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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR-2020-0020]

Annual Review of Country Eligibility for Benefits under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of review and request for comments.

SUMMARY: The Office of the U.S. Trade Representative (USTR) is announcing the initiation of the annual review of the eligibility of the sub-Saharan African countries to receive the benefits of the African Growth and Opportunity Act (AGOA). The AGOA Implementation Subcommittee of the Trade Policy Staff Committee (AGOA Subcommittee) is developing recommendations for the President on AGOA country eligibility for calendar year 2021. The AGOA Subcommittee requests comments for this review. Due to COVID-19, the AGOA Subcommittee will foster public participation via written submissions rather than an in-person hearing. This notice includes the schedule for submission of comments and responses to questions from the AGOA Subcommittee related to this review.

DATES:

June 24, 2020 at 11:59 pm EDT: Deadline for submission of written comments on the eligibility of sub-Saharan African countries to receive the benefits of AGOA.

July 7, 2020 at 11:59 pm EDT: Deadline for the AGOA Subcommittee to pose any questions on written comments.

July 16, 2020 at 11:59 pm EDT: Deadline for submission of commenters' responses to questions from the AGOA Subcommittee.

July 25, 2020 at 11:59 pm EDT: Deadline for replies from other interested parties to the written comments and responses to questions.

August 4, 2020 at 11:59 pm EDT: Deadline for the AGOA Subcommittee to pose any additional questions on written comments.

August 13, 2020 at 11:59 pm EDT: Deadline for submission of responses to any additional questions from the AGOA Subcommittee.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: <https://www.regulations.gov> (Regulations.gov), using Docket Number USTR-2020-0020. Follow the instructions for submitting comments in "Requirements for Submissions" below. For alternatives to on-line submissions, please contact Bennett Harman, Deputy Assistant U.S. Trade Representative for Africa, in advance of the relevant deadline at bharman@ustr.eop.gov or (202) 395-9612.

FOR FURTHER INFORMATION CONTACT: Please contact Bennett Harman, Deputy Assistant U.S. Trade Representative for Africa, at bharman@ustr.eop.gov or (202) 395-9612.

SUPPLEMENTARY INFORMATION

I. Background

AGOA (Title I of the Trade and Development Act of 2000, Pub. L. 106-200) (19 U.S.C. 2466a *et seq.*), as amended, authorizes the President to designate sub-Saharan African countries as beneficiaries eligible for duty-free treatment for certain additional

products not included for duty-free treatment under the Generalized System of Preferences (GSP) (Title V of the Trade Act of 1974 (19 U.S.C. 2461 *et seq.*) (1974 Act), as well as for the preferential treatment for certain textile and apparel articles. The President may designate a country as a beneficiary sub-Saharan African country eligible for AGOA benefits if he determines that the country meets the eligibility criteria set forth in section 104 of AGOA (19 U.S.C. 3703) and section 502 of the 1974 Act (19 U.S.C. 2462).

Section 104 of AGOA includes requirements that the country has established or is making continual progress toward establishing, among other things:

- a market-based economy
- the rule of law
- political pluralism
- the right to due process
- the elimination of barriers to U.S. trade and investment
- economic policies to reduce poverty
- a system to combat corruption and bribery
- protection of internationally recognized worker rights

In addition, the country may not engage in activities that undermine U.S. national security or foreign policy interests or engage in gross violations of internationally recognized human rights. Section 502 of the 1974 Act provides for country eligibility criteria under GSP. For a complete list of the AGOA eligibility criteria and more information on the GSP criteria, see section 104 of the AGOA and section 502 of the 1974 Act.

Section 506A of the 1974 Act requires the President to monitor and annually review the progress of each sub-Saharan African country in meeting the foregoing eligibility criteria in order to determine if a beneficiary sub-Saharan African country should continue to be eligible, and if a sub-Saharan African country that currently is not a beneficiary, should be designated as a beneficiary. If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the eligibility requirements, the President must terminate the designation of the country as a beneficiary sub-Saharan African country. The President also may withdraw, suspend, or limit the application of duty-free treatment with respect to specific articles from a country if he determines that it would be more effective in promoting compliance with AGOA eligibility requirements than terminating the designation of the country as a beneficiary sub-Saharan African country.

For 2020, the President designated the following 38 countries as beneficiary sub-Saharan African countries:

1. Angola
2. Benin
3. Botswana
4. Burkina Faso
5. Cabo Verde
6. Central African Republic
7. Chad
8. Comoros
9. Republic of Congo
10. Cote d'Ivoire
11. Djibouti
12. Eswatini
13. Ethiopia
14. Gabon
15. The Gambia
16. Ghana
17. Guinea
18. Guinea-Bissau

19. Kenya
20. Lesotho
21. Liberia
22. Madagascar
23. Malawi
24. Mali
25. Mauritius
26. Mozambique
27. Namibia
28. Niger
29. Nigeria
30. Rwanda (AGOA apparel benefits suspended effective July 31, 2018)
31. Sao Tome & Principe
32. Senegal
33. Sierra Leone
34. South Africa
35. Tanzania
36. Togo
37. Uganda
38. Zambia

The President did not designate the following sub-Saharan African countries as beneficiary sub-Saharan African countries for 2020:

1. Burundi
2. Cameroon
3. Democratic Republic of Congo
4. Equatorial Guinea (graduated from GSP)
5. Eritrea
6. Mauritania
7. Seychelles (graduated from GSP)
8. Somalia
9. South Sudan
10. Sudan
11. Zimbabwe

The AGOA Subcommittee is seeking public comments to develop recommendations to the President in connection with the annual review of sub-Saharan African countries' eligibility for AGOA benefits. The Secretary of Labor may consider comments related to the child labor criteria to prepare the U.S. Department of Labor's report on child labor as required under section 504 of the 1974 Act.

II. Public Participation

Due to COVID-19, the AGOA Subcommittee will foster public participation via written submissions rather than an in-person hearing for the 2020 AGOA Eligibility Review. USTR invites public comment according to the schedule set out in the Dates section above. The AGOA Subcommittee will review comments and replies to comments, if any, and may ask clarifying questions to commenters according to the schedule set out above. The AGOA Subcommittee will post the questions it asks on the public docket, other than questions that include properly designated business confidential information (BCI). Any questions that include properly designated BCI will not be posted on the docket for public viewing, but rather will be sent via email to the relevant commenters. Replies to these questions that also contain BCI must follow procedures laid out in section IV.

III. Requirements for Submissions

You must submit comments and answers to questions from the AGOA Subcommittee by the applicable deadlines set forth in this notice. You must make all submissions in English via Regulations.gov, using Docket Number USTR-2012-0020. USTR will not accept hand-delivered submissions. To make a submission using Regulations.gov, enter Docket Number USTR-2012-0020 in the 'search for' field on the home page and click 'search.' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting 'notice' under 'document type' in the 'filter results by' section on the left side of the screen and click on the link entitled 'comment now.' The Regulations.gov website offers the option of providing comments by filling in a 'type comment' field or by attaching a document using the 'upload file(s)' field. The AGOA Subcommittee prefers that you

provide submissions in an attached document and note ‘see attached’ in the ‘type comment’ field on the online submission form. At the beginning of the submission, or on the first page (if an attachment) include the following text (in **bold** and underlined): (1) “2020 AGOA Eligibility Review”; (2) the relevant country or countries; and (3) whether the document is a comment, a reply to a comment, or an answer to an AGOA Subcommittee question. Submissions should not exceed 30 single-spaced, standard letter-size pages in 12-point type, including attachments. Include any data attachments to the submission in the same file as the submission itself, and not as separate files.

You will receive a tracking number upon completion of the submission procedure at Regulations.gov. The tracking number is confirmation that Regulations.gov received the submission. Keep the confirmation for your records. USTR is not able to provide technical assistance for Regulations.gov. USTR may not consider documents you do not submit in accordance with these instructions. If you are unable to provide submissions as requested, please contact Bennett Harman, Deputy Assistant U.S. Trade Representative for Africa, at bharman@ustr.eop.gov or (202) 395-9612, in advance of the relevant deadline to arrange for an alternative method of transmission. General information concerning USTR is available at www.ustr.gov.

IV. Business Confidential Submissions

If you ask USTR to treat information you submitted as BCI, you must certify that the information is business confidential and you would not customarily release it to the public. You must clearly designate BCI by marking the submission “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page, and indicating, via brackets, the specific information that is BCI. Additionally, you must

include 'Business Confidential' in the 'type comment' field. For any submission containing BCI, you must separately submit a non-confidential version, *i.e.*, not as part of the same submission with the confidential version, indicating where BCI has been redacted. USTR will post the non-confidential version in the docket and it will be open to public inspection.

V. Public Viewing of Review Submissions

USTR will make public versions of all documents relating to these reviews available for public viewing pursuant to 15 CFR 2017.4, in Docket Number USTR-2020-0020 on Regulations.gov, upon completion of processing, usually within two weeks of the relevant due date or date of the submission.

VI. Petitions

At any time, any interested party may submit a petition to USTR with respect to whether a beneficiary sub-Saharan African country is meeting the AGOA eligibility requirements. An interested party may file a petition through www.regulations.gov, under docket number USTR-2020-0020.

Edward Gresser,

Chair of the Trade Policy Staff Committee,

Office of the United States Trade Representative.

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