

Committee on Ways and Means

Africa Growth and Opportunities Act (AGOA) Acceleration Act

H.R. 4103

Section 1: Short Title

Section 2: Findings

Section 2 states various findings by the Congress. Congress finds that AGOA has had a positive effect on economic growth and reforms in sub-Saharan Africa through increases in foreign investment and job creation. Africa continues to face challenges such as inadequate infrastructure and HIV/AIDS. African countries continue to need trade capacity assistance.

Section 3: Statement of Policy

Section 3 states several policy goals by the Congress. Congress supports a continued commitment to increase trade and investment and to reduce obstacles to trade between the United States and sub-Saharan Africa. Congress also supports the development of sub-Saharan Africa's physical and financial infrastructure and business partnerships between United States and African firms. Congress also endorses international efforts to fight serious health problems and supports a comprehensive and ambitious free trade agreement with the South African Customs Union.

Section 4: Sense of Congress on reciprocity and regional economic integration

Section 4 expresses the Sense of Congress that eligible sub-Saharan African countries will greatly enhance their preferential market access opportunities by implementing their WTO obligations and supporting mutual trade liberalization.

Section 5: Sense of Congress on interpretation of textile and apparel provisions of AGOA.

Section 5 provides a Sense of Congress that the executive branch, including the Committee for the Implementation of Textile Agreements (CITA), the Bureau of Customs and Border Protection of the Department of Homeland Security, and the Department of Commerce should implement and enforce the provisions of AGOA

relating to preferential treatment of textile and apparel articles, broadly to expand trade by maximizing opportunities for imports of such articles from Africa.

Section 6: Definition

Section 7: Extension of African Growth and Opportunity Act

Section 7(a) would extend the AGOA program from its current deadline of 2008 until 2015.

Section 7(b) provides several changes to AGOA eligible apparel product provisions. Section 7(b)(2)(A) would clarify an existing provision in AGOA to allow apparel articles that are eligible for benefits because they contain fabric formed in AGOA beneficiary countries to remain eligible for benefits even if they include U.S. components or fabric in any combination. This provision reverses an interpretation of AGOA by the U.S. Customs Service requiring that an article contain either all U.S. fabric or components or all AGOA fabric or components, but not a combination of both. Section 7(b)(2)(A) was also included in section 2004 of H.R. 1047, the Miscellaneous Trade and Technical Corrections Act of 2004.

Section 7(b)(2)(B) would extend the current deadline for use of third-country fabric benefits of September 30, 2004, until September 30, 2007. Benefits in 2005 and 2006 would remain capped at the existing rate and then decrease by fifty percent in the final year of 2007. The current rate is approximately 2.3% of total U.S. imports.

Section 7(b)(3) clarifies as AGOA-eligible apparel product that allows apparel made from fabrics or yarns that are listed in Annex 401 to the NAFTA; these fabrics and yarns are recognized as being in short supply in the United States. Section 7(b)(3) was also included in section 2004 of H.R. 1047, the Miscellaneous Trade and Technical Corrections Act of 2004.

Section 7(c) would clarify the existing provision in AGOA providing AGOA benefits for African ethnic printed fabric. Such fabric has a width of less than 50 inches, has designs, symbols, and characteristics of African prints normally produced for the indigenous African market, and is sold by the piece. This provision would thereby reverse a decision by the U.S. Customs Service that restricted print imports to those made by traditional methods and not by machine.

Section 7(d) provides that AGOA eligible products may continue to use inputs from countries no longer AGOA beneficiaries because they have entered into a free trade agreement with the United States. The provision anticipates conclusion

of a U.S. free trade with the five members of the Southern African Customs Union, some of which produce inputs that may be used by AGOA countries.

Section 7(e) reverses a recent U.S. Customs Service decision to disqualify AGOA eligible apparel goods from benefits because they contain collar and cuff components from a third country, i.e., non-United States and non-AGOA origin. Under current law, AGOA countries receive AGOA benefits if they import fabric from third countries and manufacture the fabric into apparel articles. However, Customs has ruled that certain knit-to-shape components, such as preformed and dedicated collars and cuffs, are not considered fabric. As a result, an AGOA country cannot receive AGOA benefits for apparel containing such imported collars and cuffs. Section 7(e) would allow the use of third-country collars and cuffs for all categories of AGOA apparel.

Section 8: Entries of certain apparel articles pursuant to the African Growth and Opportunity Act

Congress originally intended that knit-to-shape apparel would receive duty-free treatment benefits under AGOA, but the U.S. Customs Service interpreted that the AGOA statute to deny benefits to such apparel. Accordingly, Congress provided in the Trade Act of 2002 that apparel knit-to-shape in an AGOA eligible country should receive benefits on a prospective basis from the effective date of the Trade Act. Section 8 H.R. 4103 would extend duty-free benefits retroactively to October 1, 2000, to apparel that were knit-to-shape in an AGOA eligible country. Section 8 was also included as section 1608 of H.R. 1047, the Miscellaneous Trade and Technical Corrections Act of 2004.

Section 9: Development study and capacity building

Section 9 directs the President to submit a report to Congress, no later than a year after the enactment of this Act, which identifies the sectors of each eligible sub-Saharan African country's economy that show the greatest potential for growth, identifies any barriers that may exist, and makes recommendations on how the United States can provide technical assistance to remove these barriers and increase opportunities for U.S. investors, businessman, and farmers.

Section 10: Activities in support of infrastructure to support increasing trade capacity and ecotourism

Section 10 directs the President to encourage the development of infrastructure projects that increase trade capacity through the ecotourism industry.

Section 11: Activities in support of transportation, energy, agriculture, and telecommunications infrastructure

Section 11 directs the President to develop policies to encourage investment in: infrastructure projects that support the development of roads, railways, and ports, and the energy and telecommunications sectors; the expansion of modern information and communication technologies; and agriculture, particularly processing and capacity enhancement.

Section 12: Facilitation of transportation

Section 12 directs the President to foster improved coordination between customs services at ports and airports in the United States and sub-Saharan countries to reduce time in transit and increase efficiency and safety procedures.

Section 13: Agricultural and technological assistance

Section 13 directs the President to assign at least 20 full-time personnel for the purpose of providing agricultural technical assistance to select AGOA countries based on their potential to increase marketable agricultural products and their need for technical assistance. While serving in this capacity they will also advise AGOA countries on improvements in their sanitary and phytosanitary standards to help them meet U.S. requirements.

Section 14: Trade Advisory Committee on Africa

Section 14 directs the President to convene the trade advisory committee on Africa in order to maintain ongoing discussions with African trade and agriculture ministries and private sector organizations for the purpose of facilitating the goals of AGOA and this Act.