

8. CONCLUSION: THE STEPS NEEDED TO STRENGTHEN AGOA

Twelve years since AGOA was signed into law, the legislation continues to be a work in progress. The volume of AGOA imports has increased 500 percent, from \$8.15 billion in 2001 to \$53.8 billion in 2011, and non-energy AGOA imports have increased 275 percent, from \$1.2 billion to \$4.5 billion. In many respects, the non-energy imports are the most important because they have the largest impact on economic development. Although the volume of non-energy AGOA imports is still relatively small, there is no question that AGOA has had a beneficial impact—in terms of job creation, poverty reduction and strengthening commercial and diplomatic relations between the U.S. and the majority of countries in Sub-Saharan Africa. The assistant U.S. trade representative, Florizelle Liser, was correct when she said in recent testimony before Congress that AGOA continues to be “at the heart of our engagement with Sub-Saharan Africa.”⁵⁵

The immediate challenge for both the United States and AGOA beneficiary countries, nevertheless, is how to strengthen and deepen the legislation’s benefits. The U.S. is also facing a challenge in how to build on AGOA in a way that will increase the American commercial presence in African markets. In short, the U.S. needs a comprehensive trade and investment strategy that not only ensures that

AGOA achieves its full potential but also supports American companies as they pursue commercial success in Africa.

Extending AGOA

One of the most significant constraints on AGOA’s continuing effectiveness is the uncertainty about when it will expire. When AGOA was first passed, its benefits were set to expire after eight years, and they were subsequently extended another seven years, to 2015. AGOA’s third-country fabric provision, perhaps its most critical aspect, was extended in December 2006 until September 2012. As of this writing, this provision has not been extended further—even though, reportedly, there is no opposition in Congress to doing so. Because of this uncertainty about AGOA’s future, an estimated 35 percent of apparel orders have been lost as American customers have sought greater product certainty from other non-African producers.

The message is clear: A precondition for AGOA’s effectiveness is greater predictability and certainty about its lifetime. Congress, therefore, should extend AGOA for another 10 years, from 2015 through 2025, to give African producers more time to learn how to access the U.S. market. And AGOA’s third-country fabric provision should also

⁵⁵ Testimony of Florizelle Liser, assistant U.S. trade representative for Africa, Office of the U.S. Trade Representative, Hearing before the House Subcommittee on Africa, Global Health and Human Rights, April 17, 2012.

be extended until 2025, provided Congress acts to extend it in 2012.

The Trade Hubs

The three trade hubs overseen by USAID have the most impact in providing technical assistance to African producers and entrepreneurs to help them export under AGOA and to access other markets. Even though commercial conditions differ across Africa, the three hubs could benefit from having a more uniform strategy for enhancing AGOA-eligible exports. For example, the 21 resource centers created throughout West Africa by the hub in Accra have not only increased USAID's ability to provide technical assistance, but also have the potential to strengthen U.S. commercial diplomacy, especially in accessing local markets, buyers, suppliers and entrepreneurs. Unfortunately, there are no resource centers in other regions. As a 2010 assessment concluded, the trade hubs' priorities "have more often than not been driven by political and financial, rather than programmatic imperatives."⁵⁶ The study also noted that the hubs, to their credit, have "contributed significantly" to two-way trade between the U.S. and AGOA beneficiaries, empowering African entrepreneurs—especially women—and contributing to regional integration.

USAID, working with other U.S. agencies, especially the Commerce Department, should develop a network of resource centers throughout Sub-Saharan Africa. This network would provide a platform for the creation of commercial centers to assist African businesses as well as American investors and exporters.

Regional Integration and TIFAs

One of the highest priorities in Africa is to foster more regional trade. This was evident most recently

at the January 2012 meeting of the African Union, where the AU's heads of state committed to the creation of a Continental Free Trade Area by 2017. This initiative would build on the Tripartite Agreement between the Common Market of East and Central Africa, the South African Development Community and the East African Community to create a regional free trade area later this year.

Although regional integration was not emphasized in the original AGOA, it has nevertheless become a priority for the U.S., and appropriately so, especially as U.S. companies seek larger markets. It is a welcome development, therefore, that USTR is working toward a new trade and investment partnership with the East African Community. This partnership is being planned to include the negotiation of a regional investment treaty, focused trade capacity building initiatives in targeted sectors and strengthening trade facilitation agreements. Congress and USTR should be encouraged in these efforts while exploring similar investment treaties with West, Central and Southern Africa.

The bilateral and regional TIFAs that USTR has developed are useful vehicles to expand the policy dialogue on constraints to trade, investment and economic growth. The business advisory group Manchester Trade contends that the TIFAs should be utilized to address trade complaints and investment barriers that limit both regional trade and U.S. companies.⁵⁷ It would also be useful if the TIFAs could foster more direct dialogue between U.S. companies and their counterparts in countries and regions with which the U.S. has TIFAs. The TIFAs could also be valuable for identifying specific sectors that have the potential to increase AGOA-eligible exports most rapidly.

In the original AGOA, Congress encouraged the negotiation of "mutually beneficial trade agreements,

⁵⁶ U.S. Agency for International Development *African Trade Hub Best Practices Review: Building on Successes and Lessons Learned for the Next Generation of Trade Hubs*, Report Submitted by DAI/Nathan Group (Washington: U.S. Government Printing Office, 2010), vi.

⁵⁷ Stephen Lande et al., "AGOA Enhancement through a Partnership for Regional Integration Investment, Competitiveness and Employment (PRIICE)," Manchester Trade Limited, Inc., February 19, 2012, www.manchestertrade.com/22FEB-BAS-PRIICE.pdf.

including the possibility of free trade areas.”⁵⁸ Although an FTA between the U.S. and the East African Community is a worthy objective, the U.S. is probably well served, at least in the near term, to work on negotiating a regional investment treaty with the East African Community and other agreements that might ultimately provide the foundation for an FTA. Moreover, USTR and the State Department should initiate a dialogue with AGOA partners and the European Commission to limit the negative impact of the EPAs. And attention should also be given to how the U.S. can support, and participate in, the development of the proposed Continental Free Trade Agreement.

The Role of Agriculture

As was noted above, AGOA does not provide a great deal of assistance for Sub-Saharan Africa’s agricultural exports. Unfortunately, U.S. agricultural subsidies make changes to agricultural import duties difficult to achieve, especially in the more sensitive import categories. However, AGOA could be amended to strengthen agricultural exports. The USDA is not specifically mandated to perform under AGOA, but it should be—USDA officers, especially those in the Foreign Agricultural Service, already have a presence in the region. Formalizing USDA’s role within the legislation so that it would become an integral part of AGOA, and thus be able to work more closely with USTR, USAID and other agencies to support capacity-building efforts for agriculture, would contribute to greater export growth in this sector.

The United States’ Commercial Engagement in Africa

AGOA was not designed to support U.S. trade and investment in Africa, apart from improving Africa’s investment environment and strengthening African entrepreneurs. However, given the increased competitiveness in African markets and the Obama administration’s effort to increase exports as a stimulus

to U.S. job creation, Africa’s commercial potential has taken on a new importance for the U.S. In this context, the legislation introduced in Congress in March 2012, the Increasing American Jobs through Greater Exports to Africa Act, is well timed. As noted above, this proposed act’s recommendations are important for expanding U.S.–Africa commercial engagement in a mutually beneficial way.

If there is a shortcoming in this proposed act, it is the lack of a reference to AGOA. Therefore, the official in the White House who is coordinating the “whole of government” approach to enhancing U.S. trade and investment in Africa should also have the responsibility for ensuring that there is a “whole of government” approach to the implementation of AGOA.

Of course, a person in a responsible position in the White House alone will not ensure that the U.S. becomes more competitive in Africa. Toward this end, the U.S. should initiate a summit mechanism to include the heads of state of all AGOA-eligible countries. The nations of Africa meet regularly at the summit level with their most important commercial partners, including the European Union and China. The U.S. and African nations similarly could benefit from regular meetings at the highest levels of government. After all, the United States’ relationship with Africa is changing to one that is increasingly mutually beneficial; at the same time, the nations of Africa have more options for commercial partners than ever before.

In addition to a summit mechanism and a position in the White House to develop and coordinate a U.S. investment strategy vis-à-vis Africa, the Commerce Department needs to elevate Africa as a priority region. Most immediately, this would lead to an increase in the number of foreign commercial officers in Africa, as are called for in the Increasing American Jobs through Greater Exports to Africa Act. This proposed act also calls for the commerce secretary to lead a trade mission to Africa within

⁵⁸ Trade and Development Act of 2000.

a year of the legislation's enactment. Without the support of the Commerce Department, American investors are denied a valuable resource and tool of U.S. commercial diplomacy.

It is a reality that most American investors continue to see tremendous risk associated with investing in Africa. One strategy for lowering this risk would be to provide a zero tax on repatriated earnings on investments by U.S. companies in AGOA-eligible countries, outside the extractive sectors. The Commission on Capital Flows to Africa found that nonpetroleum U.S. investments in Africa would increase by 20 percent with such a tax incentive. It

also found that the loss to the U.S. Treasury would be minimal, about \$70 million a year, and that there would be a boost to African gross domestic product and job creation.⁵⁹

Although Africa is still confronting many challenges, it is increasingly a continent of opportunity. U.S. policy needs to respond accordingly by strengthening and extending AGOA and passing and implementing the Increasing American Jobs through Greater Exports to Africa Act. These initiatives would enable the United States to pursue a deeper, more mutually beneficial commercial relationship with its partners in Sub-Saharan Africa.

⁵⁹ Harmon, "Ten-Year Strategy," 17.