

## § 10.211

and which is wholly the growth, product, or manufacture of a single beneficiary country as defined in § 10.202(a), a statement to that effect shall be included on the commercial invoice provided to Customs.

(c) *Shipments covered by an informal entry.* The normal procedure for filing a claim for duty-free treatment as set forth in paragraph (a) of this section need not be followed, and the filing of the declaration provided for in paragraph (b)(1)(i) of this section will not be required, in a case involving a shipment covered by an informal entry. However, the port director may require submission of such other evidence of entitlement to duty-free treatment as deemed necessary.

(d) *Evidence of direct importation—(1) Submission.* The port director may require that appropriate shipping papers, invoices, or other documents be submitted within 60 days of the date of entry as evidence that the articles were “imported directly”, as that term is defined in § 10.204.

(2) *Waiver.* The port director may waive the submission of evidence of direct importation when otherwise satisfied, taking into consideration the kind and value of the merchandise, that the merchandise was, in fact, imported directly and that it otherwise clearly qualifies for duty-free treatment under the ATPA.

(e) *Verification of documentation.* The documentation submitted under this section to demonstrate compliance with the requirements for duty-free treatment under the ATPA shall be subject to such verification as the port director deems necessary. In the event that the port director is prevented from obtaining the necessary verification, the port director may treat the entry as fully dutiable.

### Subpart D—Textile and Apparel Articles Under the African Growth and Opportunity Act

SOURCE: T.D. 00-67, 65 FR 59676, Oct. 5, 2000, unless otherwise noted.

#### § 10.211 Applicability.

Title I of Public Law 106-200 (114 Stat. 251), entitled the African Growth and Opportunity Act (AGOA), author-

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izes 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 beneficiary countries. The provisions of §§ 10.211-10.217 of this part set forth the legal requirements and procedures that apply for purposes of obtaining preferential treatment pursuant to section 112.

#### § 10.212 Definitions.

When used in §§ 10.211 through 10.217, the following terms have the meanings indicated:

*Apparel articles.* “Apparel articles” means goods classifiable in Chapters 61 and 62 and headings 6501, 6502, 6503, and 6504 and subheadings 6406.99 and 6505.90 of the HTSUS.

*Assembled in one or more beneficiary countries.* “Assembled in one or more beneficiary countries” when used in the context of a textile or apparel article has reference to a joining together of two or more components that occurred in one or more beneficiary countries, whether or not a prior joining operation was performed on the article or any of its components in the United States.

*Beneficiary country.* “Beneficiary country” means a country listed in section 107 of the African Growth and Opportunity Act (19 U.S.C. 3706) which has been the subject of a finding by the President or his designee, published in the FEDERAL REGISTER, that the country has satisfied the requirements of section 113 of the African Growth and Opportunity Act (19 U.S.C. 3722) and which the President has designated as a beneficiary sub-Saharan African country under section 506A of the Trade Act of 1974 (19 U.S.C. 2466a).

*Cut in one or more beneficiary countries.* “Cut in one or more beneficiary countries” when used with reference to apparel articles means that all fabric components used in the assembly of the article were cut from fabric in one or more beneficiary countries.

*Foreign.* “Foreign” means of a country other than the United States or a beneficiary country.

*HTSUS.* “HTSUS” means the Harmonized Tariff Schedule of the United States.

*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.”

*Major parts.* “Major parts” means integral components of an apparel article but does not include collars, cuffs, waistbands, plackets, pockets, linings, paddings, trim, accessories, or similar parts or components.

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

*Originating.* “Originating” means having the country of origin determined by application of the provisions of § 102.21 of this chapter.

*Preferential treatment.* “Preferential treatment” means entry, or withdrawal from warehouse for consumption, in the customs territory of the United States free of duty and free of any quantitative limitations as provided in 19 U.S.C. 3721.

*Wholly assembled in.* When used with reference to a textile or apparel article in the context of one or more beneficiary countries or one or more lesser developed beneficiary countries, the expression “wholly assembled in” means that all of the components of the textile or apparel article (including thread, decorative embellishments, buttons, zippers, or similar components) were joined together in one or more beneficiary countries or one or

more lesser developed beneficiary countries.

*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.

[T.D. 00-67, 65 FR 59676, Oct. 5, 2000; 65 FR 67260, Nov. 9, 2000, as amended by T.D. 03-15, 68 FR 13824, Mar. 21, 2003]

#### **§ 10.213 Articles eligible for preferential treatment.**

(a) *General.* The preferential treatment referred to in § 10.211 applies to the following textile and apparel articles that are imported directly into the customs territory of the United States from a beneficiary country:

(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