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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 39 AGOA-eligible countries. President Trump reinstated benefits for The Gambia and Swaziland on December 22, 2017 and removed AGOA benefits for Mauritania effective January 1, 2019.

In 2018, the Administration also conducted 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. The President determined that Rwanda did not take adequate steps to remove the import restrictions and partially suspended Rwanda's AGOA benefits, removing duty-free eligibility for its apparel exports, effective July 31, 2018.

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. In April 2018, Congress passed the AGOA and Millennium Challenge Act Modernization Act, P.L. 115-167, which 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.

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.

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.

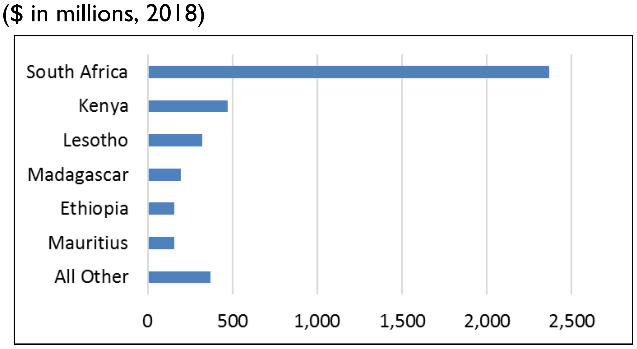
Opposing Views—Opposition is mostly from U.S. producers that may face increased import competition from AGOA countries. Such concerns are generally limited due to the low volume of U.S. imports under AGOA, but import competing U.S. producers have lobbied to keep certain products, particularly sugar,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

U.S. Imports Under AGOA

Total U.S. AGOA imports were $12.0 billion in 2018, down from $13.8 billion in 2017. Imports remain concentrated in select countries and industries but diversification is increasing, with some countries, particularly Ethiopia, increasing exports in recent years.

- Energy products, mainly crude oil, accounted for $8.0 billion of U.S. AGOA imports (66%) in 2018, with Nigeria, Angola, and Chad as the top suppliers. Crude imports remain more than $40 billion below their 2011 peak, due to lower prices and increased U.S. production.
- Non-energy imports under AGOA have grown from $1.3 billion in 2001 to $4.0 billion in 2018. Top non-energy import categories include textiles and apparel ($1.2 billion), minerals and metals ($773 million), transportation equipment ($699 million), agricultural products ($599 million), and chemicals ($488 million).
- South Africa remains the top supplier of AGOA non-energy imports (58% or $2.4 billion in 2018), but its dominance is declining. U.S. motor vehicle imports from South Africa have fallen $1.6 billion from their 2013 peak to $572 million in 2018. Kenya, Lesotho, Madagascar, Ethiopia, and Mauritius are the other top non-energy beneficiaries, exporting mostly apparel products. Together with South Africa these countries accounted for 91% of all non-energy imports in 2018.

Figure 1. U.S. Non-Energy AGOA Imports by Country
($ in millions, 2018)



Source: Analysis by CRS. Data from USITC.

Note: 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 is currently authorized 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, DC, and an AGOA country. The 18th AGOA Forum is to take place in Abidjan, Cote d'Ivoire, in early August 2019.

Country Eligibility Reviews—The President 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 most recent report was published in June 2018 and is available on the USTR website.

Reciprocal Trade 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. Press reports following the 2018 AGOA Forum suggested many African countries prefer a regional approach to U.S. FTA negotiations, in contrast to the Administration's preference for bilateral talks.

> *...establishing a more stable, permanent, and mutually beneficial trade and investment framework with the United States could be transformative for Africa.*
> USTR Robert Lighthizer*, July 7, 2018*

Issues for Congress

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

- **Trump Administration Tariffs.** The Trump Administration has imposed increased tariffs on steel and aluminum and potentially motor vehicles under Section 232 of the Trade Expansion Act of 1962 due to national security concerns. South Africa is a significant U.S. supplier of aluminum and motor vehicles. Congress may examine the effect of these existing and proposed tariffs on AGOA participants and objectives.
- **Third-Party Agreements.** Reciprocal agreements between AGOA beneficiaries and third parties (e.g., EU-South Africa) may disadvantage U.S. exporters. Potential U.S. responses include FTA negotiations, other less extensive reciprocal U.S. agreements, and removal of AGOA eligibility. The African Continental Free Trade Area, signed by 54 countries, has officially launched, though tariff reductions have yet to be implemented. Congress may examine how new potential U.S. FTAs may affect these regional integration efforts.
- **Beneficiary Country Participation.** More than 90% of U.S. non-energy imports under AGOA come from six 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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