106TH CONGRESS 1st Session } HOUSE OF REPRESENTATIVES { REPT. 106–19 Part 2

AFRICAN GROWTH AND OPPORTUNITY ACT

JUNE 17, 1999.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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

REPORT

[To accompany H.R. 434]

[Including cost estimate of the Congressional Budget Office]

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

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The amendment is as follows:

Strike 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) 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;

(6) 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;

(7) supporting the growth of regional markets within a free trade area framework;

(8) 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;

(9) supporting the growth of the private sector, in particular by promoting the emergence of a new generation of African entrepreneurs;

(10) encouraging the private ownership of government-controlled economic enterprises through divestiture programs; and

(11) 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 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).".

(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. 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 Principe (Sao Tomé and Principe)
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)

SEC. 18. LIMITATION ON USE OF NON-ACCRUAL EXPERIENCE METHOD OF ACCOUNTING.

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

(1) by inserting "in fields described in paragraph (2)(A)" after "services by such person", and

(2) by inserting "CERTAIN PERSONAL" before "SERVICES" in the heading.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years ending after the date of the enactment of this Act.

(2) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer required by the amendments made by this section to change its method of accounting for its first taxable year ending after the date of the enactment of this Act—

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

(B) such change shall be treated as made with the consent of the Secretary of the Treasury, and

(C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period (not greater than 4 taxable years) beginning with such first taxable year.

SEC. 19. CHARITABLE SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.

(a) IN GENERAL.—Subsection (f) of section 170 of the Internal Revenue Code of 1986 (relating to disallowance of deduction in certain cases and special rules) is amended by adding at the end the following new paragraph:

"(10) SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.—

"(A) IN GENERAL.—Nothing in this section or in section 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 shall be construed to allow a deduction, and no deduction shall be allowed, for any transfer to or for the use of an organization described in subsection (c) if in connection with such transfer—

"(i) the organization directly or indirectly pays, or has previously paid, any premium on any personal benefit contract with respect to the transferor, or

"(ii) there is an understanding or expectation that any person will directly or indirectly pay any premium on any personal benefit contract with respect to the transferor.

"(B) PERSONAL BENEFIT CONTRACT.—For purposes of subparagraph (A), the term 'personal benefit contract' means, with respect to the transferor, any life insurance, annuity, or endowment contract if any direct or indirect beneficiary under such contract is the transferor, any member of the transferor's family, or any other person (other than an organization described in subsection (c)) designated by the transferor.

"(C) APPLICATION TO CHARITABLE REMAINDER TRUSTS.—In the case of a transfer to a trust referred to in subparagraph (E), references in subparagraphs (A) and (F) to an organization described in subsection (c) shall be treated as a reference to such trust.

"(D) EXCEPTION FOR CERTAIN ANNUITY CONTRACTS.—If, in connection with a transfer to or for the use of an organization described in subsection (c), such organization incurs an obligation to pay a charitable gift annuity (as defined in section 501(m)) and such organization purchases any annuity contract to fund such obligation, persons receiving payments under the charitable gift annuity shall not be treated for purposes of subparagraph (B) as indirect beneficiaries under such contract if—

"(i) such organization possesses all of the incidents of ownership under such contract,

"(ii) such organization is entitled to all the payments under such contract, and

"(iii) the timing and amount of payments under such contract are substantially the same as the timing and amount of payments to each such person under such obligation (as such obligation is in effect at the time of such transfer).

"(E) EXCEPTION FOR CERTAIN CONTRACTS HELD BY CHARITABLE REMAINDER TRUSTS.—A person shall not be treated for purposes of subparagraph (B) as an indirect beneficiary under any life insurance, annuity, or endowment contract held by a charitable remainder annuity trust or a charitable remainder unitrust (as defined in section 664(d)) solely by reason of being entitled to any payment referred to in paragraph (1)(A) or (2)(A) of section 664(d) if—

"(i) such trust possesses all of the incidents of ownership under such contract, and

"(ii) such trust is entitled to all the payments under such contract.

"(F) EXCISE TAX ON PREMIUMS PAID.—

"(i) IN GENERAL.—There is hereby imposed on any organization described in subsection (c) an excise tax equal to the premiums paid by such organization on any life insurance, annuity, or endowment contract if the payment of premiums on such contract is in connection with a transfer for which a deduction is not allowable under subparagraph (A), determined without regard to when such transfer is made.

"(ii) PAYMENTS BY OTHER PERSONS.—For purposes of clause (i), payments made by any other person pursuant to an understanding or expectation referred to in subparagraph (A) shall be treated as made by the organization.

"(iii) REPORTING.—Any organization on which tax is imposed by clause (i) with respect to any premium shall file an annual return which includes—

"(I) the amount of such premiums paid during the year and the name and TIN of each beneficiary under the contract to which the premium relates, and

"(II) such other information as the Secretary may require.

The penalties applicable to returns required under section 6033 shall apply to returns required under this clause. Returns required under this clause shall be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

"(iv) CERTAIN RULES TO APPLY.—The tax imposed by this subparagraph shall be treated as imposed by chapter 42 for purposes of this title other than subchapter B of chapter 42.

"(G) SPECIAL RULE WHERE STATE REQUIRES SPECIFICATION OF CHARITABLE GIFT ANNUITANT IN CONTRACT.—In the case of an obligation to pay a charitable gift annuity referred to in subparagraph (D) which is entered into under the laws of a State which requires, in order for the charitable gift annuity to be exempt from insurance regulation by such State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract issued by an insurance company authorized to transact business in such State, the requirements of clauses (i) and (ii) of subparagraph (D) shall be treated as met if—

"(i) such State law requirement was in effect on February 8, 1999,

"(ii) each such beneficiary under the charitable gift annuity is a bona fide resident of such State at the time the obligation to pay a charitable gift annuity is entered into, and

"(iii) the only persons entitled to payments under such contract are persons entitled to payments as beneficiaries under such obligation on the date such obligation is entered into.

"(H) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations to prevent the avoidance of such purposes."

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as otherwise provided in this section, the amendment made by this section shall apply to transfers made after February 8, 1999.

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

(3) REPORTING.—Clause (iii) of such section 170(f)(10)(F) shall apply to premiums paid after February 8, 1999 (determined as if the tax imposed by such section applies to premiums paid after such date).

H.R. 434, AFRICAN GROWTH AND OPPORTUNITY ACT

I. INTRODUCTION

A. PURPOSE AND SUMMARY

H.R. 434, as reported by Committee on Ways and Means, would authorize a new trade and investment policy toward countries in sub-Saharan Africa. The bill states that the United States seeks to facilitate market-led economic growth in the countries in sub-Saharan Africa. To this end, H.R. 434 contains a statement of policy that Congress supports economic self-reliance for sub-Saharan African countries, particularly those committed to economic and political reform; market incentives and private sector growth; the eradication of poverty; and the importance of women to economic growth and development.

The bill would require the President to identify individual countries in sub-Saharan Africa that have established, or are making continual progress toward establishing, a market-based economy consistent with the criteria outlined. After consulting with the governments of eligible countries, H.R. 434 would require the President to establish a United States-sub-Saharan Africa Trade and Economic Cooperation Forum, not later than 12 months after the date of enactment, for the purpose of convening annual high-level meetings between U.S. government officials and officials of participating sub-Saharan African countries.

H.R. 434 also declares that a United States-sub-Saharan Africa Free Trade Area should be established, or free trade agreements entered into, to serve as the catalyst for increasing trade between the United States and sub-Saharan Africa and for increasing private sector development in the region. On this basis, the bill would require the President to develop a plan for entering into one or more trade agreements with eligible sub-Saharan African countries, and report to Congress within 12 months of enactment.

The bill would also require the United States to eliminate the existing quotas on textile and apparel exports to the United States from Kenya and Mauritius within 30 days of those countries adopting visa systems to guard against unlawful transshipments of textile and apparel goods and the use of counterfeit documents. In addition, the provision would require the President to continue the existing policy of not imposing quotas on textile and apparel exports to the United States from other sub-Saharan African countries.

The bill would direct the President to ensure that any country in Africa that intends to export textile and apparel goods to the United States: (1) has in place an effective visa system and domestic laws and enforcement procedures to guard against unlawful transshipment and the use of counterfeit documents; and (2) cooperates fully with the U.S. to address and take action necessary to prevent transshipment or other types of circumvention. In addition, the bill would require the President to deny all trade benefits

under the bill for two years to any exporter, or the successor of any exporter, determined to have engaged in illegal transshipment.

The bill would extend duty-free treatment under the Generalized System of Preferences (GSP) for beneficiary countries in sub-Saharan Africa that are eligible to participate in the Act until June 30, 2009. In addition, effective July 1, 1999, the bill would amend the GSP statute to extend a series of enhanced benefits to sub-Saharan African beneficiary countries participating in the bill, subject to whether those countries meet the statutory criteria and rules of origin under the GSP program. Specifically, these amendments would authorize the President to grant duty-free treatment to products from eligible sub-Saharan African countries that are currently excluded from the GSP program if he makes a determination after receiving advice from the International Trade Commission (ITC) that imports of those products are not import sensitive in the context of imports from sub-Saharan Africa. The bill would also provide that the competitive need limits in the GSP program do not apply to imports from sub-Saharan African countries and would allow up to 15 percent U.S. content of an article to count toward the 35 percent local content requirement of the GSP program. Moreover, the bill would allow the 35 percent minimum value content requirement to be cumulated in any eligible sub-Saharan African country.

H.R. 434 would require the President to maintain a position of Assistant United States Trade Representative (AUSTR) for African Affairs within the Office of the United States Trade Representative (USTR) to direct and coordinate interagency activities on United States-Africa trade policy and investment matters and serve as a primary point of contact in the executive branch for those persons engaged in trade between the United States and sub-Saharan Africa. The AUSTR for African Affairs also serves as the chief advisor to the USTR on trade issues with Africa.

The bill would require the President to submit to Congress a report on the trade and investment policy of the United States for sub-Saharan Africa and on the implementation of this Act, not later than one year after the date of enactment, and not later than the end of each of the next six one-year periods thereafter.

Finally, the bill includes two revenue offsets. The first denies a charitable contributions tax deduction for a transfer to a charity which is subject to an understanding that the charity will pay premiums on life insurance benefiting the transferor (or some other designated person) and imposes an excise tax and reporting requirement with respect to any such premium payments. The second limits the use of the non-accrual experience tax accounting method to amounts received for qualified personal services (services in the fields of health, law, engineering, architecture, actuarial science, performing arts or consulting).

B. Background and Need for Legislation

Sub-Saharan Africa consists of 48 diverse countries, many of which have undergone significant political and economic change in recent years. Since 1990, more than 25 African nations have held democratic elections. At the same time, more than 30 countries have instituted programs to replace their centralized economies with free markets under the guidance of bilateral and multilateral

donors such as the World Bank and the International Monetary Fund.

Despite the fact that 33 countries in sub-Saharan Africa are members of the World Trade Organization (WTO), U.S. trade with sub-Saharan African countries relative to overall U.S. trade levels remains low. In 1998, U.S. merchandise exports to the region were valued at $6.7 billion, while U.S. merchandise imports in return totaled $13.1 billion. Although virtually all countries in sub-Saharan Africa qualify for duty-free entry on a wide range of products under the Generalized System of Preferences (GSP) program, GSP imports from the region equaled $1.9 billion in 1998, a figure representing about 12 percent of all U.S. GSP imports for the year. Imports of goods from sub-Saharan Africa under GSP grew by 78 percent in 1998, however, most of this increase was due to the inclusion of petroleum imports under the GSP program. Most duty-free petroleum imports from the region last year came from Angola.

In 1994, Congress passed the Uruguay Round Agreements Act (P.L. 103–465), which required the President to submit five annual reports to Congress on the Administration's comprehensive trade and development policy for countries in Africa. On January 13, 1999, the President submitted his fourth report pursuant to this provision of law. The report describes the progress made in the implementation of the five components of the Administration's Partnership for Economic Growth and Opportunity in Africa: enhanced trade benefits to increase U.S.-African trade and investment flows; technical assistance; enhanced dialogue with African countries; financing and debt relief; and continued U.S. leadership in multilateral fora to support private sector development, trade development, and institutional capacity building in African countries.

On January 14, 1997, the Committee on Ways and Means requested the International Trade Commission (ITC) to conduct a study of the effect on the U.S. economy of providing quota-free and duty-free access to textiles and apparel from sub-Saharan Africa. In the report sent to Congress on September 2, 1997, the ITC found that the effect on the U.S. industry and workers would be negligible. The ITC noted that sub-Saharan Africa represents a small portion of overall textiles and apparel imports, accounting for less than one percent, or $383 million, of total U.S. imports in this sector, which were $46 billion in 1996.

The ITC report states that removal of all duties and quotas on imports from sub-Saharan Africa would result in a 26–46 percent increase in these imports from the region (between $100 million and $175 million), and that the increase would primarily displace imports from other countries. According to these estimates, imports from sub-Saharan Africa are likely to remain below 3 percent of total U.S. imports of textile and apparel products for at least ten years after the provisions in H.R. 434 take effect. In fact, the ITC indicated that this estimate most likely overstates the potential increase in sub-Saharan African imports because of structural problems in many of these economies.

With certain exceptions, the ITC found that the textile and apparel industry in sub-Saharan Africa is underdeveloped because of lack of capital, management expertise, experience exporting to developed countries, and poor infrastructure and transportation prob-

lems. The exceptions to this finding are Mauritius, which has a well developed, exporting industry (including investment in nearby Madagascar), South Africa (including investments in nearby Lesotho and Swaziland), Zimbabwe, and Kenya. However, the report notes that the industries in these countries have traditionally focused their exports to Europe because of longstanding colonial ties.

Currently, Mauritius and Kenya are the only two sub-Saharan countries under textile and apparel quota arrangements in the U.S. market. Kenya has two quotas and did not fill either in 1998. Mauritius filled two quota categories of cotton knit shirts and pants in 1998.

C. Legislative History

Committee bill

On February 2, 1999, Chairman Crane, for himself and for Reps. Rangel, Jefferson, Houghton, Levin, Dunn, Johnson, McNulty, Neal, Portman, Ramstad, and Thomas, et alia introduced H.R. 434, the "African Growth and Opportunity Act" to authorize a new trade and investment policy toward the countries of sub-Saharan Africa.

On February 3, 1999, the Subcommittee on Trade of the Committee on Ways and Means favorably reported H.R. 434 to the full Committee by a recorded vote of 14–0.

On June 10, 1999, the Committee on Ways and Means favorably reported H.R. 434 to the House of Representatives, as amended, by a voice vote.

Legislative hearing

On February 3, 1999, the Subcommittee on Trade held a hearing on U.S. trade relations with sub-Saharan Africa. The Subcommittee received testimony from both invited and public witnesses, many of whom stressed the importance of trade and investment relations with sub-Saharan Africa to the economic development and future self-reliance of countries in the region. To this end, witnesses from the U.S. private sector and representatives of sub-Saharan African governments expressed support for H.R. 434. Secretary of Commerce William Daley expressed the Administration's support for the legislation. Two witnesses representing the American Textile Manufacturers Institute and the Union of Needletrades, Industrial and Textile Employees expressed their opposition to the bill.

II. EXPLANATION OF THE BILL

A. Section 1: Short Title

Present law

No provision.

Explanation of provision

Section 1 states that the Act may be cited as the "African Growth and Opportunity Act."

Reason for change

The section names the legislation for identification purposes.

Effective date

The provision is effective upon enactment.

B. SECTION 2: FINDINGS

Present law

No provision.

Explanation of provision

Section 2 contains the findings of the Congress 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 U.S. and sub-Saharan Africa;

(3) reducing tariff and non-tariff barriers and other trade obstacles;

(4) expanding U.S. 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.

Reason for change

In the section, Congress finds that the United States and countries in sub-Saharan Africa have a shared interest in the economic development of sub-Saharan Africa. On this basis, the provision notes ways in which the United States seeks to assist the region in achieving economic self-reliance.

Effective date

The provision is effective upon enactment.

C. SECTION 3: STATEMENT OF POLICY

Present law

No provision.

Explanation of provision

In Section 3, the Congress expresses its support for the economic self-reliance of sub-Saharan African countries, particularly those committed to economic and political reform, market incentives and private sector growth; the eradication of poverty; and the importance of women to economic growth and development.

Reason for change

Congress expresses its support for the economic self-reliance of countries in sub-Saharan Africa, particularly those committed to implementing free market principles, political reform, and economic opportunity for all citizens.

Effective date

The provision is effective upon enactment.

D. Section 4: Eligibility Requirements

Present law

No provision.

Explanation of provision

Section 4(a) states that a sub-Saharan African country shall be eligible to participate in this Act only 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 economy, such as the establishment and enforcement of appropriate policies relating to:

(1) promoting free movement of goods and services between the U.S. and sub-Saharan Africa and among countries in the region;

(2) promoting the expansion of the production base and the transformation of commodities and nontraditional products for export through partnerships between African and foreign investors;

(3) trade issues, such as the 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) 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;

(6) 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;

(7) supporting the growth of regional markets within a free trade area framework;

(8) governance issues, such as eliminating government corruption and minimizing government intervention in the market;

(9) supporting the growth of the private sector, in particular by promoting the emergence of a new generation of African entrepreneurs;

(10) encouraging the private ownership of government-controlled economic enterprises through divestiture programs; and,

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

In determining whether a sub-Saharan African country is eligible, section 4(b) requires the President to take into account the following factors:

(1) An expression by such country of its desire to be an eligible country;

(2) The extent to which such country has made substantial progress toward reducing tariff and non-tariff levels, binding its tariffs in the World Trade Organization (WTO) and assuming meaningful binding obligations in other sectors of trade;

(3) Whether such country, if not already a member of the WTO, is actively pursuing membership;

(4) Where applicable, the extent to which such country is in material compliance with its obligation 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, 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; and

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

Section 4(c) requires the President to 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. The provision also states that a sub-Saharan African country that has not made continual progress in meeting the requirements with which it is not in compliance shall be ineligible to participate in this Act.

Reason for change

Section 4 outlines the eligibility requirements for countries in sub-Saharan Africa to participate in the Act. In particular, the provision requires the President to determine whether individual countries in sub-Saharan Africa have established, or are making continual progress toward establishing, a market-based economy consistent with the criteria outlined. The Committee urges the

President to make determinations regarding country eligibility as soon as practicable.

Effective date

The provision is effective upon enactment.

E. Section 5: United States-Sub-Saharan Africa Trade and Economic Cooperation Forum

Present law

No provision.

Explanation of provision

In order to foster close economic ties between the United States and sub-Saharan Africa, section 5(a) directs the President to convene annual high-level meetings between appropriate officials of the U.S. government and government officials of the sub-Saharan African countries eligible to participate in the Act. After consulting with the governments concerned, section 5(b) directs the President to establish a United States-sub-Saharan Africa Trade and Economic Cooperation Forum not later than 12 months after the date of enactment.

In creating the Forum, the President shall, under section 5(c), 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 their counterparts from the eligible governments, as well as 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. In consultation with Congress, the President shall encourage U.S. non-governmental organizations (NGOs) to host annual meetings with NGOs from sub-Saharan Africa, and representatives of the U.S. private sector to host annual meetings with representatives of the private sector in sub-Saharan Africa, in conjunction with the annual Forum meetings. To the extent practicable, the President shall meet with the heads of governments of eligible sub-Saharan African countries not less than once every two years for the purposes of discussing expanding trade and investment relations between the United States and sub-Saharan Africa and the implementation of this Act. The President's first meeting with other heads of state from sub-Saharan Africa should take place not less than 12 months after the date of enactment.

In order to assist in carrying out the purposes of the Forum, section 5(d) requires the United States Information Agency to disseminate regularly, through multiple media, economic information in support of the free market economic reforms described in this Act.

Section 5(e) authorizes such sums as may be necessary to carry out this section. Section 5(f) prohibits the use of funds authorized under the section to create or support any nongovernmental organization for the purpose of expanding or facilitating trade between the United States and sub-Saharan Africa.

Reason for change

In order to expand U.S. trade and investment relations with sub-Saharan Africa and achieve the goals of the Act, the Committee believes that it is important to foster a regular dialogue between U.S. government officials and their counterparts from eligible sub-Saharan African countries. To this end, section 5 requires the President to 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 of a United States-sub-Saharan Africa Trade and Economic Cooperation Forum after consulting with eligible sub-Saharan African governments. The Committee also believes that it would help to promote the goals of this Act if the President, to the extent practicable, met with the heads of state of the governments eligible to participate in the Act not less than once every two years.

Effective date

The provision is effective upon enactment.

F. Section 6: United States-Sub-Saharan Africa Free Trade Area

Present law

No provision.

Explanation of provision

In section 6(a), Congress declares that a United States-sub-Saharan Africa Free Trade Area should be established, or free trade agreements 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.

To this end, section 6(b) requires 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, to develop a plan for the purpose of entering into one or more trade agreements with sub-Saharan African countries eligible to participate in the Act. The President's plan shall include the following:

(1) 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;

(2) the benefits to both the United States and sub-Saharan Africa with respect to the Free Trade Area;

(3) a mutually agreed-upon timetable for establishing the Free Trade Area;

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

(5) subject matter anticipated to be covered by the Free Trade Area and U.S. 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; and

(6) procedures to ensure adequate consultation with Congress and the private sector, consultation with Congress regarding all matters related to implementation and approval, and adequate consultation with the relevant African governments and African regional and subregional intergovernmental organizations during the negotiations of the agreement or agreements.

Section 6(c) requires the President, not later than 12 months after the date of enactment, to prepare and transmit to Congress a report on the plan developed.

Reason for change

By eliminating the barriers that presently exist to developing stronger, mutually beneficial trade and investment relations between the United States and sub-Saharan Africa, the Committee believes that the establishment of a Free Trade Area, or the negotiation of one or more free trade agreements, would serve as an important catalyst in the economic development of sub-Saharan Africa. After taking into account the provisions of the treaty establishing the African Economic Community and the willingness of the governments of eligible countries in sub-Saharan Africa, the President is required to develop a plan for the purpose of entering into one or more trade agreements with sub-Saharan African countries. In the development of the plan, the Committee believes that the President should seek to complete the negotiations within a similar time frame agreed to in other multilateral fora, such as the Asia-Pacific Economic Cooperation (APEC) forum, or sooner if practicable.

Effective date

The provision is effective upon enactment.

G. Section 7: Eliminating Trade Barriers and Encouraging Exports

Present law

Certain textile and apparel products from Kenya and Mauritius are subject to import quotas under bilateral agreements negotiated on a product-category basis under authority of section 204 of the Agriculture Act of 1956 and in accordance with the WTO Agreement on Textiles and Clothing.

Explanation of provision

Section 7(a) contains findings of Congress that:

(1) The lack of competitiveness of sub-Saharan Africa in the global market make it a limited threat to market disruption and no threat to U.S. 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 U.S. workers, consumers, or manufacturers.

Section 7(b) expresses the sense of 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 are faithfully implemented in each of the member countries;

(2) Reform of trade policies in sub-Saharan Africa with the objective of removing structural impediments to trade can assist the countries of the region in achieving 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 providing technical assistance and encouraging business-to-business contacts with the region.

Section 7(c)(1) provides that, pursuant to the WTO Agreement on Textiles and Clothing, the United States shall eliminate the existing quotas on textile and apparel exports to the United States from Kenya and Mauritius within 30 days after these countries adopt an efficient visa system to guard against unlawful transshipment of textile and apparel goods and the use of counterfeit documents. The provision requires the Customs Service to provide technical assistance to Kenya and Mauritius in the development and implementation of visa systems.

Section 7(c)(2) requires the President to: (1) continue the existing no quota policy for other countries in sub-Saharan Africa; and (2) submit a report to the Congress by March 31 of each year concerning 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 due to the no quota policy.

Section 7(d)(1) states that the President should ensure that any sub-Saharan African country that intends to export textile and apparel goods to the United States: (1) has in place an effective visa system to guard against unlawful transshipment of textile and apparel goods and the use of counterfeit documents; and (2) will cooperate fully with the United States to address and take action necessary to prevent circumvention, as provided in Article 5 of the WTO Agreement on Textiles and Clothing (see below).

Section 7(d)(2) increases penalties on exporters who have been found to have engaged in illegal transshipment. 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 the Generalized System of Pref-

erences program is claimed, then the President shall deny to such an exporter duty-free treatment under this section for textile and apparel articles for a period of two years.

Section 7(d)(3) underscores the fact that 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.

In order to facilitate close monitoring by the Administration and expanded oversight by the Committee, Section 7(d)(4) requires that the Customs Service submit to the Congress, by not later than March 31 of each year, a report on the effectiveness of visa systems required of Kenya and Mauritius and other countries that intend to export textiles and apparel products to the United States, and on measures taken by countries in sub-Saharan Africa to prevent circumvention as described in Article 5 of the WTO Agreement on Textiles and Clothing.

Pursuant to Article 5 of the WTO Agreement on Textiles and Clothing, countries agree that circumvention by transshipment, rerouting, false declaration concerning country or place of origin, and falsification of official documents undermines the effectiveness of trade restraints on textile and apparel products. Therefore WTO countries have agreed to establish the necessary legal provisions and/or administrative procedures to address and take action, consistent with their domestic laws and procedures, against such circumvention.

Article 5 obligates countries to cooperate fully to establish the relevant facts in places of import, export, and transshipment. The Agreement establishes that such cooperation will include: (1) an investigation of circumvention practices which increase exports to the WTO Member maintaining quotas; (2) exchange of documents, correspondence and other relevant information to the extent available; and, (3) facilitation of plant visits and contacts. Under the WTO, the U.S. maintains full authority to immediately deny entry of any goods suspected of being transshipped, and to appropriately adjust charges to quota levels in order to reflect the true country or place of origin, provided that the WTO is adequately notified of the charges, including a full justification.

Reason for change

In developing countries around the world, the textile and apparel industry has served as a primary sector for economic development and job creation. Given the limited manufacturing capacity that exists in sub-Saharan Africa now and for the foreseeable future, the Committee believes that the existing quotas for Kenya and Mauritius should be eliminated. Further, the Committee believes that the existing policy of not imposing quotas on textile and apparel imports from the region should remain in place. In order to ensure that textile and apparel products shipped to the United States are manufactured in the region, the section envisages that countries which intend to export textiles and apparel to the United States will have in place an effective visa system to guard against unlawful transshipments and the use the counterfeit documents and will

cooperate fully with the United States in preventing transshipments.

The Committee understands that the Administration is committed to closely monitoring the issue. Because of the provisions for cooperation with sub-Saharan African countries and the expanded penalties against violators contained in the bill, the Committee believes that U.S. firms and workers will be sufficiently protected against problems caused by illegal transshipment and other Customs fraud.

The Committee also believes that the reports required of the President and the Customs Service under this section will be useful to the Committee in monitoring the effect of the provision on the growth in textile and apparel exports to the United States from countries in sub-Saharan Africa in order to protect U.S. consumers, workers, and textile manufacturers from economic injury due to the no quota policy.

In sum, it is the Committee's strong view that these provisions provide a benefit to the sub-Saharan African countries while having a negligible impact on the United States.

Effective date

The provision is effective upon enactment.

H. Section 8: Generalized System of Preferences

Present law

Title V of the Trade Act of 1974, as amended, grants authority to the President to provide duty-free treatment on imports of eligible articles from beneficiary developing countries (BDC). Under section 503(a)(1) the President may not designate any article as GSP eligible within the following categories:

(1) textiles and apparel articles which were not eligible articles for purposes of this title on January 1, 1994;

(2) watches, except watches entered after June 30, 1989 that the President determines will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or U.S. insular possessions;

(3) import-sensitive electronic articles;

(4) import-sensitive steel articles;

(5) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not GSP eligible articles on January 1, 1995;

(6) import-sensitive semimanufactured and manufactured glass products; and,

(7) any other articles the President determines to be import-sensitive in the context of GSP.

Under section 502(a)(2) the President is authorized to designate any article that is the growth, product, or manufacture of a least developed developing country (LDDC) as an eligible article with respect to imports from LDDCs, if the President determines such article is not import-sensitive in the context of imports from LDDCs. This authority does not apply to statutorily exempt articles listed under paragraphs (1), (2) , and (5) above.

Under section 503(b)(3), no quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity is eligible for duty-free treatment.

Under section 503(c)(2)(D), whenever the President determines that exports by any BDC to the United States of a GSP eligible article—

(1) exceed a dollar limit of $80 million a year (a number which increases by $5 million annually), or

(2) equal or exceed a 50 percent share of the total value of U.S. imports of the article, then, not later than July 1 of the next year, such country is not treated as a BDC with respect to such article.

Under section 503(c)(2)(A), GSP duty-free treatment applies to any eligible article which is the growth, product or manufacture of a BDC if: (1) that article is imported directly from a BDC into the U.S. customs territory; and, (2) the sum of (a) the cost or value of the materials produced in the BDC or member countries in an association which is treated as one BDC, plus (b) the direct costs of processing operations performed in such BDC or member countries is not less than 35 percent of the value of the article.

Under section 505, no duty-free treatment shall remain in effect after June 30, 1999.

Explanation of provision

In order to receive extended and enhanced GSP benefits under the bill, sub-Saharan African countries must meet all of the criteria in current law regarding designation of beneficiary developing countries and also the eligibility requirements set forth in section 4 of H.R. 434. The existing statutory GSP designation criteria include internationally-recognized worker rights, intellectual property rights, compensation for property expropriation, and market access.

Section 8(a) of the bill amends section 503(a)(1) of the Trade Act of 1974 to authorize the President to grant duty-free GSP treatment for products from eligible African GSP beneficiary countries that are currently excluded from the GSP program, if, after receiving advice from the International Trade Commission, he determines that imports of these products are not import sensitive in the context of imports from sub-Saharan African countries. Opportunities for public comment would be provided in making this determination.

The bill does not change the rule of origin requirements under current law for GSP duty-free treatment on any currently eligible or any additional products, including textiles and apparel. The rule of origin remains that articles must be the growth, product, or manufacture of an eligible country and also contain a minimum 35 percent local value. As under present law, processes such as simple combining, packaging, or dilution would not constitute substantial transformation to qualify an article for trade benefits under this program. The article must also be directly imported from a beneficiary country.

Textile and apparel products eligible for duty-free and quota-free treatment must be substantially transformed in sub-Saharan Afri-

ca as determined by the "Breaux-Cardin" rules of origin enacted into law in 1994 (section 334 of P.L. 103–465).

With respect to the second required test of value content, section 8(b) of the bill amends section 503(a)(2) of the Trade Act of 1974 to allow up to 15 percent of the total value of the article from U.S.-made materials to count toward the 35 percent local value requirement for duty-free entry under the GSP program. In order to encourage regional economic integration in Africa, the bill provides that the minimum 35 percent local value content may be cumulated in any eligible sub-Saharan African country.

Section 8(c) amends section 503(c)(2)(D) of the Trade Act of 1974 to stipulate that the competitive need limits do not apply to imports from eligible countries in sub-Saharan Africa.

Section 8(d) amends section 505 of the Trade Act of 1974 to extend the GSP program for ten years, until June 30, 2009, for eligible countries in sub-Saharan Africa.

Section 8(f) establishes July 1, 1999 as the effective date for the amendments made to the GSP program for sub-Saharan Africa.

Reason for change

The GSP program, which provides duty-free access to the U.S. market for eligible articles from BDCs, has proven to be an effective program in the development of many countries around the world. In recent years, however, the program has undergone a series of short term extensions due to budgetary constraints. For this reason, the Committee believes that it is important to give the business community greater certainty about the program's existence for sub-Saharan African countries eligible to participate in the African Growth and Opportunity Act, thereby encouraging long-term investment and development in the region. At the same time, the Committee continues to seek the renewal of the existing GSP program for BDCs worldwide beyond the current expiration date of June 30, 1999.

Given the low utilization of the GSP program by exporters in sub-Saharan Africa at present, the Committee believes that these reforms are appropriate for beneficiaries in sub-Saharan Africa that are eligible to participate in the benefits of this Act.

Effective date

The bill establishes July 1, 1999 as the effective date for the new sub-Saharan elements of the GSP program established by this bill.

I. SECTION 10: EXECUTIVE BRANCH INITIATIVES

Present law

No provision.

Explanation of provision

Section 10(a) expresses the sense of Congress 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 Congress that this Partnership is a companion to the policy goals set forth in this Act.

Section 10(b) directs the President, in addition to continuing bilateral and multilateral economic and development assistance, to 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 liberalize trade and promote exports, bring their legal regimes into compliance with the standards of the WTO in conjunction with membership in that Organization, make financial and fiscal reforms, and 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.

Reason for change

The Committee believes that the President's "Partnership for Growth and Opportunity in Africa," which was announced in 1997, is a step toward the establishment of a comprehensive U.S. trade and development policy toward countries in sub-Saharan Africa and that the President's "Partnership" is a companion to the policy goals of this legislation.

The Committee believes that the active participation of sub-Saharan African countries in negotiations under the auspices of the World Trade Organization is vital to achieving the goals of this legislation. To this end, the Committee supports the Administration's efforts to encourage sub-Saharan African involvement in the WTO.

Effective date

The provision is effective upon enactment.

J. SECTION 13: ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR SUB-SAHARAN AFRICA

Present law

Section 141 of the Trade Act of 1974 established the Office of the United States Trade Representative within the Executive Office of the President and directed the President to appoint a person to head the office and to serve as United States Trade Representative (USTR).

Explanation of provision

Section 13(a) expresses the sense of Congress that the position of Assistant United States Trade Representative (AUSTR) for Afri-

can Affairs within USTR is integral to the U.S. commitment to increasing United States-sub-Saharan African trade and investment.

Section 13(b) requires the President to maintain a position of AUSTR for African Affairs to direct and coordinate interagency activities on United States-African trade policy and investment matters and serve as a primary point of contact in the executive branch for those persons engaged in trade between the United States and sub-Saharan Africa and the chief advisor to the USTR on issues of trade with Africa.

Section 13(c) requires the President to ensure that the AUSTR for Africa has adequate funding and staff.

Reason for change

The combined population of sub-Saharan Africa represents a potential market of nearly 700 million consumers for exports of U.S. goods and services. Given the importance of exports to future U.S. economic growth and job creation, the Committee believes that a position of AUSTR for African Affairs should be maintained within the Office of USTR to focus on trade issues relating to sub-Saharan Africa. The Committee also believes that the President should ensure that the AUSTR for Africa has adequate funding and staff to carry out his or her responsibilities consistent with the goals of this Act.

Effective date

The provision is effective upon enactment.

K. Section 15: Reporting Requirement

Present law

Section 134 of the Uruguay Round Agreements Act requires the President to develop a comprehensive trade and development policy for countries in Africa and submit five annual reports to Congress on it.

Explanation of provision

The President shall submit to Congress not later than one year after the date of enactment, and not later than the end of each of the next six one-year periods thereafter, a comprehensive report on the trade and investment policy of the United States toward sub-Saharan Africa, and on the implementation of this Act. The last report required by section 134 of the Uruguay Round Agreements Act shall be consolidated and submitted with the first report required by this section.

Reason for change

The Committee requests that the President submit seven annual reports to Congress on the trade and investment policy of the United States toward sub-Saharan Africa, and on the implementation of this Act, in order to assist the Committee in its oversight responsibilities on trade between the United States and the countries in sub- Saharan Africa.

Effective date

The provision is effective upon enactment.

L. Section 16: Sub-Saharan Africa Defined

Present law

No provision.

Explanation of provision

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: 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 Tome and Principe (Sao Tome and Principe), 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 Cote d'Ivoire (Cote 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).

Reason for change

The section identifies the countries in sub-Saharan Africa for the purposes of this Act.

Effective date

The provision is effective upon enactment.

M. Section 18: Limit Use of Non-Accrual Experience Method of Accounting to Amounts To Be Received for the Performance of Qualified Personal Services

Present law

An accrual method taxpayer generally must recognize income when all the events have occurred that fix the right to receive the income and the amount of the income can be determined with reasonable accuracy. An accrual method taxpayer may deduct the

amount of any receivable that was previously included in income that becomes worthless during the year.

Accrual method taxpayers are not required to include in income amounts to be received for the performance of services which, on the basis of experience, will not be collected (the "non-accrual experience method"). The availability of this method is conditioned on the taxpayer not charging interest or a penalty for failure to timely pay the amount charged.

A cash method taxpayer is not required to include an amount in income until it is received. A taxpayer may not use the cash method if the purchase, production, or sale of merchandise is a material income producing factor. Such taxpayers are generally required to keep inventories and use the accrual method of accounting. In addition, corporations (and partnerships with corporate partners) generally may not use the cash method of accounting if their average annual gross receipts exceed $5 million. An exception to this $5 million rule is provided for qualified personal service corporations, which are corporations (1) substantially all of whose activities involve the performance of services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting and (2) substantially all of the stock of which is owned by current or former employees performing such services, their estates, or their heirs. Qualified personal service corporations may use the cash method without regard to whether their average annual gross receipts exceed $5 million.

Explanation of provision

The bill provides that the non-accrual experience method will be available only for amounts to be received for the performance of qualified personal services. Amounts to be received for the performance of all other services will be subject to the general rule regarding inclusion in income. Qualified personal services are personal services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting. As under present law, the availability of the method is conditioned on the taxpayer not charging interest or a penalty for failure to timely pay the amount.

Reasons for change

The Committee understands that the use of the non-accrual experience method provides the equivalent of a bad debt reserve, which generally is not available to taxpayers using the accrual method of accounting. The Committee believes that accrual method taxpayers should be treated similarly, unless there is a strong indication that different treatment is necessary to clearly reflect income or to address a particular competitive situation.

The Committee understands that accrual basis providers of qualified personal services (services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting) compete on a regular basis and on an even footing with competitors using the cash method of accounting. The Committee believes that this competitive situation justifies the continued availability of the non-accrual experience method with respect to amounts to be received for the performance of qualified

personal services. The Committee believes that it is important to avoid the disparity of treatment between competing cash and accrual method providers of qualified personal services that could result if the non-accrual experience method were eliminated with regard to amounts to be received for such services.

Effective date

The provision is effective for taxable years ending after the date of enactment. Any change in the taxpayer's method of accounting necessitated as a result of the proposal will be treated as a voluntary change initiated by the taxpayer with the consent of the Secretary of the Treasury. Any required section 481(a) adjustment is to be taken into account over a period not to exceed four years under principles consistent with those in Rev. Proc. 98–60.[1]

N. SECTION 19: DENIAL OF CHARITABLE CONTRIBUTION DEDUCTION FOR TRANSFERS ASSOCIATED WITH CHARITABLE SPLIT-DOLLAR INSURANCE ARRANGEMENTS

Present law

Under present law, in computing taxable income, a taxpayer who itemizes deductions generally is allowed to deduct charitable contributions paid during the taxable year. The amount of the deduction allowable for a taxable year with respect to any charitable contribution depends on the type of property contributed, the type of organization to which the property is contributed, and the income of the taxpayer (secs. 170(b) and 170(e)). A charitable contribution is defined to mean a contribution or gift to or for the use of a charitable organization or certain other entities (sec. 170(c)). The term "contribution or gift" is not defined by statute, but generally is interpreted to mean a voluntary transfer of money or other property without receipt of adequate consideration and with donative intent. If a taxpayer receives or expects to receive a quid pro quo in exchange for a transfer to charity, the taxpayer may be able to deduct the excess of the amount transferred over the fair market value of any benefit received in return, provided the excess payment is made with the intention of making a gift.[2]

In general, no charitable contribution deduction is allowed for a transfer to charity of less than the taxpayer's entire interest (i.e., a partial interest) in any property (sec. 170(f)(3)). In addition, no deduction is allowed for any contribution of $250 or more unless the taxpayer obtains a contemporaneous written acknowledgment from the donee organization that includes a description and good faith estimate of the value of any goods or services provided by the donee organization to the taxpayer in consideration, whole or part, for the taxpayer's contribution (sec. 170(f)(8)).

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[1] 1998–51 I.R.B. 16.

[2] *United States* v. *American Bar Endowment,* 477 U.S. 105 (1986). Treas. Reg. sec. 1.170A–1(h).

Explanation of provision

Deduction denial

The provision[3] restates present law to provide that no charitable contribution deduction is allowed for purposes of Federal tax, for a transfer to or for the use of an organization described in section 170(c) of the Internal Revenue Code, if in connection with the transfer (1) the organization directly or indirectly pays, or has previously paid, any premium on any "personal benefit contract" with respect to the transferor, or (2) there is an understanding or expectation that any person will directly or indirectly pay any premium on any "personal benefit contract" with respect to the transferor. It is intended that an organization be considered as indirectly paying premiums if, for example, another person pays premiums on its behalf.

A personal benefit contract with respect to the transferor is any life insurance, annuity, or endowment contract, if any direct or indirect beneficiary under the contract is the transferor, any member of the transferor's family, or any other person (other than a section 170(c) organization) designated by the transferor. For example, such a beneficiary would include a trust having a direct or indirect beneficiary who is the transferor or any member of the transferor's family, and would include an entity that is controlled by the transferor or any member of the transferor's family. It is intended that a beneficiary under the contract include any beneficiary under any side agreement relating to the contract. If a transferor contributes a life insurance contract to a section 170(c) organization and designates one or more section 170(c) organizations as the sole beneficiaries under the contract, generally, it is not intended that the deduction denial rule under the provision apply. If, however, there is an outstanding loan under the contract upon the transfer of the contract, then the transferor is considered as a beneficiary. The fact that a contract also has other direct or indirect beneficiaries (persons who are not the transferor or a family member, or designated by the transferor) does not prevent it from being a personal benefit contract. The provision is not intended to affect situations in which an organization pays premiums under a legitimate fringe benefit plan for employees.

It is intended that a person be considered as an indirect beneficiary under a contract if, for example, the person receives or will receive any economic benefit as a result of amounts paid under or with respect to the contract. For this purpose, as described below, an indirect beneficiary is not intended to include a person that benefits exclusively under a bona fide charitable gift annuity (within the meaning of sec. 501(m)).

In the case of a charitable gift annuity, if the charitable organization purchases an annuity contract issued by an insurance company to fund its obligation to pay the charitable gift annuity, a person receiving payments under the charitable gift annuity is not treated as an indirect beneficiary, provided certain requirements are met. The requirements are that (1) the charitable organization

[3] The provision is similar to H.R. 630, introduced by Mr. Archer for himself and for Mr. Rangel (106th Cong., 1st Sess.).

possess all of the incidents of ownership (within the meaning of Treas. Reg. sec. 20.2042–1(c)) under the annuity contract purchased by the charitable organization; (2) the charitable organization be entitled to all the payments under the contract; and (3) the timing and amount of payments under the contract be substantially the same as the timing and amount of payments to each person under the organization's obligation under the charitable gift annuity (as in effect at the time of the transfer to the charitable organization).

In the case of a charitable gift annuity obligation that is issued under the laws of a State that requires, in order for the charitable gift annuity to be exempt from insurance regulation by that State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract issued by an insurance company authorized to transact business in that State, then the foregoing requirements (1) and (2) are treated as if they are met, provided that certain additional requirements are met. The additional requirements are that the State law requirement was in effect on February 8, 1999, each beneficiary under the charitable gift annuity is a bona fide resident of the State at the time the charitable gift annuity was issued, the only persons entitled to payments under the annuity contract issued by the insurance company are persons entitled to payments under the charitable gift annuity when it was issued, and (as required by clause (iii) of subparagraph (D) of the provision) the timing and amount of payments under the annuity contract to each person are substantially the same as the timing and amount of payments to the person under the charitable organization's obligation under the charitable gift annuity (as in effect at the time of the transfer to the charitable organization).

In the case of a charitable remainder annuity trust or charitable remainder unitrust (as defined in section 664(d)) that holds a life insurance, endowment or annuity contract issued by an insurance company, a person is not treated as an indirect beneficiary under the contract held by the trust, solely by reason of being a recipient of an annuity or unitrust amount paid by the trust, provided that the trust possesses all of the incidents of ownership under the contract and is entitled to all the payments under such contract. No inference is intended as to the applicability of other provisions of the Code with respect to the acquisition by the trust of a life insurance, endowment or annuity contract, or the appropriateness of such an investment by a charitable remainder trust.

Nothing in the provision is intended to suggest that a life insurance, endowment, or annuity contract would be a personal benefit contract, solely because an individual who is a recipient of an annuity or unitrust amount paid by a charitable remainder annuity trust or charitable remainder unitrust uses such a payment to purchase a life insurance, endowment or annuity contract, and a beneficiary under the contract is the recipient, a member of his or her family, or another person he or she designates.

Excise tax

The provision imposes on any organization described in section 170(c) of the Code an excise tax, equal to the amount of the premiums paid by the organization on any life insurance, annuity, or

endowment contract, if the premiums are paid in connection with a transfer for which a deduction is not allowable under the deduction denial rule of the provision (without regard to when the transfer to the charitable organization was made). The excise tax does not apply if all of the direct and indirect beneficiaries under the contract (including any related side agreement) are organizations described in section 170(c). Under the provision, payments are treated as made by the organization, if they are made by any other person pursuant to an understanding or expectation of payment. The excise tax is to be applied taking into account rules ordinarily applicable to excise taxes in chapter 41 or 42 of the Code (e.g., statute of limitation rules).

Reporting

The provision requires that the charitable organization annually report the amount of premiums that is paid during the year and that is subject to the excise tax imposed under the provision, and the name and taxpayer identification number of each beneficiary under the life insurance, annuity or endowment contract to which the premiums relate, as well as other information required by the Secretary of the Treasury. For this purpose, it is intended that a beneficiary include any beneficiary under any side agreement to which the section 170(c) organization is a party (or of which it is otherwise aware). Penalties applicable to returns required under Code section 6033 apply to returns under this reporting requirement. Returns required under this provision are to be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

Regulations

The provision provides for the promulgation of regulations necessary or appropriate to carry out the purposes of the provisions, including regulations to prevent the avoidance of the purposes of the provision. For example, it is intended that regulations prevent avoidance of the purposes of the provision by inappropriate or improper reliance on the limited exceptions provided for certain beneficiaries under bona fide charitable gift annuities and for certain noncharitable recipients of an annuity or unitrust amount paid by a charitable remainder trust.

Reasons for change

The Committee is concerned about an abusive scheme[4] referred to as charitable split-dollar life insurance, and the provision is designed to stop the spread of this scheme. Under this scheme, taxpayers typically transfer money to a charity, which the charity then uses to pay premiums for cash value life insurance on the transferor or another person. The beneficiaries under the life insurance contract typically include members of the transferor's family (either directly or through a family trust or family partnership).

[4] "A Popular Tax Shelter for 'Angry Affluent' Prompts Ire of Others," Wall Street Journal, Jan. 22, 1999, p. A1; "U.S. Treasury Officials Investigating Charitable Split-Dollar Insurance Plan," Wall Street Journal, Jan. 29, 1999, p. B5; "Brilliant Deduction?," The Chronicle of Philanthropy, Aug. 13, 1998, p. 24; "Charitable Reverse Split-Dollar: Bonanza or Booby Trap," Journal of Gift Planning, 2nd quarter 1998.

Having passed the money through a charity, the transferor claims a charitable contribution deduction for money that is actually being used to benefit the transferor and his or her family. If the transferor or the transferor's family paid the premium directly, the payment would not be deductible. Although the charity eventually may get some of the benefit under the life insurance contract, it does not have unfettered use of the transferred funds.

The Committee is concerned that this type of transaction represents an abuse of the charitable contribution deduction. The Committee is also concerned that the charity often gets relatively little benefit from this type of scheme, and serves merely as a conduit or accommodation party, which the Committee does not view as appropriate for an organization with tax-exempt status. In substance, the charity receives a transfer of a partial interest in an insurance policy, for which no charitable contribution deduction is allowed. While there is no basis under present law for allowing a charitable contribution deduction in these circumstances, the Committee intends that the provision stop the marketing of these transactions immediately.

Therefore, the provision clarifies present law by specifically denying a charitable contribution deduction for a transfer to a charity if the charity directly or indirectly pays or paid any premium on a life insurance, annuity or endowment contract in connection with the transfer, and any direct or indirect beneficiary under the contract is the transferor, any member of the transferor's family, or any other noncharitable person chosen by the transferor. In addition, the provision clarifies present law by specifically denying the deduction for a charitable contribution if, in connection with a transfer to the charity, there is an understanding or expectation that any person will directly or indirectly pay any premium on any such contract.

The provision provides that certain persons are not treated as indirect beneficiaries, in certain cases in which a charitable organization purchases an annuity contract to fund an obligation to pay a charitable gift annuity. The provision also provides that a person is not treated as an indirect beneficiary solely by reason of being a noncharitable recipient of an annuity or unitrust amount paid by a charitable remainder trust that holds a life insurance, annuity or endowment contract. The rationale for these rules is that the amount of the charitable contribution deduction is limited under present law to the value of the charitable organization's interest. Congress has previously enacted rules designed to prevent a charitable contribution deduction for the value of any personal benefit to the donor in these circumstances, and the Committee expects that the personal benefit to the donor is appropriately valued.

Further, the provision imposes an excise tax on the charity, equal to the amount of the premiums paid by the charity. Finally, the provision requires a charity to report annually to the Internal Revenue Service the amount of premiums subject to this excise tax and information about the beneficiaries under the contract.

Effective date

The deduction denial provision applies to transfers after February 8, 1999 (as provided in H.R. 630). The excise tax provision

applies to premiums paid after the date of enactment. The reporting provision applies to premiums paid after February 8, 1999 (determined as if the excise tax imposed under the provision applied to premiums paid after that date).

No inference is intended that a charitable contribution deduction is allowed under present law with respect to a charitable split-dollar insurance arrangement. The provision does not change the rules with respect to fraud or criminal or civil penalties under present law; thus, actions constituting fraud or that are subject to penalties under present law would still constitute fraud or be subject to the penalties after enactment of the provision.

III. VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the following statement is made concerning the vote of the Committee on Ways and Means in its consideration of the bill, H.R. 434, as amended.

Motion to Report the Bill

The bill, H.R. 434, was ordered favorably reported, by voice vote on June 10, 1999, with a quorum present.

IV. BUDGET EFFECTS OF THE BILL

A. COMMITTEE ESTIMATE OF BUDGETARY EFFECTS

In compliance with clause 3(d)(2) of rule XIII of the Rules of the House of Representatives, the Committee agrees with cost estimates furnished by the Congressional Budget Office (CBO) on H.R. 434, as amended, set forth below.

B. BUDGET AUTHORITY AND TAX EXPENDITURES

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee states that H.R. 434 does not include any new budget authority and reduces tax expenditures by an amount equal to the revenue raised by the provisions limiting the use of non-accrual experience method of accounting and denying the charitable contribution deduction for transfers associated with charitable split-dollar insurance arrangements.

C. COST ESTIMATE PREPARED BY THE CONGRESSIONAL BUDGET OFFICE

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, June 15, 1999.

Hon. BILL ARCHER,
Chairman, Committee on Ways and Means,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 434, the African Growth and Opportunity Act.

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

Sincerely,

DAN L. CRIPPEN, *Director.*

Enclosure.

H.R. 434—African Growth and Opportunity Act

Summary

H.R. 434, the African Growth and Opportunity Act, would authorize a new trade and investment policy for Sub-Saharan Africa. The bill would extend and expand the Generalized System of Preferences (GSP) with respect to sub-Saharan Africa beyond its current expiration of June 30, 1999, through June 30, 2009. The bill would also amend the Internal Revenue Code in order to limit the use of the nonaccrual experience method of accounting and deny charitable contributions deductions from transfers associated with charitable split dollar insurance arrangements. CBO and the Joint Committee on Taxation (JCT) estimate that the bill would increase governmental receipts by $31 million over the 1999–2004 period. Because the bill would affect receipts, pay-as-you-go procedures would apply.

In addition, the bill could increase discretionary spending by $3 million a year, assuming appropriation of the necessary amounts. The bill would authorize annual high-level meetings between officials of the United States government and their counterparts in sub-Saharan countries eligible for benefits under the bill. The bill would increase the number of foreign commercial service employees stationed in Africa. The bill would require the creation of advisory committees and expanded reporting on trade and investment policy with sub-Saharan Africa.

H.R. 434 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (URMA) and would not affect the budgets of state, local, or tribal governments. The bill would impose two new private-sector mandates by limiting the use of the nonaccrual experience method of accounting and by denying charitable contributions deductions fro transfers associated with charitable split dollar insurance arrangements. JCT estimates that the direct costs of the new mandates would not exceed the statutory threshold ($100 million in 1996, adjusted annually for inflation) established in UMRA in each of fiscal years 1999 through 2004.

Estimated cost to the Federal Government

The annual estimated budgetary impact of H.R. 434 is shown in the following table.

	By fiscal year, in millions of dollars—					
	1999	2000	2001	2002	2003	2004
CHANGES IN REVENUES						
Trade Provisions						
Extension of GSP	−8	−32	−33	−34	−36	−38
Expansion of GSP	0	−8	−17	−17	−18	−18
Subtotal of Trade Provisions	−8	−40	−50	−51	−54	−56
Revenue Offset Provisions	14	88	73	47	43	25
Net Effect on Revenues	6	48	23	−4	−11	−31
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estiamted authorization	0	3	3	3	3	3
Estimated Outlays	0	2	3	3	3	3

Basis of estimate

Revenues

The estimate of extending the existing GSP program with respect to sub-Saharan Africa was based on recent trade data on imports for U.S. consumption of goods from eligible countries. CBO assumed that GSP imports would remain a constant portion of total imports. CBO estimates a trade diversion of half of a percentage point from non-sub-Saharan African GSP beneficiaries who will no longer receive duty-free GSP treatment after June 30, 1999. Losses of revenues from customs duties were projected using a trade-weighted duty rate with respect to sub-Saharan Africa adjusted for tariff reductions scheduled by the World Trade Organization (WTO). Assuming a July 1, 1999, enactment date, CBO estimates that extending the existing GSP program with respect to sub-Saharan Africa would reduce governmental receipts by $182 million over the 1999–2004 period.

The current GSP excludes articles determined by the U.S. Trade Representative (USTR) to be import sensitive from receiving duty-free GSP treatment. H.R. 434 would allow countries of sub-Saharan Africa to ask the President to redetermine import sensitivity of GSP-excluded imports in the context of imports from sub-Saharan Africa. Based on discussions with the International Trade Commission (ITC), CBO identified products that are now import sensitive but are likely not to be considered import sensitive with respect to sub-Saharan Africa. USTR expects that the program to grant additional sub-Saharan African imports duty-free GSP treatment will not be implemented until eight months after the enactment of the law. Assuming a July 1, 1999, enactment date, CBO does not expect that sub-Saharan Africa will receive duty-free treatment for these articles prior to March 1, 2000. Using trade-weighted duty rates adjusted for reductions scheduled by the WTO, CBO estimates that this provision would reduce receipts by $41 million over the 1999–2004 period.

Current law also excludes from duty-free treatment a list of specific products, including apparel, textiles, footwear, leather goods, glass, certain electronic products, and watches. H.R. 434 would extend duty-free treatment to these products if the USTR determines that they are not import sensitive with respect to Sub-Saharan Africa. CBO based its estimate of the loss of duties that would result

from granting these goods duty-free GSP treatment on recent collections data. CBO assumed that under existing law, imports of these products would grow at the same rate as total non-petroleum imports. United States imports of footwear, leather goods, glass, certain electronic products, and watches from sub-Saharan Africa are insignificant compared with United States imports of similar goods from other countries. CBO assumes that the USTR will not rule these products import sensitive. The bill would also authorize the administration to grant textile and apparel products duty free and quota free treatment. U.S. imports of textile and apparel products from sub-Saharan Africa are also relatively insignificant, accounting for less than 1 percent of total U.S. imports of such products. Nonetheless, trade experts expect the USTR to rule in favor of the textile industry in determining the import sensitivity of many textile and apparel products. CBO assumes that the USTR will determine 90 percent of eligible imports to be import sensitive. Losses of duties for the remaining 10 percent were projected using trade-weighted duty rates adjusted for scheduled reductions under the WTO. Assuming an implementation date of March 1, 2000, CBO projects that granting these additional products duty-free GSP treatment would reduce receipts by $37 million over the 1999–2004 period.

All other revenue provisions in H.R. 434 were estimated by JCT.

Discretionary Spending

The bill could increase discretionary spending by $3 million a year, assuming appropriation of the necessary amounts.

Section 5 would authorize the Secretaries of Commerce, Treasury, and State and the U.S. Trade Representative to meet with their counterparts from sub-Saharan African countries in an annual trade and economic forum. It would require the United States to host the first forum within 12 months of enactment. Based on the cost of similar meetings, CBO estimates the meetings would cost $2 million a year.

Section 12 would require the Overseas Private Investment Corporation and the Export-Import Bank to create advisory committees to assist in developing policies toward Africa. CBO estimates the advisory committees would cost less than $25,000 each year based on the cost of similar committees. The bill would require reports on trade and investment policy with sub-Saharan Africa and on negotiating free trade agreements. The U.S. Trade Representative currently reports on these issues, and CBO estimates the expanded reporting requirement would result in no significant increase in costs.

Section 14 would direct the International Trade Administration (ITA) to increase from four to 10 the number of countries in sub-Saharan Africa in which foreign commercial service employees are stationed. Currently, the ITA has 24 employees stationed in four countries of sub-Saharan Africa. To establish the six new posts, CBO expects that ITA will hire three new employees and move three current employees to additional countries in sub-Saharan Africa. Based on information from the Department of Commerce, CBO estimates that the cost for each new employee will be about $200,000 in 1999 dollars, which includes the high cost of locating

employees in foreign countries. CBO also estimates that there will be moving costs for current employees, but such costs would be less than $500,000 a year. CBO estimates that implementing this section would cost less than $500,000 in 2000 and increase to about $1 million in 2001 and each subsequent year.

Sections 10 and 14 would authorize the executive branch to use development assistance funds to provide technical assistance to sub-Saharan governments to liberalize trade, to bring their legal regimes into compliance with the World Trade Organization, to promote democracy and good governance, and to strengthen conflict resolution. CBO estimates that the cost of those provisions would be minimal because other provisions of law already provide similar authority.

Pay-as-you-go considerations

The Balanced Budget and Emergency Deficit Control Act sets up pay-as-you-go procedures for legislation affecting direct spending or receipts. The net changes in outlays and governmental receipts that are subject to pay-as-you-go procedures are shown in the following table. For the purpose of enforcing pay-as-you-procedures, only the effects in the current year, the budget year, and the succeeding four years are counted.

	By fiscal year in millions of dollars—										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in receipts	6	48	23	−4	−11	−31	−32	−34	−34	−36	−30
Changes in outlays ..	0	0	0	0	0	0	0	0	0	0	0

Estimated impact on State, local, and tribal governments

H.R. 434 contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Estimated impact on the private sector

JCT has determined that H.R. 434 would impose two new private-sector mandates by limiting the use of the nonaccrual experience methods of accounting and by denying charitable contributions deductions for transfers associated with charitable split dollar insurance arrangements. JCT estimates that the direct costs of the new mandates would not exceed the statutory threshold ($100 million in 1996, adjusted annually for inflation) established in UMRA in each of fiscal years 1999 through 2004.

Previous CBO estimate

On March 18, 1999, CBO prepared a cost estimate for H.R. 434, as reported by the House Committee on International Relations. The current estimate of the bill differs from the March 18 estimate because of two revenue provisions in the bill added by the House Committee on Ways and Means. The new revenue provisions would limit the use of the nonaccural experience method of accounting and would deny charitable contributions deductions for transfer associated with charitable split dollar insurance arrangements.

Estimate prepared by

Federal Revenues: Hester Grippando.
Federal Spending: Joseph Whitehill and Mark Hadley.
Sunita D'Monte and John Righter.
Impact on State, local, and tribal governments: Leo Lex.
Impact on the private sector: Keith Mattrick.

Estimate approved by

G. Thomas Woodward, Assistant Director for Tax Analysis, and Paul N. Van de Water, Assistant Director for Budget Analysis.

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

A. Committee Oversight Findings and Recommendations

With respect to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee concludes that the actions taken in this legislation are appropriate given its oversight of international trade and tax matters.

B. Summary of Findings and Recommendations of the Committee on Government Reform

With respect to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives (relating to oversight findings), the Committee states that no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Reform with respect to the provisions in H.R. 434.

C. Constitutional Authority Statement

With respect to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, relating to Constitutional Authority, the Committee states that the Committee's action in reporting the bill is derived from Article 1 of the Constitution, Section 8 ("The Congress shall have power to lay and collect taxes, duties, imposts and excises, to pay the debts and to provide for * * * the general Welfare of the United States.") and from the 16th Amendment to the Constitution.

D. Information Relating to Unfunded Mandates

This information is provided in accordance with section 423 of the Unfunded Mandates Act of 1995 (P.L. 104–4). The Committee has reviewed the provisions of the bill as approved by the Committee on June 10, 1999. In accordance with the requirements of Public Law 104–4, the Committee has determined that the following provisions of the bill contain Federal private sector mandates:

The use of the non-accrual experience method of accounting is limited to amounts to be received for the performance of qualified professional services.

A charitable contribution deduction is denied for charitable split-dollar insurance.

The Committee has determined that it is necessary to include these provisions in the bill to provide revenue offsets for the trade initiatives approved by the Committee.

E. Applicability of House Rule XXI 5(b)

Rule XXI 5(b) of the Rules of the House of Representatives provides, in part, that "No bill or joint resolution, amendment, or conference report carrying a Federal income tax rate increase shall be considered as passed or agreed to unless determined by a vote of not less than three-fifths of the Members." The Committee has carefully reviewed the provisions of the bill, and states that the provisions of the bill do not involve any Federal income tax rate increase within the meaning of the rule.

F. Tax Complexity Analysis

Section 4022(b) of the Internal Revenue Service Reform and Restructuring Act of 1998 (the "IRS Reform Act") requires the Joint Committee on Taxation (in consultation with the Internal Revenue Service and the Department of the Treasury) to provide a tax complexity analysis. The complexity analysis is required for all legislation reported by the Senate Committee on Finance, the House Committee on Ways and Means, or any committee of conference if the legislation includes a provision that directly or indirectly amends the Internal Revenue Code (the "Code") and has widespread applicability to individuals or small businesses.

The staff of the Joint Committee on Taxation has determined that a complexity analysis is not required under section 4022(b) of the IRS Reform Act because the bill contains no provisions that amend the Internal Revenue Code and that have widespread applicability to individuals or small businesses.

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

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

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).

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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.

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SECTION 233 OF THE FOREIGN ASSISTANCE ACT OF 1961

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.

SECTION 2 OF THE EXPORT-IMPORT BANK ACT OF 1945

SEC. 2. (a) * * *

(b)(1) * * *

* * * * * * *

(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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INTERNAL REVENUE CODE OF 1986

Subtitle A—Income Taxes

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CHAPTER 1—NORMAL TAXES AND SURTAXES

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Subchapter B—Computation of Taxable Income

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PART VI—ITEMIZED DEDUCTIONS FOR INDIVIDUALS AND CORPORATIONS

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SEC. 170. CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.

(a) * * *

* * * * * * *

(f) DISALLOWANCE OF DEDUCTION IN CERTAIN CASES AND SPECIAL RULES.—

(1) * * *

* * * * * * *

(10) SPLIT-DOLLAR LIFE INSURANCE, ANNUITY, AND ENDOWMENT CONTRACTS.—

(A) IN GENERAL.—Nothing in this section or in section 545(b)(2), 556(b)(2), 642(c), 2055, 2106(a)(2), or 2522 shall be construed to allow a deduction, and no deduction shall be allowed, for any transfer to or for the use of an organization described in subsection (c) if in connection with such transfer—

(i) the organization directly or indirectly pays, or has previously paid, any premium on any personal benefit contract with respect to the transferor, or

(ii) there is an understanding or expectation that any person will directly or indirectly pay any premium on any personal benefit contract with respect to the transferor.

(B) PERSONAL BENEFIT CONTRACT.—For purposes of subparagraph (A), the term "personal benefit contract" means, with respect to the transferor, any life insurance, annuity, or endowment contract if any direct or indirect beneficiary under such contract is the transferor, any member of the transferor's family, or any other person (other than an organization described in subsection (c)) designated by the transferor.

(C) APPLICATION TO CHARITABLE REMAINDER TRUSTS.—In the case of a transfer to a trust referred to in subparagraph (E), references in subparagraphs (A) and (F) to an organization described in subsection (c) shall be treated as a reference to such trust.

(D) EXCEPTION FOR CERTAIN ANNUITY CONTRACTS.—If, in connection with a transfer to or for the use of an organization described in subsection (c), such organization incurs an obligation to pay a charitable gift annuity (as defined in section 501(m)) and such organization purchases any annuity contract to fund such obligation, persons receiving payments under the charitable gift annuity shall not be treated for purposes of subparagraph (B) as indirect beneficiaries under such contract if—

(i) such organization possesses all of the incidents of ownership under such contract,

(ii) such organization is entitled to all the payments under such contract, and

(iii) the timing and amount of payments under such contract are substantially the same as the timing and amount of payments to each such person under such obligation (as such obligation is in effect at the time of such transfer).

(E) EXCEPTION FOR CERTAIN CONTRACTS HELD BY CHARITABLE REMAINDER TRUSTS.—A person shall not be treated for purposes of subparagraph (B) as an indirect beneficiary under any life insurance, annuity, or endowment contract held by a charitable remainder annuity trust or a charitable remainder unitrust (as defined in section 664(d)) solely by reason of being entitled to any payment referred to in paragraph (1)(A) or (2)(A) of section 664(d) if—

(i) such trust possesses all of the incidents of ownership under such contract, and

(ii) such trust is entitled to all the payments under such contract.

(F) EXCISE TAX ON PREMIUMS PAID.—

(i) IN GENERAL.—There is hereby imposed on any organization described in subsection (c) an excise tax equal to the premiums paid by such organization on

any life insurance, annuity, or endowment contract if the payment of premiums on such contract is in connection with a transfer for which a deduction is not allowable under subparagraph (A), determined without regard to when such transfer is made.

(ii) PAYMENTS BY OTHER PERSONS.—For purposes of clause (i), payments made by any other person pursuant to an understanding or expectation referred to in subparagraph (A) shall be treated as made by the organization.

(iii) REPORTING.—Any organization on which tax is imposed by clause (i) with respect to any premium shall file an annual return which includes—

(I) the amount of such premiums paid during the year and the name and TIN of each beneficiary under the contract to which the premium relates, and

(II) such other information as the Secretary may require.

The penalties applicable to returns required under section 6033 shall apply to returns required under this clause. Returns required under this clause shall be furnished at such time and in such manner as the Secretary shall by forms or regulations require.

(iv) CERTAIN RULES TO APPLY.—The tax imposed by this subparagraph shall be treated as imposed by chapter 42 for purposes of this title other than subchapter B of chapter 42.

(G) SPECIAL RULE WHERE STATE REQUIRES SPECIFICATION OF CHARITABLE GIFT ANNUITANT IN CONTRACT.—In the case of an obligation to pay a charitable gift annuity referred to in subparagraph (D) which is entered into under the laws of a State which requires, in order for the charitable gift annuity to be exempt from insurance regulation by such State, that each beneficiary under the charitable gift annuity be named as a beneficiary under an annuity contract issued by an insurance company authorized to transact business in such State, the requirements of clauses (i) and (ii) of subparagraph (D) shall be treated as met if—

(i) such State law requirement was in effect on February 8, 1999,

(ii) each such beneficiary under the charitable gift annuity is a bona fide resident of such State at the time the obligation to pay a charitable gift annuity is entered into, and

(iii) the only persons entitled to payments under such contract are persons entitled to payments as beneficiaries under such obligation on the date such obligation is entered into.

(H) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph, including regulations to prevent the avoidance of such purposes.

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Subchapter E—Accounting Periods and Methods of Accounting

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PART II—METHODS OF ACCOUNTING

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Subpart A—Methods of Accounting in General

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SEC. 448. LIMITATION ON USE OF CASH METHOD OF ACCOUNTING.

(a) * * *

* * * * * * *

(d) DEFINITION AND SPECIAL RULES.—For purposes of this section—

(1) * * *

* * * * * * *

(5) SPECIAL RULE FOR *CERTAIN PERSONAL* SERVICES.—In the case of any person using an accrual method of accounting with respect to amounts to be received for the performance of services by such person *in fields described in paragraph (2)(A)*, such person shall not be required to accrue any portion of such amounts which (on the basis of experience) will not be collected. This paragraph shall not apply to any amount if interest is required to be paid on such amount or there is any penalty for failure to timely pay such amount.

* * * * * * *