

AFRICAN GROWTH AND OPPORTUNITY ACT

(To authorize a new trade and investment policy for Sub-Saharan Africa)

105th CONGRESS

2nd Session

H.R. 1432

AN ACT

To authorize a new trade and investment policy for Sub-Saharan Africa.

HR 1432 EH

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1 - SHORT TITLE

This Act may be cited as the “African Growth and Opportunity Act”

SECTION 2 - FINDINGS

The Congress finds that it is in the mutual economic interest of the United States and Sub-Saharan Africa to promote stable and sustainable economic growth and development in Sub-Saharan Africa. To that end, the United States seeks to facilitate market-led economic growth in, and thereby the social and economic development of, the countries of Sub-Saharan Africa. In particular, the United States seeks to assist Sub-Saharan African countries, and the private sector in those countries, to achieve economic self-reliance by--

- (1) strengthening and expanding the private sector in sub-saharan Africa, especially women-owned business;
- (2) encouraging increased trade and investment between the United States and Sub-Saharan Africa;
- (3) reducing tariff and nontariff barriers and other trade obstacles;
- (4) expanding United States assistance to Sub-Saharan Africa’s regional intergration efforts;
- (5) negotiation free trade areas;
- (6) establishing a United States-Sub-Saharan Africa Trade and Investment Partnership;

- (7) focussing on countries committed to accountable government, economic reform, and the eradication of poverty;
- (8) establishing a United States-Sub-Saharan Africa Economic Cooperation Forum; and
- (9) continuing to support development assistance for those countries in Sub-Saharan Africa attempting to build civil societies.

SECTION 3 - STATEMENT OF POLICY

The Congress supports economic self-reliance for Sub-Saharan African countries, particularly those committed to --

- (1) economic and political reform;
- (2) market incentives and private sector growth;
- (3) the eradication of poverty; and
- (4) the importance of women to economic growth and development.

SECTION 4 - ELIGIBILITY REQUIREMENTS

- (a) **IN GENERAL** - A Sub-Saharan African country shall be eligible to participate in programs, projects, or activities, or receive assistance or other benefits under this Act if the President, determines that the country does not engage in gross violations of internationally recognized human rights and has established, or is making continual progress toward establishing, a market-based economy, such as the establishment and enforcement of appropriate policies relating to --
 - (1) promoting free movement of goods and services between the United States and sub-Saharan Africa and among countries in sub-Saharan Africa;
 - (2) promoting the expansion of the production base and the transformation of commodities and nontraditional products for exports through joint venture projects between African and foreign investors;
 - (3) trade issues, such as protection of intellectual property rights, improvements in standards, testing, labeling and certification, and government procurement;
 - (4) the protection of property rights, such as protection against expropriation and a functioning and fair judicial system;
 - (5) appropriate fiscal systems, such as reducing high import and corporate taxes, controlling government consumption, participation in bilateral

investment treaties, and the harmonization of such treaties to avoid double taxation;

- (6) foreign investment issues, such as the provision of national treatment for foreign investors and other measures to create an environment conducive to domestic and foreign investment;
 - (7) supporting the growth of regional markets within a free trade area framework;
 - (8) governance issues, such as eliminating government corruption, minimizing government intervention in the market such as price controls and subsidies, and streamlining the business license process;
 - (9) supporting the growth of the private sector, in particular by promoting the emergence of a new generation of african entrepreneurs;
 - (10) encouraging the private sector, in particular by promoting the enterprises through divestiture programs;
 - (11) removing restrictions on investment; and
 - (12) observing the rule of law, including equal protection under the law and the right to due process and a fair trial.
- (b) **ADDITIONAL FACTORS** - In determining whether a sub-Saharan African country is eligible under subsection (a), the President shall take into account the following factors;
- (1) An expression by such country of its desire to be an eligible country under subsection (a);
 - (2) The extent to which such country has made substantial progress toward---
 - (A) reducing tariff levels;
 - (B) binding its tariffs in the World Trade Organization and assuming meaningful binding obligations in other sectors of trade; and
 - (C) eliminating nontariff barriers to trade.
 - (3) Whether such country, if not already a member of the world Trade Organization, is actively pursuing membership in that Organization.
 - (4) Where applicable, the extent to which such country is in material compliance with its obligations to the International Monetary Fund and other International financial institutions.

- (5) The extent to which such country has a recognized commitment to reducing poverty, increasing the availability of health care and educational opportunities, the expansion of physical infrastructure in a manner designed to maximize accessibility, increased access to market and credit facilities for small farmers and producers, and improved economic opportunities for women as entrepreneurs and employees, and promoting and enabling the formation of capital to support the establishment and operation of micro-enterprises;
- (6) Whether or not such country is cooperating with the United States in efforts to eliminate slavery in Africa;
- (7) Whether or not such country engages in activities that undermine United States national security for foreign policy interests.

(c) CONTINUING COMPLIANCE -

- (1) MONITORING AND REVIEW OF CERTAIN COUNTRIES - The President shall monitor and review the progress of sub-Saharan African countries in order to determine their current or potential eligibility under subsection (a). Such determinations shall be based on quantitative factors to the fullest extent possible and shall be included in the annual report required by section 15.
- (2) INELIGIBILITY OF CERTAIN COUNTRIES - A sub-Saharan African country described in paragraph (1) that has not made continual progress in meeting the requirements with which it is not in compliance shall be ineligible to participate in programs, projects, or activities, or receive assistance or other benefits, under this Act.

SECTION 5 - ADDITIONAL AUTHORITIES AND INCREASED FLEXIBILITY TO PROVIDE ASSISTANCE UNDER THE DEVELOPMENT FUND FOR AFRICA.

- (a) USE OF SUSTAINABLE DEVELOPMENT ASSISTANCE TO SUPPORT FURTHER ECONOMIC GROWTH - It is the sense of the Congress that sustained economic growth in sub-Saharan Africa depends in large measure upon the development of a receptive environment for trade and investment and that to achieve this objective the United States Agency for International Development should continue to support programs which help to create this environment. Investments in human resources, development, and implementation of free market policies, including policies to liberalize agricultural markets and improve food security and the support for the rule of law and democratic governance should continue to be encouraged and enhanced on a bilateral and regional basis.
- (b) DECLARATION OF POLICY - The Congress makes the following declarations :
 - (1) The Development Fund for Africa established under chapter 10 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2293 et seq.) has

been an effective tool in providing development assistance to sub-Saharan Africa since 1988.

- (2) The Development Fund for Africa will complement the other provisions of this Act and lay a foundation for increased trade and investment opportunities between the United States and sub-Saharan Africa.
- (3) Assistance provided through the Development Fund for Africa will continue to support programs and activities that promote the long term economic development of sub-Saharan Africa, such as programs and activities relating to the following:
 - (A) Strengthening primary and vocational education systems, especially the acquisition of middle-level technical skills for operating modern private business and the introduction of college level business education, including the study of international business, finance, and stock exchanges.
 - (B) Strengthening health care systems.
 - (C) Strengthening family planning service delivery systems.
 - (D) Supporting democratization, good governance and civil society and conflict resolution efforts.
 - (E) Increasing food security by promoting the expansion of agricultural and agriculture-based industrial production and productivity and increasing real incomes for poor individuals.
 - (F) Promoting an enabling environment for private sector-led growth through sustained economic reform, privatization programs, and market-led economic activities.
 - (G) Promoting decentralization and local participation in the development process, especially linking the rural production sectors and the industrial and market-led economic activities.
 - (H) Increasing the technical and managerial capacity of sub-Saharan African individuals to manage the economy of sub-Saharan Africa.
 - (I) Ensuring sustainable economic growth through environmental protection.
- (4) The African Development Foundation has a unique congressional mandate to empower the poor to participate fully in development and to increase opportunities for gainful employment, poverty alleviation, and more equitable income distribution in sub-Saharan Africa. The African Development Foundation has worked successfully to enhance the role of women as agents of change, strengthen the informal sector

with an emphasis on supporting micro and small sized enterprises, indigenous technologies, and mobilizing local financing. The African Development Foundation should develop and implement strategies for promoting participation in the socio-economic development process of grassroots and informal sector groups such as nongovernmental organizations, cooperatives, artisans, and traders into the programs and initiatives established under this Act.

(c) **ADDITIONAL AUTHORITIES**

- (1) **IN GENERAL** - Section 496 (h) of the Foreign Assistance Act of 1961 (22 u.s.c. 2293 (h)) is amended --
- (A) by redesignation paragraph (3) as paragraph (4); and
- (B) by inserting after paragraph (2) the following :
- (2) **CONFORMING AMENDMENT** - Section 496 (h) (4) of such Act, as amended by paragraph (1), is further amended by striking paragraphs (1) and (2) in the first sentence and inserting paragraphs (1), (2), and (3).
- (3) **DEMOCRATIZATION AND CONFLICT RESOLUTION CAPABILITIES-** Assistance under this section may also include program assistance --
- (A) to promote democratization, good governance, and strong civil societies in sub-Saharan Africa; and
- (B) to strengthen conflict resolution capabilities of governmental, intergovernmental, and non governmental entities in sub-Saharan Africa.

SECTION 6 - UNITED STATES - SUB-SAHARAN AFRICA TRADE AND ECONOMIC COOPERATION FORUM.

- a) **DECLARATION OF POLICY** - The President shall convene annual high-level meetings between appropriate officials of the United States Government and officials of the governments of sub-Saharan African countries in order to foster close economic ties between the United States and sub-Saharan Africa.
- b) **ESTABLISHMENT** - Not later than 12 months after the date of the enactment of this Act, the President, after consulting with the governments concerned, shall establish a United States - Sub-Saharan Africa Trade and Economic Cooperation Forum (hereafter in this section referred to as the Forum).
- (c) **REQUIREMENTS** - In creating the Forum, the President shall meet the following requirements :

- (1) The President shall direct the Secretary of Commerce, the Secretary of the Treasury, the Secretary of State, and the United States Trade Representative to host the first annual meeting with the counterparts of such Secretaries from the governments of sub-Saharan African countries eligible under section 4, the Secretary General of the Organization of African Unity, and government officials from other appropriate countries in Africa, to discuss expanding trade and investment relations between the United States and sub-Saharan Africa and the implementation of this Act including encouraging joint ventures between small and large business.
- (2)
 - (A) The President, in consultation with the Congress, shall encourage United States nongovernmental organizations to host annual meetings with nongovernmental organizations from sub-Saharan Africa in conjunction with the annual meetings of the Forum for the purpose of discussing the issues described in paragraph (1).
 - (B) The President, in consultation with the Congress, shall encourage United States representatives of the private sector to host annual meetings with representatives of the private sector from sub-Saharan Africa in conjunction with the annual meetings of the Forum for the purpose of discussing the issues described in paragraph (1).
- (3) The President shall, to the extent practicable, meet with the heads of governments of sub-Saharan African countries eligible under section 4 not less than once every two years for the purposes of discussing the issues described in paragraph (1). The first such meeting should take place not later than twelve months after the date of the enactment of this Act.
- (d) **DISSEMINATION OF INFORMATION BY USIA** - In order to assist in carrying out the purposes of the Forum, the United States Information Agency shall disseminate regularly, through multiple media, economic information in support of the free market economic reforms described in this Act.
- (e) **AUTHORIZATION OF APPROPRIATIONS** - There are authorized to be appropriated such sums as may be necessary to carry out this section.
- (f) **LIMITATION ON USE OF FUNDS** - None of the funds authorized under this section may be used to create or facilitating trade between the United States and Sub-Saharan Africa.

SECTION 7 : UNITED STATES-SUB-SAHARAN AFRICA FREE TRADE AREA

- (a) **DECLARATION OF POLICY** - The Congress declares that a United States-Sub-Saharan Africa Free Trade Area should be established, or free trade agreements should be entered into, in order to serve as the catalyst for

increasing trade between the United States and sub-Saharan Africa and increasing private sector development in sub-Saharan Africa.

(b) PLAN REQUIREMENT -

(1) IN GENERAL - The President, taking into account the provisions of the treaty establishing the African Economic Community and the willingness of the governments of the sub-Saharan African countries to engage in negotiations to enter into free trade agreements shall develop a plan for the purpose of entering into one or more trade agreements with sub-Saharan African countries eligible under section 4 in order to establish a United States-Sub-Saharan Africa Free Trade Area (hereafter in this section referred to as the "Free Trade Area").

(2) ELEMENTS OF PLAN - The plan shall include the following :

- (A) The specific objectives of the United States with respect to the establishment of the Free Trade Area and a suggested timetable for achieving those objectives.
- (B) The benefits to both the United States and sub-Saharan Africa with respect to the Free Trade Area.
- (C) A mutually agreed-upon timetable for establishing the Free Trade Area.
- (D) The implications for and the role of regional and sub-regional organizations in sub-Saharan Africa with respect to the Free Trade Area.
- (E) Subject matter anticipated to be covered by the agreement for establishing the Free Trade Area and United States laws, programs, and policies, as well as the laws of participating eligible African countries and existing bilateral and multilateral and economic cooperation and trade agreements, that may be affected by the agreement or agreements.
- (F) Procedures to ensure the following :
 - (i) Adequate consultation with the Congress and the private sector during the negotiation of the agreements for establishing the Free Trade Act.
 - (ii) Consultation with the Congress regarding all matters relating to implementation of the agreement or agreements.
 - (iii) Approval by the Congress of the agreement or agreements.

- (iv) Adequate consultations with the relevant African government and African regional and subregional intergovernmental organizations during the negotiations of the agreement or agreements.
- (c) **REPORTING REQUIREMENT** - Not later than 12 months after the date of the enactment of this Act, the President shall prepare and transmit to the Congress a report containing the plan developed pursuant to subsection (b).

SECTION 8 - ELIMINATING TRADE BARRIERS AND ENCOURAGING EXPORTS

- (a) **FINDINGS** - The Congress makes the following findings :
- (1) The lack of competitiveness of sub-Saharan Africa in the global market, especially in the manufacturing sector, make it a limited threat to market disruption and no threat to United States jobs.
 - (2) Annual textile and apparel exports to the United States from sub-Saharan Africa represent less than 1 percent of all textile and apparel exports to the United States, which totaled \$ 45,932,000,000 in 1996.
 - (3) Sub-Saharan Africa has limited textile manufacturing capacity. During 1998 and the succeeding 4 years, this limited capacity to manufacture textiles and apparel is projected to grow at a modest rate. Given this limited capacity to export textiles and apparel, it will be very difficult for these exports from sub-Saharan Africa, during 1998 and the succeeding 9 years, to exceed 3 percent annually of total imports of textile and apparel to the United States. If these exports from sub-Saharan Africa remain around 3 percent of total imports, they will not represent a threat to United States workers, consumers, or manufacturers.
- (B) **SENSE OF THE CONGRESS** - It is the sense of the Congress that -
- (1) It would be to the mutual benefit of the countries in sub-Saharan Africa and the United States to ensure that the commitments of the World Trade Organization and associated agreements are faithfully implemented in each of the member countries, so as to lay the groundwork for sustained growth in textile and apparel exports under agreed rules and disciplines;
 - (2) reform of trade policies in sub-Saharan Africa with the objective of removing structural impediments to trade, consistent with obligations under the World Trade Organization, can assist the countries of the region in achieving greater diversification, of textile and apparel export commodities and products and export markets; and
 - (3) the President should support textile and apparel trade reform in sub-Saharan Africa by, among other measures, providing technical

assistance, sharing of information to expand basic knowledge of how to trade with the United States, and encouraging business-to-business contacts with the region.

(c) TREATMENT OF QUOTAS -

(1) KENYA AND MAURITIUS - Pursuant to the Agreement on Textiles and Clothing, the United States shall eliminate the existing quotas on textile and apparel exports to the United States --

(A) from Kenya within 30 days after that country adopts an efficient visa system to guard against unlawful transshipment of textile and apparel goods and the use of counterfeit documents; and

(B) from Mauritius within 30 days after that country adopts such a visa system.

The customs Service shall provide the necessary technical assistance to Kenya and Mauritius in the development and implementation of those visa systems.

(2) OTHER SUB-SAHARAN COUNTRIES - The President shall continue the existing no quota policy for countries in sub-Saharan Africa. The President shall submit to the Congress, not later than March 31 of each year, a report on the growth in textiles and apparel exports to the United States from countries in sub-Saharan Africa in order to protect United States consumers, workers, and textile manufacturers from economic injury on account of the no quota policy.

(D) CUSTOMS PROCEDURES AND ENFORCEMENT -

(1) ACTIONS BY COUNTRIES AGAINST TRANSSHIPMENT AND CIRCUMVENTION - The President should ensure that any country in sub-Saharan African that intends to export textile and apparel goods to the United States --

(A) has in place a functioning and effective visa system and domestic laws and enforcement procedures to guard against unlawful transshipment of textile and apparel goods and the use of counterfeit documents; and

(B) will cooperate fully with the United States to address and take action necessary to prevent circumvention, as provided in Article 5 of the Agreement on Textiles and Clothing.

(2) PENALTIES AGAINST EXPORTERS - If the President determines, based on sufficient evidence, that an exporter has willfully falsified information regarding the country of origin, manufacture, processing, or assembly of a textile or apparel article for which duty-free treatment under section 503 (a) (1) (C) of the Trade Act of 1974 is claimed, then the President shall deny to such exporter, and any successors of such

exporter, for a period of 2 years, duty-free treatment under such section for textile and apparel articles.

- (3) **APPLICABILITY OF UNITED STATES LAWS AND PROCEDURES** - All provisions of the laws, regulations, and procedures of the United States relating to the denial of entry of articles or penalties against individuals or entities for engaging in illegal transshipment, fraud, or other violations of the customs laws shall apply to imports from sub-Saharan countries.
- (4) **MONITORING AND REPORTS TO CONGRESS** - The Customs Service shall monitor and the Commissioner of Customs shall submit to the Congress, not later than March 31 of each year, a report on the effectiveness of the visa systems described in subsection (c) (1) and paragraph (1) of this subsection and on measures taken by countries in Sub-Saharan Africa which export textiles or apparel to the United States to prevent circumvention as described in Articles 5 of the Agreement on textiles and clothing.
- (e) **DEFINITION** - For purposes of this section, the term "Agreement on textiles and clothing" means the Agreement on Textiles and Clothing referred to in section 101 (d) (4) of the Uruguay Round Agreements Act (19 U.S.C. 3511 (d) (4)).
- (1) by redesignating subparagraph (C) as subparagraph (D); and
- (2) by inserting after subparagraph (B) the following :
- (C) **ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA** - The President may provide duty-free treatment for any article set forth in paragraph (1) of subsection (b) that is the growth. Product, or manufacture of an eligible country in sub-Saharan Africa that is a beneficiary developing country, if, after receiving the advice of the International Trade Commission in accordance with subsection (e), the President determines that such article is not import-sensitive in the context of imports from eligible countries in sub-Saharan Africa. This subparagraph shall not affect the designation of eligible articles under subparagraph (B).
- (b) **RULES OF ORIGIN** - Section 503 (a) (2) of the Trade Act of 1974 (19 U.S.C. 2463 (a) (2) is amended by adding at the end the following :
- (C) **ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA** - For purposes of determining the percentage referred to in subparagraph (A) in the case of an article of an eligible country in sub-Saharan Africa that is a beneficiary developing country ---
- (i) if the cost or value of material 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); and

- (ii) the cost or value of the materials included with respect to that article that are produced in any beneficiary developing country that is an eligible country in sub-Saharan Africa shall be applied in determining such percentage.
- (c) **WAIVER OF COMPETITIVE NEED LIMITATION** - Section 503 (c) (2) (D) of the Trade Act of 1974 (19 U.S.C. 2463 (c) (2) (D) is amended to read as follows :
- (D) **LEAST-DEVELOPED BENEFICIARY DEVELOPING COUNTRIES AND ELIGIBLE COUNTRIES IN SUB-SAHARAN AFRICA** - Subparagraph (A) shall not apply to any least-developed beneficiary developing country or any eligible country in sub-Saharan Africa.
- (d) **EXTENSION OF PROGRAM** - section 505 of the Trade Act of 1974 (19 U.S.C. 2465) is amended to read as follows :

SEC. 505 DATE OF TERMINATION

- (a) **COUNTRIES IN SUB-SAHARAN AFRICA** - No duty-free treatment provided under this title remain in effect after June 30, 2008, with respect to beneficiary developing countries that are eligible countries in sub-Saharan Africa.
- (b) **OTHER COUNTRIES** - No duty-free treatment provided under this title shall remain in effect after June 30, 1998, with respect to beneficiary developing countries other than those provided for in subsection (a).
- (e) **DEFINITION** - Section 507 of the Trade Act of 1974 (19 U.S.C. 2467) is amended by adding at the end the following :
 - (6) **ELIGIBLE COUNTRY IN SUB-SAHARAN AFRICA** - The terms “eligible country in sub-Saharan Africa” and “eligible countries in sub-Saharan Africa” mean a country or countries that the President has determined to be eligible under section 4 of the African Growth and Opportunity Act.
- (f) **EFFECTIVE DATE** - The amendments made by this section take effect on July 1, 1998.

SECTION 10 - INTERNATIONAL FINANCIAL INSTITUTIONS AND DEBT REDUCTION.

- (A) **BETTER MECHANISMS TO FURTHER GOALS FOR SUB-SAHARAN AFRICA** - It is the sense of the Congress that the Secretary of the Treasury should instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Monetary Fund, and the African Development Bank to use the voice and votes of the Executive Directors to encourage vigorously their respective institutions to develop enhanced mechanisms with further the following goals in eligible countries in sub-Saharan Africa :
- (1) Strengthening and expanding the private sector, especially among women-owned businesses.
 - (2) Reducing tariffs, nontariff barriers, and other trade obstacles and increasing economic integration.
 - (3) Supporting countries committed to accountable government, economic reform, the eradication of poverty, and the building of civil societies.
 - (4) Supporting deep debt reduction at the earliest possible date with the greatest amount of relief for eligible poorest countries under the "Heavily Indebted Poor Countries" (HIPC) debt initiative.
- (b) **SENSE OF CONGRESS** - It is the sense of the Congress that relief provided to countries in sub-Saharan Africa which qualify for the Heavily Indebted Poor Countries debt initiative should primarily be made through grants rather than through extended-term debt, and that interim relief of interim financing should be provided for eligible countries that establish a strong record of macroeconomic reform.
- (c) **EXECUTIVE BRANCH INITIATIVES** - The Congress supports and encourages the implementation of the following initiatives of the executive branch :
- (1) **AMERICAN-AFRICAN BUSINESS PARTNERSHIP** - The Agency for International Development devoting up to US\$ 1,000,000 annually to help catalyze relationships between United States firms and firms in sub-Saharan Africa through a variety of business association and networks.
 - (2) **TECHNICAL ASSISTANCE TO PROMOTE REFORMS** - The Agency for International Development providing up to US\$ 5,000,000 annually in short-term technical assistance programs to help the governments of sub-Saharan African countries to ---
 - (A) liberalize trade and promote exports;
 - (B) bring their legal regimes into compliance with the standards of the World Trade Organization in conjunction with membership in that Organization; and

- (C) make financial and fiscal reforms as well as the United States Department of Agriculture providing support to promote greater agribusiness linkages.
- (3) **AGRICULTURAL MARKET LIBERALIZATION** - The Agency for International Development devoting up US\$ 15,000,000 annually as part of the multi-year Africa Food Security initiative to help address such critical agricultural policy issues as market liberalization, agricultural export development, and agribusiness investment in processing and transporting agricultural commodities.
- (4) **TRADE PROMOTION** - The Trade Development Agency increasing the number of reverse trade missions to growth-oriented countries in sub-Saharan Africa.
- (5) **TRADE IN SERVICES** - Efforts by United States embassies in the countries in sub-Saharan Africa to encourage their host government---
 - (A) to participate in the opening negotiations on financial services in the World Trade Organization;
 - (B) to revise their existing schedules to the General Agreement on Trade in Services of the World Trade Organization in light of the successful conclusion of negotiations on basic telecommunications services; and
 - (C) to make further commitments in their schedules to the General Agreement on Trade in Services in order to encourage the removal of tariff and nontariff barriers and to foster competition in the services sector in those countries.

SECTION 11 - SUB-SAHARAN AFRICA EQUITY AND INFRASTRUCTURE FUNDS.

- (a) **INITIATION OF FUNDS** - It is the sense of the Congress that the Overseas Private Investment Corporation should, within 12 months after the date of the enactment of this Act, exercise the authorities it has to initiate 2 or more equity funds in support of projects in the countries in sub-Saharan Africa.
- (b) **STRUCTURE AND TYPES OF FUNDS** -
 - (1) **STRUCTURE** - Each fund initiated under subsection (a) should be structured as a partnership managed by professional private sector fund managers and monitored on a continuing basis by the Corporation.
 - (2) **CAPITALIZATION** - Each fund should be capitalized with a combination of private equity capital, which is not guaranteed by the Corporation, and debt for which the Corporation provides guaranties.

- (3) TYPE OF FUNDS -
- (A) EQUITY FUND FOR SUB-SAHARAN AFRICA - One of the funds should be an equity fund, with assets of up to US\$ 150,000,000, the primary purpose of which is to achieve long-term capital appreciation through equity investments in support of projects in countries in sub-Saharan Africa.
- (B) INFRASTRUCTURE FUND - One or more of the funds, with combined assets of up to US\$ 500,000,000, should be used in support of infrastructure projects in countries of sub-Saharan Africa. The primary purpose of any such fund would be to achieve long-term capital appreciation through investing in financing for infrastructure projects in sub-Saharan Africa, including for the expansion of businesses in sub-Saharan Africa, restructurings, management buyouts and byings, businesses with local ownership, and privatizations.
- (4) EMPHASIS - The Corporation shall ensure that the funds are used to provide support in particular to women entrepreneurs and to innovative investments that expand opportunities for women and miximize employment opportunities for poor individuals.

SECTION 12 - OVERSEAS PRIVATE INVESTMENT CORPORATION AND EXPORT-IMPORT BANK INITIATIVES

- (a) OVERSEAS PRIVATE INVESTMENT CORPORATION
- (1) ADVISORY COMMITTEE - Section 233 of the Foreign Assistance Act of 1961 is amended by adding at the end the following :
- (e) ADVISORY COMMITTEE - The Board shall take prompt measures to increase the loan, guarantee, and insurance programs, and financial commitments, of the Corporation in sub-Saharan Africa, including through the establishment and use of an advisory Committee to assist the Board in developing and implementating policies, programs, and financial instruments with respect to sub-Saharan Africa. In addition, the advisory committee shall make recommendations to the Board on how the Corporation can facilitate greater support by the United States for trade and investment with and in sub-Saharan Africa. The advisory committee shall terminate 4 years after the date of the enactment of this sunsection.
- (2) REPORTS TO THE CONGRESS - Within 6 months after the date of the enactment of this Act, and annually for each of the 4 years thereafter, the Board of Directors of the Overseas Private Investment Corporation shall submit to the Congress a report on the steps that the Board has taken to implement section 233 (e) of the Foreign Assistance Act of 1961 (as added by paragraph (1) and any

recommendations of the advisory board establish pursuant to such section.

(b) EXPORT-IMPORT BANK

(1) ADVISORY COMMITTEE FOR SUB- SAHARAN AFRICA - Section 2 (b) of the Export-Import Bank Act of 1945 (12 U.S.C. 635 (b) is amended by inserting after paragraph (12) the following :

(13) (A) The Board of Directors of the Bank shall take prompt measures, consistent with the credit standards otherwise required by law, to promote the expansion of the Bank's financial commitments in sub-Saharan Africa under the loan, guarantee, and insurance programs of the Bank.

(B) (i) The Board of Directors shall establish and use an advisory committee to advise the Board of Directors on the Development and implementation of policies and programs designed to support the expansion described in subparagraph (A).

(ii) The advisory committee shall make recommendations to the Board of Directors on how the Bank can facilitate greater support by United States commercial banks for trade with sub-Saharan Africa.

(iii) The advisory committee shall terminate 4 years after the date of the enactment of this subparagraph.

(2) REPORT TO THE CONGRESS - Within 6 months after the date of the enactment of this Act, and annually for each of the 4 years thereafter, the Board of Directors of the Export-Import Bank of the United States shall submit to the Congress a report on the steps that the Board has taken to implement section 2 (b) (13) (B) of the Export-Import Bank Act of 1945 (as added by paragraph (1) and any recommendations of the advisory committee established pursuant to such section.

SECTION 13 - ESTABLISHMENT OF ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR SUB-SAHARAN AFRICA

(a) ESTABLISHMENT - The President shall establish a position of Assistant United States Trade Representative within the Office of the United States Trade Representative to focus on trade issues relating to sub-Saharan Africa.

(b) FUNDING AND STAFF - The President shall ensure that the Assistant United States Trade Representative appointed pursuant to subsection (a) has adequate funding and staff to carry out the duties described (a), subject to the availability of appropriations.

SECTION 14 - EXPANSION OF THE UNITED STATES AND FOREIGN COMMERCIAL SERVICE IN SUB-SAHARAN AFRICA.

- (a) **SENSE OF THE CONGRESS** - It is the sense of the Congress that the United States and Foreign Commercial Service should expand its presence in sub-Saharan Africa by increasing the number of posts and the number of personnel it allocates to sub-Saharan Africa.
- (b) **REPORTING REQUIREMENT** - Not later 120 days after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of State, should report to the Congress on the feasibility of expanding the presence in sub-Saharan Africa of the United States and Foreign Commercial Service.

SECTION 15 - REPORTING REQUIREMENT

The President shall submit to the Congress, not later than 1 year after the date of the enactment of this Act, and not later than the end of each of the next 41-year periods thereafter, a report on the implementation of this Act.

SECTION 16 - SUB-SAHARAN AFRICA DEFINED

For purposes of this Act, the terms “sub-Saharan Africa”, “sub-Saharan African country”, “country in sub-Saharan Africa”, and “countries in sub-Saharan Africa” refer to the following :

Republic of Angola	(Angola)
Republic of Botswana	(Botswana)
Republic of Burundi	(Burundi)
Republic of Cape Verde	(Cape Verde)
Republic of Chad	(Chad)
Democratic Republic of Congo	(Congo)
Republic of the Congo	(Congo)
Republic of Djibouti	(Djibouti)
State of Eritrea	(Eritrea)
Gabonese Republic	(Gabon)
Republic of Ghana	(Ghana)

Republic of Guinea-Bissau	(Guinea-Bissau)
Kingdom of Lesotho	(Lesotho)
Republic of Madagascar	(Madagascar)
Republic of Mali	(Mali)
Republic of Mauritius	(Mauritius)
Republic of Namibia	(Namibia)
Federal Republic of Nigeria	(Nigeria)
Democratic Republic of Sao Tome and Principe	(Sao Tome and Principe)
Republic of Sierra Leone	(Sierra Leone)
Somalia	(Somalia)
Kingdom of Swaziland	(Swaziland)
Republic of Togo	(Togo)
Republic of Zimbabwe	(Zimbabwe)
Republic of Benin	(Benin)
Burkina Faso	(Burkina)
Republic of Cameroon	(Cameroon)
Central African Republic	(Central Africa Republic)
Federal Islamic Republic of the Comoros	(Comoros)
Republic of Cote d'Ivoire	(Cote d'Ivoire)
Republic of Equatorial Guinea	(Equatorial Guinea)
Ethiopia	(Ethiopia)
Republic of the Gambia	(Gambia)
Republic of Guinea	(Guinea)
Republic of Kenya	(Kenya)

Republic of Liberia	(Liberia)
Republic of Malawi	(Malawi)
Islamic Republic of Mauritania	(Mauritania)
Republic of Mozambique	(Mozambique)
Republic of Niger	(Niger)
Republic of Rwanda	(Rwanda)
Republic of Senegal	(Senegal)
Republic of Seychelles	(Seuchelles)
Republic of South Africa	(South Africa)
Republic of Sudan	(Sudan)
Inited Republic of Tanzania	(Tanzania)
Republic of Uganda	(Uganda)
Republic of Zambia	(Zambia)

SECTION 17 - CLARIFICATION OF DEDUCTION FOR SEVERAL SEVERANCE PAY

(a) IN GENERAL - Section 404 (a) of the Internal Revenue Code of 1986 (relating to deduction for contributions of an employer to an employee's trust or annuity plan and compensation under a deferred-payment plan) is amended by adding at the following new paragraph :

(11) DETERMINATION RELATING TO SEVERANCE PAY - For purposes of determining under this section ---

(A) wheter severance pay is deferred compensation, and

(B) when severance pay is paid,

no amount shall be treated as received by the employee, or paid, until it is actually received by the employee.

(B) EFFECTIVE DATE -

(1) IN GENERAL - The amendment made by subsection (a) shall apply to taxable years ending after October 8, 1997.

- (2) CHANGE IN METHOD OF ACCOUNTING - In the case of any taxpayer required by the amendment made by subsection (a) to change its method of accounting for its first taxable year ending after October 8, 1997.
- (A) such change shall be treated as initiative by the taxpayer,
 - (B) such change shall be treated as made with the consent of the Secretary of the Treasury; and
 - (C) the net amount of the adjustments required to be taken into account by the taxpayer under section 481 of the Internal Revenue Code of 1986 shall be taken into account in such first taxable year.

SECTION 18 - DONATION OF OBSOLETE AIR TRAFFIC CONTROL EQUIPMENT TO ELIGIBLE SUB-SAHARAN AFRICAN COUNTRIES.

It is the sense of the Congress that, to the extent appropriate, the United States Government should make every effort to donate to government of sub-Saharan Africa countries (determined to be eligible under section 4 of this Act) obsolete air traffic control equipment, including appropriate related reimbursable technical assistance for such equipment.

Passed the House of Representatives March 11, 1998

END