

**Denim Fabric: Use in AGOA Countries
During Fiscal Year 2007**

Investigation No. AGOA-002

Publication 4021

July 2008

U.S. International Trade Commission



Washington, DC 20436

U.S. International Trade Commission

COMMISSIONERS

Shara L. Aranoff, Chairman
Daniel R. Pearson, Vice Chairman
Deanna Tanner Okun
Charlotte R. Lane
Irving A. Williamson
Dean A. Pinkert

Robert A. Rogowsky
Director of Operations

Robert B. Koopman
Director of Economics

Karen Laney-Cummings
Director, Office of Industries

Address all communications to
Secretary to the Commission
United States International Trade Commission
Washington, DC 20436

U.S. International Trade Commission

Washington, DC 20436
www.usitc.gov

Denim Fabric: Use in AGOA Countries During Fiscal Year 2007

Investigation No. AGOA-002

Publication 4021



July 2008

This report was prepared principally by the Offices of Economics and Industries

Co-project Leaders

Justino De La Cruz (justino.delacruz@usitc.gov)

Dawn Heuschel (dawn.heuschel@usitc.gov)

Office of Economics

William Greene and Cindy E. Cohen

Office of Industries

Jackie Jones, Andrea Boron, and Kimberlie Freund

Attorney

William W. Gearhart

Primary Reviewers

Joanna Bonarriva and William Deese

Office of Tariff Affairs and Trade Agreements

Janis Summers

Economic Assistance

Patricia M. Thomas

Under the direction of

Arona Butcher, Chief, Country and Regional Analysis Division

Dennis Rapkins, Chief, Chemicals and Textiles

CONTENTS

	<i>Page</i>
Determination	1
Background	1
Views of Commission	3
Information Obtained in the Investigation	SR-1
Introduction.....	SR-1
The subject product.....	SR-2
Information pertaining to U.S. imports of subject denim fabric.....	SR-4
U.S. imports of subject denim fabric.....	SR-4
U.S. importers of subject apparel.....	SR-8
LDB SSA manufacturers of apparel made using the subject denim fabric.....	SR-10

Tables

Table 1	Reported data and staff estimates of subject denim fabric used in the production of U.S. imports of apparel, fiscal year 2007.....	SR-6
Table 2	Coefficient ranges for converting apparel items to SMEs, SMEs per dozen, as reported by firms.....	SR-7
Table 3	Data reported by U.S. importers and LDB SSA apparel manufacturers of subject denim fabric used in the production of U.S. imports of apparel, fiscal year 2007....	SR-7
Table 4	Reported data and staff estimates of subject denim fabric used in the production of U.S. imports of “seconds” apparel, fiscal year 2007.....	SR-9
Table 5	U.S. imports of apparel made with the subject denim fabric, by apparel items.....	SR-10
Table C	U.S. imports of textiles and apparel under AGOA from leading LDB SSA suppliers, by quantity.....	C-3
Table D	U.S. imports of certain apparel, including subject denim apparel, from LDB SSA countries, 2003–07.....	D-3
Table F	Reported data and staff estimates of subject denim fabric used in the production of U.S. imports of apparel, fiscal year 2007.....	F-3

Appendices

A.	<i>Federal Register</i> notice.....	A-1
B.	African Growth and Opportunity Act Amendments (H.R. 6111).....	B-1
C.	U.S. Imports of Textiles and Apparel from Leading LDB SSA Suppliers.....	C-1
D.	U.S. Imports of Certain Apparel from LDB SSA Suppliers.....	D-1
E.	List of Hearing Participants.....	E-1
F.	Reported data and staff estimates of U.S. imports of apparel made with the subject denim fabric, fiscal year 2007.....	F-1

Determination

Based on the information developed in the subject investigation, the United States International Trade Commission determines, pursuant to section 112(c)(2)(B)(iii) of the African Growth and Opportunity Act (AGOA),¹ that the quantity of denim fabric² produced in beneficiary sub-Saharan African (SSA) countries for use by lesser-developed beneficiary (LDB) SSA countries that was used in the production of apparel articles receiving U.S. preferential treatment during the period October 1, 2006 - September 30, 2007 (fiscal year 2007) was 21,120,000 square meter equivalents (SMEs).

Background

Section 112(c)(2)(B)(iii) of AGOA requires the Commission to determine, after the end of each year for which an availability determination is in effect, the extent to which the fabric or yarn determined to be available in commercial quantities for use in LDB SSA countries was used in the production of apparel articles receiving preferential treatment. To the extent that the quantity so determined was not so used, section 112(c)(2)(B)(iii) requires the Commission to add to the quantity of that fabric or yarn determined to be available in the next applicable 1-year period the quantity not so used in the preceding applicable 1-year period. Congress, in section 112(c)(2)(C) of AGOA, deemed the subject denim fabric to be available in commercial quantities for use in LDB SSA countries in the amount of 30 million SMEs during fiscal year 2007, as if the Commission had made such a determination.

Having determined that the quantity of subject denim fabric used in the production of apparel articles receiving preferential treatment during fiscal year 2007 (21,120,000 SMEs) was less than the 30 million SMEs deemed to be available by statute for that year, the Commission has added the shortfall of 8,880,000 SMEs to the quantity of subject denim fabric that it previously determined will be so available during fiscal year 2008 (21,303,613 SMEs).³ The adjusted quantity of subject denim fabric that will be so available during fiscal year 2008 is 30,183,613 SMEs.

Notice of the institution of the Commission's investigation and of the scheduling of a public hearing in connection therewith was given by posting a copy of the notice on the Commission's web site (www.usitc.gov) and by publishing the notice in the *Federal Register* of December 3, 2007 (72 F.R. 67961). The hearing was held on April 9, 2008, in Washington, D.C.; all persons who requested the opportunity were permitted to appear in person or by counsel.

¹ 19 U.S.C. 3721(c)(2)(B)(iii).

² Denim articles provided for in subheading 5209.42.00 of the Harmonized Tariff Schedule. See section 112(c)(2)(C) of AGOA, 19 U.S.C. 3721(c)(2)(C).

³ See the Commission's determination in investigation No. AGOA-001, *Commercial Availability of Fabric & Yarn in AGOA Countries: Certain Denim*, Publication 3950 (Sept. 2007) at 1.

VIEWS OF THE COMMISSION

DETERMINATION

Based on the information before us, we have determined that the quantity of subject denim fabric¹ that was used in the production of apparel articles in lesser developed beneficiary (LDB) sub-Saharan African (SSA) countries receiving U.S. preferential treatment during the period October 1, 2006 - September 30, 2007 (fiscal year 2007) was 21,120,000 square meter equivalents (SMEs).

I. BACKGROUND AND STATUTORY OVERVIEW

This is the first determination that the Commission has been required to make under section 112(c)(2)(B)(iii) of the African Growth and Opportunity Act (AGOA)² since section 112(c) was amended in December 2006 to provide for Commission investigations and determinations. Section 112(c)(2)(B)(iii) of AGOA requires the Commission to determine the extent to which the quantity of fabric or yarn determined to be available for use by LDB SSA countries during the preceding fiscal year was used in the production of apparel receiving U.S. preferential (duty-free) treatment under AGOA during that fiscal year. To the extent that such available fabric or yarn was not used, the Commission must add the unused amount to the quantity that it determined will be available for such use during the next fiscal year.³

In the case of denim, Congress in section 112(c)(2)(C) of AGOA deemed denim fabric provided for in subheading 5209.42.00 of the Harmonized Tariff Schedule to be available in commercial quantities for such use in LDB SSA countries in the amount of 30 million square meter equivalents (SMEs) during fiscal year 2007, as though a petition had been filed under section 112(c)(2)(A) of AGOA and the Commission had determined that such denim fabric would be available in that amount. In this proceeding, the Commission must determine the extent to which the quantity of denim fabric deemed to

¹ For the purpose of this determination, subject denim fabric means denim articles provided for in subheading 5209.42.00 of the Harmonized Tariff Schedule (HTS) produced in beneficiary sub-Saharan African countries for use by lesser developed beneficiary sub-Saharan African (SSA) countries in the production of apparel articles receiving U.S. preferential treatment during the period October 1, 2006 - September 30, 2007 (fiscal 2007). See section 112(c)(2)(C) of AGOA, 19 U.S.C. 3721(c)(2)(C).

² 19 U.S.C. 3721(c)(2)(B)(iii).

³ Section 112(c)(2)(B)(iii) provides as follows:

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

be available for use by LDB SSA countries was actually used in the production of apparel articles receiving U.S. preferential treatment during fiscal year 2007.

In addition to the denim fabric which is the subject of this investigation, the statute defines a number of other terms, including “beneficiary sub-Saharan African country”⁴ and the term “lesser developed beneficiary sub-Saharan country.”⁵ It also defines the term “1-year period” to mean October 1-September 30.⁶ However, it does not define other key terms such as “available,” “commercial quantities,” “use,” or “used in the production,” nor does it set out factors to be considered or a method to be followed by the Commission in interpreting these terms. The Commission sought to define a number of these terms in its written views in connection with its first determination under these provisions in September 2007, with respect to the availability, and quantity available, of subject denim fabric during fiscal year 2008.⁷

In this investigation, the Commission must determine the extent to which the quantity of subject denim fabric deemed to be available during fiscal year 2007 was “used in the production” of apparel articles receiving preferential treatment. Neither the statute nor its legislative history defines the term “used in the production.” However, we believe the meaning of the term is clear from the statutory context. We believe that the term encompasses not only the subject fabric contained within the apparel articles receiving preferential treatment under AGOA, but also waste fabric from the cutting process and “extra” fabric to offset fabric defects or cutting errors, to ensure sufficient fabric to complete an order. Accordingly, in calculating the quantity of subject denim fabric used in the production of apparel articles receiving preferential treatment during fiscal year 2007, we have included both the fabric contained in the apparel articles per se that received preferential treatment, waste, and “extra” subject denim fabric relating to the apparel making process.

II. DETERMINATION OF EXTENT TO WHICH THE SUBJECT DENIM FABRIC WAS USED IN THE PRODUCTION OF APPAREL RECEIVING U.S. PREFERENTIAL TREATMENT DURING FISCAL YEAR 2007

Arguments of the parties. The African Coalition for Trade (ACT), whose membership reportedly includes all SSA denim fabric producers and many of the leading SSA denim apparel producers,⁸ filed pre-hearing and post-hearing briefs and provided testimony at the Commission’s public hearing on April 9, 2008. ACT said that its members reported that about 22.3 million SMEs of subject denim fabric were sold to or consumed in LDB SSA countries during fiscal year 2007.⁹ ACT said that this amount was based on information reported by Nien Hsing Textile Company, which ACT said was by far the largest denim fabric producer in Africa during fiscal year 2007 and the only producer whose

⁴ The term is defined in section 112(f)(2) of AGOA to have the same meaning as under 19 U.S.C. 2466a(c) (19 U.S.C. 3721(f)(2)).

⁵ The term is defined in section 112(c)(5)(D) of AGOA to mean countries with a per capita GNP of less than \$1,500 in 1998 as measured by the International Bank for Reconstruction and Development, Botswana, and Namibia (19 U.S.C. 3721(c)(5)(D)).

⁶ 19 U.S.C. 3721(c)(5)(A).

⁷ See Views of the Commission in investigation No. AGOA-001, *Commercial Availability of Fabric & Yarns in AGOA Countries: Certain Denim*, USITC Pub. 3950 (Sept. 2007) at 5-10.

⁸ Transcript of Commission hearing, April 9, 2008 (hereafter hearing transcript) at 6 (Ryberg).

⁹ Hearing transcript at 7, 10 (Ryberg).

production it could document was consumed in LDB SSA countries during that year.¹⁰ ACT expressed the view that it is possible that the total volume “was somewhat larger” than 22.3 million SMEs because that number did not include some denim fabric produced by CGM during fiscal year 2007, and also did not include denim fabric produced during an earlier year and that was used in the production of denim apparel that received preferential treatment during fiscal year 2007.¹¹ Nien Hsing claimed that the quantity of subject denim fabric used in LDB SSA countries during fiscal year 2007 was “at least” 22.3 million SMEs, “plus whatever volume of denim was produced by the other African denim manufacturers and sold to garment makers in the AGOA LDCs.”¹²

Finding and analysis. Based on the information obtained in the investigation, we have determined that the quantity of subject denim fabric used in the production of apparel articles receiving preferential treatment during fiscal year 2007 was 21,120,000 SMEs. We based this finding primarily on questionnaire responses received from U.S. importers of apparel made from the subject denim fabric as well as responses from beneficiary SSA producers of subject denim fabric and LDB SSA producers of apparel containing such fabric. In some cases we adjusted reported data based on verification of importer and producer data. We also took into account the information and arguments provided by the interested parties in this proceeding.¹³

In this investigation the Commission sent questionnaires to 99 U.S. importers that had reported imports from LDB SSA manufacturers under various HTS provisions, which it viewed as the group of importers most likely to have imported apparel articles produced from the subject denim fabric during fiscal year 2007. The Commission received responses from 74 of those U.S. importers. The Commission was able to identify 21 firms that imported, or reasonably could have imported, apparel articles containing the subject denim fabric. Accordingly, we focused our analysis on information provided by those 21 firms.

The Commission divided this group of 21 firms into four groups based on how the firms reported their data and the Commission’s ability to verify that data. The five firms in Group 1 reported the quantity of subject denim fabric used in the apparel they imported from LDB SSA countries in linear yards/meters. The Commission converted these data into square meter equivalents using the average fabric widths reported by the respective firms, resulting in *** SMEs of subject denim fabric during fiscal year 2007, or slightly over one-half (***) percent of the total subject denim fabric we determined

¹⁰ Hearing transcript at 8 (Ryberg).

¹¹ Hearing transcript at 9 (Ryberg).

¹² Hearing transcript at 16 (Han).

¹³ In particular, we considered the views and information provided by ACT and Nien Hsing about the quantity of subject denim fabric used during fiscal year 2007. However, in making our determination, we used a methodology in calculating the fabric used which, in our view, more closely reflects the quantity of subject denim fabric used in the production of apparel articles receiving preferential treatment during fiscal year 2007. Moreover, our calculation includes subject denim fabric produced by CGM and contained in apparel articles receiving preferential treatment during fiscal year 2007. Finally, we are unaware of any information that would indicate that the quantity of subject denim fabric we determined was used during fiscal year 2007 is understated (or overstated) to any significant degree because of differences between the year in which fabric was available and the year in which it was used. The quantity of fabric available at the end of the fiscal year 2006 and used in the production of apparel articles receiving preferential treatment during fiscal year 2007 should be largely offset by fabric available at the end of fiscal year 2007 and used during fiscal year 2008.

was used in the production of apparel articles receiving U.S. preferential treatment during fiscal year 2007.¹⁴ The reported data included waste fabric.

The 11 firms in Group 2 reported the quantity of apparel articles (in dozens) containing subject denim fabric that they imported during fiscal year 2007 that received preferential treatment, and the estimated amount of fabric (in linear yards/meters) used in the production of that apparel.¹⁵ Based on this information, the Commission constructed firm-specific coefficients to convert apparel items to SMEs. However, each of the apparel items covered by the coefficients included a range of styles and sizes. Information available to the Commission indicates that the amount of fabric used in a given apparel item, such as men's jeans, can vary by as much as 20 percent above or below the estimate.¹⁶ In calculating the square meter equivalents for this group of firms, the Commission took into account this variability and found that it was reasonable to conclude that the quantity of subject denim fabric used was approximately 8,255,000 SMEs.¹⁷

The firms in Groups 3 and 4 reported their imports of apparel articles from LDB SSA countries, but could not confirm the country of origin of the denim fabric used in their production. The Commission used data reported by SSA fabric producers and LDB SSA apparel producers to substantiate and adjust the data provided by these firms.

The two firms in Group 3 reported that they imported apparel articles receiving preferential treatment during fiscal year 2007 that contained, as converted by the Commission, *** million SMEs of subject denim fabric. However, in response to Commission inquiries, both firms indicated that they could not document the quantity of subject denim fabric used in the apparel articles that they imported from LDB SSA countries, and consequently modified their reported quantity to zero. The Commission was subsequently able to confirm from two firms producing apparel in LDB SSA countries that those two

¹⁴ Staff Report (hereafter SR) at 5.

¹⁵ SR at 5.

¹⁶ SR at 7, Table 2.

¹⁷ Commissioner Lane and Commissioner Pinkert concur with all of the other Commissioners with respect to the determination of the quantity of subject fabric that was used by LDB SSA producers in fiscal year 2007. Nevertheless, they explain here the two-step process they employed in making that determination. In the first step, they derived a base estimate of the amount of fabric that was used. In the second step, they adjusted the base estimate upward to reflect importers' uncertainty regarding certain data that was used in deriving the base estimate.

They derived a base estimate of *** SMEs, which represented *** for Group 1, 6,879,000 SMEs for Group 2, *** SMEs for Group 3, and *** SMEs for Group 4. They then adjusted the figures for Groups 2 and 4 because of uncertainty in the underlying data. *See* Staff Report at Table F.

In determining the amount by which to adjust the base estimate, although they took into consideration the other gaps and discrepancies in the data discussed in the text, Commissioner Lane and Commissioner Pinkert focused on the fact that the importers expressed the uncertainty in their estimates in terms of ranges – the importers indicated that the relevant conversion factors can vary by as much as 20 percent for a given apparel article. Commissioners Lane and Pinkert find it appropriate in quantifying the adjustment to rely on the upper bound of the 20 percent range because (1) Congress deemed that 30 million SMEs is the amount of subject fabric that was available to LDB SSA producers in fiscal year 2007 and (2) the 30 million SME figure is very high relative to the preliminary data referenced in the Commission's views in investigation No. AGOA-001. In other words, they chose the highest reasonable estimate of the amount of subject fabric that was used in fiscal year 2007 in order to facilitate a consistent comparison between the amount of subject fabric that Congress deemed to be available during that time period and the amount that was actually used.

firms shipped finished apparel to the two firms in Group 3 during fiscal year 2007 that contain, on a converted basis, *** SMEs of subject denim fabric.¹⁸ Based on this information, we conclude that these two firms imported apparel articles receiving preferential treatment during fiscal year 2007 containing *** SMEs of subject denim fabric.

The Commission was unable to substantiate the data for the three firms in Group 4, which imported “seconds.”¹⁹ The firms reported that they imported apparel from LDB SSA countries, but they were unable to confirm the origin of the denim fabric used in the production of the apparel. Based on several sources of information, including information provided by two LDB SSA producers of apparel that use subject denim fabric in the production of apparel,²⁰ and using a method and rationale similar to that used for Group 2 firms, we were able to estimate that the quantity of subject denim fabric used in the production of apparel articles imported by these three firms and receiving preferential treatment during fiscal year 2007 was *** SMEs.

Based on the information and calculations described above, we conclude that the quantities of subject denim fabric contained in the apparel articles receiving preferential treatment imported by firms in each of the four groups during fiscal year 2007 are as set forth in the following table. Given the levels of uncertainty expressed by fabric and apparel producers and importers, the discrepancies among data sources, and inherent data gaps (which were difficult to quantify but tended to bias the estimate downward), we considered it reasonable to compensate for this bias by using the upper bound value for the total estimated range (which is derived from the two groups with quantified variability, Groups 2 and 4).

	Quantity (SMEs)
Group 1 - reported fabric quantity	***
Group 2 - reported apparel units converted to fabric	8,255,000
Group 3 - based on cross referenced fabric quantity	***
Group 4 - based on cross referenced apparel units converted to fabric	***
Total	21,120,000

III. ADDITION TO QUANTITY OF SUBJECT DENIM FABRIC AVAILABLE DURING FISCAL YEAR 2008

Section 112(c)(2)(B)(iii) provides that if the Commission determines that the quantity of fabric or yarn earlier determined to be available was not used in the production of apparel articles receiving preferential treatment, it must add that quantity to the quantity of fabric or yarn that will be available during the next fiscal year. In September 2007, the Commission determined that 21,303,613 SMEs of subject denim fabric will be available during fiscal year 2008 for use by LDB SSA countries in the production of apparel articles receiving preferential treatment.²¹ Having determined that 21,120,000

¹⁸ SR at 6-8.

¹⁹ SR at 8. The term “seconds” refers to items which were not purchased by the intended original buyer for various reasons (quality, defects, and so forth). Id. at note 28.

²⁰ SR at 9 and Table 4.

²¹ 72 F.R. 56382 (Oct. 3, 2007).

SMEs of the 30 million SMEs of subject denim fabric deemed to be available were used in the production of apparel articles receiving preferential treatment during fiscal year 2007, the Commission must add the remaining 8,880,000 SMEs to the quantity that it determined will be available during fiscal year 2008. As a result, we have increased the quantity of subject denim fabric that will be so available during fiscal year 2008 to 30,183,613 SMEs.

Section 112(c)(2)(D) provides the President with certain authority and direction with respect to the removal from eligibility for preferential treatment of apparel articles made from so-called third-country fabric or yarn when beneficiary SSA country fabric or yarn is found to be available for use in LDB SSA countries in the production of such apparel, but is not so used. At the Commission's public hearing on April 9, 2008, several of the participating parties expressed concern that the Commission was likely to find that the quantity of subject denim fabric used during fiscal year 2007 was much less than the 30 million SMEs deemed by the statute to have been available, and that this will lead to the removal of preferential treatment for apparel made from third-country denim fabric. According to these parties, this will lead to the loss of the ability of LDB SSA apparel producers to use a combination of regional and third-country fabric in their apparel operations to meet customer needs and result in a closing of apparel plants and loss of jobs. For example, ACT said that it is "almost inescapable" that there is going to be a shortfall because "there isn't, according to the data our members have supplied us, enough African-origin denim production available in the AGOA LDCs to meet that use obligation."²² ACT said that this loss of preferential treatment for apparel produced in LDB SSA countries was not what Congress intended to happen.²³ ACT also noted that apparel producers in some LDB SSA countries, such as Sierra Leone, that have just recently begun to export denim apparel to the United States using third-country denim fabric are not likely to survive if apparel made from third-country denim fabric is no longer eligible for U.S. preferential treatment.²⁴

Nien Hsing expressed similar concerns about the possibility that jeans and other apparel made in LDB SSA countries with third-country denim might lose their eligibility for duty-free treatment. Nien Hsing said that this possibility has already caused some U.S. jeans importers to reduce or even suspend their orders in Africa.²⁵ CGM Group said that the possibility of the loss of preferential treatment for denim apparel made from third-country denim fabric was threatening the long-term viability of denim apparel production in SSA countries. CGM said that decisions about the fabric to be used in an apparel article are made by the apparel buyer, and that most of its buyers specify a third-country denim fabric. CGM indicated that some of its key buyers have already pulled out of the region and others have given notice that they will not place orders in the region after December 2008.²⁶

During the course of the Commission's hearing, both ACT and Nien Hsing invited the Commission to explore ways in which it might adjust the numbers to eliminate or reduce the shortfall. For example, ACT asked that the Commission "explore all options" for ameliorating the potential loss of duty-free treatment for denim apparel made from third-country fabric.²⁷ Nien Hsing said that the data

²² Hearing transcript at 11 (Ryberg).

²³ Hearing transcript at 12 (Ryberg).

²⁴ Hearing transcript at 98-99 (Ryberg).

²⁵ Hearing transcript at 16-17 (Han).

²⁶ Hearing transcript at 20-21 (Moodley).

²⁷ Hearing transcript at 12 (Ryberg).

compiled by the Commission suggest that the quantity of subject denim fabric available during fiscal year 2007 was “much lower” than the 30 million SMEs deemed by Congress, and said that the Commission should consider adding the shortfall for fiscal year 2007 to the actual usage in fiscal 2007, to bring the total to 30 million SMEs.²⁸ However, we are unaware of a basis in the statute for making any such adjustment.

IV. FUTURE PROCEEDINGS

The Commission is in the process of completing a third investigation under section 112(c)(2)(B) of AGOA with respect to the availability of the subject denim fabric during fiscal year 2009, and the quantity available. That investigation, No. AGOA-003, has been conducted almost concurrently with this investigation, and the Commission held a joint hearing for both investigations on April 9, 2008. The Commission expects to announce its determination in investigation No. AGOA-003 on or about August 1, 2008. Shortly after the end of fiscal year 2008 (September 30, 2008), the Commission will be required to conduct a fourth investigation under section 112(c)(2) similar to the present investigation (No. AGOA-002), to determine the extent to which the subject denim found to be available during fiscal year 2008 was used in the production of apparel articles receiving preferential treatment during fiscal year 2008.

V. CONCLUSIONS

For the reasons stated we have determined that the subject denim produced in beneficiary sub-Saharan African (SSA) countries that was used in the production of apparel articles in lesser developed beneficiary (LDB) SSA countries and imported into the United States during fiscal year 2007 was 21,120,000 square meter equivalents.

²⁸ Hearing transcript at 17 (Han).

Information Obtained in the Investigation⁴

Introduction

On December 20, 2006, the President signed into law amendments to section 112(c) of the African Growth and Opportunity Act (AGOA) (19 U.S.C. 3721(c)) that require the Commission to make certain determinations regarding the availability of regional sub-Saharan African (SSA) fabric or yarn, and the quantity used, in lesser developed beneficiary (LDB) SSA countries in the production of apparel for the U.S. market.⁵ The Commission's determinations are part of a "third-country fabric" provision in AGOA that permits apparel produced in LDB SSA countries from third-country fabric or yarn (generally, non-U.S. and non-regional SSA fabric or yarn) to enter the United States free of duty through 2012, subject to an annual cap.⁶ The statute authorizes the President to deny U.S. duty-free treatment to apparel made from third-country fabric or yarn when qualifying regional fabric is found to be available but is not used in the production of such apparel.

Section 112(c)(2)(A)-(B) of AGOA potentially requires the Commission to make three types of determinations:

1. in response to a petition filed by an interested party, whether a fabric or yarn produced in beneficiary SSA countries is available in commercial quantities for use by LDB SSA countries, and if so, the quantity that will be available in the following fiscal year (October 1-September 30);
2. if the Commission makes an affirmative determination, then in each year thereafter through 2012, whether such fabric or yarn produced in beneficiary SSA countries will be available in commercial quantities in the following fiscal year for use by LDB SSA countries, and if so, the quantity that will be available; and
3. after the end of each such fiscal year during which a determination is in effect, the extent to which the quantity of fabric or yarn determined to be so available in the preceding year was used in the production of apparel articles that received U.S. preferential treatment under this provision in that fiscal year; to the extent that the quantity determined to be available in the preceding year was not so used, the Commission must add that quantity to the quantity of fabric or yarn determined to be available in the next fiscal year.

This report provides information relating to the third type of determination that the Commission is required to make under the statute, in this case with respect to the quantity of qualifying denim fabric that was used during fiscal year 2007 in LDB SSA countries in the production of apparel articles receiving U.S. duty-free treatment under AGOA during

⁴ The Commission instituted the investigation on December 3, 2007. See Appendix A for *Federal Register* notice.

⁵ See Appendix B for background information on the African Growth and Opportunity Act.

⁶ Whereas apparel made of the subject denim fabric enters free of duty under AGOA, the general ad-valorem rates of duty for the subject denim apparel articles range from 8.2 percent for women's skirts to 16.6 percent for women's and men's jeans.

that fiscal year. This determination will be the Commission's second under the statute with respect to denim. In September 2007, the Commission determined that such denim will be available in commercial quantities during fiscal year 2008 in the amount of 21,303,613 square meter equivalents (SMEs).⁷ The Commission was not required in this instance to make the first type of determination, as Congress in section 112(c)(2)(C) of AGOA deemed denim fabric (defined as denim articles provided for in subheading 5209.42.00 of the U.S. Harmonized Tariff Schedule (HTS)) to be available in the amount of 30 million SMEs for fiscal year 2007 as if the Commission had made an affirmative determination under section 112(c)(2)(A) that such denim is available in beneficiary SSA countries in commercial quantities for use by LDB SSA countries, and a determination as to the quantity available.

The Subject Product

The denim fabric that is the focus of this investigation must satisfy the following three criteria:

- it is classifiable under subheading 5209.42.00 of the HTS, which covers woven fabrics of cotton, containing 85 percent or more by weight of cotton, and weighing more than 200 grams per square meter, of yarns of different colors;
- it is produced in an SSA country eligible for AGOA apparel preferences;⁸ and
- it is available for use by a producer in an LDB SSA country in the production of apparel receiving U.S. preferential treatment under AGOA.⁹

Hereafter, the denim fabric that meets these criteria is referred to as “subject denim fabric,” and the denim apparel produced from subject denim fabric and receiving U.S. preferential treatment under AGOA is referred to as “subject apparel.”

Subject denim fabric can be of several types, all of which are woven denim fabric that satisfy the criteria in the statute and are classified in subheading 5209.42.00 of the HTS. Variations include the use of different types of yarn (i.e., ring-spun versus open-end), weaves, and dyes.¹⁰ A subheading note to chapter 52 defines “denim” for purposes of this subheading, “For the purposes of subheadings 5209.42 and 5211.42, the expression “denim” means fabrics of yarns of different colors, of 3-thread or 4-thread twill, including broken twill, warp faced, the warp yarns of which are of one and the same color and the weft yarns of which are unbleached, bleached, dyed grey or colored a lighter shade of the color of the

⁷ U.S. International Trade Commission (USITC). *Commercial Availability of Fabric and Yarns in AGOA Countries: Certain Denim*, USITC Publication 3950. Washington, DC: USITC, 2007, 1. <http://hotdocs.usitc.gov/docs/pubs/agoa/pub3950.pdf>.

⁸ The 26 SSA countries eligible for AGOA apparel preferences include Benin, Botswana, Burkina Faso, Cameroon, Cape Verde, Chad, Ethiopia, Ghana, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Swaziland, Tanzania, Uganda, and Zambia.

⁹ The 24 lesser-developed SSA countries eligible for the special rule for apparel include all of the aforementioned countries except South Africa and Mauritius.

¹⁰ For more information on the subject denim fabric, see USITC, *Commercial Availability of Fabric and Yarns in AGOA Countries: Certain Denim*, 2007.

warp yarns.”¹¹ Industry sources indicate that SSA fabric producers have the ability to produce a variety of denim fabrics.

Subject apparel has many variations. Manufacturers may apply numerous types of finishes after the fabric is cut and sewn into apparel. For example, denim jeans may be rinsed and/or stonewashed, or stonewashed with bleach and/or enzymes. In addition, denim jeans may be subjected to any number of dry processing applications, which are often done by hand.

Apparel imports produced from the subject denim fabric consist primarily of jeans, shorts, skirts, and jackets, and may include a limited quantity of playsuits and overalls, all of which are items classified in chapter 62 of the HTS under a variety of statistical reporting numbers.¹² These HTS statistical reporting numbers also include apparel made from other woven fabrics.

In 2007,¹³ in terms of quantity of fabric, U.S. imports of textiles and apparel from beneficiary SSA countries, made using both regional and third-country fabric, totaled 345.7 million SMEs.¹⁴ Of these, U.S. imports entering under AGOA preferences (HTS 9819) amounted to 326.7 million SMEs,¹⁵ of which imports from the three largest U.S. suppliers of apparel from LDB SSA countries (Lesotho, Kenya, and Madagascar) composed 72 percent or 234.8 million SMEs by quantity (see Appendix C).

In 2007,¹⁶ in terms of value, U.S. imports of apparel from LDB SSA countries under the various HTS statistical reporting numbers that could include the subject apparel totaled \$431.7 million (see Appendix D).¹⁷ Lesotho, Kenya, and Madagascar accounted for 89 percent (\$386.3 million) of these imports.

Official statistics reflecting U.S. imports from LDB SSA countries of subject apparel, from July to December 2007 (the period during fiscal year 2007 for which data are available), suggest that 2.6 million SMEs were entered under the special classification provision HTS 9819.15.10.¹⁸ This provision was implemented in July 2007 to monitor U.S. imports of the subject apparel; however, U.S. importers of denim apparel are not required to enter the subject products under this classification number in order to receive preferential tariff treatment. Instead, U.S. importers of the subject apparel have continued to classify most of their imports under the appropriate subheadings in chapter 62 of the HTS, but the duty-free

¹¹ Subheading Note 1, chapter 52, *Harmonized Tariff Schedule of the United States* (2008) (Rev. 2), p. 52-1.

¹² Apparel made of the subject denim may be classified under the following HTS statistical reporting numbers: 6201.92.2031, 6201.92.2041, 6201.92.2051, 6201.92.2061, 6202.92.2061, 6202.92.2071, 6203.32.2030, 6203.42.4011, 6203.42.4016, 6203.42.4031, 6203.42.4036, 6203.42.4041, 6203.42.4046, 6203.42.4051, 6203.42.4056, 6203.42.4061, 6204.52.2030, 6204.52.2040, 6204.52.2070, 6204.52.2080, 6204.62.4011, 6204.62.4021, 6204.62.4036, 6204.62.4041, 6204.62.4046, 6204.62.4051, 6204.62.4056, 6204.62.4061, 6204.62.4066, and 6206.30.3041.

¹³ Data are for January 1, 2007-December 31, 2007. Data by quantity of textiles and apparel in SMEs for fiscal year 2007 are not available.

¹⁴ U.S. Department of Commerce, Office of Textiles and Apparel, U.S. Imports Under Trade Preference Programs. <http://otexa.ita.doc.gov/msrpoint.htm> (accessed May 21, 2008). The 30 million SMEs of denim fabric deemed to be commercially available in the AGOA statute represents 9 percent of these imports.

¹⁵ *Ibid.* Approximately 90 percent (295.6 million SMEs) of these imports were made in LDB SSA countries using third-country fabric. However, these data (i.e., the 295.6 million SMEs classified under HTS 9819.11.12) also include some apparel produced using regional fabric.

¹⁶ Data are for January 1, 2007-December 31, 2007.

¹⁷ USITC Dataweb. These data are not available in terms of SMEs.

¹⁸ These subject imports consisted of trousers sourced from Lesotho.

treatment was claimed under other provisions of subchapter XIX of chapter 98 rather than under HTS 9819.15.10. Consequently, the quantity of the subject apparel entering the United States under HTS 9819.15.10 is likely substantially understated given that these U.S. imports reflected only a small fraction of the 30 million SMEs of subject denim fabric noted as commercially available in the AGOA statute.

Commission staff did not identify any public data source that provides the quantity of subject apparel imports that entered the United States.¹⁹ Therefore, Commission staff obtained information directly from U.S. importers via questionnaire responses, telephone interviews, and e-mail correspondence. Commission staff also obtained information from LDB SSA manufacturers of subject apparel and beneficiary SSA producers of subject denim fabric.

Information Pertaining to U.S. Imports of Subject Denim Fabric

U.S. Imports of Subject Denim Fabric

The Commission sent questionnaires to 99 potential U.S. importers of the subject apparel. These firms reported apparel shipments from LDB SSA manufacturers under the various HTS provisions that could include subject apparel during fiscal year 2007.²⁰ The Commission asked importers to provide the following information: (1) the quantity of their imports of the subject apparel from LDB SSA countries during fiscal year 2007 and/or (2) the amount of subject denim fabric used in the production of that apparel.

The Commission received responses from 74 U.S. importers, a response rate of 76 percent.²¹ Many of the 74 respondents initially indicated that they imported apparel made from the subject denim fabric during fiscal year 2007. When Commission staff contacted importers to confirm the reported origin of the fabric used in the production of the apparel, Commission staff identified 21 firms that imported, or could reasonably have imported, the subject apparel. The remaining companies did not actually import the subject apparel, but generally indicated that they imported denim apparel from LDB SSA countries made from fabric sourced from a third country.²² Commission staff then analyzed information supplied

¹⁹ The U.S. government uses several classification systems to collect data on U.S. imports of apparel made of regional fabric in beneficiary SSA countries. One system includes the grouping classifications provided for in visa arrangements between the U.S. and the foreign governments of beneficiary SSA countries. Grouping 4 provides for apparel made only of U.S. or regional inputs (fabrics and yarns), while grouping 5 provides for apparel, regardless of where the component inputs (fabrics and yarns) are made. Thus, U.S. imports of the subject apparel could be classified in either grouping 4 or 5.

²⁰ The questionnaires were approved by OMB (OMB control no. 3117-0218). See footnote 9 for list of the HTS statistical reporting numbers.

²¹ The Commission received responses in the form of completed questionnaires or via phone or e-mail exchanges with U.S. importers. The Commission did not receive questionnaire responses from 15 firms. After examination of information supplied by LDB SSA apparel manufacturers relating to their U.S. customers, Commission staff concluded that it is unlikely that any of these 15 non-respondents imported subject apparel. Commission staff also accounted for 10 questionnaires that were either duplicates or returned as undeliverable.

²² Commission staff is not aware of apparel made using denim other than the subject denim fabric (classified in subheading 5209.42.00 of the HTS), produced in beneficiary SSA countries for use by LDB
(continued...)

by these 21 firms and questionnaires received from three LDB SSA apparel manufacturers as well as data from one additional LDB SSA apparel manufacturer, to confirm that these firms imported apparel made from subject denim fabric.²³ The respondents supplied data on the quantity of subject denim fabric used in the production of apparel receiving U.S. duty-free treatment either in terms of the quantity of subject denim fabric used in the production of such apparel or in terms of the quantity of subject apparel.

Of the 21 firms that reported imports of subject apparel, seven firms reported imports in terms of the amount of total fabric in linear yards or meters, and 14 firms reported data in terms of U.S. imports of quantities (in dozens) of apparel. Commission staff confirmed the origin of the subject denim fabric for five firms that reported data in terms of the amount of total fabric used, either with the firms themselves or with their LDB SSA apparel supplier(s) (group 1, table 1). In fiscal year 2007, U.S. imports of subject apparel from these firms, including *** totaled approximately *** of subject denim fabric (table 1). Commission staff calculated these data by converting the quantity of subject denim fabric reported by each firm from linear yards/meters and inches/centimeters to SMEs.

Similarly, Commission staff was also able to confirm the origin of the subject denim fabric for 11 firms, which reported the data in terms of quantity of apparel (in dozens) (group 2, table 1). Commission staff confirmed the data with either the firms themselves or with their LDB SSA apparel supplier(s). These 11 firms reported quantities of imports of subject apparel items (in dozens) and estimated the amount of fabric (in linear yards/meters and inches/centimeters) used in the production of that apparel. With this information, Commission staff constructed firm-specific coefficients to convert apparel items to SMEs.

Table 2 shows ranges of the coefficients (or conversion factors), by apparel items, for these 11 firms. These values vary across companies and apparel items due to differences in technology, sizes, fashion style, and fabric width, among other factors. Using these firm-specific conversion factors, Commission staff estimated that these firms' imports of the subject apparel amounted to approximately 6.9 million SMEs in fiscal year 2007 (table 1).

Commission staff also substantiated the data reported for two other firms— ***. In the case of ***, it initially reported in its questionnaire that its subject apparel imports amounted to *** (table 3). In response to Commission staff inquiry, *** that it did not import the subject apparel during fiscal year 2007.²⁴ However, *** reported in its questionnaire response that it shipped subject apparel to ***, but did not report how much subject apparel it shipped ***. In response to Commission staff inquiry, *** during fiscal year 2007,²⁵ ***, initially reported in its questionnaire that its subject apparel imports translated to ***. In response to Commission staff inquiry, *** subsequently *** indicated that it did not import the

²² (...continued)

SSA countries in the production of apparel entering under AGOA duty-free treatment.

²³ The Commission also identified the 21 firms by cross-referencing information collected through questionnaires from U.S. importers, LDB SSA apparel manufacturers, and SSA fabric producers.

²⁴ Industry official, e-mail to Commission staff, April 18, 2008.

²⁵ *** Industry official, interview by Commission staff, Maseru, Lesotho, May 21, 2008, and e-mail to Commission staff, May 28, 2008.

Table 1: Reported data and staff estimates of subject denim fabric used in the production of U.S. imports of apparel, fiscal year 2007 ^a

Firm	Quantity (1,000 SMEs ^b)		
	Reported	Estimate ^c	
		Lower-bound	Upper-bound
Group 1: Firms that reported data by fabric quantity:			
***	***		
***	***		
***	***		
***	***		
***	***		
Subtotal	***		
Group 2: Firms that reported data by apparel quantity:			
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
***	***	***	***
Subtotal	6,879	5,503	8,255
Grand Total ^d	***	***	***

Source: Data compiled by Commission staff.

^a Data in table reflect staff conversions of reported data and refer to the amount of subject denim fabric used in the production of U.S. imports of apparel entering under AGOA preferences and made in LDB SSA countries.

^b Square meter equivalents of fabric.

^c Lower and upper bounds were calculated to account for the fact that the amount of fabric used per dozen apparel items as reported by firms is estimated. The actual amount used varies according to style, size, etc. *** reported that its estimates could be off by 15-20 percent. *** estimated that the variance would likely be no more than 10 percent. The lower and upper-bound estimates apply a 20 percent range to the data that were reported in apparel units and then converted into fabric in yards/meters and then into SMEs (group 2).

^d Figures might not add to totals shown because of rounding.

Table 2: Coefficient ranges for converting apparel items to SMEs,^a SMEs per dozen, as reported by firms

Apparel items	Range	
	Minimum	Maximum
Boys' jeans.....	***	***
Men's jeans.....	***	***
Boys' shorts.....	***	***
Men's shorts.....	***	***
Girls' jeans.....	***	***
Women's jeans.....	***	***
Women's shorts.....	***	***

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

Note: Commission staff calculated these coefficients using data from the 11 firms that reported data in terms of apparel quantities (table 1, group 2). These firms reported estimates of the amount of fabric used (in linear yards/meters and inches/centimeters) in the manufacture of one dozen apparel articles. Commission staff multiplied the firm- and-apparel specific coefficient times the quantities (in dozens) of apparel to calculate the SMEs; ***. These conversion coefficients are estimates, and vary due to differences in width and linear yardage of the denim fabric used to manufacture one dozen apparel items. One firm estimated that these coefficients may vary by as much as 20 percent.

^a Square meter equivalents.

Table 3: Data reported by U.S. importers and LDB SSA apparel manufacturers of subject denim fabric used in the production of U.S. imports of apparel, fiscal year 2007^a

Firm	Quantity (1,000 SMEs ^b)	
	Total denim apparel imports ^c	Apparel manufacturer's reported shipments
Group 3: Firms that reported all apparel:		
***.....	***	***
***.....	***	***
Total^d	***	***

Source: Data compiled by Commission staff.

Note: ***

^a Data refer to the amount of subject denim fabric used in the production of U.S. imports of apparel entering under AGOA preferences and made in LDB SSA countries.

^b Square meter equivalents.

^c Data refer to the amount of subject denim fabric used in the production of the firms' total imports of denim apparel from LDB SSA countries during fiscal year 2007. These data include firms' imports of denim apparel produced using third-country fabric.

^d Figures might not add to totals shown because of rounding.

subject apparel during fiscal year 2007.²⁶ However, *** reported that it shipped subject apparel *** to *** during fiscal year 2007 (table 3).²⁷

In contrast, Commission staff was unable to similarly substantiate through responses from producers the amount of subject denim fabric used in the production of subject apparel for

²⁶ Industry official, e-mail to Commission staff, May 8, 2008.

²⁷ Industry official, e-mail to Commission staff, April 16, 2008.

another group of three firms, which imported “seconds.”²⁸ However, staff could substantiate that it was likely that some portion of these imports represented subject apparel. These firms, ***.²⁹ Commission staff converted the data these firms reported from the quantity of apparel items to linear yards/meters of fabric and then to SMEs using a weighted average coefficient or conversion factor calculated based on information collected from the 11 firms in group 2 that reported average fabric used per apparel item (table 1). In fiscal year 2007, these firms’ imports of the subject apparel amounted to *** (table 4).

Commission staff estimated subject apparel imports for the three firms that imported “seconds” based on information provided by ***. For ***, Commission staff estimated that *** of the company’s imports of denim apparel was made using subject denim fabric. This percentage is a weighted average calculated with information provided by ***.³⁰ For the two remaining “seconds” firms, *** Commission staff estimated that *** of these firms’ shipments from *** during fiscal year 2007 were made of the subject denim fabric, based on ***.³¹

U.S. Importers of Subject Apparel

Data collected by Commission staff indicate that U.S. importers of subject apparel mainly use fabric produced in third countries and supplement it with denim fabric produced in the region. For example, *** estimated that *** of its imports of denim apparel from LDB SSA countries were made using third-country fabric, while the remaining *** were produced using the subject denim fabric. Likewise, ***, estimated that *** of its denim apparel imports from LDB SSA countries were made using fabric sourced from third countries, with the remaining *** made using the subject denim fabric.

Most U.S. importers of subject apparel were involved in the selection of the subject denim fabric used in the production of their apparel. These firms indicated that they contracted with SSA apparel manufacturers, which were responsible for purchasing their fabric. ***

²⁸ The term “seconds” refers to items that were not purchased by the intended original buyer for various reasons (quality, defects, and so forth). For more information on seconds and the sourcing practices of U.S. importers of subject apparel, see p. 10.

²⁹ Commission staff cross-referenced the information it received from these firms with data from LDB SSA apparel manufacturers and other sources. According to these sources, *** purchased denim apparel from LDB SSA apparel manufacturers that used subject denim fabric in the production of apparel during fiscal year 2007.

³⁰ *** Industry official, interview by Commission staff, Maseru, Lesotho, May 21, 2008. In its questionnaire response, *** in its production of denim apparel during fiscal year 2007.

³¹ Industry official, interview by Commission staff, Maseru, Lesotho, May 21, 2008.

Table 4: Reported data and staff estimates of subject denim fabric used in the production of U.S. imports of “seconds” apparel, fiscal year 2007^a

Firm	Quantity (1,000 SMEs ^b)		
	Calculated	Estimate ^d	
		Lower-bound	Upper-bound
Group 4: Firms that imported seconds:^c			
***	***	***	***
***	***	***	***
***	***	***	***
Total^e	***	***	***

Source: Data compiled by Commission staff.

Note: ***

^a Data refer to the amount of subject denim fabric used in the production of U.S. imports of apparel entering under AGOA preferences and made in LDB SSA countries with the subject denim fabric that was produced in beneficiary SSA countries.

^b Square meter equivalents.

^c The term “seconds” refers to items which were not purchased by the intended original buyer for various reasons.

^d Lower and upper bounds were calculated to account for the fact that the amount of fabric used per dozen apparel items as reported by firms is estimated. The actual amount used varies according to style, size, etc. *** reported that its estimates could be off by 15-20 percent. *** estimated that the variance would likely be no more than 10 percent. The lower and upper-bound estimates apply a 20 percent range to the data that was reported in apparel units and then converted into quantity of fabric in yards/meters and then into SMEs (group 4).

^e Figures might not add to totals shown because of rounding.

indicated that they were directly responsible for sourcing their fabric. *** These firms account for a substantial share of subject apparel imports. In addition, *** indicated that it sourced all its subject apparel imports from ***.

*** U.S. importers indicated that they are not involved in the certification of denim for use in the production of their apparel, nor did they procure the denim fabric directly. Rather, these firms purchase “seconds,” or fully finished apparel products which were initially intended for purchase by another firm, but were not purchased by the intended original buyer for various reasons such as poor quality, defects, etc.

U.S. imports of subject apparel are concentrated in a few product categories ***. In fiscal year 2007, 81 percent of the subject imports reported by apparel units were jeans, followed by boys’ and men’s shorts (12 percent) and various other apparel items (4 percent) (table 5). *** of total estimated subject apparel imports during fiscal year 2007. The *** largest importers of the subject apparel accounted for *** percent of total estimated subject imports in the same fiscal year (Appendix F).³²

³² ***

Table 5: U.S. imports of apparel made with the subject denim fabric, by apparel items^a

Apparel items	October 1, 2006-September 31,
	2007
	Percent
Boys' and men's jeans.	65.9
Boys' and men's shorts.	12.4
Girls' and women's jeans.	15.1
Girls' and women's shorts.	1.7
Girls' and women's skirts.	0.5
Other apparel items.	4.4
Total.	100.0

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

^a Data refer to U.S. imports of apparel made in LDB SSA countries with the subject denim fabric produced in beneficiary SSA countries from the 11 companies that reported data by apparel items and entered under AGOA preferences.

LDB SSA Manufacturers of Apparel Made Using the Subject Denim Fabric

In fiscal year 2007, most U.S. imports of apparel made using the subject denim fabric were sourced from *** LDB SSA apparel manufacturers based in Lesotho, Kenya, and Madagascar and include ***,³³ ***.³⁴ These manufacturers primarily purchased denim fabric from third countries. However, *** the subject denim fabric (produced in SSA) that was used was purchased from ***.³⁵

³³ ***.

³⁴ For more information on LDB SSA apparel producers, see USITC, *Commercial Availability of Fabric and Yarns in AGOA Countries: Certain Denim*, 2007.

³⁵ *** For more information on SSA denim fabric producers, see USITC, *Commercial Availability of Fabric and Yarns in AGOA Countries: Certain Denim*, 2007.

APPENDIX A
***Federal Register* Notice**

with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its Internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Jeffrey T. Hsu, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205-2579.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2006).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on November 27, 2007, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain computer systems, printers and scanners by reason of infringement of one or more of claims 1-25 of U.S. Patent No. 5,214,761 and claims 1-10 of U.S. Patent No. 5,581,122, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Acer Incorporated, 8F, 88, Sec. 1, Hsin Tai Wu Rd., Hsichih, Taipei, Hsien 221, Taiwan.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served: Hewlett-Packard Company, 3000 Hanover Street, Palo Alto, California 94304.

(c) The Commission investigative attorney, party to this investigation, is Jeffrey T. Hsu, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondent in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of the respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of a permanent exclusion order or cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: November 28, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7-23355 Filed 11-30-07; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. AGOA-002]

Denim Fabric: Use in AGOA Countries During Fiscal Year 2007

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing; change in numbering format for AGOA reports.

SUMMARY: Pursuant to section 112(c)(2)(B)(iii) of the African Growth and Opportunity Act (AGOA) (19 U.S.C. 3721(c)(2)(B)(iii)), the Commission has instituted investigation No. AGOA-002, *Denim Fabric: Use in AGOA Countries During Fiscal Year 2007*, for the purpose of gathering information and making the determination required concerning the extent to which denim fabric deemed to be available in commercial quantities during fiscal year 2007 for use by lesser developed beneficiary (LDB) sub-Saharan African (SSA) countries was

used in the production of apparel articles receiving preferential treatment during fiscal year 2007.

DATES: December 3, 2007: Institution of investigation.

March 18, 2008: Deadline for filing request to appear at the public hearing.

March 21, 2008: Deadline for filing pre-hearing briefs and statements.

April 9, 2008: Public hearing.

April 23, 2008: Deadline for filing post-hearing briefs and statements.

April 28, 2008: Deadline for filing all other written submissions.

July 1, 2008: Transmittal of Commission report to the President and U.S. Trade Representative.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street, SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street, SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://www.usitc.gov/secretary/edis.htm>.

FOR FURTHER INFORMATION CONTACT: Project leaders Justino de la Cruz (202-205-3252 or justino.delacruz@usitc.gov) or Dawn Heuschel (202-205-2577 or dawn.heuschel@usitc.gov) for information specific to this investigation. For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202-205-3091 or william.gearhart@usitc.gov). The media should contact Margaret O'Laughlin, Office of External Relations (202-205-1819 or margaret.olaughlin@usitc.gov). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its Internet server (<http://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

Background: On December 20, 2006, the President signed into law amendments to section 112(c) of the African Growth and Opportunity Act (AGOA) (19 U.S.C. 3721(c)), included in Public Law 109-432. The amendments require the Commission to make certain determinations relating to the commercial availability of regional fabric or yarn for use in LDB SSA

countries in apparel articles receiving U.S. preferential treatment under AGOA, and also require the Commission to make determinations with regard to the extent that the quantity of fabric or yarn determined to be so available was so used. Section 112(c)(2)(C) of AGOA deemed denim fabric provided for in subheading 5209.42.00 of the Harmonized Tariff Schedule of the United States to be available in the amount of 30 million square meter equivalents for such purposes during the period October 1, 2006–September 30, 2007 (fiscal year 2007). Section 112(c)(2)(B)(iii) of AGOA now requires the Commission to determine the extent to which the denim fabric deemed to be available during fiscal year 2007 was used in the production of apparel articles receiving preferential treatment under AGOA that were entered during fiscal year 2007. The Commission expects to transmit its determination and report to the President and the U.S. Trade Representative on or before July 1, 2008.

The Commission has also redesignated the recently completed investigation No. AGOA–07–001, *Commercial Availability of Fabric & Yarns in AGOA Countries: Certain Denim*, as investigation No. AGOA–001, Commission Publication 3950, September 2007. This change was made principally for the purpose of facilitating docketing and public searches through the Commission's EDIS system.

The Commission will institute a separate investigation in the near future for the purpose of gathering information and making determinations concerning whether such denim fabric will be available in commercial quantities during fiscal year 2009 for use in LDB SSA countries in the production of apparel articles receiving preferential treatment under AGOA, and if so, the quantity that will be available. This investigation will be designated as investigation No. AGOA–003. The Commission made similar determinations with respect to availability during fiscal year 2008 in recently completed investigation No. AGOA–001.

Public Hearing: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street, SW., Washington, DC, beginning at 9:30 a.m. on April 9, 2008. To facilitate attendance at the hearing by parties also interested in attending the hearing in investigation No. AGOA–003, the Commission will hold a consolidated hearing for both investigations. Requests to appear at the public hearing should

be filed with the Secretary, no later than 5:15 p.m., March 18, 2008, in accordance with the requirements in the "Submissions" section below. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., March 21, 2008; and all post-hearing briefs and statements should be filed not later than 5:15 p.m., April 23, 2008. In the event that, as of the close of business on March 18, 2008, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant may call the Secretary to the Commission (202–205–2000) after March 18, 2008, for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning this investigation. All written submissions should be addressed to the Secretary. All written submissions (except for requests to appear at the hearing and pre- and post-hearing briefs and statements with earlier due dates) should be received not later than 5:15 p.m., April 28, 2008. All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information be clearly

identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

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

By order of the Commission.

Issued: November 28, 2007.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E7–23356 Filed 11–30–07; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 731–TA–986–987 (Review)]

Ferrovandium From China and South Africa

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on ferrovandium from China and South Africa.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on ferrovandium from China and South Africa would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; ¹ to be assured of

¹ No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 08–5–177, expiration date June 30, 2008. Public reporting burden for the request is estimated to average 10 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436.

APPENDIX B
African Growth and Opportunity Act
Amendments (H.R. 6111)

H.R.6111

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

TITLE VI--AFRICAN GROWTH AND OPPORTUNITY ACT

SEC. 6001. SHORT TITLE.

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

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

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

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

(2) in subsection (b)--

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

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

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

`(c) Lesser Developed Countries-

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

`(A) PRODUCTS COVERED- In addition to the products described in subsection (b), and subject to paragraph (2), the preferential treatment described in subsection (a) shall apply through September 30, 2012, to apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries, regardless of the country of origin of the fabric or the yarn used to make such articles, in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.

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

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

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

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

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

`(B) EFFECT OF AFFIRMATIVE DETERMINATION-

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

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

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

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

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

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

`(D) PRESIDENTIAL AUTHORITY TO RESTRICT IMPORTS-

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

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

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

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

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

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

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

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

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

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

`(5) DEFINITIONS- In this subsection:

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

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

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

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

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

`(ii) Botswana; and

`(iii) Namibia.'.

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

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

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

SEC. 6003. TECHNICAL CORRECTIONS.

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

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

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

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

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

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

SEC. 6004. EFFECTIVE DATE FOR AGOA.

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

APPENDIX C

U.S. Imports of Textiles and Apparel from Leading LDB SSA Suppliers

TABLE C: U.S. imports of textiles and apparel under AGOA from leading LDB SSA suppliers, by quantity

Country	Total Imports ^a		Imports under AGOA ^b	
	2006	2007	2006	2007
	<i>(In million SMEs)</i>			
Lesotho.....	95.2	95.1	94.7	94.5
Madagascar.....	55.2	74.5	53.8	72.7
Kenya.....	65.8	69.7	64.2	67.6
Swaziland.....	41.5	39.8	41.1	39.7
Subtotal.....	257.7	279.1	253.8	274.5
All Others.....	81.1	66.6	64.1	52.2
Total.....	338.8	345.7	317.9	326.7

Source: U.S. Department of Commerce, Office of Textiles and Apparel.

^a Data represent total U.S. imports of textiles and apparel from LDB SSA countries.

^b Data represent U.S. imports of textiles and apparel from LDB SSA countries, entering under AGOA preferences.

APPENDIX D

U.S. Imports of Certain Apparel from LDB SSA Suppliers

TABLE D: U.S. imports of certain apparel, including subject denim apparel, from LDB SSA countries, 2003–07

Country	2003	2004	2005	2006	2007
	<i>(Actual U.S. dollars)</i>				
Kenya.....	873,599	827,149	1,830,562	100,358,123	136,911,565
Lesotho.....	2,192,139	973,811	163,159	80,657,883	131,415,643
Madagascar.....	1,002,336	744,154	439,760	68,041,130	117,997,679
Swaziland.....	653,409	548,657	402,310	28,265,726	39,256,630
Malawi.....	976,498	292	0	3,893,211	4,672,274
Botswana.....	16,478	36,018	43,996	2,495,976	812,895
Ethiopia.....	0	0	0	24,805	160,906
Sierra Leone.....	0	25,579	21,307	834	145,576
Cameroon.....	0	0	0	0	95,763
Ghana.....	11,166	45,179	11,875	37,325	79,674
Uganda.....	0	0	0	37,940	75,071
Nigeria.....	5,344	2,856	6,095	9,947	11,881
Gambia.....	0	0	0	5,100	7,710
Senegal.....	1,546	300	747	7,010	7,468
Mali.....	1,633	300	0	1,063	4,164
Tanzania.....	595	0	0	0	2,241
Niger.....	0	0	354	3,384	377
Benin.....	265	0	0	0	0
Burkina Faso.....	0	0	4,752	0	0
Mozambique.....	0	0	0	54,541	0
Total.....	5,735,008	3,204,295	2,924,917	283,893,998	431,657,517

Source: USITC Dataweb.

Note: Trade data includes HTS statistical reporting numbers 6201.92.2031, 6201.92.2041, 6201.92.2051, 6201.92.2061, 6203.32.2030, 6203.42.4011, 6203.42.4016, 6203.42.4031, 6203.42.4036, 6203.42.4041, 6203.42.4046, 6203.42.4051, 6203.42.4056, 6203.42.4061, 6204.52.2030, 6204.52.2040, 6204.52.2070, 6204.52.2080, 6204.62.4011, 6204.62.4021, 6204.62.4036, 6204.62.4041, 6204.62.4046, 6204.62.4051, 6204.62.4056, 6204.62.4061, 6204.62.4066, and 6206.30.3041. Trade data likely overstates U.S. imports of denim apparel from LDB AGOA countries, as these HTS statistical reporting numbers also include other types of denim and non-denim apparel.

APPENDIX E

List of Hearing Participants

CALENDAR OF PUBLIC HEARING

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

Subjects: Denim Fabric: Use in AGOA Countries During Fiscal Year 2007
Denim Fabric: Commercial Availability in AGOA Countries During Fiscal Year 2009

Inv. Nos.: AGOA-002 & AGOA-003

Date and Time: April 9, 2008 - 9:30 a.m.

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

ORGANIZATION AND WITNESS

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

Paul Ryberg, President

Nien Hsing Textile Co., Ltd.
Taipei, Taiwan

Chia-Liang Han, Assistant Vice President

CGM Group
Maseru, Lesotho

Krishna Moodley, Group Production Director

-END-

APPENDIX F

Reported Data and Staff Estimates of Subject Denim Fabric Used in the Production of U.S. Imports of Apparel, Fiscal Year 2007

Table F: Reported data and staff estimates of subject denim fabric used in the production of U.S. imports of apparel, fiscal year 2007

Firm	Quantity (1,000 SMEs)
Group 1: Firms that reported data by fabric quantity:	
***	***
***	***
***	***
***	***
***	***
Subtotal.	***
Percentage of total.	***
Group 2: Firms that reported data by apparel quantity:	
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***
Subtotal.	6,879
Percentage of total	***
Group 3: Data and estimates reported by LDB SSA apparel manufacturers:	
***	***
***	***
Subtotal.	***
Percentage of total.	***
Group 4: Firms that imported seconds:^a	
***	***
***	***
***	***
Subtotal.	***
Percentage of total.	***
Grand Total ^b .	19,680
Upper bound ^c .	21,120
Lower bound ^c .	18,240

Source: Data compiled by Commission staff.

^a The term seconds refers to items which, for various reasons (quality, defects, and so forth), were not purchased by the intended original buyer.

^b Figures might not add to totals shown because of rounding.

^c These figures reflect the fact that the amount of fabric used per dozen apparel items as reported by firms are estimates. The actual amount used varies according to style, size, etc. *** reported that these estimates could be off by 15-20 percent. *** estimated that the variance would “likely be no more than 10 percent.” The upper-bound and lower-bound estimates apply a 20 percent range to the data that were reported in apparel units. The 20 percent range is applied to group 2 and group 4, which represent the two groups where staff converted data from apparel units to quantity of fabric in yards/meters and then into SMEs.