Regulations Limit Use of African Growth and Opportunity Act and Everything But Arms

Two relatively new nonreciprocal preferential programs, the U.S. African Growth and Opportunity Act program and the EU's Everything But Arms program, offer extended country and commodity coverage for many low-income countries. AGOA provided, among other items, preferential access to the U.S. market for eligible products (more than 1,800 tariff lines) from designated Sub-Saharan African (SSA) countries.[12] The commodities covered by AGOA include agricultural commodities (in particular, food items, with more than 600 tariff lines), petroleum products (20 tariff lines), minerals and manufacturing (more than 700 tariff lines), and apparel and footwear (≈ 500 lines). Agricultural commodities that are new compared with the earlier provisions for LDCs include fresh-cut roses, citrus products (fresh or juice), and vegetables (tomatoes, celery, cucumbers, and dried onions). Nonagricultural products can be grouped into apparel, footwear, handbags, gloves, luggage and trunks, and watches. The exported commodities from SSA beneficiary countries fall under different market access programs: MFN, GSP, GSP for LDCs (GSP/LDC), and the AGOA program. The GSP/LDC program expands the benefits under GSP by allowing duty-free imports for about 1,650 U.S. tariff lines. Many SSA countries are participants of the GSP/LDC program. In fact, of the 37 AGOA countries, 22 have received preferential benefits under the GSP/LDC program (see AGOA box).[13]

For the recipients of the GSP/LDC program, the AGOA provisions have limited extra benefits because they provide market access for only 243 new tariff lines; of the new commodities, about 49 are for apparel and footwear, and about 25 line items are agriculture-related products. The 15 countries that are not on the GSP/LDC list now receive duty-free access for the 1,650 tariff lines received previously only by the LDCs, plus the 243 new tariff lines received by the LDCs—so the potential benefits are greater. The share of exports under AGOA in total exports to the U.S. market for AGOA countries was 28 percent in 2001 and increased to 35 percent by 2002 but most of the share gain was because of the 20 percent decline in aggregate exports of the countries to U.S. market (table 10). In 2001, 16 of the 36 eligible

[12]More details of the AGOA program are available at the AGOA website, www.agoa.gov. The website also provides copies of comprehensive annual progress reports to the U.S. Congress.

[13]The Sub-Saharan African countries that are not eligible for AGOA include: Angola, Burkina Faso, Burundi, Comoros, Equatorial Guinea, Liberia, Somalia, Sudan, Togo, and Zimbabwe. Comoros, Somalia, and Sudan have not shown any interest in participating in the program (AGOA, 2002).

Table 10
Exports of AGOA beneficiaries to United States by program

Non-LDC-AGOA	1996	1997	1998	1999	2000	2001	2002
				$U.S. millions			
LDC-MFN	877	1,112	877	984	1,143	953	490
LDC-GSP	33	76	66	91	67	53	22
LDC-AGOA	0	0	0	0	0	363	544
Total	911	1,188	942	1,075	1,210	1,369	1,056
Non-LDC-MFN	11,261	12,154	9,618	10,206	18,415	11,444	8,236
Non-LDC-GSP	524	569	654	535	701	605	657
Non-LDC-AGOA	0	0	0	0	0	4,812	4,624
Total	11,784	12,723	10,272	10,741	19,116	16,861	13,517
All	12,695	13,911	11,215	11,816	20,326	18,230	14,573

Source: Economic Research Service, USDA.

countries used the program; this number increased to 22 by 2002. The share of AGOA exports to total exports to the U.S. was greater than 10 percent in only 13 countries, and 9 of those countries were not on the GSP/LDC list. The top three beneficiary countries, Nigeria, Gabon and South Africa, were relatively wealthy.

The EBA program is similar to the AGOA program, but covers more products. EBA grants duty-free access for imports from most LDCs, except for a few sensitive commodities (bananas, sugar, and rice) that will be liberalized gradually by 2009. Most of the commodities included in EBA previously received duty-free access to the EU under preferential programs such as the Lomé/Cotonou agreement (Brenton, 2003). Under the EBA, 919 free tariff lines were added to the earlier programs, but 44 of those tariff lines are for those products facing delayed liberalization. Out of the 919 tariff lines, LDCs had documented exports for only 80 lines in 2000 including 13 facing delayed liberalization. The export values of these items were 73.6 million euros in 2000 (≈ $70 million), about 0.5 percent of LDCs' exports to the European Union (table 11). For some countries, the benefits from EBA will come when the EU market is accessible for delayed liberalized commodities, such as sugar and bananas. For other countries, particularly the ones that were benefiting from Cotonou Agreement, the potential gains probably are small, and according to Brenton, the regulations are much more stringent than the Lomé/Cotonou agreement. For those countries that are not part of the Cotonou Agreement, EBA has provided significant export opportunities. Exporters have responded to the incentives for those commodities with high preference margins.

Supply constraints are a key element limiting the participation of beneficiary countries in preference programs. Under AGOA, only seven countries—Kenya, Lesotho, Madagascar, Malawi, Mauritius, South Africa, and Swaziland—have demonstrated strong export growth in apparel. Of these seven countries, only South Africa and Mauritius have a long history of apparel exports. Since the mid-1990s, these two countries have increased their investments in neighboring countries, including Lesotho, Malawi, Swaziland, and Madagascar. The available production capacity for these

Table 11
EU Imports from LDCs under EBA in 2001

	Imports			
Item	Liberalized under EBA in 2001	Delayed liberalization in 2001	All products covered by EBA	Total EU imports of all products
	€ thousands			
EU imports from LDCs:				
2000	10,657	62.963	73,620	11,733,712
2001	3,658	60,670	64,328	12,858,993
ACP/LDC imports:				
2000	10,505	62,904	73,409	7,764,664
2001	3,344	60,596	63,940	8,634,365
ACP non-LDC imports:				
2000	152	59	214	3,969,048
2001	313	74	387	4,225,518

Source: Brenton, 2003.

countries allowed them to take advantage of the AGOA program. The situation under EBA is similar for countries such as Nepal, Laos, Cambodia, and Bangladesh, which were not part of the Cotonou program, but had the production capacity and were able to quickly participate in the program.

Institutional factors and regulations also limit the participation of beneficiary countries in nonreciprocal trade preference programs. The cost of documenting the conformity to these rules is one of the main reasons for the low rate of program utilization. To become AGOA-eligible, beneficiary countries must meet certain customs-related criteria. Apparel exports can receive the preferential treatment under different provisions of the AGOA. In general, qualifying apparel must be assembled in beneficiary countries from yarns and fabric produced in the United States. Apparel assembled in beneficiary countries from regional or third-country inputs also receive preferential treatment, but this trade is subject to annual limits. Amendments to AGOA have extended this provision to 2008, with the annual limits increasing each 12 months, totaling 7 percent of total apparel imports in the United States in the last 12-month period. AGOA also requires that countries implement an effective visa system and have regulations to prevent unlawful trans-shipment of articles. Countries must follow strict customs rules and verify the origin of products shipped to the U.S. The governments of these countries also must agree to provide information and permit visits to factories for verification. Meeting these requirements can be difficult for many of these countries.

Similar to AGOA, under EBA the standard rule for apparel exports is that clothing must be made from yarn produced either in the country, in specially designated countries, or from the EU to be eligible for the full benefits.[14] However, if fabric is imported from a nondesignated country, the tariff reduction will be applied to the value-added part for the eligible EBA country. Other regulations also can affect utilization of the program. For example, when exporting fish (one of the main export items for several Sub-Saharan African countries) under EBA, a vessel must be registered and sail under the flag of the beneficiary country or the EU. The transportation costs are increased further because goods that benefit from EBA must be transported directly to the EU; transit to any other country must be documented and the goods verified to have been under the supervision of the customs authority of the transit country. Clearly, these types of regulations increase transaction costs and reduce the margin of preference and net benefits of the program.

[14]The cumulation clause for designated countries allows inputs from other countries to be considered domestic.