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African Growth and Opportunity Act (AGOA)

Overview

What is AGOA? AGOA, a cornerstone of U.S. trade policy toward sub-Saharan Africa since 2000, is a non-reciprocal U.S. trade preference program that provides duty-free access to the U.S. market for most exports from eligible sub-Saharan African countries. In addition to preferential market access, the Act also requires an annual forum, known as the AGOA Forum, held between U.S. and AGOA country officials to discuss trade-related issues. Additionally, AGOA provides direction to select U.S. government agencies regarding their trade and investment support activities in the region.

What countries are eligible? AGOA lists 49 sub-Saharan African countries that are potential candidates for AGOA benefits. AGOA eligibility criteria address issues such as trade and investment policy, governance, worker rights, and human rights, among other issues, which countries must satisfy to be beneficiaries of the AGOA preferences. The President annually reviews and determines each country's AGOA eligibility. There are currently 39 AGOA-eligible countries, including Madagascar and Guinea-Bissau, whose AGOA benefits were reinstated in 2014. Benefits were removed for South Sudan, Swaziland, and the Gambia on January 1, 2015, due to worker and human rights violations.

What is the authorization status? The AGOA preference program was initially enacted in 2000. It has been amended five times, including one overall extension in 2004, as well as technical modifications and extensions of time-limited provisions (e.g., third-country fabric provision). AGOA authorization is currently set to expire on September 30, 2015.

What's the goal? Through AGOA, the U.S. Congress seeks to increase U.S. trade and investment with the region, promote sustainable economic growth through trade, and encourage the rule of law and market-oriented reforms.

> [T]o keep our trade growing, we need to renew AGOA. But we've also got to make some decisions about how we can make it more effective. *President Obama, July 1, 2013.*

Supporting Views—Supporters of AGOA argue that the program affords African producers a vital competitive advantage in the U.S. market, thereby enabling exports, encouraging investment in the region, boosting private sector activity and economic growth, and ultimately generating demand for U.S. goods and services as the region's economies develop.

Opposing Views—Opposition to AGOA comes primarily from U.S. producers that may face increased import competition from AGOA countries. Due to the relatively small level of U.S. imports under the program, such concerns may be relatively limited. Many observers are generally supportive of AGOA, but would like reforms.

Key Aspects of AGOA

Trade Preferences—The primary component of AGOA is the duty-free treatment of U.S. imports of certain products from beneficiary countries. This tariff savings can potentially help AGOA exporters compete with lower-cost producers in other countries.

Relation to the Generalized System of Preferences—The Generalized System of Preferences (GSP) is another U.S. preference program, but unlike AGOA, GSP is not regionally based. The AGOA preferences include all products covered by GSP, as well as some products excluded from GSP, such as autos and certain types of textiles and apparel. In both GSP and AGOA, additional benefits are granted to least-developed countries.

Apparel and Third-Country Fabric Provision—AGOA's duty-free treatment of certain apparel products is significant because (1) apparel articles face relatively high U.S. import tariffs; (2) they are excluded from GSP; (3) they can be manufactured in developing countries as their production utilizes lower-skilled labor and requires little capital investment; and (4) production in this sector can be a first-step toward higher value-added manufacturing. The third-country fabric provision in AGOA, which some argue is critical to AGOA countries' competitiveness in the sector, allows some U.S. apparel imports from least-developed sub-Saharan African countries to qualify for duty-free treatment even if the yarns and fabrics used in their production are imported from non-AGOA countries.

Trade Capacity Building—Unlike other U.S. preference programs, AGOA directs the President to provide U.S. government technical assistance and trade capacity building (TCB) in AGOA beneficiary countries. This assistance aims to encourage governments to (1) liberalize trade policy; (2) harmonize laws and regulations with WTO membership commitments; (3) engage in financial and fiscal restructuring; and (4) promote greater agribusiness linkages. The United States Agency for International Development (USAID) administers certain TCB-related projects in support of AGOA, including funding for the three African Trade Hubs, which work to increase AGOA utilization by beneficiary countries.

Executive Branch Initiatives—AGOA encourages the President to seek partners in the region for reciprocal free trade agreements (FTAs). Negotiations were initiated with the South African Customs Union (SACU), but were eventually suspended in 2006. Until the provision expired in 2008, AGOA also required the President to report annually to Congress on U.S. trade and investment policy toward sub-Saharan Africa and AGOA implementation. AGOA also directs the Overseas Private Investment Corporation (OPIC), Export-Import Bank, and U.S. Foreign Commercial Service to expand their activities in sub-Saharan Africa.

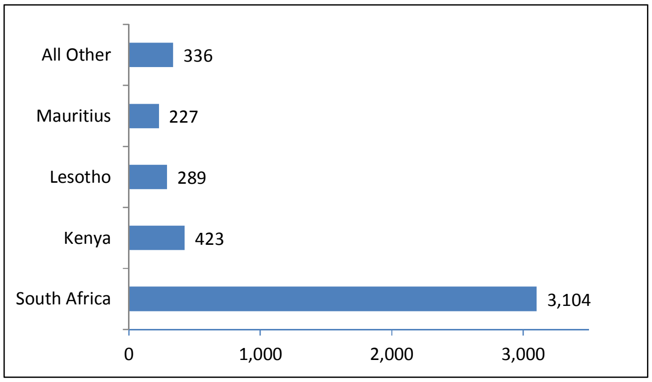
AGOA Forum—AGOA requires the President to convene an annual forum to discuss expanding trade and investment relations and the implementation of AGOA. The 13th AGOA Forum took place in Washington D.C. on August 4, 2014, in conjunction with the larger U.S.-Africa Leaders Summit, and focused on AGOA's potential renewal.

U.S. Imports Under AGOA

U.S. non-energy imports under AGOA have grown from $1.3 billion in 2001 to $4.4 billion in 2014, but they remain highly concentrated in select countries and industries.

- U.S. imports under AGOA were $14.2 billion in 2013.
- Crude oil accounted for 68% of U.S. AGOA imports, but crude imports have declined by more than $40 billion since 2011, largely due to U.S. production. Angola, Nigeria, Chad, Gabon, and Republic of Congo are the major oil exporters under AGOA.
- Non-energy imports (excluding crude and refined petroleum products) were $4.4 billion, with much of this coming from South Africa ($3.1 billion, with $1.3 billion in South African autos alone). Other top products were apparel and metals.
- Aside from South Africa and the oil producers, Kenya, Lesotho, and Mauritius, which export mostly apparel products, are the top users of the preference program. Together with South Africa these countries accounted for 92% of all U.S. non-energy imports under AGOA in 2014.

Figure 1. U.S. Non-Energy Imports Under AGOA
($ in millions 2014)



Source: Analysis by CRS. Data from USITC.
Notes: Non-energy refers to all goods except HTS Chapter 27.

Renewal Debate

Country eligibility and reauthorization—Many views exist regarding the appropriate scope of AGOA eligibility criteria and the length of AGOA authorization. Some stakeholders support less stringent eligibility requirements, less frequent reviews, and a longer or indefinite reauthorization period, while others argue that shorter authorization terms allow for greater congressional oversight and that strong eligibility requirements and annual reviews encourage needed domestic reforms.

Utilization of benefits— In 2014, over 70% of U.S. non-energy imports under AGOA came from South Africa, and AGOA exports were less than $1 million for the majority of countries. Some view AGOA country export strategies and greater targeting of TCB toward potentially competitive industries as important to increase use of the program.

Product coverage—AGOA covers most products, but some, mostly agricultural products, remain excluded. Including more products under AGOA may increase use of AGOA benefits, but may be opposed by U.S. producers.

Trade capacity building funding—Many supporters argue that AGOA may be underutilized due to beneficiary countries' inability to take advantage of AGOA benefits. Although AGOA mandates that TCB assistance be provided to increase program use, there is debate over the types and levels of TCB and its effectiveness.

Duty-free, quota-free beyond Africa—Some argue that all least-developed countries, including non-African ones, should receive AGOA preferences, but others are concerned that this could erode the competitiveness of African exports to the United States, due to greater competition.

Reciprocal access and two-way trade—There is a greater push for reciprocal trade agreements with some AGOA-eligible countries, particularly those that have already negotiated reciprocal agreements with other parties. Such agreements, like that between South Africa and the European Union, could disadvantage U.S. exports to Africa.

Trade disputes and poultry exports—Some Members of Congress have expressed concern over antidumping duties placed on U.S. poultry exports to South Africa, suggesting South Africa's AGOA benefits be removed if the situation is not resolved. AGOA's eligibility criteria include resolution of bilateral trade and investment disputes.

Proposed legislation—Bills to renew AGOA, H.R. 1891/S. 1009, have been introduced. Among other aims, they would renew all components of the program for 10 years, modify the process of terminating or suspending preferential treatment, allow direct processing costs to count toward a product's required regional value content, encourage the creation of country-specific AGOA strategies and the negotiation of FTAs, and require additional reporting.

For more information, see CRS Report R43173, *African Growth and Opportunity Act (AGOA): Background and Reauthorization*.

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