

***The African Growth and Opportunity Act (AGOA)***  
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***Testimony***  
***by***  
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From the moment that the African Growth and Opportunity Act was first introduced in Congress, the Washington Office on Africa has been engaged in advocacy regarding US-Africa trade policy from the standpoint of a faith-based understanding of economic justice. A broad-based ecumenical organization, we were created thirty years ago in support of the liberation struggles in southern Africa. Since 1994, we have given special attention to economic issues – trade, aid and debt – as an expression of our concern for human development and poverty reduction in sub-Saharan Africa.

While critical of aspects of US-Africa trade policy, we and our colleagues in the Africa Trade Policy Working Group of the Advocacy Network for Africa are not anti-trade. We are convinced that – to the extent that African business initiatives are enabled to be competitive, benefits accrue to workers (especially those living in extreme poverty), and environmental concerns are addressed – mutually-beneficial trade relations will result, and will serve Africa's interests. At the same time, we are convinced that trade between such unequal partners cannot be the sole answer to Africa's development, and without continuing development assistance and substantial debt cancellation, the economic marginalization of Africa in the global economic context will remain – to our detriment in the United States, as well as to Africa's.

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The African Growth and Opportunity Act – by its very existence – indicated to many in Africa and in the United States that the US was at long last prepared to take Africa and its economies seriously. From the outset, however, we questioned the extent of the benefits of this legislation to Africa, and the price paid – the conditions established by AGOA – for access to those benefits. Early drafts of the legislation contained conditions that looked very much like the Structural Adjustment Programs of the international financial institutions – an economic agenda that even the International Monetary Fund has recently acknowledged has worked against Africa’s interests. We looked warily at the “national treatment” and intellectual property rights conditions as indicative of a self-serving US agenda. We also questioned whether textile benefits would prove to be the stimulus panacea some claimed. We nevertheless welcomed the somewhat improved conditions in the final text, and we were prepared to applaud concrete pervasive benefits to Africa should post-AGOA data so demonstrate.

With AGOA now in its third year since passage, here is what we see:

- ❑ Of the 38 eligible African countries, only 22 exported anything under AGOA by mid-2002.
- ❑ Of the 38 countries, less than half secured duty-free access to the US apparel market by establishing rigid apparel export visa systems.
- ❑ Of these, only six (Kenya, Lesotho, Madagascar, Mauritius, Swaziland and South Africa) significantly increased exports to the United States, primarily in the apparel sector (and of those six, Madagascar’s exports dropped dramatically in the last year due to uncertainty after its controversial presidential elections).
- ❑ Only 38% of apparel exports entered the US with duty-free AGOA benefits in 2001.
- ❑ Only two countries (Kenya and South Africa) showed any substantial rise in other sectors, principally agricultural.

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- ❑ Oil remains the overwhelming sub-Saharan African export to the US. Apparel – again, the chief AGOA benefit to Africa – represents only 4.5% of total exports to the US.
  - ❑ In 2001 African exports to the US declined, while imports from the US increased. African exports to the US remain less than 2% of all exports to the US, while African imports from the US are less than 1% of US exports overall.

Certainly one can argue that for that small number of countries which have taken significant advantage of the apparel benefits under AGOA, the change is dramatic. In Lesotho, AGOA proponents claim an increase of 15,000 new jobs in a country where the unemployment rate hovered around 45% in 2002. Apparel exports totaled \$129.6 million in 2001, up from nothing. And yet the apparel industry in Lesotho is dominated by foreign ownership – Taiwan controls 65% – and a two-year NGO study of the garment industries in southern Africa revealed cases in Lesotho of sexual harassment, beatings, false recording of time worked, and extensive forced overtime, and conditions that included lack of ventilation, locked bathrooms and factory gates, and lack of protective gear. (Worthy of note is that respect for internationally-recognized workers' rights is one of AGOA's eligibility conditions.) An analysis of the key benefits from AGOA, then, illustrates contradictions, and the end of world-wide quotas on textiles through the Multi-Fibre Arrangement in 2005 complicates the situation even more.

Claims that AGOA is a “great success,” therefore, are exaggerated. In fact, benefits to Africa have been quite modest thus far. If the US is serious about mutually-beneficial trade relations with Africa, how can we take a symbolically-significant yet tangibly-modest Act and move forward?

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### Conditions

Concern about the rule of law, poverty reduction, health care, education, labor rights, and human rights are well-placed in AGOA eligibility criteria, and they represent an effort to place trade in the context of a just society. By those standards it has been legitimate for this administration to raise concerns about Eritrea and Swaziland in particular.

It remains, however, a serious matter of concern to the Washington Office on Africa as to the application of the various narrowly-self-serving economic prescriptions among eligibility conditions. Insistence upon economic “reforms” that remove any barrier to US trade and investment and demand “national treatment” of foreign corporations ignores the fact that most industrialized nations, including the United States, achieved their economic status through “infant industry protection.” Prior to 1913 the US was both the most heavily protected and fastest growing economy in the world. By suggesting that Africans efforts to protect fledgling industries from the might of multinational corporations, or that any barriers African countries impose upon US investment, *prevent* a “level playing field,” the US Trade Representative is engaging in myth.

It is fair enough for the US to indicate its preference for particular economic policies by African governments. *It is crucial, however, for Congress to demonstrate, in any future Africa-oriented legislation, its support of the right of African governments and civil society to define their own economic agenda without penalty or threat of penalty by the US.*

### The free market and fair trade

The free market mantra of this administration is self-serving. No country in the world, including the US, practices free trade, and US “free trade policies” are widely seen by other

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countries as a demand for free access by the US to their markets, rather than the reverse. The recommendations of the Commission on Capital Flows to Africa that the US permit all products from Africa to enter the US duty-free and quota-free is in striking contrast to this reality, despite the gestures made in AGOA.

US long-term interests are secured by engaging in *fair trade*. Africa's certainly are. US interests are also served by stable African societies where governments effectively address the needs of their people. Africa's certainly are. Tragically, current US trade policies and actions undermine both fair trade and Africa's societal needs. Whatever the legislative vehicle, moving forward with an alternative vision of US-Africa trade policy, where the US practices what it preaches on free trade, and where ideas of *managed* trade are not anathema, is crucial for mutually-beneficial relations. Here are some possibilities:

- ❑ *The Congress should eliminate the stunning domestic agricultural subsidies that so distort trade in agricultural products and limit African options for agricultural export to the US. It is not helpful for the US to point to Europe as the greater villain. The US has control over what it does, and when US policies prevent African access to its market, it has violated its own stated commitment to advance African economic growth. With up to 80% of Africans working in agriculture-related pursuits (and a majority of them women), these trade-distorting subsidies are harmful and wrong. Their impact is readily seen with regard to cotton in West Africa. The concept of "comparative advantage," so crucial to free market analyses, falls by the wayside when subsidies are introduced into the equation. In Mississippi, it costs 82 cents to produce a pound of cotton; in Mali, only 23 cents. Yet with recent legislation increasing cotton subsidies beyond last year's \$3.4 billion, the 25,000 American cotton farmers naturally are increasing their acreage, producing more cotton, further depressing world prices, and*

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further impoverishing families in West Africa. Without addressing the subsidy issue, it is unlikely that any “AGOA-plus” legislation seeking to expand African agricultural exports to the US will have the desired effect. And, if no steps are taken on subsidies, the US needs to stop lecturing Africans about free trade.

- ❑ *The Congress should affirm the role of the state in addressing the common good by prohibiting any bilateral and, through vote and voice in international fora, multilateral demands for water privatization, full-cost recovery for health care, and user fees in primary education in Africa. The latter two – health and education – have been frequently addressed, though vigilance is still required. Water privatization remains a serious threat to Africa, where water as a commodity for profit places those in poverty and in rural areas at risk. Trade policy needs to serve people, not the other way round.*
- ❑ *The Congress should endorse the African initiative to protect smallholder farmers and local communities by recognizing community intellectual property rights to seeds and traditional agricultural practices. This dominant privatization agenda in US trade policy – that everything, including life itself, can be owned and can, therefore, be controlled and marketed – is an affront to community. The patenting of life forms that are part of African agricultural and biological resources violates African rights. An acceptance by the US of a *substantive* (not merely procedural) review of TRIPS 27.3.b (the provision in the Agreement on Trade-related Aspects of Intellectual Property Rights regarding patents on micro-organisms), and of intellectual property rights held by community, are appropriate ways forward through TRIPS.*
- ❑ *The Congress should mandate that the US respect the sovereignty of African countries to define their own policies regarding genetically-modified organisms. This is not an anti-GMO statement. Rather it is a recognition that many in the world find wisdom in a “precautionary*

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principle” that US trade policy rejects, and they have a right to set national policy accordingly. The US efforts to undermine African support for the Cartagena Biosafety Protocol, and its claim to be acting to counter hunger in Africa with its WTO challenge of European GMO policies, are misguided at best. The implication in the recent US Leadership against HIV/AIDS Act, to the effect that any nation receiving US assistance to confront the HIV/AIDS pandemic cannot refuse food assistance that has been genetically modified, is arrogant and wrong, and legal correction should be made.

- ❑ *The Congress should mandate that the US fully embrace the spirit of the Doha Declaration regarding access to affordable medicines.* The Bush administration pledge not to take any actions against countries that export drugs under compulsory license to low-income countries during times of public health crises is an unsatisfactory response to the agreement at Doha to resolve the question of countries lacking the capacity to produce such drugs themselves. This unilateral action by the US (having been the sole opponent to a multilateral solution, 143-1) leaves such African countries in these situations with no legal foundation for affordable access. Further, US insistence this month that the G-8 not mention the Doha Declaration and pay tribute instead to the pharmaceutical industry speaks volumes about US lack of commitment to affordable access. Moreover, despite the fact that the Trade Promotion Authority Act specifically includes respect for the Doha Declaration as one of the principal negotiating objectives of the US, there remains grave risk that in the current negotiations for a Southern Africa Free Trade Agreement, the US will seek to impose a TRIPS-plus standard that it has been unable to secure otherwise. The Congress should act to prevent this distortion of Doha.

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❑ *Finally, the Congress should find avenues to commit the US to give precedence to peace and conflict resolution over trade considerations.* Examples of US failure to do so abound. US hesitancy over action on conflict diamonds on the grounds that the Kimberley Process might violate WTO rules failed to ask whether trade rules are to exist in their own untouchable domain, or whether trade rules should serve a broader social agenda, where a just community restricts products that fund rebel movements that cut off the hands and feet of children. The Bush administration opposition to capital market sanctions against foreign oil companies doing business in Sudan, despite a clear correlation between increased oil revenues and military expenditures by the Khartoum government, on the grounds that there should be no interference with Securities and Exchange Commission rules, is another case in point. And the exploitation of natural resources in the eastern Congo during the regional war in the DRC, denying Congolese society the benefits of its resources and its environment, has barely been addressed. Differing circumstances require different solutions, certainly, but the Congress needs to remain attuned and prepared to act when trade undermines rather than advances a just peace.

These potential actions by the Congress represent a way forward in US trade relations with Africa that would affirm the value of trade in advancing African economies while offering a vision of economic activity as serving the common good. We may debate at length the role of export processing zones, the extension of textile benefits beyond 2008, and the proper place for capacity building within the direct context of the African Growth and Opportunity Act.

Thoughtful proposals to assure AGOA eligibility for a period of, say, five years instead of annually; to broaden textile market access; and to extend AGOA itself, deserve consideration.

But unless the US makes it clear that we consider Africans as genuine partners who define their



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economic agenda, find without hindrance public as well as private means to address the needs of their people, and act in the trade realm to secure peace with justice, then we will undermine our own interests by projecting an image that our economic dominance permits us to ignore the needs and hopes of Africa.

The agenda we set above helps to make the word “compassion” genuine. And economic justice toward Africa, expressed concretely in US trade policy, actually serves US national interests.

### Civil society

A final word needs to be said about the role of African civil society. AGOA wisely envisioned an occasion at which civil society in the US and in Africa would meet parallel to the US-Africa Trade and Economic Cooperation Forum that was mandated by the legislation. Unfortunately, no meeting materialized in 2002, and the NGO meeting in Mauritius in 2002 lacked integrity, a fact revealed not only by limited and unrepresentative participation from Africa but also by a closing document welcoming other NGOs to future meetings only if they embrace the AGOA agenda and if they agree not to be “adversarial” in relations with government and business sectors.

We readily acknowledge that African civil society propounds diverse views about the contribution AGOA makes to African economies. Many of our own partners within the African faith communities speak highly of AGOA’s vision. Others have condemned AGOA as offering little to Africa and as principally serving a US corporate agenda. We find the same diversity of views in civil society in the United States.

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The point is that the AGOA call for an NGO parallel meeting provides a singular opportunity to model democratic traditions by demonstrating that African critiques of an African government's trade policy enhance debate, strengthen civil society, and ultimately make for good governance. *The Congress should ensure that this positive potential is realized by appropriating funds for attendance by diverse African NGOs and by providing for an independent coordinating structure committed to diversity at these annual meetings.*

It is appropriate to reflect upon the particular contribution AGOA makes to US-Africa trade relations, but I have sought here to use AGOA, as well, as a vehicle to reflect upon a broader US-Africa agenda, both economic and social. AGOA should, we believe, stimulate thought about next steps in trade that might leave the US legitimately talking about economic justice rather than about narrow self-interest.

Fundamental to this testimony is the view that business and trade, placed in the context of human rights and conflict resolution and a broad vision of societal good, *will* contribute to poverty alleviation in Africa. Business and trade, properly regulated to protect workers and the environment, and with sufficient flexibility to permit African governments to support small business initiatives against multinational giants, *will* help African economies. Business and trade, recognized as *one* aspect of human relationships but firmly subordinate to the hopes and needs of the community, *will* significantly contribute to the common good. Business and trade, left alone, protected from interference by government and people, will not. To the extent that the US agenda gives unchallenged primacy to a trade that exploits both resources and people, Africa will suffer. And so will the rest of us. The African Growth and Opportunity Act – in its strengths and its weaknesses – ought to take us in an alternative direction.