

APPAREL PROVISIONS

AGOA is a unilateral preference program that provides qualifying Sub-Saharan African (SSA) countries with duty-free and quota-free treatment for eligible apparel articles exported to the United States, through September 30, 2025.

Qualifying articles include: apparel made of U.S. yarns and fabrics; apparel made of sub-Saharan African (regional) yarns and fabrics,; subject to a cap; apparel made in a designated lesser-developed country of third-country yarns and fabrics,also subject to a cap; apparel made of yarns and fabrics not produced in commercial quantities in the United States; textile or textile articles originating entirely in one or more lesser-developed beneficiary sub-Saharan African countries; certain cashmere and merino wool sweaters; and eligible handloomed, 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.

The Secretary of Commerce is directed to monitor apparel imports on a monthly basis to guard against surges. If increased imports are causing or threatening serious damage to the U.S. apparel industry, the President is to suspend duty-free treatment for the article(s) in question.

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 \(Category 0 and Category 9\)](#).

Qualifying Textile and Apparel Articles

The Africa Investment Incentive Act of 2006 (signed by President Bush on December 20, 2006) amended the textile and apparel portions of the African Growth and Opportunity Act (AGOA) and is referred to as "AGOA IV". The legislation extended duty-free and quota-free treatment to a wider range of eligible articles made in qualifying sub-Saharan African:

- Apparel made of U.S. yarns and fabrics;
- Apparel made of sub-Saharan African (regional) yarns and fabrics, subject to a cap;
- Apparel made in a designated lesser developed country of third-country yarns and fabrics, subject to a cap;
- Apparel made of yarns and fabrics not produced in commercial quantities in the United States;
- Certain cashmere and merino wool sweaters;
- Eligible handloomed, handmade, or folklore articles and ethnic printed fabrics; and
- Textiles and textile articles produced entirely in a lesser-developed beneficiary country.

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 sub-Saharan African country(ies). 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).

Handloomed/Handmade/Folklore Articles/Ethnic Printed Fabrics (Category 9)

AGOA provides duty- and quota-free benefits for handloomed, 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 handloomed and do not include any modern features such as elastic or zippers, etc.

Other Textile and Apparel Provisions

The Committee for the Implementation of Textile Agreements (CITA), an interagency group chaired by the Commerce Department's Deputy Assistant Secretary for Textiles, Consumer Goods and Materials, 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 handloomed, 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.

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. On October 16, 2008, President Bush signed into law an amendment to the AGOA textile and apparel provisions as section 3 of the Andean Trade Preference Extension Act (Public Law 110-436). The amendment revoked the abundant supply provision.

Commercial Availability

Under AGOA, 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. In Executive Order 13191, the President delegated to the Committee for the Implementation of Textile Agreements (CITA) authority to determine whether yarn or fabric cannot be supplied by the domestic industry in commercial quantities in a timely manner and to extend preferential treatment to apparel articles from such yarn or fabric.

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

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.

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. This treatment continues under AGOA IV.

De Minimis Rule

Apparel products assembled in sub-Saharan Africa 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 sub-Saharan African 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.

FOOTWEAR AND NON-TEXTILE TRAVEL GOODS PROVISIONS

Applies to footwear and non-textile travel goods from all AGOA-eligible countries designated by the letter "D" in the HTSUS and is not limited to those with the special "apparel visa."

Footwear

All footwear from the AGOA countries is duty-free, provided that it meets the rule of origin. The rule of origin for footwear under the AGOA is a change to headings 6401 through 6405 from any heading outside that group, provided there is a regional value content of not less than 35 percent of the appraised value of the product. The 35 percent must be comprised of the sum of

1. the cost or value of the materials produced in any one or a combination of AGOA countries, plus
2. the direct costs of processing operations performed in any one or a combination of AGOA countries.

There are no restrictions on the use of imported uppers. The 35% regional value content requirement can be comprised of a combination of value from AGOA countries. No more than 15% of the total value of the footwear can come from the United States.

Non-Textile Travel Goods

All non-textile travel goods from the AGOA countries are duty-free provided that they meet the rule of origin. The rule of origin for non-textile travel goods is a change to subheading 4202.11, 4202.19-4202.21, 4202.29-4202.31, 4202.39-4202.91, or 4202.99 from any other chapter, provided there is a regional value content of not less than 35 percent of the appraised value of the product. The 35 percent must be comprised of the

sum of

1. the cost or value of the materials produced in a beneficiary country or two or more beneficiary countries, plus
2. the direct costs of processing operations performed in a beneficiary country or countries (including labor costs).

The 35% regional value content requirement can be comprised of a combination of value from any one or multiple AGOA countries and the United States, with no more than 15% of the total value of the travel goods coming from the United States.

Note: The AGOA preference program does NOT offer any duty benefits for textile travel goods (luggage, handbags, flatgoods) as covered by HTS 4202.12, 4202.22, 4202.32, 4202.92, and 4202.99.

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 sub-Saharan African exporter for five years.

Tariff and Customs Procedures in Eligible AGOA Countries

The COMESA website offers a search function of a tariff database for member countries. You may also find general tariff and tax information in the [Market Reports/Tariffs section](#).

U.S. Exports of Textiles and Apparel to AGOA-Eligible Countries

The OTEXA website provides information on U.S. exports to the world of textile and apparel products. [Click here](#) for the Export Report.

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

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