

## International Trade Alert

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### African Growth and Opportunity Act Fabric Extension Bill is a Win-Win Proposition

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Although the Generalized System of Preferences program has been reauthorized through July 2013, the fate of the important third-country fabric (TCF) provision of the African Growth and Opportunity Act (AGOA) is still hanging on by a thread. The TCF provision allows eligible countries in sub-Saharan Africa to use fabric *from any country* in their apparel production and export the finished article to the United States duty-free. This provision is set to expire in September 2012, and with the August recess less than two weeks away, the need to extend the TCF provisions is urgent. In addition to promoting economic development in Africa, the AGOA helps U.S. businesses reduce their costs by enabling access to lower-cost foreign fabrics, diversifying their supply chains, and providing greater low-cost apparel options for U.S. consumers.

#### Trade Under the AGOA Has Seen Steady Growth

In May 2000, President Clinton enacted the AGOA, which provides trade preference for quota and duty-free entry into the United States for certain goods beyond the benefits granted under the Generalized System of Preferences (GSP) program. Until September 30, 2012, lesser-developed beneficiary sub-Saharan African countries may use non-U.S. fabric and yarn in apparel wholly assembled in their countries and still qualify for duty- and quota-free treatment. Notably, the apparel exports under the TCF provision are subject to a cap.

Lesser-developed countries are those with a per capita gross national product of less than \$1500 a year in 1998 as measured by the World Bank. The AGOA limits imports of apparel made with regional or third-country fabric to a fixed percentage of the aggregate square meter equivalents (SMEs) of all apparel articles imported into the United States. For the one-year period beginning on October 1, 2011 and extending through September 30, 2012, the aggregate quantity of imports eligible for preferential treatment under these provisions is 1,877,430,342 square meters equivalent. Of this amount, 938,715,171 square meters equivalent is available to apparel articles imported under the special rule for lesser-developed countries. Apparel articles entered in excess of these quantities will be subject to otherwise applicable tariffs. Importantly, the duty-free cap is not allocated among countries. It is filled on a "first come, first served" basis.

#### Interesting Timing for the Future of the TCF Provision

During the first five years preceding the enactment of the TCF, apparel exports from Africa more than doubled. Last year apparel exports from Africa to the U.S. grew 15% and are estimated to be worth more than \$800 million. The competitiveness of these exports is largely dependent on the TCF provision. *While the AGOA itself is not due for renewal until 2015, the TCF provision is set to expire in September 2012.* The TCF provision has been renewed twice before, well in advance of its expiration, unanimously or without significant opposition. On July 18, 2012, the Senate Finance Committee cleared the way for the TCF provision and added South Sudan as a beneficiary country. However, for now the bill is stalled in the Senate because of holds placed on the legislation by Senators Bob Menendez (D-NJ) and Tom Coburn (R-OK). Menendez is utilizing his opposition to create pressure to move a separate bill reviving the cotton trust fund. Coburn has publicly objected to a funding offset in the bill. The House has vowed not to take up its version of the bill until it passes the Senate.

#### Substantial Savings for the Government

The Congressional Budget Office estimates that passing the bill will save the U.S. government an estimated \$5 million between 2013 and 2022, should it be enacted at the start of next year. Passing the TCF provision will result in a predicted \$192 million revenue reduction, which, divided across the three years in which the extension of the TCF provision would take effect, reflects losses of \$59 million next year and losses of \$63 million in 2014 and \$70 million in 2015. However, by the same token,

enacting the bill would also reduce direct spending by \$197 million over that same period, resulting in a net savings.

### **Sustained Economic Growth**

Approximately 300,000 jobs have been created in the eligible sub-Saharan countries manufacturing apparel with third-country fabrics. Similarly, more than 100,000 jobs in the U.S. have been supported by the \$21.3 billion worth of exports to the region last year. Retailers can remain competitive in the U.S. and abroad by taking advantage of the lower-cost sourcing options while diversifying their supply chain.

Contact the above authors or any attorneys in Venable's [International Trade and Customs Group](#) for additional details on how your company might benefit from the TCF provision as well as due diligence steps to ensure duty-free treatment of your African apparel imports.