



# Africa Growth and Opportunity Act (AGOA) CIVIL SOCIETY NETWORK



## NEWSLETTER

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*Building Relationships to Expand the Reach of AGOA in Africa and the US*

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Combined Federal Campaign

**CFC# 9956**

The Foundation for Democracy in Africa—the secretariat for the AGOA Civil Society Network—has recently joined the CFC campaign. We encourage you to support us as we continually work to increase the ease of US-Africa trade among diverse sectors.

## ISPS CODE COMPLIANCE VITAL FOR AFRICA

**Mr. Ronald J. Thomason**, vice-president of Operations, Sea Secure, L.L.C gave a presentation describing the International Ship and Port facility Security Code (ISPS Code) and its basic structure as a follow-up to his presentation with the same theme given during the AfrICANDO 2004 conference (sponsored by The Foundation for Democracy in Africa). In this follow-up presentation, he spoke before participants at the U.S.D.A. Graduate School's offices in Washington, D.C. and shared information on the International Maritime Organization (IMO) – an agency of the United Nations behind the formulation of the ISPS Code.

Remarking on the seriousness with which compliance with the ISPS Code would be enforced, he described the ISPS Code as 'the sword of Damocles hanging over the heads of African countries'. He reminded the gathering that all United Nations member countries were required to certify that their international ports, commercial ships sailing under their flag, or platforms operating in their national waters were certified as compliant with ISPS Code requirements as of July 1 2004. He also noted that failure by developing countries (including those in Africa) to

meet international maritime security requirements could result in significant barriers to international trade. The ability of any country to engage in trade is, he noted, most vital to development. Mr. Thomason then voiced his disappointment describing it as 'shocking and more than a little frightening' the level of non-compliance of many ports that are critical not just to the countries that own them, but also to the regions dependent upon commerce through those ports for the import of food, medicines, and relief supplies, and the exports of goods from their countries. Mr. Thomason

**"[ISPS code] threatens to be the 'sword of Damocles' hanging over the heads of [developing] countries."**

presented a list containing 38 African countries that were required to comply with ISPS Code requirements. African countries that have yet to meet compliance deadline were listed as: Benin, the Democratic Republic of Congo, Equatorial Guinea, Guinea, Guinea-Bissau, Liberia, Madagascar, Mozambique, Nigeria, and Sierra Leone. He however cautioned that this list was by no means comprehensive, saying that it only contained African countries that had not reported to the

International Maritime Organization. He noted that the list omitted ports whose governments have certified them as compliant, but who may in fact not have implemented the required security measures.

Importantly, Mr. Thomason apprised the audience that the United States has developed the International Port Security Program [IPSP] to monitor compliance with ISPS Code requirements in order to protect itself from terrorist attacks. For effective monitoring, audits will be conducted by US Coast Guard IPSP teams and European governments beginning this fall. Findings of non-compliance with code requirements will most likely result in delay or denial of merchant ships arriving from non-compliant ports.

Recalling experience from his travels, he noted that obstacles to compliance with the ISPS Code requirements include:

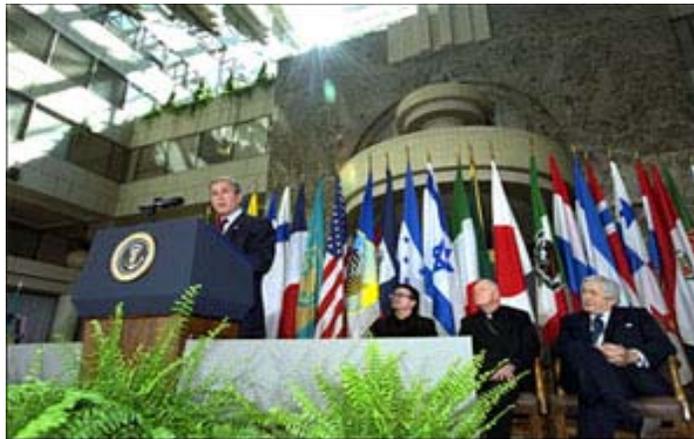
- ◆ Lack of awareness whereby some governments understand neither the code requirements nor the potential consequences of non-compliance;
- ◆ Financial limitations in which case ports simply cannot afford the improvements in their physical infrastructure

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## FY 2005 MCC CANDIDATES AND THRESHOLD COUNTRIES ANNOUNCED

The Millennium Challenge Corporation (MCC) candidates for the fiscal year 2005 have been announced. In FY 2004, countries with per capita incomes below \$1465 were considered. In addition for FY 2005, it has been determined that country eligibility will be established by the MCC board of directors. Furthermore, countries prohibited from receiving assistance by current statutory restrictions will not be eligible this fiscal year.

Thirty out of the thirty seven AGOA designated African countries have been deemed eligible for FY 2005. Burundi, Central African Republic (CAR), Cote d' Ivoire, Guinea Bissau, Somalia, Sudan and Zimbabwe are currently under statutory restrictions and are thus ineligible. Then, South Africa, Botswana, Cape Verde, Mauritius, Namibia and Seychelles are also ineligible because they had per capita incomes above the minimum re-



White House photo by Tina Hager

*President George W. Bush in his address at the Inter-American Development Bank in Washington, D. C. earlier this year announcing the Millennium Challenge Account Initiative*

quirement of \$1465 or the MCC board determined them otherwise ineligible. AGOA countries designated as candidates for MCC FY 2005 are: Angola, Benin, Burkina Faso, Cameroon, Chad, Comoros, Democratic Republic of Congo, Congo Republic, Dji-

bouti, Equatorial Guinea, Ethiopia, Gambia, Ghana, Guinea, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Niger, Nigeria, Rwanda, Sao Tome, Senegal, Sierra Leone, Swaziland, Tanzania, Uganda and Zambia.

In the latest developments, MCC has announced the selection of the first seven countries that will be eligible for the Threshold Program. The African countries that were named among the seven are: Kenya, Tanzania, Uganda and Sao Tome and Principe. These countries came very close to being eligible for the Millennium Challenge Account (MCA) eligibility but have nonetheless demonstrated a serious dedication to meeting MCA eligibility criteria. According to the MCC, the Threshold Program is designed to assist countries on the "threshold" which means they are committed to undertaking the necessary reforms to improve policy performance with a view to qualifying for MCA assistance. The U.S Agency for International Development, in partnership with MCC will be primarily involved in the implementation of the Threshold Program.

## TEMPORARY STALEMATE AT TRADE TALKS

Talks between the five members of the South African Customs Union (SACU) and the United States have reached a dead end. Negotiators from both sides were hoping to establish a Free Trade Area (FTA) between the two regions by the year-end. The countries involved in the negotiations are: Botswana, Lesotho, Namibia, South Africa and Swaziland. The FTA deal would extend the benefits of AGOA, which expires in 2015 and is subject to annual reviews. Specifically, the deal would help stabilize the export sectors of the SACU member countries by making permanent the

AGOA provisions (FTA resolutions would be more difficult to alter once agreed upon). This deal would also place US companies on an equal footing with European companies with regard to accessing the South African market- eliminating the disadvantages from South Africa's Free Trade deal with the EU.

So what exactly are the fundamental issues being contested? According to the Business Day, a South African based newspaper, SACU negotiators believe US demands are not in sync with the region's development agenda. They point to intellectual property and in-

vestment stipulations to highlight this. After six negotiating sessions, the two sides still remain far apart on this issue. The South African chief director of the Department of Trade and Industry (DTI), speaking to the South African Press Association was quoted saying that there would be no resolution if the US did not take into account the 'different levels of development between the US and the SACU region.' The US demands on intellectual property are said to be too high and "May not be appropriate for a developing country" according to SACU chief negotiator

Xavier Carim. As an example, with SACU economies striving to contain a HIV/Aids epidemic, there is an urgent need for them to avail cheap drugs to the affected citizens. The US on the other hand would push for higher prices on generic drugs to protect the intellectual property of US drug makers putting the negotiators at a limbo on this issue.

The investment rules also differ greatly between the two sides. In a report featured in the Business Day, a South African based newspaper, it is believed that equitable access to investment opportunities for

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## US-Africa Updates



Delivering a keynote address at the recently concluded seventh annual AfrICANDO Trade and Investment Symposium themed “*Effective and Efficient Use of Agricultural Science, Technology and Research as a Tool for Development in Africa*” held in Miami between September 16-18, 2004, U.S. Agriculture Secretary Ann M. Veneman explained that hunger is impacting negatively on the many facets of the continent’s economy by producing a ‘recurring cycle’. She then emphasized that there is a need to raise agricultural pro-

ductivity across Africa. “Hunger and malnutrition now are recognized as symptoms of a recurring cycle. Low per capita incomes result from low agricultural productivity and thus limit the ability to grow and produce food, leading to malnutrition and poor health. These conditions further harm the ability to earn income and then the cycle worsens.” She continued, “Raising agricultural productivity will help Africa break this recurring cycle, and it sets in motion a chain of other events. Farm and rural incomes rise. More food is available locally, improving nutrition and food security, and for exports, increasing export earnings. Food costs fall, giving consumers more money to spend on other products and services. This is particularly beneficial to people in developing countries that typically spend well over half of their household income on food. As productivity continues to increase, more farm labor and other resources are freed up for other sectors—

stimulating investment, economic growth, and higher incomes.”

She also reiterated the US’ commitment to ensuring the success of Africa citing the direct bilat-



eral assistance totaling over \$ 2 billion disbursed to various African countries during FY 2004. Further, the US is heavily involved in funding for HIV/AIDS eradication efforts, the Millennium Challenge Corporation initiatives and the recent reauthorization of the African Growth and Opportunity Act, AGOA, until 2015.

The US commitment in Africa, she added will not end here as underscored by current initiatives notably: The Presidential Initiative to End Hunger in Africa, the Trade for African Development and Enterprise, and the Water for the poor Initiative.

—Visit <http://www.usda.gov/Newsroom/0398.04.html> for the full text of Secretary Veneman’s speech.

## ADDITIONAL INFORMATION ON THE MILLENNIUM CHALLENGE CORPORATION THRESHOLD PROGRAM

According to the MCC, they select countries for the Threshold program assistance based on their demonstrated commitment to meet MCA eligibility criteria, including improvement of their scores on sixteen available policy indicators available in three general categories:

- ♦ Ruling justly
- ♦ Investing in people
- ♦ Encouraging economic freedom

Country scores against these scores can be found at: <http://www.mcc.gov/countries/rankings/FY04/index.shtml>

The MCC Board has announced that it favored countries that had to improve upon two or fewer indicators to qualify under the MCA eligibility criteria. Also, the Board reviewed whether countries that passed this screen also demonstrated a commitment to undertake policy reforms that would result in improvements in deficient MCC policy indicators. In addition, participation in the Threshold Program will not guarantee future selection for MCA as this will continue to be dependent on a country’s performances on the MCA criteria. MCC also adds that it is not necessary for a country to participate in the Threshold program in order to improve their performance on the MCA indicators and qualify for the MCA. Source:[http://www.mca.gov/countries/threshold/threshold\\_guidance\\_en.pdf](http://www.mca.gov/countries/threshold/threshold_guidance_en.pdf)

## TEMPORARY STALEMATE AT TRADE TALKS

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foreign firms might have serious repercussions on government efforts—especially in South Africa—to continue enhance key policies, most notably the black empowerment initiatives. These rules thus curtail sovereign SACU members from setting their own domestic policies.

It is worth noting that this is not the first time that contentious issues have arisen in the course of these deliberations. Following the collapse of the WTO trade talks in Cancun, Mexico, South Africa’s chief negotiator in SACU, Xavier Carim ap-

pealed to the US to expand the scope of the SACU-US talks to include agricultural subsidies and antidumping in the FTA negotiations. These two issues had been the bone of contention at the Cancun meeting. The original agenda was to discuss investment rules but developing nations (SACU member countries included) insisted upon deliberating on the two aforementioned issues first and hence the collapse. It was thus feared that the SACU-US talks would collapse as a result of this but those fears proved unfounded. Hopefully, this precedent will provide a basis for a quick resolution of talks by both sides. Given the current

economic climate in the US, it is not likely that talks will resume before year-end as the South African chief of DTI assessed:

“The political climate, being one that would require a shift from the Americans right now, is not going to happen, especially in election time”, Sharma said. The US elections take place on 2 November. “

It remains to be seen therefore, if the two sides can use the time out from the talks to find a way to resolve the disagreements internally and that substantive talks can resume as soon as is politically expedient.

## ISPS CODE COMPLIANCE VITAL FOR TRADE

(Continued from page 1)

as stipulated by the code and lastly;

- ◆ Lack of concern where some governments do not necessarily consider compliance with this code requirements a priority.

On a more positive note, he advised that the devastating consequences of non-compliance could be avoided if the following measures were urgently pursued:

- ◆ Education of countries that are on the edge of crisis to enable them make informed decisions

- ◆ Identification of funds by establishing working relations between governments, industry

partners, regional development banks, and other parties to identify and develop creative strategies for funding necessary infrastructure improvements, and finally

- ◆ government involvement whereby the industries vigorously encourage and support African governments in giving port security the attention and resources it requires

While concluding, he made the following key points to keep in mind addressing economic development initiatives in developing countries (particularly those in Africa):

- ◆ Governments must comply with IMO requirements

- ◆ Implementation and maintenance of security programs must be performed in order to ensure ongoing compliance

- ◆ Priorities for maritime security training must be established and executed

- ◆ Success will require national and regional governmental coordination and support

- ◆ Industry cooperation and active participation is vital; and

- ◆ Failure will lead to restrictions on maritime commerce between Africa and its international trading partners.

He urged participants to work in partnership with SeaSecure and the Foundation for De-

mocracy in Africa to help ports in African countries to address the key port code compliance issues that will ensure African countries are able to increase effective trading with the United States and other countries without undue interruptions that can be effectively addressed well in advance with proper information, training and infrastructure development.

*For more information on Mr. Thomason's presentation, please contact us at [agoacsonet@democracy-africa.org](mailto:agoacsonet@democracy-africa.org); 202.331.1333*

## ZIMBABWE ENDANGERING CIVIL SOCIETY GROUPS

The United Nations has repeatedly acknowledged the important role that civil society plays in the various facets of individuals' lives. The UN secretary general has been quoted asserting that "The United Nation once dealt only with governments. By now we know that peace and prosperity cannot be achieved without partnerships involving Governments, international organizations, the business community and civil society. In today's world, we depend on each other."

To reiterate this belief, democratic nations need to unite to condemn the on going actions of the parliament of Zimbabwe to legislate against the smooth operations of the civil society. Without the sharp eyes of the civil society, local human rights will continue to be violated with impunity as

there will be no one to remind the government of its responsibility to the citizens.

The **Non-Governmental Organizations Draft Bill** will be tabled in the Harare parliament in October for debate. According to the Human rights watch in Harare, this bill, if passed into law 'would require these organizations to register with a government appointed Council of Non-Governmental organizations. Furthermore, registered NGOs will be required to submit accounts annually to the council for audit. In order to be registered, national and foreign NGOs will have to submit the "names, nationality and addresses of its promoters" together with the sources of funding. Registration and proscription will be at the discretion of the council. The Human Rights report adds that should the leaders of these NGOs be deemed to have violated the act, they will be subject to fines and im-

prisonment.

President Robert Mugabe's government is arguing that the bill is very much in the interests of the public as it will ensure that "NGOs are governed and administered properly and use donor and public funds for the specific objectives for which they were established."

The Media Institute of South Africa (MISA) however blasted the proposed act as a "political gimmick designed to administratively create criminals out of civil society organizations especially human rights activists, so as to provide excuses for intrusion, clamp-down and closures of NGOs."

Clearly, the government has a very precise definition of these 'specific objectives' that can be narrowed down to everything else BUT

'issues of good governance' that the civil society is striving so hard to promote in Zimbabwe.

Inevitably, the act has been countered by stiff opposition from leading civil society voices in Harare. Demanding that the government withdraws the bill, Georgette Gagnon, deputy director of Human Rights Watch's African division noted: "The law would unduly restrict the freedoms of association and of expression. It would also enable the government to intervene in the reasonable activities of NGOs." Stressing the need for a free civil society, she added, "A vibrant civil society is essential to a functioning democracy. With parliamentary elections in March, the government needs to ensure space for civil society."

## AGOA 3 ACTION COMMITTEE HOLDS MEETING

The AGOA 3 action committee held a breakfast meeting to discuss ways to move forward after the successful passage of AGOA 3 which featured key speakers Dr. Cindy Courville, Senior Director for Africa, National Security Council and Honorable Florie Liser, Assistant US trade representative for Africa of the Office of the US Trade Representative. In her opening comments, Ms. Rosa Whitaker - co-chair of AGOA 3-action committee - paid special tribute to the civil society and NGO's in support of AGOA lauding them for the sacrifices they have made for Africa even without support from the African governments. In this regard, she made an appeal to the present African ambassadors to lobby support for these NGO's with their respective governments, citing the passage of AGOA 3 in Congress as an example of the exemplary work that NGOs have done in support of African countries in Washington, DC. She went on to describe these NGOs as the 'most loyal' and 'most committed' organizations.

Following Ms. Whitaker's introductory remarks, Dr. Courville gave a talk on the Millennium Challenge Account (MCA). As she noted, the MCA was established on January 23<sup>rd</sup> 2004 as a bipartisan establishment of the Millennium Challenge Corporation (MCC) and the primary focus of MCA is policy reform. Under the MCA, the Bush administration is seeking ways for mutual investments—not just US investments in Africa without recip-

rocity. She noted that the MCC links financial assistance to good governance noting that each country has must be full active partners with the US by tailoring their policy towards improving their country's conditions. Highlighting the advantages of this, she pointed out that these positive changes will have a 'ripple effect' on other African countries that do not qualify for MCA funding. She promised that MCC would be transparent in its activities and duly announced that 71 countries had been se-

**“Domestic seminars will be important to reach out to small and especially minority businesses ... and to convince them that it is good business to do business with Africa.”**

—Hon. Florie Liser, Assistant U.S. Trade Representative

lected for the fiscal year 2005, with 16 countries from Africa being eligible. In addition, she mentioned that the ultimate goal for this initiative was independence but also pointed out that no single bilateral program would reform a country. She noted that Africa possesses vast riches in intellect and resources and that the nature in which those resources will be utilized combined with political will should eventually determine the level of poverty reduction and sustained economic growth. She also reminded the participants that eligibility for MCA does not guarantee funding, but noted that with eligibility

comes great potential for qualification. On the difficulty of qualifying for funding, she noted that the bar has not been set too high but was 'high enough' so that countries have incentive to fulfill the MCA criteria. On the threshold programs, she also pointed out the East African Economic block of Kenya, Uganda and Tanzania as having potential to work together on achieving MCA eligibility because of their similarities. She also urged countries that are on the eligibility threshold to work closely with USAID to work towards full eligibility.

Following Dr. Courville's remarks, Hon. Florie Liser spoke about the importance of MCA-eligible African countries thinking of projects that would support trade in their compacts (especially in lieu of supply side constraints). Pointedly, she pledged the administration's help in assisting African countries to receive the needed trade element in their compacts. She also urged African countries to proactively implement AGOA 3 saying there was an enormous opportunity for Africa if they could aggressively tap into the 11-trillion dollar American economy. She noted that AGOA imports had risen 23% from the last year and that Agricultural imports had gone up 28% in the same time span. She

also noted that African countries tapped into only 2% of the American apparel trade sector saying they should and can attain 3% level, which would greatly benefit African economies. She lauded the extension of AGOA 3 for giving certainty to African nations and allowing them to source raw materials from Asia. In addition, she noted the need for effective capacity building programs in areas such as infrastructure. She added that she would appeal to the Department of Transportation to help African countries in development of ports, roads and airports. On a more apprehensive note, she reminded African countries that the WTO multilateral fiber agreement would soon come to an end (January 2005). On the implications of this, she noted that it would completely remove quota barriers on apparels meaning there will be greater competition between Africa and Asian tigers such as China for access to the US market. However, she noted that African countries will still be exporting to the US duty free while the Asian countries would have to pay duty. Because there is a great possibility of these countries absorbing these duties and still competing with Africa, she advised African countries to look into ways of producing competitively. She advised them to produce where duties were in excess of 25% to lock out the Asian tigers. She also advised African countries to seek to have a 3% export ap-

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## AGOA-3 ACTION COMMITTEE HOLD MEETING

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parel market in the US in 3 years. (Currently at 2.1%) She highlighted the fact that African countries are allowed to export value-added products to the US while other countries are not as something African countries should focus on as a competitive advantage. On sanitary standards, she mentioned the USAID Global Competitiveness Hubs in Nairobi, Gaborone and Accra as important tools for at-

taining international trade standards. On the administration's plans, she said that regional AGOA seminars and roundtables would be held in Africa to link up the government, private sector and NGO's. Domestic seminars in the United States are also being planned to reach out to small (and especially minority) businesses, and to show them ways of establishing partnerships with African businesses and to convince

them that 'good business is business with Africa' (especially as evidenced by the highest returns on investment in Africa).

During the subsequent open discussion the question of ISPS Code compliance was raised—with as many as 10 of 28 African ports reportedly not certified under the ISPS Code requirements. Hon. Florie Liser said she would contact the Department of Homeland Security on this

issue. In her closing remarks, Rosa Whitaker reiterated that proper MCA funding from US Congress would be a key issue to keep track of to ensure that the MCA-eligible African countries have a greater chance of receiving funding and benefiting from these opportunities to not only improve efficacy of AGOA trade, but to also build upon the inherent advantages provided under the AGOA legislation.

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## SOUTH AFRICAN LECTURER/AUTHOR GIVES PRESENTATION ON POST-APARTHEID RECONCILIATION

A joint venture of the Woodrow Wilson International Center for Scholars and a program called Women Waging Peace was the book presentation of a South African author by the name of Pumla Gobodo-Madikizela. Her book *A Human Being Died That Night: A South African Story of Forgiveness*, was presented to an intimate audience on September 21, 2004 in the Woodrow Wilson Center at the Ronald Reagan Building. Pumla Gobodo-Madikizela is a professor of psychology at the University of Cape town, senior consultant for reconciliation at the Institute for Justice and Reconciliation, and a former member of the Human Rights Violations Committee of the Truth and Reconciliation Commission (TRC). The South African Truth and Reconciliation Commission (TRC) was set up by the Government of National Unity to help with post-apartheid reconciliation.

The conflict during this period resulted in violence and human rights abuses from all sides. No section of society escaped these abuses. The TRC is based on the Promotion of National Unity and Reconciliation Act, No 34 of 1995. This act was formulated to help ease the tension between the South African people and aid the transition from war to a peaceful society. As a member of the TRC she experienced first hand the healing process after apartheid; which became the basis for most of her book. At the presentation, she asserted the need for society to transit from a state of suffering to that of peace. In her opinion, the release of Nelson Mandela signaled the start of an insurgence of strength and advancement for the South African people. After years of civil war, the people yearned to forget the heartache and pain over lost loved ones. They needed to find closure to allow them

to move on with their lives. While she was a member of the TRC, she helped the South African people find closure and validation by being the mediator in meetings between the families of victims and the perpetrators. She noted that to emoliate the pain of the victim's families, it was important for them to know the assailant and have them reveal their remorse. She found that victims needed validation, affection, confirmation that their feelings were valid and that these criminals were the roots of their pain. Once the assailants had understood and accepted their responsibility, and by extension agreed to 'rejoin' the moral humanity, then open lines of communication could be established. Most of Pumla Gobodo-Madikizela's book is about a mass murderer by the name of Eugene de Kock. De Kock is serving 212 years in prison for crimes against humanity. She was the mediator between De

Kock and the families of victims and she found that as unfathomable as his crimes were, his sorrow was enough to bring some people comfort in recognizing the emotional and mental torture he was undergoing for his crimes. Pumla touched on the human condition of forgiveness, asserting that people do not want to be angry no matter how heinous the crime. Progress and resiliency is central to the human experience and though our emotions hijack our minds at times, we are secretly looking for closure and a desire to move forward. Now, most people are living next door to those who were once their warring enemies and to most this environment might appear hostile, South Africans however have learned to move forward. Based on her experiences, South Africa thus provides an excellent model for other similarly afflicted societies to emulate.

## WE WOULD LIKE YOUR FEEDBACK

**If you would like an article posted in this newsletter or have any questions or comments related to AGOA and/or other topics contained in this newsletter, please e-mail [agoacsonet@democracy-africa.org](mailto:agoacsonet@democracy-africa.org).**

**We look forward to hearing from you!**



Africa Growth and Opportunity Act (AGOA)  
**CIVIL SOCIETY NETWORK**



In keeping with the spirit of the Africa Growth and Opportunity Act (AGOA), the mission of the AGOA Civil Society Network is to empower African people through their civil society organizations to work with governments and businesses to take maximum advantage of AGOA benefits on behalf of the citizens of their countries.

The Network will accomplish this mission through three means:

- Monitoring and compliance with AGOA eligibility requirements
- Providing technical assistance where feasible for public and private sectors on AGOA compliance and trade capacity
- Tracking the impact of AGOA specifically and trade generally on Africa societies

Ongoing and potential AGOA Civil Society network projects include: (1) Annual report on eligibility requirement compliance of AGOA nations and assessment of compliance by non-AGOA nations compiled by national network affiliates; (2) Ongoing training by network member NGOs on trade capacity for African and America businesses to support and expand AGOA trade by small and medium enterprises; (3) Ongoing training by network member NGOs on trade, economic, political and social policy issues for African governments to enhance AGOA eligibility and compliance; and (4) Annual report on the impact of trade on African societies that measures the impact beyond commercial statistics and offers recommendations on broadening the benefits of trade.

**Questions? Comments? Please contact:  
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