



April 30, 2007

U.S. International Trade Commission  
500 E Street, SW  
Room 112  
Washington, DC 20436

REF: 72 FR 8624 (Investigations Relating to Commercial Availability Under the Africa Growth and Opportunity Act (AGOA)) Docket Number (MISC 023)

To Whom It May Concern:

On behalf of the American Apparel & Footwear Association – the national trade association of the apparel and footwear industries – I am writing to comment on the subject investigation and request for comments concerning AGOA commercial availability requests.

We represent several apparel companies that produce apparel in, or import apparel from, Africa under the AGOA. As a result, we have very keen interest in making sure the AGOA operates effectively in such a way as to maximize textile and apparel trade.

We are pleased that the Commission has moved forward quickly to publish rules on this matter. The so-called abundant supply provisions in the AGOA have caused some confusion in the trade so any effort to develop and implement a predictable and easy-to-understand process is welcome. However, at the same time, we urge the Commission to exercise caution to make sure that its implementation of this provision is done in accordance with Congressional intent.

It is with this in mind that we are offering several specific comments to the draft regulations the Commission proposed on February 27, 2007.

It is our understanding that fabrics or yarns will be designated by the Commission as being in abundant supply (i.e., available in commercial quantities for use by lesser developed beneficiary sub-Saharan African countries) only if the Commission makes an affirmative determination each year with respect to that fabric and yarn. Moreover, such determinations (and the quantities those determinations reflect) will only remain in effect for a single applicable one-year period (such as October 1, 2007 to September 30, 2008) unless the determination is renewed for an additional one-year period.

The Commission's regulations do not make clear that, each year, the Commission will review each active abundant supply determination in addition to receiving new petitions. While the statute is clear that the Commission is making determinations every year for single applicable one-year periods, the regulations do not make this clear. Accordingly, ***we urge that the regulations be amended to clarify that this is an annual exercise for every determination.***

In addition, we believe the ***definition of who can file petitions should be expanded to include importers of garments from sub-Saharan Africa or associations representing those companies.*** Nothing in the legislative language or history precludes such petitioners. However, the wording in the Commission's rule suggests that the preference is for foreign manufacturers. While we understand the Commission's wording reflects a parenthetical expression in the statute, we believe the regulations should be more expansive to clarify that petitioners are not restricted to just foreign manufacturers.

Similarly, we believe the Commission should modify the regulations to ensure that ***any interested party, including apparel importers or associations representing such companies, can submit comments in response to any investigation,*** whether the investigations are for new petitions or to review existing abundant supply determinations.

We believe ***the regulations should clarify that the Commission will accept petitions that certain fabrics and yarns are not available or no longer available*** in commercial quantities. As we read the interim regulations, it is apparent that the Commission will entertain petitions alleging that fabrics and yarns are available, but it is unclear that the Commission will entertain petitions that such fabrics are no longer available or are not available in previously identified quantities. Modifying the regulations to permit such petitions would, in our judgment, align the regulations more closely with Congressional intent.

The regulations require data collection that may not provide enough evidence for the Commission to make an informed decision. Specifically, the product description in the regulations permits an 8-digit classification. ***The regulations should be modified to require a 10-digit tariff classification*** as this is the only way to guarantee the kind of specificity needed to make an accurate assessment of fabric availability.

Moreover, ***the regulations should solicit qualitative information*** from petitioners so the Commission can evaluate, not only if a certain quantity of a fabric or yarn is available in sub-Saharan Africa, but whether that fabric or yarn can actually be used by customers who wish to import garments made with those inputs back to the United States. The statute very clearly provides for a "use" test that, in our opinion, requires some assessment as to whether a particular fabric or yarn meets a quality or other performance requirement established by an apparel manufacturer, importer, or retailer.

Finally, we believe ***the regulations should specify that the Commission will not entertain any petitions seeking an affirmative determination with respect to fabrics or yarns found to be in short supply.*** We believe such a clarification will ensure consistency with another program on which Commission staff are involved and lead to more predictability for the AGOA trade program overall.

We note that the Commission has already instituted a renewal investigation with respect to denim. We have provided Commission staff with contact information for major purchasers of denim apparel in sub-Saharan Africa and would expect to offer further comments on this particular investigation at the appropriate time.

Should you have additional questions, please contact me at 703-797-9041.

Sincerely,

A handwritten signature in black ink, appearing to read "Stephen Lamar", written in a cursive style.

Stephen Lamar  
Executive Vice President