

AGOA ACCELERATION ACT OF 2004

MAY 19, 2004.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. THOMAS, from the Committee on Ways and Means,  
 submitted the following

R E P O R T

[To accompany H.R. 4103]

[Including cost estimate of the Congressional Budget Office]

The Committee on Ways and Means, to whom was referred the bill (H.R. 4103) to extend and modify the trade benefits under the African Growth and Opportunity Act, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “AGOA Acceleration Act of 2004”.

**SEC. 2. FINDINGS.**

The Congress finds the following:

(1) The African Growth and Opportunity Act (in this section and section 3 referred to as “the Act”) has helped to spur economic growth and bolster economic reforms in the countries of sub-Saharan Africa and has fostered stronger economic ties between the countries of sub-Saharan Africa and the United States; as a result, exports from the United States to sub-Saharan Africa reached record levels after the enactment of the Act, while exports from sub-Saharan Africa to the United States have increased considerably.

(2) The Act’s eligibility requirements have reinforced democratic values and the rule of law, and have strengthened adherence to internationally recognized worker rights in eligible sub-Saharan African countries.

(3) The Act has helped to bring about substantial increases in foreign investment in sub-Saharan Africa, especially in the textile and apparel sectors, where tens of thousands of new jobs have been created.

(4) As a result of the Agreement on Textiles and Apparel of the World Trade Organization, under which quotas maintained by WTO member countries on textile and apparel products end on January 1, 2005, sub-Saharan Africa’s textile and apparel industry will be severely challenged by countries whose industries are more developed and have greater capacity, economies of scale, and better infrastructure.

(5) The underdeveloped physical and financial infrastructure in sub-Saharan Africa continues to discourage investment in the region.

(6) Regional integration establishes a foundation on which sub-Saharan African countries can coordinate and pursue policies grounded in African interests and history to achieve sustainable development.

(7) Expanded trade because of the Act has improved fundamental economic conditions within sub-Saharan Africa. The Act has helped to create jobs in the poorest region of the world, and most sub-Saharan African countries have sought to take advantage of the opportunities provided by the Act.

(8) Agricultural biotechnology holds promise for helping solve global food security and human health crises in Africa and, according to recent studies, has made contributions to the protection of the environment by reducing the application of pesticides, reducing soil erosion, and creating an environment more hospitable to wildlife.

(9) (A) One of the greatest challenges facing African countries continues to be the HIV/AIDS epidemic, which has infected as many as one out of every four people in some countries, creating tremendous social, political, and economic costs. African countries need continued United States financial and technical assistance to combat this epidemic.

(B) More awareness and involvement by governments are necessary. Countries like Uganda, recognizing the threat of HIV/AIDS, have boldly attacked it through a combination of education, public awareness, enhanced medical infrastructure and resources, and greater access to medical treatment. An effective HIV/AIDS prevention and treatment strategy involves all of these steps.

(10) African countries continue to need trade capacity assistance to establish viable economic capacity, a well-grounded rule of law, and efficient government practices.

**SEC. 3. STATEMENT OF POLICY.**

The Congress supports—

(1) a continued commitment to increase trade between the United States and sub-Saharan Africa and increase investment in sub-Saharan Africa to the benefit of workers, businesses, and farmers in the United States and in sub-Saharan Africa, including by developing innovative approaches to encourage development and investment in sub-Saharan Africa;

(2) a reduction of tariff and nontariff barriers and other obstacles to trade between the countries of sub-Saharan Africa and the United States, with particular emphasis on reducing barriers to trade in emerging sectors of the economy that have the greatest potential for development;

(3) development of sub-Saharan Africa’s physical and financial infrastructure;

(4) international efforts to fight HIV/AIDS, malaria, tuberculosis, other infectious diseases, and serious public health problems;

(5) many of the aims of the New Partnership for African Development (NEPAD), which include—

(A) reducing poverty and increasing economic growth;

(B) promoting peace, democracy, security, and human rights;

(C) promoting African integration by deepening linkages between African countries and by accelerating Africa's economic and political integration into the rest of the world;

(D) attracting investment, debt relief, and development assistance;

(E) promoting trade and economic diversification;

(F) broadening global market access for United States and African exports;

(G) improving transparency, good governance, and political accountability;

(H) expanding access to social services, education, and health services with a high priority given to addressing HIV/AIDS, malaria, tuberculosis, other infectious diseases, and other public health problems;

(I) promoting the role of women in social and economic development by reinforcing education and training and by assuring their participation in political and economic arenas; and

(J) building the capacity of governments in sub-Saharan Africa to set and enforce a legal framework, as well as to enforce the rule of law;

(6) negotiation of reciprocal trade agreements between the United States and sub-Saharan African countries, with the overall goal of expanding trade across all of sub-Saharan Africa;

(7) the President seeking to negotiate, with interested eligible sub-Saharan African countries, bilateral trade agreements that provide investment opportunities, in accordance with section 2102(b)(3) of the Trade Act of 2002 (19 U.S.C. 3802(b)(3));

(8) efforts by the President to negotiate with the member countries of the Southern African Customs Union in order to provide the opportunity to deepen and make permanent the benefits of the Act while giving the United States access to the markets of these African countries for United States goods and services, by reducing tariffs and non-tariff barriers, strengthening intellectual property protection, improving transparency, establishing general dispute settlement mechanisms, and investor-state and state-to-state dispute settlement mechanisms in investment;

(9) a comprehensive and ambitious trade agreement with the Southern African Customs Union, covering all products and sectors, in order to mature the economic relationship between sub-Saharan African countries and the United States and because such an agreement would deepen United States economic and political ties to the region, lend momentum to United States development efforts, encourage greater United States investment, and promote regional integration and economic growth;

(10) regional integration among sub-Saharan African countries and business partnerships between United States and African firms; and

(11) economic diversification in sub-Saharan African countries and expansion of trade beyond textiles and apparel.

#### SEC. 4. SENSE OF CONGRESS ON RECIPROCITY AND REGIONAL ECONOMIC INTEGRATION.

It is the sense of the Congress that—

(1) the preferential market access opportunities for eligible sub-Saharan African countries will be complemented and enhanced if those countries are implementing actively and fully, consistent with any remaining applicable phase-in periods, their obligations under the World Trade Organization, including obligations under the Agreement on Trade-Related Aspects of Intellectual Property, the Agreement on the Application of Sanitary and Phytosanitary Measures, and the Agreement on Trade-Related Investment Measures, as well as the other agreements described in section 101(d) of the Uruguay Round Agreements Act (19 U.S.C. 3511(d));

(2) eligible sub-Saharan African countries should participate in and support mutual trade liberalization in ongoing negotiations under the auspices of the World Trade Organization, including by making reciprocal commitments with respect to improving market access for industrial and agricultural goods, and for services, recognizing that such commitments may need to reflect special and differential treatment for developing countries;

(3) some of the most pernicious trade barriers against exports by developing countries are the trade barriers maintained by other developing countries; therefore, eligible sub-Saharan African countries will benefit from the reduction of trade barriers in other developing countries, especially in developing countries that represent some of the greatest potential markets for African goods and services; and

(4) all countries should make sanitary and phytosanitary decisions on the basis of sound science.

**SEC. 5. SENSE OF CONGRESS ON INTERPRETATION OF TEXTILE AND APPAREL PROVISIONS OF AGOA.**

It is the sense of the Congress that the executive branch, particularly 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 interpret, implement, and enforce the provisions of section 112 of the African Growth and Opportunity Act, relating to preferential treatment of textile and apparel articles, broadly in order to expand trade by maximizing opportunities for imports of such articles from eligible sub-Saharan African countries.

**SEC. 6. DEFINITION.**

In this Act, the term “eligible sub-Saharan African country” means an eligible sub-Saharan African country under the African Growth and Opportunity Act.

**SEC. 7. EXTENSION OF AFRICAN GROWTH AND OPPORTUNITY ACT.**

(a) GENERALIZED SYSTEM OF PREFERENCES.—

(1) EXTENSION OF PROGRAM.—Section 506B of the Trade Act of 1974 (19 U.S.C. 2466b) is amended by striking “2008” and inserting “2015”.

(2) INPUTS FROM FORMER BENEFICIARY COUNTRIES.—Section 506A of the Trade Act of 1974 (19 U.S.C. 2466a) is amended—

(A) in subsection (b)(2)(B), by inserting “or former beneficiary sub-Saharan African countries” after “countries”; and

(B) in subsection (c)—  
(i) by striking “title, the terms” and inserting “title—  
“(1) the terms”; and

(ii) by adding at the end the following:  
“(2) the term ‘former beneficiary sub-Saharan African country’ means a country that, after being designated as a beneficiary sub-Saharan African country under the African Growth and Opportunity Act, ceased to be designated as such a country by reason of its entering into a free trade agreement with the United States.”

(b) APPAREL ARTICLES.—(1) Section 112(b)(1) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(1)) is amended by striking “(including)” and inserting “or both (including)”

(2) Section 112(b)(3) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(3)) is amended—

(A) in the matter preceding subparagraph (A)—

(i) by striking “either in the United States or one or more beneficiary sub-Saharan African countries” each place it appears and inserting “in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries, or both”; and

(ii) by striking “subject to the following:” and inserting “whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2)), subject to the following:”; and

(B) by striking subparagraphs (A) and (B) and inserting the following:

“(A) LIMITATIONS ON BENEFITS.—

“(i) IN GENERAL.—Preferential treatment under this paragraph shall be extended in the 1-year period beginning October 1, 2003, and in each of the 11 succeeding 1-year periods, to imports of apparel articles in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.

“(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term ‘applicable percentage’ means—

“(I) 4.747 percent for the 1-year period beginning October 1, 2003, increased in each of the 5 succeeding 1-year periods by equal increments, so that for the 1-year period beginning October 1, 2007, the applicable percentage does not exceed 7 percent; and

“(II) for each succeeding 1-year period until September 30, 2015, not to exceed 7 percent.

“(B) SPECIAL RULE FOR LESSER DEVELOPED COUNTRIES.—

“(i) IN GENERAL.—Preferential treatment under this paragraph shall be extended through September 30, 2007, for apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries, re-

regardless of the country of origin of the fabric or the yarn used to make such articles, in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.

“(ii) APPLICABLE PERCENTAGE.—For purposes of the subparagraph, the term ‘applicable percentage’ means—

“(I) 2.3571 percent for the 1-year period beginning October 1, 2003;

“(II) 2.6428 percent for the 1-year period beginning October 1, 2004;

“(III) 2.9285 percent for the 1-year period beginning October 1, 2005; and

“(IV) 1.6071 percent for the 1-year period beginning October 1, 2006.

“(iii) LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY.—For purposes of this subparagraph, the term ‘lesser developed beneficiary sub-Saharan African country’ means—

“(I) a beneficiary sub-Saharan African country that had a per capita gross national product of less than \$1,500 in 1998, as measured by the International Bank for Reconstruction and Development;

“(II) Botswana; and

“(III) Namibia.”

(3) Section 112(b)(5)(A) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(5)(A)) is amended to read as follows:

“(A) IN GENERAL.—Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 to the NAFTA.”

(c) HANDLOOMED, HANDMADE, FOLKLORE ARTICLES AND ETHNIC PRINTED FABRICS.—Section 112(b)(6) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(6)) is amended to read as follows:

“(6) HANDLOOMED, HANDMADE, FOLKLORE ARTICLES AND ETHNIC PRINTED FABRICS.—

“(A) IN GENERAL.—A handloomed, handmade, folklore article or an ethnic printed fabric of a beneficiary sub-Saharan African country or countries that is certified as such by the competent authority of such beneficiary country or countries. For purposes of this section, the President, after consultation with the beneficiary sub-Saharan African country or countries concerned, shall determine which, if any, particular textile and apparel goods of the country (or countries) shall be treated as being handloomed, handmade, or folklore articles or an ethnic printed fabric.

“(B) REQUIREMENTS FOR ETHNIC PRINTED FABRIC.—Ethnic printed fabrics qualified under this paragraph are—

“(i) fabrics containing a selvedge on both edges, having a width of less than 50 inches, classifiable under subheading 5208.52.30 or 5208.52.40 of the Harmonized Tariff Schedule of the United States;

“(ii) of the type that contains designs, symbols, and other characteristics of African prints—

“(I) normally produced for and sold on the indigenous African market; and

“(II) normally sold in Africa by the piece as opposed to being tailored into garments before being sold in indigenous African markets;

“(iii) printed, including waxed, in one or more eligible beneficiary sub-Saharan countries; and

“(iv) fabrics formed in the United States, from yarns formed in the United States, or from fabric formed in one or more beneficiary sub-Saharan African country from yarn originating in either the United States or one or more beneficiary sub-Saharan African countries.”

(d) REGIONAL AND U.S. SOURCES.—Section 112(b)(7) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(7)) is amended by inserting “or former beneficiary sub-Saharan African countries” after “and one or more beneficiary sub-Saharan African countries” each place it appears.

(e) SPECIAL RULES.—

(1) CERTAIN COMPONENTS.—Section 112(d) of the African Growth and Opportunity Act (19 U.S.C. 3721(d)) is amended by adding at the end the following:

“(3) CERTAIN COMPONENTS.—An article otherwise eligible for preferential treatment under this section will not be ineligible for such treatment because the article contains—

- “(A) any collars or cuffs (cut or knit-to-shape),
- “(B) drawstrings,
- “(C) shoulder pads or other padding,
- “(D) waistbands,
- “(E) belt attached to the article,
- “(F) straps containing elastic, or
- “(G) elbow patches,

that do not meet the requirements set forth in subsection (b), regardless of the country of origin of the item referred to in the applicable subparagraph of this paragraph.”

(2) DE MINIMIS RULE.—Section 112(d)(2) of the African Growth and Opportunity Act (19 U.S.C. 3721(d)(2)) is amended—

(A) by inserting “or former beneficiary sub-Saharan African countries” after “countries”; and

(B) by striking “7 percent” and inserting “10 percent”.

(f) DEFINITIONS.—Section 112(e) of the African Growth and Opportunity Act (19 U.S.C. 3721(e)) is amended by adding at the end the following:

“(4) FORMER SUB-SAHARAN AFRICAN COUNTRY.—The term ‘former sub-Saharan African country’ means a country that, after being designated as a beneficiary sub-Saharan African country under this Act, ceased to be designated as such a beneficiary sub-Saharan country by reason of its entering into a free trade agreement with the United States.”

**SEC. 8. ENTRIES OF CERTAIN APPAREL ARTICLES PURSUANT TO THE AFRICAN GROWTH AND OPPORTUNITY ACT.**

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the Secretary of the Treasury shall liquidate or reliquidate as free of duty and free of any quantitative restrictions, limitations, or consultation levels entries of articles described in subsection (d) made on or after October 1, 2000, and before the date of the enactment of this Act.

(b) REQUESTS.—Liquidation or reliquidation may be made under subsection (a) with respect to an entry described in subsection (d) only if a request therefor is filed with the Secretary of the Treasury within 90 days after the date of the enactment of this Act and the request contains sufficient information to enable the Secretary to locate the entry or reconstruct the entry if it cannot be located.

(c) PAYMENT OF AMOUNTS OWED.—Any amounts owed by the United States pursuant to the liquidation or reliquidation of any entry under subsection (a) shall be paid not later than 180 days after the date of such liquidation or reliquidation.

(d) ENTRIES.—The entries referred to in subsection (a) are entries of apparel articles that meet the requirements of section 112(b) of the African Growth and Opportunity Act, as amended by section 3108 of the Trade Act of 2002 and this Act.

**SEC. 9. DEVELOPMENT STUDY AND CAPACITY BUILDING.**

(a) REPORTS.—The President shall, by not later than 1 year after the date of the enactment of this Act, conduct a study on each eligible sub-Saharan African country, that—

- (1) identifies sectors of the economy of that country with the greatest potential for growth, including through export sales;
- (2) identifies barriers, both domestically and internationally, that are impeding growth in such sectors; and
- (3) makes recommendations on how the United States Government and the private sector can provide technical assistance to that country to assist in dismantling such barriers and in promoting investment in such sectors.

(b) DISSEMINATION OF INFORMATION.—The President shall disseminate information in each study conducted under subsection (a) to the appropriate United States agencies for the purpose of implementing recommendations on the provision of technical assistance and in identifying opportunities for United States investors, businesses, and farmers.

**SEC. 10. ACTIVITIES IN SUPPORT OF INFRASTRUCTURE TO SUPPORT INCREASING TRADE CAPACITY AND ECOTOURISM.**

(a) FINDINGS.—The Congress finds the following:

(1) Ecotourism, which consists of—

- (A) responsible and sustainable travel and visitation to relatively undisturbed natural areas in order to enjoy and appreciate nature (and any accompanying cultural features, both past and present) and animals, including species that are rare or endangered,

(B) promotion of conservation and provision for beneficial involvement of local populations, and

(C) visitation designed to have low negative impact upon the environment,

is expected to expand 30 percent globally over the next decade.

(2) Ecotourism will increase trade capacity by sustaining otherwise unsustainable infrastructure, such as road, port, water, energy, and telecommunication development.

(3) According to the United States Department of State and the United Nations Environment Programme, sustainable tourism, such as ecotourism, can be an important part of the economic development of a region, especially a region with natural and cultural protected areas.

(4) Sub-Saharan Africa enjoys an international comparative advantage in ecotourism because it features extensive protected areas that host a variety of ecosystems and traditional cultures that are major attractions for nature-oriented tourism.

(5) National parks and reserves in sub-Saharan Africa should be considered a basis for regional development, involving communities living within and adjacent to them and, given their strong international recognition, provide an advantage in ecotourism marketing and promotion.

(6) Desert areas in sub-Saharan Africa represent complex ecotourism attractions, showcasing natural, geological, and archaeological features, and nomad and other cultures and traditions.

(7) Many natural zones in sub-Saharan Africa cross the political borders of several countries; therefore, transboundary cooperation is fundamental for all types of ecotourism development.

(8) The commercial viability of ecotourism is enhanced when small and medium enterprises, particularly microenterprises, successfully engage with the tourism industry in sub-Saharan Africa.

(9) Adequate capacity building is an essential component of ecotourism development if local communities are to be real stakeholders that can sustain an equitable approach to ecotourism management.

(10) Ecotourism needs to generate local community benefits by utilizing sub-Saharan Africa's natural heritage, parks, wildlife reserves, and other protected areas that can play a significant role in encouraging local economic development by sourcing food and other locally produced resources.

(b) ACTION BY THE PRESIDENT.—The President shall develop and implement policies to—

(1) encourage the development of infrastructure projects that will help to increase trade capacity and a sustainable ecotourism industry in eligible sub-Saharan African countries;

(2) encourage and facilitate transboundary cooperation among sub-Saharan African countries in order to facilitate trade;

(3) encourage the provision of technical assistance to eligible sub-Saharan African countries to establish and sustain adequate trade capacity development; and

(4) encourage micro-, small-, and medium-sized enterprises in eligible sub-Saharan African countries to participate in the ecotourism industry.

**SEC. 11. ACTIVITIES IN SUPPORT OF TRANSPORTATION, ENERGY, AGRICULTURE, AND TELECOMMUNICATIONS INFRASTRUCTURE.**

(a) FINDINGS.—The Congress finds the following:

(1) In order to increase exports from, and trade among, eligible sub-Saharan African countries, transportation systems in those countries must be improved to increase transport efficiencies and lower transport costs.

(2) Vibrant economic growth requires a developed telecommunication and energy infrastructure.

(3) Sub-Saharan Africa is rich in exportable agricultural goods, but development of this industry remains stymied because of an underdeveloped infrastructure.

(b) ACTION BY THE PRESIDENT.—In order to enhance trade with Africa and to bring the benefits of trade to African countries, the President shall develop and implement policies to encourage investment in eligible sub-Saharan African countries, particularly with respect to the following:

(1) Infrastructure projects that support, in particular, development of land transport road and railroad networks and ports, and the continued upgrading and liberalization of the energy and telecommunications sectors.

(2) The establishment and expansion of modern information and communication technologies and practices to improve the ability of citizens to research and

disseminate information relating to, among other things, the economy, education, trade, health, agriculture, the environment, and the media.

(3) Agriculture, particularly in processing and capacity enhancement.

**SEC. 12. FACILITATION OF TRANSPORTATION.**

In order to facilitate and increase trade flows between eligible sub-Saharan African countries and the United States, the President shall foster improved port-to-port and airport-to-airport relationships. These relationships should facilitate—

(1) increased coordination between customs services at ports and airports in the United States and such countries in order to reduce time in transit;

(2) interaction between customs and technical staff from ports and airports in the United States and such countries in order to increase efficiency and safety procedures and protocols relating to trade;

(3) coordination between chambers of commerce, freight forwarders, customs brokers, and others involved in consolidating and moving freight; and

(4) trade through air service between airports in the United States and such countries by increasing frequency and capacity.

**SEC. 13. AGRICULTURAL TECHNICAL ASSISTANCE.**

(a) IDENTIFICATION OF COUNTRIES.—The President shall identify not fewer than 10 eligible sub-Saharan African countries as having the greatest potential to increase marketable exports of agricultural products to the United States and the greatest need for technical assistance, particularly with respect to pest risk assessments and complying with sanitary and phytosanitary rules of the United States.

(b) PERSONNEL.—The President shall assign at least 20 full-time personnel for the purpose of providing assistance to the countries identified under subsection (a) to ensure that exports of agricultural products from those countries meet the requirements of United States law.

**SEC. 14. TRADE ADVISORY COMMITTEE ON AFRICA.**

The President shall convene the trade advisory committee on Africa established by Executive Order 11846 of March 27, 1975, under section 135(c) of the Trade Act of 1974, in order to facilitate the goals and objectives of the African Growth and Opportunity Act and this Act, and to maintain ongoing discussions with African trade and agriculture ministries and private sector organizations on issues of mutual concern, including regional and international trade concerns and World Trade Organization issues.

## I. INTRODUCTION

### A. PURPOSE AND SUMMARY

H.R. 4103 would extend and modify the trade benefits under the African Growth and Opportunity Act.

### B. BACKGROUND

#### 1. The African Growth and Opportunity Act (AGOA)

The African Growth and Opportunity Act was signed into law by President Clinton on May 18, 2000, as Title 1 of The Trade and Development Act of 2000. AGOA offers tangible incentives for sub-Saharan African (SSA) countries to continue their efforts to open their economies, promote the rule of law, build free markets, and encourage investment in the region. President Bush signed amendments to AGOA into law on August 6, 2002, as Section 3108 of the Trade Act of 2002 (Public Law 107–210). These amendments expanded preferential access for imports from beneficiary sub-Saharan African countries and thereby improved the operation and utilization of the AGOA program and encouraging more investment in the region.

There are currently 37 countries eligible for AGOA benefits. Of those, only 24 are eligible for the apparel benefits. Twenty-two countries eligible for the apparel benefits meet the criteria for use

of the Special Rule allowing use of third country fabric (for more information see sections below regarding AGOA benefits).

#### *General AGOA Benefits*

AGOA authorizes the President to provide duty-free treatment under the U.S. Generalized System of Preferences (GSP) for any article when imported from African countries if the United States Trade Representative (USTR) and the United States International Trade Commission (USITC) have determined that the article is not import sensitive in the context of imports from SSA countries. On December 21, 2000, the President extended duty free treatment under GSP to AGOA-eligible countries for more than 1,800 tariff line items in addition to the standard GSP list of approximately 4,600 items available to non-AGOA GSP beneficiary countries. The duty-free treatment for the additional 1,800 products available to AGOA countries only, implemented after an extensive process of public comment and review, include such previously GSP-excluded items as footwear, luggage, handbags, watches, and flatware.

In addition to the broader product list, AGOA extended GSP for eligible SSA beneficiaries until September 30, 2008, two years longer than GSP beneficiaries in other regions (GSP expires for non-AGOA countries December 31, 2006). Sub-Saharan Africa beneficiary countries are also exempted from competitive need limitations that cap the GSP benefits available to beneficiaries in other regions.

#### *Apparel Provisions*

AGOA provides duty-free and quota-free access to the U.S. market for apparel made in eligible sub-Saharan African countries from U.S. fabric, yarn, and thread. It also provides for a substantial and growing quantity of duty-free apparel imports (subject to a cap) made from fabric produced in beneficiary SSA countries. Preferential treatment for apparel took effect on October 1, 2000, but beneficiary countries must first establish that they have effective visa systems to prevent illegal transshipment and use of counterfeit documentation and that they have instituted required enforcement and verification procedures. Under the initial AGOA legislation, apparel imports made with regional (African) fabric and yarn were subject to an initial cap of 1.5 percent of overall U.S. apparel imports, growing to 3.5 percent of overall imports over an 8-year period. The 2002 AGOA amendments doubled the applicable percentages of the cap to 7 percent. The table below shows the fill rate for each quota period's cap, measured in square meter equivalents (SMEs):

	Cap in SMEs	Imports	Fill rate (percent)
Quota Period 2004 (first 6 months) .....	956,568,715	172,343,579	18.02
Quota Period 2003 .....	735,905,928	264,469,209	35.94
Quota Period 2002 .....	313,303,986	187,753,717	59.93
Quota Period 2001 .....	246,500,393	41,769,757	16.95

Under a Special Rule for Lesser Developed Beneficiary Countries (LDBC), commonly referred to as the third country fabric provision, those countries with a per capita Gross National Product (GNP) under \$1,500 enjoy duty-free access for apparel made from

fabric originating anywhere in the world until September 30, 2004. Apparel imported under the Special Rule is subject to a cap within the overall 7 percent cap (measured in SMEs, with no dollar equivalent). In the initial AGOA legislation, the Special Rule and regional fabric were capped together at 1.5 percent growing to no more than 3.5 percent of total U.S. apparel imports. The 2002 AGOA amendments doubled the overall cap to 7 percent but maintained a cap for apparel imported into the United States under the Special Rule at the original cap, i.e., 3.5 percent at the end of the period. For FY2003 the Special Rule cap was 2.0714 percent and has risen to 2.3571 percent in FY2004. Twenty-two countries have been designated as eligible for the Special Rule. The 2002 AGOA amendments also granted LDBC status to Botswana and Namibia, qualifying both countries for the Special Rule. The table below shows the fill rate for the Special Rule:

	Cap in SMEs	Imports	Fill rate (percent)
Quota Period 2004 (first 6 months) .....	470,411,241	151,504,106	32.21
Quota Period 2003 .....	359,399,147	222,391,233	61.88
Quota Period 2002 .....	313,303,986	158,878,925	50.71
Quota Period 2001 .....	246,500,393	35,469,291	14.39

The U.S. Secretary of Commerce is directed to monitor apparel imports on a monthly basis to guard against surges. If increased imports are causing or threatening serious damage to the U.S. apparel industry, the President is authorized to suspend duty-free treatment for the article(s) in question. To date, there have been no requests for such relief.

#### *Other Provisions*

AGOA directs the President to organize a U.S.-sub-Saharan Africa Trade and Economic Forum, to be hosted by the U.S. Secretaries of State, Commerce, Treasury, and the U.S. Trade Representative. The Forum is to serve as the vehicle for a regular dialogue between the United States and SSA countries on issues of economics, trade, and investment. The Forum benefited greatly from concurrent fora presented by the private sector and civil society.

The U.S. Secretary of Commerce is directed to ensure that at least twenty full-time Commercial Service employees are assigned in at least ten different Sub-Saharan African countries, subject to the availability of appropriations. AGOA also calls for annual reports to Congress through 2008 on U.S. trade and investment policy in Africa and implementation of the Act.

*AGOA Success and Support:* The AGOA program has been a success for U.S. policy toward SSA. AGOA has helped expand SSA trade and brought about improvements in economic conditions in SSA. Expanded trade opportunities not only help sub-Saharan African countries develop a sustainable economic base but also foster efficient government practices, political stability, and a well-grounded rule of law. AGOA's eligibility requirements have reinforced democratic values and strengthened adherence to international recognized worker rights in eligible sub-Saharan African countries. These requirements will continue to be a useful tool to combat corruption, improve worker conditions, and encourage greater transparency with regard to revenues in the natural re-

source sectors. According to the USITC's "Fourth Annual Report on U.S. Trade and Investment with Sub-Saharan Africa," in addition to spurring increased trade and investment, AGOA has begun to influence other activities that could be beneficial to SSA's long-term economic growth, including the improvement in business climate (for example, investing in infrastructure or implementing reforms, such as reduction of bureaucracy) and the encouragement of regional cooperation and integration to take advantage of AGOA benefits. The program has been lauded by African leaders, civil society organizations, American firms, and Congressional leaders of both parties. One African leader described the program as "the greatest friendship act" by the U.S. government towards Africa. The Committee has been told that the program has been so well-received and effective in Africa that the European Union is reexamining its preference program for Africa in light of AGOA's success.

## 2. Trade With Sub-Saharan Africa

### *U.S. Exports*

U.S. exports to SSA increased 13 percent from 2002 to 2003 and continue to be greater than those to the former Soviet Republics and Central and Eastern Europe combined. From 2000 to 2003, the United States averaged just over \$6.2 billion in merchandise exports to SSA per year, which accounted for less than 1 percent of average total U.S. exports during that period of \$665 billion. The top five export markets in SSA in 2003 for U.S. goods were, in order: South Africa, Nigeria, Angola, Ethiopia, and Equatorial Guinea. The top three U.S. exports to SSA in 2003 were certain machinery parts, wheat (other than durum), and airplanes and other aircraft.

### *U.S. Imports*

The United States is sub-Saharan Africa's largest single export market, accounting for 26 percent of the region's total exports in 2001 alone. From 2000 to 2003, the United States merchandise imports from the world averaged \$1.2 trillion a year, while U.S. imports from SSA averaged \$21.8 billion a year, or approximately 2 percent of total U.S. imports per year over that time period. U.S. imports under AGOA (excluding GSP) have almost doubled from their 2001 level of \$7.6 billion to their 2003 level of \$13.2 billion. The top five countries in SSA from which the U.S. imported the most goods in 2003 were Nigeria, South Africa, Angola, Gabon, and Equatorial Guinea. The top three U.S. imports from SSA in 2003 were petroleum oils, platinum, and distillate and residual fuels. In 2003, there were three apparel items in the top ten U.S. imports from SSA: women's or girl's trousers/shorts, sweaters/pullovers, and men's or boy's trousers/shorts.

### *Investment Flows*

The United States is the leading provider of foreign direct investment to Africa, but U.S. net direct investment flows to Africa in 2002, at \$861 million, accounted for less than 1 percent of total U.S. direct investment abroad. Nigeria and South Africa attracted the largest amounts of U.S. foreign investment flows: \$922 million and \$112 million, respectively. On balance, continuing net positive

flows of U.S. direct investment into Africa yielded an increase of 12.3 percent in the U.S. direct investment position, which totaled \$15.1 billion in 2002. At the same time, 150,000 AGOA-related jobs have been created.

U.S. International Trade Commission officials believe that the United States has relatively little portfolio investment in SSA due to the fact that few countries in the region have well-established stock exchanges and few SSA companies are listed on U.S. exchanges. U.S. portfolio investment in SSA is largely channeled through investment companies that integrate stocks of SSA companies into broader emerging market mutual funds. Because the mining and extractive sectors consistently attract portfolio investment, it is likely that U.S. portfolio investment in SSA will continue to be concentrated in South Africa and, to a lesser extent, Nigeria.

#### *Millennium Challenge Account (MCA)*

The United States provides trade capacity building assistance to SSA, and from 1999–2002 the United States provided over \$345 million in assistance. Building on the successes of trade capacity building and the continued U.S. commitment to global economic development, President Bush in 2002 announced his intent to establish a special development assistance program, the Millennium Challenge Account. The goal of the MCA is to achieve poverty reduction through economic growth by investing in areas such as agricultural development, education, enterprise and private sector development, governance, health, and trade and investment capacity building. The MCA will increase core U.S. development assistance by 50 percent over the next few years, reaching annual levels by FY2006 that are \$5 billion higher than core assistance when the MCA was announced. Even though the MCA is a global initiative, it is anticipated that a substantial portion of its funding will go to SSA.

#### *Internal Conditions Affecting Trade and Development*

In 2002, Africa's average gross domestic product (GDP) growth rate was 3.2 percent, down from 2001's average 4.3 percent. The USITC's "Fourth Annual Report on U.S. Trade and Investment with Sub-Saharan Africa" concludes that this declining average growth rate was attributed primarily to a weaker global economy, slower than expected rebound in world trade, drought in some parts of SSA, the impact of HIV/AIDS, and the eruption of social and political conflict in a number of countries across the continent. Although sub-Saharan Africa's average GDP growth rate continued to fall short of the estimated 7 percent required to reduce poverty significantly, five countries (Equatorial Guinea, Mozambique, Angola, Chad, and Rwanda) achieved a 7 percent or higher growth rate in 2002. The same USITC report concludes that efforts by SSA countries to increase integration into the global trading economy continue to be hampered by a number of obstacles, including social and political conflict and inadequate infrastructure, such as dilapidated road networks, congested ports, inefficient customs services, and prohibitively expensive air transport.

Despite sub-Saharan Africa's increased participation in the global economy in the past few years and the accrual of benefits from the AGOA program, these systemic issues and inefficiencies pre-

vent SSA from fully reaping the benefits of its trade relationship with the United States. A recent study by Paul Brenton and Takako Ikezuki of the World Bank—“The Initial and Potential Impact of Preferential Access to the U.S. Market under the African Growth and Opportunity Act”—states “only when customs clearance procedures are improved, costs of transport and other trade related services are reduced and corruption and other disincentives toward investment are removed, will the full potential of preferential access to the United States under AGOA be realized.”

*U.S.-Southern African Customs Union (SACU) FTA*

In June 2003, the United States launched free trade agreement negotiations with the five countries of the Southern African Customs Union (SACU): Botswana, Lesotho, Namibia, Swaziland, and South Africa. Pursuant to the direction Congress expressed in AGOA for the Administration to seek free trade negotiations with interested SSA countries, the U.S.-SACU FTA will be a catalyst for increasing trade and investment between the United States and SSA. While the SACU countries have already achieved some modest successes benefiting from the one-way preferences of AGOA, this FTA will mark a progression in the trading relationship by moving to a two-way set of commitments. Building on the objectives of AGOA, trade capacity building is a fundamental element of bilateral cooperation in support of this FTA. The Cooperative Group on Trade Capacity Building has been formed and meets separately to identify and satisfy trade capacity building needs arising out of the FTA discussions. By May 2004, five rounds of negotiations have been held with the intensity of the negotiations expected to increase in an effort to conclude the negotiations by the end of 2004.

C. LEGISLATIVE HISTORY

*2003 Congressional Delegation to the AGOA Forum in Mauritius*

On January 12–23, 2003, Chairman Thomas led a bipartisan delegation of Members of Congress to an international forum established in AGOA. The delegation visited Namibia, South Africa, Madagascar, and Mauritius and toured several new firms established as a result of the trade benefits created by AGOA. The delegation participated in several speaking and discussion events at the AGOA forum in Mauritius. In January 2003 the Committee filed its “Report on Trade Mission to Sub-Saharan Africa” (WMCP: 108–2), which outlined the Committee’s conclusions from the Congressional Delegation. The Committee found that AGOA had been very successful and had helped to create many jobs, particularly in the apparel sector. The expiration of the third country fabric benefits for the least developed countries in 2004 was the issue most discussed during the delegation’s visit. The Members met with many African leaders who were very supportive of an extension. There was evidence that countries generally lacked sufficient current capacity to provide fabric for apparel manufacturing, and Members learned about planned investments in textile capacity but that such investment would need time to become operational. In its report, the Committee concluded that the best approach on third country fabrics is one of balance—i.e., providing incentives in the

cut-and-sew area to bootstrap Africa into more value-added fabric production by creating a solid workforce and infrastructure and then transferring those skills to high-end production.

Members noted the value of the programs presented by civil society and acknowledged their special expertise. Some Members made the point that just as the United States benefits from receiving civil society comments in the AGOA eligibility review process, African governments should also consider input from civil society organizations when developing strategies to implement and maximize benefits under AGOA.

#### *2003 WTO Ministerial in Cancun*

Committee Members met with a number of African leaders during the WTO's Cancun Ministerial and in Washington during the AGOA Forum to discuss the operation of the AGOA. These leaders told the Committee that the legislation has led to substantial investment in African countries, improved the standard of living for thousands of Africans, and aided in general development of many poor African regions. However, many of these officials requested an extension of the program benefits and various enhancements to the program, while others expressed concern that extension of eligibility for the use of third country fabric could discourage regional fabric production.

#### *Hearing on President Bush's Trade Agenda*

On March 11, 2004, Ambassador Zoellick testified before the Committee and stated the Administration's support for "legislation on AGOA that will accelerate its gains, including by extending provisions and enabling countries to take full advantage of AGOA through enhanced technical assistance." In response to questions about extension of the third country fabric benefits of AGOA, Ambassador Zoellick stated that a one-year extension would not be enough.

#### *2004 Hearing on AGOA*

On April 29, 2004, the Subcommittee on Trade held a hearing on U.S. trade relations with sub-Saharan Africa and H.R. 4103, the Africa Growth and Opportunity (AGOA) Acceleration Act. The Subcommittee received testimony from both invited and public witnesses, many of whom expressed support for the original AGOA program as well continuing the trade relationship in order to continue building the long-term economic viability of sub-Saharan Africa. Witnesses from the U.S. private sector and representatives of three sub-Saharan African governments (Lesotho, Mauritius, and Kenya) expressed support for H.R. 4103. While supportive of AGOA and its general objectives, several witnesses stated that the AGOA program needed to strengthen other areas of sub-Saharan trade, including agriculture, the development of infrastructure to better facilitate increasing trade, and poverty alleviation. One witness, the Union of Needletrades, Industrial and Textile Employees (UNITE!) expressed support for AGOA's overall goal of development but expressed disappointment with regard to a lack of enforcement of core international labor standards in the region.

The hearing raised many issues related to the importance of extending the overall program, as well as the critical need for an ex-

tension of the third country fabric provision. Witnesses supported the extension of AGOA in H.R. 4103 to 2015 from its current end-date of 2008. An end-date of 2015 is consistent with the Administration's proposal in the WTO to seek elimination of all tariffs worldwide by that time. African countries and the private sector also expressed support for the provision allowing lesser-developed countries to use non-U.S. and non-AGOA fabric in the production of AGOA-eligible apparel. Because this provision is due to expire September 30, 2004, the private sector and many African countries and Members noted their support for H.R. 4103, which extends the provision for another three years to allow AGOA beneficiaries additional time to attract and develop yarn and fabric manufacturing that will supply the infant apparel industry in these countries. Lastly, several witnesses and Members complained of implementation setbacks such as unexpected and narrow interpretations by Administration officials that restrict the import of AGOA-eligible apparel. Members voiced their support for most of the points raised and remained strongly supportive of correcting and enhancing provisions to allow for broad and liberal use of the programs to give African countries access to the U.S. market.

*H.R. 4103, The AGOA Acceleration Act of 2004:* On April 1, 2004, Chairman Thomas together with Representatives McDermott (D-WA), Crane (R-IL), Rangel (D-NY), Royce (R-CA), Houghton (R-NY), Neal (D-MA), Dunn (R-WA), Jefferson (D-LA), Weller (R-IL), Brady (R-TX), Payne (D-NJ), and Levin (D-MI) introduced H.R. 4103, the AGOA Acceleration Act.

On May 5, 2004, the Committee on Ways and Means met to consider H.R. 4103. The Chairman offered a bipartisan amendment in the nature of a substitute, which the Committee approved. The Committee ordered H.R. 4103, as amended, favorably reported to the House of Representatives by a voice vote with a quorum present.

## II. SECTION-BY-SECTION SUMMARY

### *Section 1: Short Title*

#### CURRENT LAW

No provision.

#### EXPLANATION OF PROVISION

Section 1 provides that the Act may be cited as the "AGOA Acceleration Act of 2004."

#### REASON FOR CHANGE

The section identifies the short title for the bill.

### *Section 2: Findings*

#### CURRENT LAW

No provision.

#### EXPLANATION OF PROVISION

Section 2 states various findings by the Congress. Congress finds that AGOA has had a positive effect on economic growth and re-

forms in sub-Saharan Africa through increases in foreign investment and job creation, but Africa continues to face challenges such as inadequate infrastructure and HIV/AIDS. African countries continue to need trade capacity and technical assistance to establish viable economic capacity, a well-grounded rule of law, and efficient government practices.

REASON FOR CHANGE

The findings reflect Committee Members' observations from meetings with African leaders, the hearing on trade with Africa, and the Congressional Delegation to Africa in 2003.

*Section 3: Statement of Policy*

CURRENT LAW

No provision.

EXPLANATION OF PROVISION

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. It additionally backs the development of sub-Saharan Africa's physical and financial infrastructure and business partnerships between United States and African firms. Congress also endorses a comprehensive and ambitious trade agreement with the Southern African Customs Union international efforts to fight serious health problems including HIV/AIDS.

REASON FOR CHANGE

The statements of policy in this section reflect the Committee's conclusions of the best way to pursue and develop a long-lasting and healthy trade relationship with countries of sub-Saharan Africa.

*Section 4: Sense of Congress on Reciprocity and Regional Economic Integration*

CURRENT LAW

No provision.

EXPLANATION OF PROVISION

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.

REASON FOR CHANGE

The Committee has noted the concerns of African countries in liberalizing trade in the context of current WTO negotiations. The Committee believes that AGOA benefits will be complemented and enhanced if AGOA countries comply with their WTO obligations and support mutual trade liberalization in ongoing negotiations. USTR officials have told the Committee that trade liberalization is in the interest of all developing countries, noting that 70 percent

of the tariffs paid by developing countries are to other developing countries. Accordingly, AGOA countries will benefit from reducing barriers in other developing countries, particularly those representing the largest potential markets for African goods and services. At the same time, the Committee recognizes that new WTO commitments may need to reflect special and differential treatment for developing countries.

*Section 5: Sense of Congress on Interpretation of Textile and Apparel Provisions of AGOA*

CURRENT LAW

No provision.

EXPLANATION OF PROVISION

Section 5 provides a Sense of Congress that the Executive Branch, including the Committee for the Implementation of Textile Agreements, the Bureau of Customs and Border Protection of the U.S. Department of Homeland Security, and the U.S. 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.

REASON FOR CHANGE

The Committee has noted the frequent frustration of Congressional intent by Federal agencies implementing AGOA. Congress has been forced to revisit many issues in the original AGOA legislation and reverse decisions by the Executive Branch that have denied benefits to imports that Congress fully intended to cover. This provision admonishes Federal agencies to recognize the importance of interpreting the AGOA law in a trade liberalizing manner.

*Section 6: Definition*

CURRENT LAW

No provision.

EXPLANATION OF PROVISION

Section 6 defines the term “eligible sub-Saharan African country” as used frequently in the Act to mean those eligible sub-Saharan African countries under AGOA.

REASON FOR CHANGE

The definition is necessary to clearly define the universe of countries affected by provisions in the legislation.

*Section 7: Extension of African Growth and Opportunity Act*

CURRENT LAW

The AGOA program expires on September 30, 2008. The third country benefit provision of AGOA expires on September 30, 2004. Section 112(b)(1), (2), and (3) of existing law (19 U.S.C. 3721) provides that apparel products that originate in the United States or AGOA eligible countries shall receive preferential treatment

under AGOA; however, the U.S. Bureau of Customs and Border Protection has interpreted section 112 restrictively to deny benefits when an apparel product consists of a combination of U.S. and AGOA eligible inputs.

Section 112(b)(5)(A) of existing law provides for preferential treatment for apparel articles that are made from fabric or yarns identified in Annex 401 of the NAFTA. Annex 401 identifies products not produced in the United States or another NAFTA country (i.e., Canada or Mexico) and is designed to allow flexibility in sourcing these products. The provision applies only if the fabric or yarn is not formed in the United States or a beneficiary sub-Saharan African country.

Section 112(b)(6) of existing law provides for preferential treatment for hand loomed, handmade, and folklore articles but does not specifically name ethnic printed articles. The Bureau of Customs and Border Protection has ruled that ethnic printed articles made from machine woven fabric are not covered by existing law.

The current AGOA law has no provision related to use of inputs from former AGOA-eligible countries that “graduate” from the program because they enter into free trade agreements with the United States.

Section 112(d) of existing law provides for special rules related to certain findings and trimmings but does not cover certain components such as collars, cuffs, drawstrings, waistbands, belts attached to garments, patches, straps using elastic, and padding and shoulder pads.

Section 112(d)(2) of existing law provides a de minimis rule. Articles otherwise eligible for preferential treatment under this section are not ineligible because the article contains fibers or yarns not wholly formed in the United States or one or more beneficiary sub-Saharan African countries if the total weight of all such fibers and yarns is not more than 7 percent of the total weight of the article.

#### EXPLANATION OF PROVISION

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

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.

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

Section 7(b)(3) clarifies as AGOA-eligible apparel made from fabrics or yarns that are identified in Annex 401 to the NAFTA without regard to the origin of the fabric or yarns, i.e., these fabrics or yarns may now be manufactured in the United States or an AGOA beneficiary country. Goods identified in Annex 401 are recognized as being in short supply in the United States.

Section 7(c) would clarify the existing provision in AGOA providing AGOA benefits for African ethnic printed fabric even if made

by machine provided such fabric meets certain criteria. Specifically, the fabric must have a width of less than 50 inches, have designs, symbols, and characteristics of African prints normally produced for the indigenous African market, and be sold by the piece.

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

Section 7(e)(1) provides for a special rule to allow use of certain components (collars, cuffs, drawstrings, waistbands, belts attached to garments, patches, straps using elastic, and padding and shoulder pads) in AGOA eligible apparel products. An article otherwise eligible for preferential treatment under Section 112 of existing law would not be ineligible for such treatment because the article contains these components that do not meet the origin requirements of section 112. The component “belts attached to garments” covers belts that are manufactured to accompany garments and will be sold together with garments at retail but need not actually be sewn onto garments.

Section 7(e)(2) raises the current de minimis level of 7 percent for non-AGOA originating fibers and yarns in apparel to 10 percent.

#### REASON FOR CHANGE

The Committee seeks to extend the AGOA program from its current deadline of 2008 until 2015 in section 7(a) in order to reinforce U.S. commitment to Africa and the AGOA program.

Section 7(b)(2)(A) reverses an interpretation of AGOA by the U.S. Bureau of Customs and Border Protection 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.

The extension in section 7(b)(2)(B) of the current deadline for use of third country fabric benefits of September 30, 2004, until September 30, 2007, received more comments by the public, Members of Congress, and African leaders than any other provision during Committee investigation; the extension of this provision is considered by many to be the most important feature of H.R. 4103. The purpose of the provision is to continue to attract the needed basic investment in SSA without compromising the goal of developing regional apparel production. In the original AGOA law, the initial short period (four years) allowing for the use of third country fabric was aimed at allowing AGOA countries to attract quick investment and establish facilities and infrastructure to manufacture apparel from non-AGOA fabric and yarn inputs and then transition to regionally produced fabric and yarn.

The dilemma in extending this period beyond September 30, 2004, is that some AGOA countries are poised to develop fabric industries that could provide inputs to other countries and, thus, reinforce regional partnerships and development in general in SSA. Long-term use of third country fabrics or components in AGOA-eligible imports could create a risk that AGOA manufacturers will rely exclusively on non-AGOA inputs, which may discourage the development of meaningful regional fabric production. Nonetheless,

given the slow start that many countries had in becoming eligible under AGOA, an extension of the third country fabric provision is necessary to allow countries to attract and entrench investments and build the critical mass necessary for diversification and vertical integration of apparel manufacturing. Thus, the three-year provision in H.R. 4103 is designed to provide a pragmatic approach that balances the needs of the sub-Saharan African countries, both fabric and apparel makers.

Section 7(b)(3) clarifies the use of short-supply inputs into AGOA eligible apparel products, and these short-supply fabrics or yarns may now be manufactured in the United States or an AGOA beneficiary country. Specifically, the Committee has concluded that there is no reason to maintain the current restriction against U.S. or AGOA-made inputs being used in AGOA eligible apparel. 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. This provision would thereby reverse a decision by U.S. textile import authorities that restricted print imports to those made by traditional methods and not by machine. The Committee believes that the criteria set forth in H.R. 4103 will prevent abuse of the provision.

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. The Committee hopes that the provision will promote further regional economic integration.

Section 7(e)(1) addresses the Committee's concern that African apparel manufacturers may be unable to produce certain garments because they will be unable to obtain certain components made from U.S. or African inputs once the provision allowing use of third country fabrics expires in three years. This section would allow sourcing of these components regardless of country of origin. These components represent a very small part of any finished apparel good but are sufficiently different from fabric production and may be expensive to manufacture in commercially feasible quantities. The Committee is concerned that the burden of developing a source within Africa for such specialized components may be too great for a fledgling African apparel industry that is already struggling with developing significant fabric production. Accordingly, Members adopted the finite list of components found in section 7(e)(1).

In developing this list of components, the Committee drew on the assistance of the U.S. International Trade Commission, the U.S. Department of Commerce, private and public sector testimony, and direct Member observations of African apparel operations.

Section 7(e)(2), which would increase the de minimis level for AGOA inputs from 7 percent to 10 percent, would conform the de minimis rule to those currently being negotiated in trade agreements such as the Central American Free Trade Agreement. The Committee believes that the increase will provide AGOA countries with additional sourcing flexibility.

*Section 8: Entries of Certain Apparel Articles Pursuant to the African Growth and Opportunity Act*

CURRENT LAW

Section 3108 of the Trade Act of 2002 provides that knit-to-shape garments assembled in beneficiary countries should receive preferential treatment under AGOA. That provision reversed a U.S. Bureau of Customs and Border Protection regulation that stipulated that such garments, because technically they do not go through the fabric stage, were not eligible for benefits. Section 3108 of the Act is effective only on a prospective basis.

EXPLANATION OF PROVISION

Section 8 extends duty-free benefits retroactively to October 1, 2000, to apparel that was knit-to-shape in an AGOA-eligible country.

REASON FOR CHANGE

Congress took action in the Trade Act of 2002 to clarify that articles knit-to-shape in AGOA-eligible countries should be covered by the Act. Section 8 of the bill would apply that change retroactively to the time of enactment of the original AGOA law in 2000. The proposed language in 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*

CURRENT LAW

No provision.

EXPLANATION OF PROVISION

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 Government and private sector can provide technical assistance to remove these barriers to maximize AGOA's benefits for U.S. and African investors, businesses, and farmers.

REASON FOR CHANGE

The Committee is interested in collecting information that will ultimately assist African countries in developing their trade relationship with each other and with the United States. USTR, with the cooperation of the USITC and other federal agencies, as appropriate, should conduct this study and prepare a report to Congress.

*Section 10: Activities in Support of Infrastructure To Support Increasing Trade Capacity and Ecotourism*

CURRENT LAW

No provision.

## EXPLANATION OF PROVISION

Section 10 encourages the development of infrastructure projects that increase trade capacity through the ecotourism industry.

## REASON FOR CHANGE

Members of the Committee on the Congressional Delegation to southern Africa in 2003 noted the abundant wildlife and natural resources possessed by many countries. In order to take advantage of these resources and promote an ecotourism industry, African countries would benefit from improved infrastructure and coordination among neighboring countries.

*Section 11: Activities in Support of Transportation, Energy, Agriculture, and Telecommunications Infrastructure*

## CURRENT LAW

No provision.

## EXPLANATION OF PROVISION

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.

## REASON FOR CHANGE

Members of the Committee on the Congressional Delegation to southern Africa in 2003 noted the importance of infrastructure and economic diversification to countries attempting to develop and enhance their trade relationships with each other and with the United States. The issue was also raised in the Trade Subcommittee's hearing on trade with Africa. This provision directs the President to adopt policies to encourage investment in certain African infrastructure that would facilitate trade.

*Section 12: Facilitation of Transportation*

## CURRENT LAW

No provision.

## EXPLANATION OF PROVISION

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.

## REASON FOR CHANGE

Members of the Committee on the Congressional Delegation to southern Africa in 2003 noted the importance of sea and airport operations to countries attempting to develop and enhance their trade relationships with each other and with the United States. This provision directs the President to adopt steps to improve African port operations and openness for trade. USTR, with the cooperation of

the Bureau of Customs and Border Protection of the U.S. Department of Homeland Security and other federal agencies, as appropriate, should provide resources to accomplish this mandate.

*Section 13: Agricultural Technical Assistance*

CURRENT LAW

No provision.

EXPLANATION OF PROVISION

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 are to advise AGOA countries on improvements in their sanitary and phytosanitary standards to help them meet U.S. requirements.

REASON FOR CHANGE

African leaders have expressed to the Committee that it is difficult to export agricultural products to the United States owing to high U.S. sanitary and phytosanitary standards. While the Committee firmly supports USTR's position that these standards should not be lowered, the Committee believes it is important to advise and assist African countries on U.S. standards and how to meet them. In carrying out this provision the President shall not dilute or diminish existing personnel resources that are currently managing sanitary and phytosanitary issues for either U.S. commodities seeking to be exported or for interdiction and control of pest and diseases including for the evaluation of pest and disease concerns of foreign commodities seeking access to the U.S. market.

*Section 14: Trade Advisory Committee on Africa*

CURRENT LAW

Presidential Executive Order 11846 of March 27, 1975, under section 135(c) of the Trade Act of 1974, authorizes the creation of a trade advisory committee on Africa.

EXPLANATION OF PROVISION

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

REASON FOR CHANGE

The Committee supports the activation of this trade advisory committee on Africa in order to improve the collection of data and diverse comments by the Administration on African trade.

**III. VOTES OF THE COMMITTEE**

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statements are made con-

cerning the vote of the Committee on Ways and Means in its consideration of the bill, H.R. 4103.

A. MOTION TO REPORT THE BILL

The bill, H.R. 4103, as amended, was ordered favorably reported by voice vote (with a quorum present).

B. VOTES ON AMENDMENTS

An amendment in the nature of a substitute by Chairman Thomas was agreed to by voice vote.

**IV. BUDGET EFFECTS OF THE BILL**

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the effects on the budget of this bill, H.R. 4103 as amended and reported: The Committee agrees with the estimate prepared by CBO which is included below.

B. STATEMENT REGARDING NEW BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that enactment of H.R. 4103 would reduce customs duty receipts due to lower tariffs imposed on goods from eligible African countries.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, requiring a cost estimate prepared by the Congressional Budget Office, the following report prepared by CBO is provided.

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
*Washington, DC, May 10, 2004.*

Hon. WILLIAM "BILL" M. THOMAS,  
*Chairman, Committee on Ways and Means,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 4103, the AGOA Acceleration Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Annabelle Bartsch.

Sincerely,

DOUGLAS HOLTZ-EAKIN,  
*Director.*

Enclosure.

*H.R. 4103—AGOA Acceleration Act of 2004*

Summary: H.R. 4103 would extend the trade benefits available under the African Growth and Opportunity Act (AGOA) that expire

in 2008, and that special rule for certain lesser-developed Sub-Saharan countries that expires in September 2004. The Congressional Budget Office estimates that those extensions would reduce revenues by \$3 million in 2004, by \$140 million over the 2004–2009 period, and by about \$365 million over the 2004–2014 period, net of income and payroll tax offsets.

The bill also would direct the President to develop and implement certain policies to promote trade between the countries of Africa and the United States. U.S. agencies are currently undertaking most of these activities under more general authority. Based on information from the U.S. Department of Agriculture and the U.S. Agency for International Development, however, CBO estimates that implementing the bill would require hiring additional personnel and would increase spending by about \$2 million each year, assuming the appropriation of the necessary funds. The bill would not affect direct spending.

CBO has determined that H.R. 4103 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA) and would not affect the budgets of state, local, or tribal governments.

Estimated costs to the Federal Government: The estimated budgetary impact of H.R. 4103 is shown in the following table. The costs of this legislation fall within budget function 150 (international affairs).

	By fiscal year, in millions of dollars—					
	2004	2005	2006	2007	2008	2009
CHANGES IN REVENUES						
Estimated Revenues .....	–3	–30	–33	–36	0	–39
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level .....	0	2	2	2	2	2
Estimated Outlays .....	0	1	2	2	2	2

### *Basis of estimate*

#### *Revenues*

H.R. 4103 would extend the preferential treatment given to certain U.S. imports from Sub-Saharan Africa under the AGOA program, which currently expires on September 30, 2008. This includes preferential treatment extended under the Generalized System of Preferences. According to the U.S. International Trade Commission, U.S. imports from countries in the region were about \$25 billion in 2003. U.S. imports eligible for duty-free treatment under AGOA totaled about \$14 billion in that year. Those imports consisted largely of energy-related products and textile and apparel goods.

Presently, upon expiration of the program, such imports would face normal trade relation tariff rates. CBO estimates that over the 2009–2014 period, the U.S. would import about \$69 billion worth of products from the region, resulting in \$912 million in customs duties. In the absence of specific data on the extent of any substitution effect, these estimates assume that half of the U.S. imports that would have otherwise been eligible under AGOA would be replaced with goods from other countries receiving preferential treatment under other special import programs.

Under the bill, the AGOA program would be extended an additional seven years, through September 30, 2015. With the extension, CBO estimates that U.S. imports from the region would total about \$212 billion over the 2009–2014 period, with most of the imports facing no duties. CBO estimates that importers would pay \$561 million in customs duties on the imported goods with non-zero duty rates. Consequently, federal revenues would decrease by \$264 million between 2009 and 2014, net of income and payroll tax offsets.

H.R. 4103 also would extend the special treatment that certain lesser-developed Sub-Saharan countries may receive under AGOA. Through September 30, 2004, a lesser-developed country (LDC) may export duty-free to the United States any apparel good that is assembled within the country, regardless of the origin of the fabric or yarn. Nearly all AGOA countries currently have LDC status; those that do not are limited to using fabric and yarn originating in the United States or the AGOA region in order to receive duty-free treatment. The bill would allow LDC countries to receive such special treatment for an additional three years, through September 30, 2007. CBO estimates that the extension would result in \$98 million in forgone revenues from 2005 through 2007, net of income and payroll tax offsets. That amount is highly dependent upon the capability of countries in the AGOA region to manufacture the fabric and yarn needed to receive duty-free access to the U.S. market.

Lastly, H.R. 4103 would refund certain duties already paid on imports from AGOA countries that did not receive duty-free treatment at the time of entry. CBO estimates that the reduction in net customs duties would amount to about \$3 million, all of which would occur in 2004.

#### *Spending Subject to Appropriation*

H.R. 4103 would require the President to conduct a study and make recommendations on how the U.S. government and private sector can assist the countries of Africa in dismantling barriers to trade and investment. In addition, the bill would require the President to develop and implement policies to increase trade with African countries through investments in infrastructure and tourism, to coordinate customs services between U.S. and African ports and airports, and to improve sanitary and phytosanitary standards on agricultural products imported from Africa to meet U.S. requirements.

Various U.S. agencies are currently undertaking these activities under more general authority. Based on information from the U.S. Department of Agriculture and the U.S. Agency for International Development, however, CBO estimates that meeting the requirement in the bill for agricultural technical specialists would require hiring an additional 8 persons and that supporting them in Africa would cost between \$200,000 to \$250,000 per person. CBO estimates that implementing H.R. 4103 would increase spending for technical assistance by about \$2 million each year, assuming the appropriation of the necessary funds.

Summary of effects on revenues and direct spending: The overall effects of H.R. 4103 on revenues and direct spending are shown in the following table.

	By fiscal year, in millions of dollars—										
	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
Changes in receipts .....	-3	-30	-33	-36	0	-39	-41	-43	-45	-47	-49
Changes in outlays .....	Not applicable										

Intergovernmental and private-sector impact: The bill contains no intergovernmental or private-sector mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimate prepared by: Federal Revenues: Annabelle Bartsch. Federal Spending: Joseph Whitehill. Impact on State, Local, and Tribal Governments: Melissa Merrell. Impact on the Private Sector: Paige Piper/Bach.

Estimate approved by: G. Thomas Woodward, Assistant Director for Tax Analysis; Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

## **V. OTHER MATTERS TO BE DISCUSSED UNDER THE RULES OF THE HOUSE**

### A. COMMITTEE OVERSIGHT FINDINGS AND RECOMMENDATIONS

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee, based on public hearing testimony and information from the Administration, conclude that it is appropriate and timely to consider the bill as reported.

### B. STATEMENT OF GENERAL PERFORMANCE GOALS AND OBJECTIVES

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee advise that the bill contains no measure that authorizes funding, so no statement of general performance goals and objectives for which any measure authorizes funding is required.

### C. CONSTITUTIONAL AUTHORITY STATEMENT

With respect to clause (3)(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article I of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts, and excises, to pay the debts and to provide for \* \* \* the general Welfare of the United States.")

### D. INFORMATION RELATING TO UNFUNDED MANDATES

This information is provided in accordance with Section 423 of the Unfunded Mandates Reform Act of 1995 (P.L. 104-4).

The Committee has determined that the bill does not impose a Federal intergovernmental mandate on State, local, or tribal governments. The Committee has determined that the bill does not contain Federal mandates on the private sector.

**VI. CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED**

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

**TRADE ACT OF 1974**

\* \* \* \* \*

**TITLE V—GENERALIZED SYSTEM OF PREFERENCES**

\* \* \* \* \*

**SEC. 506A. DESIGNATION OF SUB-SAHARAN AFRICAN COUNTRIES FOR CERTAIN BENEFITS.**

(a) \* \* \*

(b) PREFERENTIAL TARIFF TREATMENT FOR CERTAIN ARTICLES.—

(1) \* \* \*

(2) RULES OF ORIGIN.—The duty-free treatment provided under paragraph (1) shall apply to any article described in that paragraph that meets the requirements of section 503(a)(2), except that—

(A) \* \* \*

(B) the cost or value of the materials included with respect to that article that are produced in one or more beneficiary sub-Saharan African countries *or former beneficiary sub-Saharan African countries* shall be applied in determining such percentage.

(c) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES, ETC.—For purposes of this [title, the terms] *title*—

(1) *the terms* “beneficiary sub-Saharan African country” and “beneficiary sub-Saharan African countries” mean a country or countries listed in section 107 of the African Growth and Opportunity Act that the President has determined is eligible under subsection (a) of this section.

(2) *the term* “former beneficiary sub-Saharan African country” means a country that, after being designated as a beneficiary sub-Saharan African country under the African Growth and Opportunity Act, ceased to be designated as such a country by reason of its entering into a free trade agreement with the United States.

**SEC. 506B. TERMINATION OF BENEFITS FOR SUB-SAHARAN AFRICAN COUNTRIES.**

In the case of a beneficiary sub-Saharan African country, as defined in section 506A(c), duty-free treatment provided under this title shall remain in effect through September 30, [2008] 2015.

\* \* \* \* \*



**SECTION 112 OF THE AFRICAN GROWTH OPPORTUNITY  
ACT**

**SEC. 112. TREATMENT OF CERTAIN TEXTILES AND APPAREL.**

(a) \* \* \*

(b) **PRODUCTS COVERED.**—The preferential treatment described in subsection (a) shall apply only to the following textile and apparel products:

(1) **APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES.**—Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries from fabrics wholly formed and cut, or from components knit-to-shape, in the United States from yarns wholly formed in the United States, [(including] *or both (including* fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed and cut in the United States) that are—

(A) \* \* \*

\* \* \* \* \*

(3) **APPAREL ARTICLES FROM REGIONAL FABRIC OR YARNS.**—Apparel articles wholly assembled in one or more beneficiary sub-Saharan African countries from fabric wholly formed in one or more beneficiary sub-Saharan African countries from yarns originating either in the United States or one or more beneficiary sub-Saharan African countries (including fabrics not formed from yarns, if such fabrics are classified under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States and are wholly formed in one or more beneficiary sub-Saharan African countries), or from components knit-to-shape in one or more beneficiary sub-Saharan African countries from yarns originating [either in the United States or one or more beneficiary sub-Saharan African countries] *in the United States or one or more beneficiary sub-Saharan African countries, or former beneficiary sub-Saharan African countries, or both*, or apparel articles wholly formed on seamless knitting machines in a beneficiary sub-Saharan African country from yarns originating [either in the United States or one or more beneficiary sub-Saharan African countries subject to the following:] *in the United States or one or more beneficiary sub-Saharan African countries, or former beneficiary sub-Saharan African countries, or both, whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in paragraph (1) or (2)), subject to the following:*

[(A) **LIMITATIONS ON BENEFITS.**—

[(i) **IN GENERAL.**—Preferential treatment under this paragraph shall be extended in the 1-year period beginning on October 1, 2000, and in each of the seven succeeding 1-year periods, to imports of apparel articles in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all

apparel articles imported into the United States in the preceding 12-month period for which data are available.

[(ii) APPLICABLE PERCENTAGE.—For purposes of this subparagraph, the term “applicable percentage” means 1.5 percent for the 1-year period beginning October 1, 2000, increased in each of the seven succeeding 1-year periods by equal increments, so that for the period beginning October 1, 2007, the applicable percentage does not exceed 3.5 percent.

[(B) SPECIAL RULE FOR LESSER DEVELOPED COUNTRIES.—

[(i) IN GENERAL.—Subject to subparagraph (A), preferential treatment under this paragraph shall be extended through September 30, 2004, for apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more lesser developed beneficiary sub-Saharan African countries regardless of the country of origin of the fabric or the yarn used to make such articles.

[(ii) LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY.—For purposes of clause (i), the term “lesser developed beneficiary sub-Saharan African country” means—

[(I) a beneficiary sub-Saharan African country that had a per capita gross national product of less than \$1,500 in 1998, as measured by the International Bank for Reconstruction and Development;

[(II) Botswana; and

[(III) Namibia.]

(A) LIMITATIONS ON BENEFITS.—

(i) IN GENERAL.—*Preferential treatment under this paragraph shall be extended in the 1-year period beginning October 1, 2003, and in each of the 11 succeeding 1-year periods, to imports of apparel articles in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.*

(ii) APPLICABLE PERCENTAGE.—*For purposes of this subparagraph, the term “applicable percentage” means—*

*(I) 4.747 percent for the 1-year period beginning October 1, 2003, increased in each of the 5 succeeding 1-year periods by equal increments, so that for the 1-year period beginning October 1, 2007, the applicable percentage does not exceed 7 percent; and*

*(II) for each succeeding 1-year period until September 30, 2015, not to exceed 7 percent.*

(B) SPECIAL RULE FOR LESSER DEVELOPED COUNTRIES.

(i) IN GENERAL.—*Preferential treatment under this paragraph shall be extended through September 30, 2007, for apparel articles wholly assembled, or knit-to-shape and wholly assembled, or both, in one or more*

*lesser developed beneficiary sub-Saharan African countries, regardless of the country of origin of the fabric or the yarn used to make such articles, in an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month period for which data are available.*

(ii) *APPLICABLE PERCENTAGE.—For purposes of the subparagraph, the term “applicable percentage” means—*

*(I) 2.3571 percent for the 1-year period beginning October 1, 2003;*

*(II) 2.6428 percent for the 1-year period beginning October 1, 2004;*

*(III) 2.9285 percent for the 1-year period beginning October 1, 2005; and*

*(IV) 1.6071 percent for the 1-year period beginning October 1, 2006.*

(iii) *LESSER DEVELOPED BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY.—For purposes of this subparagraph, the term “lesser developed beneficiary sub-Saharan African country” means—*

*(I) a beneficiary sub-Saharan African country that had a per capita gross national product of less than \$1,500 in 1998, as measured by the International Bank for Reconstruction and Development;*

*(II) Botswana; and*

*(III) Namibia.*

\* \* \* \* \*

(5) **APPAREL ARTICLES WHOLLY ASSEMBLED FROM FABRIC OR YARN NOT AVAILABLE IN COMMERCIAL QUANTITIES IN THE UNITED STATES.—**

**[(A) IN GENERAL.—Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries, from fabric or yarn that is not formed in the United States or a beneficiary sub-Saharan African country, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabric or yarn, under Annex 401 to the NAFTA.]**

*(A) IN GENERAL.—Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 to the NAFTA.*

\* \* \* \* \*

**[(6) HANDLOOMED, HANDMADE, AND FOLKLORE ARTICLES.—A handloomed, handmade, or folklore article of a beneficiary sub-Saharan African country or countries that is certified as such by the competent authority of such beneficiary country or coun-**

tries. For purposes of this paragraph, the President, after consultation with the beneficiary sub-Saharan African country or countries concerned, shall determine which, if any, particular textile and apparel goods of the country (or countries) shall be treated as being handloomed, handmade, or folklore articles.】

(6) *HANDLOOMED, HANDMADE, FOLKLORE ARTICLES AND ETHNIC PRINTED FABRICS.*—

(A) *IN GENERAL.*—*A handloomed, handmade, folklore article or an ethnic printed fabric of a beneficiary sub-Saharan African country or countries that is certified as such by the competent authority of such beneficiary country or countries. For purposes of this section, the President, after consultation with the beneficiary sub-Saharan African country or countries concerned, shall determine which, if any, particular textile and apparel goods of the country (or countries) shall be treated as being handloomed, handmade, or folklore articles or an ethnic printed fabric.*

(B) *REQUIREMENTS FOR ETHNIC PRINTED FABRIC.*—*Ethnic printed fabrics qualified under this paragraph are—*

(i) *fabrics containing a selvedge on both edges, having a width of less than 50 inches, classifiable under subheading 5208.52.30 or 5208.52.40 of the Harmonized Tariff Schedule of the United States;*

(ii) *of the type that contains designs, symbols, and other characteristics of African prints—*

(I) *normally produced for and sold on the indigenous African market; and*

(II) *normally sold in Africa by the piece as opposed to being tailored into garments before being sold in indigenous African markets;*

(iii) *printed, including waxed, in one or more eligible beneficiary sub-Saharan countries; and*

(iv) *fabrics formed in the United States, from yarns formed in the United States, or from fabric formed in one or more beneficiary sub-Saharan African country from yarn originating in either the United States or one or more beneficiary sub-Saharan African countries.*

(7) *APPAREL ARTICLES ASSEMBLED IN ONE OR MORE BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES FROM UNITED STATES AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRY COMPONENTS.*—*Apparel articles sewn or otherwise assembled in one or more beneficiary sub-Saharan African countries with thread formed in the United States from components cut in the United States and one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, or from components knit-to-shape in the United States and one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries from yarns wholly formed in the United States, or both (including fabrics not formed from yarns, if such fabrics are classifiable under heading 5602 or 5603 of the Harmonized Tariff Schedule of the United States).*

\* \* \* \* \*

(d) *SPECIAL RULES.*—

(1) \* \* \*

(2) DE MINIMIS RULE.—An article otherwise eligible for preferential treatment under this section shall not be ineligible for such treatment because the article contains fibers or yarns not wholly formed in the United States or one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries if the total weight of all such fibers and yarns is not more than [7 percent] 10 percent of the total weight of the article.

(3) CERTAIN COMPONENTS.—An article otherwise eligible for preferential treatment under this section will not be ineligible for such treatment because the article contains—

- (A) any collars or cuffs (cut or knit-to-shape),
- (B) drawstrings,
- (C) shoulder pads or other padding,
- (D) waistbands,
- (E) belt attached to the article,
- (F) straps containing elastic, or
- (G) elbow patches,

that do not meet the requirements set forth in subsection (b), regardless of the country of origin of the item referred to in the applicable subparagraph of this paragraph.

(e) DEFINITIONS.—In this section and section 113:

(1) \* \* \*

\* \* \* \* \*

(4) FORMER SUB-SAHARAN AFRICAN COUNTRY.—The term “former sub-Saharan African country” means a country that, after being designated as a beneficiary sub-Saharan African country under this Act, ceased to be designated as such a beneficiary sub-Saharan African country by reason of its entering into a free trade agreement with the United States.

\* \* \* \* \*

