



**Written Submission to the Secretary, U.S. International Trade Commission regarding Public Hearing on African Growth and Opportunity Act (AGOA) Program Usage, Trends, and Sectoral Highlights: The case of Apparel Sector in the East African Community (EAC).**

**Submitted by : East African East African Trade Union Confederation (EATUC)**

**Summary for inclusion in the report**

As a cornerstone of USA's trade policy in Sub-Saharan Africa, AGOA's main purpose is to assist and encourage economic growth and development in Africa, promote regional integration, and facilitate the beneficial integration of the region into the global economy by offering it better terms of trade. Under this context, a number of cooperation arrangements have been put in place between African Governments and the USA, aimed at improving the production capacity, upgradation of industries with a view of adding value diversifying Africa's exports so that they can take advantage of the duty-free market access offer under AGOA.

Whereas Sub Saharan African (SSA) countries exports under the AGOA scheme have been largely concentrated in oil/petroleum products (with Nigeria and Gabon taking lead), an exclusion of petroleum products has seen the rise of Apparel exports led by Madagascar, Ethiopia and Kenya. While it is also commendable that East African Community (EAC's) utilization has been on a rise, this has been varying among Partner States in terms of volume and value of non-oil exports, we note that currently, out of seven (7) EAC Partner States, Rwanda, Burundi and South Sudan are currently suspended from AGOA. This has led to negative socio-economic implications to workers who were dependent on firms and enterprises whose access to the AGOA Market has been revoked.

Key of the notable benefits of AGOA to the EAC include: contribution to the growth and revival of the textile and apparel industry in EAC; facilitating cooperation among Kenya and Tanzania in upgrading in regional value chains under the CTA sector; and creation of a well-established skilled apparel workforce with a high worker retention rate in Kenya and Tanzania.

While the benefits are commendable, it is important to note that there are a number of prevalent challenges for EAC Partner States to effectively utilize AGOA, and most especially on the promotion of labour rights among Partner States. Key of these challenges include: limited value addition in the Cotton Textile and Apparel (CTA) sector which has perpetuated commodity dependence; unilateral sanctions that the U.S threatened and (partially) imposed on some EAC Partner States; concentration of job creation in low-skilled labor which has not translated into long-term competitive advantages such as knowledge transfer to local workers; and lack of ratification and implementation of key International Labor Organization (ILO) Conventions by EAC Partner States.

Therefore, in order to ensure that the benefits thereunder AGOA and post AGOA are maximized while minimizing the risks, AGOA can be improved in a number of ways including: inclusion of Trade unions institutional governance and negotiation of trade agreements; support growth of local industries along the supply chain; update AGOA Eligibility Criteria; integrate Decent Work in Apparel sector; and enhance workers' and employers' awareness of fundamental labour rights among others.

## **About EATUC**

The East African Trade Union Confederation (EATUC) was established in 1988 and currently is composed of the Central Organization of Trade Unions - Kenya (COTU-K), the National Organization of Trade Unions -Uganda (NOTU), the Zanzibar Trade Union Congress (ZATUC), and the Trade Union Congress of Tanzania (TUCTA). In July 2007, EATUC membership was extended to the National Trade Union Federations from Burundi (COSYBU) and Rwanda (CESTRAR). EATUC enjoys an observer status within the EAC structures. EATUC 's main goal is to integrate workers' interests and efforts in the East African region with a view to develop a common approach towards enhancing social and economic justice through the participation of workers' organizations at all levels of the regional integration. As a regional workers' body, EATUC is instrumental in promoting integration; establishing a tribunal as an important mechanism of consultation and dialogue; ratification of international labor standards by partner states; integration of youth and women in all spheres of socio-economic development; the decent work agenda; harmonization of labor laws and policies in East Africa; and the free movement of factors of production in the region.

## Introduction

As a cornerstone of USA's trade policy in Sub-Saharan Africa, AGOA's main purpose is to assist and encourage economic growth and development in Africa, promote regional integration, and facilitate the beneficial integration of the region into the global economy by offering it better terms of trade. It is in this context that a number of cooperation arrangements have been put in place between African Governments and the USA, aimed at improving the production capacity, upgradation of industries with a view of adding value diversifying our exports so that they can take advantage of the duty-free market access offer under AGOA. It was also envisaged that there would be increased investment from the USA to help us to modernize, improve our production and productivity, create employment and boost exports. AGOA has been renewed till 2025 with the Congress clarifying that it doesn't intend to re-extend the program upon its expiration in 2025<sup>1</sup>.

## East African Community (EAC) Partner States performance under AGOA

Whereas EAC's utilization has been on a rise, this has been varying among Partner States in terms of volume and value of exports. Kenya is the leading exporter under AGOA with exports worth \$667m in 2019<sup>2</sup>, compared to Tanzania (\$ \$55.32 million)<sup>3</sup>, Uganda (\$15 million)<sup>4</sup>. Indeed, Kenya's AGOA utilization has been remarkable that over the past five years, the country has enjoyed a surplus in its two-way trade with the US; Kenya's exports of \$ 569m exceeded its imports from the US by \$230m in 2020<sup>5</sup>. It is key to note that Burundi is not eligible for AGOA as she was suspended from the scheme in 2015<sup>6</sup>. On 30<sup>th</sup> July 2018, Rwanda was also suspended from AGOA preference scheme<sup>7</sup> after Rwanda upheld the decision by the EAC's Heads of State to phase out importation of used textile and footwear products from outside the region by 2019<sup>8</sup>. It should be noted that the EACs' decision was informed by the region's need to advance a market-driven integration by boosting manufacturing and industrialization; promoting forward and backward linkages and achieve Structural Transformation of the Manufacturing Sector through High Value Addition and Product Diversification as stipulated in the EAC 2012-2032 Industrialization strategy.

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<sup>1</sup> <https://www.csis.org/analysis/its-time-new-economic-partnership-africa>

<sup>2</sup> <https://agoa.info/images/documents/15557/kenya-agoa-brochure-2021.pdf>

<sup>3</sup> <https://agoa.info/news/article/15868-tanzania-strategises-to-up-trade-through-agoa.html>

<sup>4</sup> <https://agoa.info/news/article/15979-uganda-s-agoa-export-earnings-drop-dramatically-as-a-result-of-covid-pandemic.html>

<sup>5</sup> <https://agoa.info/images/documents/15557/kenya-agoa-brochure-2021.pdf>

<sup>6</sup> <https://agoa.info/news/article/5898-us-boots-burundi-from-africa-trade-pact-agoa.html>

<sup>7</sup> Read the Presidential Proclamation to take certain actions under the African Growth And Opportunity Act and for other purposes. Link: <https://agoa.info/images/documents/15496/pred-proclamation-rwanda-agoa-eligibility-apparel.pdf>

<sup>8</sup> <https://www.eac.int/communique/374-446-526-joint-communique-17th-ordinary-summit-of-the-east-african-community-heads-of-state>

## EAC and Apparel sector under AGOA: Performance and issues to consider

Whereas Sub Saharan African (SSA) countries exports under the AGOA scheme have been largely concentrated in oil/petroleum products (with Nigeria and Gabon taking lead), an exclusion of petroleum products has seen the rise of Apparel exports led by Madagascar, Ethiopia and Kenya. Indeed, U.S. imports of apparel from SSA under AGOA increased by \$209 million (9.9 percent CAGR) to \$1.2 billion from 2016 to 2018<sup>9</sup>. Since 2000, Kenya has exported \$5.7 billion worth of garments to the United States duty-free under AGOA. In 2018, Kenya was also the largest garment exporter under AGOA, well ahead of Lesotho, and with more US exports than Mauritius and Madagascar combined<sup>10</sup>. Tanzania's garment manufacturing sector is the largest AGOA beneficiary in the country, had has seen the country export \$161 Million worth garments between 2000-2017<sup>11</sup>. In 2018, Apparel exports of EAC Partner States to USA were recorded at USD 391 Million for Kenya, USD 42 Million for Tanzania<sup>12</sup>. This rise is argued to be due to the 10-year extension of the AGOA program and AGOA's third-country fabric provision which allowed SSA countries to expand apparel production. It should be noted that the third-country fabric provision permits manufacturers in AGOA-eligible countries to use non-U.S. non-AGOA fabrics in apparel exports entered under AGOA.

Although Uganda earns an average of \$20 million from lint and apparels exports annually<sup>13</sup>, the country's apparel exports to the U.S under AGOA were recorded at Zero in 2017<sup>14</sup> which has prompted the country to develop a Cotton, Textile and Apparel (CTA) strategy<sup>15</sup>. The strategy envisions the CTA Sector to generate 50,000 new jobs and \$650 million in additional export revenues over the next eight years<sup>16</sup>. Furthermore, despite being suspended from AGOA in 2018, Rwanda's textile and garment sector has recorded unprecedented growth since at 83% in value, with apparel exports valued at \$34.6 million in 2020<sup>17</sup>. Based on these developments, it is therefore true to argue that the apparel sector is one of those targeted by the EAC Partner States for expansion in a bid to bolster the economy and create jobs.

One of the key benefits of AGOA to the EAC is its contribution to the growth and revival of the textile and apparel industry in EAC. Indeed, given the fact that Apparel is among the most significant sectors with special benefits in job creation boosting value addition and increasing SSA's non-oil exports to the U.S, the EAC has witnessed a rise in Investments in textile and apparel industry, largely pegged to AGOA market assurances. Indeed, countries have developed textile strategies with the major purpose of organizing their production along the value chains for increased volume and value exports to the

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<sup>9</sup> <https://agoa.info/images/documents/15766/pub5043-usitc-report.pdf>

<sup>10</sup> <https://agoa.info/images/documents/15557/kenya-agoa-brochure-2021.pdf>

<sup>11</sup> <https://agoa.info/images/documents/15560/tanzaniacountrybrochureagoa-final.pdf>  
<https://agoa.info/images/documents/15560/tanzaniacountrybrochureagoa-final.pdf>

<sup>12</sup> <https://agoa.info/images/documents/15766/pub5043-usitc-report.pdf>

<sup>13</sup> <https://umaizi.com/uganda-develops-strategy-for-cotton-textiles-sector/>

<sup>14</sup> <https://agoa.info/news/article/15591-uganda-crafts-strategy-to-maximise-potential-of-its-apparel-sector.html>

<sup>15</sup> <https://dokument.pub/uganda-cta-flipbook-pdf.html>

<sup>16</sup> <https://www.theeastafrican.co.ke/tea/business/new-strategy-to-revamp-uganda-s-textile-sector-1424902>

<sup>17</sup> <https://allafrica.com/stories/202011200312.html>

U.S. These strategies include the Tanzania Cotton-to-Clothing Strategy 2016 – 2020<sup>18</sup>, Kenya Apparel and Textile Industry-Diagnosis, Strategy and Action Plan<sup>19</sup>, Uganda National Textile Policy<sup>20</sup>, Rwanda Textile Development Strategy<sup>21</sup>. Kenya’s strategy has also boosted Kenya’s apparel industry to create a well-established skilled apparel workforce with a high worker retention rate<sup>22</sup>. It is key to underscore that enactment of such strategies and policies has been a critical step in the calibration of the CTA sector in the EAC.

AGOA has also facilitated regional value chains in the EAC in the CTA sector. In a bid to promote increased production and productivity, the EAC has witnessed increased intra-EAC Cooperation in CTA sector development. For example, Kenya has set up a \$51.3 million factory in Zanzibar as it targets the world’s \$920 billion textile market<sup>23</sup>. The factory will produce 250,000 metres of polyester per day, translating into seven million metres per month, and will employ 1000 workers across the value chain, in addition to cotton farmers. This joint cooperation between the two countries is a critical step to the realization of the strategies therein the EAC Cotton, Textiles and Apparels (CTA) Strategy and its Implementation Roadmap.

While there have been a number of the aforementioned benefits registered under AGOA, it is important to note that there are a number of prevalent challenges for EAC Partner States to effectively utilize AGOA, and on the promotion of labour rights among Partner States.

The most immediate challenge to EAC Partner States has been limited value addition in the Cotton Textile and Apparel (CTA) sector. Indeed, it can be argued that overall, the pattern of exports under AGOA reflects the fact that most African countries still are heavily dependent on commodities, without substantial value-added production or linkages between or within other sectors of the economy<sup>24</sup>. For example, despite the remarkable growth registered in the CTA sector, only 15% of EAC cotton is processed locally, while 85% is exported in form of lint to other countries<sup>25</sup>. Thus, whereas the CTA sector has created much-needed employment, a substantial percentage of the profits from the industry do not remain in the EAC, where they could support increased capital investment and wealth accumulation. Moreover, most of these industries established in export processing zones and import virtually all inputs, which minimizes the value to the local community.

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<sup>18</sup> <https://tdu.or.tz/media-center/tanzania-cotton-clothing-strategy-2016-2020/>

<sup>19</sup> <https://www.industrialization.go.ke/images/downloads/kenya-apparel-and-textile-industry-diagnosis-strategy-and-action-plan.pdf>

<sup>20</sup> <http://www.mtic.go.ug/wp-content/uploads/2019/08/National-Textile-Policy.pdf>

<sup>21</sup> <https://www.fibre2fashion.com/news/textile-news/rwanda-unveils-textile-development-strategy-178771-newsdetails.htm>

<sup>22</sup> Government of Kenya, State Department for Trade, MITC, Kenya National AGOA Strategy and Action Plan 2018–2023, 2018 (accessed various dates).

<sup>23</sup> <https://agoa.info/news/article/15947-kenyan-textile-company-eyes-export-market-through-new-zanzibar-facility.html>

<sup>24</sup> Making the Most of Africa’s Commodities: Industrializing for Growth, Jobs and Economic Transformation,” Economic Commission for Africa (2013), available at [www.uneca.org/sites/default/files/publications/era2013\\_eng\\_fin\\_low.pdf](http://www.uneca.org/sites/default/files/publications/era2013_eng_fin_low.pdf).

<sup>25</sup> <https://agoa.info/news/article/15288-east-african-textile-sector-tipped-on-maximising-technology.html>

In addition to the above, limited development of the CTA sector by EAC Partner States is due to the unilateral sanctions that the U.S threatened and (partially) imposed on Partner States following their decision to State to phase out importation of used textile and footwear products from outside the region by 2019, in a bid to promote vertically integrated industries in the textile and leather sector<sup>26</sup>. This decision was challenged by Secondary Materials and Recycled Textiles (SMART), a leading exporter of second-hand clothing in the USA in a petition to the US Administration filed on 21<sup>st</sup> March 2017. SMART was seeking initiation of an out-of-cycle review to determine whether Kenya, Tanzania, Rwanda and Uganda are meeting the AGOA eligibility criteria, with a view of suspending these countries from benefitting from AGOA. Subsequently, Kenya, Uganda and Tanzania rescinded their initial position with Rwanda upholding it. This saw the suspension of Rwanda from the AGOA eligibility list. While it is critical to encourage USA investments in the EAC as well as exports which are inputs for EAC's industrial production and upgradation, for the purposes of promoting the regions' clothing and textile industry AGOA should help in weaning the EAC's dependence on second-hand clothes. Therefore, the USA should not AGOA as a means to constrain EAC's policy space for development provided for in WTO rules of Most Favored Nation MFN, but instead should help the region to achieve her development objectives set thereunder the EAC Cotton, Textiles and Apparels (CTA) Strategy and its Implementation Roadmap.

Furthermore, some of the benefits that had seen greater use in some SSA countries, like the apparel benefits, had only spurred job creation for low-skilled labor which has not translated into long-term competitive advantages such as knowledge transfer to local workers. Indeed, in spite of the increase in CTA industries along the value chain, formal job growth in the EAC have remained sluggish, which has left the informal economy to serve a particularly vital role in ensuring individual livelihoods, particularly for women and young workers.

Another limitation to harnessing benefits thereunder AGOA on the side of workers has been lack of ratification and implementation of key International Labor Organization (ILO) Conventions by EAC Partner States. It should be noted that Section 104 (Eligibility Requirements) of AGOA Act charges AGOA beneficiaries to ensure "*protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labor, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health*"<sup>27</sup>. However, while there have been improvements among EAC Partner States in adhering to this, a number of ILO Conventions which would guarantee such rights are yet to be ratified and implemented by a Partner States. For example, Kenya is yet to ratify the C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87); C122 - Employment Policy Convention, 1964 (No. 122) among the 49 Conventions not yet ratified<sup>28</sup>. Uganda is yet to ratify 55 Conventions, key of those including: C129 - Labour Inspection (Agriculture) Convention, 1969 (No. 129); C110 - Plantations Convention, 1958 (No. 110); C131 - Minimum Wage Fixing Convention, 1970

<sup>26</sup> <https://www.eac.int/communique/374-446-526-joint-communique-17th-ordinary-summit-of-the-east-african-community-heads-of-state>

<sup>27</sup> [https://agoa.info/images/documents/2/AGOA\\_legal\\_text.pdf](https://agoa.info/images/documents/2/AGOA_legal_text.pdf)

<sup>28</sup> [https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210\\_COUNTRY\\_ID:103315](https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103315)

(No. 131)<sup>29</sup> among others. The same can be said for Tanzania which is yet to ratify 51 Conventions, key of those including: C081 - Labour Inspection Convention, 1947 (No. 81); C122 - Employment Policy Convention, 1964 (No. 122); C129 - Labour Inspection (Agriculture) Convention, 1969 (No. 129)<sup>30</sup> among others. Failure by the Partner States to ratify and implement these conventions has provided loopholes which AGOA exporters have utilized to exploit workers' rights along the value chains. This is against the original intent of AGOA.

### **Recommendations on a way forward.**

In order to ensure that the benefits thereunder AGOA and post AGOA are maximized while minimizing the risks, AGOA can be improved in a number of ways. These include:

**Inclusion of Trade unions institutional governance and negotiation of trade agreements:** In order to bridge existing gaps and cure weaknesses exposed during the implementation of the AGOA, there is need to include trade union representatives in future trade negotiation process. Such an intervention would provide a platform to advocate for recognition of labour relations as key component and hence guarantee respect of fundamental rights and principles of workers;

**Support growth of local industries along the supply chain:** There is need to support and provide incentives to local value addition Industries as opposed to importing raw materials from third countries under the AGOA programme or any other future trade agreements;

**Support structured skills development and transfer:** There is need to strengthen workplace policies for structured skills exchange through apprenticeship and recognition of prior learning programmes

**Update AGOA Eligibility Criteria:** Eligibility criteria should be updated to ensure robust workers' rights protections and encourage democratic government. AGOA's labor rights language should state that countries must meet (through ratification and implementation) all core rights laid out in the corresponding ILO Conventions, which are reflected in the ILO Declaration of Fundamental Principles and Rights at Work. There also should be an explicit reference to elimination of the worst forms of child labor and freedom from discrimination, including the rights to equal remuneration and freedom from discrimination in employment and occupation enshrined in ILO Conventions 100 and 111, particularly essential given the importance of women workers in the garment sector. It should be clarified that the right to acceptable conditions of work with respect to minimum wages includes, among other things, any legally or contractually required pay (such as overtime, bonus and holiday pay) and any legally or contractually required contributions to pensions, health care, disability insurance and the like.

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<sup>29</sup> [https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210\\_COUNTRY\\_ID:103324](https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103324)

<sup>30</sup> [https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210\\_COUNTRY\\_ID:103476](https://www.ilo.org/dyn/normlex/en/f?p=1000:11210:0::NO:11210:P11210_COUNTRY_ID:103476)



**Integrate Decent Work in Apparel sector.** EAC Partner States should commit to making significant progress to ensure export sectors support decent work jobs. Decent work, a concept developed at the ILO, focuses on ensuring that all women and men have the opportunity to “obtain decent and productive work, in conditions of freedom, equity, security and human dignity.” A decent work program focuses on creating opportunities and social mobility, guaranteeing rights and respect on the job, promoting social dialogue through strong worker organizations, and enhancing social protections including safe working conditions, access to health care and family leave, sufficient workers’ compensation and allowance for “adequate free time and rest.” EAC Partner States Countries should commit to treating workers holistically and ensuring jobs do more than just pay survival wages.

One of the underlying hypotheses of AGOA is that low skill exports would eventually spur the creation and growth of increasingly complex and higher-skilled areas. Unfortunately, this is not a process that can happen without a coherent, dedicated industrial policy aimed at promoting local investment, training and resources. AGOA should encourage programs to help indigenous firms gain a foothold and build connections. Additionally, AGOA should do more to ensure imports under the program come from workplaces that provide fair wages and equitable treatment. This not only enhances individual dignity, it fosters local economic development by creating more purchasing power and greater productivity.

In a bid to increase on utilization of the regionally produced cotton, textile industries in EAC Partner States need to innovate and embrace value addition to produce aesthetic accessories, interior designs and fashion and hence create more job opportunities in the EAC. This will address the current low utilization rate of Cotton available in the EAC where only 15% of EAC cotton is processed locally while 85% is exported in form of lint to other countries.

**Enhance partnerships and collaboration :**There is need to mobilize resources to fund advocacy, labour review and awareness programs in export sectors. The development partners can support such interventions hence complementing internal funding from the unions

**Strengthen Social Dialogue Structures:**There is need to strengthen social dialogue structures and labour inspection in the region and at national level. In this regard, there is need to enhance capacity of labour administration institutions in the region by increasing both financial and human resources. These institutions need to take lead in amending relevant legislation including the Industrial Relations Charter to support enforcement of labour rights;

**Gender Sensitive Workplace Policies:** There is need to establish gendered policies in CTA sector. Awareness of relevant labour standards such as the ILO Convention 190 will curb reported cases of sexual and gender based violence at work and mainstream gender equity through workplace policies including collective bargaining agreements;

**Enhance workers’ and employers’ awareness of fundamental labour rights:**There is need to sensitize workers on their fundamental rights and principles and in particular freedom of association and collective bargaining in CTA sector so that they can identify any form of violation for action.

Through training of workers, trade union and employer representatives on fundamental labour rights will support compliance and identification violations. In addition, workers representtaives need capacity to support identification violations, resolve disputes related to trade and investments and make proposals for improvement of work conditions in the country;

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**For More Information Cotact East African Trade Union Confederation (EATUC)**

P.O. Box 13574, Arusha – Tanzania

**Phone:** +255 739 546 093

**Email:** [info@eatuc.org](mailto:info@eatuc.org) / [eatuc\\_arusha@yahoo.com](mailto:eatuc_arusha@yahoo.com)

**Website:** <https://eatuc.org/>