

# The Punitive Use of AGOA Benefits

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I have had the honor of working on the African Growth and Opportunity Act (AGOA) since it was introduced in the House of Representatives in the late 1990s. In those early days, Members of Congress such as the late Donald Payne were focused on ensuring that the duty-free, quota free access to the American market was not extended to countries in which human rights were disrespected, and a layer of protection against that was added to what already existed in the Generalized System of Preferences program, of which AGOA is an extension.

However, this prohibition of AGOA benefits for participation by human rights violating governments, while justified on the surface, ended up hurting companies that played no role in what the government was doing. Zimbabwe, for example, was clearly a human rights violator under former President Robert Mugabe. Proof of these abuses were spread over a number of years and had been certified by the U.S. Department of State in its annual reports, as well as organizations such as Human Rights Watch and Amnesty International. Nevertheless, the exclusion of Zimbabwe from AGOA from the beginning hurt companies that had robust trade with U.S. buyers when they bore no part in Zimbabwe's abuses of its citizens.

I and other colleagues early on called for some carve-out for companies that had no ties to the offending government. Remediating this is sometimes difficult admittedly since governments often force local companies to share a piece of the ownership in order to operate. While it would take scrupulous research to determine the real stake governments have in exporting companies or which stakeholders are part of the governing clique, it was and still is a worthy effort. When I attended the 2011 AGOA Summit in Zambia, I met with Zimbabwe companies that had been forced to relocate operations to that country. Unfortunately, not every company in a suspended country is able to do likewise.

Conversely, there were human rights abusing countries that continued to benefit from AGOA because U.S. Administrations are routinely given what is called "notwithstanding authority" in legislation to bypass restrictions for national security purposes. Many African governments, including the Tigray Peoples Liberation Front (TPLF)-led government could have

been sanctioned by AGOA suspension at any time during the past 20 years, but Ethiopia wasn't because of favorable economic conditions and for reasons of national security interest. That government provided highly-regarded peacekeepers and was helpful in addressing regional conflicts, even though it repeatedly instituted state of emergency crackdowns, held numerous political prisoners and had its security forces kill peaceful demonstrators.

Ethiopia has been designated as one of the AGOA beneficiaries again in the current Annual Review of Country Eligibility for Benefits, as it has been since AGOA began in 2000. This trade under AGOA has provided an estimated 40,000 direct jobs in sectors such as leather goods (including shoes and gloves) and textiles and apparel and another one million indirect jobs. Last year, the United States exported \$910,940,000 in goods to Ethiopia, while importing \$524,530,000.

In a September 2021 report, the U.S. Department of Commerce's International Trade Commission recommended Ethiopia to Americans companies interested in doing business there.

"Ethiopia has a large domestic market of over 110 million people, making it the second most populous country in Africa after Nigeria. Over the last decade, Ethiopia has had one of the fastest growing economies in the world, with average annual growth rate of 9.4%. In 2019/ 2020, Ethiopia's real Gross Domestic Product (GDP) slowed down to 6.1% due to COVID-19, and growth is expected to remain close to 6.4 % in 2021 due to Covid-19, according to the World Bank.

"The business climate is undergoing significant changes with broad policy reforms," the report stated.

The five top reasons given in the report for American companies to do business in Ethiopia are:

- Following Ethiopia's sweeping political and economic reforms, Ethiopia is now beginning to liberalize its economy and privatize many sectors, allowing U.S. firms to participate in areas previously closed to international participation.
- Ethiopia is the second most populous country in Africa, with over 70% of the population under the age of 30, and has one of the fastest-growing economies in the world, which is resulting in an expanding middle class with greater purchasing power.
- U.S. products and services are highly respected among Ethiopians for their quality and dependability.

- Prior to the U.S. temporary freeze on economic development support to Ethiopia in response to the internal conflict and humanitarian crisis in the Tigray region, U.S. Exim bank had an expanded capacity to finance transactions beyond \$10 million. The Development Finance Corporation (DFC), which in October 2019 became the successor agency of OPIC, was also increasingly engaged in and delivering project finance to Ethiopia. These financial tools, among others, are expected to be reinstated once the freeze on economic development support is lifted.
- Factors of production in Ethiopia such as land, labor, and energy costs are low relative to African and other global markets.

So clearly, trade with Ethiopia is considered to be a good thing. Then why would elements of the Administration reportedly want to consider suspending Ethiopia's AGOA benefits? Since there has been no definitive statement on such considerations, one must assume that AGOA suspension for Ethiopia is merely an option under consideration as a means of ending the human rights abuses in the Tigray war that have been broadly reported and documented. Ending such savagery, as it has been described, is a more than worthy goal, but suspension of Ethiopia's AGOA benefits in this case would be the wrong way to go about it.

There are several forces on the ground in Ethiopia: government troops, TPLF rebels, Government of Eritrea troops and even Amhara and other militia. Given that there cannot be a definitive assessment of which of these forces are guilty of human rights abuses at this point, singling out the Ethiopia government now seems precipitous. There needs to be a full-scale examination of what has gone on in Tigray to determine who is at fault for specific human rights violations and what should be done with the guilty parties.

The U.S. Government must consider that troops in war sometimes exceed the mandate provided by the government that deployed them, e.g. My Lai in the Vietnam War and the Abu Graib prison in the Iraq War. There has not been any linkage determined between U.S. Government orders and the actions of troops who so callously denied human rights to those they encountered or those for whom they had responsibility.

I have seen up close what security forces do on their own. In one incident in Kenya in 1994, I was working with the League of Kenya Women Voters on a voter education training session in Thika. When our caravan of trainers arrived at the church where we were to speak to a group of women, local security forces denied entry to all but the League's president, who ran through the entrance before police could shut it down securely, keeping the rest of our group out of the church grounds.

The bishop at the church called then-Kenyan President Daniel arap Moi, who gave his go-ahead for the training. However, the local authorities refused the invitation of the bishop to speak with the president on the phone. Instead, they began swinging their batons to drive us and women coming to the event back. I avoided being beaten, but had I been, the media coverage would have blamed Moi for his security forces beating an American helping to educate women voters when he wasn't giving those orders.

The time will come to discover who was ultimately to blame for human rights abuses in Tigray, but that time has not yet come, and any decision on suspending Ethiopia's AGOA benefits would be woefully premature at this point. Hopefully, discussion of an AGOA suspension for Ethiopia is just a possibility being considered. Such a suspension would not silence all the guns in Tigray, and more than one million Ethiopians now benefiting from AGOA surely hope that suspension is not imminent.

(Source: Africa Rising 21<sup>st</sup> Century)