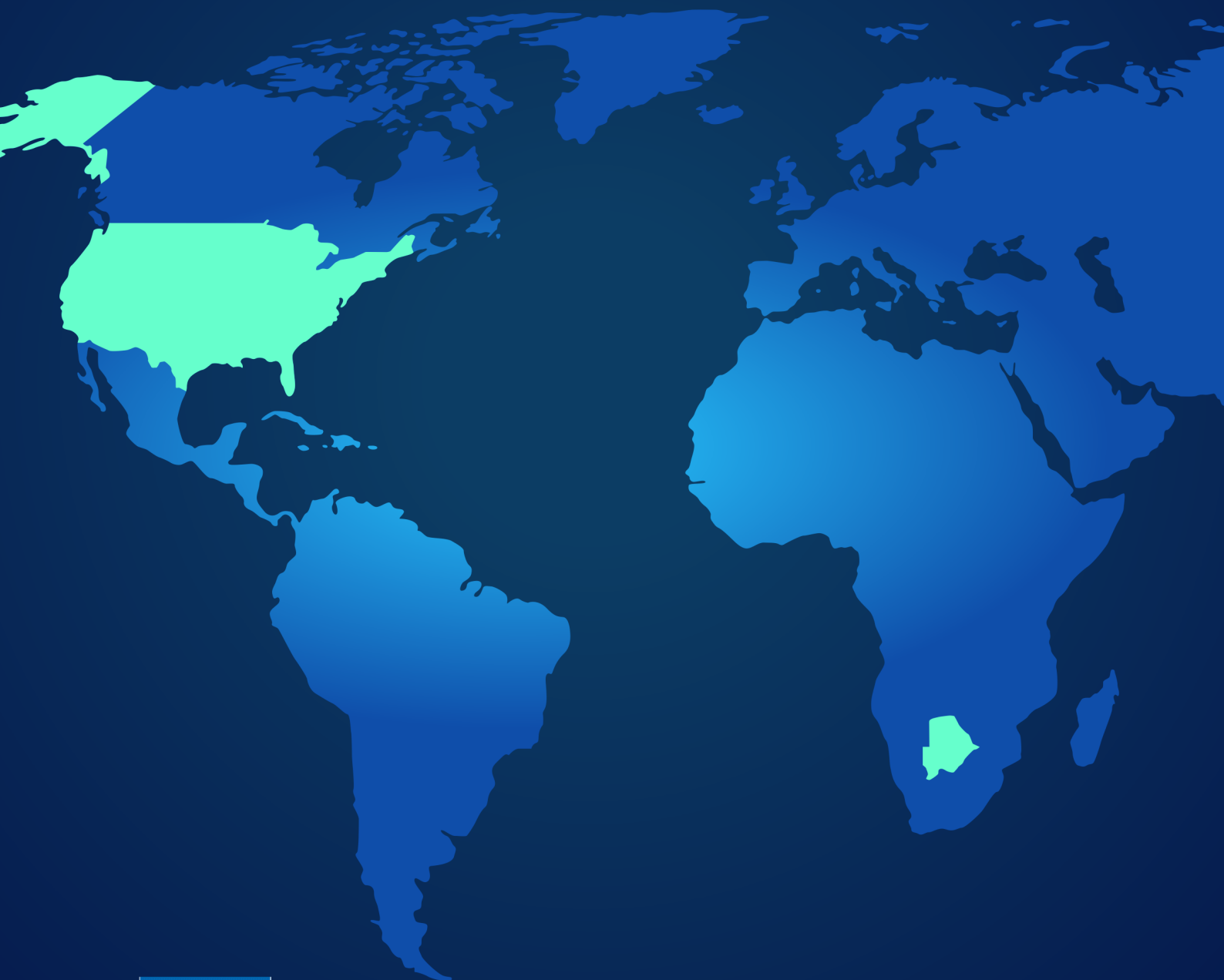


Simplification of Trade Agreements for the Private Sector

Guide to Exporting to the US Under the AFRICAN GROWTH AND OPPORTUNITY ACT (AGOA)



December 2020



International Economics
Strategic Analysis For Growth & Development

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The views and opinions expressed in this report are those of the authors and do not necessarily reflect the official policy or position of the UNDP or MITI. All errors are the sole responsibility of the authors.

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LIST OF ACRONYMS AND ABBREVIATIONS

AfCFTA	Africa Continental Free Trade Area
AGOA	African Growth and Opportunity Act
BB	Business Botswana
BEMA	Botswana Exporters and Manufacturing Association
BITC	Botswana Investment and Trade Centre
BOBS	Botswana Bureau of Standards
BOCONGO	Botswana Council of Non-Government Organisations
BTCA	Botswana Textile and Clothing Association
BURS	Botswana Unified Revenue Service
BWP	Botswana Pula
DG	Directorate General
DIT	Department of International Trade
EDTC	Economic Diversification and Trade Council
EPA	Economic Partnership Agreement
EU	European Union
ITC	International Trade Centre
MITI	Ministry of Investment, Trade and Industry
MOA	Ministry of Agricultural Development and Food Security
MOU	Memorandum of Understanding
MRA	Mutual Recognition Agreement
NCTPN	National Committee for Trade Policy Negotiations
PPADB	Public Procurement and Asset Disposal Board
RoO	Rules of Origin
SACU	Southern African Customs Union
SACUM	Southern African Customs Union and Mozambique
SADC	Southern African Development Community
SNC	SADC National Committee
SPS	Sanitary and phytosanitary
STP	SADC Trade Protocol
ToR	Terms of Reference
TRALAC	Trade Law Centre
UK	United Kingdom
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
US	United States of America
USTR	United States Trade Representative

Introduction

The Ministry of Investment, Trade and Industry (MITI) of Botswana through its Department of International Trade (DIT) is responsible for trade policy formulation and its implementation, import control, trade negotiations as well as coordinating implementation of international trade agreements. The Ministry works with various institutions and parastatals that drive trade and industry development and this includes the Botswana Investment and Trade Centre (BITC), which is the Investment and Trade Promotion Authority with an encompassing mandate of investment promotion and attraction, export promotion, and development, including management of Brand Botswana on behalf of the Government of Botswana and oversight from MITI.

Preferential market access obtained through trade agreements with the European Union (EU), the United States (US) and the Southern African Development Community (SADC) is aimed to spur national priorities, such as economic and trade diversification and the country's competitiveness. Botswana has developed various policies aimed at broadening the industrial base, such as the revised National Trade Policy (2019-2024), the revised National Export Strategy (2019-2024), the National Industrial Policy, and the short and medium- to long-term Economic Diversification Drive Strategy. However, a notable change in the country's export basket has yet to be observed.

The Economic Diversification and Trade Council (EDTC) is currently the highest decision-making national body on trade policy dialogue on negotiations and position building, following the rationalisation of the National Committee for Trade Policy Negotiations (NCTPN). The EDTC brings together all national stakeholders, including ministries, customs authorities, non-governmental organisations, and business representatives such as the Botswana Unified Revenue Service (BURS), Business Botswana (BB),

Botswana Exporters and Manufacturing Association (BEMA) and Botswana Council of Non-Governmental Organisations (BOCONGO). Other bodies that influence trade policy and trade include the Botswana Bureau of Standards (BOBS), Public Procurement and Asset Disposal Board (PPADB) and BITC. The Ministry of Agricultural Development and Food Security (MOA) also plays a critical role in the enforcement of Sanitary and phytosanitary (SPS) measures and the protection of local horticultural producers through permit allocations and/or temporary bans. At the domestic level, MOA controls the movement of livestock as a disease control measure.

Additionally, the DIT continues to disseminate information about Trade Agreements to the business community. This initiative is targeted towards trade promotion in the various regions and is undertaken in collaboration with stakeholders such as BITC, Business Botswana and BEMA.

Trade Agreements are technically complex and challenging to understand by the public and the business community, who are their key target users. It should ordinarily follow that if the business community easily understands the Trade Agreements, their utilisation of such agreements will increase, and the benefits thereof will be realised. As such, a simplification of Trade Agreements and tailoring the explanation of those agreements to the needs of the private sector is an important step towards better usage in a drive to yield the maximum benefits.

The work to produce this simplified trade agreement guide was commissioned by the Ministry of Investment, Trade and Industry and led and coordinated by the Department of International Trade with the support of the United Nations Development Programme. The guide was prepared to add momentum towards the trade promotion initiatives of the country by enhancing the business community's understanding of trade opportunities through AGOA.

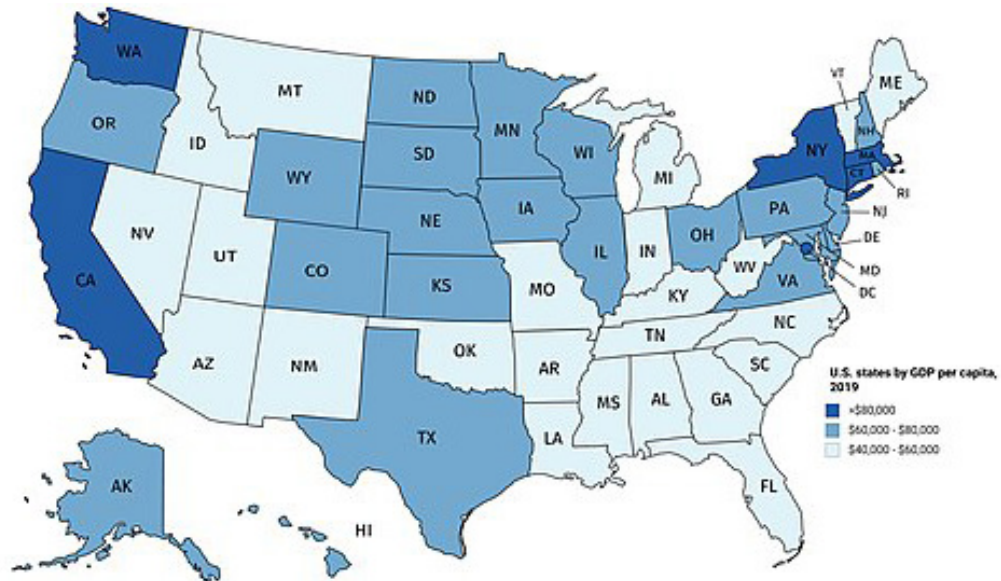
1. The United States of America: An Overview

The United States of America (US) is the world largest economy with annual gross domestic product (GDP) of over USD 18 trillion (nominal) and a consumer base of around 330 million (ATIC, 2020).

The U.S. has the tenth highest GDP per capita¹ in the world, of USD 65 thousand per person. Great differences in income exist

between the US States, with coastal regions tending to display higher income per capita (see Figure 1). Additionally, the country is one of the world's largest producers, with over 20% of the world's products originating in the U.S. (Focus Economics, 2020). This indicates the potential to trade with the U.S. in raw and intermediary goods as inputs for manufacturing.

Figure 1: Top importers in the EU in 2019



Source: ITC Trademap

Some key highlights of the U.S. market are:

- In 2019, the U.S. imported 2.6 trillion worth of goods, with its top import sources being China (USD 472 billions), Mexico (USD 361 billions), Canada (USD 327 billions), Japan (USD 146 billions) and Germany (USD 129 billions).

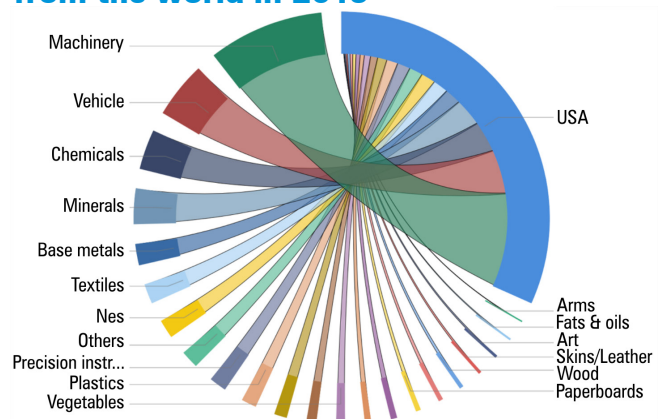
- The U.S. is a big importer of oil-related goods and industrial machinery, with those groups accounting for 15%, each, of the U.S.'s total import basket (see Figure 2)

- The U.S. is also a big importer of capital goods, such as computers, computer accessories, electronics, and tele-communications equipment. This category of products accounts for around 25% of all imported goods into the U.S.

Over the period of 2010 to 2019, the U.S.'s

imports experienced a rate of 3% of annual growth, increasing from around USD 2 trillion in 2010 to over USD 2.6 trillion in 2019.

Figure 2 United States import basket from the world in 2019



Source: International Economics, based on UN Comtrade

¹ GDP per capita PPP Current International \$

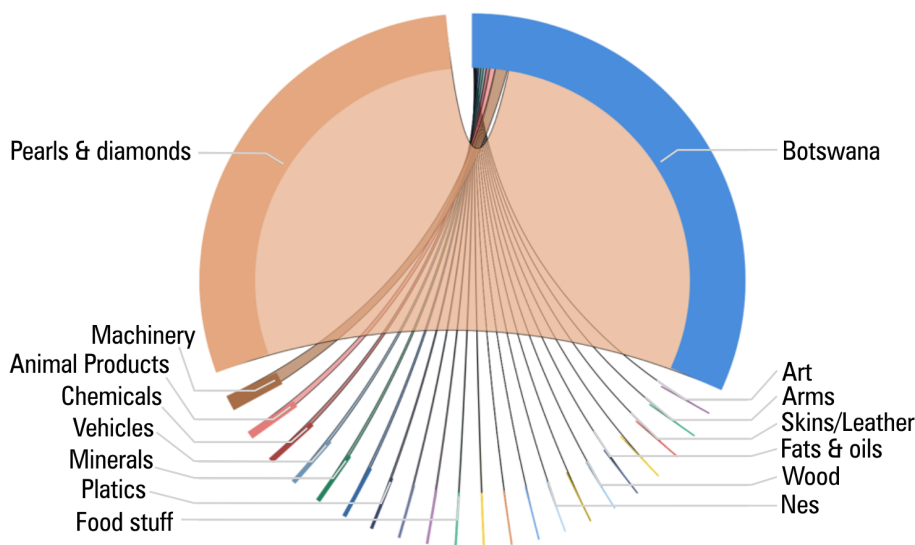
2. Bilateral Trade Between Botswana and the United States: Existing trade and opportunities

Around 91% of Botswana’s exports are precious stones or diamonds. Botswana’s total exports to the world in 2019 reached USD 5.2 billion of which the country exported USD 4.7 billion of precious stones/diamonds. Apart from diamonds and precious stones, the country’s exports are dis-

tributed amongst meat (USD 32.4 million) and electrical machinery (USD 1.1 million) (see Figure 3).

This overdependence on diamonds is one of the reasons driving Botswana’s efforts to diversify the economy, and its exports in particular.

Figure 3 Botswana’s export basket with the world, 2019

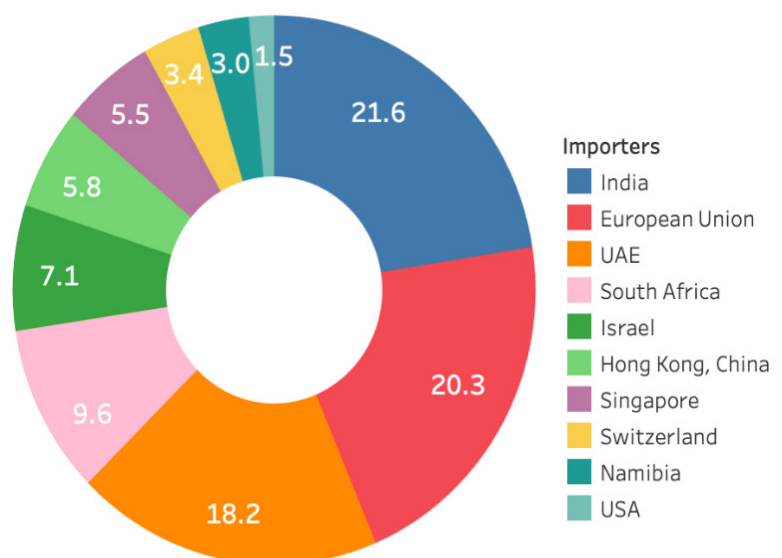


Source: International Economics, based on UN Comtrade

Only a minor share of Botswana’s total exports benefits from the duty free access to the U.S. market under the African Growth and Opportunity Act (AGOA). The U.S. was Botswana’s tenth-largest trading partner, with exports amounting to USD 78.4 million in 2019 – 1.5% of Botswana’s total exports (see Figure 4).

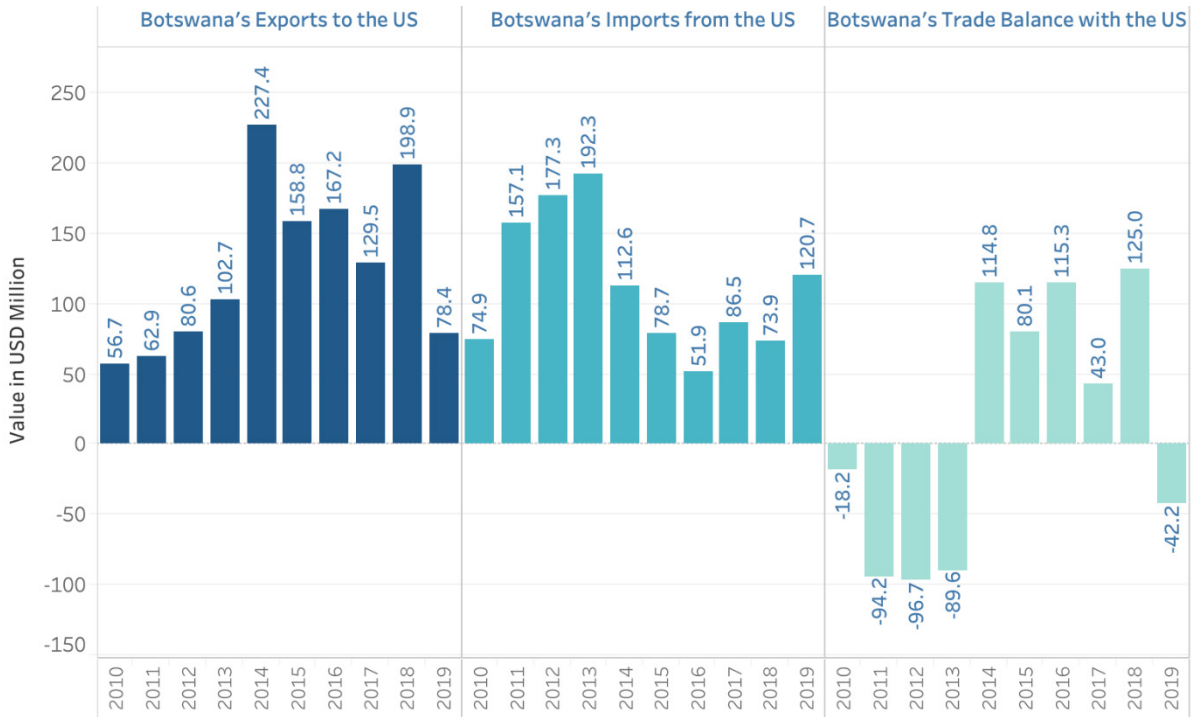
In 2019, Botswana experienced a trade deficit with the U.S. after five consecutive years of trade surplus, due to a one-off large shipment of diamonds from the US. Botswana imported USD 120.7 million worth of goods from the U.S., in comparison to the U.S.D 78.4 million worth of goods exported (see Figure 5).

Figure 4 Top Export destinations for Botswana’s Exports (% total exports), 2019



Source: International Economics, based on ITC Trademap

Figure 5 Botswana's trade with the U.S., 2010-2019



Source: International Economics, ITC Trademap.

Botswana's exports to the U.S. have varied over the years, with the export value being the lowest in 2019 after five year high. This was mainly due to the global decline in the demand for diamonds. Diamonds or precious stones make around 99 percent of all Botswanan exports to the U.S. In 2019, Botswana exported precious stones or diamonds worth USD 76.2 million, followed

by "Aircrafts and parts" at USD 1.1 million, or 1.4 percent of the value of diamond exports. Botswana also exports a small quantity of mechanical machinery mainly as parts of machines, of around USD 500 thousand (see Figure 6). On the other hand the US exports vehicles and machinery to Botswana, with an exception in 2019 where diamonds appeared (see Figure 7).

Figure 6 Botswana's Export Basket to the U.S., 2019

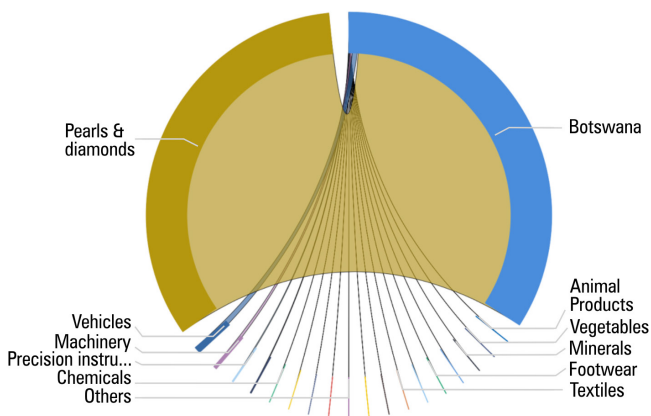
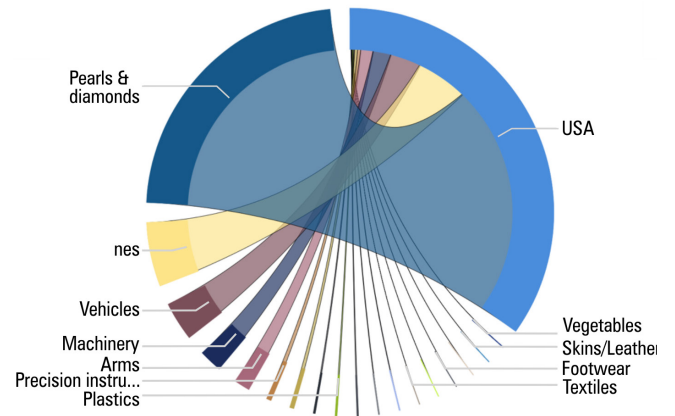


Figure 7 United States Export basket to Botswana, 2019



Source: International Economics based on UN Comtrade data

The U.S. market represents untapped potential for Botswana exports besides precious stones. On comparing the top ten imported products by the U.S. from the World, and on the other hand, the top ten exported products by Botswana to the World, similarities are found in six product

groups. As shown in Table 1, the product groups most exported by Botswana are also the product groups most imported by the U.S. This indicates the potential for opportunities for Botswanan products in the American market.

Table 1 US's top imports vs. Botswana's top exports

Product rank in exports	US's top 10 imports in 2019		Botswana's top 10 exports to the World in 2019	
	HS Code	Product Label	HS Code	Product Label
1	'84	Machinery, mechanical	'71	Pearls and Precious Stones
2	'85	Electrical machinery	'85	Electrical machinery
3	'87	Vehicles	'02	Meat
4	'27	Mineral fuels & mineral oils	'84	Machinery, mechanical
5	'30	Pharmaceutical products	'28	Inorganic chemicals
6	'99	Commodities not elsewhere specified	'87	Vehicles
7	'39	Plastics	'25	Salt
8	'90	Medical Equipment	'39	Plastics
9	'71	Pearls and Precious Stones	'27	Mineral fuels, mineral oils
10	'29	Organic chemicals	'72	Iron and steel

Source: ITC Trademap

Specifically, the U.S. holds immense potential in terms of exports from these sectors²:

Light Manufacturing: Light manufacturing refers to a less capital-intensive industry, mainly to do with processing, assemble, fabricating etc. In terms of manufacturing parts of machinery. Botswana has an untapped potential of USD 5.5 million to the U.S., mainly in HS 8544, referring to wiring sets for vehicles³. Machinery was the U.S.'s top import product, with imports worth more than USD 379 billion in 2019.

Garments and textiles: This US industry is valued at USD 70 billion. It is one of the main sectors of the U.S. manufacturing

industry, ranking among the top markets in the world by export value: USD 27 billion in 2019. In 2019, the U.S. imported around USD 119 billion worth apparel and textiles, equivalent to 4.5% of the World's total imports of these products. Botswana has more than USD 2.1 million as untapped potential in export of garments and textiles to the U.S.

Meat and meat products: The market for meat and meat products in the U.S. is huge. In 2019, the U.S. imported over USD 33 billion worth of animal products, accounting for almost 1.3% of the World's imports. There exists an untapped export potential of more than USD 3.3 million from Botswana to the U.S.

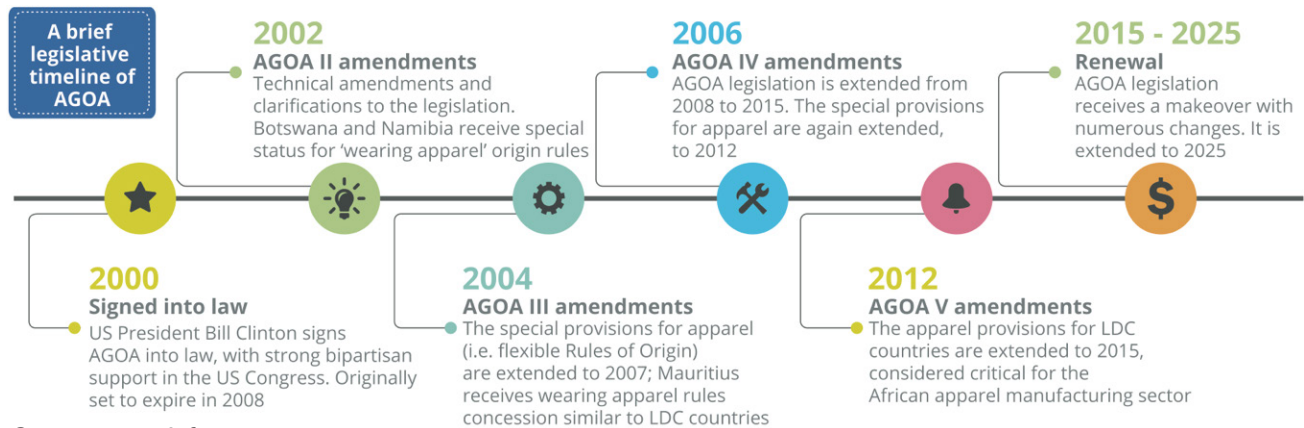
² Untapped export potential obtained from International Trade Centre's Export Potential Map. Available from: <http://exportpotential.intracen.org/en/>

³ ITC (2020). Export Potential Map for Botswana. Available at: <https://exportpotential.intracen.org/en/products/tree-map?fromMarker=i&exporter=72&toMarker=r&market=4&whatMarker=k>

3. The African Growth and Opportunity Act

3.1 Introduction to the AGOA

Figure 8 Timeline of the AGOA



Source: agoa.info

The AGOA is the cornerstone of the U.S. commercial relationship in trade and investment with Africa. The AGOA legislation was initially enacted on May 18, 2000 to cover the period 2000-2008 and has been extended a number of times since then, most recently to 2025 (see Figure 8).

The AGOA legislation is a unilateral and non-reciprocal program, which means that beneficiaries do not need to open up market in return. However, the preferences can be changed by the U.S. at any time at its sole discretion. The AGOA builds on existing US trade programs by expanding the duty-free benefits previously available only under the country's Generalised System of Preferences (GSP) program to a number of African countries (see Figure 9). Duty-free access to the U.S. market under the combined AGOA/GSP program stands at approximately 6,500 product tariff lines, which represents around 65% of all products that could be imported by the U.S.

Overall, petroleum products account for the largest share of AGOA imports. AGOA non-oil imports were USD 3.8 billion (or 55% of all imports through the program) in 2019, with sizable increases in imports of apparel, cocoa powder and cocoa paste, macadamia nuts, and footwear. Top AGOA suppliers were Nigeria (USD 3.1

Figure 9 Sub-Saharan African AGOA eligible countries, as at September 2020



billion; mostly crude oil), South Africa, (USD 2.0 billion; mostly vehicles and parts, ferroalloys, nuts, jewellery, and wine), Angola (USD 605 million; mostly crude oil), Kenya (USD 518 million; mostly apparel, macadamia nuts, and cut flowers), Ghana (USD 441 million; mostly oil, cocoa powder and cocoa paste, apparel, and baskets), and Republic of Congo (USD 410 million; mostly crude oil).

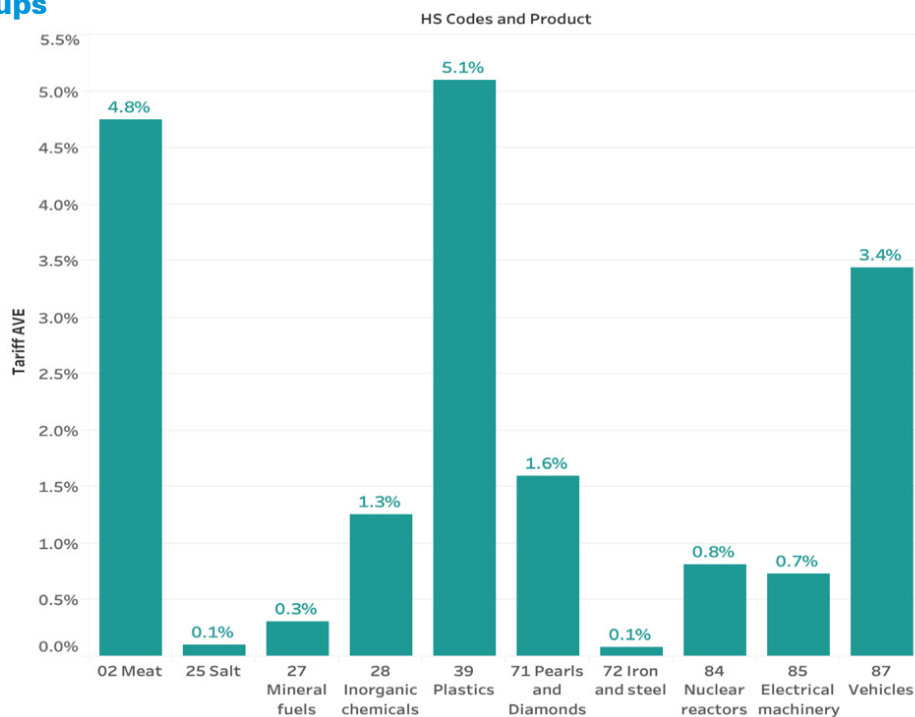
The most common products imported by the U.S. through AGOA include Crude Oil, Textiles and Apparel, Agricultural Products, Minerals and Metals, Transportation Equipment and Chemicals and Related Products (USTR, 2019).

All beneficiaries from AGOA are granted duty-free treatment on all products currently eligible under the GSP programme. Dubbed the “super GSP”, AGOA removes several limitations on product coverage and provides duty-free treatment for a wider range of products compared to GSP. Specifically, AGOA expands the GSP by removing tariffs to certain textile and apparel articles, watches, electronic articles, steel articles, footwear, handbags, luggage, flat goods, work gloves and leather wearing

apparel, and semi-manufactured and manufactured glass products.

Overall, AGOA gives beneficiary countries, like Botswana, a competitive edge over suppliers in other countries with which the United States does not have a free trade agreement. AGOA offers a significant competitive advantage to Botswana’s products by eliminating the tariffs to the importation, meaning that Botswana’s products can be cheaper than those products originating from countries with which the U.S. does not have a trade agreement. Botswana exports to the U.S. is exempted from Most-Favoured-Nation (MFN) rates , up to 5.1%, giving exporters from Botswana a significant tariff advantage (see Figure 10).

Figure 10 US Most-Favoured Nation rates for Botswana’s top 10 export product groups



Source: ITC MacMap

Additionally, the U.S., through the USAID, also funds various Trade and Investment Hubs in Africa as a form of technical assistance to strengthen economic reforms and development in Africa. These hubs are lo-

cated in Accra, Ghana (West Africa Trade and Investment Hub)⁴, in Nairobi Kenya (East Africa Trade and Investment Hub⁵) and in Gaborone Botswana (Southern African Trade and Investment Hub⁶).

⁴ See West Africa Trade and Investment Hub: <https://www.watradehub.com/en/>

⁵ See East Africa Trade and Investment Hub: <http://www.eatradehub.org/>

⁶ See Southern African Trade and Investment Hub: <http://www.satradehub.org/>

3.2 Specific Rules

3.2.1 Eligibility Requirements

Country Eligibility Criteria require that each beneficiary country must show continual progress toward a market-based economy, working to improve rule of law, human rights, and respect for core labor standards. Additionally, countries must eliminate barriers to U.S. trade and investment, and have policies to reduce poverty, combat corruption and protect human rights.

Product Eligibility Criteria require:

- **The country of export must be eligible:** A list of beneficiary countries can be found at the website of the Office of the United States Trade Representative (USTR) at <https://ustr.gov/> or AGOA information website at <https://agoa.info/>. This list is reviewed and updated annually.

- **The product must be eligible,** i.e. the product is marked with a “D” in the “Special” column of the U.S. Harmonised Tariff Schedule (HTSUS). Textile and apparel goods is subjected to specific rules found in sub-Chapter XIX of Chapter 98 of the HTSUS. The HTSUS can be viewed at <https://hts.usitc.gov/> or <https://agoa.info/about-agoa/products.html>

- **The product must be directly imported (no transshipment):** The product must be imported directly from the SSA country to the United States, or, if they are shipped through an intermediate country, they cannot enter the commerce of the intermediary country; and

- **Rules of origin must be met,** see more in section 3.2.2 below.

3.2.2 Rules of Origin

Rules of Origin (RoO) determine the “nationality” of the products. Only products that meet the RoO criteria can benefit from the duty-free market entry under AGOA. There are two major sets of RoO under AGOA: General RoO and Textile and Apparel specific RoO.

3.2.2.1. General RoO

To benefit from the AGOA free-duty market access, it is required that the product:

- be entirely grown, produced, or manufactured in a beneficiary country; or

- be substantially transformed in a beneficiary country if non-SSA components are present; and the sum of the cost or value of materials produced in the beneficiary country, plus the direct processing costs, must equal at least 35 percent (or ‘local content value’) of the appraised value of the product at the time of exportation of the U.S.

Cost of local materials + direct cost of processing \geq 35 percent

The 35 percent of local content value can be met jointly by more than one AGOA beneficiary - this concept is called ‘cumulation of origin’. A total of up to 15 percent of the appraised value may consist of US-originating parts and materials. This concept is called “bilateral cumulation of origin”. Cumulation allows for products originating in an AGOA beneficiary country and/or the U.S. to be further processed or added to products manufactured in another AGOA beneficiary country. For example, a producer can put together fruits harvested in Namibia, Botswana and Lesotho, can them in glassware imported from the U.S. (value less than 15 percent of product value), and still benefit from duty free access to the U.S. market.



Box 1 Non-Textile Sector Specific Rules of Origin

In addition to the general rule, there are two specific rules of origin applicable to footwear and non-textile travel goods.

Footwear. The RoO 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. There are no restrictions on the use of imported uppers. The thresholds for regional con-

tent value and U.S. content value is similar to the general rule.

Non-Textile Travel Goods. The RoO for non-textile travel goods under the AGOA is a change to a specific subheading HS 4202.11, HS 4202.19-4202.21, HS 4202.29-4202.31, HS 4202.39-4202.91, or HS 4202.99 from any other chapter, provided there is a regional value content of at least 35%.

3.2.2.2. Textile and Apparel specific RoO
 AGOA RoO for Textile and Apparel Products comprise of substantive rules and procedural rules.

(i) Substantive rules
Product specific rules are described in

large detail in sub-Chapter XIX of Chapter 98, HTSUS. These rules cover apparel articles (chapters 61 and 62), and textile articles (Chapters 50 – 60 and 63). Below is a list of frequently referenced categories used to determine eligibility:

Heading/Sub-heading	Article Description
9819.11.09	Apparel assembled from fabrics or yarn originating in the U.S. or a SSA beneficiary country.
9819.11.12	Apparel assembled in one or more LDCs, regardless of country of origin of fabric or yarn (third country fabric rule - only applies to LDCs)
9819.11.27	Eligible hand-loomed, handmade, folklore articles and ethnic printed fabric (Eligibility must be certified by a competent authority of the beneficiary country).
9819.11.33	Textile or textile articles originating entirely in one or more LDC.

Source: (USAID, 2020)

De Minimis Rule states that apparel shall not be ineligible for preferential treatment simply because the article contains fibers or yarns not wholly formed in the U.S. or in one or more AGOA-beneficiary countries if the total weight of all such fibers and yarns is not more than 10 percent of the total weight of the article.

(ii) Procedural rules

AGOA requires a specific set of requirements for the importation of textile and apparel, including Certificate of Origin (C/O), visa system, and record maintenance.

For textile and apparel goods, exporter will need to obtain a copy of the Textile Certificate of Origin from the Customs authority of the Country of Origin and fill it properly (see a sample of the certificate in Annex 5). It can

also be downloaded from: <https://agoa.info/about-agoa.html>.

Textiles will not have a “D” in the “Special” column of the HTSUS. To determine eligibility for textiles, see Chapter 98 of the HTSUS. To find the proper classification numbers, see Chapters 1-97. Both the Chapter 1-97 number and the Chapter 98 number should be written on the invoice. An exporter of apparel/ textiles wishing to obtain the preferential treatment available under AGOA 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.

Box 2 US Visa System for Apparel and Textile imports under AGOA

An effective visa system is a government-industry process that demonstrates that the for textile and apparel products to be claimed benefits under AGOA are produced in Botswana according to the applicable rules of origin.⁷

It is required that each shipment be covered by an original visa stamped on an original invoice. The visa must contain certain information such as:

- the date of the visa,
- the quantity of goods being shipped,
- the preference grouping the goods

qualify under,

- a country code.

In addition, beneficiary governments must agree to:

- cooperate with the U.S. Customs Service to prevent unlawful transshipment and use of counterfeit documentation,
- permit verification visits to factories, producers, exporters, and/or manufacturers, and
- require factories, producers, exporters, and manufacturers to retain proper records relating to the production of goods for a period of five years.

Specifically, Botswana is required to have adopted an **effective visa system** and related procedures to prevent illegal transshipment and the use of counterfeit documents. Additionally, exporters, producers, or manufacturers are required to **keep 5-year records** relating to the production of goods, including materials used in production, information relating to the place of production, the number and identification of the types of machinery used in production, and the number of workers employed in production.

3.2.3 Tariff elimination

The product can be imported tariff-free to

the U.S. once it satisfies the AGOA eligibility requirements, including RoO. The AGOA is a unilateral program, meaning that the U.S. provides Botswana with tariff reductions without asking for the same from Botswana's side. AGOA expands duty-free benefits previously available under the country's GSP program. Duty-free access to the U.S. market under AGOA stands at approximately 6,500 product tariff lines (4,650 tariff line items under the GSP plus additional 1,835 tariff line items under the AGOA). The applicable tariff schedule can be found at <https://hts.usitc.gov/> or <https://agoa.info/about-agoa/products.html>.



⁷ See more at https://otexa.trade.gov/AGOA-CBTPA/AGOA_Visa_Requirements.pdf

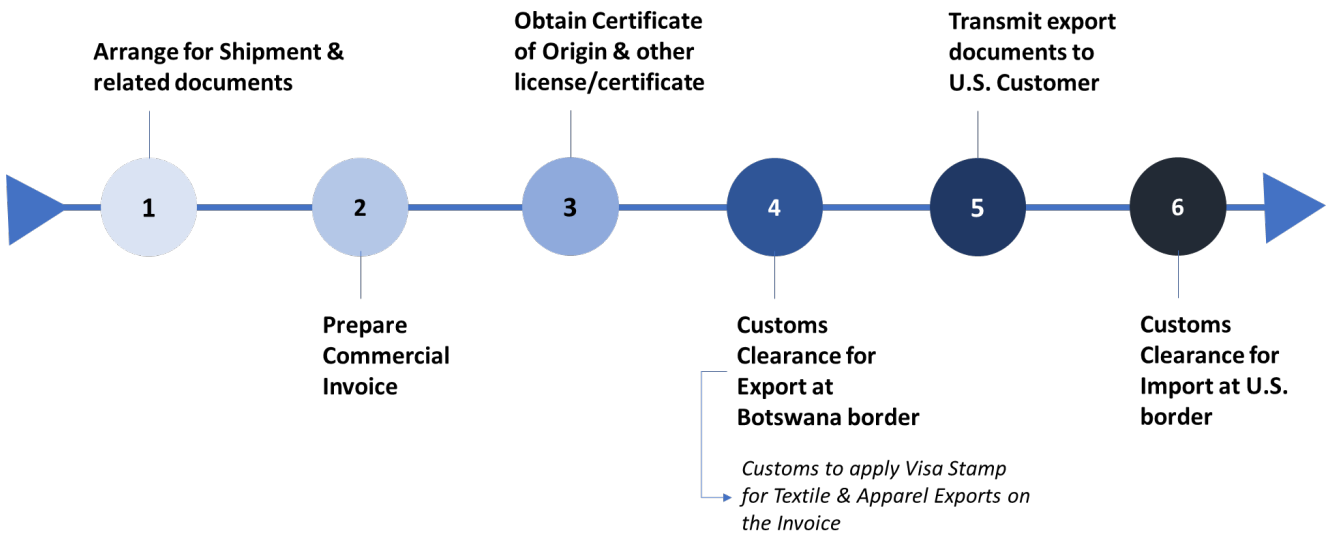
4. Export procedure

To benefit from exporting under the AGOA, exporters in Botswana must follow two sets of procedures, including (1) local laws and regulations that govern the export process in Botswana, and (2) laws and regulations that govern the U.S.'s imports. These are

outlined below.

Figure 11 provides a summary of the steps required to export to the US, which are explained in subsequent sections.

Figure 11 Step-by-step exporting to the U.S.



Source: Author's compilation

4.1. Comply with Botswana's export requirements

Business registration

Any trader that is considering exporting from Botswana is required to first register a company in Botswana. It is a statutory requirement that every business operating in Botswana is registered and fully incorporated. This registration is important for businesses and export-related transactions as it demonstrates the credibility and legality of the entity. The business registration process in Botswana is managed by the Registrar of Companies within the Ministry of Investment, Trade and Industry. The process is further described in Annex 1 of this Guide.

Obtain export licenses

Certain goods require export licenses to be obtained from relevant government agencies. A list of products and required supporting documents and information is provided in Annex 2. Further clarification on the

product lists and procedures can be sought from the Botswana Unified Revenue Service (BURS) or on Botswana Trade Portal at <https://www.botswanatradeportal.org.bw>.

Registration with BURS

Any trader wishing to export under trade agreements must register with BURS through Regional Offices (Customs Services Division) (BITC, n.d.).



Box 3 Application to export under trade agreements

Information to be included in the application letter addressed to Commissioner General are:

- The trade agreement you wish to export under
- Country of importation
- Name of the exporting company
- Physical address of the exporting company
- Contact details: production manager's telephone number, fax number and email address.

- Names of directors and their nationalities
- List of products intended for export, under the agreement, including tariff codes
- List of raw materials used and their tariff codes
- State the origin criteria of your products
- Attachments to the application letter
- Sketch Plan showing the factory layout and machinery used
- Certificate of incorporation
- A detailed step by step manufacturing process of the goods intended for export

Prepare and obtain export documents

Documents and authorizations required for export transactions include:

Commercial Invoice

A commercial invoice is the bill for the products from seller to buyer. It is required for most exports. The buyer needs the invoice to prove ownership and arrange payment. It may also be used for the transaction of goods not intended for further sale, returned products, and goods intended only for temporary import, among others.

Bill of Lading

The bill of lading is a contract between the owner of the products and the carrier. They are two types, namely:

1. A straight bill of lading, which is non-negotiable, and
2. The negotiable/shipper's order bill of lading, which can be bought, sold, or traded while goods are in transit and is used for letter-of-credit transactions. The buyer usually needs a copy of the bill of lading as proof of ownership to take possession of the goods. For air carriers the bill of lading is known as airway bill.

Export-Packing List

An export-packing list specifies the mate-

rial in individual packages and shows their net, legal, tare, and gross weights. The export-packing list is normally attached to the outside of the package in a clearly marked waterproof envelope. It is a useful document for customs officials who use it to check consignments at inspection points.

Certificate of Origin

The Certificate of Origin ensures that products originating in certain countries get the preferential treatment to which they are entitled. This applies to all products, except apparel which has a special stamp on the Certificate of Origin called "AGOA Apparel Visa."

For textile and apparel, traders should obtain an AGOA Certificate of Origin for textile and apparel from Exporters Association of Botswana. In addition, for every textile and apparel export consignment to qualify for trade concessions under AGOA, BURS must endorse original commercial invoice with a VISA Stamp.

For non-textile products, traders should obtain a Generalised System of Preference Certificate of Origin, Form A, from the Customs & Excise Division – Regional Office of the BURS (BURS, n.d.).

4.2: Comply with the U.S.'s import requirements

Specific imports to the U.S. are governed by a set of laws and regulations. These apply to qualities and characteristics of the product itself, but also to the packaging and labelling.

Market entry requirements

Though the importer is responsible for the market entry process once the products get to the U.S. border, Botswana exporters should familiarise themselves with the procedures, documentation and requirements to ensure smooth export procedure. A brief overview of the U.S. market entry process is included in Annex 6 of this Guide.

Packaging

- Pack the product in strong, sealed, moisture-absorbing containers
- Evenly distribute the product's weight
- Provide adequate protection and bracing inside the container
- Use oceangoing containers or pallets for packing to ensure friendly handling
- Languages on the label must be English, with other languages being optional.
- A Mark of Origin "Made In" is mandatory

Labelling and marking

All imported products must be indelibly labelled with the English name of its country of origin. Depending on the item, specific requirements apply.

- Food items must list all ingredients in order from most to least prevalent and must list nutritional information.
- Textiles and apparel must list fibre content and fabric care instructions. For more information consult the Food and Drug Administration, the Federal Trade Commission and the Department of Agriculture (USDA). More detailed information is provided in the Product-specific export requirement in Section 5.

Additional requirements

Additional regulations apply to certain foodstuffs (food, alcohol, drugs, medical devices)

and textile products, electrical appliances and consumer goods.

For example, to export meat, poultry and egg products to the U.S., producers are required to implement the Hazard Analysis and Critical Control Point (HACCP) systems. Only facilities certified by the Food Safety and Inspection Service-recognized competent authority of the foreign country can be imported into the U.S.

An export-packing list specifies the material in individual packages and shows their net, legal, tare, and gross weights in U.S. and metric values. The export-packing list is normally attached to the outside of the package in a clearly marked waterproof envelope. It is a useful document for customs officials who use it to check consignments at inspection points.

Export licence/ Phytosanitary Certificate

(See Annex 2. List of products with export licenses for product that need Export licence/ Phytosanitary Certificate).



5. Product-specific export requirements

The following section contains a detailed enumeration of the different requirements necessary to export five specific products into the U.S. Annex 1 provides an overview

of the products selected and the selection process. The five categories of products chosen are:

Product Category (HS 4)	Specific Product (HS 10)
0201 Chilled meat (beef)	0201.30.50.85 Meat of bovines, boneless, fresh or chilled, as specified in us note 3, except processed, nesoi 0201.30.50.45 Meat of bovines, boneless, fresh or chilled, as specified in us note 3, except processed, loin cuts
8309 Stoppers, Caps and lids	8309.90.00.00 Stoppers, Caps and Lids nesoi (Not Crown), Capsules for Bottles, Threaded Bungs, Bung Covers, . . . 8309.10.00.00 Crown Corks (Including Crown Seals And Caps), And Parts Thereof, Of Base Metal ⁸
6302 Bed, table or toilet linen	6302.60.00.20 Toilet Linen and Kitchen Linen, Of Terry Toweling or Similar Terry Fabrics, Of Cotton: Other . . . 6302.31.90.20 Other Bed Linen, Not Printed/Knit/Napped, Cotton Sheets, Not Containing Embroidery, Lace, Braid, . . .
0202 Frozen meat (beef)	0202.30.50.85 Meat of bovines, boneless, frozen, as specified in us note 3, except processed. 0202.30.80.00 Meat of Bovines, Boneless, Frozen, nesoi
1302 Vegetable saps and extracts	1302.19.91.40 Other Vegetable Saps and Extracts, nesoi ⁹ 1302.19.41.40 Substances Having Anesthetic, Prophylactic or Therapeutic Properties, nesoi

Notes: nesoi = Not Elsewhere Specified or Included

5.1 Meat (Chilled and Frozen)

This section provide requirements for exporting AGOA-eligible products under groups HS0201 and HS0202 to the U.S. The U.S. is one of the biggest importers of food worldwide. The country accounted for 14.8% (USD 3.5 billion) of world imports of chilled beef (HS0201) and just 8.1% (USD 7.9 billion) of world imports of frozen beef (HS0202) in 2019.

Currently, Botswana is not eligible to export beef to the U.S. due to concerns regarding the Bovine Spongiform Encephalopathy (BSE) and Foot-and-Mouth Disease (FMD). However, it would be helpful to explore the prerequisites for Botswana potential meat exports.

Regulations and regulators

The U.S. has strict regulations for agricultur-

al and food imports. Importing agricultural and food products into the U.S. requires compliance with the regulations of a number of U.S. government agencies.

Regulating imports of meat (beef) products is under the responsibility of the Food Safety and Inspection Service (FSIS), under the U.S. Department of Agriculture (USDA) (for overall regulation) and U.S. Customs and Border Protection (for border control).

Regulation: Federal Meat Inspection Act (FMIA) (21 U.S.C. 601)

Eligibility

In order to export meat to the U.S. Botswana will need to establish and maintain inspection systems that are equivalent to those of the U.S. FSIS audits foreign inspection systems and re-inspects meat at the port-of-

⁸ Note that products under this Subheading are subject to General Duty Free access.

⁹ Note that products under this Subheading are subject to General Duty Free access.

entry to ensure that foreign countries have maintained equivalent inspection systems. Foreign countries undergo a stringent review process (including a document review and an on-site audit) before they become eligible to export meat to the U.S. The Review Process and the list of Eligible Country and Products is available at the FSIS website at <http://www.fsis.usda.gov>.

Residue & Microbial Testing

In order to export to the United States, exporting country must have a residue control program with standards equivalent to U.S. standards. Statutes require that foreign residue control programs include:

- random sampling of animals at slaughter,
- the use of approved sampling and analytical methods,
- testing of appropriate target tissues for specific compounds, and
- testing for compounds identified by the USDA or the country-of-origin as potential contaminants.

FSIS can sample meat products for violative chemical residues randomly under the National Residue Program or under a special sampling plan based on detection of violative residues at U.S. port-of-entry or other information concerning risk to human health. Residue and microbial testing plan for imported products is modeled after the testing plan for domestic products. If a residue or microbial violation occurs in meat products, the frequency of inspection is increased for all shipments of similar product from the violative foreign establishment until a record of compliance is re-established.

Import Certification

Foreign inspection certificates are required to accompany all imported meat products. These certificates must indicate the product name, establishment number, country of origin, name and address of the manufacturer or distributor, quantity and weight of contents, list of ingredients, species of animals it was derived from, and identification marks. The certificate must also bear

the official seal of the foreign government agency responsible for the inspection along with the signature of an agency official. This certificate must be in both English and the language of the exporting country.

Customs clearance

For clearance of meat shipments at the CBP, FSIS requires that two additional documents: (i) the original inspection certificate indicating the product was inspected and passed by the country's inspection service and is eligible for export to the United States, and (ii) an import inspection application and report (for reinspection). Meat and poultry shipments remain under bond and subject to recall by CBP until FSIS notifies them of the results of the reinspection. All other procedures follow the CBP's requirements.

Reinspection at Port-of-Entry

Upon arrival at a U.S. port-of-entry, all meat shipments must be reinspected by an FSIS import inspector before they are allowed into this country. Every lot of product is given a visual inspection for appearance and condition and checked for certification and label compliance. In addition, the Automated Import Information System (AIIIS) assigns various other types of inspection including product examinations and microbial and chemical laboratory analysis.

Shipments that pass reinspection are allowed to enter U.S. commerce and are treated as domestic product. Shipments from all countries except Canada are stamped with the official USDA mark of inspection. If a shipment does not meet U.S. requirements, the containers are stamped "U.S. Refused Entry," and within 45 days must be exported, destroyed, or converted to animal food, if an appropriate request for diversion is approved by FDA.

Meat Product Labels

Labels on retail packages of meat shipped to the United States must meet U.S. labeling requirements. Product labels must be in English and must include:

- product name;
- foreign establishment number and country-of-origin shown directly under the product name;
- name and address of the manufacturer or distributor;
- net quantity of contents in pounds and ounces or liquid measure;
- list of ingredients; and
- if applicable, safe handling instructions and nutrition information.

More detailed guidance on importing meat into the U.S. can be obtained at <https://www.fsis.usda.gov/wps/portal/fsis/topics/regulatory-compliance/guidelines/2020-0007>

U.S. Partner

Importers. The importer is responsible for filing entry and clearing the goods through CBP and other applicable U.S. government agencies, and for ensuring that all U.S. requirements are met prior to moving goods into commerce. The importers may be any individual, firm, or corporation, including any partnership, association, or other unincorporated business organization. Botswana exporters can contact the Meat Import Council of America (MICA) at <http://www.micausa.org/> to find information about potential U.S. meat importers.

Customs Brokers. The person acting on the importer's behalf to ensure that U.S. statutory and regulatory requirements are met before moving goods into commerce. Like importers, customs brokers may be individual persons, firms, or corporations. Botswana exporters can search for customs brokers on CBP's website at <https://www.cbp.gov/contact/find-broker-by-port> or the U.S. National Customs Brokers & Forwarders Association of America (NCBFAA) at www.ncbfaa.org.

Cold chain & logistics providers. The cold chain ensure that the imported meat is kept at the required refrigerated temperature to ensure

quality reservation and avoid product degradation. Botswana exporters can search for service providers of cold chain warehousing, logistics and other services at the U.S. at the Global Cold Chain Alliance website at <https://www.gcca.org/directory/all>.

5.2 Articles of base metal

This section provides requirements for exporting AGOA-eligible products under group HS8309 to the U.S. The U.S. is the biggest importers of Articles of base metal products under HS8309, accounting for 11 percent (USD 0.76 billion) of world total imports of this product in 2019.

Exports of Articles of base metal products under HS8309 follow the normal process and requirements of exporting and importing as laid out in Section 4 (Export procedure) and Annex 4 (for The U.S. Market Entry Process) of this Guide.

5.3 Textiles

This section provides requirements for exporting AGOA-eligible textile products.¹⁰

Textiles and Apparel products are subject to special rules under AGOA regulation. These rules are found in the HTSUS, sub-Chapter XIX of Chapter 98. They cover apparel articles of Chapters 61 and 62 and textile articles of Chapters 50 – 60 and 63.

Eligibility

- Approved countries as listed in Chapter 98, sub-Chapter XIX, U.S. Note 1 and the lesser-developed beneficiary SSA countries (LDCs) are listed in Chapter 98, sub-Chapter XIX, U.S. Note 2(d).¹¹

- The country has met all of the requirements of AGOA regarding implementation of procedures to protect against unlawful transshipments (including an effective visa system).

Botswana is eligible for all AGOA textiles and apparel products, except for those in Category 9 Folklore Annex and Category 9 - Ethnic Printed Fabrics.

¹⁰ This section is drawn heavily from (USAID, 2020)

¹¹ See at <https://hts.usitc.gov/current>

Country	Date eligible for 'wearing apparel' provisions	Qualification 3rd Country Fabric Rule for LDCs	Category 9 - Handloomed/ Handmade	Category 9 - Folklore Annex	Category 9 - Ethnic Printed Fabrics
Botswana	27-Aug-2001	Yes	Yes	No	No

Source: <https://agoa.info/about-agoa/country-eligibility.html>

Textile Certificate of Origin

The shipment must be accompanied by a Textile Certificate of Origin. A sample of the Textile Certificate of Origin is attached in Annex 3 of this Guide. The exporter will need to fill in the Preference Group as detailed in the C/O form: the first eight categories are for apparel articles; the ninth category is for hand loomed fabrics and articles made of hand loomed fabrics, folklore articles and ethnic fabric; and the tenth category covers textile articles other than wearing apparel that originate in an LDC country in SSA.

Visa Stamp

In addition to textile certificate of origin, textiles and apparel imports also require a Visa Stamp on the invoice. The invoice must state not only the proper classification for the article as found in Chapters 50 – 60 and 63, but also state the correct item number from Chapter 98. The invoice must also be stamped with the appropriate AGOA visa stamp. The visa stamp must:

- include the visa number, visa grouping, quantity in whole numbers (dozens or number of items), the signature of the exporting authority and the date of issuance
- be a circular stamp, in blue ink, with a separate stamp for each category contained in the shipment
- appear on the front of the original commercial invoice and must be signed by an authorized government official
- be in the required standard nine (9) alphanumeric format.
- be approved by the U.S. Government and a list of authorized signatories must be submitted to the U.S. Government for approval.

Labeling Requirements for Wearing Apparel

In addition to the general requirements re-

garding the marking of all articles imported into the U.S. with the country of origin, textile articles also require labels indicating fiber content and care instructions. Additional information regarding the labeling requirements for textiles can be found at the following website:

- https://otexa.trade.gov/us_labeling.htm
- https://otexa.trade.gov/AGOA_Trade_Preference.htm
- <https://www.ftc.gov/news-events/media-resources/tools-consumers/apparel-and-labeling>
- https://www.ftc.gov/tips-advice/business-center/guidance/clothes-captioning-complying-care-labeling-rule#Frequently_Asked_Questions
- <https://www.ftc.gov/tips-advice/business-center/guidance/threading-your-way-through-labeling-requirements-under-textile>

5.4 Vegetable saps and extracts

This section provides requirements for exporting AGOA-eligible products under groups HS1302 to the U.S. The U.S. is the biggest importers of vegetable saps and extracts (HS1302), accounting for 22 percent (USD 1.5 billion) of world total imports of this product in 2019.

Regulations and regulators

The U.S. has strict regulations for agricultural and food imports. Importing agricultural and food products into the U.S. requires compliance with the regulations of a number of U.S. government agencies. Regulating imports of vegetable products is under the responsibility of the Animal and Plant Health Inspection Service (APHIS) (for overall regulation) and U.S. Customs and Border Protection (for border control).

Regulation: The Plant Protection Act (PPA)

APHIS Fruits and Vegetables Import Requirements

To obtain access to U.S. markets for plant product that is not already an approved commodity, you must initiate a commodity import request. There are 4 steps in the process:

- Determine if the commodity is an approved commodity or currently undergoing a pest risk analysis

Importers could refer to the **Fruits and Vegetables Import Requirements (FAVIR) Database**.¹² It is constantly updating with the most current information, so you can import confidently no matter what you're shipping. The All Countries List provides a list of fruits and vegetables that are pre-approved for import into the United States from any country. That means that anything on that list can be safely imported without an APHIS import permit.

- If it is not approved or currently undergoing a pest risk analysis, submit a commodity import request
- APHIS will conduct a pest risk analysis and an environmental review to determine potential pests likely to remain on the commodity upon importation and potential mitigations that may be required to avoid, reduce, or eliminate the risk of pest introduction.
- If APHIS determines that the commodity can be safely imported into the United States, APHIS will initiate the regulatory administrative process to seek public comment. (APHIS, 2020)

FDA Fruits and Vegetables Import Requirements

The FDA Fruits and Vegetables Import requirements for Vegetables Imports follow those for Food imports as laid out in Section 5 of Annex 4 (i.e. FDA Registration and Prior Notice of Shipment).

Labelling for Shipping Containers Containing Fruits and Vegetables

In order to import fruits and vegetables, all shipping containers need to be specifically labeled to meet CBP expectations and facilitate inspection and clearance process. The label must contain several pieces of information, including:

- The name and address of the shipper
- The name of the product
- A net content statement (in traditional terms, like bushels, quantity, or weight)
- The full chemical names of all pesticides and their purposes
- The full chemical names of all post-harvest food additives and their purposes (including waxes, resins, and other similar materials)

The above applies for wholesale shipment; products already pre-packaged for retail sale follow another set of instructions as discussed below.

Labelling for Retail Packages of Fruits and Vegetables

In case of pre-packaged products for retail use, the labelling for shipping container still apply. Additionally, individual labels on retail containers, like clamshell packaging or mesh bags, must contain at least the following information:

- The name of the product
- The name and address of the packer or distributor
- The net weight
- An ingredient statement (which includes post-harvest food additives)

Nutrition fact label is not required, but if provided, it must be factual and compliant with the FDA's Nutrition Labelling Requirements.¹³ If information on pesticides is not listed on the outside of the shipping container for any reason¹⁴, then it must be on the retail label to compensate.

¹²Visit at link <https://epermits.aphis.usda.gov/manual/index.cfm?ACTION=pubHome>

¹³Guidance can be downloaded from <https://www.fda.gov/media/81606/download>

¹⁴For example, if the shipment doesn't fill up an entire shipping container.

Inspections for Imports of Fruits and Vegetables

All shipments of fruits and vegetables coming into the U.S. will need to be inspected before being allowed out of the port of entry to prevent the spread of foreign pests that could harm the ecosystem or agricultural supply in the U.S.

The USDA APHIS Agricultural Quarantine Inspection Program is responsible for risk assessment testing. It is also responsible for determining the protocols that apply to each agricultural commodity based on the statistical information gathered from previous shipments. Even shipments of frozen or processed fruits and vegetables must be inspected in this way to ensure that all health and safety standards are followed appropriately. The importer is responsible for paying the labor costs for inspection services (USA Customs Clearance, n.d.).



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Annex 1. Business Registration process in Botswana

The business registration process in Botswana is managed by the Registrar of Companies within the Ministry of Trade and Industry. The process is further described below.

No.	Procedure	Time to complete	Associated costs
1.	<p>Reserve a unique company name</p> <p>Agency: Registrar of Companies</p> <p>The entrepreneur can search the online database to check whether the desired company name is available for registration. This database is available on the website of the Ministry of Trade and Industry (www.mti.gov.bw). The entrepreneur then submits the Name Reservation Form (Form 1) to the Registrar of Companies and receives a notification within 3 days. Once approved by the Registrar, the company name is reserved for a period of 30 days.</p>	3 days	BWP 20
2.	<p>Sign the declaration of compliance of statutory requirements for incorporation before a commissioner for oaths</p> <p>Agency: Registrar of Companies</p> <p>The entrepreneur or company representative must submit the following documents:</p> <ul style="list-style-type: none"> Limited Liability Company Registration Form (Form 2). This form must be accompanied by the consent to act as shareholders, directors, auditors, company secretary and registered officers, along with copies of their national IDs or passports. Declaration of Compliance of Statutory Requirements (Form 3). This form must be accompanied by the particulars of the company secretary and his/her valid practicing license. Only registered professionals (lawyers or accountants) can serve as company secretaries. According to the Company Act of 2004, Section 21, Sub-section (3) and (4), Form 3 must be signed by a legal practitioner, member of Institute of Accountant or member of Southern Africa Institute of Chartered Secretaries. 	1 days	BWP 75
3.	<p>Register the company</p> <p>Agency: Registrar of Companies</p> <p>To register the company, the entrepreneur must submit a completed application form, along with the name reservation certificate and the declaration of compliance of statutory requirements for company registration.</p>	18 days on average	BWP 300 for the application to register a company and BWP 60 for the certificate of incorporation
4.	<p>Advertise the intention of applying for a license in the official gazette</p> <p>Agency: Official Gazette</p> <p>The new company must advertise, in two consecutive issues of the Official Gazette, its intent to apply for a license.</p>	3 weeks	BWP 80
5.	<p>Receive inspection of company premises *</p> <p>Agency: Industrial Affairs Department, Ministry of Trade and Industry</p> <p>The company premises will be inspected by the Health Department, Environment Department and Town Planning Department of Gaborone City Council to ensure compliance with minimum standards. No charges are involved as this procedure is done by the municipal authorities as part of the application for a trade or an industrial license.</p>	2 days	No charge
6.	<p>Obtain an industrial license or a trade license *</p> <p>Agency: Industrial Affairs Department, Ministry of Trade and Industry</p> <p>Business founders can either obtain an industrial license from the Industrial Affairs Department, Ministry of Trade and Industry or obtain a trade license from the Gaborone City Council.</p>	3 weeks	Industrial license: BWP 50 if applied by self; BWP 1,500 by agent Trade license: BWP 100 if applied by self, BWP 2,000 by an agent

No.	Procedure	Time to complete	Associated costs
7.	<p>Open a bank account*</p> <p>Agency: Bank</p> <p>All new businesses must open a company account with a bank.</p>	1 day	No charge
8.	<p>Obtain Tax Identification Number (TIN)</p> <p>Agency: Botswana United Revenue Services (BURS)</p> <p>The company applies for a Tax Identification Number (TIN) number, usually obtained within 5 days. The company then completes a taxpayer registration form to enroll in the employee withholding Pay-As-You-Earn tax (PAYE), which takes 2 days.</p>	7 days	No charge by self, BWP 1,500 by agent
9.	<p>Register for VAT online</p> <p>Agency: BURS</p> <p>Mandatory VAT for companies with an annual turnover of 1 million BWP and above.</p> <p>Voluntary registration is for companies with a minimum turnover of 500,000 BWP</p>	7 days	No charge
10.	<p>Register employees for workplace injury insurance</p> <p>Agency: Insurance company</p> <p>Under the Workers Compensation Act, companies must provide their employees with workplace injury insurance. Companies may choose to pay a security deposit to the Commissioner for any associated claims; however, most of them often purchase their own insurance.</p>	2 days	No charge

Source: (Botswana Trade Portal, n.d.). *Simultaneous with previous procedure

Annex 2. List of products with export licenses

The below list includes only relevant products under this Guide (excluding products such as arms or ammunition, or products of radiation sources. A list of products that require export licenses can be sought from the Botswana Unified Revenue Service - BURS.

Product	Agency	Supporting documents & information
Rough Diamond	Diamond office, Mineral affairs Division, Ministry of Minerals Energy and Water Resources	<ul style="list-style-type: none"> • Certificate of Incorporation for the Trade entity - Individual persons cannot Import/Export Rough Diamonds • Diamond Cutting and/or Precious stone Dealers Licence Certificate • TIN - Trader Identification Number (registration with BURS) • Commercial Invoice stating number of Stones, Carats and value • Certified Packing list
Ferrous and Non-ferrous Metal Scrap and Waste	Department of Industrial Affairs, Ministry of Investment Trade and Industry	<ul style="list-style-type: none"> • Certified Copy of Salvage Yards License – issued by the Department of Waste Management and Pollution Control • Copies of Shareholding certificates • I.D (Omang) /Passport of Managing Director & BURS Tax Clearance Certificate • Copies of Registration of Incorporation or Business Registration Certificate
Agricultural Products (see list of products in Chapter 43:08 - Control of Goods Prices & Other Charges Subsidiary Legislation (Import and Export of Agricultural Products))	Department of Agricultural Business and Promotion, Ministry of Agriculture	<ul style="list-style-type: none"> • Certified copies of the pre-requisite trading licence or hawkers licence; Valid National Identity card or passport / Residence permit for non-citizen. For commercial use customers are required to bring along their valid Trading License obtained at any council in Botswana. • For companies also - Certificate of Incorporation, letter authorizing an employee to obtain a permit on behalf of a company • Original export permit (white copy for the customer and blue for customs) • Phyto - Sanitary Certificate issued by the Department of Crop Production. -NB: Maize products and Sorghum products exempted
Agricultural or Garden Seeds	Department of Agricultural Research, Ministry of Agriculture	<ul style="list-style-type: none"> • Import permit from destination country stipulating their import requirements for the consignment
Phytosanitary Certificate to Export any Plant, Plant Product and Other Regulated Material	Department of Crop Production, Ministry of Agriculture	<ul style="list-style-type: none"> • Name and address of the importer • Name and address of the exporter • Mode of transport • Port of entry into Botswana • Name and quantity of consignment to be imported

Product	Agency	Supporting documents & information
Phytosanitary Certificate to Export Grapple Plant	Agricultural Resources Board at Department of Forestry and Range Resources, Ministry of Agriculture	<ul style="list-style-type: none"> • Certified copies of the pre-requisite trading licence or hawkers licence; Valid National Identity card or passport / Residence permit for non-citizen. For commercial use customers are required to bring along their valid Trading License obtained at any council in Botswana. • For companies - Certificate of Incorporation, letter authorizing an employee to obtain a permit on behalf of a company • Plant Import Permit (PIP) from the importing country
Live Animal, Animal Product, Animal Feed, Drug, Vaccine and Veterinary Biological	District level or Permits Office Ministry of Agriculture	<ul style="list-style-type: none"> • For the exportation of wild animals and trophies the Department of Wildlife and National Parks need to be contacted for clearance and permits before a Veterinary Export Permit (VEP) can be issued • Botswana Bureau of Standards (BOBS) Certificate for products that require a compliance certificate before they are imported into Botswana. • Export health certificate issued by Department of Veterinary
Hides and Skins	Department of Animal Production (Hides & Skin division), Ministry of Agriculture	<ul style="list-style-type: none"> • Exporters/Collectors licence issued by Hides & Skin division. The exporter must identify place of operation through landboard authorities, submit lease to Hides & Skin division for plot assessment and the licence may then be issued under the following conditions: (i) Availability of water; (ii) Availability of a drainage system; (iii) A shed/shelter where the hides/skins will be preserved and kept; and (iv) A quarantine area (only for an exporters licence) • Import permit from destination country stipulating conditions under which the consignment may be accepted
Cattle and Edible Cattle Products	Department of Veterinary Services, Ministry of Agriculture	<ul style="list-style-type: none"> • Import permit from destination country stipulating conditions under which the consignment may be accepted
Export or Re-export Permit for any Animal, or Trophy, Meat or Eggs thereof	Ministry of Environment, Wildlife and Tourism	<ul style="list-style-type: none"> • Single game hunting license • Legal acquisition of the specimen, identifying a place where the specimen was acquired (a receipt is usually accepted) • Ivory ownership certificate (in cases of ivory) • Receipt in cases of acquiring the specimen by means of auction and proof of inspection • Trophy dealer's license (in cases of trophies)

Source: Botswana Trade Portal.¹⁵

¹⁵More detailed information on the procedures can be found at <https://www.botswanatradeportal.org/bw/index.php?r=searchProcedure/index>

Annex 3. AGOA Textile Certificate of Origin

Available at AGOA <https://agoa.info/images/Origin.pdf> or OTEXA http://34.232.160.87/es/documents/2390/Textile_Certificate_of_PDFs/Certificate_Origin.pdf

African Growth and Opportunity Act Textile Certificate of Origin (Revised May 2008)

1. Exporter Name & Address:		3. Importer Name & Address:	
2. Producer Name & Address:		4. Preference Group:	
5. Description of Article:			
Group	Each description below is only a summary of the cited provision.	Legal Provision	
1-A	Apparel assembled from U.S. fabrics and/or knit-to-shape components, from U.S. yarns. All fabric must be cut in the United States.	19 CFR 10.213(a)(1)	
2-B	Apparel assembled from U.S. fabrics and/or knit-to-shape components, from U.S. yarns. All fabric must be cut in the United States. After assembly, the apparel is embroidered or subject to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes.	19 CFR 10.213(a)(2)	
3-C	Apparel assembled from U.S. fabrics and/or U.S. knit-to-shape components and/or U.S. and beneficiary country knit-to-shape components, from U.S. yarns and sewing thread. The U.S. fabrics may be cut in beneficiary countries, or in beneficiary countries and the United States.	19 CFR 10.213(a)(3) or 10.213(a)(11)	
4-D	Apparel assembled from beneficiary country fabrics and/or knit-to-shape components, from yarns originating in the U.S. and/or one or more beneficiary countries.	19 CFR 10.213(a)(4)	
5-E	Apparel assembled or knit-to-shape and assembled, or both, in one or more lesser developed beneficiary countries regardless of the country of origin of the fabric or the yarn used to make such articles.	19 CFR 10.213(a)(5)	
6-F	Knit-to-shape sweaters in chief weight cashmere.	19 CFR 10.213(a)(6)	
7-G	Knit-to-shape sweaters 50 percent or more by weight of wool measuring 21.5 microns in diameter or finer.	19 CFR 10.213(a)(7)	
8-H	Apparel assembled from fabrics or yarns considered in short supply in the NAFTA, or designated as not available in commercial quantities in the United States.	19 CFR 10.213(a)(8) or 10.213(a)(9)	
9-I	Handloomed fabrics, handmade articles made of handloomed fabrics, or textile folklore articles – as defined in bilateral consultations: Ethnic printed fabric.	19 CFR 10.213(a)(10)	
0-J	Textile products of a lesser developed beneficiary country classifiable under chapters 50 through 60, or 63, that are wholly formed in one or more such countries from fibers, yarns, fabrics, fabric components or components knit-to-shape that are also the product of one or more such countries.	19 USC 3721(b)(8)	
6. U.S./African Fabric Producer Name & Address:		7. U.S./African Yarn Producer Name & Address:	
		8. U.S. Thread Producer Name & Address:	
9. Handloomed, Handmade, or Folklore Article:		10. Name of Short Supply or Designated Fabric or Yarn:	
<p>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.</p>			
11. Authorized Signature:		12. Company:	
13. Name: (Print or Type)		14. Title:	
15. Date: (DD/MM/YY)	16. Blanket Period From: To:	17. Telephone: Facsimile:	

AGOA Textile Certificate of Origin Instructions

Block 1: State the legal name and address (including country) of the exporter.

Block 2: 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.

Block 3: State the legal name and address of the U.S. importer.

Block 4: Insert the number and/or 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.

Block 5: 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.

(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 4)

Block 6: State the legal name and address (including country) of the fabric producer.

Block 7: State the legal name and address (including country) of the yarn producer.

Block 8: State the legal name and address of the U.S. thread producer.

Block 9: State the name of the textile folklore article or state that the article is handloomed fabric or handmade article made of handloomed fabrics.

Block 10: Complete only when preference group “8” and/or “H” is inserted in block 4. State the name of the fabric or yarn that is in short supply in the NAFTA, or that has been designated as not available in commercial quantities in the United States.

Block 11: The textile certificate of origin must be signed by the producer in the beneficiary country. An exporter who is not the producer may sign the certificate on the basis of reasonable reliance on the producer’s written representation that the article qualifies, or on a completed and signed certificate of origin from the producer.

Block 12: Insert the company name of the person signing block 11.

Block 13: Type or print the name of the person in block 11.

Block 14: Insert the title of the person in block 11.

Block 15: Insert the date on which the Certificate was completed and signed.

Block 16: Complete if the Certificate is intended to cover multiple shipments of identical articles as described in block 5 that are imported into the United States during a specified period of up to one year (see 19CFR10.216(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 15). The “to” date is the date on which the blanket period expires.

Block 17: Insert the telephone and facsimile numbers at which the person who signed the Certificate may be contacted.

Annex 4. The U.S. Market Entry Process

Though the importer is responsible for clearing the goods through the U.S. Customs and Border Protection (CBP), it is important for Botswana exporters to get a brief view of the procedures.¹⁶

1. Overview

This process includes the filing of documents for entry when a shipment reaches the U.S. The entry can be filed by the owner or purchaser of the goods or a licensed broker designated by the owner, purchaser, or consignee of the goods. Some products are also subject to additional requirements under the rules and regulations of the Food and Drug Administration (FDA) (see sections 5.1 and 5.2 below).

An entry must be covered by an import or customs bond (CBP Form 301) to secure the payment of any future requirement to pay duties, taxes and fees with respect to the imported goods. A surety company may be used to issue the bond. The amount of the bond is based on risk guidelines, including the history of the importer.

For filing of these documents, importers can use a customs broker. A customs broker

must have a valid license issued by CBP to transact customs business for other parties. The ultimate responsibility for any misstatements or mistakes in the entry however remains at the importer.

2. Importer Security Filing

Importer Security Filing (ISF) (also known as the "10+2" Initiative) requires importers and vessel operating carriers to provide trade data to CBP 24 hours prior to lading. The regulations relate to non-bulk cargo shipments arriving into the U.S. by vessel.

All ISF filings are to be done electronically via the Vessel Automated Manifest System (AMS) or the Automated Broker Interface (ABI), used by virtually all importers. There are no paper forms. One ISF can cover multiple bills as long as they are part of the same shipment going to the same importer of record and arriving on the same vessel/voyage.

CBP may withhold the release or transfer of the cargo until CBP receives the required information and has had the opportunity to review the documentation and conduct any necessary examination.

Box 4 Key Documents for U.S. Market Entry

- Any export form or license that is required by the country of export.
 - Entry Summary (CBP Form 7501).
 - Evidence of Bond (CBP Form 301). The entry must be accompanied by evidence that a bond has been posted with CBP to cover any potential duties, taxes, and charges that may accrue.
 - Entry Manifest (CBP Form 7533) or Application and Special Permit for Immediate Delivery (CBP Form 3461) or other form of merchandise release required by the Port Director.
 - Proof of Country of origin for the purposes of: (i) Country of origin marking or (ii) Eligibility for a preference program
 - Evidence of right to make entry. When the goods are consigned "to order," the bill of lading or an air waybill may serve as evidence of the right to make entry.
 - The packing list showing quantity, Harmonized Tariff System (HTS) code number, item description, unit cost and total cost.
 - Other documents necessary to determine admissibility such as specific permits or licenses needed for certain products.
- All forms can be obtained from CBP website at <https://www.cbp.gov/newsroom/publications/forms>

Source: (USAID, 2020)

¹⁶This section is based heavily on (USAID, 2020)

3. Payment of Duties

The importer will pay “estimated duties” with the entry, which are not the final assessment of duties due by CBP. The entry remains “unliquidated” for 314 days. The information in the entry can be revised by the importer or CBP until the entry is finalized (“liquidated”). Until liquidation of the entry occurs, the duties may be refunded if overpaid or billed to the importer if underpaid. If the importer wants to challenge the assessment made by CBP a protest must be filed within 180 days of “liquidation”, using CBP Form 19.

4. Storing of Documents

The U.S. requires the keeping of records related to the imports for five years after entry. These documents include, but are not limited to: Entry summary, Bond information, Correspondence, Binding rulings, Certificate of origin, Commercial invoice or pro forma invoice, Packing list, Manifests, Bill of lading. CBP may request to see these documents and they must be provided to CBP within a reasonable period of time after demand.

5. Additional requirement related to food imports

5.1. FDA Registration

The U.S. Bioterrorism Preparedness and Response Act (BTA) (2002) requires that any entity that manufactures, processes, packs, labels or holds food must register with the Food and Drug Administration (FDA). Registration is only required for facilities that come into direct physical contact with food. Entities exempted from registration requirements include sales offices, trading companies, personal residences, transportation companies, farms, retail food establishments, fishing vessels that do not engage in processing onboard the vessel, and facilities that are entirely regulated by the U.S. Department of Agriculture (USDA).

Foreign facilities must designate a U.S. Agent to manage routine and emergency communication with FDA. There are no fees for registration, registration renewal or up-

dates to a registration, unless an exporter opts to pay a specialized firm (i.e., U.S. import agent or Registrar Corp) to assist with the registration process (USAID, 2020).

5.2. Prior Notice of Shipment of Food

Prior notice of shipments is required for imports of food to the U.S, including samples. Failure to comply will lead to detention of the products in port. The filing process includes information about the shipment and the facility and may be filed by exporter, importer or third party. There is no fee for filing prior notice of imported food.

Registration must be done online at the Prior Notice System Interface (PNSI). Step-by-step guidance for the registration can be found at <https://www.fda.gov/food/importing-food-products-united-states/quick-start-guide-prior-notice-food-articles-prior-notice-system-interface-pnsi>.

CHECKLIST FOR NON TEXTILE EXPORTS UNDER AGOA

- Country must be eligible (reference General Note 16 of the Harmonized Tariff Schedule of the United States (HTSUS)).
- Product must be eligible as indicated by a “D” in the special column of the tariff table. Further, the invoice must indicate “D” before the applicable tariff classification code.
- Product must be imported directly from a Sub-Saharan African country.
- Requirements for the rules of origin must be met. Additionally, the importer must be able to submit proof of origin within 30 days of request of U.S. Customs and Border Protection.
- Product must be properly marked with its country of origin.
- Shipment(s) must be in compliance with the requirements of other U.S. Government agencies enforced by U.S. Customs and Border Protection, including:
 - U.S. Food and Drug Administration (FDA): The FDA regulates the importation of food, drugs, medical devices, animal feed and cosmetics.
 - U.S. Department of Agriculture (USDA): The USDA Animal and Plant Health Inspec-

tion Service (APHIS) regulates compliance with phytosanitary regulations for plants and animals. The USDA Food Safety and Inspection Service (FSIS) regulates the safety of imported meat, poultry and egg products.

- Environmental Protection Agency (EPA): The EPA regulates the importation of pesticides, ozone-depleting substances, chemicals, vehicles, engines and fuels and waste products.

Any goods that fall under the jurisdiction of the FDA, USDA and/or EPA may either be prohibited or restricted (require an import permit). Please be sure to check relevant Agency requirements prior to export.

Source: (USAID, 2020)

CHECKLIST FOR THE EXPORT OF TEXTILES AND WEARING APPAREL

- The country must be eligible (General Note 16 of the HTSUS and U.S. Note 1, Chapter 98, subChapter XIX)

- The product must be eligible and in compliance with the textile rules (Chapter 98, sub-Chapter XIX of the HTSUS)

- The product must be imported directly from an SSA country

- The requirements of the rules of origin must be met 3

- The shipment must be accompanied by an AGOA Certificate of Origin

- The invoice must be stamped with an appropriate visa stamp

- The product must be properly marked with its country of origin

- Textiles must be properly labeled in compliance with the requirements of the Federal Trade Commission (FTC)

Source: (USAID, 2020)

Annex 5. Botswana’s priority product selection Methodology

1. Introduction

In order to map out product specific requirements for Botswana’s companies to export to the U.S., a list of potential products have been ranked according to their potential on the U.S. market, based on a set of criteria. Products have been ranked according to attractiveness.

On the basis of this ranking, the guide will have a section which includes specific product requirements for those selected products to export to the U.S.

2. Methodology

The products were analysed at the HS4 lev-

el for potential product clusters. Products at an HS 4 level with a trade balance greater than USD 1.5 million have been selected. The trade balance was used as in many instances for Botswana, exports include re-exports. If a country’s export data includes re-exports, it would present an inaccurate representation of the country’s main export commodities, thus constraining the analysis. Moreover, re-exports are not eligible to benefit from preferences under a free trade agreement as insufficient transformation would occur in Botswana.

The universe of products which meet this criterion for Botswana are listed in Table 1.

Table 2 Products with a net export value above USD 1.5 million

HS 4 Code	Product label
'0201	Meat of bovine animals, fresh or chilled
'0202	Meat of bovine animals, frozen
'0713	Dried leguminous vegetables, shelled, whether or not skinned or split
'1302	Vegetable saps and extracts; pectic substances, pectinates and pectates; agar-agar and other
'2501	Salts, incl. table salt and denatured salt, and pure sodium chloride, whether or not in aqueous
'2836	Carbonates; peroxocarbonates “percarbonates”; commercial ammonium carbonate containing ammonium
'5808	Braids of textile materials, in the piece; ornamental trimmings of textile materials
'6302	Bedlinen, table linen, toilet linen and kitchen linen of all types of textile materials
'8309	Stoppers, caps and lids, incl. crown corks, screw caps and pouring stoppers, capsules for bottles
'8544	Insulated “incl. enamelled or anodised” wire, cable “incl. coaxial cable” and other insulated

Source: Author calculations based on ITC TradeMap

The list of products is further analysed, based on a set of criteria. Each criterion is scored between 0 and 100, as follows.

1. Priority Product. Products belonging to the priority sectors of Botswana’s National Export Strategy of 2019-2024.

Indicator 1: NES Priority Sector. If the product is a NES priority sector, it is assigned a score of 100. Otherwise it is assigned a score of 0.

2. Botswana’s Supply Dynamics. Growth of Botswana’s trade balance of the products, to determine if the country is an exporter of the products and not just a re-exporter.

Indicator 2: Average annual compound growth of Botswana’s Trade Balance (2015-19) in percentage

3. US Demand Dynamics. The growth of US imports for the last five years.

Indicator 3: Average annual compound growth rate of US imports (2015-19) in percentage. The scores in Table 2 have been assigned for growth rates.

4. US vs World Growth in Imports. The growth of import demand from the U.S. in comparison to the import demand in the world.

Indicator 4: Growth rate of US imports/ Growth rate of World imports (2015-2019).

If the value of the indicator is greater than 1, demand for product grew faster in the U.S. than the world and a score of 100 is given. If the value is less than 1, demand for the product grew slower in the U.S. than the world, so a score of 0 is given.

5. Margin of Tariff Preferences. The tariff advantage on the products originating from Botswana, allowed under the AGOA tariff arrangements are lower than those

rates faced by countries that do not have a trade agreement with the U.S., or that are not eligible to its preferential schemes.

Indicator 5: US applied MFN Ad Valorem Equivalent Tariff in 2019. An index for each parameter has been devised to determine a score/rank out of 100. The scores in Table 2 have been assigned for the MFN tariffs.

Table 3 Score ranges for growth and tariff preferences

Import Growth Rate		MFN Tariffs	
Range of Growth rate	Score	Range of Tariff	Score
(-25 to -20)	0	0 to 5	0
(-20 to -15)	10	5 to 10	10
(-15 to -10)	20	10 to 15	20
(-10 to -5)	30	15 to 20	30
(-5 to 0)	40	20 to 25	40
(0 to 5)	50	25 to 30	50
(0 to 10)	60	30 to 35	60
(10 to 15)	70	35 to 40	70
(15 to 20)	80	40 to 45	80
(20 to 25)	90	45 to 50	90
(25 to 30)	100	50 to 55	100

The scores can be interpreted on the following scale:

- 0-25: Very low performance/advantage
- 26-50: Low performance/advantage
- 51-75: Good performance/advantage
- 76-100: High performance/advantage

These criteria used have been assigned weights for the final index calculation out of 100. The weights are provided in Table 4.

Table 4 Weights assigned to criteria

Parameter	Weight
1. NES priority Sector	2
2. Growth of Botswana's Trade Balance (15-19) p.a. %	2
3. Growth rate of US's imports (2015-19) p.a. %	1
4. Growth rate of US's imports/ Growth rate of World's imports (2015-2019)	1
5. US MFN AVE 2019	2

3. Results

Table 5 Botswana-US trade overview

HS 4 Code	Botswana's exports to the U.S. in 2019 (USD Million)	Value of imports by US in 2019 (USD Million)	Growth rate of US's imports (2015-19) p.a. %	Growth rate of US's imports/ Growth rate of World's imports (2015-2019)	Untapped export potential to US (USD Million)	Share in imports in 2019 in the U.S.	US MFN AVE 2019
'0201	0	3,439.9	4.3%	1.5	1.6	0.13	10.2%
'0202	0	2,155.3	-11.4%	-1.6	3.3	0.08	10.3%
'0713	0	358.5	-3.2%	0.6	N/A	0.01	0.6%
'1302	0	1,511.3	-1.9%	-0.5	N/A	0.06	1.2%
'2501	0	753.5	0.7%	0.2	N/A	0.03	0.0%
'2836	0	317.7	9.5%	1.4	0.1	0.01	1.2%
'5808	0	43.7	-3.3%	0.2	0.2	0	3.6%
'6302	0	5,980.9	0.8%	0.4	2.1	0.23	9.8%
'8309	0	762.7	8.3%	2.5	N/A	0.03	2.4%
'8544	0	21,649.5	2.0%	0.6	5.8	0.84	3.3%

Source: Author calculations based on ITC Export Potential Map, ITC TradeMap & ITC Macmap

Table 6: Product selection calculations for the U.S. market

HS 4 Code	NES Sector		Growth of Botswana's Trade Balance (15-19) p.a. %		Growth rate of US's imports (2015-19) p.a. %		Growth rate of US's imports/ Growth rate of World's imports (2015-2019)		US MFN AVE 2019		Index Value (out of 100) 0: Very Low – 100: very High
	Sector	Score	Value	Score	Value	Score	Value	Score	Value	Score	
'0201	Meat & Meat Products	100	-17.2%	10	4.3%	50	1.5	100	10.2%	10	48.8
'0202	Meat & Meat Products	100	-12.3%	20	-11.4%	20	-1.6	0	10.3%	10	35.0
'0713	No	0			-3.2%	40	0.6	0	0.6%	0	5.0
'1302	No	0	27.7%	100	-1.9%	40	-0.5	0	1.2%	0	30.0
'2501	No	0	-4.6%	40	0.7%	50	0.2	0	0.0%	0	16.3
'2836	No	0	-2.8%	40	9.5%	60	1.4	100	1.2%	0	30.0
'5808	Artisanal Products	100	-27.5%	0	-3.3%	40	0.2	0	3.6%	0	30.0
'6302	Garments & Textiles	100	-3.2%	40	0.8%	50	0.4	0	9.8%	10	43.8
'8309	Light Manufacturing	100			8.3%	60	2.5	100	2.4%	0	45.0
'8544	No	0	-20.7%	0	2.0%	50	0.6	0	3.3%	0	6.3

Source: Author calculations based on ITC TradeMap & ITC Macmap

4. Selected Products

Top 6 products with the highest potential to the U.S. market are:

HS 4 Code	Product label	NES Sector	Growth of Botswana's Trade Balance (15-19) p.a. %	Growth rate of US's imports (2015-19) p.a. %	US's imports GR/ World's imports GR (2015-2019)	US MFN AVE 2019	Index Value (out of 100) 0: Very Low – 100: very High
'0201	Meat of bovine animals, fresh or chilled	Meat & Meat Products	-17.2%	4.3%	1.5	10.2%	48.75
'8309	Stoppers, caps and lids	Light Manufacturing		8.3%	2.5	2.4%	45.00
'6302	Bedlinen, table linen, toilet linen	Garments & Textiles	-3.2%	0.8%	0.4	9.8%	43.75
'0202	Meat of bovine animals, frozen	Meat & Meat Products	-12.3%	-11.4%	-1.6	10.3%	35.00
'1302	Vegetable saps and extracts	No	27.7%	-1.9%	-0.5	1.2%	30.00

Source: Author calculations based on ITC TradeMap & ITC Macmap

Annex 6. Useful Links

- AGOA Legal status and documents: <https://legacy.trade.gov/agoa/>
- AGOA news and information: <https://agoa.info/>
- Animal and Plant Health Inspection Service. U.S. Department of Agriculture: <https://www.aphis.usda.gov/aphis/home/>
- APHIS Fruits and Vegetables Import Requirements (FAVIR) Database <https://epermits.aphis.usda.gov/manual/index.cfm?ACTION=pubHome>
- Botswana Trade Portal: <https://www.botswanatradeportal.org.bw/>
- East Africa Trade and Investment Hub: <http://www.eatradehub.org/>
- Office of Textiles and Apparel (OTEXA): https://otexa.trade.gov/AGOA_Trade_Preference.htm
- Southern African Trade and Investment Hub: <http://www.satradehub.org/>
- U.S. Customs and Border Protection: <https://www.cbp.gov/>
- U.S. Department of Agriculture: <https://www.usda.gov/>
- U.S. Food and Drug Administration: <https://www.fda.gov/>
- U.S. Harmonized Tariff Schedule: <https://hts.usitc.gov/current>
- West Africa Trade and Investment Hub: <https://www.watradehub.com/en/>