

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE U.S. TRADE REPRESENTATIVE

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PUBLIC HEARING
FOR THE
ANNUAL REVIEW OF THE ELIGIBILITY OF THE SUB-SAHARAN
AFRICAN COUNTRIES TO RECEIVE THE 2018 BENEFITS OF
THE AFRICAN GROWTH AND OPPORTUNITY ACT (AGOA)

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August 23, 2017
10:00 a.m.

Office of the U.S. Trade Representative
1724 F Street, N.W., Rooms 1 and 2
Washington, DC 20508

COMMITTEE MEMBERS:

MR. ALAN TREAT, Director for African Affairs and
Acting Chair of the AGOA Implementation Subcommittee

MR. MICHAEL O'DONOVAN, Director, Labor Affairs,
United States Trade Representative

MR. FRED STEWART, Director, Office of Africa,
International Trade Administration, U.S. Department
of Commerce

MS. ANNE ZOLLNER, Division Chief Trade Policy and
Negotiations, Bureau of International Labor Affairs,
U.S. Department of Labor

MS. LAUREN SCOTT, Trade Officer for sub-Saharan
Africa, Bureau of Economic and Business Affairs,
U.S. Department of State

MR. PETER MAIER, International Economist, Office of
International Trade, U.S. Department of the Treasury

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P R O C E E D I N G S

(10:02 a.m.)

CHAIR TREAT: Good morning. I call this public hearing to order. My name is Alan Treat, Director for African Affairs and the Acting Chair of the AGOA Subcommittee of the Interagency Trade Policy Staff Committee.

The Trade Preferences Extension Act of 2015, or TPEA, which extended the AGOA trade preference program through 2025, requires that the Administration annually publish a *Federal Register* notice announcing the Country Eligibility Review and a request for public comment whether beneficiary sub-Saharan African countries are meeting AGOA's eligibility requirements.

The TPEA also requires that we hold a public hearing to receive testimony regarding the eligibility of countries under AGOA. This is the purpose of today's hearing, which was also announced in the *Federal Register* notice published on July 11, 2017.

I would like to note that on June 20, 2017,

1 the Administration published a *Federal Register*
2 notice announcing the initiation of an out-of-cycle
3 review to determine whether Rwanda, Tanzania, and
4 Uganda are meeting the AGOA eligibility requirements
5 in response to a petition filed by the Secondary
6 Materials and Recycled Textiles Association, or
7 SMART.

8 I would just like to note that Rwanda,
9 Tanzania, and Uganda are also subject to the AGOA
10 Annual Review, which is the subject of today's
11 hearing although not the subject of the testimony
12 that will be presented today, to determine whether
13 they are meeting all of the AGOA eligibility
14 requirements and not only those raised by SMART in
15 its petition.

16 Just a few words on the hearing process
17 before we begin: All public submissions for this
18 hearing are available for public view on the
19 [regulations.gov](https://www.regulations.gov) website under the docket number
20 listed in the July 11th *Federal Register* notice. A
21 written transcript of this hearing will be posted in
22 the same location approximately 7 to 10 business

1 days after today's hearing.

2 As indicated in the *Federal Register*
3 notice, post-hearing briefs and statements must be
4 submitted electronically by 5:00 p.m. Eastern,
5 Wednesday, August 30, 2017, via the docket on the
6 [regulations.gov](http://www.regulations.gov) website. The post-hearing brief
7 provides an opportunity for witnesses to expand on
8 their testimony or respond to testimony by others.
9 Parties appearing at today's hearing, the AFL-CIO,
10 may also receive additional post-hearing questions
11 from the Subcommittee in about a week or so. Your
12 responses to these questions, which will also be
13 posted on [regulations.gov](http://www.regulations.gov), should be included in
14 your post-hearing brief.

15 This hearing is open to the press, and
16 portions of the hearing may be covered by different
17 electronic media outlets.

18 We ask that today's witness limits oral
19 testimony to about 10 minutes, summarizing or
20 expanding on your pre-hearing brief. Following the
21 oral testimony, the U.S. government panel may ask
22 questions of the witness for approximately 10 to 15

1 minutes, maybe longer.

2 After the hearing, if you would like to
3 provide a written response to a question asked by
4 the panel or to a question for which the panel has
5 asked for a response, please file it as part of your
6 post-hearing brief.

7 I would now like to introduce the U.S.
8 government officials who are joining me on the panel
9 today starting with my right.

10 MR. STEWART: Fred Stewart, Department of
11 Commerce, Director of the Office of Africa.

12 MR. O'DONOVAN: Michael O'Donovan, USTR's
13 Labor Office.

14 MS. ZOLLNER: Good morning, Anne Zollner,
15 Department of Labor.

16 MS. SCOTT: Good morning, Lauren Scott,
17 Department of State, Economic and Business Affairs
18 Bureau.

19 MR. MAIER: Peter Maier, Department of
20 Treasury.

21 CHAIR TREAT: Okay. And with that I would
22 like to welcome our first and only witness this

1 morning, Ms. Celeste Drake on behalf of the American
2 Federation of Labor & Congress of Industrial
3 Organizations, or AFL-CIO. At this point, I'd like
4 to ask Ms. Drake to begin her testimony. Thank you.

5 MS. DRAKE: Thank you. Good morning. I'm
6 pleased to be here. Before I begin, just a note I
7 brought written copies of my oral testimony
8 hopefully for your ease. I did it as two separate
9 pieces, but I'll be doing the oral testimony as all
10 one piece in the interest hopefully of saving some
11 time.

12 Chairman Treat, members of the
13 Subcommittee, I thank you for your consideration of
14 the AFL-CIO's petitions regarding Swaziland's and
15 Mauritania's failure to establish or make continual
16 progress toward establishing internationally
17 recognized worker rights pursuant to Section
18 3701(1)(F) of the United States Code and for the
19 opportunity to testify today.

20 I'll begin with Mauritania. The AFL-CIO
21 urges the U.S. government to reconsider Mauritania's
22 eligibility for benefits under the African Growth

1 Opportunity Act. Mauritania has failed to establish
2 the rights to organize and bargain collectively.

3 In addition, Mauritania is failing to
4 protect its people from slavery; it even harasses
5 those who campaign to end it. It is important to
6 note here that when I use the term "slavery," I am
7 not using it to describe merely slavery-like
8 conditions. I am referring to chattel slavery, in
9 which people are treated as personal property to be
10 disposed of as owners please.

11 Slavery is ugly, and it is widespread in
12 Mauritania. Most of its victims are ethnic
13 Haratines, who are rented, loaned, given away, and
14 even passed along as inheritance. These enslaved
15 people have no freedom and suffer physical abuse,
16 including sexual abuse and rape.

17 The International Labor Organization and
18 its constituent groups have tried without success to
19 work with the government to address the situation,
20 most notably in the Committee on the Application of
21 Standards in 2002, 2003, 2005, 2010, 2016, and 2017.

22 The ILO has used a direct contacts mission

1 and a special paragraph, and a high level mission is
2 forthcoming. However, the government continues to
3 turn a blind eye to clear and compelling evidence of
4 the practice of slavery, and to claim that only its
5 legacy remains.

6 The government's refusal to acknowledge the
7 problem has prevented progress toward establishing
8 the right to be free from forced labor, as is
9 required under AGOA.

10 Mauritanian courts have convicted just one
11 person under the 2007 Anti-Slavery Law, imposing a
12 sentence of only two years, which is less than half
13 the minimum recommended.

14 Mauritania had an opportunity in 2015 to
15 demonstrate progress toward establishing fundamental
16 rights for its citizens with the upgrade of its
17 anti-slavery law, but the inadequate implementation
18 of the law shows the opportunity was missed.

19 There has been only one conviction of two
20 people under the new law, and the sentence of five
21 years is again half the new recommended minimum, and
22 four of the five years were suspended.

1 Meanwhile, anti-slavery activists are
2 harassed and persecuted. They receive sentences far
3 longer than those given to the criminals convicted
4 of enslaving their fellow Mauritians.

5 Despite the government's claims that it has
6 referred a number of cases to the courts, the AFL-
7 CIO could find no evidence to support this.

8 The non-governmental organization
9 Anti-Slavery International, by contrast, has been
10 much more active than the government. It has filed
11 13 legal cases, all of which have stalled except for
12 the conviction already referenced. In a few cases,
13 enslavers have been arrested as part of
14 investigations. In those cases, they quickly get
15 released on bail, and then the crimes are either
16 reclassified to lesser charges or simply ignored.

17 Likewise, outside agencies and not the
18 government have provided training on identifying and
19 addressing slavery for judges and prosecutors.

20 The government agency Tadamoun was
21 established in 2013 with a mandate, including
22 addressing the consequences of slavery and

1 reintegrating refugees, including former slaves.

2 Yet, according to the UN Special Rapporteur
3 on extreme poverty and human rights, Tadamoun has
4 not directly addressed its mandate and seems more
5 focused on building buildings than providing
6 services.

7 The government's 2014 Road Map to combat
8 the vestiges of slavery has likewise failed to make
9 progress. It reportedly focuses more on identifying
10 evidence of slavery -- on denying evidence of
11 slavery, excuse me, than making sure people know how
12 to respond to slavery when they see it.

13 Even if the Road Map were living up to its
14 mandate, as the ILO Committee of Experts has noted,
15 slavery and the vestiges of slavery are distinct
16 issues which call for distinct responses.

17 In our brief, we supplied the link to the
18 website of a recent documentary film of about 20
19 minutes in length on this issue. With this
20 reference, I would like to submit the video for the
21 record and encourage all members of the Committee to
22 watch it, as we were not given the opportunity to

1 show it here today.

2 Before concluding Mauritania, I'd like to
3 draw the Committee's attention to the fact that
4 Mauritania has also failed to establish or to make
5 continual progress toward establishing the rights to
6 organize, freely associate, and bargain
7 collectively.

8 The government retains discretion to deny
9 union registration, punish workers for statements
10 deemed to undermine public order, and intervene
11 directly in collective bargaining.

12 Worse, the government has directly and
13 forcibly repressed collective worker actions and
14 even fatally injured a dockworker in a strike at the
15 port of Nouakchott. It has violently suppressed a
16 peaceful teachers' protest outside the Ministry of
17 Education. Yet, in 2015, when an employer
18 retaliated against workers by firing them and
19 threatening to evict them from company-provided
20 housing, the government did not act to protect the
21 workers.

22 In our petition, we included eight

1 recommendations set out for Mauritania in 2016 by
2 the ILO's Committee on the Application of Standards
3 and six additional recommendations. I would be
4 happy to answer questions about these and will now
5 turn to Swaziland.

6 We note that progress has been made in
7 Swaziland since we initially filed our petition,
8 including the registration of TUCOSWA, a union
9 federation, the release of jailed union activists,
10 and amendments to the labor law. This is very clear
11 evidence that AGOA conditionality, once utilized,
12 can play a very important role in ensuring respect
13 for workers' rights.

14 Additionally, after we filed our
15 pre-hearing brief, Parliament passed and the King
16 approved revisions to the Public Order Act and the
17 Suppression of Terrorism Act.

18 As to these laws, we understand that
19 improvements were made that responded to some of the
20 unions' concerns. However, since neither the
21 AFL-CIO nor our partners in Swaziland have had an
22 opportunity to actually review the new legislation,

1 we will reserve judgment on them until we can review
2 them. We will provide our analysis on these laws in
3 our post-hearing brief, and we may accordingly
4 revisit our ultimate recommendation regarding the
5 reinstatement of AGOA benefits for Swaziland.

6 Today, however, I would like to provide a
7 brief update on Swazi laws and practices that remain
8 inconsistent with internationally recognized worker
9 rights.

10 In 2014, President Obama withdrew
11 Swaziland's AGOA eligibility because, despite
12 extensive consultation and engagement, Swaziland had
13 failed to demonstrate progress toward protecting
14 freedom of association and the right to organize.
15 "Of particular concern," wrote the United States
16 Trade Representative's Office at the time, was
17 "Swaziland's use of security forces and arbitrary
18 arrests to stifle peaceful demonstrations."

19 Unfortunately, despite other recent
20 legislation, Swaziland's Public Service Bill of 2015
21 remains out of compliance with international norms.
22 The law continues to interfere with the right of

1 working people to organize and act together to
2 defend their interests, and the government had
3 ignored TUCOSWA's recommendations to fix it.

4 Moreover, the Government of Swaziland
5 continues to brutalize workers and interfere with
6 legitimate trade union activities. In April 2016,
7 the police commissioner issued a statement urging
8 the police to kill trade unionists on sight. This
9 vicious directive cannot be dismissed as mere
10 hyperbole given that the police have apparently
11 taken the commissioner's anti-worker attitude to
12 heart.

13 In August and September of 2016, police
14 attacked striking workers at Swaziland plantations,
15 forcing 30 to seek medical treatment, including 8
16 who has suffered fractured bones. In October 2016,
17 police assaulted union activist Samkelisiwe Gladys
18 Matsebula. The assault included placing a plastic
19 bag over her head, an act which under U.S. law would
20 be treated as attempted murder, and it required her
21 eventual hospitalization. Whether the police were
22 actually trying to end her life or just trying to

1 scare her into thinking so is immaterial. The
2 terror inflicted is the same.

3 These events demonstrate an utter lack of
4 respect for internationally recognized worker
5 rights, not progress toward establishing them.
6 Further, it is clear and alarming evidence that the
7 Code of Good Practice on Protest and Industrial
8 Action is not yet being fully respected by the
9 authorities. It is clear that frontline police
10 forces are not appropriately informed, trained, or
11 monitored for use of best practices.

12 Apart from perpetrating violence against
13 working people, the Swazi government also continues
14 to erect barriers to worker organization. In June
15 2016, the Commissioner of Labor interfered with the
16 recognition of the Amalgamated Trade Unions of
17 Swaziland by urging an employer, Swaziland Meat
18 Industries, in writing not to recognize the union.
19 In April of this year, the commissioner doubled down
20 on his effort by meeting with some ATUSWA members,
21 urging them to leave ATUSWA in order to revive a now
22 defunct union.

1 The government has also supported an
2 apparently yellow union, FESWATU, in an apparent
3 effort to weaken and marginalize TUCOSWA. The
4 union, mostly active in the timber and textile
5 sectors, has grown not by member organizing but
6 largely through deals cut directly with employers.
7 The union's publications make it clear that it
8 supports the monarchy and will not cause problems
9 for employers.

10 Regardless of your determination of AGOA
11 benefits, we urge the U.S. government to continue
12 engagement with Swaziland through monitoring and
13 assistance as it has yet to demonstrate compliance
14 with the rights to freedom of association and
15 collective bargaining in practice.

16 In sum, the AFL-CIO welcomes changes in
17 Swaziland that benefits workers and encourages your
18 continued robust engagement. With that, I'll
19 conclude, and I'm happy to answer any questions you
20 may have.

21 CHAIR TREAT: Thank you, Ms. Drake, for
22 your testimony on both Mauritania and Swaziland. We

1 are going to start with some questions on
2 Mauritania.

3 To begin, in your testimony you argue that
4 Mauritania is not meeting AGOA's eligibility
5 criteria related to internationally recognized
6 worker rights. Does the AFL-CIO believe that
7 Mauritania's AGOA eligibility should be terminated,
8 as the title of your pre-hearing brief suggests?

9 MS. DRAKE: That is the title of all of our
10 briefs given that that is the option that we're
11 given to do. However, given that this is a first
12 petition, we usually suggest that the U.S.
13 government create a series of benchmarks and a plan
14 and work with the country to engage, and say if this
15 plan is not immediately implemented and progress
16 made toward achieving it, that benefits will be
17 removed. And so that is our recommendation, is that
18 immediate engagement, monitoring, and assistance
19 begin with the clear message that these benefits are
20 conditional, and that if the continual progress that
21 needs to be shown is not shown, that the benefits
22 will be removed.

1 CHAIR TREAT: Just one follow-up. To be
2 very clear, to paraphrase your response, the AFL-CIO
3 at this time does not believe that Mauritania's AGOA
4 eligibility should be terminated. Is that a correct
5 interpretation of your response?

6 MS. DRAKE: Yes. We would not recommend
7 cutting their benefits off tomorrow, for instance,
8 without any engagement. We do, however, believe
9 they are out of compliance and that immediate action
10 needs to be taken.

11 CHAIR TREAT: Thank you.

12 MR. O'DONOVAN: Good morning, Ms. Drake.
13 Thank you for your testimony. You referenced just a
14 moment ago the practice of putting together
15 benchmarks and working with the country to achieve
16 those goals. In your petition, you state that the
17 country should not remain eligible for benefits
18 unless the Government of Mauritania makes firm
19 commitments to improve its performance on those --
20 on the benchmarks.

21 The benchmarks you highlight in the
22 petition are outlined by the ILO's CAS, the

1 Committee on the Application of Standards, this past
2 year. There's approximately a dozen urgent
3 recommendations that the CAS makes. Of these
4 benchmarks that are identified by the CAS, do you
5 see any as particularly critical to demonstrating a
6 commitment by the Government of Mauritania to end
7 slavery here in the near term?

8 MS. DRAKE: Well, not in the practice of
9 negotiating against ourselves. We believe that
10 they're all critical. I will highlight some of
11 which are the most obvious and without which we
12 don't believe the others would be able to be
13 achieved. And I note for members of the audience
14 not familiar with the ILO, the ILO is an arm of the
15 UN, and its committees are made up of constituent
16 groups which include governments, working people,
17 and employers. So it's important to note that when
18 recommendations are made, these are not simply
19 demands by trade unions, but they are arrived at
20 through a working process.

21 So we would say among the key
22 recommendations are strict and effective enforcement

1 of the 2015 Anti-Slavery Law. This could be
2 measured in part by truly demonstrating that not
3 only is the government accepting and acting on
4 referrals from NGOs but is acting on its own to
5 investigate slavery and prosecute it where it's
6 found.

7 A strengthened labor inspectorate, which is
8 critical not only for the Anti-Slavery Law that I
9 just discussed but the other freedom of association
10 and organizing and bargaining issues that I
11 referenced.

12 Facilitation of social and economic
13 integration of former slaves, descendants of slaves,
14 and other marginalized groups because there has got
15 to be something besides you're free from slavery,
16 because there are people who are living apparently
17 free from slavery in that they are not in the
18 master's household, but they are continuing, for
19 example, to tithe their masters and other slavery-
20 like conditions.

21 Integration of civil society into the
22 planning of the awareness campaigns and the

1 functioning of the inspectorate and the Tadamoun and
2 these other issues. By civil society, we mean both
3 the trade unions and the anti-slavery NGOs. This is
4 really important.

5 Revision of the labor code to ensure full
6 establishment of the rights to free of association
7 and collective bargaining.

8 And, finally, ending favoritism between and
9 repression of legitimate worker-led organizations.

10 MR. O'DONOVAN: Just a quick follow-up to
11 that question, how much time -- in the view of the
12 AFL-CIO, how much time should be afforded to the
13 Government of Mauritania to achieve these goals
14 before you would recommend that the U.S. government
15 here limit benefits under AGOA?

16 MS. DRAKE: Again, I don't want to
17 prejudge. We have a longstanding practice under the
18 GSP system, this is a little new for the AGOA
19 system, where there are annual reviews. And I would
20 think it would be important within a year's time to
21 actually measure not merely what promises had been
22 made but what changes had been made in law and in

1 practice and see whether that actually established
2 enough to constitute continual progress towards.

3 MS. ZOLLNER: Hi, thanks for appearing
4 before us this morning and your time certainly. You
5 kind of touched on this in your last statement, but
6 do you see a way that the trade union movement, the
7 CGTM, the CLTM, UTM can work effectively with the
8 anti-slavery movement to both carve out sort of
9 space for democratic -- more democratic space and to
10 work on the anti-slavery issue?

11 MS. DRAKE: Absolutely. And I think there
12 have been some instances that I'm aware of that it's
13 happened already, including unfortunately the CLTM
14 wanted to have -- participate in a rally regarding
15 anti-slavery awareness and was denied the
16 opportunity to do so by the government. So there
17 already are efforts to do that. And I do believe
18 that the -- this issue of favoritism apparently
19 seems to be largely based on the fact that the CLTM
20 represents mostly ethnic Northern Africans and the
21 CGTM represents mostly sub-Saharan Africans. It's
22 not clear that the federations can't work together.

1 What is clear is that the government treats them
2 differently. So I think a commitment to bring the
3 unions together and the NGOs together, and they have
4 clear interest because if you're fighting for
5 free-working people, you have to address slavery or
6 you're never going to get wages and benefits up for
7 free-working people. They all have a shared
8 interest. Being able to come together with the
9 blessing of the government rather than the
10 government trying to repress that action will be the
11 most effective thing for Mauritania.

12 MS. ZOLLNER: Thank you. Hi, again, me.
13 On page 3 of your petition, you state that "Former
14 slaves, particularly from the Haratine group, face
15 systemic discrimination after they have attained
16 freedom." Can you please elaborate how this is
17 manifested and then the effects of this
18 discrimination on conditions of work, workforce
19 development, skills training, and the kinds of
20 things that would lead to sort of getting out of
21 this quagmire?

22 MS. DRAKE: I can certainly provide more

1 details in a post-hearing brief because this is a
2 little bit beyond my scope of expertise. But the
3 ruling elites and the economic elites tend to be
4 more with the Northern African ethnic groups, and
5 there really is an ethnic divide. There simply are
6 fewer opportunities for the folks of the ethnic
7 groups that are descendants of slaves and former
8 slaves. And so I will find more information on
9 training and job opportunities.

10 But as was noted in some of the ILO and UN
11 reports, there seems to be this divide where the
12 most privileged group is saying we don't see that
13 there is a problem. And that's sort of the key of
14 it. If that can change, I think more opportunities
15 could be opened up.

16 MR. STEWART: Good morning, Ms. Drake, and
17 thank you for being here again. You seem to have
18 observed a pretty strong up-tick with regards to
19 U.S. imports to Mauritania last year. From your
20 perspective, do you see a way to use industry and
21 the private sector to motivate the government to
22 make the necessary changes to end slavery?

1 MS. DRAKE: Absolutely. It's really --
2 we've seen it in other places in our work. For
3 instance, we've done a lot of work on labor rights
4 issues in Central America, and there's been a number
5 of instances where employers have gotten together to
6 urge the government to say the U.S. has been asking
7 you to respect labor rights, why don't you do so?
8 We're concerned that we might lose some of our
9 benefits or be harmed in our business interest if we
10 don't work together to do this.

11 And we think that U.S. commitment and U.S.
12 clarity on the facts that these benefits are
13 contingent and they must be earned can induce
14 employers who might otherwise not be very interested
15 in these issues to say we are interested, let's form
16 for instance a tripartite structure of the kind they
17 have at the ILO where working people can talk to
18 employers, can talk to the government, and get
19 together and find solutions that everybody might not
20 think are perfect but that are doable and address
21 these issues.

22 MR. STEWART: Thank you. No further

1 questions.

2 MS. SCOTT: Good morning, and thank you for
3 your testimony and for being here. How would you
4 respond to concerns that Mauritania lacks the
5 resources to adequately fund its anti-slavery
6 activities?

7 MS. DRAKE: I'm sure there are some
8 legitimate concerns of that nature. I would also
9 say the government clearly has enough resources to
10 do some activities, and if it would redirect those,
11 that would be a big answer to part of the problem.
12 So, for instance, I referenced the 2014 work plan.
13 That is happening. There are these awareness-
14 raising campaigns happening. The question is what
15 are they raising awareness of? If it's focused on
16 simply a public relations campaign to deny slavery,
17 repurpose it and say actually there is slavery, we
18 want to get rid of it. This is how you recognize
19 it, and this is how you should act if you see it.
20 That would just be a repurposing.

21 And likewise the development agency,
22 Tadamoun, that was criticized by the UN Special

1 Rapporteur on extreme poverty, the comments were not
2 that the agency shouldn't exist but that it should
3 change its focus. And rather than simply build
4 buildings, how is it that you're going to provide
5 services to former slaves so they can become
6 productive members of the economy?

7 So I would start there. And then I would
8 also say this is -- because this is important for
9 the United States government, this is an obvious
10 place where there is an opportunity, depending on
11 how much of a priority it is for the United States
12 to offer grants, monitoring, technical assistance,
13 ways that you can help Mauritania changes its focus,
14 figure out how to do these things in an efficient
15 and effective manner and provide that assistance
16 where it is needed.

17 MS. SCOTT: Thank you. One more question
18 so the AFL-CIO petition also notes concerns about
19 retaliation against anti-slavery activists. What
20 specific steps or actions would you recommend to
21 improve government engagement with NGOs and the
22 anti-slavery activist community in Mauritania?

1 MS. DRAKE: I would start with what I
2 discussed previously, which is engagement with the
3 government and the NGOs and the unions directly so
4 that there is a clear and open line of
5 communication. It also might involve, for instance,
6 having a review board to look at when folks are
7 arrested and there are complaints that this is
8 simply a repression of workers or repression of
9 speech or activity around anti-slavery activity,
10 that there is some sort of independent process that
11 can review what happened and how it should be
12 addressed.

13 There are many recommendations along these
14 lines from the ILO, and the ILO can provide greater
15 technical assistance here. But clearly just
16 recognizing that it's absolutely inappropriate to
17 prosecute and give sentences that are greater than
18 the sentences for owning other human beings to those
19 who are trying to address it is a problem. And most
20 of these things can start by acknowledging that
21 there is a problem, and then positive discussions
22 and engagement towards fixing it.

1 MR. MAIER: Thank you. Your petition
2 outlines a number of concerns related to the
3 government's failure to implement and enforce
4 anti-slavery laws. The petition also stresses the
5 government's role in suppressing anti-slavery
6 activism. In your view, what are the main reasons
7 behind the government's reluctance to put an end to
8 forced labor and slavery?

9 MS. DRAKE: I mean the folks best
10 positioned to answer that are folks in Mauritania's
11 government. But as I referenced before, in my
12 reading of the materials and what's already been
13 done, there does seem to be unfortunately an ethnic
14 divide. I think that is a lot of the heart of the
15 problem. So I think it is -- I mean these are
16 difficult questions. They are questions of history,
17 and there are changes that are not easily made.

18 However, the problem has been recognized
19 internationally in a longstanding way, and it's
20 certainly a good opportunity to say whatever the
21 divides, historic, cultural, ethnic, they must be
22 addressed. We are in the 21st century, and we will

1 no longer take excuses for slavery or slavery-like
2 conditions or denials of slavery, and we must get at
3 the heart of these.

4 Unfortunately, most of the time these
5 questions boil down to in the end parties who have
6 power in an economy, would like to keep it, and
7 parties who do not have power in the economy have
8 trouble getting a fair share and being fully
9 integrated. So this is a question of those who are
10 most vulnerable being exploited, and I do think that
11 assistance again through the U.S. government,
12 particularly through the International Labor Affairs
13 Bureau, using the ILO, the UN, other agencies to say
14 we've got to get at these longstanding problems,
15 whatever the cause, and protect the most vulnerable
16 rather than exploit them, that would be the answer.

17 MR. MAIER: Thank you. Along similar
18 lines, you may have already partially answered this
19 question, but in your view, do government officials
20 benefit directly or indirectly from forced labor and
21 slavery in Mauritania?

22 MS. DRAKE: I could not comment on any

1 individuals, but it does seem to be that that -- the
2 elites tend to be the group of folks who are slave
3 owners and not of the group of the people who are
4 enslaved persons. So there's additional -- I would
5 like to answer this more in the post-hearing brief,
6 but I think there's really additional work there to
7 look at where the interests are combining with each
8 other to keep vulnerable people in these vulnerable
9 positions.

10 MR. MAIER: I've got one more question
11 which you may have already partially answered, but
12 can you please describe the economic incentive
13 structure around forced labor and slavery in
14 Mauritania, and are the practices limited to
15 domestic actors, or do international companies also
16 employ people against their will?

17 MS. DRAKE: To my knowledge, it's primarily
18 in the domestic field, so most men who are enslaved
19 persons are working agriculturally, with flocks,
20 with crops, and most women are in the domestic
21 sector. Those who are sort of in slavery-like
22 conditions but living free from the slave masters

1 are again engaged largely, in my understanding, in
2 agriculture. So if I find better information on how
3 they are integrated into international trade, we
4 will definitely include that in our post-hearing
5 brief.

6 CHAIR TREAT: Great, thank you, Ms. Drake,
7 for answering our questions with respect to
8 Mauritania. I think we'd like to switch gears now
9 and ask a few questions related to Swaziland.

10 To begin, I preface this question by saying
11 that I believe you've already articulated the AFL-
12 CIO's position with respect to Swaziland on the
13 recently passed bills. But as a matter of public
14 record, I'd still like to ask the question.

15 So, to begin, again as you know in 2015,
16 the U.S. government put forward five specific
17 benchmarks to the Government of the Kingdom of
18 Swaziland that were in large part determined with
19 the ILO. The U.S. government and the ILO have
20 worked intensely with the Government of Swaziland,
21 and amendments to the Public Order Act and the
22 Suppression of Terrorism Act were recently signed

1 into law by the King.

2 My questions are, one, do you have a view
3 on whether these changes meet international
4 standards? And, two, does the AFL-CIO believe that
5 Swaziland's AGOA eligibility should be reinstated in
6 light of these developments? Thank you.

7 MS. DRAKE: Having reviewed our submission
8 in June and our pre-hearing brief, you probably came
9 to the conclusion that at that time we were not
10 recommending reinstatement. At this time, we have
11 no recommendation, and we will withhold that until
12 after reviewing the laws.

13 From what we know of the laws when we saw
14 draft versions, at least of one of them, there
15 remained concerns that they weren't fully compliant
16 with international fundamentally recognized worker
17 rights. However, we have not seen the final bills.
18 We understand from our partners on the ground that
19 there are improvements. There are improvements that
20 they had recommended that were included. And so
21 before making a final judgment, we would want to see
22 those and to verify that that's the case.

1 But certainly that is a step forward, and
2 that could potentially merit in our view
3 reinstatement of AGOA eligibility. In the end,
4 that's obviously a decision that you all would have
5 to make. But certainly this is a big move that we
6 did not know was coming when we filed our
7 pre-hearing brief.

8 CHAIR TREAT: Thank you.

9 MR. O'DONOVAN: And just a quick follow-up
10 to that: When the AFL-CIO is looking at those
11 pieces of legislation, will the AFL-CIO take into
12 account the views, any views expressed, for example,
13 by the ILO or by the AFL-CIO's partners on the
14 ground, in this case TUCOSWA?

15 MS. DRAKE: Absolutely. We take the lead
16 from our partners on the ground. And we've been in
17 touch with them via email over the past couple of
18 days, and they as well said this is good news but we
19 haven't seen the laws. We understand the King has
20 approved them, and they are going to move forward.
21 They are excited to review them and quite hopeful,
22 but again want to make sure that what's been

1 promised is what they see.

2 MS. ZOLLNER: Hi, again. In your petition,
3 you reference mechanisms such as the Labor Advisory
4 Board that are essential to the functioning and the
5 stability required for well organized, sort of labor
6 unions to function. Does the AFL or Solidarity
7 Center provide guidance to your partners on the
8 ground in order for them to best avail themselves of
9 those kinds of mechanisms, especially when there is
10 disagreement? There had been some situations in the
11 past where maybe there hadn't been some sort of full
12 participation in the Labor Advisory Board.

13 MS. DRAKE: That's actually one of the key
14 things in my view that the Solidarity Center does
15 and is a key function of theirs, is a way to help
16 workers who want to build a labor movement in their
17 country do so. They provide assistance with
18 understanding what the labor laws are, how to avail
19 themselves of the labor law; how to, when things are
20 not going as promised, to make complaints or take
21 other actions to try to improve the functioning.

22 In our experience, it's quite -- when you

1 have a budding labor movement, you do not always
2 have an experience of if a system or a board or a
3 commission is not working, or recommendations are
4 not being taken in a tripartite manner, it's not
5 always easy to recognize that continued engagement
6 can lead to a better outcome. And so many times the
7 Solidarity Center and we, when we're asked, are
8 saying you've got to work the system that's there
9 because either you will end up fixing it or you have
10 good evidence that it doesn't work.

11 So we believe that the government in
12 particular, as well as all affected legitimate
13 worker representative organizations and employers,
14 should meet frequently, should discuss frequently.
15 And when the system isn't working and the sides
16 aren't talking to each other and worker input is not
17 being taken, continue to recognize that and work
18 through it.

19 MR. STEWART: So in keeping with your
20 answers to the first couple of questions and the
21 follow-on, in your opinion what are the benefits and
22 consequences of reinstating eligibility for

1 Swaziland in this review cycle?

2 MS. DRAKE: I think if it were to be
3 reinstated, I think it would show -- and in our view
4 if it were merited, it would show that the system
5 works, that benefits can be removed, that progress
6 can be made, and when it is sufficient progress to
7 show that fundamental rights have been established
8 or there is continual progress towards establishing
9 them, that the benefits will be given back. I think
10 that's a good thing that makes the system function.

11 MR. STEWART: Okay. So then in keeping
12 with that, then, as a follow-on, what are the
13 benefits and consequences of not reinstating
14 eligibility?

15 MS. DRAKE: Likewise it should be
16 determined by the conditions on the ground. If
17 benefits are reinstated but in fact weren't earned
18 back, that would actually be a dysfunctional system.
19 So, likewise, if benefits are not reinstated when
20 really they should have been because the progress
21 was appropriate enough to merit meeting the standard
22 of continual progress, it says to the country I

1 don't know what the benchmarks are, the goalposts
2 seem to be changing, and maybe undermines progress.

3 Likewise if the progress wasn't sufficient,
4 it wasn't unequivocal, and the benefits continue to
5 be denied, that's again, that's actually functional
6 because it says you can't make half efforts. You
7 can't just make promises. We're looking for real.
8 So it really depends what the conditions are on the
9 ground, that reinstatement could be the right answer
10 or non-reinstatement could be the right answer. You
11 have the very important role to make that
12 determination and to make sure that you're giving
13 the right incentives and communicating the right
14 conditionality.

15 MR. STEWART: Thank you. No further
16 questions.

17 MS. SCOTT: So I believe you outlined a bit
18 of this in your written testimony today, but what
19 additional concrete, tangible steps to establish
20 internationally recognized worker rights would the
21 AFL-CIO like to see in Swaziland?

22 MS. DRAKE: We'd like to see, as I was just

1 talking with your colleague from Labor, engagement
2 in robust dialogue with civil society, including
3 trade unions and trade union federations. That's
4 critical. We'd like to see an end to interference
5 in trade union activity, including refraining from
6 favoritism between unions.

7 We'd like to make sure that for whatever
8 steps have been taken so far, that all of the
9 additional reforms that have been identified and
10 recommended by the ILO and the U.S. government are
11 completed. So even if benefits are reinstated,
12 continued engagement with the U.S. to pick up any
13 incomplete portions or missing pieces.

14 We'd like to see an end to police
15 brutalizing working people and police interference
16 with legitimate trade union activity. And we'd like
17 to see that the government acts promptly to remedy
18 the damage caused when there is inappropriate police
19 harassment, arbitrary detentions, or other things of
20 this nature, that that just not be allowed to happen
21 but there is a process for remedy and recourse.

22 MS. SCOTT: Thank you. And one follow-on

1 question: What steps should Swaziland take to
2 specifically address the issues of violence against
3 trade unionists as you have just mentioned, and
4 government interference in union activities that you
5 also detailed in the pre-hearing brief?

6 MS. DRAKE: So we believe that it comes
7 from the top, so it has to start with comments all
8 the way up to all of the ministers, including those
9 responsible for the police, for labor, to say we
10 renounce any public support for violence against
11 trade unionists, we recognize that it's
12 inappropriate, and then appropriate training for how
13 to deal with concerns about public order. Concerns
14 about public order are legitimate concerns.
15 However, they are not to be used as an excuse to
16 justify beatings and violence against working people
17 making peaceful protest.

18 So appropriate direction, appropriate
19 training, and again making sure there is an
20 institution or some official way of whatever nature
21 to review instances of inappropriate harassment,
22 well, harassment, beatings, inappropriate arrests,

1 all of that, and to address it, to not just identify
2 it but to say how will we provide remedies to the
3 victims and how will we do better in the future?

4 MS. SCOTT: Thank you very much.

5 CHAIR TREAT: Okay, on behalf of this
6 panel, I would like to thank you, Ms. Drake, for
7 your excellent and clear testimony and responses to
8 our various questions. In view of no further
9 questions from the panel, I would like to thank you
10 once again and adjourn this hearing. Thank you.

11 (Whereupon, at 10:49 a.m., the meeting was
12 adjourned.)

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C E R T I F I C A T E

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6

THE AFRICAN GROWTH AND OPPORTUNITY ACT (AGOA)

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August 23, 2017

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