Issues and Opportunities for Discussion

AGOA's Reauthorization: Beyond 2015

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AGOA BEYOND 2015: ISSUES AND OPPORTUNITIES

INTRODUCTION

The 2000 African Growth and Opportunity Act (AGOA) is the most comprehensive of all U.S. trade preference programs and grants forty[1] countries in sub-Saharan Africa eligibility for preferential access to the U.S. market in a wide range of products. It has become a flagstone of the U.S.-African relationship and has successfully shifted focus to trade and economic issues. AGOA was designed to spur economic development by using trade incentives to promote a level of economic progress and governance necessary to foster robust and fair economic systems in sub-Saharan Africa. The policy priorities of AGOA still ring true and include increasing trade and investment; strengthening the private sector; reducing trade barriers; supporting rule of law, poverty reduction, and economic reform; and encouraging regional integration in Africa, which will also connect the subcontinent more closely to international markets.[2]

Yet, since AGOA was enacted, much has changed. In the last decade, six of the world's ten fastest growing economies were in sub-Saharan Africa.[3] Africa's markets hold such great potential, and AGOA can and should be a tool for unlocking this opportunity during its next stage. This paper will identify the issues and opportunities that can lead to this transformative role for AGOA and U.S.-African trade.

AGOA has generated some notable successes in sectors such as horticulture, apparel, automobiles, ferroalloys, and cocoa, chocolate and confectionary products.[4] AGOA has also created approximately 350,000 direct jobs and 1,000,000 indirect jobs in Africa and 100,000 jobs in the United States.[5] Yet the program clearly has unexplored potential. Earlier this year, U.S. Trade Representative (USTR) Michael Froman succinctly summed up AGOA's success to date:

> *Under AGOA, total exports from sub-Saharan Africa to the United States have tripled and, as AGOA countries improved their business and investment climates, the stock of U.S. FDI has almost quadrupled. AGOA has also supported the diversification of sub-Saharan African economies; since 2001, non-oil, non-mineral exports under AGOA to the United States have increased almost four-fold, but at only $5 billion, there is much room for growth.*[6]

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[1] As of January 2015.
[2] 19 U.S. Code §3702.
[3] *2014 World Economic Outlook: Legacies, Clouds, Uncertainties*. International Monetary Fund, Oct. 2014. Web. 13 Dec. 2014.
[4] *AGOA: Trade and Investment Performance Overview*. United States International Trade Commission, 24 Apr 2014. Web. 11 Dec. 2014.
[5] *AGOA Ambassadors Working Group Recommendations for the Re-Authorization of the African Growth and Opportunity Act (AGOA)* available at http://www.leadershipafricausa.org/pdf/activites/Focus%20on%20Africa/Press%20Release/African%20Ambassadors%20Recommendations%20For%20the%20Re-Authorization%20of%20AGOA.pdf
[6] Froman, Michael. *Growing the Development Dividend: U.S. Trade Policy and Global Development in the 21st Century*. Office of the United States Trade Representative, 29 Jul. 2014. Web. 8 Dec. 2014.

Despite many success stories, more can be done to bolster Africa's participation in the global economy. A focus on how markets develop is warranted given Africa's economic position, as are stronger mechanisms for engaging the private sector (including enterprises of all sizes). Development of regional markets in sub-Saharan Africa remains a priority for expanding trade, enhancing investment, and improving food security. Enhanced regional integration can strengthen Africa's supply chains and help connect Africa with the global economy.

Current statistics demonstrate both progress made and the potential that remains:

- Growth rates in sub-Saharan Africa are expected to hit 5.5 percent in 2014, an increase from 4.9 percent in 2013.[7]
- The number of democracies in sub-Saharan Africa has increased from 3 to more than 20 within the last 25 years.[8]
- Africa's share of global trade was 3.5 percent in 2013.[9]
- Intra-African trade accounted for 12.8 percent of total African trade in 2012.
- The Eastern and Southern African Region trades at an estimated 75 percent of its potential.
- 16 landlocked African countries account for 25 percent of Africa's population but only 9 percent of its GDP.
- Agriculture employs the majority of Africans but accounts for less than one percent of exports under AGOA.

With AGOA set to expire on September 30, 2015, the diverse AGOA constituency of businesses, civil society organizations, and governments has flagged the pressing need for both renewal and a review of some of AGOA's provisions and processes, stressing the need for discussion around the following issues:

- How Long AGOA Should Remain in Place
- Which Products Should be Covered
- What Factors (and Process) Should Determine Country Eligibility
- How to Diversify Exports Under AGOA
- Ways in Which to Enhance Agricultural Trade
- How to Simplify Rules of Origin
- Opportunities for U.S. and African Investment in sub-Saharan Africa
- How to Link Preferences with Trade Capacity Building Assistance
- Ways in Which to Promote Regional Trade and Trade Facilitation
- How to Support Regional Trade and Inclusion in Global Supply Chains
- How to Engage Political Leaders at the Highest Level

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[7] *Sub-Saharan Africa: Fostering Durable and Inclusive Growth*. International Monetary Fund, Apr. 2014. Web. 12 Dec. 2014. https://www.imf.org/external/pubs/ft/reo/2014/afr/eng/sreo0414.pdf.

[8] Radelet, Steven. *Emerging Africa: How 17 Countries are Leading the Way*. Center for Global Development, Sept. 2010. Web. 12 Dec. 2014. http://www.cgdev.org/files/1424419_file_EmergingAfrica_FINAL.pdf.

[9] *African Economic Outlook 2014*. African Development Bank, Organization for Economic Co-operation and Development, and United Nations Development Program, 2014. Web. 9 Dec 2014.

Within each of these issues, a number of enterprises, experts, and other stakeholders have offered different solutions. These are outlined in this white paper alongside considerations that will impact the way forward. The issues surrounding AGOA are interrelated and connect with other programs as well. The program on which AGOA builds, the U.S. Generalized System of Preferences (GSP) program, is currently awaiting reauthorization, which will continue to impact AGOA.

Issues around AGOA will also affect different groups in different ways. For example, a longer renewal period, coupled with investment and capacity building activities, could help supply chains develop and better integrate small- and medium-sized enterprises (SMEs) and women who may need additional assistance connecting to larger markets. These considerations are explored in more detail below.

AGOA: Issues and Opportunities

The reauthorization of AGOA presents an opportunity to assess how successful the program has been in meeting its policy objectives and where the program has experienced challenges that could be addressed through an enhanced AGOA. As changes to AGOA are contemplated, it is important for stakeholders to understand the key issues regarding AGOA and the various proposals on the table. While the following list of issues and stakeholders is quite comprehensive, it is not exhaustive. A brief summary of Congressional committee jurisdiction and a note on the implications of GSP's expiration on AGOA follows.

Issue: Program Duration

Overall Program

While AGOA has contributed to market growth, missed opportunities occur as a result of short or unpredictable project duration. One of the most critical considerations is the amount of time it takes for investment to take root or supply chains to expand. All supply chains need time to develop and companies will not invest in cross-border supply chains if they are not assured that their investments have a chance at success. AGOA can help defray this risk if it remains in place long enough. Ten years has been cited as the absolute minimum for even the most straightforward supply chain, but sectors like agriculture will take even longer to develop. In the textiles and apparel sector, for example, investments typically are planned over 10-year periods, and returns on investment take two or more years.[10]

A longer renewal, for example 15 years, is attractive to the business community because it provides predictability and certainty for investors and businesses and helps reduce commercial risk. For many small- and medium- sized entrepreneurs the cost of exporting to the U.S. may be prohibitive absent trade preferences. Sufficiently long renewal periods reduce risk for businesses because they know costs won't change unpredictably. In sectors such as apparel and others, orders have a relatively long lead-time, which requires longer, more predictable project duration. As others such as the Brookings Institution have noted, a long renewal period would also allow time to consolidate the gains of the past; make opportunities more predictable, and the relationship more participatory and less unilateral; ensure mutual benefits; be responsive to the transformative priorities of sub-Saharan African countries; and remain supportive of the regional integration agenda.[11]

Others focus on the political aspects of program duration, stressing that a shorter renewal period will either help build a strengthened process around how AGOA is applied or is appropriate given current

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[10] Mahoney, Brian. "Froman Pushes AGOA Renewal Before Presidential Summit." Law360, 30 Jul. 2014. Web. 13 Dec. 2014; Nijraini, John. "AGOA: the U.S.-Africa Trade Dilemma." Africa Renewal Online, Dec. 2014. Web. 13 Dec. 2014.

[11] Chutha, Robert, and Mwangi S. Kimenyi. *The Africa Growth and Opportunities Act: Toward 2015 and Beyond*. Brookings Institution, Jun. 2011. Web. 9 Dec. 2014; *Improving AGOA: Toward a New Framework for U.S.-Africa Commercial Engagement* (2011): 5. Brookings Institution. Africa Growth Initiative, May 2011. Web. 9 Dec. 2014. <http://www.brookings.edu/~/media/Research/Files/Reports/2011/6/02%20agoa%20beyond%20kimenyi/0602_agoa_beyond.PDF>.

trade flows in commodities. This latter point has been stressed by the Economic Commission on Africa, which notes that current trade still reflects a heavy dependency on commodities, without substantial value-added production or linkages between or within the sectors of the economy.[12] The dependence on commodities (for example, the overwhelming dominance of the oil and gas sector), they stress, makes it more difficult to achieve social improvements without ongoing monitoring.

Also related to the debate on AGOA's duration is a larger question around whether trade preference programs should be replaced with two-way free trade agreements (Free Trade Agreements, or 'FTAs'). This element is increasingly emerging, both as preference margins erode (due to FTAs and WTO trade liberalization) and as Africa's preferential trade agreements with other trading partners, particularly Europe, come online. Europe's FTA with South Africa, which went into full effect in 2004, has raised questions about preserving U.S. interest in African markets. USTR has raised this issue, as have members of the business community. This dynamic is discussed in greater detail in the sections below.

Third Country Fabric Provision

The Third Country Fabric (TCF) Provision is a flexible rule of origin that allows AGOA beneficiary countries to receive preferential treatment for goods manufactured with fabric or yarn from non-AGOA countries and is also set to expire at the end of 2015. The TCF provision has proven to be critical to supporting the growth in the textile and apparel sector, which has been accelerated by AGOA and is an important industry for a growing number of AGOA beneficiaries. The fastest-growing African exporters of apparel under AGOA from 2005-11 were Cape Verde, Ethiopia, Kenya, Lesotho, Madagascar, and Togo. In 2004, Kenya, Lesotho, Madagascar, and Swaziland relied upon the TCF provision to export 90 percent of textile and apparel goods under AGOA.[13] Without the TCF provision, countries that rely on imported fabric to produce apparel would no longer be able to access U.S. market.

Without question, the debate around how long AGOA (and the third country fabric provision) should remain in place has been one of the central aspects of the discussion. Concrete suggestions have varied widely and have included 5 years,[14] 15 years,[15] and making AGOA a permanent program.[16]

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[12] "Making the Most of Africa's Commodities: Industrializing for Growth, Jobs and Economic Transformation," Economic Commission for Africa (2013), *available at* www. uneca.org/sites/default/files/publications/era2013_eng_fin_low.pdf.

[13] Staritz, Cornelia. *Making the Cut? Low-Income Countries and the Global Clothing Value Chain in a Post-Quota and Post-Crisis World*. World Bank, 2011. Web. 11 Dec. 2014. https://openknowledge.worldbank.org/bitstream/handle/10986/2547/588510PUB0Maki101public10BOX353816B.pdf?sequence=1

[14] Advocated by the NPPC, AFL-CIO, and Solidarity Center. *See* "Building a Strategy for Workers' Rights and Inclusive Growth— A New Vision for the African Growth and Opportunity Act (AGOA)." (2014): 5. *AFL-CIO*; The Solidarity Center, July 2014. Web. 9 Dec. 2014. <http://www.aflcio.org/content/download/133021/3562761/AGOA+no+bug.pdf>; and *AGOA: Trade and Investment Performance Overview*. United States International Trade Commission, 24 Apr 2014. Web. 11 Dec. 2014.

[15] Advocated by many, including the apparel industry, African Ambassadors, and AGOA Civil Society Network. *See AGOA Ambassadors Working Group Recommendations for the Re-Authorization of the African Growth and Opportunity Act (AGOA) available at*

Key points in the discussion are summarized below.

- *USTR* has urged Congress to renew AGOA and third country fabric provisions long enough "to encourage meaningful investment and sourcing."[17]
- The *AGOA Ambassadors Working Group* recommends reauthorization "for a significant enough period of time (15-20 years) to inspire investor confidence and allow opportunities to take root and grow." The same applies to the Third Country Fabric Provision. The Ambassadors also note "if the prevailing economic growth rate in SSA is used as a base rate, it could take African LDCs a minimum of 20-25 years to reach the lower income level and develop the capacity to trade."
- The *African Union* recommends that the TCF provision be extended concurrently with AGOA because the continued success of the textiles and apparel industry in sub-Saharan Africa is dependent on the provision's flexibility.
- The *Textiles and Apparel and Retail Industries* have advocated for a long renewal because "[s]hort-term renewals don't provide enough certainty to enable industry to make capital-intensive investment decisions necessary to attract textile and footwear investments or affect long term sourcing partnership decisions."[18] For the apparel industry, orders alone must be placed approximately nine months in advance. The textiles and apparel industry has also argued that AGOA's third country fabric rule (see below) be concurrent with AGOA's duration and renewed for an extended period of time. Included in this group are:

    - *American Apparel and Footwear Association* (AAFA),
    - *National Retail Federation* (NRF),
    - *African Cotton and Textile Industries Federation* (ACTIF),
    - *United States Fashion Industry Association*,
    - *Retail Industry Leaders Association* (RILA), and
    - *Outdoor Industry Association*.

- In order to support textile and apparel investments in Africa, which require about ten years to be realized, the *African Cotton and Textile Industries Federation (ACTIF)* supports a long renewal period of no less than ten years. It asserts "[t]he fact that Congress has never yet extended AGOA for at least the minimum of ten years required by investors in one of the major

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http://www.leadershipafricausa.org/pdf/activites/Focus%20on%20Africa/Press%20Release/African%20Ambassadors%20Recommendations%20For%20the%20Re-Authorization%20of%20AGOA.pdf; *U.S. and African Companies Call for Immediate Renewal of AGOA. American Footwear and Apparel Association*, 13 Aug. 2014. Web. 10 Dec 2014. https://www.wewear.org/assets/1/16/AGOA-Renewal-7-Association-Letter-081314.pdf.

[16] Frazer, Jendayi. "Investing in Africa: How the U.S. can Play Catch-Up." Fortune, 12 Aug. 2014. Web. 8 Dec. 2014. http://fortune.com/2014/08/12/investing-in-africa-how-the-u-s-can-play-catch-up/

[17] Froman, Michael. *Growing the Development Dividend: U.S. Trade Policy and Global Development in the 21st Century*. Office of the United States Trade Representative, 29 Jul. 2014. Web. 8 Dec. 2014.

[18] *U.S. and African Companies Call for Immediate Renewal of AGOA. American Footwear and Apparel Association*, 13 Aug. 2014. Web. 10 Dec 2014. https://www.wewear.org/assets/1/16/AGOA-Renewal-7-Association-Letter-081314.pdf.

reasons the upstream textile production originally envisioned by the creators of AGOA has not yet materialized."[19]

- Labor rights organizations, led by the *AFL-CIO and Solidarity Center*, have suggested an ongoing renewal process every 5 years that would strengthen the role for civil society, allow USTR to review the program and be more involved at different stages of the countries' growth, and empower the countries and their civil societies to be more engaged in the legislative process of each renewal.[20] This proposed review process would be conducted in a transparent process that allows for public dialogue and participation and therefore fosters the protection of workers in the market.
- Business groups like the *Corporate Council on Africa (CCA)* and *U.S. Chamber of Commerce* do not offer a specific time period for renewal, but CCA has urged Congress to establish the program for a period "long enough to establish meaningful investment opportunities."[21] The U.S. Chamber of Commerce simply suggests a multi-year renewal. *Manchester Trade* suggests a partial permanent renewal of duty free, quota free (DFQF) treatment for AGOA products, which would alleviate the cycles of uncertainty and unpredictability each time the program nears its expiration.[22]
- *African Coalition for Trade (ACT)*, a nonprofit organization made up of private sector actors engaged in trade under AGOA, advocates for a 15-year renewal period to encourage large investments, which take 10-15 years to amortize. It advises that a long renewal period would not preclude negotiations of Free Trade Agreements (FTAs), and points to the Caribbean Basin Initiative (CBI) as an example of a permanent preference program that led to a number of reciprocal agreements.
- The *AGOA Civil Society Network* supports a 15-year renewal of both the program and the TCF provision.
- *Leading Women of Africa (LWA)* proposes a 15-year or longer renewal of AGOA to continue to attract investment and trade, which has helped create jobs for women and supported the growth of women owned small businesses.
- U.S. interest groups for politically sensitive products in the United States, such as the *National Pork Producers Council* (*NPPC*), are pressing for short renewal periods, mainly to help protect their products from foreign competition, or for a renewal with carve outs for their products.[23] The *National Chicken Council* and *USA Poultry and Egg Export Council* have stated they would not support a renewal of AGOA unless anti-dumping duties on U.S. chicken are lifted in South Africa.[24]

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[19] *Prompt Renewal of AGOA for a Sustainably Long Period is Essential to the Continued Success of the AGOA Textile and Apparel Industry*. United States Court of International Trade, 18 Sep. 2013. Web. 13 Dec. 2014.

[20] "Building a Strategy for Workers' Rights and Inclusive Growth— A New Vision for the African Growth and Opportunity Act (AGOA)." (2014): 5. *AFL-CIO*. The Solidarity Center, July 2014. Web. 9 Dec. 2014. <http://www.aflcio.org/content/download/133021/3562761/AGOA+no+bug.pdf>.

[21] *Promoting Shared Interests: Policy Recommendations on Africa for the Second Term of the Obama Administration*. Corporate Council on Africa, 17 Apr. 2013. Web. 14 Dec. 2014.

[22] Lande, Stephen. *A Blueprint for the U.S. + Africa Partnership*. United States International Trade Commission, 14 Jan. 2014. Web. 12 Dec. 2014.

[23] See United States International Trade Commission, 24 Apr 2014. Web. 11 Dec. 2014.

[24] See United States International Trade Commission, 24 Apr 2014. Web. 11 Dec. 2014.

- The *Brookings Institution* has advocated for a ten-year renewal, which would provide predictability and certainty and "give African producers more time to learn how to access the U.S. market."[25]

ISSUE: PROGRAM COVERAGE

Program coverage in terms of both countries and products continues to be an issue for discussion. AGOA grants preferential market access to the United States for over 6,000 products (building upon the base of GSP), but certain products such as sensitive agricultural products subject to tariff-rate quotas (see section below on Agricultural Market Access) remain excluded. As a result, the trade and development community has long advocated for 100 percent duty-free quota-free (DFQF) treatment for all products from sub-Saharan Africa. Key recommendations on program coverage are summarized below:

- The *African Union* advocates for 100 percent QF treatment for all products, including agricultural products.
- A 2014 *Brookings Institution* study found that extending 100 percent DFQF treatment to AGOA beneficiaries would generate $105 million for African producers at a loss of only $9.6 million of U.S. producers. This benefit is derived almost entirely from the increased preferential treatment for the one percent of goods considered politically sensitive in the United States, and African exporters gained no significant advantage when DFQF was calculated at 99 percent.[26]
- The *National Foreign Trade Council (NFTC) and Manchester Trade* has also proposed amending AGOA to include Regional Economic Communities (RECs) as eligible for AGOA benefits.[27]

ISSUE: COUNTRY ELIGIBILITY

The debate around country eligibility has also been a significant area of focus, with two main issues emerging: whether to add additional eligibility criteria and how to improve the annual eligibility review process.

The AGOA eligibility criteria and reviews act as both a carrot and a stick. The eligibility requirements create incentives for beneficiary countries to strive for higher standards, but they can also penalize countries that miss the mark by withholding or withdrawing benefits. Currently, AGOA eligible countries must have established or make continual progress towards establishing a market-based economy, the rule of law, elimination of barriers to U.S. trade and investment, poverty reduction policies, anti-bribery rules, and protection of workers' rights. In addition, countries must not engage in activities that undermine U.S. national security, violate human rights, or support terrorist activities.[28] These eligibility criteria are in addition to the political and economic criteria in the now-expired GSP,

[25] Schneidman, Witney & Lewis, Zenia A. *The African Growth and Opportunity Act: Looking Back, Looking Forward*. Brookings Institution, June 2012. Web. 13 Dec. 2014.
[26] *The African Growth and Opportunity Act: An Empirical Analysis of the Possibilities Post-2015*. Brookings Institution, 2014. Web. 12 Dec. 2014.
[27] Lande, Stephen. *A Blueprint for the U.S. + Africa Partnership*. United States International Trade Commission, 14 Jan. 2014. Web. 12 Dec. 2014. http://www.usitc.gov/press_room/documents/testimony/332_542_003.pdf.
[28] 19 U.S. Code §3703.

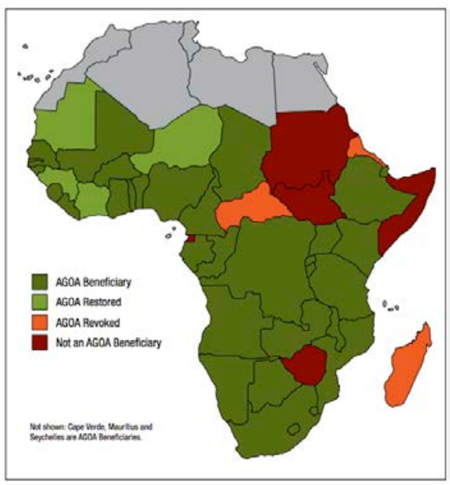
which AGOA eligible countries must also continue to meet.[29] Adding to eligibility criteria or strengthening enforcement of eligibility criteria could actually deter investment because it could create greater uncertainty over whether benefits would remain in place.[30]

In advance of AGOA's reauthorization, suggestions to expand the eligibility criteria around the following issues have emerged:

- Food Security;
- Additional Labor Standards; and
- Business Environment.

Each year, the President determines whether countries are eligible for AGOA benefits based upon whether they have met or are making continual progress towards political and economic criteria. These determinations have been challenged as politically driven (see Figure 1 below) and have raised questions on the process around removing countries from AGOA's coverage.

Figure 1: AGOA Beneficiary Countries as of 2011
Note, benefits were reinstated to Madagascar in June 2014, and Swaziland's benefits have be revoked, effective January 2015.



Source: Brookings Institution

[29] 19 U.S. Code §2462.
[30] Elliott, Kimberly A. *AGOA: Is it About Opportunities or Arm-Twisting?* Center for Global Development, 4 Aug. 2014. Web. 8 Dec. 2014.

As a result, calls to improve the annual eligibility review process have focused on increased:

- Transparency;
- Flexibility;
- Private Sector Input; and
- Enforcement of Eligibility Criteria.

A discussion also continues around whether to continue eligibility for South Africa under AGOA, due both to South Africa's relatively advanced economy and political issues, referenced above. Removing South Africa from the program, however, could disrupt critical regional market development. Further, taking preferential benefits away from more advanced economies does not ensure that less developed economies will benefit. Instead, market share tends to drift to other more advanced economies, like China, when preferences are removed.

Key proposals on country eligibility criteria and process include:

- The *Obama Administration/ USTR* encourages Congress to reexamine and update the eligibility criteria, for example by "[elimination of] unwarranted SPS barriers and employment discrimination."[31] It also supports a more flexible eligibility review process, by, for example, adding intermediate steps before complete withdrawal is announced, such as partial withdrawal of benefits.
- *AFL-CIO and Solidarity Center* have suggested that an AGOA renewal include continued improvement toward all core labor rights in ILO Conventions, including elimination of child labor, establishment of freedom from discrimination, and the right to acceptable conditions of work, which includes minimum wage, holiday, overtime, and bonus pay, and contributions to health and pension plans. They also advocate adding intermediate steps before revocation of eligibility to support workers and prevent retaliation against them.
- Benjamin Leo and Vijaya Ramachandran of the *Center for Global Development* have argued that eligibility criteria should focus more on economic freedoms and annual determinations of eligibility based on objective, publicly available data using transparent methodologies. They have suggested that AGOA renewal include continual progress towards improving the business environment, e.g., improving access to credit, reducing cross border trade barriers, and improving contract formation to help Africa's core competitiveness constraints.[32]
- The *U.S. Chamber of Commerce* advocates for a stronger focus on eligibility criteria that address on the business climate and take into account "deliberate trade and investment actions of African governments."[33]

[31] "Testimony of United States Trade Representative Michael Froman Before the Senate Finance Committee on the African Growth and Opportunity Act (AGOA)." Office of the United States Trade Representative, 30 Jul 2014. Web. 13 Dec. 2014.

[32] Leo, Benjamin and Rmachandran, Vijaya. *Getting Serious about Underperformance of the African Growth and Opportunity Act: Policy Options for Supporting Trade Potential in Africa*. Center for Global Development, Feb. 2014. Web. 9 Dec 2014.

[33] "Statement of the U.S. Chamber of Commerce on the African Growth and Opportunity Act (AGOA)." United States International Trade Commission, 14 Jan. 2014. Web. 13 Dec. 2014.

- Some lingering questions remain about the inclusion of South Africa in AGOA, and whether South Africa should be "graduated" from the program due to its large, mature economy and relatively developed status. The *National Pork Producers Council* and *National Chicken Council* have both supported South Africa's removal from the program. Despite its level of development, many more stakeholders, including think tanks like the *Brookings Institution*, support the inclusion of South Africa due to its important role in regional integration efforts and its important place in regional value chains.
- Notably, a 2010 *Brookings Institution* Report found that when a country's benefits are withdrawn it has costly negatively impacts other AGOA countries due to sub-Saharan Africa's fragile regional supply chains.[34] In addition, it discourages regional supply chains from forming, as countries are cognizant that its neighbor could lose AGOA benefits at any time.

Concern over loss of AGOA benefits is real. Unfortunately, value chains can all but disappear when the United States revokes a country's AGOA eligibility, erasing much of the positive impact of AGOA. A good example is Madagascar, where an undemocratic change in the country's government resulted in the loss of AGOA benefits in January 2010. Prior to the revocation of benefits, AGOA facilitated job creation for 140,000 workers and boosted garment exports, which were the primary source of Madagascar's foreign earnings.[35] The OECD estimated that 40,000 formal sector jobs have been lost since the suspension of AGOA privileges, which were eventually reinstated in June 2014.[36] Notably, other AGOA beneficiaries were also impacted as negative effects rippled throughout the apparel sector in Zambia (cotton production), Swaziland (zipper manufacturing), and Lesotho (denim fabric production).[37] Linked to program duration, it is notable that a longer renewal (such as 15 years) or permanent renewal would enable sub-Saharan Africa to continue to benefit from trade preferences consistent with domestic resources, vertical integration strategies and international production networks.

ISSUE: DIVERSIFICATION OF EXPORTS UNDER AGOA

Growth in exports is a central goal of AGOA and key to sustained economic growth and development, yet many sub-Saharan African countries have struggled to diversify their export base even with AGOA's benefits. A concentrated export base can be vulnerable to market disruptions on both the supply and demand sides, which makes countries more susceptible to economic and political volatility.

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[34] Moyo, Nelipher and Page, John. *AGOA and Regional Integration in Africa: A Missed Opportunity Beyond 2015*. Brookings Institution, 2010. Web. 14 Dec. 2014.

[35] "The Shifting Geography of Global Value Chains: Global Agenda Council On The Global Trade System." (n.d.): 35. *World Economic Forum*. Global Agenda Council on the Global Trade System, 2012. Web. 9 Dec. 2014. <http://www3.weforum.org/docs/WEF_GAC_GlobalTradeSystem_Report_2012.pdf>.

[36] "The Shifting Geography of Global Value Chains: Global Agenda Council On The Global Trade System." (n.d.): 35. *World Economic Forum*. Global Agenda Council on the Global Trade System, 2012. Web. 9 Dec. 2014. <http://www3.weforum.org/docs/WEF_GAC_GlobalTradeSystem_Report_2012.pdf>.

[37] Kimenyi, Mwangi S., Zenia A. Lewis, and Brandon Routman. "Trade Preferences and Value Chains." *AGOA at 10: Challenges and Prospects for U.S.-Africa Trade and Investment Relations* (2010): 13-14. *Accelerating Growth Through Improved Intra-African Trade*. Brookings Institution, July 2010. Web. 9 Dec. 2014. <http://www.brookings.edu/~/media/research/files/reports/2010/7/agoa%20africa/07_agoa_africa.pdf>.

A diverse export base, on the other hand, spreads commercial risk across many products and industries, which can help countries better absorb market disruptions and maintain economic growth.

Despite AGOA's broad product coverage, petroleum is by far the most heavily exported AGOA product, comprising 82 percent of total imports under AGOA in 2013.[38] AGOA has already facilitated exports in non-traditional products, but petroleum exports continue to dominate AGOA trade, hovering at between 80 to 90 percent of total AGOA exports. Continued support for export diversification under AGOA would better distribute the benefits of AGOA and support sustained economic growth. A particular focus has been placed on how to better support agricultural exports.
There have been notable successes in non-traditional exports under AGOA. Some of these success stories are summarized in Table 1 below.

Table 1: Non-Traditional Export Successes 2000-2013

Product	**Sources**	**2000**	**2013**	**Growth**
Shea butter/other lotions	South Africa, Ghana	$0.5 million	$9 million	1700%
Tree Nuts	South Africa, Kenya, Malawi	$8 million	$75 million	840%
Citrus	South Africa	$8 million	$60 million	650%
Birdseed	Ethiopia	$3 million	$22 million	630%
Flowers and cut plants	Kenya, South Africa, Ethiopia	$5 million	$12 million	120%

Source: U.S. International Trade Commission Dataweb, at dataweb.usitc.gov

In addition to the list above, absolute growth in exports from AGOA countries has greatly increased for motor vehicles (2,115.7), apparel (906.7), and cocoa, chocolate and confectionery products (118.4).[39] Although non-petroleum product exports under AGOA have almost quadrupled since the program's inception, untapped potential remains.[40]

The USAID Trade Hubs (now renamed Trade and Investment Centers) have helped some AGOA beneficiary countries develop National Investment and Export Strategies, designed to helped boost exports under AGOA. The strategies identify potentially competitive products and industries and market gaps that could prevent growth at scale. For example, Mauritius has identified light manufacturing of cutlery and hardware as potentially competitive, but assistance is needed with branding. In Mozambique, there is great competitive potential for agriculture products, including cashews and coconut, but this potential is hampered by poor infrastructure and requires technical assistance to comply with foreign SPS requirements (see below).

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[38] Loucif, S.J. *U.S. Trade with sub-Saharan Africa, January-December 2013*. International Trade Administration, n.d. Web. 9 Dec 2014.
[39] Source: United States International Trade Commission Dataweb. See *AGOA: Trade and Investment Performance Overview*. United States International Trade Commission, 24 Apr 2014: 21. Web. 11 Dec. 2014.
[40] "African Growth and Opportunity Act." Office of the United States Trade Representative, n.d. Web. 12 Dec. 2014.

To further support export diversification activities, comprehensive national investment and export strategies will be important, as will addressing product coverage in sectors such as apparel and agriculture, and simplifying rules of origin (see below). Capacity building initiatives, discussed below, can also support diversification of exports under AGOA, especially those targeted at regional integration and supply chain development. For example, trainings on design and marketing would help improve the competitiveness of the textile and apparel industry,[41] and sanitary and phytosanitary (SPS) training would help farmers access larger regional and international markets. In the textile and apparel sector, support for vertical integration is key to strengthen the development of the apparel industry and would also help support the development of related sectors like cotton.

Key recommendations include:

- *AGOA Ambassadors Working Group* suggests the United States could help countries that are developing national investment and export strategies determine potentially competitive value chains and ways to support them.
- The *Corporate Council on Africa* supports "a more comprehensive trade and investment strategy that will link trade and investment opportunities, build value chains, and strengthen participation in African regional markets."[42]
- The *Embassy of the Republic of Madagascar* suggests consideration for a "Support Programme Imports (EIAO)," to support export diversification for sub-Saharan African countries and encourage U.S. businesses to increase imports from Africa.[43]
- The *African Cotton & Textile Industries Federation (ACTIF)* suggests adding incentives to encourage U.S. apparel buyers to source from sub-Saharan Africa, for example efforts to "encourage USAID [to] expand the activities of the five African Competitiveness Hubs to include more assistance aimed at attracting U.S. apparel buyers to Africa."[44]
- The *Coalition of Services Industries* asserts increased support, in part through capacity building, for international services that will grow and diversify AGOA markets, which will lead to "better paying jobs."[45]

Textiles and Apparel

Textiles and apparel are second largest category of exports under AGOA. Although AGOA has encouraged growth in the sector and led to increased "beneficiary country exports of apparel to the United States by a substantial 42 percent," benefits have been spread unevenly among AGOA

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[41] *Sub-Saharan African Textile and Apparel Inputs: Potential for Competitive Production*. United States International Trade Commission, May 2009. Web. 12 Dec. 2014. http://www.usitc.gov/publications/332/pub4078.pdf.
[42] Promoting Shared Interests: Policy Recommendations on Africa for the Second Term of the Obama Administration. Corporate Council on Africa, 17 Apr. 2013. Web. 14 Dec. 2014.
[43] *AGOA: Trade and Investment Performance Overview*. United States International Trade Commission, 24 Apr 2014. Web. 11 Dec. 2014.
[44] Prompt Renewal of AGOA for a Sustainably Long Period is Essential to the Continued Success of the AGOA Textile and Apparel Industry. African Cotton & Textile Industries Federation, 18 Sept. 2013. Web. 14 Dec. 2014.
[45] *AGOA: Trade and Investment Performance Overview*. United States International Trade Commission, 24 Apr 2014. Web. 11 Dec. 2014.

countries.[46] One of the main issues in the apparel sector has been renewal of the third country fabric provision to facilitate continued growth of the sector, as discussed above. A study on the effects on rules of origin on apparel products found that "simplified rules of origin (single transformation) led to a 168 percent increase in apparel exports by the seven largest AGOA apparel producers while tariff removal alone caused only a 44 percent increase in exports."[47]

In addition to renewing the third country fabric provision, recommendations on expanding apparel trade include simplifying the apparel visa system. The visa system for apparel tracks the countries in which the apparel products are produced to reduce unlawful transshipments. Twenty-seven AGOA eligible countries have such a visa system for apparel in place, but only Botswana, Ethiopia, Ghana, Kenya, Lesotho, Madagascar, Malawi, Mauritius, South Africa, Swaziland, Tanzania and Uganda export significant volumes of apparel under their visa system to the U.S. market. Some of the requirements under the visa system include obtaining an official government visa stamp on the original commercial invoice, providing U.S. Customs with access to factories, maintaining records for five years, and requiring governments to have "an appropriate legal framework" that allows for enforcement and penalizes illegal transshipments.[48] The *African Union* has critiqued the visa system as putting in place overly complicated certificate of origin procedures that discourage trade.[49]

Finally, although apparel is the top non-oil export under AGOA, some apparel products are subject to an annual quota (first come, first served) based upon the total volume of textiles and apparel imports the previous year. Although this quota has reportedly remained unfilled, it is important to note that quotas tend to dissuade investment, which could be one reason for the lower fill rates. This is because it is difficult to know whether goods could be imported within the quota limit, which means that an exporter would pay a low or zero tariff rate, or over the quota limit, which would require payment of a steeper, often prohibitive, tariff.

ISSUE: ENHANCING AGRICULTURAL TRADE

Agricultural exports under AGOA have been weak, despite the sector's importance to sub-Saharan Africa. Enhancing market access for agricultural products and addressing supply and demand side constraints could help boost agricultural exports and greatly contribute to the region's economic growth.

Despite challenges around agricultural trade, exports of agricultural products under AGOA have increased by eight percent. Those benefits are "widespread; nearly two-thirds of AGOA beneficiaries

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[46] *AGOA: Trade and Investment Performance Overview*. United States International Trade Commission, 24 Apr 2014. Web. 11 Dec. 2014.

[47] *AGOA: Trade and Investment Performance Overview*. United States International Trade Commission, 24 Apr 2014. Web. 11 Dec. 2014.

[48] *2001 Comprehensive Report of the President of the United States on U.S. Trade and Investment Policy Toward sub-Saharan Africa and Implementation of the African Growth and Opportunity Act*. Office of the United States Trade Representative, May 2001. Web. 14 Dec. 2014.

[49] *A Decade of African-US Trade under the African Growth and Opportunity Act (AGOA): Challenges, Opportunities and a Framework for Post-AGOA Engagement*. African Union, 29 Oct. 2010. Web. 14 Dec. 2014.

experienced significant positive increases in their agricultural exports as a result of AGOA."[50] While AGOA has positively impacted the agriculture sector in sub-Saharan Africa, significant untapped potential for growth remains.

Table 2: African Agricultural Exports (value and share by destination, 2012)

Destination	Value (billion $)	Share (percent)
World	57	100.0
Europe	20	35.4
Africa	13	23.5
Asia	12	21.7
Middle East	5	8.1
North America (United States)	3 (2)	5.4 (3.5)
South and Central America	2	2.7

Source: Center for Global Development[51]

Sub-Saharan Africa's agriculture sector employs over half of the population, roughly 65 percent, and approximately half of those employed in the sector are women. Incredibly, "growth originating in the [agricultural] sector is two to four times more effective at directly reducing poverty than growth originating in other sectors [in sub-Saharan Africa],"[52] and "for every 10 percent increase in farm yields, there has been a seven percent reduction in poverty in Africa."[53]

Recommendations to increase agricultural market access have focused around the following:

- **Product Coverage:** A range of institutions, organizations, and companies have pressed for DFQF coverage for all products under AGOA, including the African Union, NGOs, and businesses (See above).

  The *Obama Administration* has recognized the need to re-examine the agricultural tariff lines excluded from AGOA and determine whether any additional products could be added due to possible shifts in political sensitivity.[54]

- **Tariff Rate Quota (TRQ) Administration:** Despite the importance of the agriculture sector, many products like meat, dairy, sugar, tobacco, cotton, and value-added products containing dairy and sugar (*e.g.*, chocolate) are subject to tariff rate quotas (TRQs) that pre-date AGOA, which limit their

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[50] *AGOA: Trade and Investment Performance Overview*. United States International Trade Commission, 24 Apr 2014. Web. 11 Dec. 2014.
[51] Elliott, Kimberly. AGOA's Final Frontier: Removing US Farm Trade Barriers. Center for Global Development, 28 Jul. 2014. Web. 12 Dec. 2014.
[52] *Leveling the Field: Improving Opportunities for Women Farmers in Africa*. World Bank, 2014. Web. 16 Nov. 2014.
[53] Carletto, Calogero, Jolliffe, Dean, and Banerjee, Raka. *The Emperor has no Data! Agricultural Statistics in sub-Saharan Africa*. 2013. Web. 15 Nov. 2014. *Available at* http://mortenjerven.com/wp-content/uploads/2013/04/Panel-3-Carletto.pdf.
[54] "Fact Sheet: Investing in African Trade for our Common Future." The White House, 4 Aug. 2014. Web. 11 Dec. 2014.

trade to U.S. markets. Although these products are politically sensitive in the United States, they hold great export potential for Africa.

The WTO G-20 group of developing countries has pushed for changes to the TRQ rules during the Doha Round of trade negotiations. At the 2013 Bali Ministerial, part of the Doha Round, *WTO Members* reached a compromise agreement that stipulates that if tariff rate quotas for agricultural products remained under-filled, then the importing country will either accept goods at the lower tariff rate on a first-come, first-served basis until the quota limit is reached or issue an automatic import license upon request until the quota is filled. The compromise will be in place for six years unless WTO Members agree to renew or modify it. After the six-year period, countries can opt out of the compromise agreement, which the United States has said it would do. This agreement has implications for both apparel (noted above) and agricultural goods.

- **Assistance Meeting SPS Standards:** Simply eliminating tariffs is insufficient to boost agricultural exports under AGOA. Addressing nontariff challenges will also be critical, some of which are the focus of capacity building initiatives linked to AGOA. A particular challenge for agribusiness, particularly SMEs, has been compliance with complicated U.S. sanitary and phytosanitary (SPS) requirements.

  The United States could provide additional support to AGOA countries for SPS, for example assisting those seeking import approval for horticultural products from the U.S. Animal and Plant Health Inspection Service (APHIS) as advocated in a 2010 report published by the *International Food and Agricultural Trade Policy Council* (IPC). Under a traditional rulemaking process, import approvals take two to five years, while fruits and vegetables are eligible for a fast-tracked, notice-based import approval process that takes approximately one year.[55] But countries are sometimes forced to abandon the lengthy and complex import licensing process due to insufficient capacity. In addition to accelerating the import approval process, the United States could provide additional support for developing countries attempting to navigate the import approval process. As the IPC report recommends, countries engaged in regular communication with APHIS were better able to obtain an import license, and AGOA could encourage regular dialogue between APHIS and AGOA country officials.[56]

  The *Partnership to Cut Hunger and Poverty in Africa*, which also supports 100% DFQF treatment for all agricultural goods, has pressed for increased technical assistance to meet SPS standards, coordinated capacity building for agricultural commodities, and increased infrastructure investment.[57] It is also important to note that many countries lack the capacity to implement their own SPS standards, which, on paper, are aligned largely with international norms. Increased support to help implement SPS standards would also help countries take better advantage of export opportunities.

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55 Pasco, Richard. *AGOA Countries: Challenges and Considerations in Exporting Horticultural Products to the United States*. International Food & Agricultural Trade Policy Council and Partnership to Cut Hunger and Poverty in Africa, 2010.

56 Pasco, Richard. *AGOA Countries: Challenges and Considerations in Exporting Horticultural Products to the United States*. International Food & Agricultural Trade Policy Council and Partnership to Cut Hunger and Poverty in Africa, 2010.

57 AGOA and Agriculture. Partnership to Cut Hunger and Poverty in Africa, 2009. Web. 12 Dec. 2014.

ISSUE: SIMPLIFIED RULES OF ORIGIN

Rules of origin (ROO) are used to determine where a product originates, which is an important factor in determining whether a product is eligible to receive benefits under a preference program like AGOA. While rules of origin will help ensure that trade preferences are not bestowed on non-beneficiary countries, complicated rules of origin can place undue burdens on companies and customs officials alike and may ultimately discourage use of preference programs. Simplifying and unifying rules of origin for preference programs could lead to higher usage rates by more AGOA beneficiary countries. For example, the more flexible third country fabric provision (mentioned above) has facilitated growth in the apparel sector. Allowing cumulation from other African countries also could help support regional integration efforts.

In addition to the rules of origin under AGOA itself, rules of origin across preference programs are an issue. Many developing and least developed countries are eligible to receive preferential treatment under programs from a number of countries, all with different rules of origin, which can quickly become trade restrictive for developing countries that lack capacity to navigate these complex and conflicting sets of rules. Most AGOA beneficiary countries are also eligible to receive preferential treatment from the European Union (Everything but Arms), Canada (Least Developed Country Tariff Program), Japan (GSP), and Australia (Australian System of Tariff Preference), among others.

During the Hong Kong Ministerial Conference in 2005, WTO Members acknowledged the difficulty that developing countries have in navigating diverse rules of origin under multiple preference programs. In a step towards harmonizing rules of origin, WTO Members agreed upon draft guidelines on rules of origin for preference programs for least developed countries during the 2013 Bali Ministerial Conference. The draft guidelines encourage rules of origin to be simple and transparent. Since then, the WTO has created a Database on Preferential Trade Agreements that contains information on the various rules of origin for preference programs of WTO Members.[58]

Several stakeholders have called for simplification of the AGOA rules of origin, including:

- The *Obama Administration/USTR* supports elimination of "limits on the "cumulation" of labor costs across AGOA countries and a cap on the use of U.S. inputs in meeting the requisite "regional value content" rules."[59]
- The *African Union* proposed simplifying AGOA rules of origin by:
    - Conforming to the WTO draft guidelines on rules of origin for preference programs
    - Extending uniform rules of origin to all African countries to support regional harmonization;
    - Exempting the apparel industry from the uniform rules of origin and extending the third country fabric provision;

[58] "Committee Advances Post-Bali Work on Preferential Rules of Origin." World Trade Organization, 30 Oct. 2014. Web. 12 Dec. 2014. http://www.wto.org/english/news_e/news14_e/roi_30oct14_e.htm

[59] "Testimony of the United States Trade Representative Michael Froman Before the Senate Finance Committee on the African Growth and Opportunity Act (AGOA)." Office of the United States Trade Representative, 30 Jul. 2014. Web. 13 Dec. 2014.

- Reducing the value-add requirement to a percentage that is more in line with Africa's economy, e.g., "10-15 [percent] African content;"[60] and
- Modifying value-add requirement for canned tuna to 10 percent or allowing canning and export of third country tuna.

- *Manchester Trade* has argued for simpler rules of origin that support integration into regional and global supply chains. It recommends reducing the minimum value-add requirement (currently 35 percent) and introducing a flexible cumulation rule. Manchester Trade has also advocated that AGOA and other trade preference programs and trade agreements provide preferential treatment to "supply chain products with sufficient African content added at any point of production."[61]

ISSUE: INCREASING INVESTMENT

While it is important to remember that AGOA is a trade preference program aimed at increasing African exports to the United States, its goals also include increasing investment on the sub-continent. Due to the central nature the program has played in discussions on U.S. trade and investment policy, along with growing interest from the U.S. business community, AGOA does have the potential to link more closely to investment promotion. In addition to the business community, African institutions and development programs, such as the USAID Trade Hubs (now renamed the Trade and Investment Centers) have encouraged development of investment using AGOA as one tool alongside other U.S. programs and policies.

Trade and investment are highly interconnected. The increase in trade between sub-Saharan Africa and the United States has been accompanied by increased foreign direct investment (FDI) in Sub-Saharan Africa. At the time when AGOA was enacted, U.S. companies were leaving sub-Saharan Africa at an alarming rate. The trend has, however, radically reversed with U.S. FDI to SSA countries increasing by over 50 percent between 2001 and 2007.[62] Yet, by all accounts America has moved slowly to invest in Africa, while other countries, including Brazil, India, and China, have raced to participate in Africa's growing economy.

Sub-Saharan Africa's economies grew by an average of five percent in 2013, and growth is projected to increase to 5.8 percent in 2014.[63] Foreign investment is expected to be approximately $80 billion in

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[60] *How 'AGOA 2.0' Could Be Different: Outlining Africa's Position on the AGOA Review process*. African Union and United Nations Economic Commission for Africa, Apr. 2014. Web. 12 Dec. 2014.

[61] Lande, Stephen. A Blueprint for the U.S. + Africa Partnership. United States International Trade Commission, 14 Jan. 2014. Web. 12 Dec. 2014. http://www.usitc.gov/press_room/documents/testimony/332_542_003.pdf.

[62] Chutha, Robert, and Mwangi S. Kimenyi. "The Africa Growth and Opportunities Act: Toward 2015 and Beyond." *Improving AGOA: Toward a New Framework for U.S.-Africa Commercial Engagement* (2011): 5. Brookings Institution. Africa Growth Initiative, May 2011. Web. 9 Dec. 2014. <http://www.brookings.edu/~/media/Research/Files/Reports/2011/6/02%20agoa%20beyond%20kimenyi/0602_agoa_beyond.PDF>.

[63] *African Economic Outlook 2014*. African Development Bank, Organization for Economic Co-operation and Development, and United Nations Development Program, 2014. Web. 9 Dec 2014.

2014. In 2014, President Obama announced a commitment of $33 billion investment in Africa by the U.S. Government, private sector, and World Bank.[64]
The President's Power Africa initiative also received a funding surge of $12 billion in August 2014 and will be an important counterpart program to AGOA, as energy is one of the major supply-side constraints facing increased trade.[65]

AGOA could help encourage American firms invest in a diverse range of sectors throughout all of sub-Saharan Africa and remain competitive in the region. Some related recommendations include:

- As advocated by the *AGOA Ambassadors Working Group* and others, AGOA could provide **targeted tax incentives** for U.S. companies that invest in non-extractive, priority sectors in AGOA beneficiary countries. These incentives could come in the form of tax credits or grant a zero tax rate on repatriated income or "development exception."[66] The development exception incentive is estimated to increase AGOA country GDP and create jobs.[67] It would also help decrease the level of commercial risk and facilitate U.S. private sector investment in non-petroleum products in the region, which is forecasted to increase by approximately 20 percent.[68]
- At the 2014 U.S.-Africa Leaders Summit, the United States announced a number of **new trade and investment pledges** for Africa. These new commitments include $300 million annually to expand the Power Africa initiative, seven billion to the Doing Business Africa initiative, and additional funding for the New Alliance for Food Security and Nutrition. In addition, large commitments were made by the private sector and civil society at concurrent side events during the Summit. These investments support increased exports under AGOA by enhancing infrastructure development, linking U.S. and African private sectors, reducing trade barriers in Africa, and supporting agricultural production in AGOA beneficiary countries.
- Many stakeholders have advocated the need to carve out a stronger role for the **African Diaspora**, including the *Obama Administration* and *Corporate Council on Africa*.[69] The *AGOA Ambassadors Working Group* recommends creating a Diaspora Fund to share knowledge about doing business in U.S. markets and provide capital, while the *AGOA Civil Society Network* suggests using financing facilities to incentivize Diaspora investment.

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[64] Frazer, Jendayi. "Investing in Africa: How the U.S. can Play Catch-Up." Fortune, 12 Aug. 2014. Web. 8 Dec. 2014. <http://fortune.com/2014/08/12/investing-in-africa-how-the-u-s-can-play-catch-up/>
[65] Frazer, Jendayi. "Investing in Africa: How the U.S. can Play Catch-Up." Fortune, 12 Aug. 2014. Web. 8 Dec. 2014. <http://fortune.com/2014/08/12/investing-in-africa-how-the-u-s-can-play-catch-up/>
[66] *AGOA Ambassadors Working Group Recommendations for the Re-Authorization of the African Growth and Opportunity Act (AGOA) available at* http://www.leadershipafricausa.org/pdf/activites/Focus%20on%20Africa/Press%20Release/African%20Ambassadors%20Recommendations%20For%20the%20Re-Authorization%20of%20AGOA.pdf
[67] Schneidman, Witney & Lewis, Zenia A. *The African Growth and Opportunity Act: Looking Back, Looking Forward*. Brookings Institution, June 2012. Web. 9 Dec. 2014.
[68] Schneidman, Witney & Lewis, Zenia A. *The African Growth and Opportunity Act: Looking Back, Looking Forward*. Brookings Institution, June 2012. Web. 9 Dec. 2014.
[69] *U.S. Strategy Toward sub-Saharan Afric*a. United States Department of State, Jun. 2012. Web. 14 Dec. 2014; and *Promoting Shared Interests: Policy Recommendations on Africa for the Second Term of the Obama Administration*. Corporate Council on Africa, 17 Apr. 2013. Web. 14 Dec. 2014.

- The United States already has Trade Investment Framework Agreements (TIFAs) with several AGOA eligible countries and Regional Economic Communities that are designed to spur private sector investment, increase trade, and facilitate dialogue on areas of mutual interest. According to the *Brookings Institution*, the AGOA countries with existing TIFAs enjoy a proportionally large share of the total exports under AGOA.[70] The *Corporate Council on Africa* and *Manchester Trade* support increased use of TIFAs and greater integration of the business community in the TIFA process. Moreover, the *African Union* has suggested that U.S. policy rely more on TIFAs to gain better market access in countries like South Africa instead of resorting to AGOA graduation policies (which could reverse regional integration efforts and potentially undo the progress made under AGOA).

ISSUE: TARGETED TRADE CAPACITY BUILDING

Preferential market access under AGOA has long been linked to trade capacity building through initiatives like the USAID Trade and Investment Centers and other programs. A long-standing question is how trade capacity building could be better linked to AGOA so that it could more sufficiently address both supply and demand side constraints that prevent businesses, particularly SMEs and women entrepreneurs, from taking advantage of the program and reaping its benefits.[71] A particular focus has also been placed on how capacity building could better support regional integration. There is widespread support across industries and sectors regarding the importance of this issue.

John Kufuor, former president of Ghana from 2000 to 2008, applauded AGOA "as a "stimulus" for African manufacturers and as "a welcome challenge" for African companies, which must meet its rigorous criteria for accessing the U.S. market."[72] However, he also noted that African entrepreneurs lack experience competing in the global economy and therefore need extra assistance and training to overcome knowledge and skills gaps.[73] Africa's high trade barriers prevent trade and investment from taking root and thwart regional integration efforts that would better connect Africa to the global economy.

The USAID Trade Capacity Building database estimates the United States provided over $3.3 billion in trade capacity-building assistance to sub-Saharan Africa between 2001 and 2009. In 2012, the United States spent approximately $94.6 million in trade capacity building assistance in AGOA countries.[74] However, current capacity building initiatives could be better coordinated to be more effective. Better

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[70] Schneidman, Witney & Lewis, Zenia A. *The African Growth and Opportunity Act: Looking Back, Looking Forward*. Brookings Institution, June 2012. Web. 9 Dec. 2014.
[71] Note, the House Committee on Foreign Affairs and Senate Committee on Foreign Relations have jurisdiction over legislation concerning capacity building for Africa.
[72] Schneidman, Witney & Lewis, Zenia A. *The African Growth and Opportunity Act: Looking Back, Looking Forward*. Brookings Institution, June 2012. Web. 9 Dec. 2014.
[73] Interview with John A. Kufuor, former president of Ghana (2001-9), Washington, April 17, 2012. Cited from Witney Schneidman, "African Perspectives on AGOA." *The African Growth and Opportunity Act: Looking Back, Looking Forward* (2012): 23. Brookings Institution. Africa Growth Initiative, June 2012. Web. 9 Dec. 2014. <http://www.brookings.edu/~/media/Research/Files/Reports/2012/6/agoa/agoa_full_report.pdf>
[74] Williams, Brock R. *African Growth and Opportunity Act (AGOA): Background and Reauthorization*. Congressional Research Service, 24 Jul. 2014. Web. 9 Dec. 2014.

coordination and linkage with AGOA would help facilitate the program's objectives and increase the reach of each dollar spent.

Critically, better linking of existing capacity building programs with AGOA would provide positive results. Capacity building efforts could focus on reducing regional trade barriers and building capacity for higher value activities, particularly in areas that show promise and fall under AGOA like agriculture, textiles and apparel, and the leather industry.[75] For example in agriculture, investment activities under the New Alliance for Food Security and Nutrition (which is also linked to the African Union's Comprehensive Africa Agriculture Development Programme (CAADP)) could be linked to AGOA eligible agricultural products in beneficiary countries and amplify the benefits generated under both programs. The Obama Administration has also suggested improving the link between AGOA and infrastructure investment initiatives like the U.S.-Africa Clean Energy Finance and USAID funded development projects at the ports of Mombasa and Dar es Salaam and along the Northern and Central Corridors.[76]

Other proposals have long been on the table to help improve trade capacity building, including:

- For many years, a number of groups have argued for the need to streamline foreign assistance, including the *African Union*; private sector companies and associations like *The Corporate Council on Africa*; think tanks like the *Center for Global Development*, *CSIS*, *German Marshall Fund*, and *Brookings Institution*; and nonprofit organizations like *Oxfam America*, *InterAction*, and *CARE*. In theory, the United States Agency for International Development (USAID) is the coordinator of trade capacity building, but a 2014 GAO study found challenges with its structure. For example, the official agency strategy predates the creation of the Millennium Challenge Corporation (MCC), which means MCC's critical trade capacity building activities are unaccounted for in USAID's coordination plan.[77] One widely supported proposal is the establishment of a more formal coordination process between the more than 12 implementing agencies of U.S. capacity building assistance. Increased coordination among capacity building agencies could increase the effectiveness of development assistance, a critical factor when funding is tight. Related to this, a number of groups have proposed better coordination of all Africa related trade and investment programs, including "one-stop shops" for American companies doing business in Africa.[78]
- There is broad consensus on the need to support deeper regional integration, discussed more below. Among the groups supporting regional integration as part of capacity building projects are the *Corporate Council on Africa*, *AGOA Civil Society Network*, *Heritage Foundation*, and *Center for*

[75] *AGOA: Trade and Investment Performance Overview*. United States International Trade Commission, 24 Apr 2014. Web. 11 Dec. 2014.
[76] "Fact Sheet: Investing in African Trade for our Common Future." The White House, 4 Aug. 2014. Web. 11 Dec. 2014.
[77] *USAID Should Update its Trade Capacity Building Strategy*. United States Government Accountability Office, Aug. 2014. Web. 14 Dec. 2014.
[78] See Stephen Lande, *A Blueprint for the U.S. + Africa Partnership*. United States International Trade Commission, 2014. Web. 14 Dec. 2014.

Global Development. The *Brookings Institution* has suggested capacity building donors elevate the role of the Regional Economic Communities (RECs) and appoint them as lead institutions.[79]

- Many stakeholders support Congressional approval for the Millennium Challenge Corporation (MCC) to fund regional projects, which could help facilitate development of regional integration.[80] *Manchester Trade*, for example, proposes that 20 percent of MCC's funding should support regional development.

ISSUE: EXPANDING REGIONAL TRADE AND INTEGRATING AFRICA INTO GLOBAL SUPPLY CHAINS

Regional market development holds particular promise for African economic development and increased investment alike. Regional trade can produce economies of scale, and AGOA could better link to and support regional harmonization efforts already underway, including the Trade Africa initiative. Although AGOA is a trade preference program that opens the U.S. market and not a bilateral trade agreement, greater focus on regional markets could strengthen the program's reach.

Building stronger regional markets will also encourage value chain development within sub-Saharan Africa and between African countries and global supply chains. This is critical because, as the UN stresses,"[i]n developing countries… value added trade contributes some 28 [percent] to countries' GDP on average… [and furthermore,] [e]conomies with the fastest growing [global value chain] participation have GDP per capita growth rates some 2 percentage points above the average."[81] These strategies could also be coordinated with development programs and help inform how trade capacity building funds are allocated.

Trade facilitation has become a topic of focus and, notably, efforts to improve trade facilitation will both encourage regional market development and integrate Africa into global supply chains. At the Bali Ministerial Conference in 2013, WTO Members reached consensus on the Agreement on Trade Facilitation which includes a number of measures designed to enhance transparency, accelerate customs clearance times, and simplify customs formalities and procedures, which are expected to increase sub-Saharan Africa imports by about 55 percent and increase exports by 63 percent.[82] Measures addressing supply side trade constraints allow businesses to be more competitive by reducing the amount of time it takes them to get their goods into the hands of end consumers. Facilitating trade at the borders increases predictability of delivery times and costs, and can also

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[79] Page, John. "Why Intra-African Trade Matters: Working Locally to Go Global." Brookings Institution, Jan. 2012. Web. 14 Dec. 2014.

[80] Chutha, Robert, and Mwangi S. Kimenyi. "The Africa Growth and Opportunities Act: Toward 2015 and Beyond." *Improving AGOA: Toward a New Framework for U.S.-Africa Commercial Engagement* (2011): 6. Brookings Institution. Africa Growth Initiative, May 2011. Web. 9 Dec. 2014. <http://www.brookings.edu/~/media/Research/Files/Reports/2011/6/02%20agoa%20beyond%20kimenyi/0602_agoa_beyond.PDF>.

[81] *Global Value Chains and Development: Investment and Value Added Trade in the Global Economy*. United Nations, 2013. Web. 10 Dec 2014. http://unctad.org/en/PublicationsLibrary/diae2013d1_en.pdf.

[82] *See Enabling Trade: Valuing Growth Opportunities*, World Economic Forum, 2013. Web. 12 Dec. 2014. http://www3.weforum.org/docs/WEF_SCT_EnablingTrade_Report_2013.pdf

reduce foregone business opportunities.[83] By reducing costs of trade, businesses can pass those savings onto consumers through reduced retail prices. Customs automation also allows for faster clearance of time-sensitive goods like agricultural products and helps producers of intermediate industrial components, which can significantly impact the competitiveness of AGOA beneficiary countries.[84] These trade facilitation activities can also have welcome spillover effects. For example, previous trade facilitation activities in Burundi to streamline tax collection increased government revenues, which in turn fund health and education projects.

Improved trade facilitation could help improve AGOA usage rates by making it easier for more businesses to engage in cross-border trade through faster clearance times, increased transparency, and lower overall trade costs.[85] Targeted, coordinated trade facilitation will play an important role and could improve hard and soft infrastructure and trade logistics, create enabling environments that increase market access for SMEs and women-led businesses, and support regional integration and value addition. These activities help AGOA countries increase participation in global supply chains, attract investment, and boost intra-African trade.

In addition to trade facilitation measures, better linking AGOA to services sector investment will be critical to value chain development. A diverse range of services are needed to make value chains develop and function, including transport, storage, and distribution services, along with financial, legal, and advisory services, and others. The payoff of improving services can be quite significant. Agricultural exports, for example, are highly responsive to quality of transport services: it is estimated that a 10 percent improvement in transport and trade-related infrastructure could increase developing countries agricultural exports by 30 percent. The potential for growth in these industries is significant, and AGOA could be better used to allow this potential to take hold.

Widespread consensus has emerged around the importance of trade facilitation activities including:

- **Trade Facilitation:** *The Corporate Council on Africa and East African Business Council* developed joint recommendations on trade facilitation that were presented at the August 2014 U.S.-Africa Leaders Summit in the context of the U.S.-East African Community Trade and Investment Partnership and Commercial Dialogue, led by USTR and the Department of Commerce, respectively. Through *The Corporate Council on Africa's Trade Working Group* – with leadership from the express delivery, ICT, financial services, transport, retail, and agricultural sectors and in partnership with USTR and Commerce–these recommendations are now being turned into actions that could be implemented to strengthen the agricultural and apparel value chains, improve digital trade, build the cold chain, and improve customs procedures and technology, including electronic payment systems. The *U.S. Chamber of Commerce* is leading a global effort on trade facilitation that is complementary of these efforts related to sub-Saharan Africa.
- Many diverse civil society groups also support trade facilitation. The *AGOA Civil Society Network* advocates for "the implementation of trade facilitation best practices and capacity building in

[83] *See The Economic Impact of Trade Facilitation*. Organization for Economic Cooperation and Development, 12 Oct. 2005: 4. Web. 10 Dec. 2014.
[84] *See The Economic Impact of Trade Facilitation*.
[85] Note, the House Committee on Foreign Affairs and Senate Committee on Foreign Relations have jurisdiction over legislation concerning trade facilitation activities.

technology, training and corresponding regulatory and legal frameworks to create opportunities for SMEs (small- and medium- sized enterprises) in Global Value Chains."[86]

- U.S. Government and African Governments support implementation of the WTO Trade Facilitation Agreement, and also recognize the important role its implementation will have in fostering exports under AGOA.
- **Economic Partnership Agreements (EPAs):** Positions on the EPAs are related to regional integration and efforts to promote supply chain development. Studies have shown the EPAs could actually undermine regional integration efforts, in part by limiting cumulation and fostering competition over cooperation. In addition, they could discourage export diversification and limit trade with non-EU partners. While these issues would not be covered under AGOA and should not slow down reauthorization, this is a related debate, and new models may be necessary.
- **Services:** The *Coalition of Services Industries (CSI)* advocates developing and strengthening Africa's regional services infrastructure to encourage regional integration and value chain development. It suggests supporting regional services infrastructure through trade facilitation activities and increasing trade and investment in "economic infrastructure services," like banking, information and communications technology (ICT) and insurance services.[87]

ISSUE: SUSTAINED HIGH-LEVEL POLITICAL DIALOGUE

Although AGOA is an economic program, continued support for building the trade and investment relationship between the United States and African nations requires high-level political commitment. Enhanced political dialogue that demonstrates a mutual dedication to strengthen and multiply commercial linkages would help strengthen the relationship between the United States and Africa and help build confidence among investors and businesses.

In August 2014, the historic U.S.-Africa Leaders Summit brought together President Obama and more than 40 Heads of State from sub-Saharan Africa to discuss ways in which to increase trade and investment, enhance security, and strengthen democracy. Notably, China and the European Union, both of which have aggressive commercial policies on Africa, hold regular Summits with African Heads of State. For example, through the Forum on China-Africa Cooperation, Chinese and African ministers meet annually, and a heads of state summit is held every three years.

Key outcomes from the 2014 U.S.-Africa Leaders Summit and additional ways in which AGOA could help foster political dialogue between the United States and sub-Saharan Africa include:

- As mentioned above, the *2014 U.S.-Africa Leaders Summit* led to concrete commitments going forward in the areas related to trade, security, investment, development, and governance, as well as a commitment to hold Summit-level meetings on a regular basis going forward. Among the specific commitments achieved were: (i) increase investment in the New Alliance for Food Security and Nutrition, (ii) escalate Power Africa efforts through the Programme for Infrastructure Development in Africa (PIDA) framework and by providing $300 million per year to achieve

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[86] Communiqué from the AGOA Civil Society Forum, presented to 13th AGOA Ministerial Session. AGOA Civil Society Network, 2 Aug. 2014.

[87] Testimony before the U.S. International Trade Commission African Growth and Opportunity Act – Trade and Investment Performance Overview. United States Court of International Trade, 14 Jan. 2014. Web. 14 Dec. 2014.

30,000 MW power, (iii) expand U.S. trade and investment platforms, (iv) renew AGOA, and (v) provide $7 billion in financing over the next two years under the Doing Business in Africa Campaign.[88]

- The *AGOA Ambassadors Working Group* supports more frequent Congressional delegations visit AGOA countries to enable legislators to witness the effects of AGOA and better understand the region's commercial opportunities and challenges, which would inform future legislative decisions.
- The *Brookings Institution*, *The Corporate Council on Africa*, and others have suggested increasing the number of Foreign Commercial Service Officers in Africa to support sustained commercial dialogue.

A Summit-level meeting held every two years would build on the success of the 2014 Summit and continue to enhance political dialogue among the Heads of State of AGOA beneficiary countries and the United States. These Summits would provide a regular opportunity to discuss common interests,[89] and could also enhance the utility of the annual AGOA forums.

[88] *Statement by the Chair of the U.S.-Africa Leaders Summit*. The White House, 6 Aug. 2014. Web. 14 Dec. 2014.
[89] The House Committee on Ways & Means and the Senate Finance Committee have jurisdiction over the AGOA reauthorization bill.

Note on Congressional Committee Jurisdictions and AGOA

On the Hill, trade falls under the jurisdiction of tax and revenue affairs, with the House Ways & Means Committee and Senate Finance Committee exercising primary jurisdiction over AGOA reauthorization. Capacity building assistance is considered a foreign policy matter and falls under the jurisdictions of different committees.

House Ways & Means and Senate Finance Members will be considering whether and how to modify AGOA in the coming months. Senator Johnny Isakson (R), the Ranking Member of the Subcommittee on International Trade, Customs and Global Competitiveness, has been a champion of AGOA on the Senate side, while Representative Charles Rangel (D), Ranking Member of the Subcommittee on Trade, has been a longtime supporter of AGOA in the House. Senator Finance Committee leaders Ron Wyden (D) and Orrin Hatch also support AGOA renewal, along with Senator Debbie Stabenow (D).[90] To date, the House Ways & Means Subcommittee on Trade has focused more on AGOA reauthorization than its Senate counterpart. In the spring of 2014, a group of Members of Congress penned a letter requesting a U.S. Government Accountability Office (GAO) review on AGOA. It is expected that this GAO report will be made public in the spring of 2015. In addition to considering the substance of the bill, the House Subcommittee on Trade has been actively looking for appropriate vehicles to move the bill.

AGOA has historically enjoyed strong bipartisan, bicameral support. However, off the Hill, there is a general feeling that AGOA could expire before Congress is able to renew it given the slow progress on the Hill and lack of a cohesive coalition on the advocacy side. Notably, the number of new Members on the Hill has increased dramatically in the last several years, and now over half of the Members have never voted on AGOA legislation.

The House Committee on Foreign Affairs and Senate Committee on Foreign Relations have jurisdiction over bills related to foreign investment, capacity building, and technical assistance. Senators Chris Coons (D) and Jeff Flake (R) have been supportive of AGOA in the Senate Committee on Foreign Relations. In the House, the Foreign Affairs Committee has been coordinating with the Subcommittee on Trade, given the importance of capacity building to AGOA. Representative Ed Royce (R), Chairman of the Foreign Affairs Committee, and Representative Karen Bass (D) support AGOA. The Foreign Affairs Committee staff face the challenge of how to address capacity building needs without new funding in a capacity building bill they are drafting. They are considering:

- Authorizing MCC to establish regional compacts,
- Formal mechanisms to increase coordination of capacity building initiatives,
- How to assist with implementation of the WTO Agreement on Trade Facilitation, without additional funding,
- Partnering with the private sector for training, and
- Leveraging online tools for training and tutorials.

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90 Mahoney, Brian. "Froman Pushes AGOA Renewal Before Presidential Summit." Law 360, 30 Jul. 2014. Web. 13 Dec. 2014.

AGOA's renewal may also be linked to renewal of GSP, which has been inactive since July 31, 2013. The close link between AGOA and GSP has been somewhat problematic following the expiration of GSP, and products that fall under GSP's coverage have seen inconsistent application of the duty preference (which has not expired for AGOA products), despite clear instructions to U.S. Customs and Border Control. This has occurred because products eligible for preferences under both AGOA and GSP were coded simply as eligible for GSP in the Harmonized Tariff Schedule of the United States (HTSUS) and mistakenly coded as ineligible for AGOA benefits on the U.S. International Trade Commission's Dataweb. These coding oversights are acutely important while GSP is expired, because exporters are not easily able to designate AGOA eligibility on their customs forms, discouraging exports, especially from small- and medium- sized businesses that rely on zero to low tariff rates to enter the U.S. market. This could be resolved administratively and without legislative action.[91]

[91] For additional information see *Ensuring Consistent Administration of the African Growth and Opportunity Act (AGOA) to Increase Trade by Small Businesses* by the New Markets Lab in partnership with Crowell & Moring and the International Senior Lawyers Project (2014), *available at* http://media.wix.com/ugd/095963_f10dd7f87b4749028f7daf8449970846.pdf.