Trade Notes

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INSIDE

THE AFRICA GROWTH AND OPPORTUNITY ACT: Analysis and Post - 2015 Scenarios

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Background

In 2000, President Bill Clinton signed into law the Africa Growth and Opportunity Act (AGOA) as a non-reciprocal trade preference programme to sub-Sahara Africa (SSA). The rationale behind AGOA was coined in the mutual interest between the United States (US) and SSA to promote a stable and sustainable economy for development and growth in SSA. The enactment of AGOA also effectuated high-level dialogues (AGOA Forum) which are annually alternated between US and any SSA beneficiary. The core issues at the annual AGOA forum are meant to enhance trade and investment in SSA. AGOA was introduced as a Trade and Development Act of 2000 to boost open and free markets for SSA beneficiaries who do not have any Free Trade Agreement with US. Consequently, the dispensation of AGOA allows into US duty-free treatment and quota free exports from SSA for items specified such as footwear, cashmere, and hand-loomed and hand-made artifacts.

Under the Generalized System of Preferences (GSP), AGOA expands a list of items subject to zero import duty to eligible SSA to the US market for 6,400 items (GSP AGOA), whereas general GSP only covers 4,600 items. The additional GSP items include items previously excluded items such as footwear, watches and handbags. SSA member states are eligible for AGOA incentives after an eligibility review process which necessitates that the beneficiaries demonstrate their commitment to making substantial progress to combat corruption; protection of human rights issues and labor rights, efforts to a market-based economy and reduced poverty levels. Beneficiaries who do not meet the criteria are eliminated by the President of the US designate and can be reinstated once they demonstrate continuing progress to the aforementioned criterion.

Since 2000, Kenya has remained eligible for duty free quota free market access of exports to the US market. An analysis of the 15 years existence of AGOA shows that Kenya has not fully utilized the preferential programme. The exports to the US have been dominated by a single item (i.e. textile and apparel) upto 70 percent of all the total exports. The stakeholders in this sector have been unanimous to sensitize exporters to increase the utilization of AGOA through diversification of items as one of the remedies to increase the utilization rate in Kenya. Among other products exported to the US include: tea, coffee and leather products. Hand loomed and handmade products. AGOA has contributed to improve the livelihoods of over 190,000 Kenyans through job creation, skills and technology transfer, improved bilateral relations with the US and increased foreign direct investments in Kenya.

Some of the constraints that hinders Kenya's higher utilization rate of AGOA include: trade logistical challenges, stringent requirements to the US markets, inadequate financing for exporters, value addition related challenges, the demand of export items to the US market is higher than the capacity to produce. Kenya can mitigate these challenges to increase the utilization of AGOA maximally. Some of these suggested measures include: diversification and sensitization of products as earlier indicated; increased recognition and empowerment of the handcraft sector; quality assurance; capacity building of exporters; establishment of an association of exporters to curb rogue exporters and ease of doing business.

Progressive Africa Growth and Opportunity Act (AGOA) Amendments

AGOA has been through a series of reviews to make it more effective in addressing emerging technical issues as well as addressing the extension details of the apparel provision in accordance with the Acts terms and conditions[1]. The genesis of these amendments was first penned down by President Bush in August of 2002. The intent of AGOA II amendment was to allow for an expansion of preferential access for imports from beneficiary SSA countries in order to increase utilization capacity of SSA[2] . Thereafter, the second amendment dubbed as AGOA III extends Third Country Fabric Provision (TCFP) from September 2004 until September 2007 as "Text of AGOA Acceleration Act 2004," While AGOA IV (third amendment) extends the Third Country Fabric Provision from 2007 to September 2015, thus extending the Preferential treatment for textiles and apparel articles (wholly assembled, or knit-to-shape and wholly assembled) originating from lesser developed SSA "Text of Africa Investment Incentive Act 2006[3] ." The relentless advocacy by stakeholders bore fruits in June 29, 2015, when President Obama renewed AGOA for another 10 years. The extension has been received with mixed reactions both in the US and SSA beneficiaries. Despite the criticism, congress was applauded for the timely renewal of the current waiver, which expired in September 30, 2015 thus eliminating the fear of the unknown.

In the process of amendment of the third country fabric provision in 2007, the delay experienced had generated a lot of uncertainty and losses to exporters. The uncertainty to renew the third country fabric saw a decrease in capital investments by 9.4 percent from Sh6.9 billion and Sh6.2 billion in 2011 and 2012 respectively as reported in Economic Survey 2013. There were concerns that if AGOA is not renewed on time, the effects could replicate the same results or even worse than experienced in 2007. The reason given was that investors at this point did not want to commit as the future of this provision was unknown. The timely renewal before the September 3-, 2015 came as a relief to exporters and investors.

[1]Source: *http://agoa.info/about-agoa/amendments.html*

[2]*See the forensic detailed amendment in Section 3108 of the Trade Act of 2002*

[3]*http://trade.gov/agoa/legislation/agoa3.asp and http://trade.gov/agoa/legislation/agoa4.asp , retrieved on July 15, 2015*

A Snapshot of AGOA

- *It is a nonreciprocal and unilateral trade arrangement.*
- *It is not permanent.*
- *Has been amended three times (2002, 2004 & 2007) and renewed once in June 2015*
- *Is for all (Women and Youth inclusive).*
- *By 2025 the existence of the Act will be a total of 25 years.*
- *Offers duty free quota free market access to the US markets for over 7,000 authorized items*
- *Has generated jobs, FDI, business competitiveness.*
- *Is given by the United States to SSA.*
- *So far, AGOA has been under three US presidents since enactment i.e. President Bill Clinton, President George W. Bush and President Obama.*
- *Is expected to be a win-win for both SSA and the US.*
- *Economic growth in SSA is not entirely attributed to AGOA*
- *The 10-year extension of AGOA was extended together with the third country fabric provision*

The Balance of Trade- Kenya and the United States

The objective to improve sub-Saharan Africa (SSA) trade capacity has fairly been achieved even though development analysts opine that the maximum potential of the AGOA Act remains underutilized. To achieve the maximum efficiency of the Act, a mix of right policy interventions need to be implanted. The trade benefits under AGOA present opportunities that can elevate poverty levels and provide employment opportunities. Table 1 provides a summary of the trade between Kenya and the United States. The US continues to export high valued goods such as aircrafts parts, machinery, while Kenya's exports low value items such as nuts, flowers and coffee. Since 2005, trade balance between Kenya and US has continued to fluctuate in millions in a span of 10 years (Table 1.).

Before AGOA was signed into law the balance in trade of goods (exports -imports) between Kenya and US was valued at $127.3 million. Less than a year to the 2015 AGOA expiry date, trade balance gap multiplied eight fold. Even though AGOA is a non-reciprocal trade programme, the US is equally benefiting from this programme. According to the US Department of Commerce, there are 250, 000 AGOA generated jobs in the US alone and close to 1 million indirect jobs in SSA. Reviewing the earlier trend when AGOA III was amended, there was a lot of anxiety among investors; this resulted in the decline of the value of exports particularly in 2004 to 2005.

Table 1: U.S. trade in goods with Kenya (USD M)

Year	US Exports	US Imports	Trade Balance	Year	US Exports	US Imports	Trade Balance
2000	237.5	110.2	127.3	**2008**	442.4	343.5	98.8
2001	577.6	128.1	449.5	**2009**	653.6	280.6	373.0
2002	271.3	188.6	82.7	**2010**	375.3	311.1	64.2
2003	196.5	249.3	-52.8	**2011**	461.1	381.6	79.5
2004	347.5	352.2	-47.0	**2012**	568.7	389.5	179.2
2005	573.4	348.0	225.3	**2013**	635.7	452.3	183.4
2006	430.7	353.7	77.0	**2014**	1640.9	590.0	1050.9
2007	520.4	325.5	194.9				

Source: U.S. Census Bureau, Foreign Trade

The Impact of AGOA in Kenya

The AGOA has had positive impact on the Kenyan economy. On employment, there is an estimated 32,516 direct jobs at EPZ as of 2012 and another estimated 190,000 employed Kenyans in different sectors. Whereas trade between Kenya and US increased from $163Million to $875Million in 2000 and 2010 respectively, US foreign direct investments in Kenya (stock) was $259 million in 2012 (USTR). AGOA has attracted a significant increase in FDI in the export processing zones (EPZs) and specifically the textile and apparel sector. Given that most of these firms are foreign owned, it is expected that programmes that transfer skills and technology to the local people be put in place. However, the locals tend to be in the low job categories such as machine operators whereas the investor prefers to have their 'own' in the top management level. The locally owned firms on the other hand use standard technology, which has which has been attributed to the low value addition of items. The outdated machinery cannot keep up with a fast paced and advanced technology as that of the US resulting in a low AGOA utilization outcome.

Table 2. Impact of AGOA on EPZ (Employment and Investments): 2002 – 2013

Year	Number of Employed	Investment (Kshs million)
2002	25,288	6,908
2003	36,348	9,710
2004	34,614	8,595
2005	34,234	9,977
2006	31,813	10,317
2007	28,506	8,314
2008	25,766	7,578
2009	24,359	5,490
2010	24,114	6,959
2011	25,169	7,407
2012	28,298	10,732
2013	32,899	11,966
Average	16.3	11.5

Source: EPZA

Women and youth participation is well articulated in the renewed AGOA even though only one percent of women and youth were aware of AGOA. The reauthorized text empathizes the importance of promoting the role of women and youth in social, political, and economic development in SSA. There is need to sensitize these groups through capacity building forums to ensure that the information is accessible at the grassroot level to increase participation and utilization of AGOA. AGOA is committed to deepen market access and provide significant trade-related technical assistance and capacity building for women and youth through forums such as the "African Women Entrepreneur Program (AWEP) empowers women entrepreneurs (small and medium owners) through trade and investment by integrating women into the AGOA programme and also by promoting opportunities for women and youth in SSA.

Challenges and Remedies to AGOA Low Utilization Rate

For the last 15 years, AGOA has been a facet for increased trade and investment, economic growth and development. The trade opportunities under AGOA are enormous, but that the challenges remain on the ability to maximize the full benefits. Despite the available measure for support and capacity building, Kenya is still facing challenges to access duty free and quota free markets in the US. There is the need to look at all the avenues to tackle the utilization agenda. The government, as support institutions and exporters need to engage openly to identify and implement effective programmes and policy frameworks that will provide solutions to the shortcoming. The support from the government is crucial to increase awareness and support to the exporters under AGOA. The private sector has been raising concerns about the support received from the government is minimal hence the low utilization rate. Compare to Kenya, EPZ Bangladesh values at $19 billion-a-year success to the government support to emerge the second leading US trading partner in textile and apparel exporter even though it is not under AGOA.

Table 3. Challenges and Possible Remedies under AGOA Trade between Kenya and the US

Challenges	Remedies
1. Lack of direct flights to the US increasing transportation costs of products which reduces competition with countries such as Nigeria and South Africa who have high utilization rates.	• Increased lobbying of direct US-Kenya flights. The recent visit by President Obama was welcomed with sign of relief due when he articulated that direct flight between Kenya and US is making progress though there is no definite date when this shall happen.
2. Single dominant product	• Diversification of authorised products
3. Lack of sufficient awareness programmes	• Increase outreach programmes at the county level and national level involving all the key players i.e. Government, Civil Society Organisations (CSOs) and Private sector (Large and small scale holders) to sensitize which other products are eligible for export
4. The cotton sector has been neglected	• The revival of the cotton sector is crucial to maximize on the third country provision which was extended together with AGOA.
5. Narrow range of exportable products	• Expand items to include all agricultural products
6. Inadequate trade missions	• Use of professional marketers to sensitize Kenyan exporters in the US; Promotion of non-resident Kenyans capacity to contribute under AGOA especially those in the Diaspora;
7. Financial challenges	• Establishment of an export-import bank (EX-IM Bank)
8. Ease of doing business	• Reduce the processes of legitimising businesses
9. Diaspora Participation	• A Diaspora programme and program that encourages and welcome Diaspora participation in AGOA initiatives to boost financing, business and investment.
10. Poor of lack of a central AGOA information centre	• Establishment of a central information resource centre in Kenya.

A Decade Long Window of Opportunity for Kenya- US Trade: What Next 2015-2025?

The 10 year extension was welcomed with mixed reactions as many SSA beneficiaries hoped for a much longer preferential arrangement exceeding 10 years. There is a possibility that AGOA will certainly come to an end at some point since it is completely under the control of US. Considering that this is a unilateral programme, some of the scenarios that are likely to play post 2015 include:

1. The government could lobby for another extension after 2025 if the under utilization rate of continues and there are opportunities for improvement beyond the 2025 AGOA time limit.
2. After 25 years of progressive US-SSA unilateral trade, the US is likely to make AGOA reciprocal if the development under the Economic Partnership Agreement (EPA) with the European Union is to serve as an example. - Lobby for a Free Trade Area arrangement with US.
3. Non-extension of AGOA after 2025, resulting in trade disruption that is likely to negatively impact investors who seek a permanent investment since AGOA is not permanent.
4. Promote intra-Africa trade to circumvent the risk associated with AGOA non- extension and improve domestic market utilization

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Conclusion

The decade long extension began after the expiration of the current waiver on September 30, 2015. AGOA has the potential to spur economic growth and development if the trade incentives are exploited effectively. Kenya particularly needs to re-evaluate how she performed in the just concluded phase of AGOA. This will enable to identify what it is about AGOA that works and what does not work. The impact assessment will identify the successes and achievements of AGOA and its future scope to determine the programmes and policies that are economically viable and sustainable.

The new AGOA bill extends the trade preferences to 2025 and includes an investment component which as lacking in the previous bill. Product diversification in the textile and apparel sector is expanding where previously excluded items such as baby wear; t-shirts have been manufactured for exports. The issue of "what next after 10 years?" was recurrent among stakeholder discussions. There was increased call for stakeholders to increase capacity in research and development for evidence based alternatives to AGOA trade such as Intra-Africa Trade, provision of alternative trade arrangements such as FTA should be considered before 2025 when the reauthorized incentives of AGOA expires.

The Constitution of Kenya 2010 introduced the devolved system of governance. Devolution can represent the image of the country by investing on individual county product specification strengths. Diversification strategies for AGOA exports can borrow from tested concepts such as the Japanese programme of 'One Product One village' (OVOP) to overcome the existing constraints. The OVOP programme can differ by purpose; by either economical or social objectives. It is an approach that sensitizes the locals to create value-added products/services for domestic and external markets. For instance, North Eastern can be harnessed to produce gum Arabica, (A. Senegal) tree produces more gum especially under tough arid conditions, It is used in manufacturing of soft drinks and chewing gums and acts as a sand dune stabilizer in the arid conditions. The main market for Kenya's gum arabica is the export market which is not extensively utilized under AGOA. Diversification of our export products is crucial to a more successful AGOA.

Integrating institutions of interest (government, civil society and the private sector) under AGOA is crucial for a successful implementation of AGOA. The export sector comprises of both the big payers and the small scale players. The potential of AGOA is to grow local business entities and increase Foreign Direct Investments (FDI) which also promotes transfer of skills and technology. In Kenya, a considerable number of foreign business entities capitalizing on AGOA are owned by investors and a few locally owned firms. The local's input is largely to supply services such as packaging. Most local investors are unable to finance such investments which require huge startup capital.

Kenya's extractive sector is expanding and its potential is pressing. The current AGOA strategy for Kenya does not encompass the opportunities of the untapped natural resources such as oil, mining and gas. AGOA has increased access to the U.S markets and the largest share of exports from SSA is a 90 percent petroleum product. According to a study by IEA, oil and gas discovery has generated a lot of interest among policy makers, investors, the government, citizenry, CSO's, and development partners. The excitement yields the opportunity for the sector to accelerate economic growth and national development. Kenya should take advantage of the window of opportunity under AGOA to export commercially viable energy products to the US. Nonetheless, non-oil exports under AGOA increased between 2001 and 2011 at $1.2 billion and $4.5 billion respectively; Non-oil exports include items like textile and apparel, nuts, handcrafts and flowers.

The recent visit by president Obama in Kenya on July 24-26, 2015 was critical to strengthen Kenya-US ties. Given the renewal of AGOA, president Obama emphasized that plans were underway for direct flight between Kenya and US. The direct flights to US will reduce the high costs of transportation incurred by exporters and enhancing competition with other US trade partners. The renewal of AGOA means safeguarding over 30,000 jobs; improved business ties with the US; Increased investments and safeguarding the existing ones such as the Export Processing Zone, whose capital investment are estimated worth Sh15 billion. AGOA eligible beneficiaries also score high political and economic reforms in governance, accountability and human rights issues as compare to ineligible countries.

Overall, 'Africa is on the Move' has been the mantra for emerging as the fastest growing economic hub. Ten years since coming into force, the success of AGOA in achieving the objectives envisaged have come into question. The largest share of US imports from Africa is concentrated on oil and other energy products. As such, the preference scheme has not contributed towards increasing the diversification of SSA economies and therefore, the benefits from AGOA accrue to a limited number of countries like Nigeria which is the leading SSA beneficiary to trade. To this end, AGOA has helped to transform the trade relationship between SSA and the US from one based mainly on exports of commodities to that based on more value-added trade in manufactured products. A long-term trade preference program would necessitate longer and stable investments.

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The Trade and Development Programme aims to be an influential actor in Kenya's trade negotiations, policy formulation, reforms and impact assessment.

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