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African Growth and Opportunity Act (AGOA)

Overview

What is AGOA? AGOA (P.L. 106-200, as amended) created a nonreciprocal U.S. trade preference program, also referred to as AGOA, to provide duty-free access to the U.S. market for most exports from eligible countries in sub-Saharan Africa (SSA). The act also requires an annual gathering, known as the AGOA Forum, held between U.S. and AGOA country officials to discuss trade-related issues and AGOA implementation. Additionally, AGOA provides direction to selected U.S. government agencies regarding their trade and investment support activities in the region. AGOA has been a cornerstone of U.S. trade policy toward SSA since 2000. Through AGOA, 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. Congress has the authority to extend the program, which is scheduled to expire in September 2025, and also modify the program to promote other congressional priorities with the region, such as strengthening U.S. trade and investment ties in SSA and increasing regional participation in the global value chain.

Country eligibility. There are currently 32 AGOA-eligible SSA countries, of 49 potential candidates for program benefits. AGOA eligibility criteria address issues such as trade and investment policy, governance, worker rights, human rights, and foreign policy, among other issues, which countries must satisfy to be beneficiaries of the program. The President annually reviews and determines each country's eligibility.

As a result of the 2023 annual review, President Biden terminated AGOA preference benefits for Central African Republic, Gabon, Niger, and Uganda, effective January 1, 2024, after determining that they failed to meet the rule of law and/or human rights eligibility criteria. Thirteen other SSA countries remained ineligible for the program's preference benefits in 2024. They are (with non-eligibility criteria noted): Burkina Faso and Guinea (rule of law); Burundi and South Sudan (political violence); Cameroon, Eritrea, and Ethiopia (human rights), Equatorial Guinea and Seychelles (income graduation), Mali (human rights, rule of law, worker rights); and Somalia, Sudan, and Zimbabwe (never eligible). Rwanda's AGOA benefits for apparel exports have been suspended since July 31, 2018, following an out-of-cycle review (outside of the annual review period) in response to increased Rwandan tariff barriers on used clothing imports from the United States.

Authorization. Congress established AGOA in 2000, and has amended its authorization law several times. The Trade Preferences Extension Act of 2015 (P.L. 114-27) extended AGOA's authorization for 10 years to September 2025. 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 by beneficiaries and diversification of exports under AGOA; support regional cooperation on trade facilitation; and educate African entrepreneurs on complying with U.S. security policies.

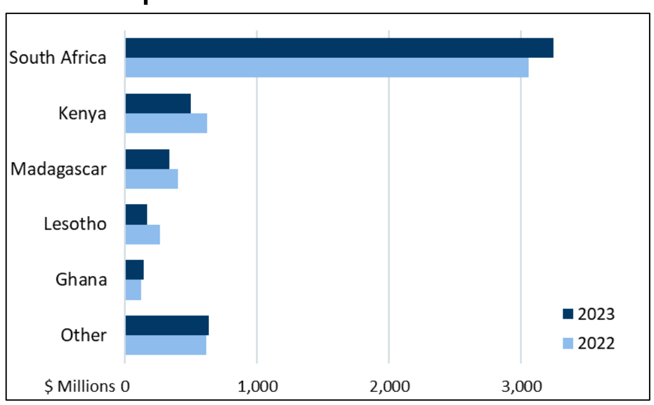
Supporting views. Supporters of AGOA have argued that the program affords African producers an important competitive advantage in the U.S. market, thereby fostering greater exports, encouraging investment in the region, boosting private sector activity and economic growth, and potentially generating demand for U.S. goods and services as the region's economies develop.

Opposing views. Many AGOA opponents are U.S. producers that may face increased import competition from AGOA countries. Their concerns have tended to be product-specific. Their concerns also have been 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

In 2023, U.S. AGOA imports totaled $9.3 billion, down 4% from $9.6 billion in 2022 and more than double 2020 values, during the height of the COVID-19 pandemic. AGOA imports remain concentrated in a few countries and industries, but diversification has grown since the 2000s.

Figure 1. Top AGOA Countries, U.S. Non-Energy Product Imports



Source: Analysis by CRS. Data from USITC.

- Energy product imports (e.g., crude oil) decreased from $4.6 billion in 2022 to $4.2 billion in 2023, and comprised 46% of AGOA imports. They remain lower than the 2011 peak value of $48 billion. Nigeria was the top supplier of energy products in 2023 ($3.6 billion).
- Non-energy imports in 2023 were valued at $5.0 billion. Top non-energy import categories include motor vehicles ($1.9 billion), textile and apparel ($1.1 billion), agricultural and food products ($732 million), metals ($484 million), and chemicals ($308 million).

- South Africa is the top supplier of AGOA non-energy imports (**Figure 1**). Motor vehicles and parts accounted for 58% of its AGOA-eligible products in 2023.

Key Aspects of AGOA

Trade preferences. AGOA's main component is duty-free treatment of U.S. imports of eligible products from beneficiary countries, a benefit designed to help AGOA exporters compete with lower-cost producers elsewhere.

Relation to GSP. AGOA preferences include all products covered by the Generalized System of Preferences (GSP), a broader U.S. trade preference program, as well as some products excluded from GSP (e.g., autos and certain types of textiles and apparel). To remain eligible for AGOA, sub-Saharan African countries must meet the eligibility requirements for both programs (19 U.S.C. §2466). Both GSP and AGOA grant additional benefits to least-developed countries. AGOA beneficiaries have maintained access to both programs, even when GSP authorization has lapsed, which occurred on January 1, 2021.

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 relatively limited 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 is a major factor in AGOA countries' competitiveness in the sector. This provision allows limited amounts of U.S. apparel imports from least-developed SSA countries to qualify for AGOA 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 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 African trade and investment hubs, which work to increase AGOA utilization and regional producers' access to international markets.

AGOA Forum. AGOA requires the President annually to convene a forum on trade and investment relations, and AGOA implementation. The AGOA Forum typically alternates between the United States and an AGOA country. The U.S. Trade Representative (USTR) is scheduled to host the AGOA Forum in late July 2024.

Country eligibility reviews. The President determines AGOA country eligibility based on statutory criteria (19 U.S.C. §2462 and 19 U.S.C. §3703) and a process that includes an annual public comment period and hearing. The 2015 reauthorization amended the program to allow for out-of-cycle reviews in response to public petitions. The Administration may remove country eligibility entirely or for specific products, subject to notifying Congress 60 days in advance.

Reporting requirements. The 2015 reauthorization requires USTR to report biennially on U.S.-Africa trade and investment relations. USTR issued the latest report in 2024.

Reciprocal trade negotiations. Since 2000, Congress has directed the executive branch to seek reciprocal trade and investment negotiations with AGOA countries. The first attempt, with the Southern African Customs Union, was suspended in 2006 due to divergent views over scope. In 2022, the Biden Administration announced the U.S.-Kenya Strategic Trade and Investment Partnership (STIP), a platform for "enhanced cooperation leading to high standard commitments," in lieu of continuing free trade agreement (FTA) negotiations begun under the Trump Administration, which would have addressed market access. Kenya's trade minister has stated that a potential final agreement would complement AGOA. USTR has stated that it aims to finish negotiations by the end of 2024. STIP addresses trade issue areas such as agriculture, digital trade, regulatory practices, and trade facilitation and customs procedures, but does not address market access. It could also complement ongoing African trade integration initiatives (e.g., the African Continental Free Trade Area, AfCFTA). Some African officials have argued for a broader regional approach to future trade negotiations with the United States, as opposed to bilateral negotiations. African countries' varying development levels and trade policy approaches could complicate broader regional negotiations.

Issues for Congress

- **AGOA reauthorization.** In April 2024, Senators Coons and Risch introduced S. 4110, which, among other things, would extend AGOA through September 2041; allow inputs from non-AGOA, AfCFTA implementing countries; and make the review process timeline biennial, rather than annual. Congress may consider whether such proposed changes may further support AGOA's objectives.

- **Trade negotiations.** Should the Administration in consultation with Congress, determine whether to pursue trade negotiations or other trade and investment initiatives in the region (e.g., the STIP negotiations with Kenya), key considerations may include (1) what flexibilities from comprehensive U.S. trade agreements commitments are appropriate; (2) potential effects on broader AGOA utilization; and (3) potential effects on regional initiatives like the AfCFTA.

- **Supply chain resiliency.** As the U.S. government seeks to strengthen supply chains in critical sectors (e.g., semiconductors and electric vehicles [EV]), Congress may consider whether, and, if so, how AGOA could support SSA's integration into the global value chain. Some experts have suggested adding AGOA countries to the list of countries from which critical minerals could be sourced for U.S. EV tax credits provided under the Inflation Reduction Act of 2022 (P.L. 117-169).

- **Third-party agreements.** Reciprocal agreements between AGOA beneficiaries and third parties (e.g., EU-South Africa) may disadvantage some U.S. exporters. Congress may examine possible U.S. responses to maintain U.S. businesses' competitiveness in the region.

Liana Wong, Analyst in International Trade and Finance

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