

United States (HTS). Based on actions that Kenya has taken, I have determined that Kenya has satisfied these two requirements.

The AGOA also directs the President to eliminate the existing quotas on textile and apparel articles imported into the United States from Kenya within 30 days after Kenya adopts an effective visa system to prevent unlawful transshipment of textile and apparel articles and the use of counterfeit documents relating to the importation of such articles into the United States. Proclamation 7350 delegated this responsibility to the USTR.

Accordingly, pursuant to the authority vested in the USTR by Proclamation 7350, the HTS is modified as provided in Proclamation 7350 and as specified in the Annex to this notice, effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after January 18, 2001. Importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles should ensure that those entries meet the applicable visa requirements. (The visa requirements are described in a separate notice that is being published in the **Federal Register** concurrently with this notice.) By this notice, I direct the Customs Service to eliminate the existing quotas on textile and apparel articles imported into the United States from Kenya within 30 days of the effective date of this notice.

Charlene Barshefsky,
United States Trade Representative.

Annex

Pursuant to the authority provided in Proclamation 7350, the HTS is modified as follows:

1. The text of U.S. note 7 to subchapter II of chapter 98, as established by the annex to such Proclamation, is modified by inserting before it the paragraph designation "(a)". Such paragraph is modified by inserting at the end thereof the following new sentence and enumeration:

"The USTR has determined that the following countries have adopted an effective visa system and related procedures and have satisfied the customs requirements of the AGOA and, therefore, are to be afforded the tariff treatment provided for in this note: Kenya"

2. U.S. note 1 to subchapter XIX of chapter 98 of the HTS, as established by the annex to such Proclamation, is modified by adding at the end of the text of such note the following new sentence and enumeration:

"The USTR has determined that the following countries have adopted an effective visa system and related procedures and have satisfied the customs requirements of the AGOA and, therefore, are to be afforded the

tariff treatment provided for in this note: Kenya"

3. U.S. note 2(d) to subchapter XIX of chapter 98 of the HTS, as established by the annex to such Proclamation, is modified by adding at the end of the text the following new sentence and enumeration:

"Products of the following countries qualifying as lesser developed beneficiary sub-Saharan African countries for purposes of such subheading, if described therein, shall be eligible to enter thereunder, *provided* that such countries are named in U.S. note 1 to this subchapter on the date of entry, or withdrawal from warehouse for consumption:

Republic of Benin
Republic of Cape Verde
Republic of Cameroon
Central African Republic
Republic of Chad
Republic of Congo
Republic of Djibouti
State of Eritrea
Ethiopia
Republic of Ghana
Republic of Guinea
Republic of Guinea-Bissau
Republic of Kenya
Kingdom of Lesotho
Republic of Madagascar
Republic of Malawi
Republic of Mali
Islamic Republic of Mauritania
Republic of Mozambique
Republic of Niger
Federal Republic of Nigeria
Republic of Rwanda
Democratic Republic of Sao Tomé and Principe
Republic of Senegal
Republic of Sierra Leone
United Republic of Tanzania
Republic of Uganda
Republic of Zambia"

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Visa Requirements Under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Directive to the commissioner of customs.

SUMMARY: In the letter published below, the United States Trade Representative directs the Commissioner of Customs to require that importers provide an appropriate export visa from a beneficiary sub-Saharan African country when claiming preferential treatment for entries of textile and apparel products under the African Growth and Opportunity Act.

EFFECTIVE DATE: January 18, 2001.

FOR FURTHER INFORMATION CONTACT: Bethany Schwartz, Director for African

Affairs, Office of the United States Trade Representative, (202) 395-9514.

SUPPLEMENTARY INFORMATION: The African Growth and Opportunity Act (Title I of the Trade and Development Act of 2000, Public Law 106-200) (AGO) provides preferential tariff treatment for imports of certain textile and apparel products of beneficiary sub-Saharan African countries. The textile and apparel trade benefits provided by the AGO are available to imports of eligible products from countries that the President designates as "beneficiary sub-Saharan African countries," provided that these countries (1) have adopted an effective visa system and related procedures to prevent unlawful transshipment and the use of counterfeit documents, and (2) have implemented and follow, or are making substantial progress toward implementing and following, certain customs procedures that assist the Customs Service in verifying the origin of the products.

In Proclamation 7350 of October 2, 2000, the President designated 34 countries as "beneficiary sub-Saharan African countries." Proclamation 7350 delegated to the United States Trade Representative (USTR) the authority to determine whether these countries have met the two requirements described above. The President directed the USTR to announce any such determinations in the **Federal Register** and to implement them through modifications of the Harmonized Tariff Schedule of the United States (HTS).

By Executive Order (January 17, 2001), the President delegated to the USTR the authority to direct the Commissioner of Customs to take such actions as may be necessary to ensure that textile and apparel articles described in section 112(b) of the AGOA (19 U.S.C. 3721(b)) that are entered, or withdrawn from warehouse, for consumption are accompanied by an appropriate export visa, if the preferential treatment described in section 112(a) of the AGOA (19 U.S.C. 3721(a)) is claimed with respect to such articles.

In the letter published below, the USTR directs the Commissioner of Customs to require that importers provide an appropriate export visa from a beneficiary sub-Saharan African country when claiming preferential treatment under section 112(a) of the AGOA for eligible textile and apparel products that are entered, or withdrawn from warehouse, for consumption. This requirement is intended to ensure the effectiveness of the visa systems that beneficiary sub-Saharan African countries have adopted. A facsimile of

the export visa stamp for each beneficiary sub-Saharan African country that the USTR has determined to have adopted an effective visa system and related procedures is available for public inspection in the USTR public reading room.

Importers claiming preferential tariff treatment under the AGOA for entries of textile and apparel articles should ensure that those entries meet the visa requirements set forth in the letter to the Commissioner published below.

Charlene Barshefsky,
United States Trade Representative.

Executive Office of the President

*The United States Trade Representative,
Washington, DC 20508*

January 18, 2001.

Commissioner of Customs

*U.S. Department of the Treasury, Ronald
Reagan Building, 1300 Pennsylvania
Avenue NW., Washington, DC 20229*

Dear Commissioner: Pursuant to Sections 112(a) and 113(a)(1) of the African Growth and Opportunity Act (Title I of Pub. L. No. 106-200) ("AGOA") (19 U.S.C. 3721(a) and 3722(a)(1)), the bilateral Visa Arrangements that have been or will be entered into with designated beneficiary sub-Saharan African countries, and the Executive Order signed by the President on January 17, 2001 regarding the implementation of the AGOA and the United States-Caribbean Basin Trade Partnership Act, you are directed to require importers claiming preferential treatment for textile and apparel articles under section 112(a) of the AGOA to provide an appropriate export visa issued by the country of origin of the articles. This requirement is effective with respect to eligible textile and apparel articles of a beneficiary sub-Saharan African country that are entered, or withdrawn from warehouse, for consumption on or after the date that the United States Trade Representative determines that such beneficiary sub-Saharan African country has adopted an effective visa system and related procedures and has implemented and follows, or is making substantial progress toward implementing and following, the customs procedures required by the AGOA.

A shipment shall be visaed by stamping an original circular visa, in blue ink only, on the front of the original commercial invoice. The original visa shall not be stamped on duplicate copies of the invoice. The original of the invoice with the original visa stamp shall be required to obtain preferential tariff treatment under section 112(a) of the AGOA. Duplicates

of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include the following information:

1. **Visa Number.** The visa stamp shall be in a nine digit-letter format beginning with one numeric digit for the designated grouping (1 to 9), as described below. This number is to be followed by the two-character alpha code specified by the International Organization for Standardization (ISO) for the designated beneficiary sub-Saharan African country, followed by a six-digit numerical serial number identifying the shipment.

Grouping 1—Apparel articles assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States.

Grouping 2—Apparel articles assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut in the United States if, after such assembly, the articles would have qualified for entry under subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States ("HTS") but for the fact that the articles were embroidered or subject to stone-washing, enzyme-washing, acid washing, perma-pressing, oven baking, bleaching, garment-dyeing, screen printing, or other similar processes.

Grouping 3—Apparel articles cut in one or more beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States if such articles are assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States.

Grouping 4—Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries from yarn originating either in the United States or one or more beneficiary sub-Saharan African countries.

Grouping 5—Apparel articles wholly assembled in one or more lesser developed beneficiary sub-Saharan African countries regardless of the country of origin of the fabric used to make such articles.

Grouping 6—Sweaters in chief weight of cashmere, knit to shape in one or more beneficiary sub-Saharan African countries and classifiable under subheading 6110.10 of the HTS.

Grouping 7—Sweaters, 50 percent or more by weight of wool measuring 18.5

microns in diameter or finer, knit-to-shape in one or more beneficiary sub-Saharan African countries.

Grouping 8—Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric or yarn not formed in the United States or any beneficiary sub-Saharan African country, if (1) apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabric or yarn, under Annex 401 to the North American Free Trade Agreement, or (2) the President proclaims that apparel articles of such fabric or yarn may be accorded preferential tariff treatment under the AGOA.

Grouping 9—Handmade, handloomed, or folklore articles (qualifying articles will be determined following bilateral consultations).

2. **Date of Issuance.** The date of issuance shall be the day, month, and year on which the visa was signed by an authorized government official.

3. **Authorized Signature.** The original signature of an authorized official of the beneficiary sub-Saharan African country or his designate.

4. **Correct Grouping and Quantity.** The correct grouping, the total quantity, and the unit of quantity in the shipment shall be provided within the visa stamp.

Quantities must be stated in whole numbers. Decimals or fractions shall not be accepted. If the quantity indicated on the visa is less than that of the shipment, only the quantity shown on the visa is eligible for preferential tariff treatment under section 112(a) of the AGOA. If the quantity indicated on the visa is more than that of the shipment, only the quantity of the shipment is eligible for preferential tariff treatment under section 112(a) of the AGOA. Any overage cannot be applied to any other shipment.

A visa shall not be accepted and preferential tariff treatment under section 112(a) of the AGOA shall not be permitted if the visa number, date of issuance, authorized signature, correct grouping, quantity or the unit of quantity is missing, incorrect, illegible or has been crossed out or altered in any way. If the visa is not acceptable, a new visa must be obtained from an authorized official of the beneficiary sub-Saharan African country, or his designate, before preferential tariff treatment under section 112(a) of the AGOA can be claimed. Waivers are not permitted. If the visaed invoice is deemed invalid, the Customs Service will not return the original document after entry, but will provide a certified copy of that visaed invoice for use in

obtaining a new correct original visaed invoice.

The product groupings described above are in summary form. Interested persons should refer to section 112(b) of the AGOA for a complete description of the textile and apparel products for which preferential treatment may be claimed under section 112(a) of the AGOA.

This letter will be published in the **Federal Register**.

Sincerely,
Charlene Barshefsky.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Docket Management System (DMS)

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: The Office of Aviation Enforcement and Proceedings issues this notice to remind air carriers, foreign air carriers and travel agents of the requirements for full fare disclosure in connection with sales of air transportation and foreign air transportation on Internet websites. The notice specifically reminds the industry that pursuant to 14 CFR 399.84, as elaborated in Department industry notices and enforcement case precedent, so-called "fuel surcharges" must be included in the fare held out to consumers via the Internet. Failure to comply with these requirements violates the cited rule and constitutes a deceptive trade practice and an unfair method of competition in violation of 49 U.S.C. 41712.

FOR FURTHER INFORMATION CONTACT: Dayton Lehman, Deputy Assistant General Counsel, or Nicholas Lowry, Office of Aviation Enforcement and Proceedings, U.S. Department of Transportation, 400 7th St., SW., Washington, DC 20590. Tel. No. (202) 366-9342.

Prohibition on Deceptive Practices in the Marketing of Airfares to the Public Using the Internet; Notice

This is to remind all airlines, travel agents, and other sellers of air transportation that use the Internet to market air transportation fares to the public to ensure that the public is not misled about the fares being offered, and to point out a particular problem involving so-called "fuel surcharges" that has come to our attention regarding

the holding out of fares over the Internet.

During the past several years, we have disseminated a number of notices to the industry addressing a variety of fare advertising issues. One of those letters, dated March 18, 1996, noted the increased use of the Internet in the sale of air transportation and specifically addressed the fact that, just as is the case with the marketing of airfares via print media, marketers of airfares using the Internet must comply with Department regulations and enforcement precedent with respect to their Internet sites. This includes not only adherence to the Department's full-fare advertising rule (14 CFR 399.84), but also rules and enforcement case precedent in other areas concerning deceptive practices, such as disclosure of code-share relationships and critical purchase and travel restrictions. That letter, as well as other industry letters regarding price advertising, may be reviewed by going to the Internet site of the Department's Office of the General Counsel at <http://www.dot.gov/ost/ogc/index.html>.

Despite this earlier advice, we have discovered a serious problem with price advertising on the websites of a number of major airlines and large Internet travel agencies. Under 14 CFR 399.84, fare advertisements by air carriers or their agents must state the full fare charged the consumer. The intent of the rule is to ensure that members of the public are given adequate fare information on which to base their airline travel purchasing decisions. Failure to state the full fare in advertisements, in addition to violating the rule, constitutes an unfair and deceptive trade practice and an unfair method of competition in violation of 49 U.S.C. 41712.

The Department has provided interpretive guidance on the rule and, through a number of enforcement-related consent orders, has recognized certain exceptions to the "full fare" advertising standard. In accordance with this enforcement case precedent, the Department has allowed taxes and fees collected by carriers and other sellers of air transportation, such as passenger facility charges (PFCs) and departure taxes, to be stated separately in fare advertisements so long as the charges are levied by a government entity, are not *ad valorem* in nature, are collected on a per-passenger basis, and their existence and amount are clearly indicated in the advertisement so that the consumer can determine the full fare to be paid.

On several websites that we have examined, fare disclosure differs

according to the search path selected by the consumer. For searches in which the consumer specifies a date of travel in the search request, we have found that the sites make the disclosures required by section 399.84. With respect to searches where the consumer indicates no preference for travel dates but selects a flexible search, however, we have found fare displays with disclosures that are not adequate. More specifically, this latter type of search path produces a fare display in which a so-called "fuel surcharge" is mentioned either (1) in a separate screen, under "more rules," or (2) at the bottom of the display as a footnote, together with other applicable charges. The footnote merely states that a fuel surcharge may apply, and the consumer cannot find out whether it in fact does apply to a particular purchase until he or she goes to the booking page. Since such "fuel surcharges" are not government fees imposed on a per-passenger basis, their exclusion from the advertised fare and separate display (even where the amount is stated) does not fit within the exceptions to the full-fare advertising rule recognized in the Department's enforcement case precedent. Where these "fuel surcharges" (or similar carrier-imposed surcharges) are listed separately and are not included in the basic fare presented to the public, this is deceptive and violates 14 CFR 399.84. Such listings in other media have led to enforcement action in the past.

Airlines, travel agents, and other sellers of air transportation, in order to comply with the Department's fare advertising rule, must ensure that any ticket price displayed on their site includes all components required by the Department's full fare rule. Non-government surcharges and fees, such as fuel surcharges and service fees, as well as *ad valorem* excise taxes, must be included in the stated fare. Other charges that under Department case precedent may be legitimately excluded from the base fare, such as PFCs, international departure taxes collected by a carrier or its agent, and other per-person taxes or fees imposed by a government entity, may be noted on a website in a prominent link, proximate to the stated fare, that takes the viewer to the bottom of the screen, or to a separate screen, where the nature and amount of such fees are displayed.

As noted above, we are aware of a number of sites that do not comply with the Department's fare advertising requirements. We have already taken or intend to take steps, including enforcement action if necessary, to ensure that consumers are not misled and that all Internet sites conform to the