United States Government Accountability Office

Report to Congressional Requesters

August 2015

AFRICAN GROWTH AND OPPORTUNITY ACT

Insights from Other Countries' Preference Programs and Participation in Trade Negotiations

GAO-15-701

GAO Highlights

Highlights of GAO-15-701, a report to congressional requesters

Why GAO Did This Study

AGOA was signed into law in 2000 to offer SSA countries trade preferences that stimulate export-led economic growth and facilitate their integration into the global economy. This legislation was recently reauthorized, and the accompanying Senate report stated that the United States should seek all opportunities to deepen and expand its ties with SSA countries through accession by SSA countries to the WTO and negotiation of bilateral trade agreements. GAO was asked to identify lessons learned from other countries' trade preference programs and SSA countries' recent trade negotiation experiences.

This report (1) compares AGOA with selected countries' trade preference programs in terms of key characteristics and performance, and (2) examines AGOA countries' participation in trade negotiations. GAO reviewed and analyzed documents and data, including information from the WTO to determine what portion of the imports from AGOA countries to major trade partners could enter under preference programs. GAO also interviewed officials from U.S. government agencies, African and other foreign governments, and international organizations. GAO selected countries and regions for comparison that are major export markets for sub-Saharan Africa, including the EU, China, India, and Japan.

What GAO Recommends

GAO is not making any recommendations in this report. Agencies' technical comments on GAO's draft were incorporated into this report.

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August 2015

AFRICAN GROWTH AND OPPORTUNITY ACT

Insights from Other Countries' Preference Programs and Participation in Trade Negotiations

What GAO Found

The United States' African Growth and Opportunity Act (AGOA) has differences from and similarities to 26 trade preference programs offered by other developed and developing countries in three key areas that can affect program performance in increasing and diversifying trade.

- *Country eligibility.* AGOA is unique in that it focuses eligibility on sub-Saharan African (SSA) countries. Most other countries' trade preference programs do not restrict eligibility to SSA countries.
- *Product coverage.* AGOA and some other countries' trade preference programs provide fairly comprehensive coverage of products, but exclude some agricultural and other products that are important SSA exports.
- *Rules of origin.* Like other countries' trade preference programs, AGOA has rules of origin that determine which products qualify for coverage. Some countries, including the United States have recently made their rules of origin less restrictive, to make it easier for beneficiary countries to take greater advantage of these programs.

In 2014, the United States International Trade Commission reviewed studies comparing the performance of trade preference programs and found that the European Union's (EU) preference programs have had overall greater success in increasing trade with Africa and that AGOA had more success in increasing diversification in the range of products exported from Africa. Research on China's and India's trade preference programs suggests that their fairly new programs could have significant impacts on SSA trade and that they are among the biggest and fastest growing markets for sub-Saharan exports.

As the United States continues to pursue expanded trade and a more two-way trade relationship with African partners at the World Trade Organization (WTO) and elsewhere; SSA countries' recent participation in bilateral and multilateral trade negotiations provides insights that can inform future U.S. negotiations. For example, years of bilateral negotiations between SSA countries and the EU have recently resulted in Economic Partnership Agreements with 32 SSA countries. Trade experts and SSA and EU officials GAO spoke with provided information about these negotiations that indicates that transitioning from non-reciprocal trade preference programs, such as AGOA, to two-way trade agreements like the Economic Partnership Agreements with SSA countries may require:

- many years to finalize and implement,
- the establishment of timeframes to end access to trade preference programs,
- a willingness to consider limiting the initial scope of the agreements, and
- an acknowledgment that aspects of the agreements may have tradeoffs and could constrain SSA countries' ability to integrate into the global economy.

The involvement of SSA countries in recent multilateral negotiations at the WTO also yields important insights for U.S. agencies when negotiating with these countries. SSA and WTO officials told GAO that several Impediments, such as inadequate funding and staffing, can hamper SSA countries' ability to participate fully in multilateral negotiations. However, recent bilateral and multinational funded training and other efforts have helped expand SSA country participation at the WTO.

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Abbreviations:

AGOA	African Growth and Opportunity Act
AGOA country	country eligible for AGOA benefits
ASEAN	Association of Southeast Asian Nations
CARICOM	Caribbean Community
DFQF	duty-free and quota-free
DRC	Democratic Republic of the Congo
EAC	Eastern African Community
EBA	Everything but Arms
EPA	Economic Partnership Agreement
EU	European Union
FOB	free on board
FTA	free trade agreement
GATT	General Agreement on Tariffs and Trade
GNI	gross national income
GSP	Generalized System of Preferences
IDB	Integrated Data Base
LDC	least developed country
LDC program	LDC-specific program
LDCT	Least Developed Country Tariff
Mercosur	Common Market of the South
MFN	most favored nation
NGO	nongovernmental organization
SAARC	South Asian Association for Regional Cooperation
SACU	Southern African Customs Union Southern African Customs Union
SADC	Southern African Development Community
SSA	sub-Saharan Africa
UNCTAD	United Nations Conference on Trade and Development
USAID	U.S. Agency for International Development
USITC	U.S. International Trade Commission
UN	United Nations
USTR	Office of the U.S. Trade Representative
WAEMU	West African Economic and Monetary Union
WTO	World Trade Organization

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Congressional Requesters

The African Growth and Opportunity Act (AGOA) was signed into law in 2000 to help promote free markets in sub-Saharan African (SSA) countries, stimulate economic development through export-led growth, and facilitate SSA countries' integration into the global economy.[1] AGOA is a trade preference program that seeks to promote these goals by offering eligible SSA countries the ability to export qualifying goods to the United States without import duties. As of January 1, 2015, 39 countries were eligible for AGOA benefits (AGOA countries). Congress recently extended the authorities enacted in AGOA until September 30, 2025.[2] Both AGOA and the reauthorization legislation emphasize that it is U.S. policy to seek to deepen and expand trade and investment ties between sub-Saharan Africa and the United States through the negotiation of free trade agreements, among other things. Such agreements have the potential to catalyze greater trade and investment, facilitate additional investment in sub-Saharan Africa, further poverty reduction efforts, and promote economic growth.

We were asked to examine a range of issues relating to AGOA's effectiveness in promoting trade expansion and economic development, and factors that affect SSA trade with the United States and other countries. We previously addressed several of these issues, such as trade-offs associated with changing AGOA according to proposals by the President, in recent reports.[3] In this report, we examine (1) how selected

[1]Pub. L. No. 106-200, Title I, § 101, May 18, 2000, as amended; codified at 19 U.S.C. § 3701 et seq.

[2]Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, June 29, 2015.

[3]GAO, *African Growth and Opportunity Act: Lessons Learned from Other Countries' Trade Arrangements with Sub-Saharan Africa*, GAO-15-393R (Washington, D.C.: Feb. 25, 2015); *African Growth and Opportunity Act: Eligibility Process and Economic Development in Sub-Saharan Africa*, GAO-15-300 (Washington, D.C.: Feb. 12, 2015); *African Growth and Opportunity Act: USAID Could Enhance Utilization by Working with More Countries to Develop Export Strategies,* GAO-15-218 (Washington, D.C.: Jan. 22, 2015); and *African Growth and Opportunity Act: Observations on Competitiveness and Diversification of U.S. Imports from Beneficiary Countries*, GAO-14-722R (Washington, D.C.: July 21, 2014).

countries' trade preference programs compare with AGOA in terms of key characteristics and performance, and (2) AGOA countries' participation in trade negotiations.

To address these objectives, we identified and reviewed documents, data, and literature on AGOA and other countries' trade preference programs, trade agreements with AGOA countries, and SSA countries' participation in multilateral trade negotiations. In addition, we interviewed officials from the Departments of Agriculture, Commerce, State, and the Treasury; the Office of the U.S. Trade Representative (USTR); the U.S. International Trade Commission (USITC); and the U.S. Agency for International Development (USAID). We conducted fieldwork in Geneva, Switzerland, and Brussels, Belgium. We selected those locations for fieldwork based on our ability to interview multiple U.S. and African government officials,[4] government officials from countries with trade preference programs,[5] and representatives from think tanks and multilateral organizations with pertinent expertise. We selected countries and regions for comparison that are major export markets for sub-Saharan Africa including the European Union (EU), China, and India. We identified three key characteristics for comparison on the basis of studies of preference programs that generally show that these characteristics can affect program performance in increasing and diversifying trade and increasing program utilization. However, we did not independently assess the other countries' trade preference programs and agreements with SSA countries. The information on those programs and agreements is based on interviews and World Trade Organization (WTO) and other official sources, including a 2014 USITC study of AGOA that includes a comprehensive review of economic literature on trade preference program performance. Insights discussed herein reflect our analysis of the views of those we interviewed as well as those of selected academic literature. See appendix I for a more detailed discussion of our scope and methodology.

[4]We interviewed African government officials from Ethiopia, Lesotho, Mauritius, Nigeria, South Africa, and Uganda—countries we selected because they represent a range of sizes, face a range of trade challenges, and actively use AGOA benefits.

[5]We interviewed government officials from Australia, Brazil, Canada, China, and the European Union (EU)—countries and regions we selected based on the amount of trade they conducted with SSA countries.

We conducted this performance audit from June 2014 to August 2015 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Background

Trade Preference Programs

Trade preference programs were instituted by several advanced economies in the 1970s as temporary measures to help developing countries pursue economic growth and development by increasing exports and diversifying their economies. Trade preferences, which reduce tariffs, or duties, for many products from eligible countries, are "nonreciprocal"—i.e., granted unilaterally, without requiring reciprocal liberalization for U.S. goods for countries receiving them. In 1968, the United States supported a United Nations (UN) resolution to establish a mutually acceptable system of preferences. To permit the implementation of the generalized preferences, in June 1971, developed countries, including the United States, were granted a 10-year waiver from their obligations under the global trading system, now embodied in the WTO, to trade on a most favored nation (MFN) basis.[6] Following the granting of this waiver, developed countries created Generalized System of Preferences (GSP) programs, and Congress enacted the U.S. GSP program in January 1975. At the 1979 conclusion of the Tokyo Round of Multilateral Trade Negotiations, an agreement with no expiration date (known as the Enabling Clause) replaced the waiver. As they developed economically, beneficiary countries were to eventually move on from unilateral preferences and participate more fully in the global trade system, including by undertaking reciprocal trade commitments to liberalize their own markets. Under U.S. law, the AGOA program is linked to the GSP program in several important ways. For example, some of the authorities and limitations on what products can be included in the

[6]MFN trade is a long-standing principle and a requirement on WTO members promulgated in Article I of the General Agreement on Tariffs and Trade (GATT). The article provides that contracting parties to GATT must grant each other treatment as favorable as they give to any other country in the application and administration of import duties.

program are based on or relate to GSP, and country eligibility for AGOA involves first being eligible for GSP. But at the WTO, because the Enabling Clause applies to preference regimes that are “generalized, non-reciprocal, and non-discriminatory,” a separate U.S. waiver was sought for AGOA, as well as other regional preference programs.[7]

Despite relatively rapid economic growth in developing countries, developed countries have reformed and extended their programs and the number of preference programs has grown. The WTO’s *2014 World Trade Report* shows that, over the 2000-2012 period, developing countries grew faster than developed countries, and now account for nearly half of world exports. Since 2010, Japan, the EU, and Canada have reformed and extended most of their preference programs. Congress recently passed legislation to extend AGOA and other U.S. preference programs by 10 years. Developed countries had already added more generous preferences for least developed countries (LDC) to their GSP programs by the mid-2000s, and some key developing countries have since introduced new trade preferences targeted at LDCs, including some in sub-Saharan Africa. For example, both China and India have established LDC programs in the last decade. These programs are part of broader strategies to strengthen commercial ties, according to Chinese government and international organization documents.[8]

According to the WTO, there are now a total of 27 preferential trade programs.[9] They can be categorized into three types:

[7]See WTO, the *Decision on Differential and More Favourable Treatment Reciprocity and Fuller Participation of Developing Countries*, Nov. 28, 1979, GATT Doc. L/4903, known as the Enabling Clause, paras. 3(a) and (b).

[8]For a discussion of these strategies and efforts see, for example, GAO, *Sub-Saharan Africa: Trends in U.S. and Chinese Economic Engagement,* GAO-13-199 (Washington, D.C.: Feb. 7, 2013); *White Paper on China-Africa Economic and Trade Cooperation 2013,* English version accessed June 29, 2015, http://english.gov.cn/archive/white_paper/2014/08/23/content_281474982986536.htm; WTO and the Confederation of Indian Industry, *India-Africa: South-South Trade and Investment for Development*, 2013; and International Trade Centre, *SITA Newsletter: Supporting Indian Trade and Investment for Africa*, (March 2015), accessed June 29, 2015, http://www.intracen.org/sita/.

[9]Although the WTO Preferential Trade Arrangements database uses the term arrangements, we refer to the arrangements as programs for the purposes of this report.

- *GSP programs*, which were put in place by developed countries to help all developing countries. Developed countries' GSP programs also include subprograms, GSP-LDC, that offer least developed countries more generous preferences than the other GSP beneficiaries.
- *LDC-specific programs* (LDC programs), which were put in place by developing countries to help least-developed countries.
- *Other preferential trade arrangements*, which are offered by developed countries and focus on a particular country or subset of developing countries within a particular region.

Seventeen countries or groups of countries, such as the EU and the Russian Federation, have GSP or LDC programs not restricted to a region.[10] Table 1 lists the 27 preferential trade programs by type, provider, and date of initial entry into force.

Table 1: World Trade Organization (WTO) List of Preferential Trade Programs, by Type

Name	Provider(s)	Date of initial entry into force
Generalized System of Preferences (GSP)		
Generalized System of Preferences - Australia	Australia	1/1/1974
Generalized System of Preferences - Canada	Canada	7/1/1974
Generalized System of Preferences - European Union	European Union	7/1/1971
Generalized System of Preferences - Iceland	Iceland	1/29/2002
Generalized System of Preferences - Japan	Japan	8/1/1971
Generalized System of Preferences - New Zealand	New Zealand	1/1/1972
Generalized System of Preferences - Norway	Norway	10/1/1971
Generalized System of Preferences - Russian Federation, Belarus, Kazakhstan	Russian Federation, Belarus, Kazakhstan	1/1/2010
Generalized System of Preferences - Switzerland	Switzerland	3/1/1972
Generalized System of Preferences - Turkey	Turkey	1/1/2002
Generalized System of Preferences - United States	United States	1/1/1976

[10]The WTO Preferential Trade Arrangements database compiles information that is required from WTO members about their nonreciprocal trade preference program. WTO Preferential Trade Arrangements database, accessed June 23, 2015, http://ptadb.wto.org/?lang=1. It does not include the EU's Cotonou arrangement preferences for the Africa, Caribbean, and Pacific region because they are no longer available.

Name	Provider(s)	Date of initial entry into force
Least Developed Country (LDC)-Specific		
Duty-Free Tariff Preference Scheme for LDCs	India	8/13/2008
Duty-free treatment for African LDCs - Morocco	Morocco	1/1/2001
Duty-free treatment for LDCs - Chile	Chile	2/28/2014
Duty-free treatment for LDCs - China	China	7/1/2010
Duty-free treatment for LDCs - Chinese Taipei	Taipei, Chinese	12/17/2003
Duty-free treatment for LDCs - Kyrgyz Republic	Kyrgyz Republic	3/29/2006
Preferential Tariff for LDCs - Republic of Korea	Korea, Republic of	1/1/2000
Other Preferential Trade Arrangement (PTA)		
African Growth and Opportunity Act	United States	5/18/2000
Andean Trade Preference Act	United States	12/4/1991
Caribbean Basin Economic Recovery Act	United States	1/1/1984
Commonwealth Caribbean Countries Tariff	Canada	6/15/1986
Former Trust Territory of the Pacific Islands	United States	9/8/1948
South Pacific Regional Trade and Economic Cooperation Agreement	Australia, New Zealand	1/1/1981
Trade preferences for countries of the Western Balkans	European Union	12/1/2000
Trade preferences for Pakistan	European Union	11/15/2012
Trade preferences for the Republic of Moldova	European Union	1/21/2008

Source: World Trade Organization database of preferential trade arrangements. | GAO-15-701

Factors That Can Affect Trade Preference Program Performance

Various factors can affect the performance of a trade preference program. These factors can be either (1) internal to the program, being key characteristics of the program itself, or (2) external to the program, being specific to the country or region in which the program is operating.

Trade Preference Program-Specific Characteristics

Key program characteristics that can affect trade preference programs' performance include the following:

- *country eligibility*, or the ability of a country to qualify for participation in the program;
- *product coverage*, which delineates products that may receive tariff preferences;
- *rules of origin*, which ensure that benefits of a preference program accrue to intended recipients by specifying a proportion of an imported product's value that must be produced in the preference beneficiary country.

The nature of these characteristics directly conditions whether developing country exporters can utilize trade preference program benefits.

Country-Specific Factors

Trade experts also note that there are a range of factors external to trade preference programs and intrinsic to each recipient country that can also affect trade preference program performance. These include

- *infrastructure*—whether the country has adequate transportation, communication, and energy networks available to producers and exporters;
- *governance*, or the legal, regulatory and policy environment conducive to promoting market activity and international trade;
- *regional integration*—a country's ability to engage in commerce and production with neighboring countries to facilitate supply chains and movement of goods to market; and
- *access to finance* to support investment and production.

Success in improving on these development-related factors within preference beneficiary countries can make them more ready to meet the challenges and access the benefits of global integration. U.S. agencies provided over $5 billion in the 2001-2013 period to bolster AGOA countries' capacity to engage in and benefit from trade.

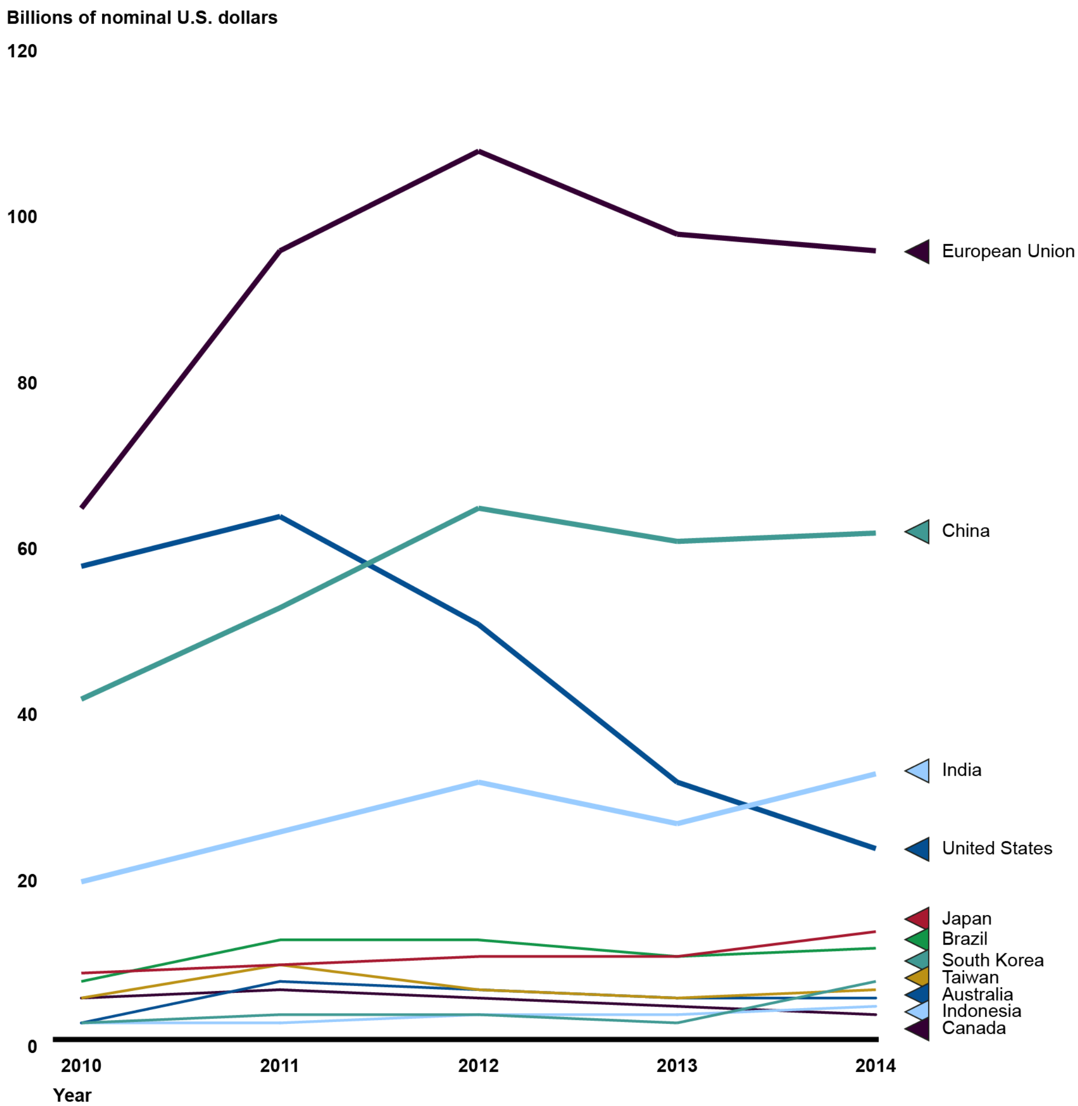
Other factors are also important drivers of trade between particular partners. Notably, trade experts have stated that factors such as the relative size of each country's economy, respective rates of economic growth, geographic proximity, and cultural and historic ties between countries affect trade levels and are—in some cases—at least as important as program characteristics.

Major Export Markets for AGOA Countries

The United States is one of the major markets for AGOA countries' exports, but its rank among SSA's export markets has declined as those of China and India have risen. Figure 1 shows the total amount of exports from AGOA countries to their major trading partners from 2010 to 2014. While the total dollar value of exports to many of the AGOA countries' major trading partners decreased in 2013, in part because of falling commodity prices, the EU remained by far the largest market for AGOA country exports. AGOA country exports to the United States fell significantly after 2011 while AGOA country exports to China and India grew. As a result, by 2014, both China and India outranked the United States as AGOA country export markets. Other major export markets for

AGOA countries include Brazil, Japan, South Korea, Australia, and Canada.

Figure 1: Exports from AGOA Countries to Major Importing Countries or Regions, 2010-2014



AGOA African Growth and Opportunity Act

Source: GAO analysis of Trade Map data. | GAO-15-701

Note: Nominal U.S. dollar values are not adjusted for inflation.

AGOA Has Differences from and Similarities to Other Countries' Trade Preference Programs and Differences Have Affected Program Performance

AGOA has several notable differences from and similarities to other countries' nonreciprocal trade preference programs, including programs in Canada, China, the EU, and India. (See app. II for a comparison of key characteristics of selected trade preference programs by country.) Available studies of AGOA and the EU's preference programs suggest that these differences have affected program performance in terms of creating new trade flows (trade creation), increasing the range of products that are traded (diversification), and program utilization.

Country Eligibility for AGOA Differs from That of Others' Programs in Its Focus on Sub-Saharan Africa, Its Income Eligibility Thresholds, and Other Requirements for Participation

AGOA's country eligibility requirements are unique among those of other countries' preference programs, in terms of geographic focus, income eligibility thresholds, and other policy and procedural requirements. Therefore, some countries that are eligible for AGOA are not eligible for other developed countries' programs, whereas some countries deemed ineligible for AGOA receive preferences in China and India. (App. III shows the eligibility of SSA countries for selected trade preference programs by country.)

Geographic Focus

Unlike most trade preference programs offered by other countries, AGOA restricts eligibility for participation to SSA countries. Of the 27 preferential trade arrangements in existence, 10 are specific to a region or country. The remaining 17 trade preference programs are not restricted to a region.[11] Of the 10 regionally focused programs, only 2, AGOA and Morocco's duty-free treatment for African LDCs, are specific to sub-Saharan Africa; the other 8 provide preferential benefits to other regions or countries.[12] Table 2 compares the total number of countries and total number of SSA countries eligible for AGOA and selected GSP-LDC and

[11]For the purposes of this report, we focused our comparisons on various countries' preference programs primarily based on information contained in the WTO Preferential Trade Arrangements database. For additional information, see app. I.

[12]Morocco's preferential tariff treatment for African LDCs was initiated in 2001. Morocco canceled all debt of African LDCs owed to Morocco and provided full exemption from import duties for 33 SSA LDCs on 61 select products including non-roasted coffee, cocoa, and cotton.

LDC trade preference programs. The United States' AGOA, followed by the GSP-LDC program in several developed countries, serve the most SSA countries.

Table 2: Number of Countries Eligible for Select Trade Preference Programs

	United States	United States	Australia	Canada	China	EU	India	Japan	South Korea	Morocco	Russian Federation
Trade preference program	AGOA	GSP-LDC	GSP-LDC	GSP-LDC	LDC	EBA	LDC	GSP-LDC	LDC	African LDC Duty-Free	GSP-LDC
Number of beneficiaries	39	43	50	48	40	49	27	48	48	33	49
Number of eligible SSA countries	39	33	33	33	30	33	21	33	33	33	33

Legend: AGOA = African Growth and Opportunity Act; GSP = Generalized System of Preferences; LDC = least-developed country; EBA = Everything but Arms; EU = European Union; SSA = sub-Saharan African

Source: United Nations and World Trade Organization data. I GAO-15-701

Note: GAO accessed the WTO database of preferential trade arrangements in June 2015, which includes the most recent numbers reported by each country to the WTO.

Income Eligibility Thresholds

The income threshold for a country to be eligible for AGOA is less restrictive than the threshold for other developed countries' trade preference programs based on income classifications determined by the World Bank and the United Nations. Countries may be eligible for AGOA (or the U.S. GSP) unless they are classified by the World Bank as high-income countries.[13] In addition, to determine whether to designate an eligible country as a beneficiary country, the President also considers the economic development, per capita gross national product, living standards, and other economic factors deemed appropriate. AGOA coverage ranges from the poorest countries to those that are more economically advanced and is not limited to only LDCs.[14]

[13]For fiscal year 2015, the World Bank defines high-income countries as those countries with a gross national income (GNI) per capita of $12,746 or more. Upper-middle-income countries are those with a GNI per capita of $4,126 to $12,745. The World Bank uses GNI because it is considered a useful and easily available indicator that is closely correlated with other, nonmonetary measures of the quality of life.

[14]Countries must be GSP-eligible to receive AGOA's trade benefits. However, GSP eligibility does not imply AGOA eligibility. Because of GSP eligibility requirements, AGOA beneficiary countries that reach high-income status become ineligible, but a 1 to 2-year transition period is provided to the recipient.

Some developed countries, such as those in the EU and Canada, base eligibility for their GSP programs on more restrictive income thresholds than AGOA. Previously, both the EU and Canada considered countries classified as "upper-middle-income" by the World Bank as eligible for their programs. However, after revising the programs, both the EU and Canada began to graduate from their programs upper-middle-income countries classified as such for at least 3 years for the EU and 2 years for Canada.[15] For example, Gabon, Mauritius, and South Africa are eligible for benefits under AGOA but are no longer eligible for benefits or have graduated under the EU and Canadian GSP programs.

All of the developing countries' programs also have more restrictive income eligibility thresholds than AGOA, as they focus exclusively on LDCs. Notably, China and India, two of Africa's most rapidly growing export markets in Asia, have both put in place preference programs for LDCs, with many African nations among the beneficiaries.[16] According to the WTO, India was the first developing country to offer a preference scheme for LDCs. China's preference scheme entered into force in July 2010 and is open to 40 LDCs, of which 30 are SSA countries.

Procedural and Policy Requirements

AGOA and other countries' preference programs have some differences in their procedural and policy requirements for determining country eligibility. For AGOA, an annual review is used to decide whether a country remains eligible for AGOA benefits by determining whether the country has met certain criteria. Among other things, these criteria include having established, or made continual progress toward establishing:

- A market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets.
- The rule of law, political pluralism, and the right to due process, a fair trial, and equal protection under the law.
- Protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a

[15]The income classifications for the EU and Canada are as defined by the World Bank.

[16]The UN classifies a total of 48 countries as LDCs; 34 of these 48 countries are in Africa.

prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

- Economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, promote the development of private enterprise, and encourage the formation of capital markets through micro-credit or other programs.[17]

Several countries, including the Central African Republic, Eritrea, and South Sudan, have lost eligibility to participate in AGOA as a result of this annual review. For more information, see our recently issued report assessing the AGOA eligibility determination process.[18]

Because the programs of other countries, such as China and India, have procedural and policy requirements that differ from those of AGOA,[19] some countries that are ineligible for AGOA are eligible under India's and China's preference programs. For example:

- Eritrea, the Gambia, Somalia, and Sudan are eligible for India's preferences, but currently ineligible for AGOA. Eritrea and the Gambia lost AGOA eligibility because of human rights abuses in 2004 and 2015, respectively. Somalia and Sudan have not been eligible for AGOA and, according to U.S. agency officials, have not expressed an interest in the program. A recent analysis of pre-versus-post-program trends in India's trade indicates that these partners' exports to India grew faster than global exports in certain preference products (such as leather hides and skins for Eritrea and Somalia).
- Central African Republic, Democratic Republic of the Congo (DRC), Eritrea, and Sudan are eligible for China's preference program, but are currently ineligible for AGOA. Central African Republic lost AGOA eligibility in 2004 following a coup, and the DRC lost AGOA eligibility in 2011 because of human rights concerns. UN data indicate that

[17] 19 U.S.C. § 3703(a)(1).

[18] GAO-15-300.

[19] According to Chinese government documents, China's preferences are extended to all least-developed SSA countries with which China has diplomatic relations. To gain eligibility into India's preference scheme, individual LDC members must submit a letter of intent to the Government of India.

China's trade with these partners ranged from $29.3 million for Central African Republic to $2.8 billion for the DRC and $5.9 billion for Sudan (North and South) in 2014.

AGOA and Other Countries' Programs Offer Fairly Comprehensive Duty-Free Coverage of Products, But Exclude Some Important SSA Exports

The United States, Canada, the EU, and Japan's preference programs provide comprehensive duty-free coverage for almost all products that enter their country or region from eligible LDC beneficiaries, including most SSA countries. However, for SSA countries that are not considered LDCs, product coverage is less comprehensive. Key developing countries, notably China and India, have taken steps to offer more comprehensive product coverage under their preference schemes than before. However, the United States, the EU, Japan, and others continue to exclude products considered important to SSA countries, such as certain agricultural goods as well as some textiles and apparel.

Comprehensive Coverage

WTO and our analysis indicates that AGOA countries have comprehensive preferential access under existing preference schemes, and that AGOA's coverage compares favorably with that of developed and developing country schemes. Developed country preference programs, including AGOA, the EU's EBA, Canada's GSP-LDC, and Japan's GSP-LDC, provide duty-free coverage of more than 97 percent of tariff lines (which signify specific products) for LDC beneficiaries. A recent comparative analysis prepared by the WTO Secretariat indicates that, at 97.5 percent, AGOA's product coverage for LDCs compares favorably with the United States' GSP-LDC program as well as with other developed countries' LDC programs. [20] For example, the United States' GSP-LDC program covers 82.6 percent of tariff lines, while Japan's GSP-LDC program covers 97.9 percent, Canada's 98.6 percent, and the EU's EBA program 99.0 percent.

Several AGOA countries, such as Ghana and Kenya, are not LDCs, and thus qualify only for regular GSP in other developed countries' programs, which are less generous in terms of product coverage than GSP-LDC programs. For example,

- Canada's regular GSP provides duty-free treatment for 492 tariff lines versus the 2,426 lines included under its GSP-LDC program.

[20] In June 2015, the U.S. GSP program was renewed through 2017.

- The EU's regular GSP provides duty-free treatment for 2,994 lines versus the 6,932 lines under its LDC-oriented EBA.

Generally, the product coverage of China and India's programs is less than that of developed country programs, but expanding. For example, in 2010, China informed the WTO that its market access scheme to eliminate tariffs had expanded to cover 60 percent of tariff lines and in 2013 released an official statement indicating that all 30 LDCs in Africa with diplomatic ties to China would have a zero-tariff treatment covering this 60 percent, or 4,762 items. China also stated plans to further open its market to LDCs by expanding coverage to 97 percent of all tariff lines, by the end of 2015. India's initial scheme, until its revision in April 2014, phased in duty-free access to 85 percent of its tariff lines over a 5-year period beginning in 2008 and ending in October 2012.[21] It also offered reduced duties on 9 percent of its tariff lines. Furthermore, according to a WTO report, many developing countries such as China and India charge higher tariffs on imports than more developed countries. This practice makes the margin of preference available to beneficiaries under their preference programs high (as discussed in app. IV), which can translate into significant impact in terms of economic and trade growth.[22]

We conducted an analysis of trade-weighted preference program coverage in six of the leading AGOA markets based on the latest data available, for 2012—which showed that, with the exception of those of Australia, about 90 percent or more of AGOA countries' exports in terms

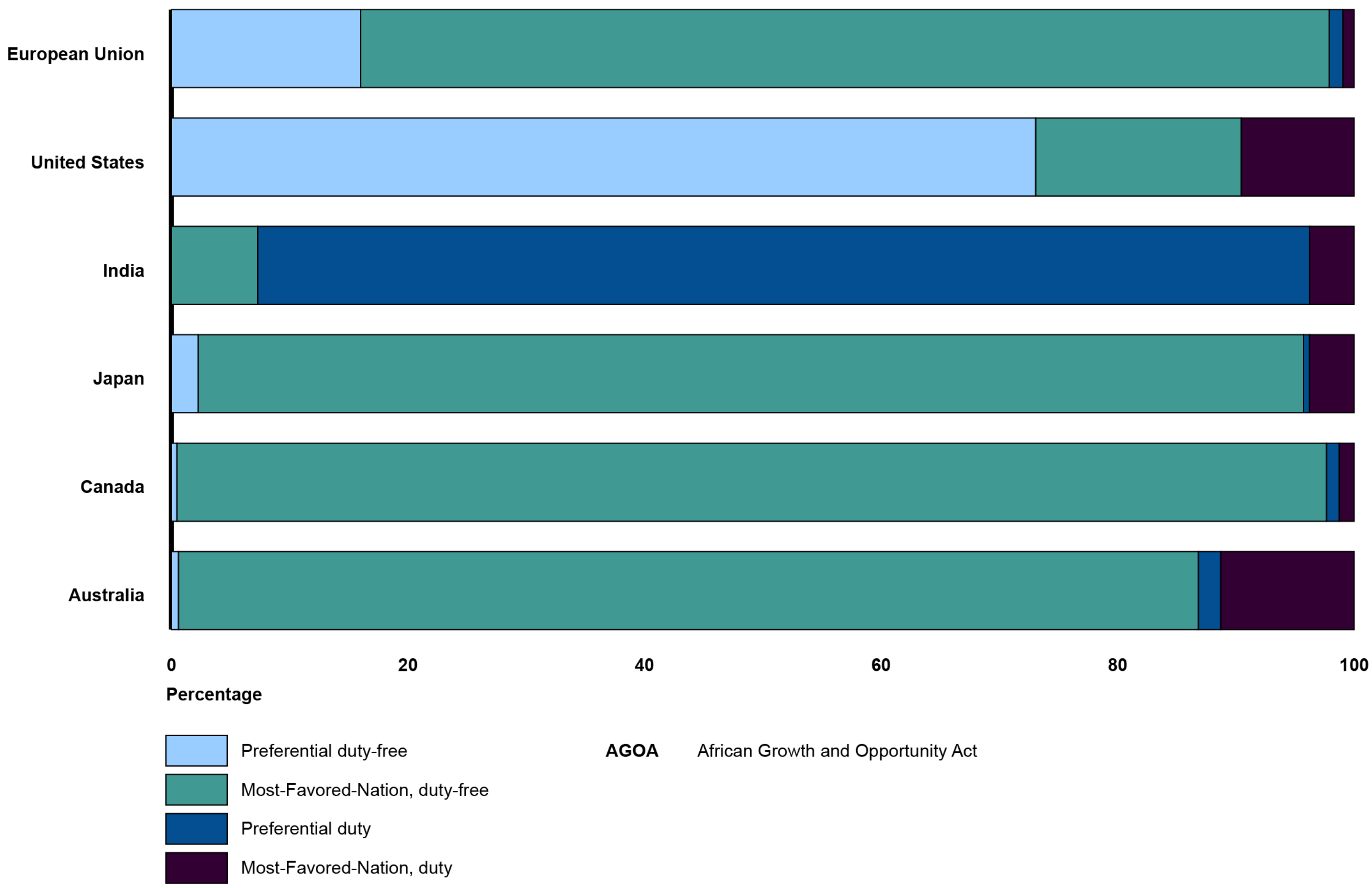
[21]Specifically, items eligible for duty-free treatment under India's scheme had a 20 percent reduction in duties in the first year, a 40 percent reduction in the second year, a 60 percent reduction in the third year, an 80 percent reduction in the fourth year, and a 100 percent reduction in the fifth year.

[22]For example, two empirical studies of the potential impact of offering duty-free, quota-free coverage project that gains for LDCs, particularly in Africa, increase significantly if Brazil, China, and India provide 100 percent duty-free access. For example, in 2009 David Vanzetti and Ralf Peters estimated that OECD liberalization would increase LDC exports by $4.1 billion, but there are additional gains of $1.9 billion when Brazil, China, and India also provide duty-free access (see David Vanzetti and Ralf Peters, "Duty-free and quota-free market access for LDCs," presented at the 53rd AARES Annual Conference, Cairns Queensland, 11-13, February 2009, http://ageconsearch.umn.edu/bitstream/47646/2/Vanzetti.Peters.pdf). The two studies are summarized in National Council of Applied Economic Research (2014*); A Simulation Analysis of India's Duty-Free Trade Preference Scheme: A focus on African LDCs*; Issue Paper No. 34; International Centre for Trade and Sustainable Development, Geneva, Switzerland, 5, which reports on more recent modelling that finds African LDCs would see gains from further liberalization of India's preference scheme.

of value qualified for duty-free treatment or reduced duties under the selected preference programs (see fig. 2). The analysis assumes that all products that are eligible for duty-free treatment are duty-free, and thus represents trade-weighted product coverage. With respect to India, a sizeable share (89 percent) of the value of AGOA country exports were eligible for preferences, that at the time (2012) were in the form of reduced duties. India has been phasing its scheme by reducing duties; reportedly 92.5 percent of LDC exports were given preferential market access as of October 2012.[23]

[23]Vinaye Ancharaz and Paolo Ghisu, International Centre for Trade and Sustainable Development, *Deepening India's Engagement with the Least Developed Countries: An In-depth Analysis of India's Duty-free Tariff Preference Scheme*, Issue Paper 31, October 2014.

Figure 2: Trade-Weighted Preferential Tariff Coverage of AGOA Country Imports for Six Countries in 2012



Source: GAO analysis of World Trade Organization and United States International Trade Commission data. | GAO-15-701

Our finding corresponds with the key findings of an October 2014 WTO Secretariat report, which provides indicators of the global extent of duty-free product coverage for particular African countries under major available preference schemes.

Key findings of an October 2014 WTO Secretariat report

- African countries dominate the list of individual LDCs that by 2012 enjoyed duty-free treatment for 90-100 percent of the value of their non-oil, non-arms exports to developed economies.
- African nations such as Lesotho, Mozambique, Angola, Guinea Bissau, Malawi, Senegal, and Tanzania were among those LDCs that recorded increases in the share of the value of exports imported duty-free between1996 and 2012.
- While many non-African countries also saw increases, the duty-free share for some such countries in 2012 was less than that for African LDCs. For example, the duty-free share for Cambodia, Bangladesh, and Myanmar ranged between 60 and 80 percent.

Legend: WTO = World Trade Organization; LDC =Least-developed country

Source: GAO analysis of WT/COMTD/LDC/W/59. I GAO-15-701

Product Exclusions

AGOA, as well as the trade preference programs of other countries, including South Korea, Australia, and Japan, excludes some products that have high export potential and are considered important to enhancing growth in SSA beneficiaries' economies, such as certain agricultural goods. Coverage of such products is important for two reasons. First, the WTO Secretariat has noted that textiles and apparel—key LDC exports—face the highest average tariffs in developed countries. Second, many African countries rely on just a few products for the bulk of their exports, and if preference schemes exclude those products from coverage, the programs effectively provide no benefit to them.

WTO and UNCTAD analyses suggest that AGOA's coverage of agriculture products for beneficiary countries is less extensive than that of some other developed countries' programs. According to the Foreign Agricultural Service of the U.S. Department of Agriculture, 240 tariff lines are presently excluded from the U.S. GSP and AGOA and most are subject to tariff rate quotas, and, as a result, are not fully liberalized. The agricultural products excluded from AGOA include certain products within the general categories of beef, dairy, vegetables, peanuts, oilseed products, sugar and sweeteners, cocoa products, tobacco, wool, cotton, flax, and other processed agricultural products. However, the recently passed AGOA reauthorization legislation permits the President to provide duty-free access under the GSP and, by extension, for AGOA on certain previously excluded products, such as cotton for least-developed beneficiary developing countries.[24]

Several other countries' preference programs also exclude some agricultural goods that are considered important to African country economies. A WTO Secretariat report found that

- Canada excludes dairy, eggs, and poultry; and
- Japan excludes rice, sugar, fishery products, and articles of leather.[25]

Although India excludes certain exports of interest to LDCs, it covers key products that at least one trade source determined to be of immediate interest to Africa. These products include cotton, cocoa, cane sugar, ready-made garments, and fish.

AGOA's product coverage of textiles and apparel for those LDCs that qualify appears to include more items than that of some other U.S. programs. This coverage is considered a key feature that contrasts AGOA with other programs.

Rules of Origin Vary by Preference Provider, Making It Difficult for Beneficiary Countries to Use the Programs

Our analysis, along with trade reports on rules of origin, shows that each preference program has specific rules of origin requirements with varying value-added requirements and calculation methods, making it difficult for beneficiaries to comply with a given program or use multiple programs (see app. V). The WTO reports that restrictive rules of origin can nullify the value of preferences, and as a result, several countries have taken steps to make their program's requirements more flexible.

All countries offering preference programs permit products that are wholly grown or produced within a beneficiary country to receive preferences. But for products that include foreign inputs, each program country uses its own methodology to determine whether sufficient local processing was performed on non-originating material for a product to be considered "local" or originating from a beneficiary. For example, the United States

[24]Trade Preferences Extension Act of 2015, Pub. L. No. 114-27, June 29, 2015.

[25]WTO, *Market Access for Products and Services of Export Interest to Least-Developed Countries*, WT/COMTD/LDC/W/59, October 23, 2014.

requires that a product must be imported directly from an AGOA beneficiary country and that the sum of the cost or value of the materials produced in one or more AGOA beneficiary countries plus the direct costs of processing operations performed in those countries may not be less than 35 percent of the appraised value at the time it enters the United States (is imported). In contrast, according to one trade policy expert, China's rules of origin are stricter than those of AGOA because, at least 40 percent of value must be added in the exporting country, compared with the 35 percent regional value-added requirement for AGOA. In addition, China requires external inputs to undergo substantial transformation so that the resulting product would no longer enter under the same four digit code of the Harmonized System.[26]

Cumulation—permitting beneficiary countries to combine inputs from multiple sources to meet the local sourcing requirements—can ease the restrictiveness of rules of origin. Some developed countries' preference programs provide wide scope for cumulation of inputs to reach the required minimum. Others, such as Japan's, have restrictive cumulation rules. Specifically, five Southeast Asian countries are considered as a single territory for rules of origin purposes and may cumulate production under Japan's GSP, but no cumulation among the other 146 GSP participants is allowed.

Some developed countries have made efforts to make cumulation rules less restrictive. For example, the EU and Canada (1) widened the scope for cumulation of inputs to attain their required value-added threshold (in Canada's case, across GSP and GSP-LDC preference beneficiaries and, in the case of the EU, with Free Trade Agreement/EPA partners), and (2) relaxed certain product-specific rules for LDC beneficiaries. An LDC group paper submitted to the WTO Rules of Origin Committee in October 2014 indicated that reforms by Canada and the EU have resulted in increased utilization of preferences, manufacturing capacity, and numbers of highly skilled jobs in LDCs. The recently passed AGOA reauthorizing legislation also modifies cumulation rules to help increase utilization.

In the EU's case, the European Commission noted that the changes were the product of a long and extensive review process that ultimately led it to

[26]Sam Laird, International Centre for Trade and Sustainable Development, *A Review of Trade Preference Schemes for the World's Poorest Countries*, Issue Paper 25, October 2012, 35.

postpone implementation of one proposed reform: changing from a paper-based system that enables beneficiary customs authorities to issue required certificates that qualify goods for entry under the EU preference programs, to an electronic one that would require exporters to register and place more responsibility on beneficiary country exporters that are registered in the EU's new electronic system for compliance. This paper-based system was one of the aspects of the EU preference program that African governmental representatives we met in Brussels told us makes the EU program easier to use than AGOA.

Making rules of origin requirements more consistent across preference programs could make it easier for beneficiary countries to use multiple programs, but efforts to standardize them have faced challenges. According to African officials we met with, multiple rules makes it more difficult for exporters to make use of available preference programs. They also increase the administrative burden associated with using preferences and may conflict with supply chain realities by requiring countries to adapt their manufacturing practices to meet different program requirements. As a result, the WTO LDC group has been pressing developed countries to ensure that preferential rules of origin applicable to imports from LDCs will be transparent, simple, and contribute to facilitating market access for non-agricultural products. WTO members agreed to work on this topic at the December 2013 ministerial conference in Bali and in 2015 LDCs have urged progress. However, there is no requirement to harmonize preferential rules of origin at the WTO and there has been reluctance on the part of the preference-granting countries to standardize the process, according to trade experts.

The Few Studies that Compare AGOA and Other Preference Programs' Performance Suggest That Program Differences Affect Performance

Although we identified many studies on trade preference programs, relatively few studies compared their performance, and the results of these studies varied. Performance of preference programs is judged in economic literature in terms of their success in increasing exports (trade creation), increasing the range of products exported (diversification), and the extent to which available preferences are being used by recipients (utilization). With regard to these indicators, a 2014 USITC study[27] of AGOA summarizing available comparative performance literature between the United States and the EU noted that in general (1) EU

[27] USITC, *AGOA: Trade and Investment Performance Overview*, Publication No. 4461, April 2014.

preferences had a greater effect on trade creation than U.S. programs; (2) U.S. preferences were more likely to help African suppliers diversify their exports by increasing the range of products traded than EU preferences; and (3) average utilization rates for preference programs of Australia, Canada, the EU, and the United States were often very high—even for small preference margins and small trade flows, according to the underlying research study cited in the USITC study. We also found a limited number of studies providing insights on the performance of some other countries' preference programs, including those of India and China.

In general, many trade experts agree that AGOA has been beneficial in helping expand trade between SSA countries and the United States. However, our prior work and available evidence suggest that AGOA has been only modestly effective in achieving its stated goals.[28] Studies of the EU's preference programs suggest that they also have had modest success in expanding trade with the beneficiaries of the programs.

Trade Creation

The USITC identified several studies that found that when compared with the United States, the EU has had greater overall success in increasing trade with Africa. One study attributed this result to EU imports being more responsive to price changes than U.S. imports.[29] Another study concluded that the EU trade policy was more successful in creating SSA country exports in part because of the shorter distance and SSA countries' longstanding colonial ties with the EU.[30]

[28]GAO, *U.S.-Africa Trade: Options for Congressional Consideration to Improve Textile and Apparel Sector Competitiveness under the African Growth and Opportunity Act*, GAO-09-916 (Washington, D.C.: Aug. 12, 2009); *International Trade: U.S. Trade Preference Programs Provide Important Benefits, but a More Integrated Approach Would Better Ensure Programs Meet Shared Goals*, GAO-08-443 (Washington, D.C.: Mar. 7, 2008); and USITC, *AGOA: Trade and Investment Performance Overview*, 43.

[29]Maria Cipollina et al., "Do Preferential Trade Policies (Actually) Increase Exports?" (paper presented at the Agricultural & Applied Economics Association's 2013 AAEA & CAES Joint Annual Meeting, Washington, D.C., August 2013), 16–18, http://ageconsearch.umn.edu/bitstream/150177/2/CipollinaLabordeSalvatici_conf_MPacc2.pdf.

[30]Lars Nilsson, *Comparative Effects of EU and U.S. Trade Policies on Developing Country Exports*, European Commission Director General for Trade Working Paper, December 2005, accessed July 9, 2015, http://trade.ec.europa.eu/doclib/docs/2006/september/tradoc_129998.pdf.

The USITC noted that although these studies show the EU as more effective in increasing trade overall, other studies suggest that results are different when examined by sector. For example, one study found that after the United States put in place the “third-country fabric” provision enabling certain AGOA beneficiaries to use imported fabric for apparel production, AGOA created about seven times more apparel exports than the EU’s programs.[31] But in the case of agriculture, the EU was found to be more effective at raising agricultural exports than the U.S. preference program.

Diversification

USITC identified several studies that generally concluded that U.S. preferences under AGOA were more successful than the EU’s in helping African suppliers diversify exports. One study from 2011 concluded that the EU’s GSP program provided an overall small effect on increasing exports, but no effect on diversification.[32] Among the possible explanations the authors offer are the EU’s then relatively-strict rules of origin for GSP.

Utilization

A number of studies identified in the USITC report found that overall, the United States’ AGOA and GSP programs and the EU’s GSP program both had high utilization rates for SSA LDCs. As mentioned earlier, utilization is the extent to which available preferences are being used by recipients and is considered a key indicator in comparing program performance. Low utilization rates suggest possible disincentives for countries using available preferences.

Emerging Research on Developing Countries’ Programs

Information on developing countries’ programs is limited, but some studies are available. For example, an October 2014 study on India found that after taking out petroleum, exports to India by beneficiaries and in preferential products have grown faster than exports of non-beneficiaries and of non-preference products. However, the same study found that

[31]Paul Collier and Anthony J. Venables, *Rethinking Trade Preferences: How Africa Can Diversify Its Exports*, Center for Economic Policy Research Discussion Paper 6262, May 2007.

[32]Xavier Cirera, Francesca Foliano, and Michael Gasiorek, *The Impact of GSP Preferences on Developing Countries’ Exports in the European Union: Bilateral Gravity Modelling at the Product Level, 2011*,” accessed June 2, 2015, http://www.researchgate.net/publication/241767503_The_impact_of_GSP_Preferences_on_Developing_Countries’_Exports_in_the_European_Union_Bilateral_Gravity_Modelling_at_the_Product_Level .

more than half of the SSA beneficiary countries were not well placed to utilize India's programs. The study determined that it was difficult to conclude whether India's preference scheme had had the desired impact on beneficiary country exports, largely because African LDC exports to India remained low.[33]

Sub-Saharan African Countries' Recent Trade Negotiations Provide Insights for Future Negotiations

Sub-Saharan African (SSA) countries' recent participation in bilateral and multilateral trade negotiations provides insights that can inform future negotiations. The bilateral Economic Partnership Agreement (EPA) negotiations highlight trade-offs that the EU and SSA countries considered to successfully conclude agreement negotiations. The negotiating choices the EU faced were complicated by the fact that countries with access to preferences that do not require them to liberalize access to their own markets have limited incentive to negotiate reciprocal agreements, according to trade experts with whom we spoke.[34] Examining recent WTO negotiations provides insights about impediments to SSA country participation in multilateral negotiations, efforts to overcome those impediments, and the impact of those efforts. In light of upcoming trade events that will focus on issues of interest to African countries, the United States has a window of opportunity to draw insights from these negotiations that may help preserve U.S. interests.

Insights from Recent Trade Negotiations between SSA Countries and the EU Could Inform the Direction of Future Trade Negotiations

The negotiations between SSA countries and the EU that have resulted in EPAs indicate that achieving the goal of transitioning from unilateral trade preference programs to reciprocal trade agreements with SSA countries may require[35]

- many years to finalize and implement,
- the establishment of time frames to end access to trade preference programs,

[33]Ancharaz and Ghisu, *Deepening India's Engagement*, 3.

[34]We also reported in 2008 that the assurance of continued preferential access to the U.S. market has at times, created a disincentive to negotiation of reciprocal free trade agreements. See GAO-08-443.

[35]Congress has stated in the original AGOA legislation and in its reauthorization that it is the policy of the United States to continue seeking to negotiate bilateral free trade agreements with sub-Saharan African countries.

- a willingness to consider limiting the initial scope of the agreements, and
- an acknowledgment that aspects of the agreements may have trade-offs and could constrain SSA countries' ability to integrate into the global economy.[36]

Several African government officials and trade experts we spoke to stated that the EPAs could serve as a stepping-stone for other countries to negotiate with SSA countries reciprocal agreements that include wider liberalization of African markets.

Reciprocal Agreement Negotiations and Implementation May Take Many Years to Finalize

One insight from the EPA negotiations that could apply to other countries' negotiations with SSA countries is that negotiations and implementation of reciprocal trade agreements may take many years to finalize. According to EU officials, EPA negotiations with SSA countries lasted far longer than expected. In September 2002, the EU and SSA countries (as well as other countries) began negotiating EPAs and after more than a decade of negotiations, according to the European Commission, the EU has concluded the first EPAs with some African regional groups.[37] As of May 2015, the EU had concluded negotiations for EPAs with three African regions: West Africa, the Southern African Development Community (SADC), and the Eastern African Community (EAC).[38] In addition, the EU has an interim EPA with 4 countries in the Eastern and Southern Africa region. In July 2014, Cameroon became the only country in the Central Africa region to ratify an interim EPA with the EU.[39] Figure 3 shows which SSA countries have negotiated EPAs with the EU. As of May 2015, 32 SSA countries had negotiated regional or interim EPAs with the EU.

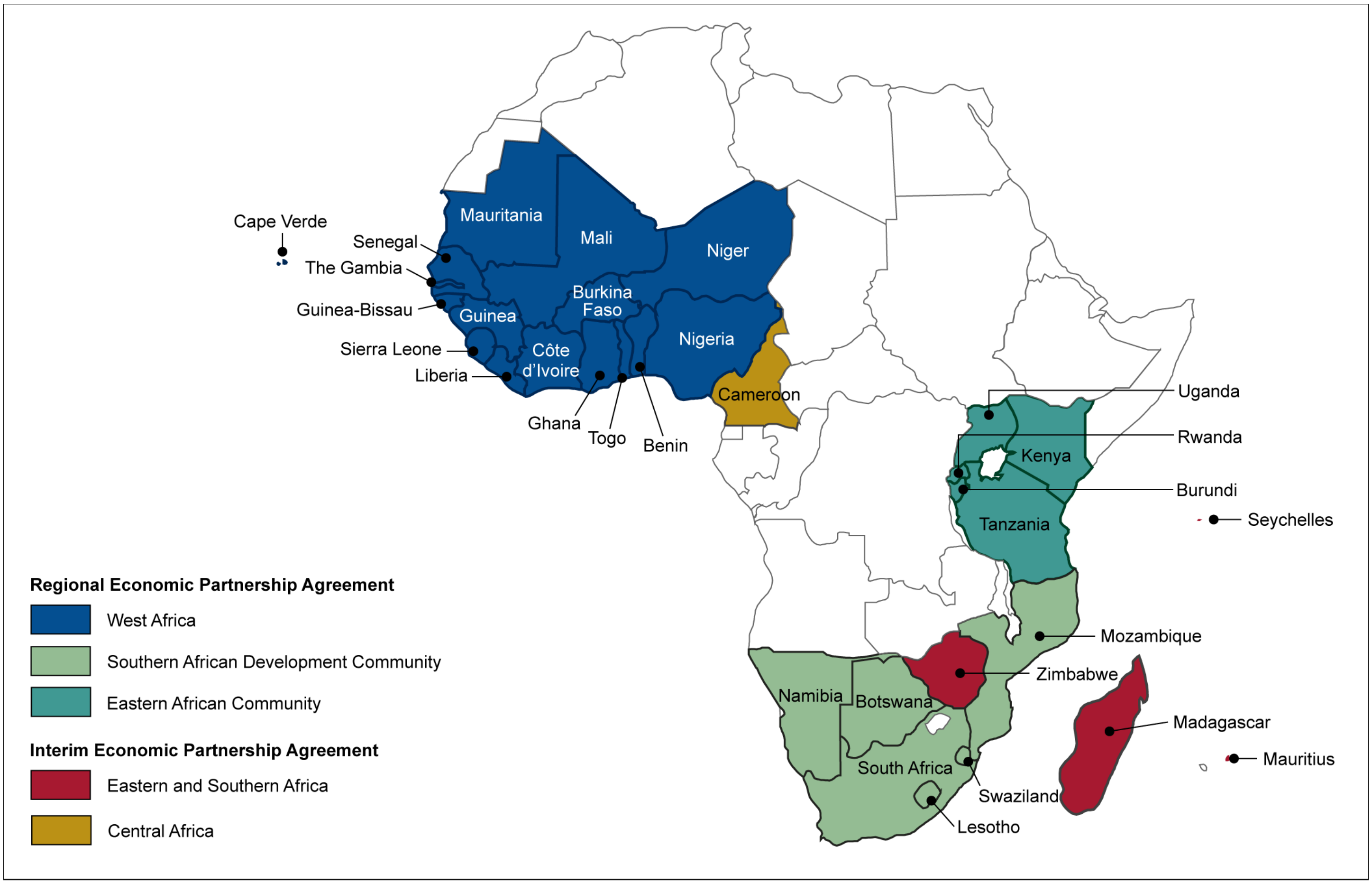
[36]Although SSA countries have concluded several bilateral and regional trade agreements, we are focusing on the EPAs because they closely mirror the U.S. circumstance of having preference programs and deciding whether and how to negotiate reciprocal agreements as a transition from unilateral trade preferences or alongside them.

[37]The European Commission is the executive branch of the EU.

[38]The EU has also negotiated EPAs with other countries in the Africa, Caribbean, and Pacific region.

[39]LDC countries that have not signed EPAs do not lose trade preferences under the EU's Everything but Arms program.

Figure 3: Sub-Saharan African Countries That Have Negotiated Regional or Interim Economic Partnership Agreements with the European Union



Source: European Centre for Development Policy Management data; Copyright © Corel Corp. All rights reserved (map). | GAO-15-701

In addition to entailing lengthy negotiations, the EPAs also contain multi-year phase-in periods before the reciprocal terms enter into effect, according to trade experts from one organization. This phase-in period acknowledges that the transition from unilateral trade preferences to reciprocal agreements will require a significant adjustment, especially for the poorest SSA countries.[40] According to trade experts, the African signatories have committed to open between 75 (for West Africa region countries) and 98 percent (for Seychelles) of their markets to the EU, but this access phases in over a period of between 11 and 25 years, depending on the country or region.[41] For African signatories, however, improved EU market access begins immediately upon concluding an agreement.

Time Frame for Ending Access to Unilateral Preference Programs Was Needed to Ensure Progress

Based on the experience of EPA negotiations, getting SSA countries to sign reciprocal agreements with the intent to help them integrate more fully into the global economy may require countries to institute concrete time frames for ending access to their other preference programs (see fig. 4).

According to trade experts, original EU plans established 2007 as the target date for signing interim EPAs between the EU and SSA countries, but various obstacles delayed negotiations, including disincentives associated with unilateral preferences the SSA countries were already receiving from the EU. The experts said the EU set 2007 as its target date, in part because it was the year the EU's trade preferences with SSA countries under the Cotonou Agreement and the associated WTO waiver were scheduled to expire, but it did not formalize a consequence if

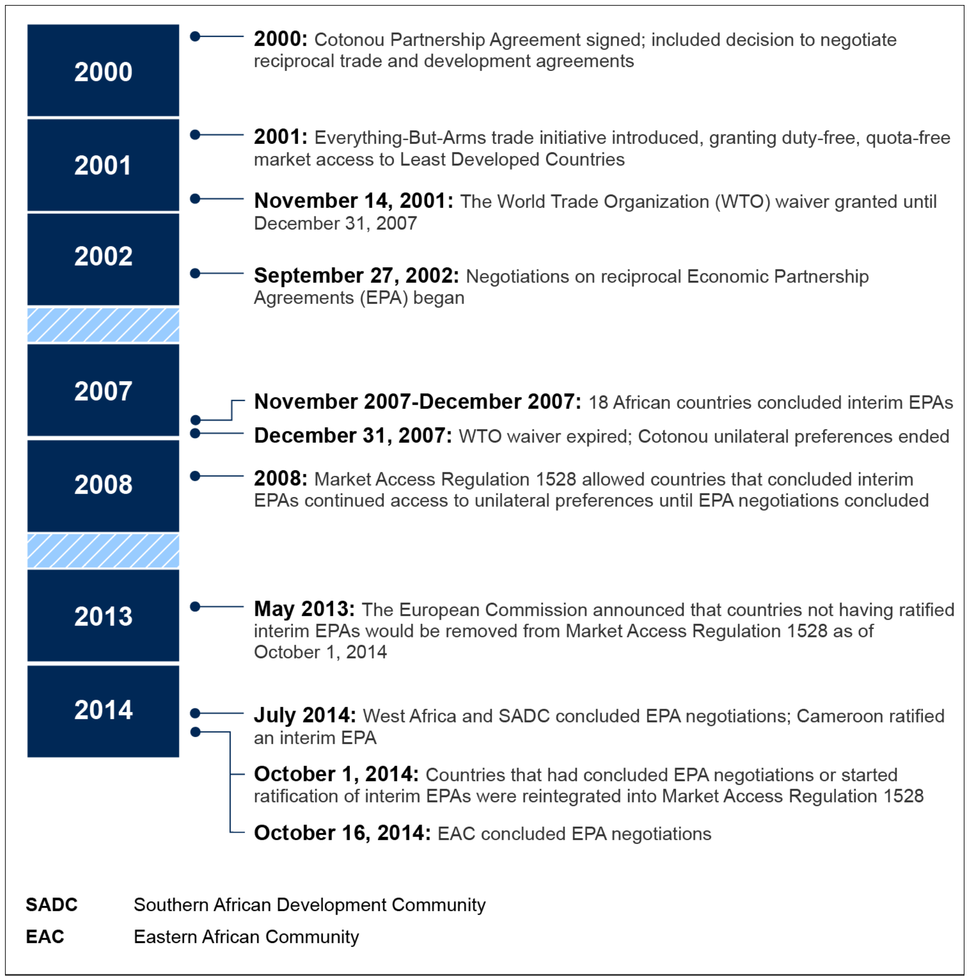
[40]Recently countries in the Africa, Caribbean, and Pacific region met with EU officials to discuss enactment and implementation of EPAs. According to trade experts, there is an anticipated window of 2 years during which the concluded EPAs will be legally scrubbed, submitted to legislatures for enactment, and go into full legal effect. Countries that do not meet this deadline, in principle, could revert to less-comprehensive GSP benefits. Once the process is complete, the duty-phase-outs to which both sides committed will enter into effect. This will, in essence, give EU suppliers an edge over those of the United States in the African market, although the extent will depend on how deeply and quickly cuts take place, which varies by product. For example, eventually the EU will not face tariffs on most products (except certain fresh agricultural products, prepared foods, and chemicals) in South Africa, whose applied MFN tariffs averaged 7.6 percent in 2013, and whose WTO bound rates average 19 percent.

[41]Although the WTO requires free trade agreements (FTAs) to cover "substantially all trade," it has not set a benchmark as to what level of liberalization is "substantially all trade," leaving it a point for negotiation.

agreements were not concluded by that year.[42] Between 2008 and 2014, trade experts reported that EPA negotiations continued, but only 5 of the 19 SSA countries that initialed interim EPAs signed and ratified them. For example, Zambia initialed an interim EPA, but did not subsequently sign or implement it. Cameroon signed an interim EPA in 2009, but did not ratify it until July 2014. According to trade experts we spoke to and literature we reviewed, when a unilateral trade preference is available, developing countries have less incentive to make domestic policy and regulatory reforms to meet the requirements of trade agreements. Trade experts also stated that there were a number of sticking points for which satisfactory compromises were difficult to find. For example, in the negotiations between the EU and SADC, market access issues and safeguards in the agricultural sector were sticking points. In addition, EU officials and other trade experts we met with indicated that SSA countries that already benefited from unilateral preferences had a disincentive to negotiate a reciprocal agreement with the EU that would require them to give up their ability to protect their industries or to lose tariff revenue, which constitutes a higher proportion of total government revenue than in developed countries.

[42]According to trade experts, the Cotonou Agreement extended until 2008 trade preferences offered by the Lomé Conventions since the 1970s. Under the Cotonou Agreement, all imports of manufactured goods from African, Caribbean, and Pacific countries could enter the European Union duty-free, although they were still restricted by "demanding" rules of origin. According to EU officials, the EU moved toward EPAs because their preferences for the Africa, Caribbean, and Pacific region as established by the Cotonou Agreement were contested and the WTO found them to be biased toward those countries and thus incompatible with EU WTO obligations.

Figure 4: Key Events during the Negotiation of Economic Partnership Agreements between Sub-Saharan African Countries and the European Union



Source: European Centre for Development Policy Management data. | GAO-15-701

Trade experts stated that to expedite EPAs with SSA countries, the EU mandated a time frame for ending access for some SSA countries to its unilateral preference programs. According to trade experts and EU officials, the agreements were not ratified by the time the Cotonou preferences expired in 2007, so to prevent trade disruption, the EU passed legislation in 2008 that allowed provisional access to EPA preferences. In May 2013, additional legislation gave SSA countries until October 1, 2014, to ratify EPAs with the EU or automatically fall under the less favorable GSP program that the EU gives unilaterally to all developing countries. In addition, trade experts reported that as a result of the new EU GSP that entered into force on January 1, 2014, any upper-middle-income countries would no longer have access to unilateral trade preferences on the EU market. Some African government officials with whom we met said they felt that they and other African country officials had no choice but to sign EPAs and their successes in negotiating were limited by the time frame imposed upon the negotiations. U.S. officials also stated that African officials told them they felt obliged to sign the EPAs because they could not afford to lose preferential access to the EU market.

Willingness to Consider Limiting Initial Scope of Negotiations Helped the EU Reach Agreement with SSA Countries

To successfully negotiate reciprocal agreements with SSA countries, EPA negotiations demonstrated that EU willingness to consider limiting the initial scope of the negotiations helped avoid an impasse that could have resulted in failed negotiations. The United States abandoned its previous attempt at negotiating a more comprehensive, or “high standard” free trade agreement (FTA) with SACU, and did not pursue an FTA with the EAC after it became clear that the EAC was not ready or willing.[43]

To successfully conclude negotiations of EPAs with SSA countries, EU officials said the EU agreed to limit the initial scope of EPA negotiations, but the agreements also included language that allowed the parties to continue negotiations in other areas covered by more comprehensive FTAs. Initially, according to trade experts with whom we met, the negotiating topics the EU was seeking were similar to those found in more comprehensive FTAs, such as intellectual property rights. Recent U.S. FTAs have more than 20 chapters, while EPAs between the EU and SSA countries contain 8. Ultimately, EU and SSA countries agreed to focus EPA negotiations on reciprocal trade in goods (and developmental cooperation) according to EU officials and other trade experts. The experts also reported that EPAs with SSA countries did not include language detailing agreed-upon terms for issues such as investment, services, public procurement, and intellectual property rights. According to EU officials with whom we met, many African countries were not prepared to agree to terms in these areas. The officials said they excluded these areas to avoid further delaying the conclusion of EPAs

[43]Francisco Sanchez, former Undersecretary of International Trade, U.S. Department of Commerce, responses to questions submitted for the record by Senator James M. Inhofe. S. HRG. 112–653 (2012) 60-61. AGOA directed the President to develop a plan to negotiate and enter into FTAs with SSA partners, but negotiations have not yet been successful.

with SSA countries. The EPAs include a “rendezvous clause,” according to trade experts, which states that signatories may continue negotiations after the conclusion of EPAs to amend them. However, the experts stated that the agreements do not include a timeline for concluding terms for the other issue areas and it is therefore unclear how long it may take to negotiate more comprehensive trade agreements.

Reciprocal Agreements May Contain Features That Create Challenges for SSA Countries’ Integration into the Global Economy

EPAs between the EU and SSA countries contain some features that create challenges for SSA countries’ integration into the global economy, according to trade experts and officials we met with from SSA countries and the EU. For example, although full or expanded access to EU markets may help SSA countries integrate more fully into the global economy, EPAs may diminish SSA countries’ leverage in future negotiations with other trading partners, according to trade experts. The EPA negotiations demonstrate that negotiating reciprocal agreements with SSA countries may involve some trade-offs that could impose burdens as SSA countries open their markets further to EU imports and affect SSA countries’ relations with other trading partners, including the United States.[44]

Trade experts and EU and African officials with whom we met reported that EPAs may have some positive effects on African economies and are therefore consistent with the EU goal to help SSA countries to further integrate into the global economy. For example, under EPAs, most SSA countries have full duty-free and quota-free market access in the EU, while others have greater access than they did before they signed an EPA, according to trade experts. The trade experts reported that even South Africa, which has less duty-free access than most SSA countries, has improved access for agricultural products such as wine, sugar, and fruit, as well as industrial products, notably motor vehicles. According to EU and African officials with whom we met, that greater access helps SSA countries export goods that they already produce and that are excluded by other trade preference programs.

[44]According to a trade expert, a WTO study from 2000 found that trade liberalization is generally a positive contributor to poverty alleviation and that it allows people to exploit their productive potential, assists economic growth, curtails arbitrary policy interventions, and helps to insulate against shocks in the domestic economy. However, that same study found that most trade reforms will create some losers (some even in the long run) and that poverty may be exacerbated temporarily.

However, African officials and other trade experts have expressed that EPAs may have adverse effects on the economic development of some SSA countries. In many of our meetings, African officials expressed concern over the loss of tariff (and other) revenue that is a significant amount of their governments' budgets as a result of the requirement that they provide the EU greater market access. Studies assessing the impact of EPAs on the African signatories have found that they will impose a fiscal burden on the countries, though the risk level differs from country to country. Recent meta-analysis of such studies found that the fiscal impact could be very high for eight countries (Benin, Cape Verde, Comoros, Djibouti, the Gambia, Ghana, Guinea-Bissau, and Togo), and that fiscal impact could be low for seven other SSA countries (Botswana, Lesotho, Malawi, Namibia, Nigeria, Swaziland, and Zambia.) The meta-analysis also found that the impact would depend on what steps the countries took to adjust during the phase-in period.[45] Because the EPAs also contain a "standstill clause" that prohibits countries from enacting new customs duties or raising tariffs beyond those provided in the EPA agreement, the EU may be more insulated than other countries, including the United States, should the loss of tariff revenue become a fiscal problem.

The terms of EPAs may also create challenges for SSA countries because, according to trade experts, their relative benefit to the SSA countries may diminish as the EU negotiates agreements with other non-SSA countries. The EU is negotiating trade agreements with other developed countries that may erode margins of preference for SSA countries. The experts reported that the agreements also focus on development of better rules and regulations not captured in EPAs that could increase competition with SSA countries in the EU market.

In addition, trade experts reported the following about how EPA terms may constrain African countries' leverage in trade negotiations with other countries, including the United States:

- EPAs contain a Most Favored Nations (MFN) clause stating that if African EPA signatories negotiate trade agreements in the future with other developed or large developing countries, they would have to

[45]Sanoussi Bilal, Melissa Dalleau and Dan Lui, *Trade Liberalisation and Fiscal Adjustments: The Case of EPAs in Africa*, ECDPM Discussion Paper No. 137 (November 2012), accessed May 18, 2015, http://www.ecdpm.org/dp137.

extend any more favorable treatment offered to those countries to the EU as well.

- Key trading partners that would potentially want to deepen their trade relationship with SSA countries may be less interested in doing so if they know that they will not have any margin of preference over the EU.
- One think tank said that the MFN clause is against the spirit of the EPA itself, which states that the EPA is a way of fostering the integration of signatories into the global economy.
- However, at the insistence of African negotiators, most of the EPAs contain language stating that implementation of the MFN clause in EPAs is not automatic, but must be negotiated on a case-by-case basis.

Trade experts report that EPAs may also negatively affect other trading partners and multilateral trade negotiations. World Bank simulations of the impact of the West Africa EPA on Nigeria project that most of the 7-20 percent increase in imports from the EU will divert trade from the rest of the world, including the United States.[46] The EPAs that are currently in place also set precedents in terms of rules and exclusions that may act as disincentives to multilateral liberalization, according to trade experts. For example, the experts state that the SADC EPA permits SSA countries to levy export taxes in certain circumstances. In addition, the EPA contains a protocol that secured EU and South African protection of geographical indications for numerous products, including mainly food and alcohol.[47] In general, the United States has opposed export taxes and expanding mandatory protection of geographical indications.

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[46]Soamiely Andriamananjara, Paul Brenton, Jan Erik von Uexküll, and Peter Walkenhorst, *Assessing the Economic Impacts of an Economic Partnership Agreement on Nigeria*, The World Bank Policy Research Working Paper 4920, April 2009.

[47]Geographic indications refers to a form of Intellectual Property Rights that protects the use of place names associated with products produced within its members states, such as “Champagne”, “Tequila” or “Roquefort”.

Recent Multilateral Trade Negotiations Involving SSA Countries Provide Insights That Could Inform Future Negotiations

An examination of the involvement of SSA countries in recent multilateral negotiations at the WTO yields insights about impediments to SSA country participation in multilateral negotiations, efforts to overcome those impediments, and what impact SSA country participation could have in future WTO negotiations. Although capacity constraints have impeded SSA country participation in multilateral trade negotiations, efforts to address those impediments have been increasing. In part as a result, SSA country participation at the WTO has been expanding.

Impediments Have Limited African Participation in Trade Negotiations

SSA countries face a number of impediments to full participation in trade negotiations, especially at the multilateral level. Officials from multilateral organizations, NGOs, and AGOA-eligible countries we met with noted that, although SSA countries vary in their level of participation, many of the countries lack capacity in the following areas, making full participation difficult.

- *Funding:* African officials and other trade experts we met with said that many of the SSA countries, especially those considered LDCs, find it difficult to afford the costs associated with participating in multilateral trade negotiations, such as transportation to and from Geneva and maintaining staff there.
- *Staffing levels:* Some SSA countries do not have a permanent mission with staff to represent them in Geneva. Many others, including LDCs and small countries, have only a few staff to represent them in meetings and negotiations at the WTO, numerous UN agencies, and other multilateral organizations. Officials from several AGOA-eligible countries told us they often miss important meetings—sometimes including trade negotiations—because many of those meetings are scheduled concurrently.
- *Expertise*: WTO negotiations include numerous complex topics, and according to WTO and African government officials with whom we met, some SSA countries' negotiators lack specialized training and experience to negotiate effectively.
- *Communication:* Some SSA countries lack effective communication and coordination between negotiators and government officials in their domestic capitals, according to African officials and trade experts with whom we met. As a result, in some cases negotiators in Geneva have worked toward positions that contradicted the priorities of government officials at home.

Efforts to Overcome Impediments Are Increasing and Have Contributed to Expanded SSA Country Participation at the WTO

Efforts to overcome impediments to African participation in trade negotiations have been increasing. According to one WTO trade expert, the number of WTO-sponsored capacity-building activities for African countries increased from 324 in 2000 to 1,513 in 2010, a nearly five-fold increase. Trade experts and African officials shared numerous examples of training courses, services, and programs designed to build African capacity to negotiate more effectively and implemented by the WTO, UNCTAD, the World Bank, nongovernmental organizations (NGOs), and bilateral trade partners. For example, the WTO hosts and funds a program called Geneva Week twice a year, paying for African officials from countries without permanent representation in Geneva to fly in and participate in trade negotiations and training courses focused on topics such as the WTO structure and negotiation process. NGOs and multilateral organizations also provide analysis at the request of African delegations that helps them better understand key issues and relevant context surrounding particular trade negotiations. Several African officials with whom we met said many SSA countries also relied on research and analytic support by NGOs such as the South Center.

Another effort to overcome impediments to participation in trade negotiations has been the development of groups that negotiate on behalf of multiple countries. SSA countries belong to groups such as the African group, the LDC group, and the ACP group that establish consensus-based priorities and negotiate on behalf of the groups' members. According to several African government officials, smaller countries that previously felt unable to effectively participate in multilateral trade negotiations have had their priorities better represented in negotiations through these groups.

According to government officials from the United States and AGOA-eligible countries, as well as officials from trade-related multilateral organizations and think tanks, overall African participation at the WTO is expanding and many African negotiators are negotiating more effectively, in part as a result of efforts to overcome impediments.[48] Officials provided

[48]According to a WTO Secretariat official, however, African participation overall at the WTO is relatively low. She found that African nations account for 42 of the WTO's current members and about 15-20 of them have been individually active in core WTO work. See Joan Apecu Laker, *African Participation at the World Trade Organization: Legal and Institutional Aspects, 1995-2010*, Graduate Institute of International and Development Studies, vol. 13 (The Netherlands: Koninklijke Brill NV, 2014).

the following examples of greater SSA official presence at the WTO and of priorities that African officials have successfully negotiated in multilateral negotiations.

- According to trade experts, African countries or groups have been visible in current rounds of global trade negotiations on topics such as cotton, intellectual property rights, public health, and special and differential treatment.[49] These topics are ones where Africans sought and ultimately secured concessions from the United States and other WTO members.
- A WTO trade expert found that although the share of African chairmanships at the WTO between 1995 and 2010 was low overall, Africans made up at least 25 percent of the chairmanships of several bodies during that time period and characterized several of those chairs as competent, active, and experienced.[50]

Upcoming Trade Events Involving SSA Countries May Provide Window of Opportunity for U.S. Engagement with SSA Countries

With a number of events relating to WTO and bilateral negotiations coming up that will focus on issues of interest to African countries, there is a window of opportunity for the United States to engage with SSA countries to ensure that U.S. interests are preserved. For example, according to the WTO, Kenya's foreign minister has played a role in setting the multilateral negotiation agenda by prioritizing the ratification of the Trade Facilitation Agreement. According to WTO officials, while there is no official deadline for achieving the necessary acceptance, the foreign minister has set a goal of having this process completed by the time of the WTO's 10th ministerial conference, in Nairobi, Kenya, in December 2015. Two-thirds of the WTO's 160 members will need to ratify the Trade Facilitation Agreement before the protocol of amendment to the WTO can go into effect, according to the WTO. Although Botswana and Mauritius are among the eight WTO members that had, as of June 18, 2015,

[49]The Doha Round is the latest round of trade negotiations among the WTO membership. Its aim is to achieve major reform of the international trading system through the introduction of lower trade barriers and revised trade rules. The work program covers about 20 areas of trade.

[50]For example, 44 percent of the chairs of the Import Licensing Committee, 25 percent of the chairs of the Committee on Market Access, 56 percent of the chairs of the Committee on Trade and Development, and 25 percent of the chairs of the Committee on Trade and Environment between 1995 and 2010 were African. See Apecu Laker, *African Participation*.

secured domestic acceptance, several African delegations, including AGOA recipients Nigeria and South Africa, have highlighted challenges they face in ratifying the Trade Facilitation Agreement. The Senate report accompanying the AGOA reauthorization legislation stated that the United States should seek opportunities to expand its ties with SSA countries through the negotiation of trade agreements that involve SSA countries.

Recent LDC priorities are evidence that progress in multilateral negotiations is possible, but they raise some concerns for the United States and, in some cases, AGOA countries. The LDC group has drafted a series of negotiation priorities in conjunction with the Doha round of global trade talks, which was to achieve improvements in agricultural disciplines and market access for both agricultural and non-agricultural goods. The December 2015 WTO ministerial conference is slated to revisit several topics of importance to Africa, including a potential LDC package and a decision on whether and how to proceed with the overall Doha round. Among the LDC priorities are for countries to further facilitate market access for LDC products. Both the United States and AGOA countries may face competing interests in committing to the requests of LDC negotiators. For example, available research suggests that AGOA countries would lose out to other suppliers if the textiles and apparel access presently provided to them were given to other LDCs such as Bangladesh and Cambodia. According to several African officials we met with from AGOA countries, competing with other LDCs without additional preferences is a major concern. This additional competition could also minimize the effectiveness of AGOA in increasing and diversifying exports from AGOA countries, which would run counter to U.S. interests. The legislation reauthorizing AGOA states that, among other things, it is in the interest of the United States to boost trade between the United States and SSA countries and that it is a U.S. goal to stimulate economic development in Africa and diversify sources of growth in sub-Saharan Africa. It is unclear whether LDC countries will insist upon some or all of these changes before they support continued Doha round negotiations.

Some AGOA countries are showing interest in WTO membership. Liberia and Ethiopia, two AGOA countries that are not yet members of the WTO, are in the process of acceding to the WTO. This process typically involves acceptance of existing WTO rules as well as negotiated market access commitments, demonstrating that they are declaring themselves ready to work toward fuller integration into the global economy. The Senate report accompanying the legislation reauthorizing AGOA stated that the United States should seek all opportunities to deepen and expand its ties with SSA countries through accession by SSA countries to the WTO.

The United States government has also proposed and begun to pursue plans to enhance bilateral trade with SSA countries. The recently-passed AGOA extension legislation includes plans to evaluate which AGOA countries are ready for and interested in pursuing reciprocal free trade agreements. In the immediate term, the United States is working with the Eastern African Community, reaching a cooperative agreement in February 2015 on non-tariff barriers in the Sanitary and Phytosanitary Measures and Technical Barriers to Trade areas with a goal of easing non-tariff barriers to trade. The United States government has also indicated it would like to build on the recently signed Trade and Investment Framework Agreement with the Economic Community of Western African States and that it hopes to advance negotiations with countries such as Nigeria, South Africa, and Angola.

Agency Comments

We are not making any recommendations in this report. We sent a draft of this report to the Secretaries of Agriculture and State, the Chairman of USITC, and the U.S. Trade Representative for comment. State provided no comments and the others provided technical comments, which we incorporated in this report, as appropriate.

We are sending copies of this report to the appropriate congressional committees, the Secretaries of Agriculture, Commerce, State, and the Treasury; the Administrator of USAID; the Chairman of USITC; the U.S. Trade Representative; and other interested parties. In addition, the report is available at no charge on the GAO website at http://www.gao.gov.

If you or your staff have any questions about this report, please contact me at (202) 512-8612 or GianopoulosK@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix VI.

Kimberly Gianopoulos
Director, International Affairs and Trade

List of Requesters

The Honorable Orrin G. Hatch
Chairman
The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

The Honorable Bob Corker
Chairman
Committee on Foreign Relations
United States Senate

The Honorable Jeff Flake
Chairman
Subcommittee on Africa and Global Health Policy
Committee on Foreign Relations
United States Senate

The Honorable Edward R. Royce
Chairman
The Honorable Eliot L. Engel
Ranking Member
Committee on Foreign Affairs
House of Representatives

The Honorable Sander M. Levin
Ranking Member
Committee on Ways and Means
House of Representatives

The Honorable Christopher H. Smith
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The Honorable Karen Bass
Ranking Member
Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations
Committee on Foreign Affairs
House of Representatives

The Honorable Charles B. Rangel
Ranking Member
Subcommittee on Trade
Committee on Ways and Means
House of Representatives

The Honorable Robert Menendez
United States Senate

The Honorable Chris Coons
United States Senate

The Honorable Johnny Isakson
United States Senate

The Honorable Devin Nunes
House of Representatives

Appendix I: Objectives, Scope, and Methodology

In conducting our work, we identified and reviewed documents, data, and literature on the African Growth and Opportunity Act (AGOA) and other countries' trade preference programs, trade agreements with AGOA countries, and sub-Saharan African (SSA) countries' participation in multilateral trade negotiations. In addition, we interviewed officials from the Departments of Agriculture, Commerce, State, and the Treasury; the Office of the U.S. Trade Representative (USTR); the U.S. International Trade Commission (USITC); and the U.S. Agency for International Development (USAID). We conducted fieldwork in Geneva, Switzerland, and Brussels, Belgium. We selected those locations for fieldwork based on the availability of officials for interviews, including multiple U.S. agency officials, African government officials,[1] government officials from countries with trade preference programs,[2] and representatives from think tanks and multilateral organizations with pertinent expertise. We selected countries and regions for comparison that are major export markets for sub-Saharan Africa, including the European Union (EU), China, and India. We identified three key characteristics for comparison because studies of preference programs generally show that these characteristics can affect program performance in increasing and diversifying trade. However, we did not independently assess the other countries' trade preference programs and agreements with SSA countries. The information on those programs and agreements is based on interviews and both World Trade Organization (WTO) and other official sources. Insights discussed herein reflect our conclusions based on the views of those we interviewed as well as selected academic literature.

To examine how selected countries' trade preference programs compare with AGOA in terms of key characteristics and performance, we focused on those countries that had the highest levels of trade in dollar-denominated nominal terms—not adjusted for inflation—with AGOA countries and for which trade preference program information was available from official sources including the WTO, the United Nations Conference on Trade and Development (UNCTAD), and country provider government documents. Specifically, to identify the major country and

[1]We interviewed African government officials from Ethiopia, Lesotho, Mauritius, Nigeria, South Africa, and Uganda—countries we selected because they represent a range of sizes, face a range of trade challenges, and actively use AGOA benefits.

[2]We interviewed government officials from Australia, Brazil, Canada, China, and the European Union (EU)—countries and regions we selected based on the amount of trade they conducted with SSA countries and congressional interest in their trade programs.

regional markets for AGOA-country exports, we used the WTO, UNCTAD, and World Bank integrated trade data, which we accessed through the International Trade Centre's Trade Map portal. We organized the nominal import data in descending order by major AGOA-country exporters and then graphed the top eleven export markets from 2010 through 2014. These exports of AGOA countries are for total exports, whether or not under a preference program. These countries include the United States, those in the EU, Canada, South Korea, Japan, Taiwan, Indonesia, India, Australia, and China. We also reviewed official WTO, UNCTAD, and government documents on these countries' programs.

To examine the differences in preference programs of countries that are major importers from AGOA countries, we (1) analyzed recent AGOA-country exports to major importing countries/regions and (2) analyzed cross-country differences in preference and non-preference import programs from AGOA countries. To analyze trade-weighted coverage across preference programs in major AGOA-country export markets, we used import data from the WTO's Integrated Data Base (IDB) accessed through the World Integrated Trade Solution of the World Bank (http://wits.worldbank.org/). We summed imports by preference and non-preference programs (such as Generalized System of Preferences, Least Developed Country programs, Everything but Arms, Most Favored Nation arrangements, etc.), and by dutiable and non-dutiable categories. For this analysis, we were not able to estimate utilization rates, as there were no publically available data on the amount of imports actually entering under the preference programs for certain major country importers. However, as a first approximation of program performance, we assumed that if imports were eligible to be imported under a preference program, they actually came in under the program. Another limitation to our analysis was that we were not able to obtain import and preference program data on a tariff-line basis from some other major AGOA-country importers, notably China. Therefore, we were not able to compare U.S. programs' trade-weighted coverage with that of China.

For each of the data sets that we used, we examined the data and found them sufficiently reliable for the purposes of our report. Specifically, we obtained and assessed official documentation such as users' guides, frequently asked questions, and disclaimers; met with officials to discuss our planned use of the data and any limitations; and conducted spot checks against other authoritative sources.

Country eligibility. To determine country eligibility, we used the WTO Preferential Trade Arrangements database which identifies and compiles information to identify all preferential trade agreements implemented by WTO members. Information includes required submissions by WTO members. We used the most up-to-date information available in the database, which varied by country. We also used UNCTAD data to determine selected trade preference programs' country eligibility. We cross-checked the information found in the WTO database with the UNCTAD data for eligibility as of January 1, 2015. We also used other countries' government websites, as available, to determine SSA country participation within its preference program. Furthermore, World Bank and United Nations information was used to identify income classification and some procedural and policy requirements.

Product coverage and exclusions. To compare product coverage we utilized WTO information including a 2014 WTO Secretariat report to identify tariff and trade data used to assess the extent of duty-free access available to AGOA countries' exports under various other countries' preference programs. We used tariff-line trade data presented in the database, which are based on member notifications. We also used government and non-government sources to gather information on product coverage offered by other countries' preference programs.

Rules of origin. To report generally on rules of origin and specifically on rules of origin percentage levels, calculation methods, and cumulation, we used information from the WTO along with government and non-government sources. We also conducted a semi-structured interview with a sample of United States and foreign government officials, including African officials, along with trade experts. We discussed their knowledge of other countries' trade preference programs, including varying rules of origin and the impact of rules of origin on preference program utilization.

Performance. To determine performance among AGOA and other preference programs we used a 2014 USITC report on AGOA that includes a comprehensive economic literature review on selected countries' trade preference programs. The study identified 48 economic studies of preference programs, published from 2001 to 2013; of that number, 11 compared the performance of programs, and 7 of the 11 compared the performance of the United States' and the EU's programs—in part because the United States and the EU are two of the few preference providers that provide data on actual imports under their preference programs.

To examine AGOA countries' participation in trade negotiations, we used WTO data to determine the bilateral and multilateral trade agreements to which AGOA countries are party. To identify insights from AGOA country trade negotiations, we chose to focus on AGOA countries' Economic Partnership Agreements with the EU because (1) congressional requesters specifically asked about the impact of these agreements, (2) negotiations for the regional agreements were all concluded recently—in 2014, (3) the EU is the largest recipient of SSA exports, and (4) the agreements replace a unilateral trade preference arrangement with a reciprocal trade arrangement. We reported insights based on our literature review on the negotiations leading up to (and the terms of) the agreements as well as interviews with trade experts from AGOA countries, U.S. government agencies, other key trade partners with AGOA countries, multilateral trade organizations (including the WTO), and think tanks.[3]

To determine impediments to SSA countries' participation in trade negotiations, we reviewed the USITC report on AGOA and other relevant literature. We also developed a semi-structured interview tool. We selected a sample of officials and experts who would participate in semi-structured interviews on the basis of (1) GAO selective sampling based on literature review, (2) recommendations from U.S. government officials knowledgeable about other countries' trade negotiations with Africa, and, where applicable, (3) availability during our fieldwork in Geneva and Brussels. We implemented the semi-structured instrument in interviews with trade experts from AGOA countries, U.S. government agencies, other key trade partners with AGOA countries, multilateral trade organizations (including the WTO), and think tanks. From the literature and semi-structured interviews, we also examined efforts to address impediments to SSA countries' participation in trade negotiations and the impact of those efforts. Our observations about upcoming trade negotiations involving AGOA countries are based on WTO documents and official government documents.

[3]We met with officials at the WTO, UNCTAD, the International Trade Centre, the World Bank, the International Centre for Trade and Sustainable Development, and the European Centre for Development Policy Management.

Appendix II: Additional Information about Trade Preference Programs of Countries That Are Major Importers of Products from Sub-Saharan African Countries

Table 3 provides a comparison of key characteristics of selected countries' trade preference programs with sub-Saharan African (SSA) countries. The countries or groups of countries included in the table are the major destinations for SSA exports.

Table 3: Key Characteristics of Trade Preference Programs of Countries That Are Major Importers of Products from Sub-Saharan African (SSA) Countries

Provider of preference	Preference program	Country coverage	Total tariff lines (all line products)	Preferential tariff lines (all line products)	Duty-free lines (all line products)	Product coverage	Major product exclusions
United States	AGOA	39 SSA	10,713 (2014 data)	1,740	1,740	97.5% (AGOA LDCs) 85.1% (AGOA non-LDCs)	Certain agricultural products.
	GSP	122		3,506	3,506	68.9%	Bovine meat, dairy products, sugar and confectionary products, certain fruit and vegetables.
	GSP-LDC	43 LDC		4,978	4,978	82.6%	Dairy products, sugar, cocoa, articles of leather, cotton, articles of apparel and clothing, other textiles and textile articles, footwear, and watches.
Australia	GSP	165	6,185 (2014 data)	3,142	2,903	98.4%	Apparel and clothing. Certain plastic, rubber, and leather items.
	GSP-LDC	50 LDC		3,241	3,241	100%	None.
Canada	GSP	102	7,410 (2014 data)	1,315	492	83.6%	Certain agricultural goods, textiles, apparel, footwear and some specialty steel.
	GSP-LDC	48 LDC		2,426	2,426	98.6%	Dairy, eggs, and poultry.
China	Duty-free treatment for LDCs	40 LDC	8,238 (2013 data)	N/A	N/A	61.5%	Includes chemicals, machinery, paper and wood products, cotton, textiles, and steel products.
European Union	Everything But Arms	49 LDC	9,379 (2014 data)	6,932	6,932	99%	Arms and ammunition.
	GSP	88		6,137	2,994	90.6%	Sensitive products are only eligible for reduced duties and include most agricultural products, most textiles and apparel, wood products, as well as machinery.
	GSP+	10		6,197	6,004	91.2%	Sensitive products are only eligible for reduced duties and include most agricultural products, most textiles and apparel, wood products, as well as machinery.
India	Duty-Free Tariff Preference Scheme	27 LDC	11,328 (2010 data)	9,555	0	85%	Chemicals, petroleum products, copper, iron and steel products, coffee, vegetables, beverages and spirits.
Japan	GSP	151	9,359 (2013 data)	2,978	1,623	72%	Agricultural goods.
	GSP-LDC	48 LDC		5,418	5,418	97.9%	Rice, sugar, fishery products, and articles of leather.
South Korea	Preferential Tariff for LDCs	48 LDC	12,243 (2014 data)	9,100	9,100	90.3%	Includes meat, fish, vegetables, and food products.
Russian Federation	GSP	151	11,123 (2012 data)	2,676	0	38.1%	Petroleum products, copper, iron ores, textiles, clothing, leather, and footwear.
	GSP-LDC	49 LDC					

AGOA African Growth and Opportunity Act **GSP** Generalized System of Preferences **LDC** least developed country

Source: World Trade Organization, the Office of the United States Trade Representative, and GAO Analysis. | GAO-15-701

Notes: Taiwan, among the leading AGOA export markets, also has a preference program for LDCs that, as of 2014, provided duty-free coverage of 136 out of its total 8,928 tariff lines. Further information on its program may be found at the WTO Preferential Trade Arrangements database, accessed July 8, 2015, http://ptadb.wto.org/ptaList.aspx.

The product coverage for AGOA is separated into an LDC coverage rate and a non-LDC coverage rate. AGOA's non-LDC product coverage rate, at 85.1%, only applies to three countries - South Africa, Gabon, and Seychelles, since all other non-LDCs, such as Ghana and Kenya, are considered least-developed beneficiary countries for the purposes of AGOA. This data from the WTO Secretariat was confirmed by USTR.

Appendix III: Selected Trade Preference Programs' Sub-Saharan African Country Eligibility

Sub-Saharan African countries are eligible for preferences under multiple countries' preference programs (see table 4). Most of the programs are generalized (available to all developing countries, and known as Generalized System of Preferences (GSP) schemes,) but some programs focus exclusively on least-developed countries (LDCs). Some countries that had been eligible for preferences offered by the European Union (EU) have transitioned from the EU's preference programs to Economic Partnership Agreements.

Table 4: Sub-Saharan African Countries Eligible for Trade Preference Programs Offered by Major Sub-Saharan African Trading Partners

		Preference Provider and Program											
Beneficiaries	LDC	Australia	Canada	China	European Union			India	Japan	South Korea	Russian Federation	United States	
		GSP	GSP	LDC	GSP	EBA	GSP+	LDC	GSP	LDC	GSP	GSP	AGOA
Angola	LDC	●	●	●	●	●			●	●	●	●	●
Benin	LDC	●	●	●	●	●	●	●	●	●	●	●	●
Botswana		●							●		●	●	●
Burkina Faso	LDC	●	●		●	●		●	●	●	●	●	●
Burundi	LDC	●	●	●	●	●		●	●	●	●	●	●
Cameroon		●	●						●		●	●	●
Cape Verde		●	●		●		●		●		●	●	●
Central African Republic	LDC	●	●	●	●	●		●	●	●	●	●	
Chad	LDC	●	●	●	●	●			●	●	●	●	●
Comoros	LDC	●	●	●	●	●		●	●	●	●	●	●
Congo		●	●		●		●		●		●	●	●
Côte d'Ivoire	LDC	●	●						●		●	●	●
Democratic Republic of the Congo	LDC	●	●	●	●	●			●	●	●	●	
Djibouti	LDC	●	●	●	●	●			●	●	●	●	●
Equatorial Guinea[a]	LDC	●		●	●	●			●	●	●	●	
Eritrea	LDC	●	●	●	●	●		●	●	●	●	●	
Ethiopia	LDC	●	●	●	●	●		●	●	●	●	●	●
Gabon		●							●		●	●	●
Gambia	LDC	●	●		●	●		●	●	●	●	●	
Ghana		●	●						●		●	●	●

Beneficiaries	LDC	Preference Provider and Program											
		Australia	Canada	China	European Union			India	Japan	South Korea	Russian Federation	United States	
		GSP	GSP	LDC	GSP	EBA	GSP+	LDC	GSP	LDC	GSP	GSP	AGOA
Guinea	LDC	●	●	●	●	●			●	●	●	●	●
Guinea-Bissau	LDC	●	●	●	●	●			●	●	●	●	●
Kenya		●	●						●		●	●	●
Lesotho	LDC	●	●	●	●	●		●	●	●	●	●	●
Liberia	LDC	●	●	●	●	●		●	●	●	●	●	●
Madagascar	LDC	●	●	●	●	●		●	●	●	●	●	●
Malawi	LDC	●	●	●	●	●		●	●	●	●	●	●
Mali	LDC	●	●	●	●	●		●	●	●	●	●	●
Mauritania	LDC	●	●	●	●	●			●	●	●	●	●
Mauritius		●							●		●	●	●
Mozambique	LDC	●	●	●	●	●		●	●	●	●	●	●
Namibia		●							●		●	●	●
Niger	LDC	●	●	●	●	●			●	●	●	●	●
Nigeria		●	●		●		●		●		●	●	●
Rwanda	LDC	●	●	●	●	●		●	●	●	●	●	●
São Tomé and Principe		●	●		●	●			●	●		●	●
Senegal	LDC	●	●	●	●	●		●	●	●	●	●	●
Seychelles		●							●			●	●
Sierra Leone	LDC	●	●	●	●	●			●	●	●	●	●
Somalia	LDC	●	●	●	●	●		●	●	●	●	●	
South Africa									●		●	●	●
South Sudan	LDC		●		●	●						●	
Sudan	LDC	●	●	●	●	●		●	●	●	●		
Swaziland		●	●						●		●	●	
Tanzania (United Republic of)	LDC	●	●	●	●	●		●	●	●	●	●	●
Togo	LDC	●	●	●	●	●			●	●	●	●	●
Uganda	LDC	●	●	●	●	●		●	●	●	●	●	●
Zambia	LDC	●	●	●	●	●		●	●	●	●	●	●
Zimbabwe		●	●						●		●	●	

Legend: LDC = Least Developed Country; GSP = Generalized System of Preferences; EBA = Everything but Arms; AGOA = African Growth and Opportunity Act.

Source: GAO analysis of United Nations, World Trade Organization, and preference provider country official information. I GAO-15-701

Notes: The Russian Federation's GSP program is also offered by Belarus and Kazakhstan.

[a]The UN General Assembly, in its resolution 68/L.20 adopted on December 4, 2013, decided that Equatorial Guinea will graduate from LDC status 3 and a half years after the adoption of the resolution and that Vanuatu will graduate 4 years after the adoption of the resolution.

Appendix IV: Margins of Preference

Although the extent of product coverage and duty-free versus reduced duties are important when evaluating the potential impact of programs, it is also important to consider the margin of preference for program beneficiaries. The margin of preference is defined as the difference between the tariffs all countries face—known as the most favored nation (MFN) rate—versus the tariff charged preference program beneficiaries. Essentially it is the price advantage that the program accords beneficiaries over other competitors in their market.

- In the case of programs that provide duty-free treatment to covered products, the tariff charged is zero, and thus the margin of preference is the entire value of that difference. Thus, if a country had an average MFN tariff of 10 percent and accorded preference program beneficiaries duty-free treatment, the beneficiary would enjoy a 10 percent margin of preference in that market.
- In the case of programs that provide reduced duties, the margin of preference would be a fraction of that. For example, if the preference program provider's average MFN tariff was 10 percent and its preference program involved a 50 percent reduction in duties, beneficiaries of its programs would face a 5 percent tariff and have a 5 percentage point advantage over competitors.

As shown in table 5, according to WTO Secretariat calculations, many developing countries have substantially higher tariffs than developed countries on key products from LDCs.

Table 5: Average Tariffs Charged by Developed Countries and Select Developing Countries on Key Products from Least-Developed Countries

In percentage, *ad valorem*

Product	Developed countries	Select developing countries
Agriculture	0.9	22.3
Clothing	6.7	13.7
Textiles	3.1	7.3
Other	0.3	3.6

Source: WT/COMTD/LDC/W/59, Oct. 23, 2014, WTO Secretariat, Market Access for Products and Services of Export Interest to Least-Developed Countries, p. 39 and 43. | GAO-15-701

Note: The select developing countries are: Brazil, China, India, Indonesia, South Korea, Mexico, Philippines, South Africa, Sri Lanka, Chinese Taipei (Taiwan), Turkey, and Vietnam. For the purposes of this table, average Most Favored Nation tariffs are used.

For example, developing country tariffs on agriculture are more than 20 times as high as those in developed countries, and tariffs on clothing and textiles are about twice as high. Several of these developing countries, such as China and India, have put preferences in place for LDCs. All other things being equal, a producer from a country that has access to both developed and developing countries' programs may focus first on using the one with the highest margin of preference.

Appendix V: Rules of Origin for Select Sub-Saharan African Trading Partners

Table 6 shows the different factors considered by selected countries when determining whether a finished product qualifies to enter under its preference program.

Table 6: Rules of Origin for Select Countries

		Calculation method			
Country or region	**Preference program**	**Percentage level**	**Numerator**	**Denominator**	**Cumulation**
United States	AGOA	Minimum of 35 percent Additional rules: (a) The cost or value of materials produced in the customs territory of the United States may be counted toward the 35 percent requirement up to a maximum amount not to exceed15 percent of the article's appraised value; (b) the cost or value of the materials used that are produced in one or more beneficiary sub-Saharan African countries shall be counted toward the 35 percent requirement; and (c) the direct costs of processing operations performed in one or more such beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries shall be applied in determining such percentage.	Sum of the cost of value of material produced in the beneficiary developing country and the direct cost of processing	Appraised value of the article at the time of entry into the United States	Cumulation among AGOA-designated countries
	GSP-LDC	Same	Same	Same	Regional cumulation for GSP-eligible members of Andean Group, ASEAN (with exclusions), CARICOM, SADC, and WAEMU
Canada	GSP-LDC	Equal or greater than 40 percent	Originating contents	Ex-factory price	All General Preferential Tariff beneficiary countries are regarded as one single area. All LDCT beneficiary countries are regarded as one single area

		Calculation method			
Country or region	Preference program	Percentage level	Numerator	Denominator	Cumulation
European Union	EBA	Maximum amount of non-originating material 70 percent with exceptions	Value of non-originating material	Ex-works price	(a) Cumulation with the EU, Norway, Switzerland, and Turkey; (b) Regional cumulation with ASEAN, Andean Community, SAARC, Mercosur; (c) Cumulation between ASEAN and SAARC (d) Extended cumulation

		Calculation method			
Country or region	**Preference program**	**Percentage level**	**Numerator**	**Denominator**	**Cumulation**
Japan	GSP-LDC	Maximum amount of non-originating material 40 or 50 percent where used in the single list	Value of non-originating materials	Value of the FOB price	Cumulation of Indonesia, Malaysia, the Philippines, Thailand, and Vietnam

Legend: AGOA = African Growth and Opportunity Act; GSP = Generalized System of Preferences; LDC = Least Developed Country; ASEAN = Association of Southeast Asian Nations; CARICOM = Caribbean Community; SADC = Southern African Development Community; WAEMU = West African Economic and Monetary Union; LDCT = Least Developed Country Tariff; SAARC = South Asian Association for Regional Cooperation.

Source: World Trade Organization data. I GAO-15-701

Notes:

Cumulation allows beneficiary countries to combine inputs from multiple sources to meet the local sourcing requirements.

Ex factory price is the price of a product at the moment that it leaves the factory.

Ex-works price is the price paid for the product ex works to the manufacturer in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used minus any internal taxes that are, or may be, repaid when the product obtained is exported.

Free on Board (FOB) price is the price, excluding insurance and freight.

Appendix VI: GAO Contact and Staff Acknowledgments

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Staff Acknowledgments

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