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**BACKGROUND PAPER ON THE AFRICA GROWTH AND OPPORTUNITY ACT (AGOA)**

## **BACKGROUND**

1. The African Growth and Opportunity Act (AGOA) is a non-reciprocal trade preference programme that grants eligible Sub-Saharan Africa (SSA) countries duty-free quota-free (DFQF) access to the United States (U.S.) for selected exports. Currently, 38 countries<sup>1</sup> are eligible to benefit under this Act. The Act was initially authorized in 2000 with the main objective of spurring export led growth and development in the Africa region. It was last renewed in 2015 for a period of 10 years.
2. Beyond 2025, it is expected that there will not be any further renewal of the Act which is currently in unilateral format. It is foreseen that the U.S. will be asking Africa for at least some degree of reciprocity in terms of market access they grant to each other. In that sense, it is an absolute necessity that Africa is able to make the best of the trade preferences it is still enjoying when exporting to the U.S. market and starts preparing to significant changes in the U.S.-Africa trade and investment partnership in the perspective of post-2025.
3. Utilization rates of trade preferences granted by the U.S. under AGOA show that AGOA has been largely under-utilized, owing to a number of constraints faced by African countries (e.g. limited productive capacities, infrastructure deficit, difficulties to meet U.S. market requirements, key exports for Africa still excluded from AGOA products' coverage, etc.).
4. During the 2<sup>nd</sup> Meeting of the African Ministers of Trade, held in Addis Ababa Ethiopia from 28-29 November 2016, the ministers considered the issues related to AGOA and agreed on the following.
  - i. The AUC together with UNECA should continuously assess and monitor developments on AGOA and the implications thereof.
  - ii. The AUC together with UNECA to further do an analysis on the four US options presented in the US Report Beyond AGOA and assess their critical implications on the development of Africa's integration agenda; and also develop a draft African position on future US-Africa trade relations by April 2017.
  - iii. Member States to prioritize CFTA negotiations ahead of the 2025 expiry of AGOA.
  - iv. UNECA should share with Member States the template that can be used for the development of National AGOA Strategy.

## **New Developments on AGOA**

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<sup>1</sup> As of 21 September 2016 AGOA-eligible countries were: Angola, Benin, Botswana, Burkina Faso, Cameroon, Cape Verde, Chad, Comoros, Republic of Congo, Cote D'Ivoire, Djibouti, Ethiopia, Gabon, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, South Africa, Tanzania, Togo, Uganda and Zambia (USTR, 2016)

5. Since November 2016 up to date, there has been no major developments under AGOA, due to the change in the US government administration. The Trump Administration is yet to clearly communicate its position and standing on AGOA. However, this is expected to change with the appointment of Ambassador Robert E. Lighthizer as the new United States Trade Representative on 15<sup>th</sup> May, 2017. As recommended in the previous meetings, the AU Commissioner for Trade and Industry will engage bilaterally with the US administration on their views and positions on US-Africa trade and investment issues, including AGOA.
6. It is in this regard that the African Union Commission and its partners are yet to finalize their analysis and work on the options presented in the US Report “Beyond AGOA”, in terms of assessing their critical implications for Africa’s integration agenda as well as to develop an African position on future US-Africa trade relations. It is expected that this work will be concluded ahead of the next AGOA Forum.

### **AGOA FORUM 2017 and the way forward**

7. The next AGOA Forum will take place here in Africa and will be hosted by the Republic of Togo. This meeting therefore is called upon to give general and specific directions, where possible on how best to prepare for the same. In this regard, it is important to recall the recommendations arising from the last Ministerial consultative meeting on AGOA, held in Washington DC for consideration and adoption by this Ministerial meeting as the recommendations are still valid to the situation as it obtains today on AGOA.
8. The recommendations referred to in 7 above, fall into two sections: (I) AGOA Implementation, (having five categories as follows: (a) Recommendations directed to African Member States at the national level (b) Recommendations directed to African Member States at the Regional and Continental Levels, (c) Recommendations directed to African Regional and continental Institutions; (d) Recommendations directed to the African private sector; and (e) Recommendations directed to US partners), and (II) Beyond AGOA. These are presented below.

#### **8.1 Recommendations on AGOA Implementation**

##### **(A) Recommendations directed to African Member States at the National Level**

- (i) African countries should ensure that there is alignment between AGOA and their development integration agenda, focus on their industrialization and preserve policy space aimed at enhancing efforts to diversify their exports base, share successful experiences, and integrate supply chains so as to take advantage of market access opportunities under AGOA;
- (ii) Eligible countries that have not yet developed their national AGOA utilization strategies should do so as soon as possible and include sector specific programs for implementation as required by the legislation. Such strategies should be aligned and must contribute to the national development plans and priorities of Member States aimed at promoting economic transformation, job creation and diversification. The strategies should involve a coordination of various Ministries, including the Ministries of Trade, Industry, Finance, Labor, Planning and other stakeholders in order to ensure

that the Government prioritizes the strategies in national plans and allocates sufficient funding.

- (iii) AGOA utilization strategies should focus on attracting investments, improving productive capacity, increasing productivity and enhancing the capacity of the national Trade Promotion organizations;
- (iv) Eligible countries should show commitment and be creative in financing their own agendas. Participating countries can tap into new financing mechanisms such as the development of domestic capital markets, African Trade Insurance, escalation of resource mobilization efforts, including through Diaspora bonds and mechanisms, and redirect funds towards initiatives such as AGOA utilization strategies.
- (v) African governments should create an enabling environment for the private sector, including women and young entrepreneurs, to take advantage of AGOA. Similarly, partnerships and platforms must be established between the government and the private sector for better utilization of AGOA.
- (vi) Public private partnership must be encouraged to promote investment. In addition, trade and investment promotion institutions in AGOA eligible countries should work towards enhancing the promotion of AGOA eligible products and investment opportunities in Africa. In the process, private sector organizations in AGOA eligible countries must be recognized as the leading drivers of the promotion of AGOA products and investments in Africa.
- (vii) African countries should work towards the diversification of AGOA exports as part of the industrialization effort, share successful experiences, and integrate supply chains.
- (viii) National utilization strategies will need to be reviewed regularly in order to ensure that they remain relevant and meet the objective of improved AGOA utilization including diversification, value addition, and employment creation.
- (ix) Eligible countries should use available means to identify the US market needs and to proactively promote their products to access the US market. These countries should also identify constraints to accessing the US market. A joint US-Africa Committee of experts meeting at regular intervals should address such constraints.
- (x) African countries recognize the importance of trade facilitation. The WTO Trade Facilitation Agreement (TFA) should be implemented in such a way that it promotes the development of regional value-chains under AGOA. In this regard, eligible African countries should leverage various programs and facilities that have been set up to assist AGOA eligible countries to benefit from the TFA to help them improve their trade competitiveness.
- (xi) African governments should show commitment to improve the business environment by removing Non-Trade Barriers.

**(B) Recommendations directed to African Member States at the Regional and Continental Level**

- (i) The establishment of the CFTA is an imperative for Africa. African countries, therefore, need to engage more proactively on the continental agenda.
- (ii) The TFA should be implemented in such a way that it supports regional integration and the development of regional value chains, with emphasis on legally binding commitments rather than best endeavor provisions of the TFA.
- (iii) Regional integration efforts should be enhanced through the implementation of cross-border infrastructure projects and the development of regional value chains to increase productive capacity and reduce African countries' reliance on production of primary products.
- (iv) A comprehensive annual report should be produced by the African Union Commission based on inputs by Member States and Regional Economic Communities.
- (v) African countries should review the impact of multinational companies on Sub-Saharan Africa's efforts to export industrial products, especially given their power to influence value chains, and the sourcing and importation of raw materials.
- (vi) African governments should facilitate the growth of intra-Africa trade by removing impediments that frustrate the free movement of peoples, capital and goods.

### **(C) Recommendations directed to African Regional and Continental Institutions**

- (i) Modalities to support AGOA implementation through the regional and country interventions should be developed by African institutions such as the African Union Commission, UNECA, AfDB, the Afreximbank, the Africa Trade Insurance Agency, and others and be aligned to the African countries' national development plans and priorities,
- (ii) The importance of trade finance to increased utilization of AGOA and to intra-African trade is to be acknowledged. In this regard, the AfDB and other regional finance institutions should work with the private sector to boost availability of trade finance.

### **(D) Recommendations directed to the African Private Sector**

- (i) The private sector should invest more in value-added production, especially as intended for exports;
- (ii) It should focus more on intra-African trade and form cross-border alliances and joint ventures with other African companies to enable Africa respond to the large orders that come from the US;
- (iii) African Private Equity Funds and firms and African multinational banks to support and assist enterprises that are export oriented, especially to the US;
- (iv) The private sector should participate more actively in Conferences and Fora in the US and Africa where matchmaking and joint venture may be formed for exports to the US;
- (v) National export promotion agencies and trade fair authorities are encouraged to organize African exhibitions and trade shows in as well as trade missions in the US;

- (vi) The private sector must form market research consortia to study specific market opportunities in the US in order to produce for US market demands;
- (vii) Pan-African advertising and promotional campaigns in the US media and US markets which aim at improving awareness in US of African products, quality and standards should be supported;
- (viii) The private sector must support and invest in each initiative at the African Trade Hubs System (PATHS), e-commerce platform that promotes intra-Africa trade and export opportunities for African countries and companies.

**(E) Recommendations Directed to US Partners**

- (i) US government should encourage its companies to support the African industrialization agenda by investing in African resource based industries with a view to promoting export of African industrial products to the US markets.
- (ii) The US government should designate focal points at the various agencies in support of AGOA implementation;
- (iii) US-African trade and economic cooperation arrangements should mainstream Africa's major economic development initiatives in the Agenda 2063 including BIAT/CFTA, PIDA, AIDA, CAADP and other regional integration programs and projects that have been designed to contribute to Africa's transformation.
- (iv) Power Africa, an initiative of the US is welcomed and the US is called upon to expand the program to cover trade related infrastructure beyond the power sector.
- (v) The U.S. should align its Aid-for-Trade support to Africa with compacts for National AGOA Utilization Strategies. This is in recognition of the current disconnect between US support under the Aid-for-Trade initiative and AGOA and is called to make available predictable resources to facilitate the implementation of the TFA and to assist eligible countries in the implementation of their AGOA strategies.
- (vi) U.S institutions and those in-charge of SPS and TBT related matters should work closely with AGOA eligible countries to provide capacity building to enable African countries to meet US standards within a timeframe of 3 to 5 years.
- (vii) The US government is urged to bring greater flexibility in the application of rules of origin;
- (viii) The American Chambers of Commerce in Member States should work more with national chambers on AGOA issues.
- (ix) With regards to the recently passed AGOA Enhancement Act of 2015, the US is encouraged to engage with eligible countries to ensure that the latter expeditiously gain access to available resources in order to enhance their AGOA utilization.
- (x) AGOA eligible countries should be included in the list of designated countries under the Trade Agreements Act (19 U.S.C. & 2501 – 2581) that require the US Government to acquire only US made or designated country end products.

- (xi) US government should engage with AGOA eligible countries to foster capacity building programs with the assistance of US institutions.
- (xii) The US government should clearly indicate which of its institutions has resources to support the AGOA programs and procedures to access those funds.
- (xiii) The US government should reduce the cost of visas and simplify the procedures for acquiring them especially for the business communities.
- (xiv) US agencies should leverage their companies to improve the business environment in Africa by investing in soft infrastructure and providing the right technological solutions.

## **8.2. Recommendations on US-Africa Trade and Investment Relationship beyond AGOA**

- (i) Sub-Sahara African countries are concerned by the absence of asymmetry and differentiations in commitments in the US proposals and emphasize the need to take into account differences in levels of development.
- (ii) SSA is also concerned by the proposed scope of the agreements envisaged by the US, which goes beyond agreements negotiated by African countries thus far. In addition the commitments on policy issues will limit the policy instruments that are necessary to promote industrialization and diversification. Sustainable development of the African continent will depend on its ability to promote economic transformation and move away from heavy reliance on primary products.
- (iii) Countries see the “Beyond AGOA Report” as a start of a conversation: Africa will study the Report and develop a position that is in line with the continental agenda and its objective to industrialize; The AU Ministers of Trade and other relevant structures should be engaged on US-Africa trade and investment relationship to ensure alignment with regional economic integration processes of the African continent and ensure coherence in their engagements with the U.S.
- (iv) Africa countries are concerned about the Report’s orientation towards a high standard reciprocal trading arrangement. Any agreement with the United States must be characterized by high level of asymmetry and differentiation.
- (v) Any trade and investment relationship with the US should assist the continent to industrialize in line with Agenda 2063 and contribute to regional integration
- (vi) African Ministers of Trade, supported by experts, should be engaged on US-Africa trade and investment relationship beyond AGOA. **Need to create AU Task Force to develop Africa’s strategy for trade and investment relationship with the US beyond AGOA.**
- (vii) There is an urgent need for analysis on the challenges facing African countries to take advantage of AGOA. The US is encouraged to provide incentives to its companies to invest in the continent to improve productive capacity to increase AGOA utilization.

(viii) The relationship with the United States should be structured to support regional integration in Africa through engagement as a continent including countries that are currently not AGOA-eligible.

9. The Recommendations highlighted above provide a basis for reflection by member states in developing a position and an approach to AGOA under the Trump Administration, ahead of this year's AGOA Forum.

## **CONCLUSION**

10. AGOA still remains a pillar for Africa's trade relations with the US in spite of its unfulfilled potential. There is still room for improvement, especially in its ability to support Africa's agenda on economic and structural transformation, social-economic development and regional integration.

11. There is therefore a need for African Union Member states to continue the implementation of activities at the national level towards the full utilization of AGOA. In the same vein, there is need for further coordination at the continental level towards speaking with "one voice" in terms of the engagement with the US on the Africa –USA Trade relations beyond 2025.