

## Comments to USTR on the Modernization of the African Growth and Opportunity Act (AGOA)

Submitted by: Climate Leadership Council

### Introduction and Summary

The United States Trade Representative (USTR) has requested comments on trade policy recommendations to modernize the African Growth and Opportunity Act (AGOA)—a non-reciprocal trade preference program that provides eligible Sub-Saharan African countries with duty-free access to the U.S. market for qualifying goods.<sup>i</sup> The request seeks input across a broad set of trade and development priorities, including labor standards, rules of origin, investment facilitation, and digital trade.<sup>ii</sup>

The Council's comments focus on one strategically urgent dimension: "how AGOA should be modified to improve the resilience of the U.S. supply chain for critical minerals."<sup>iii</sup> Critical mineral inputs are essential to advanced energy technologies, advanced manufacturing, and defense equipment. Domestic firms remain vulnerable to supply disruption and price manipulation.

In 2025, the U.S. was 100% net import-reliant for 13<sup>iv</sup> of the 58 critical minerals identified by the U.S. Geological Survey (USGS) and more than 50% import-reliant for another 20.<sup>v</sup> Much of this import exposure is exacerbated by Chinese market control. China controls an estimated 60 percent of global critical mineral production and 91 percent of processing capacity,<sup>vi</sup> supported by state subsidies, predatory pricing, and deliberate market manipulation.<sup>vii</sup> As demand for critical minerals accelerates alongside electrification, AI-driven data infrastructure, and the global energy transition, addressing Chinese market control will require building trusted trade relationships with a diverse set of partners, including countries in Africa.

Sub-Saharan African countries hold approximately 30 percent of mapped global critical mineral reserves<sup>viii</sup> yet are dramatically underrepresented in U.S. trade relationships. The U.S. is actively building domestic critical mineral capacity and deepening cooperation with international partners through bilateral agreements, plurilateral initiatives, and expanded use of development finance tools. USTR's request for comments on AGOA modernization presents a timely opportunity to align AGOA with these objectives.

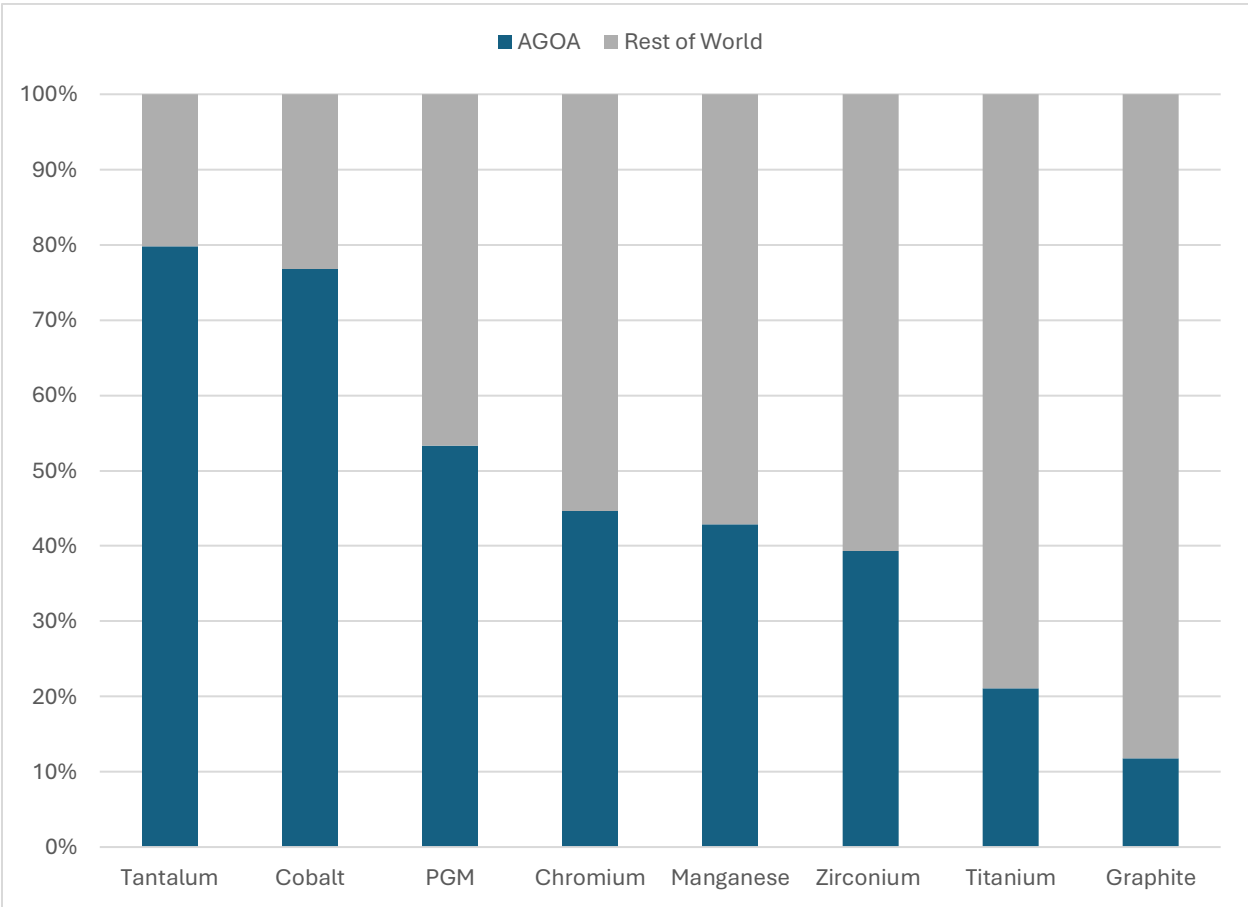
If modernized effectively, AGOA could build long-term market certainty for American and African firms, support investment in critical mineral production in Sub-Saharan Africa, and reduce U.S. exposure to Chinese Communist Party (CCP)-linked entities. The Council's recommendations focus on three areas for critical mineral exports: aligning tariff coverage with supply chain objectives, preserving preferential access beyond program graduation,<sup>ix</sup> and establishing a working group to evaluate supply chain integrity requirements.

**Data Snapshot: The Opportunities**

AGOA-eligible countries hold reserves amounting to over 78 percent of global Platinum Group Metals (PGMs), over 55 percent of cobalt, 34 percent of manganese, and almost a quarter of graphite.<sup>x</sup> They also hold significant reserves (>10%) of zirconium, fluorspar, and copper.<sup>xi</sup> The strategic potential of AGOA-eligible supply chains is almost certainly greater than existing reserve data indicates.

The data is clearer in critical mineral production. The region’s mining sector spans a significant range of commodities—from battery metals such as cobalt, manganese, and graphite; tantalum used in semiconductors; and copper and chromium that are essential to electricity infrastructure.

**Chart 1. Critical Mineral Production in AGOA Countries vs. Rest of World (%)**



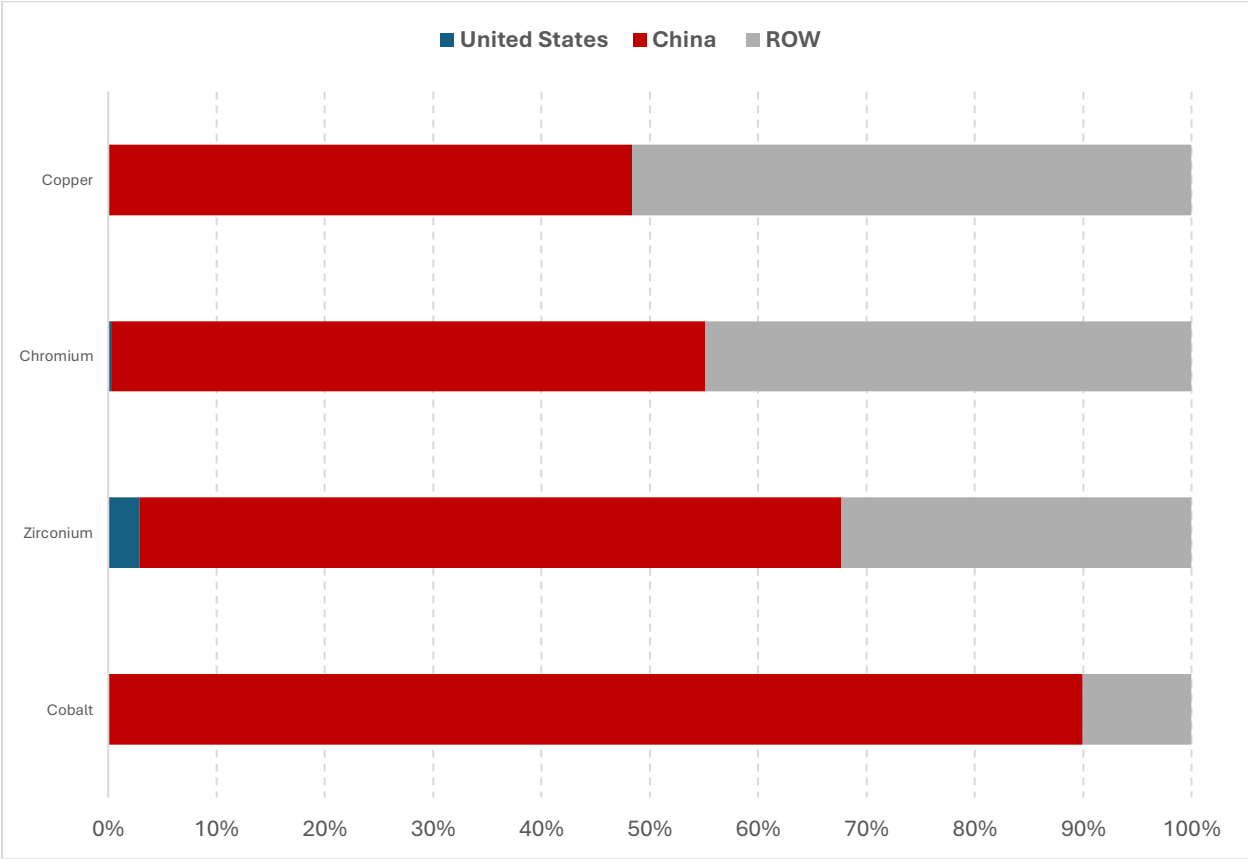
Source: USGS, MCS2025 World Data, calculations by author

Production is substantial in several key commodities. Rich reserves position the DRC to produce over 70% of global cobalt output and South Africa to produce more than half of global PGMs, specifically palladium and platinum.<sup>xii</sup> DRC, Mozambique, Nigeria, and Rwanda account for almost 80% of global tantalum output.<sup>xiii</sup> Production for other

minerals is scattered across other AGOA-eligible countries, including Madagascar and Tanzania.

Despite this production base, the region captures limited value from its mineral wealth. Most extracted materials are exported as raw ore and sent to China for processing. More than half of raw materials and concentrates of cobalt, zirconium, chromium, and copper go directly to China —reinforcing Beijing's hold on critical mineral supply chains.

**Chart 2. AGOA Countries' Exports of Key Ores and Concentrates to U.S., China, and Rest of World (%)**



Source: Global Trade Tracker (April 2025-2026), HTS codes used: 261000, 260500, 260300, 261510

In contrast, the U.S. currently receives roughly 6% of its critical mineral imports<sup>xiv</sup> from AGOA countries.<sup>xv</sup> Modernizing this program to explicitly incentivize critical mineral trade and non-CCP processing capacity—within both jurisdictions—could help redirect supply chains toward trusted partners.

**Recommendations for Strengthening Critical Mineral Security in AGOA**

The following three recommendations for AGOA reauthorization would preserve the existing structure and development focus while increasing access to African mineral resources. Reauthorization should ensure that all relevant critical mineral imports are

covered, resource-rich countries maintain access to trade benefits, and necessary safeguards for preferential treatment are imposed.

### ***Recommendation 1: Extend Explicit Preferential Tariff Coverage to Critical Minerals with Set Review Periods***

While many critical mineral inputs already receive AGOA benefits or face zero MFN tariffs<sup>xvi</sup>—the standard tariff rates applied to most WTO members—codifying qualifying HTS codes and ensuring that all relevant products are covered would better align AGOA with U.S. supply chain security objectives. Product coverage is especially relevant for incentivizing value addition in beneficiary countries, including for mineral processing. For investors and project finance lenders making long-term, capital-intensive decisions, AGOA-based preferential access can provide clear and durable confidence in long-lasting preferential access.

AGOA has already demonstrated its impact as a long-term commercial signal in the apparel sector. Since its enactment in 2000, Kenya, Ethiopia, and Lesotho attracted substantial export-oriented investment in part because of AGOA eligibility. For example, Kenya's apparel exports to the U.S. grew from \$55 million in 2001 to \$603 million in 2022.<sup>xvii</sup> The reverse is also true; the USITC found that every country that lost eligibility during the same timeframe saw a measurable decline in U.S. apparel imports.<sup>xviii</sup> That logic applies with even greater force to capital-intensive mineral projects, where timelines and financing horizons far exceed those in apparel.

AGOA can complement other U.S. supply chain initiatives. AGOA-qualifying HTS codes should include the USGS List of Critical Minerals.<sup>xix</sup> Interim review of AGOA-qualifying goods would allow USTR to ensure that trade preferences are assigned to relevant minerals as the underlying USGS changes with market needs. The review can further assess whether preferential access is translating into diversified, stable supply flows and whether changes are necessary. Periodic review ensures that AGOA preferences can be a dynamic and responsive policy instrument.

### ***Recommendation 2: Extend Preferential Treatment for Critical Mineral Trade Beyond AGOA Graduation***

Congress should consider a carve-out to preserve preferential access for critical mineral exports from countries that graduate from AGOA due to income thresholds. Countries can lose eligibility through two pathways: (1) Presidential determination that a country no longer meets the eligibility criteria<sup>xx</sup> or (2) mandatory termination under the Trade Act of 1974, which requires the president to terminate beneficiary status when a country is classified as high-income by the International Bank for Reconstruction and Development.<sup>xxi</sup>

As several mineral-rich African countries are among the world's fastest growing economies, the current structure could withdraw preferential access just as export capacity matures and U.S. supply chain partnerships deepen. For capital-intensive mineral projects with long development timelines, this creates a predictable investment horizon problem: private capital and project finance lenders are less likely to commit to long-term supply chains if preferential access may disappear as host economies develop. Without a "graduation carveout," AGOA preferences may inadvertently discourage exactly the type of long-horizon investment needed to build durable and diversified supply chains in the region.

This concern is not hypothetical. Equatorial Guinea—which holds identified mineral potential in gold, tantalum, and copper<sup>xxii</sup>—has already lost AGOA eligibility following income graduation,<sup>xxiii</sup> illustrating how the current structure can exclude mineral-rich economies before export capacity matures. Congress has also previously demonstrated flexibility when strategic interests warranted, granting Botswana and Namibia legislative designations for apparel benefits despite exceeding standard income thresholds.<sup>xxiv</sup>

### ***Recommendation 3: Consider Supply Chain Integrity Requirements***

Without carefully designed guardrails, AGOA preferences could inadvertently reinforce CCP-linked supply chains rather than redirecting trade and investment toward trusted partners. To better align AGOA's preferential tariff treatment with U.S. national security objectives, the administration should immediately establish an interagency working group to evaluate the practicality and benefits of incorporating supply chain integrity requirements for AGOA-eligible goods—and provide Congress with concrete recommendations. This question is particularly urgent given the scale of Chinese state-linked involvement across Sub-Saharan African mineral supply chains. Chinese state-owned enterprises and policy banks control approximately 80 percent of the DRC's cobalt output,<sup>xxv</sup> while more than 90 percent of Africa's projected lithium supply this decade is expected to come from entities at least partly owned by Chinese firms.<sup>xxvi</sup>

The working group should assess which products and supply chain segments may warrant targeted guardrails and whether measures such as Foreign Entity of Concern<sup>xxvii</sup> and prohibited foreign entity provisions could strengthen supply chain diversification and reduce reliance on adversarial actors. These interests should be balanced with concerns regarding supply disruptions or price shocks for goods that are already deeply controlled by CCP-linked enterprises. Sector-specific recommendations can inform future reauthorizations and ongoing congressional oversight.

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- <sup>i</sup> Office of the United States Trade Representative. “African Growth and Opportunity Act (AGOA).” United States Trade Representative. Accessed May 13, 2026. [USTR AGOA Page](#)
- <sup>ii</sup> Request for Comments on the Modernization of the African Growth and Opportunity Act (AGOA), 91 Fed. Reg. 35641 (Apr. 29, 2026). [Federal Register Notice](#)  
Office of the United States Trade Representative. “Request for Comments on the Modernization of the African Growth and Opportunity Act (AGOA).” *Federal Register* 91, no. 82 (April 29, 2026). [Federal Register Notice](#)
- <sup>iii</sup> Request for Comments on the Modernization of the African Growth and Opportunity Act (AGOA), 91 Fed. Reg. 35641 (Apr. 29, 2026). [Federal Register Notice](#)
- <sup>iv</sup> Excludes: metallurgical coal and uranium
- <sup>v</sup> U.S. Geological Survey. *Mineral Commodity Summaries 2026*. Reston, VA: U.S. Geological Survey, 2026. [USGS Mineral Commodity Summaries 2026 PDF](#)
- <sup>vi</sup> Tae-Yoon Kim et al., “With New Export Controls on Critical Minerals, Supply Concentration Risks Become Reality – Analysis,” IEA, October 23, 2025.
- <sup>vii</sup> U.S. House Select Committee on the Strategic Competition Between the United States and the Chinese Communist Party. *Predatory Pricing: How the Chinese Communist Party Manipulates Global Minerals Prices To Maintain Its Dominance*. Washington, DC: U.S. House of Representatives, November 12, 2025. [House Select Committee Report](#)
- <sup>viii</sup> International Monetary Fund. “Harnessing Sub-Saharan Africa’s Critical Mineral Wealth.” April 29, 2024. [IMF Article](#)
- <sup>ix</sup> Graduation refers to AGOA’s provision requiring a country to exit the program once it reaches “high-income” status.
- <sup>x</sup> USGS, calculations by author
- <sup>xi</sup> USGS, calculations by author
- <sup>xii</sup> USGS, calculations by author
- <sup>xiii</sup> USGS, calculations by author
- <sup>xiv</sup> Selected Tariff Codes sourced from [USGS Appendices](#) for “Methodology and Technical Input for the 2025 U.S. List of Critical Minerals—Assessing the Potential Effects of Mineral Commodity Supply Chain Disruptions on the U.S. Economy”; [Global Trade Tracker](#) for trade data; calculations by author.
- <sup>xv</sup> Global Trade Tracker; calculations by author
- <sup>xvi</sup> U.S. International Trade Commission. *Harmonized Tariff Schedule of the United States*. [USITC HTS Search Result](#)
- <sup>xvii</sup> David Luke, “How Has the AGOA Agreement Benefited African Countries?” [World Economic Forum](#), November 16, 2023
- <sup>xviii</sup> U.S. International Trade Commission, *African Growth and Opportunity Act: Program Usage, Trends, and Sectoral Highlights*, USITC Publication 5425, April 2023.
- <sup>xix</sup> U.S. Geological Survey. “Interior Department Releases Final 2025 List of Critical Minerals.” November 14, 2025. [USGS Science Snippet](#)
- <sup>xx</sup> 19 U.S.C. § 2462. “Designation of Beneficiary Developing Countries.” *Legal Information Institute*, Cornell Law School. [Cornell Legal Information Institute](#).
- <sup>xxi</sup> Trade Act of 1974, Pub. L. No. 93-618, 88 Stat. 1978 (1975), as amended. [GovInfo PDF](#)
- <sup>xxii</sup> SFA (Oxford). “Equatorial Guinea.” *Critical Minerals Policy and Legislation Tracker*. [SFA Oxford Critical Minerals Tracker](#)
- <sup>xxiii</sup> Office of the United States Trade Representative. “Equatorial Guinea.” [USTR Equatorial Guinea Page](#)
- <sup>xxiv</sup> International Trade Administration. “AGOA Frequently Asked Questions.” [AGOA FAQ Page](#)
- <sup>xxv</sup> U.S. Army War College, Strategic Studies Institute. “China in the Democratic Republic of the Congo: A New Dynamic in Critical Mineral Procurement.” September 2024. [SSI Army War College Analysis](#)
- <sup>xxvi</sup> Benchmark Mineral Intelligence. “China Set to Dominate African Lithium Production This Decade.” [Benchmark Mineral Intelligence Article](#)
- <sup>xxvii</sup> U.S. Department of Energy, Office of Manufacturing and Energy Supply Chains. “Foreign Entity of Concern Interpretive Guidance.” [DOE FEOC Guidance](#)