Before the U.S. International Trade Commission
Investigation Nos. 332-542, 332-544, 332-545 and 332-546

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Thank you, Chairman Williamson and Commissioners, for the opportunity to testify concerning the African Growth and Opportunity Act (AGOA). I am appearing in my capacity as President of the African Coalition for Trade (or ACT for short). ACT is a non-profit trade association of African private sector entities engaged in trade with the United States under AGOA. ACT has been one of the leading spokespersons for the African private sector in the development and implementation of AGOA beginning well before AGOA was enacted. Because our members are actively doing business under AGOA, they have first-hand knowledge of what has worked well and what is necessary to make AGOA continue to succeed in the future.

I. AGOA Has Been a Major Success for Both Africa and the U.S.

AGOA is rightly recognized as the cornerstone of U.S. trade and economic policy concerning Africa. Since AGOA was enacted in 2000, U.S. imports from Africa have more than doubled, up 123%. In assessing AGOA's impact, I usually ignore trade in extractive products, particularly petroleum products, because that trade would have occurred even if AGOA had never been enacted. Rather, I prefer to focus on the development of trade in non-extractive products as a better barometer of what AGOA has achieved. Significantly, while total imports from Africa are up 123% since 2000, non-extractive imports under AGOA have increased even more, up 138%. Among the non-extractive products, the major success stories have been:

Agricultural products: up 171% to $2.2 billion;
Motor vehicles: up 1,239% to $2.0 billion; and
Apparel: up 16% to $866 million.

Footwear imports are also up significantly, but from a very low base.

Contrary to the popular misconception that the benefits of AGOA have been highly concentrated in just a few countries, in fact AGOA's trade benefits have been widespread. Thirty-six of the 38 AGOA beneficiaries that were eligible for duty-free treatment in 2012 actually took advantage of AGOA and exported to the U.S. Literally hundreds of thousands of direct jobs and millions of indirect jobs have been created in Africa by AGOA. The major beneficiaries of increased AGOA trade in non-extractive products have been (in descending order):

South Africa: various non-extractive products, with motor vehicles being the largest category;

Cote d'Ivoire: mainly agricultural products;
Kenya: apparel and agricultural products;
Lesotho: apparel;
Ghana: various products, including agricultural products and apparel;
Cameroon: mainly forestry products;
Mauritius: various products, but mainly apparel; and
Ethiopia: mainly footwear and apparel.

Much has been made recently of the fact that AGOA is a unilateral trade preference program, not a reciprocal trade arrangement. This has led some to call for measures to increase U.S. exports to Africa. While increased two-way trade would certainly be welcome, in fact, the benefits of increased trade under AGOA are already a two-way street. During 2000-12, U.S. exports to Africa grew by 284% from \$5.6 billion in 2000 to \$21.5 billon in 2012. In other words, although the U.S. still imports more from Africa (\$49 billion) than it exports to Africa (\$22 billion), U.S. exports to Africa have increased by more than twice as much since AGOA was enacted as have African exports to the U.S. Two-way trade is up 156% from \$27.8 billion in 2000 to \$71.1 billion in 2012. In short, the U.S. is already benefiting from the two-way trade being spurred by AGOA, and literally tens of thousands of U.S. jobs are dependent upon AGOA trade.

Against this backdrop, it is clear that AGOA has worked and is a success story. It is equally clear, however, that even more remains to be accomplished. So the question we must address is whether it is possible to improve AGOA, and if so, what improvements would be practical.

II. ACT's Recommendations for AGOA Renewal.

a. AGOA Should Be Extended for a Sustainably Long Period.

Since its enactment in 2000, AGOA has been renewed several times, but for only short periods, typically five years or less. But major capital investments usually require 10-15 years to be fully amortized. AGOA's short time horizon has made it difficult, therefore, to attract major investments and has restricted the scope of economic development under AGOA to those sectors that do not require significant capital investment. We recommend that AGOA should be renewed for not less than 15 years to provide the stability and certainty that investors require and, thereby, to broaden the scope of economic development fueled by AGOA.

Some have suggested that a long-term renewal of AGOA could be counterproductive, as it might make it more difficult for the U.S. to negotiate reciprocal free trade agreements (FTAs) with AGOA countries. But in fact experience is to the contrary. The Caribbean Basin Initiative (CBI) program is permanent, yet the U.S. has been able to negotiate reciprocal FTAs with every CBI beneficiary it so desired, specifically, DR-CAFTA and the Panama FTA. No CBI country has ever declined the opportunity to negotiate an FTA with the U.S. even though they enjoy permanent non-reciprocal privileges under the CBI program.

A group of U.S. agricultural trade associations calling itself the "AGOA Agriculture Coalition" on November 18, 2013, distributed a letter to Congress, expressing opposition to long-term renewal of AGOA, arguing that certain AGOA countries allegedly maintain unfair and WTO-incompatible barriers to U.S. agricultural exports. The AGOA Ag Coalition suggests that a short-term renewal of AGOA would increase the pressure on AGOA countries to eliminate such unfair trade barriers.

Let's step back a moment to put this into perspective. In 2012, the U.S. imported $2.2 billion worth of agricultural products from the AGOA countries, but it exported $2.5 billion in agricultural products to the AGOA countries. Between 2000 and 2012, U.S. agricultural imports from the AGOA countries increased by 171%, but U.S. agricultural exports to the AGOA countries grew by 252%. In other words, the U.S. has a positive trade balance in agricultural products with the AGOA countries, and U.S. agricultural exports are growing faster than its imports from the AGOA countries.

But having said that, a positive and growing trade surplus in agricultural products certainly does not excuse unfair trade barriers to U.S. products. But the good news is that an appropriate remedy is already available to address such concerns. Specifically, the AGOA conditions of eligibility have always provided that AGOA beneficiaries must not discriminate against U.S. exports and investments. (*See* AGOA Section 104(a)(1)(c).) Accordingly, anyone who believes that an AGOA country is maintaining inappropriate trade barriers is entitled to challenge the AGOA eligibility of the offending country. But opposing the long-term renewal of AGOA punishes the innocent along with the allegedly guilty and only discourages investment in Africa.

b. The Importance of Timely Action To Renew AGOA.

Experience has taught that delay in renewing AGOA causes uncertainty and results in job losses in both Africa and the U.S. Specifically, although Congress renewed the AGOA third-country fabric provision in August 2012, just before its scheduled expiration in September 2012, the delay until the eleventh hour caused uncertainty and forced U.S. importers to shift orders out of Africa, costing tens of thousands of jobs in Africa. It took a full year for the apparel trade to recover from the uncertainty caused by the delay in renewing the third-country fabric provision. U.S. apparel importers are already warning that they will be forced to shift orders out of Africa if AGOA has not been renewed by the end of 2014. Accordingly, it is imperative that Congress must renew AGOA well before the end of 2014.

c. ACT's Recommendations for Rules of Origin.

1. Third-Country Fabric Rule of Origin.

Investigation No. 332-545 concerns possible changes to the AGOA rules of origin. The most important AGOA rule of origin is the so-called third-country fabric rule, which allows less developed AGOA beneficiaries to use yarns and fabrics from any origin. The third-country fabric rule accounts for more than 90% of AGOA apparel trade. It is absolutely essential to the survival of the AGOA apparel industry that the third-country fabric provision should be extended for the full term by which AGOA is extended, *i.e.*, not less than 15 years.

A recent study by the Peterson Institute suggested that the third-country fabric provision has somehow discouraged the use of local African fabric and, thereby, has stunted the development of the upstream textile sector in Africa. This is an interesting academic hypothesis, but it is bears no relationship to the real world. First, textile manufacturing requires major capital investments, typically more than $100 million per plant. But as I just mentioned, AGOA's short time horizons up to this point have discouraged investments of this magnitude. This history of short-term authorizations of AGOA is much more responsible for the relative lack of upstream investment than is the third-country fabric rule.

Second, the Peterson study fails to take into account the fact that the U.S. apparel importer specifies the yarns and fabrics to be used and the source from which they must be obtained. Because they are placing orders with apparel producers around the globe, they insist that all their orders must be manufactured using the same yarns and fabrics obtained from the same suppliers. If you cannot use the specified fabric, you will not get the order. The third-country fabric rule provides the flexibility necessary for African apparel producers to compete. Without the third-country fabric rule, African apparel manufacturing would be decimated. And without a healthy downstream apparel industry, there would be no investment in upstream apparel production. In short, the Peterson study's conclusions about the third-country fabric rule are 180 degrees wrong.

2. Canned Tuna Rule of Origin.

One area where a change to the AGOA rules of origin would be useful concerns canned tuna. Africa has a small but successful canned tuna industry that currently exports mostly to Europe. The canned tuna industry is located in Ghana, Kenya, Mauritius, Senegal, and the Seychelles. It is almost impossible, however, for tuna canned in Africa to meet the AGOA 35% value-added rule of origin. This is because the value of the tuna itself typically greatly exceeds 50% of the final value of the canned tuna. The processing and canning in Africa simply cannot meet the 35% value-added requirement. But the origin of the tuna is determined by the flag of the vessel that caught the fish, rather than the nation where the fish is processed and canned. Unfortunately, there are very few commercial tuna fishing boats registered in Africa.

Changing the AGOA rule of origin to allow the use of tuna that is caught by non-African fishing boats, but is canned in Africa would create trade opportunities and jobs in Africa. This could be accomplished either by creating a special rule of origin for canned tuna under AGOA, such as a simple "tariff shift" standard, or by a special derogation allowing duty-free treatment for a limited volume of "non-originating" tuna. (The AGOA third-country fabric rule for apparel is an existing precedent for such a derogation.)

3. Regional Integration and "Graduation."

Some have suggested that more advanced AGOA beneficiaries should be "graduated" from AGOA eligibility. But such proposals could seriously undermine efforts to achieve greater regional integration.

The countries under consideration for "graduation" are relatively more economically developed and, therefore, tend to be the hubs upon which the less developed neighboring countries are especially dependent. Removing these "hub" countries from AGOA would disrupt both regional integration and economic development of neighboring countries in the region.

Accordingly, we recommend that any proposal to "graduate" countries from AGOA should include rules of origin that provide that remaining AGOA beneficiaries will continue to be able to "cumulate" with the graduated countries in satisfying AGOA rules of origin.

In addition, it is important that any such "graduation" should lead to an FTA with rules of origin comparable to those of AGOA, including the third-country fabric rule.

d. Adding Excluded Agricultural Products.

It has also been suggested by some that AGOA could be improved by adding excluded agricultural products. This proposal requires careful consideration because it could be counterproductive.

Only a handful of agricultural products are excluded from duty-free eligibility under AGOA. Most of these products are excluded because they are considered to be sensitive products and, therefore, are subject to U.S. tariff rate quotas (TRQs). It could complicate the legislative process of renewing AGOA to seek to add these sensitive products to duty-free eligibility. Before undertaking that risk, there should be careful analysis of whether Africa would actually benefit from adding each excluded product to AGOA.

Sugar is a good example. Traditionally, the U.S. market has been attractive for exports because of the remunerative price maintained by the U.S. sugar program. But since Mexico obtained unlimited access to the U.S. under NAFTA, the U.S. market has been seriously oversupplied, and the price has collapsed. As a result, the U.S. market is no longer so attractive for many exporters. This can be seen in the fact that 10 African countries hold allocations under the U.S. TRQ on raw sugar, but only three of them regularly ship sugar to the U.S.

One has to question whether it makes economic sense to add more imports to an already-oversupplied market. The likely outcome of adding sugar to AGOA would seem to be to drive the price even lower, which in turn would make the U.S. market even less attractive. There is a serious risk that the U.S. sugar program might be overwhelmed by such additional imports. Without the sugar program, the U.S. market price would likely fall to a level below the cost of production in most if not all AGOA countries. There are legitimate questions, therefore, whether Africa would actually benefit from adding sugar to AGOA.

Beef is another excluded agricultural product. Many countries in Africa produce beef, but none of them is even close to being able to satisfy the U.S. food safety requirements because foot and mouth disease is rampant in most of Africa. So we must ask whether it is worth the political capital to try to add beef to AGOA if, at the end of the day, exports are impossible because of food safety problems.

Cotton is another example. Of course, Africa is a major producer and exporter of cotton. But the U.S. is more than self-sufficient in cotton and exports large volumes of cotton. While the U.S. does import cotton, for the most part such imports are limited only to those types of cotton that are not produced here. But the cotton produced in Africa is of the same types that are grown in the U.S. So in practice, there are legitimate questions whether African cotton could be exported to the U.S. even if it were included in AGOA.

In short, adding excluded agricultural products to AGOA is certainly not a panacea, and may not even represent an improvement to AGOA. To date, the calls to add excluded agricultural products to AGOA have been rhetorical rather than analytical. What is needed at this point is not rhetoric, but serious and detailed analysis to determine whether Africa would actually benefit from adding the excluded products.

III. Conclusion.

In closing, the members of ACT who actually do business under AGOA believe it is working well. They do not see a need for major changes. Rather, their strongest concern is that AGOA should be extended for at least 15 years, and that this extension should be concluded before the end of 2014. Otherwise, the uncertainty over the future of AGOA will cause massive losses of jobs in Africa.

I will be happy to answer any questions. Thank you.

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