



Bye-Bye AGOA?



Trade Hound

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tently under-utilized AGOA in numerous products despite the duty-free advantage. If those entities do not even want to use the duty-free access given to them, why not just give it to someone else?

As you can see, this type of thinking could have severe repercussions. For those that have an established and large or even small/limited market share in certain product categories, that share can be greatly reduced or lost with new entrants into the market (and at a lower cost since they will no longer have to pay the duty). And for those where key investments have been made in anticipation of increasing the export quality of products or just the overall development of a certain product category, those investments can be in jeopardy if other well-established or more entrepreneurial manufacturers are given duty-free access to the U.S. market before the African exports are ready. All the investment then will be for naught as whatever U.S. demand exists will be taken by those already making their way to market. And good luck trying to get that market share back once supply chains are established.

What about the more developed African countries? Is this the end of AGOA (and duty free access to the U.S. market) for them? The devil, of course, will be in the details and what the eligibility criteria of the new trade preference regime will be. This is, as yet, unknown. Will South Africa be graduated under the new trade preference regime? What about Nigeria – a country that is grossly under-utilizing AGOA? Why should it continue to have access to the U.S. market if all it exports is oil and gas, where the duty rate is irrelevant? What about U.S. favorite Ghana? If Ghana is progressing as a diversified economic power as many say it is, then does it need AGOA after all? And what about Kenya, whose government has so consistently failed to take any significant measures after the 2008 post-election violence that it begs the question as to why a country such as this should continue to be rewarded for this type of (lack of) behavior?

Who is looking out for us? A major problem. Other developing countries are already taking steps to make sure that their interests are heard during the one-regime formulating process. Stakeholders with established interests in countries such as Cambodia, Bangladesh,

Laos, Afghanistan, and Sri Lanka are already meeting with the Obama Administration and key members of Congress to advocate their cases. One question I hear with some regularity is “where are the Africans? Why are we not hearing from them?” This, in my opinion, is a dramatic failure on the part of African stakeholders that will cost them greatly in the long run if action is not taken soon. Hundreds of thousands of jobs have been created through AGOA and yet little has been done to preserve the progress so far. This can be corrected. As noted in a Trade Hound article last month (see “Where Are Africa’s Trade Soldiers”, May 12), now is the time for African stakeholders to let loose their trade soldiers – whether lawyers, lobbyists, consultants, government officials, embassy staff – and get in the battle of survival that is trade with the United States. If they do not do so, as with all battles, there will be casualties and the ground lost will be not only the U.S. market, but the livelihoods of thousands as the move to satisfy returning U.S. demand goes to others. Is this a battle that Africans want to lose? Only time will tell.

* The views of Mr. Mroccka are his own and should not be attributed to any of his clients or that of his firm.

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stitution, a Commission for Gender Equality is established. The commission is given powers to oversee, promote and protect gender related issues. There are also many gender specific provisions in the constitutions of Ghana, Eritrea and Ethiopia which are focused on ensuring equal opportunities for as all as well as eliminating all social and cultural discriminatory practices against women. Such Provisions are conspicuously absent under the Nigeria’s 1999 constitution.

Another pertinent issue here is the nature of the Chapter Two of the 1999 constitution which contained provisions tagged ‘Fundamental Objectives and Directives Principles of State Policy’. Entrenched in these provisions are what are called second generation rights or socio-economic and cultural rights. But the problems with these rights are that they are made non-justiciable i.e. they can not be enforced in the court of law in the event of non-observance by government and its agencies.

These rights, like right to employment, education, good health, shelter etc are by their nature tend to be more in favour of women and the poor because they are the ones subjugated over the ages. Consequently, their non-justiciability is more felt by women and the poor than other people.

In conclusion, there is no gainsaying the fact that Nigeria needs a new constitution which must not only involve all and sundry in its making process but must also reflect modern equitable and androgynous concepts that underlie the constitutions of democratic nations of the world.

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Protecting Rights of Accused



•Former President of the Nigerian Bar Association, Chief B.O. Benson, SAN and Mr. Frank Agbedo, author of a new book, 'Rights of Suspects and Accused Persons Under the Nigerian Criminal Law', during the book launch in Lagos... recently

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