

THE TEXTILE AND APPAREL PROVISIONS OF AGOA

Background: AGOA is a unilateral preference program established in the Trade and Development Act of 2000 (Public Law 106-200). This Act provides qualifying Sub-Saharan African (SSA) countries with duty-free and quota-free treatment for eligible apparel articles exported to the United States. The Trade Preferences Extension Act of 2015 (Public Law 114-27, June 29, 2015) extended AGOA through September 30, 2025.

Textile and apparel articles that qualify for duty-free treatment under the program include

1. apparel made of U.S. yarns and fabrics;
2. apparel made of SSA (regional) yarns and fabrics, subject to a cap;
3. apparel made in a designated lesser-developed country of third-country yarns and fabrics (also subject to a cap);
4. apparel made of yarns and fabrics not produced in commercial quantities in the United States;
5. textile or textile articles originating entirely in one or more lesser-developed beneficiary SSA countries;
6. certain cashmere and merino wool sweaters; and
7. hand-loomed/handmade/or folklore articles and ethnic printed fabrics

Eligible Countries: Preferential treatment for apparel took effect on October 1, 2000. However, in order for countries to be eligible for apparel benefits, they must have in place an effective visa system to prevent illegal transshipment and use of counterfeit documentation, as well as effective enforcement and verification procedures. Specific requirements of the visa systems and verification procedures were presented to African governments via U.S. embassies on September 21, 2000.

For a list of countries eligible for apparel benefits, including those also eligible for the Special Rule for Apparel, see [AGOA Preferences: Country Eligibility, Apparel Eligibility, and Textile Eligibility \(Category 0 and Category 9\)](#).

Special Rule for Apparel Applying to Lesser Developed AGOA Countries: Under a “Special Rule” for lesser-developed beneficiary countries, SSA LDCs (with a per capita gross national product of less than \$1,500 a year in 1998, as measured by the World Bank) enjoy an additional preference in the form of duty-free and quota-free access for apparel made from fabric originating anywhere in the world. The Special Rule is in effect until September 30, 2025 and is subject to a cap (see below for details on the cap). All AGOA-eligible countries are determined to be LDCs with the exception of South Africa.

Textile and Textile Articles (Category 0): AGOA IV expanded AGOA benefits to textile articles originating entirely in one or more lesser-developed beneficiary SSA country. This new provision extends preferential treatment to textile articles such as fibers, yarns, fabrics, and made-up goods (i.e., towels, sheets, blankets, floor coverings).

Hand-loomed/Handmade/Folklore Articles/Ethnic Printed Fabrics (Category 9): Provides duty- and quota-free benefits for hand-loomed, handmade, folklore articles, or ethnic printed fabrics, made in beneficiary sub-Saharan African countries. This provision

is known as "Category 9". This extends duty-free treatment to articles that may not otherwise qualify for AGOA if they are completely handmade and hand-loomed and do not include any modern features such as elastic or zippers, etc. Such designations can only be made following consultations between the U.S. and the beneficiary SSA country.

Regional Cap: AGOA limits imports of apparel made with regional or third country fabric to a fixed percentage of the aggregate square meter equivalents (SME) of all apparel articles imported into the United States.

Beginning October 1, 2007, the annual aggregate quantity of imports eligible for preferential treatment under these provisions is an amount not to exceed 7 percent of all apparel articles imported into the United States. Of this overall amount, apparel imported under the Special Rule for lesser-developed countries is limited to an amount not to exceed 3.5 percent of apparel imported into the United States in the preceding 12-month period. Apparel articles entered in excess of these quantities will be subject to otherwise applicable tariffs.

The duty- free cap is not allocated among countries. It is filled on a "first-come, first-served" basis.

For the most current data on aggregate imports under the cap, please visit the [OTEXA website](#) and click on "AGOA".

Abundant Supply: AGOA IV provided for special rules for fabrics or yarns produced in commercial quantities (or "abundant supply") in any designated sub-Saharan African country for use in qualifying apparel articles. Upon receiving a petition from any interested party, the U.S. International Trade Commission would determine the quantity of such fabrics or yarns that must be sourced from the region before applying the third country fabric provision. It also provided for 30 million square meter equivalents (SMEs) of denim to be determined to be in abundant supply beginning October 1, 2006. *Section 3 of the Andean Trade Preference Extension Act (Public Law 110-436) revoked this provision.*

Commercial Availability: The President is authorized to proclaim duty-free and quota-free benefits for apparel that is both cut (or knit-to-shape) and sewn or otherwise assembled in beneficiary countries from fabric or yarns not formed in the United States or a beneficiary country, if the President has determined that such yarns or fabrics cannot be supplied by the domestic industry in commercial quantities in a timely manner. AGOA IV provides for a process to remove designated fabrics or yarns that were determined not to be available in commercial quantities in the United States on the basis of fraud.

For details on products that receive duty- free treatment under the AGOA, see the [Commercial Availability Documents Database](#).

Findings and Trimmings: An apparel article is eligible for benefits even if the article contains findings or trimmings of foreign origin, if the value of such findings and trimmings does not exceed 25 percent of the cost of the components of the assembled

article. Examples of findings and trimmings include sewing thread, hooks and eyes, snaps, buttons, "bow buds," decorative lace trim, elastic strips, and zippers. Elastic strips are considered findings or trimmings only if they are each less than 1 inch in width and used in the production of brassieres.

Certain Interlinings: Articles containing certain interlinings of foreign origin are eligible for benefits if the value of the interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article. The interlinings permitted include only a chest type plate, a "hymo" piece, or "sleeve header," made of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments. This benefit will terminate if the President determines such interlinings are made in the United States in commercial quantities.

Certain Components: AGOA III expanded product eligibility to allow non-AGOA produced collars, cuffs, drawstrings, padding/shoulder pads, waistbands, belts attached to garments, straps with elastic, and elbow patches for all import categories to be eligible.

De Minimis Rule: Apparel products assembled in SSA countries that are otherwise considered eligible for AGOA benefits but for the presence of some fibers or yarns not wholly formed in the United States or the beneficiary SSA country will still be eligible for benefits as long as the total weight of all such fibers and yarns is not more than 10 percent of the total weight of the article.

Special Documentary Requirements: A [certificate of origin](#) is required for each shipment of textiles and apparel claiming the preferential trade benefits for textiles and apparel, in addition to the visa. The U.S. importer must obtain the certificate of origin from the manufacturer prior to presentation of entries to the U.S. Customs Service claiming an AGOA preference. The importer is required to possess the certificate of origin and to be able to present it upon demand by the U.S. Customs Service. The visa arrangement establishes documentary procedures for each shipment of eligible textile and apparel products from a designated beneficiary sub-Saharan African country to the U.S.

Illegal Transshipment: AGOA describes "transshipment" as claiming a textile or apparel article for preferential treatment that is false with respect to country of origin, manufacture, processing or assembly of the article or any of its parts. If transshipment is found, the U.S. will deny all benefits for future textile or apparel shipments from the transshipping SSA exporter for five years.

The Committee for the Implementation of Textile Agreements (CITA): CITA has the authority to implement certain provisions of AGOA's textile and apparel benefits. These provisions include:

- Determination of the annual cap on imports of apparel that is assembled in beneficiary countries from fabric formed in beneficiary countries from yarn originating either in the United States or in beneficiary countries. Until September 30, 2025, the statute permits lesser-developed beneficiary countries to obtain preferential treatment for apparel assembled in beneficiary countries

- regardless of the origin of the fabric;
- Determination that yarn or fabric cannot be supplied by the U.S. industry in commercial quantities in a timely manner, and to extend preferential treatment to eligible apparel from such yarn or fabric (commercial availability);
 - Determination of eligible hand-loomed, handmade, or folklore articles and ethnic printed fabrics;
 - A "tariff snapback" in the event that a surge in imports of eligible articles causes serious damage or threat thereof to domestic industry;
 - Determination of whether U.S. manufacturers produce interlinings in the United States in commercial quantities, thereby rendering articles containing foreign interlinings ineligible for benefits under AGOA; and
 - Determination of whether exporters have engaged in illegal transshipment and denial of benefits to such exporters for a period of five years.

FOOTWEAR AND TRAVEL GOODS PROVISIONS

Section 111 of the Trade and Development Act of 2000, which established the AGOA preference program, amends Title V of the Trade Act of 1974 (the Generalized System of Preferences, or GSP, statute which previously consisted of sections 501-507, codified at 19 U.S.C. 2461-2467) by inserting after section 506 a new section 506A entitled "Designation of sub-Saharan African countries for certain benefits" and codified at 19 U.S.C. 2466a.

The new section 506A authorizes the President to provide duty-free treatment for certain articles otherwise excluded from duty-free treatment under the GSP program and authorizes the President to designate a country listed in section 107 of the African Growth and Opportunity Act (19 U.S.C. 3706) as an eligible beneficiary sub-Saharan African country for purposes of that duty-free treatment.

The duty-free treatment provided for in 506A applies to "footwear, handbags, and luggage", which were not eligible articles for purposes of the GSP on January 1, 1995, as the GSP was in effect on that date.

A claim for the duty-free treatment must be made by placing on the entry document the symbol "D" as a prefix to the Harmonized Tariff Schedule of the United States for each article for which duty-free treatment is claimed.

On June 30, 2016, the Office of the United States Trade Representative announced that certain luggage and travel goods articles were designated as eligible for purposes of the GSP program for beneficiary SSA countries (as well as least developed countries). This outcome was the result of provisions included in the Trade Preferences Extension Act of 2015, which provided that the President could designate certain luggage and travel goods articles for duty-free treatment under the GSP program (including luggage, backpacks, handbags, and wallets)¹.

¹ When the Trade and Development Act of 2000 was implemented in 2000, textile travel goods covered by HTS subheadings 4202.12, 4202.22, 4202.32, 4202.92, and 4202.00 were excluded from GSP (duty-free) treatment. In 2016, the following additional travel goods items were designated as GSP eligible for beneficiary SSA countries: 4202.11.00, 4202.12.2020,

The rule of origin for footwear and travel goods

Footwear and travel goods from beneficiary SSA countries are duty-free provided that they meet the basic GSP origin and related rules but also subject to the following two additional rules:

- a. If the cost or value of materials produced in the customs territory of the U.S. is included with respect to that article, an amount not to exceed 15% of the appraised value of the article at the time it is entered that is attributed to the U.S. cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 503(a)(2); and
- b. The cost or value of the materials included with respect to that article that are produced in one or more beneficiary SSA countries shall be applied in determining that percentage.

Thus, in order for a footwear and travel good articles to receive duty-free treatment, that article must meet the basic origin and related rules that apply to all eligible articles from any GSP-eligible country, but subject to two additional rules. In other words (1) the article must have become the growth, product, or manufacture of a beneficiary SSA country by some process other than a simple combining or packaging operation, (2) the article must be imported directly from a beneficiary SSA country into the customs territory of the U.S., (3) the article must have at least 35% of its appraised value attributed to the sum of the direct costs of processing operations performed in the beneficiary SSA country or in any two or more beneficiary SSA countries that are members of the same association of countries and are treated as one country under section 507(2) of the GSP statute, plus the cost or value of the materials produced in the beneficiary SSA country or in any two or more beneficiary SSA countries, and (4) as variations from the general GSP 35% value-content rule (the two additional rules): the cumulation of the cost or value of materials from different beneficiary countries is not dependent on those beneficiaries being members of an association of countries; and the cost or value of materials produced in the customs territory of the U.S. may be counted toward the 35% requirement to a maximum of 15% of the article's appraised value.

Binding Ruling Letter: An importer or exporter of merchandise to the United States may request, in writing, a ruling from the U.S. Customs Service concerning U.S. Customs and related laws pertaining to a particular transaction. If there are questions as to the eligibility of a product for receiving the preferential benefits under AGOA, consideration should be given to requesting a ruling letter from the U.S. Customs Service.

The U.S. Customs Service will give full and careful consideration to written requests for rulings or information setting forth, with respect to a specifically described product transaction, a definitive interpretation of applicable law, or other appropriate information. A [Customs Binding Ruling letter](#) may be requested by any person, who as an importer or exporter of merchandise, has a direct and demonstrable interest in the question(s) presented in the ruling request, or by the authorized agent of such person.

4202.12.2050, 4202.12.40, 4202.12.8030, 4202.12.8070, 4202.21.60, 4202.21.90, 4202.22.15, 4202.22.45, 4202.22.8050, 4202.31.60, 4202.32.40, 4202.32.80, 4202.32.9550, 4202.32.9560, 4202.91.0030, 4202.91.0090, 4202.92.15, 4202.92.20, 4202.92.3020, 4202.92.3031, 4202.92.3091, 4202.92.45, 4202.92.9026, 4202.92.9060, and 4202.99.90.

A "person" in this context includes an individual, a corporation, partnership, association, or other entity or group.