

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is reviewed annually, and countries that no longer fulfil the eligibility criteria have their beneficiary status withdrawn.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.

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What products qualify for AGOA preference status?



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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.

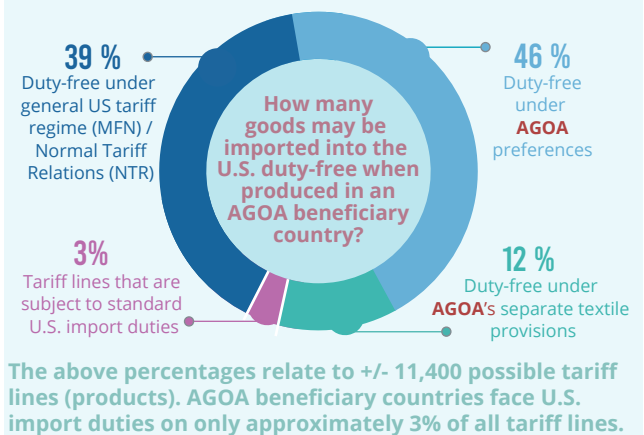
While a U.S. importer can choose to clear a product sourced from an AGOA beneficiary country either under the AGOA 'D' or GSP 'A' indicator, during periods when the GSP is awaiting re-authorization*, no preferences can be claimed under the GSP. Importers should therefore use the AGOA 'D' indicator.

* 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

CERTIFICATE OF ORIGIN FOR TEXTILE GOODS

- 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.

OTHER REQUIREMENTS AND DOCUMENTATION

- 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.

Forms: Customs and Border Protection Agency CBP



bit.ly/CBP-Forms



bit.ly/EPA-Regs

Animal and Plant Health Inspection Service



bit.ly/APHIS-Trade

Food and Drug Administration



bit.ly/FDA-Trade