

Union Calendar No. 107

106TH CONGRESS
1ST Session

H. R. 434

[Report No. 106-19, Parts I and II]

A BILL

To authorize a new trade and investment policy for
sub-Saharan Africa.

JUNE 17, 1999

Reported from the Committee on Ways and Means with
an amendment

JUNE 17, 1999

The Committee on Banking and Financial Services dis-
charged; committed to the Committee on the Whole
House on the State of the Union and ordered to be
printed

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106TH CONGRESS
1ST SESSION

H. R. 434

[Report No. 106-19, Parts I and II]

To authorize a new trade and investment policy for sub-Saharan Africa.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 2, 1999

Mr. CRANE (for himself, Mr. RANGEL, Mr. McDERMOTT, Mr. ROYCE, Mr. DREIER, Mr. JEFFERSON, Mr. PAYNE, Mr. HOUGHTON, Mr. GILMAN, Mr. LEVIN, Mr. BAKER, Mr. BARRETT of Nebraska, Mr. BEREUTER, Mr. BILBRAY, Mr. BLUMENAUER, Mr. BOEHNER, Mr. BRADY of Texas, Ms. BROWN of Florida, Mr. CAMPBELL, Mr. CHABOT, Ms. CHRISTIAN-CHRISTENSEN, Mr. DICKS, Ms. DUNN, Mr. EHLERS, Mr. ENGLISH, Mr. EWING, Mr. FALEOMAVAEGA, Mr. FATTAH, Mr. FOLEY, Mr. FORD, Mr. HALL of Ohio, Ms. JACKSON-LEE of Texas, Mrs. JOHNSON of Connecticut, Mrs. JONES of Ohio, Ms. KILPATRICK, Mr. KNOLLENBERG, Mr. KOLBE, Ms. LOFGREN, Mr. MANZULLO, Mr. MATSUI, Ms. MCCARTHY of Missouri, Mr. MCCOLLUM, Mr. McINNIS, Mr. McINTOSH, Mr. McNULTY, Mr. MEEKS of New York, Mr. GARY MILLER of California, Mr. MORAN of Virginia, Mr. NEAL of Massachusetts, Mr. OWENS, Mr. PETRI, Mr. PORTMAN, Mr. RADANOVICH, Mr. RAMSTAD, Mr. SALMON, Mr. SESSIONS, Mr. SHOWS, Mr. SNYDER, Mr. STRICKLAND, Mrs. TAUSCHER, Mr. THOMAS, Mr. TOWNS, Mr. WOLF, and Mr. WYNN) introduced the following bill; which was referred to the Committee on International Relations, and in addition to the Committees on Ways and Means, and Banking and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

FEBRUARY 16, 1999

Reported from the Committee on International Relations with an amendment

[Strike out all after the enacting clause and insert the part printed in *italic*]

FEBRUARY 16, 1999

Referral to the Committees on Ways and Means and Banking and Financial Services extended for a period ending not later than February 26, 1999

FEBRUARY 26, 1999

Referral to the Committees on Ways and Means and Banking and Financial Services extended for a period ending not later than April 30, 1999

APRIL 30, 1999

Referral to the Committees on Ways and Means and Banking and Financial Services extended for a period ending not later than May 21, 1999

MAY 21, 1999

Referral to the Committees on Ways and Means and Banking and Financial Services extended for a period ending not later than June 11, 1999

JUNE 11, 1999

Referral to the Committees on Ways and Means and Banking and Financial Services extended for a period ending not later than June 15, 1999

JUNE 15, 1999

Referral to the Committees on Ways and Means and Banking and Financial Services extended for a period ending not later than June 16, 1999

JUNE 16, 1999

Referral to the Committees on Ways and Means and Banking and Financial Services extended for a period ending not later than June 17, 1999

JUNE 17, 1999

Reported from the Committee on Ways and Means with an amendment
[Strike out all after the enacting clause and insert the part printed in boldface roman]

JUNE 17, 1999

Additional sponsors: Mr. HILLIARD, Mr. CAMP, Mr. SHAW, Mr. DIXON, Mr. RUSH, Mr. WEXLER, Mr. DELAY, Mr. DAVIS of Florida, Mr. DOOLITTLE, Mr. PORTER, Mrs. MEEKS of Florida, Mr. SHAYS, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. MILLENDER-MCDONALD

Deleted sponsors: Mr. SHOWS (added February 2, 1999; deleted March 23, 1999) and Mr. STRICKLAND (added February 2, 1999; deleted February 25, 1999)

JUNE 17, 1999

The Committee on Banking and Financial Services discharged; committed to the Committee of the Whole House on the State of the Union and ordered to be printed

A BILL

To authorize a new trade and investment policy for sub-Saharan Africa.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “African Growth and*
5 *Opportunity Act”.*

6 **SEC. 2. FINDINGS.**

7 *The Congress finds that it is in the mutual economic*
8 *interest of the United States and sub-Saharan Africa to*
9 *promote stable and sustainable economic growth and devel-*
10 *opment in sub-Saharan Africa and that sustained economic*
11 *growth in sub-Saharan Africa depends in large measure*
12 *upon the development of a receptive environment for trade*
13 *and investment. To that end, the United States seeks to fa-*
14 *cilitate market-led economic growth in, and thereby the so-*
15 *cial and economic development of, the countries of sub-Sa-*
16 *haran Africa. In particular, the United States seeks to as-*
17 *sist sub-Saharan African countries, and the private sector*
18 *in those countries, to achieve economic self-reliance by—*

1 (1) *strengthening and expanding the private sec-*
2 *tor in sub-Saharan Africa, especially women-owned*
3 *businesses;*

4 (2) *encouraging increased trade and investment*
5 *between the United States and sub-Saharan Africa;*

6 (3) *reducing tariff and nontariff barriers and*
7 *other trade obstacles;*

8 (4) *expanding United States assistance to sub-*
9 *Saharan Africa's regional integration efforts;*

10 (5) *negotiating free trade areas;*

11 (6) *establishing a United States-Sub-Saharan*
12 *Africa Trade and Investment Partnership;*

13 (7) *focusing on countries committed to account-*
14 *able government, economic reform, and the eradi-*
15 *cation of poverty;*

16 (8) *establishing a United States-Sub-Saharan*
17 *Africa Economic Cooperation Forum; and*

18 (9) *continuing to support development assistance*
19 *for those countries in sub-Saharan Africa attempting*
20 *to build civil societies.*

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

22 *The Congress supports economic self-reliance for sub-*
23 *Saharan African countries, particularly those committed*
24 *to—*

25 (1) *economic and political reform;*

- 1 (2) *market incentives and private sector growth;*
- 2 (3) *the eradication of poverty; and*
- 3 (4) *the importance of women to economic growth*
- 4 *and development.*

5 **SEC. 4. ELIGIBILITY REQUIREMENTS.**

6 (a) *IN GENERAL.*—*A sub-Saharan African country*
7 *shall be eligible to participate in programs, projects, or ac-*
8 *tivities, or receive assistance or other benefits under this Act*
9 *if the President determines that the country does not engage*
10 *in gross violations of internationally recognized human*
11 *rights and has established, or is making continual progress*
12 *toward establishing, a market-based economy, such as the*
13 *establishment and enforcement of appropriate policies relat-*
14 *ing to—*

15 (1) *promoting free movement of goods and serv-*
16 *ices between the United States and sub-Saharan Afri-*
17 *ca and among countries in sub-Saharan Africa;*

18 (2) *promoting the expansion of the production*
19 *base and the transformation of commodities and non-*
20 *traditional products for exports through joint venture*
21 *projects between African and foreign investors;*

22 (3) *trade issues, such as protection of intellectual*
23 *property rights, improvements in standards, testing,*
24 *labeling and certification, and government procure-*
25 *ment;*

1 (4) *the protection of property rights, such as pro-*
2 *tection against expropriation and a functioning and*
3 *fair judicial system;*

4 (5) *the protection of internationally recognized*
5 *worker rights, including the right of association, the*
6 *right to organize and bargain collectively, a prohibi-*
7 *tion on the use of any form of forced or compulsory*
8 *labor, a minimum age for the employment of chil-*
9 *dren, and acceptable conditions of work with respect*
10 *to minimum wages, hours of work, and occupational*
11 *safety and health;*

12 (6) *appropriate fiscal systems, such as reducing*
13 *high import and corporate taxes, controlling govern-*
14 *ment consumption, participation in bilateral invest-*
15 *ment treaties, and the harmonization of such treaties*
16 *to avoid double taxation;*

17 (7) *foreign investment issues, such as the provi-*
18 *sion of national treatment for foreign investors, re-*
19 *moving restrictions on investment, and other meas-*
20 *ures to create an environment conducive to domestic*
21 *and foreign investment;*

22 (8) *supporting the growth of regional markets*
23 *within a free trade area framework;*

24 (9) *governance issues, such as eliminating gov-*
25 *ernment corruption, minimizing government inter-*

1 *vention in the market such as price controls and sub-*
2 *sidies, and streamlining the business license process;*

3 *(10) supporting the growth of the private sector,*
4 *in particular by promoting the emergence of a new*
5 *generation of African entrepreneurs;*

6 *(11) encouraging the private ownership of gov-*
7 *ernment-controlled economic enterprises through di-*
8 *vestiture programs; and*

9 *(12) observing the rule of law, including equal*
10 *protection under the law and the right to due process*
11 *and a fair trial.*

12 *(b) ADDITIONAL FACTORS.—In determining whether a*
13 *sub-Saharan African country is eligible under subsection*
14 *(a), the President shall take into account the following fac-*
15 *tors:*

16 *(1) An expression by such country of its desire*
17 *to be an eligible country under subsection (a).*

18 *(2) The extent to which such country has made*
19 *substantial progress toward—*

20 *(A) reducing tariff levels;*

21 *(B) binding its tariffs in the World Trade*
22 *Organization and assuming meaningful binding*
23 *obligations in other sectors of trade; and*

24 *(C) eliminating nontariff barriers to trade.*

1 (3) *Whether such country, if not already a mem-*
2 *ber of the World Trade Organization, is actively pur-*
3 *suing membership in that Organization.*

4 (4) *Where applicable, the extent to which such*
5 *country is in material compliance with its obligations*
6 *to the International Monetary Fund and other inter-*
7 *national financial institutions.*

8 (5) *The extent to which such country has a rec-*
9 *ognizable commitment to reducing poverty, increasing*
10 *the availability of health care and educational oppor-*
11 *tunities, the expansion of physical infrastructure in a*
12 *manner designed to maximize accessibility, increased*
13 *access to market and credit facilities for small farm-*
14 *ers and producers, and improved economic opportuni-*
15 *ties for women as entrepreneurs and employees, and*
16 *promoting and enabling the formation of capital to*
17 *support the establishment and operation of micro-en-*
18 *terprises.*

19 (6) *Whether or not such country engages in ac-*
20 *tivities that undermine United States national secu-*
21 *rity or foreign policy interests.*

22 (c) *CONTINUING COMPLIANCE.—*

23 (1) *MONITORING AND REVIEW OF CERTAIN COUN-*
24 *TRIES.—The President shall monitor and review the*
25 *progress of sub-Saharan African countries in order to*

1 *determine their current or potential eligibility under*
2 *subsection (a). Such determinations shall be based on*
3 *quantitative factors to the fullest extent possible and*
4 *shall be included in the annual report required by*
5 *section 15.*

6 (2) *INELIGIBILITY OF CERTAIN COUNTRIES.—A*
7 *sub-Saharan African country described in paragraph*
8 *(1) that has not made continual progress in meeting*
9 *the requirements with which it is not in compliance*
10 *shall be ineligible to participate in programs,*
11 *projects, or activities, or receive assistance or other*
12 *benefits, under this Act.*

13 **SEC. 5. UNITED STATES-SUB-SAHARAN AFRICA TRADE AND**
14 **ECONOMIC COOPERATION FORUM.**

15 (a) *DECLARATION OF POLICY.—The President shall*
16 *convene annual high-level meetings between appropriate of-*
17 *ficials of the United States Government and officials of the*
18 *governments of sub-Saharan African countries in order to*
19 *foster close economic ties between the United States and sub-*
20 *Saharan Africa.*

21 (b) *ESTABLISHMENT.—Not later than 12 months after*
22 *the date of the enactment of this Act, the President, after*
23 *consulting with Congress and the governments concerned,*
24 *shall establish a United States-Sub-Saharan Africa Trade*

1 *and Economic Cooperation Forum (hereafter in this section*
2 *referred to as the “Forum”).*

3 (c) *REQUIREMENTS.—In creating the Forum, the*
4 *President shall meet the following requirements:*

5 (1) *The President shall direct the Secretary of*
6 *Commerce, the Secretary of the Treasury, the Sec-*
7 *retary of State, and the United States Trade Rep-*
8 *resentative to host the first annual meeting with the*
9 *counterparts of such Secretaries from the governments*
10 *of sub-Saharan African countries eligible under sec-*
11 *tion 4, the Secretary General of the Organization of*
12 *African Unity, and government officials from other*
13 *appropriate countries in Africa, to discuss expanding*
14 *trade and investment relations between the United*
15 *States and sub-Saharan Africa and the implementa-*
16 *tion of this Act including encouraging joint ventures*
17 *between small and large businesses.*

18 (2)(A) *The President, in consultation with the*
19 *Congress, shall encourage United States nongovern-*
20 *mental organizations to host annual meetings with*
21 *nongovernmental organizations from sub-Saharan Af-*
22 *rica in conjunction with the annual meetings of the*
23 *Forum for the purpose of discussing the issues de-*
24 *scribed in paragraph (1).*

1 (B) *The President, in consultation with the Con-*
2 *gress, shall encourage United States representatives of*
3 *the private sector to host annual meetings with rep-*
4 *resentatives of the private sector from sub-Saharan*
5 *Africa in conjunction with the annual meetings of the*
6 *Forum for the purpose of discussing the issues de-*
7 *scribed in paragraph (1).*

8 (3) *The President shall, to the extent practicable,*
9 *meet with the heads of governments of sub-Saharan*
10 *African countries eligible under section 4 not less*
11 *than once every two years for the purpose of dis-*
12 *cussing the issues described in paragraph (1). The*
13 *first such meeting should take place not later than*
14 *twelve months after the date of the enactment of this*
15 *Act.*

16 (d) *DISSEMINATION OF INFORMATION BY USIA.—In*
17 *order to assist in carrying out the purposes of the Forum,*
18 *the United States Information Agency shall disseminate*
19 *regularly, through multiple media, economic information in*
20 *support of the free market economic reforms described in*
21 *this Act.*

22 (e) *AUTHORIZATION OF APPROPRIATIONS.—There are*
23 *authorized to be appropriated such sums as may be nec-*
24 *essary to carry out this section.*

1 (f) *LIMITATION ON USE OF FUNDS.*—None of the funds
2 authorized under this section may be used to create or sup-
3 port any nongovernmental organization for the purpose of
4 expanding or facilitating trade between the United States
5 and sub-Saharan Africa.

6 **SEC. 6. UNITED STATES–SUB-SAHARAN AFRICA FREE TRADE**
7 **AREA.**

8 (a) *DECLARATION OF POLICY.*—The Congress declares
9 that a United States–Sub-Saharan Africa Free Trade Area
10 should be established, or free trade agreements should be en-
11 tered into, in order to serve as the catalyst for increasing
12 trade between the United States and sub-Saharan Africa
13 and increasing private sector development in sub-Saharan
14 Africa.

15 (b) *PLAN REQUIREMENT.*—

16 (1) *IN GENERAL.*—The President, taking into ac-
17 count the provisions of the treaty establishing the Af-
18 rican Economic Community and the willingness of
19 the governments of sub-Saharan African countries to
20 engage in negotiations to enter into free trade agree-
21 ments, shall develop a plan for the purpose of entering
22 into one or more trade agreements with sub-Saharan
23 African countries eligible under section 4 in order to
24 establish a United States–Sub-Saharan Africa Free

1 *Trade Area (hereafter in this section referred to as the*
2 *“Free Trade Area”).*

3 (2) *ELEMENTS OF PLAN.—The plan shall include*
4 *the following:*

5 (A) *The specific objectives of the United*
6 *States with respect to the establishment of the*
7 *Free Trade Area and a suggested timetable for*
8 *achieving those objectives.*

9 (B) *The benefits to both the United States*
10 *and sub-Saharan Africa with respect to the Free*
11 *Trade Area.*

12 (C) *A mutually agreed-upon timetable for*
13 *establishing the Free Trade Area.*

14 (D) *The implications for and the role of re-*
15 *gional and sub-regional organizations in sub-Sa-*
16 *haran Africa with respect to the Free Trade*
17 *Area.*

18 (E) *Subject matter anticipated to be covered*
19 *by the agreement for establishing the Free Trade*
20 *Area and United States laws, programs, and*
21 *policies, as well as the laws of participating eli-*
22 *gible African countries and existing bilateral*
23 *and multilateral and economic cooperation and*
24 *trade agreements, that may be affected by the*
25 *agreement or agreements.*

1 (F) *Procedures to ensure the following:*

2 (i) *Adequate consultation with the*
3 *Congress and the private sector during the*
4 *negotiation of the agreement or agreements*
5 *for establishing the Free Trade Area.*

6 (ii) *Consultation with the Congress re-*
7 *garding all matters relating to implementa-*
8 *tion of the agreement or agreements.*

9 (iii) *Approval by the Congress of the*
10 *agreement or agreements.*

11 (iv) *Adequate consultations with the*
12 *relevant African governments and African*
13 *regional and subregional intergovernmental*
14 *organizations during the negotiations of the*
15 *agreement or agreements.*

16 (c) *REPORTING REQUIREMENT.—Not later than 12*
17 *months after the date of the enactment of this Act, the Presi-*
18 *dent shall prepare and transmit to the Congress a report*
19 *containing the plan developed pursuant to subsection (b).*

20 **SEC. 7. ELIMINATING TRADE BARRIERS AND ENCOURAGING**
21 **EXPORTS.**

22 (a) *FINDINGS.—The Congress makes the following*
23 *findings:*

24 (1) *The lack of competitiveness of sub-Saharan*
25 *Africa in the global market, especially in the manu-*

1 *facturing sector, make it a limited threat to market*
2 *disruption and no threat to United States jobs.*

3 (2) *Annual textile and apparel exports to the*
4 *United States from sub-Saharan Africa represent less*
5 *than 1 percent of all textile and apparel exports to*
6 *the United States, which totaled \$54,001,863,000 in*
7 *1997.*

8 (3) *Sub-Saharan Africa has limited textile man-*
9 *ufacturing capacity. During 1999 and the succeeding*
10 *4 years, this limited capacity to manufacture textiles*
11 *and apparel is projected to grow at a modest rate.*
12 *Given this limited capacity to export textiles and ap-*
13 *parel, it will be very difficult for these exports from*
14 *sub-Saharan Africa, during 1999 and the succeeding*
15 *9 years, to exceed 3 percent annually of total imports*
16 *of textile and apparel to the United States. If these*
17 *exports from sub-Saharan Africa remain around 3*
18 *percent of total imports, they will not represent a*
19 *threat to United States workers, consumers, or manu-*
20 *facturers.*

21 (b) *SENSE OF THE CONGRESS.—It is the sense of the*
22 *Congress that—*

23 (1) *it would be to the mutual benefit of the coun-*
24 *tries in sub-Saharan Africa and the United States to*
25 *ensure that the commitments of the World Trade Or-*

1 *ganization and associated agreements are faithfully*
2 *implemented in each of the member countries, so as*
3 *to lay the groundwork for sustained growth in textile*
4 *and apparel exports and trade under agreed rules and*
5 *disciplines;*

6 (2) *reform of trade policies in sub-Saharan Afri-*
7 *ca with the objective of removing structural impedi-*
8 *ments to trade, consistent with obligations under the*
9 *World Trade Organization, can assist the countries of*
10 *the region in achieving greater and greater diver-*
11 *sification of textile and apparel export commodities*
12 *and products and export markets; and*

13 (3) *the President should support textile and ap-*
14 *parel trade reform in sub-Saharan Africa by, among*
15 *other measures, providing technical assistance, shar-*
16 *ing of information to expand basic knowledge of how*
17 *to trade with the United States, and encouraging*
18 *business-to-business contacts with the region.*

19 (c) *TREATMENT OF QUOTAS.—*

20 (1) *KENYA AND MAURITIUS.—Pursuant to the*
21 *Agreement on Textiles and Clothing, the United*
22 *States shall eliminate the existing quotas on textile*
23 *and apparel exports to the United States—*

24 (A) *from Kenya within 30 days after that*
25 *country adopts an efficient visa system to guard*

1 *against unlawful transshipment of textile and*
2 *apparel goods and the use of counterfeit docu-*
3 *ments; and*

4 *(B) from Mauritius within 30 days after*
5 *that country adopts such a visa system.*

6 *The Customs Service shall provide the necessary tech-*
7 *nical assistance to Kenya and Mauritius in the devel-*
8 *opment and implementation of those visa systems.*

9 (2) *OTHER SUB-SAHARAN COUNTRIES.—The*
10 *President shall continue the existing no quota policy*
11 *for countries in sub-Saharan Africa. The President*
12 *shall submit to the Congress, not later than March 31*
13 *of each year, a report on the growth in textiles and*
14 *apparel exports to the United States from countries*
15 *in sub-Saharan Africa in order to protect United*
16 *States consumers, workers, and textile manufacturers*
17 *from economic injury on account of the no quota pol-*
18 *icy.*

19 (d) *CUSTOMS PROCEDURES AND ENFORCEMENT.—*

20 (1) *ACTIONS BY COUNTRIES AGAINST TRANS-*
21 *SHIPMENT AND CIRCUMVENTION.—The President*
22 *should ensure that any country in sub-Saharan Afri-*
23 *ca that intends to export textile and apparel goods to*
24 *the United States—*

1 (A) has in place a functioning and effective
2 visa system and domestic laws and enforcement
3 procedures to guard against unlawful trans-
4 shipment of textile and apparel goods and the
5 use of counterfeit documents; and

6 (B) will cooperate fully with the United
7 States to address and take action necessary to
8 prevent circumvention, as provided in Article 5
9 of the Agreement on Textiles and Clothing.

10 (2) *PENALTIES AGAINST EXPORTERS.*—If the
11 President determines, based on sufficient evidence,
12 that an exporter has willfully falsified information re-
13 garding the country of origin, manufacture, proc-
14 essing, or assembly of a textile or apparel article for
15 which duty-free treatment under section 503(a)(1)(C)
16 of the Trade Act of 1974 is claimed, then the Presi-
17 dent shall deny to such exporter, and any successors
18 of such exporter, for a period of 2 years, duty-free
19 treatment under such section for textile and apparel
20 articles.

21 (3) *APPLICABILITY OF UNITED STATES LAWS AND*
22 *PROCEDURES.*—All provisions of the laws, regula-
23 tions, and procedures of the United States relating to
24 the denial of entry of articles or penalties against in-
25 dividuals or entities for engaging in illegal trans-

1 *shipment, fraud, or other violations of the customs*
2 *laws shall apply to imports from Sub-Saharan coun-*
3 *tries.*

4 (4) *MONITORING AND REPORTS TO CONGRESS.—*
5 *The Customs Service shall monitor and the Commis-*
6 *sioner of Customs shall submit to the Congress, not*
7 *later than March 31 of each year, a report on the ef-*
8 *fectiveness of the visa systems described in subsection*
9 *(c)(1) and paragraph (1) of this subsection and on*
10 *measures taken by countries in Sub-Saharan Africa*
11 *which export textiles or apparel to the United States*
12 *to prevent circumvention as described in Article 5 of*
13 *the Agreement on Textiles and Clothing.*

14 (e) *DEFINITION.—For purposes of this section, the*
15 *term “Agreement on Textiles and Clothing” means the*
16 *Agreement on Textiles and Clothing referred to in section*
17 *101(d)(4) of the Uruguay Round Agreements Act (19 U.S.C.*
18 *3511(d)(4)).*

19 **SEC. 8. GENERALIZED SYSTEM OF PREFERENCES.**

20 (a) *PREFERENTIAL TARIFF TREATMENT FOR CERTAIN*
21 *ARTICLES.—Section 503(a)(1) of the Trade Act of 1974 (19*
22 *U.S.C. 2463(a)(1)) is amended—*

23 (1) *by redesignating subparagraph (C) as sub-*
24 *paragraph (D); and*

1 (2) by inserting after subparagraph (B) the fol-
2 *lowing:*

3 “(C) *ELIGIBLE COUNTRIES IN SUB-SAHARAN*
4 *AFRICA.—The President may provide duty-free*
5 *treatment for any article set forth in paragraph*
6 *(1) of subsection (b) that is the growth, product,*
7 *or manufacture of an eligible country in sub-Sa-*
8 *haran Africa that is a beneficiary developing*
9 *country, if, after receiving the advice of the*
10 *International Trade Commission in accordance*
11 *with subsection (e), the President determines that*
12 *such article is not import-sensitive in the context*
13 *of imports from eligible countries in sub-Saha-*
14 *ran Africa. This subparagraph shall not affect*
15 *the designation of eligible articles under sub-*
16 *paragraph (B).”.*

17 (b) *RULES OF ORIGIN.—Section 503(a)(2) of the*
18 *Trade Act of 1974 (19 U.S.C. 2463(a)(2)) is amended by*
19 *adding at the end the following:*

20 “(C) *ELIGIBLE COUNTRIES IN SUB-SAHARAN*
21 *AFRICA.—For purposes of determining the per-*
22 *centage referred to in subparagraph (A) in the*
23 *case of an article of an eligible country in sub-*
24 *Saharan Africa that is a beneficiary developing*
25 *country—*

1 “(i) if the cost or value of materials
2 produced in the customs territory of the
3 United States is included with respect to
4 that article, an amount not to exceed 15
5 percent of the appraised value of the article
6 at the time it is entered that is attributed
7 to such United States cost or value may be
8 applied toward determining the percentage
9 referred to in subparagraph (A); and

10 “(ii) the cost or value of the materials
11 included with respect to that article that are
12 produced in any beneficiary developing
13 country that is an eligible country in sub-
14 Saharan Africa shall be applied in deter-
15 mining such percentage.”.

16 (c) *WAIVER OF COMPETITIVE NEED LIMITATION.*—
17 Section 503(c)(2)(D) of the Trade Act of 1974 (19 U.S.C.
18 2463(c)(2)(D)) is amended to read as follows:

19 “(D) *LEAST-DEVELOPED BENEFICIARY DE-*
20 *VELOPING COUNTRIES AND ELIGIBLE COUNTRIES*
21 *IN SUB-SAHARAN AFRICA.*—Subparagraph (A)
22 shall not apply to any least-developed beneficiary
23 developing country or any eligible country in
24 sub-Saharan Africa.”.

1 (d) *EXTENSION OF PROGRAM.*—Section 505 of the
2 *Trade Act of 1974 (19 U.S.C. 2465)* is amended to read
3 *as follows:*

4 **“SEC. 505. DATE OF TERMINATION.**

5 “(a) *COUNTRIES IN SUB-SAHARAN AFRICA.*—No duty-
6 *free treatment provided under this title shall remain in ef-*
7 *fect after June 30, 2009, with respect to beneficiary devel-*
8 *oping countries that are eligible countries in sub-Saharan*
9 *Africa.*

10 “(b) *OTHER COUNTRIES.*—No duty-free treatment pro-
11 *vided under this title shall remain in effect after June 30,*
12 *1999, with respect to beneficiary developing countries other*
13 *than those provided for in subsection (a).”.*

14 (e) *DEFINITION.*—Section 507 of the *Trade Act of 1974*
15 *(19 U.S.C. 2467)* is amended by adding at the end the fol-
16 *lowing:*

17 “(6) *ELIGIBLE COUNTRY IN SUB-SAHARAN AFRI-*
18 *CA.*—The terms ‘eligible country in sub-Saharan Afri-
19 *ca’ and ‘eligible countries in sub-Saharan Africa’*
20 *mean a country or countries that the President has*
21 *determined to be eligible under section 4 of the Afri-*
22 *can Growth and Opportunity Act.”.*

23 (f) *EFFECTIVE DATE.*—The amendments made by this
24 *section take effect on July 1, 1999.*

1 **SEC. 9. INTERNATIONAL FINANCIAL INSTITUTIONS AND**
2 **DEBT REDUCTION.**

3 (a) *BETTER MECHANISMS TO FURTHER GOALS FOR*
4 *SUB-SAHARAN AFRICA.*—*It is the sense of the Congress that*
5 *the Secretary of the Treasury should instruct the United*
6 *States Executive Directors of the International Bank for*
7 *Reconstruction and Development, the International Mone-*
8 *tary Fund, and the African Development Bank to use the*
9 *voice and votes of the Executive Directors to encourage vig-*
10 *orously their respective institutions to develop enhanced*
11 *mechanisms which further the following goals in eligible*
12 *countries in sub-Saharan Africa:*

13 (1) *Strengthening and expanding the private sec-*
14 *tor, especially among women-owned businesses.*

15 (2) *Reducing tariffs, nontariff barriers, and*
16 *other trade obstacles, and increasing economic inte-*
17 *gration.*

18 (3) *Supporting countries committed to account-*
19 *able government, economic reform, the eradication of*
20 *poverty, and the building of civil societies.*

21 (4) *Supporting deep debt reduction at the ear-*
22 *liest possible date with the greatest amount of relief*
23 *for eligible poorest countries under the “Heavily In-*
24 *debted Poor Countries” (HIPC) debt initiative.*

25 (b) *SENSE OF CONGRESS.*—*It is the sense of the Con-*
26 *gress that relief provided to countries in sub-Saharan Afri-*

1 *ca which qualify for the Heavily Indebted Poor Countries*
2 *debt initiative should primarily be made through grants*
3 *rather than through extended-term debt, and that interim*
4 *relief or interim financing should be provided for eligible*
5 *countries that establish a strong record of macroeconomic*
6 *reform.*

7 **SEC. 10. EXECUTIVE BRANCH INITIATIVES.**

8 (a) *STATEMENT OF CONGRESS.*—*The Congress recog-*
9 *nizes that the stated policy of the executive branch in 1997,*
10 *the “Partnership for Growth and Opportunity in Africa”*
11 *initiative, is a step toward the establishment of a com-*
12 *prehensive trade and development policy for sub-Saharan*
13 *Africa. It is the sense of the Congress that this Partnership*
14 *is a companion to the policy goals set forth in this Act.*

15 (b) *TECHNICAL ASSISTANCE TO PROMOTE ECONOMIC*
16 *REFORMS AND DEVELOPMENT.*—*In addition to continuing*
17 *bilateral and multilateral economic and development assist-*
18 *ance, the President shall target technical assistance*
19 *toward—*

20 (1) *developing relationships between United*
21 *States firms and firms in sub-Saharan Africa*
22 *through a variety of business associations and net-*
23 *works;*

24 (2) *providing assistance to the governments of*
25 *sub-Saharan African countries to—*

1 (A) liberalize trade and promote exports;

2 (B) bring their legal regimes into compli-
3 ance with the standards of the World Trade Or-
4 ganization in conjunction with membership in
5 that Organization;

6 (C) make financial and fiscal reforms; and

7 (D) promote greater agribusiness linkages;

8 (3) addressing such critical agricultural policy
9 issues as market liberalization, agricultural export de-
10 velopment, and agribusiness investment in processing
11 and transporting agricultural commodities;

12 (4) increasing the number of reverse trade mis-
13 sions to growth-oriented countries in sub-Saharan Af-
14 rica;

15 (5) increasing trade in services; and

16 (6) encouraging greater sub-Saharan participa-
17 tion in future negotiations in the World Trade Orga-
18 nization on services and making further commitments
19 in their schedules to the General Agreement on Trade
20 in Services in order to encourage the removal of tariff
21 and nontariff barriers.

22 **SEC. 11. SUB-SAHARAN AFRICA INFRASTRUCTURE FUND.**

23 (a) INITIATION OF FUNDS.—It is the sense of the Con-
24 gress that the Overseas Private Investment Corporation
25 should exercise the authorities it has to initiate an equity

1 *fund or equity funds in support of projects in the countries*
2 *in sub-Saharan Africa, in addition to the existing equity*
3 *fund for sub-Saharan Africa created by the Corporation.*

4 *(b) STRUCTURE AND TYPES OF FUNDS.—*

5 *(1) STRUCTURE.—Each fund initiated under*
6 *subsection (a) should be structured as a partnership*
7 *managed by professional private sector fund man-*
8 *agers and monitored on a continuing basis by the*
9 *Corporation.*

10 *(2) CAPITALIZATION.—Each fund should be cap-*
11 *italized with a combination of private equity capital,*
12 *which is not guaranteed by the Corporation, and debt*
13 *for which the Corporation provides guaranties.*

14 *(3) INFRASTRUCTURE FUND.—One or more of*
15 *the funds, with combined assets of up to*
16 *\$500,000,000, should be used in support of infrastruc-*
17 *ture projects in countries of sub-Saharan Africa.*

18 *(4) EMPHASIS.—The Corporation shall ensure*
19 *that the funds are used to provide support in par-*
20 *ticular to women entrepreneurs and to innovative in-*
21 *vestments that expand opportunities for women and*
22 *maximize employment opportunities for poor individ-*
23 *uals.*

1 **SEC. 12. OVERSEAS PRIVATE INVESTMENT CORPORATION**
2 **AND EXPORT-IMPORT BANK INITIATIVES.**

3 (a) *OVERSEAS PRIVATE INVESTMENT CORPORA-*
4 *TION.—*

5 (1) *ADVISORY COMMITTEE.—Section 233 of the*
6 *Foreign Assistance Act of 1961 is amended by adding*
7 *at the end the following:*

8 “(e) *ADVISORY COMMITTEE.—The Board shall take*
9 *prompt measures to increase the loan, guarantee, and in-*
10 *surance programs, and financial commitments, of the Cor-*
11 *poration in sub-Saharan Africa, including through the use*
12 *of an advisory committee to assist the Board in developing*
13 *and implementing policies, programs, and financial instru-*
14 *ments with respect to sub-Saharan Africa. In addition, the*
15 *advisory committee shall make recommendations to the*
16 *Board on how the Corporation can facilitate greater sup-*
17 *port by the United States for trade and investment with*
18 *and in sub-Saharan Africa. The advisory committee shall*
19 *terminate 4 years after the date of the enactment of this*
20 *subsection.”.*

21 (2) *REPORTS TO THE CONGRESS.—Within 6*
22 *months after the date of the enactment of this Act,*
23 *and annually for each of the 4 years thereafter, the*
24 *Board of Directors of the Overseas Private Investment*
25 *Corporation shall submit to the Congress a report on*
26 *the steps that the Board has taken to implement sec-*

1 *tion 233(e) of the Foreign Assistance Act of 1961 (as*
2 *added by paragraph (1)) and any recommendations*
3 *of the advisory board established pursuant to such*
4 *section.*

5 *(b) EXPORT-IMPORT BANK.—*

6 *(1) ADVISORY COMMITTEE FOR SUB-SAHARAN AF-*
7 *RIC A.—Section 2(b) of the Export-Import Bank Act of*
8 *1945 (12 U.S.C. 635(b)) is amended by inserting*
9 *after paragraph (12) the following:*

10 *“(13)(A) The Board of Directors of the Bank shall take*
11 *prompt measures, consistent with the credit standards oth-*
12 *erwise required by law, to promote the expansion of the*
13 *Bank’s financial commitments in sub-Saharan Africa*
14 *under the loan, guarantee, and insurance programs of the*
15 *Bank.*

16 *“(B)(i) The Board of Directors shall establish and use*
17 *an advisory committee to advise the Board of Directors on*
18 *the development and implementation of policies and pro-*
19 *grams designed to support the expansion described in sub-*
20 *paragraph (A).*

21 *“(ii) The advisory committee shall make recommenda-*
22 *tions to the Board of Directors on how the Bank can facili-*
23 *tate greater support by United States commercial banks for*
24 *trade with sub-Saharan Africa.*

1 “(iii) *The advisory committee shall terminate 4 years*
2 *after the date of the enactment of this subparagraph.*”.

3 (2) *REPORTS TO THE CONGRESS.*—*Within 6*
4 *months after the date of the enactment of this Act,*
5 *and annually for each of the 4 years thereafter, the*
6 *Board of Directors of the Export-Import Bank of the*
7 *United States shall submit to the Congress a report*
8 *on the steps that the Board has taken to implement*
9 *section 2(b)(13)(B) of the Export-Import Bank Act of*
10 *1945 (as added by paragraph (1)) and any rec-*
11 *ommendations of the advisory committee established*
12 *pursuant to such section.*

13 **SEC. 13. ASSISTANT UNITED STATES TRADE REPRESENTA-**
14 **TIVE FOR SUB-SAHARAN AFRICA.**

15 (a) *SENSE OF CONGRESS.*—*It is the sense of the Con-*
16 *gress that the position of Assistant United States Trade*
17 *Representative for African Affairs is integral to the United*
18 *States commitment to increasing United States—sub-Saha-*
19 *ran African trade and investment.*

20 (b) *MAINTENANCE OF POSITION.*—*The President shall*
21 *maintain a position of Assistant United States Trade Rep-*
22 *resentative for African Affairs within the Office of the*
23 *United States Trade Representative to direct and coordi-*
24 *nate interagency activities on United States-Africa trade*
25 *policy and investment matters and serve as—*

1 (1) *a primary point of contact in the executive*
2 *branch for those persons engaged in trade between the*
3 *United States and sub-Saharan Africa; and*

4 (2) *the chief advisor to the United States Trade*
5 *Representative on issues of trade with Africa.*

6 (c) *FUNDING AND STAFF.—The President shall ensure*
7 *that the Assistant United States Trade Representative for*
8 *African Affairs has adequate funding and staff to carry out*
9 *the duties described in subsection (b), subject to the avail-*
10 *ability of appropriations.*

11 **SEC. 14. EXPANSION OF THE UNITED STATES AND FOREIGN**
12 **COMMERCIAL SERVICE IN SUB-SAHARAN**
13 **AFRICA.**

14 (a) *FINDINGS.—The Congress makes the following*
15 *findings:*

16 (1) *The United States and Foreign Commercial*
17 *Service (hereafter in this section referred to as the*
18 *“Commercial Service”) plays an important role in*
19 *helping United States businesses identify export op-*
20 *portunities and develop reliable sources of informa-*
21 *tion on commercial prospects in foreign countries.*

22 (2) *During the 1980s, the presence of the Com-*
23 *mmercial Service in sub-Saharan Africa consisted of 14*
24 *professionals providing services in eight countries. By*

1 *early 1997, that presence had been reduced by half to*
2 *seven, in only four countries.*

3 *(3) Since 1997, the Department of Commerce has*
4 *slowly begun to increase the presence of the Commer-*
5 *cial Service in sub-Saharan Africa, adding five full-*
6 *time officers to established posts.*

7 *(4) Although the Commercial Service Officers in*
8 *these countries have regional responsibilities, this*
9 *kind of coverage does not adequately service the needs*
10 *of United States businesses attempting to do business*
11 *in sub-Saharan Africa.*

12 *(5) The Congress has, on several occasions, en-*
13 *couraged the Commercial Service to focus its resources*
14 *and efforts in countries or regions in Europe or Asia*
15 *to promote greater United States export activity in*
16 *those markets.*

17 *(6) Because market information is not widely*
18 *available in many sub-Saharan African countries, the*
19 *presence of additional Commercial Service Officers*
20 *and resources can play a significant role in assisting*
21 *United States businesses in markets in those coun-*
22 *tries.*

23 *(b) APPOINTMENTS.—Subject to the availability of ap-*
24 *propriations, by not later than December 31, 2000, the Sec-*
25 *retary of Commerce, acting through the Assistant Secretary*

1 *of Commerce and Director General of the United States and*
2 *Foreign Commercial Service, shall take steps to ensure*
3 *that—*

4 (1) *at least 20 full-time Commercial Service em-*
5 *ployees are stationed in sub-Saharan Africa; and*

6 (2) *full-time Commercial Service employees are*
7 *stationed in not less than ten different sub-Saharan*
8 *African countries.*

9 (c) *COMMERCIAL SERVICE INITIATIVE FOR SUB-SAHA-*
10 *RAN AFRICA.—In order to encourage the export of United*
11 *States goods and services to sub-Saharan African countries,*
12 *the Commercial Service shall make a special effort to—*

13 (1) *identify United States goods and services*
14 *which are not being exported to sub-Saharan African*
15 *countries but which are being exported to those coun-*
16 *tries by competitor nations;*

17 (2) *identify, where appropriate, trade barriers*
18 *and noncompetitive actions, including violations of*
19 *intellectual property rights, that are preventing or*
20 *hindering sales of United States goods and services to,*
21 *or the operation of United States companies in, sub-*
22 *Saharan Africa;*

23 (3) *present, periodically, a list of the goods and*
24 *services identified under paragraph (1), and any*
25 *trade barriers or noncompetitive actions identified*

1 *under paragraph (2), to appropriate authorities in*
2 *sub-Saharan African countries with a view to secur-*
3 *ing increased market access for United States export-*
4 *ers of goods and services;*

5 *(4) facilitate the entrance by United States busi-*
6 *nesses into the markets identified under paragraphs*
7 *(1) and (2); and*

8 *(5) monitor and evaluate the results of efforts to*
9 *increase the sales of goods and services in such mar-*
10 *kets.*

11 *(d) REPORTS TO CONGRESS.—Not later than one year*
12 *after the date of the enactment of this Act, and each year*
13 *thereafter for five years, the Secretary of Commerce, in con-*
14 *sultation with the Secretary of State, shall report to the*
15 *Congress on actions taken to carry out subsections (b) and*
16 *(c). Each report shall specify—*

17 *(1) in what countries full-time Commercial Serv-*
18 *ice Officers are stationed, and the number of such offi-*
19 *cers placed in each such country;*

20 *(2) the effectiveness of the presence of the addi-*
21 *tional Commercial Service Officers in increasing*
22 *United States exports to sub-Saharan African coun-*
23 *tries; and*

24 *(3) the specific actions taken by Commercial*
25 *Service Officers, both in sub-Saharan African coun-*

1 tries and in the United States, to carry out subsection
2 (c), including identifying a list of targeted export sec-
3 tors and countries.

4 **SEC. 15. REPORTING REQUIREMENT.**

5 *The President shall submit to the Congress, not later*
6 *than 1 year after the date of the enactment of this Act, and*
7 *not later than the end of each of the next 6 1-year periods*
8 *thereafter, a comprehensive report on the trade and invest-*
9 *ment policy of the United States for sub-Saharan Africa,*
10 *and on the implementation of this Act. The last report re-*
11 *quired by section 134(b) of the Uruguay Round Agreements*
12 *Act (19 U.S.C. 3554(b)) shall be consolidated and submitted*
13 *with the first report required by this section.*

14 **SEC. 16. DONATION OF AIR TRAFFIC CONTROL EQUIPMENT**
15 **TO ELIGIBLE SUB-SAHARAN AFRICAN COUN-**
16 **TRIES.**

17 *It is the sense of the Congress that, to the extent appro-*
18 *priate, the United States Government should make every*
19 *effort to donate to governments of sub-Saharan African*
20 *countries (determined to be eligible under section 4 of this*
21 *Act) air traffic control equipment that is no longer in use,*
22 *including appropriate related reimbursable technical assist-*
23 *ance.*

1 **SEC. 17. ADDITIONAL AUTHORITIES AND INCREASED FLEXI-**
2 **BILITY TO PROVIDE ASSISTANCE UNDER THE**
3 **DEVELOPMENT FUND FOR AFRICA.**

4 (a) *USE OF SUSTAINABLE DEVELOPMENT ASSISTANCE*
5 *TO SUPPORT FURTHER ECONOMIC GROWTH.*—*It is the*
6 *sense of the Congress that sustained economic growth in sub-*
7 *Saharan Africa depends in large measure upon the develop-*
8 *ment of a receptive environment for trade and investment,*
9 *and that to achieve this objective the United States Agency*
10 *for International Development should continue to support*
11 *programs which help to create this environment. Invest-*
12 *ments in human resources, development, and implementa-*
13 *tion of free market policies, including policies to liberalize*
14 *agricultural markets and improve food security, and the*
15 *support for the rule of law and democratic governance*
16 *should continue to be encouraged and enhanced on a bilat-*
17 *eral and regional basis.*

18 (b) *DECLARATIONS OF POLICY.*—*The Congress makes*
19 *the following declarations:*

20 (1) *The Development Fund for Africa established*
21 *under chapter 10 of part I of the Foreign Assistance*
22 *Act of 1961 (22 U.S.C. 2293 et seq.) has been an effec-*
23 *tive tool in providing development assistance to sub-*
24 *Saharan Africa since 1988.*

25 (2) *The Development Fund for Africa will com-*
26 *plement the other provisions of this Act and lay a*

1 *foundation for increased trade and investment oppor-*
2 *tunities between the United States and sub-Saharan*
3 *Africa.*

4 *(3) Assistance provided through the Development*
5 *Fund for Africa will continue to support programs*
6 *and activities that promote the long term economic*
7 *development of sub-Saharan Africa, such as programs*
8 *and activities relating to the following:*

9 *(A) Strengthening primary and vocational*
10 *education systems, especially the acquisition of*
11 *middle-level technical skills for operating modern*
12 *private businesses and the introduction of college*
13 *level business education, including the study of*
14 *international business, finance, and stock ex-*
15 *changes.*

16 *(B) Strengthening health care systems.*

17 *(C) Strengthening family planning service*
18 *delivery systems.*

19 *(D) Supporting democratization, good gov-*
20 *ernance and civil society and conflict resolution*
21 *efforts.*

22 *(E) Increasing food security by promoting*
23 *the expansion of agricultural and agriculture-*
24 *based industrial production and productivity*

1 *and increasing real incomes for poor individ-*
2 *uals.*

3 *(F) Promoting an enabling environment for*
4 *private sector-led growth through sustained eco-*
5 *nomie reform, privatization programs, and mar-*
6 *ket-led economic activities.*

7 *(G) Promoting decentralization and local*
8 *participation in the development process, espe-*
9 *cially linking the rural production sectors and*
10 *the industrial and market centers throughout Af-*
11 *rica.*

12 *(H) Increasing the technical and manage-*
13 *rial capacity of sub-Saharan African individuals*
14 *to manage the economy of sub-Saharan Africa.*

15 *(I) Ensuring sustainable economic growth*
16 *through environmental protection.*

17 *(4) The African Development Foundation has a*
18 *unique congressional mandate to empower the poor to*
19 *participate fully in development and to increase op-*
20 *portunities for gainful employment, poverty allevi-*
21 *ation, and more equitable income distribution in sub-*
22 *Saharan Africa. The African Development Founda-*
23 *tion has worked successfully to enhance the role of*
24 *women as agents of change, strengthen the informal*
25 *sector with an emphasis on supporting micro and*

1 *small sized enterprises, indigenous technologies, and*
2 *mobilizing local financing. The African Development*
3 *Foundation should develop and implement strategies*
4 *for promoting participation in the socioeconomic de-*
5 *velopment process of grassroots and informal sector*
6 *groups such as nongovernmental organizations, co-*
7 *operatives, artisans, and traders into the programs*
8 *and initiatives established under this Act.*

9 *(c) ADDITIONAL AUTHORITIES.—*

10 *(1) IN GENERAL.—Section 496(h) of the Foreign*
11 *Assistance Act of 1961 (22 U.S.C. 2293(h)) is*
12 *amended—*

13 *(A) by redesignating paragraph (3) as*
14 *paragraph (4); and*

15 *(B) by inserting after paragraph (2) the fol-*
16 *lowing:*

17 *“(3) DEMOCRATIZATION AND CONFLICT RESOLU-*
18 *TION CAPABILITIES.—Assistance under this section*
19 *may also include program assistance—*

20 *“(A) to promote democratization, good gov-*
21 *ernance, and strong civil societies in sub-Saha-*
22 *ran Africa; and*

23 *“(B) to strengthen conflict resolution capa-*
24 *bilities of governmental, intergovernmental, and*

1 *nongovernmental entities in sub-Saharan*
2 *Africa.”.*

3 (2) *CONFORMING AMENDMENT.—Section*
4 *496(h)(4) of such Act, as amended by paragraph (1),*
5 *is further amended by striking “paragraphs (1) and*
6 *(2)” in the first sentence and inserting “paragraphs*
7 *(1), (2), and (3)”.*

8 **SEC. 18. SUB-SAHARAN AFRICA DEFINED.**

9 *For purposes of this Act, the terms “sub-Saharan Afri-*
10 *ca”, “sub-Saharan African country”, “country in sub-Sa-*
11 *haran Africa”, and “countries in sub-Saharan Africa” refer*
12 *to the following or any successor political entities:*

13 *Republic of Angola (Angola)*

14 *Republic of Botswana (Botswana)*

15 *Republic of Burundi (Burundi)*

16 *Republic of Cape Verde (Cape Verde)*

17 *Republic of Chad (Chad)*

18 *Democratic Republic of Congo*

19 *Republic of the Congo (Congo)*

20 *Republic of Djibouti (Djibouti)*

21 *State of Eritrea (Eritrea)*

22 *Gabonese Republic (Gabon)*

23 *Republic of Ghana (Ghana)*

24 *Republic of Guinea-Bissau (Guinea-Bissau)*

25 *Kingdom of Lesotho (Lesotho)*

- 1 *Republic of Madagascar (Madagascar)*
- 2 *Republic of Mali (Mali)*
- 3 *Republic of Mauritius (Mauritius)*
- 4 *Republic of Namibia (Namibia)*
- 5 *Federal Republic of Nigeria (Nigeria)*
- 6 *Democratic Republic of Sao Tomé and Príncipe*
- 7 *(Sao Tomé and Príncipe)*
- 8 *Republic of Sierra Leone (Sierra Leone)*
- 9 *Somalia*
- 10 *Kingdom of Swaziland (Swaziland)*
- 11 *Republic of Togo (Togo)*
- 12 *Republic of Zimbabwe (Zimbabwe)*
- 13 *Republic of Benin (Benin)*
- 14 *Burkina Faso (Burkina)*
- 15 *Republic of Cameroon (Cameroon)*
- 16 *Central African Republic*
- 17 *Federal Islamic Republic of the Comoros*
- 18 *(Comoros)*
- 19 *Republic of Côte d'Ivoire (Côte d'Ivoire)*
- 20 *Republic of Equatorial Guinea (Equatorial*
- 21 *Guinea)*
- 22 *Ethiopia*
- 23 *Republic of the Gambia (Gambia)*
- 24 *Republic of Guinea (Guinea)*
- 25 *Republic of Kenya (Kenya)*

- 1 *Republic of Liberia (Liberia)*
- 2 *Republic of Malawi (Malawi)*
- 3 *Islamic Republic of Mauritania (Mauritania)*
- 4 *Republic of Mozambique (Mozambique)*
- 5 *Republic of Niger (Niger)*
- 6 *Republic of Rwanda (Rwanda)*
- 7 *Republic of Senegal (Senegal)*
- 8 *Republic of Seychelles (Seychelles)*
- 9 *Republic of South Africa (South Africa)*
- 10 *Republic of Sudan (Sudan)*
- 11 *United Republic of Tanzania (Tanzania)*
- 12 *Republic of Uganda (Uganda)*
- 13 *Republic of Zambia (Zambia)*

14 **SECTION 1. SHORT TITLE.**

15 **This Act may be cited as the “African**
16 **Growth and Opportunity Act”.**

17 **SEC. 2. FINDINGS.**

18 **The Congress finds that it is in the mutual**
19 **economic interest of the United States and**
20 **sub-Saharan Africa to promote stable and sus-**
21 **tainable economic growth and development**
22 **in sub-Saharan Africa and that sustained eco-**
23 **nomical growth in sub-Saharan Africa depends**
24 **in large measure upon the development of a**
25 **receptive environment for trade and invest-**

1 **ment. To that end, the United States seeks to**
2 **facilitate market-led economic growth in, and**
3 **thereby the social and economic development**
4 **of, the countries of sub-Saharan Africa. In**
5 **particular, the United States seeks to assist**
6 **sub-Saharan African countries, and the pri-**
7 **vate sector in those countries, to achieve eco-**
8 **nom ic self-reliance by—**

9 **(1) strengthening and expanding the**
10 **private sector in sub-Saharan Africa, es-**
11 **pecially women-owned businesses;**

12 **(2) encouraging increased trade and**
13 **investment between the United States**
14 **and sub-Saharan Africa;**

15 **(3) reducing tariff and nontariff bar-**
16 **riers and other trade obstacles;**

17 **(4) expanding United States assist-**
18 **ance to sub-Saharan Africa’s regional in-**
19 **tegration efforts;**

20 **(5) negotiating free trade areas;**

21 **(6) establishing a United States-Sub-**
22 **Saharan Africa Trade and Investment**
23 **Partnership;**

1 **(7) focusing on countries committed**
2 **to accountable government, economic re-**
3 **form, and the eradication of poverty;**

4 **(8) establishing a United States-Sub-**
5 **Saharan Africa Economic Cooperation**
6 **Forum; and**

7 **(9) continuing to support develop-**
8 **ment assistance for those countries in**
9 **sub-Saharan Africa attempting to build**
10 **civil societies.**

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

12 **The Congress supports economic self-reli-**
13 **ance for sub-Saharan African countries, par-**
14 **ticularly those committed to—**

15 **(1) economic and political reform;**

16 **(2) market incentives and private sec-**
17 **tor growth;**

18 **(3) the eradication of poverty; and**

19 **(4) the importance of women to eco-**
20 **nomie growth and development.**

21 **SEC. 4. ELIGIBILITY REQUIREMENTS.**

22 **(a) IN GENERAL.—A sub-Saharan African**
23 **country shall be eligible to participate in pro-**
24 **grams, projects, or activities, or receive assist-**
25 **ance or other benefits under this Act if the**

1 **President determines that the country does**
2 **not engage in gross violations of internation-**
3 **ally recognized human rights and has estab-**
4 **lished, or is making continual progress to-**
5 **ward establishing, a market-based economy,**
6 **such as the establishment and enforcement of**
7 **appropriate policies relating to—**

8 **(1) promoting free movement of goods**
9 **and services between the United States**
10 **and sub-Saharan Africa and among coun-**
11 **tries in sub-Saharan Africa;**

12 **(2) promoting the expansion of the**
13 **production base and the transformation**
14 **of commodities and nontraditional prod-**
15 **ucts for exports through joint venture**
16 **projects between African and foreign in-**
17 **vestors;**

18 **(3) trade issues, such as protection of**
19 **intellectual property rights, improve-**
20 **ments in standards, testing, labeling and**
21 **certification, and government procure-**
22 **ment;**

23 **(4) the protection of property rights,**
24 **such as protection against expropriation**

1 **and a functioning and fair judicial sys-**
2 **tem;**

3 **(5) appropriate fiscal systems, such as**
4 **reducing high import and corporate**
5 **taxes, controlling government consump-**
6 **tion, participation in bilateral investment**
7 **treaties, and the harmonization of such**
8 **treaties to avoid double taxation;**

9 **(6) foreign investment issues, such as**
10 **the provision of national treatment for**
11 **foreign investors, removing restrictions**
12 **on investment, and other measures to**
13 **create an environment conducive to do-**
14 **mestic and foreign investment;**

15 **(7) supporting the growth of regional**
16 **markets within a free trade area frame-**
17 **work;**

18 **(8) governance issues, such as elimi-**
19 **nating government corruption, mini-**
20 **mizing government intervention in the**
21 **market such as price controls and sub-**
22 **sidies, and streamlining the business li-**
23 **cence process;**

24 **(9) supporting the growth of the pri-**
25 **vate sector, in particular by promoting**

1 **the emergence of a new generation of Af-**
2 **rican entrepreneurs;**

3 **(10) encouraging the private owner-**
4 **ship of government-controlled economic**
5 **enterprises through divestiture pro-**
6 **grams; and**

7 **(11) observing the rule of law, includ-**
8 **ing equal protection under the law and**
9 **the right to due process and a fair trial.**

10 **(b) ADDITIONAL FACTORS.—In determining**
11 **whether a sub-Saharan African country is eli-**
12 **gible under subsection (a), the President shall**
13 **take into account the following factors:**

14 **(1) An expression by such country of**
15 **its desire to be an eligible country under**
16 **subsection (a).**

17 **(2) The extent to which such country**
18 **has made substantial progress toward—**

19 **(A) reducing tariff levels;**

20 **(B) binding its tariffs in the World**
21 **Trade Organization and assuming**
22 **meaningful binding obligations in**
23 **other sectors of trade; and**

24 **(C) eliminating nontariff barriers**
25 **to trade.**

1 **(3) Whether such country, if not al-**
2 **ready a member of the World Trade Orga-**
3 **nization, is actively pursuing member-**
4 **ship in that Organization.**

5 **(4) Where applicable, the extent to**
6 **which such country is in material compli-**
7 **ance with its obligations to the Inter-**
8 **national Monetary Fund and other inter-**
9 **national financial institutions.**

10 **(5) The extent to which such country**
11 **has a recognizable commitment to reduc-**
12 **ing poverty, increasing the availability of**
13 **health care and educational opportuni-**
14 **ties, the expansion of physical infrastruc-**
15 **ture in a manner designed to maximize**
16 **accessibility, increased access to market**
17 **and credit facilities for small farmers and**
18 **producers, and improved economic op-**
19 **portunities for women as entrepreneurs**
20 **and employees, and promoting and ena-**
21 **bling the formation of capital to support**
22 **the establishment and operation of**
23 **micro-enterprises.**

24 **(6) Whether or not such country en-**
25 **gages in activities that undermine United**

1 **States national security or foreign policy**
2 **interests.**

3 **(c) CONTINUING COMPLIANCE.—**

4 **(1) MONITORING AND REVIEW OF CER-**
5 **TAIN COUNTRIES.—The President shall**
6 **monitor and review the progress of sub-**
7 **Saharan African countries in order to de-**
8 **termine their current or potential eligi-**
9 **bility under subsection (a). Such deter-**
10 **minations shall be based on quantitative**
11 **factors to the fullest extent possible and**
12 **shall be included in the annual report re-**
13 **quired by section 15.**

14 **(2) INELIGIBILITY OF CERTAIN COUN-**
15 **TRIES.—A sub-Saharan African country**
16 **described in paragraph (1) that has not**
17 **made continual progress in meeting the**
18 **requirements with which it is not in com-**
19 **pliance shall be ineligible to participate**
20 **in programs, projects, or activities, or re-**
21 **ceive assistance or other benefits, under**
22 **this Act.**

1 **SEC. 5. UNITED STATES-SUB-SAHARAN AFRICA TRADE AND**
2 **ECONOMIC COOPERATION FORUM.**

3 **(a) DECLARATION OF POLICY.—The Presi-**
4 **dent shall convene annual high-level meetings**
5 **between appropriate officials of the United**
6 **States Government and officials of the gov-**
7 **ernments of sub-Saharan African countries in**
8 **order to foster close economic ties between**
9 **the United States and sub-Saharan Africa.**

10 **(b) ESTABLISHMENT.—Not later than 12**
11 **months after the date of the enactment of this**
12 **Act, the President, after consulting with Con-**
13 **gress and the governments concerned, shall**
14 **establish a United States-Sub-Saharan Africa**
15 **Trade and Economic Cooperation Forum**
16 **(hereafter in this section referred to as the**
17 **“Forum”).**

18 **(c) REQUIREMENTS.—In creating the**
19 **Forum, the President shall meet the following**
20 **requirements:**

21 **(1) The President shall direct the Sec-**
22 **retary of Commerce, the Secretary of the**
23 **Treasury, the Secretary of State, and the**
24 **United States Trade Representative to**
25 **host the first annual meeting with the**
26 **counterparts of such Secretaries from the**

1 **governments of sub-Saharan African**
2 **countries eligible under section 4, the**
3 **Secretary General of the Organization of**
4 **African Unity, and government officials**
5 **from other appropriate countries in Afri-**
6 **ca, to discuss expanding trade and invest-**
7 **ment relations between the United States**
8 **and sub-Saharan Africa and the imple-**
9 **mentation of this Act including encour-**
10 **aging joint ventures between small and**
11 **large businesses.**

12 **(2)(A) The President, in consultation**
13 **with the Congress, shall encourage**
14 **United States nongovernmental organiza-**
15 **tions to host annual meetings with non-**
16 **governmental organizations from sub-Sa-**
17 **haran Africa in conjunction with the an-**
18 **annual meetings of the Forum for the pur-**
19 **pose of discussing the issues described in**
20 **paragraph (1).**

21 **(B) The President, in consultation**
22 **with the Congress, shall encourage**
23 **United States representatives of the pri-**
24 **vate sector to host annual meetings with**
25 **representatives of the private sector from**

1 **sub-Saharan Africa in conjunction with**
2 **the annual meetings of the Forum for the**
3 **purpose of discussing the issues de-**
4 **scribed in paragraph (1).**

5 **(3) The President shall, to the extent**
6 **practicable, meet with the heads of gov-**
7 **ernments of sub-Saharan African coun-**
8 **tries eligible under section 4 not less**
9 **than once every two years for the pur-**
10 **pose of discussing the issues described in**
11 **paragraph (1). The first such meeting**
12 **should take place not later than twelve**
13 **months after the date of the enactment of**
14 **this Act.**

15 **(d) DISSEMINATION OF INFORMATION BY**
16 **USIA.—In order to assist in carrying out the**
17 **purposes of the Forum, the United States In-**
18 **formation Agency shall disseminate regularly,**
19 **through multiple media, economic informa-**
20 **tion in support of the free market economic**
21 **reforms described in this Act.**

22 **(e) AUTHORIZATION OF APPROPRIATIONS.—**
23 **There are authorized to be appropriated such**
24 **sums as may be necessary to carry out this**
25 **section.**

1 **(f) LIMITATION ON USE OF FUNDS.—None of**
2 **the funds authorized under this section may**
3 **be used to create or support any nongovern-**
4 **mental organization for the purpose of ex-**
5 **panding or facilitating trade between the**
6 **United States and sub-Saharan Africa.**

7 **SEC. 6. UNITED STATES-SUB-SAHARAN AFRICA FREE**
8 **TRADE AREA.**

9 **(a) DECLARATION OF POLICY.—The Con-**
10 **gress declares that a United States-Sub-Saha-**
11 **ran Africa Free Trade Area should be estab-**
12 **lished, or free trade agreements should be en-**
13 **tered into, in order to serve as the catalyst for**
14 **increasing trade between the United States**
15 **and sub-Saharan Africa and increasing pri-**
16 **vate sector development in sub-Saharan Afri-**
17 **ca.**

18 **(b) PLAN REQUIREMENT.—**

19 **(1) IN GENERAL.—The President, tak-**
20 **ing into account the provisions of the**
21 **treaty establishing the African Economic**
22 **Community and the willingness of the**
23 **governments of sub-Saharan African**
24 **countries to engage in negotiations to**
25 **enter into free trade agreements, shall**

1 **develop a plan for the purpose of enter-**
2 **ing into one or more trade agreements**
3 **with sub-Saharan African countries eligi-**
4 **ble under section 4 in order to establish**
5 **a United States–Sub-Saharan Africa Free**
6 **Trade Area (hereafter in this section re-**
7 **ferred to as the “Free Trade Area”).**

8 **(2) ELEMENTS OF PLAN.—The plan shall**
9 **include the following:**

10 **(A) The specific objectives of the**
11 **United States with respect to the es-**
12 **tablishment of the Free Trade Area**
13 **and a suggested timetable for achiev-**
14 **ing those objectives.**

15 **(B) The benefits to both the**
16 **United States and sub-Saharan Africa**
17 **with respect to the Free Trade Area.**

18 **(C) A mutually agreed-upon time-**
19 **table for establishing the Free Trade**
20 **Area.**

21 **(D) The implications for and the**
22 **role of regional and sub-regional or-**
23 **ganizations in sub-Saharan Africa**
24 **with respect to the Free Trade Area.**

1 **(E) Subject matter anticipated to**
2 **be covered by the agreement for es-**
3 **tablishing the Free Trade Area and**
4 **United States laws, programs, and**
5 **policies, as well as the laws of partici-**
6 **pating eligible African countries and**
7 **existing bilateral and multilateral**
8 **and economic cooperation and trade**
9 **agreements, that may be affected by**
10 **the agreement or agreements.**

11 **(F) Procedures to ensure the fol-**
12 **lowing:**

13 **(i) Adequate consultation with**
14 **the Congress and the private sec-**
15 **tor during the negotiation of the**
16 **agreement or agreements for es-**
17 **tablishing the Free Trade Area.**

18 **(ii) Consultation with the**
19 **Congress regarding all matters**
20 **relating to implementation of the**
21 **agreement or agreements.**

22 **(iii) Approval by the Congress**
23 **of the agreement or agreements.**

24 **(iv) Adequate consultations**
25 **with the relevant African govern-**

1 ments and African regional and
2 subregional intergovernmental
3 organizations during the negotia-
4 tions of the agreement or agree-
5 ments.

6 **(c) REPORTING REQUIREMENT.**—Not later
7 than 12 months after the date of the enact-
8 ment of this Act, the President shall prepare
9 and transmit to the Congress a report con-
10 taining the plan developed pursuant to sub-
11 section (b).

12 **SEC. 7. ELIMINATING TRADE BARRIERS AND ENCOUR-**
13 **AGING EXPORTS.**

14 **(a) FINDINGS.**—The Congress makes the
15 following findings:

16 (1) The lack of competitiveness of
17 sub-Saharan Africa in the global market,
18 especially in the manufacturing sector,
19 make it a limited threat to market dis-
20 ruption and no threat to United States
21 jobs.

22 (2) Annual textile and apparel exports
23 to the United States from sub-Saharan Af-
24 rica represent less than 1 percent of all
25 textile and apparel exports to the United

1 States, which totaled \$54,001,863,000 in
2 1997.

3 (3) Sub-Saharan Africa has limited
4 textile manufacturing capacity. During
5 1999 and the succeeding 4 years, this lim-
6 ited capacity to manufacture textiles and
7 apparel is projected to grow at a modest
8 rate. Given this limited capacity to ex-
9 port textiles and apparel, it will be very
10 difficult for these exports from sub-Saha-
11 ran Africa, during 1999 and the suc-
12 ceeding 9 years, to exceed 3 percent an-
13 nually of total imports of textile and ap-
14 parel to the United States. If these ex-
15 ports from sub-Saharan Africa remain
16 around 3 percent of total imports, they
17 will not represent a threat to United
18 States workers, consumers, or manufac-
19 turers.

20 (b) SENSE OF THE CONGRESS.—It is the
21 sense of the Congress that—

22 (1) it would be to the mutual benefit
23 of the countries in sub-Saharan Africa
24 and the United States to ensure that the
25 commitments of the World Trade Organi-

1 zation and associated agreements are
2 faithfully implemented in each of the
3 member countries, so as to lay the
4 groundwork for sustained growth in tex-
5 tile and apparel exports and trade under
6 agreed rules and disciplines;

7 (2) reform of trade policies in sub-Sa-
8 haran Africa with the objective of remov-
9 ing structural impediments to trade, con-
10 sistent with obligations under the World
11 Trade Organization, can assist the coun-
12 tries of the region in achieving greater
13 and greater diversification of textile and
14 apparel export commodities and products
15 and export markets; and

16 (3) the President should support tex-
17 tile and apparel trade reform in sub-Sa-
18 haran Africa by, among other measures,
19 providing technical assistance, sharing of
20 information to expand basic knowledge
21 of how to trade with the United States,
22 and encouraging business-to-business
23 contacts with the region.

24 (c) TREATMENT OF QUOTAS.—

1 **(1) KENYA AND MAURITIUS.—Pursuant**
2 **to the Agreement on Textiles and Cloth-**
3 **ing, the United States shall eliminate the**
4 **existing quotas on textile and apparel ex-**
5 **ports to the United States—**

6 **(A) from Kenya within 30 days**
7 **after that country adopts an efficient**
8 **visa system to guard against unlawful**
9 **transshipment of textile and apparel**
10 **goods and the use of counterfeit doc-**
11 **uments; and**

12 **(B) from Mauritius within 30 days**
13 **after that country adopts such a visa**
14 **system.**

15 **The Customs Service shall provide the**
16 **necessary technical assistance to Kenya**
17 **and Mauritius in the development and**
18 **implementation of those visa systems.**

19 **(2) OTHER SUB-SAHARAN COUNTRIES.—**
20 **The President shall continue the existing**
21 **no quota policy for countries in sub-Saha-**
22 **ran Africa. The President shall submit to**
23 **the Congress, not later than March 31 of**
24 **each year, a report on the growth in tex-**
25 **tiles and apparel exports to the United**

1 **States from countries in sub-Saharan Af-**
2 **rica in order to protect United States**
3 **consumers, workers, and textile manufac-**
4 **turers from economic injury on account**
5 **of the no quota policy.**

6 **(d) CUSTOMS PROCEDURES AND ENFORCE-**
7 **MENT.—**

8 **(1) ACTIONS BY COUNTRIES AGAINST**
9 **TRANSSHIPMENT AND CIRCUMVENTION.—The**
10 **President should ensure that any country**
11 **in sub-Saharan Africa that intends to ex-**
12 **port textile and apparel goods to the**
13 **United States—**

14 **(A) has in place a functioning and**
15 **effective visa system and domestic**
16 **laws and enforcement procedures to**
17 **guard against unlawful trans-**
18 **shipment of textile and apparel goods**
19 **and the use of counterfeit documents;**
20 **and**

21 **(B) will cooperate fully with the**
22 **United States to address and take ac-**
23 **tion necessary to prevent circumven-**
24 **tion, as provided in Article 5 of the**
25 **Agreement on Textiles and Clothing.**

1 **(2) PENALTIES AGAINST EXPORTERS.—If**
2 **the President determines, based on suffi-**
3 **cient evidence, that an exporter has will-**
4 **fully falsified information regarding the**
5 **country of origin, manufacture, proc-**
6 **essing, or assembly of a textile or apparel**
7 **article for which duty-free treatment**
8 **under section 503(a)(1)(C) of the Trade**
9 **Act of 1974 is claimed, then the President**
10 **shall deny to such exporter, and any suc-**
11 **cessors of such exporter, for a period of 2**
12 **years, duty-free treatment under such**
13 **section for textile and apparel articles.**

14 **(3) APPLICABILITY OF UNITED STATES**
15 **LAWS AND PROCEDURES.—All provisions of**
16 **the laws, regulations, and procedures of**
17 **the United States relating to the denial of**
18 **entry of articles or penalties against indi-**
19 **viduals or entities for engaging in illegal**
20 **transshipment, fraud, or other violations**
21 **of the customs laws shall apply to im-**
22 **ports from Sub-Saharan countries.**

23 **(4) MONITORING AND REPORTS TO CON-**
24 **GRESS.—The Customs Service shall mon-**
25 **itor and the Commissioner of Customs**

1 shall submit to the Congress, not later
2 than March 31 of each year, a report on
3 the effectiveness of the visa systems de-
4 scribed in subsection (c)(1) and para-
5 graph (1) of this subsection and on meas-
6 ures taken by countries in Sub-Saharan
7 Africa which export textiles or apparel to
8 the United States to prevent circumven-
9 tion as described in Article 5 of the
10 Agreement on Textiles and Clothing.

11 (e) DEFINITION.—For purposes of this sec-
12 tion, the term “Agreement on Textiles and
13 Clothing” means the Agreement on Textiles
14 and Clothing referred to in section 101(d)(4)
15 of the Uruguay Round Agreements Act (19
16 U.S.C. 3511(d)(4)).

17 SEC. 8. GENERALIZED SYSTEM OF PREFERENCES.

18 (a) PREFERENTIAL TARIFF TREATMENT FOR
19 CERTAIN ARTICLES.—Section 503(a)(1) of the
20 Trade Act of 1974 (19 U.S.C. 2463(a)(1)) is
21 amended—

22 (1) by redesignating subparagraph
23 (C) as subparagraph (D); and

24 (2) by inserting after subparagraph
25 (B) the following:

1 **“(C) ELIGIBLE COUNTRIES IN SUB-SA-**
2 **HARAN AFRICA.—The President may**
3 **provide duty-free treatment for any**
4 **article set forth in paragraph (1) of**
5 **subsection (b) that is the growth,**
6 **product, or manufacture of an eligi-**
7 **ble country in sub-Saharan Africa**
8 **that is a beneficiary developing coun-**
9 **try, if, after receiving the advice of**
10 **the International Trade Commission**
11 **in accordance with subsection (e), the**
12 **President determines that such arti-**
13 **cle is not import-sensitive in the con-**
14 **text of imports from eligible countries**
15 **in sub-Saharan Africa. This subpara-**
16 **graph shall not affect the designation**
17 **of eligible articles under subpara-**
18 **graph (B).”.**

19 **(b) RULES OF ORIGIN.—Section 503(a)(2) of**
20 **the Trade Act of 1974 (19 U.S.C. 2463(a)(2)) is**
21 **amended by adding at the end the following:**

22 **“(C) ELIGIBLE COUNTRIES IN SUB-SA-**
23 **HARAN AFRICA.—For purposes of deter-**
24 **mining the percentage referred to in**
25 **subparagraph (A) in the case of an ar-**

1 **article of an eligible country in sub-Sa-**
2 **haran Africa that is a beneficiary de-**
3 **veloping country—**

4 “(i) if the cost or value of ma-
5 terials produced in the customs
6 territory of the United States is
7 included with respect to that arti-
8 cle, an amount not to exceed 15
9 percent of the appraised value of
10 the article at the time it is en-
11 tered that is attributed to such
12 United States cost or value may
13 be applied toward determining
14 the percentage referred to in sub-
15 paragraph (A); and

16 “(ii) the cost or value of the
17 materials included with respect
18 to that article that are produced
19 in any beneficiary developing
20 country that is an eligible country
21 in sub-Saharan Africa shall be ap-
22 plied in determining such per-
23 centage.”.

24 **(c) WAIVER OF COMPETITIVE NEED LIMITA-**
25 **TION.—Section 503(c)(2)(D) of the Trade Act of**

1 1974 (19 U.S.C. 2463(c)(2)(D)) is amended to
2 read as follows:

3 “(D) LEAST-DEVELOPED BENEFICIARY
4 DEVELOPING COUNTRIES AND ELIGIBLE
5 COUNTRIES IN SUB-SAHARAN AFRICA.—
6 Subparagraph (A) shall not apply to
7 any least-developed beneficiary de-
8 veloping country or any eligible coun-
9 try in sub-Saharan Africa.”.

10 (d) EXTENSION OF PROGRAM.—Section 505
11 of the Trade Act of 1974 (19 U.S.C. 2465) is
12 amended to read as follows:

13 “SEC. 505. DATE OF TERMINATION.

14 “(a) COUNTRIES IN SUB-SAHARAN AFRICA.—
15 No duty-free treatment provided under this
16 title shall remain in effect after June 30, 2009,
17 with respect to beneficiary developing coun-
18 tries that are eligible countries in sub-Saha-
19 ran Africa.

20 “(b) OTHER COUNTRIES.—No duty-free
21 treatment provided under this title shall re-
22 main in effect after June 30, 1999, with re-
23 spect to beneficiary developing countries
24 other than those provided for in subsection
25 (a).”.

1 **(e) DEFINITION.—Section 507 of the Trade**
2 **Act of 1974 (19 U.S.C. 2467) is amended by add-**
3 **ing at the end the following:**

4 **“(6) ELIGIBLE COUNTRY IN SUB-SAHARAN**
5 **AFRICA.—The terms ‘eligible country in**
6 **sub-Saharan Africa’ and ‘eligible coun-**
7 **tries in sub-Saharan Africa’ mean a coun-**
8 **try or countries that the President has**
9 **determined to be eligible under section 4**
10 **of the African Growth and Opportunity**
11 **Act.”.**

12 **(f) EFFECTIVE DATE.—The amendments**
13 **made by this section take effect on July 1,**
14 **1999.**

15 **SEC. 9. INTERNATIONAL FINANCIAL INSTITUTIONS AND**
16 **DEBT REDUCTION.**

17 **(a) BETTER MECHANISMS TO FURTHER**
18 **GOALS FOR SUB-SAHARAN AFRICA.—It is the**
19 **sense of the Congress that the Secretary of**
20 **the Treasury should instruct the United**
21 **States Executive Directors of the Inter-**
22 **national Bank for Reconstruction and Devel-**
23 **opment, the International Monetary Fund,**
24 **and the African Development Bank to use the**
25 **voice and votes of the Executive Directors to**

1 encourage vigorously their respective institu-
2 tions to develop enhanced mechanisms which
3 further the following goals in eligible coun-
4 tries in sub-Saharan Africa:

5 (1) Strengthening and expanding the
6 private sector, especially among women-
7 owned businesses.

8 (2) Reducing tariffs, nontariff bar-
9 riers, and other trade obstacles, and in-
10 creasing economic integration.

11 (3) Supporting countries committed
12 to accountable government, economic re-
13 form, the eradication of poverty, and the
14 building of civil societies.

15 (4) Supporting deep debt reduction at
16 the earliest possible date with the great-
17 est amount of relief for eligible poorest
18 countries under the “Heavily Indebted
19 Poor Countries” (HIPC) debt initiative.

20 (b) SENSE OF CONGRESS.—It is the sense of
21 the Congress that relief provided to countries
22 in sub-Saharan Africa which qualify for the
23 Heavily Indebted Poor Countries debt initia-
24 tive should primarily be made through grants
25 rather than through extended-term debt, and

1 **that interim relief or interim financing should**
2 **be provided for eligible countries that estab-**
3 **lish a strong record of macroeconomic reform.**

4 **SEC. 10. EXECUTIVE BRANCH INITIATIVES.**

5 **(a) STATEMENT OF CONGRESS.—The Con-**
6 **gress recognizes that the stated policy of the**
7 **executive branch in 1997, the “Partnership for**
8 **Growth and Opportunity in Africa” initiative,**
9 **is a step toward the establishment of a com-**
10 **prehensive trade and development policy for**
11 **sub-Saharan Africa. It is the sense of the Con-**
12 **gress that this Partnership is a companion to**
13 **the policy goals set forth in this Act.**

14 **(b) TECHNICAL ASSISTANCE TO PROMOTE**
15 **ECONOMIC REFORMS AND DEVELOPMENT.—In ad-**
16 **dition to continuing bilateral and multilateral**
17 **economic and development assistance, the**
18 **President shall target technical assistance**
19 **toward—**

20 **(1) developing relationships between**
21 **United States firms and firms in sub-Sa-**
22 **haran Africa through a variety of busi-**
23 **ness associations and networks;**

1 **(2) providing assistance to the gov-**
2 **ernments of sub-Saharan African coun-**
3 **tries to—**

4 **(A) liberalize trade and promote**
5 **exports;**

6 **(B) bring their legal regimes into**
7 **compliance with the standards of the**
8 **World Trade Organization in conjunc-**
9 **tion with membership in that Organi-**
10 **zation;**

11 **(C) make financial and fiscal re-**
12 **forms; and**

13 **(D) promote greater agribusiness**
14 **linkages;**

15 **(3) addressing such critical agricul-**
16 **tural policy issues as market liberaliza-**
17 **tion, agricultural export development,**
18 **and agribusiness investment in proc-**
19 **essing and transporting agricultural com-**
20 **modities;**

21 **(4) increasing the number of reverse**
22 **trade missions to growth-oriented coun-**
23 **tries in sub-Saharan Africa;**

24 **(5) increasing trade in services; and**

1 **(6) encouraging greater sub-Saharan**
2 **participation in future negotiations in**
3 **the World Trade Organization on services**
4 **and making further commitments in their**
5 **schedules to the General Agreement on**
6 **Trade in Services in order to encourage**
7 **the removal of tariff and nontariff bar-**
8 **riers.**

9 **SEC. 11. SUB-SAHARAN AFRICA INFRASTRUCTURE FUND.**

10 **(a) INITIATION OF FUNDS.—It is the sense of**
11 **the Congress that the Overseas Private In-**
12 **vestment Corporation should exercise the au-**
13 **thorities it has to initiate an equity fund or**
14 **equity funds in support of projects in the**
15 **countries in sub-Saharan Africa, in addition**
16 **to the existing equity fund for sub-Saharan**
17 **Africa created by the Corporation.**

18 **(b) STRUCTURE AND TYPES OF FUNDS.—**

19 **(1) STRUCTURE.—Each fund initiated**
20 **under subsection (a) should be structured**
21 **as a partnership managed by professional**
22 **private sector fund managers and mon-**
23 **itored on a continuing basis by the Cor-**
24 **poration.**

1 (2) CAPITALIZATION.—Each fund
2 should be capitalized with a combination
3 of private equity capital, which is not
4 guaranteed by the Corporation, and debt
5 for which the Corporation provides guar-
6 anties.

7 (3) INFRASTRUCTURE FUND.—One or
8 more of the funds, with combined assets
9 of up to \$500,000,000, should be used in
10 support of infrastructure projects in
11 countries of sub-Saharan Africa.

12 (4) EMPHASIS.—The Corporation shall
13 ensure that the funds are used to provide
14 support in particular to women entre-
15 preneurs and to innovative investments
16 that expand opportunities for women and
17 maximize employment opportunities for
18 poor individuals.

19 SEC. 12. OVERSEAS PRIVATE INVESTMENT CORPORATION
20 AND EXPORT-IMPORT BANK INITIATIVES.

21 (a) OVERSEAS PRIVATE INVESTMENT COR-
22 PORATION.—

23 (1) ADVISORY COMMITTEE.—Section 233
24 of the Foreign Assistance Act of 1961 is

1 amended by adding at the end the fol-
2 lowing:

3 “(e) **ADVISORY COMMITTEE.**—The Board
4 shall take prompt measures to increase the
5 loan, guarantee, and insurance programs, and
6 financial commitments, of the Corporation in
7 sub-Saharan Africa, including through the
8 use of an advisory committee to assist the
9 Board in developing and implementing poli-
10 cies, programs, and financial instruments
11 with respect to sub-Saharan Africa. In addi-
12 tion, the advisory committee shall make rec-
13 ommendations to the Board on how the Cor-
14 poration can facilitate greater support by the
15 United States for trade and investment with
16 and in sub-Saharan Africa. The advisory com-
17 mittee shall terminate 4 years after the date
18 of the enactment of this subsection.”.

19 **(2) REPORTS TO THE CONGRESS.**—Within
20 6 months after the date of the enactment
21 of this Act, and annually for each of the
22 4 years thereafter, the Board of Directors
23 of the Overseas Private Investment Cor-
24 poration shall submit to the Congress a
25 report on the steps that the Board has

1 **taken to implement section 233(e) of the**
2 **Foreign Assistance Act of 1961 (as added**
3 **by paragraph (1)) and any recommenda-**
4 **tions of the advisory board established**
5 **pursuant to such section.**

6 **(b) EXPORT-IMPORT BANK.—**

7 **(1) ADVISORY COMMITTEE FOR SUB-SAHA-**
8 **RAN AFRICA.—Section 2(b) of the Export-**
9 **Import Bank Act of 1945 (12 U.S.C. 635(b))**
10 **is amended by inserting after paragraph**
11 **(12) the following:**

12 **“(13)(A) The Board of Directors of the**
13 **Bank shall take prompt measures, consistent**
14 **with the credit standards otherwise required**
15 **by law, to promote the expansion of the**
16 **Bank’s financial commitments in sub-Saharan**
17 **Africa under the loan, guarantee, and insur-**
18 **ance programs of the Bank.**

19 **“(B)(i) The Board of Directors shall estab-**
20 **lish and use an advisory committee to advise**
21 **the Board of Directors on the development**
22 **and implementation of policies and programs**
23 **designed to support the expansion described**
24 **in subparagraph (A).**

1 “(ii) The advisory committee shall make
2 recommendations to the Board of Directors
3 on how the Bank can facilitate greater sup-
4 port by United States commercial banks for
5 trade with sub-Saharan Africa.

6 “(iii) The advisory committee shall termi-
7 nate 4 years after the date of the enactment
8 of this subparagraph.”.

9 (2) REPORTS TO THE CONGRESS.—Within
10 6 months after the date of the enactment
11 of this Act, and annually for each of the
12 4 years thereafter, the Board of Directors
13 of the Export-Import Bank of the United
14 States shall submit to the Congress a re-
15 port on the steps that the Board has
16 taken to implement section 2(b)(13)(B) of
17 the Export-Import Bank Act of 1945 (as
18 added by paragraph (1)) and any rec-
19 ommendations of the advisory committee
20 established pursuant to such section.

21 SEC. 13. ASSISTANT UNITED STATES TRADE REPRESENTA-
22 TIVE FOR SUB-SAHARAN AFRICA.

23 (a) SENSE OF CONGRESS.—It is the sense of
24 the Congress that the position of Assistant
25 United States Trade Representative for Afri-

1 **can Affairs is integral to the United States**
2 **commitment to increasing United States—**
3 **sub-Saharan African trade and investment.**

4 **(b) MAINTENANCE OF POSITION.—The Presi-**
5 **dent shall maintain a position of Assistant**
6 **United States Trade Representative for Afri-**
7 **can Affairs within the Office of the United**
8 **States Trade Representative to direct and co-**
9 **ordinate interagency activities on United**
10 **States-Africa trade policy and investment**
11 **matters and serve as—**

12 **(1) a primary point of contact in the**
13 **executive branch for those persons en-**
14 **gaged in trade between the United States**
15 **and sub-Saharan Africa; and**

16 **(2) the chief advisor to the United**
17 **States Trade Representative on issues of**
18 **trade with Africa.**

19 **(c) FUNDING AND STAFF.—The President**
20 **shall ensure that the Assistant United States**
21 **Trade Representative for African Affairs has**
22 **adequate funding and staff to carry out the**
23 **duties described in subsection (b), subject to**
24 **the availability of appropriations.**

1 **SEC. 14. EXPANSION OF THE UNITED STATES AND FOREIGN**
2 **COMMERCIAL SERVICE IN SUB-SAHARAN**
3 **AFRICA.**

4 **(a) FINDINGS.—The Congress makes the**
5 **following findings:**

6 **(1) The United States and Foreign**
7 **Commercial Service (hereafter in this**
8 **section referred to as the “Commercial**
9 **Service”) plays an important role in help-**
10 **ing United States businesses identify ex-**
11 **port opportunities and develop reliable**
12 **sources of information on commercial**
13 **prospects in foreign countries.**

14 **(2) During the 1980s, the presence of**
15 **the Commercial Service in sub-Saharan**
16 **Africa consisted of 14 professionals pro-**
17 **viding services in eight countries. By**
18 **early 1997, that presence had been re-**
19 **duced by half to seven, in only four coun-**
20 **tries.**

21 **(3) Since 1997, the Department of**
22 **Commerce has slowly begun to increase**
23 **the presence of the Commercial Service**
24 **in sub-Saharan Africa, adding five full-**
25 **time officers to established posts.**

1 **(4) Although the Commercial Service**
2 **Officers in these countries have regional**
3 **responsibilities, this kind of coverage**
4 **does not adequately service the needs of**
5 **United States businesses attempting to**
6 **do business in sub-Saharan Africa.**

7 **(5) The Congress has, on several occa-**
8 **sions, encouraged the Commercial Serv-**
9 **ice to focus its resources and efforts in**
10 **countries or regions in Europe or Asia to**
11 **promote greater United States export ac-**
12 **tivity in those markets.**

13 **(6) Because market information is not**
14 **widely available in many sub-Saharan Af-**
15 **rican countries, the presence of addi-**
16 **tional Commercial Service Officers and**
17 **resources can play a significant role in**
18 **assisting United States businesses in mar-**
19 **kets in those countries.**

20 **(b) APPOINTMENTS.—Subject to the avail-**
21 **ability of appropriations, by not later than**
22 **December 31, 2000, the Secretary of Com-**
23 **merce, acting through the Assistant Secretary**
24 **of Commerce and Director General of the**

1 **United States and Foreign Commercial Serv-**
2 **ice, shall take steps to ensure that—**

3 **(1) at least 20 full-time Commercial**
4 **Service employees are stationed in sub-**
5 **Saharan Africa; and**

6 **(2) full-time Commercial Service em-**
7 **ployees are stationed in not less than ten**
8 **different sub-Saharan African countries.**

9 **(c) COMMERCIAL SERVICE INITIATIVE FOR**
10 **SUB-SAHARAN AFRICA.—In order to encourage**
11 **the export of United States goods and services**
12 **to sub-Saharan African countries, the Com-**
13 **mercial Service shall make a special effort**
14 **to—**

15 **(1) identify United States goods and**
16 **services which are not being exported to**
17 **sub-Saharan African countries but which**
18 **are being exported to those countries by**
19 **competitor nations;**

20 **(2) identify, where appropriate, trade**
21 **barriers and noncompetitive actions, in-**
22 **cluding violations of intellectual property**
23 **rights, that are preventing or hindering**
24 **sales of United States goods and services**

1 to, or the operation of United States com-
2 panies in, sub-Saharan Africa;

3 (3) present, periodically, a list of the
4 goods and services identified under para-
5 graph (1), and any trade barriers or non-
6 competitive actions identified under
7 paragraph (2), to appropriate authorities
8 in sub-Saharan African countries with a
9 view to securing increased market access
10 for United States exporters of goods and
11 services;

12 (4) facilitate the entrance by United
13 States businesses into the markets identi-
14 fied under paragraphs (1) and (2); and

15 (5) monitor and evaluate the results
16 of efforts to increase the sales of goods
17 and services in such markets.

18 (d) **REPORTS TO CONGRESS.**—Not later than
19 one year after the date of the enactment of
20 this Act, and each year thereafter for five
21 years, the Secretary of Commerce, in con-
22 sultation with the Secretary of State, shall re-
23 port to the Congress on actions taken to carry
24 out subsections (b) and (c). Each report shall
25 specify—

1 **(1) in what countries full-time Com-**
2 **mercial Service Officers are stationed,**
3 **and the number of such officers placed in**
4 **each such country;**

5 **(2) the effectiveness of the presence**
6 **of the additional Commercial Service Of-**
7 **ficers in increasing United States exports**
8 **to sub-Saharan African countries; and**

9 **(3) the specific actions taken by Com-**
10 **mercial Service Officers, both in sub-Sa-**
11 **haran African countries and in the**
12 **United States, to carry out subsection (c),**
13 **including identifying a list of targeted ex-**
14 **port sectors and countries.**

15 **SEC. 15. REPORTING REQUIREMENT.**

16 **The President shall submit to the Con-**
17 **gress, not later than 1 year after the date of**
18 **the enactment of this Act, and not later than**
19 **the end of each of the next 6 1-year periods**
20 **thereafter, a comprehensive report on the**
21 **trade and investment policy of the United**
22 **States for sub-Saharan Africa, and on the im-**
23 **plementation of this Act. The last report re-**
24 **quired by section 134(b) of the Uruguay**
25 **Round Agreements Act (19 U.S.C. 3554(b))**

1 shall be consolidated and submitted with the
2 first report required by this section.

3 **SEC. 16. DONATION OF AIR TRAFFIC CONTROL EQUIPMENT**
4 **TO ELIGIBLE SUB-SAHARAN AFRICAN COUN-**
5 **TRIES.**

6 **It is the sense of the Congress that, to the**
7 **extent appropriate, the United States Govern-**
8 **ment should make every effort to donate to**
9 **governments of sub-Saharan African coun-**
10 **tries (determined to be eligible under section**
11 **4 of this Act) air traffic control equipment**
12 **that is no longer in use, including appropriate**
13 **related reimbursable technical assistance.**

14 **SEC. 17. SUB-SAHARAN AFRICA DEFINED.**

15 **For purposes of this Act, the terms “sub-**
16 **Saharan Africa”, “sub-Saharan African coun-**
17 **try”, “country in sub-Saharan Africa”, and**
18 **“countries in sub-Saharan Africa” refer to the**
19 **following or any successor political entities:**

20 **Republic of Angola (Angola)**
21 **Republic of Botswana (Botswana)**
22 **Republic of Burundi (Burundi)**
23 **Republic of Cape Verde (Cape Verde)**
24 **Republic of Chad (Chad)**
25 **Democratic Republic of Congo**

- 1 **Republic of the Congo (Congo)**
- 2 **Republic of Djibouti (Djibouti)**
- 3 **State of Eritrea (Eritrea)**
- 4 **Gabonese Republic (Gabon)**
- 5 **Republic of Ghana (Ghana)**
- 6 **Republic of Guinea-Bissau (Guinea-**
- 7 **Bissau)**
- 8 **Kingdom of Lesotho (Lesotho)**
- 9 **Republic of Madagascar (Madagascar)**
- 10 **Republic of Mali (Mali)**
- 11 **Republic of Mauritius (Mauritius)**
- 12 **Republic of Namibia (Namibia)**
- 13 **Federal Republic of Nigeria (Nigeria)**
- 14 **Democratic Republic of Sao Tomé**
- 15 **and Principe (Sao Tomé and Principe)**
- 16 **Republic of Sierra Leone (Sierra**
- 17 **Leone)**
- 18 **Somalia**
- 19 **Kingdom of Swaziland (Swaziland)**
- 20 **Republic of Togo (Togo)**
- 21 **Republic of Zimbabwe (Zimbabwe)**
- 22 **Republic of Benin (Benin)**
- 23 **Burkina Faso (Burkina)**
- 24 **Republic of Cameroon (Cameroon)**
- 25 **Central African Republic**

- 1 **Federal Islamic Republic of the**
2 **Comoros (Comoros)**
- 3 **Republic of Côte d'Ivoire (Côte**
4 **d'Ivoire)**
- 5 **Republic of Equatorial Guinea (Equa-**
6 **torial Guinea)**
- 7 **Ethiopia**
- 8 **Republic of the Gambia (Gambia)**
- 9 **Republic of Guinea (Guinea)**
- 10 **Republic of Kenya (Kenya)**
- 11 **Republic of Liberia (Liberia)**
- 12 **Republic of Malawi (Malawi)**
- 13 **Islamic Republic of Mauritania (Mau-**
14 **ritania)**
- 15 **Republic of Mozambique (Mozam-**
16 **bique)**
- 17 **Republic of Niger (Niger)**
- 18 **Republic of Rwanda (Rwanda)**
- 19 **Republic of Senegal (Senegal)**
- 20 **Republic of Seychelles (Seychelles)**
- 21 **Republic of South Africa (South Afri-**
22 **ca)**
- 23 **Republic of Sudan (Sudan)**
- 24 **United Republic of Tanzania (Tan-**
25 **zania)**

1 **Republic of Uganda (Uganda)**

2 **Republic of Zambia (Zambia)**

3 **SEC. 18. LIMITATION ON USE OF NON-ACCRUAL EXPERI-**
4 **ENCE METHOD OF ACCOUNTING.**

5 **(a) IN GENERAL.—Section 448(d)(5) of the**
6 **Internal Revenue Code of 1986 (relating to**
7 **special rule for services) is amended—**

8 **(1) by inserting “in fields described in**
9 **paragraph (2)(A)” after “services by such**
10 **person”, and**

11 **(2) by inserting “CERTAIN PERSONAL”**
12 **before “SERVICES” in the heading.**

13 **(b) EFFECTIVE DATE.—**

14 **(1) IN GENERAL.—The amendments**
15 **made by this section shall apply to tax-**
16 **able years ending after the date of the en-**
17 **actment of this Act.**

18 **(2) CHANGE IN METHOD OF ACCOUNT-**
19 **ING.—In the case of any taxpayer re-**
20 **quired by the amendments made by this**
21 **section to change its method of account-**
22 **ing for its first taxable year ending after**
23 **the date of the enactment of this Act—**

24 **(A) such change shall be treated**
25 **as initiated by the taxpayer,**

1 **(B) such change shall be treated**
2 **as made with the consent of the Sec-**
3 **retary of the Treasury, and**

4 **(C) the net amount of the adjust-**
5 **ments required to be taken into ac-**
6 **count by the taxpayer under section**
7 **481 of the Internal Revenue Code of**
8 **1986 shall be taken into account over**
9 **a period (not greater than 4 taxable**
10 **years) beginning with such first tax-**
11 **able year.**

12 **SEC. 19. CHARITABLE SPLIT-DOLLAR LIFE INSURANCE, AN-**
13 **NUITY, AND ENDOWMENT CONTRACTS.**

14 **(a) IN GENERAL.—Subsection (f) of section**
15 **170 of the Internal Revenue Code of 1986 (re-**
16 **lating to disallowance of deduction in certain**
17 **cases and special rules) is amended by adding**
18 **at the end the following new paragraph:**

19 **“(10) SPLIT-DOLLAR LIFE INSURANCE, AN-**
20 **NUITY, AND ENDOWMENT CONTRACTS.—**

21 **“(A) IN GENERAL.—Nothing in this**
22 **section or in section 545(b)(2),**
23 **556(b)(2), 642(c), 2055, 2106(a)(2), or**
24 **2522 shall be construed to allow a de-**
25 **duction, and no deduction shall be al-**

1 **lowed, for any transfer to or for the**
2 **use of an organization described in**
3 **subsection (c) if in connection with**
4 **such transfer—**

5 **“(i) the organization directly**
6 **or indirectly pays, or has pre-**
7 **viously paid, any premium on any**
8 **personal benefit contract with re-**
9 **spect to the transferor, or**

10 **“(ii) there is an understanding**
11 **or expectation that any person**
12 **will directly or indirectly pay any**
13 **premium on any personal benefit**
14 **contract with respect to the**
15 **transferor.**

16 **“(B) PERSONAL BENEFIT CON-**
17 **TRACT.—For purposes of subpara-**
18 **graph (A), the term ‘personal benefit**
19 **contract’ means, with respect to the**
20 **transferor, any life insurance, annu-**
21 **ity, or endowment contract if any di-**
22 **rect or indirect beneficiary under**
23 **such contract is the transferor, any**
24 **member of the transferor’s family, or**
25 **any other person (other than an orga-**

1 **nization described in subsection (c))**
2 **designated by the transferor.**

3 **“(C) APPLICATION TO CHARITABLE**
4 **REMAINDER TRUSTS.—In the case of a**
5 **transfer to a trust referred to in sub-**
6 **paragraph (E), references in subpara-**
7 **graphs (A) and (F) to an organization**
8 **described in subsection (c) shall be**
9 **treated as a reference to such trust.**

10 **“(D) EXCEPTION FOR CERTAIN ANNU-**
11 **ITY CONTRACTS.—If, in connection with**
12 **a transfer to or for the use of an orga-**
13 **nization described in subsection (c),**
14 **such organization incurs an obliga-**
15 **tion to pay a charitable gift annuity**
16 **(as defined in section 501(m)) and**
17 **such organization purchases any an-**
18 **nuity contract to fund such obliga-**
19 **tion, persons receiving payments**
20 **under the charitable gift annuity**
21 **shall not be treated for purposes of**
22 **subparagraph (B) as indirect bene-**
23 **ficiaries under such contract if—**

1 “(i) such organization pos-
2 sesses all of the incidents of own-
3 ership under such contract,

4 “(ii) such organization is enti-
5 tled to all the payments under
6 such contract, and

7 “(iii) the timing and amount
8 of payments under such contract
9 are substantially the same as the
10 timing and amount of payments
11 to each such person under such
12 obligation (as such obligation is
13 in effect at the time of such trans-
14 fer).

15 “(E) EXCEPTION FOR CERTAIN CON-
16 TRACTS HELD BY CHARITABLE REMAIN-
17 DER TRUSTS.—A person shall not be
18 treated for purposes of subparagraph
19 (B) as an indirect beneficiary under
20 any life insurance, annuity, or endow-
21 ment contract held by a charitable re-
22 mainder annuity trust or a charitable
23 remainder unitrust (as defined in sec-
24 tion 664(d)) solely by reason of being
25 entitled to any payment referred to in

1 paragraph (1)(A) or (2)(A) of section
2 664(d) if—

3 “(i) such trust possesses all of
4 the incidents of ownership under
5 such contract, and

6 “(ii) such trust is entitled to
7 all the payments under such con-
8 tract.

9 “(F) EXCISE TAX ON PREMIUMS
10 PAID.—

11 “(i) IN GENERAL.—There is
12 hereby imposed on any organiza-
13 tion described in subsection (c)
14 an excise tax equal to the pre-
15 miums paid by such organization
16 on any life insurance, annuity, or
17 endowment contract if the pay-
18 ment of premiums on such con-
19 tract is in connection with a
20 transfer for which a deduction is
21 not allowable under subpara-
22 graph (A), determined without re-
23 gard to when such transfer is
24 made.

1 **“(ii) PAYMENTS BY OTHER PER-**
2 **SONS.—For purposes of clause (i),**
3 **payments made by any other per-**
4 **son pursuant to an understanding**
5 **or expectation referred to in sub-**
6 **paragraph (A) shall be treated as**
7 **made by the organization.**

8 **“(iii) REPORTING.—Any organi-**
9 **zation on which tax is imposed by**
10 **clause (i) with respect to any pre-**
11 **mium shall file an annual return**
12 **which includes—**

13 **“(I) the amount of such**
14 **premiums paid during the**
15 **year and the name and TIN of**
16 **each beneficiary under the**
17 **contract to which the pre-**
18 **mium relates, and**

19 **“(II) such other informa-**
20 **tion as the Secretary may re-**
21 **quire.**

22 **The penalties applicable to re-**
23 **turns required under section 6033**
24 **shall apply to returns required**
25 **under this clause. Returns re-**

1 **quired under this clause shall be**
2 **furnished at such time and in**
3 **such manner as the Secretary**
4 **shall by forms or regulations re-**
5 **quire.**

6 **“(iv) CERTAIN RULES TO**
7 **APPLY.—The tax imposed by this**
8 **subparagraph shall be treated as**
9 **imposed by chapter 42 for pur-**
10 **poses of this title other than sub-**
11 **chapter B of chapter 42.**

12 **“(G) SPECIAL RULE WHERE STATE**
13 **REQUIRES SPECIFICATION OF CHARI-**
14 **TABLE GIFT ANNUITANT IN CONTRACT.—**
15 **In the case of an obligation to pay a**
16 **charitable gift annuity referred to in**
17 **subparagraph (D) which is entered**
18 **into under the laws of a State which**
19 **requires, in order for the charitable**
20 **gift annuity to be exempt from insur-**
21 **ance regulation by such State, that**
22 **each beneficiary under the charitable**
23 **gift annuity be named as a bene-**
24 **fiary under an annuity contract**
25 **issued by an insurance company au-**

1 **thorized to transact business in such**
2 **State, the requirements of clauses (i)**
3 **and (ii) of subparagraph (D) shall be**
4 **treated as met if—**

5 **“(i) such State law require-**
6 **ment was in effect on February 8,**
7 **1999,**

8 **“(ii) each such beneficiary**
9 **under the charitable gift annuity**
10 **is a bona fide resident of such**
11 **State at the time the obligation to**
12 **pay a charitable gift annuity is**
13 **entered into, and**

14 **“(iii) the only persons entitled**
15 **to payments under such contract**
16 **are persons entitled to payments**
17 **as beneficiaries under such obli-**
18 **gation on the date such obligation**
19 **is entered into.**

20 **“(H) REGULATIONS.—The Secretary**
21 **shall prescribe such regulations as**
22 **may be necessary or appropriate to**
23 **carry out the purposes of this para-**
24 **graph, including regulations to pre-**
25 **vent the avoidance of such purposes.”**

1 **(b) EFFECTIVE DATE.—**

2 **(1) IN GENERAL.—**Except as otherwise
3 **provided in this section, the amendment**
4 **made by this section shall apply to trans-**
5 **fers made after February 8, 1999.**

6 **(2) EXCISE TAX.—**Except as provided in
7 **paragraph (3) of this subsection, section**
8 **170(f)(10)(F) of the Internal Revenue**
9 **Code of 1986 (as added by this section)**
10 **shall apply to premiums paid after the**
11 **date of the enactment of this Act.**

12 **(3) REPORTING.—**Clause (iii) of such
13 **section 170(f)(10)(F) shall apply to pre-**
14 **miums paid after February 8, 1999 (deter-**
15 **mined as if the tax imposed by such sec-**
16 **tion applies to premiums paid after such**
17 **date).**