

STATUTORY INSTRUMENT NO. 4 OF 2004

Published 11th March, 2004

*THE SIERRA LEONE EXPORT DEVELOPMENT AND
INVESTMENT CORPORATION ACT, 1993*

(Act No. 23 of 1993)

THE EXPORT CONTROL (TEXTILE AND APPAREL ARTICLES)
REGULATIONS, 2004

Short title.

In exercise of the powers conferred on her by section 28 of the Sierra Leone Export Development and Investment Corporation Act, 1993 the Minister of Trade and Industry hereby makes the following Regulations:—

1. In these Regulations, unless the context otherwise requires— Interpretation.

“AGOA” means the African Growth and opportunity Act of 2000, enacted by the Government of the United States of America as Title 1 of the Trade and Development Act of 2000, as amended;

“AGOA Secretariat” means the secretariat created by the Minister to facilitate the implementation of the AGOA visa system;

“AGOA Officer” includes any person appointed by the Minister for the implementation of these Regulations;

“agent” includes any person duly authorized by the exporter to sign or complete any document, including the textile certificate of origin and the original commercial invoice in relation to any benefit under the AGOA;

“authorized Government officer” includes any officer designated as such by the Commissioner-General of the National Revenue Authority whose right or duty

claimed under AGOA on the basis of material false information concerning the country of origin, manufacturer, processing or assembly of an article or any of its components and for the purposes of the AGOA, false information is material if disclosure of the true information would mean or have meant that the article is or was ineligible for preferential treatment under section 112 of the AGOA;

"Minister" means the Minister of Trade and Industry and "Ministry" shall bear the corresponding meaning;

"Permanent Secretary" means the Permanent secretary of the Ministry of Trade and Industry;

"person" includes an individual, partnership, company or other corporate body;

"Port Director" means the Port Director of U.S. Customs and Border Protection;

"preferential treatment" means duty-free and quota free treatment applicable under AGOA in respect of any product;

"product" includes textile and apparel articles claiming preferential tariff treatment under the AGOA;

"producer or manufacturer" includes, when used in connection with the AGOA and any related document required thereunder, a person that grows, mines, harvests, manufactures, processes, or assembles goods, or any combination thereof in Sierra Leone;

"Rules of Origin" means the AGOA Rules of Origin

(a) the "growth" product or manufacture of Sierra Leone, and

(b) exported directly from Sierra Leone to the U.S.A;

"textile and apparel articles" means the textile and apparel articles to which the preferential treatment in section 112 of the AGOA and the U.S.A. Customs Regulations 19 CFR 10 relate;

"USA" means the United States of America; and
"Customs Territory of the USA" means the 50 states and the District of Columbia and Puerto Rico;

"visa stamp" refers to the AGOA textile and apparel visa stamp affixed to the commercial invoice in blue ink only to qualify the exported goods for preferential treatment under section 112 of the AGOA;

"visa system" means, for the purposes of section 113 (a) (1) of the AGOA, the procedures prescribed in these Regulations in respect of the application for a visa and its subsequent issuance;

"19 CFR 10" means Part 10 of the Customs Regulations contained in the code of the Federal Regulations published by the Department of Treasury in the Federal Register, Volume 65, No. 194 of 5th October, 2000, as amended, of which sections 211 to 217 and supplementary information therein contained in Part 10 and sections 112 and 113 of the AGOA specifically relate to the textile and apparel articles which may be allowed preferential tariff treatment under the AGOA.

2. (1) For the purpose of the AGOA, every exporter, producer, manufacturer of textile and apparel articles shall be registered by the Ministry and any person who has so registered and subsequently ceases production shall de-register with the Ministry.

(2) The Ministry through the AGOA Secretariat shall submit to the Commissioner-General the names and full details of all persons registered under this paragraph on a regular basis.

3. (1) The textile certificate of origin, numbered CTCO 44 Certificate of origin which must be completed by exporters when exporting is prescribed in the First Schedule and rules for the completion of the certificate are set out in the Second Schedule.

(2) The textile certificate of origin and the original commercial invoice, the traditional export forms and other supporting documents shall be delivered for processing at the appropriate customs office.

(3) The following codes are used in the lettering of the visa stamp and the textile certificate of origin in respect of the ports of export:—

Queen Elizabeth II Quay-QE II

Lungi International Airport—LIA

(4) The provisions in these Regulations in respect of the textile certificate of origin and the issuance of a visa apply only to textile and apparel articles, which originate in, and are exported, from Sierra Leone.

(5) Where an exporter imports for export any textile or apparel articles which are claimed to have originated from another beneficiary country or lesser developed beneficiary country, the certificate of origin and the visa must be issued in that other country.

4. (1) Any person who wishes to export any textile or apparel Visa requirements article under AGOA to the USA market shall apply and be issued with a visa in accordance with these Regulations.

(2) The exporter must be either a natural person or a legal person ordinarily resident and doing business in Sierra Leone.

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(2) The exporter must be either a natural person or a legal person ordinarily resident and doing business in Sierra Leone.

(3) An application for a visa shall be accompanied by—

- (a) the original commercial invoice; and
- (b) the certificate of origin as prescribed in these Regulations completed and duly signed by the exporter or his authorized agent.

(4) The completion of a certificate of origin and its acceptance for processing for a visa is conditional upon the exporter holding and being able to produce on demand, evidence that the goods comply with the Rules of Origin for the preference group declared on the certificate.

(5) The exporter may complete and sign a single certificate of origin in respect of multiple shipments of identical articles within a specified blanket period except that such period shall not exceed one year.

(6) In terms of 19 CFR 10, 216-(B) (1) to (3) it is required that the certificate shall be—

- (a) in writing or shall be transmitted electronically pursuant to any electronic data interchange system authorized by the U.S. Customs and Border Protection for that purpose;
- (b) signed by the exporter or by the exporter's authorized agent having knowledge of the relevant facts; and
- (c) completed in the English language.

(7) Where the exporter is not the producer of the article, that exporter may complete and sign a certificate of origin on the basis of—

- (a) reasonable reliance on the producer's written representation that the product qualifies for preferential treatment;

determination of the appropriate tariff subheading in the Harmonized Tariff Code;

- (c) reflect the applicable tariff subheading on the traditional export forms;
- (d) state the preference group letter as quoted on the certificate of origin;
- (e) contain any other reference number or numbers or other particulars by which the goods can be readily and easily identified in the exporter's records;
- (f) be completed in respect of each of the preference groups of textile and apparel articles contained in a shipment; and
- (g) where a consignment consists of various preference groupings, the commercial invoice for each grouping which is required to be completed must reflect appropriate cross references to the other invoices for the goods comprising the consignment.

Application
for issuance
of visa.

7. (1) All applications for a visa under the AGOA must be submitted to the Commissioner-General for the visa to be issued.

(2) The Commissioner-General or his designate being an authorized Government officer, may on receipt of an application for a visa—

- (a) require the applicant to furnish any other information as he may deem fit;
- (b) issue a visa on such terms and conditions as he may deem fit;
- (c) reject the application if it does not comply with the provisions of AGOA (in case of export to USA) or these Regulations.

information that is not correct shall promptly notify the authorized Government officer to whom the application was made, the USA importer and any other person to whom the certificate was given of any inaccuracy that could affect the validity of the certificate and an exporter or producer who provides written notification of any such information shall not be subject to any penalty with respect to the incorrect certification.

11. (1) Under 19 CFR 10 of the Code of Federal Regulations, it is provided that certain importation into the USA may not require a certificate of origin as follows:—

Certificate of origin not required.

(a) except as otherwise provided in these Regulations, a USA importer is not required to have a certificate of origin for—

(i) an importation of an article for which the Port Director has in writing waived the requirement for a certificate of origin because the Port Director is satisfied that the article qualifies for preferential treatment; or

(ii) a non-commercial importation of an article; or

(iii) a commercial importation of an article whose value does not exceed US\$2,500:

Provided that, unless waived by the Port Director, the exporter, producer, importer or authorized agent includes or attaches to the invoice or other document accompanying the shipment the following signed and dated statement "I hereby certify that the article covered by this shipment qualifies for preferential treatment under the AGOA"

(b) if the Port Director determines that an importation described in subparagraph (a)

forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purposes of avoiding a certificate of origin requirement, the Port Director may inform the importer in writing that for that importation he must have a valid certificate of origin to support his claim for preferential treatment, and for the purposes of this subparagraph, a "series of importations" means two or more entries covering articles arriving on the same day from the same exporter and consigned to the same person.

(2) For the purposes of implementing subparagraph (1) in respect of a commercial exportation for which a certificate of origin is not required, every exporter shall—

- (a) ensure that the goods comply with the relevant provisions of origin at the time of export;
- (b) be in possession of the records and documents proving the origin of the goods exported;
- (c) use serially numbered commercial invoices;
- (c) insert a reference number or other particulars on any such invoice or delivery note or other commercial document, according to which the goods can be readily identified in such records and documents;
- (d) describe the goods on such invoice and delivery note or other commercial document in sufficient detail to enable them to be identified and for the purposes of determination of the tariff subheading;

(e) insert on any such document the applicable tariff subheading which must correspond with the subheading on the traditional export form; and

(f) insert on the commercial invoice and such other documents and the copies thereof the declaration specified in the proviso to subparagraph (1) (a) (iii) which shall bear the signature of the exporter.

(2) Where a certificate of origin is required in the circumstances specified in subparagraph (1) (b), the exporter shall furnish to the authorized Government officer, an explanation of the circumstances which resulted in U.S. Customs and Border Protection requiring a certificate of origin.

12. (1) If any goods that require a certificate of origin and a visa to qualify for preferential tariff treatment on importation into the USA are imported without a certificate of origin and a visa as specified in these Regulations, the exporter, following a request from the USA importer, may prepare a certificate of origin and apply in writing to the Commissioner-General for the issuance of a visa in respect of such goods.

Certificate of origin and visa issued retrospectively.

(2) The application under subparagraph (1) shall state fully the circumstances in which the goods were exported without a certificate of origin and a visa and shall be supported by—

(a) a completed certificate of origin;

(b) a fresh commercial invoice and a copy thereof certified by the exporter to be true copies of the invoice issued when the goods were exported;

(c) copies of the traditional export form, commercial invoice, bill of lading or air waybill

nonbeneficiary country, the articles in the shipment do not enter into the commerce of any nonbeneficiary country while enroute to the USA and the invoices, bills of lading and other shipping documents show the USA as the country of final destination; or

(c) if the shipment is from Sierra Leone into the USA through the territory of any nonbeneficiary country, and the invoices and other documents do not show the USA as the final destination, the articles in the shipment upon arrival in the USA are imported directly if they—

(i) remained under the control of the customs authority of the intermediate country;

(ii) do enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the Port Director is satisfied that the importation results from the original commercial transaction between the importer and producer or the producer's sale agent; and

(iii) are not subjected to operations other than loading or unloading and other activities necessary to preserve the articles in good condition:

Provided that the exporter provides the importer with the necessary documentation relating to the movement of the articles to the USA.

- (12) Block 10 is to be completed only when the preference group 'identifier "8" and/or "H" is inserted in block 4 and must state the name of the fabric or yarn that is in short supply in the NAFTA or that has been designated as not available in commercial quantities in the United States.
- (13) Block 11 must contain the signature of the exporter or of the exporter's Authorized agent having knowledge of the relevant facts.
- (14) In Block 15, reflect the date on which the certificate was completed and signed.
- (15) In Block 16, complete if the certificate is intended to cover multiple shipments of identical articles as described in block 5 that are imported into the United States during a specific period of up to one year (see 19CFR 10.216 (b) (4) (11)). The "from" date is the date on which the certificate became applicable to the article covered by the blank certificate (this date may be prior to the date reflected in block 15). The "to" date is the date on which the blanket period expires.
- (16) In Block 17, state the telephone, facsimile numbers and E-mail address at which the person who signed the certificate may be contacted; and
- (17) The certificate may be printed and reproduced locally. If some space is needed to complete the certificate, attach a continuation sheet.

MADE this 24th day of February, 2004.

DR. KADISESAY,
Minister of Trade and Industry.