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African Growth and Opportunity Act (AGOA): Background and Reauthorization

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Summary

The African Growth and Opportunity Act (AGOA) is a non-reciprocal trade preference program that provides duty-free treatment to U.S. imports of certain products from eligible sub-Saharan African (SSA) countries. Congress first authorized AGOA in 2000 to encourage export-led growth and economic development in SSA and improve U.S. economic relations with the region. Its current authorization expires on September 30, 2015.

In terms of tariff benefits and general eligibility criteria, AGOA is similar to the Generalized System of Preferences (GSP), a U.S. trade preference program that applies to more than 120 developing countries. AGOA, however, covers more products and includes additional eligibility criteria beyond those in GSP. Additionally, AGOA includes trade and development provisions beyond its duty-free preferences.

U.S. imports from AGOA beneficiary countries (AGOA countries) represent a very small share (2%) of total U.S. imports and are largely concentrated in energy-related products. Oil is consistently the top duty-free U.S. import from AGOA countries, accounting for 86% of such imports in 2012. Among non-energy products, apparel is the top export for a number of AGOA countries. U.S. apparel imports typically face relatively high tariffs and are excluded from duty-free treatment in GSP, but are included in the AGOA preferences giving AGOA countries a competitive advantage over other apparel producers. Still, only a handful of countries, primarily Lesotho, Kenya, and Mauritius, make significant use of the apparel benefits. Apart from apparel and energy products, South Africa accounts for the bulk of U.S. imports under AGOA. As the most economically-advanced country in the region, South Africa also exports a much more diverse range of manufactured goods than other AGOA countries; vehicles in particular have become a major South African export under AGOA.

Most observers agree that AGOA has successfully led to increased and more diversified exports to the United States from sub-Saharan African countries. Despite this, Congress may wish to address a number of issues and challenges as it considers possible reauthorization of AGOA. Among these challenges is how current and potential AGOA beneficiaries can better utilize the AGOA program and its duty-free benefits. Studies suggest that even among some countries that do make significant use of the AGOA preferences, the low-skill apparel production which AGOA has spurred has not led to the production of higher-skill manufactured products. Other issues relate to the non-reciprocal nature of the AGOA preferences. Some argue that the United States should focus more on two-way trade agreements with the region, particularly with more advanced countries such as South Africa, given improving economic conditions in Africa in recent years. The European Union (EU), for example, has negotiated Economic Partnership Agreements (EPAs) with several African countries that provide some reciprocal tariff benefits, potentially placing U.S. firms at a competitive disadvantage relative to European firms in some markets.

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Introduction

In 2000, Congress passed the African Growth and Opportunity Act (AGOA), a U.S. trade preference program, in order to help spur market-led economic growth and development in sub-Saharan Africa (SSA) and deepen U.S. trade and investment ties with the region.[1] Since its enactment, Congress has amended AGOA five times, making some technical changes and renewing the trade preferences through September 30, 2015.

According to the Assistant U.S. Trade Representative, (USTR) for Africa, "AGOA is the cornerstone of America's trade and investment policy with sub-Saharan Africa."[2] Economic conditions in Africa, however, have changed considerably since Congress passed the initial AGOA legislation. Annual real gross domestic product (GDP) growth in SSA was nearly a full percentage point lower than global GDP growth (2.3% vs. 3.2%) in the decade leading up to AGOA's passage (1990-2000).[3] Over the last 10 years, however, SSA's growth averaged 5.7 %, 2 points higher than the 3.7% world average. While the region still contains many of the world's poorest countries and faces significant economic challenges, some observers and policymakers argue that changing economic conditions warrant an evolution in U.S. policy toward SSA, focused more strongly on private sector investment and increasing two-way trade.[4] In recent years, SSA's growing economic potential and abundant natural resources have attracted other foreign investors, including state-supported enterprises from countries such as China, which is now the region's largest trading partner.

Some Members of Congress, the Obama Administration, and many African governments have highlighted the successes of AGOA and have called for an expedited reauthorization process. As part of this process, Congress may wish to consider whether AGOA, in its current form, is achieving the initial goals of the program, including whether it addresses effectively the changing economic circumstances in Africa. Most interested observers are positive about the AGOA preference program, but some have expressed concerns about specific provisions of the program, such as the lack of coverage for certain agricultural products, or would like to see the AGOA preferences granted to a broader range of least-developed countries beyond just Africa. Others would like to see a broader program that addresses concerns over U.S. businesses' ability to effectively compete in the region, though this could also be addressed in complementary legislation or Administrative initiatives.[5] This report seeks to inform the discussion on the

[1] Trade preference programs give non-reciprocal duty-free U.S. market access to select exports of eligible less-developed countries.

[2] Hearing Testimony by Florizelle Lizer, U.S. Congress, Senate Committee on Foreign Relations, Subcommittee on African Affairs, *Economic Statecraft: Embracing Africa's Market Potential*, 112th Cong., 2nd sess., June 28, 2012, S.Hrg. 112-604 (Washington: GPO, 2012), p. 12.

[3] Analysis by CRS. Data from International Monetary Fund, *World Economic Outlook*, April 2013.

[4] For example, in remarks leading up to President Obama's trip to Africa, USTR Michael Froman stated, "If we are to achieve sustainable development, it is our view that investment must be the driver." USTR, "Remarks by United States Trade Representative Michael Froman to the U.S. Global Leadership Coalition," press release, June 25, http://www.ustr.gov/about-us/press-office/press-releases/2013/june/remarks-united-states-trade-representative-michael-fr.

[5] For example, a bill has been introduced in the 113th Congress relating to efforts to increase U.S. exports to Africa (H.R. 1777 and S. 718) and the Administration has initiated programs such as Trade Africa, which centers on a potential trade and investment agreement with the East African Community.

potential reauthorization of AGOA through analysis of: (1) the components of the AGOA legislation; (2) U.S. import trends associated with AGOA; (3) the impact of AGOA on African economies and U.S.-Africa trade; and (4) the issues surrounding the reauthorization process.

Key Provisions of AGOA[6]

AGOA (Title I, P.L. 106-200), as amended, is a non-reciprocal preference program that provides duty-free access into the United States for qualifying exports from eligible SSA countries. Among the products that qualify for this duty-free treatment, apparel products have particular economic significance for several countries, in part due to special provisions granted to least-developed AGOA countries ("Third-Country Fabric Provision").[7] In addition to the tariff preferences, the AGOA legislation includes mandates for an annual meeting of U.S. and African government officials to discuss trade and economic issues—the AGOA Forum—as well as specific guidelines on U.S. development assistance directed toward SSA. Countries must meet specific eligibility requirements to qualify for these benefits.

Table A-1 in the Appendix, provides a list of SSA countries, as defined by AGOA. It highlights the 39 that are current AGOA beneficiaries, and notes their eligibility status for other aspects of the AGOA preferences and GSP. It also lists U.S. imports under AGOA and GSP for each country and its GDP/capita—a rough measure of a country's level of economic development.

Unilateral Trade Preference Program

At the core of AGOA are the tariff benefits that provide duty-free access to the U.S. market for certain products from eligible SSA countries. In terms of these tariff benefits and country eligibility requirements, AGOA is essentially an expansion of the Generalized System of Preferences (GSP), a U.S trade preference program that applies to over 120 developing countries, including SSA countries. AGOA builds on GSP by providing preferential access to the U.S. market for more products, such as apparel, and sets out additional eligibility criteria. AGOA also includes other trade and development components, beyond preferences, that are not part of GSP.[8]

AGOA, like other U.S. trade preference programs, is non-reciprocal and unilateral. The preferences apply to U.S. imports and not to U.S. exports, so reauthorization only requires action by the U.S. government. These one-way preferences are granted to developing countries with the goal of enhancing export-led economic growth, and typically exclude items that may be considered import sensitive. This distinguishes them from other U.S. trade liberalization efforts such as free trade agreements (FTAs) or multilateral agreements through the World Trade Organization (WTO), which reduce and/or eliminate tariffs for both U.S. imports and exports. AGOA included a provision requiring the President to explore potential FTA negotiations with interested AGOA beneficiaries, suggesting that Congress envisioned AGOA as a stepping stone to

[6] Some of this material was drawn from a previous CRS report by Vivian C. Jones.

[7] Apparel production is an important component of AGOA because it is seen as a manufacturing sector with relatively low technological and investment barriers to entry by newly industrializing countries and as having high job-generation potential for relatively low-skilled labor forces, both issues of relevance to many African countries.

[8] In addition to AGOA, there are four other U.S. regional preference programs that have different product coverage than GSP: the Caribbean Basin Economic Recovery Act (CBERA); the Caribbean Trade Partnership Act (CBTPA); the Andean Trade Preference Act (ATPA); and the Haitian Opportunity through Partnership Encouragement (HOPE) Act.[8]

potential broader trade pacts with African countries. FTA negotiations with South Africa and its regional partners in the South African Customs Union (SACU) sprang from this mandate in AGOA, but were ultimately unsuccessful and suspended in 2006.[9]

Product Coverage

The tariff benefits provided by AGOA include all products covered by GSP, as well as additional products the President determines are not import-sensitive with regard to imports from SSA.[10] According to a report by the Government Accountability Office (GAO) in 2008, the U.S. Harmonized Tariff Schedule (HTS) includes some 10,500 individual tariff lines for U.S. goods imports, of which roughly 3,800 have no most-favored nation (MFN) tariff (i.e., all WTO members may export them to the U.S. duty-free).[11] GSP removes the tariff on an additional 3,400 products (4,800 for least-developed countries), and AGOA makes another 1,800 tariff lines duty-free, though a large share of these are included in the GSP benefits for least-developed countries (LDCs).[12] AGOA extends duty-free treatment to certain apparel and footwear products, which are not eligible under GSP (even for LDCs). Agricultural products subject to tariff-rate quotas (TRQ) remain ineligible for duty-free treatment under both AGOA and GSP.[13] AGOA beneficiaries are also exempt from certain caps on allowable duty-free imports under the GSP program ("competitive need limitations").[14]

Rules of Origin

Products from AGOA countries must meet certain rules of origin (ROO) requirements in order to qualify for duty-free treatment (see the textiles and apparel section for sector-specific rules of origin). First, duty-free entry is only allowed if the article is imported directly from the beneficiary country into the United States. Second, at least 35% of the appraised value of the product must be the "growth, product or manufacture" of a beneficiary developing country, as defined by the sum of (1) the cost or value of materials produced in the beneficiary developing country (or any two or more beneficiary countries that are members of the same association or countries and are treated as one country for purposes of the U.S. law) plus (2) the direct costs of processing in the country. Up to 15% of the required 35% of the appraised value may be of U.S. origin, and any amount of production in other beneficiary SSA countries may also contribute to the value-added requirement ("regional cumulation").[15]

[9] Observers cited several possible reasons for the unsuccessful FTA negotiations, including the capacity of SACU nations to negotiate a U.S.-style (comprehensive and high-standard) FTA, and disagreements between the parties on the scope and level of ambition of the negotiations.

[10] The AGOA trade preferences, including the portion covered by GSP, are in effect through September 2015, regardless of GSP's reauthorization.

[11] U.S. Government Accountability Office, *U.S. Trade Preference Programs Provide Important Benefits, but a More Integrated Approach Would Better Ensure Programs Meet Shared Goals*, GAO-08-443, March 2008, pp. 70-72.

[12] Ibid.

[13] TRQs are two-tiered tariffs. In-quota import quantities face one tariff, while above-quota import quantities face another, typically much higher, tariff.

[14] CRS Report RL33663, *Generalized System of Preferences: Background and Renewal Debate*, by Vivian C. Jones.

[15] §506A of P.L. 93-618, as added by §111 of P.L. 106-200, and amended by §7 of P.L. 108-274.

Textile and Apparel Provisions

AGOA includes duty-free treatment for certain apparel and textile products, though some are subject to quantitative limitations. These provisions in AGOA are significant, because: (1) apparel production has played a unique role in the development process of some countries; and (2) the duty-free benefits apply to a sector with relatively higher U.S. tariff rates than average overall U.S. tariff rates. Not all AGOA beneficiaries are eligible for the apparel provisions. Duty-free treatment for apparel products under AGOA requires beneficiary countries to adopt an efficient visa ("tracking") system to prevent unlawful transshipment—production shipped through and exported from, but not actually produced in, a given country, often for particular tariff or quota benefits.[16]

Apparel production has been a significant component in some countries' economic development.[17] Unlike textile production, it typically requires low-skilled labor and minimal capital expenditures, allowing lesser-developed countries to become globally competitive. Some research suggests that success in low-skill and export intensive industries such as apparel may help lead to a more diversified manufacturing sector.[18] Nonetheless, the U.S. apparel sector is deemed "import sensitive," and has some specific safeguards. For example, in U.S. free trade agreements (FTAs), apparel tariff lines typically have "yarn forward" general rules of origin (which govern how much of the product must be made in the beneficiary country and longer tariff phase outs), and most preference programs either exclude these articles (GSP) or have caps on duty-free treatment (including AGOA).[19]

The existing general restrictions on U.S. imports of apparel make AGOA's preferential treatment for these product lines especially advantageous. The average U.S. applied tariff on apparel is 11.4% compared to an average for all products of 3.5%.[20] This relatively high preference margin may help explain how some AGOA producers, especially the LDCs, are competitive with lower-cost producers in Asia and elsewhere.[21]

Textile and apparel articles qualifying for duty-free treatment include

- Apparel assembled in one or more AGOA beneficiary countries from U.S. yarn and fabric;
- Apparel made of SSA (regional) yarns and fabrics, subject to a cap until 2015;
- Apparel made in a designated LDC of third-country yarns and fabrics, subject to a cap until 2015;

[16] For more information, see Department of Commerce, Office of Textiles and Apparel (OTEXA) Summary of AGOA textile and apparel provisions at OTEXA website, http://otexa.ita.doc.gov.

[17] Karina Fernandez-Stark, Stacey Frederick, and Gary Gereffi, *The Apparel Global Value Chain*, Duke Center on Globalization Governance and Competitiveness, November 2011.

[18] Paul Collier and Anthony Venables, *Rethinking Trade Preferences to Help Diversify African Exports*, Centre for Economic Policy Research, June 2007.

[19] A "yarn forward" rule means that, in order to qualify for trade benefits under an FTA, all products in a garment from the yarn stage forward must be made in one of the countries that is party to the agreement.

[20] World Trade Organization, *World Tariff Profiles—United States*, 2012.

[21] For a discussion of challenges faced by African firms, see Ann E. Harrison, Justin Yifu Lin, and L. Colin Xu, *Explaining Africa's (Dis)Advantage*, National Bureau of Economic Research, Working Paper 18683, January 2013.

- Apparel made of yarns and fabrics not produced in commercial quantities in the United States (determination must be made that the yarn or fabric cannot be supplied by the U.S. industry in a timely manner, and to extend preferential treatment to the eligible fabric);
- Certain cashmere and merino wool sweaters;
- Textiles and textile articles produced entirely in an LDC SSA beneficiary country; and
- Certain handloomed, handmade, ethnic printed fabrics, or folklore articles (certain countries only).[22]

Third-Country Fabric Provision

AGOA's third-country fabric provision is a special rule that allows U.S. apparel imports from least-developed SSA countries to qualify for duty-free treatment even if the yarns and fabrics used in the production of the apparel are imported from non-AGOA countries. This provision, which was reauthorized in August 2012 (P.L. 112-163), is currently set to expire in September 2015, along with the overall AGOA program.

Eligibility

Eligibility for the AGOA trade preference program consists of two separate steps. First, the country must be included in a statutorily-created list of sub-Saharan African countries, described in AGOA (19 U.S.C. 3706). This list has been updated periodically by new legislation (e.g., the 112th Congress added South Sudan in P.L. 112-163).

The second step requires the President to determine annually which eligible countries, from those on the list of SSA countries defined by Congress, should become beneficiaries of the AGOA preferences. There are two different sets of criteria for the President's consideration in this process: Section 104 of AGOA (19 U.S.C. 3703) and Section 502 of the Trade Act of 1974, or GSP (19 U.S.C. 2462).

- **Section 104** is specific to AGOA and requires the President to consider a number of factors related to the prospective AGOA country's economy; rule of law; elimination of barriers to U.S. trade and investment; poverty reduction efforts; protection of worker rights; support of terrorist activities; and interference with U.S. national security and foreign policy efforts.
- **Section 502**, as amended, sets out the eligibility requirements of the Generalized System of Preferences (GSP), which must also be met by any AGOA beneficiary country. These also include a number of economic and political factors.

At the conclusion of the most recent annual review on December 20, 2012, President Obama issued a proclamation in which, among other things, he revoked AGOA eligibility for Mali and Guinea-Bissau, and granted it to South Sudan.

[22] Department of Commerce, Office of Textiles and Apparel (OTEXA) Summary of AGOA textile and apparel provisions at OTEXA website, http://otexa.ita.doc.gov.

Least-Developed Country Status

AGOA, like GSP, has additional benefits for least-developed beneficiary countries (LDCs). Under GSP, these countries qualify for duty-free treatment on an additional 1,400 products. Under AGOA, the additional benefits are more flexible rules governing the duty-free treatment of textiles and apparel. Unlike GSP, which provides the President broad latitude in determining LDC status, AGOA defines LDCs as countries with a per capita gross national product (GNP) of less than $1,500 in 1998 as measured by the World Bank.[23] Botswana, Namibia, and Mauritius are also explicitly granted LDC status in AGOA, despite GNP per capita levels above that threshold. This exemption is particularly economically significant for Mauritius; it is the fourth-largest exporter under AGOA (excluding oil trade) and exports primarily apparel products under the preference program.

AGOA Forum

AGOA requires the President, in consultation with Congress and the other governments concerned, to hold annually a United States-Sub-Saharan Africa Trade and Economic Cooperation Forum.[24] The purpose of the Forum, which is held in alternate years in the United States and Africa, is to "discuss expanding trade and investment relations between the United States and Sub-Saharan Africa and the implementation of [AGOA] including encouraging joint ventures between small and large businesses." The 12th AGOA Forum is being held in Addis Ababa, Ethiopia, August 12-13, 2013. The theme for this year's event is "Sustainable Transformation through Trade and Technology."

Technical Assistance and Capacity Building

Unlike other U.S. preference programs, AGOA directs the President to target U.S. government technical assistance and trade capacity building (TCB) in AGOA beneficiary countries.[25] This assistance is intended 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. AGOA also includes assistance for developing private sector business associations and networks among U.S. and SSA enterprises.[26] Technical assistance must be targeted to increasing the number of reverse trade missions; increasing trade in services; addressing critical agricultural policy issues; and building capabilities of African states to participate in the WTO, generally, and, particularly, in services. In FY2012, the United States reported obligating approximately $94.6 million in TCB assistance to AGOA countries, down considerably from the previous five years during which TCB funding averaged over $600 million per year.[27] Of this amount in 2012, $12.4 million was obligated for

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[23] 19 U.S.C. §2462(a)(2) and 19 U.S.C. §3721(c)(3).

[24] Representatives from appropriate sub-Saharan African regional organizations and government officials from other appropriate countries in sub-Saharan Africa also could be invited, and generally are. African countries hosting the Forum must be nominated by their participant peers and be able to sponsor associated costs.

[25] Section 122 of P.L. 106-200 (19 U.S.C. §3732).

[26] Ibid.

[27] USAID, which administers the collection and dissemination of the data on TCB, includes portions of Millennium Challenge Corporation (MCC) compacts, such as infrastructure projects, in these figures. USAID reports the MCC funding in the year it is granted, though the distribution of the funds occurs over several years. No new MCC compacts (continued...)

physical infrastructure development, $25.8 million on trade-related agriculture projects, and $27.7 million on competition policy, business, environment, and governance.

In addition to these broad mandates, AGOA includes language pertaining to the following agencies:

- **Overseas Private Investment Corporation (OPIC).** Section 123 expresses the sense of Congress that OPIC should exercise its authority to support projects in SSA and directs OPIC to increase funds directed to SSA countries.
- **Export-Import Bank (Ex-Im Bank).** Section 124 of AGOA expresses the sense of Congress that the Ex-Im Bank should continue to expand its financial commitments to its loan guarantee and insurance programs to African countries and commends the Bank's sub-Saharan Africa Advisory Committee for its work in fostering economic cooperation between the United States and SSA. This committee's work was extended to September 30, 2014, in recent legislation reauthorizing the Ex-Im Bank (§23 of P.L. 112-122).[28]
- **United States Trade Representative (USTR).** Section 117 supports the creation of an Assistant USTR for Africa to serve as the "primary point of contact in the executive branch for those persons engaged in trade between the United States and sub-Saharan Africa," and the chief adviser to the U.S. Trade Representative (USTR) on trade and investment issues pertaining to Africa. This position previously had been established by President Clinton in 1998.
- **U.S. Foreign Commercial Service (CS).** Section 125 notes that the CS presence in SSA had been reduced since the 1980s and the level of staffing in 1997 (seven officers in four countries) did not "adequately service the needs of U.S. businesses attempting to do business in sub-Saharan Africa."[29] Accordingly, the legislation required the posting of at least 20 CS officers in not less than 10 countries in SSA by December 31, 2001, "subject to the availability of appropriations."[30] According to data provided by the Department of Commerce for FY2012, there were five CS staff in Africa with three in South Africa and one each in Kenya and Nigeria.
- **U.S. Agency for International Development (USAID).** Aside from Millennium Challenge Corporation (MCC) compacts that include TCB, USAID funds much of the trade capacity building efforts related to AGOA ($58 of the $94.6 million mentioned above). In 2011, the Administration announced the African Competitiveness and Trade Expansion (ACTE) initiative, a trade and investment initiative with funding of up to $30 million annually, subject to appropriations.[31]

(...continued)

with TCB components were initiated with AGOA countries in 2012, which explains the large drop in TCB funding. U.S. Agency for International Development, Trade Capacity Building Database, http://tcb.eads.usaidallnet.gov/.

[28] Export-Import Bank Reauthorization Act, 12 U.S.C. 635(b)(9)(B)(iii).

[29] AGOA, §125(a)(4).

[30] AGOA, §125(b).

[31] USAID, "U.S. Announces New African Trade Capacity Building Initiative at AGOA Forum," press release, June 9, 2011, http://www.usaid.gov/news-information/press-releases/us-announces-new-african-trade-capacity-building-initiative-agoa.

> ACTE supports the three African Trade Hubs, one of USAID's most oft-cited AGOA-related projects.[32] Based in Ghana, Kenya, and Botswana, the Trade Hubs attempt to help potential exporters become globally competitive and make full use of their AGOA benefits.[33]

Annual Report to Congress

Originally, AGOA also required the President to submit an annual "comprehensive report on the trade and investment policy of the United States for sub-Saharan Africa." In a subsequent reauthorization of the AGOA trade preferences, this requirement was not extended. The most recent report was in 2008.

U.S. Imports under AGOA and GSP[34]

U.S. imports from AGOA countries represent a very small share of overall U.S. imports. In 2012, the United States imported $2,251 billion in goods, of which only $47.6 billion, or roughly 2%, came from AGOA countries. Nearly 75% of these imports ($34.9 billion) received duty-free treatment, under either AGOA or GSP, though crude oil accounts for much of this. Among non-energy U.S. imports, 38% received duty-free treatment under AGOA or GSP.[35]

Energy-related products (e.g., crude oil) dominate U.S. imports from SSA under AGOA and GSP, representing 86% of such imports in 2012. Given SSA's abundant natural resources and the already low U.S. tariff on oil ($0.05-$0.10 per barrel), much of this trade would likely occur regardless of the preference program. The discussion that follows focuses on non-energy trade between the United States and SSA. (See the text box on page 11 for more information on U.S. oil imports under AGOA.)

In 2012, U.S. non-energy imports from SSA under AGOA and GSP were $4.8 billion (**Figure 1**). This represented a slight decline from the $5 billion in imports in 2011, but a more than three-fold increase (up from $1.3 billion) since 2001, the first full year of AGOA eligibility. Apparel products remain one of the largest non-oil import categories; however, these imports peaked in 2004 prior to the dismantling of the complex multilateral quota system, known as the Multifiber Agreement (MFA). The MFA limited U.S. apparel imports from certain countries, thus eliminating the extent of competition faced by AGOA apparel exporters. Though U.S. apparel imports still face relatively high tariffs, removal of these strict quantitative limitations reduced the AGOA countries' competitive advantage in producing apparel. U.S. apparel imports under

[32] For example, see Hearing Testimony by Earl W. Gast, U.S. Congress, Senate Committee on Foreign Relations, Subcommittee on African Affairs, *Economic Statecraft: Embracing Africa's Market Potential*, 112th Cong., 2nd sess., June 28, 2012, S.Hrg. 112-604 (Washington: GPO, 2012), p. 10.

[33] Each of the three regional Trade Hubs has its own website with information on its activities. For more information see West Africa, http://www.watradehub.com/aboutus; East Africa, http://www.competeafrica.org/; and South Africa, http://www.satradehub.org/.

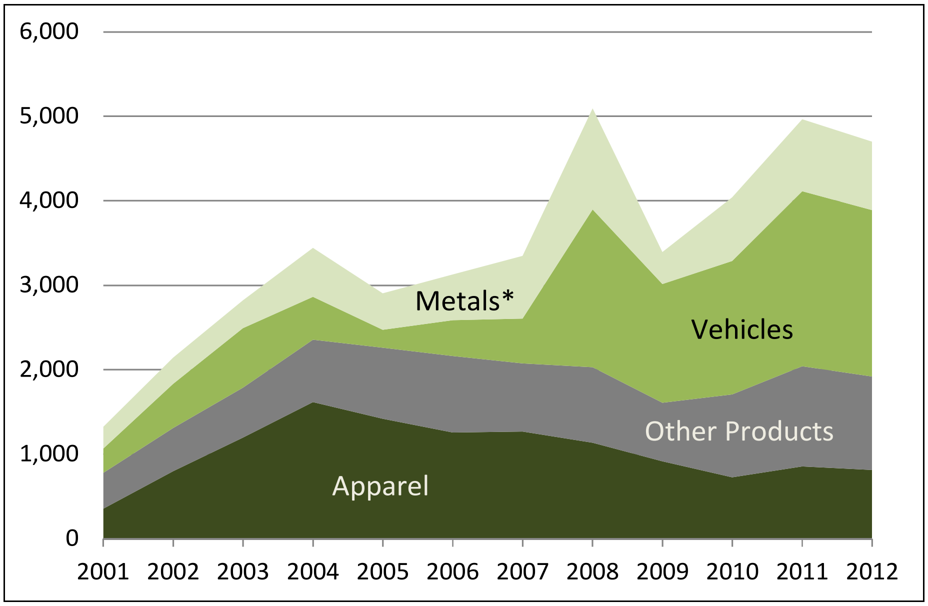
[34] AGOA and GSP overlap in their product coverage so this discussion considers them jointly. Trade data in this section come from the U.S. International Trade Commission's dataweb, http://dataweb.usitc.gov/, and http://dataweb.usitc.gov/africa/trade_data.asp.

[35] Though only 38% of non-oil imports entered the United States under AGOA or GSP, roughly 90% of non-oil imports entered duty-free, because a large portion of products face no U.S. import tariff.

AGOA, though very significant for some AGOA countries, represent only 1% of overall U.S. apparel imports. U.S. apparel imports totaled $77.7 billion in 2012 with $29.6 billion from China, $7.0 billion from Vietnam, and less than $1 billion total from AGOA beneficiaries (**Table 1**).

Figure 1. U.S. Imports from SSA under AGOA and GSP, excluding Crude Oil

(in millions of U.S. dollars)



Source: Analysis by CRS. Data from U.S. International Trade Commission (ITC).

Notes: (*) Includes aluminum, iron, and steel products.

Table 1. U.S. Imports of Apparel Products by Country

(in millions of U.S. dollars, 2012)

Top Overall Countries	Import Value	Top AGOA Countries	Import Value
China	$29,602	Lesotho	$301
Vietnam	7,009	Kenya	254
Indonesia	4,954	Mauritius	163
Bangladesh	4,322	Swaziland	60
Mexico	3,844	Botswana	11

Source: Analysis by CRS. Data from U.S. ITC.

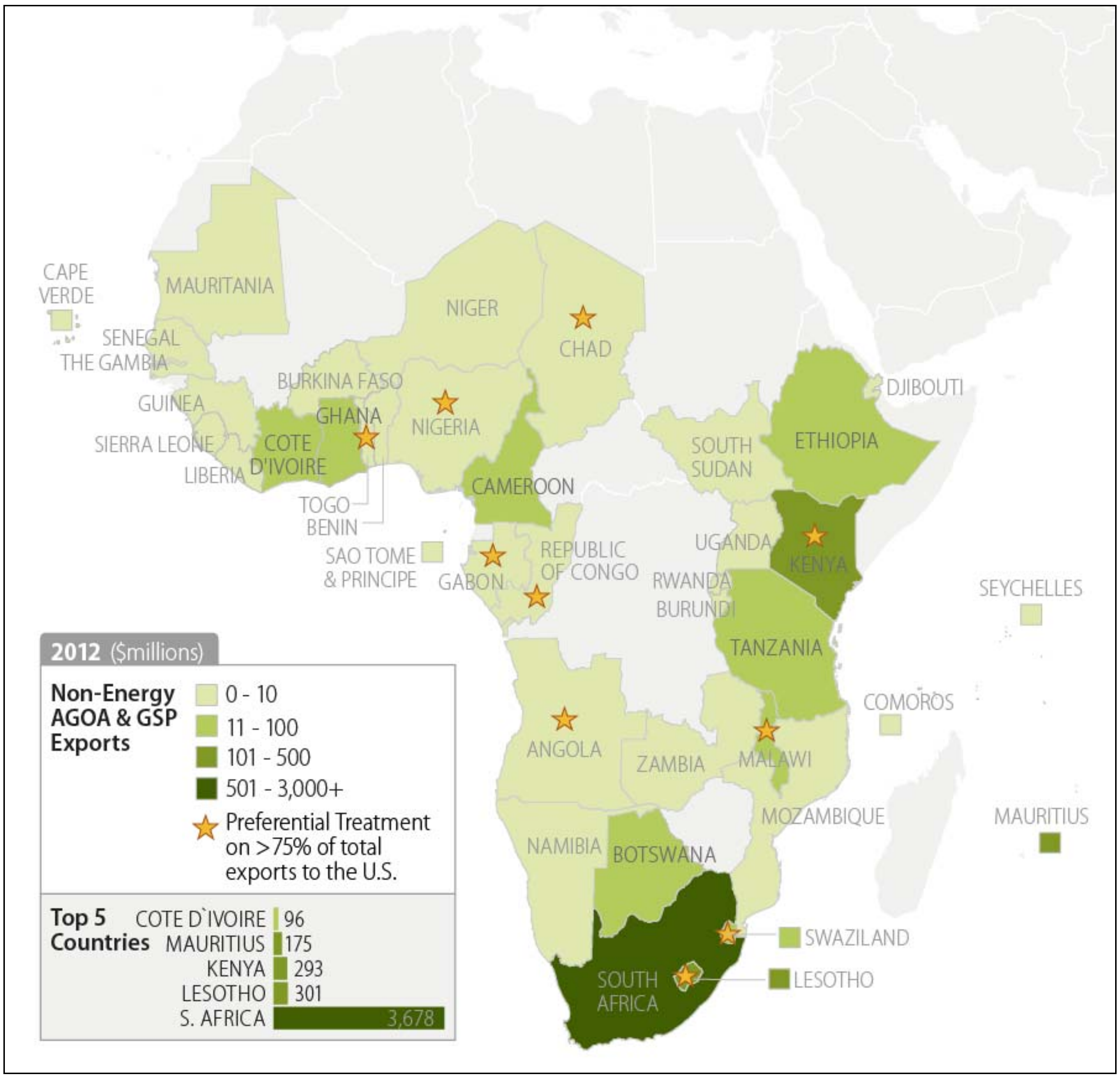
Notes: Apparel products defined as Harmonized Tariff Schedule (HTS) chapters 61 and 62.

While U.S. apparel imports from AGOA countries have declined from their peak in 2004, imports of other products have been rising rapidly. Vehicle imports have seen strong growth, rising from $289 million in 2001 to nearly $2 billion in 2012. These and other more advanced manufactured products, such as chemicals, come almost exclusively from South Africa. Imports of products with more widespread origins have also grown, though on a more modest scale. U.S. imports of food and agriculture products, including nuts, fruits, cocoa, sugar, beverages, and tobacco have increased from $136 million to $508 million during the same period.

U.S. imports from SSA under AGOA and GSP are heavily concentrated in a few countries. **Figure 2** highlights the top exporters of non-energy products to the United States under both programs. U.S. preferential imports from South Africa totaled $3.7 billion in 2012, accounting for roughly three-quarters of all U.S. imports from SSA under AGOA/GSP. Other top exporters under AGOA/GSP are the major apparel producers: Lesotho ($301 million); Kenya ($293 million); and Mauritius ($175 million). Cote d'Ivoire was the fifth largest exporter under these preference programs, exporting largely cocoa products ($96 million). Aside from these top countries, however, the preferences are not heavily utilized. U.S. preferential imports were less than $1 million for over half of the 39 AGOA beneficiary countries in 2012.

Figure 2. Top AGOA and GSP Exporters, excluding Crude Oil

(2012, in millions of U.S. dollars)



Source: Analysis by CRS. Data from U.S. ITC.

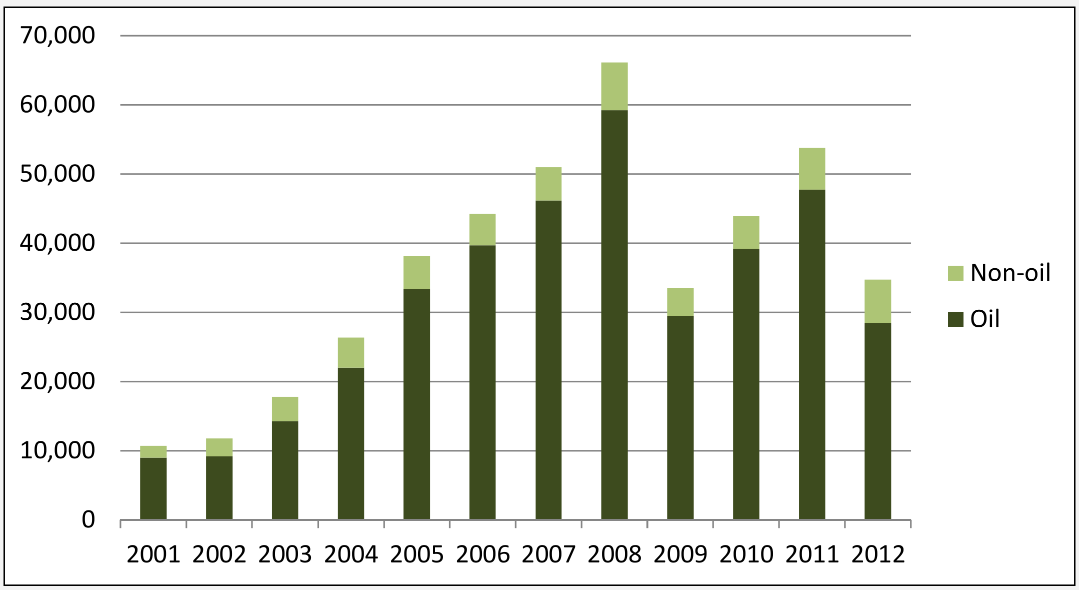
U.S. Oil Imports Under AGOA and GSP

Crude oil has been the top U.S. import from SSA under AGOA and GSP since AGOA's first full year of duty-free treatment in 2001 (**Figure 3**), The following are key facts regarding U.S. oil imports under AGOA and GSP.

- The top 5 AGOA-eligible oil exporters are Nigeria, Angola, Chad, Gabon, and Republic of Congo.
- Both AGOA and GSP grant duty-free status to U.S. crude oil imports.
- GSP only affords this treatment to least-developed countries (LDCs).
- Nigeria is not considered an LDC under GSP and so depends on AGOA for duty-free treatment of its crude oil exports to the United States. It is the only major AGOA-eligible oil exporter that is not considered an LDC under GSP.
- Crude oil prices have exceeded $100 a barrel in recent years. This high market value coupled with a very low U.S. import tariff, $0.05-$0.10 per barrel, makes AGOA and GSP's crude oil tariff benefit relatively insignificant.
- U.S. crude oil imports from SSA dropped 40% in 2012, which may be partially due to the increased U.S. production of shale oil, a direct competitor with oil from some SSA countries due to its similar composition.[36]

Figure 3. Oil Imports from SSA under AGOA and GSP

(in millions of U.S. dollars)



Source: Analysis by CRS. Data from U.S. ITC.

Impacts of AGOA

Through AGOA Congress set out to improve the economic development of SSA and increase U.S. trade ties with the region. A handful of countries have made strong use of the preference program and have increased employment in economic sectors that benefited from duty-free treatment under AGOA. For example, the government of Lesotho, one of the major apparel exporters under AGOA, estimates that employment in manufacturing rose from 19,000 in 1999 to

[36] Sarah Kent, "Nigeria Bearing Brunt of U.S. Shale-Oil Boom," *The Wall Street Journal*, March 6, 2013.

45,700 in June 2011.[37] A peer-reviewed economic study found a direct link between the AGOA preferences and increased U.S. imports from beneficiary countries, and concluded that these increased SSA exports were not merely diverted from other potential export destinations (e.g., the European Union).[38] This relationship was strongest for the apparel sector and other sectors with high U.S. import tariffs.

Despite these achievements, challenges remain, such as the limited number of countries making significant use of the preferences, and doubts as to whether AGOA countries have been able to translate these short-term preference benefits into transformative changes in their manufacturing capabilities and overall competitiveness.[39] As highlighted above, the majority of AGOA non-oil imports come from South Africa. Among the other countries that have made significant use of the preferences, apparel exports account for most of their AGOA exports. While the apparel sector has been acknowledged as a potential launching point for more advanced manufacturing industries, the manufacturing sectors in many AGOA beneficiary countries remain highly underdeveloped. One study asserts that AGOA apparel production is concentrated in the lowest-skill tasks with little knowledge transfer to local workers and that the global competitiveness of AGOA exporters still depends on their preferential treatment.[40]

In addition to AGOA's tangible goals related to economic development and trade, AGOA also supports the achievement of other strategic objectives. AGOA serves as a focal point for U.S. economic relations with SSA. If the recent period of high economic growth in much of SSA continues, the United States may have an increasing interest in the region's potential as a consumer market and destination for both U.S. exports and foreign direct investment (FDI). A study by McKinsey estimated that the number of African households making above $5,000 per year, the point where discretionary spending begins, would rise from 85 million in 2008 to 128 million in 2020.[41] Though AGOA focuses specifically on U.S. imports, it spurs dialogue between the United States and SSA countries on two-way trade and investment issues through the annual AGOA Forum. Through the eligibility criteria required for the program, the United States maintains some influence over the political and economic structure of the beneficiary countries. These strategic aspects of AGOA may become more important as other foreign countries, such as China, continue to increase their commercial and political ties with SSA.

Reauthorization Debate

AGOA's authorization is set to expire on September 30, 2015. President Obama,[42] some Members of Congress, officials from beneficiary countries, and various stakeholders have expressed an

[37] Central Bank of Lesotho, *Africa Growth and Opportunities Act (AGOA): Economic Impact and Future Prospects*, CBL Economic Review No. 131, June 2011, p. 3.

[38] Garth Frazer and Johannes Van Biesebroeck, "Trade Growth under the African Growth and Opportunity Act," *The Review of Economics and Statistics*, vol. 92, no. 1 (February 2010).

[39] Niall Condon and Matthew Stern, *The Effectiveness of African Growth and Opportunity Act (AGOA) in Increasing Trade from Least Developed Countries*, EPPI-Centre, Social Research Unit, Institute of Education, University of London, March 2011.

[40] Lawrence Edwards and Robert Z. Lawrence, *AGOA Rules: The Intended and Unintended Consequences of Special Fabric Provisions*, National Bureau of Economic Research, Working Paper 16623, December 2010.

[41] McKinsey Global Institute, *Lions on the Move: The Progress and Potential of African Economies*, June 2010, p. 22.

[42] The White House, "Remarks by President Obama at Business Leaders Forum," press release, July 1, 2013, http://www.whitehouse.gov/the-press-office/2013/07/01/remarks-president-obama-business-leaders-forum.

interest in renewing the preferences. Some observers have also argued that this potential reauthorization provides an opportunity to improve AGOA, addressing some of its challenges and making it more compatible with the changing economic landscape in SSA. The following are some issues that may merit consideration during AGOA's reauthorization debate.

- *Investor Uncertainty, Country Eligibility, and Length of Reauthorization*. Private sector actors have argued that uncertainty regarding the duration of AGOA preferences, both due to the eligibility reviews and periodic reauthorizations, hinders investment in the region. Some have called for a longer and uniform reauthorization (i.e., 10 years) for all AGOA preferences, including the third-country fabric provision, and for more transparency and greater consideration of economic implications during annual eligibility reviews.[43] On the other hand, changes to the eligibility criteria could decrease the potential leverage AGOA provides to encourage economic and political reform in beneficiary countries. Lengthened periods of authorization could also limit the incentive for more advanced economies, such as South Africa, to engage in more comprehensive trade liberalization efforts.
- *Intra-African Trade*. Intra-African trade and economic integration have been cited as a crucial but often absent component of economic development in the region.[44] Regional integration efforts are one way to improve these intra-African trade ties, and AGOA calls for "expanding U.S. assistance to sub-Saharan Africa's regional integration efforts." In the first decade of AGOA's enactment, African intra-regional trade stayed flat at around 10%.[45] It may be worthwhile to evaluate the impact, if any, that AGOA and corresponding U.S. development assistance has had in improving regional integration efforts and intra-African trade, and determine whether AGOA should further address these issues.[46]
- *Two-way Trade*. Like other U.S. preference programs, AGOA provides preferential access to the U.S. market with no reciprocal preferential U.S. access to the beneficiary countries. In light of economic improvements in the region, some observers are now calling for a greater focus on two-way trade in AGOA. This goal was included, however, in the original AGOA legislation mandating that the Administration seek out possible FTA partners among SSA nations. Subsequent negotiations with South Africa and its regional partners in SACU began in 2003, but were ultimately unsuccessful and postponed indefinitely in 2006. The European Union (EU), however, successfully concluded an Economic Partnership Agreement (EPA) providing reciprocal preferential treatment to EU exports to South Africa, though it excludes a range of products.[47] Two relevant

[43] The Corporate Council on Africa, *Promoting Shared Interests: Policy Recommendations on Africa for the Second Term of the Obama Administration*, April 2013, p. 18.

[44] Africa's trade with itself accounts for only 11% of its total trade, compared with 50% in developing Asia and 70% in Europe. United Nations Conference on Trade and Development, *Intra-African Trade: Unlocking Private Sector Dynamism*, Economic Development in Africa Report 2013, July 2013.

[45] Brookings Africa Growth Initiative, *Accelerating Growth through Improved Intra-African Trade*, January 2012, p. 2.

[46] The Administration recently announced the Trade Africa initiative, which centers on a new trade and investment partnership with the East African Community (EAC). This may eventually include a bilateral investment treaty (BIT) with the EAC, which would be the first such treaty with a regional group. http://www.whitehouse.gov/the-press-office/2013/07/01/fact-sheet-trade-africa.

[47] GSP already includes language related to such occurrences, declaring a country ineligible if it "affords preferential (continued...)

policy questions follow: (1) is the United States willing to negotiate less comprehensive and high-standard FTAs than it normally negotiates to gain more access to emerging markets like South Africa, or are countries in the region more prepared to engage in comprehensive, reciprocal trade talks; and (2) should AGOA include its own graduation process, which, like that for GSP, removes more economically advanced countries from the preference program once they reach a certain level of economic development (e.g., GDP/capita level)?

- *Country Participation*. Over half of the current AGOA beneficiaries exported less than $1 million to the United States under AGOA in 2012. Many of these are LDC AGOA countries that are eligible for duty-free treatment on apparel exports and enjoy the more flexible rules of origin ("Third-Country Fabric Provision"), giving them a significant competitive advantage over other producers. A handful of AGOA countries, particularly Kenya, Lesotho, and Mauritius, provide the bulk of apparel exports under AGOA. Should factors that helped these countries successfully utilize AGOA potentially be integrated into a revised AGOA framework to help spur similar success in other AGOA LDCs?
- *Trade Capacity Building (TCB)*. Exporters in AGOA countries face numerous challenges. These include poor infrastructure, inadequate access to electricity, and skilled labor shortages. AGOA sets out broad aims for TCB, which are administered through different agencies, particularly USAID. Since 2001, $4 billion has been allocated to TCB funding in AGOA countries by various U.S. government agencies, particularly USAID and MCC. Yet discussions on AGOA often center on the need for more TCB funding. In 2011 GAO reported that USAID needed better evaluation of its TCB programs.[48] In addition to the effectiveness of TCB, another issue is whether a lack of TCB funding has been a major constraint in AGOA countries' ability to take advantage of the trade preferences. In 2012, TCB funding in AGOA countries dropped to $95 million from an average of $629 million over the previous five years, largely because no new MCC compacts with TCB components were initiated with an AGOA country in 2012.
- *Products Covered under AGOA Preferences*. AGOA and GSP provide duty-free access on U.S. imports of approximately 5,200 tariff lines, which together with the products already duty-free in the U.S. tariff schedule, grants AGOA beneficiaries duty-free access to roughly 86% of U.S. products. While a majority of products are covered under AGOA, some of the excluded products are competitively produced in AGOA countries, particularly agricultural products.[49] Though some agriculture products are included in AGOA, those subject to tariff-rate quotas (TRQs) are limited in the amount that may enter duty-free. Expanding the products covered under AGOA could allow a greater number of AGOA

(...continued)

treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce." 19 U.S.C. §2462(b)(2)(C).

[48] U.S. Government Accountability Office, *The United States Provides Wide-ranging Trade Capacity Building Assistance, but Better Reporting and Evaluation Are Needed*, GA0-11-727, 2011, http://www.gao.gov/products/GAO-11-727.

[49] GAO, *Options for Congressional Consideration to Improve U.S. Trade Preference Programs*, Prepared Statement for Hearing, GAO-10-262T, November 2009, p. 4.

beneficiaries to make use of the trade preference program. Such a move, however, could prove politically sensitive in the United States, as most items excluded from U.S. preference programs are potentially import sensitive. AGOA exporters may also have difficulty meeting U.S. food safety standards for agricultural products. Expanding access to the U.S. agriculture market may also require additional TCB funding.

- *Duty-Free Quota-Free (DFQF) Beyond Africa*. AGOA's tariff benefits, which include apparel products, are broader than those provided by GSP. Some argue, including in the context of the current WTO Doha negotiations, that broader DFQF tariff preferences should be granted to all least-developed countries, not just those in Africa.[50] LDCs throughout the world face relatively high U.S. import tariffs given the particular items they export, such as apparel and agricultural products. For example, in 2012, U.S. import duties on products from Cambodia ($452 million) were higher than those from the United Kingdom ($440 million).[51] Providing broader DFQF access to LDCs would erode some of the competitive advantage AGOA apparel producers currently receive. A recent study estimates that apparel exports from AGOA countries would fall considerably if AGOA-like benefits were expanded to all LDCs.[52] Other studies, however, estimate that a broader DFQF program could actually benefit AGOA LDCs by including protected sectors such as agriculture, despite potential losses in apparel production.[53] In addition, proponents of DFQF argue that apparel products currently produced in AGOA countries could be targeted for exemption from a broader DFQF program.[54]

[50] Kimberly Ann Elliott, *Why Is Opening the U.S. Market to Poor Countries So Hard?*, Center for Global Development, January 2012.

[51] Calculated duties according to U.S. ITC tariff and trade dataweb.

[52] Brookings and United Nations Economic Commission for Africa, *The African Growth and Opportunity Act: An Empirical Analysis of the Possibilities Post-2015*, July 2013, p. 17.

[53] Antoine Bouet et al., *The Costs and Benefits of Duty-Free, Quota-Free Market Access for Poor Countries: Who and What Matters*, Center for Global Development, Working Paper 206, March 2010.

[54] Letter from Kimberly Elliott, Center for Global Development, to Michael Froman, USTR, June 24, 2013, http://www.cgdev.org/publication/supporting-multilateralism-and-development-us-trade-policy-duty-free-quota-free-market.

Appendix A. AGOA Beneficiaries

Table A-1. AGOA and GSP Eligibility, U.S. Imports, and GSP/Capita, by Country

Country	GSP	GSP-Least Developed	AGOA	AGOA-Third Country Fabric Provision	U.S. Non-Energy Imports under AGOA/GSP (thousand $'s, 2012)	GDP/Capita ($'s, 2012)
Angola	√	√	√		0	5,485
Benin	√	√	√	√	49	752
Botswana	√		√	√	12,184	7,191
Burkina Faso	√	√	√	√	71	634
Burundi	√	√	√		18	251
Cameroon	√		√	√	33,031	1,151
Cape Verde	√		√	√	120	3,838
Central African Republic	√	√			NA	473
Chad	√	√	√	√	0	885
Comoros	√	√	√		0	831
Democratic Republic of Congo	√	√			NA	272
Republic of Congo	√		√		89	3,154
Cote d'Ivoire	√		√		96,178	1,244
Djibouti	√	√	√		0	N.A.
Equatorial Guinea					NA	24,036
Eritrea	√				NA	504
Ethiopia	√	√	√	√	21,875	470
Gabon	√		√		3	11,430
Gambia	√	√	√	√	21	512
Ghana	√		√	√	47,266	1,605
Guinea	√	√	√		79	591
Guinea-Bissau	√	√			NA	539
Kenya	√		√	√	292,828	862
Lesotho	√	√	√	√	300,618	1,193
Liberia	√	√	√	√	72	422
Madagascar	√	√			NA	447
Malawi	√	√	√	√	53,131	268
Mali	√	√			NA	694

Mauritania	√	√	√		24	1,106
Mauritius	√		√	√	175,227	8,124
Mozambique	√	√	√	√	64	579
Namibia	√		√	√	1,151	5,668
Niger	√	√	√		50	383
Nigeria	√		√	√	8,273	1,555
Rwanda	√	√	√	√	377	620
Sao Tomei and Principe	√	√	√		26	1,402
Senegal	√		√	√	481	1,032
Seychelles	√		√		0	11,758
Sierra Leone	√	√	√	√	133	635
Somalia	√	√			NA	N.A.
South Africa	√		√		3,678,184	7,508
South Sudan	√	√	√		0	862
Sudan					NA	1,580
Swaziland	√		√	√	62,707	3,044
Tanzania	√	√	√	√	11,846	609
Togo	√	√	√		76	574
Uganda	√	√	√	√	1,838	547
Zambia	√	√	√	√	222	1,469
Zimbabwe					NA	788

Source: Analysis by CRS. Data from USTR and ITC.

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