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African Growth and Opportunity Act (AGOA): Background and Reauthorization

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June 16, 2015

Congressional Research Service
7-....
www.crs.gov
R43173

CRS REPORT
Prepared for Members and
Committees of Congress

Summary

The African Growth and Opportunity Act (AGOA) is a nonreciprocal trade preference program that provides duty-free treatment to U.S. imports of certain products from eligible sub-Saharan African (SSA) countries. There are 49 candidate SSA countries with 39 currently eligible for the preference benefits. Congress first authorized AGOA in 2000 to encourage export-led growth and economic development in SSA and improve U.S. economic relations with the region. Its current authorization expires on September 30, 2015.

Bills to renew the preference program (H.R. 1891/S. 1009) were introduced in the House and Senate in April. H.R. 1891 was reported by the House Committee on Ways and Means without amendment. The Senate Finance Committee reported a related measure, S. 1267, with two amendments. On May 14, the Senate passed the provisions of S. 1267, by including them as an amendment in the nature of a substitute to H.R. 1295. On June 11, the House passed a further amended version of H.R. 1295. The two chambers must resolve the differences in H.R. 1295 before the AGOA renewal legislation can be sent to the President and become law.

In terms of tariff benefits and general eligibility criteria, AGOA is similar to the Generalized System of Preferences (GSP), a U.S. trade preference program that applies to more than 120 developing countries. AGOA, however, covers more products and includes additional eligibility criteria beyond those in GSP. Additionally, AGOA includes trade and development provisions beyond its duty-free preferences.

U.S. imports from AGOA beneficiary countries (AGOA countries) represent a small share (1%) of total U.S. imports and are largely concentrated in energy-related products. Oil is consistently the top duty-free U.S. import from AGOA countries, accounting for 68% of such imports in 2014. Despite remaining the top U.S. import under AGOA, U.S. oil imports from the region have fallen by 80% or nearly $40 billion since 2011. Among non-energy products, apparel is the top export for a number of AGOA countries. U.S. apparel imports typically face relatively high tariffs and are excluded from duty-free treatment in GSP, but are included in the AGOA preferences, giving AGOA countries a competitive advantage over other apparel producers. A handful of countries, primarily Lesotho, Kenya, and Mauritius, make significant use of the apparel benefits. Apart from apparel and energy products, South Africa accounts for the bulk of U.S. imports under AGOA. As the most economically advanced country in the region, South Africa also exports a much more diverse range of manufactured goods than other AGOA countries; vehicles in particular have become a major South African export under AGOA.

Most observers agree that AGOA has successfully led to increased and more diversified exports to the United States from sub-Saharan African countries. Despite this, Congress may wish to address a number of issues and challenges as it considers possible reauthorization of AGOA. Among these challenges is how current and potential AGOA beneficiaries can better utilize the AGOA program and its duty-free benefits. Studies suggest that even among some countries that do make significant use of the AGOA preferences, the lower-skill apparel production which AGOA has spurred has not led to the production of higher-skill manufactured products. Other issues relate to the nonreciprocal nature of the AGOA preferences. Some argue that the United States should focus more on two-way trade agreements with the region, particularly with more advanced countries such as South Africa, given improving economic conditions in Africa in recent years. The European Union (EU), for example, has negotiated Economic Partnership Agreements (EPAs) with several African countries that provide some reciprocal tariff benefits, potentially placing U.S. firms at a competitive disadvantage relative to European firms in some markets.

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Introduction

In 2000, Congress passed the African Growth and Opportunity Act (AGOA), a U.S. trade preference program, in order to help spur market-led economic growth and development in sub-Saharan Africa (SSA) and deepen U.S. trade and investment ties with the region.[1] Since its enactment, Congress has amended AGOA several times, making some technical changes and renewing the trade preferences through September 30, 2015. Bills to renew the preference program (H.R. 1891/S. 1009) were introduced in the House and Senate on April 17 and April 20. A related measure, H.R. 1295, which includes AGOA reauthorization among other tariff reforms, passed the House and Senate in different forms requiring the two chambers to resolve the differences in the bill before it can be sent to the President and become law (see "Proposed Renewal Legislation" section for details).

According to the United States Trade Representative (USTR), "AGOA has been the cornerstone of America's economic engagement with sub-Saharan Africa over the past fourteen years."[2] Economic conditions in Africa have changed considerably since Congress passed the initial AGOA legislation. Annual real gross domestic product (GDP) growth in SSA was a half percentage point lower than global GDP growth (2.7% vs. 3.3%) in the decade leading up to AGOA's passage (1990-2000).[3] Since AGOA was enacted (2001-2013), however, SSA's growth averaged 6.3%, more than 2 points higher than the 3.9% world average. While the region still contains many of the world's poorest countries and faces significant economic challenges, some observers and policymakers argue that changing economic conditions warrant an evolution in U.S. policy toward SSA, focused more strongly on private sector investment and increasing two-way trade.[4] In recent years, SSA's growing economic potential and abundant natural resources have attracted other foreign investors, including state-supported enterprises from countries such as China, which is now the region's largest trading partner.

Some Members of Congress, the Obama Administration, and many African governments have highlighted the successes of AGOA and have called for an expedited reauthorization process. As part of this process, Congress may wish to consider whether AGOA, in its current form, is achieving the initial goals of the program, including whether it addresses effectively the changing economic circumstances in Africa. Most interested observers are positive about the AGOA preference program, but some have expressed concerns about specific provisions of the program, such as the lack of coverage for certain agricultural products, or would like to see the AGOA preferences granted to a broader range of least-developed countries beyond just Africa. Others would like to see a broader program that addresses concerns over U.S. businesses' ability to effectively compete in the region, though this could also be addressed in complementary

[1] Trade preference programs give nonreciprocal duty-free U.S. market access to select exports of eligible less-developed countries.

[2] Hearing Testimony by Ambassador Michael Froman, U.S. Congress, Senate Committee on Finance, *The African Growth and Opportunity Act at 14: The Road Ahead*, 113th Cong., 2nd sess., July 30, 2014, http://www.finance.senate.gov/hearings/hearing/?id=f5251f60-5056-a032-52f0-742dc672610d.

[3] Analysis by CRS. Data from International Monetary Fund, *World Economic Outlook*, October 2014.

[4] For example, in remarks leading up to President Obama's 2013 trip to Africa, USTR Michael Froman stated, "If we are to achieve sustainable development, it is our view that investment must be the driver." USTR, "Remarks by United States Trade Representative Michael Froman to the U.S. Global Leadership Coalition," press release, June 25, 2013 http://www.ustr.gov/about-us/press-office/press-releases/2013/june/remarks-united-states-trade-representative-michael-fr.

legislation or Administration initiatives.[5] This report seeks to inform the discussion on the potential reauthorization of AGOA through analysis of (1) the components of the AGOA legislation; (2) U.S. import trends associated with AGOA; (3) the impact of AGOA on African economies and U.S.-Africa trade; and (4) the issues surrounding the reauthorization process.

Key Provisions of AGOA[6]

AGOA (Title I, P.L. 106-200), as amended, is a nonreciprocal preference program that provides duty-free access into the United States for qualifying exports from eligible SSA countries. Among the products that qualify for this duty-free treatment, apparel products have particular economic significance for several countries, in part due to special provisions granted to least-developed AGOA countries ("Third-Country Fabric Provision").[7] In addition to the tariff preferences, the AGOA legislation includes mandates for an annual meeting of U.S. and African government officials to discuss trade and economic issues—the AGOA Forum—as well as specific guidelines on U.S. development assistance directed toward SSA. Countries must meet specific eligibility requirements to qualify for these benefits.

Table A-1 in the Appendix provides a list of SSA countries, as defined by AGOA. It highlights the 39 current AGOA beneficiary countries, and notes their eligibility status for other aspects of the AGOA preferences and the Generalized System of Preferences (GSP). It also lists U.S. imports under AGOA and GSP for each country and its GDP/capita—a rough measure of a country's level of economic development.

Unilateral Trade Preference Program

At the core of AGOA are the tariff benefits that provide duty-free access to the U.S. market for certain products from eligible SSA countries. In terms of these tariff benefits and country eligibility requirements, AGOA is essentially an expansion of GSP, a U.S. trade preference program that applies to over 120 developing countries, including SSA countries. AGOA builds on GSP by providing preferential access to the U.S. market for more products, such as apparel, and sets out additional eligibility criteria. AGOA also includes other trade and development components, beyond preferences, that are not part of GSP.[8]

AGOA, like other U.S. trade preference programs, is nonreciprocal and unilateral. The preferences apply to U.S. imports and not to U.S. exports, so reauthorization only requires action by the U.S. government. These one-way preferences are granted to developing countries with the goal of enhancing export-led economic growth, and typically exclude items that may be

[5] For example, a bill was introduced in the 113th Congress relating to efforts to increase U.S. exports to Africa (H.R. 1777 and S. 718) and the Administration has initiated programs such as Trade Africa, which centers on a potential trade and investment agreement with the East African Community.

[6] Some of this material was drawn from a previous CRS report by (name redacted).

[7] Apparel production is an important component of AGOA because it is seen as a manufacturing sector with relatively low technological and investment barriers to entry by newly industrializing countries and as having high job-generation potential for relatively low-skilled labor forces, both issues of relevance to many African countries.

[8] In addition to AGOA, there are three other U.S. regional preference programs that have different product coverage than GSP: the Caribbean Basin Economic Recovery Act (CBERA); the Caribbean Trade Partnership Act (CBTPA); and the Haitian Opportunity through Partnership Encouragement (HOPE) Act.[8]

considered import sensitive. This distinguishes them from other U.S. trade liberalization efforts such as free trade agreements (FTAs) or multilateral agreements through the World Trade Organization (WTO), which reduce and/or eliminate tariffs for both U.S. imports and exports. AGOA included a provision requiring the President to explore potential FTA negotiations with interested AGOA beneficiaries, suggesting that Congress envisioned AGOA as a stepping stone to potential broader trade pacts with African countries. FTA negotiations with South Africa and its regional partners in the South African Customs Union (SACU) sprang from this mandate in AGOA, but were ultimately unsuccessful and suspended in 2006.[9]

Product Coverage

The tariff benefits provided by AGOA include all products covered by GSP, as well as additional products the President determines are not import-sensitive with regard to imports from SSA.[10] According to a report by the Government Accountability Office (GAO) in 2008, the U.S. Harmonized Tariff Schedule (HTS) includes some 10,500 individual tariff lines for U.S. goods imports, of which roughly 3,800 have no most-favored nation (MFN) tariff (i.e., all WTO members may export them to the U.S. duty-free).[11] GSP removes the tariff on an additional 3,400 products (4,800 for least-developed countries), and AGOA makes another 1,800 tariff lines duty-free, though a large share of these are included in the GSP benefits for least-developed countries (LDCs).[12] AGOA extends duty-free treatment to certain apparel and footwear products, which are not eligible under GSP (even for LDCs). Agricultural products subject to tariff-rate quotas (TRQ) remain ineligible for duty-free treatment under both AGOA and GSP.[13] AGOA beneficiaries are also exempt from certain caps on allowable duty-free imports under the GSP program ("competitive need limitations").[14]

Rules of Origin

Products from AGOA countries must meet certain rules of origin (ROO) requirements in order to qualify for duty-free treatment (see the textiles and apparel section for sector-specific rules of origin). First, duty-free entry is only allowed if the article is imported directly from the beneficiary country into the United States. Second, at least 35% of the appraised value of the product must be the "growth, product or manufacture" of a beneficiary developing country, as defined by the sum of (1) the cost or value of materials produced in the beneficiary developing country (or any two or more beneficiary countries that are members of the same association or countries and are treated as one country for purposes of the U.S. law) plus (2) the direct costs of processing in the country. Up to 15% of the required 35% of the appraised value may be of U.S.

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[9] Observers cited several possible reasons for the unsuccessful FTA negotiations, including the capacity of SACU nations to negotiate a U.S.-style (comprehensive and high-standard) FTA, and disagreements between the parties on the scope and level of ambition of the negotiations.

[10] The AGOA trade preferences, including the portion covered by GSP, are in effect through September 2015, regardless of GSP's reauthorization.

[11] U.S. Government Accountability Office, *U.S. Trade Preference Programs Provide Important Benefits, but a More Integrated Approach Would Better Ensure Programs Meet Shared Goals*, GAO-08-443, March 2008, pp. 70-72.

[12] Ibid.

[13] TRQs are two-tiered tariffs. In-quota import quantities face one tariff, while above-quota import quantities face another, typically much higher, tariff.

[14] CRS Report RL33663, *Generalized System of Preferences: Background and Renewal Debate*, by (name redacted).

origin, and any amount of production in other beneficiary SSA countries may also contribute to the value-added requirement ("regional cumulation").[15]

Textile and Apparel Provisions

AGOA includes duty-free treatment for certain apparel and textile products, though some are subject to quantitative limitations. These provisions in AGOA are significant, because (1) apparel production has played a unique role in the development process of some countries; and (2) the duty-free benefits apply to a sector with relatively higher U.S. tariff rates than average overall U.S. tariff rates. Not all AGOA beneficiaries are eligible for the apparel provisions. Duty-free treatment for apparel products under AGOA requires beneficiary countries to adopt an efficient visa ("tracking") system to prevent unlawful transshipment—production shipped through and exported from, but not actually produced in, a given country, often for particular tariff or quota benefits.[16]

Apparel production has been a significant component in some countries' economic development.[17] Unlike textile production, it typically requires low-skilled labor and minimal capital expenditures, allowing lesser-developed countries to become globally competitive. Some research suggests that success in low-skill and export intensive industries such as apparel may help lead to a more diversified manufacturing sector.[18] Nonetheless, the U.S. apparel sector is deemed "import sensitive," and has some specific safeguards. For example, in U.S. free trade agreements (FTAs), apparel tariff lines typically have "yarn forward" general rules of origin (which govern how much of the product must be made in the beneficiary country and longer tariff phase outs), and most preference programs either exclude these articles (GSP) or have caps on duty-free treatment (including AGOA).[19]

The existing general restrictions on U.S. imports of apparel make AGOA's preferential treatment for these product lines especially advantageous. The average U.S. applied tariff on apparel is 11.4% compared to an average for all products of 3.5%.[20] This relatively high preference margin may help explain how some AGOA producers, especially the LDCs, are competitive with lower-cost producers in Asia and elsewhere.[21]

Textile and apparel articles qualifying for duty-free treatment include

- Apparel assembled in one or more AGOA beneficiary countries from U.S. yarn and fabric;

[15] §506A of P.L. 93-618, as added by §111 of P.L. 106-200, and amended by §7 of P.L. 108-274.

[16] For more information, see Department of Commerce, Office of Textiles and Apparel (OTEXA) Summary of AGOA textile and apparel provisions at OTEXA website, http://otexa.ita.doc.gov.

[17] Karina Fernandez-Stark, Stacey Frederick, and Gary Gereffi, *The Apparel Global Value Chain*, Duke Center on Globalization Governance and Competitiveness, November 2011.

[18] Paul Collier and Anthony Venables, *Rethinking Trade Preferences to Help Diversify African Exports*, Centre for Economic Policy Research, June 2007.

[19] A "yarn forward" rule means that, in order to qualify for trade benefits under an FTA, all products in a garment from the yarn stage forward must be made in one of the countries that is party to the agreement.

[20] World Trade Organization, *World Tariff Profiles—United States*, 2012.

[21] For a discussion of challenges faced by African firms, see Ann E. Harrison, Justin Yifu Lin, and L. Colin Xu, *Explaining Africa's (Dis)Advantage*, National Bureau of Economic Research, Working Paper 18683, January 2013.

- Apparel made of SSA (regional) yarns and fabrics, subject to a cap until 2015;
- Apparel made in a designated LDC of third-country yarns and fabrics, subject to a cap until 2015;
- Apparel made of yarns and fabrics not produced in commercial quantities in the United States (determination must be made that the yarn or fabric cannot be supplied by the U.S. industry in a timely manner, and to extend preferential treatment to the eligible fabric);
- Certain cashmere and merino wool sweaters;
- Textiles and textile articles produced entirely in an LDC SSA beneficiary country; and
- Certain handloomed, handmade, ethnic printed fabrics, or folklore articles (certain countries only).[22]

Third-Country Fabric Provision

AGOA's third-country fabric provision is a special rule that allows U.S. apparel imports from least-developed SSA countries to qualify for duty-free treatment even if the yarns and fabrics used in the production of the apparel are imported from non-AGOA countries. This provision, which was reauthorized in August 2012 (P.L. 112-163), is currently set to expire in September 2015, along with the overall AGOA program.

Eligibility

Eligibility for the AGOA trade preference program consists of two separate steps. First, the country must be included in a statutorily created list of sub-Saharan African countries, described in AGOA (19 U.S.C. 3706). This list has been updated periodically by new legislation (e.g., the 112th Congress added South Sudan in P.L. 112-163).

The second step requires the President to determine annually which eligible countries, from those on the list of SSA countries defined by Congress, should become beneficiaries of the AGOA preferences. There are two different sets of criteria for the President's consideration in this process: Section 104 of AGOA (19 U.S.C. 3703) and Section 502 of the Trade Act of 1974, or GSP (19 U.S.C. 2462).

- **Section 104** is specific to AGOA and requires the President to consider a number of factors related to the prospective AGOA country's economy; rule of law; elimination of barriers to U.S. trade and investment; poverty reduction efforts; protection of worker rights; support of terrorist activities; and interference with U.S. national security and foreign policy efforts.
- **Section 502**, as amended, sets out the eligibility requirements of the Generalized System of Preferences (GSP), which must also be met by any AGOA beneficiary country. These also include a number of economic and political factors.

[22] Department of Commerce, Office of Textiles and Apparel (OTEXA) Summary of AGOA textile and apparel provisions at OTEXA website, http://otexa.ita.doc.gov.

In two separate proclamations in 2014, the Obama Administration has made changes to AGOA country eligibility. In June, the President reinstated AGOA eligibility for Madagascar effective immediately, and terminated AGOA eligibility for Swaziland, due to issues with worker rights, effective January 1, 2015.[23] Swaziland has been a top exporter under AGOA—the fifth largest, excluding energy products, in 2014. In December, the President reinstated benefits for Guinea-Bissau, and terminated benefits for South Sudan and The Gambia, due to issues with human rights.[24]

Least-Developed Country Status

AGOA, like GSP, has additional benefits for least-developed beneficiary countries (LDCs). Under GSP, these countries qualify for duty-free treatment on an additional 1,400 products. Under AGOA, the additional benefits are more flexible rules governing the duty-free treatment of textiles and apparel. Unlike GSP, which provides the President broad latitude in determining LDC status, AGOA defines LDCs as countries with a per capita gross national product (GNP) of less than $1,500 in 1998 as measured by the World Bank.[25] Botswana, Namibia, and Mauritius are also explicitly granted LDC status in AGOA, despite GNP per capita levels above that threshold. This exemption is particularly economically significant for Mauritius; it is the fourth-largest exporter under AGOA (excluding oil trade) and exports primarily apparel products under the preference program.

AGOA Forum

AGOA requires the President, in consultation with Congress and the other governments concerned, to hold annually a United States-Sub-Saharan Africa Trade and Economic Cooperation Forum.[26] The purpose of the Forum, which is held in alternate years in the United States and Africa, 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." The Forum typically includes a Ministerial among government officials, as well as sessions focused on civil society representatives and the business community. The 13th AGOA Forum took place in Washington DC, from August 4-6, 2014, as part of the larger U.S.-Africa Leaders Summit, and focused heavily on AGOA's potential reauthorization.[27] In his speech at the 2014 Forum, Secretary of State John Kerry announced that the 2015 AGOA Forum will be held in Gabon, a first for Central Africa.[28]

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[23] The June 26, 2014 proclamation may be found at http://www.whitehouse.gov/the-press-office/2014/06/26/presidential-proclamation-agoa. Additional information on the changes in eligibility status is available via USTR's website at http://www.ustr.gov/about-us/press-office/press-releases/2014/June/President-Obama-removes-Swaziland-reinstates-Madagascar-for-AGOA-Benefits.

[24] The December 23, 2014 proclamation may be found at https://www.whitehouse.gov/the-press-office/2014/12/23/presidential-proclamation-take-certain-actions-under-african-growth-and-.

[25] 19 U.S.C. §2462(a)(2) and 19 U.S.C. §3721(c)(3).

[26] Representatives from appropriate sub-Saharan African regional organizations and government officials from other appropriate countries in sub-Saharan Africa also could be invited, and generally are. African countries hosting the Forum must be nominated by their participant peers and be able to sponsor associated costs.

[27] For more information, see CRS Report R43655, *U.S.-Africa Leaders Summit: Frequently Asked Questions and Background*, coordinated by (name redacted).

[28] U.S. Department of State, "Remarks at the African Growth and Opportunity Act (AGOA) Ministerial," press release, August 4, 2014, http://www.state.gov/secretary/remarks/2014/08/230178.htm.

Technical Assistance and Capacity Building

Unlike other U.S. preference programs, AGOA directs the President to target U.S. government technical assistance and trade capacity building (TCB) in AGOA beneficiary countries.[29] This assistance is intended 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. AGOA also includes assistance for developing private sector business associations and networks among U.S. and SSA enterprises. Technical assistance must 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 WTO, generally, and, particularly, in services. In FY2013, the United States reported obligating approximately $209 million in TCB assistance to AGOA countries, up from $191 million in 2012, but down considerably from 2006-2011, during which TCB funding averaged over $600 million per year.[30] From 2001 to 2013, TCB assistance has been provided primarily through the Millennium Challenge Corporation (MCC, 58%) and the U.S. Agency for International Development (USAID, 31%), with 53% of funds obligated for trade-related infrastructure, 15% for trade-related agriculture projects, 11% for trade facilitation, and 21% for other TCB categories.[31]

In addition to these broad mandates, AGOA includes language pertaining to the following agencies:

- **Overseas Private Investment Corporation (OPIC).** Section 123 expresses the sense of Congress that OPIC should exercise its authority to support projects in SSA and directs OPIC to increase funds directed to SSA countries.
- **Export-Import Bank (Ex-Im Bank).** Section 124 of AGOA expresses the sense of Congress that the Ex-Im Bank should continue to expand its financial commitments to its loan guarantee and insurance programs to African countries and commends the Bank's sub-Saharan Africa Advisory Committee for its work in fostering economic cooperation between the United States and SSA. Established in Ex-Im Bank's 1997 reauthorization legislation, the advisory committee originally was set to expire in 2001. Subsequent Ex-Im Bank reauthorizations have typically extended the committee's termination, most recently through September 30, 2014.[32] The current Ex-Im Bank reauthorization (through June 30, 2015), however, did not explicitly authorize the committee, and it is not currently operational.[33]
- **United States Trade Representative (USTR).** Section 117 supports the creation of an Assistant USTR for Africa to serve as the "primary point of contact in the executive branch for those persons engaged in trade between the United States

[29] Section 122 of P.L. 106-200 (19 U.S.C. §3732).

[30] U.S. Government Accountability Office, *African Growth and Opportunity Act, USAID Could Enhance Utilization by Working with More Countries to Develop Export Strategies*, GAO-15-218, January 22, 2015, pp. 8-9. USAID, which administers the collection and dissemination of the data on TCB, reports the MCC funding in the year it is granted, though the distribution of the funds occurs over several years. See http://tcb.eads.usaidallnet.gov/.

[31] Ibid.

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

[33] For further information, see Ex-Im Bank, "Sub-Saharan Africa Advisory Committee," http://www.exim.gov/about/whoweare/sub-saharan-africa-advisory-committee.cfm.

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.

- **U.S. Foreign Commercial Service (CS).** Section 125 notes that the CS presence in SSA had been reduced since the 1980s and 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."[34] Accordingly, the legislation required the posting of at least 20 CS officers in not less than 10 countries in SSA by December 31, 2001, "subject to the availability of appropriations."[35] According to data provided by the Department of Commerce for FY2014, there are 15 CS officers in sub-Saharan Africa, up from 5 in FY2012. These are located in Angola (4), Ethiopia (1), Ghana (1), Kenya (2), Mozambique (1), Nigeria (2), South Africa (3), and Tanzania (1).
- **U.S. Agency for International Development (USAID).** Aside from MCC compacts that include TCB, USAID funds much of the trade capacity building efforts related to AGOA ($1.6 billion since 2001). In 2011, the Administration announced the African Competitiveness and Trade Expansion (ACTE) initiative, a trade and investment initiative with funding of up to $30 million annually, subject to appropriations.[36] ACTE supports the three African Trade Hubs, one of USAID's most oft-cited AGOA-related projects.[37] Based in Ghana, Kenya, and Botswana, the Trade Hubs attempt to help potential exporters become globally competitive and make full use of their AGOA benefits.[38] As part of the Administration's Trade Africa Initiative, the East Africa Trade Hub has been renamed the East Africa Trade and Investment Hub and is expanding its focus to include two-way trade and investment between the United States and the East African Community.[39]

Annual Report to Congress

Originally, AGOA also required the President to submit an annual "comprehensive report on the trade and investment policy of the United States for sub-Saharan Africa." In a subsequent reauthorization of the AGOA trade preferences, this requirement was not extended. The most recent report was in 2008.

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[34] AGOA, §125(a)(4).

[35] AGOA, §125(b).

[36] USAID, "U.S. Announces New African Trade Capacity Building Initiative at AGOA Forum," press release, June 9, 2011, http://www.usaid.gov/news-information/press-releases/us-announces-new-african-trade-capacity-building-initiative-agoa.

[37] For example, see Hearing Testimony by Earl W. Gast, U.S. Congress, Senate Committee on Foreign Relations, Subcommittee on African Affairs, *Economic Statecraft: Embracing Africa's Market Potential*, 112th Cong., 2nd sess., June 28, 2012, S.Hrg. 112-604 (Washington: GPO, 2012), p. 10.

[38] Each of the three regional Trade Hubs has its own website with information on its activities. For more information see West Africa, http://www.watradehub.com; East Africa, https://eatradehub.nationbuilder.com/; and South Africa, http://www.satradehub.org/.

[39] For more information, see http://www.whitehouse.gov/the-press-office/2013/07/01/fact-sheet-trade-africa.

U.S. Imports under AGOA and GSP[40]

U.S. imports from AGOA countries represent a small share of overall U.S. imports. In 2014, the United States imported $2,314 billion in goods, of which $25.6 billion, or slightly more than 1%, came from AGOA countries. 56% of these imports ($14.2 billion) received duty-free treatment, under either AGOA or GSP, though crude oil accounts for a significant portion of this. Excluding crude oil, 35% of U.S. imports from AGOA countries received duty-free treatment under AGOA or GSP.[41]

Energy-related products (e.g., crude oil) dominate U.S. imports from SSA under AGOA and GSP, representing 69% of such imports in 2014, though these imports have fallen sharply in the past three years.[42] Given SSA's abundant natural resources and the already low U.S. tariff on oil ($0.05-$0.10 per barrel), much of this trade would likely occur regardless of the preference program. The discussion that follows focuses on non-energy trade between the United States and SSA. (See the text box below for more information on U.S. oil imports under AGOA.)

In 2014, U.S. imports from SSA under AGOA and GSP, excluding energy products, were $4.4 billion (**Figure 1**). These imports have increased nearly three-fold (up from $1.3 billion) since 2001, the first full year of AGOA eligibility. They fell by $500 million from 2013 to 2014, but this was primarily due to lower auto imports from South Africa. Apparel products remain one of the largest non-oil import categories; however, these imports peaked in 2004 prior to the dismantling of the complex multilateral quota system, known as the Multifiber Agreement (MFA). The MFA limited U.S. apparel imports from certain countries, thus eliminating the extent of competition faced by AGOA apparel exporters. Though U.S. apparel imports still face relatively high tariffs, removal of these strict quantitative limitations reduced the AGOA countries' competitive advantage in producing apparel. U.S. apparel imports under AGOA, though very significant for some AGOA countries, represent only 1% of overall U.S. apparel imports. U.S. apparel imports totaled $82.7 billion in 2014, with $30.7 billion from China, $9.2 billion from Vietnam, and less than $1 billion total from AGOA beneficiaries (**Table 1**).

While U.S. apparel imports from AGOA countries have declined from their peak in 2004, imports of other products have been rising rapidly. Vehicle imports have seen strong growth, rising from $289 million in 2001 to nearly $2.2 billion in 2013, although they declined considerably to $1.4 billion in 2014. These and other more advanced manufactured products, such as chemicals, come almost exclusively from South Africa. Imports of products with more widespread origins have grown on a more modest scale. U.S. imports of food and agriculture products under AGOA and GSP, including nuts, fruits, cocoa, sugar, beverages, and tobacco, have increased from $139 million to $467 million during the same period. Such imports grew by $20 million from 2013 to 2014.

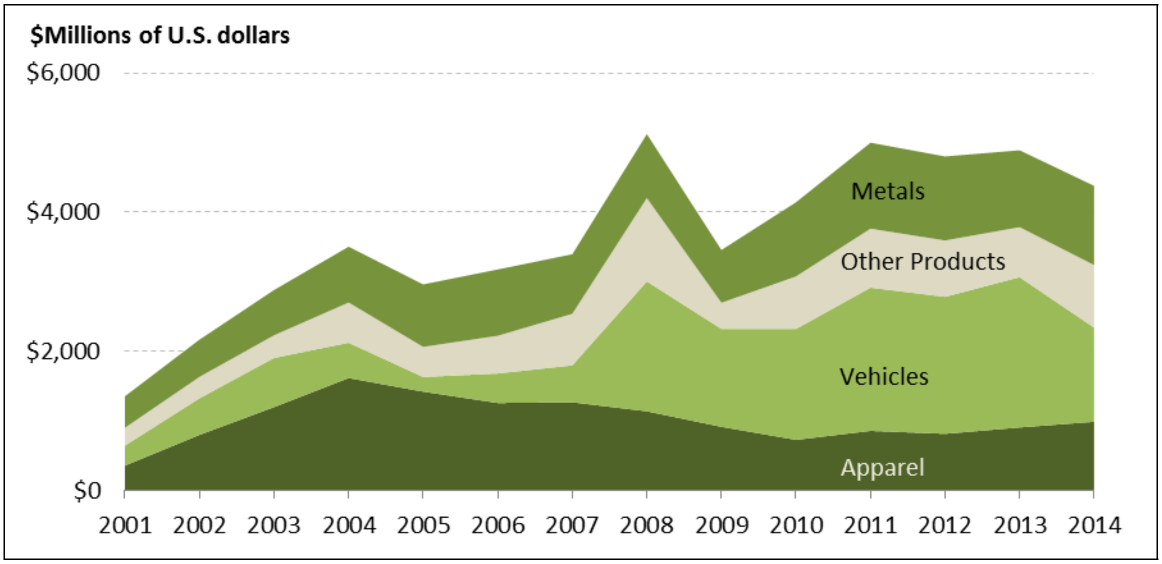
[40] AGOA and GSP overlap in their product coverage so this discussion considers them jointly. Trade data in this section come from the U.S. International Trade Commission's dataweb, http://dataweb.usitc.gov/, and http://dataweb.usitc.gov/africa/trade_data.asp.

[41] Though only 35% of non-oil imports entered the United States under AGOA or GSP, an additional 57% of non-oil imports entered duty-free because they face no import tariff in the United States. In total in 2014, over 90% of U.S. non-oil imports from the region entered the United States duty-free.

[42] Unless otherwise specified, energy-related products refers to HTS chapter 27.

U.S. imports from SSA under AGOA and GSP are heavily concentrated in a few countries. **Figure 2** highlights the top exporters of non-energy products to the United States under both programs. Excluding energy products, U.S. preferential imports from South Africa totaled $3.1 billion in 2014, accounting for 70% of all such U.S. imports from SSA. Other top non-energy exporters under AGOA/GSP in 2014 were the major apparel producers: Kenya ($423 million), Lesotho ($289 million), Mauritius ($227 million), and Swaziland ($77 million), as well as Cote d`Ivoire ($70 million) and Malawi ($60 million), who exported primarily cocoa products and tobacco under the preference programs, respectively. Aside from these top countries, however, the preferences were not heavily utilized. U.S. preferential imports were less than $1 million for over half of the 40 AGOA beneficiary countries in 2014.

Figure 1. Non-Energy U.S. Imports from SSA under AGOA and GSP



Source: Analysis by CRS. Data from U.S. International Trade Commission (ITC).

Notes: Imports for consumption basis. Metals defined as HTS chapters 76 and 72; vehicles as HTS chapter 87; apparel as HTS chapters 61 and 62; and energy as HTS chapter 27.

Table 1. U.S. Imports of Apparel Products by Country

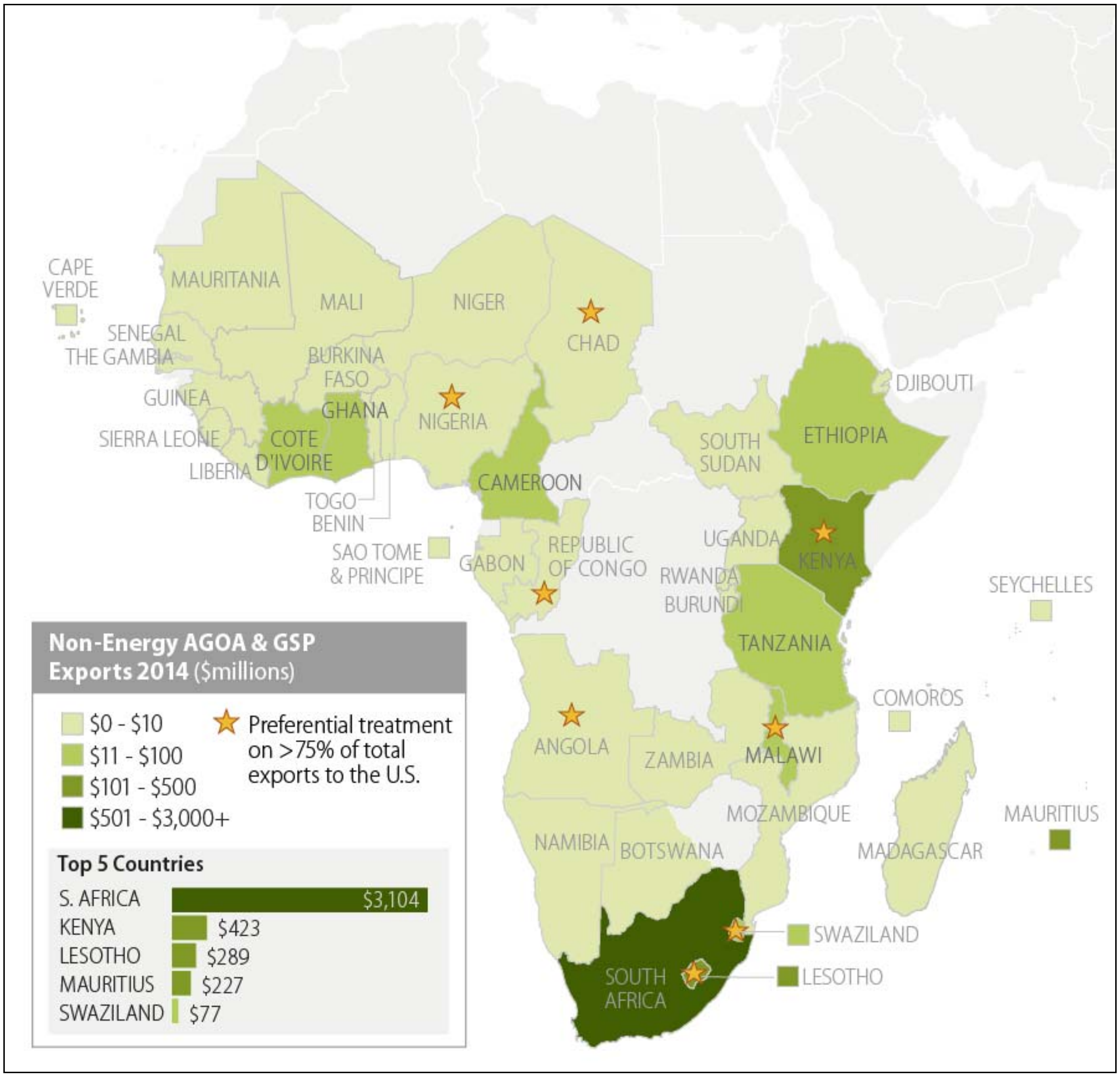
(in millions of U.S. dollars, 2014)

Top Overall Countries	Import Value	Top AGOA Countries	Import Value
China	$30,369	Kenya	$379
Vietnam	9,184	Lesotho	290
Indonesia	4,862	Mauritius	223
Bangladesh	4,708	Swaziland	55
Mexico	3,854	Madagascar	20

Source: Analysis by CRS. Imports for consumption data from U.S. ITC trade dataweb.

Notes: Imports for consumption basis. Apparel products defined as HTS chapters 61 and 62.

Figure 2. Top AGOA and GSP Exporters excluding Energy Products



Source: Analysis by CRS. Data from U.S. ITC.

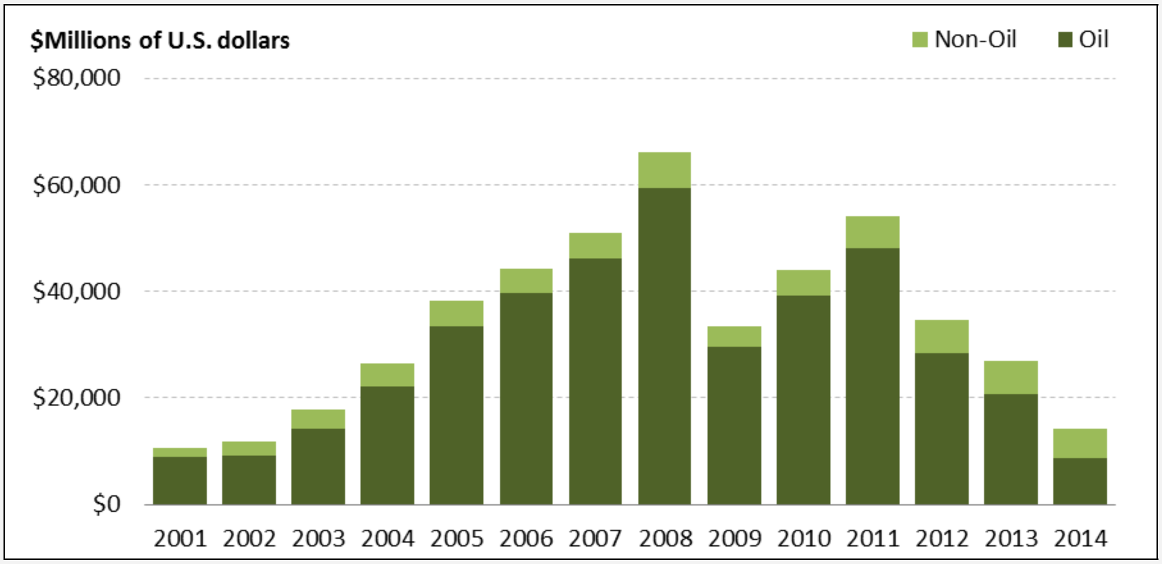
Notes: Imports for consumption basis. Energy products defined as HTS chapter 27. Stars represent preferential treatment on over 75% of total exports to the United States, including energy products. Map only includes countries eligible for AGOA benefits in 2014.

U.S. Oil Imports Under AGOA and GSP

Crude oil has been the top U.S. import from SSA under AGOA and GSP since AGOA's first full year of duty-free treatment in 2001 (**Figure 3**). The following are key facts regarding U.S. oil imports under AGOA and GSP.

- The top 5 AGOA-eligible oil exporters are Angola, Nigeria, Chad, Gabon, and Republic of Congo.
- Both AGOA and GSP grant duty-free status to U.S. crude oil imports.
- GSP only affords this treatment to least-developed countries (LDCs).
- Nigeria is not considered an LDC under GSP and so depends on AGOA for duty-free treatment of its crude oil exports to the United States. It is the only major AGOA-eligible oil exporter that is not considered an LDC under GSP.
- The high market value of oil coupled with a low U.S. import tariff, $0.05-$0.10 per barrel, makes AGOA and GSP's crude oil tariff benefit relatively insignificant.
- U.S. crude oil imports from SSA have declined by more than 80% from 2011 to 2014 (a nearly $40 billion decrease), which may be partially due to the increased U.S. production of shale oil, a direct competitor with oil from some SSA countries due to its similar composition.[43]

Figure 3. Oil and Non-Oil Imports from SSA under AGOA and GSP



Source: Analysis by CRS. Data from U.S. ITC.

Notes: Imports for consumption basis. Oil defined as HTS 4-digit category 2709.

Impacts of AGOA

Through AGOA Congress set out to improve the economic development of SSA and increase U.S. trade ties with the region. A handful of countries have made strong use of the preference program and have increased employment in economic sectors that benefited from duty-free treatment under AGOA. For example, the government of Lesotho, one of the major apparel exporters under AGOA, estimates that employment in manufacturing rose from 19,000 in 1999 to

[43] Javier Blas, "Victim of Shale Revolution, Nigeria Stops Exporting Oil to U.S.," *Financial Times*, October 2, 2014, Beyondbrics.

45,700 in June 2011.[44] A peer-reviewed economic study found a direct link between the AGOA preferences and increased U.S. imports from beneficiary countries, and concluded that these increased SSA exports were not merely diverted from other potential export destinations (e.g., the European Union).[45] This relationship was strongest for the apparel sector and other sectors with high U.S. import tariffs.

Despite these achievements, challenges remain, such as the limited number of countries making significant use of the preferences, and doubts as to whether AGOA countries have been able to translate these short-term preference benefits into transformative changes in their manufacturing capabilities and overall competitiveness.[46] As highlighted above, the majority of AGOA non-oil imports come from South Africa. Among the other countries that have made significant use of the preferences, apparel exports account for most of their AGOA exports. While the apparel sector has been acknowledged as a potential launching point for more advanced manufacturing industries, the manufacturing sectors in many AGOA beneficiary countries remain highly underdeveloped. One study asserts that AGOA apparel production is concentrated in the lowest-skill tasks with little knowledge transfer to local workers and that the global competitiveness of AGOA exporters still depends on their preferential treatment.[47]

In addition to AGOA's tangible goals related to economic development and trade, AGOA also supports the achievement of other strategic objectives. AGOA serves as a focal point for U.S. economic relations with SSA. If the recent period of high economic growth in much of SSA continues, the United States may have an increasing interest in the region's potential as a consumer market and destination for both U.S. exports and foreign direct investment (FDI). A study by McKinsey estimated that the number of African households making above $5,000 per year, the point where discretionary spending begins, would rise from 85 million in 2008 to 128 million in 2020.[48] Though AGOA focuses specifically on U.S. imports, it spurs dialogue between the United States and SSA countries on two-way trade and investment issues through the annual AGOA Forum. Through the eligibility criteria required for the program, the United States maintains some influence over the political and economic structure of the beneficiary countries. These strategic aspects of AGOA may become more important as other foreign countries, such as China, continue to increase their commercial and political ties with SSA.

Reauthorization Debate

AGOA's authorization is set to expire on September 30, 2015. President Obama,[49] some Members of Congress, officials from beneficiary countries, and other stakeholders support renewing the

[44] Central Bank of Lesotho, *Africa Growth and Opportunities Act (AGOA): Economic Impact and Future Prospects*, CBL Economic Review No. 131, June 2011, p. 3.

[45] Garth Frazer and Johannes Van Biesebroeck, "Trade Growth under the African Growth and Opportunity Act," *The Review of Economics and Statistics*, vol. 92, no. 1 (February 2010).

[46] Niall Condon and Matthew Stern, *The Effectiveness of African Growth and Opportunity Act (AGOA) in Increasing Trade from Least Developed Countries*, EPPI-Centre, Social Research Unit, Institute of Education, University of London, March 2011.

[47] Lawrence Edwards and Robert Z. Lawrence, *AGOA Rules: The Intended and Unintended Consequences of Special Fabric Provisions*, National Bureau of Economic Research, Working Paper 16623, December 2010.

[48] McKinsey Global Institute, *Lions on the Move: The Progress and Potential of African Economies*, June 2010, p. 22.

[49] The White House, "Remarks by President Obama at Business Leaders Forum," press release, July 1, 2013, http://www.whitehouse.gov/the-press-office/2013/07/01/remarks-president-obama-business-leaders-forum.

preferences, and have various suggestions for reform. The Obama Administration, in order to inform its reauthorization proposals, initiated a review of AGOA during the 2013 AGOA Forum, which ultimately included a request for four investigations by the U.S. International Trade Commission (ITC). The ITC published its first report on AGOA's trade and investment performance in April 2014 following a public hearing in January.[50] The other three reports, which cover AGOA's impact on U.S. industries and consumers, rules of origin, and the EU-South Africa FTA, are confidential.

Ambassador Froman identified some of the Administration's main conclusions from its AGOA review and subsequent recommendations for AGOA's reauthorization in his July 2014 written testimony before the Senate Committee on Finance.[51] These include the need for a sufficiently long renewal, potential expansion of product coverage, more flexible rules of origin, updated eligibility criteria with a more flexible review process, and eventually a more reciprocal trade program with the region. He also suggested that the Administration's review of AGOA pointed largely to "supply-side" constraints, such as inadequate infrastructure, as the main barriers to greater AGOA utilization.

Congress, too, has sought greater study of the AGOA preference program, and various Members have expressed interest in its renewal. During the 113th Congress, relevant committee leadership, bicameral and bipartisan, requested that GAO report on the effectiveness of AGOA, including utilization of the preferences and its impact on two-way trade.[52] GAO has published four reports, which address (1) AGOA import competitiveness and diversification; (2) ways to enhance AGOA's trade capacity building (TCB) component; (3) AGOA's eligibility process; and (4) other countries' trade agreements with sub-Saharan Africa.[53] A primary observation was the need for better development of country export strategies. In addition, both the Senate Committee on Finance and the Trade Subcommittee of the House Committee on Ways and Means held hearings in July 2014 to examine AGOA and its potential reauthorization, during which committee leadership expressed strong support for the program.[54] At the start of the 114th Congress, Chairman Ryan of the House Committee on Ways and Means cited AGOA's reauthorization as a top legislative priority.[55]

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[50] U.S. International Trade Commission, *AGOA: Trade and Investment Performance Overview*, Publication 4461, April 2014, http://www.usitc.gov/publications/332/pub4461.pdf. Testimony and submissions for the hearing can be found through the USITC's website or at http://agoa.info/downloads/hearings.html.

[51] http://www.finance.senate.gov/hearings/hearing/?id=f5251f60-5056-a032-52f0-742dc672610d.

[52] http://foreignaffairs.house.gov/press-release/bipartisan-congressional-leaders-push-increase-effectiveness-agoa-landmark-legislation.

[53] U.S. Government Accountability Office, *African Growth and Opportunity Act: Observations on Competitiveness and Diversification of U.S. Imports from Beneficiary Countries*, GAO-14-722R, July 21, 2014, http://www.gao.gov/products/GAO-14-722R; *AGOA: USAID Could Enhance Utilization by Working with More Countries to Develop Export Strategies*, GAO-15-218, January 22, 2015, http://www.gao.gov/products/GAO-15-218; *AGOA: Eligibility Process and Economics Development in Sub-Saharan Africa*, GAO-15-300, February 12, 2015, http://www.gao.gov/products/GAO-15-300.; and *AGOA: Lessons Learned from Other Countries' Trade Arrangements with Sub-Saharan Africa*, GAO-15-393R, February 25, 2015, http://www.gao.gov/products/GAO-15-393R.

[54] U.S. Congress, House Committee on Ways and Means, Subcommittee on Trade, *Advancing the U.S. Trade Agenda: Trade with Africa and the African Growth and Opportunity Act*, 113th Cong., 2nd sess., July 29, 2014; and U.S. Congress, Senate Committee on Finance, *The African Growth and Opportunity Act at 14: The Road Ahead*, 113th Cong., 2nd sess., July 30, 2014.

[55] House Committee on Ways and Means, "Ryan Opening Statement: Hearing on U.S. Trade Policy Agenda," press release, January 27, 2015, http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=397950.

Other stakeholders have also added their voices to the debate on AGOA. The AGOA Ambassadors Working Group, the AGOA civil society network, and the East African Community (EAC) have all produced recommendations for AGOA's potential renewal. In addition, several think tanks, non-governmental organizations, and business groups have weighed in on AGOA's reauthorization.[56]

Considerations for Potential Reforms

The following are some of the issues identified through these various studies and policy proposals, which may merit congressional consideration during AGOA's reauthorization debate.

Length of Reauthorization

Private sector actors have argued that uncertainty regarding the duration of AGOA preferences, due to periodic reauthorizations, hinders investment in the region. Some have called for a longer and uniform reauthorization (i.e., 10-15 years) for all AGOA preferences, including the third-country fabric provision in order to reduce uncertainty and encourage greater capital investment, which, they argue, will be necessary to generate more value-added production in the region.[57] Lengthened periods of authorization, however, could also limit the incentive for more advanced economies, such as South Africa, to engage in more comprehensive trade liberalization efforts, such as FTA negotiations, or as part of the World Trade Organization (WTO) Doha Round negotiations.

Country Eligibility

A range of ideas have been proposed to modify AGOA's eligibility criteria. For example, some argue that the existing criteria increase investor uncertainty, putting firms and workers at risk of shutdowns due to government actions beyond their control. Others see these as an effective tool and some support additional criteria in areas ranging from the business environment to worker rights. Removing portions of the eligibility criteria could decrease the potential leverage AGOA provides to encourage economic and political reform in beneficiary countries, while adding additional criteria could limit country participation.

Stakeholders, including the Administration, have also argued for modifications in the enforcement of eligibility criteria including the timing and scope of the withdrawal of preferences. For example, some recommend more precise targeting for failure to meet mandatory eligibility criteria, such as removal of preferences for a particular industry rather than an entire country. Debate over the timing of the withdrawal of preferences includes both proponents of shorter and longer phase-outs. Some argue that immediate withdrawal of preferences following failure to meet eligibility criteria would be more effective while others suggest a longer phase-out would ensure businesses have time to reallocate resources. Currently, termination of benefits occurs at the start of the year immediately following the President's proclamation that a country has failed to meet eligibility criteria.

[56] Many of these position papers were included in the USITC hearing on AGOA, and can be found at http://agoa.info/downloads/hearings.html.

[57] The Corporate Council on Africa, *Promoting Shared Interests: Policy Recommendations on Africa for the Second Term of the Obama Administration*, April 2013, p. 18.

Intra-African Trade

Intra-African trade and economic integration have been cited as a critical but often absent component of economic development in the region.[58] Regional integration efforts are one way to improve intra-African trade ties, and AGOA calls for "expanding U.S. assistance to sub-Saharan Africa's regional integration efforts." In the first decade of AGOA's enactment, African intra-regional trade stayed flat at around 10%.[59] It may be worthwhile to evaluate the impact, if any, that AGOA and corresponding U.S. development assistance have had in improving regional integration efforts and intra-African trade, and determine whether AGOA should further address these issues.[60] Graduation of more advanced AGOA countries, discussed below, could impact intra-African trade integration goals, as these countries are typically also the largest markets in the region and may be important in regional supply chains.

Two-Way Trade

Like other U.S. preference programs, AGOA provides preferential access to the U.S. market with no reciprocal preferential U.S. access to the beneficiary countries. In light of economic improvements in the region, some observers are calling for a greater focus on two-way trade in AGOA. One related goal included in the original AGOA legislation mandates that the Administration seek out possible FTA partners among SSA nations. Subsequent negotiations with South Africa and its regional partners in SACU began in 2003, but were ultimately unsuccessful and postponed indefinitely in 2006. The European Union (EU), however, successfully concluded an Economic Partnership Agreement (EPA) with South Africa and other countries in the region, providing reciprocal preferential tariff treatment to EU exports, though these agreements exclude a range of products. GSP currently includes language related to such occurrences, declaring a country ineligible if it "affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce."[61]

Several relevant policy questions follow: (1) is the United States willing to negotiate less comprehensive and high-standard FTAs than it normally negotiates to gain greater access to emerging markets like South Africa, or are countries in the region more prepared to engage in comprehensive, reciprocal trade talks; (2) should AGOA include its own graduation process, which, like that for GSP, removes more economically advanced countries from the preference program once they reach a certain level of economic development (e.g., GDP/capita level); (3) should AGOA include language requiring the removal of benefits if a beneficiary country affords preferential treatment to a third party; (4) what is the policy on enforcement of the existing GSP rules on this issue; and (5) how would the removal of such benefits impact other AGOA goals such as increased intra-African trade?

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[58] Africa's trade with itself accounts for 11% of its total trade, compared with 50% in developing Asia and 70% in Europe. United Nations Conference on Trade and Development, *Intra-African Trade: Unlocking Private Sector Dynamism*, Economic Development in Africa Report 2013, July 2013.

[59] Brookings Africa Growth Initiative, *Accelerating Growth through Improved Intra-African Trade*, January 2012, p. 2.

[60] The Administration's Trade Africa initiative, which centers on a new trade and investment partnership with the East African Community (EAC). This may eventually include a bilateral investment treaty (BIT) and a trade facilitation agreement with the EAC. http://www.whitehouse.gov/the-press-office/2013/07/01/fact-sheet-trade-africa.

[61] 19 U.S.C. §2462(b)(2)(C).

Country Participation

Over half of the current AGOA beneficiaries exported less than $1 million to the United States under AGOA in 2014. Many of these are LDC AGOA countries that are eligible for duty-free treatment on apparel exports and enjoy the more flexible rules of origin ("Third-Country Fabric Provision"), giving them a competitive advantage over other producers. A handful of AGOA countries, particularly Kenya, Lesotho, and Mauritius, provide the bulk of apparel exports under AGOA. Congress may wish to examine why these countries have been so successful in utilizing the preference program, and if there are potential AGOA reforms that could help spur similar success in other AGOA LDCs.

Trade Capacity Building (TCB)

AGOA country exporters face numerous challenges. These include poor infrastructure, inadequate access to electricity, and skilled labor shortages. AGOA sets out broad aims for TCB, which are administered through different agencies, particularly USAID. Since 2001, $5 billion has been allocated to TCB funding in AGOA countries by various U.S. government agencies, particularly USAID and MCC.[62] Yet discussions on AGOA often center on the need for more TCB funding, with many suggesting this amount is inadequate or ineffective. In 2011, GAO reported that USAID needed better evaluation of its TCB programs, and in its most recent AGOA report, GAO argued that USAID could enhance AGOA utilization with a greater focus on and assistance toward the creation of country strategies.[63] Beneficiaries may also be able to improve their utilization of AGOA through the timely implementation of the recent WTO Trade Facilitation Agreement. Congress may wish to consider how AGOA-directed TCB funding could support this implementation process.

On August 4, during the U.S.-Africa Leaders Summit, President Obama announced an initiative to develop a government-wide TCB strategy that includes among its goals improving AGOA utilization.[64] The steering group established for this task, which includes representatives from related government agencies, is to report to the President on this strategy within 180 days of the announcement. Depending on the timing and dissemination of this strategy, it could impact TCB considerations in AGOA's reauthorization.

Product Coverage

AGOA and GSP provide duty-free access on U.S. imports of approximately 5,200 tariff lines, which together with the products already duty-free in the U.S. tariff schedule, grant AGOA beneficiaries duty-free access to roughly 86% of U.S. products. While a majority of products are covered under AGOA, some of the excluded products are competitively produced in AGOA countries, particularly agricultural products.[65] Though some agriculture products are included in

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[62] GAO-15-218, *AGOA: USAID Could Enhance Utilization.*

[63] U.S. Government Accountability Office, *The United States Provides Wide-ranging Trade Capacity Building Assistance, but Better Reporting and Evaluation Are Needed*, GAO-11-727, 2011, http://www.gao.gov/products/GAO-11-727.

[64] White House, "Presidential Memorandum—Establishing a Comprehensive Approach to Expanding Sub-Saharan Africa's Capacity for Trade and Investment," press release, August 4, 2014, http://www.whitehouse.gov/the-press-office/2014/08/04/presidential-memorandum-establishing-comprehensive-approach-expanding-su.

[65] GAO, *Options for Congressional Consideration to Improve U.S. Trade Preference Programs*, Prepared Statement (continued...)

AGOA, those subject to tariff-rate quotas (TRQs) are limited in the amount that may enter duty-free. Congress may wish to examine expanding the products or quantities covered under AGOA, which could potentially allow a greater number of AGOA beneficiaries to make use of the trade preference program.

To address related U.S. import sensitivities, some have suggested reassigning current quota allocations as an alternative method to expand agricultural market access for AGOA countries. For some products, such as chocolate, these groups argue, a portion of the quota is not assigned to a specific country and may go unfilled. They assert that allocating this quota to AGOA countries could be politically feasible and also encourage downstream production in some cocoa exporting countries.[66] Others contend that changing quota allocations could require approval from the WTO, limiting its feasibility.[67] In addition to challenges posed by tariffs and quotas, agriculture producers in AGOA countries may also face difficulty exporting due to failure to meet U.S. food safety standards, suggesting that such exporters may also benefit from targeted TCB funding to help them better meet these standards.

Rules of Origin

In comparison with other preference programs, AGOA has relatively liberal rules of origin. For example, the third-country fabric rule allows for a certain quantity of AGOA apparel exports to be produced from yarns and fabrics of any origin. AGOA, unlike GSP, also allows for regional cumulation, whereby multiple AGOA beneficiaries can contribute toward a product's required 35% regional value content, and the United States can contribute 15% of the 35%.[68] Despite this existing flexibility, restrictions remain, which some groups would like to ease. These stakeholders seek, for example, an increase in the allowable value content attributed to the United States or easing technical constraints on what costs count toward cumulation. In addition, certain AGOA countries have argued that existing rules of origin prevent canned tuna from qualifying for AGOA preferences, and have sought a general modification of the rules or a product-specific exception. They argue it is difficult to achieve the 35% threshold as most of the value in canned tuna is the fish itself, which is attributed to the country of the fishing vessel. Press reports suggest the U.S. tuna canning industry opposes such a change.[69]

Trade Disputes—Poultry and South Africa

Some Members of Congress who support AGOA have concern over South Africa's imposition of antidumping duties on U.S. poultry exports.[70] These Members support AGOA conditioned on

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(...continued)

for Hearing, GAO-10-262T, November 2009, p. 4.

[66] Kimberly Ann Elliott, *AGOA's Final Frontier: Removing US Farm Trade Barriers*, Center for Global Development, July 28, 2014, http://www.cgdev.org/publication/ft/agoa-final-frontier-removing-us-farm-trade-barriers.

[67] "U.S. Faces Key Questions as It Mulls Adding Ag Products to AGOA," *Inside U.S. Trade*, September 4, 2014.

[68] GSP does allow for cumulation among specified associations of countries, such as the West African Economic and Monetary Union (WAEMU).

[69] "Mauritius, Other Press for Liberalizing Tuna Rule of Origin Under AGOA," *Inside U.S. Trade*, September 4, 2014.

[70] Letter from Senator Johnny Isakson and Senator Christopher A. Coons to The Honorable Michael Froman, United States Trade Representative, January 27, 2015, http://www.isakson.senate.gov/public/_cache/files/26c427ec-10ce-49b2-8fb9-f73674069753/U.S.%20Trade%20Representative%20Michael%20Froman%20Letter.pdf.

resolution of this dispute, arguing that they "will need to consider strengthening AGOA to prevent South Africa from benefitting from duty preferences while continuing to discriminate against U.S. goods, specifically poultry." AGOA's current eligibility criteria require beneficiary countries to make progress toward the elimination of barriers to U.S. trade and investment, including bilateral trade and investment disputes.[71] In June 2015, a joint statement released by the United States and South Africa stated that industry and government officials agreed to renew market access in South Africa for U.S. exports of certain poultry products.[72] Press reports suggest that the details of the agreement include the removal of a prohibitive anti-dumping duty on 65,000 tons of U.S. chicken exports, annually.[73] Exports under this threshold will be charged South Africa's MFN duty. Recent statements from Members who had been pressuring the South African government on this issue suggest that the agreement may resolve their concerns.[74]

Duty-Free Quota-Free (DFQF) Beyond Africa

AGOA's tariff benefits, which include apparel products, are broader than those provided by GSP. Some argue, including in the context of the current WTO Doha negotiations, that broader duty-free quota-free tariff preferences should be granted to all least-developed countries, not just those in Africa.[75] LDCs throughout the world face relatively high U.S. import tariffs given the particular items they export, such as apparel and agricultural products. For example, in 2014, U.S. import duties on all imports from Cambodia ($460 million) were higher than on those from France ($451 million).[76] Providing broader DFQF access to LDCs would erode some of the competitive advantage AGOA apparel producers currently receive. A recent study estimates that apparel exports from AGOA countries would fall considerably if AGOA-like benefits were expanded to all LDCs.[77] Other studies, however, estimate that a broader DFQF program could actually benefit AGOA LDCs by including protected sectors such as agriculture, despite potential losses in apparel production.[78] In addition, proponents of DFQF argue that apparel products currently produced in AGOA countries could be targeted for exemption from a broader DFQF program.[79]

[71] 19 U.S.C. §3703(a)(1).

[72] USTR, "Joint Statement by the United States and South Africa on Agricultural Trade," press release, June 2015, https://ustr.gov/about-us/policy-offices/press-office/press-releases/2015/june/joint-statement-united-states-and.

[73] "U.S., South Africa Settle Longstanding Poultry Spat, Resolve SPS Issues," *Inside U.S. Trade*, June 5, 2015.

[74] Office of Senator Johnny Isakson, "Isakson, Coons Announce Agreement to End South African Tariffs on American Poultry," press release, June 5, 2015, http://www.isakson.senate.gov/public/index.cfm/news-releases?ID=55413ec1-beed-4f19-8e4d-c90d2efe5c3fp; and Office of Senator Christopher Coons, "South Africa Agrees to End Tariffs on Delaware Poultry," press release, June 8, 2015, http://www.coons.senate.gov/newsroom/releases/release/south-africa-agrees-to-end-tariffs-on-delaware-poultry.

[75] Kimberly Ann Elliott, *Why Is Opening the U.S. Market to Poor Countries So Hard?*, Center for Global Development, January 2012.

[76] Calculated duties according to U.S. ITC tariff and trade dataweb.

[77] Brookings and United Nations Economic Commission for Africa, *The African Growth and Opportunity Act: An Empirical Analysis of the Possibilities Post-2015*, July 2013, p. 17.

[78] Antoine Bouet et al., *The Costs and Benefits of Duty-Free, Quota-Free Market Access for Poor Countries: Who and What Matters*, Center for Global Development, Working Paper 206, March 2010.

[79] Letter from Kimberly Elliott, Center for Global Development, to Michael Froman, USTR, June 24, 2013, http://www.cgdev.org/publication/supporting-multilateralism-and-development-us-trade-policy-duty-free-quota-free-market.

Proposed Renewal Legislation

Bills to renew the AGOA preference program (H.R. 1891/S. 1009) were introduced in the House and Senate on April 17 and April 20.[80] Key issues addressed in the bills include (1) a ten year renewal of the overall program including the regional apparel article program and the third-country fabric provision; (2) modifications to the rules of origin allowing for the "direct costs of processing operations" to count toward a product's required regional value content to qualify for duty-free treatment; (3) changes to the eligibility review process administered by the President, including a required 60-day notification to Congress before termination of preferential treatment for beneficiary countries, a requirement to seek public comments and hold a public hearing on eligibility reviews as well as establish a public petition process open at all times, authorization of an out-of-cycle review process and a sense of Congress that the President should initiate such a review of South Africa within 30 days of enactment, and the ability to withdrawal, suspend, or limit preferential treatment rather than full termination; (4) sense of Congress that beneficiary countries should develop utilization strategies together with U.S. trade capacity building agencies; (5) policy statement to expand trade and investment by negotiating trade and investment framework agreements (TIFAs), bilateral investment treaties (BITs), FTAs with beneficiary countries and through accession to the World Trade Organization (WTO) agreements for beneficiary countries; (6) a biennial report on U.S. trade and investment relations with the region, eligibility status, regional integration efforts, and trade capacity building efforts; and (7) a report one year after enactment and five years thereafter that discusses the status of negotiating FTA's with sub-Saharan African countries.

H.R. 1891 was reported by the House Committee on Ways and Means without amendment.[81] The Senate Finance Committee considered a related measure, S. 1267, which includes modifications to the U.S. harmonized tariff schedule, in addition to the preference renewal language in S. 1009. The Senate Finance Committee reported S. 1267 with two amendments, which would require the President to initiate an out-of-cycle review of South Africa's AGOA eligibility within 30 days and would add language on "promoting the role of women in social, political, and economic development" to AGOA's eligibility criteria.[82] On May 14, the Senate passed the provisions of S. 1267, by including them as an amendment in the nature of a substitute to H.R. 1295. On June 11, the House passed with further amendment, the Senate amended version of H.R. 1295. The two chambers must resolve the differences in the bill before it can be sent to the President and become law.

[80] For additional information on the bills, see http://waysandmeans.house.gov/news/documentsingle.aspx?DocumentID=398333, and http://www.finance.senate.gov/imo/media/doc/FINAL%20Chairmans%20Mark%20-%20Preferences.pdf.

[81] H.Rept. 114-101.

[82] S.Rept. 114-43.

Appendix. Sub-Saharan African Countries

Table A-1. AGOA and GSP Eligibility, U.S. Imports, and GSP/Capita, by Country

Country	GSP	GSP-Least Developed	AGOA	AGOA Third-Country Fabric Provision	U.S. Non-Energy Imports under AGOA/GSP* (thousand $s, 2014)	GDP/Capita ($s, 2013)
Angola	√	√	√		6	5,783
Benin	√	√	√	√	65	805
Botswana	√		√	√	9,460	7,315
Burkina Faso	√	√	√	√	41	684
Burundi	√	√	√		4	267
Cameroon	√		√	√	12,990	3,767
Cape Verde	√		√	√	338	1,329
Central African Republic	√	√			NA	333
Chad	√	√	√	√	0	1,054
Comoros	√	√	√		0	815
Democratic Republic of Congo	√	√			NA	484
Republic of Congo	√		√		933	3,167
Cote d'Ivoire	√		√	√	70,460	1,529
Djibouti	√	√	√		562	1,668
Equatorial Guinea					NA	20,582
Eritrea	√				NA	544
Ethiopia	√	√	√	√	40,989	505
Gabon	√		√		29	11,571
The Gambia	√	√			52**	489
Ghana	√		√	√	19,135	1,858
Guinea	√	√	√		53	523
Guinea-Bissau	√	√	√		NA*	564
Kenya	√		√	√	423,272	1,246
Lesotho	√	√	√	√	288,971	1,126
Liberia	√	√	√	√	16	454
Madagascar	√	√	√	√	3,421	463
Malawi	√	√	√	√	60,031	226
Mali	√	√	√		158	715

Mauritania	√	√	√		3	1,069
Mauritius	√		√	√	226,698	9,203
Mozambique	√	√	√	√	8,704	605
Namibia	√		√	√	407	5,693
Niger	√	√	√		40	415
Nigeria	√		√	√	4,080	3,006
Rwanda	√	√	√	√	631	639
Sao Tome and Principe	√	√	√		76	1,610
Senegal	√		√	√	253	1,047
Seychelles	√		√		0	16,186
Sierra Leone	√	√	√	√	656	679
Somalia	√	√			NA	NA
South Africa	√		√		3,103,848	6,618
South Sudan	√	√			0**	1,045
Sudan					NA	1,753
Swaziland	√				77,175**	3,034
Tanzania	√	√	√	√	18,280	695
Togo	√	√	√		178	636
Uganda	√	√	√	√	1,506	572
Zambia	√	√	√	√	4,991	1,845
Zimbabwe	√				NA	953

Source: Analysis by CRS. Eligibility based on notes to the U.S. Harmonized Tariff Schedule published by the ITC and presidential proclamations regarding AGOA eligibility. Trade data from the ITC and GDP data from the World Bank's World Development Indicators.

Notes: Import data based on imports for consumption. Import data is only listed for AGOA-eligible countries (even if they remain eligible for GSP).
(*) Guinea-Bissau was ineligible for the AGOA preferences in 2014, but its eligibility has since been reinstated.
(**)South Sudan, Swaziland, and The Gambia's eligibility was revoked, effective January 1, 2015.

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Acknowledgments

Amber Wilhelm and Hannah Fisher provided assistance with the graphics for this report.