

Exporting to the United States

USING CLASSIFICATION CODES FOR TRADE

This guide aims to equip the reader with a better understanding of product classification codes, as used in export trade to the United States. Classification codes are an important component of international trade transactions and must be correctly specified before goods can enter the commerce of another country.

While product classification codes are based on an internationally harmonized system, for international trade purposes the classification codes are unique to each country. For example, the classification codes used by an African AGOA beneficiary country will differ from the codes used by United States importers; exporters in AGOA-eligible countries wishing to contract with buyers in the U.S. should therefore be familiar with the **U.S. classification code for their respective products**, as these are used by the U.S. buyer when clearing goods through customs in the U.S. While HS codes represent a commonly used classification standard, national codes used in international trade are in turn subject to national standards, derivatives and prerogatives.

The harmonized system (HS) classification codes

The **Harmonized System (HS)** - formally known as the Harmonized Commodity Description and Coding System - is a standardized numerical method used to classifying traded products, and is administrated by the World Customs Organization (WCO). The HS code is updated every five years, for example in response to new products or to better differentiate existing products.

Customs authorities around the world base their classification standards on the global HS coding nomenclature, and use this to identify products, assess duty rates, gather statistics etc. While HS codes comprise 6 digits, involving a common harmonized standard, national authorities usually extend this by adding a further 2-4 digits, for national trade-related classification purposes.

The United States system is known as the **Harmonized Tariff Schedule (HTS)**, a 10-digit coding architecture that utilizes the international 6-digit HS, and adds additional 4 digits for tariff classification, statistical and other purposes. The HTS was adopted by Congress in 1989, replacing the former tariff schedules with this new, uniform version. The HTS (also known as Schedule A codes) is updated more regularly than the 5-year cycle of the HS. Updates can impact traders.

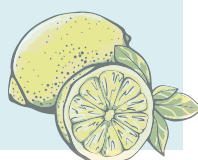
Roleplayers in classification

WCO	The World Customs Organisation (WCO) sets the universal classification standard and manages the HS coding system
USITC	The United States International Trade Commission (USITC) administers the U.S. tariff schedule and national HTS codes
CBP	U.S. Customs and Border Protection (CBP) enforces the code in the customs process

Structure of the United States HTS code: an example

Global and U.S. HTS codes have four components, namely the Chapter (first 2 digits), the Heading (4-digits) which dictates the specific category within a Chapter, the Sub-heading (6 digits) which defines product sub-categories and comprises the full H.S. code, followed by the U.S. HTS Sub-heading (8 digits) and statistical suffix (10 digits).

08	CHAPTER Edible fruit and nuts; peel of citrus fruit or melons
0805	HEADING Citrus fruit, fresh or dried
0805.50	SUB-HEADING (HS CODE) Lemons (<i>Citrus limon</i> , <i>Citrus limonum</i>) and limes (<i>Citrus aurantifolia</i> , <i>Citrus latifolia</i>)
0805.50.20	SUB-HEADING (HTS) Lemons
0805.50.2010	STATISTICAL SUFFIX Certified organic



Types of classification: Which one do exporters to the United States use?

The U.S. uses two classification schedules for international trade, each based on the HS code. The direction of trade (whether goods are entering or leaving the U.S.) determines which schedule to use. While many codes overlap, there are differences.

IMPORTING INTO THE UNITED STATES

U.S. imports use the **HTS** classification system. Codes comprise 10 digits based on the 6-digit HS, followed by 4 digits which further describe or differentiate the product in specific detail (composition, primary characteristics, function, material etc.). Goods shipped to the U.S., including those produced in AGOA eligible countries, **must utilize the correct 10-digit HTS code when cleared for import into the U.S.** The U.S. HTS schedule and online tools may be used to establish the correct HTS code.

EXPORTING FROM THE UNITED STATES

10-digit **Schedule B codes** must be used when exporting from the U.S. (these are administered by the U.S. Census Bureau).

The importance of using the correct HTS code

International shipments must include relevant classification details for the products being consigned. Each product has a unique classification code.

Classification codes play many important roles, including statistical record keeping of international trade transactions, assigning any applicable import duty or other charges, determining possible preferential market access, the application of trade remedies by governments (e.g. anti-dumping duties on incoming goods, imposed by the importing country), managing specific trade restrictions, and for other purposes. It is important that the correct classification codes are used.

When exporting goods to the U.S., traders need to bear in mind that the **United States' HTS classification code** must be used when these goods are eventually cleared through U.S. customs, and that this code generally differs from the code used in the exporting country.

Consequences of misclassification

Correctly classifying a product can be complex, and may sometimes appear open to interpretation. Nevertheless, misclassification of goods can result in a number of adverse consequences, including:

- **Over or under-payment of import duties**
- **Penalties for non-compliance**
- **Delays in the clearance of goods**
- **Fines and other penalties for the importer**
- **The importer may hold the exporter liable**
- **Failure to benefit from preferential market access programs such as AGOA**
- **Customs authorities may dispute the information provided**
- **Special audits and investigations by customs authorities**
- **Possible loss of any preferential trader status**
- **Seizure of goods by customs authorities**



Classification responsibility and liability

The importer or the importer's appointed agent clears the goods through U.S. customs, and the correct classification is primarily the importer's responsibility. It is important for the exporter to assist the importer in this respect, including through the provision of accurate information. This also makes business sense: it forms an important part of a commercial business relationship where the clearance of goods can happen smoothly, but also provides other important information, for example to help determine whether the goods qualify for duty-free market access under AGOA preferences, enhancing a product's competitiveness.

Product classification codes on commercial invoices

Although most countries do not specifically require the full classification code to appear on commercial invoices (it is still needed for the import clearance process), some countries insist on HS classification codes being included when goods are shipped. This can also provide greater clarity, speed up payment, and streamline customs processes. There can be some downsides though, especially if a mistake is made. Shipping experts sometimes advise to use the 6-digit HS code for invoicing purposes, in consultation with the buyer, as these are universally recognized, and not subject to national classification rules used in the import clearance process.

How to determine the correct classification code for goods shipped to the U.S. market: some tips and pointers

- ▶ **Know your product:** its characteristics, component materials, size, how it is made, what it is used for, its commercial, common or technical designation, and other relevant facts;
- ▶ If, as a producer or exporter, you are new to HS/HTS classifications, begin by identifying the relevant chapter, and work in segments to locate the relevant 4-digit heading, sub-heading and so forth;
- ▶ **Use freely available tools** to assist in this process: download the relevant HTS Chapter from the USITC website, and complement this search using online tools with the relevant keywords, bearing in mind that keywords must also appear in actual classification descriptions when conducting a search, and that many products would be classified under respective 'Other' sub-headings and may not be found in simple keyword searches;
- ▶ Consult the **HTS Chapter notes** since these provide important guidance and clarifications, as well as the **General Rules of Interpretation (GRI)** - all available from the USITC website;
- ▶ **Consult an expert** - for example a knowledgeable freight forwarder, or a U.S. Commercial Service agent (part of the U.S. International Trade Administration);
- ▶ Consult the Customs and Border Protection (CBP) agency's **Customs Rulings Online Search System database (CROSS)** for previous rulings on matching products, or as a last resort, apply for a new **electronic classification ruling** from the CBP agency.

Useful web resources



Download HTS Schedule (PDFs)



bit.ly/HTS-PDF

Searchable HTS schedule



bit.ly/HTS-SEARCH

CBP Trade Division



bit.ly/CBP-TRADE

CBP Guide on HTS Classification



bit.ly/CBP-GUIDE

Searchable CROSS database



bit.ly/CBP-CROSS

CBP Electronic Ruling requests



bit.ly/ERULINGS

AGOA FREQUENTLY ASKED QUESTIONS



WHAT IS AGOA?

AGOA - the acronym for 'African Growth and Opportunity Act' - is the name of US legislation known formally as the 'Trade and Development Act of 2000' which - on a unilateral basis - provides highly preferential access to the US market for thousands of products produced in, and exported by, qualifying countries in Sub-Saharan Africa (SSA). AGOA extends duty-free access to products designated under the country's Generalized System of Preferences (GSP) as well as more than 2,000 additional tariff lines. Consequently, less than 3% of all products remain subject to any duty. In order for a country to be AGOA eligible, it must be a SSA country, GSP eligible, and meet AGOA's eligibility requirements. Qualifying products must furthermore meet the relevant Rules of Origin criteria.

About AGOA



DO AGOA BENEFITS EXPIRE?

The AGOA trade preferences are currently set to expire in **September 2025**, and unless extended, will end at that point. The GSP legislation may however, if still active, continue to provide preferential market access to many products (approximately 4,500 tariff lines). However, the GSP likewise forms part of trade legislation and is subject to periodic renewal by the US Congress. It should also be noted that if the US imposes special safeguard tariffs on certain products from time to time, then this will usually override any preferences offered under AGOA.

WHICH COUNTRIES DOES AGOA APPLY TO?

As of the beginning of 2019, 39 countries in Sub-Saharan Africa have AGOA beneficiary status. An eligible country's AGOA status is subject to ongoing compliance with AGOA's eligibility criteria, and the legislation makes provision for countries to lose their AGOA status for various reasons. A number of African countries have previously lost beneficiary status, and some have been reinstated later (examples: *Swaziland/Eswatini, Madagascar*). Countries can also have their AGOA status withdrawn on a temporary, or on a sectoral, basis.



AGOA countries



IS THERE EXPORTER REGISTRATION FOR AGOA?

The AGOA legislation does not directly require any registration by exporters (or importers) to claim benefits. However, most countries impose their own national exporter registration requirements. When claiming AGOA preference status, the importer needs to specify AGOA status (symbol 'D') when clearing the goods duty-free on importation into the US.

WHERE DO I FIND THE AGOA LEGISLATION?

The AGOA legislation was enacted in May 2000 by US President Bill Clinton as Public Law 106-200 and integrated with the US legislative code as part of the country's trade legislation under Title 19 (*Customs Duties*), Chapter 23 (*Extension of certain benefits to Sub-Saharan Africa*). The relevant parts of the legislation can be accessed at the link alongside. The original AGOA legislation can be downloaded on AGOA.info under the *Downloads / Legal* menu.

AGOA Law 2000



US trade legislation



WHAT ARE AGOA'S ELIGIBILITY CRITERIA?

AGOA preferences are available only to eligible countries in Sub-Saharan Africa and which have obtained 'beneficiary status' by fulfilling AGOA's eligibility criteria. These criteria are set out in Section 104 of the legislation, and include a country having or making progress toward:

- *establishing a market based economy*
- *respect for the rule of law*
- *elimination of barriers to US trade and investment*
- *protection of intellectual property rights*
- *economic policies to reduce poverty, and increasing availability of healthcare*
- *systems to combat corruption and bribery*
- *protection of internationally recognized worker rights (including right of association and to bargain collectively)*
- *must not engage in activities that undermine US security for foreign policy interests*
- *must not violate internationally recognised human rights.*

AGOA
ELIGIBILITY
CRITERIA



HOW DOES A PRODUCT OBTAIN PREFERENTIAL STATUS UNDER AGOA? WHAT ARE THE RULES OF ORIGIN?

A product must be AGOA eligible (in the US tariff book, such products are designated with the preference symbol 'D') to claim duty-free preferences on entry into the US market.

Additionally, all eligible products entering the US under AGOA preference must fulfil the relevant **Rules of Origin**. These are the criteria that determine whether a product originates in the exporting country (thus claiming preference status). There are two broad sets of criteria that are used to determine origin status: one for textiles and apparel, and the other for all other / general goods.

General goods: AGOA 'origin' status is obtained when a product is wholly produced in the exporting country, or when at least **35%** of its appraised value at the US port of entry consists of materials and processing in an AGOA beneficiary country (or in more than one AGOA beneficiary country)

Textiles and apparel goods: AGOA 'origin' status is obtained when a product falls within one of 10 origin 'groupings'. These include the following:

- Apparel made in a least-developed beneficiary country from fabric sourced from anywhere
- Apparel made from fabric produced in an AGOA country from US or African yarn
- Textiles (fabrics and yarns) produced in a 'least-developed AGOA beneficiary country'.

General
Rules of Origin



Apparel
Rules of Origin



Apparel
Certificate of Origin



✿ WHAT BENEFITS DOES AGOA OFFER?

The AGOA legislation represents a package of trade preferences for eligible Sub-Saharan African countries, but also provides a framework for various US support services to benefit African countries.

- In terms of its trade provisions, AGOA provides duty-free market access for approximately 6,500 tariff lines. This includes longer-term duty-free status on products qualifying under the Generalised System of Preference (GSP) - when the GSP expires, the underlying benefits do not fall away for AGOA beneficiaries - while also adding a further approximately 2,000 tariff lines to the list of products that are already duty-free on entry into the US. This waiver of import duty waiver on qualifying products makes African products more competitive in the US market.
- AGOA also provides a waiver to beneficiary countries on the Competitive Need Limitation (CNL), which is a system that restricts preferential imports of a product into the US when such imports exceed a certain annual threshold (ceiling).
- Favourable Rules of Origin (RoO), especially for the textile and apparel sector, are another important feature of AGOA and have been an important driver of African countries' strong apparel exports to the US since 2000.
- The annual AGOA Forum (see separate section) is also mandated by the AGOA legislation and brings together representatives from the US and African governments, the private sector and civil society each year.

✿ WHAT IS THE AGOA FORUM?

The AGOA Forum - known more formally by the name '*United States-Sub-Saharan Africa Trade and Economic Cooperation Forum*' - is an annual event mandated by the AGOA legislation (Section 105). This annual Forum includes high-level engagement between officials of the US government and officials representing the governments of Sub-Saharan African countries, with the aim of fostering close economic ties between the US and Sub-Saharan Africa.

The Forum venue alternates between an African AGOA beneficiary country and the US (in Washington, D.C.). Recent Forums have taken place in Washington (2018), Togo (2017), Gabon (2015) and Ethiopia (2013), Zambia (2011). Cote d'Ivoire is set to host the 2019 Forum.

View and download recent AGOA Forum Agendas and Outcomes from the Ministerial, Private Sector and Civil Society Meetings



www.AGOA.info/forum

✿ HOW DO I KNOW WHETHER MY PRODUCT QUALIFIES FOR AGOA PREFERENCES?

Approximately 97% of all product tariff lines qualify for duty-free access to the US market when (it is) the 'growth or manufacture' of an AGOA beneficiary country or countries. Approximately 37% are already duty-free under general US tariff rules, while approximately 60% of tariff lines qualify under AGOA/GSP preference - subject to meeting the **Rules of Origin**. Preferential import status is claimed by the US importer when clearing goods for import, with the relevant fields on the import forms designated with the 'D' (=AGOA preferences) symbol.

Check tariff schedule & AGOA status



US Customs Entry Form for Imports



Guidelines for completing US Customs Form



AGOA product list on AGOA.info



✿ WHERE CAN A TRADER OBTAIN CERTAINTY ABOUT THE PREFERENCE STATUS OF A PRODUCT?

Sometimes it is challenging to correctly classify a product according to its accurate HTS code, an essential part of correctly claiming preferential import status. To avoid uncertainty, an importer or other interested party can apply for a binding pre-entry classification from US authorities. This ruling may be obtained from the US Customs and Border Protection *Office of Regulations and Rulings* through an electronic request or a letter describing in detail the product, along with the submission of a sample.

US Customs and Border Protection (CBP) Binding Ruling Program



✿ WHAT IS THE HARMONIZED TARIFF SYSTEM (HTS)

The **HTS** is the US tariff classification system, and all traded goods can be classified according to a unique coding category. International trade typically expects a trader to allocate the correct 8-digit code to their product.

● Example:

Section II represents *vegetable products*

Chapter 08 covers *edible fruit and nuts, peel of citrus/melons*

Heading 0804 covers *dates, figs, pineapples, avocados etc.*

Sub-Heading 0804.30 covers (only) *pineapples*

The 8-digit **sub-division** 0804.30.40 '*pineapples in crates or other packages*'

AGOA portal
www.AGOA.info



AGOA Website Resources



Contact details
US embassies in Africa



USAID Southern Africa
Trade & Investment Hub



USAID East Africa
Trade & Investment Hub



AGOA.info
Business Connector



✿ WHERE CAN ONE OBTAIN ADVICE AND SUPPORT RELATING TO AGOA?

Exporting products to the US market can be a complex undertaking, but one that can be very lucrative and rewarding. A producer and exporter must consider many aspects related to producing and exporting a product for which there is demand in foreign markets. Considerations include production, packaging, preservation, marketing, trade finance, obtaining relevant authorisations (for example those relating to exports of agricultural products), logistics, payments, finding buyers, contracting, certificates of origin, administrative paperwork and so forth. Various organisations are well suited to assist in this process, and there are many online resources as well as various US agencies that provide support.



Acknowledgements

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Eckart Naumann | TRALAC 12/2018



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**TRADE &
INVESTMENT
HUB**

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AGOA ABCs

How to participate in the American market



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INSTITUT DE FORMATION
LES BIJOUX BRACELETS
ET MONTRES

INSTITUT DE FORMATION
DE CHANGEMENT DE TAILLE
DE L'ESTRIBON





ABOUT THIS GUIDE

USAID West Africa Trade and Investment Hub supports West African businesses to take advantage of the African Growth and Opportunity Act (AGOA).

This guide outlines the step-by-step process that a West African business should take to export to the U.S. duty free through AGOA.

Learn more:

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To contact our AGOA expert, select that link on our contact page:

www.watradehub.com/en/contact-us

For more information about AGOA, you may consult the following web sites:

Legal status and documents:

www.trade.agoa.gov

Detailed information forms:

<https://agoa.info/about-agoa.html>



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WHAT IS...

AGOA?

The African Growth and Opportunity Act (AGOA) is the cornerstone of U.S. commercial relationship in trade and investment with Africa. It was first signed into law on May 18, 2000 and has now been extended through 2025.

The act accords duty-free treatment to virtually all products exported by beneficiary sub-Saharan African (SSA) countries to the United States. AGOA provides these beneficiary countries with the most liberal access to the United States market accorded to any country or region that has not negotiated a free-trade agreement with the United States.

AGOA benefits are currently extended to 37 SSA countries and to more than 1,800 tariff line items, in addition to the 4,600 items already enjoying duty-free status under the U.S. Generalized System of Preferences (GSP), a program aimed at promoting economic growth in the developing world by providing preferential duty-free treatment for products from designated beneficiary developing countries (BDCs), and many least-developed beneficiary developing countries (LDBDCs).

AGOA has added to the GSP list of duty-free products, major import-sensitive items such as apparel, footwear, luggage, handbags and watches.



INTRODUCTION

AGOA provides incentives for African countries to become more globally competitive by making economic and commercial reforms. The main incentive is the opportunity to export goods from a list of nearly 7,000 qualifying products to the U.S. without paying import duties.

Exporting can be a challenging process, but it can also be profitable for the individual or company that manages to do it successfully. Exporters must follow two sets of procedures:

1. Local laws and regulations that govern the export process
2. Laws and regulations that govern the destination country's imports — in this case, the U.S.

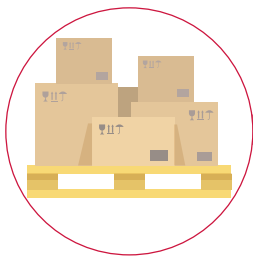
Regulations vary according to the product being exported, and exporters must conduct research to ensure that their products meet the necessary requirements for export as stipulated under AGOA product eligibility.

This toolkit assumes that the exporter or potential exporter has already conducted the necessary market research, and is ready to export. Therefore, this toolkit only highlights the process of exporting goods from West Africa to the U.S. under AGOA.

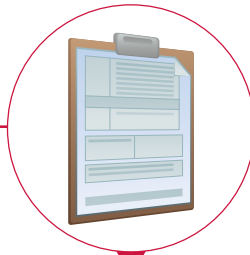




Steps to export your goods to the U.S. under the African Growth and Opportunity Act



A. PREPARE SHIPMENT



B. PREPARE COMMERCIAL INVOICE

Exporter must supply a completed commercial invoice.



C. CERTIFICATE OF ORIGIN (COO) *(Non-Textile Goods)*

From your country's Trade/Commerce Ministry or Chamber of Commerce. AGOA-eligible goods have a D classification in the "Special" column of the Harmonized Tariff Schedule (HTSUS)



C. TEXTILE CERTIFICATE OF ORIGIN *(Textiles and Apparel)*

Textiles will not have a D classification. Instead, see Chapter 98 of the HTSUS for product eligibility and Chapters 1-97 for proper classification numbers.

D. OBTAIN CUSTOMS CLEARANCE

Producer/exporter sends goods to Customs for inspection, Customs approves, and gives clearance for shipment.



AGOA TEXTILE VISA STAMP

Customs stamps invoice. For eligible textile and apparel products only.

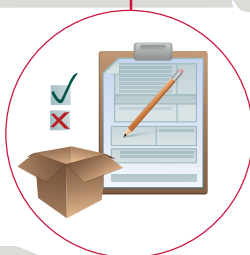
E. EXPORT LOGISTICS

Producer/exporter transmits export documents to U.S.-based buyer.



F. CUSTOMS DECLARATION

U.S.-based buyer or broker declares goods to U.S. Customs at port of entry.



STEPS TO EXPORT YOUR GOODS TO THE U.S. UNDER THE AFRICAN GROWTH AND OPPORTUNITY ACT

A. Prepare Shipment – Prepare your goods for shipment using packaging and labelling that meet U.S. standards. When your shipment is ready:

B. Prepare Commercial Invoice – Before preparing the commercial invoice it is necessary to determine the proper HTSUS classifications for the goods. Without this, it is not possible to ascertain whether the goods are eligible for AGOA. The invoice should also have a detailed description of the merchandise, the quantities, and purchase price in U.S. Dollars.



C. Obtain Certificate of Origin (COO) –

NB: The process varies from country to country. For instance, this step is not required in most Francophone countries.

- **Non-textile goods:** A standard COO covers non-textile goods only. This will certify that the goods are in fact originating from an AGOA-eligible country. Producer/exporter must check with Country of Origin’s Trade / Commerce Ministry, Revenue authority, or Chamber of Commerce to get this document. To determine whether a product is eligible you must look under the “Special” column in Column I of the HTSUS to see whether there is a “D” classification, which means that the product is AGOA eligible.
- **Textile and apparel goods:** Obtain instead a Textile Certificate of Origin, which is a U.S. Government document. The exporter is responsible for obtaining a copy from the Customs authority of the Country of Origin, and filling it in properly. It can also be downloaded from:

<https://agoa.info/about-agoa.html> or https://ustr.gov/archive/assets/Trade_Development/Preference_Programs/AGOA/AGOA_Implementation_Guide/asset_upload_file369_6518.pdf. Textiles will not have a “D” in the “Special” column. To determine eligibility for textiles, see Chapter 98 of the HTSUS. To find the proper classification numbers, see Chapters 1-97. You should write both the Chapter 1-97 number and the Chapter 98 number on the invoice. An exporter of apparel/textiles wishing to obtain the preferential treatment available under AGOA (i.e. duty-free treatment) for specific apparel/textile products must complete the Certificate and provide it to the importer, which is importing the apparel/textiles to the United States. The Certificate must be available to U.S. Customs on request but does not accompany the actual shipment.



D. Obtain Customs Clearance – Producer/exporter sends goods to the Customs authority in the Country of Origin for inspection, Customs approves and gives clearance for shipment. For eligible textile and apparel goods, Customs will stamp the invoice with the AGOA Textile Visa Stamp.

E. Export logistics – Producer/exporter transmits export documents to U.S.-based buyer or his broker. Documents required include all of the above, as well as the bill of lading and the packing list.


F. Customs Declaration – Equipped with the export documents, the U.S.-based buyer or broker clears the shipment and declares the goods to U.S. Customs authorities at the port of entry.

COMMERCIAL INVOICE

COMMERCIAL INVOICE

SELLER		INVOICE NUMBER		DATE
		CUSTOMER REFERENCE NUMBER		DATE
SOLD TO		TERMS OF SALE/		
		TERMS OF PAYMENT		
SHIP TO		CURRENCY OF SETTLEMENT		
		MODE OF SHIPMENT	BILL OF LADING/AWB	
QTY	PRODUCT DESCRIPTION AND HARMONIZED CODE	UNIT OF MEASURE	UNIT PRICE	TOTAL PRICE
PACKAGE MARKS		TOTAL COMMERCIAL VALUE		
		MISC CHARGES (PACKING, INSURANCE, ETC.)		
		TOTAL INVOICE VALUE		
CERTIFICATIONS		I CERTIFY THAT THE STATED EXPORT PROCES AND DESCRIPTION OF GOODS ARE TRUE AND CORRECT		
		SIGNED _____		
		TITLE _____		

CERTIFICATE OF ORIGIN (GHANA)

<p>1. Goods consigned from (Exporter's business name, address, country)</p> <p style="text-align: center;">XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX ACCRA-NORTH GHANA</p>		<p>Reference No. XXXXXX</p> <p style="text-align: center;">GENERALISED SYSTEM OF PREFERENCES CERTIFICATE OF ORIGIN (Combined declaration and certificate) FORM A</p>			
<p>2. Goods consigned to (Consignee's name, address, country)</p> <p style="text-align: center;">XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX XXXXXXXXXXXXXXXXXXXX PUR ROAD, U.S. NAGAR, UTTARAKHAND INDIA</p>		<p>Issued in <u>GHANA</u> (Country)</p> <p style="text-align: right;">See Notes overleaf</p>			
<p>3. Means of transport and route (as far as known)</p> <p style="text-align: center;">BY AIR</p>		<p>4. For official use</p>			
<p>5. Item number</p>	<p>6. Marks and numbers of packages</p> <p style="text-align: center;">CUSTOMS SEAL NO. XXXXXXXX 22</p>	<p>7. Number and kind of packages; description of goods</p> <p style="text-align: center;">ONE BOX OF GOLD DORE BAR</p> <div style="text-align: center;">  <p style="font-size: small;">XXXXXXXXXX HEAD, P.O. OFFICE</p> </div>	<p>8. Origin criterion (see Notes overleaf)</p> <p style="text-align: center;">"p"</p>	<p>9. Gross weight or other quantity</p> <p style="text-align: center;">EGS 14.6451</p>	<p>10. Number and date of invoices</p> <p style="text-align: center;">XXXXXXXX XXXXXXXX DATED 28/06/2017</p>
<p>11. Certification</p> <p>It is hereby certified, on the basis of control carried out, that the declaration by the exporter is correct.</p> <p>AIRWAY BILL NO: XXXXXXXXXX</p>		<p>12. Declaration by the exporter</p> <p>The undersigned hereby declares that the above details and statements are correct; that all the goods were produced in</p> <p style="text-align: center;">GHANA</p> <p style="text-align: center;">..... (country)</p> <p>and that they comply with the origin requirements specified for those goods in the Generalised System of Preferences for goods exported to</p> <p style="text-align: center;">INDIA</p> <p style="text-align: center;">..... (Importing Country)</p> <p style="text-align: center;">ACCRA, 29/06/2017</p>			
<p>Place and date, signature and stamp of certifying authority</p>		<p>Place and date, signature of authorised signatory</p>			

TEXTILE CERTIFICATE OF ORIGIN

African Growth and Opportunity Act Textile Certificate of Origin

1. Exporter Name & Address		2. Producer Name & Address	
3. Importer Name & Address		6. U.S./ African Fabric Producer Name & Address	
4. Description of Article	5. preference group	7. U.S./ African Yarn Producer Name & Address	
		8. U.S. Thread Producer Name & Address	
		9. Name of handloomed, handmade or folklore Article	
10. Name of Preference Group H Fabric or Yarn:			

Preference Groups:

- A: Apparel assembled from U.S.-formed and cut fabric from U.S. yarn. [19 CFR 10.213(a)(1)]
- B: Apparel assembled and further processed from U.S.-formed and cut fabric from U.S. yarn. [19 CFR 10.213(a)(2)]
- C: Apparel cut and assembled from U.S. fabric from U.S. yarn and thread. [19 CFR 10.213(a)(3)]
- D: Apparel assembled from regional fabric from yarn originating in the U.S. or one or more beneficiary countries. [19 CFR 10.213(a)(4)]
- E: Apparel assembled in one or more lesser developed beneficiary countries. [19 CFR 10.213(a)(5)].
- F: Sweaters knit to shape in chief weight of cashmere. [19 CFR 10.213(a)(6)]
- G: Sweaters knit to shape with 50 percent or more by weight of fine wool. [19 CFR 10.213(a)(7)]
- H: Apparel cut and assembled in one or more beneficiary countries from fabrics or yarn not formed in the United States or beneficiary country (as identified in NAFTA) or as designated not available in commercial quantities in the United States. [19 CFR 10.213(a)(8) or (a)(9)]
- I: Handloomed, handmade or folklore articles.[19 CFR 10.213(a)(10)]

I certify that the information on this document is complete and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document.

I agree to maintain and present upon request, documentation necessary to support this certificate.

12. Authorized Signature		13. Company	
14. Name (Print or Type)		15. Title	
16a. Date(DD/MM/YY)	16b. Blanket Period From: To:	17. Telephone Number Facsimile Number	

The following rules will apply when completing the Textile Certificate of Origin:

- ① Blocks 1 through 5 pertain only to the final article exported to the United States for which preferential treatment may be claimed;

- ② Block 1 should state the legal name and address (including country) of the exporter;

- ③ Block 2 should state the legal name and address (including country) of the producer. If there is more than one producer, attach a list stating the legal name and address (including country) of all additional producers. If this information is confidential, it is acceptable to state “available to Customs upon request” in block 2. If the producer and the exporter are the same, state “same” in block 2;

- ④ Block 3 should state the legal name and address (including country) of the importer;

- ⑤ Block 4 should provide a full description of each article. The description should be sufficient to relate it to the invoice description and to the description of the article in the international Harmonized System. Include the invoice number as shown on the commercial invoice or, if the invoice number is not known, include another unique reference number such as the shipping order number;

- ⑥ In block 5, insert the letter that designates the preference group which applies to the article according to the description contained in the CFR provision cited on the Certificate for that group;

- ⑦ Blocks 6 through 10 must be completed only when the block in question calls for information that is relevant to the preference group identified in block 5;

- ⑧ Block 6 should state the legal name and address (including country) of the fabric producer;

- ⑨ Block 7 should state the legal name and address (including country) of the yarn producer;

- ⑩ Block 8 should state the legal name and address (including country) of the thread producer;

- ⑪ Block 9 should state the name of the folklore article or should state that the article is hand loomed or handmade;

- ⑫ Block 10, which should be completed only when preference group “H” is inserted in block 5, should state the name of the fabric or yarn that is not formed in the United States or a beneficiary country or that is not available in commercial quantities in the United States;

- ⑬ Block 16a should reflect the date on which the Certificate was completed and signed;

- ⑭ Block 16b should be completed if the Certificate is intended to cover multiple shipments of identical articles as described in block 4 that are imported into the United States during a specified period of up to one year (see § 10.216(b)(4)(ii)). The “from” date is the date on which the Certificate became applicable to the article covered by the blanket Certificate (this date may be prior to the date reflected in block 16a). The “to” date is the date on which the blanket period expires; and

- ⑮ The Certificate may be printed and reproduced locally. If more space is needed to complete the Certificate, attach a continuation sheet.

BILL OF LADING

UNIFORM STRAIGHT BILL OF LADING

ORIGINAL—NOT NEGOTIABLE

Carrier's Pro No. _____

Shipper's Bill of Lading No. _____

Consignee's Reference/P.O. No. _____

Carrier's Code (SCAC) _____

Name of Carrier _____

RECEIVED, subject to individually determined rates or contracts that have been agreed upon in writing between the carrier and shipper, if applicable, otherwise to the rates, classifications and rules that have been established by the carrier and are available to the shipper, on request:

From _____ Date _____
 Street _____ City _____ County _____ State _____ Zip _____

the property described below, in apparent good order, except as noted (contents and condition of contents of packages unknown) marked, consigned, and destined as shown below, which said carrier agrees to carry to destination, if on its route, or otherwise to deliver to another carrier on the route to destination. Every service to be performed hereunder shall be subject to all the conditions not prohibited by law, whether printed or written, herein contained, including the conditions on the back hereof, which are hereby agreed to by the shipper and accepted for himself and his assigns.

Consigned to _____

On Collect on Delivery Shipments, the letters "C.O.D." must appear before consignee's name.

Destination Street _____

City _____ County _____ State _____ Zip _____

Delivering Carrier _____ Trailer No. _____

Additional Shipment Information _____

Collect on Delivery \$ _____ and remit to: _____	C.O.D. charge to be paid by _____	Shipper <input type="checkbox"/>
Street _____ City _____ State _____		Consignee <input type="checkbox"/>

Handling Units No. Type	Packages No. Type	HM	Kind of Package, Description of Articles, Special Marks and Exceptions (Subject to correction)	Weight (Subject to Correction)	Class or Rate Ref. (For Info. Only)	Cube (Optional)

SAMPLE DOCUMENTS



Shea Honey Oatmeal Soap
Exfoliates, hydrates and soothes dry skin

Nasheaba
Shea Charcoal Soap

Nasheaba
Shea Neem Soap
Anti bacterial and anti fungal
It soothes and moisturises your skin

Nasheaba
Shea Charcoal Soap

Nasheaba
Shea Charcoal Soap

Nasheaba
Ingredients: Shea Butter, Sun Flower Oil, Coconut Oil, Lye, Castor Oil and Lavender.
Garder hors de portée des enfants.
CONSEILS DE SÉCURITÉ : A usage externe seulement.
SAFETY TIP: For external use only. Keep out of children's reach.

Nasheaba
Shea Neem Soap

Nasheaba
Ingredients: Shea butter, Coconut oil, Lye, Castor Oil, Sesame Seeds and Citronella
SAFETY TIP: For external use only. Keep out of children's reach.
CONSEILS DE SÉCURITÉ : A usage externe seulement.
Garder hors de portée des enfants.

Nasheaba
Shea Black Soap
mixture

13 FEB 2017
Garder hors de portée des enfants.
CONSEILS DE SÉCURITÉ : A usage externe seulement.
SAFETY TIP: For external use only. Keep out of children's reach.

Nasheaba
Ingredients: Shea Butter, Sun Flower Oil, Coconut Oil, Lye, Castor Oil and Lavender.
Garder hors de portée des enfants.
CONSEILS DE SÉCURITÉ : A usage externe seulement.
SAFETY TIP: For external use only. Keep out of children's reach.

Nasheaba
Ingredients: Shea butter, Coconut oil, Lye, Castor Oil, Sesame Seeds and Citronella
SAFETY TIP: For external use only. Keep out of children's reach.
CONSEILS DE SÉCURITÉ : A usage externe seulement.
Garder hors de portée des enfants.

Nasheaba
Ingredients: Shea Butter, Sun Flower, Coconut Oil, Lye, Castor Oil, Noni Powder and Lemongrass
Garder hors de portée des enfants.
CONSEILS DE SÉCURITÉ : A usage externe seulement.
SAFETY TIP: For external use only. Keep out of children's reach.

13 FEB 2017
Garder hors de portée des enfants.
CONSEILS DE SÉCURITÉ : A usage externe seulement.
SAFETY TIP: For external use only. Keep out of children's reach.

Nasheaba
INGREDIENTS: Shea Butter, Coconut Oil, Lye, Castor Oil, Tea Tree and Rosemary Oil and Moringa Powder
Garder hors de portée des enfants.

Nasheaba
Ingredients: Shea Butter, Sun Flower, Coconut Oil, Lye, Castor Oil, Honey, Oatmeal, Lemon and Lemongrass
Garder hors de portée des enfants.
CONSEILS DE SÉCURITÉ : A usage externe seulement.
SAFETY TIP: For external use only. Keep out of children's reach.

Nasheaba
INGREDIENTS:
6 034 000 042 733

Nasheaba
Shea Black Soap

“The African Growth and Opportunity Act (AGOA), has resulted in a four-fold increase, from \$1.4 billion in 2001 to \$4.1 billion in 2015, in the continent’s non-oil trade with the country. AGOA has had success in helping many African countries diversify their export portfolios.”

– Florizelle Liser, Assistant U.S. Trade Representative for Africa



AGOA African Growth and Opportunity Act

BASIC EXPORTER GUIDE AND CHECKLIST



Introduction to AGOA

AGOA - the *African Growth and Opportunity Act* - is legislation enacted by the United States Congress that enables exporters in eligible Sub-Saharan African beneficiary countries to sell their goods on the U.S. market free of standard import tariffs. While AGOA is the popular or given name, the preferences are embedded in the U.S. legislation under Title 19, paragraph 3701, and onwards.

- **AGOA** preferences allow almost 7,000 tariff lines (products) to enter the U.S. duty-free, subject to a number of basic requirements being fulfilled:
 - *The exporter must be from an **eligible** Sub-Saharan African country that has AGOA 'beneficiary' status (i.e. not suspended or otherwise excluded)*
 - *The product must be **classified** as an AGOA eligible product in the U.S. tariff schedule (program indicator 'D')*
 - *The product must **originate** in an AGOA beneficiary country (by meeting the **rules of origin** / local processing requirements)*
 - *The product must be **directly** imported into the U.S. from the AGOA-eligible African country (it may not enter the commerce of another country along the way)*



Which countries are AGOA-eligible?

AGOA preferences apply only to qualifying Sub-Saharan African countries that meet the AGOA eligibility criteria.

36 countries currently [2022] enjoy AGOA beneficiary status - *see blue shaded countries alongside*). Eligibility is reviewed annually, and countries that no longer fulfil the eligibility criteria have their beneficiary status withdrawn.

Eligibility criteria are defined in the legislation and cover a range of thematic areas (see table alongside for a small selection).



What makes a product 'originating' in an AGOA-eligible country?

To benefit from AGOA preferences, a qualifying product shipped from an eligible AGOA beneficiary country must fulfil the local processing criteria to confirm that it is the product or growth of the exporting country. These criteria are known as the **Rules of Origin (RoO)**.

RoO help ensure that market access preferences are correctly allocated to imports from an **AGOA beneficiary country**. The RoO prescribe the minimum local processing or local content required for a product to obtain origin status of the (exporting) AGOA beneficiary country: only '**originating**' products receive duty-free entry (into the United States) in terms of the AGOA legislation. AGOA has two sets of RoO: for textiles and apparel, and for (all) other goods.

THINGS TO KNOW: AGOA RULES OF ORIGIN FOR TEXTILES AND APPAREL

- **Textile and apparel preferences** fall under a separate tariff dispensation, which is set out in the tariff schedule under Chapter 98 (heading 98.19). The schedule contains 8 tariff classification sub-headings relating to apparel (goods falling within Chapters 61 and 62), and one for textiles (goods falling within Chapter 50-60, and 63).
- Each sub-heading represents **different RoO requirements** or allowances: the most commonly used under AGOA is HTS 9819.11.12, applicable to **lesser developed AGOA beneficiary countries**, which offers duty-free access to apparel made up (in the beneficiary country) regardless of the origin of the fabric used ('**third country** fabric').
- For **textiles** (yarn, fabric, household goods), HTS 9819.11.33 allows such textiles to enter the U.S. duty-free provided that they are **wholly produced** in one or more **lesser developed** AGOA beneficiary countries.

AGOA and the GSP



AGOA builds on the U.S. Generalized System of Preferences (GSP), one of many similar such arrangements around the world that offer preferential market access to developing countries.

GSP preferences offer duty-free access to the U.S. market to just over 100 countries, including most countries in Africa. Approximately 3,500 tariff lines fall under the general GSP scheme while a further 1,500 tariff lines are reserved for least-developed country beneficiaries.

AGOA preference status applies to each of these 5,000 tariff lines, but adds almost 2,000 additional products, many in so-called 'sensitive' categories, such as textiles and clothing, automotives and parts, luggage, handbags, certain leather goods, electronics, steel products and so on.

Apart from the wider product coverage of **AGOA**, there are other benefits: while the GSP faces relatively frequent re-authorization by Congress, often with lengthy periods in-between where no GSP preferences apply, the **AGOA** has been in place since 2000 and is only set to expire in September 2025.

Over the years **AGOA** has been extended three times, without disruption, most recently from 2015 to 2025.

Select AGOA eligibility criteria ▶ 19 U.S. Code § 3703

- *Market based economy (beneficiary countries)*
- *Elimination of barriers to U.S. trade and investment*
- *Systems to combat corruption*
- *Protection of worker rights, human rights*

AGOA RULES OF ORIGIN FOR GENERAL GOODS

- **Non-textile goods** (general goods) are subject to a different local processing requirement to be considered as 'originating' products for purposes of AGOA.
- Qualifying goods are those where the **sum of the direct cost of the materials** used, plus the **direct cost of processing** (in one or more AGOA beneficiary countries), equals or exceeds **35%** of the product's appraised value at the U.S. port of entry. 15% (as part of the 35%) may consist of U.S.-originating materials.

AGOA African Growth and Opportunity Act

www.AGOA.info

What products qualify for AGOA preference status?



Products that are classified as 'AGOA' products may enter the United States duty-free, provided that they originate in an AGOA beneficiary country. The AGOA legislation attributes a special program indicator (SPI) to eligible products ('D' for AGOA), similar to the program indicators that products of other U.S. preference schemes enjoy (Canada 'CA', Australia 'AU', Caribbean Basin countries 'E', Generalized System of Preferences 'A', and so forth). When claiming preference status, U.S. importers must indicate the relevant program indicator symbol when clearing their import goods.

A product tariff classification code therefore contains the product description, the U.S. tariff rates, and the special program indicator symbols (e.g. **AGOA - 'D'**). In most instances, a product has a group of program indicators; the relevant ones for AGOA beneficiaries are 'D' and 'A' (GSP), since the AGOA legislation builds on the U.S. GSP scheme and attaches AGOA preferences not only to GSP tariff lines, but also to almost 2,000 additional products.

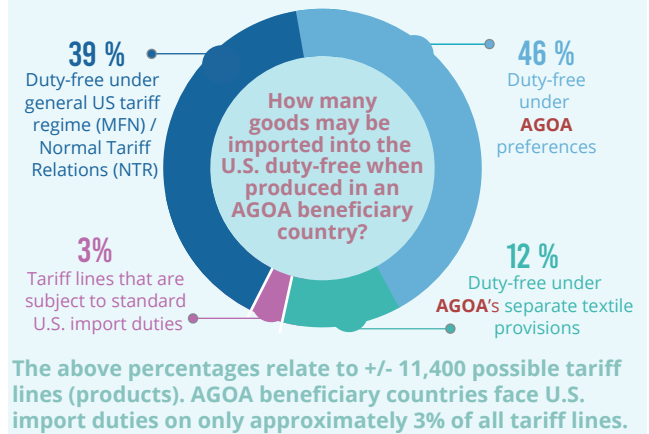
While a U.S. importer can choose to clear a product sourced from an AGOA beneficiary country either under the AGOA 'D' or GSP 'A' indicator, during periods when the GSP is awaiting re-authorization*, no preferences can be claimed under the GSP. Importers should therefore use the AGOA 'D' indicator.

* The GSP expired at the end of 2020 and had not been re-authorized by the U.S. Congress by mid-2022.

U.S. Tariff Schedule and HTS Code Lookup
Use the link below to access the U.S. Harmonized Tariff Schedule (HTS)

hts.usitc.gov

U.S. tariff treatment on goods imported from AGOA countries



The importance of correct product classification

The accurate classification of traded goods is an important part of international trade. Each traded good has a unique classification code that must be used on customs entries by the importer. While the tariff classification codes are based on the Harmonized System (HS) nomenclature, which as the name suggests, is harmonized globally up to the 6th digit (of 8 -10 possible digits), the correct classification code that traders under AGOA must use is the product's unique 8-digit code of the **Harmonized Tariff System (HTS)** of the United States.

Applying the incorrect **HTS classification** can hold up import clearance of goods, or result in over (or under) payment of import duties which will require correction. This could also result in traders being flagged, which may delay future shipments, or result in fines, confiscated shipments etc. ● Use the U.S. HTS lookup tool at the above link to establish the correct 8-digit HTS code for your product.

Valuation of goods

The correct valuation of a traded good is an important aspect of international trade. For example, it is often used to determine the originating status of a good (where origin requires a minimum percentage local content), for trade statistics, trade remedies, and so forth. The recommended valuation for purposes of importing into the U.S. is the **transaction value**, which is the price actually paid for the goods and accommodates items such as license fees and royalties, commission and packing costs incurred by the buyer, and so forth. Where the transaction is between related parties, another valuation method may be required by U.S. customs, such as deductive value (a build-down method based on U.S. resale price) or computed value (a build-up method based on the cost of materials, processing, profit and so on).

U.S. Customs and entry requirements: Paperwork pointers

<p>CERTIFICATE OF ORIGIN FOR TEXTILE GOODS</p> <ul style="list-style-type: none"> Any goods falling within Chapters 50-63 (textiles incl. household textiles, apparel) are subject to the AGOA apparel visa system. Countries must have established a visa system and obtained approval for textile and apparel shipments under AGOA. Customs authorities in the exporting country must stamp the invoice with a visa stamp, and include details such as the name of the authorized customs official, visa number, quantity and so forth. 	<p>OTHER REQUIREMENTS AND DOCUMENTATION</p> <ul style="list-style-type: none"> Any goods imported into the U.S. are subject to various administrative requirements. Relevant U.S. agencies include the Food and Drug Administration (FDA), Department of Agriculture (USDA) for sanitary and phytosanitary compliance, and Environmental Protection Agency (EPA) for products such as chemicals, engines, pesticides, waste products and so forth. Most of the required documentation relates to the shipment itself (invoice, packing list, bill of lading etc.), and U.S. import forms. These include the Entry Summary (Form CBP 7501), Entry Manifest (CBP 7533), and Evidence of Bond (CBP 301), available from CBP. 	<p>Forms: Customs and Border Protection Agency CBP</p> <p>bit.ly/CBP-Forms</p> <p>EPA Regulations by Sector</p> <p>bit.ly/EPA-Regs</p> <p>Animal and Plant Health Inspection Service</p> <p>bit.ly/APHIS-Trade</p> <p>Food and Drug Administration</p> <p>bit.ly/FDA-Trade</p>
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AFRICAN GROWTH AND OPPORTUNITY ACT

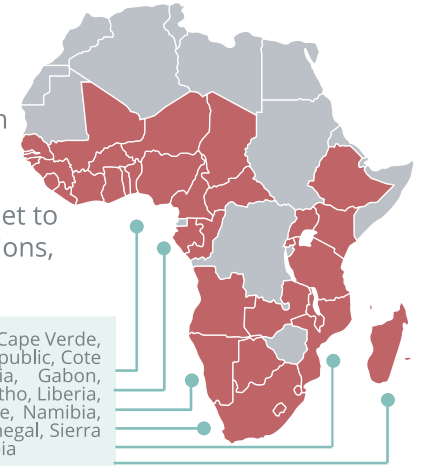
AGOA



Spotlight on the AGOA eligibility criteria, annual and out-of-cycle reviews, and related legal provisions

WHAT IS AGOA?

The **African Growth and Opportunity Act (AGOA)** forms a part of United States' trade legislation. AGOA was signed into law in May 2000 under President Bill Clinton as **Public Law 106 (200)**. The legislation grants special market access in the form of duty-free entry to qualifying **sub-Saharan African** countries. The legislation also provides a framework for other US support to beneficiary countries. While initially set to expire in September 2008, the legislation has been extended on a number of occasions, most recently in 2015, for a period of 10 years (now to **Sept 2025**).



Eligibility status JANUARY 2019

Angola, Benin, Botswana, Burkina Faso, Cameroon, Cape Verde, Chad, Central African Republic, Comoros, Congo Republic, Cote d'Ivoire, Djibouti, Eswatini (Swaziland), Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, South Africa, Tanzania, Togo, Uganda, Zambia

WHO IS ELIGIBLE?

With some exceptions, AGOA eligibility is open to countries listed in a statutorily created list of sub-Saharan African countries. Since AGOA builds on and enhances preferences available under the US **Generalized System of Preferences (GSP)**, AGOA eligibility requires that a country is already a GSP beneficiary country. In order to be considered for AGOA beneficiary status, an eligible country must meet - on an ongoing basis - the eligibility criteria of AGOA. While AGOA is a non-reciprocal preference scheme of the US, it is not unconditional. When countries no longer meet AGOA's eligibility criteria, their AGOA preferences are suspended.

AGOA eligibility



www.AGOA.info

WHAT ARE THE COUNTRY ELIBILITY CRITERIA?

The AGOA legislation requires that an annual determination is made by the US president regarding a country's AGOA beneficiary status. Two different albeit related legislated sets of criteria are used in considering a country's eligibility: these are contained in the AGOA legislation as well as in the US Trade Act of 1974 (which sets out the eligibility requirements relating to the US GSP programme).

SECTION 104 OF AGOA (19U.S.C. 3703)

A country must have established or be making continual progress towards establishing:

- ⊙ A market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy
- ⊙ The rule of law, political pluralism, and the right to due process
- ⊙ The elimination of barriers to United States trade and investment, including through the protection of intellectual property, resolution of bilateral trade disputes, provision of national treatment to create an environment conducive to domestic and foreign investment
- ⊙ Economic policies to reduce poverty, expand infrastructure, increase the availability of healthcare, promote private enterprise
- ⊙ Systems to combat corruption and bribery, protection of internationally recognized worker rights including right to bargain collectively, minimum age limits for the employment of children
- ⊙ A country must not engage in activities that undermine US national security or foreign policy interests
- ⊙ A country must not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism

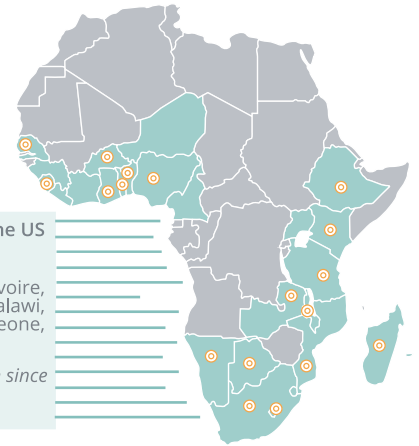
SECTION 502 OF THE TRADE ACT OF 1974, OR GSP (19U.S.C. 2462)

The eligibility criteria contained in the US Trade Act are more comprehensive than those contained in the AGOA legislation and consist of a range of positive ("what a country must do") and negative ("what a country must not do") standards, factors and criteria. These include:

- ⊙ Economic factors, such as per capita GNP, living standards, economic development
- ⊙ Assurances provided to the US that the country will provide equitable and reasonable access to its market
- ⊙ The extent to which a country provides protection for intellectual property rights, reduces or eliminates trade barriers and trade distorting policies, and reduced barriers to trade in services affords its workers internationally recognized worker rights
- ⊙ A country must not have nationalized or expropriated ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or company, unless there has been adequate and prompt compensation and good faith negotiations
- ⊙ Where notwithstanding the above a country's eligibility would be in the national (US) economic interest, its eligibility status can nevertheless be granted

WHAT ARE THE ELIGIBILITY CRITERIA TO EXPORT TEXTILES AND APPAREL?

The AGOA legislation distinguishes between general goods on the one hand and textiles and apparel on the other, for which special eligibility criteria are in place. To be eligible for textile and apparel preferences, an AGOA beneficiary country must implement an apparel visa system which allows administration, monitoring and enforcement of the Rules of Origin provisions for this sector, and the various special categories under which such goods may enter the US duty-free.



Eligibility status JANUARY 2019

Category 9 provisions:

Countries denoted by a special mark on the map alongside are eligible for preferential treatment for folklore articles, handloomed / handmade articles, and ethnic printed fabrics

The following AGOA beneficiaries are authorized to export apparel to the US under AGOA preference:

Benin, Botswana, Burkina Faso, Cameroon, Cape Verde, Chad, Cote d'Ivoire, Eswatini (Swaziland), Ghana, Guinea, Kenya, Lesotho, Liberia, Ethiopia, Malawi, Mauritius, Mozambique, Namibia, Madagascar, Nigeria, Senegal, Sierra Leone, South Africa, Tanzania, Togo, Uganda, Zambia

The Gambia, Niger and Mali have not renewed their apparel visa authorization since having their AGOA beneficiary status restored; Rwanda's AGOA apparel preferences were suspended effective 31 July 2018

CAN COUNTRIES LOSE THEIR AGOA BENEFICIARY STATUS?

AGOA preferences are linked to countries remaining compliant with the AGOA eligibility criteria. For example, when a country maintains barriers against US trade and investment, or does not respect standards on human rights, or arbitrarily expropriates assets owed by US citizens or corporations, then the country risks losing its AGOA beneficiary status. A number of AGOA beneficiaries have over the years lost their preference status for reasons that include the above (see overview of criteria elsewhere); some have regained their status once becoming compliant again. Recent examples are Madagascar (lost 2009 restored June 2014); Eswatini / Swaziland (lost 2014 restored December 2017); Central African Republic (lost 2004 restored end 2016). Countries that have lost their AGOA beneficiary status and are currently suspended include Mauritania (effective 1 January 2019), Burundi (1 January 2016), South Sudan (1 January 2015), DR Congo (1 January 2011).

- Effective 31 July 2018, Rwanda lost AGOA preferences for its apparel sector following an out-of-cycle review relating to compliance with the AGOA eligibility criteria.

ANNUAL AND OUT-OF-CYCLE ELIGIBILITY REVIEWS

ANNUAL REVIEWS

Ongoing monitoring and annual review of all AGOA beneficiary countries' compliance with the eligibility criteria set out in the legislation. This monitoring function is coordinated by the Office of the US Trade Representative (USTR). Countries found not to be compliant with AGOA's eligibility criteria may have their preferential status revoked.

OUT-OF-CYCLE REVIEWS

The extension of AGOA in 2015 - as part of the Trade Preferences Extension Act (TPEA) - included new provisions relating to a petition process whereby any interested person would be able to file a petition with the USTR to trigger an out-of-cycle review (OOCR) of a country's compliance with AGOA's eligibility criteria. These provision meant that eligibility would no longer be adjudicated (only) annually but can take place at any time of the year - and with potential sanctions also possible during the year following such a review and notification period.

Petition for review

Any interested party may petition the USTR for an out-of cycle review, citing the grounds for possible non-compliance by an AGOA beneficiary country.

Action following petition

Petitions are vetted by the AGOA Implementation Sub-Committee, which will decide whether there are exceptional circumstances warranting the OOCR.

Publication of petition

Congress is notified of any petitions. The USTR then publishes in the official Federal Register details of the review process and invites submissions.

Procedural notification

Submissions are reviewed and any determination made by the President is first communicated to Congress.

Public hearings

Public hearings, where oral submissions can be made, can form part of the review process and complement any written submissions.

Public inspection

The USTR publishes submissions received pursuant to the review on the www.regulations.gov website. Business confidential information is redacted.

Possible outcomes and consequences

Where the review finds that the AGOA beneficiary country no longer meets the requirements of the AGOA eligibility criteria, the US (President) has the option of (a) terminating the AGOA beneficiary status of a country, or to (b) withdraw, (c) suspend or (d) limit the preferences with respect to articles exported by that country to the US preferentially.

Prior to withdrawing or amending preferences, a notice period of 60 days must be given to the country.

Under the previous AGOA legislation this more tailored approach was not possible. The legislation now gives much greater power to 'interested parties' to petition for an out-of-cycle review, but also allows the US to effect changes to issues of non-compliance without necessarily having to suspend the country from AGOA beneficiary status as a whole.

For example, Rwanda recently had its AGOA preferences for apparel exports suspended following an out-of-cycle review of Kenya, Tanzania and Rwanda's AGOA status (involving the 'countries' policies on the importation of second-hand clothing).

South Africa was subject to a compulsory out-of-cycle review in 2015 relating to the country's policies on the importation of chicken, beef and pork products. This issue was resolved without a proposed suspension of South Africa's AGOA access for its agricultural products being implemented.

AGOA eligibility criteria - US Code -



www.AGOA.info

GSP eligibility criteria - US Code -



www.AGOA.info

AGOA Out-of-Cycle Reviews



www.AGOA.info



www.AGOA.info



www.tralac.org



www.usaid.gov

Acknowledgements

This Infographic has been created by the Trade Law Centre (tralac). The AGOA.info web portal forms part of tralac's offerings.

Eckart Naumann | TRALAC 11/2018

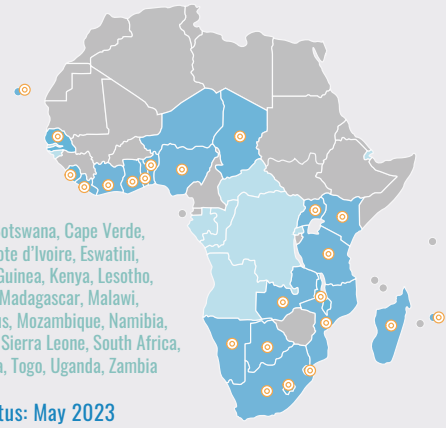
tralac gratefully acknowledges the financial support of The U.S. Agency for International Development

Spotlight on the textile & apparel sector

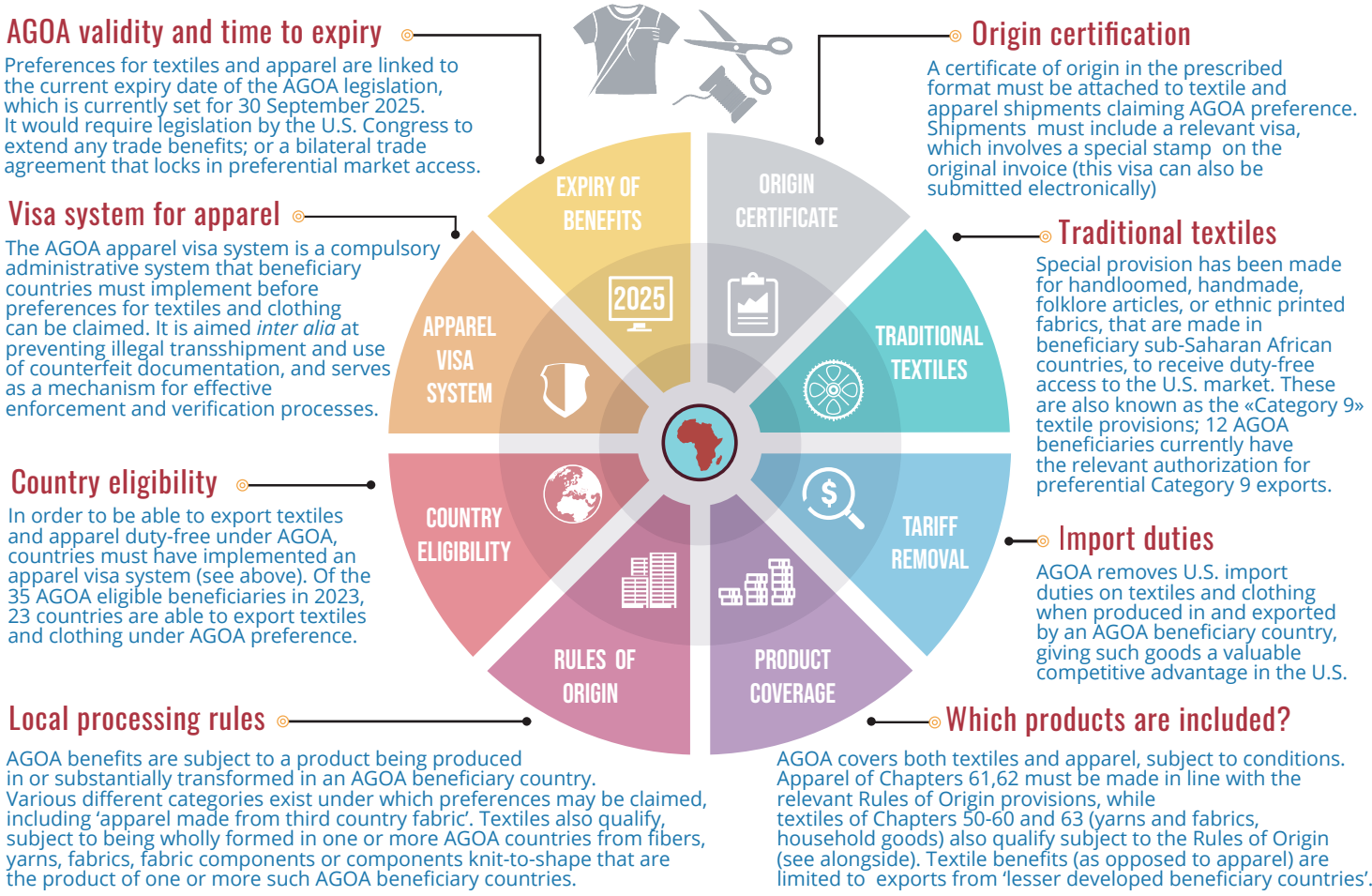
On 18 May 2000, the United States Congress passed legislation that granted goods, produced in eligible sub-Saharan African countries, preferential (duty-free) access to the US market. This legislation, known as the **African Growth and Opportunity Act (AGOA)**, builds on and expands preferences that the U.S. previously granted to a group of countries under its Generalized System of Preferences (GSP) arrangement. While AGOA has been subject to less frequent expiry and renewal processes compared to the GSP, it is currently set to expire in September 2025. After that, preferences fall away, unless the U.S. Congress extends the current provisions, or enacts other legislation in its place, or countries have a bilateral trade agreement with the U.S.

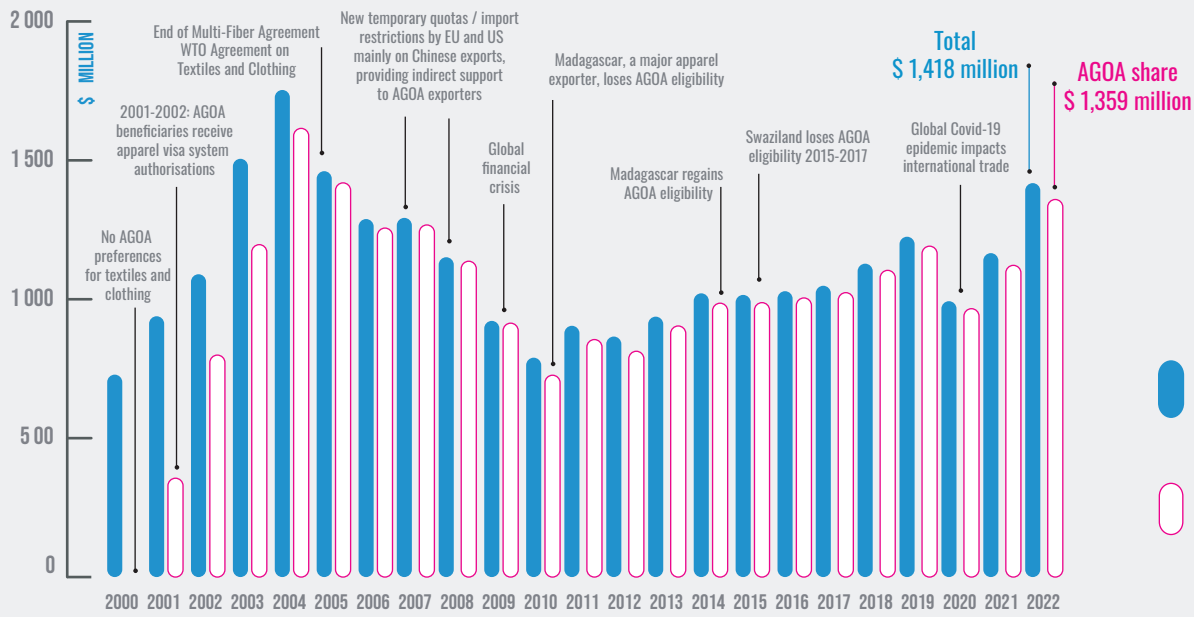
AGOA allows eligible goods to enter the US free of import duty. **Textiles and apparel** produced in AGOA beneficiaries are included in the list of products that qualify, subject to conditions, which includes special Rules of Origin requirements, and ongoing trade monitoring systems. AGOA removes import duties that can be as high as 32% for certain articles of apparel, providing exporters with a significant boost to their competitiveness in the U.S. market.

AGOA beneficiary countries that have qualified for apparel preferences



KEY FEATURES : PREFERENTIAL MARKET ACCESS TO THE U.S. MARKET UNDER AGOA PREFERENCE



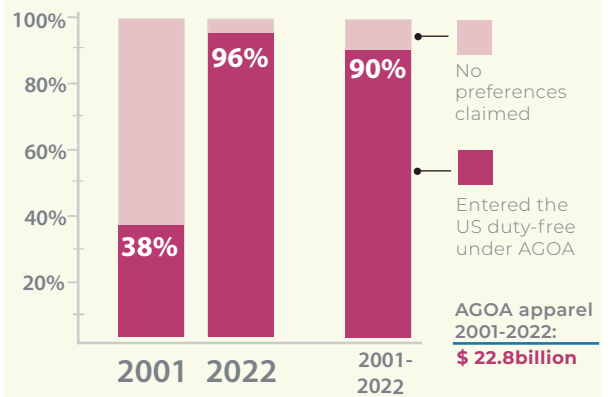


LEADING EXPORTERS OF APPAREL UTILIZING AGOA PREFERENCES



In a number of Sub-Saharan African countries, apparel manufacturing has been a critical driver of export-led growth. Through AGOA, textiles and apparel can enter the U.S. market on a duty-free basis, resulting in a substantial preference margin over the competing exports from other countries of up to 32%. In order to qualify for preferences, textiles and apparel must be made in an AGOA-eligible country that has implemented an apparel visa system (see Page 1), and in line with one of the Rules of Origin categories (see Box below). These criteria offer significant flexibility: For example under Cat. 5(E), producers in 'lesser developed beneficiary countries' may utilize fabric sourced from anywhere in the world.

Portion of apparel exports from AGOA beneficiary countries that entered the U.S. duty-free under AGOA preference



Mauritius*	Effective October 2008, Mauritius designated 'lesser-developed' for purposes of AGOA apparel provisions.
Madagascar*	Madagascar lost its AGOA beneficiary status between 2010 and 2014; AGOA status reinstated 2015.
Eswatini*	Eswatini lost its AGOA beneficiary status between 2015 and 2017; AGOA status reinstated end 2017.
Rwanda*	Following an eligibility review, Rwanda's apparel preferences under AGOA were suspended July 31, 2018.
Ethiopia*	Following an eligibility review, Ethiopia's AGOA status were suspended effective 1 January 2022. Year 2022 exports of apparel consequently entered the U.S. without preferential claim, under normal tariff relations.

AGOA - RULES OF ORIGIN CATEGORIES

Rules of Origin (RoO) are the prescribed criteria used to determine the economic nationality of a product, by specifying the local content or minimum processing required for a product to earn 'local origin' status. Under AGOA, the general 35% local content rule does not apply to textiles and clothing; instead, duty-free entry is granted under AGOA provided that a good that is produced in an AGOA-eligible country can be classified within one of the RoO categories listed alongside.

- **Cat 1(A)** Apparel from US yarn and fabric, cut in the US
- **Cat 2(B)** Apparel from US yarn and fabric, cut in the US and further processed
- **Cat 3(C)** Apparel from US yarn and fabric, cut in Africa
- **Cat 4(D)** Apparel made from regional fabric made from African or US yarn
- **Cat 5(E)** Apparel made in a lesser-developed country from foreign fabric (3rd country fabric)
- **Cat 6(F)** Cashmere sweaters
- **Cat 7(G)** Merino wool sweaters
- **Cat 8 (H)** Apparel from fabric or yarn in short supply
- **Cat 9 (I)** Handloomed, handmade, folklore articles
- **Cat 0 (J)** Textile articles of Ch 50-60, 63 made in a LDC beneficiary country from AGOA country inputs

AGOA APPAREL - OTHER PROVISIONS

- **Regional cap:** By law, AGOA limits imports of apparel made with regional or third country fabric to a fixed percentage of the total square meter equivalents (SME) of all apparel articles imported into the US. Given the size of this quota, AGOA imports have never been at any real risk of exceeding it.
- **Findings, trimmings, interlinings, de minimis:** The AGOA legislation provides a 25% allowance on certain non-originating components (10% for fibers and yarns as relevant). More details at: <https://agoa.info/about-agoa/apparel-rules-of-origin>

Exporting to the United States

OVERVIEW OF INCOTERMS USED IN TRADE



This guide provides an overview of the International Commercial Terms, commonly known as '*Incoterms*', which are terms used in international trade transactions involving the movement of goods, and which provide a common understanding of the parties' responsibilities and obligations, and when risk passes from the seller to the buyer.

Incoterms significantly simplify international contracting between sellers and buyers and provide clarity and certainty on various critical aspects underlying the sale and transportation of goods as these move from the seller's premises to the buyer. Each incoterm represents a different standard, with specific obligations, and involves different points of the journey where risk passes from the seller to the buyer. Traders may rely on the underlying criteria of each respective *Incoterm* when choosing a specific *Incoterm*, making it easier to conclude a business transaction, manage the logistics process, and to resolve disputes between the parties should they arise.



Incoterms: a timeline

1936	The International Chamber of Commerce (ICC) develops the first set of <i>Incoterms</i> , to address an increasing need by traders for harmonized definitions of trade-related processes to help facilitate international trade.
1953 - 2010	The ICC publishes periodic updates to the <i>Incoterms</i> , specifically in 1953, 1967, 1976, 1980, 2000, 2010, in response to changing developments and practices in international trade.
2020	The ICC releases the most recent and current update (9th edition), which includes a number of changes to the earlier 2010 version and is applicable since 1 January 2020. The previous version <i>Incoterms</i> remains valid but to avoid confusion, contracts should specify the <i>Incoterm</i> version that they rely on.



What are the key elements covered by Incoterms?

Carriage	Cost	Risk
<i>Incoterms</i> define which parts of an international journey are the financial responsibility of the seller and the buyer respectively, including arrangements for loading and carriage. International shipping tends to feature a number of legs, and <i>incoterms</i> provide important clarity.	Responsibility for the payment of the costs of the journey is regulated by the chosen <i>Incoterm</i> , and may be incorporated into the invoice price where this responsibility lies with the exporter. <i>Incoterms</i> also regulate various other costs, such as clearance, offloading and delivery.	An international journey usually involves a number of legs, and the chosen <i>Incoterm</i> defines exactly for which part of the journey the seller assumes risk for, and from what point onwards the buyer assumes the responsibility for risk and for arranging insurance cover.

What is specified by each Incoterm?

Obligations of buyer and seller	Risk transfer from seller to buyer
<p>Which party is responsible for which part of the journey? Each <i>Incoterm</i> defines the obligations of each party to an international trade journey insofar as it relates to who is responsible for aspects such as transportation, import and export clearance, customs, wharfage (port usage charges by port authorities), loading and offloading of the goods, etc.</p>	<p>For which part of the journey does each party assume risk? Each <i>Incoterm</i> also defines the point at which risk transfers from the seller to the buyer, which may not necessarily coincide with the respective parties' obligations with respect to transport and related costs. The point of risk transfer provides clarity to the parties on issues such as obtaining insurance cover for the goods.</p>

Why use Incoterms in international trade?

<p>A common language</p> <p>One of the key benefits of <i>Incoterms</i> is that they provide a common language and understanding to traders as it relates to their international trade transactions. When <i>Incoterms</i> are integrated into a sales contract, key terms of the logistics process that the parties agree to are defined through the use of the appropriate <i>Incoterm</i>.</p>	<p>Simplifying trade</p> <p><i>Incoterms</i> simplify trade and contracting since they are legal terms that are internationally recognized. Not only do they set out the obligations of the parties relating to shipping and associated costs, but they condense the contracting process by specifying important terms and conditions through a chosen <i>Incoterm</i>.</p>
<p>Providing clarity</p> <p>The use of <i>Incoterms</i> is not mandatory and remains the prerogative of the parties to the trade transaction. For <i>Incoterms</i> to be legally binding, they should be explicitly incorporated into the contractual arrangements. To provide additional clarity, the respective <i>Incoterm</i> version should be specified, especially if it relates to a previous version <i>Incoterm</i> where there may have been changes. <i>Incoterms</i> are not only critical in setting out the respective obligations of the seller and the buyer in terms of each party's responsibility relating to the journey, but allows risk to be managed and mitigated (for example, to inform decisions on obtaining insurance cover for specific legs of the journey, in relation to the point where risk transfers from the seller to the buyer).</p>	 

What are the different Incoterms and which forms of transportation do they apply to?

Incoterms 2020, in place since January 2020, is the most current version of the trade terms and comprises 11 different *Incoterms*. This number is unchanged from the 2010 version, albeit with various changes. The previous 2000 version comprised 13 terms.

Incoterms can be broadly divided into two groups: (a) those that are applicable to all modes of transportation, and (b) those that are only relevant to inland waterway and maritime transportation.

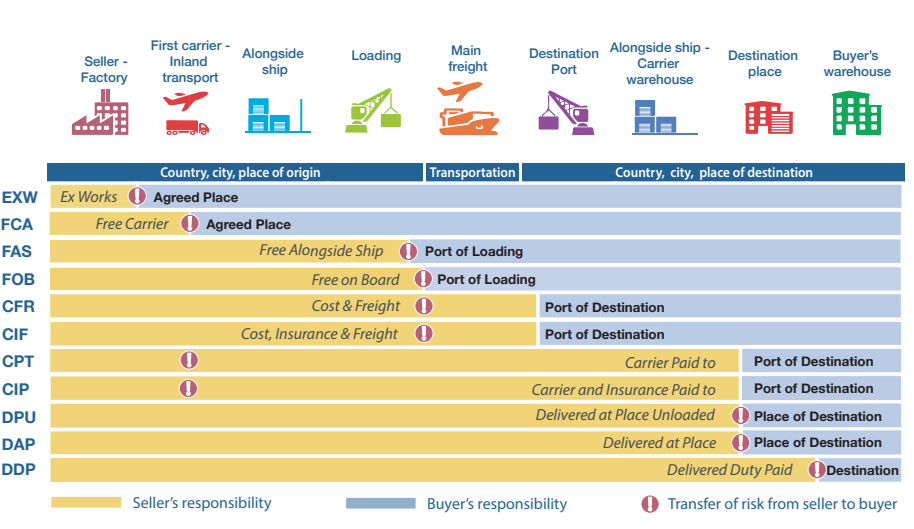
	All types of transportation	Inland waterway and maritime transportation
GROUP E	1. EXW <i>Ex Works</i>	
GROUP F	2. FCA <i>Free Carrier</i>	8. FAS <i>Free alongside Ship</i> 9. FOB <i>Free on Board</i>
GROUP C	3. CPT <i>Carriage Paid To</i> 4. CIP <i>Carriage and Insurance Paid To</i>	10. CFR <i>Cost and Freight</i> 11. CIF <i>Cost Insurance and Freight</i>
GROUP D	5. DPU <i>Delivery at Place Unloaded</i> 6. DAP <i>Delivery at Place</i> 7. DDP <i>Delivery Duty Paid</i>	

In addition, the *Incoterms* can be divided into 4 principal groups according to the type of responsibility that attaches to each term. These are groups E, F, C and D respectively, with each *Incoterm* being grouped according to its respective starting letter. The common element within each grouping relates to the characteristics of the seller's obligations for transport, and certain commonalities around the point where risk passes from seller to buyer.

Incoterm groups	Group E 'Departure'	Group F 'Main Carriage Unpaid'	Group C 'Main Carriage Paid'	Group D 'Arrival'
	Seller's obligation ends at the factory door	Seller's obligation ends at the vessel	Carriage and related charges are covered by the seller	Seller is generally responsible for delivery up to buyer's premise
	With the Group E <i>Incoterm</i> , the goods are made available to the buyer at the export location as specified by the seller. The risks associated with loading the goods, or responsibility for customs clearance and carriage, lie with the buyer. Risk passes at the specified location	Group F <i>Incoterms</i> (FCA, FAS and FOB) the seller is the responsible party for delivery of goods to an agreed place which is either onboard or alongside ship at the port of loading. Risk and cost obligations pass to the buyer at this point.	With Group C <i>Incoterms</i> (CPT, CIP, CFR and CIF), the responsibility for transportation to the agreed port or destination lies with the seller. This includes various associated costs such as export clearance and loading. However, risk transfers to the buyer at an earlier point, depending on the <i>Incoterm</i> used.	With group D <i>Incoterms</i> (DPU, DAP and DDP) the seller is responsible for delivery up to an agreed place (buyer's premises, destination port, or other facility) and is responsible for the cost of carriage as well as associated risks up to that point. Risk passes to the buyer on delivery.

Schematic overview of 2020 Incoterms: Responsibilities and transfer of risk

This schematic provides an overview of the 2020 *Incoterms*, identifies the point where risk (relating to the goods being shipped) transfers from the seller to the buyer, and shows which part of the shipping journey the seller and buyer are responsible for, in relation to each *Incoterm*.



Using Incoterms in trade

- 1 Be specific (port names, named place of delivery, etc.)
- 2 Use the appropriate term based on product, means of transport
- 3 Integrate Incoterms into the sales contract
- 4 Don't over-rely on Incoterms: specify payment terms, shipping costs, and transfer of ownership where appropriate in the contract

Incoterm updates: Incoterms: 2020 vs. 2010

FCA FCA now permits Bills of Lading to be issued after loading, satisfying the conditions of a LC (letter of credit). Previously, exporters often preferred using FOB to arrange payment under a LC.

DAT DAT (Delivery at terminal) has been renamed to DPU (Delivery at Place Unloaded). This replacement term now covers all delivery options, and is no longer limited to the 'terminal'.

CIP CIP (Carriage and Insurance Paid To) has undergone changes to the insurance provisions, with the seller now obliged to obtain a higher level of insurance than previously. CIP and CIF both require the seller to obtain insurance, in and for the buyer's name and benefit.

SPOTLIGHT ON THE RULES OF ORIGIN

What are the Rules of Origin, and why do they matter?

Rules of Origin (RoO) are the criteria used to determine the **economic origin** status of a product. RoO form an integral part of preferential trade arrangements, and help to ensure that trade (market access) preferences are correctly linked to imports from a country that has been designated as being eligible receive such preferences. RoO are important and necessary, as in their absence, the likelihood of transshipment would undermine, and essentially make it impossible, for there to be **preferential** trade between countries. Transshipment - in the AGOA context - would be where goods from third countries could simply be shipped to the U.S. via a beneficiary country having more favourable market access to the US, without any substantial processing having taken place in the beneficiary country. RoO help avoid this scenario.

The RoO are the tool used to design appropriate and legislated criteria by which a product's origin is determined; this is based on the premise that only products **originating** in a beneficiary exporting country should receive preferential market access. In order to be considered as 'originating', a product must then either have been grown, extracted or produced exclusively within the exporting country (that is claiming origin status), or alternatively, must have been substantially transformed within that country when the product combines both of local and imported materials. In such scenarios, RoO prescribe the minimum local processing or local content required for a product to obtain economic origin status of the (exporting) country.

What are the Rules of Origin under AGOA?

The RoO form an important part of the 'fine-print' of the AGOA legislation, and all exports from AGOA beneficiary countries are subject to these rules.

The AGOA legislation essentially has two sets of origin rules: RoO criteria for '**general**' goods, and separate criteria for **textiles and apparel** goods. The rules for general goods are those based on the U.S. Generalized System of Preferences (GSP) and apply both to industrial, processed mineral and agricultural goods; while for textiles and apparel, the AGOA legislation contains what is known as the '**wearing apparel**' provisions which set out a number of different product categories and processing criteria, under which AGOA beneficiaries may export goods to the US duty-free. U.S. importers of qualifying textiles must mark the relevant RoO criteria under which textile and apparel are imported, and include a certificate of origin.

Who claims preferential origin status and receives the trade preferences?

The United States based **importer** would clear products sourced from an African AGOA beneficiary country through U.S. customs (unless the African exporter and U.S. importer are the same party), and be liable for any import duties. Where a product qualifies for duty-free market access under AGOA, the importer would mark the relevant customs forms with the special program indicator ('**D' for AGOA**), enter the product's unique HTS tariff code (from the U.S. tariff schedule), and in the case of textile goods, refer to the certificate of origin provided by the exporter that indicates the relevant RoO **category**. While the **importer** claims the duty-preference, the preference margin (the duty saved, when importing under AGOA) results in the **exporter's** product being more competitive in the U.S. market, resulting in a win-win outcome for both the exporter in the AGOA beneficiary country, as well as the U.S. importer.

General goods

AGOA RULES OF ORIGIN - QUALIFYING CRITERIA FOR NON-TEXTILE / GENERAL GOODS

Products are 'originating' in an AGOA beneficiary country when the following conditions are met:

"WHOLLY PRODUCED"

- ⦿ The product must be wholly the growth, product, or manufacture of the AGOA beneficiary country

OR

"SUBSTANTIALLY TRANSFORMED"

- ⦿ The product must be a new or different article of commerce that has been grown, produced or manufactured in the beneficiary country

DIRECT SHIPPING TO THE US

- ⦿ The article must also be imported directly from the AGOA beneficiary country into the customs territory of the U.S.

LOCAL PROCESSING CRITERIA

- ⦿ The cost or value of the materials produced in the AGOA beneficiary country or any (two or more such) AGOA countries **PLUS**
- ⦿ The direct costs of processing operations performed in such AGOA country (or countries)
- ⦿ ...must be no less than **35%** of the appraised value of that article at the time it enters the U.S.
- ⦿ Up to 15% (of the 35%) of the appraised value at the time it enters the U.S. may comprise U.S.-originating value and may be applied toward determining the percentage

EXCLUSIONS - INSUFFICIENT PROCESSING

- ⦿ An article can not be considered originating by virtue of only having undergone
 - simple combining operations
 - mere dilution with water or another substance that does not materially alter the substance of the article

Products that are AGOA eligible, and meet the Rules of Origin, qualify to enter the U.S. duty-free



Note: US Customs will generally appraise the merchandise at the full value of the transaction, which includes the following components: Packaging costs, selling commission, royalty and licensing fees incurred by a buyer, the value of free assistance that may have been provided to the buyer conditional upon the sale; included under the "direct costs of processing" are the cost of labour, engineering or supervisory quality control, machinery costs

Textiles and apparel

AGOA RULES OF ORIGIN - QUALIFYING CRITERIA FOR TEXTILE AND APPAREL GOODS

Textiles and apparel are subject to their own Rules of Origin criteria; the 'general' rules do not apply.

Textiles: Yarns, fabric (of Chapters 50-60 and 63) from any AGOA beneficiary country classified as a 'lesser developed beneficiary country' qualify for AGOA preferences provided that they are wholly produced from locally made fibres, yarns, fabrics, or components knit-to-shape in such countries.

Apparel: Products of Chapter 61 and 62 may enter the U.S. duty-free under AGOA provided that the AGOA beneficiary country has implemented the required AGOA apparel visa system, and provided that the products can be classified under one of the following RoO categories (Categories 0 - 9):

TEXTILES & APPAREL RULES OF ORIGIN CATEGORIES

- Cat 1(A) Apparel from US yarn and fabric, cut in the US
- Cat 2(H) Apparel from US yarn and fabric, cut in the US and further processed
- Cat 3(C) Apparel from US yarn and fabric, cut in Africa
- Cat 4(D) Apparel made from regional fabric made from African or US yarn
- Cat 5(E) Apparel made in a lesser-developed country (LDC) from foreign fabric ('3rd country fabric')
- Cat 6(F) Cashmere sweaters
- Cat 7(G) Merino wool sweaters
- Cat 8 (H) Apparel from fabric or yarn in short supply
- Cat 9 (I) Handloomed, handmade, folklore articles
- Cat 0 (J) Textile articles of Ch 50-60, 63 made in a LDC beneficiary country from AGOA country inputs

OTHER CRITERIA

Quantitative restrictions:

By law, AGOA limits imports of apparel made with regional or third country fabric to a fixed percentage of the total square meter equivalents (SME) of all apparel articles imported into the US.

Given the large size of this quota, AGOA imports have to date never been at any real risk of exceeding it and therefore remain unconstrained by any quantitative restrictions.

Findings, trimmings, interlinings, de minimis:

The AGOA legislation provides a 25% allowance on certain non-originating components (10% for fibers and yarns, as relevant). More details are available at the link alongside.

Well over 90% of all apparel exports since 2001 (the year when the first AGOA countries qualified for apparel preferences) entered the U.S. duty-free under AGOA. Category 5(E) - the provision which allows lesser developed beneficiary countries to utilize 3rd country fabrics - was used for most exports.

