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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 nonreciprocal 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.

**Which 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 40 AGOA-eligible countries. The Trump Administration reinstated benefits for The Gambia and Swaziland on December 22, 2017.

The Administration also recently concluded an out-of-cycle eligibility review for several countries in the East African Community (EAC) regarding increased tariff barriers on used clothing imports from the United States. Tanzania and Uganda took steps to remove the new barriers, as Kenya had done earlier, and ultimately maintained their AGOA eligibility. Rwanda, however, continues to maintain the import restrictions. On March 29, the Administration sent Congress the requisite 60-day notification of its intent to suspend Rwanda's AGOA benefits on apparel exports.

**What is the authorization status?** AGOA was first established by Congress in 2000 and has been amended several times. The Trade Preferences Extension Act of 2015, P.L. 114-27, extended AGOA's authorization for ten years to September 2025.

**What is 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.

**Is there pending legislation?** Congress recently passed the AGOA and Millennium Challenge Act Modernization Act, P.L. 115-167. The Act, which became law on April 23, requires the Administration to increase transparency, including through an official AGOA website with information on, among other things, the outcomes of the annual AGOA Forum. It also directs the Administration to promote AGOA utilization, product diversification, and regional cooperation, and to educate African entrepreneurs on quality standards and production strategies.

**Supporting Views**—Supporters of AGOA argue that the program affords African producers an important 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.

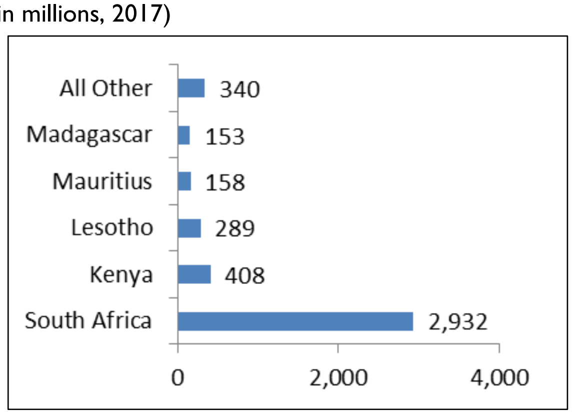
**Opposing Views**—Opposition is mostly from U.S. producers that may face increased import competition from AGOA countries. Such concerns are generally limited due to the low volume of U.S. imports under AGOA, but import competing U.S. producers have lobbied to keep certain products, particularly sugar, out of the program.

## U.S. Imports Under AGOA

U.S. non-energy imports under AGOA have grown from $1.3 billion in 2001 to $4.3 billion in 2017, but they remain concentrated in select countries and industries.

- Total U.S. AGOA imports were $13.8 billion in 2017.
- Crude oil accounted for $9.2 billion of U.S. AGOA imports (70%) in 2017. Crude import values have increased over the past two years but remain more than $40 billion below their peak in 2011, due to lower prices and increased U.S. production. Nigeria, Angola, Chad, and Ghana are the major AGOA oil exporters.
- Non-energy imports (excluding crude and refined petroleum products) were $4.3 billion (**Figure 1**), with much of this coming from South Africa ($2.9 billion, with $1.2 billion in South African autos alone). Other top products were apparel and metals.
- Aside from South Africa and oil producers, Kenya, Lesotho, Mauritius, and Madagascar are top users of the preference program, exporting mostly apparel products. Together with South Africa these countries accounted for 90% of U.S. non-energy AGOA imports in 2017.

**Figure 1. U.S. Non-Energy AGOA Imports by Country**
($ in millions, 2017)




**Source:** Analysis by CRS. Data from USITC.

**Notes:** Non-energy refers to all goods except HTS Chapter 27.

## Key Aspects of AGOA

**Trade Preferences**—AGOA's main component is duty-free treatment of U.S. imports of certain products from beneficiary countries. This tariff savings can help AGOA exporters compete with lower-cost producers elsewhere.

**Relation to the Generalized System of Preferences**—The Generalized System of Preferences (GSP) is another U.S. trade 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. Congress has historically granted GSP shorter authorization periods than AGOA. GSP's authorization lapsed from January to April of this year, but is now reauthorized through 2020.

**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 generally excluded from GSP; (3) they can be readily manufactured in developing countries as their production requires less skilled labor and 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 is a major factor in AGOA countries' competitiveness in the sector, allows limited amounts of 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 (e.g., apparel assembled in Kenya with Chinese fabrics can qualify for duty-free treatment under AGOA when imported into the United States).

**Trade Capacity Building (TCB)**—AGOA also directs the President to provide TCB to AGOA beneficiaries. 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 U.S. Agency for International Development (USAID) administers certain TCB-related projects in support of AGOA, including funding three African Trade and Investment Hubs, which work to increase AGOA utilization by beneficiary countries and facilitate regional producers' access to international markets. AGOA also directs the Overseas Private Investment Corporation (OPIC), Export-Import Bank, U.S. Foreign Commercial Service, and USDA on expansion of their activities in sub-Saharan Africa, including personnel requirements.

**AGOA Forum**—AGOA requires the President to convene an annual forum to discuss trade and investment relations and implementation of AGOA, which typically alternates between Washington, D.C., and an AGOA country. The 16th AGOA Forum took place in Lomè, Togo, August 2017.

**Country Eligibility Reviews**—The Executive determines eligibility based on statutory criteria. The process includes an annual public comment period and hearing, and, as amended by the 2015 reauthorization, allows for out-of-cycle reviews (outside the annual review period) in response to public petitions. The Administration may remove country eligibility entirely or for specific products, but must notify Congress 60 days before any termination.

**Reporting Requirements**—The 2015 reauthorization reinstated a previous AGOA requirement to report biennially on overall U.S. trade and investment relations with the region. The first report came out in June 2016.

**Other Trade Agreement Negotiations**—Congress has directed the Administration to seek reciprocal trade and investment negotiations with AGOA countries since 2000. Free trade agreement (FTA) negotiations were initiated with the South African Customs Union (SACU), but were suspended in 2006 due to divergent views over the scope of talks. U.S. FTAs typically include comprehensive tariff elimination as well as enforceable commitments on services, investment, intellectual property rights, labor, and environment. The Trump Administration wants to negotiate a new "model" bilateral FTA with an African country, but has not specified countries of focus or how a new model FTA may differ from previous U.S. FTAs. Kenya and Mauritius have expressed interest in pursuing a U.S. FTA. AGOA also encourages beneficiary countries to implement their WTO commitments.

> *...we're going to have to pick out an African country...and enter into an [FTA] with that country...that will, if done properly, become a model for these other countries.*
> USTR Robert Lighthizer, *January 31, 2018*

## Issues for Congress

AGOA generally enjoys bipartisan support in Congress and is not subject to reauthorization until 2025. Current issues for consideration by Congress include the following:

- **Trump Administration Trade Policies.** The Trump Administration's focus on the trade deficit suggests it may look skeptically at nonreciprocal preference programs, which have a direct and immediate effect on U.S. imports and indirect and longer term effect on U.S. exports. Congress may seek to consult closely with the Administration over its enforcement of eligibility criteria to ensure adherence to congressional objectives.
- **Third-Party Agreements.** Reciprocal agreements between AGOA beneficiaries and third-parties (e.g., EU-South Africa) may disadvantage U.S. exporters. U.S. potential responses include FTA negotiations, other less extensive reciprocal U.S. agreements, and removal of AGOA eligibility. The recently concluded African Continental Free Trade Area includes 44 African countries and raises questions for Congress over U.S. interest in supporting regional trade integration efforts, and the potential costs and benefits of negotiating new FTAs bilaterally versus with existing regional blocs.
- **Beneficiary Country Participation.** More than 90% of U.S. non-energy imports under AGOA come from five countries. Congress may examine factors affecting other countries' capacity to export under AGOA, including funding levels for and effectiveness of TCB assistance.

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