Trade Preferences: The ABC's of GSP, AGOA and HOPE

SJ Guest
Editorial



For the first time in years, Congress is poised to advance legislation updating and extending the unilateral trade preference programs that offer lower costs for businesses and consumers and entry into the U.S. market for developing country producers.

The Senate recently approved a bill to reauthorize the Generalized System of Preferences and extend the African Growth and Opportunity Act and the Haiti HOPE Act. The House of Representatives is expected to consider the measure in June along with legislation reinstating trade promotion authority, extending the Trade Adjustment Assistance program and reauthorizing trade facilitation and enforcement activities. This article examines the preference programs and how the pending legislation would affect them.

African Growth and Opportunity Act

AGOA provides duty-free access to goods originating in eligible sub-Saharan African countries, including all goods currently eligible for Generalized System of Preferences (GSP) treatment, an additional 1,800 products and specific amounts of apparel made using third-country fabrics. The program is currently slated to expire Sept. 30, but the pending preferences bill would extend it through September 2025.

The proposed 10-year extension could be a game-changer for Africa because it would allow the long-term investment that has been lacking under AGOA since it was enacted in 2000, particularly with respect to apparel, which is often viewed (along with extractive industries such as mining and agriculture) as one of the easiest ways for emerging economies to enter global markets. At that time, investors looking at Africa saw countries with significant problems in logistics, good governance and other key issues, especially compared to other developing nations in South and Southeast Asia. They also knew the global apparel quota system in place since the 1960s would soon be eliminated (in 2005), allowing a greater concentration of sourcing in more reliable, low-cost locations.

Some apparel assembly operations were launched in a handful of AGOA beneficiary countries because the start-up costs were small (some estimate that a factory can get up and running for $1 million-$3 million). Congress has typically reauthorized AGOA for only a few years at a time, but that was sufficient to allow investors to recoup this investment and then move on if necessary. The problem with this situation for African countries is that it prevented larger investments that would allow greater transfers of technology and yield workers with more developed skills who consequently earn higher wages. It also fostered uncertainty as businesses would begin pulling out six to nine months before each AGOA expiration, with no guarantee that they would return if the program were extended.

If AGOA is extended for 10 years, however, investors are likely to give greater consideration to spending $30 million-$50 million to establish a textile mill or yarn-spinning mill, which often takes eight to 10 years to recover.

Moreover, many sub-Saharan African countries have begun addressing good governance issues and improving their

infrastructure and logistics over the past 10-15 years, making them more attractive to foreign direct investment. Another factor is the increase in the costs of production (energy, raw materials, labor, among other things) in traditional apparel manufacturing countries.

The pending trade preferences bill includes other changes that will also increase the attractiveness of sub-Saharan African countries. For example, the rules of origin would be modified to allow fabrics to be sourced from anywhere in the world, a significant development given that it will take five to 15 years for yarn and textile mills to come online in AGOA countries. In addition, the bill would require at least 60 days notice before AGOA benefits for a given beneficiary country could be revoked. Currently a revocation can take effect just days after it is announced, typically at the end of the calendar year, which means goods that are eligible for duty-free treatment at the time of export may not be when they arrive. A 60-day notice, though not as long as businesses would prefer, would be a significant improvement.

If AGOA is reauthorized for 10 years with the changes outlined above, those sub-Saharan African countries willing to enforce good labor, governance and building construction practices, operate transparently and invest in necessary infrastructure can expect the large U.S. apparel, yarn and fabric brands to look at them a lot more closely.

Generalized System of Preferences

The preferences bill also includes an extension of the expired GSP program. GSP would be extended through 2017 with retroactive application to goods that entered on or after Aug. 1, 2013 (the date of expiration). However, since that date two countries have been removed from GSP eligibility: Bangladesh and Russia. Thus, importers will not be able to file for a refund of duties paid on any otherwise GSP-eligible goods from these two countries that were entered on or after Aug. 1, 2013.

The bill also includes the following provisions:

- provides the possibility of certain cotton fibers being designated as GSP eligible

- allows travel goods to be considered GSP eligible

- inserts new statistical breakouts in the Harmonized Tariff Schedule specifically for (a) certain performance outerwear and (b) performance footwear

- requires a report on how preference programs help alleviate hunger and reduce poverty

- provides that technical assistance on agricultural trade will focus on women especially

- requires the president to conduct and out-of-cycle review of South Africa

Haiti HOPE

The Haiti Hemispheric Opportunity through Partnership Encouragement (HOPE) Act and the Haiti Economic Lift Program (HELP) provide trade benefits for apparel and other products imported from Haiti. Some of the provisions of these programs would change in 2016 and 2017 and would expire in December 2018. Under the preferences bill both programs would be extended until 2025.

Fate of the Preferences Bill

It is likely that the House will take up the preferences bill in June. The House could pass a version of the bill that is different from the Senate, in which case the bill would have to go to conference for reconciliation and both chambers would then have to pass it a second time before sending it to the president for his signature.

It is worth noting that, unlike TPA, the preferences bill is not controversial and has received support from both

Republicans and Democrats. That has prompted speculation that if TPA appears unlikely to garner the votes needed to pass on its own, leadership could attach the preferences bill to it to encourage supporters of the preferences bill to approve the whole package, thus helping TPA to pass.

In either case, it appears that Congress will soon restore these important preference programs, giving importers a more stable foundation on which to base their sourcing decisions for years to come.

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