“Taking The Devils Rope”

AGOA And Sweatshops In The Apparel Sector

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The double edge sword that is AGOA is well explained by a representative of the Swaziland Investment Promotion Agency SIPA who during a research interview said of the expiration of AGOA, that he was aware that it would not last forever and that garment producers are notorious as "footloose investors". However, "Swaziland is so desperate! When you are drowning and the devil throws you a rope, you will take it".[1]

In the last three years the apparel sector in Sub Saharan Africa has experienced considerable growth with the introduction of the African Growth and Opportunity Act (AGOA). Much of the investment in Southern Africa has been by Asian multinational companies that supply large retailers in the US. To date the bulk of investment has been concentrated in the clothing as opposed to the textile sector and has been in the form of CMT operations. Research has consistently shown the working conditions in many of these factories to be appalling, characterised by wages that sustain poverty and desperation, long hours, unpaid overtime, seven day work weeks, unrealistic targets, sexual harassment, verbal and physical abuse and the list goes on. These are in fact sweatshops.[2]

AGOA

AGOA is a trade act passed in the US in 2000. It offers preferential access for certain African exports to the US for a period of 8 years and is due to expire in September 2008. It is a legislated trade act and was not negotiated with the African countries that are referred to as 'beneficiaries'. It reflects a philosophical shift in the US approach to Africa stemming from the policy of trade not aid of the Clinton administration and adopted by the Bush administration. AGOA extends the General System of Preferences (GSP) that gives preferential access for 4650 product categories, by an additional 2 458 product categories. These additional product categories are 36 energy related products, 622 apparel related products and 1 800 non-energy, non-apparel products. The vast majority of AGOA related exports from Africa are in fact oil a trend that will no doubt intensify with the recent inclusion of Angola, another top oil producer, as being AGOA eligible. In 2002, exports from Sub Saharan Africa under AGOA totalled US$9 billion of which 75% were oil related exports predominantly from Nigeria and Gabon[3]. Africa currently contributes approximately 15% of the US energy needs and this figure is set to increase as energy consumption increases requiring a larger proportion of energy resources to be sourced outside the United States. The issue of energy supply has been flagged as an issue of national security by the Bush administration.

At present 37 Sub Saharan African countries qualify to export to the US under AGOA. The conditions of becoming a 'beneficery' country contain the normal structural adjustment fair with a requirement that the applicant country "establish or be making continual progress toward establishing "a market-based economy that protects private property rights, incorporates an open rules-based trading system, and minimizes government interference in the economy through measures such as price controls, subsidies, and government ownership of economic assets."[4] In addition some specific clauses protect United States foreign policy interests for instance a requirement that a beneficery country "does not engage in activities that undermine United States national security or foreign policy interests…or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities." In a some what contradictory nature section 104, that determines the eligibility criteria also calls for "economic policies to reduce poverty, increase the availability of health care and educational opportunities… and protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children,

[1] De Haan, Phillips, Ascoly, Brindle; Made in Southern Africa, Clean Clothes Campaign, 2002.
[2] Research has been conducted by a number of organisations including the Dutch based group SOMO, the Centre for Research on Multinational Corporations, TURP, Workers College, CSRSC over the past two years has revealed.
[3] E. Naumann; AGOA: Trade Responses from African Countries, a joint tralac- WESGRO seminar www.tralac.org July 2003.
[4] 2003 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act, Third Annual Report, May 2003, www.agoa.gov

and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health." The application of Section 104 however is not a transparent process at all and therefore subject to arbitrary decree where worker rights for instance are consistently treated as paper obligations by both the eligibility conferee and conferrer. The use of the progressive clauses is difficult for section 104 tends to be a very blunt instrument. Campaigners may show gross labour rights abuses in the apparel sector normally by foreign owned companies set up to take advantage of access to the US market but are reluctant to call for the removal of eligibility as this would remove these companies completely and impact across multiple economic sectors. Similarly US decision makers will refer to this as a reason for not acting on information of continual labour rights abuses.

AGOA, apparel and sweatshops

Where AGOA has been reported on in the US it has been proclaimed as a success due to the increased volume of trade with Africa as well as the creation of jobs. "AGOA is helping to support nearly two billion dollars a month in U.S.-sub-Saharan African trade. And we have only just begun. Those dollars created jobs, literally tens of thousands of jobs, across the entire sub-Sahara Africa region. People are better off today because of AGOA. And we have only just begun."[5] says US Congressman Jim McDermott. The only sector that has created a significant number of jobs under AGOA has been the apparel sector due to the labour intensive nature of clothing factories. Of the US$2.2 billion non-energy exports under AGOA, apparel accounted for 40%.[6] A good portion of these jobs in the sector in fact pre existed AGOA or were associated with trade with other countries. Malawi for example used to predominantly export to South Africa. Since AGOA producers in Malawi have shifted focus to the US market although employment has remained much the same if not decreased with the closure of David Whitehead, the only significant textile producer in the country. Jobs in these factories are now counted as AGOA related job creation.[7] Where the sector has expanded due to US trade it has not spread across sub Saharan Africa but tends to be associated with pockets of investment. The major exporters of apparel under AGOA are Lesotho, Kenya, Madagascar, Mauritius, South Africa and Swaziland. Lesotho is the top exporter of apparel under AGOA and these exports have grown from US$111 million in 1999 to almost US$400 million in 2003.[8] The loss of jobs in the South African apparel sector is well documented and recent changes in the exchange rate threatens even more jobs as increased reliance on exports to the US market make the sector vulnerable to the vagaries of the exchange market.

Apparel products are subject to AGOA "Apparel Rules", under which only 19 of the 37 AGOA countries are eligible. Under these rules raw material used in the production of apparel for export under AGOA must come from local sources, other AGOA eligible producers or the US. There is a notable exception to this rule in that it is not applied to countries that are considered Lesser Developed Countries (LDCs) until October 2004 under a "Special Rule" also known as the third country fabric provision. It is the benefits of this rule that has attracted most of the investment in the sector as it means that producers located in LDCs are able to use fabric imported from Asia in the manufactured garments, fabric often sourced within multinational subsidiaries or through long standing supply relations.

Whilst this growth in export earnings sounds good on paper, in reality all the large-scale apparel producers in Lesotho, Kenya and Swaziland are foreign owned by predominantly Asian investors. These investors are offered very attractive incentives in Export Processing Zones (EPZ) and are allowed to repatriate all of their profits, leaving nothing but the wages that are paid to workers in the country and often acting to drain state funds where serviced industrial sites are provided free or at a percentage of cost.[9] Whilst jobs have been created under AGOA the quality of these jobs leaves much to be desired both in terms of the working conditions and wages associated with these jobs as well as their sustainability.

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[5] Congressman Jim McDermott; Remarks Before the 2003 Private Sector Session of the Third U.S.-Sub-Saharan Africa Trade and Economic Cooperation Forum, December 8, 2003. Distributed by the Bureau of International Information Programs, U.S. Department of State. Web site: http://usinfo.state.gov.

[6] E. Naumann; AGOA: Trade Responses from African Countries, a joint tralac- WESGRO seminar www.tralac.org July 2003.

[7] De Haan, Koen, Mthembu; Research Report: Garment Production in Malawi, 2003. www.somo.nl

[8] U.S. Department of Commerce, data from www.agoa.info 2004.

[9] Report on Selected Sub Saharan Country Information Survey on the Garment Industry, CSRSC, 2004.

Wages and working conditions

In Lesotho working conditions in many AGOA apparel exporting factories are documented as long work weeks of 45 hours and up to 27 hours overtime a week, forced and often unpaid overtime to meet unrealistic targets, repression of trade union rights where workers are intimidated and union officials denied access to many factories, violation of health and safety standards, workers are locked in the factories, illegal dismissals and low wages which in 2002 was US$58 a month.[10] There is little enforcement of labour laws and cases brought to Lesotho's labour courts can take years to be processed. With an unemployment rate of 45% and an estimated 31% of the population infected with HIV[11]; it is simple desperation that drives workers back to these factories, workers who are normally trapped in a spiral of debt and poverty. Workers frequently report earning a small wage taking a loan then to get by and having to work to pay the debt whilst its monthly payment necessitates more lending. In essence it is a subtle variation of the Chinese worker who pays a fee and to work in a factory abroad and earns so little that they end up working for nothing for a number of years simply to pay back fees for board and lodging along with their contract cost.[12]

Wages are so low that a trade unionist in Lesotho appropriately calls them "poverty wages".[13] In Malawi, researchers found that wages paid to workers in apparel factories are amongst the lowest in the world at $US0.50 a day.[14] And working conditions are so poor that workers throughout the region refer to their jobs as "slave labour"[15]. Workers in many AGOA export factories are often expected to work to targets largley due to retailer pressure on suppliers to meet deadlines or incur heavy penalties. These targets are set very high and then workers are penalised for not reaching these in wage cuts or unpaid overtime. Workers work long hours, overtime is reported to go late into the night and sometimes even throughout the night with little time to rest. Many report working seven days a week and are given no notice when they are expected to work overtime, leaving workers little personal time and overtime is often reported to be paid incorrectly. Many workers have no formal contract of employment and warning and dismissal procedures are at the whim of factory management.[16]

Research also shows that management are anti-union and union members are victimised. The unions that struggle to gain access to some factories and workers confirm this. They also report delaying tactics of factory owners over union recognition. Even where there has been softening there have been a number of cases of employers lapsing back into old ways as soon as the pressure for change is reduced. This is partly due to the lack of labour law enforcement in many Southern African countries, where governments either do not have the capacity or, more likely the will to take necessary actions against worker exploitation. Cases that make it to court take years to process and verdicts can face lengthy appeal processes and the legal process comes at great expense to the unions. [17]

This scenario is repeated in Kenya, Swaziland, Madagascar, and to a lesser extent, Mauritius and South Africa. The same is also found in smaller AGOA producing countries such as Namibia and Malawi. The downward pressure on wages is perpetuated by AGOA eligible countries competing for this investment through the normal means of low minimum wages, union bashing, and non enforcement of labour law as labour violations are swept under the rug to present an attractive image of a docile labour force and to seemingly remain compliant with eligibility requirements reducing much labour law to paper legislation.

Sustainability

The other major problem associated with AGOA related employment lies in the nature of the trade dispensation and its interaction with the domestic economy in the sector. When researchers asked a representative of the Swaziland Investment Promotion Agency about the expiration of AGOA, he said that SIPA was aware that it would not last forever and that garment producers are notorious as "footloose investors". However, "Swaziland is so desperate! When you are drowning and the devil throws you a rope, you will take it".[18] At present, production

[10] De Haan, Phillips, Ascoly, Brindle; Made in Southern Africa, Clean Clothes Campaign, 2002.
[11] Lesotho Profile, www.cia.gov.
[12] Global Exploitation: Death In Mauritius, article in ITS Africa News, ITGLWF Africa, July 2002
[13] D. Mariasane, General Secretary of LECAWU in an interview January 2003.
[14] De Haan, Koen, Mthembu; Research Report: Garment Production in Malawi, 2003. www.somo.nl
[15] The Experiences Of Ramatex Workers In Namibia, Labour Resource And Research Institute (Larri), Press Release, 16 October 2003
[16] De Haan, Phillips, Ascoly, Brindle; Made in Southern Africa, Clean Clothes Campaign, 2002.
[17] Report on Selected Sub Saharan Country Information Survey on the Garment Industry, CSRSC, 2004.
[18] De Haan, Phillips, Ascoly, Brindle; Made in Southern Africa, Clean Clothes Campaign, 2002.

by local apparel producers for the local market has been decimated in many African countries as a result of foreign companies taking domestic market share and second hand clothing flooding the market. If these foreign investors leave this could result in a compete collapse of the industry in much of Africa.

Later this year the third country provision for textiles comes to an end and although its extension has been mooted in the form of AGOA III, a number of commentators have expressed doubt that this will be the case. Establishing an apparel factory requires relatively little capital investment compared to a textile mill, so investment in textiles would require a period of several years to show returns. There has been little to no investment in textile production in the AGOA countries that qualify for the LDC special rule even though textile production in the region will not meet the anticipated demand at the expiry of this rule at the end of September 2004 should AGOA III not be passed. Fabrics produced by these AGOA countries are mostly considered to be of inferior quality and not suitable for use in AGOA export apparel. Even if these African fabrics meet the quality standards, a study done by a Kenyan research group found that this fabric sourced in Africa would cost 50% more than Asian produced fabric and fabric sourced from the US would cost about 60% more making production costs too high.[19] Should this provision end, most of the clothing jobs 'created by AGOA will disappear overnight given the comparatively high cost of US and African textiles as well as the lack of textile capacity, leaving beneficiary countries worse off than before 2000.

Also, the Agreement on Textile and Clothing (ACT), currently limiting Chinese apparel exports to the US, will expire at the end of 2004. Should these events unfold without intervention by the US in the form of a quota cap, it is expected that cheap Chinese apparel exports will flood the US market against which apparel produced in Africa will be unable to compete and investors will pack up and move to China resulting in massive job losses in the sector throughout the region. When concerns on the effect of the end of the ACT on African apparel exports were raised at the third AGOA Forum in Washington in December 2003 the senior director for African Affairs at the U.S. Trade Representative's Office, Constance Hamilton, told African delegates "You have to compete, period. Don't identify the Chinese or the Vietnamese as a problem."[20] Her comment is indicative of the US dictatorial approach to trade with Africa and its disregard for the economic realities of Africa.

Enter the real beneficiaries

The main beneficiaries of AGOA as a whole are undoubtedly American foreign policy and strategic interests and Multinational oil companies. But the AGOA apparel provisions have their beneficiaries and interests as well, undoubtedly these are the Asian (predominantly Taiwanese) companies including a number of multinationals in Africa. The interests being served however are located in the form of apparel brands and particularly large US retailers such as Wal-Mart. Wal-Mart is no stranger to exploitative conditions having multiple law suits and campaigns levelled against it for labour practices both on US soil and elsewhere in the world. Yet it remains resolutely intransigent refusing to divulge details of suppliers, ignoring domestic labour legislation and shouting pro US and buy USA statements from the rooftops.[21]

These US retailers command large orders that will occupy an entire factory for months and as such dictate terms of cost and delivery schedule with massive penalties for late delivery. During interviews with producers in a number of countries mangers revealed that they would rather airfreight an order that is late which will usually mean running at a substantial loss than incur the wrath of the retailer. In this way massive pressure is exerted on the supply chain in order to source incredibly cheap garments to retail with huge mark ups. Most of the large foreign owned factories in Africa being CMT operations have their orders sourced for them by their parent company usually located in Asia that are reliant on pre existing relationships with US retailers or buyers thus keeping the bulk of orders in a de facto closed shop arrangement between retailers and buyers and multi national manufacturers. Workers receive the smallest portion of the overall value chain. Research in Madagascar in 2002 found that in a factory producing T shirts for export to the US that one production line of 32 workers has a target of 1200 T shirts a day and each workers was paid $US1.47 per day, thus one T shirt cost US$0.04 in labour costs. They also found that for hand knitted pullovers made in Madagascar for labels such as

[19] Moses M. Ikiara, Lydia K. Ndirangu; Prospects of Kenya's Clothing Exports under AGOA after 2004, Productive Sector Division, Kenya Institute for Public Policy Research and Analysis, KIPPRA Discussion Paper No. 24, January 2003.

[20] Susan Ellis ;African Exporters Under AGOA Advised to "Compete" and "Diversify": Trade, aid, and national security experts brief on lessons of AGOA Forum, Washington File, 11 December 2003. The Washington File is a product of the Bureau of International Information Programs, U.S. Department of State www.usinfo.state.gov.

[21] Report on Selected Sub Saharan Country Information Survey on the Garment Industry, CSRSC, 2004.

Pierre Cardin, the buying company paid up to US$4, the retailer paid US$10 and the pullover was sold to the customer for US$40.[22] These retailers and multinational manufacturers have no allegiance to the countries where their clothing goods are produced and are known to move production to countries that offer the best incentives and market access for their export goods in the interest of widening their profit margins squeezed by the power relationship that exists with the retailers.

The problems of African apparel export are complex and interrelated involving multinational capital accumulation strategies; international trade regulations, trade policies and lack of transparent dialogue around these; western foreignpolicy imperatives; conditions in African economies and politics; the HIV/AIDS pandemic; the second hand clothing trade, the power of highly 'developed' countries in determining the terms of trade in their own interests; multilateral lending institutions; and of course capital dominated media groupings that forge 'western' consciousness. At the same time as these forces play themselves out, dependency is being created on the ground on these industries regardless of the abhorrent conditions they create and the long term potential for doing more harm than good to the African majority as opposed to the small minority that benefit massively from this dispensation.

While US retailers such as Wal-Mart claim to be doing their bit for better working conditions by issuing codes of conduct that suppliers must adhere to, in a factory in Malawi the codes of conduct can be found hanging on the wall while worker rights are disregarded on the floor. At best the supply factories will build more ablution facilities or have arrows marking routes to emergency exits that at some factories were locked.[23] It is clear that these improvements are merely cosmetic and without the monitoring of working conditions, these codes of conduct have no meaningful impact on workers. In another instance a manufacturer was simply splitting the factory so that the section that was producing for the US market had more ablutions etc in order to comply but orders done for elsewhere would be done under completely unchanged conditions. The monitoring of codes seems to be scant and have little effect as even in companies where an audit had been done worker interviews revealed all the common abuses continued unabated. The reality is that were these codes to be strictly applied it would impact on delivery time and cost probably marginally but nevertheless undesirable.

What is to be done?

One can not simply say end AGOA as dependency has already been created where the direct consequence is for instance thousands of families in Lesotho having less tomorrow than they do today, but at the same time rolling out the exploitation carpet has an unnecessarily high and growing human cost. Poor countries are ensnared in the race to the bottom with the African as well as other poor region's working classes forced to compete in paying the price for ever increasing profit margins of large retail corporations such as Wal-Mart, brand names such as Nike and multinational producers such as Nien Hsing. At the same time African countries must live with AGOA as merely a window that is perpetually under threat of being closed potentially leaving many 'beneficiary countries' worse off than before. Implicit in the advice of those who advise that there is no alternative to this development model is hypocrisy around the value of a human life. In Africa life is cheap and its cost is going down.

There is much work to be done within the trade unions organising in the apparel industry and there are many levels at which campaigning activities can be developed. Regional campaigns, for example on trade related issues, can be organised and at an international level, consumer campaigns targeting retailers and brands that source apparel from these sweatshops have been quite successful in the past and problematic multinational producers can be exposed and pressurised to improve working conditions.

The most significant organisation coordinating regional efforts of trade unions organising in the apparel industry is the African office of the International Textile Garment and Leather Workers Federation (ITGLWF) under the leadership of Jabu Ngcobo. ITGLWF offers hands on assistance to its affiliated unions, providing internal capacity building and organisational support, leadership mentoring and assistance in negotiations in tripartite structures and in dealing with problematic employers. Through ITGLWF international organisations such as the Solidarity Centre have been brought on board to offer additional support for affiliated trade unions. The Solidarity

[22] A Call to Action: Organising Garment Workers In Southern Africa, a booklet written by Workers College, TURP and SOMO 2003.
[23] De Haan, Koen, Mthembu; Research Report: Garment Production in Malawi, 2003. www.somo.nl

Centre in partnership with ITGLWF and its affiliates will be launching a sweatshop campaign that is currently in its planning stages and will bring much needed attention to plight of workers in these apparel factories. Other organisations such as the Dutch based group SOMO, the Centre for Research on Multinational Corporations and the Clean Clothes Campaign that provide assistance in the form of research for local and international campaign activities have also embarked on a project funded by the FNV in Southern Africa that will expose working conditions and a part of this project will examine the labour laws and law enforcement in targeted countries.

The global reality is that the voice of African workers is amongst the most marginalised in the world. Whilst a multi level approach that seeks to build capacity to resist exploitation on the ground as well as international solidarity to link this resistance back to the retailers and multinational producers that are main beneficiaries of AGOA is an imperative and the only model that has had any impact on the situation thus far, the ultimate success lies in developing an awareness in people in Africa that goes beyond desperation and a consciousness in the consumption patterns of the developed world and the citizens of that world currently dominated by myopic views of terrorism and the actively developed fear based identities of what people in the North stand to loose as opposed to the price being paid by those in the South everyday.