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**A COMPARISON OF THE RULES OF ORIGIN
IN AGOA (including GSP) & THE SADC
PROTOCOL ON TRADE, AND PROCEDURES
FOR VERIFYING COMPLIANCE WITH
THOSE RULES**

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A COMPARISON OF THE RULES OF ORIGIN IN AGOA (including GSP) & THE SADC PROTOCOL ON TRADE, AND PROCEDURES FOR VERIFYING COMPLIANCE WITH THOSE RULES

The purpose of this paper is to review the rules of origin provisions, and the procedures for verifying compliance with those rules, in the African Growth and Opportunity Act (AGOA), including those found in the U.S. General System of Preferences (GSP) program, with the rules of origin of the Southern African Development Community (SADC) Protocol on Trade and its amendments. It should be noted that at the present time the SADC rules of origin for a limited number of products (*i.e.*, coffee, wheat flour and foodstuffs derived from it, some textiles and apparel, consumer electronic devices, optical use equipment, the automotive sector, and recycled plastics) are still being finalized. Despite this limitation, this paper will compare those rules and procedures that are already in effect or likely to be implemented in order to determine where the schemes are compatible, thereby permitting producers and exporters based in eligible SADC countries to access both the subregional and United States markets. At the same time, this review will highlight any areas where there are potential conflicts that need to be addressed either within SADC and/or with the United States so as to make both regimes compatible and facilitate trade flows. Making both regimes compatible also supports an important goal of AGOA, which is to promote SADC by allowing beneficiary countries duty-free access into the United States for products using inputs from a number of southern African countries.

The rule of origin requirements for AGOA, GSP, and SADC are each assigned a column in Table 1 so as to facilitate a comparison of their respective rules of origin. The first table lists the general rules of origin for each of the three schemes. The second table reflects the specific rules of origin for AGOA and SADC for the textile and apparel sectors. There is no discussion concerning GSP because, at the present time, textile and apparel products are ineligible for duty-free access to the U.S. market under the GSP program. The third table compares the verification requirements in order to show compliance with the rules of origin in AGOA, GSP, and SADC such as certificates of origin. The paper concludes with a discussion of the major differences between the AGOA/GSP rules of origin and those in SADC and the procedures for verifying compliance with those rules. The objective of this discussion is to highlight differences that may require some level of revision in order to make the regulations under both schemes compatible and thereby encourage increased SADC exports to the United States under AGOA based on a regionally integrated chain of production model. In addition, the discussion may encourage efforts to create a single SADC-wide system for issuance of certificates of origin for purposes of intra-SADC trade and for visas in the context of textile and apparel exports to the United States under AGOA.

TABLE #1: GENERAL RULE OF ORIGIN REQUIREMENTS

AGOA	GSP	SADC
<p>1) Imported directly from AGOA beneficiary country into USA.</p> <p>2) Item must be “growth, product or manufacture” of one or more beneficiary countries.¹</p> <p>3) Can incorporate outside material so long as the sum of the direct cost or value (<i>i.e.</i>, transaction value) of the materials produced in the beneficiary countries PLUS the direct processing costs performed in the beneficiary countries equal at least 35% of the item’s appraised value at the U.S. port of entry;</p> <p style="padding-left: 20px;">--transaction value includes packing costs, selling commission, royalty or licensing fee incurred by buyer, & value of free assistance given by producer to buyer as condition of sale;</p> <p style="padding-left: 20px;">--CIF costs are generally excluded from transaction value;</p> <p style="padding-left: 20px;">--direct processing costs include labor, engineering or supervisory quality control, machinery costs (and depreciation on machinery and equipment), and Research & Development.</p> <p>4) Up to 15% of the 35% appraised value of an item may consist of U.S. parts or materials.</p>	<p>1) Imported directly from beneficiary country into USA.</p> <p>2) Item must be “growth, product or manufacture” of beneficiary country.</p> <p>3) Can incorporate outside material as long as the sum of the direct cost or value (<i>i.e.</i>, transaction value) of the materials produced in beneficiary country PLUS the direct processing costs performed in that beneficiary country equal at least 35% of the item’s appraised value at the U.S. port of entry;</p> <p style="padding-left: 20px;">--transaction value includes packing costs, selling commission, royalty or licensing fee incurred by buyer, & value of free assistance given by producer to buyer as condition of sale;</p> <p style="padding-left: 20px;">--CIF costs are generally excluded from transaction value;</p> <p style="padding-left: 20px;">--direct processing costs include labor, engineering or supervisory quality control, machinery costs (and depreciation on machinery and equipment), and Research & Development.</p> <p>4) Imported material can count towards 35% if “substantially transformed” into new and different article prior to incorporation into the final product.</p> <p>5) Collective SADC production may count to meeting 35% rule.²</p>	<p>1) Consigned directly from one member state to another.</p> <p>2) Item must be wholly produced in any of the Member States or made with inputs that are wholly produced;</p> <ul style="list-style-type: none"> • Electrical power, fuel, plant machinery, & tools used in production deemed “wholly produced” w/in SADC. <p>3) With certain exceptions, can incorporate material not wholly produced but that underwent “sufficient working or processing” in Member States;</p> <ul style="list-style-type: none"> • generally means a substantial transformation that results in a shift in tariff classification heading, but can also be based on minimum regional content percentage or a requirement that a minimum percentage of the article’s weight represent regional inputs. <p>4) Input that acquires originating status, does so permanently in terms of calculating origin of final product;</p> <p>5) <i>De Minimis</i> Rule: If total value of non-originating input(s) does not exceed 10% of ex-works price³ of item, resulting article deemed originating regardless of other requirements mandating use of specific SADC sourced input(s) or working/processing</p>

¹ Of the 14 SADC countries, three are currently not beneficiaries under AGOA: Angola, the Democratic Republic of Congo, and Zimbabwe.

² U.S.T.R. has indicated that it will permit accumulation only for those SADC countries that have ratified the Protocol on Trade and its amendments.

³ Ex-works price means the price paid for a good at the producer’s factory door in any Member State where the last working or processing is carried out, provided that price includes the value of all the material used plus profits, but minus internal taxes repaid when the final good is exported.

		<p>requirements (albeit not if it causes the item to exceed the mandatory maximum value percentages for non-originating materials).</p> <ul style="list-style-type: none"> • The <i>De Minimis</i> Rule is not applicable to Textiles, Apparel, Transport Vehicles, Optical Use Equipment, Clocks and Watches, Musical Instruments, Arms, Furniture, Medical Equipment, Toys, Slide Fasteners & Works of Art. <p>6) Raw materials & semi-finished goods worked or processed in more than one Member State, deemed to originate in Member State of final processing or manufacturing.</p> <p>7) Mere Packaging, Dilution or Blending, Simple Assembly, Minor Operations⁴, Slaughter of Animals, etc. do not confer origin.</p> <p>8) In general, mixtures of goods originating in member states with those that do not, will not confer SADC origin if the product as a whole is not different from the characteristics of the goods that have been mixed.</p> <p>9) Derogations may be granted to further the development of existing industries or the creation of new ones (provided no serious injury is caused to any established industry within SADC).</p>
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⁴ Minor operations include ornamental or finishing work incidental to textile production designed to enhance marketing appeal, disassembly, repairs, washing, application of preservatives or lubricants, testing, marking, or labeling. However, minor operations incidental to textile production may be temporarily permissible for exports from Malawi, Mozambique, Tanzania, and Zambia.

TABLE #2: SPECIAL RULES OF ORIGIN FOR TEXTILE & APPAREL PRODUCTS

AGOA	SADC
<p>1) General U.S. Customs Rules on Textiles & Apparel cover HTS Chapters 50 through 63 and those additional items designated as textile and apparel products by WTO.⁵ The general rule is that textile and apparel products must be wholly obtained or produced in the country of origin. Any foreign material incorporated into a textile or apparel product must first undergo a requisite shift in tariff classification heading within the claimed country of origin. This amounts to a double substantial transformation rule for the final textile or apparel product.</p> <p>2) General Rules for Yarn:</p> <ul style="list-style-type: none"> • For Staple Yarn, the country of origin is the country in which staple fibers are spun into yarn; • For Filament Yarn, the country of origin is the country in which filament is extruded; • For Plied, Gimped & Cabled Yarns, the country of origin is the one in which the fibers or filaments in the yarn are spun or extruded; • For items made from yarn, strips, twine, cordage, ropes or cables (<i>i.e.</i>, HTS 5609), they originate in country where they are produced. <p>3) General Rules for Fabric;</p> <ul style="list-style-type: none"> • the country of origin is where the fabric is formed (<i>i.e.</i>, woven, knitted, needled, tufted, felted, entangled or created by any other fabric making process); • for dyed & printed fabrics made of silk, cotton, man-made or vegetable fiber, 	<p>1) Rules on Textiles & Apparel (HS Chapters 50 through 63) are item specific. In general, textile and apparel products that incorporate foreign material must undergo a double substantial transformation within SADC in order to be deemed as of SADC origin.</p> <p>2) In order for the following items to be deemed as originating within SADC, the described operation must occur within a SADC country:</p> <ul style="list-style-type: none"> • for cotton, silk, wool, & other vegetable textile fibers (including paper yarn): the fiber must be transformed so as to achieve a different HS classification heading than the inputs; • man-made staple fibers: must be manufactured from chemical materials or textile pulp originating within the SADC region; • yarns of cotton, silk, wool & other vegetable textile fibers (including paper) and man-made filaments & staple fibers: must be manufactured from regionally sourced raw silk or silk waste carded, combed, or otherwise prepared for spinning; or unprepared natural fibers; or chemical materials or textile pulp; or paper-making materials; • woven fabrics of cotton, silk, wool & other vegetable textile fibers (including paper yarn) and man-made filament & staple fibers: must be manufactured from single yarn spun in region; • most headgear, umbrellas: item must result

⁵Those other items include certain types of luggage, footwear, headwear, umbrellas, safety seat belts, watchstraps, and woven typewriter ribbons.

⁶Excluded from the concept of “wholly assembled” components are minor attachments such as buttons, beads, spangles, embroidery or minor subassemblies such as collars, cuffs, pockets, and plackets. In addition, the mere cutting of components will not confer country of origin status.

⁷Includes apparel subject to further processing such as embroidery, stone-washing, enzyme-washing, acid-washing, perma-pressing, over baking, bleaching, garment-dyeing, or screen printing.

⁸The least developed AGOA countries include Lesotho, Malawi, Mozambique, Swaziland, Tanzania, & Zambia.

⁹The yarns and fabrics deemed to be in “short supply” are derived from Annex 401 of the NAFTA. Current yarns or fabrics deemed not to be available in commercial quantities in the United States include certain HTS subheadings of cotton velveteen, corduroy fabrics, and batiste.

¹⁰Examples of findings and trimmings include sewing thread (except when used to assemble U.S. cut fabric), hooks and eyes, snaps, buttons, decorative lace trims, less than one inch in width elastic strips used to make brassieres, and zippers. At present, permitted interlinings are limited to a chest type plate, a “hymo” piece, or “sleeve header” made of woven or well-inserted warp knit construction, and made of coarse animal hair or man-made filaments.

<p>country of origin is where fabric is both dyed and printed when accompanied by two or more listed finishing operations (<i>i.e.</i>, bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing or moireing);</p> <ul style="list-style-type: none"> • for articles made from dyed & printed fabric, same rule as above EXCEPT that 18 specific HTS classification headings do not require two or more listed finishing operations; • for 15 specific HTS headings of articles made of fabric (<i>e.g.</i>, cotton woven baby diapers, blankets, curtains, pillows, etc.) the item is deemed to originate in country in which the fabric is produced; • Quilted fabrics originate in the country where the fabrics are formed. <p>4) For all textile & apparel products not made from yarn or fabric or not completely produced or manufactured in one country, the general U.S. customs rule is that the country of origin is where the components are wholly assembled.⁶</p> <p>5) General Rule for Knit-to-Shape Products. Origin is in country where 50% or more of the exterior surface consists of major parts knitted or crocheted directly to the shape used in the finished product.</p> <p>6) General Multi-Country Rule: If unable to determine origin by referring to prior rules and product created through processing in two or more countries, then origin is in country where most important assembly or most important manufacturing process occurs OR (if preceding is not possible to determine) last country where an important assembly or manufacturing operation occurred.</p> <p>7) Special AGOA Rules for Apparel (Take Precedence Over General Rules in Cases of Conflict): In order to obtain duty and quota free entry into the U.S., apparel must be:</p> <ul style="list-style-type: none"> • assembled in one or more AGOA beneficiary countries from U.S. fabric wholly formed and cut in the U.S. which, in turn, is made from yarns wholly formed in the U.S. (albeit fabrics falling under HTS 5602 or 5603 may not need to be made from U.S. yarn if certain conditions are met)⁷; or, • cut and assembled with U.S. thread in one or more AGOA beneficiary countries from fabric wholly formed in the U.S. which, in 	<p>from a transformation that gives it a different HS classification heading than its inputs;</p> <ul style="list-style-type: none"> • footwear: only in case of assembly of uppers affixed to inner soles or other sole components, they must undergo a transformation that results in a different HS classification heading than its inputs. <p>3) Special rules on the exportation of HS Chapters 50 through 63 items from MMTZ into SACU¹¹. Origin conferred on textiles or apparel that undergoes:</p> <ul style="list-style-type: none"> • double substantial transformation in the MMTZ countries (<i>i.e.</i>, general rule of origin applicable to non-MMTZ countries) and exported item is not subject to quotas; or, • for a “transition” period of up to 5 years, a single substantial transformation in an MMTZ country but subject to quotas (weight based except for HS Chapters 61/62 that is piece based). <p>4) Mauritius and Zimbabwe have proposed a single transformation rule for fabric and apparel of man-made and synthetic fiber inputs (<i>i.e.</i>, HS Chapter 54 and 55) that are not available in the region.</p> <p>5) SADC’s general <i>De Minimis</i> Rule is not applicable to products falling under HS Chapters 50 through 63, unless dealing with mixed products made from two or more basic textile materials. In the latter case, third-party inputs are permissible as long as they represent 10 % or less of the total weight of all the basic textile materials used.</p>
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¹¹ MMTZ stands for Malawi, Mozambique, Tanzania, and Zambia. SACU is the Southern African Customs Union made up of Botswana, Lesotho, Namibia, South Africa, and Swaziland.

<p>turn, is made from yarns wholly formed in the U.S. (albeit the same exemption with respect to the yarn may apply as above for HTS 5602 or 5603 fabrics); or,</p> <ul style="list-style-type: none"> • wholly assembled in one or more AGOA beneficiary country from fabric wholly formed in one or more AGOA beneficiary countries which in turn, may be made from either U.S. or AGOA beneficiary country yarn (similar exception on yarns applies to HTS 5602 or 5603 fabrics as above), albeit subject to quantitative limits; • until September 30, 2004, lesser developed AGOA countries⁸, apparel wholly assembled (must include cutting) in one or more lesser developed AGOA countries can use third-country fabric, albeit subject to quantitative limits; • apparel that is both cut (or knit-to-shape) and sewn or otherwise assembled in one or more AGOA beneficiary countries can use certain third country yarns and fabrics included on U.S. Commerce Dept. short supply list⁹; • third country yarn and fibre can be used to make in chief weight cashmere or wool sweaters made with yarn of certain diameter that are cut or knit-to- shape in one or more AGOA beneficiary countries; <p>8) Special AGOA Rule on Findings & Trimmings: Up to 25% of the cost of the components of the apparel item may consist of third country findings & trimmings¹⁰ (including certain interlinings) and still enter the U.S. duty & quota-free under AGOA.</p> <p>9) Special AGOA <i>De Minimis</i> Rule: Apparel products with non-U.S. or AGOA beneficiary fibers or yarns still eligible for AGOA benefits as long as total weight of third country fibers and yarns does not exceed 7% of total weight of item.</p>	
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TABLE #3: VERIFICATION OF COMPLIANCE WITH RULE OF ORIGIN REQUIREMENTS

AGOA	GSP	SADC
<p>1) Before eligible textile & apparel products can be exported to the U.S. duty/quota-free, there must be an effective visa system in place that certifies textile and apparel products claiming benefits under AGOA were produced in beneficiary countries and certain other customs-related obligations must be fulfilled.¹²</p> <p>2) Once visa system is approved by U.S. government, all eligible textile & apparel export must be accompanied by an original visa stamped in blue ink on an original commercial invoice.</p> <ul style="list-style-type: none"> • visa contains visa No.¹³, date of issuance, quantity & unit for quantity of goods shipped, preference grouping¹⁴, and authorized signature. <p>3) AGOA permits duty & quota-free entry into the United States of hand loomed, handmade, and folklore textile & apparel items made in AGOA beneficiary</p>	<p>1) Generally, a written claim for GSP status is made by the importer on the entry summary document submitted to U.S. Customs authority by placing an “A” as a prefix to the tariff number of each item for which GSP treatment is claimed.</p> <p>2) A U.S. Customs Port Director at the port of entry may request that the importer submit a GSP declaration (particularly if the origin of the imported item is from more than one beneficiary country). The GSP declaration (drawn up and signed by the exporter or other appropriate party having knowledge of the relevant facts) must be submitted within 60 days of request and includes the following information:</p> <ul style="list-style-type: none"> • number & date of invoice; • description of item(s) & quantity; • if processing operations were performed on 	<p>1) Certificate of Origin given by exporter or its authorized representative and is authenticated with a seal issued by duly designated government authority.</p> <p>2) Producer does not issue Certificate (unless an exporter) but instead provides exporter with written declaration of compliance with rules of origin.</p> <p>3) Customs Authority in importing country may require further verification of statements in Certificate of Origin in cases of doubt;</p> <ul style="list-style-type: none"> • further verification must be provided by authority in exporting country w/in three months of request; • generally, no interference w/ delivery of consignment to importer, although posting of security during verification period may be required.

¹²These customs related obligations are found in Section 113 of AGOA and include, *inter alia*, adoption of domestic laws and enforcement procedures to prevent unlawful transshipment and use of counterfeit documents, enactment of legislation that would permit U.S. Customs to investigate in-country allegations of transshipment, an agreement by countries to require all domestic producers and exporters to maintain production and export records, and an agreement to timely supply U.S. Customs, upon demand, with the documentation used by the country to support issuance of the visa (*e.g.*, production records, information relating to the place of production, the number and identification of the types of machinery used in production, the number of employees, and certification from both the manufacturer and the exporter).

¹³The visa number must be in a 9 digit-letter format beginning with one numeric digit for the designated grouping (1 to 9), followed by 2-character ISO alpha code for country, followed by 6-digit numerical serial number identifying the shipment.

¹⁴Textile/Apparel Preference Groupings are as follows: (A) Apparel assembled from U.S.-formed and cut fabric from U.S. yarn; (B) Apparel assembled and further processed from U.S.-formed and cut fabric from U.S. yarn; (C) Apparel cut and assembled from U.S. fabric from U.S. yarn and thread; (D) Apparel assembled from regional fabric from yarn originating in the U.S. or one or more beneficiary countries; (E) Apparel assembled in one or more lesser developed beneficiary countries; (F) Sweaters knit to shape in chief weight of cashmere; (G) Sweaters knit to shape with 50% or more by weight of fine wool; (H) Apparel cut and assembled in one or more beneficiary countries from fabrics or yarn not formed in the United States or a beneficiary country and designated as not available in commercial quantities in the United States; (I) Hand loomed, handmade or folklore articles. **Note: For Visa, Numeric Digit Equivalents (1-9) Are Used Instead of Letters.**

¹⁵In cases of a “growth”, the importer must show evidence such as a receipt from the farmer.

¹⁶In cases of “product or manufacture”, the importer must produce records showing that the manufacturing or processing operations that the product underwent complied with rules of origin.

<p>countries that are certified as such by the competent authority in each respective AGOA country and accepted by the United States (in addition to visa requirement).</p> <p>4) Special AGOA Certificate of Origin for textiles/apparel completed and signed by exporter who provides it to U.S. importer. The certificate is based either on :</p> <ul style="list-style-type: none"> • exporter’s knowledge that item qualifies as an originating good; • exporter’s reasonable reliance on the producer’s written declaration that the item qualifies as an originating good; or, • a completed and signed certificate for the item voluntarily provided to the exporter by the producer. <p>5) The special AGOA Certificate of Origin is good for multiple importations of identical items up to 1 year. A Certificate of Origin is not required for the exportation of items whose value does not exceed U.S.\$ 2,500.00.</p> <p>6) The Certificate of Origin does not accompany the actual shipment but the importer must make it available to U.S. Customs upon demand;</p> <ul style="list-style-type: none"> • It is permissible not to reveal the name of the producers in the Certificate of Origin (so long as statement is included “available to customs upon request”). <p>7) U.S. Customs may request origin verification through written questionnaires to the foreign exporter or producer and, upon written notification to company and its consent, inspection visits to the premises of the exporter or producer. Failure to provide verification will result in denial of preferential treatment on future</p>	<p>item(s), a description of those operations and the country wherein it took place, and direct costs of the processing operations;</p> <ul style="list-style-type: none"> • if materials used to make item(s) are produced in beneficiary country or recognized association of beneficiary countries, a description of the material, production process, country of production, and the cost or value of the materials. <p>3) GSP importations may also be subject to a Compliance Assessment or other audit review by the U.S. Customs Regulatory Audit unit.</p> <p>4) The documentation necessary to substantiate a GSP claim, while it is not submitted upon entry of the imported item into the United States, must be produced to U.S. Customs on demand. Such documents can be requested from the importer and/or foreign exporter. Records must be maintained for a 5-year period.</p> <p>5) Supporting documentation can include quality assurance reports, and health, safety, and origin certificates issued by national government authorities as well as payment records, overhead allocation schedules, and production records.</p>	<p>4) Overall procedures for verifying origin beyond initial inquiry stage are found in the SADC Regulation on Mutual Assistance and Cooperation in Customs Matters (e.g., inspection visits to the premises of an exporter or producer, prior notification requirements, penalty for failure to permit inspection, etc.) is almost identical to rules in AGOA.</p> <p>5) Copies of Certificates of Origin & other documentary evidence must be maintained for 5 years;</p> <p>6) Exporters of textiles and apparel from MMTZ into SACU wishing to use single transformation & quota arrangement must be certified by home country authority who issues export certificate.</p>
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<p>shipments of item from that exporter or producer.</p> <p>8) Factories, producers, exporters, and manufacturers exporting textile and apparel items that benefit from AGOA must retain records relating to production of goods for a 5-year period.</p> <p>9) AGOA status noted by importer on entry summary document using “D” as prefix to HTS number.</p> <p>10) “Special” AGOA declaration formulae for non-textiles/non-apparel, produced to U.S. Customs on demand.</p> <p>11) In order to support AGOA duty-free claim, importer must be able to produce w/in 30 days after demand by U.S. Customs:</p> <ul style="list-style-type: none"> • records supporting reason(s) for concluding item’s AGOA eligibility; • records showing item is a growth¹⁵, product or manufacture¹⁶ of AGOA beneficiary countries; • evidence of internal controls for ensuring accuracy of Declaration(s); • shipping records showing “direct importation”; and, • records showing cost/value of materials produced in U.S. and/or AGOA countries AND direct costs of processing operations in AGOA beneficiary countries. 		
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DISCUSSION

Interestingly, SADC's rule of origin requirements are primarily based on a "substantial transformation" criterion, a stricter standard than what the United States employs in terms of its preferential rules of origin schemes. Accordingly, compliance with SADC's stricter rules of origin in terms of sub-regional integration will normally ensure duty and quota-free entry into the U.S. market for SADC countries that are also beneficiaries under AGOA. Even in the case of textiles and apparel, the rules of origin in both AGOA and SADC are generally compatible, albeit more complex in the case of AGOA. For example, there are specific fabric cutting obligations under AGOA that do not exist in SADC as well as requirements that certain apparel assembled in AGOA beneficiary countries may be required to use U.S. thread. There are, however, some significant and irreconcilable differences in the rules of origin regimes in SADC and AGOA that have the potential to cause serious havoc in terms of efforts to create a seamless system that encourages integrated regional chains of production. One of these is posed by the loophole that permits derogations from compliance with SADC's rules of origin as incentives for the development of existing industries or the creation of new ones.

Another irreconcilable provision exists whereby the SADC rules allow use of third country materials in the manufacture of certain mixed apparel products made from two or more basic textile materials that represent 10 % or less of the total weight of all the basic textile materials used. The amount deemed *de minimis* is even higher in the case of products incorporating third party "yarn made of polyurethane segmented with flexible segments of polyester whether or not gimped" (*i.e.*, 20%) or a third-party "strip consisting of a core of aluminum foil or of a core of plastic film..." (*i.e.*, 30%). By contrast, AGOA permits a *de minimis* exception in which a limited amount of third country fibers or yarns can be used in the production of apparel so long as the total weight of all such fibers and yarns is not more than 7% of the apparel item's total weight.

Yet another incompatible rule exists with respect to the single substantial transformation rule SACU gives to textile and apparel products produced in Malawi, Mozambique, Tanzania, and Zambia through 2005 in the SADC context. AGOA's rule for textiles and apparel wholly assembled in one or more beneficiary countries from fabric wholly formed there that is, in turn, made from yarn originating in one or more AGOA beneficiary countries, amounts to a double substantial transformation rule. Although it is true that AGOA allows all four MMTZ countries the right to use third-country fabric in the manufacture of apparel (which, in effect, amounts to a single transformation rule), this privilege terminates on September 30, 2004. Further complications would arise if the proposal put forward by Mauritius and Zimbabwe were accepted for a single transformation rule in SADC for fabric and apparel of man-made and synthetic fiber inputs not available in the sub-region. While such a rule might be welcome from a free-market oriented economic perspective, its adoption would further complicate things because it would not necessarily be applicable for accessing the U.S. market under the current AGOA rules.

One area where the AGOA rules tend to be more burdensome than those in SADC is in the whole process for verifying the origin of products. In addition to requiring a special AGOA Certificate of Origin, AGOA also mandates that before any eligible textiles and apparel goods can be exported to the United States, the country where the producer is located must first have implemented an effective visa system and other customs procedures approved by U.S. Customs in order to prevent unlawful transshipment. Ironically, the implementation of such a system by the signatory states to the SADC Protocol on Trade and amendments that are also AGOA beneficiaries would support SADC's origin certification system, at least in terms of textiles and apparel. Efforts to implement a visa verification system for purposes of AGOA come with the added promise of the U.S. Customs Service providing technical assistance as well as training to officials from the beneficiary countries in anti-transshipment enforcement. Such technical assistance could be indirectly beneficial in terms of enforcement of the SADC rules of origin system as well. Yet another AGOA requirement that might buttress compliance with SADC's rules of origin is the process for certifying what are hand loomed, handmade, or folklore textile and apparel products that can be admitted free of duties and quotas into the United States. Overall, the extensive record keeping requirements mandated under both AGOA and the general GSP system to verify compliance with origin requirements can have an overall positive effect on any SADC system to establish compliance and means of verification with its rules of origin system.

One thing that merits emphasis, however, is that under AGOA only in the case of textile and apparel goods must an exporter draw up and sign a Certificate of Origin. All other AGOA eligible products require only a declaration from the exporter. In addition, there is no requirement that the Certificate of Origin (as is also true of the declaration) be issued by an official government agency or approved body to which this function has been delegated. In fact, the importer is only required to submit the Certificate of Origin (as, again, is also true of the declaration) upon a specific demand being made by U.S. Customs after entry of the goods into the customs territory of the United States. Accordingly, efforts to create a uniform SADC-wide system for the issuance of SADC Certificates of Origin as well as for AGOA, should concentrate on AGOA requirements for the issuance of visas for textile and apparel exports.