

181. There is nothing to indicate that Congress intended textile strip to be excluded from use in the AGOA, and Customs believes the term "yarn" may be understood to include that type of material. Accordingly, this document revises the § 10.212 definition of "wholly formed" as it relates to yarn to include a reference to textile strip. In addition, this document divides that definition of "wholly formed" into two definitions, one with reference to wholly formed fabrics and the other with reference to wholly formed yarns (and the latter definition is further corrected by removing the words "and thread" to reflect the fact that the statute and regulations do not use the word "wholly" in the context of thread formation); Customs believes that this approach will better clarify that there are distinct contexts in which "wholly formed" is used in the statute and regulations, which now also include the new seamless knitting machine context referred to above. Finally, at the end of the "wholly formed fabrics" definition, the words "in a single country" are replaced by "in the United States or in one or more beneficiary countries" in order to reflect the fact that fabric may be wholly formed in more than one beneficiary country in the case of articles covered by section 112(b)(3) of the AGOA and § 10.213(a)(4) of the regulatory texts.

2. As noted above, quantitative limits apply for preferential treatment purposes in the case of articles covered by section 112(b)(3) of the AGOA which is reflected in § 10.213(a)(4) and (5) of the regulatory texts. Those quantitative limit provisions are set forth in U.S. Note 2 to Subchapter XIX of Chapter 98, HTSUS, which requires the Committee for the Implementation of Textile Agreements to publish in the **Federal Register** the applicable aggregate quantity of imports allowed for each 12-month period. Customs believes that it would be helpful for a reader of the regulatory texts to know that those quantitative limits apply to the subject products. Accordingly, revised paragraphs (a)(4) and (a)(5) of § 10.213 as set forth in this document also include appropriate references to the quantitative limit provisions of U.S. Note 2 to Subchapter XIX of Chapter 98, HTSUS.

3. Section 112(b)(5)(A) of the AGOA, which is reflected in § 10.213(a)(8) of the regulatory texts, covers apparel articles that are constructed of either fabrics or yarns that are considered to be in "short supply" for purposes of Annex 401 of the NAFTA (that is, the fabrics or yarns are not required to be originating within the meaning of the

NAFTA, if those fabrics or yarns undergo the specified tariff shift for that article and that article meets all other applicable requirements for an originating good). For example, sweaters of wool classified under subheading 6110.11.00 of the HTSUS that are knit to shape in a NAFTA country from 40 percent non-originating silk yarn and 60 percent originating wool yarn may qualify as originating goods because a tariff shift from silk yarn is allowed by the applicable tariff shift rule, but sweaters knit to shape from 40 percent originating silk yarn and 60 percent non-originating wool yarn will not qualify as originating goods because the non-originating wool yarn is classified under a heading (5106) from which a tariff shift is not allowed. Customs notes that the corresponding HTSUS provision (subheading 9819.11.21) contains a more explanatory description of the Annex 401 short supply rule; the regulatory text is revised in this document to conform to the approach used in the HTSUS provision. Customs further notes that the same short supply language appears within the textile provisions of the United States-Caribbean Basin Trade Partnership Act (the CBTPA) and the Andean Trade Promotion and Drug Eradication Act (the ATPDEA), and in those contexts the short supply provision can only be interpreted to not apply to brassieres classifiable under subheading 6212.10 of the HTSUS because applying it would render meaningless the extensive provisions on brassieres in those Acts. Consequently, Customs has decided that the short supply provision does not apply to brassieres under the CBTPA and ATPDEA and that the same interpretation must apply for purposes of the AGOA. Customs notes in this regard that the NAFTA Annex 401 rule for articles classified in subheading 6212.10 of the HTSUS requires only the performance of certain specified production processes (that is, "both cut (or knit to shape) and sewn or otherwise assembled in the territory of one or more of the NAFTA parties") and includes no requirements regarding the source of the fabrics or yarns. There is little logic in applying the short supply provision to a product where the NAFTA rule makes no mention of excluded materials. Thus, Customs believes that brassieres of subheading 6212.10, HTSUS, are not covered by section 112(b)(5)(A) of the AGOA and § 10.213(a)(8) of the regulations. The revised text of § 10.213(a)(8) set forth in this document therefore also includes appropriate exclusionary language to reflect this interpretation.

4. With reference to the findings, trimmings and interlinings provisions under § 10.213(b)(1), Customs believes that it would be useful to specify in the regulatory texts an appropriate basis for determining the "cost" of the components and the "value" of the findings and trimmings and interlinings. Customs further believes that the standard should be based on the regulations that apply to components and materials under subheading 9802.00.80, HTSUS (in particular, 19 CFR 10.17), and under the GSP (in particular, 19 CFR 10.177(c)). Accordingly, this document adds a new subparagraph (2) to § 10.213(b) to address this point and redesignates former subparagraph (2) of the interim regulatory texts as subparagraph (3).

5. In addition to the modification of the preference group descriptions on the Textile Certificate of Origin set forth under § 10.214(b) as discussed above, the format of the Certificate is modified and some of the blocks are moved and renumbered, solely for purposes of clarity. The instructions for completion of the Certificate in paragraph (c) of § 10.214 are also revised to reflect the changes made to the Certificate and to provide additional clarification regarding its completion, including provision for signature by an exporter's authorized agent having knowledge of the relevant facts.

6. In the case of articles described in § 10.213(a)(1), interim § 10.215(a) provided for the inclusion of the symbol "D" as a prefix to the applicable Chapter 98, HTSUS, subheading (that is subheading 9802.00.80) as the means for making the required written declaration on the entry documentation. This procedure was adopted because, contrary to the case of the other articles described in § 10.213(a), no unique HTSUS subheading had been identified for the articles covered by § 10.213(a)(1) when the interim regulations were published. A unique HTSUS subheading now exists for those articles (that is, subheading 9802.00.8042). Accordingly, § 10.215(a) is revised in this document to prescribe the same entry documentation declaration procedure for all articles described in § 10.213, that is, inclusion of the HTSUS Chapter 98 subheading under which the article is classified.

7. In § 10.216(b)(4)(ii), the cross-reference to "§ 10.214(c)(14)" is changed to read "§ 10.214(c)(15)" to reflect the addition of the provision regarding signature by the exporter or the exporter's authorized agent.

8. Finally, in § 10.217(a)(2) and (a)(3), the words "in a beneficiary country" are removed in recognition of the fact that