting machines,'' when used to describe apparel articles, has reference to a process that created a knit-to-shape apparel article by feeding yarn(s) into a knitting machine to result in that article. When taken from the knitting machine, an apparel article created by this process either is in its final form or requires only minor cutting or trimming or the addition of minor components or parts such as patch pockets, appliques, capping, or elastic strip.

Wholly formed yarns. ''Wholly formed,'' when used with reference to yarns, means that all of the production processes, starting with the extrusion of filament, strip, film, or sheet and including slitting a film or sheet into strip, or the spinning of all fibers into yarn, or both, and ending with a yarn or plied yarn, took place in a single country.

3. In § 10.213:

a. Paragraphs (a)(1) through (a)(5) are revised;

b. Paragraph (a)(7) is amended by removing the words ''18.5 microns'' and adding, in their place, the words ''21.5 microns'';

c. Paragraph (a)(8) is revised;

d. A new paragraph (a)(11) is added; and

e. Paragraph (b)(2) is redesignated as paragraph (b)(3) and a new paragraph (b)(2) is added.

The revisions and additions read as follows:

§ 10.213 Articles eligible for preferential treatment.

(a) * * *

(1) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States, from yarns wholly formed in the United States, (including fabrics not formed from

yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under subheading 9802.00.80 of the HTSUS;

(2) Apparel articles sewn or otherwise assembled in one or more beneficiary countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States, from yarns wholly formed in the United States, (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under Chapter 61 or 62 of the HTSUS, if, after that assembly, the articles would have qualified for entry under subheading 9802.00.80 of the HTSUS 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 in a beneficiary country;

(3) Apparel articles sewn or otherwise assembled in one or more beneficiary countries with thread formed in the United States from fabrics wholly formed in the United States and cut in one or more beneficiary 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 those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed in the United States).

(4) Apparel articles wholly assembled in one or more beneficiary countries from fabric wholly formed in one or more beneficiary countries from yarns originating either in the United States or one or more beneficiary countries (including fabrics not formed from yarns, if those fabrics are classified under heading 5602 or 5603 of the HTSUS and are wholly formed in one or more beneficiary countries), or from components knit-to-shape in one or more beneficiary countries from yarns originating either in the United States or in one or more beneficiary countries, or apparel articles wholly formed on seamless knitting machines in a beneficiary country from yarns originating either in the United States or in one or more beneficiary countries, subject to the applicable quantitative limit published in the **Federal Register** pursuant to U.S. Note 2, Subchapter XIX, Chapter 98, HTSUS;

(5) Apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary countries regardless of the country of origin of the fabric or the yarn used to make the articles, subject to the applicable quantitative limit published in the **Federal Register** pursuant to U.S. Note 2, Subchapter XIX, Chapter 98, HTSUS;

* * * * *

(8) Apparel articles, other than brassieres classifiable under subheading 6212.10, HTSUS, that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary countries, from fabrics or yarn that is not formed in the United States or a beneficiary country, provided that apparel articles of those fabrics or yarn would be considered an originating good under General Note 12(t), HTSUS, if the apparel articles had been imported directly from Canada or Mexico;

* * * * *

(11) Apparel articles sewn or otherwise assembled in one or more beneficiary countries with thread formed in the United States:

(i) From components cut in the United States and in one or more beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS);

(ii) From components knit-to-shape in the United States and one or more beneficiary countries from yarns wholly formed in the United States; or

(iii) From any combination of two or more of the cutting or knitting-to-shape operations described in paragraph (a)(11)(i) or paragraph (a)(11)(ii) of this section.

(b) * * *

(2) *''Cost''and ''value'' defined.* The ''cost'' of components and the ''value'' of findings and trimmings or interlinings referred to in paragraph (b)(1) of this section means:

(i) The price of the components, findings and trimmings, or interlinings when last purchased, f.o.b. port of exportation, as set out in the invoice or other commercial documents, or, if the price is other than f.o.b. port of exportation:

(A) The price as set out in the invoice or other commercial documents adjusted to arrive at an f.o.b. port of exportation price; or

(B) If no exportation to a beneficiary country is involved, the price as set out in the invoice or other commercial documents, less the freight, insurance, packing and other costs incurred in transporting the components, findings and trimmings, or interlinings to the place of production if included in that price; or

(ii) If the price cannot be determined under paragraph (b)(2)(i) of this section or if Customs finds that price to be unreasonable, all reasonable expenses incurred in the growth, production, manufacture, or other processing of the components, findings and trimmings, or interlinings, including the cost or value of materials and general expenses, plus a reasonable amount for profit, and the freight, insurance, packing, and other costs, if any, incurred in transporting the components, findings and trimmings, or interlinings to the port of exportation.

* * * * *

4. In § 10.214, paragraphs (b) and (c) are revised to reads as follows:

§ 10.214 Certificate of Origin.

* * * * *

(b) *Form of Certificate.* The Certificate of Origin referred to in paragraph (a) of this section must be in the following format:

BILLING CODE 4820–02–P

African Growth and Opportunity Act
Textile Certificate of Origin

1. Exporter Name and Address:	3. Importer Name and Address:
2. Producer Name and Address:	4. Preference Group:
5. Description of Article:	

Group	*Each description below is only a summary of the cited CFR provision.*	19 CFR
1-A	Apparel assembled from U.S. fabrics and/or knit-to-shape components, from U.S. yarns. All fabric must be cut in the United States.	10.213(a)(1)
2-B	Apparel assembled from U.S. fabrics and/or knit-to-shape components, from U.S. yarns. All fabric must be cut in the United States. After assembly, the apparel is embroidered or subject to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes.	10.213(a)(2)
3-C	Apparel assembled from U.S. fabrics and/or U.S. knit-to-shape components and/or U.S. and beneficiary country knit-to-shape components, from U.S. yarns and sewing thread. The U.S. fabrics may be cut in beneficiary countries or in beneficiary countries and the United States.	10.213(a)(3) or 10.213(a)(11)
4-D	Apparel assembled from beneficiary country fabrics and/or knit-to-shape components, from yarns originating in the United States and/or one or more beneficiary countries.	10.213(a)(4)
5-E	Apparel assembled or knit-to-shape and assembled, or both, in one or more lesser developed beneficiary countries regardless of the country of origin of the fabric or the yarn used to make such articles.	10.213(a)(5)
6-F	Knit-to-shape sweaters in chief weight of cashmere.	10.213(a)(6)
7-G	Knit-to-shape sweaters 50 percent or more by weight of wool measuring 21.5 microns in diameter or finer.	10.213(a)(7)
8-H	Apparel assembled from fabrics or yarns considered in short supply in the NAFTA, or designated as not available in commercial quantities in the United States.	10.213(a)(8) or 10.213(a)(9)
9-I	Handloomed fabrics, handmade articles made of handloomed fabrics, or textile folklore articles – as defined in bilateral consultations.	10.213(a)(10)

6. U.S./African Fabric Producer Name and Address:	7. U.S./African Yarn Producer Name and Address:
	8. U.S. Thread Producer Name and Address:
9. Handloomed, Handmade, or Folklore Article:	10. Name of Short Supply or Designated Fabric or Yarn:

I certify that the information on this document is complete and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document. I agree to maintain, and present upon request, documentation necessary to support this certificate.

11. Authorized Signature:		12. Company:
13. Name: (Print or Type)		14. Title:
15. Date: (DD/MM/YY)	16. Blanket Period From: To:	17. Telephone: Facsimile:

BILLING CODE 4820–02–C

(c) *Preparation of Certificate.* The following rules will apply for purposes of completing the Certificate of Origin set forth in paragraph (b) of this section:

(1) Blocks 1 through 5 pertain only to the final article exported to the United States for which preferential treatment may be claimed;

(2) Block 1 should state the legal name and address (including country) of the exporter;

(3) Block 2 should state the legal name and address (including country) of the producer. If there is more than one producer, attach a list stating the legal name and address (including country) of all additional producers. If this information is confidential, it is acceptable to state ''available to Customs upon request'' in block 2. If the producer and the exporter are the same, state ''same'' in block 2;

(4) Block 3 should state the legal name and address (including country) of the importer;

(5) In block 4, insert the number and/or letter that identifies the preference group which applies to the article according to the description contained in the CFR provision cited on the Certificate for that group;

(6) Block 5 should provide a full description of each article. The description should be sufficient to relate it to the invoice description and to the description of the article in the international Harmonized System. Include the invoice number as shown on the commercial invoice or, if the invoice number is not known, include another unique reference number such as the shipping order number;

(7) Blocks 6 through 10 must be completed only when the block in question calls for information that is relevant to the preference group identified in block 4;

(8) Block 6 should state the legal name and address (including country) of the fabric producer;

(9) Block 7 should state the legal name and address (including country) of the yarn producer;

(10) Block 8 should state the legal name and address (including country) of the thread producer;

(11) Block 9 should state the name of the folklore article or should state that the article is handloomed or handmade;

(12) Block 10 should be completed only when the preference group identifier ''8'' and/or ''H'' is inserted in block 4 and should state the name of the fabric or yarn that is in short supply in the NAFTA or that has been designated as not available in commercial quantities in the United States;

(13) Block 11 must contain the signature of the exporter or of the exporter's authorized agent having knowledge of the relevant facts;

(14) Block 15 should reflect the date on which the Certificate was completed and signed;

(15) Block 16 should be completed if the Certificate is intended to cover multiple shipments of identical articles as described in block 5 that are imported into the United States during a specified period of up to one year (see § 10.216(b)(4)(ii)). The ''from'' date is the date on which the Certificate became applicable to the article covered by the blanket Certificate (this date may be prior to the date reflected in block 15). The ''to'' date is the date on which the blanket period expires;

(16) The telephone and facsimile numbers included in block 17 should be those at which the person who signed the Certificate may be contacted; and

(17) The Certificate may be printed and reproduced locally. If more space is needed to complete the Certificate, attach a continuation sheet.

5. In § 10.215, paragraph (a) is revised to read as follows:

§ 10.215 Filing of claim for preferential treatment.

(a) *Declaration.* In connection with a claim for preferential treatment for a textile or apparel article described in § 10.213, the importer must make a written declaration that the article qualifies for that treatment. The inclusion on the entry summary, or equivalent documentation, of the subheading within Chapter 98 of the HTSUS under which the article is classified will constitute the written declaration. Except in any of the circumstances described in § 10.216(d)(1), the declaration required under this paragraph must be based on an original Certificate of Origin that has been completed and properly executed in accordance with § 10.214, that covers the article being imported, and that is in the possession of the importer.

* * * * *

§ 10.216 [Amended]

6. In § 10.216, the second sentence of paragraph (b)(4)(ii) is amended by removing the reference ''§ 10.214(c)(14)'' and adding, in its place, the reference ''§ 10.214(c)(15)''.

§ 10.217 [Amended]

7. In § 10.217, paragraphs (a)(2) and (a)(3) are amended by removing the words ''in a beneficiary country''.

Robert C. Bonner,

Commissioner of Customs.

Approved: February 25, 2003.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 03–6760 Filed 3–20–03; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 03–12]

RIN 1515–AD22

Trade Benefits Under the Caribbean Basin Economic Recovery Act

AGENCY: Customs Service, Department of the Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document sets forth interim amendments to those provisions of the Customs Regulations that implement the trade benefits for Caribbean Basin countries contained in section 213(b) of the Caribbean Basin Economic Recovery Act (the CBERA). The interim regulatory amendments involve the textile and apparel provisions of section 213(b) and in part reflect changes made to those statutory provisions by section 3107 of the Trade Act of 2002. The specific statutory changes addressed in this document involve the amendment of several provisions to clarify the status of apparel articles assembled from knit-to-shape components, the addition of language requiring any dyeing, printing, and finishing of certain fabrics to be done in the United States, the inclusion of exception language in the brassieres provision regarding articles entered under other CBERA apparel provisions, the addition of a provision permitting the dyeing, printing, and finishing of thread in the Caribbean region, and the addition of a new provision to cover additional production scenarios involving the United States and the Caribbean region. This document also includes a number of other changes to the CBERA textile and apparel implementing regulations to clarify a number of issues that arose after their original publication.

DATES: Interim rule effective March 21, 2003; comments must be submitted by May 20, 2003.