

Access & Opportunities to the U.S. Market for African Goods: Legal Do's & Don'ts

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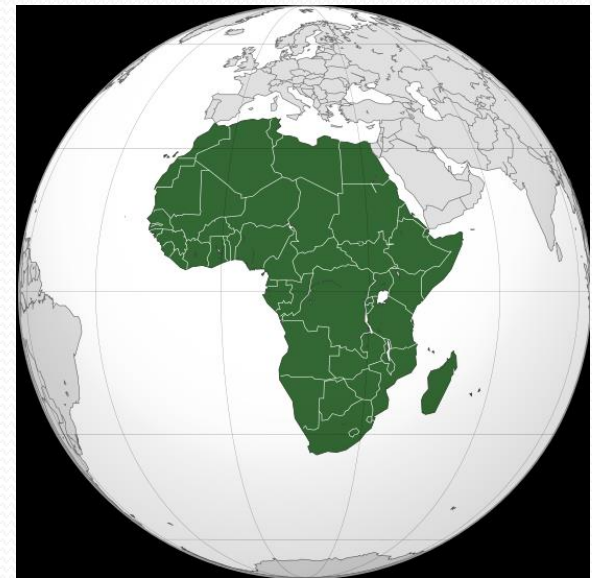
October 2, 2013




Overview

Access to the US Market for African Goods

- Is my product eligible?
- Getting in Free!
- Doing it **Right**.



Is my product eligible?

- Any product that meets U.S. laws can enter the U.S. market
- It may also be eligible for duty-free entry:
 - AGOA
 - Generalized System of Preferences (GSP)
 - Most Favored Nation (MFN) 

Is my product eligible for preferential entry into the US?

1. Country Eligibility

- US President designates according to criteria which may change

2. Product Eligibility

- Generalized System of Preferences (GSP) may be available for countries that are not AGOA-eligible
 - Lapsed and waiting for renewal
- African Growth & Opportunity Act (AGOA) extends GSP benefits to an additional 1,800 products
 - Currently expires September 30, 2015



Is my product eligible for preferential entry into the US?



- **Country Eligibility Criteria**

Harmonized Tariff Schedule of the United States (HTSUS)

- GSP: General Note 4 -
<http://www.usitc.gov/publications/docs/tata/hts/bychapter/1301gn.pdf#page=11>
- AGOA: General Note 16 -
<http://www.usitc.gov/publications/docs/tata/hts/bychapter/1301gn.pdf#page=188>

Is my product eligible for duty-free entry into the US?

- **Product Eligibility Criteria (Excluding apparel/textiles)**

RULES OF ORIGIN (AGOA & GSP)

Wholly grown, produced or manufactured in-country
OR



Value of materials produced in-country + direct processing costs
in-country or in customs union (including up to 15% in US) –
combining/packing/dilution = / > 35% of value of good at time of
entry into the U.S.

AND

Imported directly into the U.S.



Is my product eligible for duty-free entry into the US?

- **Eligibility Criteria (Apparel/textiles)**
 - **Countries:** determined to have instituted procedures to protect against unlawful transshipments (visa system)
 - **Products :** HTSUS, Chapter 98, subchapter XIX
- <http://www.usitc.gov/publications/docs/tata/hts/bychapter/1301C98.pdf>



Getting my product in free

- **Product Eligibility Criteria**
- Harmonized Tariff Schedule of the United States (HTSUS)
Online Reference Tool -- <http://hts.usitc.gov/>
- General Rate = duty rate for MFN trade partners
- Special Rates = preferential rates for FTA or developing country trade partners
 - D = eligible for AGOA
 - A⁺ = LDC eligibility for GSP
 - A = GSP eligible



Getting my product in free: Coffee

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www.usitc.gov/publications/docs/tata/hts/bychapter/1301C09.pdf

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Harmonized Tariff Schedule of the United States (2013) (Rev.1)

Annotated for Statistical Reporting Purposes

II
9-2

Heading/ Subheading	Stat Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
0901		Coffee, whether or not roasted or decaffeinated; coffee husks and skins; coffee substitutes containing coffee in any proportion:				
		Coffee, not roasted:				
		Not decaffeinated.		Free		Free
		Arabica:				
	15	Certified Organic.....	kg			
	25	Other.....	kg			
		Other:				
	45	Certified Organic.....	kg			
	55	Other.....	kg			
0901.12.00		Decaffeinated.		Free		Free
	15	Certified Organic.....	kg			
	25	Other.....	kg			
		Coffee, roasted:				
0901.21.00		Not decaffeinated.		Free		Free
		In retail containers weighing 2 kg or less:				
	35	Certified Organic.....	kg			
	45	Other.....	kg			
		Other:				
	55	Certified Organic.....	kg			
	65	Other.....	kg			
0901.22.00		Decaffeinated.		Free		Free
		In retail containers weighing 2 kg or less:				
	35	Certified Organic.....	kg			
	45	Other.....	kg			
	60	Other.....	kg			
0901.90		Other:				
0901.90.10	00	Coffee husks and skins.....	kg.....	Free		10%
0901.90.20	00	Coffee substitutes containing coffee.....	kg.....	1.5¢/kg	Free (A+,AU,BH, CA,CL,CO,D,E, IL,J,JO,KR,MA, MX,OM,P,PA,PE,	6.6¢/kg

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Getting my product in free: Dress

USITC x By Cha x www.u x www.u x www.u x AGOA x www.u x DB Prepar x LII 19 USC x Quest x WTF Q x US entr x https:// x

www.usitc.gov/publications/docs/tata/hts/bychapter/1301C98.pdf

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Harmonized Tariff Schedule of the United States (2013) (Rev. 1)

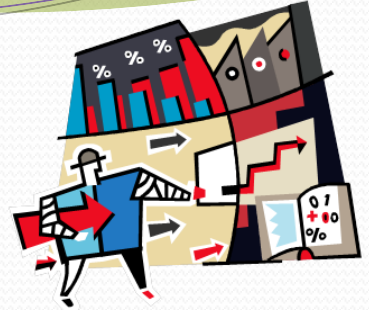
Annotated for Statistical Reporting Purposes

XXII
98-XIX-4

Heading/ Subheading	Stat Suf- fix	Article Description	Unit of Quantity	Rates of Duty		
				1		2
				General	Special	
9819.11.03	1/	<p>Articles Imported from a designated beneficiary sub-Saharan African country enumerated in U.S. note 1 to this subchapter:</p> <p>Apparel articles of chapter 61 or 62 sewn or otherwise assembled in one or more such countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States, from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 and are wholly formed and cut in the United States), the foregoing which (1) are embroidered or were subjected to stone-washing, enzyme-washing, acid washing, permapressing, oven-baking, bleaching, garment-dyeing, screen printing or other similar processes, and (2) but for such embroidery or processing are of a type otherwise described in heading 9802.00.80 of the tariff schedule.</p>	1/		Free	

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Doing It Right



- Importers are **legally** required to:
- Have complete invoice , including accurate description and value of product
- Correctly classify goods
- Correctly value the goods
- If eligible, claim AGOA (or GSP) status
- Pay the correct duties
- Correctly and clearly identify the country of origin
- Properly package and mark or label
- Comply with entry requirements for the relevant agencies
- Textile and apparel products require a visa
- Prepare and keep ALL supporting documentation



Doing It Right

- US Customs and Border Protection (CBP) also enforces the entry requirements of numerous other agencies:
 - Food & Drug Administration (FDA)
Food Safety Modernization Act
<http://www.fda.gov/Food/GuidanceRegulation/FSMA/ucm361902.htm>
 - US Department of Agriculture (USDA)
 - US Patent & Trademark Office (USPTO)
- Most products are permitted so long as they meet the requirements of the relevant agency



Doing It Right

Protect your intellectual property

- **DO patent** your invention
- **DO register your trademark**
- **DO copyright** original works of creativity (e.g. song, painting, book)
- **DO protect your trade name**
- **DO protect your trade secrets**



Doing It Right

Use a customs broker; Importers are **legally** required to:

- Comply with Importer Security Filing requirements by providing advance electronic notification of cargo arriving by ship
- Verify the security of the supply chain
 - Enroll in C-TPAT
 - Use BASC-certified logistical providers
 - Know or verify the supplier --
<http://www.treas.gov/offices/enforcement/ofac/sdn>

Doing It Right



Compliance Tools

- Develop a Compliance Manual describing the rules and outlining internal controls
- Get compliance software
- CBP Informed Compliance Requirements --
http://cbp.gov/linkhandler/cgov/trade/legal/informed_compliance_pubs/icpo21.ctt/icpo21.pdf
- **Contact an attorney if in doubt or in trouble!**

For solutions

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