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U.S. Trade and Investment Relationship with Sub-Saharan Africa: The African Growth and Opportunity Act and Beyond

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U.S. Trade and Investment Relationship with Sub-Saharan Africa: The African Growth and Opportunity Act and Beyond

Summary

Following the end of the apartheid era in South Africa in the early 1990s, the United States sought to increase economic relations with sub-Saharan Africa. President Clinton instituted several measures that dealt with investment, debt relief, and trade. Congress required the President to develop a trade and development policy for Africa.

The economic challenges facing Africa today are serious. Unlike the period from 1960 to 1973, when economic growth in sub-Saharan Africa was relatively strong, since 1973 the countries of sub-Saharan Africa have grown at rates well below other developing countries. There are some signs of improvement, but problems such as HIV/AIDS and the debt burden are constraining African economic growth.

In May 2000, Congress approved a new U.S. trade and investment policy for sub-Saharan Africa in the African Growth and Opportunity Act (AGOA; Title I, P.L. 106-200). U.S. trade with and investment in sub-Saharan Africa have comprised only 1-2% of U.S. totals for the world. AGOA extends preferential treatment to imports from eligible countries that are pursuing market reform measures. Data show that U.S. imports under AGOA are mostly energy products, but imports to date of other products have grown. AGOA mandated that U.S. officials meet regularly with their counterparts in sub-Saharan Africa, and five of these meetings have been held.

AGOA also directed the President to provide U.S. government technical assistance and trade capacity support to AGOA beneficiary countries. Government agencies that have roles in this effort include the U.S. Agency for International Development, the Assistant U.S. Trade Representative for Africa (established by statute under AGOA), the Overseas Private Investment Corporation, the Export-Import Bank, the U.S. and Foreign Commercial Service, and the Trade and Development Agency. In addition to bilateral programs, the United States is a member of several multilateral institutions that provide trade capacity building.

In AGOA, Congress declared that free-trade agreements should be negotiated, where feasible, with interested sub-Saharan African countries. Related to this provision, negotiations on a free-trade agreement with the Southern African Customs Union, which includes South Africa and four other countries, began in June 2003, but were suspended in April 2006.

Several topics may be important to the 110th Congress in the oversight of AGOA and in potential legislation amending the act. These issues concern expanding the number of beneficiary countries which use AGOA benefits; diversifying AGOA exports away from primary commodities such as oil; making trade capacity building more effective for AGOA beneficiaries; and strengthening the link between poverty reduction and trade in Africa. This product will be updated periodically.

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Introduction

All of us share a common vision for the future of Africa. We look to the day when prosperity for Africa is built through trade and markets.

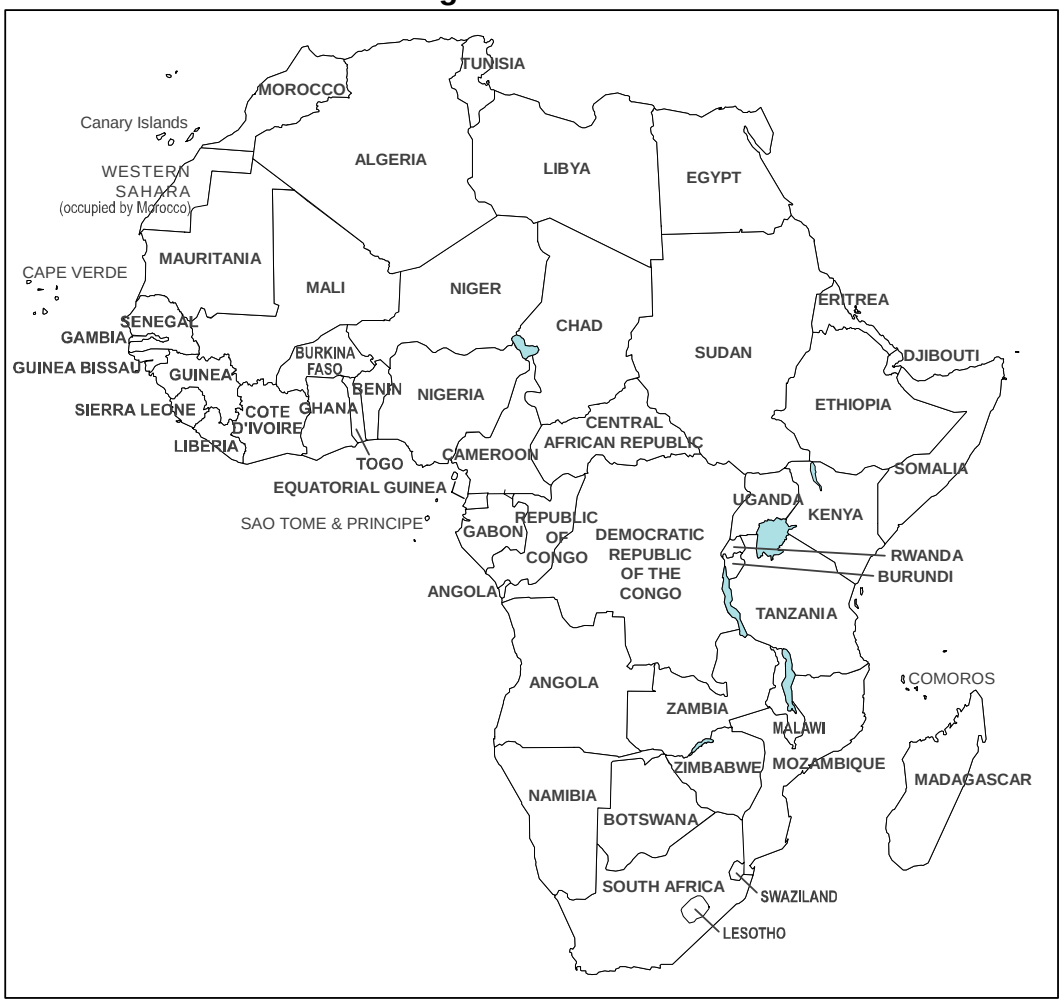
— President George W. Bush to delegates at the African Growth and Opportunity Forum in Mauritius, January 15, 2003

As reflected in the above statement by President Bush, a key element in U.S. policy toward Africa is the potential benefit from improved commerce between the two regions. This interest in increasing bilateral commerce began after the end of the apartheid era in South Africa in the early 1990s. In 1993, Congress approved the end of anti-apartheid restrictions, and later that year Commerce Secretary Ron Brown led a business delegation to South Africa.

With the end of apartheid, President Clinton instituted numerous measures to help the region and increase U.S. trade and investment there. In 1994, he announced a $600 million aid and investment package for South Africa. In 1997, he proposed the Partnership for Economic Growth and Opportunity in Africa, which offered different levels of economic benefits to countries in sub-Saharan Africa (SSA), depending on their economic reform measures.

At the same time, Congress was developing legislation that sought to improve U.S.- Africa trade relations. In the 1994 legislation to implement the Uruguay Round multilateral trade agreements (P.L. 103-465), Congress directed the Administration to develop and implement a comprehensive trade and development policy for the countries of Africa. Disappointed with the Administration's first report under this provision, some Members developed legislation to authorize a new trade and investment policy for sub-Saharan Africa. In May 2000, Congress approved such legislation in the African Growth and Opportunity Act (AGOA; Title I, P.L. 106-200). AGOA offers trade preferences and other economic benefits to countries in SSA that meet certain criteria, including progress towards a market economy, respect for the rule of law, and human and worker rights.

Figure 1. Africa



Source: Map Resources. Adapted by CRS. (K.Yancey 6/21/04)

Both the executive and legislative branches continue to consider ways in which to improve trade relations between the United States and SSA. In 2002, the Congress amended AGOA to further increase market access for products from SSA.[1] The Administration began free-trade negotiations with the South African Customs Union (Botswana, Namibia, Lesotho, South Africa, and Swaziland) in June 2003. In 2004 Congress passed legislation further amending AGOA, extending its benefits beyond the original deadline and clarifying certain provisions. This legislation also included directives to the President on investment initiatives and technical assistance. Congress passed legislation in December 2006 which further amends AGOA, to extend certain provisions concerning textile and apparel imports to 2012.[2]

This report presents perspectives on African economic trends and provides an overview of U.S. trade and investment flows with SSA. It discusses the provisions of AGOA and the changes that have occurred since its enactment. It concludes with a brief discussion of issues of congressional interest.

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[1] Section 3108 of the Trade Act of 2002, P.L. 107-210.

[2] Section 6002 of the Tax Relief and Health Care Act of 2006, P.L. 109-432.

Perspectives on the Sub-Saharan African Economy

Historical Perspectives

The historical pattern of contemporary Africa's economic growth provides insights to help understand Africa's current economic situation and policy options. Between 1960 and 1973, which is the period immediately following independence in most African countries, economic growth was reasonably strong in much of sub-Saharan Africa (SSA). The subsequent two decades were, however, a period of stagnation or decline for most countries.[3] The causes of Africa's slow and stagnant economic growth have been a source of debate among development economists. Analysts have cited poor governance, political instability, geographic features, and historical conditions such as colonialism as different reasons for Africa's economic malaise. Whatever the underlying cause, Africa's slow growth and stagnation have been attributed to slow accumulation of both human and physical capital, dependence on single commodity exports, low productivity growth and pressures from high population growth rates.[4]

Most African countries experienced a single main break in their growth trends at some point between 1973 and 1980, followed by persistent stagnation until 1992. Recent data demonstrate that many countries have made a modest recovery since about 1994, but the growth rates have tended to remain far below the first post-colonial phase.[5] For the four decades as a whole, SSA's average per capita income growth of 0.9 percent lagged behind that of other developing countries by 1.5% and approximately 3% below that of the high performing African (Botswana and Mauritius) economies.[6]

The economies of Africa are often lumped together as one entity for analysis. However, there is a wide variation in the growth performance of individual African countries. A recent study found that in a group of 36 African countries, 22 countries exhibited reasonably robust growth before the long period of stagnation. The remaining 14 either experienced sharp growth fluctuations or showed persistent stagnation at growth rates below 1.5 percent throughout the last three decades. In this study, the growth rates achieved by Botswana and Mauritius stand out.[7]

The consequence of the long period of stagnation for a large number of African economies, combined with high population growth rates, is that little or no progress

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[3] A Hoeffler, "The Augmented Solow Model and the African Growth Debate", CSAE, University of Oxford, March 2000.

[4] For a further discussion of African economic development, see CRS Report RL32489, *Africa: Development Issues and Policy Options*, by Raymond Copson.

[5] *The Economist*, May 13-19, 2000.

[6] L. Pritchett (1998), "Patterns of Economic Growth: Hills, Plateaus, Mountains, and Plains", World Bank Paper, July 1998, (hereafter, *Pritchett*) [http://www.worldbank.org/wbi/attackingpoverty/ events/Turkey_0199/pritch.pdf].

[7] *Pritchett, p.18.*

has been made in raising the standards of living in these countries. Many African countries have experienced a decrease in the standard of living.[8] Between 1960 and 1994, out of 35 SSA countries for which comparable data exist, 16 suffered at least 20% loss in income per capita measured in 1985 constant US dollars. Most of the losses were registered after 1975.[9] In contrast to SSA, developed countries have sustained a remarkably steady per capita growth of approximately 2% for about 100 years, and some newly industrializing countries have maintained income growth rates above 3% for nearly three decades, thus enabling them to gain significant ground on the industrialized countries.[10]

Current Perspectives

Economic Growth Forecast. According to the World Bank, Sub-Saharan Africa's resilient economic growth performance over the past five years suggests that it may have achieved a milestone in its quest for sustained growth. Its growth has averaged 4.0% between 2000 and 2005, compared with less than one percent during the early 1990s. In 2006, GDP expanded by 5.6% in SSA. Also, the growth seen in the current period is less volatile and more evenly distributed among African countries than in the past. Twenty-two countries (out of a total 48 Sub-Saharan African countries) have had average growth rates of 4% or greater during the past five years, as compared with only four countries in the first half of the 1990s. In 2006, half of the SSA countries experienced growth of 5% or more. This improved economic performance may reflect many factors, including better governance, increased trade flows, strong commodity prices, rising aid flows, and debt forgiveness.[11] Despite these promising trends, most African countries will reportedly not be able to meet the Millennium Development Goal (MDG) of halving poverty by 2015 without doubling their rate of growth.[12]

The World Bank forecasts that sub-Saharan Africa will achieve a real GDP growth rate of 5.8% in 2007 and 2008. The growth rate for the entire world is estimated to be 4.0% in 2006, and is forecasted to be 3.3% in 2007. For all developing countries, economic growth is forecasted to be 6.7%, with the fastest growth in Asia.[13]

Investment and Growth Challenges. Despite the region's improved economic performance, the economic challenges facing Africa remain enormous.

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[8] W. Easterly (1996) "Why Is Africa Marginal in the World Economy?" In: G Maasdrop, ed, *Can South and Southern Africa Become Globally Competitive Economies?* (New York: St Martin's Press, 1996), pp. 19-30.

[9] D. Rodrik, "Where Did All the Growth Go? External Shocks, Social Conflict and Growth Collapses" mimeo, London School of Economic and Political Science, August 1998.

[10] Pritchett, p. 12.

[11] The World Bank, *Global Development Finance,* 2006 and 2007

[12] C. Patillo, S. Gupta, and K. Carey, "Growing Pains," *Finance & Development.* (International Monetary Fund: March 2006).

[13] The World Bank, *Global Development Finance,* 2007.

African countries are vulnerable to weather conditions, changing commodity prices, and political events in parts of the continent. Many economies in Africa depend on one or two commodity exports, and may need to diversify their exports in order to decrease their vulnerability to exogenous factors. They are also said to generate too little savings and attract too little investment. According to the UN Economic Commission for Africa, Africa must devote at least 25% of its GDP to investment to achieve sustainable growth.[14] Yet, World Bank figures indicate that gross domestic investment (public and private) in Africa only accounted for 19% of GDP in 2005.[15] Net foreign direct investment (FDI) at $11.3 billion was the equivalent of 2% of GDP in 2004. While FDI worldwide remains stable, FDI flows to Africa as a percentage of flows to developing countries as a whole have fallen from approximately 25% in 1970 to 5% in 2004. GDP growth is positive for Africa as a whole, but average population increases of 2.7% in the 1990s have caused per capita GDP to fall during much of the period. Africa's per-capita income was $560 in 2005 compared with $660 in 1980 (in current U.S. dollars).[16]

HIV/AIDS. The HIV/AIDS pandemic is also straining African economies and threatens to curtail future economic growth. SSA's incidence of HIV/AIDS was estimated at 6.1% in late 2005, and ten countries in southern Africa had infection rates over 10%. Botswana, long considered one of the region's most successful economies, had an infection rate of 24.1%, which is even lower than its peak of 37.3% in 2003. Life expectancy in Botswana has fallen to 38 years, and for the region as a whole, it has fallen to 46 years. Only Swaziland had a higher HIV/AIDS infection rate than Botswana in 2005, at 33.4%. The pandemic not only diverts resources from investments in productive resources and social services to care for the sick and dying, but it also erodes human capital by striking some of the most productive members of society: skilled workers, teachers, and professionals.[17]

Debt. The debt burden carried by SSA countries has been identified as a drag on the economies of the region. At the end of 2005, the states of SSA owed foreign creditors $215.6 billion. While SSA's debt is comparable to other regions in terms of absolute amount, per capita share ($291 per head), or debt service as percentage of export earnings (8%), its debt burden has been considered onerous because of its high ratio of debt to income.[18] Africa's total debt was equal to 71% of its income in 2002. Currently, Africa's total debt stands at about 52% of its income. This reduction is reportedly the result of debt relief initiatives by the international community. In 1997, the G-7 nations adopted a plan to reduce debt to sustainable levels for highly indebted poor countries (HIPC). To date, several African countries have taken advantage of the HIPC program, although some observers have criticized the scope and pace of the program. In Sec. 121 of AGOA, Congress recognized the debt forgiveness effort, but also called for additional bilateral and multilateral debt

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[14] United Nations, *Economic Report on Africa 2002*, pp. 37.

[15] Gross domestic investment is now labeled gross fixed capital formation by the World Bank, but the definition remains the same.

[16] World Bank, *World Development Indicators Online*, accessed October 11, 2006.

[17] See CRS Report RL33584, *AIDS in Africa*, by Nicolas Cook.

[18] World Bank, *World Development Indicators Online*, accessed October 16, 2006.

relief programs to encourage trade and investment, support the development of free markets and the private sector, and promote broad-based economic growth in order to assist beneficiary countries in reducing their debt.[19] In June 2005, the G-8 nations agreed to further deepen debt relief and proposed 100% cancellation of all multilateral debt for countries that have completed the HIPC program.[20] The implementation of this initiative, now known as the Multilateral Debt Relief Initiative (MDRI), began in July 2006.

U.S.-Africa Trade and Investment Trends

U.S. Trade with Sub-Saharan Africa

The United States conducts a small share of its total trade with sub-Saharan Africa. In 2006, the United States exported $12.1 billion to sub-Saharan Africa, or 1.2% of total U.S. global exports of $1,036 billion. The United States imported $59.1 billion from the region, or 3.2% of its total imports of $1,854 billion. Total trade (exports plus imports) between the United States and sub-Saharan Africa more than tripled between 1990 and 2006, from $17 billion to $71 billion. However, U.S. trade with sub-Saharan Africa as a share of total U.S. trade did not increase as dramatically from 1990 to 2006, from 1.9% in 1990 to 2.5% in 2006.

Although U.S. trade with sub-Saharan Africa is small compared with major trading partners, it is comparable to U.S. trade with several other developing regions. For example in 2006, the United States traded $81.3 billion (exports plus imports) with the Andean Pact countries (Bolivia, Colombia, Ecuador, Peru, and Venezuela), $71 billion with the countries of sub-Saharan Africa, $57.8 billion with the countries of South Asia (Bangladesh, Brunei Darussalam, Cambodia, India, Laos, Macau, Mongolia, Myanmar, Nepal, Pakistan, Sri Lanka, and Vietnam), $56.3 billion with the Mercosur countries (Brazil, Argentina, Uruguay and Paraguay), and $38.2 billion with the countries of the U.S. - Central American and Dominican Republic Free Trade Agreement (CAFTA-DR; Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and the Dominican Republic).[21]

Most U.S. trade with sub-Saharan Africa is with a small number of countries. Eighty-five percent of U.S. imports from the region were from four SSA countries in 2006: Nigeria (47%), Angola (20%), South Africa (13%), and DR Congo (5%). Exports were similarly concentrated, with 68% of U.S. exports to three countries: South Africa (37%), Nigeria (18%), and Angola (13%). The remaining countries

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[19] See CRS Report RS21329, *African Debt to the United States and Multilateral Agencies*, by Jonathan Sanford.

[20] See CRS Report RL33073, *Debt Relief for Heavily Indebted poor Countries: Issues for Congress*, by Martin Weiss.

[21] Regional trade figures from World Trade Atlas. Although the other regions include fewer countries than sub-Saharan Africa, most U.S. trade with sub-Saharan Africa is concentrated in a small number of countries.

each accounted for less than 6% of U.S. exports to the region. (See **Figures 2 and 3**.)

Figure 2. U.S. Imports from Sub-Saharan Africa, 2006

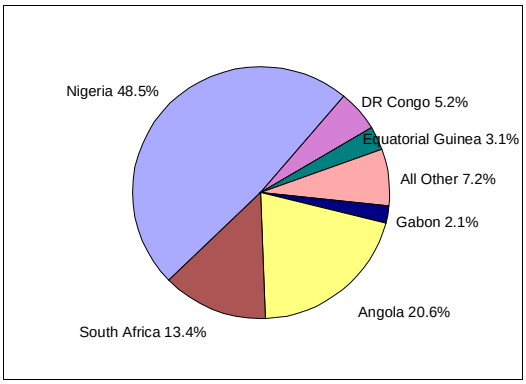
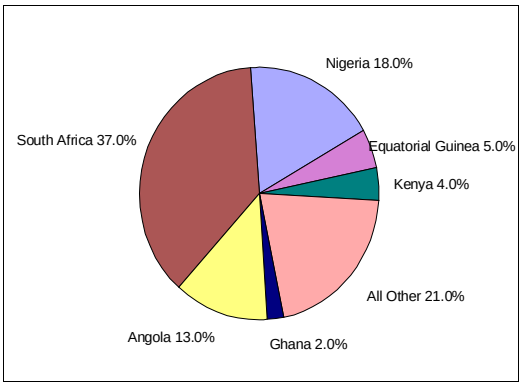


Figure 3. U.S. Exports to Sub-Saharan Africa, 2006



Source: U.S. International Trade Commission data website at [http://dataweb.usitc.gov].

Natural resources dominate U.S. imports from sub-Saharan Africa. Nearly all U.S. imports from the region in 2006 were either energy products (81%), which were almost exclusively petroleum, or minerals and metals (7%) (see **Figure 4**). Nigeria was the largest African and fifth-largest overall oil supplier to the United States. It supplied 58% of U.S. petroleum imports from the region, which accounted for 8% of total global U.S. oil imports. Angola supplied another 24% of U.S. petroleum from the region, and the Democratic Republic of Congo supplied 6%. Other petroleum exporters from the region included Chad, Gabon, and Equatorial Guinea, supplying between three and four percent of U.S. oil imports from Africa. The most important U.S. mineral/metal imports from Africa were platinum, followed by diamonds.

Despite the continued dominance of natural resource products in U.S. imports from sub-Saharan Africa, there has been some growth in the diversity of products imported. Transportation equipment imports from Africa, mainly automobiles from South Africa, increased in value from $76 million in 1998 to $605 million in 2004. These imports dropped to $295 million in 2005, possibly because of the appreciation of the South African rand. In 2006, U.S. imports of vehicles from SSA were back up to $506 million. The value of apparel imported from SSA has shown a similar trend, from $523 million in 1998 to $1,757 million in 2004. In 2005 this figure declined to around $1,460 million, and declined further to $1,291 million in 2006, as a result of the end of the world quota regime for apparel and textiles per the WTO Agreement on Textiles and Clothing (ATC).[22]

[22] See page 26, Termination of the Multi Fibre Agreement.

U.S. exports to sub-Saharan Africa were more diverse. Machinery and mechanical appliances was the leading export sector in 2006 (26% of U.S. exports to the region), followed by transportation equipment (22%), electrical machinery (7%) and cereals (6%). Mining equipment was the leading export item, followed by aircraft and aircraft parts, automobiles and wheat. (see **Figure 5**).

Figure 4. U.S. Imports from Sub-Saharan Africa by Product Category, 2006

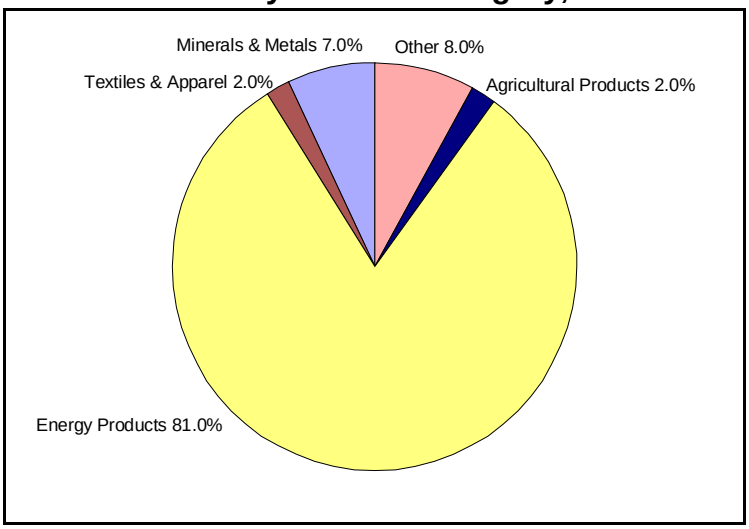
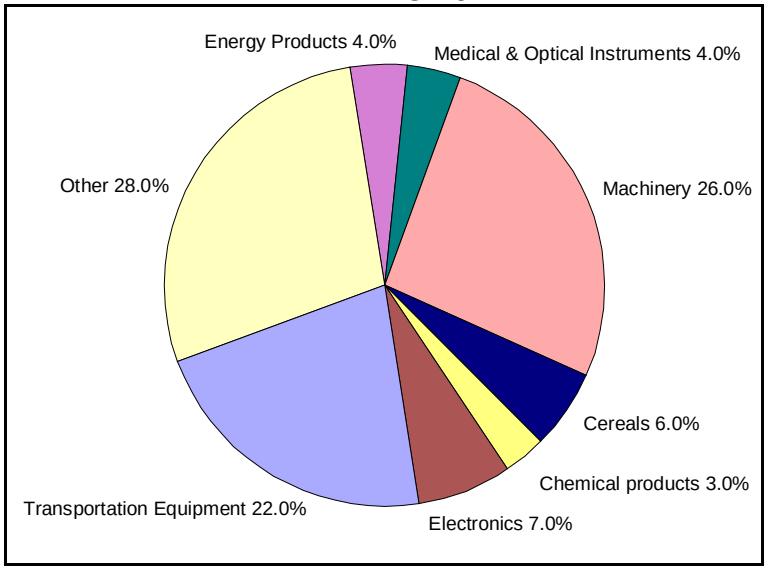


Figure 5. U.S. Exports to Sub-Saharan Africa by Product Category, 2006



Source: U.S. International Trade Commission data website at [http://dataweb.usitc.gov/]

The United States is among sub-Saharan Africa's major trading partners. In 2005, China was the leading industrial supplier to SSA for the first time with 7.7% of the market, followed by Germany (6.7%), France (6.2%), and the United States

(5.9%).[23] The United States was the most important single country destination for exports from SSA, purchasing 29.6% of the region's exports, followed by China (10.9%) and the United Kingdom (7.1%).[24] The European Union accounted for 31.3% of SSA's imports and 34.4% of its exports, a decline from the two previous years.[25]

U.S. Investment in Sub-Saharan Africa

Similar to trade, U.S. investment in Sub-Saharan Africa is a very small percent of the worldwide U.S. total. At year-end 2005, the stock of U.S. direct investment in sub-Saharan Africa was $15.04 billion, or less than 1% of the $2,070 billion in total U.S. direct investment abroad.[26] U.S. investment in Africa is heavily toward natural resources: 10% of total U.S. investment in the mining sector (including petroleum) worldwide is in Africa, compared to 0.5% of total U.S. investment in manufacturing worldwide, and only 0.08% of total worldwide U.S. investment in finance. More than half of all U.S. direct investment in Africa is in the petroleum industry.

Five countries accounted for 76% of the stock of U.S. direct investment in sub-Saharan Africa at the end of 2005. For the first time in recent years, Equatorial Guinea surpassed South Africa as the leading location for U.S. direct investment in sub-Saharan Africa, representing 31% of the total for the region. Nearly all U.S. investment in Equatorial Guinea was in petroleum. Equatorial Guinea was followed by South Africa, Angola, Chad, and Nigeria, which represented 24%, 9%, 7%, and 6%, respectively, of the stock of U.S. direct investment in the region.[27] With the exception of South Africa, these latter four countries are petroleum exporters.

In recent years, the United States has been the leading source of foreign direct investment in sub-Saharan Africa. According to the United Nations Conference on Trade and Development, the United States accounted for more than 37% of total flows to sub-Saharan Africa from developed countries during the period 1996-2000, followed by France (18%) and the United Kingdom (13%).[28]

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[23] Office of the U.S. Trade Representative, *2007 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act*, May 2007. p. 23. Data were derived from the International Monetary Fund, *Direction of Trade Statistics* 2006.

[24] Ibid.

[25] Ibid.

[26] U.S. Department of Commerce, Bureau of Economic Analysis, International Economic Accounts. Website: [http://www.bea.gov/bea/di/di1usdbal.htm], accessed October 19, 2006.

[27] Ibid.

[28] United Nations Conference on Trade and Development. *World Investment Report 2002: Transnational Corporations and Export Competitiveness*, p. 51.

AGOA: An Update

In May 2000, Congress approved legislation, the African Growth and Opportunity Act (AGOA; Title I, Trade and Development Act of 2000; P.L. 106-200), to assist the economies of sub-Saharan Africa and to improve economic relations between the United States and the region. This section examines the major provisions of AGOA, related legislative initiatives, and other developments since enactment.

Beneficiary Countries and Trade Benefits

Subtitle A of AGOA authorized the President to designate sub-Saharan African countries as beneficiary countries eligible to receive duty-free treatment for certain articles that are the growth, product, or manufacture of that country. It directed that in designating a beneficiary country, the President must determine that the country (1) has established, or is making continual progress toward establishing a market-based economy and is taking other designated actions; (2) does not engage in activities that undermine U.S. national security and foreign policy interests; and (3) does not engage in gross violations of internationally recognized human rights or provide support for international terrorism.

Subtitle B of AGOA describes trade-related benefits that are available to AGOA-eligible countries. Among these benefits is preferential duty-free treatment for certain articles under the U.S. Generalized System of Preferences (GSP). The GSP program is a unilateral trade preference regime that allows certain products from designated developing countries to enter the United States duty-free. Certain categories of articles (see box) are identified in statute as ineligible for this duty-free treatment, because they are "import sensitive." AGOA provides that the President can grant GSP duty-free treatment to all of these articles except one category (see box, textiles and apparel). First, however, after receiving advice from the International Trade Commission, the President must determine that an article is not import-sensitive in the context of imports from AGOA beneficiaries. These additional articles qualifying for GSP duty-free treatment have to be the growth, product, or manufacture of an AGOA beneficiary country, and they must meet the GSP rules of origin as amended under AGOA. AGOA beneficiaries are exempt from certain limits under the GSP program on allowable duty-free imports ("competitive need limitation").

"Import-sensitive" articles that are ineligible for preferences under GSP:

1. Textile and apparel articles which were not eligible articles for purposes of this subchapter on January 1, 1994, as this subchapter was in effect on such date.
2. Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.
3. Import-sensitive electronic articles.
4. Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this subchapter on January 1, 1995, as this subchapter was in effect on such date.
5. Import-sensitive semi-manufactured and manufactured glass products.
6. Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

Textiles and Apparel. AGOA also allows duty-free and quota-free treatment for textiles and apparel under any of the following conditions:

- Apparel must be assembled in one or more AGOA beneficiary countries from U.S. fabric that was made from U.S. yarns and cut in the United States;

- Apparel must be assembled in one or more AGOA beneficiary countries from U.S. fabric that was made from U.S. yarns. The apparel must be cut in an AGOA country and assembled using U.S. thread; or

- Apparel must be assembled in one or more AGOA beneficiary countries from fabric made in one or more AGOA beneficiary countries from yarn made in the United States or an AGOA beneficiary country. These imports were limited under AGOA to 1.5% of all U.S. imports (in aggregate square meter equivalents) in FY2001, increasing to 3.5% over eight years. (This limit was later amended; see Amendments to AGOA below.) If a product is assembled in a less-developed AGOA beneficiary country (defined as having a per capita gross national product less than $1,500 in 1998 as measured by the World Bank), that product qualifies for duty-free and quota-free treatment through September 30, 2004 (this deadline was later extended to 2007 and then 2012, see Amendments to AGOA, below), regardless of the country of origin of the fabric.

To receive the duty-free and quota-free treatment for textile and apparel products as described above, beneficiary countries must adopt an efficient visa system to prevent unlawful transshipment. They also must work with the U.S. Customs Service to report exports and prevent illegal trade. AGOA provided that the Secretary of Commerce must monitor for surges in imports, with the possible withdrawal of duty-free treatment if imports surge beyond a certain level.

Developments Following Enactment of AGOA. AGOA was enacted on May 18, 2000. On October 2, 2000, President Clinton recognized the first AGOA beneficiary countries. He identified 34 out of the 48 sub-Saharan African countries as eligible for AGOA benefits. On December 21, 2000, he granted GSP duty-free treatment to more than 1,800 items from AGOA-eligible countries. These items were selected after public review, advice from the International Trade Commission, and interagency review and recommendation. (These 1,800 items are in addition to about 4,600 items already duty-free under GSP.)

During 2001, the Administration declared that 12 AGOA countries had met the additional requirements for duty-free and quota-free treatment for apparel and textiles. Ten of the 12 countries qualified for the provisions for less-developed countries (LDCs) (see the third bullet on the preceding page). Early in 2001, in response to interim regulations that the U.S. Customs Service had issued in October 2000 (65 Fed. Reg. 59,668), some legislators protested that the interim regulations denied duty-free benefits for knit-to-shape articles, contrary to what they said was the intent of the act.[29]

AGOA requires that the President monitor and report annually on the progress of each country in meeting the terms for AGOA-eligibility. Under this requirement, President Bush has made, at the end of each year, annual designations of the countries eligible for AGOA benefits for the following year. The last such designation was in June 2007, when President Bush designated Mauritania as eligible for AGOA benefits.

Amendments to AGOA. In 2002, AGOA was amended in the Trade Act of 2002 (P.L. 107-210). An important change pertained to the cap that AGOA had set on apparel assembled in an AGOA country from fabric made in an AGOA country (see the third bullet under Textiles and Apparel above). The Trade Act of 2002 doubled this cap, increasing it to 7% in FY2008. The act, however, left the cap unchanged under the special rule for lesser-developed countries. The act also allowed Namibia and Botswana to qualify for the special rule for lesser-developed countries, even though their per capita incomes exceed the limit set under AGOA.

The Trade Act of 2002 specifically extended AGOA benefits to knit-to-shape articles and to garments cut in both the United States and an AGOA beneficiary country ("hybrid cutting"). It also made a correction to extend AGOA benefits to merino wool sweaters knit in AGOA beneficiary countries.

The Trade Act included other related provisions. It stated that U.S. workers could be found eligible for trade adjustment assistance, if U.S. production shifted to an AGOA beneficiary country and other conditions were met. It authorized $9.5 million to the Customs Service for textile transshipment enforcement, and specified

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[29] On March 6, 2001, the Chairman and Ranking Member of the House Ways and Means Committee and 8 other Members from both parties wrote to the Secretary of the Treasury saying that the U.S. Customs Service interpretation of benefits for knit-to-shape articles was "wrong." See, Text: Ways and Means AGOA Letter to O'Neill, *Inside U.S. Trade*, March 9, 2001.

that two permanent positions be assigned to South Africa for AGOA enforcement and additional travel funds be allocated for verification in sub-Saharan Africa. It also required that $1.317 million of the Customs Service budget be spent on programs to help sub-Saharan African countries develop visa and anti-transshipment systems.

In July 2004, AGOA was amended further by the AGOA Acceleration Act of 2004 (P.L. 108-274). This legislation extended the deadline for AGOA benefits to 2015, and it also extended the special rule for LDCs from September 2004 to September 2007. It further stipulated that the cap on the volume of allowable U.S. apparel imports under this rule would be decreased starting in the year beginning September 2004, with a major reduction in the year beginning October 2006 (from 2.9% to 1.6%). For apparel imports meeting the yarn forward rules of origin, the cap is to remain at 7% until the expiration of the benefits in 2015. The legislation also clarified certain apparel rules of origin to reflect the intent of Congress. Apparel articles containing fabric from both the United States and AGOA beneficiary countries were specifically allowed, as were otherwise eligible apparel articles containing cuffs, collars, and other similar components that did not meet the strict rules of origin. There was also clarification that ethnic printed fabric would qualify for duty free treatment, as long as the fabric met certain standards regarding its size, form, and design characteristics. Also, apparel articles containing fabrics and yarns recognized in the North American Free Trade Agreement (NAFTA) as being in short supply in the United States were declared as eligible for duty free treatment, regardless of the source of such fabric and yarns. The legislation also increased the maximum allowable content of non-regional or non-U.S. fibers or yarns in AGOA eligible apparel imports, otherwise known as the *de minimis* rule, from 7% to 10%.

The AGOA Acceleration Act included a number of directives for the President. One such directive was to provide agricultural technical assistance by assigning U.S. personnel to at least 10 AGOA beneficiary countries, to help exporters meet U.S. technical standards for agricultural imports. Another directed the President to develop policies to encourage investment in agriculture and agricultural processing, as well as investment in infrastructure projects aimed at improving transportation and communication links both within Africa and between Africa and the United States. There was also a directive to foster improved relationships between African and U.S. customs and transportation authorities. An additional directive was to encourage technical assistance and infrastructure projects to assist in the development of the ecotourism industry in sub-Saharan Africa. Finally, another directed the President to conduct a study on each beneficiary country, identifying potential sectors for growth, barriers to such growth, and how U.S. technical assistance can assist each country in overcoming these barriers.

In December 2004, the Miscellaneous Trade and Technical Corrections Act of 2003 (P.L. 108-429) was passed, which contained a technical correction to the AGOA Acceleration Act. The legislation also allowed Mauritius to qualify for the special rule for LDCs for the one year beginning October 1, 2004, with a cap of 5% of total eligible imports under this rule.

Congress passed the Africa Investment Incentive Act of 2006 in December 2006 (Title VI of P.L. 109-432). This act extends the special rule for LDCs which allows textiles and apparel quota- and duty-free access to the U.S. market regardless of the

source of materials used, as long as assembly takes place within an AGOA-eligible LDC. The special rule for LDCs would have expired in 2007, but this act extends it to 2012 and increases the cap on square meter equivalents under this rule back to the initial level of 3.5%. This act also stipulates that if a certain fabric is determined by the U.S. International Trade Commission to be available in commercial quantities in AGOA beneficiary countries, then the special rule will no longer apply to apparel and textiles containing that particular fabric.

Current Beneficiaries. At present, 39 sub-Saharan African countries are designated as AGOA-eligible. Of the 39 countries that may receive trade benefits, 26 have met the additional requirements to receive duty-free treatment for their textile and apparel products, and of those, 25 qualify for the special rule for lesser-developed countries (all but South Africa). See **Table 1** for a list of sub-Saharan African countries and their status under AGOA.

Table 1. Country Status under AGOA
(as of September 7, 2007)

Status	Countries
Not Designated as Eligible (9 countries)	Comoros; Central African Republic; Côte d'Ivoire; Equatorial Guinea; Eritrea; Somalia; Sudan; Togo; Zimbabwe.
AGOA Eligible Only; Not Eligible under Apparel Provision (14 countries)	Angola; Burundi; Republic of the Congo; Democratic Republic of Congo; Djibouti; Gabon; The Gambia; Guinea; Guinea-Bissau; Liberia; Mauritania; Sao Tome and Principe; Seychelles.
AGOA Eligible, Eligible for Apparel Provision, Special Rule Does Not Apply (1 country)	South Africa
AGOA Eligible, Eligible under Apparel Provision, and Special Rule Applies (25 countries)	Botswana; Benin; Burkina Faso; Cameroon; Cape Verde; Chad; Ethiopia; Ghana; Kenya; Lesotho; Madagascar; Malawi; Mali; Mauritius; Mozambique; Namibia; Niger; Nigeria; Rwanda; Senegal; Sierra Leone; Swaziland; Tanzania; Uganda; Zambia

Source: AGOA website maintained by the U.S. Department of Commerce at [http://www.agoa.gov].

AGOA Trade Trends. Imports under AGOA have comprised an increasingly significant share of all U.S. imports from sub-Saharan Africa, and are growing. In 2006, AGOA imports (including imports allowed under GSP) were $44.2 billion, or 75% of total U.S. imports from sub-Saharan Africa of $59.1 billion. Considering the AGOA-eligible countries only, rather than the entire region, U.S. imports under

AGOA were 79% of all U.S. imports from those countries in 2006. From 2005 to 2006, total AGOA imports (including GSP) grew by 16%.[30]

Imports under AGOA have been predominately energy-related products. This sector accounted for 90% of AGOA imports in 2006, which is similar to previous years. Not surprisingly, since petroleum is by far the major product imported under AGOA, Nigeria, a leading oil producer, is the major import supplier under AGOA. Nigeria supplied 59% of AGOA imports in 2006, and together with Angola (26%) accounted for 85% of all AGOA imports last year (including GSP). In comparison, 14 AGOA-eligible countries each exported less than $1 million under AGOA (including GSP), as a group accounting for 0.01% of all AGOA imports. Three of these countries (Burundi, Djibouti, and Sao Tome & Principe) exported nothing under AGOA. The other ten countries in this group were Benin, Burkina Faso, Cape Verde, Guinea, Mali, Niger, Rwanda, Seychelles, Sierra Leone, and Zambia.

United States-Sub-Saharan Africa Trade and Economic Cooperation Forum

Under AGOA, the President was required to establish within a year of enactment, after consultation with Congress and the other governments concerned, a United States-sub-Saharan Africa Trade and Economic Cooperation Forum (hereafter called the Forum). The act stated that the President was to direct certain top officials to host the first Forum meeting with their counterparts from AGOA-eligible countries and countries attempting to meet AGOA eligibility requirements.[31] The purpose of the Forum meeting is to "discuss expanding trade and investment relations between the United States and sub-Saharan Africa and the implementation of [AGOA] including encouraging joint ventures between small and large businesses."

AGOA also required the President to encourage non-governmental organizations and the private sector to hold similar annual meetings, and it required the President to instruct U.S. delegates to the Forum to promote a review of HIV/AIDS in each sub-Saharan African country and the effect on economic development. It required the President to meet, to the extent practicable, with heads of governments of sub-Saharan African countries at least every two years to discuss expanding trade and investment relations, and the first such meeting should be within one year of enactment.

AGOA was enacted May 18, 2000, and almost a year later, on May 16, 2001, President Bush established the Forum and announced plans for its first meeting in Washington in October 2001. The first Forum was held October 29-30, 2001, in Washington, D.C. President Bush addressed the Forum and announced several initiatives: (1) a $200 million Overseas Private Investment Corporation (OPIC)

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[30] Data from the International Trade Commission data website at [http://dataweb.usitc.gov].

[31] Representatives from appropriate sub-Saharan African regional organizations and government officials from other appropriate countries in sub-Saharan Africa also could be invited.

support facility to give U.S. firms access to loans, guarantees, and political risk insurance for investment projects; (2) a regional office of the Trade and Development Agency (TDA) in Johannesburg to help attract new investment; and (3) the Trade for African Development and Enterprise Program, initially funded at $15 million, to establish regional hubs to help African businesses in the global market. (These initiatives were implemented; see later sections.)

The second Forum was held January 13-17, 2003, in Port Louis, Mauritius. In a videotaped message, President Bush announced that he would ask Congress to extend AGOA beyond its 2008 deadline. He also outlined other U.S. support for Africa, including assignment of U.S. agricultural officials to the regional business hubs established after the first Forum; a FY2004 budget request for a 50% increase in development assistance; and an additional $200 million over five years for education and teacher training to the region.

The third Forum was held December 9-10, 2003, in Washington, DC. The fourth Forum took place in Dakar, Senegal, from July 18-20, 2005. President Bush addressed the fourth Forum through videotaped remarks, and he announced the African Global Competitiveness Initiative, which was to provide $200 million over the next five years to improve the competitiveness of African countries and build their capacity to trade. The fifth Forum was held June 6-7, 2006, in Washington, DC. The sixth forum was held in Accra, Ghana, July 18-19, 2007. For the first time, the sixth Forum combined all three sectors (government, private, and civil society) into one meeting.

Technical Assistance and Capacity-Building

AGOA legislation directed the President to target U.S. government technical assistance and trade capacity building in AGOA beneficiary countries (Sec. 122). This mandate includes assistance to both government and non-governmental actors. The act directs the President to target technical assistance to governments — (1) to liberalize trade and exports; (2) to harmonize laws and regulations with WTO membership; (3) to engage in financial and fiscal restructuring, and (4) to promote greater agribusiness linkages. The act also includes assistance for developing private sector business associations and networks among U.S. and sub-Saharan African enterprises. Technical assistance is also to be targeted to increasing the number of reverse trade missions, increasing trade in services, addressing critical agricultural policy issues, and building capabilities of African states to participate in the World Trade Organization, generally, and particularly in services. In FY2006, the United States reported spending approximately $394 million on trade capacity building (TCB) assistance to sub-Saharan Africa, almost double the FY2005 amount. The Millennium Challenge Corporation (MCC) accounted for about $276 million (30%) of FY2006 spending on TCB assistance for Africa, with $189 million spent in Benin and another $87 million in Cape Verde.[32]

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[32] USAID Trade Capacity Building Database, [http://www.qesdb.cdie.org/tcb/index.html]; accessed December 28, 2006; see also CRS Report RL33628, *Trade Capacity Building: Foreign Assistance for Trade and Development*, by Danielle Langton.

U.S. Agency for International Development (USAID). AGOA's mandate to encourage trade related technical assistance is primarily being implemented by USAID's Trade for African Development and Enterprise (TRADE) program. The Agency's TRADE initiative is designed to provide technical assistance to help African countries reform their trade and investment policies, promote U.S.-African business linkages, support African regional trade integration, and to take full advantage of the provisions of AGOA. The TRADE initiative supplants USAID's Africa Trade and Investment Policy Program (ATRIP) which operated from 1998-2003. Three "Regional Hubs for Global Competitiveness" have been established in Botswana, Ghana, and Kenya to further technical assistance objectives. In 2005, a fourth hub was established in Dakar as an additional West African Trade Hub. The hubs are now funded by the African Global Competitiveness Initiative, announced at the fourth AGOA forum in Senegal in July 2005.[33]

Several AGOA-related initiatives originate from AID field offices. Capacity building programs involving the Southern Africa Development Community (SADC) have provided assistance to increase the level of SADC duty-free exports to the United States under AGOA. USAID has also developed programs to assist in customs reform, to promote local entrepreneurs, and to work for the establishment of regional free-trade areas.

As mentioned above, AGOA encourages the establishment of private sector linkages between U.S. and SSA businesses. To this end, two International Business Linkage programs have been established by the Corporate Council on Africa with funding provided by USAID. The linkage programs assist African companies to prepare business plans, achieve International Standards Organization (ISO) certification, participate in U.S.-led trade delegations, attend trade shows in the United States, and identify public and private sector export financing. The linkage programs also assist U.S. firms by identifying trade and investment opportunities in Africa, by steering U.S. firms to appropriate government and private sector contacts, and by identifying sources of financing.

Assistant U.S. Trade Representative for Africa (AUSTRA). Sec. 117 of AGOA supported the creation of this position to serve as the "primary point of contact in the executive branch for those persons engaged in trade between the United States and sub-Saharan Africa," and the chief adviser to the U.S. Trade Representative (USTR) on trade and investment issues pertaining to Africa. This position previously had been established by President Clinton in 1998. One primary function of AUSTRA is to make the yearly determinations as to which countries are eligible for AGOA benefits generally, and also its special textile and apparel benefits. The AUSTRA also coordinates regional technical assistance seminars in Africa composed of interagency delegations from the United States and their African counterparts and funded by AID. Two of these forums held in Cameroon and Uganda in March 2002 were attended by over 1000 delegates from countries in central, eastern, and southern Africa. The AUSTRA also sponsors projects for WTO training for SSA trade negotiators, provides support for the Trade Advisory Committee on Africa, and maintains the [http://www.agoa.gov] website. The

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[33] The website for all of the African trade hubs is [http://www.africatradehubs.org].

AUSTRA coordinated the AGOA Competitiveness Report, which was submitted to Congress on July 13, 2005. Mandated by the AGOA Acceleration Act of 2004, this report provides an analysis of potential economic growth sectors in Africa, barriers to growth in those sectors, and recommendations for U.S. technical assistance to assist in overcoming those barriers.[34]

Overseas Private Investment Corporation (OPIC). Since the enactment of AGOA, Sub-Saharan Africa has been one of OPIC's stated priorities. As of the end of 2005, 15% of OPIC's total portfolio and 18% of projects initiated in 2005 were in the region. As of September 2005, OPIC's exposure in the region was over $1.7 billion. OPIC has focused on projects to strengthen the region's basic financial infrastructure and housing sectors.[35]

OPIC works in Africa and globally through three basic products including political risk insurance, finance (loan guarantees and direct loans), and investment funds. In 2005, OPIC provided $250 million in financing to establish two private equity investment funds in Africa. The first of these new funds is managed by Emerging Markets Partnership (EMP), and it targets infrastructure investments and related industries in Africa. The second fund, Ethos Fund V, aims to promote the expansion of medium-sized enterprises in Sub-Saharan Africa, emphasizing South Africa and the manufacturing and services sectors. These funds are in addition to three funds currently supported by OPIC, which are the $20 million Africa Growth Fund, the $110 million Modern Africa Growth and Investment Fund, and the ZM Africa Investment Fund. As initially planned, all three of these latter funds are currently divesting their assets.

Export-Import Bank (Ex-Im). AGOA expressed the sense of Congress to continue to expand the bank's financial commitments to its loan, guarantee and insurance programs to African countries. The legislation also commended the Bank's sub-Saharan Africa Advisory Committee for its work in fostering economic cooperation between the United States and SSA. This committee was reauthorized to September 30, 2006 (P.L. 107-189).[36] The 2002 legislation reauthorizing the Bank also created an Office of Africa that was charged with "increasing Bank activities in Africa and increasing visibility among United States companies of African markets for exports."[37] Congress passed legislation (P.L. 109-438) in December 2006 to reauthorize the Bank through 2011. This legislation extends the authority of the Africa Advisory Committee, and requires the Bank to report annually on its efforts

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[34] See AGOA Competitiveness Report, [http://www.ustr.gov/assets/Document_Library/Reports_Publications/2005/asset_upload_file604_7857.pdf].

[35] Report of the Overseas Private Investment Corporation on the Host Country Development and U.S. Economic Effects of OPIC-Assisted Projects, Fiscal Year 2005. Submitted pursuant to Section 240A of the Foreign Assistance Act of 1961, as amended. June 2006.

[36] Export-Import Bank Reauthorization Act, 12 U.S.C. 635(b)(9)(B)(iii).

[37] 12 U.S.C. 635a.

to improve its working relationship with the African Development Bank and other African institutions.[38]

The Ex-Im Bank does not finance imports into the United States. However, it does provide loans and guarantees for U.S. exports to the region, some of which can be used to manufacture goods eligible for import to the United States under AGOA. This financing can cover manufacturing equipment, the purchase of U.S. fabric, yarn, and thread necessary for eligibility under AGOA textile provisions, or other raw materials or components used for manufacturing. Ex-Im operates in 47 SSA countries, although Bank activity and eligibility for specific programs vary according to risk factors. In FY2005, Africa accounted for about 4.1% of the loan guarantees and 2.4% of the medium-term insurance instruments funded by the Bank with a total exposure of $5.6 billion.[39] The Ex-Im Bank made no loans in FY2005, but in FY2003 SSA accounted for 9% of its loans. By contrast in FY2002, Africa accounted for 2.3% of the loan guarantees and 5% of the medium-term insurance instruments funded by the Bank with a total exposure of $3.2 billion.[40]

In order to increase its lending activities in Africa, the Bank began its Africa Pilot Program (STIPP) in 1999 to provide short-term export credit to sub-Saharan African countries, many of whom are not eligible for other Ex-Im financial instruments. This program was initially funded at $100 million. Ex-Im also announced in 2000 a pilot program to provide export credits to African countries to purchase U.S. HIV/AIDS medicines.[41] This program allows countries to extend payment of these pharmaceutical purchases to five years from standard repayment terms of six months. These export credits have covered two contracts valued at $15 million for medicines and HIV detection equipment to Nigeria and Togo.[42] In addition, the Bank reported that as a result of Paris Club sovereign debt restructuring negotiations, it had entered into agreements to restructure or to forgive public sector debt obligations totaling $92 million with eight sub-Saharan African nations in FY2002. These agreements wrote-off all of the Bank's public sector debt exposure in Mozambique, Tanzania, and Uganda.[43]

U.S. and Foreign Commercial Service (USFCS). In Sec. 125 of AGOA, Congress found that USFCS presence in SSA had been reduced since the 1980s and that the level of staffing in 1997 (seven officers in four countries) did not "adequately service the needs of U.S. businesses attempting to do business in sub-Saharan Africa."[44] Accordingly, the legislation required the posting of at least 20 USFCS officers in not less than 10 countries SSA by December 31, 2001 "subject to the

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[38] CRS Report RL33440, *Export-Import Bank: Reauthorization*, by James Jackson.

[39] Ex-Im Bank, 2005 Annual Report, pp. 22-25.

[40] Ex-Im Bank, 2002 Annual Report, pp. 22-25.

[41] See "Short-Term Africa Pilot Program," [http://www.exim.gov/africa-i/afr02fac.html].

[42] Conversation with Export-Import Bank Official, February 6, 2003.

[43] Ex-Im, *2002 Annual Report*, p. 39.

[44] AGOA, Sec. 125(a)(4).

availability of appropriations."[45] USFCS was instructed by Congress to open offices in Ghana and Senegal, with the stipulation that additional funds would be added to its overall budget. According to a USFCS official, these additional funds never materialized. Presently, USFCS has nine officers in six SSA countries: Côte d'Ivoire, Ghana, Kenya, Nigeria, Senegal, and South Africa.

Commercial Service officers seek to facilitate the development of markets for U.S. exporters in the countries where they are stationed. Officers assisting U.S. exporters provide evaluations of potential business partners in the country, facilitate U.S. business contacts with local firms, identify potential local distributors or agents of U.S. exports, provide local financing options, and arrange partner background checks. Commercial Service officers also prepare the Country Commercial Guides which chronicle the business environment of the country.

Sec. 125(c) of the legislation directs the International Trade Administration (ITA) to develop an initiative (a) to identify the best U.S. export prospects to the region; (b) to identify tariff and non-tariff barriers that impede U.S. exports to Africa; (c) undertake discussions with African states to increase market access for these goods and services. This activity is being carried out by the ITA in its Market Access and Compliance Unit (MAC). The Unit states that U.S. firms face entrenched tariff and other trade barriers in many African countries, and that its current staff of nine staffers is not adequate to cover the SSA region. In FY2003, MAC was given budget authority to add four analysts and negotiators to address these issues.[46]

Trade and Development Agency (TDA). Although not tasked with specific directives in AGOA, the TDA contributes to trade capacity building in Africa by funding project planning studies, including feasibility studies, training programs and orientation visits (reverse trade missions in which foreign government officials visit U.S. manufacturers). TDA targets activities that could generate significant U.S. export potential, that could facilitate access to natural resources important to the United States, and that are a priority for host nations and international development efforts. In FY2005, TDA obligated funds for 59 projects in SSA for a total of $9.35 million, or approximately 16% of its program expenditures.[47]

Multilateral Initiatives. In addition to domestic agency programs, the United States participates in several multilateral institutions that provide trade capacity building in Africa and other developing country regions. The World Bank and regional development banks all provide trade capacity building assistance, mainly in the form of loans.

The Integrated Framework (IF) is the main multilateral initiative in trade capacity building. It is a process that assists Least Developed Countries (LDCs) to

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[45] AGOA, Sec. 125(b).

[46] International Trade Administration, "Budget Estimates FY2003," Exhibit 13, p. 65; Conversation with ITA official, March 6, 2003.

[47] U.S. Trade and Development Agency, *2005 Annual Report*.

integrate trade issues into their national development strategies. The IF process begins with a diagnostic study of trade challenges and opportunities in the LDC, and is meant to result in better targeted and coordinated assistance by all donors. Six international institutions collaborate on the IF, including the International Monetary Fund (IMF), the International Trade Center (ITC), the United Nations Conference on Trade and Development (UNCTAD), the United Nations Development Program (UNDP), the World Bank, and the WTO. The IF is funded by an IF Trust Fund, composed of voluntary contributions from multilateral and bilateral donors. Total contributions to this trust fund equaled $34.8 million as of March 2006, of which the United States contributed $600,000.[48]

As of early August 2006, 20 of the 25 LDCs which have completed the IF trade diagnostic process were in sub-Saharan Africa. An additional eight SSA countries (out of ten total) have started the diagnostic process, and four more (out of eight total) are under consideration to begin the IF process.

Several issues have been raised with regard to the IF. The IF was established partly to achieve greater donor coordination, and it is not yet clear whether it will have this effect. In many countries, coordination is an ad hoc activity, achieved as a result of personal relationships rather than through institutional coordination. Thus far, IF work has centered on preparing strategies for trade capacity building, and there has been little coordinated implementation of these strategies.[49] Another concern is that the IF process has raised expectations among the participating LDCs, and these expectations may not be fulfilled by the IF process.

Regional Cooperation and Free Trade Agreements

AGOA declares the policy position that free trade agreements (FTAs) should be negotiated, where feasible, between interested countries in SSA and the United States in order to serve as a catalyst for increasing trade and investment. Regional economic agreements among SSA countries are also encouraged in AGOA.

Discussion of potential partners for free-trade agreements has revolved around South Africa and SACU, but several other regional groupings may prove to be partners for future trade agreements with the United States. The Southern African Development Community (SADC), the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC), and the West African Economic and Monetary Union (WAEMU) have all taken steps to begin the process of economic integration, either through trade liberalization or through steps to promote monetary union. While these groups are being encouraged in their attempts at regional integration, they are not immediate prospects for FTAs with the United States. Background on these groups appears in an Appendix.

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[48] See the Integrated Framework website, [http://www.integratedframework.org].

[49] Susan Prowse, "Mega-Coherence: The Integrated Framework," *Trade and Aid: Partners or Rivals in Development Policy*. 2006. Cameron May.

Southern African Customs Union FTA (SACU).[50] On November 4, 2002, USTR Robert B. Zoellick notified Congress that negotiations would be initiated with the members of the Southern African Customs Union (SACU). These negotiations began in June 2003, and were postponed indefinitely in April 2006. The United States and SACU reportedly could not agree on the scope of the negotiations. Currently, the United States and SACU are continuing talks for a Trade and Investment Cooperation Agreement (TICA), which may lead to an eventual FTA. The scope of the TICA is undefined, and may focus on some of the "behind the border" issues from the FTA negotiations, such as intellectual property rights and investment issues. The United States does not have a TICA with any other country or group. A TICA may proceed without extension of Trade Promotion Authority (TPA)[51], because it does not include the market access provisions of an FTA.

SACU is a customs union composed of South Africa, Botswana, Lesotho, Namibia, and Swaziland. The original SACU agreement dates from the colonial government 1910 and was renegotiated with the apartheid government in 1969. A new agreement to more fully integrate the smaller states into decision-making for the area, which was previously dominated by South Africa, was signed on October 21, 2002. The agreement is characterized by free movement of goods within SACU, a common external tariff, and the common revenue pool which is apportioned among the member states.

A large degree of economic integration exists among the SACU states because of the agreement, perhaps contributing to the U.S. decision to negotiate an FTA with SACU, rather than just South Africa. However, South Africa is the dominant economy of the region, accounting for 87% of the population, and 92 % of the gross domestic product of the customs area. U.S. merchandise exports to SACU totaled $4.1 billion in 2005, led by aircraft, vehicles, construction and agricultural equipment, and computers. U.S. merchandise imports from SACU totaled $6.8 billion, and were composed of minerals such as platinum, diamonds, titanium, iron and steel, textiles and apparel, vehicles, and automotive parts.[52]

U.S. Trade and Investment Framework Agreements (TIFA). As of September 2007, the United States has negotiated TIFAs with Ghana, Liberia, Mauritius, Mozambique, Nigeria, Rwanda, and South Africa, and with the COMESA and WAEMU regional arrangements. Generally, TIFAs commit the signatories to expand trade of goods and services, to encourage private sector investment, and to resolve problems and disputes through consultation and dialogue. To facilitate these objectives, the signatories of each agreement have established a Council on Trade and Investment to provide a venue for consultation on trade issues of interest or concern to the parties, and to work toward the removal of impediments to trade and

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[50] For more information, see CRS Report RS21387, *United States - Southern African Customs Union (SACU) Free Trade Agreement: Background and Potential Issues*, by Danielle Langton.

[51] For more information on TPA renewal, see CRS Report RL33743 *Trade Promotion Authority: Issues, Options, and Prospects for Renewal*, by J.F. Hornbeck and William H. Cooper.

[52] U.S. International Trade Commission data website at [http://dataweb.usitc.gov].

investment flows. TIFAs are often considered to be first steps to the negotiation of free trade agreements.

U.S. Bilateral Investment Treaties (BIT). As of September 2007, the United States has signed BITs with Cameroon, Republic of the Congo (Brazzaville), Democratic Republic of Congo (Kinshasa), Mozambique, and Senegal. The goals of the BIT are to protect U.S. investments abroad, and to encourage market oriented domestic policy in host countries. Generally, BITs ensure national treatment for U.S. investments, limits on expropriations, free repatriation of funds, limitations on the imposition of trade distorting or inefficient practices on U.S. investments-including requirements in hiring, and the right of submission of investment disputes to international arbitration. These treaties are promoted by the U.S. government as a method of encouraging the development of international law and trade standards within the partner country.

New Partnership for Africa's Development (NEPAD). NEPAD is a key policy vehicle of the African Union (AU), whose leaders formulated and adopted the initiative in July 2001. Described by its proponents as a multi-sector, sustainable development policy framework, NEPAD seeks to reduce poverty, increase economic growth, and improve socio-economic development prospects across Africa. Major NEPAD aims are to attract greater investment and development aid to Africa, reduce the continent's debt levels, and broaden global market access for African exports. NEPAD emphasizes increased democratization, political accountability, and transparency in governance in African states as primary means of achieving its goals.[53]

European Union Activity. By way of comparison, the European Union (EU) has also been active in promoting trade between itself and the countries of sub-Saharan Africa. The ***EU-South Africa Agreement on Trade, Development, and Cooperation*** entered into force on January 1, 2000. This agreement creates a free-trade area between the participants during a 12-year asymmetric transition period. The EU pledges to remove tariffs on 95% of imports from South Africa during a 10-year period with most products granted duty-free status in 2002. South Africa will remove duties on 86% of its tariff lines during a 12-year period with most eliminations occurring between 2006-2012. Notably, the agreement does not provide tariff relief to several important South African agricultural exports, nor to aluminum.

The Cotonou Agreement, signed in Cotonou, Benin between the European Union and 71 African, Caribbean, and Pacific nations (ACP) in February 2000, extends non-reciprocal, duty-free access for industrial and processed agricultural goods to the EU market granted by the 4th Lomé Convention to the end of 2007. The extent of the duty-free access conferred by Cotonou was subsequently enhanced in March 2001 by the "Everything but Arms" initiative, which granted LDCs tariff-free access to all goods, except for sugar, rice, and bananas, for which products a tariff-rate quota system will be maintained during a phase-out period ending in 2009.

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[53] This paragraph was prepared by Nicolas Cook, Analyst in African Affairs. For more information, see CRS Report RS21353, *New Partnership for Africa's Development (NEPAD)* and CRS Report RS21332, *The African Union*.

Provisions of the Cotonou Agreement call for the negotiation of trade liberalization agreements with regional economic partnerships that could include the regional African groupings discussed below. Preliminary negotiations on the Regional Economic Partnership Agreements began on September 27, 2002. The deadline to conclude these negotiations is by the end of 2007, and there are concerns that this deadline will not be met.

AGOA: Current and Future Challenges

Several issues may be important to Congress in the oversight of AGOA. These issues concern the termination of the WTO Multi Fibre Agreement, the diversification of beneficiary country and industry participants, the continued eligibility of certain countries for AGOA benefits, the HIV/AIDS epidemic, and the participation of U.S. small business in AGOA.

- **Termination of the Multi Fibre Agreement.** Article 2 of the WTO's Agreement on Textiles and Clothing (ATC) terminated the worldwide system of quotas for textile and apparel trade on January 1, 2005. Observers expressed concern that this would spell the end of the African apparel assembly industry, because African producers would be unable to compete on world markets without the quota-free advantage. Over the past three years, apparel exports under AGOA have declined, but the industry has not been completely decimated. One reason is that the United States uses safeguard measures to prevent market disruptions from heavy imports of textile and apparel from China. Another explanation is that the United States still imposes tariffs averaging 18% on most apparel articles, which gives AGOA beneficiaries an advantage.[54]

- **Diversification of AGOA Exports.** While textile and manufacturing industries make up a growing part of U.S. imports under AGOA, these imports are dwarfed by AGOA imports from the petroleum and mining sectors. These industries are highly capitalized and do not provide extensive employment opportunities for African workers. AGOA benefits are also concentrated in few countries with 89% of 2005 AGOA imports originating in Nigeria, Angola, and Gabon. Moreover, several AGOA-eligible countries export very little under the program. If a goal of the program is to increase African country participation, it may be achieved through targeted trade capacity building and technical assistance. Agriculture is an important source of income for African workers, and increasing agriculture exports under AGOA may help raise incomes and spur economic growth. African countries may also begin to export light manufactures, with improved capacity, infrastructure, and policies to encourage investment.

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[54] For more information on the ATC, see CRS Report RL34106 *U.S. Clothing and Textile Trade with China and the World: Trends Since the End of Quotas*, by Michael F. Martin.

- **Eligibility Standards.** A country's eligibility for AGOA benefits may become a subject of controversy. Some observers feel that the President must strictly enforce eligibility requirements to ensure continued adherence to reforms. However, others have cited the unpredictability of a country's AGOA benefits from year to year as a source of investment risk, and have suggested minimum eligibility terms of greater than the current one year. Another suggestion includes allowing Congress to override the President's decision to terminate AGOA benefits through legislation. Several countries have been considered candidates for losing AGOA eligibility. In December 2003, the President declared Eritrea and the Central African Republic to be ineligible for AGOA. In December 2004, Cote d'Ivoire was declared ineligible as well. Lesotho, which is considered an AGOA success story, has been the subject of persistent complaints from indigenous labor groups regarding working conditions in newly developed textile plants. Swaziland has received warnings from the State Department that its human rights record does not meet AGOA eligibility requirements. Other countries, such as Gabon and Madagascar, recently have conducted disputed elections. Several countries have questionable commitment to privatization and tariff reform.

- **HIV/AIDS.** The HIV/AIDS pandemic is destabilizing the economies of Africa and threatens any progress achieved by AGOA as additional income is spent, not to raising living standards, but to treat a population afflicted with the disease. Due to the disease, life expectancy is falling in several AGOA eligible countries and in the region as a whole. Even with the advantages that AGOA preferences confer, investors may be deterred from the region by high medical costs, by constant replacement of workers stricken with the disease and the attendant training costs, and by the destabilizing risks associated with a society containing a large, dying population.

- **Small Business Participation.** Small business accounts for about 55% of the U.S. GDP, and employs a large portion of American workers. U.S. small businesses, however, only participate in limited trade with Africa, and reportedly very few in the small business community know about AGOA. Some observers have noted that U.S. small businesses may benefit from AGOA, and in the process help provide avenues for diversifying African exports. Small business is also important in Africa, and increased partnership may result in better participation on both continents. The U.S. government may become involved in increasing awareness of AGOA among the small business community, and providing opportunities for partnership.

Appendix: Regional Economic Integration Among Sub-Saharan Africa Nations

Southern African Development Community (SADC). This group is composed of the nations of Angola, Botswana, Democratic Republic of Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe. Originally formed by front-line states to lessen economic dependence on the apartheid regime in South Africa, the group expanded to include South Africa in 1994. The 1996 Protocol on Trade committed each signatory to remove duties and non-tariff barriers to SADC members within 12 years, to provide national treatment for each other's goods, to bind existing tariffs at current levels.

The economic dominance of South Africa makes economic integration of the SADC region more problematic. South Africa accounts for 82% of the GDP of the region, and it comprises 62% of the region's intra-SADC imports and 70% of the SADC region's exports.[55] With per-capita income at approximately $3,000, it dwarfs the average per-capita income of many of the other states. In addition, smaller states within SADC are concerned about their lack of economic competitiveness as their home markets are opened up to goods from South Africa. The reliance of many governments on duty revenue has also become a source of concern in implementing reductions of tariff barriers.

Common Market for Eastern and Southern Africa (COMESA). Founded in 1982 as the Preferential Trade Area of Eastern and Southern Africa, current member states of the COMESA include Angola, Burundi, Comoros, Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe. On October 31, 2000, nine states of COMESA (Djibouti, Egypt, Kenya, Madagascar, Malawi, Mauritius, Sudan, Zambia and Zimbabwe) launched a free trade area that eliminated tariffs on goods originating in the member states. These states have also worked towards establishing coordinated policies in other areas such as rules-of-origin, dispute settlement, applications of safeguard measures, and uniform customs procedures. The group agreed on a common external tariff in May 2007, and intends to launch a customs union at the end of 2008. The goal of monetary union by 2025 is expected to be advanced by the introduction of limited currency convertibility and improved coordination of fiscal and monetary policy during this time period.

East African Community (EAC). Comprised of Kenya, Uganda, and Tanzania, this organization seeks to revive historic tariff-free trade that had been established among the three British colonies in 1923. However, this cooperation broke down in the 1970s due to widespread transhipments and the varied economic paths of its participants. The three countries re-established the community in 1999

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[55] Beverly M. Carl, *Trade and the Developing World in the 21st Century*, (Ardsley, NY: Transnational Publishers, 2001) p. 205.

and have made plans for an asymmetric tariff schedule, in which Kenya will immediately reduce its tariff to zero, while Uganda and Tanzania will have four years in which to reciprocate. The outlook for this grouping is also complicated by a dominant country presence. Most industrial trade in the bloc originates from Kenya, and there is little bilateral trade between Tanzania and Uganda. Nonetheless, two neighboring countries, Rwanda and Burundi, have been invited to join.

West African Economic and Monetary Union (WAEMU). This grouping was originally created to administer the CFA franc (*Communauté financière africaine)*, a currency formerly tied to the French franc prior to its disappearance in 2000 (It is still backed by the French treasury). Its members are Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal, Togo, and Guinea-Bissau, the sole non-francophone member. The member states have espoused the long-term goal of a full economic union with a common market, macroeconomic convergence, regulatory harmonization, and a common investment policy. A preferential tariff arrangement was concluded for member states in 1995, and a customs union with a common external tariff of 22% became operational in 2000. While the WAEMU countries have achieved a relatively high degree of integration, it has been reported that intra-member trade has not greatly expanded. As in other areas, regional conflicts have interrupted the consolidation of economic gains.