



African Growth and Opportunity Act (AGOA)

Overview

What is AGOA? AGOA (P.L. 106-200, as amended), 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 program 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 38 AGOA-eligible countries. In the most recent eligibility determination, President Trump removed AGOA benefits for Cameroon, effective January 1, 2020, due to violations of AGOA's eligibility criteria pertaining to human rights. An ongoing review of South Africa's eligibility under the Generalized System of Preferences (GSP) due to concerns over its protection of intellectual property rights could also result in lost AGOA eligibility as AGOA builds on GSP and requires that beneficiary countries satisfy both programs' eligibility criteria (see **Relation to GSP** below).

Ten other sub-Saharan African countries remain ineligible for the program's preference benefits in 2020 based on prior determinations. They include (with noted eligibility violations): Burundi (political violence), the Democratic Republic of Congo (human rights), Equatorial Guinea (income graduation), Eritrea (human rights), Mauritania (worker rights), Seychelles (income graduation), Somalia (never eligible), South Sudan (political violence), Sudan (never eligible), and Zimbabwe (never eligible). In addition, Rwanda's AGOA benefits for apparel exports have been suspended since July 31, 2018, following an out-of-cycle eligibility determination in response to increased tariff barriers on used clothing imports from the United States.

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. Most recently, the African Growth and Opportunity Act and Millennium Challenge Act Modernization Act of 2018, P.L. 115-167, required the Administration to provide information on AGOA through an official AGOA website, promote AGOA utilization,

product diversification, and regional cooperation, and educate African entrepreneurs.

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.

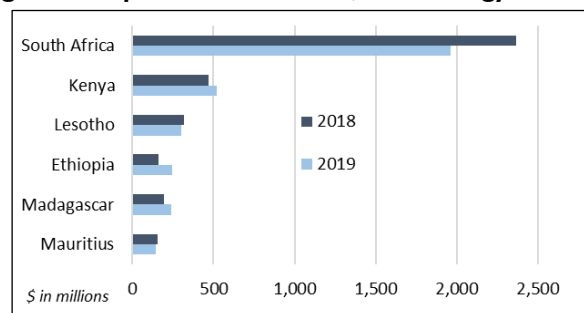
Opposing views. Opposition is mostly from U.S. producers that may face increased import competition from AGOA countries. Such concerns are generally limited due to the low volume of U.S. imports under AGOA, but import competing U.S. producers have lobbied to keep certain products, particularly sugar,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

U.S. Imports under AGOA

Total U.S. AGOA imports were \$8.4 billion in 2019, down from \$12.0 billion in 2018. Imports remain concentrated in key countries and industries, but diversification is growing.

- Energy products, mainly crude oil, accounted for \$4.6 billion of U.S. AGOA imports (55%) in 2019, down more than \$40 billion from their 2011 peak. Nigeria was the top crude supplier (\$3.1 billion) in 2019.
- AGOA non-energy imports have grown from \$1.3 billion in 2001 to \$3.8 billion in 2019. Top non-energy import categories include textiles and apparel (\$1.4 billion), agricultural products (\$656 million), minerals and metals (\$510 million), transportation equipment (\$499 million), and chemicals (\$434 million).

Figure 1. Top AGOA Countries, Non-Energy Products



Source: Analysis by CRS. Data from USITC.

- South Africa is the top supplier of AGOA non-energy imports (**Figure 1**), but its dominance has declined. Decreasing auto imports from South Africa (down \$1.8 billion from their 2013 peak) and increasing apparel imports from other top countries are the main trends

underlying this shift. AGOA imports from Ethiopia, for example, grew by 55% or \$87 million in 2019 alone.

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 GSP. 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 order to remain eligible for AGOA, sub-Saharan African countries must meet the eligibility requirements for both programs (19 U.S.C. §2466). In both GSP and AGOA, additional benefits are granted to least-developed countries. AGOA beneficiaries maintain access to both programs, even if GSP authorization lapses (currently to occur at the end of 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).

Trade capacity building (TCB). AGOA also directs the President to provide TCB to AGOA beneficiaries. 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 other agencies, including the Export-Import Bank, U.S. Foreign Commercial Service, and USDA, on expansion of their activities in sub-Saharan Africa.

AGOA forum. AGOA requires the President to convene an annual forum to discuss trade and investment relations and implementation of AGOA, which alternates between Washington, D.C., and an AGOA country. The 18th AGOA Forum took place in Cote d'Ivoire, in 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 June 2018 report is the most recent.

Reciprocal trade negotiations. Since 2000, Congress has directed the Administration to seek reciprocal trade and investment negotiations with AGOA countries. The only attempt to date, with the Southern African Customs Union (SACU), was suspended in 2006 due to divergent views over scope. In a new effort, on March 17, 2020, the Trump Administration notified Congress of its intent to begin free trade agreement (FTA) negotiations with Kenya. Such notification is required under Trade Promotion Authority (TPA) at least 90 days before talks may begin. USTR has described the talks as an opportunity to negotiate a new "model" bilateral FTA with an African country, but has not specified what the new model may entail. U.S. FTAs typically include comprehensive tariff elimination as well as enforceable commitments on services, investment, intellectual property rights, labor, and environment. President Uhuru Muigai Kenyatta of Kenya argues that a bilateral U.S. FTA will not hinder Kenya's participation in broader regional integration initiatives, but some African officials express reservations over the bilateral approach.

...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:

- **FTA negotiations.** An FTA would have implications for AGOA and U.S. trade relations in the region. As the Administration consults with Congress on scope and objectives for talks with Kenya, key considerations include (1) what flexibilities (e.g., longer phase in periods, less extensive commitments, greater technical assistance, flexible rules of origin such as an AGOA style third-country fabric rule) are appropriate; (2) potential effects on broader AGOA utilization; and (3) how bilateral FTAs may affect regional initiatives, such as the African Continental Free Trade Area (AfCFTA).
- **Trump Administration tariffs.** Increased U.S. tariffs on steel and aluminum (and potentially autos) raise the cost of imports from AGOA countries, notably South Africa, a top U.S. supplier of aluminum and autos. Congress may examine the tariffs' effects on AGOA participants and alignment with congressional goals.
- **Third-party agreements.** Reciprocal agreements between AGOA beneficiaries and third parties (e.g., EU-South Africa) may disadvantage U.S. exporters. Congress may examine possible U.S. responses.
- **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.

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