



May 10, 2000

Attached is an analysis of the key provisions in the Trade and Development Act of 2000. Many questions cannot be answered until the Clinton Administration prepares the detailed regulations administering these new programs. However, the following analysis provides an overview outlining the new sourcing opportunities.

Please contact IDS if you have any questions.

IDS ANALYSIS OF THE TRADE AND DEVELOPMENT ACT OF 2000

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SUMMARY OF SUB-SAHARAN AFRICA PROVISIONS IN THE H.R. 434 CONFERENCE REPORT

APPAREL ASSEMBLED IN SUB-SAHARAN AFRICA (SSA) FROM U.S. FABRIC MADE WITH U.S. YARN AND CUT IN THE U.S. (807 A+)

- Duty-Free
- Quota-Free
- Finishing operations allowed:
 - Embroidery
 - Stone-washing
 - Enzyme-washing
 - Acid-washing
 - Perma-pressing
 - Oven-baking
 - Bleaching
 - Garment dyeing
 - Screen printing
 - or other similar processing

APPAREL CUT AND ASSEMBLED IN SUB-SAHARAN AFRICA, FROM U.S. FABRIC MADE WITH U.S. YARN (809 +)

- Duty-free
- Quota-free
- Must use U.S. thread

Still to be answered is whether the fabric can be dyed and finished in SSA and whether apparel is eligible after undergoing finishing operations in SSA

APPAREL ASSEMBLED FROM FABRIC FORMED IN SUB-SAHARAN AFRICA FROM U.S. OR SSA YARN

- Duty-free with an annual cap based on total U.S. apparel imports
 - October 1, 2000 – September 30, 2001 = 1.50 percent of total apparel imports
 - October 1, 2001 – September 30, 2002 = 1.78 percent of total apparel imports
 - October 1, 2002 – September 30, 2003 = 2.06 percent of total apparel imports
 - October 1, 2003 – September 30, 2004 = 2.34 percent of total apparel imports
 - October 1, 2004 – September 30, 2005 = 2.62 percent of total apparel imports
 - October 1, 2005 – September 30, 2006 = 2.90 percent of total apparel imports
 - October 1, 2006 – September 30, 2007 = 3.18 percent of total apparel imports
 - October 1, 2007 – September 30, 2008 = 3.5 percent of total apparel imports

Using the most recent U.S. import statistics, the SME's available in this cap would begin at 215.6 million SME (1.5 percent) and would increase to 503.2 million SME (3.5 percent)

APPAREL ASSEMBLED IN SUB-SAHARAN AFRICA FROM THIRD COUNTRY FABRIC

- Lesser developed SSA countries also can use non-U.S. and non-SSA fabric until September 30, 2004
- These shipments are also subject to the cap
- "Lesser developed SSA country" is defined as countries with a per capita gross national product of less than \$1,500 a year in 1998
- This criteria means this benefit is not available for six countries: Botswana, Gabon, Mauritius, Namibia, Seychelles and South Africa

SWEATERS KNIT TO SHAPE FROM CASHMERE OR FINE MERINO WOOL

- Duty-free using yarn from any country
- Chief weight cashmere or fine merino wool qualifies
- Duty-free treatment is unlimited

APPAREL ASSEMBLED FROM FIBERS, FABRIC, YARN NOT WIDELY AVAILABLE IN COMMERCIAL QUANTITIES

- Grants unlimited quota-free and duty-free treatment for these products as defined in NAFTA
- Qualifying products currently are: those fabrics and yarns identified in Annex 401 of the NAFTA, which include fine count cotton knitted fabrics for certain apparel, linen, silk, cotton, velveteen, fine wale corduroy, Harris Tweed, certain woven fabric made with animal hairs, certain lightweight, high thread count poly-cotton woven fabrics, and certain lightweight, high thread count broadwoven fabrics used in the production of men's and boys' shirts
- Establishes process to authorize additional fibers, fabric and yarn

HANDLOOM ARTICLES, HANDMADE AND FOLKLORE ARTICLES

- Duty-free if certified by SSA country

QUOTAS ELIMINATED FOR KENYA AND MAURITIUS

- Quotas eliminated within thirty days after each country adopts "effective visa system"

EFFECTIVE DATE

- Program begins October 1, 2000 and lasts until September 30, 2008

U.S. government needs to clarify whether program is administered based on date of export from SSA or date of import to the U.S.

U.S. government officials need to clarify whether products are eligible if manufactured prior to October 1, 2000

SPECIAL RULES

- Findings and trimmings: foreign origin allowed if they do not exceed twenty-five percent of the total cost of components
- Foreign interlinings allowed if:
 - Total value of foreign interlinings plus foreign findings and trimmings do not exceed 25 percent of the total cost of components
 - Defined as "chest-type plate, "hymo" piece or sleeve header, of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments"
- De minimus rule: allows use of fibers or yarn not made in the U.S. up to seven percent of total weight. Elastomeric yarns (spandex) must be of U.S. origin.

SHIPMENTS MUST BE DIRECT FROM SUB-SAHARAN AFRICA TO THE U.S.

CERTIFICATE OF ORIGIN

- Requires new Certificate of Origin, duplicating NAFTA requirement

SURGE MECHANISM

- Apparel made from regional SSA fabric of third country fabric can be removed from duty-free treatment
- The surge mechanism establishes standards that U.S. officials will review to assess whether apparel imports from a particular SSA country causes or threatens to cause serious damage to the U.S. industry
- The surge mechanism can be triggered by a written request from an interested party – U.S. company, union or trade association – of either apparel or inputs used to manufacture apparel

The legislation gives the authority to the Secretary of Commerce. We anticipate the Committee for the Implementation of Textile Agreements (CITA) will make the final recommendation to re-establish duties.

SPECIAL ANTI-CIRCUMVENTION AGREEMENTS FOR SUB-SAHARAN AFRICA COUNTRIES

- Country must adopt an effective visa system to prevent unlawful transshipment and use of counterfeit documents
- Country must permit U.S. Customs verification teams access to investigate transshipment allegations
- Country must report to U.S. Customs on total imports and exports
- Country must cooperate to prevent circumvention
- Country must require producers and exporters to maintain complete production records for at least two years
- Countries must provide to U.S. Customs upon request documentation establishing country of origin used in implementing the visa system

TRANSSHIPMENT PENALTIES

- Denial of benefits for five years for exporters found engaging in “transshipment.”
- U.S. introduces a new definition of transshipment: claim for preference based on false information concerning country of origin, manufacture, processing or assembly

U.S.CUSTOMS REPORTS AND ACTIVITIES

- Requires U.S. Customs annual report on effectiveness of the SSA visa systems, and on implementation of anti-transshipment measures taken by SSA countries to prevent circumvention
- Requires U.S. Customs to provide technical assistance to SSA countries to visa systems and procedures
- Requires U.S. Customs to train SSA officials in anti-transshipment enforcement
- Requires U.S. Customs to send production verification teams to at least four SSA countries each year
- Encourage U.S. Customs to include SSA countries in the Electronic Visa Information System (ELVIS)
- Authorize U.S. Customs to spend \$5,894,913 to carry out these activities

GENERALIZED SYSTEM OF PREFERENCES (GSP)

- Extends GSP duty-free eligibility until September 30, 2008

ELIGIBILITY CRITERIA FOR SUB-SAHARAN AFRICA COUNTRIES

- Established or making progress toward:
 - Market-based economy
 - Rule of law
 - Elimination of trade and investment barriers, including:
 - national treatment
 - intellectual property rights protection
 - resolution of bilateral disputes
 - Economic policies
 - System to combat corruption
 - Country provides internationally recognized worker rights
 - Right to association
 - Right to organize and bargain collectively
 - Prohibition on use of any form of forced or compulsory labor
 - Minimum age for employment of children
 - Acceptable work conditions regarding minimum wages, hours of work and occupational safety and health
- Does not undermine U.S. national security or foreign policy interests
- Does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism

SUMMARY OF CBI PARITY PROVISIONS IN THE H.R. 434 CONFERENCE REPORT

APPAREL ASSEMBLED IN CBI, FROM U.S. FABRIC MADE WITH U.S. YARN AND CUT IN THE U.S. (807A +)

- Duty-Free
- Quota-Free
- Finishing operations allowed:
 - Embroidery
 - Stone-washing
 - Enzyme-washing
 - Acid-washing
 - Perma-pressing
 - Oven-baking
 - Bleaching
 - Garment dyeing
 - Screen printing
 - or other similar processing

APPAREL CUT AND ASSEMBLED IN CBI, FROM U.S. FABRIC MADE WITH U.S. YARN (809 +)

- Duty-free
- Quota-free
- Must use U.S. thread

Still to be answered is whether the fabric can be dyed and finished in the CBI and whether apparel is eligible after the use of finishing operations in the CBI

REGIONAL FABRIC CAPS FOR KNIT APPAREL

Regional Cap:

250,000,000 SME in first year, with a sixteen percent growth rate for four years

From October 1, 2004 through September 30, 2008, regional cap remains at same level, with no additional growth (unless Congress decides otherwise).

Products eligible are:

- Apparel knit-to-shape from U.S. yarns (excluding socks in HTS#6115)
- Knit apparel made from fabric formed in the CBI from U.S. yarn
- Knit apparel cut and assembled in the CBI from U.S. fabric made with U.S. yarn, but not using U.S. thread

T-Shirt Cap:

4,200,000 dozen with a sixteen percent growth rate each year until September 30, 2004. From October 1, 2004 through September 30, 2008, regional cap remains at same level, with no additional growth (unless Congress decides otherwise).

T-shirts classified under 6109.10.00 and 6109.90.10 (except underwear) using CBI fabric made from U.S. yarn.

Still to be answered is how the Regional Caps will be allocated. The legislation is silent on this point. The Committee for the Implementation of Textile Agreements (CITA) will make this determination. The two most likely options are either to allow entries on a first-come, first-served basis or to allocate the cap based on country-by-country historical performance. Lobbying by interested parties will affect the final outcome.

BRASSIERES

- Brassieres classified under HTS 6212.10 are eligible for preferential treatment if at least seventy-five percent of the declared value of the fabric components is formed in the U.S.
- U.S. Customs will develop procedures to monitor shipments
- If a producer does not satisfy the U.S. fabric content requirement, they lose the right to use the preference until they have one year of trade using 85% U.S. fabric.

APPAREL ASSEMBLED FROM FIBERS, FABRIC, YARN NOT WIDELY AVAILABLE IN COMMERCIAL QUANTITIES

- Grants quota-free and duty-free treatment for these products as defined in NAFTA
- Qualifying products currently are: those fabrics and yarns identified in Annex 401 of the NAFTA, which include fine count cotton knitted fabrics for certain apparel, linen, silk, cotton, velveteen, fine wale corduroy, Harris Tweed, certain woven fabric made with animal hairs, certain lightweight, high thread count poly-cotton woven fabrics, and certain lightweight, high thread count broadwoven fabrics used in the production of men's and boys' shirts
- Establishes process to authorize additional fibers, fabric and yarn

HANDLOOM ARTICLES, HANDMADE AND FOLKLORE ARTICLES

- Duty-free if certified by CBI country

TEXTILE LUGGAGE

- Duty-free, if the luggage is assembled in CBI from U.S. fabric made with U.S. yarns

SPECIAL ORIGIN RULE FOR PRODUCTS CONTAINING NYLON FILAMENT YARN (OTHER THAN ELASTOMERIC YARN) ORIGINATING FROM ISRAEL, CANADA AND MEXICO

- HTS numbers 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00 or 5402.61.00

EFFECTIVE DATE

- Program begins October 1, 2000 and lasts until September 30, 2008

U.S. government needs to clarify whether program is administered based on date of export from SSA or date of import to the U.S.

U.S. government officials need to clarify whether products are eligible if manufactured prior to October 1, 2000

SPECIAL RULES

- Findings and trimmings: foreign origin allowed if they do not exceed twenty-five percent of the total cost of components
- Foreign interlinings allowed if:
 - Total value of foreign interlinings plus foreign findings and trimmings do not exceed 25 percent of the total cost of components
 - Defined as "chest-type plate, "hymo" piece or sleeve header, of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments"
- De minimus rule: allows use of fibers or yarn not made in the U.S. up to seven percent of total weight. Elastomeric yarns (spandex) must be of U.S. origin.

TRANSSHIPMENT PENALTIES

- Denial of benefits for two years for exporters found engaging in "transshipment."
- "Triple charges" against CBI country quotas if U.S. finds a CBI country has not taken "all necessary and appropriate actions" to fight transshipment
- U.S. introduces a new definition of transshipment: claim for preference based on false information concerning country of origin, manufacture, processing or assembly
- U.S. Customs will conduct a study analyzing cooperation by CBI countries, including measures taken and penalties assessed to control transshipment

SAFEGUARD ACTIONS

- Safeguard actions are available following the NAFTA provisions, but without compensation available to CBI countries

CERTIFICATE OF ORIGIN

- Requires new Certificate of Origin, duplicating NAFTA requirement

ELIGIBILITY CRITERIA

- Country demonstrates a commitment to:
 - Undertake WTO obligations on or ahead of schedule
 - Participate in negotiations for FTAA or other free trade agreement
- Country provides intellectual property rights protection consistent with or greater than the TRIPS agreement
- Country provides internationally recognized worker rights
 - Right to association
 - Right to organize and bargain collectively
 - Prohibition on use of any form of forced or compulsory labor
 - Minimum age for employment of children
 - Acceptable work conditions regarding minimum wages, hours of work and occupational safety and health
- Country meets counter-narcotics certification criteria
- Country has taken steps to become party to and implement the Inter-American Convention Against Corruption
- Country applies transparent, non-discriminatory and competitive government procurement procedures; and,
- Country contributes to international fora and transparency in government procurement

SUMMARY OF TEXTILE RULES OF ORIGIN PROVISIONS IN THE H.R. 434 CONFERENCE REPORT

PROVISIONS RELATED TO RULES OF ORIGIN FOR SOME TEXTILE PRODUCTS

- Rule of origin for some products returns to the pre-Uruguay Round rule of dyeing and printing and two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing or moireing
- Includes all fabrics other than wool
- Includes flat goods for all fabrics other than wool or more than sixteen percent cotton
- Items included are:
 - 6117.10 – Shawls, Scarves, Mufflers, etc. (Knit)
 - 6213.00 – Handkerchiefs
 - 6214.00 – Shawls, Scarves, Mufflers, etc. (Woven)
 - 6302.22 – Printed bed linen; of man-made fibers
 - 6302.29 – Printed bed linen; of other textile materials (vegetable fibers, including silk)
 - 6302.52 – Woven table linen; of flax
 - 6302.53 – Woven table linen; of man-made fibers
 - 6302.59 – Woven table linen; of other textile materials (vegetable fibers, including silk)
 - 6302.92 – Toilet linen and kitchen linen; of flax
 - 6302.93 – Toilet linen and kitchen linen; of man-made fiber
 - 6302.99 – Toilet linen and kitchen linen; of other textile materials (vegetable fibers, including silk)
 - 6303.92 – Woven curtains (including drapes) and interior blinds; curtain or bed valances; of synthetic fibers
 - 6303.99 – Woven curtains (including drapes) and interior blinds; curtain or bed valances; of other textile materials including artificial fibers and vegetable fibers
 - 6304.19 – Woven bedspreads (excluding those of heading 9404)
 - 6304.93 – Other woven furnishing articles (excluding those of heading 9404); of synthetic fibers
 - 6304.99 – Other woven furnishing articles (excluding those of heading 9404)
 - 9404.90.85 – Quilts, eiderdowns, comforters and similar articles with either outer shell of cotton, man-made fibers or other textile materials
 - 9404.90.95 – Other articles of bedding and similar furnishings constructed of cotton man made fibers or of other materials

SUMMARY OF WOOL PROVISIONS IN THE H.R. 434 CONFERENCE REPORT

PROVISIONS RELATED TO WOOL SUITS AND FABRICS

- Implementation date is January 1, 2001 until December 31, 2003
- Only covers men's wool suits
- Worsted wool fabric imports, with average fiber diameters greater than 18.5 microns
 - Duty reduced to 19.3 percent
 - Tariff-rate quota of 2.5 million SME's can enter at lower rate
- Worsted wool fabric imports, with average fiber diameters of 18.5 micron or less
 - Duty reduced to 6 percent
 - If Canada reduces its duty on this fabric, U.S. duty is automatically reduced to same level
 - Tariff-rate quota of 1.5 million SME can enter at lower rate
- Importers must certify that the fabric imports are suitable for use in making suits ("making" means cut and assembled in the U.S.)

Duty-free provisions for wool yarn:

Through December 31, 2003, yarn of combed wool, not put up for retail sale, containing 85 percent or more by weight wool of 64s and less worsted wool count; and wool yarn formed with fibers having diameters of 18.5 micron or less, are duty-free.

Duty-free provisions for wool fiber:

Through December 31, 2003, wool fiber, waste, garnetted stock, combed wool, or wool top, having average fiber diameters of 18.5 micron or less, are duty-free.

- Refund of one-third of duties paid by manufacturers of men's wool suits on imports of imported wool fabrics and yarns and fiber and top during 1999
 - Refund spread out over 2000, 2001 and 2002
 - Only manufacturer can claim refund

ESTABLISHES WOOL RESEARCH, DEVELOPMENT AND PROMOTION TRUST FUND

- Fund uses duties already collected to award grants to improve quality of U.S. wool and promote wool
- Fund set at \$2.25 million
- Trust fund abolished January 1, 2004

SUMMARY OF OTHER RELEVANT PROVISIONS IN THE H.R. 434 CONFERENCE REPORT

NORMAL TRADE RELATIONS FOR ALBANIA AND KYRGYZSTAN

CAROUSEL PROVISION

- Allows the U.S to revise retaliation lists under Section 301 to increase pressure on countries which do not implement WTO dispute settlement recommendations

CHILD LABOR PROVISIONS

- Amends U.S. law to clarify that the term “forced labor or/and indentured labor” includes forced or indentured child labor
- Defines “worst forms of child labor”
- Amends Generalized System of Preferences eligibility criteria so that countries implement commitments to eliminate the worst forms of child labor