A WILSON CENTER & MANCHESTER TRADE COLLABORATION

MAY - JUNE 2013 WHITE PAPER

The Trans - Atlantic South Partnership . TASP

Positions on Building a Mutually Beneficial Partnership with Africa

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With a Foreword by **Sindiso Ngwenya**

Until lions have their historians, tales of the hunt will always glorify the hunters

~ An Old African Proverb ~

Foreword . Sindiso Ngwenya*

It is very simple.

Until the U.S. is as optimally invested, or doing business as briskly as the Chinese, the EU, Indians, Brazilians or Vietnamese; the world's largest economy can neither expand its commercial footprint in Africa nor make a portentous impact on the lives of over a billion Africans.

Secondly, the Africa Growth Opportunities Act (AGOA), undoubtedly, forms a solid base from which the U.S. can launch into a much more equitable and more effective commercial partnership with Africa. Therefore, before the non-reciprocal program expires in 2015, now is the time to do more than *just* renew AGOA for another 10 or so years.

With the premise that lucrative emerging economies await all over the globe, the trade partnership between the U.S. and sub Saharan Africa must be viewed on the same plain as the nascent agreements between the U.S. and the Far East - the **Trans-Pacific Partnership -** and the **Trans-Atlantic Trade & Investment Partnership** with 27 European countries. For Africa, the U.S. must recognize the 'complex investment case' *Ernst + Young* articulated in their 2012 Competitiveness Survey and also see an 'astonishing 42% growth in intra Africa FDI.'

Between 2007 and 2012, the top 20 investors in Africa were from Kenya, Nigeria and South Africa. If Africans are investing in Africa, then American investors should be assured that potential for profit exists. Essentially, the U.S. must join the ranks of those emerging markets to ride the Africa economic wave.

That's why I am enamored by the **Trans-Atlantic South Partnership**. The concept is not just *plausible*; it considers what the U.S. private sector can achieve in Africa; suggests ways in which Congress and the Obama administration can level the playing field for American firms and favors regional integration.

Importantly, Africa will develop much faster if all countries can negotiate as one unit, or do business with one another with fewer encumbrances. Thus, like it did for post WWII Europe through the **Marshall Plan -** effectively supporting the rehabilitation of European industry - the U.S. must be a champion for economic integration in Africa.

This support will wholesomely benefit Africa - positively affecting regional economic communities like COMESA, a 19-country regional economic community that holds more than half of Africa's population.

Whereas COMESA's Trade + Investment Agreement (TIFA) with the U.S. has grown two-way import and export trade, the EU's Economic Partnership Agreements (EPAs) threaten this very progress. If more African countries or any more of our members prematurely accede to the fatally flawed pacts, Africa, simply, won't achieve a seminal Common External Tariff by 2019, as envisaged by the *Abuja Treaty.*

Therefore, because it's already primed for business with Africa, America must, under the circumstances, do more: The host of Africa-related bills in Congress ought to be prioritized, considered and passed by the 113th Congress.

In conjunction, it helps that presumptive USTR nominee Michael Froman is a proponent (and *perhaps* originator) of the *whole-of-government* approach in the Obama Administration. With various agencies increasing their Africa activity, these aspects could, collectively, mean that the private sector *just* needs a gentle *nudge* to flow into Africa.

This proposed TASP *hopes* to be that tipping point: *A road map to hunting in Africa;* one that affords American hunters of all sizes the opportunity to dig their toes into Africa's fertile earth, and hear, for themselves, how loudly African lions *really* roar.

S.N.N. May 17, 2013

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Synopsis

*The U.S. has a major challenge on its hands: If the country does not come up with a well coordinated and timely strategy to ride Africa's economic wave, not only will entities like China and the European Union continue to chip away at America's strategic interests, the private sector will continue to sit on what a January 2013 **Wall Street Journal** article estimated to be USD $ 1.7 trillion in cash.*

Fortunately, with a CCA proposal for $ 10 billion for Africa's infrastructure projects now floated, the TASP believes that by putting such mechanisms in place, the U.S. can tap Africa's potential to generate both profit and U.S. based jobs.

Additionally, save for the 'Fast Track' - a politically contentious legislation that would ease the way for new trade deals - the U.S., ostensibly, has an uncluttered trade policy agenda for 2013, and so, progress on AGOA renewal or enhancement, could commence alongside a panoply of Congressional activity, and Administration effort to spur the private sector into Africa's opportunities.

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TASP Prerequisites

A number of proposals geared towards improving U.S. - Africa relations have already been presented to both Congress and the Administration - most recently Sen. Chris Coons (D-Del) prepared a proposal, the *Corporate Council on Africa* just published its list of 44 recommendations related to trade and investment, and the *Wilson Center* has a list of issues under official + unofficial review by both American and African stakeholders.

To this, TASP draws from a rich reservoir of ideas, prioritizing proposals that should be coordinated by disparate Congressional Committees.

Taken alongside other recommendations, a coordinated approach will ensure that existent measures can reinforce each other, allowing each entity to maintain jurisdiction and shepherd its own pieces of legislation through rigorous procedures in the U.S. Congress. Paralleling the *whole-of-government* approach in the Obama Trade and Investment Strategy, this was designed to end stove piping of individual executive agencies.

Typically, coordination must be left to both Democratic and Republican Party's Congressional leadership or a special committee of chairmen, and ranking members of these committees and subcommittees.

Growing the U.S. Commercial Footprint

While the **Trans-Atlantic South Partnership** (TASP) should have the same *gravitas* as the **Trans-Pacific Partnership** (TPP) or the **Trans-Atlantic Trade and Investment Partnership,** it must also be unique in not requiring binding Free Trade Agreement (FTA) concessions.

Any potential 'new deal for Africa' should be based on current preferences between the U.S. and Africa - enhanced to strategically deepen U.S. - Africa relations beyond trade and investment, and the status quo could be the 'perfect storm' to go beyond AGOA.

For their part, African countries must, on top of continuing to improve governance issues and the **Doing Business** environment, use the TIFA structure, their own initiatives to improve respect for IPRs; remove those non-tariff barriers that hinder FDI, and make significant strides towards regional integration and the benefits that could ensue.

Ernst & Young suggests that 'in this contest for international capital and resources, better stories are still being told about other markets.' Here, Africa must step up to the challenge, aggressively changing the 'risky' narrative ingrained in minds of Western investors by offering positive examples.

Specifically, TASP seeks to grow the U.S. commercial footprint in Africa by enhancing AGOA with the following types of measures:

1. Promotion of U.S. investment by leveling the playing field against competitors who receive subsidies from their governments, and also addressing inhibitors to US investor activity in Africa.

2. Support for African regional integration to overcome the historical handicaps that subdivided countries into small economic entities.

Without these integration measures, sub Saharan Africa can neither be optimally incorporated into global trade supply chains + distribution networks, nor expect to receive equitable benefits from globalization.

TASP is broken down into 4 key tiers:

1. AGOA Extension + Enhancement
2. Support of U.S. Investment in Africa
3. Systematic Review of Unilateral Actions
4. Support for Africa's Regional Integration

1. Extending | Enhancing AGOA

i. If AGOA renewal is to be effective, the program must, in the least, be extended for up to 10 years.

This period should provide sufficient security for entrepreneurs in both the U.S. and sub Saharan Africa to undertake new investment that fully utilizes the program.

ii. Many African countries have not yet achieved their full potential under AGOA.

To change this trajectory, the U.S. must increase the breadth of AGOA duty-free imports to include agricultural products like groundnuts | peanuts, tobacco sugar, sugar-added and dairy-added products.

Going against the spirit of AGOA, agricultural products such as those mentioned above are subject to prohibitive tariff rate quotas (TRQs), putting them at a severe competitive disadvantage to traditional American market suppliers.

iii. On top of removing barriers to African agriculture, the Obama Administration and Congressional committees should also:

i. Ensure that TRQ crops such as those mentioned above are included in Feed the Future programs.

ii. Lift restrictions on foreign assistance for U.S. products if these aren't, demonstrably, deleterious to American producers.

iii. Minimize negative U.S. subsidy consequences on the price depression of African cotton.

2. Supporting U.S. Investment

Since the 13-year old AGOA is not necessarily an effective bulwark against entities such as the EU, China, Brazil, India and any number of small but aggressive third countries, extra effort must be undertaken to coax reluctant American firms to invest in the region. Additionally, we must bear in mind that the U.S. media has, effectively, albeit unintentionally, presented Africa as a whole host of unstable countries - ignoring *boring* aspects of an increasing number of vibrant economies.

Simply, without new legislative mandates, valiant efforts by Ex-Im Bank and OPIC in quadrupling their outlays in support for U.S. investment will prove ineffective in shoring up competitiveness of American firms.

Specific measures to level the field include:

1. **Tacit Support** for a $ 10 billion funding facility for Africa infrastructure projects

2. **A proposal** in *H.R. 1777* to modify the Ex-Im Bank Act of 1945, directing the bank to increase loans, project insurance and guarantees to Africa, is a step in the right direction. One way to make this effective is to endorse the suggestion that Ex-Im Bank report to Congress if, at least, 10% of its facility is not utilized to counter non - OECD compliant actions that distort global trade.

3. **A suggestion** that where non-OECD countries offer absurdly low interest rates, sufficient resources be used by the Ex-Im Bank itself, the MCC, USAID and the USTDA to offset increased servicing costs and provide support to American firms doing business in Africa.

4. **A commendation** for the highly effective and innovative OPIC group, and a call for it to be allowed to provide additional support for African projects from its retained earning reserves.

5. **A proposal** that staff of the Minority Business Development Agency, (MBDA) and the Small Business Administration (SBA) must receive training in special skills such as the agglomeration of investments from SMEs, Minority and Diaspora Investors.

This will allow entities considered small, inexperienced and under capitalized to access funding from OPIC and Ex-Im Bank - opportunities largely enjoyed by the *big boys* but out of the reach of others.

6. **A Call on Congress** to ensure that U.S. investors are shielded from Double Taxation + Arbitrary Expropriation. Here, USTR must negotiate BITs with countries or groups of countries that hold potential for profitable investment.

Interpretively, the U.S. may have to work with both those countries that respect investor rights and those with less than stellar reputations.

So-called investor friendly double taxation treaties utilized by EU members may be preferable to tax free profit repatriation from Africa investment. Essentially, tax free repatriation of profit earned as a result of tax holidays, allows host countries to determine what types of investment best contribute to their specific growth strategy and may be less objectionable than exemptions for large companies.

7. **An endorsement** of the *Coons Proposal* on the joint management of the Africa regional Hubs by the Department of Commerce and USAID to promote U.S. exports and investment.

3. Systematic Review of Unilateral Actions

1. In enhancing AGOA, the U.S. must replace those unilateral actions that are deemed ineffective.

Such actions as withdrawing AGOA eligibility often have unnecessary negative implications for innocent parties if they are not more targeted, collectively applied + limited in scope.

Here, we do not suggest that objectives are misguided. Instead we opine that the U.S. is better served if provisions were reviewed in light of the non invasive actions applied in the Arab spring.

Removing Madagascar from AGOA eligibility following a military coup not only affected thousands of Malagasy seamstresses; the sanctions also affected U.S. investors who were forced to cede ground to Chinese investors - and all this had a negative effect on the long term growth of a positive U.S. commercial footprint in that country.

2. Since US unilateralism applies to legislative vehicles beyond trade preferences, a special Congressional committee to review unilateral US sanctions must be established to review conditionality.

A review could encompass Foreign Corrupt Practices, carbon emissions, conflict minerals, support of sensitize sectors, products, and also MCC or USAID programs; and coordination between State, USTR, USTDA, Ex-Im, OPIC, Justice + SEC.

3. In addition, some conditions insisted by special economic interests undermine the effectiveness of U.S. programs. These conditionalities should be reviewed as well.

Like the CCA suggests, the U.S. must remove or reduce obstacles to flexible and fast U.S. government financing, such as requirements for American content and the use of U.S. bottoms for transportation.

4. Support for Africa's Regional Economic Integration

Aimed at removing obstacles to investment and export flows into the region, the U.S. must avail resources to assist Africa along its path towards regional integration.

1. The immediate step ought to be to prevail upon the EU to delay demands for reciprocal treatment on certain African countries until there's agreement on the appropriate timing for such actions.

The premise here is that EU steps to gain reciprocal concessions from certain countries in the region before the next decade - while others try to extend unilateral preferences until sub Saharan Africa is integrated enough to negotiate as a group - could be detrimental, fatal even, to US efforts to extend non-reciprocal AGOA

We suggest that Congressional Trade Committees use the upcoming launch of T-TIP negotiations to raise concerns about EU tactics in the timing of EPA negotiations with SSA countries.

The EU is threatening to withdraw preferential access into its market from a number of SSA countries if they refuse to enter into EPAs. Such agreements not only undermine African integrations goals but also place the U.S. + other third country exports at a competitive disadvantage in the fast growing African market.

2. The U.S. must express concern over EPAs and recommend that parties consult on how to develop a common Trans-Atlantic approach with the newly empowered European Parliament.

3. A number of Congressional Committees can prioritize African integration agreements with the objective of creating a continental FTA and a customs union by the end of the decade.

The Foreign Affairs and Trade Committees can work with State Department diplomats and USTR trade negotiators to signal to African countries the high priority the U.S. places on the mutual benefits from regional integration.

4. USTR should work with the African Union in either expansion of the AGOA waiver to all DFQF schemes or provision of DFQF benefits to all members of regional economic communities with an LDC majority committed to attaining FTA/customs union status in a finite period.

5. Responsible Congressional Committees must work with USAID to increase technical assistance to bolster African negotiator competence on especially trade agreements. Support should also go to removal of non-tariff barriers to the movement of factor of production between countries and RECs.

6. MCC must provide at least 20% of compact funding to projects deemed regional in scope.

7. Special purpose vehicles (SPVs) must be reviewed in a bid to finance regional infrastructure.

Conclusion

The U.S. must comprehensively assess the commercial threat posed by the almost unlimited funding China provides to support its Africa ventures. Secondly, if the U.S. does not effectively challenge the mercantilist policies foisted by the EU, America will not have the ready access to Africa it may desire in the near future.

Coincidentally, the biggest challenge to Africa is the region's progress towards economic integration, and the curtailing the free flow of goods, services and factors of production. Unless more American action is forthcoming, it will not only become even more difficult for African countries to take advantage of natural synergies with each other: They may not even be able to implement their own development strategies or effectively collaborate with countries like the U.S. And without a concerted effort for Africa, U.S. firms won't operate the kind of supply chains and distribution networks they hope for in markets as nascent as those in Africa. SL . DM . May 17. 2013

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With a 50-year career in trade policy at State Department, at the USTR and in the private sector, Stephen was pivotal to adding bilateral and plurilateral elements to U.S. trade policy that had almost exclusively been multilateral and based on the GATT. He was key to initiatives such as AGOA, CBI and GSP as well as various US FTAs. He is President of Manchester Trade and also an adjunct professor at the School of Advanced International Studies, Johns Hopkins University.
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