S. HRG. 108–187

THE AFRICAN GROWTH AND OPPORTUNITY ACT

HEARING

BEFORE THE

COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

JUNE 25, 2003

Printed for the use of the Committee on Foreign Relations

Available via the World Wide Web: http://www.access.gpo.gov/congress/senate

U.S. GOVERNMENT PRINTING OFFICE

90–449 PDF WASHINGTON : 2003

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2250 Mail: Stop SSOP, Washington, DC 20402–0001

COMMITTEE ON FOREIGN RELATIONS

RICHARD G. LUGAR, Indiana, *Chairman*

CHUCK HAGEL, Nebraska	JOSEPH R. BIDEN, JR., Delaware
LINCOLN CHAFEE, Rhode Island	PAUL S. SARBANES, Maryland
GEORGE ALLEN, Virginia	CHRISTOPHER J. DODD, Connecticut
SAM BROWNBACK, Kansas	JOHN F. KERRY, Massachusetts
MICHAEL B. ENZI, Wyoming	RUSSELL D. FEINGOLD, Wisconsin
GEORGE V. VOINOVICH, Ohio	BARBARA BOXER, California
LAMAR ALEXANDER, Tennessee	BILL NELSON, Florida
NORM COLEMAN, Minnesota	JOHN D. ROCKEFELLER IV, West Virginia
JOHN E. SUNUNU, New Hampshire	JON S. CORZINE, New Jersey

KENNETH A. MYERS, JR., *Staff Director*
ANTONY J. BLINKEN, *Democratic Staff Director*

CONTENTS

THE AFRICAN GROWTH AND OPPORTUNITY ACT

WEDNESDAY, JUNE 25, 2003

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC.

The committee met, pursuant to notice, at 9:30 a.m. in room SD–419, Dirksen Senate Office Building, Hon. Richard G. Lugar (chairman of the committee), presiding.

Present: Senators Lugar and Feingold.

The CHAIRMAN. This hearing of the Senate Foreign Relations Committee is called to order. It is a pleasure today to welcome our witnesses and distinguished guests to a hearing on the African Growth and Opportunity Act [AGOA]. We're privileged to have as our first panel Flori Liser, the Assistant U.S. Trade Representative for Africa, and Walter Kansteiner, the Assistant Secretary of State for Africa. Following their testimony, we will hear from a second panel composed of distinguished witnesses from outside the administration.

It has been nearly 3 years since AGOA went into effect. It has been a notable success. In 2002, 94 percent of United States imports from AGOA-eligible countries entered duty free. The United States imported $9 billion in merchandise duty free under AGOA in 2002, a 10-percent increase from 2001.

This improvement stands out even more sharply when contrasted with the overall decline in global trade. There have been remarkable individual success stories, including the case of Lesotho, a nation of only 2.2 million people with AGOA exports of $318 million in 2002, representing 99 percent of that country's total exports to the United States. Six new garment factories opened in Lesotho during 2002, and for the first time in that country's history private sector manufacturing employment exceeds government employment.

The experience of AGOA has taught us valuable lessons about the path to enhanced investment and economic development, and has confirmed a few of the principles that proponents of market-based developments have used to guide policy. First, the experience of AGOA has demonstrated that a commitment to good governance and a positive investment climate is important to economic growth. Countries such as Lesotho, which have made significant efforts in recent years to promote economic reform and stable democracy, have derived the most benefits from the AGOA provisions.

Second, the experience of AGOA has demonstrated that regional integration is an essential development, or is as essential to development as access to the United States and foreign markets. Using the infrastructure and economic stability of South Africa as a base, neighboring southern African countries have worked together to take advantage of the benefits under AGOA.

Although AGOA has yielded positive results, sub-Saharan African countries continue to lag far behind other developing countries. Sub-Saharan Africa accounted for only 1.4 percent of world trade in 2001, a percentage that has declined steadily over the last two decades. Over the last decade, sub-Saharan African trade has grown 39 percent, while world trade has grown 85 percent. Much more work remains to be done, obviously, to integrate Africa into the global community.

I am committed to improvements that will make the AGOA program more effective both through legislative expansion of AGOA and through improved implementation of existing AGOA provisions. It is important to extend the AGOA program beyond 2008, and we should take action on this extension soon. Investors need to have certainty in making investment decisions in Africa.

An even more immediate issue is the extension of the third country fabric provisions for least-developed countries, due to expire in 2004. The third country fabric provision is a complex issue, and we must find creative approaches that will extend the provisions for those least-developed countries that rely on it, while still maintaining incentives for development of textile manufacturing capabilities in Africa. This issue has increasing urgency, with the approach of the elimination of worldwide quotas on textiles and apparel in 2005.

While the current third country fabric provision is not set to expire until September 30, 2004, we should not wait until that expiration date to take necessary action. U.S. retailers often place orders nearly 6 months in advance, and they will want certainty before placing those orders. African manufacturers will need time to build capacity in advance of the 2005 deadline so they can compete with China and other Asian economies when the quotas are eliminated.

As Congress develops legislative enhancements and clarification of the AGOA program, we must work with the administration to improve implementation of the program. Many African countries and companies have had difficulties complying with the requirements of the legislation. The United States has provided technical assistance that has been effective in some areas.

In particular, we have helped African countries develop customs procedures that the legislation requires in order to be eligible for textile and apparel benefits. Since 1999, the United States has provided more than $345 million in trade capacity building support to sub-Saharan African countries. We need to do more through the appropriation process to increase funding for trade capacity-building programs.

And finally, we need to find innovative ways to increase investment flows to Africa. Trade is only part of the economic impetus needed in African economies. Africa is not attracting adequate foreign investments, a condition that seriously hinders prospects for economic growth. Africa has approximately 10 percent of the world's population, but it receives only about 1 percent of the world's foreign direct investment. Sub-Saharan Africa's share was only .7 of 1 percent, and most of that was invested in petroleum and in mining.

One of our witnesses today will be the chairman of the Commission on Capital Flows to Africa, which has recently released recommendations on a comprehensive 10-year plan to enhance investment in Africa. I look forward to hearing the commission's recommendations and the thoughts of all of our witnesses on how to increase trade and investment with this important continent.

[The opening statement of Senator Lugar follows:]

OPENING STATEMENT OF SENATOR RICHARD G. LUGAR

It is my pleasure to welcome our witnesses and distinguished guests to our hearing on the African Growth and Opportunity Act. We are privileged to have on our first panel Flori Liser, the Assistant U.S. Trade Representative for Africa, and Walter Kansteiner, the Assistant Secretary of State for Africa. Following their testimony, we will hear from a second panel composed of distinguished witnesses from outside the administration.

It has been nearly three years since AGOA has gone into effect. It has been a notable success. In 2002, 94% of U.S. imports from AGOA-eligible countries entered duty-free. The United States imported $9 billion in merchandise duty-free under AGOA in 2002, a 10% increase from 2001. This improvement stands out even more sharply when contrasted with the overall decline in global trade. There have been remarkable individual success stories, including the case of Lesotho, a nation of only 2.2 million people with AGOA exports of $318 million in 2002, representing 99% of Lesotho's total exports to the United States. Six new garment factories opened in Lesotho during 2002. For the first time in Lesotho's history, private sector manufacturing employment exceeds government employment.

The experience of AGOA has taught us valuable lessons about the path to enhanced investment and economic development and has confirmed a few of the principles that proponents of market-based development have used to guide policy. First, the experience of AGOA has demonstrated that a commitment to good governance and a positive investment climate is important to economic growth. Countries such as Lesotho, which has made significant efforts in recent years to promote economic reform and stable democracy, have derived the most benefit from the AGOA provisions. Second, the experience of AGOA has demonstrated that regional integration is as essential to development as access to the U.S. and other foreign markets. Using the infrastructure and economic stability of South Africa as a base, neighboring southern African countries have worked together to take advantage of the benefits under AGOA.

Although AGOA has yielded positive results, sub-Saharan African countries continue to lag far behind other developing countries. Sub-Saharan Africa accounted for only 1.4 percent of world trade in 2001, a percentage that has declined steadily over the last two decades. Over the last decade, sub-Saharan Africa's trade has grown 39% while world trade has grown 85%.

Much more work remains to be done to integrate Africa into the global community. I am committed to improvements that will make the AGOA program more effective, both through legislative expansions of AGOA and through improved implementation of existing AGOA provisions. It is important to extend the AGOA program beyond 2008, and we should take action on this extension soon. Investors will have the certainty they need in making investment decisions in Africa. An even more immediate issue is the extension of the third country fabric provision for least developed countries, which is due to expire in 2004. The third country fabric provision is a complex issue, and we must find creative approaches that will extend the provision for those least developed countries that rely on it, while still maintaining incentives for the development of textile manufacturing capabilities in Africa. This issue has increasing urgency with the approach of the elimination of worldwide quotas on textiles and apparel in 2005. While the current third country fabric provision is not set to expire until September 30, 2004, we should not wait until that expiration date to take action. U.S. retailers often place orders nearly six months in advance, and they will want certainty before placing those orders. African manufacturers will need time to build capacity in advance of 2005 so they can compete with China and other Asian economies when the quotas are eliminated.

As Congress develops legislative enhancements and clarifications of the AGOA program, we must work with the administration to improve implementation of the program. Many African countries and companies have had difficulties complying with the requirements of the legislation. The United States has provided technical assistance that has been very effective in some areas. In particular, we have helped African countries to develop customs procedures that the legislation requires in order to be eligible for textile and apparel benefits. Since 1999, the United States has provided more than $345 million in trade capacity building support to sub-Saharan African countries. We need to do more through the appropriations process to increase funding for trade capacity building programs.

Finally, we need to find innovative ways to increase investment flows to Africa. Trade is only part of the economic impetus needed in African economies. Africa is not attracting adequate foreign investment, a condition that seriously hinders prospects for economic growth. Africa has approximately 10% of the world's population, but it receives only about 1% of the world's foreign direct investment. Sub-Saharan Africa's share was only .7%, and most of that was invested in petroleum and mining. One of our witnesses today is the Chairman of the Commission on Capital Flows to Africa, which has recently released recommendations on a comprehensive ten-year plan to enhance investment in Africa. I look forward to hearing the Commission's recommendations and the thoughts of all of our witnesses on how to increase trade and investment with Africa.

The CHAIRMAN. It's a pleasure to yield to my distinguished colleague, Senator Feingold, who has long either chaired or been ranking member of the African Affairs Subcommittee, if he has an opening comment or a greeting for the witnesses.

Senator FEINGOLD. Well, I thank you, Mr. Chairman. I thank you sincerely. It's such a pleasure working with you as chairman of this committee, and in particular when it comes to issues concerning Africa, that you have led for so many years, and I thank you for holding this important hearing. I appreciate this opportunity to take stock of the African Growth and Opportunity Act and the impact it has had on U.S.-African trade thus far.

As the chairman, of course, remembers, during the original debate on AGOA I had some different ideas about what the best, most mutually beneficial trade legislation for Africa should contain. I supported an alternative, the Hope for Africa bill. I wanted to see a more comprehensive package that would have broadened the range of exports eligible for trade benefits and addressed some of the larger contextual issues that impede robust trade relationships and economic growth in the region, but I did not prevail.

My disappointment, however, was greatly diminished by my confidence in Chairman Lugar, who was AGOA's champion here in the Senate. I know that Chairman Lugar shares many of these same goals I was pursuing during the Africa trade debate, and I commend him for his leadership and his consistent attention to these issues. We worked through our process here in the Congress, and in the end AGOA was enacted, and I've certainly always wanted to see it succeed.

I am fortunate to have had many opportunities to meet with African leaders in both the public and private sector here in Washington and overseas, and I am always encouraged when they tell me that AGOA is making an appreciable difference for the better.

One way in which I hoped that an African trade bill would make such a difference was by establishing a concrete and positive incentive for reform when it comes to issues surrounding human rights, labor rights, and corruption. I hoped that the bill would be a new and powerful tool in the toolbox, not just of American diplomats, but of Africans themselves, holding out the promise of real opportunities, rather than simply words of congratulations for those working toward reform.

AGOA does condition eligibility for trade benefits on progress in these areas, but I do have concerns about whether or not these eligibility requirements are being taken seriously. These are not findings or language in a preamble. They are congressionally mandated conditions. The Congress included them in this legislation because Members believed that these requirements would further our policy goals by, "focusing on countries committed to the rule of law," and "facilitating the development of civil societies and political freedom in sub-Saharan Africa," and here I'm quoting directly from the legislation's statement of policy.

More broadly, I believe that respect for the rule of law and for basic human and labor rights will make these countries more stable, more prosperous, and in the end more valuable trading partners.

Mr. Chairman, I was actually scheduled to chair a hearing on the Subcommittee on African Affairs on the subject of AGOA eligibility requirements on September 11, 2001. Obviously, the hearing never happened, but I welcome this opportunity to revisit this important issue today.

The CHAIRMAN. Thank you very much, Senator Feingold. I think that Senator Feingold's reminiscences about the beginning of the act and the legislation reflects how difficult it was. He could have added more. I would just say that I have great confidence that everybody who was involved in the debate feels vindicated in some way or another, but we are grateful the legislation happened in the two houses and was signed by the President, and you are before us today to express what we ought to do.

Let me say, before I ask you to testify, that your complete statements as prepared for the hearing will be made a part of the record, and you may proceed in any way you wish to deliver those statements. You may read portions of them or summarize them.

I will call first upon Ms. Liser, the Assistant United States Trade Representative for Africa, and then upon Mr. Kansteiner. Ms. Liser.

STATEMENT OF FLORIZELLE B. LISER, ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR AFRICA, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WASHINGTON, DC

Ms. LISER. Thank you, Mr. Chairman, Senator Feingold. I appreciate the opportunity to be before you today and look forward also to working with you and others on the Senate side as well as the House side as we move forward on AGOA.

It is a good thing to be talking about AGOA during this week of the Corporate Council on Africa meeting. We had many important people from Africa here, but we also have gathered together many from the U.S. side, investors and officials of all sorts who are here and, as I know, many of the others in this room have been attending the roundtables and the sessions and are benefiting from the opportunity to strengthen our ties with African nations as we move forward.

Today I would like to focus on three major points. The first is that AGOA is working, and it has become a major part of our U.S.-Africa trade policy and our U.S.-Africa policy more generally.

The second point is that although AGOA is succeeding, some countries have actually not yet benefited, and many of them, even those who are benefiting today, need some help, some significant help in some cases, to become more competitive and to address what are the supply side constraints.

And third, the administration will need to work with you here in Congress, the private sector, African governments, and other officials to identify how we can actually better utilize and extend AGOA and make sure that they maximize the benefits for themselves, as well as for the United States.

In particular there, one of the areas that we're hearing a lot about from the Africans who are here, and we've heard it before, is that they really would like to see more U.S. investment in Africa as a result of AGOA. I think many of you know that there has been a significant amount of investment, largely from Asian countries, and the Africans have said that they really would like to see what can be done to encourage greater investment in Africa from the U.S. side.

On the issue of AGOA working and being successful, as you very well said, Mr. Chairman, that we are seeing tremendous results as a result of AGOA. AGOA-related trade and investment has created over 190,000 African jobs and over $340 million in investments in sub-Saharan Africa.

In terms of the points that you made, Senator Feingold, about the eligibility requirements, I just wanted to assure you that we do take them seriously. We look very carefully at it. I just chaired a meeting the other day where we were looking at a few countries and trying to determine whether we believe that they are still in fact meeting the requirements in terms of labor rights, human rights, poverty reduction, and all of the other criteria, and we will continue to take those criteria seriously. We do believe that they are the foundation on which a number of these countries are, in fact, building their trade and economic development.

In terms of the challenges that are there, though, I think that many of us recognize that a number of countries are doing well, but there are many countries on the continent that have not even begun to take advantage of AGOA, and what I've been saying to people is, if you look at the utilization rates, what you see is that there is a fair amount of concentration among a relatively small number of countries, and you also see some concentration in terms of product areas, but we are seeing certain countries like South Africa which are exporting a large number of diversified products to the United States under AGOA, and we would like to see that type of example duplicated in other countries as well.

The main issue there for those countries that have duty free access to the U.S. market for over 6,000 products but aren't doing anything about it is that they don't have anything that they are producing, or they don't have products that they produce competitively that they can then sell in the U.S. market, and these supply side constraints, along with issues that have to do with transportation infrastructure, other infrastructure issues, having the energy to actually manufacture products, not being able to meet certain types of standards, all of these constraints are keeping many of the sub-Saharan African countries from taking full advantage of AGOA.

One of the things that we will need to do as we move forward in addressing these challenges in looking at AGOA III is, what is it that we can do that would actually benefit them? Trade capacity-building is clearly one of them. It is the best combination of trade and aid, basically, is what trade capacity-building is, and we're working very hard with a number of agencies, State Department, USAID, TDA and others in trying to effectively address the supply side constraints.

Finally, I wanted to mention the area of the future of AGOA. All of us know, and were very pleased when President Bush announced during the AGOA forum in Mauritius in January, that he would like to work with Congress in extending AGOA beyond the 2008 expiration date that exists at the moment. We are working with industry, we're looking forward to working with Congress and others in trying to identify how long that period of time should be.

We're also looking at the issue of the third country fabric provision and trying to balance, of course, the necessity to allow apparel manufacturers on the continent to continue sourcing from third countries, while at the same time trying to do everything we can to encourage investment in the indigenous textiles industry on the continent as well, so perhaps some short extension of the third country fabric provision may be needed as well, and we're looking at that issue now.

Many of the African countries, as you know, who have done well under AGOA have done well because of the apparel exports that have burgeoned and blossomed in sending to the U.S., and I think that because textiles and apparel has always been a gateway to industrialization, that we really do want to look carefully at what we do under AGOA III to give them more time to develop those industries and to be able, therefore, to play a more active role in the global trading system.

We're looking at some other possibilities for AGOA III provisions, perhaps certain tax benefits that would go to companies that invest there, perhaps expanding the types of products that are eligible for AGOA benefits, and then perhaps providing some expanded flexibility for U.S. financing agencies like OPIC and Ex-Im Bank to support AGOA trade. These are just a few of the things that everyone is looking at.

And finally, again, perhaps more important is providing some sort of technical assistance and trade capacity-building and using that, having that be a provision under AGOA III as well.

In conclusion, I believe that AGOA has worked well. It could work a lot better. We believe that it serves as a wonderful opportunity, and we want to work closely with the Africans and with others in trying to ensure the fullest benefit for them as well as the United States.

Thank you.

[The prepared statement of Ms. Liser follows:]

PREPARED STATEMENT OF FLORIZELLE B. LISER, ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR AFRICA

Mr. Chairman, Senator Biden, and Members of the Committee:

Thank you for inviting me to appear before you today to discuss the African Growth and Opportunity Act (AGOA).

INTRODUCTION

Over the past three years, the Office of the United States Trade Representative (USTR) has continued to actively implement the far-sighted African Growth and Opportunity Act, which Congress enacted in May 2000 and expanded with the "AGOA II" provisions of the Trade Act of 2002. Implementation of AGOA is a central component of the Bush Administration's effort to promote free markets, free trade, and free societies. AGOA is supporting this effort by stimulating economic growth, helping sub-Saharan Africa integrate into the global economy, increasing opportunities for U.S. exports and businesses, supporting African reforms, and encouraging a solid U.S.-Africa trade partnership. AGOA is successfully promoting African efforts to embrace free markets, firmly establish the rule of law, reduce poverty, and strengthen labor and human rights. Both the United States and sub-Saharan Africa are benefitting from AGOA's success in expanding bilateral trade opportunities and African development. The Administration looks forward to Congress' continued support and guidance on AGOA implementation. Continued bi-partisan Congressional support for AGOA has been a critical part of AGOA's success.

I would like to focus on three major points today: 1) AGOA is working and has become a major component of U.S.-African relations; 2) although AGOA is succeeding, some countries have not yet benefitted and need help to become more competitive and address supply side constraints; 3) the Administration will need to work with Congress, the private sector, and African governments to identify how to better utilize and extend AGOA (as President Bush has requested) in order to maximize benefits for Africa and the United States.

AGOA IMPLEMENTATION PROGRESS

AGOA is supporting African countries as they recognize the value of open markets and the important role that trade can play in national and regional development strategies. AGOA continues to strengthen, foster, and encourage U.S.-sub-Saharan African trade and investment, creating new jobs and economic growth. Total U.S.-African trade was nearly $24 billion in 2002, with U.S. exports of $6 billion and U.S. imports of $18 billion. U.S. imports under AGOA were valued at $9 billion in 2002, a 10 percent increase over the previous year, despite a general decline in imports from the region and an overall decline in global trade. Increased AGOA trade is having a remarkable impact on sub-Saharan Africa, while representing less than 2 percent of all U.S. merchandise imports.

AGOA is promoting the African use of U.S. goods and services, as well as U.S.-African joint-venture partnerships. U.S. merchandise exports to sub-Saharan Africa were just over $6 billion in 2002, greater than exports to the former Soviet republics, and nearly twice those to Central and Eastern Europe. U.S. exports to South Africa alone were larger than our exports to Russia.

The United States is a leading source of foreign direct investment in Africa, supporting U.S. trade with the region and enhancing U.S.-African business partnerships. AGOA-related trade and investment has created over 190,000 African jobs and over $340 million in investments. AGOA is also stimulating intra-African investment. It is encouraging African firms in different countries to coordinate on regional production and take advantage of the specific skills, resources, or comparative advantages present in various individual African countries.

AGOA continues to support African economic, political, and social reforms. It requires beneficiary countries to meet specific eligibility criteria, including the establishment of a market-based economy, political pluralism, the elimination of barriers to U.S. trade and investment, efforts to reduce poverty, and the protection of internationally recognized worker and human rights. Countries may be added or removed from the list of beneficiary countries based on AGOA's eligibility criteria. The Administration reviews sub-Saharan African countries annually to determine their eligibility status. Thirty-eight of the 48 sub-Saharan African countries are currently eligible for AGOA benefits. Two new countries were added this year: The Gambia and the Democratic Republic of the Congo.

AGOA has supported productive discussions with sub-Saharan African countries on economic, political, and social reforms. Countries in the region have liberalized trade, strengthened market-based economic systems, privatized state-owned enterprises, and deregulated their economies. These changes have improved market access for U.S. products and services and benefitted African economies. African political reforms have included measures to combat corruption and improve governance. African countries have improved the protection of workers' rights and efforts to combat the worst forms of child labor. Additionally, many countries have begun to reform their customs regimes in order to meet AGOA's apparel eligibility requirements, as AGOA requires countries to establish an effective visa system before they may receive apparel benefits. This requirement is helping to prevent the illegal transshipment of goods and encouraging African countries to improve their customs procedures. Nineteen countries are currently eligible for AGOA apparel benefits. The Administration is actively engaged with at least four other countries that are in the process of meeting the requirements for AGOA apparel benefits.

The annual U.S.-sub-Saharan Africa Trade and Economic Cooperation Forum, commonly known as the AGOA Forum, is also providing an excellent opportunity for high-level consultations with African officials on economic, political, and social issues. Ambassador Zoellick has used the annual forum to engage African governments, the U.S. private sector, NGO communities, and Congress in discussions on AGOA implementation and U.S.-African trade policy. The AGOA Forum has promoted a unique tripartite alliance among U.S. and African businesses, civil society organizations, and governments. This alliance has been critical to the success of AGOA.

In August 2002, President Bush signed into law important enhancements to AGOA as part of the Trade Act of 2002. These "AGOA II" revisions extended duty- and quota-free treatment to knit-to-shape apparel, doubled the annual quantitative limit on apparel produced in the region from regional fabric, and granted lesser developed country apparel benefits to Botswana and Namibia. These important revisions were the result of Congress' strong leadership and support from AGOA's unique tripartite alliance.

AGOA is also encouraging U.S.-African cooperation in the World Trade Organization (WTO), as African governments play an increasingly important role in the WTO's Doha Development Agenda trade negotiations. As AGOA strengthens U.S.-sub-Saharan African trade relations, it is also helping the United States and Africa to recognize common WTO interests.

The Administration views trade capacity building and technical assistance programs as essential components of its trade and investment policy. Sub-Saharan African countries need assistance in maximizing the benefits they receive from AGOA. From 1999 to 2002, the United States provided over $345 million in trade capacity building assistance to sub-Saharan Africa. To improve the delivery of such assistance, the U.S. Agency for International Development (USAID) has established three Regional Hubs for Global Competitiveness in Africa. These hubs—located in Botswana, Ghana, and Kenya—are central locations for trade-related programs. They are providing technical assistance on trade and investment, as well as designing and carrying out trade capacity building programs. In addition to USAID, a number of other U.S. agencies are involved in trade capacity building in Africa, including USTR, the Bureau of Customs and Border Protection, and the Departments of Commerce, Transportation, State, and Agriculture. For example, USTR has held several trade capacity building seminars and workshops throughout Africa over the past three years. These seminars have explained AGOA's provisions, outlined ways to maximize AGOA benefits, and described how key reforms would enhance AGOA's benefits.

AGOA instructed the Administration to pursue free trade agreements (FTAs) with sub-Saharan African countries. Towards that goal, the Administration has signed Trade and Investment Framework agreements with Ghana, Senegal, Nigeria, South Africa, the West African Economic and Monetary Union (WAEMU), and the Common Market for Eastern and Southern Africa (COMESA). We have also recently started free trade agreement (FTA) negotiations with the five members of the Southern African Customs Union (SACU)—Botswana, Lesotho, Namibia, South Africa, and Swaziland. The U.S.-SACU FTA is expected to create new commercial opportunities for U.S. companies, farmers and workers.

AGOA IMPLEMENTATION CHALLENGES

AGOA has presented many opportunities, but it has also presented challenges. We are challenged with the task of maximizing and realizing tangible benefits from AGOA across all the countries in the region. While AGOA is succeeding in some countries and in some industry sectors, others are struggling to take advantage of AGOA's opportunities. Some AGOA countries continue to be challenged with creating competitive and investor-friendly commercial environments.

Promoting small business is another major challenge given the important role of small business in economic growth and development. Small businesses are critical, both in the United States and in Africa, to achieving increased investment, job creation, and sustained economic growth from trade.

Trade financing and access to credit also present a serious challenge to AGOA implementation and trade development. In addition to U.S. financing provided by the U.S. Overseas Private Investment Corporation (OPIC), EX-IM Bank, and the Trade and Development Agency (TDA), I am pleased at the progress made by many African countries in setting up well-managed trade development and financing funds.

The HIV/AIDS pandemic is having an impact on AGOA implementation and efforts to strengthen the U.S.-African trade and investment relationship. This pandemic is a serious threat to African economic development, productivity, and poverty alleviation. In some African countries, HIV/AIDS is undermining the positive development gains experienced over the last two decades.

Another challenge facing AGOA implementation is preparing for the post-2005 phase-out of the country quotas under the WTO Agreement on Textiles and clothing. The elimination of quotas is widely expected to lead to greater competition and significant changes in the scope and nature of global textile and apparel trade. The Administration has been working with U.S. and African businesses to access the potential impact of the impending quota elimination.

In addition to the challenge presented by quota elimination, the expiration of AGOA's third country fabric provisions in September 2004 is causing some serious concern. AGOA currently provides Lesser Developed beneficiary countries with duty-free access for apparel made from third-country fabric. Many in AGOA's tripartite alliance are requesting that the United States extend AGOA's third-country fabric provisions beyond 2004, particularly since there was a delay in countries obtaining their apparel visas and actually shipping apparel under AGOA. U.S. and African businesses are actively examining which products and fabrics will be most seriously affected by the expiration of the third country fabric provisions.

THE FUTURE OF AGOA

AGOA's unique tripartite alliance has made a lot of progress on AGOA implementation. AGOA's success is a direct result of our work together on increasing the U.S.-Africa trade and investment relationship. There are some legislative options available that could have an important impact on the future success of AGOA.

One of the highlights of the recent AGOA Forum was President Bush's pledge to work with Congress on extending AGOA beyond 2008. The announcement was hailed as a further demonstration of the United States' commitment to promoting African economic growth and development. The Administration will continue to seek advice as it works with Congress on extending AGOA beyond 2008. I look forward to hearing about any initial views that Congress may have regarding the extension of AGOA.

One immediate concern is the issue of the expiration of AGOA's third country fabric provisions. As you may know, we are trying to respond to concerns that ending the third country fabric provisions will disrupt trade in the region. There are strong indications that sub-Saharan Africa will lack the capacity to competitively supply its fabric needs after the expiration of AGOA's third country fabric provisions. Based on consultations with Congress, private sector representatives, and African governments, we are trying to evaluate this issue and review the possible effects of a short-term extension of AGOA's third country fabric benefits. We are examining ways that an extension could support current operations, while maintaining the incentive to develop fabric and yarn industries in Africa.

There is already active discussion among the tripartite alliance about the need for "AGOA III" legislation. Several views on possible AGOA III provisions are being discussed by U.S. and African NGOs, government officials, and private sector representatives. These provisions include making additional technical corrections and legislative clarifications, expanding the types of products eligible for AGOA benefits, providing certain tax benefits, supplying more technical assistance, supporting African compliance with U.S. agricultural standards, and increasing the flexibility of U.S. trade financing agencies to support AGOA trade. The Administration will continue to consult with Congress regarding these proposed provisions.

CONCLUSION

The Administration has placed great emphasis on working to ensure the full implementation AGOA. Through AGOA, African and American businesses are working together to seek mutual benefits from expanded growth and commercial opportunities in Africa. Together they are addressing the challenge of maximizing and realizing tangible trade benefits. USTR is committed to expanding America's economic links with Africa. We will continue to build on AGOA's unique tripartite alliance. We look forward to the continued advice, encouragement, and support from Congress as we continue to work on AGOA implementation.

Mr. Chairman, Senator Biden, and Members of the Committee, thank you for providing me with the opportunity to speak before you today. I look forward to answering any questions you may have.

The CHAIRMAN. Thank you very much for that testimony.

Secretary Kansteiner.

STATEMENT OF HON. WALTER H. KANSTEINER III, ASSISTANT SECRETARY OF STATE FOR AFRICAN AFFAIRS, DEPARTMENT OF STATE, WASHINGTON, DC

Mr. KANSTEINER. Thank you, Mr. Chairman, very much, and thank you for hosting this and allowing us to share some of the good news that is coming out of Africa. As you know, AGOA is one of the pillars of our Africa policy, and so it is great fun, and it is very important that we shine a little light on it from time to time, and thank you for your leadership.

Senator Feingold, thank you for your continued concern and interest and leadership in things African. It is a great privilege to work with both of you, Senators, on issues that face us on the continent.

If I could just spend a few minutes talking about some of the success stories, Flori has done a very good job laying out the objectives and some of the hard work we still have to do, but I would just like to take a few minutes to tell some tales from Africa and see what this thing called AGOA really does.

In Lesotho, a tiny little mountain kingdom in southern Africa, we have 25,000 new jobs created because of AGOA. Most of it is in textiles, and most of it is creating apparel, simple apparel for the United States market, 25,000 new jobs, and as you said, Mr. Chairman, now there are more people working in Lesotho's manufacturing sector than in the Lesotho Government for the first time ever. We have $100 million of new investment in Lesotho, mostly because of AGOA, and AGOA is making a true impact there.

South Africa, a very different country, right next door, has a very sophisticated industry, automobiles. Their automobile exports to the United States because of AGOA is up sixteenfold, and 20,000 new jobs have been created in that country because of the various AGOA products that now can come into our country duty free.

Zambia. This is an interesting one. It doesn't show up on any of our statistics, because what Zambia does is produce cotton that is then exported to South Africa for apparel, to spin into fabric and yarn and make apparel out of. That export from Zambia to South Africa doesn't show up on any of our tables, but it is very real for the Zambian cotton-growers and the people that in fact are working those farms and creating the jobs. It's been a big plus for the agricultural sector in Zambia.

Cape Verde, a little island off the west coast, is now producing, catching, canning, processing tuna and mackerel for the United States. Hundreds of jobs have been created there.

In Uganda, a very interesting example that I saw outside of Kampala, an apparel manufacturer that realized he really wanted to get into more sophisticated apparel than just T-shirts, so he decided he needed to find a niche in this giant American market.

He came and did some research, and realized that organically grown cotton, and organically constructed apparel might be a sell. You know, California is a big place, they like that stuff, and in fact he went up to northern and central Uganda where he worked with some cotton growers, and they now are growing organic cotton in Uganda. He brings it down to Kampala, spins it into yarn and fabric, and is making some very, very attractive sportswear, all-organic cotton sportswear for the U.S. market. It's a great story internally, vertically integrated, as we say, and creating hundreds of jobs.

Those are some of the success stories. How about the challenges? And I would yield to Flori's very good explanation on the extension issues. We do have some dates coming up. We want to work with you all to see what the best way forward is on the third country fabric extension as well as the overall 2008 AGOA extension. We look forward to doing that. You know our inclination. We need to deal with the politics of it all, and so we look forward to working with you all.

Senator Feingold, the eligibility for AGOA is important. We have had meetings, very recent meetings, as Flori mentioned, where there are certain countries that in fact are on the list now, that are being carefully reviewed and are being considered not to retain their eligibility, so we do take it seriously, and we are looking at it as we speak.

Finally, I'd like to conclude with a segue into the next panel, and that is, does AGOA and does trade breed investment, and Mr. Harmon, who has done a terrific job on his Capital Flows Committee, will speak to this directly, but we do in fact think that trade does lead to investment, and we want to see that transition occur.

Investment in these AGOA countries is on the rise. It's not as big or fast as we would like, and we are looking for ways to improve that and encourage that. It's not only FDI, if I might add. Foreign direct investment is critical to sub-Saharan Africa, but portfolio investment is very important, too, and that's why at the State Department and elsewhere in the administration we're working hard to look at how do we create the capital markets for Africa.

There are 18 stock markets right now in Africa today. That's the good news, 18 places where an African entrepreneur can go raise capital. The bad news is, there are 18 of them, and they're all too small, except for one or two, all too few liquidity, buy-in is low, and so we're looking for ways to in fact integrate and harmonize these capital markets to make them more attractive.

But thank you very much.

[The prepared statement of Mr. Kansteiner follows:]

PREPARED STATEMENT OF HON. WALTER H. KANSTEINER III, ASSISTANT SECRETARY OF STATE FOR AFRICAN AFFAIRS

Mr. Chairman, Ranking Member Biden and members of the Committee, thank you for inviting me to testify before the Committee today on the African Growth and Opportunity Act (AGOA). It is a particular pleasure to testify on AGOA before this Committee because it allows me to again congratulate the Chairman and other members of this Committee who were instrumental in enacting AGOA into law in 2000, and in the passing of the "AGOA II" package as part of Trade Promotion Authority last summer.

Mr. Chairman, you have asked me to address the impact of AGOA on African countries. I am very pleased about the impact AGOA has had on African countries.

First, a few trade numbers. Excluding energy products, our AGOA imports including products covered by its GSP provisions rose 50% in 2002 to $2.2 billion. This is a relatively low level compared to our overall imports of over $1.1 trillion in 2002, but this isn't trivial for Africa. The United States is sub-Saharan Africa's largest single-country market, the recipient of about one-quarter of sub-Saharan Africa's exports.

Total AGOA imports increased 10% in 2002, to $9 billion, about half of our overall imports from sub-Saharan Africa. About three-quarters of that was oil.

Behind oil, the biggest AGOA import has been apparel. We imported over $800 million in apparel under AGOA in 2002, more than double the 2001 figure, and overall imports in this sector from AGOA-eligible countries are up over 50% from 2000. We have also seen under AGOA large levels of imports of transportation equipment, minerals and metals, agricultural products, and chemicals.

Increases in AGOA trade happened despite the fact that our overall imports from sub-Saharan Africa have actually declined since 2000, mostly due to the drop in key commodity prices—especially oil, which accounts for about 60% of our imports from the region—and the general slowdown in the global and United States economies, with a corresponding slowdown in our overall imports.

While my testimony contains numerous examples of success stories, we need to do a lot more to encourage African economies to diversify, build the economic and policy infrastructure to conduct and facilitate trade, and to attract foreign investment. AGOA, along with these other initiatives, is in our view the right way to go.

In Africa, our overall commitment is to reduce poverty through economic growth, and trade is one of the tools that can make this happen. AGOA is a large part of the U.S.-Africa trade strategy where the primary objective is to integrate African economies into the world trading system. We want these countries to build strong partnerships not only with the U.S. but with other countries around the world.

As AGOA goes forward, we also need to realize that the Administration has several new trade-promotion initiatives—starting with the President's Trade Initiative for Africa (Trade for African Development and Enterprise). The U.S.-SACU (Southern Africa Customs Union) Free Trade Agreement negotiations will serve as a building block for future market-opening agreements with the United States. As a leading trading nation, the United States has much at stake in making these trade initiatives succeed.

Behind the trade numbers are many success stories and many examples of how AGOA is helping Africans.

One we hear a great deal about is Lesotho. This small, land-locked country of only 2 million was sub-Saharan Africa's second largest exporter of manufactured goods to the United States in 2002. Last year it sent $320 million in apparel products to the United States, over 99% of it under AGOA. According to Lesotho's trade minister, AGOA has created over 25,000 new jobs in Lesotho's apparel sector so far, and over twenty plants have opened or expanded since 2000. A new plant is opening in one of Lesotho's poorest rural districts that will employ 5,000 local residents. For the first time in Lesotho's history, more people are employed in the manufacturing sector than by the government.

South Africa, the most important economy in Africa, has greatly benefited from AGOA. It exported over $1.3 billion under AGOA in 2002. Exports of automobiles have increased sixteen-fold since AGOA went into effect, creating extra investment and employment in that industry. Long-term declines in the South African textile and apparel sectors have been reversed and workers hired as AGOA exports almost tripled in 2002. A small specialty ice-cream maker found a new market in the United States and has greatly expanded its business. South African agricultural products like oranges, fruit juices, and fruit candies have for the first time found markets in the United States, and sales of products like wine, household appliances, and footwear have increased.

A South African economic consultancy last year estimated that AGOA has been directly responsible for the creation of 19,000 new jobs and indirectly for at least 40,000 others. Importantly, its AGOA exports are concentrated in labor-intensive sectors, helping create jobs in a country faced with persistently high unemployment rates.

Kenya saw its overall exports to the United States increased by 50% last year thanks to greater apparel exports under AGOA. Kenya has estimated that 30,000 people hold jobs directly related to AGOA, and over 150,000 others have jobs indirectly linked to AGOA, in industries that support companies manufacturing for export under AGOA. Even manufacturers that aren't selling their products directly to the United States are benefiting—for example, half of Kenya's sisal production is used in dartboards that we import under AGOA. Kenya's export promotion agency estimates they have seen over $45 million in such "backward linkages" into Kenya's economy. And just this month, Kenya announced it would for the first time export processed coffee to the United States under AGOA. AGOA has increased employment, provided extra income for urban and rural workers, and given a boost to Kenya's economy.

Uganda is another major coffee producer. Now under AGOA a new firm is processing coffee before exporting it to the United States—the first time Uganda has ever added value to its coffee exports, which account for 2/3 of its export revenues. Also thanks to AGOA-inspired investments, new exports of apparel to the United States began in 2002, not only employing urban workers but also boosting income for Ugandan cotton farmers.

Two American companies have invested in plants in Ghana to finish and re-export socks to the United States—these first-time investors in Africa are employing 400 Ghanaians. Another American firm manufactures dried soup mixes in Ghana for export to the United States, and investors from Malaysia and Mauritius are preparing operations with an eye on the American market.

In Cape Verde, American and Portuguese firms have expanded fish processing businesses and are exporting locally-caught, high-quality tuna and mackerel to the United States. Cape Verde began exporting shirts under AGOA just last December.

Foreign companies have invested over $250 million in spinning operations in Namibia, creating some 20,000 jobs by 2005. In the past few months we have seen large increases in exports to the United States under AGOA as these operations come on-line. AGOA is diversifying Namibia's economy beyond diamonds, minerals, and subsistence farming.

A small handicraft company in Tanzania has boomed since AGOA. Before AGOA, it employed 25 people and exported $20,000 a year worth of arts and crafts to the United States. Now, it has increased its exports to the United States ten-fold and has created new jobs and provided income for 125 poor Tanzanians, mostly women.

Not all AGOA-related successes involve exports directly to the United States. AGOA is also stimulating intra-regional trade and investment. For example, Namibian plants produce parts that are included in South African cars exported to the United States.

Zambian cotton exports to South Africa more than doubled in 2002 thanks to increased demand generated by AGOA. This doesn't register as an AGOA export but thousands of Zambian farmers have nonetheless seen their incomes rise thanks to increased demand for their cotton. Also in Zambia, a local manufacturer is now exporting yarn to South Africa—without AGOA, the owner of this factory said they would have gone out of business, and hundreds of Zambians would have lost their livelihoods.

We have witnessed increased African investment in other African countries thanks to AGOA. Mauritian firms have been especially active. They are investing in Mali to build a plant that will produce yarn from Malian cotton. This will employ Malians, boost incomes for Malian cotton farmers. Its product will then be used by apparel plants in Mauritius for products destined for export under AGOA. Mauritian companies have invested in Madagascar, Mozambique, and Ghana, and are looking at Senegal, all due to AGOA.

As we look at various AGOA success stories, there is no avoiding the fact that with a few exceptions, the biggest beneficiaries have been in the textile and apparel sector operating in southern Africa. I suggest a couple of reasons for this.

Major winners from AGOA like South Africa, Namibia, and Lesotho have a combination of factors in their favor. They have reasonable commercial frameworks that allow businesses to set up and operate relatively freely, and governments that have encouraged investment and trade. A company won't invest if the obstacles are too great, or the fear of effective expropriation by unreasonable regulation or corruption too high.

These countries are also for the most part relatively large markets—or are tied to larger markets such as the Southern Africa Customs Union, in the case of Lesotho, Swaziland, and Namibia. They have also been stable politically.

Some countries have seen little benefit from AGOA. Some are simply poor, isolated countries with relatively little economic activity, or little capacity to effectively produce and market products that might find buyers in the United States.

Unsurprisingly, countries with poor governance and/or political instability have not been able to benefit from AGOA. An unfortunate example is Madagascar. Dubbed the poster-child for AGOA in December 2001 by the Wall Street Journal because of its booming apparel industry, Madagascar slid into six months of instability and unrest soon after due to a political crisis. Even though the political situation has stabilized and the new government is doing well, Madagascar's AGOA-based exports are down by a third for the first quarter of 2003 over 2002.

Other countries have simply failed to exploit advantages they enjoy to benefit from AGOA. Nigeria is an example. They are by far the largest exporter under AGOA in dollar terms, but that is almost entirely because of oil—which would be sold to the United States even without AGOA or GSP. Although they have a vibrant private sector, they have done relatively little under AGOA. Other countries like Zimbabwe, which until recently was a very competitive African economy, have of course failed to even gain AGOA benefits due to their failure to meet the eligibility requirements.

Quite simply, AGOA benefits have largely accrued to those countries that have done the most to help themselves, encouraging investment and trade, and maintaining stability. We have worked with other countries to try to improve the results of AGOA through our trade capacity building programs and will continue to do so, but ultimately whether a country can benefit from AGOA is largely in their own hands.

We hope to see greater agricultural trade between the United States and Africa. To do this we are working with African countries on food security issues and on U.S. sanitary and phyto-sanitary (SPS) requirements in particular. The Department of Agriculture and its Animal and Plant Health Inspection Service (APHIS) have, with the support of the U.S. Agency for International Development, stationed an APHIS scientist at the USAID trade hub in Botswana to help governments and businesses in southern Africa meet our SPS standards. Soon, two additional APHIS scientists will be providing similar services through the trade hubs in eastern and western Africa.

Trade and employment numbers are the most obvious way of measuring the impact of AGOA, but we shouldn't forget the non-quantifiable impacts. For example, most AGOA-eligible countries have established local AGOA committees, usually involving governments and businesses, and frequently our Embassies. The creation of U.S.-market oriented organizations such as these, and the sheer volume of news and commentary in African countries about AGOA demonstrate a shift in thinking. Several countries have credited AGOA's textile visa system for helping them to upgrade and improve the operations of their customs service—a nice side effect.

The AGOA Forum has also been great. We held the first one in October 2001. It was the first major international conference hosted in Washington after the attacks of September 11. The participation of the President and half of the Cabinet, including Secretary Powell and Ambassador Zoellick, plus several members of Congress, demonstrated our commitment to Africa and AGOA.

The second AGOA Forum was in Mauritius this past January, and was a smashing success. In addition to a very lively governmental Forum, which Chairman Thomas and four other House Members attended, the Mauritians helped organize a private sector event that attracted over 900 businesspeople, mostly from the U.S. and Africa, including small African enterprises and American giants like Microsoft and Boeing. The fact that Mauritius volunteered to host this event demonstrated African buy-in to AGOA. I must note that although we have not decided whether we would ever consider having another AGOA Forum outside of the United States, African countries are already volunteering to host future forums.

AGOA is well underway. Now we are considering the future of AGOA, keeping in mind President Bush's videotaped announcement at the Mauritius AGOA Forum of his desire to see AGOA extended beyond 2008. There are three key dates to remember.

The first is September 30, 2004, when the third-country textile benefit is due to expire. Many AGOA beneficiaries have used textiles from places like China in their U.S.-oriented apparel sectors, and have expressed concern that this benefit is ending too soon. On the other hand, there have been major investments in textile plants in Africa made explicitly with this date in mind. We will need to work together on this question. Currently we in the Administration are exploring whether or not to recommend extending the benefit. Of course we very much want to hear Congress's views as well, and will discuss this with other interested parties in the United States and Africa.

The second date is January 1, 2005, when the WTO Agreement on Textiles and Clothing expires—and with it, the current global system of quotas on textiles and apparel. Our experts in government and in industry are assessing the effect this will have on the global apparel market, and on African producers. It is expected that the share of global production for large, cheap producers like China and Vietnam will rise dramatically, and high-cost, inefficient producers can expect to go out of business, accelerating a decades-long trend toward more efficient producers. Artificial quota-driven operations such as plants in the United Arab Emirates run and staffed entirely by workers from Sri Lanka will likely disappear very quickly.

But we are not convinced that all production will immediately leave Africa. First, tariffs will remain in place. That means AGOA producers will have a roughly 17% cost break compared to non-AGOA countries in the U.S. market.

Second, not all buyers will want to switch immediately to China or Bangladesh. Many buyers have relationships with producers in other countries that meet their needs well, and can be expected to continue. Also, companies will probably wish to have some diversity in where they source their apparel, in order to reduce vulnerability to shocks caused by natural disasters or political changes. The recent interruption in trade caused by the SARS outbreak in China is an example of this risk.

Taiwanese firms, major players in Africa that are uniquely subject to pressure from China, can be expected to maintain operations outside of China. Taiwanese firms continue to make new investments in places like Lesotho and Mauritius. Finally, the terms of China's accession to the World Trade Organization allows some temporary special measures to constrain disruptive surges in exports from China.

There is no question that African producers will have to compete more effectively, and not all will be able to do so. They will have to rise to this challenge, but I do not believe they will all fold in 2005.

The third date is September 30, 2008, when the trade provisions of AGOA are due to expire. We are considering what is being called informally AGOA III, the extension of AGOA. As we do so, we should consider other factors in our trade and economic relationship with Africa.

Should AGOA III cover more than just trade in goods? Should it expand to include trade in services, or to consider investment incentives? Are there other elements of economic cooperation that could be included in AGOA, or should we stick to its emphasis on trade?

Again, we are just now beginning consideration of what shape AGOA III should take, and of course look forward to close consultation with Congress as we try to shape this new phase for AGOA, and for our economic relations with sub-Saharan Africa.

But there is another date, somewhat farther off, that we must also be aware of. In 2015, we hope that through the WTO we will have achieved a virtually duty-free system for international trade. Preference programs such as AGOA will no longer help developing countries. We—and they—need to move to solidify and advance economic gains in these states to prepare them for the opportunities and competition of a truly global free-trade environment.

I am very pleased at the positive effects of AGOA these past 2½ years. It is helping to create a new dynamic in Africa, to deepen the economic ties between those eligible countries and the United States. And it has given Africans new hope.

Again, Lesotho is a great example of the progress countries can make. Lesotho has been regarded by some as a sleepy backwater. Now it's increasingly seen not as an object of pity, but as a model to emulate. I am confident other African countries, with the right mixture of wise policy-making, improved market access, and well-targeted assistance, can also make this leap. Thank you.

The CHAIRMAN. Senator Feingold.

Senator FEINGOLD. I just wanted to indicate that Senator Biden wanted to be able to join us today but he could not, and he has asked that written testimony from Amnesty International USA be entered into the record.

The CHAIRMAN. It will be entered into the record in full.[1]

Senator FEINGOLD. I want to thank the witnesses. I have to go to a Judiciary hearing.

The CHAIRMAN. Would you like to ask some questions before you go?

Senator FEINGOLD. I am going to have to go about now, but I will submit some questions for the record if I may, Mr. Chairman. I thank you for holding this hearing. I thank the witnesses.

The CHAIRMAN. Thank you for attendance in the midst of all the responsibilities.

Let me begin the questioning, then, by asking, I suppose obviously, if we are to move to extension of AGOA, how long? We have

---

[1] See page 50.

2008 mentioned as the point of departure for this new amendment. In terms of your administration or the political seasons or what have you, as you mentioned, what advice can you give on those critical elements?

Ms. LISER. Thank you, Senator. We actually in the administration are just beginning to look at some of the proposals that are coming forward. There is an AGOA III coalition that has formed. They meet regularly. They've been coming up with a list of potential items. The date of extension is one of the things that they have addressed. It's also addressed in the capital flows report that just came out.

Some people think an additional 10 years is good. Some people think that perhaps the date 2015 makes sense, because there are some other proposals that are on the table in the WTO that have 2015 as a point at which the whole world would be duty free on, for example, industrial products, so perhaps 2015 as an extension date for Africa to have duty free access to the United States makes sense.

We're looking at the full range of proposals, and we would like to have a chance to speak with you and others about how long you think makes sense as well.

Thank you.

The CHAIRMAN. Do you have anything to add, sir?

Mr. KANSTEINER. I think 2015 is a date floated quite frequently, and it seems like it makes some sense to us, but we would like to work with you on it.

The CHAIRMAN. In any event, you have identified a coalition that is thinking about this in a concerted way, and thinking about not just the date, but likewise the contents of what we might want to achieve going to the well again to try to get the two houses to support this extension.

You have mentioned success stories, and obviously some problems. The fact is, there are many countries in Africa that have not been involved in AGOA. One of the good things that comes from our hearings for potential American ambassadors to all of the countries of Africa is an opportunity to ask each one their views on AGOA, first of all if they have views, if they're aware of the whole business, and each really I found is quite knowledgeable. Frequently countrymen come to the hearings of the country that is being considered that day and affirm informally that this has been a remarkable success. This is always heartening to the champions of AGOA.

On the other hand, there are a good number of blank spots on the map. What do we do about that? What sort of advocacy evangelism or extension is required here on the part of African nations, on our parts—these being the two major players in this equation?

Mr. KANSTEINER. It is something that we drill into our ambassadors, every one of them, before they go out and so I'm glad to hear that they are sensitive to it and well versed in it.

There's a good example of Senegal. About 2 years ago, Senegal was demonstrating very little opportunistic building on AGOA. I mean, they just weren't doing that much with it. They have a wonderful tradition of textiles in Senegal and throughout West Africa, so it was a natural. They are geographically that much closer to the east coast of Africa than other major textile producers that have emerged, certainly closer than, say, Lesotho, and yet Senegal hadn't done anything, and so we, our ambassador did a very good job of putting together these Senegalese with some American and Mauritius capital.

Now, Mauritius has been a great example of taking full advantage of AGOA. In fact, they were a real mover and shaker in getting it through, as you know, and in fact Mauritian capital went to Dakar, Senegal, and they formed a limited partnership, and now we're seeing Senegalese textile manufacturing getting set up and in fact competing very vigorously.

So it's that kind of, sometimes putting people together is one of our jobs, and I hope every one of our embassies is trying to do that.

Ms. LISER. I think another thing that, as I, as being relatively new in this position, as I have been meeting with trade ministers from the African countries as well as with their ambassadors here, and even some industry people as I have traveled, started traveling throughout Africa, I have said to them that it is very important for them to have a strategic plan for AGOA, how to take advantage of AGOA, and in a number of cases, some of them, AGOA happened, and they just sort of sat there thinking that something was going to happen sort of automatically as a result of AGOA and not understanding that there were certain things that they needed to do.

So one of the things I say to them is, I ask them, do you actually know what your top five products are that you're competitive in, or would be able to be competitive in, in selling into the U.S. market, and some of them go, "well -" but others of them will say, oh yes, it's—and then they run down what their products are.

So for every country I'm encouraging them to do that, and encouraging them, once they know that, to then come here with people in those particular industries and try to set up matchmaking meetings with potential U.S. investors, and just, I would like to give one example. It is Lesotho, even though Lesotho is doing well in apparel, but Lesotho has fabulous clay, and this clay is supposed to be some of the best clay to make ceramics.

They had a company that was actually European-based a number of years ago which left, I think about 2 years now, and so they actually have this wonderful clay just sitting there with no one doing anything with it. What I would say to the Lesothans, and have said to them, is that you should bring your people here who were involved in the ceramic industry at the time that it was actually functioning in Lesotho, bring samples of your clay, come and set up meetings with the key ceramics makers in the U.S., and then try to see if you can forge some sort of partnership and foster some interest in investment in a ceramics industry there, and every single sub-Saharan African country, in my view, should have a plan and a strategy based on what their comparative advantage is.

The CHAIRMAN. I'm just curious about whether the countries, through their governments or those involved in the private sector, have a good idea of the success of AGOA.

In preparation for this hearing, for example, we have been furnished—and this was terrific—with a country-by-country analysis of trade and investment. It is a great story. We have a comprehensive view of the whole continent, and a country-by-country analysis. I'm wondering whether this is available to all of the embassies in Washington from African countries or to our ambassadors who are out there.

I'm hopeful the answer is yes, and clearly I know you make every attempt to get this information in preparation for the ambassadors, as a follow-through, sort of a running score of how it's going.

Ms. LISER. Well, we just finished, as a matter of fact, the annual report to Congress on AGOA and its implementation, and one of the things that we make sure to do in addition to getting it up here to you on the Hill and out to our own industry is to make sure that all of the trade ministers from all of the sub-Saharan African countries have it so that they can not only see what is written about them, but they can also see what is written about the others, and we do hear from people. They say, oh, everyone's going to such-and-such a country and no one is coming here, and we would like to try to see if we can get people to come here.

Recently, when I was in Namibia and saw a fabulous factory that was set up there, and they've employed now over 4,000 people, they also gave me a presentation on Walvis Bay, which they said is the best place to ship from, better than Durban, or better than Capetown, so they're actually also looking at other things that they can do to make Namibia a more attractive place for investors in terms of AGOA.

The CHAIRMAN. I know it's a totally inappropriate analogy, but seeing this chart reminds me of the weekly sports pages, in which the winners of golf tournaments are listed, from, say, 1 to 100, and I presume if you're a professional golfer, why, you probably take a look at that list and see how you're coming out.

I would think that might be true of countries, wondering why the neighbor is doing something that's not happening in their country, or in these African democracies, how citizens, even critics of the government might take a look at this and wonder, why isn't this happening to us, who is asleep at the switch——

Ms. LISER. Exactly.

The CHAIRMAN [continuing]. In our government? So this information, it seems to me, is a powerful tool toward encouragement on this general question of more people being interested.

Now, having said that, it's a tough thing to do, because as you've pointed out, aside from the energy sector, there's an enormous concentration on textiles.

At the beginning of the economic recovery of Eastern Europe, for example, at the time of the breakup of the Soviet Union and new freedom for the Eastern European States and what-have-you, almost inevitably, almost each Ambassador or Foreign Minister who came to Members of Congress like myself as well, I'm sure, as to the administration at the time, who wanted to sell textiles, or sometimes cheese and dairy products, which in terms of our protectionist system on those things has equal problems.

This is the reason it was very hard to pass AGOA, quite frankly. You keep running up against those sectors in our own economy that are the most protectionist. Now, they would claim that that really isn't so, but in fact politically I've found that it is so. So the dilemma of how you move through all the rocks and shoals of this is tough. You wish you could find somebody who wanted to sell us something else.

Now, that's what you have been trying to point out today. Clay, pottery, or more refined goods, or something indigenous in the society that has a market here. How do we go about doing that? Obviously, it's the responsibility of the country, of people who are attempting to make a living, or attempting to do better? Many are ingenious, but at the same time, the breakthroughs appear to be far too few. I'm just wondering how we stimulate interest in expanding the list.

Mr. KANSTEINER. There are a couple of ways that we're actively doing it, and we're learning as we go, quite frankly, but we have set up three trade hubs throughout Africa, one in Nairobi for east, and Accra, Ghana, for west, and Gaborone, Botswana in the south, and these trade hubs we staff with trade experts from various agencies in our government.

They go down, they're working with African entrepreneurs trying to figure out what are the goods that can come into this country, what are the goods that, in fact, you have? Is it clay, is it beadwork, is it whatever, and sometimes it can get into very sophisticated manufacturing issues, too; is the platinum that you're producing, could it be made into catalytic converters for the auto industry?

Much of that expertise is now housed in one of these three trade centers. Now, we're trying to get out from there, too, but ultimately it's interacting with African businessmen, African businesswomen in making them aware and getting them to focus on what is the product that they can ship into this huge market called the United States.

One area, and you touched on it just now, is agriculture. There are African agricultural products that do have a comparative advantage in our markets, but they have to go through the sanitary and phytosanitary requirements. It has been a real impediment.

Finally, we now have some sanitary experts stationed in these trade hubs and in our embassies around Africa to help African agricultural products get the correct certification to come into our markets.

The CHAIRMAN. Well, that is very important. In our work on the Agriculture Committee I'm aware of how difficult this is. Yet at the same time we have hearings routinely there about food safety in the country. This is a very big issue, leaving aside the trade aspect. This technical support is really of the essence in opening up those avenues.

Ms. LISER. If I could just mention one other area that's important, the agribusiness, because building on, many of the African countries tell us that they don't want to just send their raw materials to us. They really would like the chance to have some value added, some manufacturing value added, and to be able to earn more for the products they have, so agribusiness is an area that we're also encouraging them to look at and see if they can do some joint ventures with U.S. producers like Heinz and Cargill and others.

The CHAIRMAN. Let me ask about textiles specifically. Regardless of our hopes for extension, this will be a critical item. Please explain in commonsense terms for the benefit of this hearing and its record what is at stake with the 2005 situation, and how textiles in Africa can succeed beyond that time. Literally the barriers are eliminated, and worldwide competition floods in. How can you describe the constructive steps that you think are required?

Ms. LISER. Well, I think the combination of the end of the third country fabric provisions under AGOA in September 2004, and the end of the global quota system under the multifiber arrangement in January 2005, have serious implications for the African countries and their ability to continue building both their apparel industry and the textiles industry.

I think there are a couple of keys to this. Many, many people have said that investment that has made, Asian investment particularly that has been made in Africa after the MFA ends will sort of just leave. We've been talking to people, and we are now beginning to understand that yes, some of it will leave, but there are people who are there permanently. The folks who, for example, are in that Namibia factory, I asked them specifically, and at least at this point they said no, we're here for good, we're building more. I think that's important.

I think the other thing that's important is vertical integration, that the countries that will do the best in keeping an apparel industry strong will be those that have also figured a way to either vertically integrate within their own economy, using their own cotton, making the yarn and the fabric and then putting it into apparel, or working regionally, where they bring the cotton in from other countries in the region, as Walter was saying, who have the best cotton, and maybe make the textiles. Nigeria, for example, is supposed to be a country that could do well in the textiles industry but has not yet done so, building that up and then sending those textiles to maybe South Africa, where they're very good at making the apparel.

So vertical integration is important, and I think just one last point. People do forget that even when the MFA ends in 2005, there would actually still be quotas—I mean, tariffs in place of about, maybe about 12 to 14 percent on a lot of those products, so even though we will have a quota free world in terms of textiles, we will not have a duty free world, and the Africans who can still have duty free access to the U.S. market will continue to have some comparative advantage relative to others, who will not, even the Chinas of the world.

The CHAIRMAN. Let me check whether the $345 million in trade capacity-building has been equitably distributed. I'm sure that there's a feeling that that has been the case. Obviously some applicants are maybe more aggressive, and maybe have greater programs than others.

What do you say to countries that come to you and say, why are we not getting our fair share of this, or any share? Please describe the rules of the road for that money, or for whatever else we should do.

Ms. LISER. I think that on the trade capacity-building assistance we have been doing some of it regionally. I just wanted to make sure that people understood that it is not always on a country-by-country basis. We have gone in and had seminars where we bring in all of the West African countries, or all the southern African countries, et cetera, and so a lot of it has been spent in that way.

I think for the countries which may have benefited the most from it, and I don't know all of who they are exactly, but my guess is that if you are out front with a plan for what it is that you need, identifying what kind of trade capacity-building and technical assistance you need, and can get that to the people at USAID, and our competitiveness hubs, then generally speaking you're going to be the one—you know, the squeaky wheel gets oiled. You are the ones that then get it.

This is why we're encouraging countries to think about the fact that you have those hubs there, you have the USAID missions, you have the FCS people, and that it is very important that you go to them, you identify what it is you need, and we try to be responsive.

The CHAIRMAN. This occurs, you believe, because of the initiative of people who are doing the planning. They're not bilateral agreements between the United States and country *x*, or what have you, but does it really come as part of the process?

Mr. KANSTEINER. Yes, sir. In fact, all of our embassies in sub-Saharan Africa that are AGOA-approved countries have and put out the word that we are willing and eager to work, but there has to be some initiative coming from the entrepreneur.

The CHAIRMAN. President Bush has indicated that he favors a free trade agreement with the countries of the South African Customs Union. I'm curious as to what you perceive as the time line for these negotiations, for completing them, and the prospects for additional trade agreements in Africa.

First of all, please describe for the record what the South African Customs Union is, what that encompasses, as well as the time line to proceed, and some thoughts about the extension of either bilateral or multilateral agreements with African countries.

Ms. LISER. Well, if I could, the South African Customs Union actually is the oldest customs union in the world. It is composed of South Africa and then what we call the BLNS countries, Botswana, Lesotho, Namibia, and Swaziland.

The CHAIRMAN. So there are five countries involved?

Ms. LISER. Five countries in SACU. The SACU-U.S. FTA negotiations were actually launched, we had the first round in Pretoria, I guess about 3 weeks ago. I led a delegation of about 28 people from the U.S. side, from all the agencies, Department of Agriculture, Department of Commerce, State, everyone was there, and we covered about 16 issues, nonagricultural market access, market access services, et cetera.

Our next round will be in August back in the region, and the third round will be here in the United States in September, and we would like to get the message out and make sure that the message about the SACU-U.S. FTA and the benefits of it are broadly spread, particularly at that time.

In terms of the time line for finishing, our goal is to finish by the end of 2004, and that time line actually is a little longer than our other FTA time lines. They are generally going to be completed by the end of 2003, for example the one with the Central American countries. That's the one that's the closest to this one.

There are some things that are a little different about the U.S.-SACU FTA from our other negotiations, and we have said that asymmetry and special and differential treatment are elements that we would like to build into this, and we also have a trade capacity-building working group that sits alongside of the negotiators to allow us to identify what areas the SACU negotiators need help in so that they can be successful in negotiating this agreement.

And then on your last part of the question about whether or not we can extend this to others, we clearly believe that because this is the first U.S. FTA with any countries in sub-Saharan Africa, it serves as a model for what we can do with other countries in the region, and there's already the idea that's being discussed of docking.

You know, you have an FTA, and then perhaps another country that's close by in the region that's met all the criteria can then dock into that particular agreement. We would be open to that as well, but a lot of that will also depend on how well that country can be integrated into the SACU end of it on their part.

So we see it as a model. We do hope that this agreement will show others in Africa such as the COMESA group or the WAEMU group that there are prospects for having an FTA with the United States if you have the right kinds of policies in place on your end.

I would just end by saying that one of the reasons that we started with SACU, not to mention that they are our largest AGOA partners at this point, is that they really had done a lot of the work in terms of economic reform, as well as putting in place the kinds of regimes, trade regimes that were necessary both individually and as a customs union. They have one common external tariff, so we are hoping that their example will be an example for other regional groupings on the continent, and that once we finish this FTA, that there are other groups that will say, well, we're ready with an FTA with the United States also.

The CHAIRMAN. Well, that's an encouraging schedule. I appreciate the fact that you've had the first meeting, and that you have led the delegation of 28 members, which is a sizable number, and comprehensive in terms of our government's interest.

Ms. LISER. That's right.

Chairman LUGAR. And two more meetings and a third one to be held here in Washington in September.

Ms. LISER. That's right, yes.

Chairman LUGAR. That might attract, likewise, some interest from administration officials, Members of Congress, others in the private sector who are following this. I appreciate your highlighting that as a part of our record today.

Well, I thank both of you for your testimony, for both your prepared testimony as well as your excellent summary remarks, and for being so forthcoming in response to those questions. It is an enthusiasm which we share. This is the purpose of the hearing, to make certain that there is an extension of that enthusiasm to a broader circle.

Thank you for your participation.

Ms. LISER. We thank you for holding the hearing.

The CHAIRMAN. The chair would like to call now our second panel. It will be composed of Mr. Stephen Hayes, president of the

Corporate Council on Africa in Washington, DC, the Honorable James A. Harmon, chairman of the Commission on Capital Flows to Africa, from New York, NY, and Dr. Leon Spencer, executive director of the Washington Office on Africa in Washington, DC.

Gentlemen, we appreciate your coming to the committee today as distinguished witnesses. We look forward to your testimony. As I mentioned to the first panel of witnesses, your testimony will be published in the record in full. We would ask that you proceed as you wish in terms of summary comments or a reading of the testimony. I will ask you to testify in the order that I introduced you: first of all Mr. Hayes, and then Mr. Harmon, and then Dr. Spencer.

Mr. Hayes.

STATEMENT OF STEPHEN HAYES, PRESIDENT, CORPORATE COUNCIL ON AFRICA, WASHINGTON, DC

Mr. HAYES. Thank you, Senator. It is an honor to be here, and I also would like to take the time to salute your staff. Your staff has been excellent in working with my own staff and others, and we have the greatest regard for people around you, so thank you very much for inviting us.

The CHAIRMAN. We share that regard, and you're very nice to make that point. I appreciate it.

Mr. HAYES. Thank you. I'm not going to read my testimony. I simply would like to talk in general and let the written testimony speak for itself, but basically, on a positive note AGOA has created a new enthusiasm and new support for the United States in Africa.

At the same time, I think that in Africa the danger is that AGOA is creating expectations, and unless we address those in a variety of ways, that we are creating expectations that cannot be met easily. That is a concern.

My own organization has conducted 18 workshops, training workshops throughout Africa. The response is enormous. We have hundreds, sometimes more than 1,000 people, turn out for a workshop on AGOA, which indicates to me the great hopes. Many of them come from hundreds if not thousands of miles to be at these workshops, so it indicates to me the enormous expectations, the hopes that we are putting in people's lives throughout Africa for trade, and the desire for closer relationships with the United States, but the fact is that in many cases those expectations cannot be met.

I would advocate a much stronger AGOA, and at least certainly the extension of AGOA. In Mauritius at the AGOA forum I spoke for an extension to 2015, but I think the reality is that we're going to have to take a much more integrated approach to African investment. AGOA is one step for our relationship to Africa, but I think that we also need to look at a broader approach to really link the economies of Africa to the United States. I think this can be done and would help our own economy as well.

As an investment tool for U.S. investment in Africa, AGOA simply has not worked. Again, I say that as a supporter of AGOA, but it has not worked as an investment tool. U.S. direct investment in Africa has dropped 3 years consecutively. It's now at its lowest level since 1975, and those statistics have to be reversed if we're going to be able to help our own economy as well as those economies of Africa.

I think that we need to look at how we can help increase investment. James Harmon will be speaking to that, and I'm going to simply defer to him, other than to say we need to look at issues such as tax deferments for companies that want to invest in Africa. I think we have to make those changes, and I think that we have to look at other creative approaches.

One of the areas that I think would be most vital to our own economy and which we as a Nation are in a stronger position than any nation in the world to support in Africa is to begin to look at how we increase small- and medium-sized businesses' linkages between the United States and Africa.

Eighty-five percent of our work force are employed by small- and medium-sized businesses. We have the experience of small business development. If Africa is going to develop, the African nations need to develop a politically and economically stable environment. They're going to have to develop greater entrepreneurship and a middle class. I think the U.S. large corporations already in Africa—which certainly my organization represents, but 40 percent of our membership is also small corporations and 20 percent is medium-sized businesses—need to link those small- and medium-sized businesses much more actively to their own long-term interests. The large corporations are not necessarily the answer to African development, but in fact a broader investment from small- to medium-sized businesses. I think in doing that we can help raise our own economy, too.

I am convinced that there could be a very vital, a very active linkage between African and the United States economies. Increasingly, as I travel throughout the continent I am convinced that this linkage would be welcomed, that there is certainly a desire for a stronger relationship with the United States.

We need to focus on infrastructure development and certainly agriculture. Every country can benefit from selling agricultural produce to the U.S. market. Every country cannot benefit from textile manufacturing, and I think we have entirely too much emphasis on textiles. We need to really be looking at how we open our markets more effectively to African agriculture.

We clearly do need more AGOA training for Americans, not simply training of Africans on AGOA. I think we find increasingly that Africans, from small entrepreneurs to government officials, know more about AGOA than our own population, and we need to be able to get the word out more systematically throughout the United States on the opportunities for investment in Africa. That is one role we need to fill more in our own organization.

I also have a concern that we create, as Senator Feingold suggested, more linkages. We do have to protect environmental considerations in Africa as well with whatever we do, because I think there's also an enormous economic opportunity by doing so.

The greatest area of investment in the immediate future is infrastructure development and tourism. It is going to take a long time for change and economic development throughout Africa. We have to show patience. We have to commit to a plan which is why I praise this administration highly. They clearly are systematically developing plans. Whether all parts are agreeable to everyone is to me somewhat irrelevant. In the sense that there is a plan that is being developed, this administration needs praise and support for that. We need to be looking at how we bring in the tourism industry, for instance.

There is an enormous market for tourism throughout Africa that just simply hasn't been tapped into. It is right now a $12 billion economy for Africa, of which the United States is approximately 1/12th of that. We could link our economies and begin to sell Africa much more through tourism. Certainly this is one of the most progressive ways we could do that, but particularly I think we need to look at business-to-business linkages—how we better link our small- and medium-sized businesses to the African economy. It will help our economy considerably. It will certainly help Africa. It is one area where AGOA simply hasn't been utilized effectively yet.

So those are my concerns. Thank you, Senator.

[The prepared statement of Mr. Hayes follows:]

PREPARED STATEMENT OF STEPHEN HAYES, PRESIDENT, CORPORATE COUNCIL ON AFRICA

THE AFRICA GROWTH AND OPPORTUNITY ACT (AGOA)

Mr. Chairman, Distinguished Members of this Committee:

It is an honor to be with you today to discuss the success of the Africa Growth and Opportunity Act (AGOA) to date and to state my views on its future. Thank you for inviting me to share with you some of the perspectives of the American private sector on this landmark piece of legislation.

Stated briefly, I believe that AGOA's record thus far is mixed at best.

On one hand, it is indisputable that AGOA has shown positive results. Prior to this year's G8 summit, the White House released figures showing that the United States is the only major world-trading nation whose share of imports from sub-Saharan Africa increased between 1996 and 2001. Exports of manufactured goods from sub-Saharan Africa to the U.S. increased 8 percent over the same five-year time period, while exports from the sub-Saharan region to the European Union dropped 1.5 percent. The White House statement identified that much of this growth occurred in the textiles and apparel sector.

In May 2003, USTR published its third *Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of AGOA* (you can also call it USTR's Report on AGOA). According to the Office of the U.S. Trade Representative, AGOA continues to boost trade and investment between the U.S. and sub-Saharan Africa. Total trade between the U.S. and the region reached a value of nearly $24 billion in 2002. U.S. exports valued $6 billion and U.S. imports valued $18 billion. U.S. imports under AGOA, specifically, were valued at $9 billion in 2002, a 10% increase from 2001.

The U.S. direct investment position in sub-Saharan Africa increased 5.8 percent at year-end 2001, to $10.2 billion, a figure supported largely by investments in the petroleum sector. If one removes the petroleum and gas sector from the equation, AGOA is a very different story. Without the petroleum industry, figures are approximately 75 percent lower, and many fewer countries are seen as beneficiaries of the AGOA legislation. Leaders and economists in African nations recognize this and are concerned by the lack of benefits for many of their countries through AGOA, yet they remain hopeful despite an increasingly restive population that sees little direct benefit from AGOA to their own lives so far. Despite what I believe are the best intentions of our nation, there is a strong danger that AGOA will result in unfulfilled expectations and increased cynicism towards the United States.

There are essentially two compatible visions that accompanied AGOA legislation. First, AGOA is designed to raise the per capita income of African nations by encouraging those eligible for the program to expand and diversify their exports and, ultimately, build a manufacturing and production base that will support long-term economic growth. Second, the act is intended to serve as an investment tool for U.S. companies seeking African partners. In my opinion, neither approach is working very well.

The touted "success stories" of the AGOA program are too few. Those with manufacturing capacity already in place are naturally the most immediate beneficiaries. The best examples of this are also the most acclaimed: South Africa, Mauritius, Lesotho, Madagascar, and Swaziland.

USTR reports that South Africa increased its total AGOA exports from $923 million in 2001 to $1.3 billion in 2002, a 45 percent increase. AGOA exports now constitute 32 percent of total South African exports to the U.S.

We expect numbers like this from South Africa. Madagascar, a country with a much smaller economy, exported goods valued at a total of $79.7 million in 2002, equivalent to 37 percent of its total exports to the United States. These exports were primarily in textiles and apparel. Influenced by AGOA, Madagascar has approved 20 new EPZ companies in the last year, nine in textiles and apparel. These new companies represent $10.6 million in international investments and the creation of approximately 5,100 jobs.

Lesotho, too, is one of the most astounding examples of AGOA success. This country's exports totaled $318 million in 2002, representing 99 percent of its total exports to the U.S. Again, the majority of these exports were apparel. Six new garment factories opened in Lesotho in 2002 (13 opened in 2001), elevating total employment in the textile sector to around 45,000.

I should remind you that I have drawn these examples from a sector that is currently Africa's most dynamic, growing at an annual rate of seven percent.

However, these few examples cannot carry the continent. In general, sub-Saharan African nations lack the manufacturing capacity to benefit under the terms of the current legislation. A report by the International Monetary Fund that was published last Fall calls attention to the fact that not only is the growth of the clothing export industry a unique phenomenon, but the development of these items remains intensely concentrated. As recently as 1999, a few countries—those in the Southern African Customs Union (SACU) and Mauritius—accounted for 80 percent and another three countries for a further 17 percent, of sub-Saharan Africa's exports.

We have to be careful. Mauritius, only months ago upheld by most as the "new African model," is suffering a severe downturn. Since the second meeting of the U.S. sub-Saharan Africa Trade and Economic Cooperation Forum in January of this year (also known as the Mauritius AGOA Forum), dozens of factories have closed and thousands of jobs have been lost. This is attributable to market forces. At the end of the day, Mauritian products are not cost competitive, namely with China, India, Pakistan and Vietnam. This is a problem not only for Mauritius. Technical assistance will be required to help many African nations—Kenya, Madagascar, Mali, and Tanzania among them—enhance their competitiveness.

This problem will only get worse for Africa's poorest countries if creative approaches are not found to the question looming before us regarding the Third-Country Fabric Provisions, currently scheduled to expire in October 2004. Many observers fear that the initial benefits of AGOA, including jobs created, will evaporate if this provision is not extended.

Most importantly, Africa's contributions to the international market remain wildly disproportionate to its size and relative wealth. Only two percent of total U.S. imports come from Africa. Unless the nations of Africa are able to develop more diversified economies, they will remain highly vulnerable to severe economic downturns and in a depressed international economy they will continue to be the first nations on the planet to suffer.

There are ways to change this, both in the short and long-term. As I said, most African nations do not yet benefit significantly from AGOA because they lack a manufacturing base and an infrastructure adequate to insure that products easily and quickly reach their destinations. African nations remain dependent on one or two products to carry their entire economy. AGOA, with its heavy emphasis on textiles and apparel, has done little to change this situation.

NECESSARY SHORT-TERM MEASURES

Africans and Americans alike still lack an understanding and knowledge of what AGOA really means to their individual businesses. Training on AGOA has been insufficient, and within the United States, almost non-existent. My own organization, the Corporate Council on Africa, has conducted 20 training seminars in 18 different nations of Africa this past year. We have also trained Africans about the U.S. economy in six two-week programs across the United States. These programs were made possible by a grant from the U.S. Department of State. However, I am not aware of any organization that has done more and I am aware of few other training programs. This number simply is insufficient. These seminars and trainings should be ongoing; moreover, we should be doing our best to provide our African partners with both U.S. public and private sector perspectives on how to take advantage of the benefits offered by the program. American companies should also receive more information on the potential benefits they could realize through AGOA.

Mr. Chairman, distinguished Members of the Committee:

Although not every nation in Africa can benefit from AGOA through textiles and apparel, there is one sector where nearly every African can benefit, and that is through agriculture. If we are to support the economic development of Africa through AGOA, then we need to liberalize provisions of AGOA to make it easier for Africans to export agricultural produce to the United States. I know of no single better step to take to bring some degree of prosperity and self-sufficiency to a greater number of Africans than ever before.

By opening our markets to agriculture produce, we improve the livelihoods of millions of Africa's farmers and farm employees, and this sector sustains the vast majority of Africans still. To quote the Secretary-General of the Common Market of East and Southern Africa (COMESA): "Only the desert lands of the Middle East provide the U.S. less in terms of agricultural products. In dollar terms, Africa supplies one-fortieth of America's agricultural imports. While apparel imports to the U.S. have increased substantially under AGOA, Africa's share of agricultural imports to the U.S. has decreased, from 6 percent to 4 percent during the past three years."

To reverse this situation, Mr. Chairman, I believe we must place far greater emphasis on streamlining and accelerating the inspection processes for African produce through the U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS). In my opinion, the current inspection capacity is far too little to adequately increase the flow of agricultural produce to the United States. Many of our global problems are complex, but here is one critical problem that could be remedied rather simply and efficiently, and given the scale of our national budget, relatively inexpensively. We need many more inspectors and trainers in inspection to ensure the movement of healthy and safe produce from Africa to the United States. Investment in the inspection process would be one of the best safeguards we could make towards strengthening our economic ties to Africa.

Another area for consideration in the short-term is that of handicrafts. It is no secret that Africans produce some of the world's most beautiful and original handicrafts. These products enjoy immense appeal here in the United States. The passage of AGOA three years ago prompted much enthusiasm among Africa's artisans who looked forward to increasing their share of the American handicraft market. This has not yet happened for a couple of reasons. First, provisions for the export of African handicrafts to the U.S. under AGOA, often referred to as the Category Nine provisions and overseen by the U.S. Department of Commerce, have proven to be cumbersome to the point of outright stopping new exports of handicrafts. For example, this process can involve laborious and time-consuming submission of samples for each and every handicraft and verification that even the smallest stitching is authentic.

Secondly, many of Africa's small businesses are confronted with a myriad of confusing and complicated standards imposed upon them by their own governments as they seek to comply with AGOA visa provisions. It would be useful for the U.S. government to work more closely with national customs agencies in Africa to find ways to explain better and/or simplify the AGOA certification requirements for African small and medium businesses. Governments in Africa should be supported as they seek ways to undertake export promotion and financing programs for small businesses.

LONGER-TERM MEASURES

As a tool for Americans to invest in Africa, AGOA, thus far, has been an abysmal failure. Investment in Africa has dropped for three consecutive years and is at its lowest level in thirty years. Americans are either not aware of the opportunities for investment that AGOA represents or they are simply reluctant to do so at this time for a variety of reasons. I believe it is a combination of both. I am not aware of any AGOA training program in America strictly for American businesses. Domestically, we have relied almost solely on word of mouth through business networks and associations to spread the word about AGOA and its potential for investment in Africa. I know of no program within government or the private sector that educates a broad American constituency about using the most important U.S.-Africa trade acts in history. Yet, I am convinced AGOA could prove to be a boon to our own economy as well as those of Africa.

To increase U.S. investment in Africa there needs to be major changes in how we view Africa and how Africans view their own nations.

On our side of the Atlantic, we need to create new incentives for investment in Africa. These incentives include tax relief and deferral, low interest loan guarantees for those wishing to invest in Africa, and a more active use of international credit agencies. Incentives for American small and medium-sized companies are especially important, as they are of a scale appropriate for partnerships and mentoring of African companies. Political and economic stability will not come to African nations until there is a stable middle class. That, in turn, will not develop without the development of a vibrant small business sector. No country in the world has better experience in small business and entrepreneurship than the United States of America. We need to develop incentives for our smaller industries to invest in Africa in order to link the African and U.S. economies more closely. The linking of businesses will insure a steady flow of trans-Atlantic trade.

The Corporate Council on Africa, jointly with the Institute for International Economics, yesterday released the report from its Commission on Increasing Private Capital Flows to Africa. I refer you to that report, and its chairman, James Harmon, for a lengthier discussion on the incentives necessary to increase investment in Africa.

The nations of Africa themselves clearly have a major responsibility in creating the economic and political climate necessary for business investment. Some countries such as Botswana, Mauritius, Tunisia, South Africa and Mozambique have taken measures necessary for stimulating investment, but many other countries are far from the establishment of a stable political and economic climate. They need their own form of incentives. Those incentives will need to come from within and from other African nations. The United States can only do so much in this regard, but there are some ways we can influence change while at the same time respecting national sovereignty.

For that reason, I believe that the concept of the Millennium Challenge Account is deserving of our support. Although I believe that many of the problems of Africa are not national but regional, the Millennium Challenge Account at the very least provides incentives for some countries to develop a climate more conducive to economic and political development.

At the same time that we support those nations genuinely seeking reform, we need also strengthen Africa's regional economic communities. These groupings are pursuing a goal that I believe we all can support: Regional answers and approaches to Africa's development needs. The Corporate Council on Africa is working to place staff in each of the four major economic communities or Africa—the Common Market for Eastern and Southern Africa (COMESA); the Southern African Development Community (SADC); the Economic Community of West African States (ECOWAS); and the Economic and Monetary Community of Central Africa (CEMAC)—to assist these organizations in understanding better what business needs for investment. We recommend also that the U.S. government establish a more active dialogue with the leadership of these economic communities.

Above all we need patience. The conditions that lead to poverty in Africa will not change overnight, and we serve no one by expecting immediate economic development. We must be prepared to make our national investment in Africa a long-term one, filled with realistic incentives for change. I am convinced that if we show patience and wisdom, our relationship with Africa can mature and ultimately be of immense benefit to both Americans and Africans.

Mr. Chairman, distinguished Members of the Committee:

The Corporate Council on Africa has been among the strongest supporters of the African Growth and Opportunity Act. In 2001 and again in 2003, we were asked by the U.S. government to organize the private sector sessions of the annual AGOA ministerial forums that are mandated by the AGOA legislation. While we recognize that the legislation was and remains imperfect, we understand that it can, if implemented fully and effectively, serve as a catalyst for much positive change in Africa. It deserves your continued support. That said, AGOA is not a panacea. I hope that my testimony here today, while highlighting some of AGOA's successes thus far, might serve more importantly as a wake-up call to re-focus the U.S. government's efforts on finding ways to comply with the laudable intent of the AGOA legislation.

Thank you for granting me this opportunity. I would be happy to answer any questions.

The CHAIRMAN. Thank you very much for that testimony, Mr. Hayes.

Mr. Harmon.

STATEMENT OF HON. JAMES A. HARMON, CHAIRMAN, COMMISSION ON CAPITAL FLOWS TO AFRICA, NEW YORK, NY

Mr. HARMON. Thank you, Mr. Chairman, for conducting this important hearing on the African Growth and Opportunity Act. I want to second Mr. Hayes' compliment to the staff, which I thought did some very good work. I also can't help but thank you for the assistance you rendered to me when I was serving as chairman of the Export-Import Bank.

The CHAIRMAN. You did a tremendous job for our country. We appreciate that.

Mr. HARMON. Your particular assistance, which is not in my testimony, and probably my staff, were they to be here, from my days at the Ex-Im Bank would probably warn me not to make comments other than on Africa, but your particular assistance to me relative to the difficult problems in Russia really bore fruit, and as we see this extraordinary turnaround in Russia today, some of those, lessons can apply to Africa, which we will see when I make a few comments later. The problems of the developing countries are very similar.

But today, I am testifying in my capacity as chairman of the Commission on Capital Flows to Africa. This commission is a high-level bipartisan and diverse group of experts who believe, as I do, that we can and must do more to increase private sector investment in Africa. On Monday, we released our final report. I have it here. It just came off the press. It's called, 'A 10-year Strategy for Increasing Capital Flows to Africa."[2]

It is a document of which I am particularly proud, because it offers a comprehensive and a bold strategy to accelerate Africa's growth and integration into the global economy. This goal, if achieved, will benefit not only millions of African men and women, but also in many respects the people in the United States.

Mr. Chairman, allow me to begin by admitting that I came only belatedly to appreciate the potential to the United States, our citizens and investors, of increased trade and investment between the U.S. and Africa. As a veteran of the American financial community, I, like most of my colleagues, focused on other, seemingly more lucrative parts of the world. Like many in the investment community, my sense of Africa was that it was sufficiently plagued by war, famine, misrule and disease to render substantial foreign investment neither warranted nor advisable.

My view changed in 1998, when I, as chairman of the Ex-Im Bank traveled to Africa. What I learned was that Africa both needs and can effectively utilize private capital. I saw that smart money, carefully invested, can yield high returns in Africa. As a consequence, I worked to expand the Ex-Im Bank's operations on the continent, increasing the number of countries that we were open in from 18 to 34 countries, and triggering an increase in exports from $50 million in fiscal 1997 to $900 million in fiscal 2000.

I left government convinced that the public sector can and should do more to stimulate domestic and foreign investment in Africa, convinced also that the private sector has an even greater role to

---

[2] The report can be found on the Institute for International Economics' Website at: www.iie.com/research/africa-mideast.htm

play in this regard. I accepted the invitation to serve as chairman of the Corporate Council on Africa to work with Mr. Hayes and, as chairman, I helped to establish in June 2002, just a year ago, the Commission on Capital Flows to Africa, which was cosponsored first with the Corporate Council on Africa, then the Institute for International Economics, the Council on Foreign Relations, and the Joint Center for Political and Economic Studies.

We have deliberated and debated with passion and conviction, not just because we all envisioned a brighter future for Africa, but primarily because we believe that it is in the U.S. interest to help secure sustainable development for the African people. The U.S. has significant economic and national security interests in Africa which underscore the rationale for and urgency of this commission's recommendations.

The U.S. interests in Africa extend well beyond historic and cultural ties, or the humanitarian and moral imperative to help lead the world's most underdeveloped region out of poverty and despair. Two broad areas of interest are worth highlighting, economic and security. Mr. Chairman, our export-led growth depends substantially on the developing world, which is now the source of four out of every five of the world's new consumers. Soon, 1 billion of them will live in Africa.

In 2002, U.S. exports to sub-Saharan Africa were 46 percent, and greater than those to the former Soviet republics, including Russia, 47 percent greater than to India, and nearly twice those to Eastern Europe. U.S. exports to South Africa alone were larger than U.S. sales to Russia, yet the U.S. share of the African market is small, only 7.9 percent, suggesting significant growth potential for the U.S. in the years to come.

Our interests also arise from the fact that Africa supplies over 16 percent of our imported crude oil. It is estimated that within the next decade, 20 percent will come from Africa.

Even more immediate at the U.S. national security interests in Africa. Africa's fragile and impoverished States are among the weakest links in the U.S. war on terrorism. Without stability, economic opportunity and democratic progress, these States will grow increasingly vulnerable to exploitation by terrorists and criminal organizations, and remain substantial security liabilities for the United States. The American people have a compelling national security interest in strengthening African economies and democratic institutions to increase African countries' will and capacity to be strong partners in the war on terrorism.

This commission agreed upon a 10-year strategy for increasing capital flows to Africa, incorporating over 30 recommendations. Central to our endorsement of a 10-year strategy are three conclusions. First, the strategy must be built on a practical, committed, and fair partnership between African governments and the private sector.

African States eager to attract foreign investment must embark upon many of the reforms that investors, foreign and domestic, will prize. That is, privatization, tax reform, legal and administrative transparency, and bureaucratic streamlining. In the process of attracting foreign investment, they must also take measures that improve the domestic environment more generally, and make it easier for Africa's own entrepreneurs to succeed.

If economic prosperity is to proceed, African governments will have to accelerate the reform process. They will need to liberalize their economies, reduce their debt, and generate their health and education systems. If African governments fail to tackle these challenges, then no amount of foreign capital will suffice.

It is on the basis of this belief that the Commission on Capital Flows to Africa strongly endorses NEPAD's vision of a compact predicated on the proposition that as Africa undertakes critical political and economic reforms, the West must respond with substantial new public and private resources.

Second, it is our strong view that any comprehensive strategy to increase capital flows must extend beyond AGOA, however successful this initiative may be. It must also include increased trade liberalization, the provision of incentives to American investors, more effective use of the instruments provided by our trade finance agencies, the strategic deployment of foreign aid resources, and targeted efforts to enhance Africa's capacity to uphold its end of the bargain.

And third, we are steadfast in the view that the strategy we propose must be implemented over a period of at least 10 years to give Africa the temporary advantage that has at other times been afforded to other regions and which will, we believe, allow Africa the opportunity to begin to catch up.

For the purposes of this hearing, allow me to highlight just a few of the recommendations. First, of course, the African Growth and Opportunity Act. All of the commissioners, all 28 commissioners are strong supporters of AGOA, but believe it is only an initial step in liberalizing trade between the United States and Africa. Now is the time to rectify AGOA's shortcomings and to build on its early success to help stimulate additional investment and economic growth in Africa.

Several limitations inhibit the ability of qualifying countries to benefit fully from the AGOA legislation. First, each country's eligibility must be reviewed annually, and second, the regime expires, as we've already said, in 2008. Third, apparel imports remain subject to tariff rate quotas, or duty-free caps, as well as restrictions on the source of fabric, and finally, textiles and many other goods are excluded from AGOA benefits.

Africa needs time. Africa needs time to build a vertically integrated textile to apparel sector. The value of the current trade preferences amortize rapidly in view of the new free trade agreement, the many new free trade agreements and global elimination of quotas in 2005. We believe the solution may lie not just in AGOA, but in a package of preferences outlined in our report.

But let me just briefly comment on the AGOA recommendations that we make. First, of course, as we've all said, AGOA should be extended, AGOA benefits in total—we have 2018, which is a 10-year extension. As soon as possible, it would be important to reach that conclusion so that investors recognize the commitment the United States is making to this.

Second, all products coming from Africa should enter the U.S. duty free and quota free. If this is not possible, then all TRQ limits on apparel imports should be lifted immediately to give Africa a head start on the global elimination of quotas in 2005. Additionally, the rules of origin permitting apparel exports from AGOA-eligible African countries made from textiles manufactured outside of Africa or the U.S. should be extended.

Fourth, country qualifications for AGOA should be presumed to last for 10 years, rather than being subject to the current annual review process, which discourages investors. The President should retain the authority to revoke a country's AGOA benefits under extraordinary circumstances.

Now, I'm going to just quickly go through some of our other recommendations, because I know we're limited on time. We have an important recommendation on tax policy. Congress should change to zero the tax on repatriated earnings or new investments by U.S. companies in Africa for a period of 10 years.

On investment policy, the Overseas Private Investment Corporation is critical. The Overseas Private Investment Corporation should be permitted to support investments in all sectors in Africa for 10 years, including sectors currently categorized as sensitive, such as textile and apparel, electronics, agribusiness, and industrial products. OPIC should also be allowed to support investments that promise to provide net benefits for the U.S. economy, instead of being prohibited from supporting projects in which the U.S. may lose one job.

Of course, I have to make a comment on Ex-Im and the export credit agencies. Just briefly, the U.S. should encourage the OECD to enable the export credit agencies to allow 20-year repayment terms instead of 10-year for African projects and, very important, to raise the ceiling for providing credit for local costs from 15 percent to 50 percent of the export value.

On development assistance, we recommend more U.S. assistance should be invested in developing Africa's human capital—this is where Russia was able to turn it around so quickly—and a significant portion should be devoted to the establishment of long-term, low-rate financing vehicles dedicated to small business in Africa, as well as the provision of technical assistance to these small enterprises.

We have a lengthy section on the SMEs and what should be done in Africa, but of course these are the small businesses that create the jobs and the economy. These are the small businesses in Africa that do not have the credit available to do what they need to do in terms of growing their businesses.

Finally, we make a recommendation which relates to the human capital side. The U.S., in conjunction with the other OECD governments and private sector entities should create an African Financial Fellowship Exchange program that would second professionals with finance capital markets, corporate finance or economic policy experience to African countries to work in public and private institutions for a certain period of time.

In exchange, each participating African country would commit two individuals for training for up to 2 years at qualified investment or commercial banks in the U.S. or other OECD countries. This we elaborate on at length, but this could be totally financed by the private sector. We have a lot of talent in the United States. I would welcome the opportunity to assist the Africans and their countries, and would provide a very important basis for training Africans in the U.S. financial community so the Africans would learn how to raise capital and work in the capital markets. In a 10-year period of time we would have generated 1,000 future leaders from Africa, a knowledge of capital markets.

Other countries around the world, including some that you're very familiar with, have over time developed this expertise. Africa does not have it in many of the small countries that needs it.

So in conclusion, clearly the greatest responsibility for Africa's growth lies in Africa's hands. However, our commission strongly believes that there's much that we can and should do. The U.S. should support NEPAD more actively, and encourage the formation of substantially greater regional markets. Moreover, through the types of policy changes the commission recommends, they can also help to spur greater inflows of private capital, a very powerful catalyst for growth.

The commission is well aware that increased capital flows are but one of the many challenges that face Africa. We are confident, however, that increased capital flows can contribute significantly to Africa's development, and that the U.S. Government, together with the G–8 and OECD countries could do much to stimulate and facilitate these flows.

The budgetary cost to the U.S. of what we recommend would be modest, and more than offset, as Africa becomes a stronger trading and investment partner. Moreover, these proposals would pay major dividends in terms of advancing U.S. humanitarian, foreign policy, and national security interests. The Commission on Capital Flows commends these proposals to Congress, and urges that they be considered and adopted as quickly as possible.

Major elements of the 10-year strategy will require new legislation on trade, on tax policy, OPIC, foreign assistance and debt relief. Mr. Chairman, we look forward to pursuing implementation of these initiatives with Congress under your leadership and that of this distinguished committee.

I thank you again for allowing me to testify.

[The prepared statement of Mr. Harmon follows:]

PREPARED STATEMENT OF HON. JAMES A. HARMON, CHAIRMAN, COMMISSION ON CAPITAL FLOWS TO AFRICA

Thank you, Mr. Chairman, for conducting this important hearing on the African Growth and Opportunity Act (AGOA). Its timing is especially fortuitous—just two weeks before President Bush's planned trip to Africa—and affords Senators and other interested parties an opportunity to shape further the Administration's approach to accelerating growth and development in Africa.

I am testifying today in my capacity as Chairman of the Commission on Capital Flows to Africa. The Commission is a high-level, bipartisan and diverse group of experts who believe, as I do, that we can and must do more to increase private sector investment in Africa. On Monday, we released our final report: "A Ten Year Strategy for Increasing Capital Flows to Africa." It is a document of which I am proud, because it offers a comprehensive and bold strategy to accelerate Africa's growth and integration into the global economy. This goal, if achieved, will benefit not only millions of African men and women but also, in many respects, the people of the United States.

Mr. Chairman, allow me to begin by admitting that I came only belatedly to appreciate the potential to the United States, our citizens and investors, of increased trade and investment between the U.S. and Africa. As a veteran of the American financial community, I, like most of my colleagues, focused on other, seemingly more lucrative parts of the world. Like many in the investment community, my sense of

Africa was that it was sufficiently plagued by war, famine, misrule and disease to render substantial foreign investment neither warranted nor advisable. My view changed in 1998 when, as Chairman of the Export Import Bank, I traveled to Africa following President Clinton's historic trip. What I learned was that Africa both needs and can effectively utilize private capital. I saw that smart capital, carefully invested, can yield high returns in Africa. As a consequence, I worked to expand the Ex-Im Bank's operations on the continent from 18 to 34 countries, triggering an increase in exports from $50 million in FY 1997 to $900 million in FY 2000.

THE COMMISSION ON CAPITAL FLOWS TO AFRICA

I left government convinced that the public sector can and should do more to stimulate domestic and foreign investment in Africa. Convinced also that the private sector has an even greater role to play in this regard, I accepted the invitation to serve as Chairman of the Corporate Council on Africa (CCA). As Chairman, I helped to establish in September 2002 the Commission on Capital Flows to Africa, co-sponsored by CCA, the Institute for International Economics, the Council on Foreign Relations and the Joint Center for Political and Economic Studies. The Commission includes 28 leaders from North America, Asia, Europe and Africa with exceptional experience in business, banking, policy research, government, academia, non-governmental organizations and international institutions.

We have deliberated and debated with passion and conviction, not just because we all envision a brighter future for Africa, but primarily because we believe that it is in the United States' interest to help secure sustainable development for Africa's people.

U.S. INTERESTS

The U.S. has significant economic and national security interests in Africa, which underscore the rationale for and urgency of this Commission's recommendations. U.S. interests in Africa extend well beyond historical and cultural ties or the humanitarian and moral imperative to help lift the world's most under-developed region out of poverty and despair. Two broad areas of interest are worth highlighting: economic and security.

Mr. Chairman, our export-led growth depends substantially on the developing world, which is now the source of four out of every five of the world's new consumers. Soon one billion of them will live in Africa. In 2002, U.S. exports to Sub-Saharan Africa were 46 percent greater than those to the former Soviet republics (including Russia), 47 percent greater than to India, and nearly twice those to Eastern Europe. U.S. exports to South Africa alone were larger than U.S. sales to Russia, whose population is more than 3.5 times as large.[1] Yet, the U.S. share of the African market is small—only 7.9 percent, suggesting significant growth potential for the U.S. in the years to come.

Our interests also derive from the fact that Africa supplies over 16 percent of our imported crude oil. It is estimated that within the next decade 20 percent will come from Africa.

Even more immediate are U.S. national security interests in Africa, which are also shared by our OECD and G-8 partners. Africa's fragile and impoverished states are among the weakest links in the U.S. war on terrorism. Without stability, economic opportunity and democratic progress, these states will grow increasingly vulnerable to exploitation by terrorist and criminal organizations and remain substantial security liabilities for the U.S. The American people, therefore, have a compelling national security interest in strengthening African economies and democratic institutions to increase African countries' will and capacity to be strong partners in the war on terrorism.

THE CHALLENGE

The challenge we face is daunting. The average African is poorer today than he or she was two decades ago, and the number of Africans living in poverty has increased steadily during the past twenty years.

Yet, we must not allow Africa's poverty to obscure its potential. Since 1990, for example, 42 of 48 countries in Sub-Saharan Africa have held multi-party elections, and most Africans today have the right to choose their leaders at the ballot box. Though nowhere near adequate, there are recent preliminary indications that Africa may now be starting to see a slight recovery in foreign direct investment, a trend

[1] "U.S.-African Trade Profile," prepared by G. Feldman, Office of Africa, International Trade Administration, United States Department of Commerce, Washington, D.C., March 2003.

that some experts have attributed to significant and positive changes in the investment climate.

The challenge is underscored by compelling but contradictory facts. On the one hand, according to recent World Bank findings, investors reaped higher returns on investment in Sub-Saharan Africa last year than in any other part of the world. On the other, the World Economic Forum recently reported that the international investment attracted by all of Africa's 53 states is slightly less than the amount attracted by Singapore.

Despite the magnitude of the challenge, Africa's economic success and political stability are vitally important both for its own citizens and for the rest of the world. Its success will depend primarily on actions that Africans themselves take to establish strong economic, legal, and political institutions and policies. But it will also depend on supportive steps taken by the United States, the G-8, and other partners around the world.

There are many important components to a strategy for success, but undoubtedly a critical one is to encourage greater capital flows and investment in the region. Official development assistance (ODA) and World Bank lending will not be sufficient to facilitate Africa's integration into the global economy. Africa needs more private capital, more investments and more linkages to global markets to achieve its development goals. The Commission believes that an increase in capital flows to Africa is both critically important and eminently feasible. The Commission also urges that the United States take the lead among the G-8 and OECD countries in responding to this challenge.

A TEN YEAR STRATEGY

The Commission agreed upon "A Ten Year Strategy for Increasing Capital Flows to Africa," incorporating over 30 recommendations in the areas of trade liberalization, tax and investment policies, export credit, development assistance, privatization, debt relief, the New Partnership for African Development (NEPAD) and its focus on peer review and corporate governance, small and medium enterprises, and building Africa's human capital, particularly in finance. The Commission's report elaborates these recommendations in considerable detail and provides a summary of the analysis upon which they are premised.

Central to our endorsement of "A Ten Year Strategy" are three conclusions. First, this strategy must be built on a practical, committed and fair partnership between African governments and the private sector. African states eager to attract foreign investment must embark upon many of the reforms that investors, foreign and domestic, will prize: privatization, tax reform, legal and administrative transparency, and bureaucratic streamlining. In the process of attracting foreign investment, they must also take measures that improve the domestic environment more generally, and make it easier for Africa's own entrepreneurs to succeed. If economic prosperity is to be achieved, African governments will have to accelerate the reform process. They will need to liberalize their economies, reduce their debt, and regenerate their health and education systems. If African governments fail to tackle these challenges, then no amount of foreign capital will suffice. It is on the basis of this belief that the Commission on Capital Flows to Africa strongly endorses NEPAD's vision of a compact predicated on the proposition that, as Africa undertakes critical political and economic reforms, the West must respond with substantial new public and private resources.

Second, it is our strong view that any comprehensive strategy to increase capital flows must extend beyond AGOA, however successful this initiative may be. It must also include increased trade liberalization, the provision of incentives to American investors, more effective use of the instruments provided by our trade agencies, the strategic deployment of foreign aid resources, further debt relief, and targeted efforts to enhance Africa's capacity to uphold its end of the bargain.

Third, we are steadfast in the view that the strategy we propose must be implemented over a period of at least ten years to give Africa the temporary advantage that has at other times been afforded to other regions and which will, we believe, allow Africa the opportunity to begin to catch up.

THE COMMISSION'S KEY RECOMMENDATIONS

For the purposes of this hearing, allow me to highlight our key recommendations, particularly those that pertain to the U.S. government:

1. African Growth and Opportunity Act

All of the Commissioners are strong supporters of AGOA but believe it is only an initial step in liberalizing trade between the United States and Africa. Now is the time to rectify AGOA's shortcomings and to build on its early success to help stimulate additional investment and economic growth in Africa.

Several limitations inhibit the ability of qualifying countries to benefit fully from the AGOA legislation. First, each country's eligibility must be reviewed annually, and second, the regime expires in 2008. Third, apparel imports remain subject to tariff rate quotas, or duty-free caps, as well as restrictions on the source of fabric. Finally, textiles and many other goods are excluded from AGOA benefits.

Recommendations:

- First, the U.S. should extend AGOA benefits until 2018 as soon as possible, so that the current 2008 termination date does not act as a disincentive to investment.
- Second, ALL products coming from Africa should enter the U.S duty-free and quota-free. If this is not possible, then all TRQ limits on apparel imports should be lifted immediately to give Africa a head start on the global elimination of quotas in 2005. Additionally, the rules of origin permitting apparel exports from AGOA-eligible African countries made from textiles manufactured outside Africa or the U.S. should be extended for ten years to 2018.
- Third, and as is the case for Canada and Mexico under the provisions of NAFTA, African countries should be exempted from U.S. safeguard actions that restrain imports in sensitive sectors.
- Fourth, country qualifications for AGOA should be presumed to last for ten years rather than being subjected to the current annual review process, which discourages investors. The President should retain authority to revoke a country's AGOA benefits under extraordinary circumstances.

2. Agricultural Subsidies

Africa's ability to attract capital and increase trade is adversely affected by the domestic agricultural subsidies provided by the United States and the European Union. U.S. agricultural subsidies are a major impediment to African agricultural exports, which would otherwise be a significant source of economic growth on the continent. These subsidies also run counter to U.S. claims that it favors a more open and fair global trading system. The 2002 Farm Bill significantly increased U.S. farm subsidies, creating even greater non-market advantages to U.S. farmers and leading to significant declines in commodity prices, especially cotton, much to the detriment of African farmers. European farm subsidies do even more damage. If the U.S. is serious helping Africans to help themselves and creating opportunities for Africans to connect to global markets, then we must address this issue.

Recommendation: The U.S. should seek to accelerate the reduction or elimination of industrialized countries' agricultural subsidies, such as those contained in the U.S. Farm Bill and the EU's Common Agricultural Program, even in advance of the conclusion of the WTO's Doha Development Round. We also strongly encourage the U.S. to work to speed the successful conclusion of the Doha Round.

3. Free Trade Agreement

The original AGOA legislation enacted in 2000 envisioned an eventual free trade agreement (FTA) with Africa. The Commission applauds the Bush Administration for beginning negotiations for FTA with the five nations that comprise the Southern Africa Customs Union (SACU) but thinks the U.S. vision should be bolder and extend beyond the SACU countries. Other regional organizations such as COMESA, SADC and ECOWAS have also begun to create free trade areas to expand regional markets and facilitate the movement of goods, capital and services.

Recommendation: The Administration should set the goal of creating within ten years a U.S.-Africa Free Trade Area, building on ongoing African efforts to create regional markets. The U.S. should also increase technical assistance to regional organizations to strengthen their capacity to negotiate and implement free trade agreements.

4. Tax Policy

To provide additional incentives to spur new U.S. investment in Africa, the Commission strongly favors bold but affordable changes to the U.S. tax code. Specifically, Congress should provide a time-limited exemption from U.S. taxation for bona fide FDI income earned by a registered subsidiary or branch of a U.S. company doing manufacturing or service business in Africa. This is not a new idea. Congress established a precedent with the Puerto Rico Tax Incentives Act of 1998. A similar incentive would increase the return on U.S. investments in Africa and lower the risk that many potential investors now perceive. Because many OECD countries do not tax their companies on foreign earnings, a zero tax on repatriated earnings would also make U.S. companies more competitive in Africa.

We can afford to do this at a modest cost. Total repatriated income derived by all U.S. firms in Africa in 2000 was $3 billion. As an outside estimate, U.S. tax revenue on the repatriated income would not exceed 10 percent of the $3 billion, or about $300 million annually. This amount would be considered a revenue loss.

For this measure to have its maximum impact, it would have to be taken in conjunction with tax reform in the recipient countries. By cutting corporate and withholding taxes and otherwise simplifying the tax system, African countries can attract more FDI and boost economic activity in a variety of manufacturing and service activities.

Recommendation: Congress should change to zero the tax on repatriated earnings on new investments by U.S. companies in Africa for a period of ten years.

5. Investment Policy

Commissioners agree there is much to be gained from making our official trade agencies more effective. Although Africa suffers from a lack of sufficient equity financing, for example, the Overseas Private Investment Corporation (OPIC)—the principal U.S. government instrument that supports non-extractive foreign direct investment in Africa—is prevented by statute from effectively providing much of this financing.

Originally established to promote development by insuring foreign direct investment against political risk, OPIC's authorizing legislation has become so restrictive that it does not—and currently can not—insure foreign direct investment in labor-intensive manufacturing and assembly projects of the kind that would be most beneficial to Africa. Under existing statute, OPIC is also forbidden from supporting "runaway investments" that result in the loss of a single job within the United States and is restrained from providing insurance or financial guarantees to investments in "sensitive sectors" such as textiles, apparel or agribusiness.

Research shows that outward investment from the United States can significantly increase the flow of U.S. exports to the economy where the investment is located—and thus leads to a greater number of higher-paying, export-related jobs at home. Enabling OPIC to fulfill its role more effectively could therefore benefit both Africans and Americans.

Recommendation: OPIC should be permitted to support investment in all sectors in Africa for ten years, including sectors currently categorized as "sensitive," such as textiles and apparel, electronics, agribusiness and industrial products. OPIC should also be allowed to support investments that promise to provide net benefits for the U.S. economy instead of being prohibiting from supporting projects in which U.S. jobs are lost.

6. Export Credit Agencies

The Commission believes that parallel steps should be taken to enhance the role that our Export-Import Bank can play in tandem with other export credit agencies (ECAs). The availability of long-term debt capital is essential to the growth of the private sector. In recent years, the export credit agencies (ECAs) of OECD countries have collectively provided approximately $70 billion per year in long-term credit for developing countries to purchase goods and services from OECD members. However, less than 5 percent of this amount has gone to Africa. Under the current OECD arrangement, ECAs can finance local costs for African projects only up to 15% of the export value—a limit that constrains financing for many important projects, especially in infrastructure and other sectors where local costs are high. The Commission believes that there are straightforward changes that can and should be made in order to increase the involvement of export agencies in Africa by expanding the availability of long-term debt capital.

Recommendation: The U.S. should encourage the OECD to enable Export Credit Agencies to allow 20-year repayment terms (instead of the current ten years) for African projects and to raise the ceiling for local costs from 15 percent to 50 percent of the export value.

7. Development Assistance

The Commission welcomes the two new major aid programs proposed during the last year, the President's Emergency Plan for AIDS Relief and the Millennium Challenge Account (MCA), provided these initiatives are fully funded and are additive to existing programs and resources. While the Commissioners recognize the importance of investing aid dollars in the so-called "good performers," as the MCA proposes to do, we believe that there is also significant need to invest in the capacity of Africa's moderate performers and weak states to achieve political equilibrium and sustainable economic growth. The Commission concluded that, if indeed private sector growth is a central component of Africa's economic progress, the U.S. needs to invest more development assistance in strengthening the conditions for that growth and in providing the tools that will allow the private sector to flourish.

Recommendation: More U.S. assistance should be invested in developing Africa's human capital (i.e. health and education), and a significant portion should be devoted to the establishment of long term, low-rate financing vehicles dedicated to small business in Africa as well as the provision of technical assistance to these small enterprises.

8. African Financial Fellowship Exchange Program

The Commission believes that it is in the interests of the private sector to help build Africa's capacity to attract and sustain investment. One of our most notable findings, particularly for those Commission members from the financial sector, is Africa's lack of exposure to and limited experience in managing the instruments of international finance, capital markets and corporate transactions. The State Department's aggressive effort to encourage African countries to obtain sovereign credit ratings, for example, is important to Africa's longer term economic future. Yet, there must also be a targeted and deliberate effort to build Africa's knowledge of and linkage to global finance.

Recommendation: The U.S., in conjunction with other OECD governments and private sector entities, should create an African Financial Fellowship Exchange Program that would second professionals with finance, capital markets, corporate finance or economic policy experience to African countries to work in public and private institutions for a certain period of time. In exchange, each participating African country would commit two individuals for training for up to two years at qualified investment or commercial banks in the U.S. or other OECD countries.

9. Debt Relief

Finally, the Commission concluded that, while constraints such as corruption and weak legal systems are more substantial in their impact on private sector capital flows to Africa, a country's debt profile and the effect that has on the creditworthiness of entities inside that country can influence the willingness of foreign sources of capital to extend loans. On the matter of how to address Africa's debt burden, however, the Commission was divided.

Members agree that the U.S. government should support an appropriate process to review the Heavily Indebted Poor Countries (HIPC) debt initiative and consider whether it is desirable to pursue proposals that go beyond HIPC. However, pointing to the fact that HIPC and the Enhanced HIPC program have not enabled African countries to achieve debt sustainability, some Commissioners argued for more specific measures, including capping debt service from all Sub-Saharan nations at 1 percent of GDP, provision of accelerated debt relief for countries emerging from conflict or autocracy, and the creation, by the U.S. and other G-8 members, of a contingency facility that would make supplementary relief available in the event that a HIPC country encounters a severe debt deterioration due to events outside its control.

CONCLUSION

Clearly, the greatest responsibility for Africa's growth lies in Africa's hands. However, our Commission strongly believes that there is much that we can and should do. The U.S., G-8 and OECD governments can provide increased debt relief and more aggressive and directed program of foreign assistance. They can support NEPAD more actively and encourage the formation of substantially greater regional markets. Moreover, through the types of policy changes the Commission recommends, they can also help to spur greater inflows of private capital, a powerful catalyst for growth.

The Commission is well aware that increased private capital flows are but one of the many challenges that Africa faces. We are confident, however, that increased capital flows can contribute significantly to Africa's development, and that the U.S. government, together with the G-8 and OECD nations, could do much to stimulate and facilitate these flows. The budgetary costs to the U.S. of what we recommend would be modest, and more than offset as Africa becomes a stronger trading and investment partner. Moreover, these proposals would pay major dividends in terms of advancing U.S. humanitarian, foreign policy and national security interests.

The Commission on Capital Flows commends these proposals to Congress and urges that they be considered and adopted as quickly as possible. Major elements of the Ten Year Strategy will require new legislation: on trade, tax policy, OPIC, foreign assistance and debt relief. Mr. Chairman, we look forward to pursuing implementation of these initiatives with Congress under your leadership and that of this distinguished Committee.

Thank you.

The CHAIRMAN. Thank you very much, Mr. Harmon, for your testimony, and congratulations on the 10-year strategy report of the commission. It is an important breakthrough all by itself.

I call now on Dr. Spencer.

STATEMENT OF REV. DR. LEON P. SPENCER, EXECUTIVE DIRECTOR, WASHINGTON OFFICE ON AFRICA, WASHINGTON, DC

Dr. SPENCER. Thank you, Senator Lugar, for the opportunity to testify, and for calling this hearing to address ongoing concerns for U.S.-African economic trade relations. I'm also pleased to share this panel with two distinguished colleagues who represent such an extensive knowledge and experience in business and trade, and can help to influence both African economic growth and U.S. trade concerns.

I come to you from the ecumenical Washington Office on Africa, which was created 30 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 dignity and poverty reduction in sub-Saharan Africa, and we've approached the African Growth and Opportunity Act from the standpoint of a faith-based understanding of economic justice.

While critical of some aspects of the African Growth and Opportunity Act and of U.S.-Africa trade policy, we and our colleagues in the Africa Trade Policy Working Group of the Advocacy Network for Africa are neither anti-trade nor anti-AGOA. Our analysis of AGOA instead focuses upon the need for mutually beneficial trade relations, and that has been our ongoing concern, and what we find in AGOA at this stage is that only six African countries significantly increased their exports through the key AGOA benefit of apparel, and the resultant job creation, as in the notable case of Lesotho, has regrettably been accompanied by violations of internationally recognized workers' rights, which is one of AGOA's eligibility conditions.

Simply put, at this stage, benefits of AGOA to Africa have been quite modest, and if the United States is seriously interested about mutually beneficial trade relations with Africa, the question for us is how we can take a symbolically significant yet tangibly modest act and move forward.

I want to restrict my comments in my few minutes to issues specific to our understanding of what we would call fair trade, and I welcome an opportunity during discussion, if it's desired, to note some ongoing concerns with regard to AGOA eligibility criteria, and also opportunities through AGOA for African civil society voices to be heard, which I think is a critical potential benefit from AGOA because of what it says about good governance.

Despite AGOA, I would argue that current U.S. trade policies undermine both fair trade and Africa's societal needs. Moving forward with an alternative vision of U.S.-Africa trade policy, where the U.S. practices what it preaches on free trade, and where ideas of managed trade are not anathema, is crucial for mutually beneficial relations, and here are some possibilities.

No. 1. The Congress should eliminate the stunning domestic agricultural subsidies that limit African options for agricultural export to the U.S. These harmful trade-distorting subsidies are readily seen with regard to cotton in West Africa, although that is not the only example.

In Mississippi, it costs 82 cents to produce a pound of cotton. In Mali, it costs only 23 cents. Subsidized American cotton farmers are depressing world prices and impoverishing families in West Africa. Without addressing the subsidy issue, it is unlikely that any AGOA-plus or AGOA III legislation seeking to expand agricultural exports from Africa to the United States will have the desired effect, and if no steps are taken on subsidies, I respectfully suggest that the United States needs to stop lecturing Africans about free trade.

No. 2. The Congress should affirm the role of the State in addressing the common good by rejecting demands for water privatization, for cost recovery for health care, and user fees for primary education in Africa. Trade policy needs to serve people, not the other way round. Water privatization in particular, where water becomes a commodity for profit, places those in poverty and in rural areas at serious risk.

No. 3. 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. An acceptance by the U.S. of a substantive, not merely procedural review of TRIPS 27.3.b, with serious attention given to the Africa Group's views, are appropriate ways forward.

No. 4. The Congress should mandate that the U.S. should respect the sovereignty of African countries to define their own policies regarding genetically modified organisms. The implication of the recent U.S. Leadership Against HIV/AIDS Act to the effect that any nation receiving U.S. assistance to confront the AIDS pandemic cannot refuse food assistance that has been genetically modified is arrogant, and it is wrong, and legal corrections should be made.

No. 5. The Congress should mandate that the U.S. should fully embrace the spirit of the Doha declaration regarding access to affordable medicines. The Bush administration's unilateral response to the agreement at Doha to resolve the question of access by countries lacking the capacity to produce such drugs themselves is unsatisfactory.

Moreover, despite the fact that Trade Promotion Authority Act specifically includes respect for the Doha declaration as one of the principal negotiating objectives of the U.S., there remains grave risk that in the current negotiations for a Southern Africa Free Trade Agreement, the U.S. will seek to impose TRIPS plus standards that it has been unable to secure otherwise. The Congress should act to prevent this distortion of that which was agreed at Doha.

No. 6. And finally, the Congress should find avenues to commit the U.S. to give precedence to peace and conflict resolution over trade considerations. U.S. hesitancy over action on conflict diamonds on the grounds that the Kimberley process might violate

WTO rules fails to ask whether trade rules are to exist in their own untouchable domain, or whether trade rules should serve a broader social agenda.

The Bush administration's opposition to capital market sanctions against foreign oil companies doing business in Sudan, despite a clear correlation between increased oil revenues and increased military expenditures by the Government in Khartoum on the grounds that there should be no interference with Security and Exchange Commission rules, is another case in point, and the exportation of natural resources in the Eastern Congo during this ongoing regional war in the DRC has barely been addressed. The Congress needs, I believe, to remain attuned and prepared to act when trade undermines rather than advances a just peace.

These potential actions, Senator, by the Congress represent a way forward in U.S. 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 a longer eligibility period, the extension of textile benefits beyond 2008, and the proper place for capacity-building in the direct context of the African Growth and Opportunity Act, and I welcome the testimony today on these points, but unless the U.S. makes it clear that we consider Africans as genuine partners, able to define their own economic agenda, who may find, without hindrance, public as well as private means to address the needs of people, and who find support in the trade realm to secure peace with justice, then we will be undermining our own U.S. interests. We will be projecting an image that our economic dominance permits us to ignore the needs and hopes of Africa, and AGOA, unfortunately, with all the potential it represents, will remain only a gesture.

Thank you for the opportunity to share these views.

[The prepared statement of Dr. Spencer follows:]

PREPARED STATEMENT OF REV. DR. LEON P. SPENCER, EXECUTIVE DIRECTOR, WASHINGTON OFFICE ON AFRICA, WASHINGTON, DC

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.

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.
- 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?

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 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 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 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 Cartegena 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.
- 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 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 2003 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.

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.

The CHAIRMAN. Well, thank you very much, Dr. Spencer.

Let me just say, I think your testimony is very compelling. Clearly the value of discussing procedure and justice and all the aspects simultaneously is important. As you recognize through your work over three decades, the legislative process is cumbersome. The compromises are extensive.

I just pull things totally out of context, because this is not the most important part of your testimony, but clearly I'm on your side with regard to agricultural subsidies. I would just say that in the farm bill prior to the current one we had much greater success in moving toward that direction. We had some reverses in the last go-round which I regret, but I think the point that you have made is likewise being made by countries all over the world that we really will have to, in the area of food and agriculture, rethink some of our own policies.

I've been intrigued by the European Union discussion in the last few days, as they try to grapple, I hope successfully. They have had some difficulty there, too, in coming to grips with what we must do. We ought to have a worldwide movement in this direction.

This is very applicable to the African sector. I think that Mr. Hayes mentioned that textiles are extremely important. Agriculture in many ways offers an area of equal if not greater importance, and is stymied in some ways by what we have talked about today.

Let me just ask of all three of you, how should we go about the business of either training or education? The possibilities have always been there, I suppose, for something comparable to what the United States did in a private sector way, in bringing hundreds of young Russians to financial institutions in this country for a period of time, on the assumption that it would be very difficult for the Russian economic and banking system to be compatible with our own without some expertise. The argument was always over the critical mass. How many people, given the size of that country, do you need?

I remember suggesting in one commencement address 10,000 as a round number, as a critical mass that might begin to get the flow going in a significant way. Much has been done, but as has been pointed out today, this type of thought with regard to Africa has been minimalist. How is this investment flow going to occur? How do people go about raising capital, even? The basics of this would be critically important.

Who ought to take the initiative? Are there private institutions, business people? Are there universities? To what extent should Congress encourage exchange programs or educational programs and initiate this? Do any of you have ideas as to how we ought to proceed?

Mr. HARMON. To support what you just said, I was always interested while at Ex-Im Bank that certain countries initiated discussion with me about sending over teams of people to learn as much as they could about export credit, the leading being the Chinese, who wanted 20 people to sit in offices for 6 months, but the Russians were smart enough to pick up, also. Why shouldn't they learn about the technical aspects?

Sadly, in all those years we never had such a suggestion being made from Africa. We have to be more proactive here in the United States, lead the effort on the human capital side, but the Africans have recognized the importance of this, and as I explored within this new program, which I did discuss with the White House already, of something that could be private-sector-driven. That way it would be from a budget point of view much easier to do.

We took this one sliver of human capital relating to the capital markets and finance, which certain Western European countries did, and which I worked on in the early 1980s with Italy, which created their own merchant bank at the government level, that owned 50 percent, but they trained many, many people there, but ideally, this program which we recommend, which, as I say, would be financed by private sector banks in the United States but I think also in Europe and Asia, because we had commission representation from those parts of the world, would give an initial start to Africans to send two people from each country to be trained in this one area, and in turn, the banks would send people there.

If this program works, and I suspect it would, it has to be monitored and trained, it really needs the support of the White House, not financially, but in some ways it has to have the stamp of credibility, much as we know other programs have done this on an international basis. Then I think you would have such prestige attached to it, there would be a lot of focus on it.

Now, on the African side, the Africans of course have been so enthusiastic about this in the conversations I've had with certain countries, that they have said, we don't want to wait for the Congress, the White House to act. It takes too long.

As one country said to me yesterday, we will contribute ourselves, if you could help us organize where two or three of our people could be trained at these institutions, and in turn, the private sector American institutions, to their credit, have wanted to participate to give back something from the business they have been doing in the developing countries, so I see this as therefore being a bit of a partnership between the public and the private sector, funding coming from private sector, support from the public sector.

On the other side, the Africans recognize that you need long-term education, and therefore in a number of countries there is an effort now to really seriously start to build university-level education and expansion, and a number of somewhat encouraging signs, but this will take time, and in this interim time period I think the richer countries of the world have got to take the initiative of supporting as best they can all the things that we've talked about now, in terms of specific training programs.

Finally, we're hopeful that the Millennium Challenge Account, should it, or when it becomes effective, will actually focus a bit, more than a bit on technical training, on this very important area, not only in finance, but a number of other sectors, too, so we have to leverage, quote, our funding with very specific technical training to bring Africa up to a competitive position.

Thank you, Mr. Chairman.

The CHAIRMAN. Let me just mention, regrettably, the Senate winds on in its own way. We have just entered the first, I understand, of at least three consecutive votes with no pauses. In a fairly short point I'm going to have to adjourn the hearing.

Before I do that, though, I want to offer an invitation for other members of the committee who are not present to extend questions to you, and I hope in the next few days you might be forthcoming in the event that some questions come, so that we may have a complete record.

I just want to note that each one of you in your own way has said that AGOA is a modest beginning, and that is true. It was a threshold situation, very difficult to get across the finish line, but important to do.

Each of you in your own way has talked about legislation regarding AGOA today, and what should be extended and when and so forth. There may be other pieces of legislation and/or resolutions or activities by the Congress that are appropriate quite apart from AGOA. In addition, I have noted your suggestions with regard to some of that but you may want to amplify them.

Now, this is an invitation to do that, if there are either legislative language or resolutions that could be offered that show an emphasis and enthusiasm. Each of you in your own way has also pointed out that AGOA, and for that matter an increased interest in Africa, is extremely important for our country, important, as you pointed out, Mr. Harmon, in the grim sense of the war on terrorism, but even more important in the idealism of the American people and moving ahead in various ways, whether it be in the educational way or, as Dr. Spencer has pointed out, with regard to medicines, with regard to water, and our attitudes in each of these situations.

Obviously, AGOA is a trade agreement, so we're talking about trade, but the compatibility of that with our humanity and our idealism is important. We need to be thinking through that likewise, both in our legislative language and in our rhetoric surrounding the situation.

The small business aspect that you mentioned, Mr. Hayes, I think is very important. It may be in the short run more appropriate, but which small businesses, and how do you find them, and as you mentioned, tremendous interest on the African side, as many as 1,000 people coming to one of your 18 situations on the American side, maybe not as clear how many people turn out. How do we stimulate that situation, so that there are people that are going to intersect in those ways?

I mention those situations in part to indicate that I have been listening, and I appreciate the extent of your testimony, the expertise you bring. I regret that we will not be able to extend the hearing longer, but I thank you for making a good record for us. This is a benchmark as we try to push the ball forward. You have both contributed, or all three have contributed mightily to that effort, and we're grateful to you.

The hearing is adjourned.

[Whereupon, at 11:10 a.m., the committee adjourned, to reconvene subject to the call of the Chair.]

Additional Statements Submitted for the Record

Prepared Statement of Senator Lamar Alexander

Mr. Chairman, I want to apologize for not being able to attend this morning. Because of difficulties in my schedule, including an important mark-up in the Health, Education, Labor, and Pensions Committee, I am not able to be with you today. Thank you for your leadership on this issue.

I want to thank Chairman Lugar for holding this important hearing on the Africa Growth and Opportunity Act (AGOA). The Chairman was a driving force behind AGOA in the Senate, and worked tirelessly and persistently to bring it to fruition when it finally became law in 2000. As Chairman of the Subcommittee on African Affairs, I am fortunate and grateful to have a full-committee Chairman who shares the desire to find ways to help Africans help themselves. That's exactly what AGOA does, and it doesn't hurt the United States any, either.

AGOA provides opportunities for African nations to build trade with the United States, reducing tariffs and other barriers for eligible countries. African countries become eligible by meeting a number of criteria, including working toward:

- market-based economies;
- the rule of law and political pluralism;
- elimination of barriers to U.S. trade and investment;
- protection of intellectual property;
- efforts to combat corruption;
- and more criteria relating to human rights, health, and education.

These criteria promote U.S. trade and security interests, and also steer African countries toward a course of stability and prosperity. As incentive, AGOA offers reduced tariffs and trading barriers to work toward these important goals. AGOA-eligible countries receive trading status second only to those countries with which the U.S. currently has a free trade agreement.

AGOA is still relatively new, and the full impact of the act has yet to be felt, but we can see some important preliminary results today that point to the success of this approach. From 2001-2002, AGOA imports grew by 10%, while total U.S. imports grew by only 2%. During that same time, overall imports from sub-Saharan Africa actually fell, though AGOA imports grew. This discrepancy creates a powerful incentive for African countries to qualify for and participate in AGOA.

I should also note that AGOA has the potential to be good for my own State of Tennessee. Sub-Saharan Africa's number one import from the U.S. is transportation equipment, which is also Tennessee's number one export. For example, sub-Saharan Africa imported more than $230 million worth of motor vehicles and parts in 2002—the leading Tennessee export.

I'm sure during the course of this hearing we'll learn ways to improve upon AGOA, and I look forward to working with Chairman Lugar and my colleagues on this issue. One thing, however, is clear: AGOA's foundation is sound. Opening up the doors to trade in exchange for meeting relevant criteria creates a powerful incentive for African countries to open their markets to American products and create an environment conducive to foreign investment.

PREPARED STATEMENT OF AMNESTY INTERNATIONAL USA,[1] BY ADOTEI AKWEI, AFRICA ADVOCACY DIRECTOR

HUMAN RIGHTS AND THE AFRICA GROWTH AND OPPORTUNITY ACT: MAKING SURE A GOOD IDEA DOES GOOD THINGS

INTRODUCTION

Mr. Chairman, and distinguished members of the Subcommittee, on behalf of Amnesty International USA, I would like to express our appreciation for allowing us to submit this document to your committee. The Senate African Affairs Subcommittee has been one of the most consistent allies in the struggle to protect human rights in Africa and for positive US engagement in helping Africans meet the challenges and crises that they face.

Amnesty International USA feels that when human rights standards are used as criteria, they should be used in a way that does not diminish their integrity. At the same time if the human rights reforms countries must achieve are spelled out then those countries must be held to those standards or else the integrity of the standards for AGOA and for other initiatives will be undermined. In other words they should be enforced. As currently used in AGOA, the integrity of fundamental human rights, even those specifically spelled out in the bill, have not been articulated in the strongest possible manner. As a result the human rights criteria of AGOA could have a negative impact on the efforts of AGOA as well as other US government initiatives to promote human rights in Africa. We hope that some of these problems can be addressed in such a way that the goals of the bill are realized.

In our view, the concept behind AGOA represents the spirit of engagement and partnership with Africa that should be encouraged. However, even the most well-meaning plans sometimes need fixing or else they can potentially do unintended damage. This is how we are approaching this hearing and how we regard AGOA.

We do not take a position on the economic aspects of AGOA. However, when human rights are involved, either as criteria for eligibility for participation or as a goal of the initiative, we are extremely interested in the findings and the methodology behind the report. We are also concerned over what the implications and results of the initiative are on the protection of fundamental human rights in these countries.

Our document today will look at the following areas:

I. Recommendations

II. Review of the Concerns AIUSA Has With Human Rights Eligibility Criteria

III. Conclusions

I. RECOMMENDATIONS

Amnesty International's mandate precludes us from taking a position on whether a country should be considered eligible or not for AGOA benefits so our comments are directed towards two goals:

1. Having an accurate discussion of the state of human rights within the countries currently considered eligible and,

2. Making sure that the human rights criteria used in AGOA are in keeping with other standards currently adhered to by the international community and the United States Government.

---

[1] This testimony would not have been possible without the help of Krista Riddley and Amartey-Nuno-Amarteiflo.

Amnesty International USA recommends the following steps to the US Congress and the Bush Administration:

- The human rights eligibility requirements need to be more comprehensive. It is our experience that the protection of fundamental human rights must be approached in as holistic a manner as possible. The establishment of the rule of law, for example, also involves ending impunity and enforcing accountability for security forces and militaries as well as the repeal of repressive legislation that facilitates the violation of civil and political rights. It also demands the ability for independent monitoring by civil society and other non-governmental organizations. If these areas are not addressed and monitored then efforts to ensure independence of the judiciary, due process and access to fair trials will be ineffective. At a minimum the spectrum of human rights to be evaluated should be consistent with the categories spelled out in the annual Department of State Country Reports on Human Rights Practices (hereafter referred to as DOS HR Report).
- The standard of what constitutes the evaluation of "established or making progress" needs to be more clearly defined. Throughout the country report entries, reference is made to commitments made by governments to implement reform. While this can sometimes represent a major step forward on human rights issues, a number of governments have perfected the art of making promises, taking initial steps such as passing laws, but retaining other legislation that over rides the reformist legislation. Other governments have gone as far as creating human rights organs ostensibly to conduct investigations but then retaining the right to appoint the members of these bodies while severely restricting and harassing independent non-governmental human rights organizations. Still others have a rich history of doing nothing and here attention to a government historical record is extremely important. I look forward to the next AGOA report to see what commitments have been acted upon and which have joined the realm of empty promises—and what the consequences will be.
- The United States Trade Representative's (USTR) country reports need to be revised to include more accurate, consistent and detailed data on the human rights criteria in a manner similar to the precision and detail of the way the economic reform requirements are described. This will be important not only to show the areas in need of improvement but also to reflect accurately where resources and a genuine effort have been made on human rights reform. The report should make more use of human rights information from non-governmental organizations such as democracy, labor and human rights groups as well as the information from the Department of State's Bureau for Democracy Human Rights and Labor. Critical input could and should also come from local human rights groups in the African countries themselves.

II. REVIEW OF THE CONCERNS AIUSA HAS WITH HUMAN RIGHTS ELIGIBILITY CRITERIA

In reviewing the human rights criteria for country eligibility AIUSA focused on section 104 of AGOA and section 502 of the Trade Act, which state that:

> A country will be considered eligible to participate if that country has established, or is making continual progress toward establishing—

The rule of law, political pluralism, and the right to due process, fair trial and equal protection under the law;

Or if it

> does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities.

A. The Rule of Law

When one refers to the rule of law one is usually assumed to be referring to issues such as independence of the judiciary, due process, including the right to be free of arbitrary arrest and detention, torture or ill-treatment, the right to fair trial, transparency and accountability of ordinary citizens and government officials including the security forces. We would assume that an impartial, independent professional legal system would be a special area of interest for AGOA as this has direct impact on the conduct of trade and business. AGOA does spells out in some detail numerous free market economic reforms as eligibility criteria. This attention to detail is unfortunately not repeated in the human rights sections raising serious concerns as to whether the goal is to have the rule of law established for the country as a whole or whether the focus is to have effective justice limited to the realm of commerce.

The USTR country reports do not address the rule of law in all of the thirty-five countries currently eligible and when it does it does, it does not evaluate them in a consistent manner. In the countries in which the rule of law is referred to, eight of them are said to have independent judiciaries: Benin, Cape Verde, Ethiopia, Malawi, Mauritius, Sao Tome, Senegal and Tanzania. The judiciaries in nine others are deemed not to be independent: Cameroon, Chad, Djibouti, Gabon, Guinea Bissau, Kenya, Mozambique, Rwanda and Seychelles. Six more countries are referred to but the state of their judicial systems is not described as either independent or subject to external influence. These countries are Botswana, Ghana, Guinea, Mali, Swaziland and Zambia. In following five countries, the state of the judiciary is not even addressed: Central African Republic, Republic of the Congo, Eritrea, Lesotho and Namibia.

The USTR reports poorly cover the issue of fair trials. No information is provided on the ability of the judicial system to provide fair trials in Cameroon, Cape Verde, the Central African Republic, the Republic of the Congo, Ethiopia, Lesotho, Mauritius, Sierra Leone, South Africa, Swaziland and Tanzania. The data on the others countries is revealing if not grim. Only two countries are currently seen to provide fair trials; Benin and Sao Tome. Other countries such as Chad, Eritrea, Gabon, Guinea, Guinea Bissau, Mauritania, Nigeria, Rwanda and Seychelles suffer from irregularities such as arbitrary arrest or ill treatment while in police custody.

Several of the countries that are not covered on this topic have serious problems with the lack of independence of the judicial systems, access to fair trials and we would add impunity. Others seem to have received only very rudimentary coverage.

The USTR report entry for Ethiopia mentions that their human rights record is poor but does not give details. It also indicates that progress is being made in some areas, but doesn't specify which areas. In AI's 2003 report on Ethiopia several serious human rights concerns were documented. For example:

- Police shot dead over 230 people and detained several hundred more in Oromia and the southern region in connection with demonstrations, mostly peaceful.
- Journalists and government critics were arrested and some sent for trial.
- Several death sentences were imposed but no executions were reported.
- There continued to be a pattern of arbitrary and incommunicado detention without charge or trial of people suspected of links with opposition groups such as the OLF and ONLF. Numerous people were detained and tortured in the Somali region for alleged links with the ONLF, particularly after ONLF operations in the region.
- Torture of political prisoners, particularly those accused of links with armed opposition groups, continued to be frequently reported.
- There were continuing reports of killings of civilians by the police and army in circumstances suggesting extrajudicial executions or unlawful killings.

The USTR report in 2002, stated that Cameroon was determined eligible for AGOA based on assurances from the government that it would undertake an investigation of human rights abuses and punish those responsible. In 2003 Cameroon is still eligible although the same human rights concerns remain a factor. This is not mentioned in USTR 2003 report. In AI's 2003 report on Cameroon, we found that,

- Security forces continued to ill-treat criminal suspects, political activists and members of ethnic minorities in police stations. At least one person died in custody, allegedly as a result of torture by the gendarmerie.
- Members of the Southern Cameroons National Council (SCNC) were arrested and detained without trial for weeks. Human rights defenders and independent journalists were harassed and intimidated by the security forces and, on occasion, detained without charge for weeks.
- Eighteen detainees sentenced in 1999 to long prison terms after an unfair trial remained in prison; some of them were suffering serious health problems.

The 2002 US State Department Human Rights Report for Cameroon also noted that:

- The Government's human rights record remained poor, and it continued to commit numerous serious abuses.
- Security forces committed numerous unlawful killings and were responsible for disappearances. They also tortured, beat, and otherwise abused detainees and prisoners, generally with impunity.

- Prison conditions remained harsh and life threatening.
- Security forces continued to arrest and detain arbitrarily various opposition politicians, local human rights monitors, and other citizens, often holding them for prolonged periods, often without charges or a chance for trial arid, at times, incommunicado.
- The judiciary remained corrupt, inefficient, and subject to political influence. The Government infringed on citizens' privacy, and monitored and harassed some opposition activists.

B. The Commission of gross human rights violations

Amnesty International finds USTR's decision to limit to the scope of it human rights assessments disappointing and disturbing. It in effect limits attention and possible action by the United States to situations that have already deteriorated to near crisis conditions where the options for intervention are limited and usually costly. Amnesty International believes that the situations where gross human rights abuses are committed are preceded by periods of worsening violations and growing impunity. Violations that impact the lives of the civilians of the country involved and which can be challenged and stopped at that point more easily then at a later date. The most powerful example of this remains the 1994 genocide in Rwanda where reports of abuses by the security forces and smaller scale massacres were ignored by the international community right up to and through the genocide, resulting in the loss nearly a million lives. We would strongly urge that AGOA's commitment to protect human rights be more comprehensive in its focus and in it coverage. A review of some of the countries currently eligible and covered in the country entries will underscore the need to report on and evaluate all civil and political rights.

For example, in AI's 2003 report on Eritrea, states that dozens of prisoners of conscience arrested in September and October 2001 remained in secret detention at the end of 2002 without charge or trial. They included former members of the government who were calling for democratic reforms, and journalists. During 2002 there were many further arrests of government critics and people refusing compulsory military service. Torture and sexual abuse of army protesters were reported. Hundreds of political detainees detained in previous years remained held in secret without charge or trial. In addition, hundreds of prisoners were serving long prison terms imposed after unfair trials by the Special Court or were detained pending trial by this exceptional court. Some cases were believed to have political elements. The Special Court, set up in 1996 to try corruption offences, denies the right to legal representation or appeal and has military judges with little or no legal training.

The situation in Rwanda is also disturbing. AI stated the following in its 2003 report on Rwanda:

- "Disappearances", arbitrary arrests, unlawful detentions and torture and ill treatment of detainees were reported.
- There were approximately 112,000 individuals in detention at the end of 2002; around 100,000 were suspected of participation in the 1994 genocide. Many had been held for prolonged periods without charge or trial, in conditions amounting to cruel, inhuman or degrading treatment.
- In eastern Democratic Republic of the Congo (DRC), Rwandese military and allied forces were responsible for the deaths of civilians; torture, including rape; "disappearances"; and the systematic harassment of human rights defenders. Many perpetrators of human rights violations, particularly state security agents, both within Rwanda and in the eastern DRC, continued to benefit from impunity.
- Grave human rights violations committed by state security agents were largely ignored.
- Several people were detained for their alleged connections with political opposition figures.

There are ongoing concerns about Ethiopia, which has continuing domestic human rights violations that could have been addressed. AI noted the following in its 2003 report:

- Many human rights violations including torture, rape and extrajudicial execution were reported, particularly in conflict zones in the Oromia and Somali regions.
- Prison conditions were harsh and many prisoners were held incommunicado or were feared to have "disappeared".

To further illustrate the point the various violations taking place in Ethiopia, the 2002 DOS Human Rights report entry for Ethiopia states the following:

- Security forces committed a number of unlawful killings and at times beat and mistreated detainees. Prison conditions remained poor.
- The Government continued to arrest and detain persons arbitrarily, particularly those suspected of sympathizing with or being members of the OLF.
- Thousands of suspects remained in detention without charge, and lengthy pretrial detention continued to be a problem.
- During the year, neither the Human Rights Commission (HRC) nor the Office of the Ombudsman was operational.

Unfortunately, it seems that various countries continue to commit numerous abuses, including extra-judicial killings, disappearances, torture and other crimes against humanity. Though AI's 2001 AGOA testimony highlighted the grave human rights abuses occurring in these countries, commitments made seem not to have been acted upon and little evidence suggests that there has been implementation or adherence to human rights reforms.

III. CONCLUSIONS

Mr. Chairman, as I stated at the beginning of my text, AIUSA is not here to say which countries should be eligible and which should not. We are here to offer constructive criticism on how human rights should be used as criteria and to share our perspective on the human rights situation in a few of the countries in question.

We hope that we have been able to successfully paint an accurate picture of the countries and issues involved, so that the reform that AGOA will hopefully stimulate will be meaningful and have a genuinely positive impact on the lives of the people in those countries.

Our review presented here was not meant to be comprehensive as there are other documents, some cited here, that already do that. This review is meant to show that the next USTR report can and should be strengthened or else AGOA's provisions might undermine AGOA goals of promoting human rights along with economic development. Input and consultation with non-governmental organizations both here in the United states and in Africa will strengthen this area of the bill and will also actualize the called for human rights reforms. We sincerely look forward to working with you on the subcommittee, with other human rights, labor and democracy colleagues and USTR towards this goal.

Thank you.

RESPONSES TO ADDITIONAL QUESTIONS FOR THE RECORD

RESPONSES OF FLORIZELLE B. LISER, ASSISTANT UNITED STATES TRADE REPRESENTATIVE FOR AFRICA, TO ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED BY SENATOR RUSSELL D. FEINGOLD

Question 1. Please describe for me the process for reviewing the AGOA eligibility list. I understand from the 2003 Annual Report to Congress on AGOA implementation that USTR chairs a Trade Policy Staff Committee to examine eligibility issues annually. I presume that when human rights criteria come up for discussion, the USTR defers to the State Department's assessment of whether or not a given country has met the standard laid out in the legislation. Is that accurate, or is USTR being asked to opine on such matters? Is a representative from the Bureau of Democracy, Human Rights, and Labor at the table during these discussions?

Answer. The State Department is an active member of the Trade Policy Staff Committee (TPSC). As the TPSC undertakes the annual AGOA eligibility review, every effort is made to ensure that all AGOA eligibility criteria are assessed for each country, including those related to internationally-recognized worker rights, human rights, and elimination of the worst forms of child labor. First, agencies such as Labor, USAID, Commerce, Agriculture and State—including the Bureau of Democracy, Human Rights, and Labor—provide reports to the TPSC on the economic, social, and political climates of different African countries. Moreover, these reports describe how each country views and handles human rights. Each TPSC agency assesses which countries are making continued progress in meeting AGOA's human rights and labor criteria. The TPSC also publishes a Federal Register notice in order to solicit comments from the public at large on countries' potential eligibility. Human rights represents one of the principle factors the Trade Policy Staff Committee members consider in the AGOA eligibility process.

Question 2. Eighty-seven percent of AGOA imports originate in three countries—Nigeria, South Africa, and Gabon. What will it take to make AGOA more meaningful for a larger group of sub-Saharan states?

Answer. AGOA's support of free markets and trade has proven to simulate economic growth, help sub-Saharan Africa integrate into the global economy, and encourage a solid U.S.-Africa trade relationship. In evaluating AGOA's impact on countries benefitting from its provisions, a clear distinction needs to be made between countries who export petroleum under AGOA and those who do not. Three-quarters of AGOA imports were petroleum products from countries such as Nigeria and Gabon. AGOA exports excluding petroleum show that the benefits are more widely distributed.

We would like to expand AGOA benefits across more countries and sectors. Although many African countries have access to the U.S. market, some of them possess a limited number of export commodities or cannot effectively supply their products to the U.S. Making AGOA more meaningful for a larger group of sub-Saharan states will require us to address their supply-side constraints. The following are some challenges and possible steps that could be taken by the United States government.

- The U.S. should work with African governments to provide trade capacity building and technical assistance that alleviates these serious supply-side constraints and overcomes the impediments to freer trade. This will require implementation of an industry/manufacturing strategy that focuses on the diversification of each country's export base beyond oil, raw commodities, and apparel.
- We recognize that many of these countries have also identified a comparative advantage in agriculture, but these countries have found U.S. agricultural domestic support and sanitary and phytosanitary (SPS) regulations as restrictions limiting AGOA trade in agriculture. The U.S. should continue to actively assist African countries in their efforts to meet U.S. SPS requirements.
- Some AGOA countries also encounter difficulties in creating competitive industries and investor-friendly commercial environments. As the leading source of foreign direct investment in Africa, the United States should further mitigate this problem through enhancing support for U.S.-African business partnerships and investment in key sectors in all AGOA countries.
- Promoting small business is another major challenge given the important role of small business in economic growth and development. The United States should endeavor to aid in additional technical assistance programs that effectively bring together small U.S. and African businesses.
- Trade financing and access to credit also present a serious challenge to AGOA implementation and trade development. In addition to the U.S. financing provided by OPIC, EX-IM Bank and TDA, African countries are setting-up well-managed trade development and financing funds. The U.S. government should ensure that these countries continue to foster fruitful financing relationships between itself and African businesses, as well as with African finance and credit institutions.

The development of a viable textiles and apparel industry has traditionally been a "gateway" for industrialization and economic development. Although this sector has begun to prosper as a result of AGOA, further development of a sub-Saharan African textiles/apparel industry faces two major challenges in the near future.

- First, the expiration of AGOA's third country fabric provisions in September 2004 is causing some serious concern. AGOA currently provides Lesser Developed beneficiary countries with duty-free access for apparel made from third-country fabric. USTR is trying to evaluate this issue and review the possible effects of a short-term extension of AGOA's third country fabric benefits. USTR looks forward to working with Congress to examine ways that an extension could support current operations, while maintaining the incentive to develop fabric and yarn industries in Africa.
- Second, AGOA is preparing for the post-2005 phase-out of the country quotas under the WTO Agreement on Textiles and clothing. The elimination of quotas is widely expected to lead to greater competition and significant changes in the scope and nature of global textile and apparel trade. USTR will make every effort to address the challenges presented by textile and apparel trade in the post 2005 environment through a series of consultations with Congress, the private sector and African governments.

The U.S. government can help African countries to maximize AGOA, accelerate the diversification process, and provide solutions to all of the preceding concerns through trade capacity building initiatives. AGOA III can provide an opportunity to ensure greater success for more sub-Saharan countries by providing easier access to the U.S. market and effectively addressing the challenges hindering African nations from fully participating in the global trading system.

RESPONSES OF HON. WALTER KANSTEINER, ASSISTANT SECRETARY OF STATE FOR AFRICAN AFFAIRS, TO ADDITIONAL QUESTIONS FOR THE RECORD SUBMITTED BY SENATOR RUSSELL D. FEINGOLD

Question 1. Please describe for me the process for reviewing the AGOA eligibility list. I understand from the 2003 Annual Report to Congress on AGOA implementation that USTR chairs a Trade Policy Staff Committee to examine eligibility issues annually. I presume that when human rights criteria come up for discussion, the USTR defers to the State Department's assessment of whether or not a given country has met the standard laid out in the legislation. Is that accurate, or is USTR being asked to opine on such matters? Is a representative from the Bureau of Democracy, Human Rights, and Labor at the table during these discussions?

Answer. USTR chairs the TPSC meeting to discuss AGOA eligibility for the following calendar year in the fall, at which participating agencies (including State, USTR, Commerce, Treasury, Labor, Agriculture, USAID, and NSC) consider the AGOA eligibility criteria for each country, including those related to internationally-recognized worker rights, human rights, and elimination of the worst forms of child labor. Participating agencies provide reports to the TPSC on the economic, social, and political climates of different African countries, including human and labor rights, drawing on their own sources and reporting from our Embassies in Africa. Each agency makes its own assessment of which countries are making continued progress in meeting AGOA's human rights and labor criteria.

The Bureau of Democracy, Human Rights, and Labor (DRL) works with the Bureau of African Affairs (AF) and the Bureau of Economic and Business Affairs (EB) in drafting the State Department's report on AGOA eligibility and in determining State's position. Normally EB represents State at TPSC meetings, but AF and DRL join EB in participating in TPSC meetings on AGOA eligibility.

Question 2. AGOA allows for extending trade benefits to countries that may not have achieved all of the eligibility criteria laid out in the legislation, but are making continual progress toward that end. Do the annual country eligibility reviews identify in any way what sort of specific actions or benchmarks would constitute "making continual progress toward establishing" the rule of law and political pluralism, so that participating countries have a sense of what the review committee will be looking for the next time, and so that our diplomats in the field can be more effective advocates for reform? Can you identify some specific policy objectives identified in the 2002 review that were revisited during the 2003 evaluation?

What about the case of Eritrea? Please explain what issues relating to the rule of law, political pluralism and the right to due process were identified in the 2002 review. Was any progress on these issues identified when the 2003 review occurred? If not, why didn't the administration revoke Eritrea's AGOA eligibility?

Answer. Following the annual review process, we inform all countries found ineligible of our main concerns. In addition, we inform some countries that, although we are recommending that they remain eligible, we have areas of concern, and we describe those concerns. We maintain an ongoing dialogue with several African countries concerning specific areas of concern. In many instances, we have seen improvement as a result of our engagement.

The fall 2001 review for Eritrea raised serious questions about then-recent negative developments in rule of law, political pluralism, and due process. In January 2002, Secretary Powell sent a letter to Eritrea noting our concerns regarding the incarceration without charge of political dissidents and journalists, the closure of the independent press, failure to implement the Constitution ratified in 1997, the postponement of parliamentary elections scheduled for December 2001, and the arrest without charge of two Foreign Service National employees of the U.S. Embassy in Asmara. Since these developments had only recently taken place, we encouraged Eritrea to take steps to resolve our concerns and preserve its eligibility under AGOA before the next annual review.

In the fall of 2002 the situation remained largely unchanged. The TPSC review noted additional negative developments concerning freedom of religion. There were significant concerns however within the TPSC about the possible negative impact on trade and investment in AGOA countries of removing a country from AGOA without some sort of public advance warning. These concerns related to the broader

AGOA program rather than to trade and investment with Eritrea, which are negligible. For that reason, we outlined our specific concerns about economic openness, sound economic management, good governance, and human rights in a letter from Secretary Powell that was presented to Eritrea in January 2003. The letter informed the Eritrean government that we would hold an extraordinary midterm review of its eligibility in 2003. The letter further stated that if significant progress were not demonstrated in the areas outlined, we would make a determination of Eritrea's continued eligibility to receive trade benefits under AGOA at the mid-term review. Ineligibility would become effective January 1, 2004. (The Act does not allow benefits to be lifted in the middle of the year.) We are now conducting that review process and a decision will be made and announced soon.

Question 3. What would it take for a country to fail to meet the requirement in AGOA relating to combating corruption? Is it sufficient to have passed anti-corruption legislation into law even if that legislation is never enforced? Please explain the judgments made relating to the eligibility of Nigeria and Gabon in this context.

Answer. We look at each country individually when determining AGOA eligibility. Corruption is one of the areas we consider in the overall context of the AGOA eligibility criteria. The passage and enforcement of anti-corruption legislation certainly are considered, as are other factors such as governmental leadership, investigations, and prosecutions. Lack of progress in combating corruption is a key factor in the decision not to grant AGOA eligibility to some of the currently ineligible countries.

Nigeria and Gabon do have serious corruption problems, as we acknowledged in the 2003 report to Congress on AGOA implementation. We considered ongoing problems and progress made combating corruption in those two countries—admittedly limited progress—as part of the overall AGOA review. We believe that retaining Nigeria and Gabon in AGOA will allow us to better influence them on issues related to corruption.

Question 4. In your judgment, are any sub-Saharan countries failing to meet the labor standards laid out in ILO Convention 182 on the Worst Forms of Child Labor? Would such a failure be grounds for losing eligibility? Obviously child trafficking and forced child labor on West African cocoa plantations comes up periodically in the news. Has the potential effect of this issue on AGOA eligibility been discussed with West African governments?

Answer. Child labor is an issue we consider very seriously in the context of AGOA eligibility, including the standards set by ILO 182. We have discussed child trafficking and child labor with West African governments in the context of AGOA review, and have ongoing programs concerning child trafficking and child labor in several sub-Saharan African countries. In the context of regional organizations such as ECOWAS as well as bilaterally, the USG works to facilitate the return of freed victims as well as solve the underlying causes of this problem, which are complex.

○