

# BULLETIN

Summer 2004

No. 67

## *US Trade With Africa: Exchange or Assault?*

	Page
<b>Introduction</b>	
Carol B. Thompson_____	2
<b>A Golden Yarn? The Impact of the African Growth and Opportunity Act (AGOA)</b>	
Sayed Ahmed, Ana Caballero-Mengibar, Leslie Cutting, Betty McEntire, and Lawrence Zamora_____	5
<b>The Proposed US-SACU Free Trade Agreement (FTA): Comparison with the FTAA, CAFTA, US-Chile FTA, and US-Singapore FTA</b>	
Jill Mary Verbeck, John Kemoli Sagala, Yin Min Kyi, Daniel Ogbaharya, Luke M. Olson_____	19
<b>ACAS “On the Edge” Commentary: No Further Evasion of the Essential Question: What Will We Do in Darfur?</b>	
Eric Reeves_____	32
<b>ACAS Action Alert: Take Action on Human Rights Violations in Cote d’Ivoire</b>	
Tom Bassett_____	36
<b>ACAS Action Alert: Catastrophe in Darfur (Sudan): The World's Greatest Humanitarian Crisis, Occurring Amidst Genocidal Destruction</b>	
Eric Reeves_____	38

ISSN 1051-08442

**Introduction to US Trade With Africa:  
Exchange or Assault?**

Carol B. Thompson, Issue Editor  
Northern Arizona University  
carolthompson@nau.edu (syllabi available)

***“For a new post-Cold War foreign policy, trade pacts are more important than missiles, and the instruments of diplomacy are markets, not armies.”***

***President William Clinton,  
November 1993***

This Bulletin will interest you for three reasons. First, it is important to know what is done in your name—whether the US is your birthplace or your adopted home—on the African continent, for it affects how you are received in a village, a university or by a colleague in government. Always an instrument of foreign policy, trade has become a cudgel, a weapon for the US government to impose its interests on weaker economies. What these two studies quickly reveal is that US demands conditions and terms for trade that it does not relinquish; there is little or no reciprocity in US exchange. These studies show that US policy of “trade not aid” since the early 1990s has reduced African sovereignty, not its dependency.

Many empirical examples are given in the studies, but one that affects you personally is that both these trade deals require that the African trading partner honor the national security interests of the US. There is no provision in either of these pacts for the US to honor any African government’s national security. Africans with whom you work know about US foreign policy; no matter what our field, we need to at least be informed of what the US government is doing, quietly and daily. It is not as spectacular as “shock and awe” bombing, but can be as devastating to an elected government. Another example, more important if you are working in African villages, is that the US refuses to reduce subsidies for its farmers

but requires African governments to remove assistance to its farmers in these trade deals and of course by the structural adjustment programs. The cotton example in West Africa<sup>1</sup> is currently the most notorious. But one could cite almost any of the major food crops—maize, wheat, soy.

**A second reason this Bulletin will interest you relates to activist pedagogy. These reports were written by graduate students in a public university. There is no African Studies program in Arizona; only one or two students had taken any economics classes. However, they worked well beyond the class requirements to produce these reports, used by African activist organizations in Washington, D.C. (Advocacy Network for Africa-ADNA). The knowledge that their work would be useful to African advocates inspired them more than any lecture, film or novel. I suggest below that this approach could be used by any professor in any field. I will be even so brash as to say linking students’ work to policy could occur at the undergraduate level.**

Third, ACAS’ membership is down to a record low. I don’t think that is because Africa’s problems are less nor, as shown very much throughout this Bulletin, is the US any less aggressive against Africa. To start, I will suggest two reasons – and perhaps we can all debate by adding 4-5 more reasons. One is

the impossible pace set for young scholars by the academy; it's as if we ask them to run long distances, raising the hurdles every 1000 meters until they trip up. They simply do not have one second to engage in activism. This Bulletin suggests how we could combine scholarship, teaching and activism all in one. ACAS has always taken the lead in showing how to do this—and we need to continue.

In addition, we scholars are separated from those engaging in policy more than ever before. Even those who abhor ACAS and try to be part of USAID are not very successful. Again, this problem is not new but I think the scholar-policy link is at one of its historic lows in the US—be the issue health, education, governance, conflict resolution, culture, or trade policies. ACAS will always have limited success in making the US government listen to us, but African activist NGOs can make the links, while we in ACAS provide the short background material, do research for a Congressional testimony for a NGO too busy to look for data, or work with organizations relating to cultural exchanges (authors, artists) with the continent. Most of you have been doing this for years, which is why you are in ACAS; this Bulletin just suggests how we all benefit by also engaging our students—even though they might be fuzzy about where the continent is located.

One of the students writing the AGOA study made email contact with a labor leader in Lesotho. They kept up a dialogue for several months, and we all learned that the macro-economic statistics (the big AGOA “success” story of increased employment and exports to the US) hide very nasty sweatshop conditions and skyrocketing HIV infections, directly related to the new textile factories (see Lesotho case study). Most professors or those in a NGO are “too busy” to chat much on the email, but the student taught us all. When the US government trumpets macro-economic statistics about AGOA success, the NGOs can now document the human condition.

No one has yet been able to obtain the negotiating document for the USA-SACU Free Trade Agreement. It is being negotiated in secret. Our student team was able to link with the Congress of South African Trade Unions (one of their economists is a former member of ACAS) and found even they did not have the terms. Here is where we could use more help from the rest of you. If enough of us ask colleagues in South Africa, and the rest of Southern Africa, to demand the negotiating documents, others become aware of what is happening. Perhaps you know a scholar in Botswana or Zambia who could

inquire. And in the US, we need to expose that this secrecy is a pattern, not an exception, in US trade deals (see other FTAs discussed in the report); we need to attack “fast track” Congressional acquiescence to trade deals, no matter who is president. Small ACAS can make more public what is happening – totally undemo-cratic decisions about the environment, labor conditions – restricting national policies in the name of “free trade.”

How do we link scholarship with teaching with activism? Very simply. Let the students teach themselves by setting up a research-policy link. I have found out it does not matter if they begin by not knowing what countries are where in Southern Africa, let alone the complex political economy. They did teach each other and now they do know.

As the professors, our job is to find the policy link and make it manageable for a one semester task. I did take a year to talk with ADNA organizations and let them choose what research they desired. They are on the ground, not me off in the pine trees of Northern Arizona. You could do the same with groups for health policy or governance or culture. But then, yes, I decide what we can try to do; I adopt the request to what I think can be done. And the students surprised all of us professionals—they did much more! One also has to discuss in class how to write policy reports, not term papers nor book reviews. You will see the results in these two studies—it is variable. After two sets of editing, sometimes the language still descends into academic jargon; sometimes a point is not explained enough. Because different students wrote different sections, the quality varies. But take a look at either one, not bad for one semester's group work.

Finally, the task is never done. It is a totally different mindset for the students than one term paper or thought paper. They immediately learn that they are joining a group of scholars and policy activists. Their study will not be definitive or come to closure, but will continue the dialogue and debate. I insist on accuracy of references so the next group can pick up where they left off. They learn they can suggest in ways that enhance the debates (See FTA section on advantages/disadvantages). Too often graduate students (and dare I say Americans?) want to find the answer. These policy reports do give empirical data to demonstrate that current trade regimes are more detrimental to Africa than reciprocal, but that does not mean we end trade with Africa.

It gives hope. I strongly believe that we in ACAS, and our students, can stop the USA-SACU Free Trade Agreement in its tracks. It is economic apartheid run wild. We knew that only political apartheid was over in 1994; our task is never done. Other civics have stopped the WTO (World Trade Organization) and the FTAA (Free Trade Agreement for the Americas) in their tracks, which is a major reason why the US government is pursuing AGOA and the USA-SACU FTA on the weakest continent on the globe. We can join others to stop this end-run, preventing the use of trade as a weapon against African sovereignty and democracy. We can work not only to expose the terms, but to change them. You, as an activist scholar, can lead us and our students in similar African advocacy actions in your policy areas—receiving professional acclaim for research and teaching.

## ***ENDNOTE***

<sup>1</sup> US farmers receive about \$2 billion per year in subsidies, resulting in greater cotton production dumped in overseas markets, which lowers international cotton prices well below production costs. Loss of cotton exports amount to 3% of GDP for Mali and Benin and 1-2% for Burkina Faso and Chad. Losses exceed the total value of debt relief provided to Mali, Benin, Burkina Faso, and Chad.

## A Golden Yarn? The Impact of the African Growth and Opportunity Act (AGOA)

Sayeed Ahmed, Ana Caballero-Mengibar, Leslie Cutting,  
Betty McEntire, and Lawrence Zamora  
Northern Arizona University

### INTRODUCTION

By 2004, President George W. Bush declared that 37 Sub-Saharan African (SSA) countries had gained eligibility for trade preferences under the African Growth and Opportunity Act (AGOA), which went into effect in October 2000. According to the U.S. government, AGOA is conducive to promoting economic relationships between African countries and the U.S. that are based on “shared values” and equal responsibilities (<http://www.whitehouse.gov>). The goal is to enhance SSA economic growth by increasing trade with the U.S. Moreover, the law advocates democracy and good governance as a requirement for AGOA eligibility. ([http://www.agoa.gov/agoa\\_forum/](http://www.agoa.gov/agoa_forum/)). Considered successful by the U.S. Congress, in July 2004, they extended the terms of AGOA to 2015 (but any country can be declared ineligible at any time).

Critics reply that AGOA neither impacts the macro-economies of SSA countries in a positive manner nor brings any meaningful change in the economic conditions of the workers. They question reliance on trade as the primary means for equitable or sustainable growth, especially when so many conditionalities define the trade. The law was passed without consultation with African governments and requires preconditions that the U.S. does not reciprocate.

In this report, we analyze how AGOA is currently working. After examining trade data of all SSA economies, we found AGOA had substantially increased exports to the U.S. from only six SSA economies: Kenya, Lesotho, Mauritius, Malagasy Republic, South Africa and Swaziland. They were, therefore, chosen as case studies. As will be shown empirically, these increased exports are mainly from foreign textile corporations built on African soil.

Section I summarizes the various eligibility requirements for AGOA. Section II gives the empirical data to verify countries and commodity sectors benefiting. Section III offers the brief case studies. Section IV summarizes resistance to AGOA found in Africa.

Section V, similar to an executive summary, gives an overview of the impact of AGOA, suggesting further research.

### I. AGOA ELIGIBLES

**Conditionalities** for SSA countries to become eligible for AGOA are summarized in Section 104: countries must have been “determined to have established, or are making continual progress toward establishing the following:”

- Market economy, with guaranteed right of private property
- Rule of law and political pluralism
- No barriers to U.S. trade and investment
- “National treatment” of foreign corporations
- Intellectual property rights similar to stringent U.S. laws
- Poverty reduction policies
- Increasing availability of health care and education
- System to combat corruption and bribery
- Respect for internationally recognized workers’ rights
- Respect for internationally recognized human rights
- Elimination of certain child labor practices
- Refrain from activities that undermine U.S. national security.

### Those declared eligible for AGOA by the U.S. President, given by the dates of eligibility:

**October 2, 2000:** Benin, Botswana, Cameroon, Cape Verde, Chad, Republic of the Congo, Djibouti, Ethiopia, Gabon, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Sao Tome and Principe, Senegal, Seychelles, South Africa, Swaziland, Tanzania, Uganda, and Zambia;

**May 16, 2002:** Cote d’Ivoire;

**October 23, 2002:** Sierra Leone;

**December 31, 2002:** Democratic Republic of the Congo and The Gambia.

**December 30, 2003:** Angola

### **AGOA gives two provisions, granting special trade privileges:**

**A) Apparel Provision** gives SSA countries that are already eligible for AGOA free access to the U.S. market for items made with U.S. fabric, yarn, and thread. In order to be eligible for the apparel provision, SSA countries must be qualified for the General System of Preferences (GSP) and they must have effective visa systems to ensure that illegal transshipment will not occur. In addition, they must have instituted enforcement and verification procedures for customs controls ([www.agoa.gov](http://www.agoa.gov)). The apparel provision ends by September 30, 2008.

The following countries qualify for the **Apparel Provision**, with the dates of eligibility:

Benin: January 28, 2004; Botswana: August 27, 2001; Cameroon: March 1, 2002; Cape Verde: August 28, 2002; Cote d'Ivoire, December 17, 2003; Ethiopia: August 2, 2001; Ghana: March 20, 2002; Kenya: January 18, 2001; Lesotho: April 23, 2001; Madagascar: March 6, 2001; Malawi: August 15, 2001; Mali, December 11, 2003; Mauritius: January 18, 2001; Mozambique: February 8, 2002; Namibia: December 3, 2001; Niger, December 17, 2003; Rwanda: March 4, 2003; Senegal: April 23, 2002; Sierra Leone, April 4, 2004; South Africa: March 7, 2001; Swaziland: July 26, 2001; Tanzania: February 4, 2002; Uganda: October 23, 2001; and Zambia: December 17, 2001.

**B) Special Rule for Lesser Developed Beneficiary Countries** – This additional clause allows countries whose average annual GNP is under \$1,500 per capita to gain duty-free and quota-free access for apparel (no matter the origin of the thread) until September 30, 2004. Neither Botswana and nor Namibia qualify but have been granted the privilege anyway.

The following countries qualify for the **Special Rule** under the Apparel Provision: Benin, Botswana, Cameroon, Cape Verde, Cote d'Ivoire, Ethiopia, Ghana, Kenya, Lesotho, Madagascar, Malawi, Mali, Mozambique, Namibia, Niger, Rwanda, Senegal,

Sierra Leone, Swaziland, Tanzania, Uganda, and Zambia.

**Ineligible for AGOA** (because the U.S. President rules they do not meet the above requirements (p. 1): Burkina Faso, Burundi, Equatorial Guinea, Liberia, Togo and Zimbabwe.

**Once eligible but no longer:** Central African Republic, Eritrea

## **II. EMPIRICAL DATA**

### **Where Exports Have Increased**

As indicated in the first chart below, of the 37 eligible countries, 25 exported to the U.S. under AGOA by the end of 2003, but only six countries have significantly increased exports, mainly in the textile and apparel sectors: Kenya, Lesotho, Malagasy Republic, Mauritius, Swaziland, and South Africa. Only in Kenya and South Africa did exports substantially rise in other sectors, 1997-2001, primarily in agricultural products: Kenya by 235 % and South Africa by 173.9 %.

The second chart gives the latest data available as of May 2004. After analyzing data for all of sub-Saharan Africa, the same trends were found: 1) the same six countries are the major benefactors, mainly in textiles, and 2) Kenya and South Africa are still the only two countries able to increase exports to the U.S. across several sectors. However, Kenya is the only one able to continue to increase its agricultural exports to the U.S. at an appreciable rate (85.52%) while others show only modest growth for this year (3.2% to 7.2%). Malawi and Namibia may become the next two countries to analyze, for they are increasing their textile exports to the U.S. but the overall dollar amounts remain modest. Further, from 2002 to 2003, they had a negative percentage change in overall exports to the U.S.: Malawi, -42.3% and Namibia, -50.3%. ([http://reportweb.usite.gov/africa/by\\_country.jsp](http://reportweb.usite.gov/africa/by_country.jsp))

The U.S. continues overwhelmingly to import oil and minerals (about 83% of total) from Africa. The sector in which AGOA has had the most impact (textiles) accounts for less than 5% of total trade.

**Chart 1: U.S. Imports from sub-Saharan Africa by Commodity Sectors, 1997-2001**  
(thousands of US dollars)

	Kenya	Lesotho	Malagasy Rep	Mauritius	South Africa	Swaziland
<b>Agricultural Products</b>						
Percent Change AGOA	235%	0%	-60.40%	-35.80%	173.90%	-70.30%
Amount	899 to 3,016	0 to 0	6,276 to 2,484	15,825 to 10,162	28,754 to 78,750	21,812 to 6,487
<b>Electronic Products</b>						
Percent Change AGOA	-79.10%	0%	-59%	-25.50%	-40%	-100%
Amount	139 to 29	0 to 0	748 to 307	3,953 to 2,945	7,931 to 5,476	28 to 0
<b>Textiles and Apparel</b>						
Percent Change AGOA	79217%	1295220%	15430%	49172.20%	1714.40%	100%
Amount	65 to 51,556	1 to 129,523	596 to 92,558	79 to 38,925	1,853 to 33,621	0 to 8,195
<b>All Sectors</b>						
Percent Change AGOA	361.10%	1295220%	943.20%	149.50%	105.30%	-41.60%
Amount	12,767 to 58,873	1 to 129,592	9,308 to 97,105	21,633 to 53,975	449,813 to 923,243	25,290 to 14,770

Source: compiled from U.S. International Trade Commission. [www.usit.gov](http://www.usit.gov)

Energy and energy-related products, mainly oil, qualify for duty free exports from AGOA countries. However, this study excludes energy-related products because they have been a traditional sector of imports by the U.S. The inclusion of energy (oil) as a commodity sector in the analysis of AGOA can lead to skewed results. For instance, with oil exports included, Nigeria is the leading AGOA country with \$9.4 million dollars in exports to the United States. In non-energy sectors, however, Nigeria's exports are

much less significant: \$1.8 million in agricultural exports, 0 in Textile and Apparel, and 0 in electronic goods in 2003.

([http://reportweb.usite.gov/africa/by\\_country.jsp](http://reportweb.usite.gov/africa/by_country.jsp))

Since a major goal of AGOA is to improve the access of sub-Saharan Africa to the U.S. market, this study focuses on non-traditional sectors and the diversity of the exports by AGOA countries.

**Chart 2: U.S. Imports from sub-Saharan Africa by Commodity Sectors, 2002-2003**  
(thousands of US dollars)

	Kenya	Lesotho	Malagasy Rep	Mauritius	South Africa	Swaziland
<b>Agricultural Products</b>						
Percent Change AGOA	85.52%	0%	-96.78%	-74.27%	7.22%	3.20%
Amount	2,860 to 5,309	0 to 0	2,360 to 76	5,061 to 1,302	123,723 to 132,655	6,779 to 6,996
<b>Electronic Products</b>						
Percent Change AGOA	4.38%	0%	-100%	-13.11%	60.93%	100%
Amount	8 to 43	0 to 0	42 to 0	1,854 to 1,611	6,887 to 11,083	0 to 34
<b>Textiles and Apparel</b>						
Percent Change AGOA	44.64%	17.24%	144.56%	26.88%	48.58%	71.00%
Amount	121,881 to 176,286	317,803 to 372,600	76,128 to 186,181	106,528 to 135,162	88,292 to 131,188	73,901 to 126,369
<b>All Sectors</b>						
Percent Change AGOA	42.75%	17.18%	135.65%	25.19%	24.28%	64.89%
Amount	129,210 to 184,441	318,029 to 372,674	79,728 to 187,879	114,292 to 143,077	1,342,594 to 1,668,573	81,252 to 133,975

Source: compiled from U.S. International Trade Commission. [www.usit.gov](http://www.usit.gov)

### III. COLORFUL SAMPLES OR TATTERED CLOTH? CASE STUDIES

#### KENYA

According to research funded by the East African Community (EAC), agro-processing is the dominant sub-sector in Kenya's current export scheme, which involves an expansion of AGOA-induced exports into the U.S. (Githagui 2003). Data from the above table shows U.S. imports of Kenyan agricultural

products increased 235% (1997-2001: \$.9 million to \$3.0 million). This sub-sector is still dominated by tea and coffee plantation-style production. In 2001, the United States imported \$12 million worth of Kenyan coffee (U.S. Bureau of Census 2002). Further data reveals that agriculture accounts for 70% of Kenya's total exports.

The national stock market, with fairly stable growth in value, suggests renewed investor confidence, although the Kenyan shilling remains overvalued

which deters exports. Prediction of the 2003 GDP growth rate varies from 2-7%. Manufacturing has accounted for about 12-13% of GDP for twenty years, stagnating earlier, rebounding somewhat following AGOA but only in Export Processing Zones (EPZs). . A recent Australian study analyzing trade reform (Perkins, 2002) says that EPZ manufacturing growth is about 30% per year, in the context of overall manufacturing sector decline.

### Export Processing Zones (EPZs)

The advent of an Export Processing Zone Authority in 1990 is a response to structural adjustment programs (SAPs) initiated by the IMF. Currently, 52 enterprises operate within 31 EPZs and employ an indeterminate number of people (9,000 to 35,000— various sources) across the country. According to EPZ terms, foreign companies cannot sell locally but must export their products to benefit from tax exemptions, thereby providing mainly jobs to the economy, not tax revenue nor subsidiary industries.

EPZ export activity has grown from \$13.8 million in 1990 to \$107 million in 2002, with \$54 million resulting from U.S. purchases. Recent Kenyan export gains are attributed to AGOA. Sam Mumbi, Chair of the Kenya Export Council, states, “Of all our exports, about 50% now go to the U.S. instead of going to the EU.” (Versi 2003)

Advocates for EPZs claim that they offer wages 20% higher than non-EPZ manufacturers (John Akara, senior official with EPZA). They see EPZs as primary engines of growth and point to the growing equities market as an indicator of Kenyan economic gains and political stability.

The manufacturers appear to be national entrepreneurial affairs, with Asian ownership of about 20%. Taiwan is strongly represented, as it is in Lesotho.

The Australian report (Perkins, 2002) cites the creation of 25,000 jobs in EPZs since AGOA implementation. However, this number is in conflict with others, and as such, remains suspect until further research. For example, by 2003, The Nation (March 15) is reporting “massive job losses” and “worsening poverty.” Labor minister, Joseph Ngutu, blames a mixture of competition, drought, high taxation, and cheap “dumping.” Although “EPZs are shrouded in secrecy,” states Mutamu Rutare, researcher from the Kenya Human Rights Commission, “there is some agreement that they are

ineffective job creation vehicles, but substantive foreign exchange earners,” needed for Kenya’s purchase of imports and to reduce its debt. According to Mbugua Kamau, EPZ Managing Director for Transfleet Ltd., recent widespread labor unrest has weakened the belief that EPZs should or could lead the way in Kenyan job creation.

### Labor

Boniface Munyao, Secretary General of Local Government Worker’s Union, says, “EPZs have not helped the economy; their benefits have not trickled down to the people.” These sentiments are echoed by human rights groups. Lillian Adhiambo stole into a Nairobi “zone-industry,” reporting: “When you look at the worker’s input, you realize how much exploitation goes on in these industries.” She found 100 women hunched behind their machines, enduring, not living. . Although research efforts in EPZ factories are openly opposed and unionizing efforts throttled, sweatshop conditions have been substantiated and documented. General Secretary of the Kenya Shoe and Leather Workers’ Union, Joseph Bolo, says, “The multinationals are giving us a rough time...disregarding the welfare of workers.” He cites that union membership in Kenya has dropped from a high, before structural adjustment, of 82,000 to 12,000 currently.

Wages are insufficient for self (let alone family) sustainability. Evidence suggests a growth in real poverty. Whatever the actual “job creation” by AGOA-linked sectors, those jobs do not offer basic subsistence.

### Gender

**Munyao (General Secretary, Local Garment Workers Union) sees the EPZ-workers’ plight intolerable for women: “Women are particularly vulnerable,” she says, “easily trapped in low-paying, low-skilled jobs.” An assessment of workplace sexual harassment by the International Labor Rights Fund and the Rights for Working Women Campaign (May 2002) concluded that virtually all women experience sexual harassment in the textile manufacturing sectors and commercial agriculture, with the coffee plantation receiving honors as most**

**degrading workplace (Perkins 2002:29). Of the workers in the agricultural export sector, 80% are women, and the numbers are similar for the EPZs; therefore, an overwhelming percentage of AGOA-induced exports to the U.S. are produced by women.**

Of interest is the essential knowledge that AGOA exports to the U.S. are primarily from those industries (coffee and apparel) that are the most abusive to workers' rights. These EPZ manufacturing shops and neo-colonial plantations are highly exploitative, offering dehumanizing routine, corrupt wage scales, sleep deprivation, bribery (sexual and monetary), physical assault and rape. If the U.S. is to be believable in its human rights' discourse, it must confront these allegations and contest them or face the disdain of the African workers. Further, these conditions violate the core requirements for a country to become eligible for AGOA.

#### Sources

Foundation for Democracy in Africa. 2003. "A NGO Perspective on Implementation, Progress and Future Objectives of AGOA," Communiqué from the First AGOA Civil Society, January.

Githagui, Mukami. 2003. African Standard, Nairobi, April, 1.

Karega, Regina G.M. 2002. "Violence Against Women in the Workplace in Kenya." Bureau of Education Research, Kenyatta University.

Kariuki, Jane. 2003. "Kenya: Critics Prompts Kenyan Debate on Export Zones." Inter Press Service, April, 27.

Perkins, Frances. 2002. "Advancing African Agriculture Through Trade Reform," Economic Analytical Unit, Australian Department of Foreign Affairs.

U.S. Bureau of Census. 2002. "US Imports from Kenya from 1998 to 2002."  
<http://www.census.gov/foreign-trade/statistics/>

Versi, Anver. 2003. "AGOA: Views from the Forum," African Business, Issue 285, March.

Wachira, Nick and Tom Mogusu. 2003. "Equities upbeat as Q1 earning season nears," Financial Standard (Kenya), April 22-28.

#### LESOTHO

AGOA has impacted the Lesotho scene in grand fashion. Few African countries illustrate the contradictions of AGOA-inspired textile exports more clearly than Lesotho.

Cited as an AGOA success, in 2003, Lesotho exported about \$400 million in jeans, t-shirts and textiles to the US or over 40 percent of the total earned by AGOA countries for such exports. The number of jobs in the industry has jumped from 17,000 in 2000, when textile production responding to AGOA began, to 54,000 in 2004, four-fifths of them held by women. Textile manufacturing is now the leading employer, replacing the government.

Andrew Gibb, University of Natal's Center for Civil Society, describes Lesotho's new textile manufacturing shops as central to growth, acting as an investment magnet for the landlocked kingdom whose unemployment rate hovered around 45% in 2002.

#### Domestic or Foreign Resources?

In terms of foreign ownership, Taiwanese transnational corporations (TNCs) control 65% of the 27 distinct corporate operations, followed by Hong Kong at 13%, South Africa 5%, Singapore 3%, and Israel 3%. Only 11% of the industry is owned by local investors. Allegations of conflict of interest surround certain Lesotho government officials; information about shareholder membership is essentially unavailable, but corporate CEOs and industrial directorships are known (LECAWU).

The largest operations are Nien Hsing, Fancy Knitting, CGM Group, Lesotho Haps Group, Rivers Group, Sun Textiles, King Eng Factory, and Shining Century. The primary United States buyers include WalMart, K Mart, The Gap, Family Dollar, JCPenney, Zellers. Labels include Alexander Julian, Bill Blass, Reservoir Clothing, Dress Barn, Farah, Gnarly, Cherokee, Hathaway, Just My Size, Route 66, and RT Jeans. Global buyers for Lesotho garments are routinely veiled by these manufacturers to protect those retailers from adverse publicity by "The Clean Clothes" and "Behind the Labels" campaigns. Garments bound for the United States are

simply tagged with a RN prefix and then shipped to brokers in the U.S.

A decade before AGOA, Taiwan-based company, Nien Hsing Textile Co., began production in Lesotho in 1991, lured by business incentives which include the following: low taxation; full repatriation of profits and access to foreign exchange; cheap, while relatively educated, labor; available infrastructure, and weak unions. Nien Hsing employs 3,500 (2002) people with 95% of those workers being women. Nien Hsing also owns C&Y, which employs approximately 4,000 workers, who average earnings around \$2.50 a day. In July of 2002, they entered into a tentative collective bargaining agreement with Lesotho Clothing and Allied Worker's Union (LECAWU).

Nien Hsing is currently investing \$8.6 million in a sister factory in the Thetsane Industrial Area near Maseru. This project intends to reap the benefit of 2004 AGOA sourcing requirements, which will allow Lesotho companies to import thread and yarn from regional manufacturers or produce it themselves. Obviously, Nien Hsing Inc. feels that the quota-free routes to U.S. markets is worthy of continual investment.

### **Labor**

Behind this scene of increasing production and trade, political and labor unrest has led to recent clashes with police. Labor strife grows in Lesotho as the union movement strengthens, attracting international support. Willy Mat'seo, former National Coordinator for LECAWU and current union researcher, told this research team via direct correspondence: "Man, we are dealing with very hostile employers from Asia, in particular Taiwan" (February 21, 2003). In early April 2003, labor was sufficiently restless to stage wildcat strikes (not organized by LECAWU) against numerous Maseru textile manufacturers.

A two-year study (SOMO 2002), including many interviews of workers, gives a repeated pattern throughout the textile factories: locked factory gates, cafeterias next to open, overflowing toilets or bathrooms locked to employees, lack of protective gear, extensive forced overtime, and lack of ventilation. Depending on the season, the factories are bitter cold or stifling hot. Management treatment of workers includes beatings, attack with scissors, false recording of time worked, and sexual harassment.

Lesotho labor codes are extremely weak, supporting a minimum wage, which is generally disregarded by the textile companies. Martha, a senior shop steward and union activist has sewn T-shirts at a garment factory for nine years. Her current take-home pay is equal to \$60/month, including many hours of overtime. (SOMO 2002) Under pressure from continuing union organizing, the Lesotho Textile Exporters Association committed, in 2003, to the enforcement of Lesotho Labor Law. However, Trade and Industry Minister Mpho Malie rejects claims of human rights abuses in the factories, saying buyers were free to inspect the factories without prior notice.

### **Gender**

Sexual harassment is routine and pervasive. In one factory, "special appointments" are required of female workers to meet with a supervisor in his office where he demands sexual favors. (LECAWU 2002: 11). Pregnant women are not transferred to less physically demanding jobs; they are forced to stand at the machines all day and work in the cold. Maternity leave in every factory investigated is unpaid. (LECAWU 2002: 15)

Pay is insufficient (average wage in 2004, 70 cents per hour) to sustain a worker or allow her to send money to the family left behind in the rural areas. "Transactional sex" often provides the only alternative: one man will help with the rent, another provides rides in a taxi, a third will pay for food. Consequently, HIV infects one in two women, aged 16-24 years. The factories respond by handing out free condoms but none spends money on AIDS education or testing. (Wines 2004) It is not unreasonable to suggest that AGOA, and its promotion of global sweatshops in the name of "competitiveness," is one cause of an AIDS infection rate in Lesotho (28 percent of working age adults) higher than South Africa's.

### **Environmental Impact**

In this mountainous country, head waters for the Lesotho Highland Water Scheme for South Africa, there is insufficient water to nourish the textile industries. Observers of this shortage recommend wastewater recycling. This deficiency of water developed as a result of mounting industrial demands, migration of labor to industrial zones in crowded quarters, periodic drought, and poor infrastructure. South African citizens protest the price of water in Johannesburg, while Lesotho complains about scarcity. Further research is

warranted on this dilemma, to determine whether thirst for industrial growth in Gauteng (South Africa) prohibits such growth in Maseru (Lesotho).

#### **Sources**

Labour Department (Kingdom of Lesotho), LNDC, and LECAWU. 2001. "Report of Inspection in the Clothing, Textile, and Leather Industries," Lesotho, 19 March-20 April.

LECAWU (Lesotho Clothing and Allied Workers Union) with the International Textile, Garment, and Leather Workers Federation (ITGLWF). 2002. "LECAWU Factory Interviews, Draft Report and Analysis," July.

Mercury, Durban, February 20, 2004.

SOMO - Centre for Research on Multinational Corporations, Trade Union Research Project (TURP), and Clean Clothes Campaign. 2002. "Made in Southern Africa." A two-year research of the garment industries of Swaziland, Botswana, Mauritius, Madagascar, and Lesotho.

Wines, Michael. 2004. "Women in Lesotho become Easy Prey for HIV," New York Times, July 7: 1.

#### **MALAGASY REPUBLIC (MADAGASCAR)**

The Malagasy Republic became eligible for export benefits in March 2001; also qualifying for the AGOA Special Rule (see p. 2), it is allowed to import fabric from anywhere in the world until September 2004. The value of total exports by Malagasy to the United States rose from \$80 million (2000) to over \$271 million (2001).

Although agriculture has been a primary force economically in exports, there has been a decline in global demand for Malagasy products such as coffee, vanilla, and spices because of competition from other countries. Soil erosion and other environmental factors have also caused agricultural exports to decline.

#### **Export Processing Zone (EPZ)**

The EPZ differs in the Malagasy Republic, because unlike other countries, it spans the entire country/island, which allows EPZ status to be granted to all companies.

Companies invested are from Mauritius, France, India, Hong Kong, China, Bahrain, and others: "Most of the production is (hand) knitting and the cutting and sewing of garments. There has been little investment on the raw materials side, towards production of yarns and fabric, in order to allow the industry to vertically integrate."

#### **Labor**

The minimum wage for employees working in the textile industry is about \$28 (180,000 FMG) per month. It has not been renegotiated for the past two years due to failures of a functioning tripartite structure.

Employees at factories are not given protective gear such as cutters' gloves, masks, or boots for those working in the washing department. Ventilation in some of the factories is poor. Many employees' dining areas are next to unclean toilets. Often employees are locked in the building during work hours; for night shifts, the emergency exits are locked as well.

Although the Malagasy government formally recognizes trade union rights, it does not enforce any labor laws in the export-processing zone (EPZ), in order to attract foreign investment; therefore, workers rights continue to be violated. Workers cannot collectively bargain or form trade unions.

#### **Environmental Impact**

No information has been found regarding the environmental impact of textile and garment production. Environmental degradation has negatively affected agricultural exports.

#### **Social and Economic Impact**

In December 2001, Marc Ravalomanana was declared the elected president, but former president Didier Ratsiraka would not leave his position. With political upheaval lasting a year, including road blocks preventing any commercial traffic for months, thousands of employees lost their jobs in the textile factories. An investor in knitwear from Mauritius, Nicolas Maigrot, stated, "Madagascar increased its exports very efficiently and quickly but today it produces only 25% of what it did before the crisis." (Versi 2003) The future of the industry is uncertain.

In 1997, the labor force for Madagascar was 4.9 million, of which 4.7 million received no money

wages, demonstrating that the vast majority of workers find employment in the informal sectors or parallel markets. The labor force is now 7 million; however, there is no information showing the current relation of formal/informal sector jobs.

**Sources:**

Clean Clothes Campaign,  
<http://www.cleanclothes.org>

International Trade Commission,  
<http://www.itc.com>

United States Government, AGOA website,  
<http://www.agoa.gov>

Versi, Anver. 2003. "AGOA: Views from the Forum," African Business, Issue 285, March.

**MAURITIUS**

According to data provided by the U.S. International Trade Commission, the textile industry in Mauritius has benefited greatly from AGOA. From 1997 to 2001, textile exports to the U.S. under AGOA increased from \$79,000 to \$38,925,000, a 49,172% increase. However, this increase in exports has not benefited all equally; factory owners have begun relocating labor-intensive tasks to other countries, namely, the Malagasy Republic, while wages and employment have stagnated in Mauritius.

**Export Processing Zones (EPZs)**

Mauritius established EPZs under the Export Processing Zones Act of 1970. Incentives to foreign and domestic entrepreneurs include:

- duty- free entry of capital goods and raw materials;
- tax holidays on corporate profits and dividends, as well as a ten-year exemption from income taxes; additional concessions are granted if profits are reinvested in Mauritius.
- unlimited ownership or repatriation of capital and dividends;
- subsidized rates for water, electricity, plant construction;

The Mauritius Industrial and Development Authority (MIDA) supplies industrial buildings for lease to foreign and domestic companies. Today MIDA owns 100,000 sq. meters of building space, accessible by a network of roads and provided with

essential infrastructure and services (MIDA: Industrial Estates).

Indian and Chinese textile companies flocked to Mauritius after the Act.. In the 1980s, the majority of EPZ production was from foreign-owned firms, but today, exports are primarily from national firms. More than 65% of the manufacturing companies in Mauritius were locally owned as of 2000. Of the 518 enterprises in Mauritian EPZs in 2000, 251 (48%) were involved in the manufacture of garments. (Clean Clothes Campaign: Mauritius).

**Textiles**

AGOA extended the U.S. General System of Preference (GSP) to Mauritius for eight years until 2008. Under AGOA, all apparel products manufactured in Mauritius, regardless of the country of origin of fabric, will qualify for quota-free access to the U.S. Furthermore, apparel made in Mauritius from thread produced locally, in the U.S., or in any other eligible African country, will be admitted duty-free into the U.S. market.

Many Mauritius companies, however, are relocating those aspects of their businesses that involve high labor inputs to countries with lower wage rates, including the Malagasy Republic, Mozambique, Botswana, and Lesotho. Malagasy qualifies as a "very poor" country under AGOA and is not subject to rules of origin requirements that thread come from either the U.S. or other eligible African countries. Enticed by low wage rates and cheaper non-U.S. or African thread, many Mauritius companies have transferred textile production to the Malagasy Republic. Foreign direct investment from Mauritius to Malagasy increased from \$55 million in 1997 to \$277 million in 2000. (UNCTAD World Investment Report). There is no data available since the political upheaval there.

**Labor**

Labor in the EPZs is regulated by Mauritian Labor Laws and the Industrial Expansion Act of 1993. Labor is relatively well-paid and well-regulated in comparison to other Sub-Saharan African countries. A 45-hour work week is standard, with up to 10 hours of compulsory overtime. Paid maternity leave and termination pay is standard (Ministry of Labor 2003). Bonuses and overtime in the textile industry add to the minimum wage to bring average wages to \$67-\$167/month (2,000-5,000 rupees/month), compared to \$60-\$70 /month for the overwhelmingly

non-unionized textile workers in Malagasy (Cotton Incorporated 2003). However, jobs in the textile industry remain among the lowest paying jobs in Mauritius, and there is little opportunity for advancement (Clean Clothes Campaign 2003).

National unionization rates are 20-25% of the working age population, but only 9-12% of the workforce is unionized in the EPZs. Union organizers complain that it is extremely difficult to gain access to EPZ factories, and managers frequently threaten to close factories if workers unionize (Clean Clothes Campaign, 2003). During the People's Forum in January 2003, held to protest the Second AGOA Forum, Mauritian police did not allow any demonstrations and threatened arrests.

With relocation of many labor-intensive tasks to the Malagasy Republic under AGOA, there has been a reduction in jobs in Mauritius. Today, unemployment stands at 8%: 13.1% of women are unemployed, compared to 6.3% of men (Day-Hookoomsing 2001:8).

### **Agriculture**

Sugar production in the last decade has fluctuated due to periodic cyclones and drought. From summer 1997 to 1999, Mauritius experienced the worst drought of the century; sugar production fell 40.6%, to a low of 373,294 tons in 1999 (The Mauritian Connection 2003). These environmental factors explain the sharp decline in U.S. imports of Mauritian agriculture from 1997 to 2001.

### **Sources:**

Cotton Incorporated. 2003.  
(<http://www.cottoninc.com/CottonImporter/homepage.cfm?PAGE=2799>).

Day-Hookoomsing, Patricia. 2001. "Women and the New World Economy: An Island's Experience."  
*BBS Teaching and Research Review* 5: 1-8.

Ministry of Labor, Government of Mauritius. 2003.  
"Industrial Expansion Act- Extract."  
(<http://ncb.intnet.mu/lireh/ministry/indus.htm>).

The Mauritian Connection. 2003. "The Mauritian Sugar Industry at a Glance."  
([www.themauritianconnection.com/business/sugar/glance.html](http://www.themauritianconnection.com/business/sugar/glance.html)).

(MIDA) Mauritius Industrial and Development Authority. 2003. "Mauritius Industrial and

Development Authority: Industrial Estates." .  
(<http://ncb.intnet.mu/mida/ymedia.htm>).

Clean Clothes Campaign. 2003. "Mauritius: No Paradise for Foreign Workers."  
(<http://www.cleanclothes.org/publications/02-09-mauritius.htm>).

### **SOUTH AFRICA**

AGOA seems to have benefited the following sectors: agriculture, vehicle manufacturing, textiles and apparel. A new BMW assembly plant is directly related to AGOA. The agriculture sector increased exports of South African wines and canned fruit to United States.

### **Investment in South Africa / EPZs**

There are about 900 United States firms doing business in South Africa, up from approximately 250 since the mid-1990s. The U.S. is the largest foreign investor in South Africa since 1994. (U.S. Dept of Commerce 2002) Under AGOA, U.S. companies, including Levi Strauss, Sara Lee, Victoria Secret, and Nordstrom, are investing in the South African apparel sector. East Asian companies have shown interest in investing in the garment industry, with a Malaysian firm planning to open a \$100 million garment and apparel factory to employ 13,000 workers (Africaonline, 2003). Clothing and textiles investments from European companies have also been made largely to take advantage of preferential access to the U.S. market via AGOA. (OECD 2001 and 2002)

Although revitalization of the automotive sector has attracted major European investors, Western TNCs remain overwhelmingly interested in mineral exploitation. There was no information found about EPZs in South Africa.

### **Use of Domestic Resources/Trade**

The research indicates that most industries are using domestic resources within South Africa, except for the textile sector. In that sector, some companies, such as OTK, a South African agriculture service company, is contracting a cotton gin in Uganda to supply South African spinners with raw materials to fully exploit AGOA opportunities.

For eligible countries like South Africa, AGOA does seem to increase possibilities for trade with other African countries. For instance, South African fabric exports to Mauritius have dramatically increased as a result of Mauritian clothing producers buying fabric in South Africa.

However, South Africa has a perennial and major trade imbalance with the rest of Africa. If AGOA only assists South Africa in further increasing exports to neighbors, without reciprocating with increased imports, it will only increase South African economic dominance in the region. AGOA privileges the stronger economies, for they can take advantage of any opportunities offered. Inequality increases with increased trade.

### **Labor**

Most of the information on labor conditions refers to the textile sector. The South African Clothing and Textile Worker Union (SACTWU) represents over 80% of the 30,000 workers in the industry and is affiliated to the Congress of South African Trade Unions (COSATU comprises 19 trade unions, with a total membership over 1.8 million). In June 2003, SACTWU successfully completed negotiations for 10% minimum wage increase, a one-hour reduction in the work week, additional leaves, and recognition of a national bargaining council.

### **Gender Issues**

While labor and government have detailed restructuring strategies for the textile, apparel, and footwear industries, little attention has been paid to gender issues. Although AGOA has been accredited with increasing jobs in the clothing and food processing sectors, rates of unemployment, especially for women, are rising.

### **Environmental Impact**

Environmental degradation is taking place in South Africa, from the increase of investment in sectors such as textiles. In order to address this problem, the German Investment and Development Corporation (DEG), a government initiative for German owned companies operating outside of the country, recently donated about \$250,000. The money is to assist FALKE, a German garment export company in the management of environmental improvement projects in South Africa, focusing on reduction of air pollution, enhancement of the work environment, and improved energy resource utilization.

### **Sources**

Africaonline. 2003. "Agoa Boosts Africa Trade and Flows of Investment" (<http://www.africaonline.com/site/Articles/1,3,49675.jsp>)

"Agoa- Apparel Importers Foresee Africa Trade Protection Changing." 2003. (<http://fr.allafrica.com/stories/200301150249.html>), January 15.

OECD. 2002. Foreign Direct Investment in South Africa. (<http://www.oecd.org/pdf/M00022000/M00022067.pdf>).

OECD Global Forum on International Investment. 2001. "New Horizons and Policy Challenges for Foreign Direct Investment in the 21st Century," Mexico City, 26-27 November.

U.S. Department of Commerce. 2002. "Business Development Mission Ghana and South Africa," November 12-15. (<http://www.osec.doc.gov/africatrademission/>)

### **SWAZILAND**

Under AGOA, Swaziland's duty-free exports, comprised primarily of textiles, apparel and agricultural products, to the U.S. were assessed to be \$14.8 million in 2001. This country has witnessed a considerable growth of investment in textiles and apparel, mainly from Taiwan. In 2001, eight textile and apparel factories increased their operations, leading to the creation of 11,000 new jobs. Moreover, there is also a scope for additional new ventures that are under consideration.

Around 80% of the goods that are manufactured in Swaziland are exported, the principal items of which are sugar-based concentrates and blends, paper products, garments, textiles, and sweets. The Swaziland Investment Promotion Agency (SIPA) expects economic growth (GDP) to increase to 6% per year from the present 2.5%.

Although garment companies manufacture primarily for the U.S. market, for large vendors, such as Wal-Mart and K-Mart, Europe does import some garments made in Swaziland. The Clean Clothes campaign researchers reveal that overseas purchasers monitor not only quality standards, but also, in some cases, social and environmental criteria of the factories.

## Labor

In 1978, Swaziland endorsed the ILO Convention No. 87 (Freedom of Association and Protection of the Right to Organize, 1948) and Convention No. 98 (Right to Organize and Collective Bargaining, 1949). The leading national trade union in the country, the Swaziland Federation of Trade Unions (SFTU) was established in 1973. This Federation tries to coordinate workers in both the public and private sectors, but the present administration restrains trade union organizations. Strictly curbing the influence of existing trade unions, the government continues to be insensitive to the labor demands.

**The minimum wage for a "casual laborer" is about \$6 per week, while a principal sewing machinist is to receive about \$10 per week. Rather than employing the minimum as a basic wage level, companies have a tendency to use it as a ceiling for wages. Even minimum wages are not paid in some companies.**

**(Clean Clothes Campaign)**

**The Swazi government recognizes the fact that Taiwanese-owned companies have an "unfortunate reputation" of being unscrupulous employers. Despite substantiation of poor working environments and grievances regarding degrading work conditions, minimum standards are not implemented.**

**Researchers (Clean Clothes Campaign) document the following problems:**

- **low wages**
- **unhealthy and unsafe workplaces**
- **substantial and often compulsory overtime**
- **lack of adequate monitoring by buyers**
- **trade union repression by employers and government**
- **extra hardships experienced by pregnant workers**
- **a lack of government protection for workers.**

Approximately all knitting requires strenuous manual labor, which is physically exhausting. Employing this skill suggests that companies are exploiting the available cheap labor. Only a handful of the companies supplied their workers with protective attire or safety equipment. Often, workers were not safeguarded from the harmful impact of workplace noise.

## Gender Issues

Even though legally protected against sexual harassment, Swazi women are exposed to sexual biases under both formal and customary law. Regarded as minors, married women needed their husbands' consent to work in any place. They are not entitled to receive inheritance benefits.

Regulations allow women to take three months maternity leave, and they receive a full salary for only one of those three months. In reality, pregnant women are permitted to take only one month's leave, but are not monetarily compensated for any of it. This situation compels them to continue working until their delivery time, and in most cases, they return to work a month after giving birth. In one factory, which produces for GUS (UK), KarstadtQuelle (Germany), and Mr. Price, Edgars, Ackerman, Pep Stores, and Makro (South Africa), workers inform that "some women give birth on their way home from work." In this industrial unit, they are given only two weeks' time off. They are only permitted to have one month's vacation. Due to pressing monetary needs, some women go back to work after two weeks of vacation. (Clean Clothes)

## Sources

Clean Clothes Campaign.  
(<http://www.cleanclothes.org/news/newsletter15-06.htm>)

COSATU  
(<http://www.cosatu.org.za/sftu/9708updt.html>)

## IV. REACTION AND RESISTANCE TO THE FIRST YEARS OF AGOA

### Non-Governmental Organizations (NGOs)

African NGOs have organized campaigns to spread awareness among the African governments and people regarding AGOA. For them, instead of bringing any meaningful change to African economies, it will not only destabilize African continuing economic initiatives, but also buttress the iniquitous

measures in the World Trade Organization rules. The People's Forum, organized by 30 organizations within Mauritius civil society for other African civic organizations, is one of the most outspoken; referring to the U.S.-financed Second AGOA Forum held in Mauritius (January 2003), they stated, "We have come together because we ALL oppose the conditions (technical, political and economic) of the AGOA which we consider colonial, anti-democratic and economically disastrous for Africa." (Correspondence to Bread for the World, January 7, 2003)

The "PA Bush" (No to Bush) Platform was set up at the end of 2002 following a number of meetings of African civics. A few of the points of the Platform are as follows:

- We oppose all the overt and hidden conditionalities (see above under AGOA Eligibles) in AGOA which lead directly to increased poverty and social inequality and which undermine social and economic human rights of our people;
- We denounce the USA failure to ratify most of the ILO Conventions and the UN Declaration on the Rights of the Child;
- We oppose the USA for its leading role in imposing globalization world-wide, in part through its own military force and in part through the Washington-based IMF and World Bank;
- We oppose the USA for its constant work to erode the sovereignty of other states.

To the contrary, a consortium of more than 160 U.S.-based development and humanitarian NGOs support AGOA. According to the U.S. Department of State, U.S. Trade Representative (USTR) Robert Zoellick heralded the Second AGOA Forum as "a success and an exemplary example for all of us." U.S. team members comprised 25 officials from the State, Treasury, Commerce, Transportation and Agriculture departments, as well as the U.S. Agency for International Development (USAID). They joined ministers of trade, finance and economics from the 38-eligible AGOA nations. Proclaiming the success of free trade under AGOA, they also acknowledged that AGOA can do even better. This forum for the first time included separate business and civil society components.

Odour Ong'wen, Chairperson of the NGO Council of Kenya, and Professor Yash Tandon of Uganda argued at a forum (*Another Africa is Possible* debate forum, March 3-5, 2003) in Nairobi, that "African

governments have let their people down by signing treaties that bind them to perpetual hardships." African civics maintain that the crisis is not in Africa but among developed economies who seek to exploit low-priced African resources through unilateral treaties (e.g. AGOA, and the EU's "Everything but Arms" trade implemented in 2001).

### Unions

Except for South Africa, trade union movements are not strong in other SSA countries. Currently, labor movements are increasing their strength in Lesotho with international attention and support. Often unsympathetic to the workers' demands, governments discourage trade union associations. Because of workers' weak organizations as well as the governments' and sweatshop owners' unwillingness to implement labor laws, trade unions are unable to implement labor rights and fulfill their demands. Absence of strong trade unions and the violation of human rights in workplaces abrogate the core conditions of AGOA (p. 1). Although exports increase from sub-Sahara Africa to the USA, factory labor practices violate U.S. law.

### Anti-Sweatshop Campaigns

The Anti-sweatshop campaign in the U.S. mainly focuses on the various garment factories in Latin America and South and Southeast Asia. Although some of the anti-sweatshop campaigns now include the conditions of Lesotho's sweatshops, most of the movements remain silent about African garment factories.

## V. ENTANGLING THREADS – SUMMARY OVERVIEW OF FINDINGS

The following are a summary of the general findings of this research, with discussion of them in the full text.

### AGOA Eligibility Requirements

Findings about the impact of AGOA that relate to the eligibility requirements are summarized below:

- a) Although each African state is theoretically cleared as fulfilling the "eligibility requirements" in order to trade under AGOA, in fact, the U.S. Trade Representative (USTR) recommends to the U.S. President to designate many countries as eligible,

even though they violate several of the so-called requirements.

b) Sweatshop conditions in several AGOA countries, including gross violations of human rights of workers, violate the very preconditions that the U.S. government set up for AGOA partners.

c) Restrictions requiring the use of U.S. thread or thread from AGOA eligible countries for duty-free entry precludes the goal of open markets.

d) Apparel provision: if there is a loss or damage to the U.S. apparel industry sales, this condition (p. 2), will be revoked, a violation of WTO rules.

e) The stringent intellectual property rights (IPR) requirements seem to have little or no relation to AGOA trade. It appears this conditionality, therefore, is a means for the U.S. to enforce its national IPR laws on African countries resisting TRIPs of the WTO.

f) National treatment of foreign-owned enterprises is a requirement, but in fact, investment has mainly increased in export processing zones (EPZs) where foreign-owned factories are greatly privileged over nationally-owned ones (suspension of labor laws, no taxes, etc; see Lesotho, Malagasy case studies).

### **Sovereignty**

Critics of AGOA raise the question whether African states forego sovereignty to engage in AGOA. As is seen from the list of eligible countries and from the above conditionalities, trade relations with the U.S. are as much political as economic, for example, granting Botswana and Namibia 'lesser developed' status. Further, the U.S. does not reciprocate on some provisions, such as respect for national security. AGOA sets high political hurdles to trade, rather than reducing trade barriers.

The political agenda creates volatile economic conditions. By June 2004, several countries were waiting for the U.S. Congress to extend the deadline from September 2004 to 2007 for duty-free entry into the U.S. of textiles manufactured from third-party fabric. The House of Representatives passed the bill (June 14, 2004) but it was not at all clear that the U.S. Senate would oblige. Swaziland was already losing jobs because clothing orders had been redirected by Taiwanese factory owners to their plants in other countries; Kenya would also lose much of its exports to the U.S. Such uncertainty hinders rational economic planning and could lead to de-industrialization (see below).

### **Beneficiaries**

Trade has increased substantially from sub-Saharan Africa to the USA for only six countries: Kenya, Lesotho, Malagasy Republic, Mauritius, South Africa, Swaziland (case studies in this report).

### **Trade Sectors – Industrial Growth or De-Industrialization?**

Trade has overwhelmingly increased in only one sector: textiles and apparel. Only in Kenya and South Africa did exports substantially rise in other sectors, primarily in agricultural products: Kenya by 235 % and South Africa by 173.9 %. (See tables)

Some will applaud this result noting that the textile industry has historically been the impetus for further economic growth. Others will note that the Multi-Fiber Agreement (MFA) will expire on January 1, 2005, according to WTO rules; this expiration will allow textile and apparel industries in China, India and other Asian countries to compete freely in the U.S. market with these miniscule and nascent industries in AGOA countries. If this occurs, AGOA will have encouraged only short-term, ephemeral (2-3 years) industrial production. De-industrialization in textiles is not new on the African continent, often resulting from liberalization requirements of structural adjustment programs (e.g. Tanzania, Zambia, Zimbabwe). After 2005, AGOA may have reinforced, not reversed, this trend.

### **Trade Diversion**

AGOA seems to have redirected trade away from traditional markets, mainly the EU, toward the U.S. It appears this result was an original goal of AGOA, reinforced with the new negotiations for a USA/SACU free trade area (FTA), which threatens the essence of SADC (Southern African Development Community).

These trade protocols only partially and momentarily open the U.S. market to African goods, while requiring unilateral concessions from Africa, not reciprocated by the U.S. (e.g. respect for national security, combating domestic corruption).

### **Foreign Ownership – Foreign Direct Investment (FDI)**

Most of the enterprises invested in textile and apparel manufacturing are from Southeast Asia, especially from Taiwan, Hong Kong, and Singapore. Among the African countries, South African companies have investment in Lesotho, and Mauritius invests in the

Malagasy Republic. Moreover, companies from the U.S., France, China, India, Bahrain and Israel have investments in textile and garment factories since AGOA. Because they are producing mainly in EPZs, the foreigners pay little or no taxes and offshore profits. Often the state is required to provide infrastructure (i.e., sufficient water is an issue for textiles), even when it cannot deliver adequate health care or education for the workers.

### **Regionalism**

AGOA has facilitated both Mauritius and South African investment in other AGOA-eligible countries where labor is even cheaper than in their own countries. Some will argue this expansion promotes regionalism. Others will note that such expansion exacerbates South African and Mauritius (over Malagasy and Mozambique) regional economic domination, assisting the strongest economies. This result is not unusual for free trade relations, which privilege stronger economies.

### **Environment**

Because AGOA is relatively new, there is not yet sufficient information about its environmental impact. There have been no environmental impact studies done.

### **Sweatshop Conditions and Gender**

Working conditions in the sweatshops are appalling: unsanitary toilets in open view of cafeteria tables, inadequate light and ventilation, locked entry gates and bathrooms, no protective clothing, etc. Management systematically violates human rights by beatings, forced overtime and demanding sexual favors. Besides these hazardous working conditions, wages fall below national poverty lines. Further, women workers encounter frequent sexual

harassment and discrimination. In some cases, married women face bias in obtaining jobs, with continuing discrimination in the workplace if they are hired.

Job creation under AGOA has not been a means for wealth formation of workers, who endure abuse for poverty wages. The pay is so low that female workers offer sex to obtain necessities such as food or rent, drastically increasing the rate of HIV infections. (See case studies, especially Lesotho) Familiar U.S. labels (JCPenney, Wal-Mart, The Gap, Dress Barn, Route 66, Just My Size, Farah and many others) hide their relationship to such labor conditions by shipping via brokers.

### **Resistance**

A growing number of African civic organizations are organizing and speaking out against the multiple conditionalities and the impact of AGOA. For the conditionalities, they note there is no reciprocity on the part of the U.S., for example, to respect African sovereignty. For the impact of the first two full years of AGOA (2000-2002), they are protesting the exploitation of cheap labor, little technological transfer, and little reinvestment by foreign factory owners in the African economies.

As discussed on the African continent for several decades now, growth in trade will not result in sustainable development, if production is not integrated into the entire economy, such as providing new skills and living wages for workers and new sources of revenue for public goods. Finally, the conditions under which AGOA-traded commodities are produced violate the very terms of AGOA.

## **The Proposed US-SACU Free Trade Agreement (FTA): Comparison with the FTAA, CAFTA, US-Chile FTA, and US-Singapore FTA**

Jill Mary Verbeck, John Kemoli Sagala, Yin Min Kyi, Daniel Ogbaharya, Luke M. Olson  
Northern Arizona University

### **Introduction**

**In June 2004, the United States and the**

**South African Customs Union (SACU—  
Botswana, Lesotho, Namibia, Swaziland,  
and South Africa) will convene the fifth**

**out of nine scheduled negotiations for a Free Trade Agreement (FTA). Both sides expect to conclude negotiations and to sign by December 2004. The negotiations of the agreement are taking place in two phases:**

**Phase One:** Market Access issues (including trade in goods, customs procedures, rules of origin, standards, trade remedies, services)

**Phase Two:** "Second Generation" trade issues (including labor, environment, intellectual property, investment, and government procurement)

The following are potential benefits that the negotiating parties mention as reasons for creating a FTA:

1. Rationalization of SACU production and services into a viable regional economy;
2. Further integration of SACU into the global economy;
3. Increased attractiveness of SACU to investors by its gaining permanent market access to the largest economy in the world;
4. Development through "trade not aid" for the BLNS (Botswana, Lesotho, Namibia, Swaziland)
5. Promotion of the growth of a largely untapped market for US investors.

However, many civic organizations in the SACU region and the US, especially the labor unions, as well as other governments within southern Africa note many possible disadvantages to such a FTA. As discussed briefly below, many analyze this agreement as a threat to all 14 economies in the Southern African Development Community (SADC);<sup>1</sup> this FTA could cause the demise of SADC, an important regional economic community on the African continent, about equal in size and population to the USA.

Because negotiations of the SACU FTA are still secret, not all the terms are known. Therefore, as civil societies in both the US and Southern Africa demand transparency of the negotiations, this study facilitates the immediate comparison of several USA-engineered FTA treaties.

This report presents a summary of the context and issues surrounding the US-SACU FTA by which the reader can better judge the potential benefits or detriments. It is a guide *to invite all stakeholders* to join in the analysis of the US-SACU FTA.

## Outline

To provide a context for the agreement, we set the current negotiations in its regional context; SACU cannot be separated from SADC. We offer a brief history of SACU, with attention to changes from the 1969 SACU agreement to the 2002 SACU agreement, only recently ratified by all member countries.

**Next, we introduce discussion of various trade issues obvious in selected FTAs that the US has already negotiated. Through comparison with other FTAs, we find that the trade terms and conditions are similar or consistent across several FTAs. The agreements we use to compare the probable US stance on these issues for SACU are the following: Central American FTA (CAFTA), US-Singapore FTA, Free Trade Agreement of the Americas (FTAA), and the US-Chile FTA. [Editor's note: Discussion here draws upon a detailed chart created by the author's comparing these prior FTAs. This unique chart is available only on the ACAS website: <http://acas.prarienet.org>]**

Third, we discuss advantages and disadvantages of the trade provisions across several key trade-related categories, giving our recommendations on possible improvements for the agreements to foster equity and sustainable development.

Finally, we provide relevant definitions and list further resources on these FTAs, SACU negotiations, and the history of SACU.

## I. The Potential Threat of a SACU-USA FTA to SADC

Under colonialism, Southern African economies were fully open to their colonial masters, with trade relations set to benefit the metropolises. After independence, governments worked to encourage production and trade to benefit local development and capital formation, not simply foreign capital. Therefore, most governments implemented restrictive licensing systems, high tariffs, and other import prohibitions on foreign goods. The import restrictions were to direct hard-earned foreign

exchange toward the purchase in the global market of necessities, such as medicines or high tech equipment, not luxury items for a small elite (liquor, cosmetics). Further, tariffs were/are a major source of government revenue, given the extreme poverty of the taxable population. At the same time, some countries imposed substantial export taxes and also prohibited the export of certain goods considered necessary for national security, such as maize from Zimbabwe.

Even before majority rule in South Africa, the region set dates for staged trade liberalization; for the restrictive import/export policies hindered regional coordination. SADC's analysis is that increased trade and investment within the region would facilitate competitiveness of the economies in the global market, not the reverse of prioritizing links to the global market before regional coordination. For example, South Africa continues to export manufactured goods to all of Southern Africa without reciprocating in the purchase of their exports. The resulting huge trade imbalance between South Africa and all of SADC (including the BLNS) perpetuates inequities. A majority of SADC members have complained about the lack of access into the South African market (Kalenga, 2000:3). Furthermore, the SACU-USA FTA "will penetrate the markets of SADC countries, undermining agriculture and industrial sectors." (Lee, 2002: 6).

Additionally, the smaller SACU and SADC countries will not be able to compete with European and American farmers who receive huge subsidies from their governments. It is anticipated that the US will try to push genetically modified organisms (GMOs) through the SACU-USA FTA arrangements on agricultural products (Meyn, 2003:14). These organisms will not only affect SACU but the whole of Southern Africa including SADC countries, "where the majority of countries reject genetically modified food" (Meyn, 2003: 14). The importation and transfer of genetically modified food into the Southern Africa region would undermine SADC and SACU exports to the European Union, which has banned genetically modified organisms. A majority of SACU and SADC countries would therefore lose a substantial market for their agricultural produce and thus suffer foreign currency revenue problems.<sup>2</sup>

### **A Brief History of The South African Customs Union (SACU)**

As the world's oldest custom union, the South African Customs Union (SACU) dates back to the

1889 Customs Union Convention between the British Colony of Cape of Good Hope and the Orange Free State Boer Republic<sup>3</sup> (Maasdorp, 1989; Sidaway and Gibb, 1998). A new agreement, signed on June 29, 1910, was extended to the Union of South Africa and the British High Commission Territories (HCTs), i.e. Basutoland (Lesotho), Bechuanaland (Botswana), and Swaziland (McCarthy, 2003a). South West Africa (Namibia) "was a *defacto* member, since it was administered as part of South Africa" before it became a *dejure* member (Stoneman and Thompson, 1991: 6). The primary goal was to promote economic development through regional coordination of trade.

The 1910 agreement, in effect until 1969, created the following:

1. A common external tariff (CET)<sup>4</sup> on all goods imported into the Union from the rest of the world; a common pool of customs duties as per the total volume of external trade; and excise duties<sup>5</sup> based on the total production and consumption of excisable goods.
2. Free movement of SACU manufactured products within SACU, without any duties or quantitative restrictions (Brummerhoff, 1998).
3. A revenue-sharing formula (RSF)<sup>6</sup> for the distribution of customs and excise revenues collected by the union (Kirk and Stern, 2003).

Throughout SACU's history, South Africa has been the dominant player "accounting for 90 percent of SACU's total GDP" (NEPRU, 2001: 2). As shown in Table 1, in 2000, SACU's total gross domestic product (GDP) was about US\$ 124 billion, with South Africa still accounting for approximately 91 percent (US\$ 113 billion) of the total SACU GDP.

As early as 1925, South Africa adopted import substitution industrialization (ISI) policies, backed by the common external tariffs on non-SACU products. These measures guaranteed a regional market for South African manufactures, while relegating the HCTs to producing primary commodities (McCarthy, 2003). Under apartheid, South Africa was the sole administrator of the common SACU revenue pool, with the South African Minister of Trade setting SACU import duties and the Minister of Finance setting excise policy (Kirk and Stern, 2003).

Dissatisfied with the structural issues of management and decision-making processes and the unfair and inequitable revenue sharing, the HCTs constantly called for a revision of the 1910 agreement (NEPRU, 2001), but negotiations for change only began after

their independence in the early 1960s (TRALAC, 2004)

## *The 1969 SACU Agreement*

Signed by the sovereign states of Botswana, Lesotho, and Swaziland (BLS) and South Africa, the December 11, 1969 SACU agreement provided two major changes: (1) the inclusion of excise duties in the revenue pool<sup>7</sup> and (2) a multiplier in the revenue sharing formula that enhanced BLS revenues annually by 42 percent. The resulting increased revenues became important for BLS national development (McCarthy, 2003b).

However, similar to the 1910 agreement, South Africa retained the sole decision-making power over customs and excise policies. It also retained open access to the BLS market, while the high common tariff raised barriers for Southern African neighbors' exports to SACU. These trade-diverting effects benefited South African manufacturers (Meyn, 2003). In Table 2, we present a summary of major policy issues as contained in the 1969 SACU agreement.

### **1969 SACU Agreement: Issues of Contention**

Because of the "absence of a joint decision-

making" process (Kirk and Stern, 2003: 5), the BLS demanded factoring compensation into the revenue sharing formula, in order to address the loss of fiscal discretion (NEPRU, 2001). From 1969 onwards, the BLS expressed their dissatisfaction with the following three key issues.

**1. No joint decision making processes** – Prior to 2002 "SACU was administered on a part-time basis by annual meetings of the Customs Union Commission and there were no effective procedures to ensure compliance or resolve disputes" (Kirk and Stern, 2003: 6). The BLS charged that tariff and excise decisions emanating from South Africa were designed to protect and promote South Africa's economic interests.

**2. Revenue sharing formula** — The most contentious issue of the 1969 Agreement was the Revenue Sharing Formula (RSF), which determined each country's share of the Common Revenue Pool. Following intense negotiations, the RSF was amended in 1976 to include a stabilization factor that ensured that the BLS received at least 17 percent, and at most 23 percent, of the value of their imports and excise duties (Kirk and Stern, 2003).

**Table 1. SACU: Economic and Social Indicators of Member Countries(2000)**

Country	GDP/capita	Pop.	Size	GDP	
	Millions		'000 sq km	US\$	US\$
Botswana	1.70		581.7	5.20 B	3,179
Lesotho		2.15	30.4	0.90 B	468
Namibia		1.70	824.0	3.50 B	2,030
S. Africa	43.20		1200.0	113.00 B	3,198
Swaziland	1.00		17.4	1.29 B	1,497

**GDP - Gross Domestic Product** – All goods and services produced for final use by an economy, by both residents and non-residents; it is internationally accepted as a rough indicator of the size of an economy. However, for Africa, it can seriously underestimate size, for GDP ignores informal economies, urban and rural.

**Source: The World Bank World Development Indicator Database Retrieved April 3, 2004, <http://www.worldbank.org/afr/>**

3. Question of external (outside SACU) trade -

The BLS argued that South Africa consistently entered into preferential agreements with Third Parties, “most notably South Africa’s bilateral agreements with Zimbabwe and Malawi” (Kirk and Stern, 2003: 6), which benefited South Africa and not the BLS.

**The 2002 SACU Agreement**

With the independence of Namibia in 1990 and the demise of apartheid in South Africa in 1994, SACU members embarked on new negotiations in November 1994, which culminated in a new SACU

agreement in 2002. It addressed three outstanding issues.

**1) Joint decision making processes** - Article 3 established an independent administrative secretariat to oversee SACU with its headquarters in Windhoek, Namibia. Article 7 created several independent institutions including a Council of Ministers, a Customs Union Commission, a Technical Liaison Committee, and a SACU Tariff Board to replace the South African Board of Trade and Tariffs (TRALAC, 2002). The SACU Tariff Board consists of five professionals from the five countries to oversee all changes to external tariffs

**Table 2: Basic Provisions of 1969 SACU Agreement**

<i>Policy Issue</i>	<i>1969 Agreement</i>
Common external tariff <sup>8</sup>	as determined by South Africa
Common excise duties <sup>9</sup>	as determined by South Africa
Customs legislation	identical/uniform legislation
Revenue sharing	formula based on customs and excise pool
Transit trade	transport rate discrimination illegal
Trade with 3 <sup>rd</sup> parties	subject to prior concurrence
Dispute settlement	consultations among member countries
Agricultural policy	excluded from agreement
Agricultural marketing	allowed but must be non-discriminatory i.e., no SACU member country would discriminate goods from one country against another. Treat all equally.

Source: Kirk, R. and Stern, M. 2003. “The New Southern African Customs Union agreement.” *Africa Region Working Paper No. 57* p. 12 Available at <http://www.worldbank.org/afr/wps/wp57.pdf>

(McCarthy, 2003a). These institutions are designed to enhance equal participation by member states (NEPRU, 2001). The 2002 Agreement also provides for policy coordination in agriculture, industry, competition, and unfair trade practices, and protection of infant industries.<sup>10</sup>

**2) New Revenue Sharing Formula - South Africa will not receive its share of revenue as a residual, but will share on the same basis as the BLNS. Revenue allocations will be made after the budgeted cost of financing the SACU institutions. What remains will be allocated to the five member states in**

**payments consisting of customs<sup>11</sup>, excise<sup>12</sup>, and development component<sup>13</sup> (McCarthy, 2003a: 7).**

**3) Question of external (outside SACU) trade - Since 1980, the Southern African Development Community (SADC) has offered alternative regional economic coordination to the BLS, to reduce their dependence on the South African economy, for the main challenge in all of Southern Africa involves the need to develop strategies that enhance the political, economic, social, and cultural**

**integration of the region without jeopardizing the economies of the smaller states.**

**Since 1994, South Africa has negotiated a bilateral trade agreement with the EU, ignoring its SACU and SADC neighbors. SADC (14 members including all of SACU) has a schedule for staged liberalization of trade, allowing smaller economies and vulnerable sectors (e.g. food security) to be liberalized more slowly than the more powerful economies such as South Africa. In addition, unilateral negotiations by South Africa and the US seem to ignore all other regional coordination efforts.**

## **II. US Trade Patterns**

The U.S. has concluded a number of free trade agreements and is currently taking part in both bilateral and multilateral negotiations. We use recent agreements as templates to forecast the likely outcome for US-SACU FTA provisions. Rather than following the formal structure of the negotiations, we approach the agreements with the intention of illustrating how they affect citizens and governments.

**USS-FTA (US-Singapore Free Trade Agreement)**, effective as of January 1, 2004, is the first transcontinental FTA for the U.S. Singapore is the U.S.'s 11<sup>th</sup> largest export market, while the U.S. is the 2<sup>nd</sup> largest export market for Singapore. Through USS-FTA, the US intends to give Singapore the dominant position within the South East Asian region while strengthening its own position. American policy makers herald the USS-FTA as a vehicle for increased American investments and trade in Singapore and the South East Asia. In addition, for the first time in trade history, electronic-commerce commitments are included in this agreement.

**US-Chile Free Trade Agreement** negotiations spanned more than two years, concluding on December 11, 2002. The U.S. House of Representatives approved the FTA with Chile on July 24, 2003, 270-156 the U.S. Senate followed on July 30, 2003, and President Bush signed the agreement on September 3, 2003. The Chilean Congress, 66-31, ratified the U.S.-Chile FTA agreement on October 22, 2003, and it was implemented January 1, 2004.

**FTAA (Free Trade Agreement of the Americas)**, under negotiation, is a larger version of the North American Free Trade Agreement (NAFTA). FTAA will link all of the hemisphere's economies (35 countries with 500 million people) except Cuba. Its implementation was scheduled to be finalized by the year 2005, but negotiations are currently stalled. The FTAA would, in theory, provide member countries increased foreign direct investments. However, the small countries fear that it would give private foreign investors too much power to infringe upon their national sovereignty. Brazil, in particular, continues to express reservations about the FTAA and proposes that negotiations take place among Latin American countries before negotiating on a larger scale.

**CAFTA (Central American Free Trade Agreement)**, signed on May 28, 2004, includes the US and the five Central American nations: El Salvador, Costa Rica, Guatemala, Honduras, and Nicaragua. Early on, Costa Rica expressed some doubts but joined the agreement January 25, 2004 after renegotiating some issues. CAFTA could go to the US Congress any day for a vote. However, due to lack of support for the agreement, it is unlikely to be voted on before the 2004 presidential elections.

Under examination, patterns quickly emerge within the trade agreements whether they are regional or bilateral. The provisions highlighted give insight into the likely negotiating and provisional patterns of SACU.

*[Editor's note: The authors' chart available at [acas.prarienet.org](http://acas.prarienet.org) expands the detailed comparison of these trade agreements.]*

## **Summary Assessment of FTAs**

In reading through the different FTAs, we note several striking consistencies across these treaties, given the different countries/economies that are involved.

1) With the exception of the FTAA—which after a lot of public pressure now releases the working text after each ministerial and, as a result, now faces severe criticism and resistance—the texts are classified as ‘national security concerns’ and are unavailable for public perusal. They are negotiated in secret.

2) Trade related intellectual property rights (TRIPS) and protection of intellectual property rights (IPR)

against copyright infringement are a major impetus for these agreements. IPR provisions extend well beyond WTO guidelines and do not honor US commitments under the WTO Doha Accord. The extension of stringent IPRs applies significantly to agriculture and medicines. They increase the range of patentable commodities to include life forms. These patents are in violation of indigenous rights and cultures and have little regard for the environment, indigenous knowledge, national food security, and health security of the less developed countries.

3) While trade barriers, such as quotas and tariffs, have been reduced significantly, these treaties exclude U.S. subsidies to its farmers.<sup>14</sup> Tariff reductions will harm poorer countries that rely on customs revenue as a part of their national income, while subsidies give unfair trade advantages to farmers from the industrialized countries. In addition, FTA designed zero tariffs amidst increased agricultural subsidies of the North are leading causes of famine in the South, reduced agricultural revenues, and the decline of peasant farming in several developing countries.

4) These agreements eliminate capital controls, allowing unregulated flow of capital. However, massive amounts of rapid speculative capital transfers can undermine small economies, as noted in the 1998 Asian Crisis. Although Chile has successfully used capital controls for over a decade to avoid contagion from the Latin American Crisis and the Asian Crisis, it had to relinquish them for the FTA. Such a requirement ignores effective policies, as empirically demonstrated during the Asian financial crisis.

5) Workers' rights are part of the agreements, but few mention ILO standards and none creates mechanisms to enforce these standards.

### III. FTA Advantages, Disadvantages, and Recommendations

In this section, under the 'advantages' sections are generalized arguments of those *supporting* the trade agreements, while the 'disadvantages' sections are a generalized interpretation of groups *opposed* to, or *concerned* about, the potential impacts of FTAs. Under the 'recommendations' portions of these analyses, *we provide*, as a group, our studied perspective about the provisions. We also offer our idea of what a more democratic, equitable, and sustainable Free Trade Agreement would resemble.

### Trade Barriers

**Advantages:** The reduction or elimination of tariffs on goods will generate competition as well as growth in trade and investment. Thus, it may have a positive, long-term impact on GDP.

**Disadvantages:** Reduction of tariffs may result in increased vulnerability of developing countries to unfair trade practices, such as subsidies and corporate tax breaks. In addition, indigenous practices such as attachment to pristine nature, religious practices, and other cultural practices are deemed as barriers to trade liberalization. Moreover, the elimination of trade tariffs could reduce national revenues, weaken nationally-determined environmental regulations, hasten food insecurity by not allowing protection even for basic staples, and thereby, increase poverty in developing countries.

**Recommendations:** Sovereignty for elected governments should allow elimination of trade barriers only in accordance with social and cultural goals. In negotiating new trade agreements, all countries must include civic organizations and pursue arrangements that address regional priorities for sustained development.

### Competition Policy

**Advantages:** This provision will prevent practices that are detrimental to consumers and those that inhibit efficient resource allocation (free trade and private markets). FTAs work on the premise that competition will engender efficiency in production and distribution and therefore lead to lower consumer prices.

**Disadvantages:** Competition policy generally favors big corporations with economies of scale at the expense of local businesses. Consequently, state-owned enterprises, serving the public interest (e.g. mass transit, public hospitals, waste disposal) could be viewed as obstacles, rather than partners, to the free market.

**Recommendations:** It is our recommendation that countries of the South should give contracts and preference to domestic companies as a way of promoting national development and national capital formation. In addition, only foreign-people-friendly companies i.e., those that provide a living wage, long term capital investments, community-based

development and that promote environmental conservation should be considered. Governments should retain the right, in pursuit of development plans, to impose performance requirements on foreign investors.

### Free Capital Movements

**Advantages:** Many FTAs view the elimination of restrictions and controls on capital flows as necessary conduits for investment and economic development. Capital investment will seek production in domestic sectors, which can be globally competitive, and promote trade.

**Disadvantages:** Unrestricted capital flows tend to increase the vulnerability of developing economies to speculators. Financial crises caused by speculative capital have undermined many national currencies, increased current account deficits, and impeded economic development in many developing countries.

**Recommendations:** Establish a tax system on international financial transactions (e.g. Tobin Tax) to pay for domestic services such as education and health. However, it will need an international agreement and an enforcement and distribution mechanism. Governments should be free to regulate for public economic interests without being sued by foreign investors.

### Intellectual Property Rights (IPRs)

**Advantages:** Tougher penalties for piracy of intellectual property (e.g. legal protections on ideas, creations, innovations, as well as patenting of all life forms) will reward innovation.

**Disadvantages:** The IPR provisions regarding medicine go far beyond those agreed to in the current WTO negotiations. Use of compulsory licensing and production of generic medicines are severely limited. These measures are jeopardizing the health of millions of people in the South especially HIV/AIDS and malaria infected patients. Stringent IPRs privatize and commodify indigenous knowledge and living genetic materials at the expense of indigenous populations.

**Recommendations:** It is important not to adopt TRIPS-Plus but to acknowledge peoples' strong objection to any patenting of living organisms. It is also essential to not override WTO Doha agreements, which stipulate that patent protections should not

prohibit public health security, allowing compulsory licensing. IP should not be defined as a form of investment, for it threatens already deteriorated health and food security sectors in developing countries, through privatization and commodification.

### Services

**Advantages:** Privatizing services (including basic services education, water, roads, and health) may increase efficiency through market competition.

**Disadvantages:** Privatization and deregulation have increased the costs for local communities to obtain basic services, increasing poverty. For the Singapore FTA, the primary objective of expanding e-commerce appears to be to turn the Internet into a virtual hemispheric non-taxable mall and promote hyper-consumerism.

**Recommendations:** Governments should give contracts and preference to domestic companies as a way of promoting national development and indigenous capital formation. Governments should give permission to liberalize services only in accordance with their human rights and national development goals, including selective protection of local businesses. The provision of basic services(health, basic housing, water, food, education) remain central to national security.

### Agriculture (food security)

**Advantages:** Liberalization based on global competitive criteria could lead to efficiency and agricultural development. Standardization of sanitary and phyto-sanitary measures (SPS—regulation of production procedures, e.g. use of waste water) could reduce human health and environmental risks.

**Disadvantages:** Many developing nations are being forced to abandon policies that protect food self-sufficiency. Second, there is no provision for agrarian land reforms. Third, subsidies for domestically consumed foodstuffs are not allowed. Open borders allow dumping of surplus products, including GMOs, making it impossible for local producers to compete. As empirically demonstrated by Mexico under the North American Free Trade Agreement (NAFTA), small farmers who are essential to local economies, traditions, and food security could go out of business and migrate to already overcrowded and underemployed urban

areas. The international or subregional SPS may be weaker than domestic standards.

**Recommendations:** All countries should guarantee the human right to food and nutrition security, by excluding basic grains and pulses from trade liberalization. In addition, they should respect the right of indigenous peoples to live collectively on their land. Moreover, the governments should have the right to protect the majority of their producers, who are small-scale or landless peasant farmers. SPS should not drive smaller producers out of business.

### Investment

**Advantages:** The potential for increased foreign direct investments (FDIs), employment, and national revenues remains the greatest appeal of FTAs for developing nations.

**Disadvantages:** The protections afforded to foreign investment are greater than those for state or civil society. The FTAs enhance the notorious “Chapter 11” conditions of NAFTA, allowing corporations to sue governments for actions that allegedly diminish their profits. (For example, a U.S. corporation successfully sued the Mexican government after a municipality refused to allow the firm to build a hazardous waste facility with insufficient environmental protection.) The inability to channel investment into autonomously defined development projects reduces FDI capacity to create equitable and sustainable growth.

**Recommendations:** Strong investment protection runs throughout each of these trade agreements. Long-term investment should remain a central tenet of FTAs, but should be subject to developmental and social concerns, not vice versa.

### Transparency

**Advantages:** Many proponents of FTAs argue that these agreements have increased civil society participation. However, in a number of cases, secretive negotiations, such as SACU-FTA, do not conform to this declaration.

**Disadvantages:** Mechanisms for civil society input have been largely ineffective, and civil society has been left out of negotiations, with the text not released until negotiations are completed. The classification of FTAs as ‘national security concerns’ has created an undemocratic precedence for any future trade negotiations.

**Recommendations:** The USTR officially sees these secret agreements as a means to strengthen democracy, but such a goal requires negotiations to be fully transparent and open to civil society.

### Immigration

**Advantages:** FTAs provide increased opportunities for labor and professionals to work in a partner market. More than the WTO, they address cross-border movements of labor, not just goods and capital.

**Disadvantages:** The flow of workers across borders is not subject to any extensive oversight or protection. This lack of protection creates both the opportunity for exploitation of visitor workers and for undermining domestic labor standards.

**Recommendations:** Immigrants must be given equal protection and rights, both civil and labor, as residents.

### Labor

**Advantages:** Recognition of international labor rights is included in each of these studied trade agreements. Countries are required to enforce domestic labor laws and are subject to monetary fines for persistent failure to enforce those laws. International Labor Organization (ILO) standards are encouraged.

**Disadvantages:** The penalties for violating labor rights are weak, not promoting improvements in work conditions. Monetary fines are ineffective deterrents to labor violations, often paid by the government (CAFTA), not the culpable corporation.

**Recommendations:** International labor standards are correctly acknowledged in each of these agreements. However, violation of labor standards must be rectified by an effective punitive system, working to prevent future violations. It is necessary to build an infrastructure that advances labor rights.

### Gender

**Advantages:** Gender impact analyses have been conducted for many of these agreements. These agreements rightly acknowledge that women are generally more disenfranchised and impoverished, economically, politically, and socially.

**Disadvantages:** Gender impact statements have not been central to negotiation of these agreements. FTAs have not provided any protection for women as economies shift and women's roles are changed.

**Recommendations:** Because women comprise the most vulnerable social group in developing societies, FTAs need to provide effective protection and promotion of women's participation and equality as the economies change. Women's status should be protected and promoted as economies are liberalized.

## Environment

**Advantages:** The creation of monetary fines for failure to uphold domestic environmental policies is seen as encouraging increased compliance with environmental provisions.

**Disadvantages:** Environmental laws simply require enforcement of existing protections, regardless of their efficacy, and provide no framework for the development of more effective environmental protections. Commercial interests are given precedence over environmental policy (see Investment above). Dispute settlement procedures afford greater rights and protection to commercial and corporate concerns than to civil or environmental groups.

**Recommendations:** The biodiversity of ecosystems are central in protecting social, food, and health security. Environmental policies should recognize the fragility and uniqueness of ecosystems within the negotiating countries. FTAs should recognize their technological and industrial impact on the environment by providing greater protection against sacrificing the environment to quick, but unsustainable, trade and investment.

## Rules of Origin

**Advantages:** Emphasis on clear and specific rules of origin provides a predictable framework for increasing trade and ensuring the preferential relationship between the negotiating parties.

**Disadvantages:** Strict rules of origin favor the most advanced economies in FTAs and reduce smaller economies' flexibility to export goods that their industry does not have the capacity to fully manufacture.

**Recommendations:** Rules of origin should give credence to the different capacities of exporting economies and address the vulnerabilities of smaller industries.

## Dispute Settlement

**Advantages:** Dispute procedures are clearly defined within each FTA, facilitating consistency in settlement procedures.

**Disadvantages:** Disputes settled by administrative tribunals remove transparency. Because enforcement of decisions relies heavily on countervailing sanctions, smaller, poor countries are most vulnerable to rulings against them as well as least able to enforce decisions in their favor against larger economies. Developmental and social concerns are not afforded the same protection under dispute settlement procedures as commercial or corporate interests. Elected governments lose their ability to create national policies if they are perceived to be in conflict with free trade and investment rules.

**Recommendations:** The concerns and rights of civil society should be given equal access to the dispute settlement mechanisms. Governments should be free to autonomously create developmental policies that are representative of national goals, without fear of foreign or corporate threats of economic retribution.

## Regional Impact

**Advantages:** These free trade agreements are designed to foster relationships built on cooperation and mutual interests. Nations are given equal access to coveted US markets and the benefits of trade. The deepening of trade relationships is seen as a first step in increasing regional economic and political stability.

**Disadvantages:** The FTAs signed with the U.S. would take precedence over any regional or bilateral trade agreements already in place. Pre-existing trade agreements between the U.S. and other nations provide revenue from non-reciprocal export tariffs on U.S. goods, and these new FTAs would eliminate that revenue. Labor and environmental protections actually decrease under new FTAs in comparison to previous preferential trade agreements. The lack of uniformity in economic, political, and social development levels among nations could prevent them from taking advantage of economic opportunity, and from attaining equal developmental

growth. Regional cooperation will likely be undermined, as shifts in trade patterns will emphasize the U.S. market rather than regional markets.

**Recommendations:** Free trade agreements rightfully acknowledge common interests and existing relationships between regional nations. However, the various vulnerabilities, capabilities, and needs of nations and regions should be recognized in order to encourage stable economies in all nations. FTAs should not automatically supersede existing trade accords and should allow for nations and regions to autonomously decide the manner in which they create trade policies. Often the prior conditionalities required for entering a FTA establish inequalities, even before specific terms are negotiated (e.g. the U.S. demanding a prospective FTA partner to honor US national security, without reciprocity).

## ENDNOTES

<sup>1</sup> Angola, Botswana, Democratic Republic of the Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe

<sup>2</sup> Most of the smaller SADC and SACU countries are dependent on agriculture as the mainstay of their economies (employment, foreign exchange, and government revenues from taxation).

<sup>3</sup> To many scholars the creation of SACU was an imperial project between Britain and South Africa (Maasdorp, 1989; Sidaway and Gibb, 1998).

<sup>4</sup> Common external tariff is a duty agreed upon by Custom Union members that is surcharged on all foreign imports emanating from non-custom union countries

<sup>5</sup> Common excise duties are taxes levied on the production of a specific product or on the quantity of the product purchased or commodities. Such could include alcohol, tobacco, or gas excise taxes

<sup>6</sup> All customs duties from local production and customs duties on members' imports from outside SACU are collected by the Union. Resulting revenues are allocated to member countries in quarterly installments utilizing a revenue-sharing formula. The customs and excise revenues were to be shared among the four members in proportion to the "level of their external trade between 1907 to 1910." South Africa received 98.7 percent of SACU's revenues, Botswana 0.27 percent, Lesotho 0.88 percent and Swaziland 0.15 percent of the revenues (Sidaway and Gibb, 1998: 172).

<sup>7</sup> Common excise duties are taxes levied on the production of a specific product or on the quantity of

the product purchased or commodities. Such include alcohol, tobacco, or gas excise taxes

<sup>8</sup> Common external tariff is a duty agreed upon by custom Union members that is surcharged on all foreign imports emanating from non-custom union countries.

<sup>9</sup> See no. 7.

<sup>10</sup> Article 26: Protection of Infant Industries. 1. The Government of Botswana, Lesotho, Namibia or Swaziland may as a temporary measure levy additional duties on goods imported into its area to enable infant industries in its area to meet competition from other producers or manufacturers in the Common Customs. 2. Infant industry means an industry, which has been established in the area of a Member State for not more than eight years. 3. Protection afforded to an infant industry in terms of paragraph 1 shall be for a period of eight years unless otherwise determined by the Council (See TRALAC, 2002; Kirk and Stern, 2003: 8). Article 26 is designed to protect the BLNS from being undercut by the South Africa's established industries.

<sup>11</sup> Each member's share of the customs component is the fraction of the member's value of goods imported from within SACU in a specific year divided by the total intra-SACU imports during that year. The custom component is likely to benefit the BLNS. In particular Lesotho and Swaziland rely of these revenues to finance government programs.

<sup>12</sup> Each member's share of the excise component is obtained after deductions for funding of SACU institutions and the development component have been made. The net amount is allocated on the basis of each country's GDP as a percentage of the total SACU GDP during that year (NEPRU, 1998).

<sup>13</sup> The development component is a fixed percentage of excise revenues, currently set at 15 percent. It is designed to benefit the smaller countries, as it will be distributed to all SACU members according to the inverse of each country's GDP/capita.

<sup>14</sup> The USA 2002 plan offers subsidies of \$15-17 billion per year over five years, guaranteeing 80 percent of qualified farmers' income, no matter what they grow . By 2003, the USA, Europe, and Japan were spending some \$300 billion a year on farm subsidies, about six times more than on development aid. Carol Thompson. "US Trade with Africa-African Growth and Opportunity?" Review of African Political Economy,

**IV. Referenced Materials/Recommended Organizations/Websites**

***SACU HISTORY***

- Brummerhoff, W. (Dec., 1998). South Africa in the finance and investment sector of the Southern African Development Community (SADC). *Quarterly Bulletin: South African Reserve Bank*
- Kalenga, P. (Sept., 2000). Regional trade integration in Southern Africa: Critical policy issues. *Development Policy Research Unit Working Papers*, University of Cape Town, No 00/42
- Kirk, R. and Stern, M. (2003). The new Southern African Customs Union agreement. *Africa Region Working Paper No. 57* Available at <http://www.worldbank.org/afr/wps/wp57.pdf>
- Lee, M. (2002). Regionalism in Africa: A part of problem or a part of solution. *Polis/RCSPICPSR.*, Vol. 9, Numero Special
- Maasdorp, G. (1989). "A Century of Customs Union in Southern Africa." Paper presented at the Conference of the *Economic Society of South Africa*, Johannesburg September 06-07, 1989.
- McCarthy, C. (2003a). The Southern African Customs Union in Transition. *African Affairs*, Vol. 102, pp. 605-630.
- McCarthy, C. (2003b). The Southern African Customs Union. Workshop Case Study presented at the *FAO Workshop on Regional Integration, Common Agriculture Policies and Food Security*: Pretoria, South Africa May 06-09, 2003.
- Meyn, M. (2003). The TDCA and the proposed SACU-USA FTA: Are free trade agreements with industrialized countries beneficial for SACU? *NEPRU Working Paper No. 89*. Available at [www.nepru.org](http://www.nepru.org)
- NEPRU Policy Brief (Dec., 2001). SACU- The New Agreement. *Issue 01*. Retrieved April 16, 2004 <http://www.nepru.org>
- Peterson, L. (June 2002). Integration and intra-industry trade adjustment in South Africa. *Development Southern Africa* Vol.19, no. 2
- Sidaway, J. D. and Gibb, R. (1998). SADC, COMESA, SACU: Contradictory formats for regional integration in Southern Africa? pp. 164-184, In D. Simon, (1998) (Ed.). *South Africa in Southern Africa:*

*Reconfiguring the region*. Athens, Ohio University Press.

- Stoneman, C. and Thompson, C. B. (1991, December). Southern Africa after apartheid: Economic repercussions of a free South Africa. *Africa Recovery Briefing Paper*, no. 4, pp. 1-12.**
- The World Bank World Development Indicator Database Retrieved April 3, 2004, <http://www.worldbank.org/afr/>**
- Trade Law Center for Southern Africa or TRALAC (2004). The 1969 SACU Agreement. Retrieved March 02, 2004 <http://www.tralac.org/scripts/content.php?id=28>**
- (2004). The 2002 SACU Agreement. Retrieved March 02, 2004 <http://www.tralac.org/scripts/content.php?id=961>**

**CAFTA and Chile**

- Alliance for Responsible Trade. "Declaration on the Proposed US-Chile Free Trade Agreement." [www.art-us.org/JointDeclaration.html](http://www.art-us.org/JointDeclaration.html); [www.us.org/JointDeclaration.html](http://www.us.org/JointDeclaration.html)
- "Central Americans Demonstrate against CAFTA." [www.art-us.org](http://www.art-us.org)
- Bloque Popular Centroamericano, Alliance for Responsible Trade, Hemispheric Social Alliance. "Why We Say No to CAFTA: An Analysis of the Official Text." [www.art-us.org](http://www.art-us.org)
- Center For Global Development. "Chile FTA and Capital Flows: A Bad Precedent?" Nancy Birdsall. January 2003. [www.cgdev.org](http://www.cgdev.org)
- Citizens Trade Campaign. [www.citizenstrade.org](http://www.citizenstrade.org)
- CISPES: Committee in Solidarity with the People of El Salvador. [www.cispes.org](http://www.cispes.org)
- Global Exchange. [www.globalexchange.org](http://www.globalexchange.org)
- In Common Global Action Against Poverty. "Fair Trade or Free Trade? Understanding CAFTA." Various contributors.
- International Trade and Gender Network. "Fact Sheet #2: What You Need to Know About the US-

Central America Free Trade Agreement",  
"Women Say No to CAFTA" "Joint letter to  
Members of Congress in the U.S. and  
Central America", "Letter to Chilean  
Parliament and U.S. Congress."  
[www.genderandtrade.net](http://www.genderandtrade.net)  
Oxfam America. [www.oxfam.org](http://www.oxfam.org)  
Public Citizen. "Talking Points on U.S.-Singapore  
and U.S. Chile FTAs." [www.citizen.org](http://www.citizen.org)  
United States Trade Representative. [www.ustr.org](http://www.ustr.org)  
Women's Edge Coalition. [www.womensedge.org](http://www.womensedge.org)

#### FTAA & USSFTA:

AFL-CIO link: <http://www.aflcio.org/>  
Alliance for Responsible Trade: A National Coalition  
for Just and Sustainable Trade Policies:  
<http://www.art-us.org/docs/art624eng.pdf>  
Alliance for Responsible Trade: <http://www.art-us.org/>  
American Textile Manufacturer Institute:  
<http://www.sice.oas.org/ftaa/Toronto/csoc/scw55.asp>  
Anonymous. "The Infrastructure of the FTAA":  
<http://www.ftaaimc.org/en/2004/03/3814.shtml>  
Barlow, Maude. "The Free Trade Area of The  
Americas and The Threat To Social  
Programs, Environmental Sustainability and  
Social Justice In Canada And the Americas":  
[http://www.infoshop.org/octo/actions/ftaa\\_barlow.html](http://www.infoshop.org/octo/actions/ftaa_barlow.html)  
Canadian Department of Foreign Affairs and  
International Trade: <http://www.dfait-maeci.gc.ca/tna-nac/FTAA/ex-io-en.asp>  
Citizen Trade: Trade Agreements:  
<http://www.citizenstrade.org/tradeagreements.php>  
Common Frontiers: No FTAA Campaign:  
<http://www.web.net/comfront/indexcampaign.html>  
Free Trade Agreements - Singapore:  
<http://www.jcci.org.sg/members/file/koshu/2003-02-05-01.pdf>  
FTAA (The Center for International Environmental  
Law):  
[http://www.ciel.org/Tae/Trade\\_FTAA.html](http://www.ciel.org/Tae/Trade_FTAA.html)  
Globalization in Latin America:  
[http://www.nadir.org/nadir/initiativ/agp/free/ftaa/noticias\\_nl/index.htm](http://www.nadir.org/nadir/initiativ/agp/free/ftaa/noticias_nl/index.htm)

Hansen-Kuhn, Karen. "Free Trade Area of the  
Americas":  
[http://www.fpif.org/progresp/volume5/v5n11\\_body.html#free](http://www.fpif.org/progresp/volume5/v5n11_body.html#free)  
Hemispheric Social Alliance. Competing Visions for  
the Hemisphere: The Official FTAA Draft  
versus Alternative for the Americas:  
<http://www.art-us.org/docs/ftaa%20chart%20eng.pdf>  
International Labor Organization: <http://www.ilo.org/>  
Koh, Tommy (ed). The United States-Singapore Free  
Trade Agreement: Highlights and  
Insight. Summer, 2004.  
Office of United States Trade Representative:  
<http://www.ustr.gov/>  
Official FTAA site: [http://www.ftaa-alca.org/alca\\_e.asp](http://www.ftaa-alca.org/alca_e.asp)  
PECC Trade Forum:  
[http://www.pecc.org/publications/papers/trade-papers/5\\_CP/p1-chia.pdf](http://www.pecc.org/publications/papers/trade-papers/5_CP/p1-chia.pdf)  
Shah, Anup. "Free Trade and Globalization".  
<http://globalissues.org/TradeRelated/FreeTrade/Regional.asp>  
Summit of the Peoples of Americas:  
<http://www.peoplesummit.org/>  
USSFTA (Singapore's Ministry of Trade and Industry  
Website):  
[http://www.mti.gov.sg/public/PDF/CMT/FTA\\_USSFTA\\_Agreement\\_Final.pdf](http://www.mti.gov.sg/public/PDF/CMT/FTA_USSFTA_Agreement_Final.pdf)

#### US-SACU FTA

The US-SACU FTA, in the words of Xavier Carim,  
SACU chief negotiator:  
<http://www.thedti.gov.za/fta/article.htm>  
WTO 2003 Trade Report on SACU:  
<http://dana.ucc.nau.edu/~lmo5/econPDFs/freeTrade/WTOonSACU03.pdf>  
WTO 2003 Trade Report on US  
<http://dana.ucc.nau.edu/~lmo5/econPDFs/freeTrade/WTOonUSTrade0103.pdf>  
A large compilation of links on the US-SACU FTA:  
<http://dana.ucc.nau.edu/~lmo5/PoliticalEconomyFTAInfo.htm>  
An article relating to disturbing possibilities of the  
FTA:  
<http://www.namibian.com.na/2004/february/columns/042696B514.html>

**ACAS "On the Edge" Commentary**  
**No Further Evasion of the Essential Question: What Will We Do in Darfur?**

Eric Reeves  
Smith College  
ereeves@smith.edu  
April 4, 2004

*Dear ACAS members and friends,*  
***From time to time we sent out commentaries in our "On the Edge" series. Further to our alert on the situation in Darfur, Sudan [see p. 34], Eric Reeves has submitted this provocative piece on genocide—appropriately it is sent 10 years to the date after the unleashing of the Rwandan genocide.***

*Meredeth Turshen and Michael West, Co-Chairs*

**On the very eve of the Rwandan genocide the international community seems finally to have found its voice in condemning the Khartoum regime's brutal, systematic displacement and destruction of the African tribal groups of Darfur, primarily the Masseleit, the Zaghawa, and the Fur. The actions that stand condemned, considered collectively, and given the clear racial/ethnic animus defining them, amount to genocide—the deliberate destruction of these people because of who they are, "as such."**

But even so, it is far from clear that the searing clarity of this genocidal destruction will produce an international response more adequate to the catastrophe than the shameful acquiescence of April 1994, when the world watched in dismay from a distance as 800,000 people in Rwanda were slaughtered in frenzied mayhem.

Though the comparison to Rwanda has recently been made explicitly by Mukesh Kapila, now former UN humanitarian coordinator for Sudan, the description of war in Darfur that is most often offered by UN officials and others is "ethnic cleansing." This is evidently meant to convey a lesser degree of

"criminality" and urgency. Jan Egeland, UN Undersecretary General for Humanitarian Affairs—and notably one of the first officials to call attention to the scale of the catastrophe in Darfur—is entirely representative:

"What we see is...the systematic depopulation of areas. People are not necessarily killed then. They are moved away,' Egeland said at a [April 2, 2004] news

conference. 'I would say it is ethnic cleansing, but not genocide.'"

(Reuters, April 4, 2004)

But what is happening in Darfur is not simply "ethnic cleansing," any more than the destruction of the Jews in Eastern Europe was simply a "Säuberung," the Nazi euphemism for genocide (the German word means "cleansing" or "clearing").

For given the immensely destructive consequences of "systematic depopulation" in rural Darfur, there is too little difference in too many cases between the deliberate killing of members of a "racial or ethnical group" and the inescapable, fully known consequences of the "systematic depopulation" of the members of this group.

Here we must remember that the 1948 UN Convention on the Prevention and Punishment of the Crime of Genocide specifies not only "killing members of a group" among the acts which may be "committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such." The Convention also declares that genocide consists in actions "deliberately calculated to bring about conditions making life impossible [for a group]."

The vast, murderous savagery of Khartoum's military campaign, and its terrible efficacy in "bringing about conditions making life impossible" for the African peoples of Darfur, is simply beyond dispute: widespread and systematic killings, brutal gang

rapes, destruction of seeds and agricultural implements, the burning and pillaging of villages, the looting of foodstuffs and cattle, the abducting of children, the destruction of water wells and irrigation systems. All of these, especially in aggregate, are in the context of Darfur genocidal.

We should also recall that the Genocide Convention specifies that acts "causing serious bodily or mental harm to members of the group" are genocide. What can we surmise of both the "bodily and mental harm" caused by such actions as were reported in this all too characteristic dispatch from the UN's Integrated Regional Information Networks?

"In an attack on 27 February [2004] in the Tawilah area of northern Darfur, 30 villages were burned to the ground, over 200 people killed and over 200 girls and women raped—some by up to 14 assailants and in front of their fathers who were later killed. A further 150 women and 200 children were abducted." (UN Integrated Regional Information Networks, March 22, 2004)

This terrifying vignette of unimaginable suffering and destruction is but one among scores and scores of reports that have emerged, despite Khartoum's effort to deny all news and humanitarian access to rural Darfur.

The Genocide Convention also specifies that genocide consists in "forcibly transferring children of the group to another group." We can't know the number of abductions, but in addition to the 350 women and children reported abducted in the single instance above, Human Rights Watch has noted that "refugees' testimonies have also noted an alarming number of abductions of young girls and boys" ("Darfur in Flames: Atrocities in Western Sudan," page 30).

All of these actions have been reported on authoritatively, on an extremely wide scale, and over many months now. Those reporting include Amnesty International, Doctors Without Borders/Medecins Sans Frontieres, the International Crisis Group, various senior UN officials, the US Agency for International Development, and increasingly numerous journalists. On April 2, 2004 Human Rights Watch issued what is perhaps the most comprehensive indictment to date: "Darfur in Flames: Atrocities in Western Sudan" (available at: <http://hrw.org/english/docs/2004/04/02/sudan8389.htm>).

Human Rights Watch begins its report by declaring unambiguously that, "militias backed by the government of Sudan are committing crimes against humanity in Darfur" (page 1). The opening statement continues by declaring that:

"Using indiscriminate aerial bombardment, militia and army raiding, and denial of humanitarian assistance, the government of Sudan and allied Arab militia, called janjaweed, are implementing a strategy of ethnic-based murder, rape and forcible displacement of civilians in Darfur" (page 1).

The International Crisis Group has spoken of "ethnic warfare," and the "systematic nature of attacks on civilians on the basis of their ethnicity" ("Darfur Rising: Sudan's New Crisis" [Brussels/Nairobi], March 25, 2004, pages 15, 25). The United Nations, which has been outspoken on Darfur for months, made wire service and even newspaper headlines with Jan Egeland's declaration from UN headquarters that "Sudan Is Tolerating Ethnic Cleansing" (New York Times [United Nations], April 3, 2004). Egeland declared that Khartoum's militia allies were, "using 'scorched earth tactics,' deliberately destroying food and humanitarian supplies and attacking refugee centers in a program of 'systematic depopulation.' 'I consider this ethnic cleansing,' [Egeland said]" (New York Times, April 3, 2004).

But in all of this there is a hesitancy to declare that these realities constitute genocide. There is in the use of the phrase "ethnic cleansing" or "ethnic warfare," or "ethnic-based murder" an apparent unwillingness to declare the whole of what we know, or what we can with moral certainty surmise of Darfur's terrible realities. What accounts for this? The answer is not entirely clear. Presumably on the part of the UN and Western governments there is a concern that to declare that these realities are genocidal would be to make continued inaction by the international community politically untenable. But here we should remember that in one of the earliest uses of the term "ethnic cleaning," the UN General Assembly declared in Resolution 47/121 of December 18, 1992 that, "the abhorrent policy of 'ethnic cleansing' is a form of genocide" (Paragraph 9 of the Preamble to the Resolution).

Certainly any inclination to continue with the phrase "ethnic cleansing," as a way of asserting that a lesser crime than genocide is being committed, must come to terms with a very recent, authoritative, and shocking assessment offered by the US Agency for International Development. This assessment was to

have been rendered publicly by USAID Assistant Administrator Roger Winter in remarks at last week's opening session of peace talks in N'Djamena (Chad) between Khartoum and the two major Darfur insurgency groups. Predictably, Khartoum boycotted the opening session because of "unacceptable" international presence (the US and the European Union), and the regime has subsequently instructed the Chadian government to deny entry visas to political representatives of one of the insurgency groups, thus making highly unlikely any progress on the most urgent agenda item, a humanitarian cease-fire.

But Khartoum's diplomatic recalcitrance also does nothing to change the realities of Darfur; indeed, it reveals only a determination not to allow the international community to assess those realities from within Darfur. Khartoum's determination to obscure by all means possible the reality of genocide in Darfur makes Mr. Winter's USAID assessment all the more important. In this assessment he stressed one terrifying statistic: even with an immediate humanitarian cease-fire, the US Agency for International Development now estimates that 100,000 more people will still die from the conflict in Darfur--this in addition to the tens of thousands who have already perished.

Because of Khartoum's deliberate destruction of food assets, water wells and irrigation systems; because a terrified population will not be able to plant crops or to reap a significant harvest following the upcoming rainy season; and because the rains will prevent ground transport to many outlying areas, 100,000 people will die.

They will not die of machete wounds, gunshots, or be clubbed to death as in Rwanda; but they will have been killed no less deliberately by a military strategy that Khartoum has relentlessly followed, both in using its own official military assets (including frequent aerial bombardment of civilian targets), but in the purposeful directing of its Arab militia allies (the "janjaweed") in the countless attacks that have produced the present catastrophe.

In short, knowing full well the consequences of such a strategy, Khartoum has engaged in a military campaign that has "deliberately inflicted on the African tribal groups of Darfur conditions of life calculated to bring about their physical destruction in whole or in part."

This is genocide.

Neither the euphemizing obligations of diplomats, nor the constraints imposed by various institutional mandates—governmental and non-governmental—can change this reality.

It was precisely such diffidence, coupled with indecision and moral failure, that ten years ago produced international acquiescence in the slaughter, by Hutu extremists, of 800,000 Tutsis and moderate Hutus in Rwanda. Unable to say the word—genocide—it was easier not to act, easier not to accept the obligations that are stipulated in the Genocide Convention for "contracting parties:

"The Contracting Parties confirm that genocide, whether committed in time of peace or in time of war, is a crime under international law which they undertake to prevent and to punish." (Article 1, UN Convention of the Prevention and Punishment of the Crime of Genocide, 1948)

But of course until genocide has been declared, the "contracting parties" (including the US) are not obligated to "undertake to prevent and to punish" the genocidaires operating in Darfur. This is the context in which we must seek to understand why no organization or government has, to date, proposed a single course of action that will not be fully undermined should Khartoum intransigently assert the "rights" of national sovereignty. There are abundant calls for "informing," "condemning," "requesting," "calling upon," "insisting," "recommending," even "ensuring." But inevitably even such "ensuring" is simply part of a "recommendation" that has no provision for enforcement or implementation or even means of pressuring for compliance.

Most conspicuously, there is no voice calling for humanitarian intervention—the cross-border provision of urgently needed humanitarian assistance, civilian protection, and the creation of critically important safe havens for the almost 1 million displaced, both in Chad and in Darfur. And it is here that the distinction between "ethnic cleansing" and genocide cuts deeply in implication given the explicit provisions for "prevention" in the Genocide Convention.

To be sure, Norway and the US seemed to be approaching an articulation of the need for humanitarian intervention in early February 2004:

"The United States reaffirms its commitment to addressing the immediate protection and assistance needs of those in Darfur, as well as throughout Sudan, including humanitarian cross border operations if assistance cannot be provided through Sudan." (Statement of US AID Administrator Andrew Natsios, from the Press Office of USAID, February 3, 2004)

Norway's Minister of Foreign Affairs Jan Petersen spoke in similarly urgent terms at the time:

"Norway is extremely concerned about the further deterioration of the already dramatic humanitarian situation in Darfur province in western Sudan in the last few days. Norway deplores the recent bombing of the town of Tine, which continues the pattern of indiscriminate attacks on civilians, and the serious breaches of human rights that are constantly being reported. [ ] Norway will together with other donors *do what is necessary to provide humanitarian relief and protection for the population of Darfur [emphasis added].*" (Press release: Norway's Ministry of Foreign Affairs, February 4, 2004)

But these commitments have not been reiterated, and no planning is evident that would make good on these commitments. Voice of America has recently reported that, "US defense officials are closely monitoring developments in Sudan's troubled Darfur region, but say there are no plans at present for any military response to the humanitarian crisis there" (Voice of America, April 1, 2004).

Here we must bear in mind that any planning for humanitarian intervention will need to take account of the immense difficulties created by the seasonal rains that are due in about a month; these rains will make ground transport in many places virtually impossible. Indeed, logistics in general will be nightmarishly difficult. Moreover, Chad's permission must be secured for such an operation. Given the weak Chad government's close relationship with Khartoum, this would require robust diplomatic pressure on President Idris Deby from France—but there has been no sign of such a commitment from Paris, even in the wake of French Foreign Minister Dominique de Villepin's recent trip (late February 2004) to the region.

In short, it seems unlikely that humanitarian intervention will occur without a finding of genocide. But then we urgently need a much more compelling explanation of why, given the overwhelming body of evidence before the international community, what is

occurring in Darfur is not genocide. And such explanation cannot be a glib distinction between displacement and "depopulation," on the one hand, and human destruction on the other—not when the former so clearly and consequentially implies the latter.

All the current anguish over the Rwandan genocide, all the reflections on what could and should have been done, all the genuflection on lessons learned or not learned—all this is incinerated in the agony of the ongoing, ethnically/racially animated destruction of tens of thousands of human beings in Darfur.

Who will explain to the people of Darfur why it was possible for the US and the Europeans, without UN authorization, to intervene in Kosovo (where perhaps altogether 10,000 people died) but not in Darfur, where many times this number will certainly die? Who will explain why this has nothing to do with the fact that the victims of the genocide are Africans? Who will explain why this devaluation of human lives is not ultimately a terrible racism?

Who will explain why an assertion of Sudanese national sovereignty by the viciously tyrannical National Islamic Front regime—which came to power by military coup, deposing an elected government—trumps the moral significance of hundreds of thousands of innocent lives in Darfur? Who will explain why a regime that has not observed a signed cease-fire, refuses to begin substantive peace talks, and refuses to commit to a humanitarian cease-fire is being given more diplomatic breathing space in which to pursue genocidal destruction?

Who will explain to the people of Darfur how long the catastrophe will be permitted to accelerate without more than hortatory language from the international community? Who will tell the people of Darfur whether or not there is a threshold of human destruction at which the international community will respond with humanitarian intervention? And if so, what is that threshold? Having long surpassed the total for Kosovo, and with a further 100,000 lives to be lost because of Khartoum's present destruction of the agricultural economy and medical resources, Darfur and its people will wonder: is the number 150,000—a figure that seems virtually certain to be exceeded? Perhaps it is 200,000? Perhaps the half way point in the figure for Rwanda, 400,000?

Are these numbers anything but a reflection of moral madness on the part of the international community?

And yet as Human Rights Watch has just asserted, "almost 1 million Darfurian civilians have been forced to flee their homes in the past fourteen months." ("Darfur in Flames: Atrocities in Western Sudan," page 1). And the UN puts the figure of those described as "war-affected" at 3 million. Who can say that the final total, in the absence of forceful international action and with Khartoum's continued intransigence, will not ultimately bear comparison with the numbers of Rwanda?

These many questions all reduce to one:

Is the international community prepared to allow Khartoum's assertion of national sovereignty to

outweigh the significance of hundreds of thousands of lives in Darfur?

Given all that we know about Darfur, and all that can be inferred with moral certainty, and given the present refusal by any government or international organization to call for humanitarian intervention, we have a default answer: the world indeed again stands prepared merely to witness vast, racially/ethnically driven human destruction. And until there is a clear, decisive call for urgent humanitarian intervention, this answer will stand.

The issue of the day is not remembering Rwanda, but understanding why we are still prepared to accept genocide in Africa.

**ACAS Action Alert**  
***Take Action on Human Rights Violations in Cote d'Ivoire***

Tom Bassett  
University of Illinois, Urbana-Champaign  
bassett@uiuc.edu

*Dear ACAS members and friends,*  
*Tom Bassett has written to draw our attention to the situation in Cote d'Ivoire and to ask ACAS members to write a letter to President Gbagbo.*  
*Meredeth Turshen and Michael West, Co-Chairs*

This week the UN High Commission for Human Rights issued a report on its findings on alleged human rights violations during a protest march in Abidjan on March 25, 2004. The full 16 page report in English can be accessed at:  
<http://www.abidjan.net/lettreouverte/imprimer.asp?id=8000>

The findings point to "grave human rights violations" (p. 2), to "indiscriminate killings of innocent civilians by the security forces" (p.6), that "certain community groups were specially targeted," (p. 6), and that "at least 120 people were killed, 274 wounded and 20 disappeared" (p.7).

The report also notes that "many of the killings on these two days did not take place in the street but in the dwellings of would-be demonstrators or even innocent civilians targeted by security forces simply because of their name, origin or community group" (p.8). In addition to government security forces, there are at least five armed militias who are known

to be loyal to and responding to directives from the presidency. These "parallel forces...are financed and armed mostly by the security forces, which provide them with general direction or direct orders. According to many accounts and testimonies, this backing for the parallel forces comes from within the presidential palace" (p. 12).

The report concludes by declaring that "most of the human rights violations that occurred on these two day[s] can be characterized as a massacre in which summary executions, torture, disappearances and arbitrary detentions were repeatedly committed by units of the security forces and the parallel forces acting in coordination or in collusion, with them" (p.14).

The High Commission for Human Rights urges the Ivorian government to (1) prosecute those responsible for these "massive human rights violations" (2) establish and International Commission of Inquiry, and (3) strengthen the UN Operation to Côte d'Ivoire, especially its role in protecting, defending, and generally promoting human rights (see: [http://www.un.org/french/peace/peace/cu\\_mission/onuci/mandate.html](http://www.un.org/french/peace/peace/cu_mission/onuci/mandate.html)).

Paragraph 90 of the report lists some dozen additional areas that demand immediate attention.

I am writing to urge the Association to make either a statement or write a letter to President Gbagbo asking

him (1) to prosecute those responsible for the terrible human rights violations that occurred on March 24 and 25 in Abidjan, and (2) to take additional steps towards defending the human rights of all peoples residing in Côte d'Ivoire.

**ACAS Action Alert**  
**Catastrophe in Darfur (Sudan): The World's Greatest Humanitarian  
Crisis, Occurring Amidst Genocidal Destruction**

Eric Reeves  
Smith College  
ereeves@smith.edu  
April 1, 2004

*To ACAS members and friends,  
The catastrophic situation in Darfur is of concern to  
all of us. Here is the comment by our friend and  
frequent Bulletin contributor, Eric Reeves. At the end  
is a series of suggestions of actions you can take.*

***Meredeth Turshen and Michael West (Co-  
Chairs)***

An insurgency war against Khartoum's abusive governance in Darfur Province (far western Sudan) began in February 2003. The war had been long simmering because of the many and serious grievances held by the people of Darfur, especially the Africa tribal groups (most notably the Fur, Zaghawa, and Massaleit). The change in governance system for Darfur, effected by the National Islamic Front when it came to power by military coup in 1989, had exacerbated the sense of marginalization long felt by the people Darfur. Lack of political power and a fair share of the national resources, a common theme throughout Sudan, have defined Darfur's fate for decades.

In the intervening 14 months, the war has accelerated into one of the most violent conflicts in the world; it has generated what is now widely regarded as the world's greatest humanitarian crisis; and it is animated by what UN officials and human rights organizations are describing as "ethnic cleansing" and what others are calling genocide. Mukesh Kapila, UN humanitarian coordinator for Sudan, has been especially blunt in his assessment as he nears the end of his tenure: "The only difference between Rwanda and Darfur now is the numbers involved" [said Kapila]." (UN Integrated Regional Information Networks, March 22, 2004)

Kapila describes the killing as "more than just a conflict, it is an organized attempt to do away with a group of people," Kapila describes a "pattern of organized attacks on civilians and villages,

abductions, killings and organized rapes by militias [that are] getting worse by the day, and could deteriorate even further. 'One can see how the situation might develop without prompt [action]...all the warning signs are there.'" (UN Integrated Regional Information Networks, March 22, 2004)

Kapila concluded: "I was present in Rwanda at the time of the genocide, and I've seen many other situations around the world and I am totally shocked at what is going on in Darfur. This is ethnic cleansing, this is the world's greatest humanitarian crisis, and I don't know why the world isn't doing more about it." (BBC, March 19, 2004)

Perhaps one million people have been internally displaced or have fled into Chad as refugees. One authoritative assessment (by Sudan Focal Point [South Africa], January 2004) offers evidence suggesting that more than 1000 people are dying every week. This is borne out by an increasing number of reports from various sources along the Chad/Sudan border and from within Darfur itself. Nonetheless, the Khartoum regime refuses to grant unfettered humanitarian access, refuses human rights monitoring, indeed refuses to countenance anything that might "internationalize" a conflict it continues to describe as "banditry."

Negotiations recently begun with the two major insurgency groups in Chad seem to offer little chance of prompt resolution: Khartoum's delegation boycotted the opening session in protest of international presence. A cease-fire agreement reached in September fell apart almost immediately as Khartoum did nothing to rein in its most potent instrument of war, the Arab militia groups known as "janjaweed" (warriors on horseback).

Indeed, Amnesty International recently noted (March 15, 2004): "The government of Sudan has made no progress to ensure the protection of civilians caught up in the conflict in Darfur. Scores of civilians have reportedly been killed and dozens of villages burnt by the government-backed Janjiwid militias over the last few weeks. This is not a situation where the central government has lost control. Men, women and children are being killed and villages are burnt and looted because the central government is allowing militias aligned to it to pursue what amounts to a strategy of forced displacement through the destruction of homes and livelihood of the farming populations of the region."

Under present circumstance, the international community either urgently prepares for an emergency humanitarian intervention, or we will be reduced to impotent hand-wringing as the full scale of human destruction becomes evidence. The clear ethnic/racial animus behind this systematic and widespread destruction, so clear on the eve of the grim 10th anniversary of the Rwandan genocide, tells us how

little progress we have made in responding to genocide in Africa.

Actions to be taken in response to the humanitarian crisis in Darfur:

[i] have Congresspersons/Senators enter a statement into the Congressional Record (as Senator Russ Feingold, chair of the Africa Subcommittee of the Senate Foreign Relations Committee, did on March 30, 2004);

[ii] demand that President Bush speak out publicly on the realities of Darfur;

[iii] write to the UN Secretary-general Kofi Annan, demanding preparation for a humanitarian intervention in Darfur;

[iv] support a (pending) Congressional resolution demanding an international criminal tribunal for war crimes, crimes against humanity, and genocide in Darfur.