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1st Session } { 106–112

THE AFRICAN GROWTH AND OPPORTUNITY ACT

JULY 20, 1999.—Ordered to be printed

Mr. ROTH, from the Committee on Finance, submitted the following

REPORT

[To accompany S. 1387]

[Including cost estimate of the Congressional Budget Office]

The Committee on Finance, having considered legislation to extend certain trade preferences to sub-Saharan African countries, reports favorably thereon and refers the bill to the full Senate with a recommendation that the bill do pass.

I. BACKGROUND

The purpose of this legislation is to authorize "a new trade and investment policy" that is designed to encourage increased trade and economic cooperation between the United States and the sub-Saharan African ("SSA") countries. It is the expectation of the Finance Committee that the increased trade and investment resulting from this legislation will encourage those sub-Saharan African countries committed to political and economic reform to continue to pursue such reforms.

Currently, sub-Saharan Africa is a region that faces significant economic and political difficulties, as well as opportunities. The SSA countries are among the poorest and least developed in the world. According to World Bank data, the annual per capita GNP for the SSA countries averages only $490. The political climate in several of the SSA countries, however, has improved in recent years, though there remain a number of SSA countries that suffer from significant instability. Moreover, over 30 countries have taken steps toward economic reform, including some liberalizing of exchange rates and prices, privatizing state-owned enterprises, insti-

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tuting tighter disciplines over government expenditures, limiting subsidies and reducing barriers to trade and investment.

Currently, trade between the United States and the SSA countries is small. In 1998, U.S. merchandise exports to the SSA countries amounted to less than 1 percent of total U.S. merchandise exports ($6.7 billion), while imports from those countries totaled only 1.7 percent of U.S. merchandise imports ($13.1 billion). Primary U.S. exports sectors are transportation equipment, agricultural products, machinery, electronic products and chemicals. Principal imports from sub-Saharan Africa are energy-related products, minerals and metals.

The United States' efforts to encourage trade with the SSA countries have had limited success. For example, under the Generalized System of Preferences ("GSP") program, developing countries are eligible to receive duty-free access to the U.S. market for certain specified products. Although most of the SSA countries are eligible for preferential tariff treatment under the GSP program, only 14.6 percent of imports under the program in 1998 were from the SSA countries. United States imports from sub-Saharan Africa under GSP totaled $2.4 billion in 1998, with imports from Angola ($1,571.3 million in 1998) and South Africa ($551.7 million in 1998) accounting for more than three-quarters of this amount. Significantly, most petroleum products—which constitute the largest category of merchandise exports from the SSA countries—are not eligible for duty-free treatment under the GSP program, except for the least-developed countries (including Angola, whose GSP exports in 1998 were predominantly comprised of petroleum products).

In the 105th Congress, the African Growth and Opportunity Act (H.R. 1432) was introduced in the House of Representatives on April 24, 1997, and was referred to the House Committees on International Relations, Ways and Means and Banking and Financial Services. The Committees on International Relations and Ways and Means each reported the bill on March 2, 1998. The Banking and Financial Services Committee was discharged of the bill on March 2, 1998. The bill was passed by the House on March 11, 1998, by a vote of 233–186.

In the Senate, the Finance Committee held a hearing on the U.S.-sub-Saharan Africa trading relationship on June 17, 1998. During this hearing, the Committee heard testimony from the chief sponsors of the legislation from the House and Senate, officials from the Administration and interested parties from the private sector. The Committee also heard testimony on the issue of trade with Africa on September 17, 1997. The Finance Committee ordered an original measure (S. 2400) to be reported on July 21, 1998. This bill included legislation authorizing a new trade policy for sub-Saharan Africa.

In the 106th Congress, the African Growth and Opportunity Act (H.R. 434) was introduced in the House of Representatives on February 2, 1999, and was referred to the House Committees on International Relations, Ways and Means, and Banking and Financial services. The Committee on International Relations ordered the bill to be reported with an amendment by a vote of 24–8 on February 11, 1999. The Committee on Ways and Means ordered the bill to be reported with an amendment by voice vote on June 10, 1999.

The Committee on Banking and Financial Services was discharged of the bill on June 17, 1999. A bill identical to H.R. 434 was also introduced in the Senate (S. 666) on March 18, 1999.

II. GENERAL DESCRIPTION OF ACT

SUMMARY

This Act has five primary components. First, the Act provides eligible SSA countries with enhanced benefits under the GSP program and extends both the enhanced and the regular GSP benefits through September 30, 2006. Second, the Act provides those countries quota-free and duty-free access to the United States for certain textile and apparel products. Third, the Act directs the President to create a United States-sub-Saharan African Trade and Economic Cooperation Forum. Fourth, the Act directs the President to examine the feasibility of negotiating a free trade agreement with one or more of the SSA countries. Fifth, the Act includes two revenue offsets.

SECTION-BY-SECTION DESCRIPTION OF THE ACT

Section 1: Short title; Table of contents

Section 1 of the bill provides that this Act may be referred to as the "African Growth and Opportunity Act." It also lays out a table of contents for the Act.

Section 2: Findings

Section 2 of the bill enumerates 12 findings with regard to this Act:

- That it is in the mutual interest of the United States and the countries of sub-Saharan Africa to promote stable and sustainable economic growth and development in sub-Saharan Africa.
- That the 48 countries of sub-Saharan Africa form a region richly endowed with both natural and human resources.
- That sub-Saharan Africa represents a region of enormous economic potential and of enduring political significance to the United States.
- That the region has experienced a rise in both economic development and political freedom as countries in sub-Saharan Africa have taken steps toward liberalizing their economies and encouraged broader participation in the political process.
- That the countries of sub-Saharan Africa have made progress toward regional economic integration that can have positive benefits for the region.
- That despite these gains, the per capita income in sub-Saharan Africa averages less than $500 annually.
- That U.S. foreign direct investment in the region has fallen in recent years and the sub-Saharan African region receives only minor inflows of direct investment from around the world.
- That trade between the U.S. and sub-Saharan Africa, apart from the import of oil, remains an insignificant part of total U.S. trade.
- That trade and investment, as the American experience has shown, can represent powerful tools for economic development and

for building a stable political environment in which political freedom can flourish.

- That increased trade and investment flows have the greatest impact in an economic environment in which trading partners eliminate barriers to trade and capital flows and encourage the development of a vibrant private sector that offers individual African citizens the freedom to expand their economic opportunities and provide for their families.
- That offering the countries of sub-Saharan Africa enhanced trade preferences will encourage both higher levels of trade and direct investment for the region as well as enhance commercial and political ties between the United States and sub-Saharan Africa.
- That encouraging the reciprocal reduction of trade and investment barriers in Africa will enhance the benefits of trade and investment for the region as well as enhance commercial and political ties between the United States and sub-Saharan Africa.

Section 3: Statement of policy

Section 3 of the bill states the support of Congress for:

- Encouraging increased trade and investment between the United States and sub-Saharan Africa.
- Reducing tariff and nontariff barriers and other obstacles to sub-Saharan African and U.S. trade.
- Expanding U.S. assistance to sub-Saharan Africa's regional integration efforts.
- Negotiating reciprocal and mutually beneficial trade agreements, including the possibility of establishing free trade areas that serve the interests of both the United States and the countries of sub-Saharan Africa.
- Focusing on countries committed to accountable government, economic reform, and the eradication of poverty.
- Strengthening and expanding the private sector in sub-Saharan Africa.
- Supporting the development of civil societies and political freedom in sub-Saharan Africa.
- Establishing a United States-sub-Saharan African Economic Cooperation Forum.

Section 4: Sub-Saharan Africa defined

Section 4 defines sub-Saharan Africa as the forty-eight countries listed in that section.

TITLE I: EXTENSION OF CERTAIN TRADE BENEFITS TO SUB-SAHARAN AFRICA

Section 101. Eligibility for certain benefits

Section 101 of the bill amends the Generalized System of Preferences (GSP) program, Title V of the Trade Act of 1974, by inserting a new section 506A. This new section authorizes the President to designate certain countries as beneficiary SSA countries eligible for certain enhanced benefits under the GSP program.

In order to be designated as a beneficiary SSA country, and therefore eligible for the benefits set forth in this section, a country must satisfy three sets of criteria. First, the President must find

that the sub-Saharan African country has established or is making continual progress toward establishing:

- A market-based economy, where private property rights are protected and the principles of an open, rules-based trading system are observed.
- A democratic society, where the rule of law, political freedom, participatory democracy, and the right to due process and a fair trial are observed.
- An open trading system through the elimination of barriers to U.S. trade and investment and the resolution of bilateral trade and investment disputes.
- Economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, and promote the establishment of private enterprise.

Second, the President must find that the SSA country does not engage in gross violations of internationally recognized human rights or provide support for international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities. Third, the SSA country must satisfy the eligibility criteria for the GSP program.

Once a country has satisfied the eligibility criteria, it can be designated by the President as a beneficiary sub-Saharan African country and receive the enhanced GSP benefits set forth in this section. The Committee intends that the eligibility criteria described in section 101 apply only to the new benefits described in the new section 506A and are not meant to limit the GSP benefits available to the SSA countries under current law.

The new section 506A would authorize the President to provide duty-free treatment for any item, other than textiles or apparel products or textile luggage, that is designated as import sensitive under section 503(b)(1) of Title V. The general rules of origin governing duty-free entry under the GSP program will continue to apply, except that, in determining whether products are eligible for the enhanced benefits of the bill, up to 15 percent of the appraised value of the article at the time of importation may be derived from materials produced in the United States. In addition, under the new section 506A, the value of materials produced in any beneficiary SSA country may be applied in determining whether the product meets the applicable rules of origin for purposes of determining the eligibility of an article to receive the duty-free treatment provided by this section. Section 101 also amends section 503(c)(2)(D) to waive permanently the competitive need limits that would otherwise apply to beneficiary SSA countries.

The new section 506A established by section 101 of the Act also requires the President to monitor, and report annually to Congress, on the progress the SSA countries have made in meeting the three categories of eligibility criteria set forth above. The Committee expects that in the annual report required in section 105 of this Act, the President will provide an explanation of his assessment of the progress being made by each country listed in section 4 toward meeting the stated eligibility requirements, citing specific examples where possible.

The new section 506A would require the President to terminate the designation of a country as a beneficiary SSA country if that

country is not making continual progress in meeting the eligibility requirements. Any such termination would be effective on January 1 of the year following the year in which the determination is made that the eligibility criteria are no longer met.

Section 101 of this Act will also create a new section 505A, which sets a termination date for the duty-free treatment provided by this Act as September 30, 2006. It also extends the general GSP program for SSA countries through September 30, 2006. It further includes a clerical amendment to the table of contents in title V of the Trade Act of 1974 and sets the effective date for this Act as October 1, 1999.

Section 102: Treatment of certain textiles and apparel

Section 102 provides beneficiary sub-Saharan African countries (as designated under the new section 506A of the Trade Act of 1974 added by section 101 above) with duty-free and quota-free access to the U.S. market for certain textiles and apparel products. In order to receive these benefits, a beneficiary Sub-Saharan African country must (1) adopt an effective and efficient visa system to guard against unlawful transshipment of textile and apparel products and the use of counterfeit documents; and (2) enact legislation or regulations that would permit the U.S. Customs Service to investigate thoroughly allegations of transshipment through such country. Section 5 directs the U.S. Customs Service to provide technical assistance to the beneficiary sub-Saharan African countries in complying with these two requirements.

The benefits under section 102 are available only for the following textile and apparel products:

- Apparel articles assembled in beneficiary sub-Saharan African countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States.
- Apparel articles cut and assembled in beneficiary sub-Saharan African countries from fabric wholly formed in the United States from yarns wholly formed in the United States, and assembled with thread formed in the United States.
- Handloomed, handmade and folklore articles, that have been certified as such by the competent authority in the beneficiary sub-Saharan African country.

The Committee expects that only genuinely handcrafted articles, normally produced in limited quantities, will be designated as eligible; this provision is not intended to benefit large-scale, industrial production of textile or apparel articles. Rather, consistent with the WTO Agreement on Textiles and Clothing, the Committee intends that the handloomed, handmade or folklore articles to which the benefits will apply include only handloom fabrics of the cottage industry, or hand-made cottage industry products made of such handloom fabrics, or traditional folklore handicraft textile and clothing products. In addition, the Committee intends that textile luggage (i.e., luggage made of textile material identified in headings 4202.12 and 4202.92 of the Harmonized Tariff Schedule of the United States) be treated as a textile product, and therefore it will not be eligible for duty-free or quota-free treatment under this legislation (except when such textile luggage has been certified as a handloomed, handmade or folklore article).

The Committee also intends that this new program of textile and apparel benefits will be administered in a manner consistent with the regulations that currently apply under the "Special Access Program" for textile and apparel articles from Caribbean Basin and Andean Trade Preference Act countries, as described in 63 Fed. Reg. 16474–16476 (April 3, 1998). Thus, the requirement that products must be assembled from fabric formed in the United States applies to all textile components of the assembled products, including linings and pocketing, subject to the exceptions that currently apply under the "Special Access Program."

Section 102 provides that if an exporter is found to have engaged in transshipment with respect to textile or apparel products from a beneficiary SSA country, then the President must deny all benefits under this section and under section 101 of this Act to such exporter, any successor of such exporter, and any other entity owned or operated by the principal of the exporter for a period of 2 years.

Section 102 also includes a safeguard measure, authorizing the President to impose appropriate remedies, including restrictions on or the removal of quota-free and duty-free treatment, in the event that imports of textile and apparel articles from a beneficiary SSA country are being imported in such increased quantities as to cause serious damage, or actual threat of such damage, under the Agreement on Textiles and Clothing ("ATC"). The Committee intends that the injury standard be the same as set forth under the ATC, even though the remedies the President may impose under this provision include withdrawing or restricting both the duty-free and quota-free treatment provided under this section. With respect to the imposition of quotas, the intent of the Committee is that the President exercise his authority under the safeguard provisions of this section only in a manner consistent with the ATC; thus, the Committee does not intend that this provision would authorize the President to impose quotas once they are eliminated with respect to WTO members under the ATC in 2005.

The benefits provided by this section will be effective from October 1, 1999 through September 30, 2006.

The benefits available under section 102 with regard to textiles and apparel products are not provided as a part of the GSP program. It is not the intent of the Committee that tariff relief or quota removal for textile and apparel products become or be treated as benefits provided under the GSP program.

Section 103: United States-Sub-Saharan Africa Trade and Economic Cooperation Forum

Section 103 of the bill directs the President to establish a United States-sub-Saharan African Trade and Economic Cooperation Forum with interested SSA countries. The purpose of this Forum is to foster close economic ties between the United States and sub-Saharan Africa by encouraging meetings between private sector, governmental and nongovernmental leaders to discuss expanding trade and investment relations between the United States and sub-Saharan Africa. Section 103 also directs the President to meet with the heads of the governments of interested SSA countries for the purpose of discussing expanding trade and investment relations between the United States and sub-Saharan Africa.

Section 104: United States-Sub-Saharan African free trade area

Section 104 directs the President to examine, and report back to the Senate Committee on Finance and the House Committee on Ways and Means regarding the feasibility of negotiating a free trade agreement with interested sub-Saharan African countries. If the President finds that such an agreement is feasible, then the President must provide a detailed plan for such negotiation(s) that outlines the objectives, timing, potential benefits to the United States and sub-Saharan Africa, and likely economic impact of any such agreement.

Section 105: Reporting requirement

Section 105 directs the President to submit to Congress each year, for 5 years following enactment of the this Act, a report on the implementation of this Act.

TITLE II: REVENUE PROVISIONS

Section 201. Limit use of non-accrual experience method of accounting to amounts to be received for the performance of qualified personal services (sec. 448 of the Internal Revenue Code)

PRESENT LAW

An accrual method taxpayer generally must recognize income when all the events have occurred that fix the right to receive the income and the amount of the income can be determined with reasonable accuracy. An accrual method taxpayer may deduct the amount of any receivable that was previously included in income that becomes worthless during the year.

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

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

REASONS FOR CHANGE

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

The Committee understands that accrual basis providers of qualified personal services (services in the fields of health, law, engineering, architecture, accounting, actuarial science, performing arts, or consulting) compete on a regular basis and on an even footing with competitors using the cash method of accounting. The Committee believes that this competitive situation justifies the continued availability of the non-accrual experience method with respect to amounts to be received for the performance of qualified personal services. The Committee believes that it is important to avoid the disparity of treatment between competing cash and accrual method providers of qualified personal services that could result if the non-accrual experience method were eliminated with regard to amounts to be received for such services.

EXPLANATION OF PROVISION

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

EFFECTIVE DATE

The provision is effective for taxable years ending after the date of enactment. Any change in the taxpayer's method of accounting necessitated as a result of the proposal will be treated as a voluntary change initiated by the taxpayer with the consent of the Secretary of the Treasury. Any required section 481(a) adjustment is to be taken into account over a period not to exceed 4 years under principles consistent with those in Rev. Proc. 98–60. [1]

Section 202. Expand reporting of cancellation of indebtedness income (sec. 6050P of the Internal Revenue Code)

PRESENT LAW

Under section 61(a)(12), a taxpayer's gross income includes income from the discharge of indebtedness. Section 6050P requires "applicable entities" to file information returns with the Internal

[1] 1998–51 I.R.B. 16.

Revenue Service (IRS) regarding any discharge of indebtedness of $600 or more.

The information return must set forth the name, address, and taxpayer identification number of the person whose debt was discharged, the amount of debt discharged, the date on which the debt was discharged, and any other information that the IRS requires to be provided. The information return must be filed in the manner and at the time specified by the IRS. The same information also must be provided to the person whose debt is discharged by January 31 of the year following the discharge.

"Applicable entities" include: (1) the Federal Deposit Insurance Corporation (FDIC), the Resolution Trust Corporation (RTC), the National Credit Union Administration, and any successor or subunit of any of them; (2) any financial institution (as described in sec. 581 (relating to banks) or sec. 591(a) (relating to savings institutions)); (3) any credit union; (4) any corporation that is a direct or indirect subsidiary of an entity described in (2) or (3) which, by virtue of being affiliated with such entity, is subject to supervision and examination by a Federal or State agency regulating such entities; and (5) an executive, judicial, or legislative agency (as defined in 31 U.S.C. sec. 3701(a)(4)).

Failures to file correct information returns with the IRS or to furnish statements to taxpayers with respect to these discharges of indebtedness are subject to the same general penalty that is imposed with respect to failures to provide other types of information returns. Accordingly, the penalty for failure to furnish statements to taxpayers is generally $50 per failure, subject to a maximum of $100,000 for any calendar year. These penalties are not applicable if the failure is due to reasonable cause and not to willful neglect.

REASONS FOR CHANGE

The Committee believes that it is appropriate to treat discharges of indebtedness that are made by similar entities in a similar manner. Accordingly, the Committee believes that it is appropriate to extend the scope of this information reporting provision to include indebtedness discharged by any organization a significant trade or business of which is the lending of money (such as finance companies and credit card companies whether or not affiliated with financial institutions).

EXPLANATION OF PROVISION

The bill requires information reporting on indebtedness discharged by any organization a significant trade or business of which is the lending of money (such as finance companies and credit card companies whether or not affiliated with financial institutions).

EFFECTIVE DATE

The provision is effective with respect to discharges of indebtedness after December 31, 1999.

III. CONGRESSIONAL ACTION

The Committee considered the legislation in the form of an original bill on June 22, 1999, and ordered it reported favorably on the basis of a voice vote.

IV. VOTE OF THE COMMITTEE

In compliance with paragraph 7(b) of rule XXVI of the Standing Rules of the Senate, the Committee states that the African Growth and Opportunity Act was ordered favorably reported by a voice vote on June 22, 1999.

V. BUDGETARY IMPACT

A. COMMITTEE ESTIMATES

In compliance with sections 308 and 403 of the Congressional Budget Act of 1974, and paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the following statement is made concerning the estimated budget effects of the bill.

ESTIMATED BUDGET EFFECTS OF THE "AFRICAN GROWTH AND OPPORTUNITY ACT," AS APPROVED BY THE COMMITTEE ON FINANCE ON JUNE 22, 1999

[Fiscal Years 1999–2009, in millions of dollars]

Provision	Effective	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2000–2004	2005–2009	2000–2009
Expansion of Generalized System of Preferences to Sub-Saharan Africa[1]	**10/1/99**	....	**−46**	**−43**	**−44**	**−46**	**−49**	**−52**	**−56**	....	....	....	**−228**	**−108**	**−336**
Revenue Offset Provisions:															
1. Limit use of non-accrual experience method of accounting to amounts to be received for the performance of qualified professional services.	tyea DOE	12	77	60	33	28	10	12	14	16	18	20	208	80	288
2. Information reporting on cancellation of indebtedness by non-bank financial institutions.	coda 12/31/99	....	....	7	7	7	7	7	7	7	7	7	28	35	63
Net total		12	31	24	−4	−11	−32	−33	−35	23	25	27	7	8	15

[1] Estimate provided by the Congressional Budget Office.

Note: Details may not add to totals due to rounding.

Legend for "Effective" column: coda=cancellation of indebtedness after; DOE=date of enactment; and tyea=taxable years ending after.

Source: Joint Committee on Taxation.

B. BUDGET AUTHORITY AND TAX EXPENDITURES

1. Budget authority

In accordance with section 308(a)(1) of the Budget Act the Committee states that the African Growth and Opportunity Act involves no new or increased budget authority.

2. Tax expenditures

In accordance with section 308(a)(2) of the Budget Act, the Committee states that the African Growth and Opportunity Act will result in no change in tax expenditures over the period fiscal years 1999–2009.

C. CONSULTATION WITH CONGRESSIONAL BUDGET OFFICE

In accordance with section 403 of the Budget Act, the Committee advises that the Congressional Budget Office has submitted the following statement on the budgetary impact of the African Growth and Opportunity Act:

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

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

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

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

Sincerely,

DAN L. CRIPPEN,
Director.

Enclosure.

African Growth and Opportunity Act

Summary: The African Growth and Opportunity Act would authorize a new trade and investment policy for sub-Saharan Africa. The bill would extend and expand the Generalized System of Preferences (GSP) with respect to sub-Saharan Africa beyond its current expiration of June 30, 1999, through September 30, 2006. The legislation would also amend the Internal Revenue Code in order to limit the use of the nonaccrual experience method of accounting and to require information reporting on cancellations of indebtedness by nonbank financial institutions. CBO and the Joint Committee on Taxation (JCT) estimate that the bill would increase governmental receipts by $23 million over the 1999–2004 period. Because the bill would affect receipts, pay-as-you-go procedures would apply.

In addition, the bill could increase discretionary spending by an average of about $2 million a year, assuming appropriation of the necessary amounts. The legislation would authorize annual high-level meetings between officials of the United States government

and their counterparts of sub-Saharan countries eligible for benefits under the bill. The bill would increase the number of foreign commercial service employees stationed in Africa. The legislation would require the creation of advisory committees and expanded reporting on trade and investment policy with sub-Saharan Africa.

The bill contains no intergovernmental mandates as defined in the Unfunded Mandates Reform Act (URMA) and would not affect the budgets of state, local, or tribal governments. The legislation would impose two new private-sector mandates by limiting the use of the nonaccrual experience method of accounting and by requiring information reporting on cancellations of indebtedness by nonbank financial institutions. JCT estimates that the direct costs of the new mandates would not exceed the statutory threshold ($100 million in 1996, adjusted annually for inflation) established by UMRA in each of fiscal years 1999 through 2004.

Estimated cost of the Federal Government: The estimated budgetary impact of the bill is shown in the following table.

	By fiscal year, in millions of dollars					
	1999	2000	2001	2002	2003	2004
Changes in revenues						
Trade Provisions:						
Extension of GSP	0	−40	−33	−34	−36	−38
Expansion of GSP	0	−3	−10	−10	−10	−11
Subtotal of Trade Provisions	0	−43	−43	−44	−46	−49
Revenue Offset Provisions	12	77	67	40	35	17
Net Effect on Revenues	12	34	24	−4	−11	−32
Changes in spending subject to appropriation						
Estimated Authorization Level	0	3	2	3	3	3
Estimated Outlays	0	2	3	2	2	2

Basis of estimate

Revenues

The bill would extend GSP, which expired on June 30, 1999, for sub-Saharan Africa on October 1, 1999, through September 30, 2006. The bill would allow for refunds for GSP-eligible goods entered between June 30, 1999, and October 1, 1999. The estimate of extending the existing GSP program with respect to sub-Saharan Africa was based on recent trade data imports for U.S. consumption of goods from eligible countries. CBO assumes that GSP imports would remain a constant portion of total imports. CBO estimates a trade diversion of one-half of a percentage point from non-sub-Saharan African GSP beneficiaries who will no longer receive duty-free GSP treatment. Losses of revenues from customs duties were projected using a trade-weighted duty rate with respect to sub-Saharan Africa adjusted for tariff reductions scheduled by the World Trade Organization (WTO). CBO estimates that extending the existing GSP program with respect to sub-Saharan Africa would reduce governmental receipts by $182 million over the 2000–2004 period.

The current GSP excludes articles determined by the U.S. Trade Representative (USTR) to be import sensitive from receiving duty-free GSP treatment. The bill would allow countries of sub-Saharan Africa to ask the President to redetermine import sensitivity of GSO-excluded imports in the context of imports from sub-Saharan Africa. Based on discussions with the International Trade Commission (ITC), CBO identified products that are now import-sensitive but are likely not to be considered import-sensitive with respect to sub-Saharan Africa. USTR expects that the program to grant additional sub-Saharan African imports duty-free GSP treatment will not be implemented until eight months after the enactment of the law on October 1, 1999. CBO does not expect that sub-Saharan Africa will receive duty-free treatment for these articles prior to May 1, 2000. Using trade-weighted duty rates adjusted for reductions scheduled by the WTO, CBO estimates that this provision would reduce receipts by $39 million over the 2000–2004 period.

Current law also excludes from duty-free treatment a list of specific products, including apparel, textiles, footwear, leather goods, glass, certain electronic products, and watches. The legislation would extend duty-free treatment to these products if the USTR determines that they are not import sensitive with respect to sub-Saharan Africa. CBO based its estimate of the loss of duties that would result from granting these goods duty-free GSP treatment on recent collections data. CBO assumed that under existing law, imports of these products would grow at the same rate as total non-petroleum imports. United States imports of footwear, leather goods, glass, certain electronic products, and watches from sub-Saharan Africa are insignificant compared with United States imports of similar goods from other countries. CBO assumes that the USTR will not rule these products import-sensitive. The bill would also authorize the administration to grant duty-free and quota-free treatment to apparel products assembled in sub-Saharan Africa from fabrics wholly formed and cut in the United States from yarn wholly formed in the United States. CBO estimates that almost no apparel imports would qualify for special treatment under this provision. CBO projects that granting these additional products duty-free GSP treatment would reduce receipts by $5 million over the 2000–2004 period.

All other revenue provisions in the bill were estimated by JCT.

Spending subject to appropriation

CBO estimates that implementing the legislation would increase discretionary spending by $3 million in fiscal year 2000 and between $2 million and $2.5 million each year thereafter, assuming appropriation of the necessary amounts.

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

The legislation includes several reporting requirements. It would require the Administration to determine whether sub-Saharan

countries are eligible to benefit from the bill's preferential trade provisions and to monitor their compliance with certain requirements. The bill also would require the Customs Service to provide technical assistance to sub-Saharan African countries that benefit from the preferential trade provisions. To some extent, the Administration already performs these responsibilities under current law. CBO estimates that, subject to the availability of appropriated funding, implementing these provisions would cost about $1 million in fiscal year 2000 and less than $500,000 each year thereafter. The estimated cost for fiscal year 2000 is higher because the bill would require the administration to complete a one-time study of the feasibility of negotiating free-trade agreements with interested sub-Saharan countries. If the President determines that such agreements are feasible, the bill would require him to submit a detailed plan for such negotiations to the Congress.

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

	By Fiscal Year, in Millions of Dollars										
	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009
Changes in receipts	12	34	24	−4	−11	−32	−33	−35	23	25	27
Changes in outlays	([1])	([1])	([1])	([1])	([1])	([1])	([1])	([1])	([1])	([1])	([1])

[1] Not applicable.

Estimated impact on State, local, and tribal governments: The bill contains no intergovernmental mandates as defined in UMRA and would not affect the budgets of state, local, or tribal governments.

Estimated impact on the private sector: JCT has determined that the bill would impose two new private-sector mandates by limiting the use of the nonaccrual experience method of accounting and by requiring information reporting on cancellations of indebtedness by nonbank financial institutions. JCT estimates that the direct costs of the new mandates would not exceed the statutory threshold ($100 million in 1996, adjusted annually for inflation) established in UMRA in each of fiscal years 1999 and though 2004.

Estimated prepared by: Federal revenues: Hester Grippando; Federal spending: Mark Grabowicz, Sunita D'Monte, and John Righter.

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

VI. REGULATORY IMPACT AND UNFUNDED MANDATES

A. REGULATORY IMPACT

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following statement

concerning the regulatory impact of the African Growth and Opportunity Act:

1. Impact on individuals and businesses

The Committee states that the non-revenue offset portion of this Act does not alter any of the substantive or procedural requirements of the programs involved and would not, as a consequence, involve any new paperwork or regulatory burdens on individuals.

The Committee further states that the bill provides the following revenue offsets: (1) a limitation on the use of the non-accrual experience method of accounting to amounts to be received for the performance of qualified professional services, effective for taxable years ending after the date of enactment; and (2) a provision for information reporting on cancellation of indebtedness after December 31, 1999. The revenue offset provisions will increase the tax burden on the affected taxpayers.

2. Impact on personal privacy and paperwork

The African Growth and Opportunity Act will have no impact on personal privacy or paperwork.

B. UNFUNDED MANDATES

This information is provided in accordance with section 423 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). The Committee on Finance has reviewed the provisions of the African Growth and Opportunity Act as approved by the Committee on June 22, 1999. In accordance with the requirements of Public Law 104–4, the Committee has determined that the following provisions of the bill contain Federal private sector mandates:

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

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

C. TAX COMPLEXITY ANALYSIS

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

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

VII. CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

TRADE ACT OF 1974

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SEC. 503. DESIGNATION OF ELIGIBLE ARTICLES.

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

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(2) COMPETITIVE NEED LIMITATION.—

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(D) LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES *AND BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES*.—Subparagraph (A) shall not apply to any least-developed beneficiary developing country *or any beneficiary sub-saharan African country.*

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SEC. 505. DATE OF TERMINATION.

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SEC. 505A. TERMINATION OF BENEFITS FOR SUB-SAHARAN AFRICAN COUNTRIES.

In the case of a country listed in section 4 of the African Growth and Opportunity Act that is a beneficiary developing country, duty-free treatment provided under this title shall remain in effect through September 30, 2006.

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SEC. 506. AGRICULTURAL EXPORTS OF BENEFICIARY DEVELOPING COUNTRIES.

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SEC. 506A. DESIGNATION OF SUB-SAHARAN AFRICAN COUNTRIES FOR CERTAIN BENEFITS.

(a) AUTHORITY TO DESIGNATE.—

(1) IN GENERAL.—Notwithstanding any other provision of law, the President is authorized to designate a country listed in section 4 of the African Growth and Opportunity Act as a beneficiary sub-Saharan African country eligible for the benefits described in subsection (b), if the President determines that the country—

(A) has established, or is making continual progress toward establishing—

(i) a market-based economy, where private property rights are protected and the principles of an open, rules-based trading system are observed;

(ii) a democratic society, where the rule of law, political freedom, participatory democracy, and the right to due process and a fair trail are observed;

(iii) an open trading system through the elimination of barriers to United States trade and investment and the resolution of bilateral trade and investment disputes; and

(iv) economic policies to reduce poverty, increase the availability of health care and educational opportunities, expand physical infrastructure, and promote the establishment of private enterprise;

(B) does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities; and

(C) subject to the authority granted to the President under section 502 (a), (d), and (e), otherwise satisfies the eligibility criteria set forth in section 502.

(2) MONITORING AND REVIEW OF CERTAIN COUNTRIES.—The President shall monitor and review the progress of each country listed in section 4 of the African Growth and Opportunity Act in meeting the requirements described in paragraph (1) in order to determine the current or potential eligibility of each country to be designated as a beneficiary sub-Saharan African country for purposes of sub-section (a). The President shall include the reasons for the President's determinations in the annual report required by section 105 of the African Growth and Opportunity Act.

(3) CONTINUING COMPLIANCE.—If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the requirements described in paragraph (1), the President shall terminate the designation of that country as a beneficiary sub-Saharan African country for purposes of this section, effective on January 1 of the year following the year in which such determination is made.

(b) PREFERENTIAL TARIFF TREATMENT FOR CERTAIN ARTICLES.—

(1) IN GENERAL.—The President may provide duty-free treatment for any article described in section 503(b)(1) (B) through (G) (except for textile luggage) that is the growth, product, or

manufacture of a beneficiary sub-Saharan African country described in subsection (a), if, after receiving the advice of the International Trade Commission in accordance with section 503(e), the President determines that such article is not import-sensitive in the context of imports from beneficiary sub-Saharan African countries.

(2) RULES OF ORIGIN.—The duty-free treatment provided under paragraph (1) shall apply to any article described in that paragraph that meets the requirements of section 503(a)(2), except that—

(A) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 503(a)(2); and

(B) the cost or value of the materials included with respect to that article that are produced in one or more beneficiary sub-Saharan African countries shall be applied in determining such percentage.

(c) BENEFICIARY SUB-SAHARAN AFRICAN COUNTRIES, ETC.—For purposes of this title, the terms "beneficiary sub-Saharan African country" and "beneficiary sub-Saharan African countries" mean a country or countries listed in section 4 of the African Growth and Opportunity Act that the President has determined is eligible under subsection (a) of this section.

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INTERNAL REVENUE CODE OF 1986

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

(a) GENERAL RULE.—Except as otherwise provided in this section, in the case of a—

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

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

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SEC. 6050P. RETURNS RELATING TO THE CANCELLATION OF INDEBTEDNESS BY CERTAIN ENTITIES.

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(c) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

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(1) APPLICABLE ENTITY.—The term "applicable entity" means

(A) an executive, judicial, or legislative agency (as defined in section 3701(a)(4) of title 31, United States Code), and

(B) an applicable financial entity.

(2) APPLICABLE FINANCIAL ENTITY.—The term "applicable entity" means—

(A) any financial institution described in section 581 or 591(a) and any credit union,

(B) the Federal Deposit Insurance Corporation, the Resolution Trust Corporation, the National Credit Union Administration, and any other Federal executive agency (as defined in section 6050M), and any successor or subunit of any of the foregoing, 【and】

(C) any other corporation which is a direct or indirect subsidiary of an entity referred to in subparagraph (A) but only if, by virtue of being affiliated with such entity, such other corporation is subject to supervision and examination by a Federal or State agency which regulates entities referred to in subparagraph (A)【.】 *and*

(D) any organization a significant trade or business of which is the lending of money.

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