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## LEGAL FRAMEWORK ON INTERNATIONAL TRADE IN TANZANIA VIS-A-VIS RIGHTS AND OBLIGATIONS UNDER THE AFRICAN GROWTH AND OPPORTUNITY ACT

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### Abstract

The African Growth and Opportunity Act (AGOA) is a preferential trade agreement between the United States of America and eligible sub-Saharan African (SSA) countries. It offers non reciprocal preferential treatment over 7000 products exported from African countries to the US market. AGOA is one among a number of trade preferential arrangement that Tanzania is eligible. The Act provides for issues such as but not limited to trade and investment. The country has a record of poor export performance despite the preferential treatment. This study examines the existing legal and regulatory framework governing international trade in Tanzania an attempt to identify weaknesses resulting in country's poor trade performance. The study then formulates recommendations in view of improving Tanzania's international trade enabling framework to increase exports and potentially become a regional trade hub including establishing an effective national AGOA strategy.

## INTRODUCTION

This paper examines the Tanzanian international trade law regime's possible impact on efficiency, productivity, and international competitiveness. It evaluates Tanzania's legal system governing international trade to determine its potential influence on the country and its population. It identifies potential major effects of Tanzania's international trade laws in terms of improving productivity, strengthening ties within the country's production sector, and creating a competitive, diversified export industry. All of which are necessary to meet the National Trade Policy's mandate for higher rates of growth and development. Additionally, this necessitates changing of the economy to become a competitive, diversified, and integrated to successfully engage in multilateral and preferential trade agreements. Further, this paper analyses the observations around Tanzania's international trade framework and the AGOA program, which report the failure of Country to leverage the AGOA preferential market.

The problem which this paper sought to address is that, it has been more than 20 years since the AGOA was signed into law by the USA President to promote the growth of trade and investment in

Africa. Over the years, Tanzania trade performance in the preferential trade arrangement has failed to take advantage of the international market to supply agricultural produce, mineral products and manufactured goods whereby a country has a \$ 5.5 billion unutilized export while, Tanzania recorded a trade deficit with the U.S. in most years according to AGOA guide information.

The growth trajectory of exports in Tanzania, examining them as a percentage of the national GDP reveals the unexplored potential that still exists. According to World Bank national accounts data, in 2012, Tanzania's exports as a percentage of GDP accounted for approximately 22% of GDP. The Country's exports currently at 17% of GDP in 2023, still below the 2012 levels and impeded by production systems that are geared more towards import substitution rather than exports. The economy is growing not due to an increase in exports, but because of higher domestic consumption potential for its products according to International Trade Centre (ITC) export potential map.

The knowledge gap was identified through limited literature accessible on the nature and essence of the international trade in Tanzania complimented by field work and the obligations available under international trade and laws. Analytical knowledge gap



identified was then compared to international trade laws. The main objective was to examine the Legal Framework on International Trade in Tanzania in relation to Rights and Obligations Under the African Growth and Opportunity Act (AGOA).

This paper is guided by three specific objectives: First, to examine the nature and context of AGOA Agreement implementation and challenges. Second, to examine legal and regulatory domestic framework constrain Tanzanian firms from leveraging enhanced market opportunity under AGOA arrangement. Third, to recommend on areas of law should be adopted to unleash Tanzania's capacity to utilize maximum export-led trade under the AGOA preferential arrangement.

## THE CONCEPT OF INTERNATIONAL TRADE REGIME AND NATIONAL AGOA STRATEGY

Tanzania's AGOA strategy is built around a set of strategic objectives that embody the country's socioeconomic goal, as outlined in Tanzania's 2025 National Development Vision. The primary prerequisite is to support the goal of poverty reduction, which is embedded in the plan to construct and develop a middle-income country powered by a knowledge-based economy.<sup>i</sup>

The Author found that there was country's unfortunate trade performance stem from existing gaps in the country's legal, regulatory, and institutional framework legal framework. The 2015 AGOA strategy framework document detailed the issues limiting Tanzania's performance in four main areas, including a variety of taxes, fees, charges, and levies that hindered the successful implementation of preferential trade agreements and international trade.<sup>ii</sup>

As seen through Central Bank of Tanzania (BOT) Working Paper Series;<sup>iii</sup> finds out that Tanzania's business environment is cumbersome due to shortcomings prevailing in legislations and regulations on trade, commerce, and investments compared with other EAC countries is seen that, the Country ranks low in most indicators of ease of doing international business, particularly in areas such as paying taxes, trading across the border, registering property, starting a business, and dealing with construction permits. The Country is ranked 162 among 190 economies in ease of doing business according to the World Bank Ease of Doing Business Report in latest annual ratings. This contributes to unsuccessful story of AGOA whereby the country GDP is heavily reliant on Agriculture. This proves the legislative and regulatory inadequacies.<sup>iv</sup>

In terms of theories that govern international trade and Tanzanian trade performance, Michael Porter of Harvard Business School developed a new model to explain national competitive advantage in 1990 as part of the Modern or Firm-Based Trade Theories that evolved with the emergence of multinational corporations. The idea provides a valuable guide for explaining why some countries are more competitive in specific industries. To explain his hypothesis, Porter identified four determinants and linked them together. These include: local market resources and competencies,

local market demand conditions, local suppliers and adjacent industries, and local firm characteristics.<sup>v</sup>

Besides the national competitive advantage, a country similarity theory by Swedish economist Steffan Linder in 1961, define the concept of intra industry trade consumers in countries with equivalent or equal levels of development would have similar preferences. That, when enterprises consider exporting, they frequently recognize that the markets with the most potential for success have consumer tastes comparable to those in their own country. Trade will be widespread, with the majority of trade in manufactured goods taking place between nations with comparable per capita incomes.<sup>vi</sup>

The foundation of international trade regulations governs the flow of commodities and services across national boundaries. These guidelines make it easier for nations and companies to successfully negotiate the challenges of global marketplaces. These concepts have an impact on everything from trade agreements to tariffs and beyond, including economic policies and the tactics of multinational firms. The global economy is impacted by the principles of international trade on a daily basis; they are not merely abstract ideas.

The principles shape the economic environment in which we work by directing the negotiation of trade agreements, the implementation of tariffs, and the liberalization of markets.<sup>vii</sup> These principles are explained as follows:

Principle of Non-Discrimination; this is a cornerstone of all multilateral trade agreements is the non-discrimination concept. It means that every member must treat every other WTO member equally and with the utmost respect. Each member has the right to be treated equally and with the finest care available in exchange. This principle is expressed in two principles: the National Treatment Principle (NT) and the Most Favored Nation (MFN) treatment principle.<sup>viii</sup>

The Most Favored Nation Treatment Principle (MFN); this principle states that nationality should not be a basis for discrimination. Because traders from two separate countries shouldn't be treated differently because of where they came from. Members are not allowed to choose between their trading partners when using the MFN principle. When a state shows favor to one country, it ought to extend the same favor to other countries right away and without conditions. Article I:1 of the GATT, Article II of the GATS, and Article 4 of Trade Related Aspects of Intellectual Property Rights (TRIPs) all include this. For instance, the TRIPs principle stipulates that similar goods and services should receive the same treatment as well as equal protection for their intellectual property.<sup>ix</sup>

In connection of the aforesaid principle, Tanzania repealed its copyright Act and passed the Copyright and Neighboring Rights Act in 1999 to meet with the WTO's demand for an international standard of copyright protection known as TRIPS. Technical mechanisms of protection are provided for copyright protection under Section 44. No matter a person's nationality, their works and

those published in Tanzania are protected under Section 3 of the Copyright and Neighboring Rights Act. Anybody in Tanzania may register for a patent under the Patents (Registration) Act, and everyone will receive the same level of protection. Furthermore, Tanzanian patent holders are safeguarded by section 29 of the Act for any patents registered via the African Regional Intellectual Property Organization (ARIPO) protocol. Under Article 4(a) of TRIPs, as well as Sections 14 and 31 of the Trade and Service Marks Act, which confer exclusive rights over trade marks to those who successfully register their interest, this protection is based on regional integrations.<sup>x</sup>

Also, the Tanzanian government established the Capital Markets and Securities Authority (CMSA) Act,<sup>xi</sup> among other things to allow the free movement of capital and financial resources to support the product and factor markets, in order to ensure free market and free flow of capital. Even to get credit for foreign investors in the local financial market, foreign individuals or companies may invest in shares with a foreign participation limit of sixty percent of the total value of the listed shares. Foreign investors are free to buy corporate debt and stocks listed on the DSE under the 2014 Capital Markets and Securities (Foreign Investors) Regulations.

Furthermore, the country adopted administrative measures to promote exports, through Tanzania Trade Development Authority Act<sup>xii</sup> that repealed the Board of External Trade Act No. 5 of 1978 and the Board of Internal Trade Act No. 15 of 1973 established the Dar es Salaam International Trade Fair (DITF) also known as *Saba Saba* takes place annually at the Mwalimu J.K.Nyerere Trade Fair Grounds. In line with the above initiatives, The Export Processing Zone (EPZ) Act of 2002 established a special zone to manufacture products mainly for exports, and similarly, the Special Economic Zones (SEZ) Act of 2006 introduced an investment program to encourage production of products for domestic consumption and exports.<sup>xiii</sup>

The Tanzania Trade Development Authority Act<sup>xiv</sup> established the Tanzania Trade Development Authority (Tan Trade). Section 5 of the same Act outlined the Authority's functions. Section 5(1)(a) empowers the authority to advise the government on topics concerning the formation, development, and supervision of trade policies and strategies in conformity with the objectives stated in the National Trade Policy. The law also provides the authority to organize fair trade and market access.<sup>xv</sup>

## POLICY, LEGAL, INSTITUTION AND REGULATORY FRAMEWORK GOVERNING INTERNATIONAL TRADE IN TANZANIA

Trade activities in Tanzania are governed by over numerous principal legislations and subsidiary legislations thereto. These can mainly be grouped into company laws, tax laws, contract law, intellectual property rights laws, procurement laws, banking laws, foreign exchange laws, competition laws, labour laws, dispute settlement laws, and investment laws. Some basic legislations are

the Constitution of United Republic of Tanzania of 1977, National Trade Development Authority Act,<sup>xvi</sup> the Fair Competition Act,<sup>xvii</sup> the Capital Market and Securities Act,<sup>xviii</sup> Export Processing Zones Act,<sup>xix</sup> East African Community Custom Management Act,<sup>xx</sup> The Finance Act, the Tanzania Investment Act,<sup>xxi</sup> The Income Tax Act,<sup>xxii</sup> The Public Private Partnership Act,<sup>xxiii</sup> The Intellectual Property Legislations such as the Copyrights and the Neighbouring Rights Act,<sup>xxiv</sup> the Patent Registration Act<sup>xxv</sup> and the Trade and Service Marks Act.<sup>xxvi</sup>

Tanzania has opted to introduce national trade policy of 2023 which calls for a connected, diversified, and competitive economy that can successfully engage in multilateral trade agreements and preferential trade agreements such as AGOA. In order to promote faster rates of growth and development, trade policy aims to increase productivity, strengthen ties between domestic producers, and create a competitive, varied export market. The important concerns addressed by this policy includes:<sup>xxvii</sup>

- i. Strengthening agreement on trade-development initiatives that will solidify the ongoing shift in policy away from a market economy that is competitive and protected.
- ii. Stressing the trade function's crucial significance and contribution to achieving the National Development Vision 2025's main objective of eradicating poverty.
- iii. Determining strategies for the growth of the home market as a vehicle for inclusivity and widespread economic engagement based on enhanced market infrastructure, technological diffusion, and information access.
- iv. Maximizing the advantages of involvement in regional and international trade agreements and coordinating the national development agenda with trade commitments on a regional and global scale.

Apart from policy, the author has found that there is a legal framework governing AGOA in Tanzania. Starting from the Constitution,<sup>xxviii</sup> which is the ground norm, Articles 8(1)(b) and 9(f), declare that the United Republic of Tanzania is a State that upholds democratic and social justice values. The Constitution is the primary source of legislation in the nation. Therefore, the People of Tanzania hold sovereignty, and the Government of Tanzania derives all of its rights and authority from them through the Constitution. The Government of Tanzania's main goal is to ensure the welfare of the People of Tanzania. Additionally, it guarantees a person's freedom to work for pay and to own property. The constitutional guarantee for businesses, both domestic and foreign, is derived from these principles.

As a result, the Constitution protects business firms' ownership of property and trade investments. As the fundamental law, it safeguards and upholds an individual's unimpeded right to possess property. As a result, foreigners are allowed to own businesses and assets in Tanzania, and these may not be taken away from them

without a valid reason. However, until Tanzania's bill of rights was introduced in 1984.

### AGOA Legislation

On the part of legislation, after the Trade and Development Act was signed into law as Public Law 106 in May 2000 and became part of US trade laws, Tanzania became an AGOA member on 02<sup>nd</sup> October 2000, the act establishes a two-way economic connection by requiring the removal of obstacles to American trade and investment in recipient countries and by providing eligible Sub-Saharan African nations with improved market access to the United States. AGOA had been extended several times, most recently in 2015 for a duration of ten years, after it was first scheduled to expire in 2008 after eight years.<sup>xxxix</sup> The United States Congress passed the reauthorization of AGOA on June 25, 2015, with President Obama<sup>xxx</sup> signing it into law on June 29, 2015, and it is now legitimately known as the AGOA Extension and Enhancement Act of 2015.

AGOA is nonreciprocal agreement, just like other U.S. trade preference schemes, unlike the WTO. Reauthorization just necessitates action by the US government because the benefits only apply to US imports, not US exports. Their uniqueness sets them apart from other trade liberalization initiatives in the United States, such free trade agreements (FTAs) or multilateral agreements facilitated by the World Trade Organization, which aim to lower or do away with tariffs on American imports and exports. The President was required by AGOA to look into possible free trade agreements (FTAs) with interested AGOA beneficiaries. This suggests that Congress saw AGOA as a stepping stone to future, larger trade agreements with African nations.<sup>xxxi</sup>

An eligible country for benefits under AGOA is one that has implemented or is in the process of implementing market-based reforms; maintains an open rules-based trading system; upholds due process and the rule of law; allows for political pluralism; removes trade and investment barriers with the US; implements economic policies aimed at reducing poverty and enhancing health care and education; fights corruption and bribery; and protects internationally recognized worker rights. Furthermore, recipients are prohibited from engaging in actions that jeopardize US foreign policy or national security, commit flagrant breaches of internationally recognized human rights, or aid and abet international terrorism.<sup>xxxii</sup>

Section 104 of the AGOA law lays forth the eligibility standards under the AGOA legal framework. The United States is responsible for determining each year whether or not a country has met these requirements. Therefore, the President of the United States may decide to grant or revoke beneficiary status. In actuality, some nations have been taken off the list of eligible nations while others have been freshly declared as eligible nations. For instance, the United States government chose to withdraw Swaziland's eligibility for the Agreement on Goods and Services (AGOA) on 01<sup>st</sup> of January 2015, after expressing its concerns over a number of years on the country's failure to make progress in safeguarding internationally recognized worker rights.

As the same case, Burundi was also excluded from the AGOA eligible list effective 1<sup>st</sup> of January, 2016 due to what is so called the failure to meet rule of law, human rights, and political pluralism eligibility criteria.

### The Dispute Settlement Recourse in AGOA

Under AGOA, participating nations are not entitled to raise counterarguments against the United States government, nor able to use dispute resolution procedures in this respect. Rather than emulating American investment interests to guarantee that their multinational corporations that make investments in emerging nations, particularly those that involve the exploitation of natural resources, enjoy favorable conditions. The multinational corporations are said to have profited from the majority of the earnings at the expense of the host countries. As a result, the actions of multinational corporations were seen as a means of permanently depressing and impoverishing host states, with the assistance of the minimal protections granted to foreign investors.<sup>xxxiii</sup>

### The 2016 Forum Regarding AGOA Framework

In Washington, D.C., during the 2016 AGOA Forum, the participants deliberated on ways to establish robust trade and investment ties between the United States and sub-Saharan African nations, even after the AGOA's expiration in 2025. The seminar covered various AGOA usage tactics and prospective routes beyond AGOA in line with this year's theme, "*Maximizing U.S. Africa Trade and Investment: AGOA and Beyond*". Two agendas were critically observed which are:<sup>xxxiv</sup>

- i. Maximizing AGOA utilization.
- ii. Making the AGOA reciprocal.

The report referred as "Beyond AGOA Looking to the Future of U.S. Africa Trade and Investment," which was released shortly before the AGOA Forum, contained several policy options for the U.S. government to maximize the use of the AGOA in order to establish African competitive advantages in the post-AGOA period. The purpose of the report was to reimagine the policy architecture in order to drive the trade and investment partnership between the United States and Africa into the future. It focused on the following main points to be implemented:

First, a move toward greater reciprocity. As more reciprocal agreements are made between African nations and other developed nations, as well as within sub-Saharan Africa, the United States will face increasing pressure to explore more stable, long-term, and mutually advantageous AGOA alternatives.

Second, to incorporate reforms from Africa into a wide range of policy domains. Even the least developed developing nations can undertake major policy reform responsibilities and reap substantial benefits in terms of economic growth, diversity, and poverty reduction.

Thirdly, to encourage Africa's inclusion in the world trade network. The developing nations that have seen the biggest gains in





development outcomes are those that have liberalized, reformed, and integrated their economies into the world trading system. This cover developing nation FTA partners of the United States.

Fourth, take into consideration the varying capacities and readiness levels around the region. The nations that make up Sub-Saharan Africa are diverse, with varying degrees of income, development, and preparedness for increased commerce. This will need to be acknowledged in the next generation of trade framework with sub-Saharan Africa in order to prevent taking the lowest common denominator approach and to gradually raise standards throughout the region.

Regarding the second item on the agenda: reciprocating the AGOA. The future policy framework of the trade and investment relationship between the United States and sub-Saharan Africa following the AGOA's expiration in 2025 was the primary topic of discussion at the. That any future AGOA preferential deal must adhere to high-standard, complete free trade agreements, restricted, asymmetric agreements similar to those in the EU, cooperative partnerships like Trade Africa, and preference programs with eligibility requirements depending on policy. Based on the benefits and drawbacks of these varied strategies, the AGOA Forum participants talked about the possible solutions that would be best suitable for American-African trade and investment.

All of the aforementioned agendas were inspired by the change in EU policy which stimulated argument in the United States. The merits of making the AGOA framework reciprocal included the following:<sup>xxxv</sup>

- i. Achieve WTO compatibility, which is advantageous for both American and African nations.
- ii. Maintain the United States' AGOA preference-granting system without requiring a subjective assessment of an African country.

## SUGGESTION TO AMPLIFY THE DEVELOPMENT OF AGOA IN TANZANIA

The following are the strategies that Tanzania may adopt to amplify AGOA development in Tanzania.

- a. For the 23 years of AGOA has been in-force, benefits of AGOA to SSA beneficiary countries are limited. AGOA has significant impact on petroleum and apparel exports from the beneficiary countries of which not even half of the SSA countries produce such products. African countries especially SSA countries depend on Agriculture trade. Thus, the US to reform the AGOA policy to accommodate SSA beneficiary countries market realities through;
  - i. Eliminating tariffs on Agriculture exports from SSA beneficiary countries; Benefits of AGOA to SSA member countries have been restricted over the course of its 23 years of implementation. Even though fewer than half of the SSA's member nations produce clothing and petroleum, AGOA has a considerable impact on these

exports from the member nations. Trade in agriculture is vital to African nations, particularly those in the Sub-Saharan Africa. In order to adapt to the market realities of the SSA beneficiary nations, the US will therefore modify the AGOA policy. One such change will be the removal of tariffs on agricultural exports from SSA beneficiary countries. As well as doing away with or significantly lowering export quotas for agricultural products from SSA recipient nations.

- ii. Eliminating or further reduce quotas imposed on Agriculture exports from the SSA beneficiary countries or at least from such countries in SSA that are least-developed countries (LDCs);
  - iii. AGOA trade hubs to assist SSA countries Agriculture ministry through training and funding so as to support firms to meet US-SPS standards.
- b. Consideration of Appropriate Policy Instruments for U.S. African Trade and Investment. In order to prepare for the post-AGOA economic environment and to properly evaluate potential policy instruments that are best appropriate for U.S.-African trade and investment, African countries including Tanzania must act before the AGOA benefits expire. Regional integration within the African continent, export diversification, and regional industrialization are potential policy options that could create value-chains within the continent and ultimately encourage the integration of African nations into global value chains. All of these policy initiatives, which were covered in the most recent AGOA Forums, are already widely acknowledged to be important by African nations. The first step for Country to take in order to maximize their use of AGOA.
    - c. Tanzania to form a National-AGOA strategy that identifies the following:
      - i. To recognize that AGOA provides more trade opportunities for Tanzania firms. Both national and foreign companies in the country can benefit from favourable market access initiative but they cannot do so due to lack of awareness of AGOA and lack an understanding of the technical provisions of the initiative such as required products standard, and rules of origin contents. They lack knowledge of market demand and preferences and most firms are discouraged from exporting to the US market because of high production and transportation costs in addition to the limitation of trade finance.
      - ii. Diversification of exports to the US market, Tanzania needs to make use of the AGOA opportunities to increase diversification of exports to the US market. There are currently about 7000 product lines under the initiative and Tanzania exports less than 10 products.

Moreover, the country will become more competitive in terms of her exports to the US market by encouraging producers to improve the quality of the goods and packaging.

- iii. National AGOA enabling institutions specifically the government institutions and other trade-related private sectors that are responsible for supporting traders to take advantage of the AGOA initiative must be identified and the roles and functions of each institution should be clearly specified to avoid confusion to the interested business firms. Ministry of Trade and Industry together with all trade supporting institutions in the country should organize seminars to create awareness of AGOA opportunities and the technicalities of the trade arrangement. Moreover, the government should invest in modern infrastructures for plant and animal health in order for producers in Tanzania to meet the sanitary and phytosanitary requirement.
- iv. Public-private cooperation, the government in collaboration with the private sector should identify best-prospect items that are eligible under AGOA preferences and design a clear strategy to promote production and export of such products. Furthermore, the government could establish ways that connect small scale producers that are scattered in various regions of the country to consolidate volumes and fill the large orders demanded by US consumers. Without improved infrastructure, there will be no growth of trade and investment. The government should focus on improving infrastructures particularly electricity supply and transportation system in the country.

#### d. Redesigning the Preferential Program

The US should think about including policy commitments in addition to preferential access when establishing the next generation of AGOA and other PTAs or when revising the ones that already exist. Export capacity could be increased by commitments to reform in a number of areas to foster commerce and private investment. According to the report, eligibility requirements for PTAs should be strengthened using reform-based criteria. PTAs must be used in conjunction with other initiatives to increase investment and commerce between the US and SSA countries. This involves combining AGOA with tools for foreign aid policy in order to successfully address the structural issues restricting export potential.

The need to combine preferential access with such policy frameworks appears to be catching up with recent initiatives like the Compact with Africa (CwA), which place a major emphasis on enhancing the business environment and creating efficient rules and institutions.

Additionally, rich economies must implement the necessary techniques for easing the transition and preventing any disruptions in access to these preferences while contemplating a new model of

trade engagement with developing economies, all while keeping in mind the overriding goal of reducing poverty.

Additionally, players in the private sector have contended that investment in the region is hampered by the uncertainty surrounding the length of AGOA advantages owing to the program's reauthorizations, which occur every 10 to 15 years. Some have argued that in order to lower uncertainty and promote increased capital investment which they claim will be required to increase value added production in the region a longer and more consistent reauthorization of all AGOA preferences, including the third country fabric provision, should be implemented.

#### e. Trade Capacity Building (TCB)

Exporters from AGOA countries encounter many obstacles. These include the lack of a sufficient legal framework for foreign trade, inadequate infrastructure, insufficient access to electricity, and a paucity of skilled labor. The general objectives of AGOA for TCB are implemented by many agencies, most notably USAID. Information from the AGOA handbook states that since 2001, several U.S. government organizations, most notably the U.S. Agency for International Development (USAID) and the Millennium Challenge Corporation (MCC), have contributed \$5 billion to TCB funding in AGOA countries. However, the topic of AGOA funding is frequently brought up, with many arguing that the current level is insufficient or ineffectual.

#### f. Enactment of Anti-Dumping Regulations

Anti-dumping measures in Tanzania are governed by the 2004 Anti-Dumping and Countervailing Measures Act. This act integrates the anti-dumping principles specified in GATT Article VI and the Anti-Dumping Agreement (ADA). However, the problem persists as a result of other implementation issues. Such obstacles include a lack of legislation controlling its execution, the absence of a permanent organization and expertise to deal with anti-dumping measures, a lack of understanding about potential remedies, and financial reliance on donor countries that frequently dump their products into our markets. Enacting regulations will help to strengthen the trade sector and increase its competitiveness.

#### g. Investment Incentives

On investment incentives, it is suggested that the law be updated to address relevant fiscal incentives. Fiscal incentives provided to EPZ enterprises should differ from one investor to the next based on the type of business. Incentives should be specific in the sense that, if the business under which the license is awarded is prevalent in other countries, incentives may be essential in attracting investors.

Tanzania should reduce the incentives offered in order to balance the expenses of administering the EPZ program with the advantages received, particularly if the permitted business is extremely uncommon in other nations. The host state bears two responsibilities in this regard. Tanzania should therefore make an effort to strike a balance between the expenses associated with having investors and the benefits she receives from them.

#### h. Moderate Tax Rate in EPZs



That, the law must be revised to guarantee a steady but moderate tax rate for investors running their business in EPZs. Permanent tax breaks for EPZ investors, as adopted by Namibia, or periodic overgenerous tax exemptions, as implemented in the majority of other African countries, are not superior policies for economic development. A continuous tax rate would be enforced throughout the investor's presence, regardless of the conditions, like in some nations such as Botswana, in to promote international trade in Tanzania.

Furthermore, such a rate needs to be reasonable in that it can be lower than that imposed on investors who are not in EPZs, in contrast to other sectors outside of them. Because the host state loses rather than gains, all of these highlight the significance of not depending solely on fiscal incentives as the primary vehicle for economic development.

#### i. Elimination of Annual Certification

If U.S. lawmakers decide to renew AGOA, they should also consider eliminating the annual certification process and instead target funding for the regional Trade and Investment Hubs. This could be a more effective method of forcing a change of behavior among errant governments, as the businesses which benefit from the hubs might exert pressure on their governments if they lose out on those benefit.

#### j. Exploring the AfCFTA's Investment Protocol

U.S. and African governments should leverage opportunities presented by the African Continental Free Trade Area (AfCFTA) Agreement for coordinated investment promotion, which can attract FDI from U.S. companies and foster regional economic integration in Africa. The Protocol on Investment to the AfCFTA was adopted by the Heads of State and Government during the Assembly of the African Union in February 2023.

#### k. Reform of Agricultural Produce Cess

This is specifically confirming the relatively positive effects of produce cess reduction or abolition, in increasing productivity and production for both food and cash crops and in enhancing farm production. Thus, it is important to review section 6(1) (t) and 7(1) (g) the Local Government Finance Act, Chapter 290.

## CONCLUSION

In comparison to other AGOA beneficiary nations such as Kenya, Lesotho, and Ethiopia, Tanzania has not benefited significantly from the preferential arrangement. Despite the AGOA's inadequacies, particularly in terms of agricultural product restrictions and Sanitary and Phytosanitary Measures (SPS).<sup>xxxvi</sup> The trade system has been the single most important driver of exports to the US market for the majority of recipient countries, with a significant beneficial impact on economic growth in terms of revenue, taxes, investment growth, and job creation. Kenya and Lesotho are excellent examples of the largest exporters under AGOA. The truth for Tanzania, AGOA provides a much-needed trade opportunity that the country is failing to use because of the supply side restraints that are limiting trade initiatives in the country.

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**ENDNOTES**

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<sup>xxv</sup> Chapter 217 of the Laws of Tanzania.

<sup>xxvi</sup> Chapter 326 of the Laws of Tanzania.

<sup>xxvii</sup> National Trade Policy 2003 (Edition of 2023). The Policy was officially unveiled by Deputy Prime Minister of the United Republic of Tanzania, Hon. Doto Biteko on 24<sup>th</sup> July, 2024.

<sup>xxviii</sup> The Constitution of the United Republic of Tanzania, 1977 as amended from time to time.

<sup>xxix</sup> <https://agoa.info/images/documents/15560/tanzania-agoa-guide-and-trade-overview-.pdf> accessed on 30<sup>th</sup> August 2024.





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<sup>xxxi</sup> Brock R. Williams, (2015), African Growth and Opportunity Act (AGOA): Background and Reauthorization, Congressional Research Service.

<sup>xxxii</sup> Section 104 of AGOA (19 U.S.C. 3703).

<sup>xxxiii</sup> <https://agoa.info/about-agoa/country-eligibility.html> accessed on 25<sup>th</sup> August, 2024.

<sup>xxxiv</sup> Akiko Yanai, Current Issues on the African Growth and Opportunity Act (AGOA), 2017, IDE Discussion Paper No. 661.

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<sup>xxxvi</sup> SPS measures include all relevant regulations, requirements, and procedures used to ensure the safety of agricultural products for people, plants, and animals. This includes processes and production methods; testing, inspection, certification, and approval procedures.

