

AFRICAN GROWTH AND OPPORTUNITY ACT

—
FEBRUARY 16, 1999.—Ordered to be printed
—

Mr. GILMAN, from the Committee on International Relations,
submitted the following

REPORT

together with

DISSENTING VIEWS

[To accompany H.R. 434]

The Committee on International Relations, to whom was referred the bill (H.R. 434) to authorize a new trade and investment policy for sub-Saharan Africa, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. FINDINGS.

The Congress finds that it is in the mutual economic interest of the United States and sub-Saharan Africa to promote stable and sustainable economic growth and development in sub-Saharan Africa and that sustained economic growth in sub-Saharan Africa depends in large measure upon the development of a receptive environment for trade and investment. To that end, the United States seeks to facilitate market-led economic growth in, and thereby the social and economic development of, the countries of sub-Saharan Africa. In particular, the United States seeks to assist sub-Saharan African countries, and the private sector in those countries, to achieve economic self-reliance by—

- (1) strengthening and expanding the private sector in sub-Saharan Africa, especially women-owned businesses;
- (2) encouraging increased trade and investment between the United States and sub-Saharan Africa;
- (3) reducing tariff and nontariff barriers and other trade obstacles;
- (4) expanding United States assistance to sub-Saharan Africa’s regional integration efforts;
- (5) negotiating free trade areas;

- (6) establishing a United States-Sub-Saharan Africa Trade and Investment Partnership;
- (7) focusing on countries committed to accountable government, economic reform, and the eradication of poverty;
- (8) establishing a United States-Sub-Saharan Africa Economic Cooperation Forum; and
- (9) continuing to support development assistance for those countries in sub-Saharan Africa attempting to build civil societies.

SEC. 3. STATEMENT OF POLICY.

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

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

SEC. 4. ELIGIBILITY REQUIREMENTS.

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

- (1) promoting free movement of goods and services between the United States and sub-Saharan Africa and among countries in sub-Saharan Africa;
- (2) promoting the expansion of the production base and the transformation of commodities and nontraditional products for exports through joint venture projects between African and foreign investors;
- (3) trade issues, such as protection of intellectual property rights, improvements in standards, testing, labeling and certification, and government procurement;
- (4) the protection of property rights, such as protection against expropriation and a functioning and fair judicial system;
- (5) the protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health;
- (6) appropriate fiscal systems, such as reducing high import and corporate taxes, controlling government consumption, participation in bilateral investment treaties, and the harmonization of such treaties to avoid double taxation;
- (7) foreign investment issues, such as the provision of national treatment for foreign investors, removing restrictions on investment, and other measures to create an environment conducive to domestic and foreign investment;
- (8) supporting the growth of regional markets within a free trade area framework;
- (9) governance issues, such as eliminating government corruption, minimizing government intervention in the market such as price controls and subsidies, and streamlining the business license process;
- (10) supporting the growth of the private sector, in particular by promoting the emergence of a new generation of African entrepreneurs;
- (11) encouraging the private ownership of government-controlled economic enterprises through divestiture programs; and
- (12) observing the rule of law, including equal protection under the law and the right to due process and a fair trial.

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

- (1) An expression by such country of its desire to be an eligible country under subsection (a).
- (2) The extent to which such country has made substantial progress toward—
 - (A) reducing tariff levels;
 - (B) binding its tariffs in the World Trade Organization and assuming meaningful binding obligations in other sectors of trade; and
 - (C) eliminating nontariff barriers to trade.
- (3) Whether such country, if not already a member of the World Trade Organization, is actively pursuing membership in that Organization.

(4) Where applicable, the extent to which such country is in material compliance with its obligations to the International Monetary Fund and other international financial institutions.

(5) The extent to which such country has a recognizable commitment to reducing poverty, increasing the availability of health care and educational opportunities, the expansion of physical infrastructure in a manner designed to maximize accessibility, increased access to market and credit facilities for small farmers and producers, and improved economic opportunities for women as entrepreneurs and employees, and promoting and enabling the formation of capital to support the establishment and operation of micro-enterprises.

(6) Whether or not such country engages in activities that undermine United States national security or foreign policy interests.

(c) CONTINUING COMPLIANCE.—

(1) MONITORING AND REVIEW OF CERTAIN COUNTRIES.—The President shall monitor and review the progress of sub-Saharan African countries in order to determine their current or potential eligibility under subsection (a). Such determinations shall be based on quantitative factors to the fullest extent possible and shall be included in the annual report required by section 15.

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

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

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

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

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

(1) The President shall direct the Secretary of Commerce, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative to host the first annual meeting with the counterparts of such Secretaries from the governments of sub-Saharan African countries eligible under section 4, the Secretary General of the Organization of African Unity, and government officials from other appropriate countries in Africa, to discuss expanding trade and investment relations between the United States and sub-Saharan Africa and the implementation of this Act including encouraging joint ventures between small and large businesses.

(2)(A) The President, in consultation with the Congress, shall encourage United States nongovernmental organizations to host annual meetings with nongovernmental organizations from sub-Saharan Africa in conjunction with the annual meetings of the Forum for the purpose of discussing the issues described in paragraph (1).

(B) The President, in consultation with the Congress, shall encourage United States representatives of the private sector to host annual meetings with representatives of the private sector from sub-Saharan Africa in conjunction with the annual meetings of the Forum for the purpose of discussing the issues described in paragraph (1).

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

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

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

(f) LIMITATION ON USE OF FUNDS.—None of the funds authorized under this section may be used to create or support any nongovernmental organization for the

purpose of expanding or facilitating trade between the United States and sub-Saharan Africa.

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

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

(b) **PLAN REQUIREMENT.**—

(1) **IN GENERAL.**—The President, taking into account the provisions of the treaty establishing the African Economic Community and the willingness of the governments of sub-Saharan African countries to engage in negotiations to enter into free trade agreements, shall develop a plan for the purpose of entering into one or more trade agreements with sub-Saharan African countries eligible under section 4 in order to establish a United States–Sub-Saharan Africa Free Trade Area (hereafter in this section referred to as the “Free Trade Area”).

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

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

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

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

(D) The implications for and the role of regional and sub-regional organizations in sub-Saharan Africa with respect to the Free Trade Area.

(E) Subject matter anticipated to be covered by the agreement for establishing the Free Trade Area and United States laws, programs, and policies, as well as the laws of participating eligible African countries and existing bilateral and multilateral and economic cooperation and trade agreements, that may be affected by the agreement or agreements.

(F) Procedures to ensure the following:

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

(ii) Consultation with the Congress regarding all matters relating to implementation of the agreement or agreements.

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

(iv) Adequate consultations with the relevant African governments and African regional and subregional intergovernmental organizations during the negotiations of the agreement or agreements.

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

SEC. 7. ELIMINATING TRADE BARRIERS AND ENCOURAGING EXPORTS.

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

(1) The lack of competitiveness of sub-Saharan Africa in the global market, especially in the manufacturing sector, make it a limited threat to market disruption and no threat to United States jobs.

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

(3) Sub-Saharan Africa has limited textile manufacturing capacity. During 1999 and the succeeding 4 years, this limited capacity to manufacture textiles and apparel is projected to grow at a modest rate. Given this limited capacity to export textiles and apparel, it will be very difficult for these exports from sub-Saharan Africa, during 1999 and the succeeding 9 years, to exceed 3 percent annually of total imports of textile and apparel to the United States. If these exports from sub-Saharan Africa remain around 3 percent of total imports, they will not represent a threat to United States workers, consumers, or manufacturers.

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

(1) it would be to the mutual benefit of the countries in sub-Saharan Africa and the United States to ensure that the commitments of the World Trade Organization and associated agreements are faithfully implemented in each of the member countries, so as to lay the groundwork for sustained growth in textile and apparel exports and trade under agreed rules and disciplines;

(2) reform of trade policies in sub-Saharan Africa with the objective of removing structural impediments to trade, consistent with obligations under the World Trade Organization, can assist the countries of the region in achieving greater and greater diversification of textile and apparel export commodities and products and export markets; and

(3) the President should support textile and apparel trade reform in sub-Saharan Africa by, among other measures, providing technical assistance, sharing of information to expand basic knowledge of how to trade with the United States, and encouraging business-to-business contacts with the region.

(c) TREATMENT OF QUOTAS.—

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

(A) from Kenya within 30 days after that country adopts an efficient visa system to guard against unlawful transshipment of textile and apparel goods and the use of counterfeit documents; and

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

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

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

(d) CUSTOMS PROCEDURES AND ENFORCEMENT.—

(1) ACTIONS BY COUNTRIES AGAINST TRANSSHIPMENT AND CIRCUMVENTION.—The President should ensure that any country in sub-Saharan Africa that intends to export textile and apparel goods to the United States—

(A) has in place a functioning and effective visa system and domestic laws and enforcement procedures to guard against unlawful transshipment of textile and apparel goods and the use of counterfeit documents; and

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

(2) PENALTIES AGAINST EXPORTERS.—If the President determines, based on sufficient evidence, that an exporter has willfully falsified information regarding the country of origin, manufacture, processing, or assembly of a textile or apparel article for which duty-free treatment under section 503(a)(1)(C) of the Trade Act of 1974 is claimed, then the President shall deny to such exporter, and any successors of such exporter, for a period of 2 years, duty-free treatment under such section for textile and apparel articles.

(3) APPLICABILITY OF UNITED STATES LAWS AND PROCEDURES.—All provisions of the laws, regulations, and procedures of the United States relating to the denial of entry of articles or penalties against individuals or entities for engaging in illegal transshipment, fraud, or other violations of the customs laws shall apply to imports from Sub-Saharan countries.

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

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

SEC. 8. GENERALIZED SYSTEM OF PREFERENCES.

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

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

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

“(C) ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.—The President may provide duty-free treatment for any article set forth in paragraph (1) of subsection (b) that is the growth, product, or manufacture of an eligible country in sub-Saharan Africa that is a beneficiary developing country, if, after re-

ceiving the advice of the International Trade Commission in accordance with subsection (e), the President determines that such article is not import-sensitive in the context of imports from eligible countries in sub-Saharan Africa. This subparagraph shall not affect the designation of eligible articles under subparagraph (B).”

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

“(C) ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.—For purposes of determining the percentage referred to in subparagraph (A) in the case of an article of an eligible country in sub-Saharan Africa that is a beneficiary developing country—

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

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

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

“(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES AND ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country or any eligible country in sub-Saharan Africa.”

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

“SEC. 505. DATE OF TERMINATION.

“(a) COUNTRIES IN SUB-SAHARAN AFRICA.—No duty-free treatment provided under this title shall remain in effect after June 30, 2009, with respect to beneficiary developing countries that are eligible countries in sub-Saharan Africa.

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

(e) DEFINITION.—Section 507 of the Trade Act of 1974 (19 U.S.C. 2467) is amended by adding at the end the following:

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

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

SEC. 9. INTERNATIONAL FINANCIAL INSTITUTIONS AND DEBT REDUCTION.

(a) BETTER MECHANISMS TO FURTHER GOALS FOR SUB-SAHARAN AFRICA.—It is the sense of the Congress that the Secretary of the Treasury should instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Monetary Fund, and the African Development Bank to use the voice and votes of the Executive Directors to encourage vigorously their respective institutions to develop enhanced mechanisms which further the following goals in eligible countries in sub-Saharan Africa:

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

(2) Reducing tariffs, nontariff barriers, and other trade obstacles, and increasing economic integration.

(3) Supporting countries committed to accountable government, economic reform, the eradication of poverty, and the building of civil societies.

(4) Supporting deep debt reduction at the earliest possible date with the greatest amount of relief for eligible poorest countries under the “Heavily Indebted Poor Countries” (HIPC) debt initiative.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that relief provided to countries in sub-Saharan Africa which qualify for the Heavily Indebted Poor Countries debt initiative should primarily be made through grants rather than through extended-term debt, and that interim relief or interim financing should be provided for eligible countries that establish a strong record of macroeconomic reform.

SEC. 10. EXECUTIVE BRANCH INITIATIVES.

(a) STATEMENT OF CONGRESS.—The Congress recognizes that the stated policy of the executive branch in 1997, the “Partnership for Growth and Opportunity in Africa” initiative, is a step toward the establishment of a comprehensive trade and development policy for sub-Saharan Africa. It is the sense of the Congress that this Partnership is a companion to the policy goals set forth in this Act.

(b) TECHNICAL ASSISTANCE TO PROMOTE ECONOMIC REFORMS AND DEVELOPMENT.—In addition to continuing bilateral and multilateral economic and development assistance, the President shall target technical assistance toward—

(1) developing relationships between United States firms and firms in sub-Saharan Africa through a variety of business associations and networks;

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

(A) liberalize trade and promote exports;

(B) bring their legal regimes into compliance with the standards of the World Trade Organization in conjunction with membership in that Organization;

(C) make financial and fiscal reforms; and

(D) promote greater agribusiness linkages;

(3) addressing such critical agricultural policy issues as market liberalization, agricultural export development, and agribusiness investment in processing and transporting agricultural commodities;

(4) increasing the number of reverse trade missions to growth-oriented countries in sub-Saharan Africa;

(5) increasing trade in services; and

(6) encouraging greater sub-Saharan participation in future negotiations in the World Trade Organization on services and making further commitments in their schedules to the General Agreement on Trade in Services in order to encourage the removal of tariff and nontariff barriers.

SEC. 11. SUB-SAHARAN AFRICA INFRASTRUCTURE FUND.

(a) INITIATION OF FUNDS.—It is the sense of the Congress that the Overseas Private Investment Corporation should exercise the authorities it has to initiate an equity fund or equity funds in support of projects in the countries in sub-Saharan Africa, in addition to the existing equity fund for sub-Saharan Africa created by the Corporation.

(b) STRUCTURE AND TYPES OF FUNDS.—

(1) STRUCTURE.—Each fund initiated under subsection (a) should be structured as a partnership managed by professional private sector fund managers and monitored on a continuing basis by the Corporation.

(2) CAPITALIZATION.—Each fund should be capitalized with a combination of private equity capital, which is not guaranteed by the Corporation, and debt for which the Corporation provides guaranties.

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

(4) EMPHASIS.—The Corporation shall ensure that the funds are used to provide support in particular to women entrepreneurs and to innovative investments that expand opportunities for women and maximize employment opportunities for poor individuals.

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

(a) OVERSEAS PRIVATE INVESTMENT CORPORATION.—

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

“(e) ADVISORY COMMITTEE.—The Board shall take prompt measures to increase the loan, guarantee, and insurance programs, and financial commitments, of the Corporation in sub-Saharan Africa, including through the use of an advisory committee to assist the Board in developing and implementing policies, programs, and financial instruments with respect to sub-Saharan Africa. In addition, the advisory committee shall make recommendations to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The advisory committee shall terminate 4 years after the date of the enactment of this subsection.”.

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

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

(b) EXPORT-IMPORT BANK.—

(1) ADVISORY COMMITTEE FOR SUB-SAHARAN AFRICA.—Section 2(b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)) is amended by inserting after paragraph (12) the following:

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

“(B)(i) The Board of Directors shall establish and use an advisory committee to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion described in subparagraph (A).

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

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

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

SEC. 13. ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR SUB-SAHARAN AFRICA.

(a) SENSE OF CONGRESS.—It is the sense of the Congress that the position of Assistant United States Trade Representative for African Affairs is integral to the United States commitment to increasing United States—sub-Saharan African trade and investment.

(b) MAINTENANCE OF POSITION.—The President shall maintain a position of Assistant United States Trade Representative for African Affairs within the Office of the United States Trade Representative to direct and coordinate interagency activities on United States-Africa trade policy and investment matters and serve as—

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

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

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

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

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

(1) The United States and Foreign Commercial Service (hereafter in this section referred to as the “Commercial Service”) plays an important role in helping United States businesses identify export opportunities and develop reliable sources of information on commercial prospects in foreign countries.

(2) During the 1980s, the presence of the Commercial Service in sub-Saharan Africa consisted of 14 professionals providing services in eight countries. By early 1997, that presence had been reduced by half to seven, in only four countries.

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

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

(5) The Congress has, on several occasions, encouraged the Commercial Service to focus its resources and efforts in countries or regions in Europe or Asia to promote greater United States export activity in those markets.

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

(b) APPOINTMENTS.—Subject to the availability of appropriations, by not later than December 31, 2000, the Secretary of Commerce, acting through the Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service, shall take steps to ensure that—

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

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

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

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

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

(3) present, periodically, a list of the goods and services identified under paragraph (1), and any trade barriers or noncompetitive actions identified under paragraph (2), to appropriate authorities in sub-Saharan African countries with a view to securing increased market access for United States exporters of goods and services;

(4) facilitate the entrance by United States businesses into the markets identified under paragraphs (1) and (2); and

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

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

(1) in what countries full-time Commercial Service Officers are stationed, and the number of such officers placed in each such country;

(2) the effectiveness of the presence of the additional Commercial Service Officers in increasing United States exports to sub-Saharan African countries; and

(3) the specific actions taken by Commercial Service Officers, both in sub-Saharan African countries and in the United States, to carry out subsection (c), including identifying a list of targeted export sectors and countries.

SEC. 15. REPORTING REQUIREMENT.

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

SEC. 16. DONATION OF AIR TRAFFIC CONTROL EQUIPMENT TO ELIGIBLE SUB-SAHARAN AFRICAN COUNTRIES.

It is the sense of the Congress that, to the extent appropriate, the United States Government should make every effort to donate to governments of sub-Saharan African countries (determined to be eligible under section 4 of this Act) air traffic control equipment that is no longer in use, including appropriate related reimbursable technical assistance.

SEC. 17. ADDITIONAL AUTHORITIES AND INCREASED FLEXIBILITY TO PROVIDE ASSISTANCE UNDER THE DEVELOPMENT FUND FOR AFRICA.

(a) USE OF SUSTAINABLE DEVELOPMENT ASSISTANCE TO SUPPORT FURTHER ECONOMIC GROWTH.—It is the sense of the Congress that sustained economic growth in sub-Saharan Africa depends in large measure upon the development of a receptive environment for trade and investment, and that to achieve this objective the United States Agency for International Development should continue to support programs which help to create this environment. Investments in human resources, development, and implementation of free market policies, including policies to liberalize agricultural markets and improve food security, and the support for the rule of law and democratic governance should continue to be encouraged and enhanced on a bilateral and regional basis.

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

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

(2) The Development Fund for Africa will complement the other provisions of this Act and lay a foundation for increased trade and investment opportunities between the United States and sub-Saharan Africa.

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

(A) Strengthening primary and vocational education systems, especially the acquisition of middle-level technical skills for operating modern private businesses and the introduction of college level business education, including the study of international business, finance, and stock exchanges.

(B) Strengthening health care systems.

(C) Strengthening family planning service delivery systems.

(D) Supporting democratization, good governance and civil society and conflict resolution efforts.

(E) Increasing food security by promoting the expansion of agricultural and agriculture-based industrial production and productivity and increasing real incomes for poor individuals.

(F) Promoting an enabling environment for private sector-led growth through sustained economic reform, privatization programs, and market-led economic activities.

(G) Promoting decentralization and local participation in the development process, especially linking the rural production sectors and the industrial and market centers throughout Africa.

(H) Increasing the technical and managerial capacity of sub-Saharan African individuals to manage the economy of sub-Saharan Africa.

(I) Ensuring sustainable economic growth through environmental protection.

(4) The African Development Foundation has a unique congressional mandate to empower the poor to participate fully in development and to increase opportunities for gainful employment, poverty alleviation, and more equitable income distribution in sub-Saharan Africa. The African Development Foundation has worked successfully to enhance the role of women as agents of change, strengthen the informal sector with an emphasis on supporting micro and small sized enterprises, indigenous technologies, and mobilizing local financing. The African Development Foundation should develop and implement strategies for promoting participation in the socioeconomic development process of grassroots and informal sector groups such as nongovernmental organizations, cooperatives, artisans, and traders into the programs and initiatives established under this Act.

(c) ADDITIONAL AUTHORITIES.—

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

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following:

“(3) DEMOCRATIZATION AND CONFLICT RESOLUTION CAPABILITIES.—Assistance under this section may also include program assistance—

“(A) to promote democratization, good governance, and strong civil societies in sub-Saharan Africa; and

“(B) to strengthen conflict resolution capabilities of governmental, inter-governmental, and nongovernmental entities in sub-Saharan Africa.”.

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

SEC. 18. SUB-SAHARAN AFRICA DEFINED.

For purposes of this Act, the terms “sub-Saharan Africa”, “sub-Saharan African country”, “country in sub-Saharan Africa”, and “countries in sub-Saharan Africa” refer to the following or any successor political entities:

Republic of Angola (Angola)
 Republic of Botswana (Botswana)
 Republic of Burundi (Burundi)
 Republic of Cape Verde (Cape Verde)
 Republic of Chad (Chad)
 Democratic Republic of Congo
 Republic of the Congo (Congo)

Republic of Djibouti (Djibouti)
 State of Eritrea (Eritrea)
 Gabonese Republic (Gabon)
 Republic of Ghana (Ghana)
 Republic of Guinea-Bissau (Guinea-Bissau)
 Kingdom of Lesotho (Lesotho)
 Republic of Madagascar (Madagascar)
 Republic of Mali (Mali)
 Republic of Mauritius (Mauritius)
 Republic of Namibia (Namibia)
 Federal Republic of Nigeria (Nigeria)
 Democratic Republic of Sao Tomé and Príncipe (Sao Tomé and Príncipe)
 Republic of Sierra Leone (Sierra Leone)
 Somalia
 Kingdom of Swaziland (Swaziland)
 Republic of Togo (Togo)
 Republic of Zimbabwe (Zimbabwe)
 Republic of Benin (Benin)
 Burkina Faso (Burkina)
 Republic of Cameroon (Cameroon)
 Central African Republic
 Federal Islamic Republic of the Comoros (Comoros)
 Republic of Côte d'Ivoire (Côte d'Ivoire)
 Republic of Equatorial Guinea (Equatorial Guinea)
 Ethiopia
 Republic of the Gambia (Gambia)
 Republic of Guinea (Guinea)
 Republic of Kenya (Kenya)
 Republic of Liberia (Liberia)
 Republic of Malawi (Malawi)
 Islamic Republic of Mauritania (Mauritania)
 Republic of Mozambique (Mozambique)
 Republic of Niger (Niger)
 Republic of Rwanda (Rwanda)
 Republic of Senegal (Senegal)
 Republic of Seychelles (Seychelles)
 Republic of South Africa (South Africa)
 Republic of Sudan (Sudan)
 United Republic of Tanzania (Tanzania)
 Republic of Uganda (Uganda)
 Republic of Zambia (Zambia)

BACKGROUND AND PURPOSE

H.R. 434, the African Growth and Opportunity Act (AGOA), is the product of years of bipartisan congressional efforts to promote increased trade and investment between the United States and sub-Saharan Africa. The bill authorizes a new trade and investment policy toward the countries of sub-Saharan Africa and it expresses the willingness of the U.S. to assist the eligible countries of the region with the reduction of trade barriers, the creation of an Economic Cooperation Forum, the promotion of a free trade area and a variety of other trade and aid related mechanisms.

The bill has very broad support in the Congress and in the International Relations Committee. Recently, the Administration has also become supportive of the legislation.

AGOA would set up a series of mechanisms by which the President would determine the eligibility of a specific sub-Saharan African nation to participate in the programs and benefits listed in the bill. The President shall determine eligibility based on adherence to human rights norms and demonstrated commitment to economic policy reform, as specified in Section 4.

The President shall take into account additional factors when considering AGOA eligibility including an expression of its commitment to be an eligible country and the extent to which the country has made substantial progress in the reduction of tariff levels, the binding of its tariff levels in the World Trade Organization, and eliminating non-tariff barriers to trade. These additional factors are also elaborated on in Section 4.

With the end of the Cold War and the demise of apartheid in South Africa, sub-Saharan Africa has opened up to the world as never before. Numerous countries are moving toward democracy, liberalizing their economies and seeking a better standard of living for their people. The United States has played a role in these changes with development assistance and other means. With AGOA, the Congress directs the Overseas Private Investment Corporation and the Export-Import Bank to establish special advisory committees that would help expand exports to and investment in the countries of the region.

Africa is a continent of 48 nations and over 500 million people. It supplies many important natural resources to the United States, from petroleum to uranium to timber. Trade between the U.S. and Africa is greater than that between the U.S. and the former Soviet Union and Eastern Europe combined. Yet, there exists great possibilities for this trade to be expanded.

Many African nations are only now starting to make the economic reforms necessary for them to become part of the world economy. Barriers to foreign investment are coming down and investor-friendly laws are being written. Two-thirds of African nations have adopted significant macro-economic policy reforms.

In 1996, thirty-one African nations experienced growth in real per capita income. Senegal, Ghana, Ethiopia and Cote d'Ivoire are among the fastest growing economies in the world. The United States is the largest recipient (at 18%) of Africa's exports, but is only the fifth largest exporter to Africa.

The new economic realities of Africa must be reflected in a new U.S. government approach to the continent. Currently, the imperatives of development assistance and humanitarian relief drive U.S. policies toward African nations. While these should continue to remain priorities, the considerable talent of the U.S. foreign policy apparatus should also be directed towards the promotion of stronger trade and investment ties between Americans and Africans.

COMMITTEE ACTION

INTRODUCTION AND CONSIDERATION OF THE BILL

H.R. 434, The African Growth and Opportunity Act, was introduced by Representative Crane on February 2, 1999. It 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 determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

The Trade subcommittee of the Committee on Ways and Means held a hearing and marked up H.R. 434 on February 3, 1999.

On February 9, the Subcommittee on Africa held a hearing on the bill with private sector witnesses. On February 11, it held a second hearing with the Assistant Secretary of State for African Affairs, Susan E. Rice.

Immediately following the hearing, the full Committee held a mark up of the bill in open session, pursuant to notice.

The Ranking Member, Rep. Gejdenson, offered an amendment adding internationally recognized worker rights and international environmental norms to the eligibility requirements in Section 4 of the bill. He called for a division of the question. The first part of his amendment, the worker rights provision, was adopted by voice vote; the second part, relating to the environment provision, was defeated by a voice vote.

Rep. Brown offered, and then withdrew, an amendment providing for a cause of action in a United States District Court with respect to a workers' rights determination under subsection (a)(5) of Section 4.

Rep. Sanford offered an amendment to Sections 11 and 12(a) deleting those provisions and thus any reference to the Overseas Private Investment Corporation and an OPIC Infrastructure Fund for Sub-Saharan Africa, or the advisory committee set up under Section 12(b). The amendment was defeated on a voice vote.

Rep. Payne offered an amendment inserting a new text for Section 17 (and renumbering existing Section 17). The new text authorized various provisions of the Development Fund for Africa and made other changes to existing law. It was adopted by voice vote.

Rep. McKinney offered, and then withdrew, an amendment providing for unconditional debt relief to all the countries of sub-Saharan Africa.

At the conclusion of the reading of the bill for amendment, the Committee, by unanimous consent, adopted an amendment in the nature of a substitute consisting of the bill as amended to that point.

After concluding the amending process, with a quorum being present, the Committee ordered the bill favorably reported to the House by a record vote of 24–8.

RECORD VOTES ON AMENDMENTS AND MOTION TO REPORT

Clause (3)(b) of rule XIII of the Rules of the House of Representatives requires that the results of each record vote on an amendment or motion to report, together with the names of those voting for or against, be printed in the committee report.

Description of amendment, motion, order, or other proposition (Vote during markup of H.R. 434—February 11, 1999)

Vote No. 1.—On motion to favorably report H.R. 434, as amended.

Voting yes: Gilman, Bereuter, Burton, Gallegly, Ros-Lehtinen, Manzullo, Royce, Chabot, Houghton, Campbell, Tancredo, Gejdenson, Martinez, Payne, Menendez, McKinney, Hilliard, Wexler, Rothman, Davis, Pomeroy, Meeks, Crowley, and Hoeffel.

Voting no: Goodling, Ballenger, Burr, Brown, Danner, Sherman, Delahunt, and Lee. Ayes, 24. Noes, 8.

OTHER MATTERS

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

COMMITTEE ON GOVERNMENT REFORM FINDINGS

Clause 3(c)(4) of rule XIII of the Rules of the House of Representatives requires each committee report to contain a summary of the oversight findings and recommendations made by the Government Reform Committee pursuant to clause (4)(c)(2) of rule X of those Rules. The Committee on International Relations has received no such findings or recommendations from the Committee on Government Reform.

ADVISORY COMMITTEE STATEMENT

Section 12(a) of H.R. 434 as reported provides for the establishment of an "advisory committee" to the Board of the Overseas Private Investment Corporation to assist the Board in developing and implementing policies, programs, and financial instruments with respect to sub-Saharan Africa, and to make recommendation to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The advisory committee would terminate 4 years after the date of enactment. Section 12(b) provides for the establishment of an advisory Committee to the Board of Directors of the Export-Import Bank to assist the Board for similar purposes as the advisory committee established under section 12(a). The advisory committee thus established would also terminate after 4 years. In the view of the Committee, the work of the advisory committee to the Board of the Overseas Private Investment Corporation is not and could not be accomplished by one or more other agencies or by an advisory committee or committees already in existence, or by enlarging the mandate of an existing advisory committee or committees. Because the Export-Import Bank is not within the legislative jurisdiction of the Committee on International Relations, the Committee takes no position to the extent that the advisory committee to the Board of Directors of the Export-Import Bank could be accomplished by one or more other agencies or by an advisory committee or committees already in existence, or by enlarging the mandate of an existing advisory committee or committees.

APPLICABILITY TO THE LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of section 102(b)(3) of the Congressional Accountability Act.

CONSTITUTIONAL AUTHORITY STATEMENT

In compliance with clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee cites the following specific powers granted to the Congress in the Constitution as authority for enactment of H.R. 434 as reported by the Committee: Article I, section 8, clause 1 (relating to providing for the common defense and general welfare of the United States); Article I, section 8, clause 3 (relating to the regulation of commerce with foreign nations); and Article I, section 8, clause 18 (relating to making all laws necessary and proper for carrying into execution powers vested by the Constitution in the government of the United States).

PREEMPTION CLARIFICATION

Section 423 of the Congressional Budget Act of 1974 requires the report of any committee on a bill or joint resolution to include a committee statement on the extent to which the bill or joint resolution is intended to preempt state or local law. The Committee states that H.R. 434 is not intended to preempt any state or local law.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES, CONGRESSIONAL BUDGET OFFICE COST ESTIMATE, AND FEDERAL MANDATES STATEMENTS

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives requires each committee report that accompanies a measure providing new budget authority, new spending authority, or new credit authority or changing revenues or tax expenditures to contain a cost estimate, as required by section 308(a)(1) of the Congressional Budget Act of 1974, as amended, and, when practicable with respect to estimates of new budget authority, a comparison of the estimated funding level for the relevant program (or programs) to the appropriate levels under current law.

Clause 3(d) of rule XIII of the Rules of the House of Representatives requires committees to include their own cost estimates in certain committee reports, which include, when practicable, a comparison of the total estimated funding level for the relevant program (or programs) with the appropriate levels under current law.

Clause 3(c)(3) of rule XIII of the Rules of the House of Representatives requires the report of any committee on a measure which has been approved by the Committee to include a cost estimate prepared by the Director of the Congressional Budget Office, pursuant to section 403 of the Congressional Budget Act of 1974, if the cost estimate is timely submitted.

Section 423 of the Congressional Budget Act requires the report of any committee on a bill or joint resolution that includes any Federal mandate to include specific information about such mandates. The Committee states that H.R. 434 does not include any Federal mandate.

The Committee expects to adopt a cost estimate of the Congressional Budget Office as its own submission of any new required information related to H.R. 434 on new budget authority, new spending authority, new credit authority, or an increase or decrease in the national debt. It also expects to adopt the estimate of Federal

mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates Reform Act. No estimate and report was received from the Congressional Budget Office.

SECTION-BY-SECTION ANALYSIS

Section 1. Short title

This section states that this Act may be cited as the “African Growth and Opportunity Act”.

Section 2. Findings

The Congress finds that it is in the mutual economic interest of the United States and sub-Saharan Africa to promote sustainable economic growth and development in sub-Saharan Africa. The U.S. seeks to assist these sub-Saharan African countries to achieve economic self-reliance by (1) strengthening the private sector, especially women-owned businesses; (2) encouraging increased trade and investment between the United States and sub-Saharan Africa; (3) reducing trade barriers; (4) expanding assistance to regional integration efforts; (5) negotiating free trade areas; (6) establishing a Trade and Investment Partnership and an Economic Cooperation Forum between the U.S. and sub-Saharan Africa; (7) focusing on those countries committed to accountable government, reform and the eradication of poverty; (8) establishing a sub-Saharan African Economic Cooperation Forum; and (9) continuing to support development assistance for those countries attempting to build civil societies.

Section 3. Statement of policy

This section reiterates congressional support for economic self-reliance in sub-Saharan African nations, particularly those countries committed to economic and political reforms; market incentives and private sector growth; eradication of poverty and the importance of women to economic growth and development.

Section 4. Eligibility requirements

This section describes the mechanism by which sub-Saharan African nations become eligible for programs and benefits of AGOA. The President shall determine eligibility based on adherence to human rights norms and demonstrated commitment to economic policy reform. The President shall “take into account” other factors when making his determination.

Human Rights.—As described in subsection (a), a country that the President determines does not engage in gross violations of internationally recognized human rights shall be eligible.

Economic Reform.—To be eligible under the AGOA, a country must also make continual progress toward establishing a market economy, as evidenced by the establishment and enforcement of policies: (1) promoting free movement of goods between the U.S. and sub-Saharan Africa; (2) promoting the expansion of the production base and the transformation of commodities for exports through joint ventures between African and foreign investors; (3) protecting intellectual property rights and improving product test-

ing, labeling and certification; (4) protecting property rights and against expropriation; (5) reducing import and corporate taxes, controlling government consumption and participating in bilateral investment treaties; (6) providing national treatment for foreign investors and a policy environment conducive to domestic and foreign investment; (7) supporting the growth of regional markets; (8) supporting an end to corruption and government interference in the marketplace; (9) supporting a new generation of African entrepreneurs; (10) encouraging divestiture of government-controlled economic enterprises; (11) removing investment restrictions; and (12) observing the rule of law.

Additional Factors.—The President shall take into account additional factors when considering AGOA eligibility including an expression of its commitment to be an eligible country and the extent to which the country has made substantial progress in the reduction of tariff levels, the binding of its tariff levels in the World Trade Organization, and eliminating non-tariff barriers to trade. In addition, the President should also take into account whether the country is already a member of the World Trade Organization or is pursuing membership in that body; the extent to which the country is in compliance with its obligations to the International Monetary Fund; the extent to which the country protects internationally recognized worker rights, including the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health; the extent to which the country has a commitment to reducing poverty, providing basic education for its citizens, providing access to market and credit facilities for small farmers and improving economic opportunities for women as entrepreneurs; and the extent to which a country engages in activities that undermine the national security or the foreign policy interests of the United States.

Continuing Compliance.—Subsection (c) requires the President to continually monitor sub-Saharan African nations' compliance with subsection (a) and include quantitative evaluations in the annual report required by section 15. Subsection (c) further states that nations not making continual progress toward the requirements listed in subsection (a) shall not be eligible under AGOA.

Section 5. United States-Sub-Saharan Africa trade and economic cooperation forum

This section directs the President to convene, on an annual basis, meetings of high-level officials between the government of the United States and those nations in sub-Saharan Africa that meet the requirements of AGOA. The first of these meetings (the Forum) shall take place not less than twelve months after the passage of AGOA. In creating the Forum, the President is required to meet the following requirements: (1) direct certain U.S. cabinet officials to meet with their counterparts of eligible African nations at the first Forum and include the Secretary-General of the Organization of African Unity to discuss trade and investment issues; (2) encourage, in consultation with Congress, participation of the private sector and American and African NGOs in the Forum; and (3) meet

with the heads of state of eligible African nations not less than once every two years beginning in the first year after the passage of AGOA. The section further provides for the dissemination of information about the Forum by the United States Information Agency. Funds necessary to carry out this section are authorized.

Section 6. United States-Sub-Saharan Africa free trade area

Not in HIRC jurisdiction.

Section 7. Eliminating trade barriers and encouraging exports

Not in HIRC jurisdiction.

Section 8. Generalized system of preferences

Not in HIRC jurisdiction.

Section 9. International financial institutions and debt reduction

Not in HIRC jurisdiction.

Section 10. Executive branch initiatives

This section expresses the sense of the Congress that the Administration's "Partnership for Growth and Opportunity in Africa" initiative is a companion to the policy goals set forth in this Act. It also directs the President to target technical assistance for the purpose of: promoting relationships between U.S. firms and firms in sub-Saharan Africa; liberalizing trade; bringing legal regimes into compliance with the standards of the World Trading Organization; making financial and fiscal reforms; promoting greater agribusiness linkages; addressing agricultural policy issues including market liberalization, agricultural export development, and agribusiness investment; increasing the number of reverse trade missions; increasing trade in services; and encouraging greater participation by sub-Saharan countries in future negotiations of the World Trade Organization.

Section 11. Sub-Saharan Africa infrastructure fund

Subsection (a) expresses the sense of Congress that OPIC, within one year of the date of enactment of this Act, shall launch two or more equity funds in support of projects in sub-Saharan Africa. Subsection (b) describes the structure and types of these funds, including provisions for a \$150 million equity fund and a \$500 million infrastructure project fund. The Corporation is directed to ensure that both funds are used to provide support in particular to women entrepreneurs and to maximize employment opportunities for poor individuals.

Section 12. Overseas private investment corporation and export-import bank initiatives

Section 12(a) amends Section 233 of the Foreign Assistance Act of 1961 to direct the Board of the Overseas Private Investment Corporation to increase its programs and financial commitments in sub-Saharan Africa including through the establishment of an advisory committee assisting the Board in the development of policies and programs toward sub-Saharan Africa. The advisory committee shall terminate after four years. Within six months of the date of

enactment of this Act, the OPIC Board shall submit to Congress a report on its implementation of this section and the findings and recommendations of the advisory board. Annually thereafter for the next four years, in its annual report to Congress, OPIC shall provide updates about its implementation and recommendations of the advisory committee.

Pursuant to Section 12(b) the Export-Import Bank is also directed to increase its loan, guarantee and insurance programs to sub-Saharan Africa, consistent with its other credit standards, and to establish an advisory committee on sub-Saharan Africa with the same mandate life span and periodic reporting requirements under the previous subsection.

Section 13. Assistant United States trade representative for Sub-Saharan Africa

Not in HIRC jurisdiction.

Section 14. Expansion of the United States and foreign commercial service in Sub-Saharan Africa

This section expresses the sense of Congress that the Foreign Commercial Service of the Department of Commerce should expand its presence in sub-Saharan Africa by increasing the number of posts and personnel it allocates to that region. Not more than 120 days after the enactment of the bill, it directs the Secretary of Commerce to report on the feasibility of increasing the presence of the Foreign Commercial Service in Africa.

Section 15. Reporting requirement

This section requires the President to submit to Congress, within one year of the enactment of AGOA, and again not later than the end of each of the next four years, a report on the implementation of AGOA.

The Committee expects that these reports will detail the reasons why each specific country was deemed eligible or ineligible by the President for programs and benefits under AGOA. In particular, the extent to which each country has made progress on the criteria listed in subsection 4(a) should be included in the reports.

Section 16. Donation of air traffic control equipment to eligible Sub-Saharan African countries

Sense of Congress that unused air traffic control equipment should be donated to African governments.

Section 17. Additional authorities and increased flexibility to provide assistance under the development fund for Africa

Subsections (a) and (b) make a number of statements of policy regarding the Development Fund for Africa and the African Development Foundation and their roles in promoting stronger economic links between the United States and sub-Saharan African nations. In particular, it is noted that sustainable development, as advanced by the U.S. Agency for International Development, is an essential component in any effort to promote trade and investment in Africa. The bill encourages USAID to continue to support programs that advance sustainable development, including investments in human

resources, development and implementation of free market policies, including policies to liberalize agricultural markets and improve food security, and the support for the rule of law and democratic governance.

Other activities that enhance trade and investment possibilities include: strengthening primary and vocational education systems, strengthening health care systems, strengthening family planning service delivery systems, supporting democratization, good governance and civil society and conflict resolution efforts, increasing food security, promoting an enabling environment for private sector-led growth, promoting decentralization and local participation in the development process, increasing technical and managerial capacity of Africans, and ensuring sustainable economic growth through environmental protection.

Subsection (c) amends the Foreign Assistance Act of 1961, as amended, to provide increased flexibility to the Agency for International Development in providing program assistance promoting democratization, good government and strong civil societies and strengthening conflict resolution capabilities of governmental, intergovernmental and non-governmental entities in sub-Saharan Africa.

Subsection (d) amends the Foreign Assistance Act of 1961 to provide additional authority to the President to waive provisions of law that earmark funds provided under the Development Fund for Africa, Chapter 10 of Part 1 of the Foreign Assistance Act, as amended if the President determines that the waiver of such law would provide improved conditions for the people of Africa. The waiver does not apply to provisions of law that earmark funds for child survival activities, as enumerated in the amendment.

Section 18. Sub-Saharan Africa defined

The specification of Somalia shall not be construed to prevent the extension of provisions under this act to any parts of Somalia that might benefit from and qualify for such benefits, including, but not limited to, the area commonly known as Somaliland, even if other parts of Somalia would not be held to qualify for such benefits.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

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

TITLE V OF THE TRADE ACT OF 1974

TITLE V—GENERALIZED SYSTEM OF PREFERENCES

* * * * *

SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

(a) ELIGIBLE ARTICLES.—

(1) DESIGNATION.—

(A) * * *

* * * * *

(C) *ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.*—*The President may provide duty-free treatment for any article set forth in paragraph (1) of subsection (b) that is the growth, product, or manufacture of an eligible country in sub-Saharan Africa that is a beneficiary developing country, if, after receiving the advice of the International Trade Commission in accordance with subsection (e), the President determines that such article is not import-sensitive in the context of imports from eligible countries in sub-Saharan Africa. This subparagraph shall not affect the designation of eligible articles under subparagraph (B).*

[(C)] (D) *THREE-YEAR RULE.*—*If, after receiving the advice of the International Trade Commission under subsection (e), an article has been formally considered for designation as an eligible article under this title and denied such designation, such article may not be reconsidered for such designation for a period of 3 years after such denial.*

(2) RULE OF ORIGIN.—

(A) * * *

* * * * *

(C) *ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.*—*For purposes of determining the percentage referred to in subparagraph (A) in the case of an article of an eligible country in sub-Saharan Africa that is a beneficiary developing country—*

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

(ii) the cost or value of the materials included with respect to that article that are produced in any beneficiary developing country that is an eligible country in sub-Saharan Africa shall be applied in determining such percentage.

* * * * *

(c) WITHDRAWAL, SUSPENSION, OR LIMITATION OF DUTY-FREE TREATMENT; COMPETITIVE NEED LIMITATION.—

(1) * * *

(2) COMPETITIVE NEED LIMITATION.—

(A) * * *

* * * * *

[(D)] *LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES.*—*Subparagraph (A) shall not apply to any least-developed beneficiary developing country.*

(D) *LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES AND ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA.*—

Subparagraph (A) shall not apply to any least-developed beneficiary developing country or any eligible country in sub-Saharan Africa.

* * * * *

SEC. 505. DATE OF TERMINATION.

[No duty-free treatment provided under this title shall remain in effect after June 30, 1999.]

SEC. 505. DATE OF TERMINATION.

(a) COUNTRIES IN SUB-SAHARAN AFRICA.—No duty-free treatment provided under this title shall remain in effect after June 30, 2009, with respect to beneficiary developing countries that are eligible countries in sub-Saharan Africa.

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

* * * * *

SEC. 507. DEFINITIONS.

For purposes of this title:

(1) * * *

* * * * *

(6) ELIGIBLE COUNTRY IN SUB-SAHARAN AFRICA.—The terms “eligible country in sub-Saharan Africa” and “eligible countries in sub-Saharan Africa” mean a country or countries that the President has determined to be eligible under section 4 of the African Growth and Opportunity Act.

* * * * *

FOREIGN ASSISTANCE ACT OF 1961

PART I

* * * * *

TITLE IV—OVERSEAS PRIVATE INVESTMENT CORPORATION

* * * * *

SEC. 233. ORGANIZATION AND MANAGEMENT.—(a) * * *

* * * * *

(e) ADVISORY COMMITTEE.—The Board shall take prompt measures to increase the loan, guarantee, and insurance programs, and financial commitments, of the Corporation in sub-Saharan Africa, including through the use of an advisory committee to assist the Board in developing and implementing policies, programs, and financial instruments with respect to sub-Saharan Africa. In addition, the advisory committee shall make recommendations to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The advisory committee shall terminate 4 years after the date of the enactment of this subsection.

* * * * *

CHAPTER 10—DEVELOPMENT FUND FOR AFRICA

SEC. 496. LONG-TERM DEVELOPMENT ASSISTANCE FOR SUB-SAHARAN AFRICA.—(a) * * *

* * * * *

(h) TYPES OF ASSISTANCE.—

(1) * * *

* * * * *

(3) *DEMOCRATIZATION AND CONFLICT RESOLUTION CAPABILITIES.*—Assistance under this section may also include program assistance—

(A) *to promote democratization, good governance, and strong civil societies in sub-Saharan Africa; and*

(B) *to strengthen conflict resolution capabilities of governmental, intergovernmental, and nongovernmental entities in sub-Saharan Africa.*

[(3)] (4) *OTHER ASSISTANCE.*—Funds made available to carry out this section shall be used almost exclusively for assistance in accordance with [paragraphs (1) and (2)] *paragraphs (1), (2), and (3).* Assistance consistent with the purpose of subsection (c) may also be furnished under this section to carry out the provisions of sections 103 through 106 of this Act.

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SECTION 2 OF THE EXPORT-IMPORT BANK ACT OF 1945

SEC. 2. (a) * * *

(b)(1) * * *

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(13)(A) *The Board of Directors of the Bank shall take prompt measures, consistent with the credit standards otherwise required by law, to promote the expansion of the Bank's financial commitments in sub-Saharan Africa under the loan, guarantee, and insurance programs of the Bank.*

(B)(i) *The Board of Directors shall establish and use an advisory committee to advise the Board of Directors on the development and implementation of policies and programs designed to support the expansion described in subparagraph (A).*

(ii) *The advisory committee shall make recommendations to the Board of Directors on how the Bank can facilitate greater support by United States commercial banks for trade with sub-Saharan Africa.*

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

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DISSENTING VIEWS

We, like our fellow Members of Congress, desire to improve the economic conditions of the people in Sub-Saharan Africa. We applaud current efforts and commend this Congress for its attention to the region. Unfortunately, we believe the provisions of the legislation recently passed by the International Relations Committee, H.R. 434, the African Growth & Opportunity Act, will not meet its intended goals. While the sections of the bill we find objectionable were not referred to the International Relations Committee for its consideration, we do not believe the Committee could or should be silent on those provisions we question. We could not in good conscience support the referred provisions and ignore the balance of the legislation. For this reason, we were forced to oppose this legislation in full Committee markup.

The proponents of this legislation base their support of the bill on a number of flawed principles. Our primary objection to the legislation is centered on the likely massive increase in customs fraud, including a huge increase in the transshipment of Asian textile and apparel products, we believe will occur upon the enactment of this legislation. Additionally, this bill has other serious flaws: it allows Asian manufacturers to legally exploit an ineffective rule-of-origin to gain the benefits of the bill by doing very little manufacturing in the bill's target region; it opens up the U.S. market without providing any reciprocal benefits to U.S. workers; it relies on a U.S. International Trade Commission (ITC) report that is seriously flawed; and it violates the commitments made by the Clinton Administration to maintain the balance of concessions whereby quota phaseouts and tariff reductions will follow the WTO agreement during the Uruguay Round GATT talks.

As currently drafted, H.R. 434 creates a new incentive to transship and commit customs fraud in the form of dramatic savings from duty reductions for Asian textile and apparel manufacturers. For example, by transshipping garments from production facilities in Asia or doing only minor assembly work in Africa, manufacturers will reap huge benefits at the expense of American textile workers. Asian textile and apparel manufacturers pay more than \$4 billion each year in duties to the United States Treasury. If these manufacturers can save billions by transshipping goods through the weak enforcement mechanisms provided in this bill, why won't they?

This legislation also either fails to recognize, or simply ignores, the transshipping history of Asian textile and apparel manufacturers. These manufacturers have been illegally transshipping goods into the United States for more than 15 years. In fact, the United States Customs Service has estimated that transshipments from Asia grew from \$500 million in 1985 to \$2 billion in 1995. This year, that number could actually be as high as \$4 billion. According

to U.S. Customs, Asian manufacturers have used more than 30 countries, including eight Sub-Saharan countries, as major transshipment routes. This legislation simply provides these manufacturers with a larger playing field.

In addition, there is the potential for a flood of new transshipments from Asia under this legislation. At this time, only those manufacturers who fill quota have an incentive to transship. This applies mainly to manufacturers in China. Under this bill, which lowers duties from approximately 18% to zero, every Asian manufacturer which ships products to the United States will have an incentive to transship through Africa. In the textile and apparel sector, where profit margins are small, a duty savings of 18% represents an almost irresistible incentive to game the legal system.

The enforcement mechanisms in H.R. 434 are flawed as well. The visa system that many supporters point to as the silver bullet of transshipment prevention will not stop this illegal activity. Every major Asian exporter currently operates under a visa system and transshipments still run into the billions of dollars each year. Visas have been used in Hong Kong since 1976, but it is important to remember that Hong Kong is the largest transshipment port in the world. In 1997 alone, Hong Kong Customs found that 422 apparel factors of the 2,200 inspected, all of which used the visa system, were found to be involved in transshipping. The visa system was never designed to stop transshipments—it was designed to allow exporters to know exactly how much product they had shipped in order to prevent a violation of quota restrictions.

The removal of trade benefits for two years for companies found to be in violation of the transshipping provisions provided in the bill is not prohibitive. One of the most widely used customs scams among transshipping exporters is for the company in question to simply change its name. Because US Customs lacks a permanent presence in many countries, and because its jurisdiction is severely limited by laws in foreign countries, it is almost impossible for US Customs to adequately enforce regulations. The great detail required to successfully prosecute a transshipping case against an overseas manufacturer severely limits the number of cases which can be successfully initiated.

The overwhelming odds against US Customs requires US Customs requires African customs agencies to be the primary enforcers of our law, which is simply unfair. The customs agencies of these countries are poorly staffed, underequipped, underpaid, and under trained. Corruption in the carrying out of their duties, in a duty- and quota-free area three times the size of the United States, is a legitimate concern. In May 1998, Acting USAID Administrator for Africa Carol Peasely testified before the Africa Subcommittee that “Systemic corruption in Africa typically occurs in the management of public companies, in public markets, in fiscal administration, in customs and in the justice system.” She also noted that “the problem is often fostered and encouraged by non-Africans seeking special status or privilege.” HR 434 contains no requirements that African customs agencies be corruption-free, and there are no effective remedies against the country involved if systems fail and transshipments are allowed to continue.

The bill's rule-of-origin stipulates that only 35% of the value of a garment must be added in a Sub-Saharan country for origin to be claimed. Under these rules the products components, from yarn to fabric to zippers and buttons, may be sourced from anywhere. It is almost guaranteed that these components will be sourced in Asia, where there is substantial over-capacity.

This bill also represents a unilateral trade concession the likes of which this country has never seen. The supporters of the bill, with their votes in favor of passage, are doing nothing less than eliminating tariffs on over 2,000 United States textile and apparel products, while not requiring the beneficiary countries of the Sub-Saharan region to lower even a single tariff line by a single percentage point. South Africa will still be able to block United States exports with tariffs as high as 30%; Nigeria will be able to continue its ban on all textile imports from the United States; and the United States has no recourse under this bill if a beneficiary country decides to raise tariffs or even ban United States products altogether.

The import sensitive nature of the textile and apparel sector in this country has long been acknowledged in our trade policy. That sensitivity is the very reason textiles and apparel were originally excluded from the Generalized System of Preferences program. This legislation not only strips textiles and apparel of their protected status, but also removes the Competitive Need Limitation which all other countries must adhere to and which prevents imports of GSP products from surging into the United States market. It also prevents the United States from instituting quotas in the event of import surges, which every country in the world has under the rules of the World Trade Organization.

This bill relies on an International Trade Commission (ITC) study that is itself seriously flawed. The ITC report based its findings solely on an analysis of the competitive strengths of the textile and apparel sectors of the 48 beneficiary countries of the Sub-Saharan region. Despite the fact that six domestic industry organizations cited increased transshipment and customs fraud—not legal imports from Africa—as the primary threat from the bill, the ITC spent little of the report's 125 pages reviewing the transshipment problem. In the report, the ITC cited three measures: a visa system, jump teams and quota chargebacks as potential weapons against transshipments. The Commission failed, however, to evaluate how those measures might be employed if free trade access was granted to Sub-Saharan Africa or whether they have been successful in combating the transshipment problem. Despite the ITC's mandate to measure the potential impact of the legislation on the domestic industry, the ITC report failed to consider even whether the prospect of reducing duties from around 18% to zero would act as an additional incentive for increased transshipments and fraud from non-beneficiary countries.

Finally, and perhaps most importantly, HR 434 violates commitments made by the Clinton Administration to the domestic textile and apparel industry. In a letter to Congress following the Uruguay Round trade talks, President Clinton promised the textile and apparel industry that it would receive "gradual and even staging of tariff reductions and quota integration." The President elabo-

rated, saying "tariff cuts should be staged over a period at least as long as the phaseout of the Multi-Fiber Agreement" (MFA) and that the Administration did not intend "to integrate sensitive products until the end of the phaseout period." In addition, President Clinton stated that he would insist "that our willingness to phase-out the MFA be linked directly to the achievement of effective market access in individual countries by the removal of non-tariff barriers and the lowering of tariffs." This bill guts the commitments and promises President Clinton made to the hardworking textile and apparel workers of this country. Tariffs will go to zero immediately, quotas will be removed, and there is not a single shred of market access achieved for United States products. This bill, in effect, permits the de facto removal of tariff and quota controls on Asian textile and apparel manufacturers.

If HR 434 is signed into law as currently written, the livelihoods of thousands of fiber, textile and apparel workers in this country will be threatened. We believe it will jeopardize existing trade agreements with Mexico and Canada and threaten special arrangements made with the nations of the Caribbean Basin Initiative. It will impose substantial new burdens on the United States Customs Service. It will cause substantial loss of revenue to the United States Treasury. And, contrary to the goals of the supporters of the bill and every Member of Congress, it will not benefit the people of Africa as intended.

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