SMART Since 1932 SECONDARY MATERIALS® AND RECYCLED TEXTILES
The Association of Wiping Materials, Used Clothing and Fiber Industries

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VIA REGULATIONS.GOV (Docket No. USTR–2017-0005)

Office of the United States Trade Representative
Trade Policy Staff Committee
AGOA Implementation Subcommittee
600 17th Street, NW
Washington, D.C. 20508

Re: Annual Review of African Growth and Opportunity Act Eligibility and Benefits for Rwanda, Tanzania, and Uganda, 82 Fed. Reg. 32042 (July 11, 2017)– Public Comments of Secondary Materials and Recycled Textiles Association

Dear Trade Policy Staff Committee:

On behalf of the Secondary Materials and Recycled Textiles Association ("SMART"), we hereby respond to the invitation of the Trade Policy Staff Committee ("TPSC") to comment regarding the annual review of African Growth and Opportunity Act ("AGOA") beneficiary countries Kenya, Rwanda, Tanzania, and Uganda as provided for under § 111(d)(2)(a) of AGOA (19 U.S.C. § 2466a(d)(2)(a)).[1]

SMART welcomes the opportunity to provide input in this review because SMART has grave concerns regarding the ban on imports of secondhand clothing (also referred to as "used clothing") which these countries have recently begun to phase in. The Committee will recall that SMART filed a petition for an Out of Cycle review of eligibility benefits of these same countries earlier this year and was granted a hearing on July 13, 2017. At that hearing we presented compelling testimony to the committee supporting our recommended suspension of duty-free access to the United States under AGOA for all currently eligible apparel imports from

1 Request for Comments and Notice of Public Hearing Concerning an Annual Review of Eligibility Benefits Under the African Growth and Opportunity Act, 82 Fed. Reg. 32042 (USTR, July 11, 2017). Kenya has communicated to the USTR that it would not proceed to implement higher tariffs on imports of secondhand clothing and as of July 1, 2017 has rolled back tariff rates on used clothing to pre-2016 rates. However, SMART is aware of news reports that Kenya has recently announced that it will impose "minimum tariffs" on containers of "used goods." Depending on how the Kenyan government interprets the term "used goods" this action threatens to negate Kenya's announced roll back of its tariffs on imported used clothing. For this reason, SMART requests that Kenya also be included in this Annual Review, at least until such time as the U.S. Government receives assurances from Kenya that its tariff on containers of "used goods" will not be implemented to effectively ban imports of secondhand clothing from the United States. The application of such a duty to secondhand clothing would negate Kenya's communications to the USTR. If this new duty is in fact imposed on secondhand clothing, SMART urges that Kenya should be treated as subject to this review and subject to the same relief as Rwanda, Tanzania, and Uganda.

Tanzania, Rwanda, and Uganda until such time as those countries roll back all increased import duties on used clothing and commit not to implement their proposed ban on imports of used clothing.

Our position on this has not changed since the hearing because this ban on imports would directly and negatively affect the exports of SMART's member companies to the East African Community ("EAC"). As detailed below, the initial stages of the implementation of this ban are already having an impact on exports of secondhand clothing from the United States to Kenya, Rwanda, Tanzania, and Uganda. Implementation of the ban would expressly violate one of the key obligations of AGOA beneficiaries -- to work toward elimination of barriers to U.S. trade and investment. It would also create severe economic hardships for the secondhand clothing industry in the United States, cost jobs in the United States as well as in Kenya, Tanzania, Rwanda, and Uganda, and result in other negative consequences in the United States and EAC.

Description of SMART and Its Members

SMART is a non-profit trade association founded in 1932 that represents mostly small and medium-sized companies involved in using, converting, and recycling pre- and post-consumer textiles and other secondary materials. The activities of this nearly $1 billion industry are very diverse.

Some SMART members recover and process "pre-consumer" by-products from the textile and fiber industries to be used in new materials for automobiles, home furnishings, and a variety of other products. Others buy and sell "post-consumer" secondhand textiles, purchasing excess textile donations collected from various charities and commercial sources (e.g., the Salvation Army, Goodwill, hospitals, hotels, industrial laundries, etc.), while others collect used textiles dropped off by the public via clothing collection bins conveniently located throughout communities. Some of these recovered textiles become wiping and polishing cloths used in institutional and industrial settings while others are reprocessed into fibers for furniture stuffing, upholstery, insulation, building, and other materials. The items that can be reused as apparel are usually exported, typically to least developed and developing countries such as those in East Africa, where demand for affordable, quality clothing is especially high. It should be pointed out that while the recycled fiber is a useful by-product of the clothing recycling trade, it is the resale of good, usable clothing that renders the overall industry profitable.

Through these business activities, for-profit textile recyclers create meaningful employment for tens of thousands of people who drive local economies and generate much-needed tax revenue across the United States. They also generate meaningful income for numerous well-respected charities and make vital contributions to state and national environmental goals through the recycling of nearly four billion pounds of clothing and other textile waste that otherwise would go to a landfill each year.

Background of Secondhand Clothing/Footwear Ban in the EAC

SMART has significant concerns about the proposed ban on secondhand clothing and footwear imports in the EAC nations of Kenya, Rwanda, Tanzania, and Uganda. This ban was first proposed by these four countries (along with non-AGOA beneficiary Burundi) in February 2015 during the 16th EAC Heads of State Summit, with EAC trade ministers claiming that a ban was needed to boost their domestic textile industries.[2] Given the significant toll such a ban would have on the secondhand clothing industry, SMART immediately reached out to the U.S. Department of Commerce's Office of Textile and Apparel ("OTEXA") and the Office of the U.S. Trade Representative. These agencies quickly engaged, and U.S. government officials attempted multiple interventions on SMART's behalf during both in-person meetings with EAC officials and in formal written correspondence.

Unfortunately, these contacts appear to have had little effect on EAC leaders, who subsequently announced in a March 2016 joint communiqué that they were moving ahead with the ban. In that statement, the African leaders promised to work together to develop their domestic textile and leather industries, "…with a view to phasing out importation of textile and footwear within three years … with a view to fast tracking the process."[3] Although that communiqué offered no details about how this phase-in would occur, subsequent media reports confirmed the EAC trade ministers planned to implement the ban in stages, more than likely beginning with import duty increases on secondhand clothing and shoes.

Those plans quickly came into fruition. In June 2016, the Tanzanian legislature voted to approve a budget that doubled import duties on secondhand clothing, increasing these tariffs from $0.20 per kilogram to $0.40 per kilogram.[4] In that same month, Kenya and Uganda announced tariff increases on used clothing imports similar to those announced by Tanzania, according to SMART's members' customer contacts in these countries. At about the same time, the government of Rwanda raised import duties on secondhand clothing by 1,150 percent (from $0.20 per kilogram to $2.50 per kilogram) and by 900 percent on used shoes (from $0.50 per kilogram to $5.00 per kilogram).[5] These tariff increases are so high that they amount to a *de*

[2] Communiqué of the 16th Ordinary Summit of the East African Community Heads of State, 20 February 2015, 6. < http://eac.int/news-and-media/statements/20150220/16th-ordinary-eac-heads-state-summit>

[3] Joint Communiqué: 17th Ordinary Summit of the East African Community Heads of State, 2016 March, http://www.president.go.ke/2016/03/02/17th-ordinary-summit-of-the-east-african-community-headsof-state/.

[4] "Tanzania: House Passes 2016/17 Budget as Opposition Remains Out." All Africa, 21 June 2016, <http://allafrica.com/stories/201606210541.html>

[5] "Rwanda multiplies import duties on used items," Daily Nation, 4 July 2016. http://www.nation.co.ke/business/Rwanda-multiplies-import-duties-on-used-items/-/996/3278548/-/fvelak/-/index.html

facto bans on the secondhand clothing industry and confirm that these countries are moving full steam ahead on implementing the proposed ban.

Most recently, SMART discovered The Draft EAC Strategy/Action Plan for the Phase-Out [of] Importation of Second-Hand Clothes/Shoes within The Period 2017-2019.[6] This document prepared in April 2017 by the EAC Secretariat leaves no hint of an illusion as to the intent of the EAC to ban the importation of our commodities. It calls for tariff increases up to $4.00/kg. with a further step-up to $5.00/kg. in 2018.[7] For shoes, it calls for a levy of $5.00/pair.[8]

This recent strategy document goes far to void the EAC Director General's disingenuous testimony during the recent OCR hearing. He claimed that the increase from US$0.20/kg. to $0.40/kg. was merely a "realignment" of duties. If that were truly the case, there would be no further need to increase the duty up to $5.00/kg. Moreover, SMART is in possession of Tanzania Revenue Authority documents that show a very real and significant rise in duties.[9]

Even if the proposed draconian tariff increases were not enough to kill the used clothing trade, the EAC strategy document also proposes non-tariff barriers in the form of packaging requirements that far exceed internationally practiced standards[10]. This new requirement would double packing costs for used clothing. Lastly, the EAC strategy document calls for the establishment of a "register" of used clothing importers. Such a register will likely be used to intimidate any importer who dares to continue importing our goods.[11]

<u>The Ban Violates the Requirements for AGOA Eligibility</u>

As was noted in the Federal Register notice announcing this annual AGOA review,

> The President may designate a country as a beneficiary sub-Saharan African country eligible for these benefits of AGOA if he determines that the country meets the eligibility criteria set forth in: (1) Section 104 of AGOA (19 U.S.C. § 3703); and (2) section 502 of the 1974 Act (19 U.S.C. § 2462).

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6 The Draft EAC Strategy/Action Plan for the Phase-Out [of] Importation of Second-Hand Clothes/Shoes within The Period 2017-2019, EAC Secretariat, Arusha, April 2017 is attached as Appendix 1 to these comments.

7 Ibid., Section X (4), p.7.

8 Ibid., Section X (5).

9 In our post-hearing submission on the Petition for Out of Cycle Review we asked that these documents be protected as business confidential due to their extreme sensitivity.

10 The Draft EAC Strategy/Action Plan for the Phase-Out [of] Importation of Second-Hand Clothes/Shoes within The Period 2017-2019, April 2017, EAC Secretariat, Arusha, Section X (2-3), p. 7.

11 Ibid., Section X (6).

> Section 104 of AGOA includes requirements that *the country has established or is making continual progress toward establishing, inter alia: A market-based economy*; the rule of law, political pluralism, and the right to due process; *the elimination of barriers to U.S. trade and investment; economic policies to reduce poverty;* a system to combat corruption and bribery; and the protection of internationally recognized worker rights.[12] (emphasis added)

Banning the importation of an otherwise legitimate product – secondhand clothing -- in order to protect and develop one's own industry conflicts with the statutory requirement that AGOA beneficiaries work toward developing market-based economies.[13] Articles in respected newspapers report that Rwanda, in particular, promotes privileged industries owned by its leading political party the Rwanda Patriotic Front ("RPF"), and requires the local business community to rent and invest according to Government dictates.[14] By placing a *de facto* ban on the imports of used clothing, Rwanda currently manifests the non-market economy based approach that underlies the proposed EAC import ban. The chilling effect on exports to Tanzania, and Uganda amounts to a *de facto* ban similar to Rwanda's. The Draft EAC Strategy document lays out expressly the protectionist intent of EAC's policy to ban used clothing imports. At the same time, the document says nothing about increasing existing tariffs on new apparel, thereby supporting Chinese attempts to dominate the East African market by permitting and promoting the purchase of cheap new clothing that comes mainly from China whose goods currently compete poorly with better quality used clothing from the United States.[15] Clearly, this contravenes the development of a market-based economy.

Moreover, the proposed ban on secondhand clothing imports would blatantly flout the statute's requirement that AGOA beneficiaries work toward eliminating barriers to U.S. trade and investment. Indeed, as mentioned above, Rwanda, Tanzania, and Uganda (and perhaps Kenya) propose to erect new barriers to imports of secondhand clothing from the United States at the same time that the United States provides these countries with preferential access to our domestic market through a program that benefits African textile and apparel exports. The announced import ban and duty increases constitute the erection of new barriers to U.S. trade rather than their elimination, in direct opposition to the requirements for receiving AGOA benefits.

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[12] Request for Comments and Notice of Public Hearing Concerning an Annual Review of Rwanda, Tanzania, and Uganda Eligibility for Benefits Under the African Growth and Opportunity Act, 82 Fed. Reg. 32042 (July 11, 2017).

[13] Section 104 of AGOA (19 U.S.C. § 3703).

[14] "Rwanda: If you build it, they may not come." The Economist, 4-10 March 2017, 37. "Business in Rwanda: Party of business." The Economist, 4-10 March 2017, 53.

[15] The EAC's common external tariff rates on new apparel are currently 25 percent ad valorem on articles made from non-cotton fabric and 50 percent ad valorem on articles made from cotton fabric. Both rates are far below the $4 or $5 per kilogram rate specified in the April 2017 strategy document.

If the U.S. government continues to afford AGOA benefits to Tanzania, Uganda, and Rwanda (and Kenya) in the face of a secondhand clothing import ban that plainly violates the requirements imposed by 19 U.S.C. § 3703, the statute will be rendered a nullity. Other African governments and AGOA beneficiaries will likely interpret this as permission to ignore U.S. policy and take advantage of U.S. generosity promoted by AGOA while simultaneously doing considerable harm to U.S. industries.

<u>The Effects of the Ban on the Domestic Secondhand Clothing Industry</u>

In addition to violating the statutory requirements for AGOA eligibility, the higher tariffs being imposed by Rwanda, Tanzania, Uganda (and perhaps Kenya) are already having an impact on U.S. exports of secondhand clothing to the EAC. The volume of exports to Kenya in the period January through April 2017 remained flat when measured against the same period for 2016, with only a slight increase of 1 percent over that time. The volume of exports to Tanzania shows a much larger reduction over the same periods, with a decline of 19 percent in January through April 2017 compared to the same period in 2016. The decline in exports to Uganda from the United States is even more drastic, with the volume of exports falling by 36 percent in January through April 2017 compared to the same time span in 2016. Exports to Rwanda have ceased entirely, with zero exports to the country in January through April 2017. Cumulatively, among the four countries, exports have declined 13 percent in the first four months of 2017 compared to the same period in 2016.[16] With the opening months of 2017 already showing the negative impact that the EAC policy is having on the U.S. secondhand clothing industry, if current trends continue, the industry could easily be looking at downturns of 15%-20% for 2017.

Moreover, in the cases of Kenya, Tanzania and Uganda the duty increases have been "incremental" and therefore have not yet had their full negative impact on exports to those countries. However, Rwanda serves as a concrete example of the end result that the EAC policy seeks to obtain: direct shipments to Rwanda have stopped completely.

These additional duties and the resulting decline in exports to Kenya, Tanzania, Uganda, and Rwanda are having a significant negative impact on SMART's members, as evidenced by a recent SMART survey of its relevant members.[17] That survey found:

- 40 percent of SMART survey respondents have already reduced employment by 25 percent or more since the second and third quarters of 2016 when EAC countries raised their duties as the first steps in implementing the full used clothing ban.

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[16] *See* 2017 U.S. International Trade Commission Dataweb data for HTS 6309.

[17] Based on Results from an industry survey conducted in March 2017. SMART conducted this survey among its member companies. It received 40 percent response rate among relevant members, which is a sufficient basis for SMART to form an accurate estimate of the effects of the EAC ban on the secondhand clothing industry in accordance with survey standards.

- More than 88 percent of SMART survey respondents have experienced a reduction of 25 percent or more in their revenues since the implementation of duty increases by the EAC countries in the second and third quarters of 2016.

- More than 52 percent of SMART survey respondents say they would be forced to reduce their number of employees by at least 50 percent if the EAC countries were to fully implement the import ban.

- More than 94 percent of SMART survey respondents said a full ban on imports of used clothing within the EAC would cause them to experience a 25 percent to 75 percent reduction of revenues.

A recent report that SMART received from a U.S. based non-vessel operating common carrier ("NVOCC") that specializes in shipments of used clothing from U.S. ports to Africa substantiates SMART's survey findings. This company, which has extensive experience in East Africa trade lanes, estimated that its traffic to East African ports has declined by 75 percent since the increase in duties almost exactly a year ago.

The aforementioned points are highly illustrative of the damage to SMART's members that is already being caused by EAC policies. Based on these findings, SMART estimates that the interim duty increases put into place by certain EAC countries last year has led to a *current* loss of 5,000 jobs in the for-profit sector of the U.S. used clothing industry and the loss of another 19,000 jobs in the non-profit sector.[18]

[18] This estimate can be supported under either of two methods. The first approach tallies the U.S. regional industry actors for all for-profit sectors as identified by SMART members familiar with the various actors in the industry. These estimates ranged from 55,000 to 70,000 employees, establishing a conservative "base line" employment estimate. The alternative approach is based on the annual volume of recycled textiles combined with an estimate of the productivity of employees processing used clothing. The Environmental Protection Agency calculates that 2.3 million tons of textiles were salvaged from landfills as of 2013. SMART anticipates that the total quantity of textiles salvaged from landfills will be closer to 2.5 million tons in 2017, due to increased efforts to reduce textile waste diverted to landfills. However, to be conservative, SMART estimates that at least 1.75 million tons of this material will be handled, processed or sold in the for-profit sector of the industry this year. The used clothing industry is relatively labor intensive: the experience of SMART's members is that the average productivity in all jobs in the private sector involving used clothing is 215 pounds per man-day. Assuming a 50-week work year, and 215 pounds processed per man day, results in an estimate of about 65,000 employees. Using the lower, estimated employment figure of 55,000 jobs in the private sector to be conservative, and assuming that the respondents in SMART's recent survey are representative of the industry, 40 percent of the industry would reduce their employees by at least 25 percent (and some by at least 50 percent). 40 percent of 55,000 employees equals 22,000 jobs. Reducing those jobs by 25 percent amounts to a loss of 5,500 jobs. SMART's estimate of 5000 jobs lost in the private sector as a direct result of an EAC import ban is thus conservative.

In addition to SMART's member survey, specific recent anecdotal evidence from throughout the used clothing supply chain suggests that the negative effects of the EAC import ban will be more pronounced as time proceeds. Some processors and graders who supply used clothing to the region have already become only marginally profitable, if profitable at all. Thrift stores and suppliers of raw material to the industry, both for-profit and not-for-profit, have already begun to shut down, causing some serious supply disruptions.

Considering the disruption SMART's members are witnessing in the face of the EAC's increased duties, SMART cannot overstate its concern about the impact the import ban will have on the secondhand clothing industry. Although suffering a 41 percent decline in export volume since 2014, the EAC nations remain one of the most important markets for U.S. industry's used clothing exports, with direct American exports to the EAC member countries totaling approximately $24 million in 2016.[19] However, used clothing is also exported from the United States into Canada, India, United Arab Emirates, Pakistan, Honduras and Mexico, where it is processed and then re-exported into the EAC. SMART estimates conservatively that the value of U.S. sourced goods that flow via these other countries into the EAC is $100 million.[20] In other words, when taking into account both direct and indirect shipments, the total value increases dramatically to $124 million or about 22 percent of the U.S. industry's total exports each year.[21] It should be noted that this is substantially less than in past years due to the announcement of the import ban and the effects of the recent duty increases.

SMART believes that as many as 40 U.S. used clothing exporters are directly involved in trade with the EAC. This estimate increases substantially when the various for-profit and not-for-profit clothing collectors and charitable organizations who supply the raw material that gets processed and ultimately exported directly and indirectly to the EAC are taken into account. These companies are located around the country and include, but are not necessarily limited to, the following states: New York, Pennsylvania, Maryland, Georgia, Florida, Texas, California, and Washington. The urban areas of these states have been hit particularly hard. The various not-for-profit collectors are located more evenly throughout the country, and are likely located in every state. Because of the nature of this business, these companies are all small- and medium-sized enterprises.

Industry-wide, SMART estimates conservatively that the EAC import ban would result in the loss of at least 40,000 U.S. based jobs within the private sector in collection, processing, and distribution.[22] That figure increases dramatically when jobs in the not-for-profit sector are included. Based on recent conversations with SMART's not-for-profit partners, the not-for-profit sector easily includes another 150,000 employees. Industry counterparts in Canada, the

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[19] Based on 2016 U.S. International Trade Commission Dataweb data for HTS 6309.

[20] Based on industry market data and estimates.

[21] Based on industry market and data estimates.

[22] *See* Note 11, *supra*.

United Kingdom and the European Union are similarly concerned about the impacts of the import ban and have engaged their public officials who are voicing concerns to the EAC leaders.

Per SMART's calculations above, $124 million in revenues from export trade would be lost, but untold millions would further disappear from various charities. Indeed, well-known organizations like Goodwill, St. Vincent de Paul, and others rely on the sale of donated used clothing to industry exporters as a means to fund their worthwhile charitable activities. Eliminating an important export destination like the EAC will depress prices for secondhand clothing and will dramatically reduce the amount of money these very worthy not-for-profits receive to support their highly beneficial programs. The values mentioned do not express the untold environmental costs and damage that would be done within the United States as perfectly wearable used clothing is increasingly discarded into local landfills.

The Effects of the Ban Within the EAC

Paradoxically, the import ban would result in severe negative consequences within the EAC. Researchers and officials estimate that buying, selling, repairing and/or altering imported secondhand clothing and shoes generate hundreds of thousands of jobs in the EAC, giving workers there the ability to support themselves and provide for their families.[23] Eliminating these jobs would force these entrepreneurs and others into poverty at a time when these countries cannot withstand any additional economic hardship.

Moreover, banning secondhand clothing would also eliminate much needed access to affordable, quality apparel. For the many citizens of these countries that exist on the equivalent of 1-2 dollars or less a day, secondhand clothing and shoes provide their only meaningful access to quality apparel. An import ban on secondhand clothing would make their lives even more difficult. A 2016 article from Rwanda notes that a person in that country can purchase ten pieces of used clothing with a given amount of money but that same sum of money buys only two pieces of new clothing -- even if it is locally made. According to this news report, at least 80 percent of Rwanda's population cannot possibly pay to clothe themselves if they have to depend on new clothing alone.[24]

Astonishingly, the EAC Secretariat confirms the risk of these hardships mentioned above in their strategy document. They acknowledge the harsh societal impact that banning used clothing entails in terms of loss of income and jobs. [25] The EAC also suggests the risk that

[23] *See* Note 11, *supra* (While these estimates pertain the domestic secondhand clothing industry, the analysis can easily be applied to the industry in the EAC).

[24] "Rwanda: Low-Income Earners Worried Over Ban on Second-Hand Clothes." Allafrica.com, 2016 April 27. <http://allafrica.com/stories/201604280018.html>.

[25] The Draft EAC Strategy/Action Plan for the Phase-Out [of] Importation of Second-Hand Clothes/Shoes within The Period 2017-2019, April 2017, EAC Secretariat, Arusha ,Section V, para. 13, p. 4.

additional anti-market government policies might be needed to make new clothing purchases affordable – further evidence that the policies of these EAC countries toward trade in used clothing do not in any sense manifest progress toward establishing market-based economies. [26]

These economic depressing effects of the ban inherently violate the language of AGOA requiring that a member country "has established or is making continual progress toward establishing, inter alia: … economic policies to reduce poverty."[27] Eliminating jobs and reducing individual spending power have the complete opposite effect of reducing poverty. In addition to increasing barriers of trade with the United States, the secondhand clothing bans increase poverty in violation of AGOA Section 104, and strip EAC countries of their membership eligibility.

Additionally, while criminalizing used clothing would eliminate legal access to used clothing imports, it certainly would not eliminate the need for such imports. The result would be a rise in illegal smuggling of used clothing. Trade in contraband would create administrative enforcement headaches and official corruption problems from the border to the selling point and lead to a loss of government revenue from a previously legal source. While it is generally accepted within the EAC that the ban on used clothing imports is intended to protect and expand local textile manufacturing, that goal cannot be achieved because no duty increases (or import bans) have been announced for imports of Chinese and other Asian produced textiles. The effect of a ban on used clothing would be to create a protected market for Asian apparel that will result in a deluge of imports of poorly made – but likely more costly -- apparel from China and elsewhere. Increased volumes of low-quality imports from Asia have and will continue to do far more to displace the domestic EAC textile industry than the presence of used clothing imported from the United States ever could.

It should be noted that while import ban proponents often cite the growth of secondhand clothing imports as the reason for the decline of the East African textile industry, in fact, the main cause is the elimination of the import quota system for textiles and apparel when the Multi Fiber Agreement ("MFA") was terminated in January 2005. While it was in place, the MFA had limited the quantity of textiles that any country could export to developing nations, effectively restricting Chinese shipments and enabling African countries to compete. Once the MFA ended, African markets (and others throughout the world) were deluged by imports of new clothing from countries like China, costing hundreds of thousands of jobs and decimating the African industry.[28] Despite the clearly harmful impact of these Chinese imports have had on the apparel

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[26] Ibid., Section V, para. 14.

[27] AGOA Section 104 (19 U.S.C. § 3703(1)(D)).

[28] "Loss of textile market costs African jobs." African Renewal Online, 2006 April, 18. <http://www.un.org/africarenewal/magazine/april-2006/loss-textile-market-costs-african-jobs>.

industry in East Africa, the EAC countries have not moved to ban these new clothing imports and have recently indicated that they will continue to allow them.[29]

Conclusion and Recommendation

The proposed EAC ban on secondhand clothing imports violates the requirements for continuing eligibility for benefits under AGOA. Moreover, the aforementioned negative effect on the secondhand clothing industry in the United States from increased duties on imports of used clothing into Kenya, Tanzania, Uganda, and Rwanda, coupled with the anticipated negative economic consequences and dramatic job losses if the proposed ban on imports of used clothing is implemented, further justifies taking action through this annual review. SMART, therefore, requests that the TPSC recommend suspending duty-free access to the United States under AGOA for all currently eligible apparel imports from Kenya, Tanzania, Rwanda, and Uganda until such time as those countries roll back all increased import duties on used clothing and commit not to implement their proposed ban on imports of used clothing.

Sincerely,

Jackie King

Jackie King
SMART Executive Director

Enclosure

[29] The Draft EAC Strategy/Action Plan for the Phase-Out [of] Importation of Second-Hand Clothes/Shoes within The Period 2017-2019, April 2017, EAC Secretariat, Arusha, Section VI, para. 16, p. 5.

Appendix 1

EAST AFRICAN COMMUNITY

THE DRAFT EAC STRATEGY/ACTION PLAN FOR THE PHASE-OUT IMPORTATION OF SECOND-HAND CLOTHES/SHOES WITHIN THE PERIOD 2017-2019

EAC Secretariat,
Arusha
April 2017

I. Background

1. The Summit directed the Council of Ministers to study modalities for the promotion of textiles and leather industries in the region and stopping importation of used clothes, shoes, and other leather products from outside the region and report progress to the 17th Summit.

2. At 17th Ordinary Summit of the EAC Heads of State held at the Ngurundoto Mountain Lodge in Arusha Tanzania on 2nd March 2016. The Summit desirous of promoting vertically integrated industries in leather and textiles sectors, directed Partner States to:- procure, competitively, their textile and footwear requirements from within the region where quality and supply capacities are available with a view to phasing out used textiles and footwear within 3 years; (ii) Ensure that all imported second hand shoes and clothes comply with sanitary requirements(iii) Consider banning the export of raw hides and skins outside the EAC region (iv) (v) Phase out importation of second hand textiles and footwear within three years; (v) Sensitize all stakeholders and provide the summit with an annual review with the view to fast-track the progress on the above.

3. In pursuant to the Summit Directive, the East African Community (EAC), commissioned a study to analyze the challenges, competitiveness and opportunities in the cotton, textiles and apparels value chains to support the formulation of action plans for the development of the cotton, textiles, Apparels (CTA) and leather & footwear value chains. The Secretariat in collaboration with CUTS International further carried out a study to assess the Impact of Second Hand Clothes and Shoes in East Africa.

4. This strategy/action plan has been prepared taking into account the findings of the study by CUTS International as well as the findings and recommendations of the comprehensive study commissioned by EAC Secretariat. It provides a roadmap of actions/measures necessary for the phase-out of importation of second-hand clothes (SHCs) into EAC market as per the Summit directive within the period 2017-2019.

II. Context and Justification

5. In the 1960's to the early 1980's, the clothing and shoes industrial sector in East Africa was thriving and producing for both the local markets as well as the export market, and employing thousands of people. Value chains in the sector were well established right from the production of raw materials to the finished products. However, over the years, the clothing and shoes manufacturing industries have collapsed with the emergence of an informal sector dealing in used clothes and shoes. At present, the majority of the population in East Africa sources their clothing needs from this informal sector, which has curtailed efforts in revamping the clothing and shoes industrial sectors in the region.

6. Overall, the importation of used clothes/shoes has been growing in all the EAC Partner States with the value imported in the EAC in 2015 amounting to $151 million. The products are deemed to be cheaper and of better quality than the new clothing available on the market, hence the demand for used clothes/shoes is quite high in all the Partner States. The products are cheaper than the new clothing in all the EAC States and the largest importers of used clothes/shoes into the EAC are from USA, UK, Canada and China.

7. Since the 1990s, this trade in used Clothes and Shoes (UCS) in the world has grown tenfold to reach a value of about 2.8 billion pounds annually (Cline, 2012). The primary source of used clothes/shoes to Africa is the United States, Canada and the United Kingdom, with the United States and the United Kingdom as the largest exporters. For instance, in 2013, the United States (UCS) exports were worth more than $685 million, according to United Nations data. Much of it went to Central and South America, Canada and Mexico, Tanzania and Angola. In other words, UCS is a big business in these developed nations, but a huge challenge to the African clothing and shoe sectors, which have failed to compete, over the years, as a result of readily available UCS.

8. Article 79 of the Treaty Establishing the EAC requires the Partner States to take necessary steps in the field of industrial development to promote self-sustaining and balanced industrial growth, and to improve the competitiveness of the industrial sector so as to enhance the expansion of trade and export of industrial goods within and by the Community. In so doing, it is anticipated that the Community would be able to achieve structural transformation that would foster overall socio-economic development in the Partner States, as well as encourage the development of indigenous entrepreneurs. The phase-out is part of regional strategy to execution of Article 79 of the Treaty.

III. Impact of Used Clothes and Shoes on EAC Priority sectors

9. One of the strategic industries that were earmarked for priority development by the East African Industrialization Policy (2012-2032) were the agro-processing (textiles, leather, dairy) industry which has been identified as the biggest direct employer of all manufacturing industries with a huge indirect employment potential in the services sector through backward and forward linkages. In the EAC, the cotton, apparel, textile, and leather sectors are such sectors. The goal of the UCS phase-out is therefore to boost the cotton, apparel, textile and leather sectors whose industries cannot effectively compete with the influx of SHC into the region.

10. **The total expenditure on used clothes in EAC currently stand at over USD 350 million and growing at a rate of 60% per cent**. In 2015 Kenya imported USD 154.9 million as compared to USD 53 m in 2008; Burundi USD 5.03 million as compared to USD 2.9 m in 2008; Rwanda USD 27.186 million as compared to USD 12m in 2008; Tanzania USD 123.547 million as compared to USD 36.38 m in 2008 and Uganda USD 66.98 million as compared to 31.8 m in 2008. East Africa is a big ***destination of second hand clothing, with region alone accounting for about 8% of the global second hand trade***. It is estimated that global trade on second hand clothing (UCS) has

been increasing over the last decade. The global trade in UCS is worth more than $1 billion each year. It is further documented that, Africa is a major global destination of second hand clothing.

11. While it is true that the trade creates employment in the receiving countries (transporting, cleaning, repairing, restyling, etc.) and also provides low-cost clothing for people living in poverty, at the same time there are concerns that the trade has been undermining local textile and garment industries, and livelihoods in some developing countries. Importation of dumped cheap clothes at extremely low prices mainly originating from China, Europe and the US have severely affected the East African cotton industry, partly due to lack of effective government policies to address local production of garments. Throughout the EAC region, the sub sectors is dominated by imports of second hand garments which among other things, stifles the competitiveness of the domestic textile and apparel industries and the respective economies at large denying the region massive value addition and employment opportunities. The trend in imports of used clothes in the EAC market is unsustainable and requires immediate action.

IV. Current measures are ineffective to reduce importation of use clothes

12. At present, used clothes and shoes are part of the EAC Sensitive List and they attract a CET rate of 35 percent or $0.30 per kg, whichever is higher. This means that the existing EAC regime already discourages the importation of UCS into the EAC owing to the higher duty imposed on its importation, unlike other goods that enter the EAC at the normal CET rate of 25 percent or less. This notwithstanding, the importation of UCS into the EAC has been on the rise. This is because even with the application of the CET as above, the final cost is still so small because the clothes originate as donations before they are sorted and officially exported as trade items. As such, their importation cost is quite low.

V. Possible Impact of phase-out of second hand clothes

13. Traders expressed the view that phase-out of UCS imports would cause loss of income to many of them who are small and medium-sized. They opined that the UCS industry in the EAC employs thousands of people, especially women, and the youth and that the phase-out would increase poverty levels, dependency, and a resurgence of anti-social behavior such as drug abuse and crime.
14. It should, however, be noted that the phase-out of UCS does not imply that consumers or traders would not have alternatives. For example, new clothes whether imported or made locally could be resorted to once made affordable. Parallel to implementing the phase-out would, therefore, need to be deliberate government interventions to make clothing as affordable as possible since the government can direct policy in a manner that ensures that cost of production which impacts the final price paid by the consumer is low.
15. It is, therefore, pertinent for the governments to conduct massive sensitization campaigns in all the Partner States to ensure that all stakeholders and communities fully understand the vision of the EAC in implementing the phase-out plan.

VI. Alternatives to Used Clothes and Shoes (UCS)

16. The phase-out of UCS does not include imports of new clothing, which will continue to be available to meet the demands for clothing. In addition, as the UCS are gradually phase-out, the local apparels manufactures and tailoring firms will seize the opportunity created by investing in plant expansion to meet the needs of the population.

VII. Capacity Availability

17. EAC has unrealized potential to not only meet the local demand for apparels and footwear but also for export markets. Cotton in the EAC is grown to commercial scale in all Partner States except in Rwanda. 70-85 percent of the cotton lint produced in the region is exported, and the spinning and textiles mills in most Partner States operate between 40-50 percent capacities partly due to unavailability of cotton lint. This latent potential will be readily harnessed through deployment of supporting policies to catalyze investment in the sector.
18. Similarly the EAC region is relatively endowed with raw materials for leather and footwear. Tanzania has a total of 22.8 million cattle, Kenya 17.5 million, Uganda 12.8 million, Rwanda 0.991 million and Burundi, 0.74 million. All the EAC Partner States process leather up to the wet blue stage. Between 80 to 90 percent of the wet blue leather is exported and only 10 percent is left for processing to finished leather, which caters for the footwear and artisanal shoemakers. There is a significant demand for footwear in the region, but 80 percent of the demand is met through imports out of which 60 percent are second-hand shoes. The footwear industry in the East African region is still underdeveloped and suffering greatly from the importation of second-hand shoes and synthetic imports.

VIII. What is EAC's Vision

19. Whereas the phase-out may be perceived negatively by some stakeholders, the real issue should be where the EAC as a region wants to be in the next ten to twenty years. It is high time that the EAC reduced dependence on imported products. When the EAC was created in 1999, one of its goals was to boost the industrial sector of the community, through a vibrant industrial policy. The phase-out of UCS is part of the implementation measures for the created Industrialization Policy. The real issue is how to effectively implement the desired Policy with minimal adverse consequences for the Partner State economies and their citizens.

    The EAC Vision 2050 envisages an urban middle income prosperous, competitive, secure and politically united region by 2050, starting from the year 2016. The third pillar of the EAC Vision 2050 is leveraging industrialization for structural transformation and improving intra- regional and global trade. The UCS phase-out is only one of the many policies required to realize this fundamental pillar of the EAC's Vision 2050. While not popular, in the long run, it will contribute to achievement of EAC developmental goals in the next years and decades.

IX. Objective of the Strategy/Action Plan for phase-out of SHC

20. It has been noted that since 1990s, trade in Second Hand Clothes and Shoes in the world has grown tenfold to reach a value of about 2.8 billion pounds annually (Cline, 2012). Trade in UCS is a big business for exporting developed nations, but a huge challenge to the African clothing and shoe sectors, which have failed to compete, over the years, as a result of readily available UCS. The Article 79 of the Treaty Establishing the EAC requires the Partner States to take necessary steps in the field of industrial development to promote self-sustaining and balanced industrial growth, and to improve the competitiveness of the industrial sector so as to enhance the expansion of trade and export of industrial goods within and by the Community.

Key Objectives: The immediate goal of the proposed actions is to contribute to revitalization of the cotton, textile and leather industries, attract investment in the sectors, and boost the supply capacity of the region thereby creating employment opportunities and improving income of farmers. In the medium-term, the measures are expected to trigger industrial upgrading and diversification into higher value adding activities, improve export and intra-EAC trade.

Annual Review: There will be an annual review conducted every year to ascertain the impact of the proposed measures on the development of apparels and footwear sectors.

Expected Results

(i) Growth of investment in apparels and footwear manufacturing particularly in the SME clusters;
(ii) Increased trade in locally produced apparels and footwear in the region;
(iii) Increased value addition and upgrading into new products such as yarn, fabric manufacture, and production on of finished leather;
(iv) Foreign exchange saving through reduced import bill; and
(v) Increased employment in the value chains.

X. The Used Clothes/Shoes Importation Phase-out Plan

	Action	Justification	Time-Frame	Actor(s)/ Implementers
1.	Strict enforcement of the EAC Gazette notice of July, 2016, which effected splitting of tariff codes for used garments and used shoes as follows: • **6309-0010** worn clothing; • **6309-0020**- worn shoes: • **6309-0090-** other worn used items	• Currently imported used apparels products and footwear are declared for customs purpose under the same tariff heading/line • This poses challenges in undertaking correct valuation and collection of accurate information on volumes imported for each category of products in the bales • There are also difficulties in monitoring of import flows of each	FY 2017/2018	Customs Authorities, Ministry of Finance

		category (shoes/apparels)		
2.	EAC to adopt common packaging requirements for imported bales of used clothes/shoes according to ILO recommended weight of 23 kgs	• Any weight above this recommended measures has been established to have adverse health impact on the workers handling the bales • Each bale shall contain separately either used shoes or used apparel/garments • Each bale shall contain information of the specific items contained therein (type of clothes or shoes) and the quantities being imported	FY 2019/2019	Customs Authorities; Standards Bureaus; Pre-shipment Verification agencies
3.	EAC Partner States to strictly enforce implementation of the EAS 386-2016 (packing and labeling bales of used shoes) on used footwear acceptance code for inspection	• Each bale of used shoes shall have weight of not more than 23 kg • Imported used shoes shall be declared in pairs		
4.	EAC to increased duty on used clothes from USD 0.3 to USD 4 per kg	• The current duty has been ineffective in minimizing the flow of imports and its impact on textile/apparels industries • This will ensure that the rates in other Partner States are harmonized with that of Rwanda • The rate should be gradually increased to USD 5 per kgs by 2018	FY 2018/2019	Ministry of Finance, Customs Authorities
5.	EAC to introduce USD 5 levy on each pair of imported used shoes	• Need to enhance protection of domestic footwear manufacturing and raise revenue for the development of leather and footwear supply chain	FY 2018/19	Ministry of Finance, Customs Authorities
6.	EAC Partner States to license and create a register of importers of used clothes/shoes	• This measures aims at regulating importers of used clothes as facilitating monitoring the impact of the business in the domestic markets	FY 2018/19	Ministry of Trade, Customs Authorities, Municipal authorities
7.	EAC Partner States to strictly Enforce the pre-shipment inspection requirement for all imported used clothes and shoes to comply with the sanitary requirements in the destination country.	• To protect the health of EAC citizens	FY 2017/18/19 continuous	Customs Authorities, Standards bureaus. Pre-shipment inspection agencies

8.	EAC Partner States to strictly enforce implementation of the ban on imports of used under-garments	• To protect health of EAC citizens • This ban should include restriction/regulation of trade within EAC in used under-garments	Continuous	Customs authorities, standards, bureaus, reshipment companies, the police, Ministries of Trade