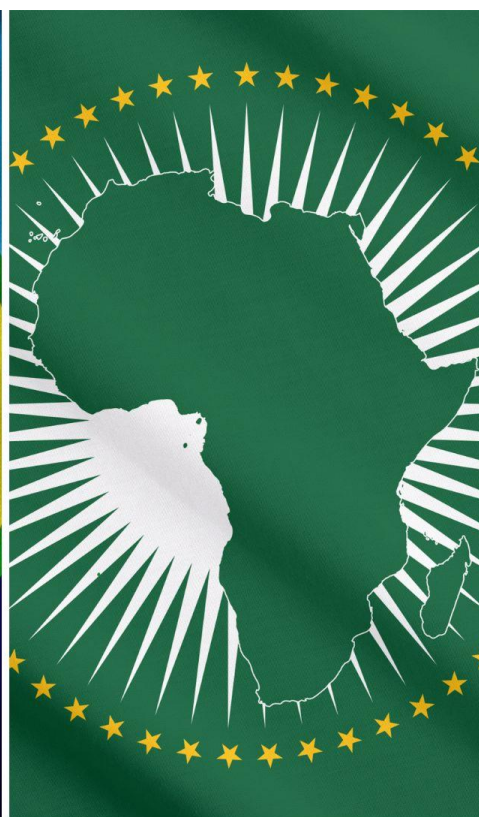


## An Overview of the Trading Arrangements Between the United States and Africa and the United States and the Caribbean Community



**Chibole Wakoli and Jan Yves Remy**

## **ABSTRACT**

The year 2022 was an important one for the United States' engagement with the regions of Africa and the Caribbean: in June, the Biden Administration met with leaders of the Caribbean Community (CARICOM)<sup>1</sup> separately and as part of the Summit of the Americas held in Los Angeles; in December, the Biden Administration invited leaders of African States to a series of meetings in Washington D.C. to discuss, among other things, the renewal of the trading relations under the African Growth and Opportunity Act (AGOA).

At the same time, the relations between Africa and the Caribbean inter se have also been intensifying. What started as an inaugural virtual meeting among Heads of CARICOM and Africa in September 2021, culminated in a face-to-face Afri-Caribbean Trade and Investment Forum in September 2022 in Barbados. At both meetings, leaders agreed to strengthen collaboration and unity and to foster increased trade, investment, and people-to-people engagement between the two regions.

It is against this background that this SRC Policy Brief seeks to initiate a discussion about the trading arrangements that define the United States' engagement with Africa and with CARICOM, with a view to identifying what lessons might usefully be drawn across those different configurations of relationships.

## **ABOUT THIS POLICY BRIEF**

This Policy Brief is organized as follows:

- **Section 1** highlights recent approaches that the United States has adopted with respect to its trading relations with Africa and CARICOM.
- **Section 2** outlines the existing trade arrangements that the United States has with Africa and CARICOM.
- **Section 3** hones in on the dominant trading arrangements marking the US' engagement with both regions – the African Growth and Opportunity Act (AGOA) and the Caribbean Basin Initiative (CBI) – comparing their scopes of application, country and product eligibility criteria, and past performance.
- **Section 4** concludes by identifying the issues to be considered for the future trading relationships between the United States and Africa, and the United States and CARICOM.

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<sup>1</sup> CARICOM Members comprise: Antigua and Barbuda, Bahamas, Barbados, Belize, Commonwealth of Dominica, Grenada, Cooperative Republic of Guyana, Haiti, Jamaica, Montserrat, Saint Lucia, Saint Kitts and Nevis, Saint Vincent and the Grenadines, Republic of Suriname and Republic of Trinidad and Tobago.

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## ABOUT THE SRC

The Shridath Ramphal Centre for International Trade Law, Policy and Services (SRC) at the University of the West Indies, Cave Hill Campus is the premier Caribbean trade policy training, research, and outreach institution working to build the region's trade capacity while creating innovative Caribbean trade solutions. The Centre's mandate is to assist countries within the Caribbean region with the transformation of their economies, which are largely commodity-based and services economies, through the capacity building of trade professionals to facilitate their access to, and more effective participation in, international trade. Consequently, the Shridath Ramphal Centre has designed and launched a number of initiatives including its flagship Masters in International Trade Policy (MITP) Programme which is administered by a faculty of regional and international scholars, professionals, and practitioners and intended to provide future trade professionals with a solid foundation in trade theory, practice, and governance with a special focus on the trade and developmental challenges being faced by small and vulnerable developing economies. The Shridath Ramphal Centre also develops and promotes policy research on the trade and development challenges of the Caribbean region.

Additional information about the Centre, its publications, and events may be found on the SRC's website: <https://shridathramphalcentre.com> and on social media on [LinkedIn](#), [Facebook](#), [Instagram](#), and [Twitter](#).

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## SECTION 1: 2022 – REBOOTING US TRADING RELATIONS WITH AFRICA AND CARICOM

In 2022, the United States initiated what may be considered a new charm offensive with various regional partners, hosting leaders' summits with the Americas and Africa, and the Association of South East Asian Nations (ASEAN).<sup>2</sup> While each of these summits had different areas of focus, the hosting of the summits represented a departure from the previous US administration's largely transactional approach to relationships with these three regions.

The United States hosted the ninth Summit of the Americas in Los Angeles on 6-10 June 2022. By all accounts, the US-CARICOM trading arrangements were not headline items on the agenda of the summit. Nonetheless, as one of the US initiatives unveiled at this summit, US President Biden announced a new Americas Partnership for Economic Prosperity (APEP), aimed at addressing the economic impact of the COVID-19 pandemic.<sup>3</sup> Under the new framework, the US Administration intends to engage with partners in the Americas, including CARICOM countries, on efforts to reinvigorate the Inter-American Development Bank and other regional economic organizations to mobilize increased investment, establish more resilient supply chains, improve economic and social inclusion, and facilitate regional trade while advancing labour and environmental standards.<sup>4</sup> With particular respect to trade, APEP intends to focus on how to better cooperate on customs facilitation, advance transparency and good regulatory practices, pursue high standards on the digital economy, responsibly support emerging technologies, build resilience in energy and food supply chains, incentivize corporate accountability, and foster regional economic development.<sup>5</sup> This trade-related announcement offers a slight insight into the US perspective on its future trading arrangements with its American neighbours, including CARICOM.

On 13-15 December 2022, the United States hosted the US – Africa Leaders Summit. Topping the agenda on the first day of the summit was a closed ministerial meeting on AGOA, hosted by United States Trade Representative (USTR) Katherine Tai and Deputy USTR Sarah Bianchi. The discussion evolved around the question of whether the US Congress will renew AGOA when it expires in 2025.<sup>6</sup> While the meeting was not conclusive on this question, it re-affirmed the United States' commitment to expanding trade and investment with the continent and highlighted the broad agreement on the need to strengthen implementation and modernize AGOA to

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<sup>2</sup> The United States hosted the Leaders of the Association of Southeast Asian Nations (ASEAN) in Washington, D.C. on 12 and 13 May for a U.S.-ASEAN Special Summit. Information regarding this summit is available at <https://www.state.gov/us-asean-summit/>

<sup>3</sup> Fact Sheet: President Biden Announces the Americas Partnership for Economic Prosperity, 8 June 2022. Available at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/08/fact-sheet-president-biden-announces-the-americas-partnership-for-economic-prosperity/>

<sup>4</sup> Congressional Research Service (CRS) Insight, 2022 Summit of the Americas, Updated 24 June 2022. Available at <https://crsreports.congress.gov/product/pdf/IN/IN11934>

<sup>5</sup> Fact Sheet: President Biden Announces the Americas Partnership for Economic Prosperity, 8 June 2022. Available at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/08/fact-sheet-president-biden-announces-the-americas-partnership-for-economic-prosperity/>

<sup>6</sup> Shoshana Kedem, What happened at the US-Africa Leaders Summit?, in African Business News, 15 December 2022. Available at <https://african.business/2022/12/trade-investment/what-happened-at-the-us-africa-leaders-summit/>

translate opportunity into concrete benefits for the African people.<sup>7</sup> Ambassador Tai “emphasized the need to think creatively and build on the accomplishments of AGOA by developing ideas that will drive economic integration and investment across the continent.”<sup>8</sup> In the same vein, on 15 December 2022, the United States and the African Union issued a joint “vision statement”, in which they resolved to “bring together business and government leaders to advance two-way trade”, including “expanded engagement and cooperation between the United States and African countries to support the aims of the Agreement Establishing the African Continental Free Trade Area (AfCFTA).”<sup>9</sup>

The mood music and the statements made at these two high-level meetings suggest an evolution in the thinking around the US trading arrangements with Africa and CARICOM; away from a largely aid-based, non-reciprocal approach, towards one of partnership and reciprocity.

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<sup>7</sup> Readout of the African Growth and Opportunity Act Ministerial During the U.S.-Africa Leaders Summit, 13 December 2022. Available at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/december/readout-african-growth-and-opportunity-act-ministerial-during-us-africa-leaders-summit>

<sup>8</sup> Readout of the African Growth and Opportunity Act Ministerial During the U.S.-Africa Leaders Summit, 13 December 2022. Available at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/december/readout-african-growth-and-opportunity-act-ministerial-during-us-africa-leaders-summit>

<sup>9</sup> Vision Statement for the U.S.-Africa Partnership, 15 December 2022. Available at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/12/15/vision-statement-for-the-u-s-africa-partnership/>

## SECTION 2: EXISTING TRADE ARRANGEMENTS WITH THE UNITED STATES

This section outlines the types of legal instruments and arrangements that govern relations between the United States and Africa on the one hand, and the United States and CARICOM on the other hand.

### a. Africa - A spaghetti bowl of arrangements

The diversity and divergence of scope of the trade arrangements that the United States has entered into with African nations may suggest that the United States does not have a single or harmonized approach to its trade relations with Africa.

For a start, the United States has entered into bilateral trade agreements with various African nations. The most significant one is the US-Morocco Free Trade Area (FTA) and Economic Integration Agreement (EIA) that entered into force in January 2006. This is the only agreement with an African or CARICOM country that the United States has notified to the World Trade Organization (WTO).<sup>10</sup> The US-Morocco FTA is also the only fully reciprocal arrangement that the United States has with an African country, covering trade in both goods and services.<sup>11</sup>

On 8 July 2020, Kenya and the United States formally launched negotiations towards an FTA. This was to be the first reciprocal trade agreement between the United States and a country from sub-Saharan Africa. According to the joint statement of the trade ministers, the “two countries recognize that an agreement between them has the potential to serve as a model for additional agreements across Africa, including with other EAC partner states.”<sup>12</sup> Despite the stated ambition for this proposed FTA to serve as a model for future US trade relations with African countries, the new Biden administration shelved these bilateral talks.<sup>13</sup> Instead, on 14 July 2022, the United States and Kenya launched the United States-Kenya Strategic Trade and Investment Partnership (STIP). Through STIP, Kenya and the United States aim to “pursue enhanced engagement leading to high standard commitments in a wide range of areas with a view to increasing investment; promoting sustainable and inclusive economic growth; benefiting workers, consumers, and businesses ... and supporting African regional economic integration.”<sup>14</sup> The specific areas identified for enhanced cooperation are: agriculture; anti-corruption; digital trade; environment and climate change action; good regulatory practices; micro, small and medium enterprises (MSMEs); promoting workers’ rights and protections; supporting participation of women, youth, and others in trade; standards collaboration; trade facilitation and customs procedures.<sup>15</sup> While the

<sup>10</sup> WTO RTA database available at <https://rtais.wto.org/UI/PublicShowMemberRTAIDCard.aspx?rtaid=30>

<sup>11</sup> The text of the US-Morocco FTA is available at <https://ustr.gov/trade-agreements/free-trade-agreements/morocco-fta/final-text>

<sup>12</sup> Joint Statement Between the United States and Kenya on the Launch of Negotiations Towards a Free Trade Agreement. Available at <https://agoa.info/images/documents/15779/joint-statement-between-the-united-states-and-kenya-on-the-launch-of-negotiations-towards-a-free-trade-agreement.pdf>

<sup>13</sup> Dylan Cresswell, Bilateral talks with Kenya to recommence as US aims for its first sub-Saharan free trade agreement, in African Business. Available at <https://african.business/2022/07/trade-investment/bilateral-talks-with-kenya-to-recommence-as-us-aims-for-its-first-sub-saharan-free-trade-agreement/>

<sup>14</sup> United States and Kenya Announce the Launch of the U.S.-Kenya Strategic Trade and Investment Partnership. Available at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2022/july/united-states-and-kenya-announce-launch-us-kenya-strategic-trade-and-investment-partnership>

<sup>15</sup> Ibid.

proposed FTA was focused primarily on trade issues, the STIP is more of a “good governance partnership”<sup>16</sup> with some trade related aspects.

The United States has also entered into Trade and Investment Framework Agreements (TIFAs) with a number of African countries. TIFAs provide strategic frameworks and general principles for dialogue on trade and investment issues between the United States and its partner countries. In effect, TIFAs serve as a forum for the United States and other governments to meet and discuss issues of mutual interest with the objective of improving cooperation and enhancing opportunities for trade and investment. TIFA Councils normally meet at least once a year at senior levels of government.<sup>17</sup> The United States has concluded TIFAs with Algeria, Angola, Egypt, Ghana, Liberia, Libya, Mauritius, Mozambique, Nigeria, Rwanda, South Africa, and Tunisia.<sup>18</sup>

At the sub-regional level, the United States has concluded TIFAs with the Common Market for Eastern and Southern Africa (COMESA), East African Community (EAC), Economic Community for West African States (ECOWAS), and the West African Economic and Monetary Union (WAEMU). The United States has also entered into a Trade, Investment, and Development Agreement (TIDCA) with the South African Customs Union (SACU). While the name differs, the TIDCA serves the same purpose as a TIFA.<sup>19</sup> There is significant overlap in membership between the national TIFAs and sub-regional TIFAs. For instance, Egypt, Rwanda, and Mauritius are members of COMESA, with Rwanda also being a member of the EAC. Ghana, Liberia, and Nigeria are members of ECOWAS, while South Africa is a member of SACU.

The most popular and arguably most significant of the US regional trading arrangements with Africa is the African Growth and Opportunity Act (AGOA). AGOA is part of the United States Trade and Development Act of 2000, enacted on 18 May 2000 as Public Law 106 of the 200th Congress.<sup>20</sup> AGOA builds on existing US trade programmes by expanding the non-reciprocal (duty-free) benefits previously available only under the US’ Generalised System of Preferences (GSP), implemented under the US Trade Act of 1974.<sup>21</sup> AGOA concerns trade in goods only. AGOA originally covered the 8-year period from October 2000 to September 2008, but legislative amendments signed into law by US President George Bush in July 2004 served to extend AGOA to 2015. After completing its initial 15-year period of validity, the AGOA legislation was extended on 29 June 2015 by a further 10 years, to 2025.<sup>22</sup> Qualification for AGOA preferences is based on a set of conditions contained in the AGOA legislation. As of 1 January 2023, 35 African countries were eligible for AGOA benefits.<sup>23</sup>

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<sup>16</sup> Gerhard Erasmus, *New thinking about a US-Kenya Trade Deal*. Available at <https://www.tralac.org/blog/article/15736-new-thinking-about-a-us-kenya-trade-deal.html>

<sup>17</sup> Trade and Investment Framework Agreements, available at <https://ustr.gov/trade-agreements/trade-investment-framework-agreements>

<sup>18</sup> The texts of these TIFAs are available at <https://ustr.gov/trade-agreements/trade-investment-framework-agreements>

<sup>19</sup> Trade and Investment Framework Agreements, available at <https://ustr.gov/trade-agreements/trade-investment-framework-agreements>

<sup>20</sup> About AGOA. Available at <https://agoa.info/about-agoa.html>

<sup>21</sup> Title V of the US Trade Act of 1974. Available at <https://www.govinfo.gov/content/pkg/COMPS-10384/pdf/COMPS-10384.pdf>

<sup>22</sup> Jim Kuhnhen, Obama signs trade (incl. AGOA), worker assistance bills into law, in Associated Press, Monday 29 June 2015. Available at <https://agoa.info/news/article/5740-obama-signs-trade-incl-agoa-worker-assistance-bills-into-law.html>

<sup>23</sup> African Growth and Opportunity Act (AGOA). Available at <https://ustr.gov/issue-areas/trade-development/preference-programs/african-growth-and-opportunity-act-agoa>



On 14 December 2022, the United States Trade Representative (USTR) and the Secretary General of the African Continental Free Trade Area (AfCFTA)<sup>24</sup> Secretariat signed a Memorandum of Understanding (MoU) on Cooperation for Trade and Investment. The MoU sets up an annual high-level engagement between the United States and the AfCFTA Secretariat. The MoU also proposes quarterly meetings of technical working groups (TWGs), to exchange information on best practices and discuss issues to be identified by the participants, who comprise representatives from the AfCFTA Secretariat, USTR, the inter-agency, and other stakeholders.<sup>25</sup> This MOU is expected to remain operative for a period of three (3) years, subject to renewal by agreement. This MoU marks the first engagement by the United States with the African continent as a whole on matters of trade and investment. That said, by its text, the MoU makes clear that it is not “intended to give rise to international legal rights or obligations on either Participant.”<sup>26</sup>

Finally, in July 2021, the Biden administration launched the Prosper Africa Build Together Campaign.<sup>27</sup> Prosper Africa is a US Government trade and investment initiative which brings together services from across the US Government to help companies and investors do business in US and African markets.<sup>28</sup> Through Prosper Africa, the US Government aims to work with the private sector and African governments to “advance deals, promote market opportunities, and strengthen business and investment climates.”<sup>29</sup> As one of the implementing arms of the Prosper Africa initiative, the United States Agency for International Development (USAID) launched the USAID Africa Trade and Investment Program (ATI) in September 2021. ATI offers targeted support to US Embassy Deal Teams and can also be used to advance intraregional trade and promote investment across the continent, working in partnership with the private sector.<sup>30</sup>

## **b. CARICOM – A sparse but more collective approach?**

No country in CARICOM has a fully reciprocal free trade agreement with the United States, nor has there been any notification to the WTO of a regional trade agreement between the United States and a CARICOM country.

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<sup>24</sup> The AfCFTA is the world’s largest free trade area, by number of countries. The overall mandate of the AfCFTA is to create a single continental market, by eliminating trade barriers and boosting intra-Africa trade. The AfCFTA is one of the flagship projects of “Agenda 2063: The Africa We Want”, the African Union’s long-term development strategy for transforming the continent into a global powerhouse. The AfCFTA entered into force on 30 May 2019. As of February 2023, 54 member states of the African Union had signed the Agreement Establishing the AfCFTA (AfCFTA Agreement), and 44 member states had ratified the AfCFTA Agreement. Additional information on the AfCFTA is available at <https://au-afcfta.org/>

<sup>25</sup> The text of the MoU is available at <https://ustr.gov/trade-agreements/other-initiatives/memoranda-understanding-mou/memorandum-understanding-cooperation-trade-and-investment-between-african-continental-free-trade#:~:text=The%20Memorandum%20of%20Understanding%20on,2022%20U.S.%2DAfrica%20Business%20Forum>.

<sup>26</sup> Paragraph 1, Section IV of the MoU. Available at <https://ustr.gov/trade-agreements/other-initiatives/memoranda-understanding-mou/memorandum-understanding-cooperation-trade-and-investment-between-african-continental-free-trade#:~:text=The%20Memorandum%20of%20Understanding%20on,2022%20U.S.%2DAfrica%20Business%20Forum>.

<sup>27</sup> <https://www.prosperafrika.gov/build-together/>

<sup>28</sup> Increasing Trade & Investment Between the US and African Countries. Available at <https://www.prosperafrika.gov/>

<sup>29</sup> <https://www.usaid.gov/prosperafrika>

<sup>30</sup> Information regarding the USAID’s ATI Program is available at <https://www.usaid.gov/prosperafrika>

That said, at country level, a few CARICOM countries have entered into economic or trade-related agreements with the United States. For example, economic agreements between the United States and Trinidad and Tobago include a Bilateral Investment Treaty (1996), a Memorandum of Understanding Concerning Protection of Intellectual Property Rights (1994), and a Convention for the Avoidance of Double Taxation (1970).<sup>31</sup> Likewise, Jamaica signed a Tax Information Exchange Agreement (TIEA) with the United States, allowing US taxpayers to deduct legitimate business expenses incurred in attending business meetings and conventions in Jamaica.<sup>32</sup>

At a regional level, unlike with Africa, the United States appears to have a fairly harmonized approach to its trade relations with CARICOM in that it engages with CARICOM on a more regional basis. Specifically, the United States operates the trade programmes known collectively as the Caribbean Basin Initiative (CBI). The CBI was launched in 1983 through the Caribbean Basin Economic Recovery Act (CBERA) and expanded in 2000 by the US - Caribbean Basin Trade Partnership Act (CBTPA) and again by the Trade Act of 2002. CBERA was implemented on 1 January 1984 and has no set expiration date. The CBTPA is scheduled to expire on 30 September 2030.<sup>33</sup> According to the USTR, the “CBI is intended to facilitate the development of stable Caribbean Basin economies by providing beneficiary countries with duty-free access to the US market for most goods.”<sup>34</sup>

CBERA and CBTPA have different beneficiaries. In addition to complying with CBERA eligibility criteria, the CBTPA requires an additional determination that countries and dependent territories have implemented or are making substantial progress toward implementing certain customs procedures based on those contained in the North American Free Trade Agreement (NAFTA) (now succeeded by the US-Canada-Mexico Agreement (USMCA)). At the end of 2021, there were 17 CBERA beneficiary countries: Antigua and Barbuda, Aruba, The Bahamas, Barbados, Belize, British Virgin Islands, Curacao, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, and Trinidad and Tobago. Eight of these 17 are also beneficiaries under CBTPA: Barbados, Belize, Curacao, Guyana, Haiti, Jamaica, St. Lucia, and Trinidad and Tobago.<sup>35</sup>

The United States created additional benefits for Haiti by amending CBERA to include the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (HOPE), the Haitian Hemispheric Opportunity through the Partnership Encouragement Act of 2008 (HOPE II), and the Haiti Economic Lift Program of 2010 (HELP). HOPE established new rules of origin that made Haiti eligible for trade benefits for apparel imports, and that enhance sourcing flexibility for apparel producers in Haiti. HOPE II modified the existing trade preference

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<sup>31</sup> Bilateral Relations Fact Sheet: US Relations with Trinidad and Tobago. Available at [https://www.state.gov/u-s-relations-with-trinidad-and-tobago/#:~:text=Economic%20agreements%20between%20the%20United,of%20Double%20Taxation%20\(1970\).](https://www.state.gov/u-s-relations-with-trinidad-and-tobago/#:~:text=Economic%20agreements%20between%20the%20United,of%20Double%20Taxation%20(1970).)

<sup>32</sup> Jamaica – Country Commercial Guide. Available at <https://www.trade.gov/country-commercial-guides/jamaica-trade-agreements>

<sup>33</sup> Ibid.

<sup>34</sup> Fourteenth Report to Congress on the Operation of the Caribbean Basin Economic Recovery Act (2021). Available at <https://ustr.gov/issue-areas/trade-development/preference-programs/caribbean-basin-initiative-cbi#:~:text=The%20CBI%20is%20intended%20to,U.S.%20market%20for%20most%20goods.>

<sup>35</sup> Fourteenth USTR Report to Congress on the Operation of the Caribbean Basin Economic Recovery Act, 31 December 2021. Available at [http://www.sice.oas.org/TPD/USA\\_CBI/Studies/14th\\_CBI\\_Rpt\\_2021\\_e.pdf](http://www.sice.oas.org/TPD/USA_CBI/Studies/14th_CBI_Rpt_2021_e.pdf)

programs under HOPE, and HELP provided duty-free treatment for additional textile and apparel products from Haiti. These preferences are scheduled to expire on 30 September 2025.<sup>36</sup>

Additionally, on 28 May 2013, the United States and CARICOM signed a TIFA.<sup>37</sup> As mentioned above, a TIFA serves as a forum for the United States and partner governments to meet and discuss issues of mutual interest with the objective of improving cooperation and enhancing opportunities for trade and investment.<sup>38</sup> The TIFA Council has met infrequently since it was established.

Moreover, in 2016, the United States launched an initiative to reengage with the Caribbean through the United States-Caribbean Strategic Engagement Act of 2016.<sup>39</sup> Pursuant to Section 2 of this Act, Congress declared it US policy to increase engagement with the governments of the Caribbean region and with civil society, including the private sector, in both the United States and the Caribbean. The stated aims of this increased engagement are, inter alia, to: increase economic cooperation between the United States and the Caribbean region; support regional economic, political, and security integration efforts in the Caribbean region; and encourage enduring economic development and increased regional economic diversification and global competitiveness. According to the US' State Department's report to the US Congress on the efforts to implement this Act, in 2019, the State Department collaborated with the USTR to convene a Trade and Investment Council to discuss trade-related issues.<sup>40</sup> The US State Department also worked with the Department of Commerce to hold a sold-out Caribbean Business Conference, introducing over 350 US businesses to the Caribbean. Additionally, the US concluded an Open Skies agreement with the Republic of Suriname to diversify air transportation to their country.<sup>41</sup>

Finally, on 9 June 2022, during the ninth Summit of the Americas, the US Vice President Kamala Harris launched the US – Caribbean Partnership to Address the Climate Crisis 2030 (PACC 2030). PACC 2030 establishes a framework aimed at elevating US cooperation with Caribbean countries to support climate adaptation and strengthen energy security. PACC 2030 is to serve as the US government's primary mechanism for regional climate adaptation and resilience and energy cooperation through 2030.<sup>42</sup> PACC 2030 details four pillars to achieve its objectives: (i) improving access to development financing; (ii) facilitating clean energy project

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<sup>36</sup> Fourteenth Report to Congress on the Operation of the Caribbean Basin Economic Recovery Act (2021). Available at <https://ustr.gov/issue-areas/trade-development/preference-programs/caribbean-basin-initiative-cbi#:~:text=The%20CBI%20is%20intended%20to,U.S.%20market%20for%20most%20goods.>

<sup>37</sup> The text of the US-CARICOM TIFA is available at <https://ustr.gov/sites/default/files/US%20CARICOM%20TIFA%20US.pdf>

<sup>38</sup> Trade and Investment Framework Agreements, available at <https://ustr.gov/trade-agreements/trade-investment-framework-agreements>

<sup>39</sup> The text of this Act is available at <https://www.govinfo.gov/content/pkg/COMPS-16483/pdf/COMPS-16483.pdf>

<sup>40</sup> US State Department's Report to Congress on Progress of Public Law (P.L.) 114-291: Efforts to Implement the Strategy for U.S. Engagement with the Caribbean Region. Available at <https://www.state.gov/wp-content/uploads/2019/12/WHA-US-Caribbean-2020-Report-web.pdf>

<sup>41</sup> US State Department's Report to Congress on Progress of Public Law (P.L.) 114-291: Efforts to Implement the Strategy for U.S. Engagement with the Caribbean Region. Available at <https://www.state.gov/wp-content/uploads/2019/12/WHA-US-Caribbean-2020-Report-web.pdf>

<sup>42</sup> FACT SHEET: Vice President Harris Launches the U.S.-Caribbean Partnership to Address the Climate Crisis 2030 (PACC 2030), 9 June 2022. Available at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/06/09/fact-sheet-vice-president-harris-launches-the-u-s-caribbean-partnership-to-address-the-climate-crisis-2030-pacc-2030/>

development and investment; (iii) enhancing local capacity building; and (iv) deepening collaboration with Caribbean partners.<sup>43</sup>

The table below summarizes the types of trading arrangements that the United States has with Africa and CARICOM.

Type	Africa	CARICOM
<b>1. Bilateral and fully reciprocal FTA</b>	US-Morocco FTA	
<b>2. Country-level bilateral economic agreements or trading arrangements</b>	US-Kenya STIP	- US and Trinidad & Tobago a) Bilateral Investment Treaty b) MoU concerning Protection of Intellectual Property Rights c) Convention for the Avoidance of Double Taxation  - US and Jamaica a) Tax Information Exchange Agreement
<b>3. TIFAs: US and ...</b>	- Algeria, Angola, Egypt, Ghana, Liberia, Libya, Mauritius, Mozambique, Nigeria, Rwanda, South Africa, and Tunisia - COMESA, EAC, ECOWAS, and WAEMU. - Also, TIDCA with SACU	-CARICOM
<b>4. GSP/Non-reciprocal regional agreements</b>	- AGOA	- CBI
<b>5. Other regional arrangements</b>	- USTR-AfCFTA MoU on Cooperation for Trade and Investment - Prosper Africa Build Together Campaign	- US – Caribbean Strategic Engagement Act of 2016 - PACC 2030

Having outlined the types of trading arrangements that the United States has with both Africa and CARICOM, we now turn to comparing the two dominant regional trading arrangements – AGOA and CBI.

<sup>43</sup> Ibid. See also Guy Mentel and Jackson Mihm, The U.S.-Caribbean Partnership to Address the Climate Crisis 2030: A Timely Initiative Worthy of Serious Investment, in *Global Americans*, 8 July 2022. Available at <https://theglobalamericans.org/2022/07/the-u-s-caribbean-partnership-to-address-the-climate-crisis-2030-a-timely-initiative-worthy-of-serious-investment/>

## **SECTION 3: AGOA AND CBI**

### **a. Scope of application**

AGOA does not apply to the whole of Africa. Instead, AGOA focuses on what the United States refers to as “the 48 countries of sub-Saharan Africa”.<sup>44</sup> Thus, even without getting into the eligibility criteria, AGOA excludes, from its scope of application, all the countries of North Africa – Algeria, Egypt, Libya, Morocco, and Tunisia. This exclusion has been criticised as being a divisive aspect of US trade policy in Africa<sup>45</sup>, particularly in light of the ongoing regional integration efforts under the AfCFTA.

The CBI is implemented through the CBERA and the CBTPA. Except for the notable exclusion of Suriname, CBERA includes applies to more territories than those comprising the member states of CARICOM. For instance, CBERA applies to Aruba, the British Virgin Islands, and Curacao. By contrast, the CBTPA, which is valid until 2030, applies to 7 CARICOM member states and Curacao only.

### **b. Country eligibility criteria**

The United States refers to the AGOA and CBI programmes as non-reciprocal programmes, however, one may argue that there is reciprocity insofar as the potential beneficiary countries must satisfy fairly extensive conditions in order to be considered eligible countries under AGOA and CBI. These pre-conditions comprise both trade-related and non-trade-related criteria.

To qualify for AGOA benefits, countries must meet the eligibility criteria set forth in section 104 of AGOA and section 502 of the US Trade Act of 1974 (1974 Act).<sup>46</sup> Section 502 of the 1974 Act includes bases for ineligibility for benefits as well as factors that the President shall take into account in determining whether to provide benefits under the GSP.

The eligibility criteria for the CBI programmes fall within three broad categories: (i) “mandatory” factors defined in Title II, Section 212 of CBERA as precluding the President from initially designating a country or dependent territory as a CBERA beneficiary; (ii) additional, discretionary factors also defined in Title II, Section 212 of CBERA, which the President is required to take into account in determining whether to designate countries or dependent territories as beneficiaries under CBERA; and (iii) further criteria, outlined in the CBTPA, which the President is required to take into account in designating beneficiary countries or dependent territories for purposes of receiving the enhanced trade preferences of the CBTPA.<sup>47</sup>

As illustrated in the table below, there are significant overlaps in the country eligibility criteria between the AGOA and CBI programmes.

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<sup>44</sup> Section 102(2) of AGOA.

<sup>45</sup> Luke Anami, Africa seeks bigger US trade slice for AGOA to make sense, in the East African, 11 January 2023. Available at <https://agoa.info/news/article/16127-africa-seeks-bigger-us-trade-slice-for-agoa-to-make-sense.html>

<sup>46</sup> 2022 USTR Biennial Report on the Implementation of the African Growth and Opportunity Act. Available at <https://ustr.gov/issue-areas/preference-programs/african-growth-and-opportunity-act-agoa/biennial-reports>

<sup>47</sup> Fourteenth USTR Report to Congress on the Operation of the Caribbean Basin Economic Recovery Act, 31 December 2021. Available at [http://www.sice.oas.org/TPD/USA\\_CBI/Studies/14th\\_CBI\\_Rpt\\_2021\\_e.pdf](http://www.sice.oas.org/TPD/USA_CBI/Studies/14th_CBI_Rpt_2021_e.pdf)

Criteria		Applies to
<b>1. A beneficiary country must establish or be making continual progress toward establishing:</b>	a) a market-based economy	AGOA, CBERA
	b) the rule of law, political pluralism, and the right to due process	AGOA
	c) the elimination of barriers to US trade and investment	AGOA
	d) economic policies to reduce poverty	AGOA
	e) a system to combat corruption and bribery	AGOA
	f) the protection of internationally recognized worker rights	AGOA, CBTPA
<b>2. A beneficiary country must NOT:</b>	a) engage in activities that undermine US national security or foreign policy interests	AGOA
	b) engage in gross violations of internationally recognized human rights	AGOA
	c) provide support for acts of international terrorism	AGOA
<b>3. In order to be eligible for benefits, a country must NOT:</b>	a) be a communist country, unless the products of such country receive non-discriminatory treatment, or the country is a WTO Member	AGOA, CBERA,
	b) participate in any arrangement or actions the effect of which is to withhold supplies of vital commodities or raise the price of such commodities to an unreasonable level and cause serious disruption of the world economy	AGOA
	c) afford preferential treatment to products of a developed country that has, or is likely to have, a significant adverse effect on US commerce	AGOA, CBERA
	d) nationalize, expropriate, or otherwise seize property, including intellectual property, of US citizens or corporations without providing prompt, adequate, and effective compensation, or submitting such issues to a mutually agreed forum for arbitration	AGOA, CBERA

Criteria		Applies to
	e) fail to recognize or enforce arbitral awards in favour of US citizens or corporations	AGOA, CBERA
	f) fail to implement its commitments to eliminate the worst forms of child labour.	AGOA, CBTPA
<b>4. Additional factors that the US President shall take into account to assess eligibility include:</b>	a) an expression by a country to be designated as a beneficiary	AGOA, CBERA
	b) the level of economic development	AGOA, CBERA
	c) whether or not other major developed countries are providing preferential treatment	AGOA
	d) the extent to which the country has assured the United States that it will provide market access and refrain from unreasonable export practices	AGOA, CBERA
	e) the degree to which the country follows the international trade rules of the WTO, and participates in the negotiations toward the completion of a free trade agreement and the Free Trade Area of the Americas	CBERA, CBTPA
	f) the extent to which the county is providing adequate and effective protection and enforcement of intellectual property rights	AGOA, CBERA, CBTPA
	g) the extent to which the country has taken action to reduce trade distorting investment practices and policies and reduce or eliminate barriers to trade in services	AGOA
	h) the degree to which a beneficiary country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade	CBERA
	i) the degree to which the trade policies of an individual CBI country contribute to the revitalization of the region as a whole	CBERA

Criteria		Applies to
	j) the extent to which countries in the region are taking steps to advance their own economic development	CBERA
	k) the extent to which the beneficiaries cooperate in the administration of CBI preferences when requested by the US government	CBERA
	l) the extent to which the country has met US counter-narcotics certification criteria under the Foreign Assistance Act of 1961	CBTPA
	m) the extent to which the country has taken steps to become a party to and implement the Inter-American Convention against Corruption (IACAC)	CBTPA
	n) the extent to which the country applies transparent, non-discriminatory and competitive procedures in government procurement and contributes to efforts in international fora to develop and implement rules on transparency in government procurement.	CBTPA
<b>5. A country must be a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of US citizens.</b>		CBERA

Based on these criteria, as of January 2023, there are 35 eligible countries under AGOA and 17 under CBERA, 8 of which are also eligible under CBTPA. However, while there are nominally 35 eligible countries under AGOA, to date, Somalia and Sudan have never requested designation as an AGOA beneficiary country.<sup>48</sup>

Additionally, AGOA countries are subject to graduation from the eligibility list on the basis of improved income standards.<sup>49</sup> This raises questions about the durability of AGOA gains, where countries that lose AGOA eligibility see a decline in their GDP. For example, Mauritius briefly rose above the GDP cap and lost its eligibility before

<sup>48</sup> 2022 USTR Biennial Report on the Implementation of the African Growth and Opportunity Act. Available at <https://ustr.gov/issue-areas/preference-programs/african-growth-and-opportunity-act-agoa/biennial-reports>

<sup>49</sup> 2022 USTR Biennial Report on the Implementation of the African Growth and Opportunity Act. Available at <https://ustr.gov/issue-areas/preference-programs/african-growth-and-opportunity-act-agoa/biennial-reports>



the pandemic struck. Following the pandemic, Mauritius' income level fell below the threshold, and it has been reinstated on the eligibility list.<sup>50</sup>

Furthermore, while the CBERA and CBTPA eligibility lists have remained fairly stable for a number of years, the AGOA legislation requires the President to determine annually which of the potential beneficiary countries are eligible to receive benefits. Apart from the additional administrative burden on the USTR and the national governments of the beneficiary countries, this annual review introduces anxiety and uncertainty among traders and investors<sup>51</sup>, particularly where countries are rendered ineligible for political or otherwise non-trade-related reasons. For example, the annual eligibility reviews conducted in 2021 and 2022 resulted in the termination of AGOA eligibility for Ethiopia, Guinea, and Mali as of 1 January 2022, and Burkina Faso as of 1 January 2023. The USTR reported that the US President made this determination based upon the unconstitutional change in governments in Guinea, Mali, and Burkina Faso, and the gross violations of internationally recognized human rights in Ethiopia.<sup>52</sup> The significance of these ineligibility decisions is not to be understated, given that when countries have had their AGOA benefits suspended, it has generally "led to an exodus of investment."<sup>53</sup>

### c. Product eligibility criteria

Both AGOA and CBI offer duty-free access for goods only. In order to benefit from the CBI, products generally must: (i) be imported directly from a CBI beneficiary country into the US customs territory; (ii) be wholly the growth, product or manufacture of a CBI beneficiary country or be substantially transformed into a new or different article in the CBI beneficiary country; and (iii) contain a minimum of 35 percent local content of one or more CBI beneficiary countries (15 percent of the minimum content may be from the United States).<sup>54</sup>

Likewise, in order to benefit from AGOA, a good must be either wholly obtained (grown, fished, mined, etc.) or sufficiently manufactured in an AGOA country. Sufficiently manufactured means that all third-country materials have undergone a substantial transformation and at least 35 percent of the good's value is added in the beneficiary country, with up to 15 percent of that value attributable to US inputs. Additionally, the good must be imported directly from an AGOA country into the US customs territory.<sup>55</sup>

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<sup>50</sup> Margaret Spiegelman, AGOA time: As 2025 Approaches, Opportunities for Improvements Eyed, in Inside Trade, 30 January 2023. Available at <https://agoa.info/news/article/16131-agoa-time-as-2025-approaches-opportunities-for-improvements-eyed.html>

<sup>51</sup> Margaret Spiegelman, AGOA time: As 2025 Approaches, Opportunities for Improvements Eyed, in Inside Trade, 30 January 2023. Available at <https://agoa.info/news/article/16131-agoa-time-as-2025-approaches-opportunities-for-improvements-eyed.html>

<sup>52</sup> 2022 USTR Biennial Report on the Implementation of the African Growth and Opportunity Act. Available at <https://ustr.gov/issue-areas/preference-programs/african-growth-and-opportunity-act-agoa/biennial-reports>

<sup>53</sup> Gracelin Baskaran, 'AGOA shows US has successfully courted Africa' - Columnist, in Business Daily (South Africa), 26 January 2023. Available at <https://agoa.info/news/article/16129-agoa-shows-us-has-successfully-courted-africa-columnist.html>

<sup>54</sup> Fourteenth USTR Report to Congress on the Operation of the Caribbean Basin Economic Recovery Act, 31 December 2021. Available at [http://www.sice.oas.org/TPD/USA\\_CBI/Studies/14th\\_CBI\\_Rpt\\_2021\\_e.pdf](http://www.sice.oas.org/TPD/USA_CBI/Studies/14th_CBI_Rpt_2021_e.pdf)

<sup>55</sup> US Customs and Border Protection - African Growth and Opportunity Act. Available at <https://www.cbp.gov/trade/priority-issues/trade-agreements/special-trade-legislation/african-growth-and-opportunity-act>

## d. Past trade performance

### i. AGOA<sup>56</sup>

The European Union is Africa's largest trading partner overall on both exports and imports, with China being Africa's largest single-country trading partner.<sup>57</sup> Although the United States is not Africa's largest trading partner, the volume of import and export trade between the United States and Africa remains consequential.

The US Census Bureau reported that the US goods imports under AGOA (including GSP) totalled \$6.7 billion in 2021 compared to \$8.4 billion in 2019. The USTR posited that the decline was mainly the result of the lower value of oil imports. However, non-oil imports under AGOA increased during this period to \$4.8 billion in 2021 from \$3.8 billion in 2019. Overall, the 35 AGOA beneficiaries collectively account for about 1 percent of US imports, less than they did before AGOA was passed.<sup>58</sup>

Much of the trade under AGOA is attributable to a few countries. In 2021, according to US Census data, the top five country exporters under AGOA were South Africa, Nigeria, Kenya, Ghana, and Angola. Leading AGOA import categories in 2021 were crude oil (\$1.7 billion), apparel (\$1.4 billion), transportation equipment (\$949 million), minerals and metals (\$897 million), and agricultural products (\$715 million). Notably, nearly 90 percent of US non-energy imports under AGOA in 2020 came from five countries only.<sup>59</sup> This suggests underutilization of AGOA by most of its beneficiary countries.

Although the United States designates the AGOA as a non-reciprocal programme, US export growth to the region has been a corollary benefit of AGOA. US goods exports were \$16.5 billion in 2021, up from \$15.8 billion in 2019 (partly due to higher sales of natural gas and vehicles and parts). Top US goods exports in 2021 by product were vehicles (\$3.2 billion), machinery (\$2 billion), mineral fuels (\$1.8 billion), cereals (\$918 million), and aircraft (\$841 million). The top American export markets in 2021 were South Africa, Nigeria, Ghana, Ethiopia, and Kenya.

Beyond these data, the recent experience of the EAC suggests that aspects of AGOA may be incompatible with the enhanced African regional integration efforts and the ambition of African countries to develop or resuscitate local industries. In 2016, the EAC (at the time comprised of Burundi, Kenya, Rwanda, Tanzania, and Uganda<sup>60</sup>) initiated a plan to incentivize the purchase of clothes and shoes made in the region to boost local manufacturing, reduce dumping, help the regional economies, and shore up the local textile industries. As part of this plan, it was proposed that the tariffs on imported second-hand clothes into the EAC be increased, with a view to phasing

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<sup>56</sup> Except where otherwise expressly indicated, the data in this section are drawn from the 2022 USTR Biennial Report on the Implementation of the African Growth and Opportunity Act. Available at <https://ustr.gov/issue-areas/preference-programs/african-growth-and-opportunity-act-agoa/biennial-reports>

<sup>57</sup> These data are available at [https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Africa-EU\\_-\\_international\\_trade\\_in\\_goods\\_statistics#Africa.E2.80.99s\\_main\\_trade\\_in\\_goods\\_partner\\_is\\_the\\_EU](https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Africa-EU_-_international_trade_in_goods_statistics#Africa.E2.80.99s_main_trade_in_goods_partner_is_the_EU)

<sup>58</sup> Liam Taylor, Taking Stock of America's Flagship Trade Programme for Africa, in the Economist, 8 February 2023. Available at <https://agoa.info/news/article/16139-taking-stock-of-america-s-flagship-trade-programme-for-africa.html>

<sup>59</sup> Liana Wong, Congressional Research Service Report on the African Growth and Opportunity Act, Updated on 6 January 2022. Available at <https://crsreports.congress.gov/product/pdf/IF/IF10149>

<sup>60</sup> Except for Burundi, all these EAC countries are AGOA beneficiary countries.

out completely the importation of second-hand clothes by 2019. In March 2017, the US Secondary Materials and Recycled Textiles Association (SMART) submitted a petition to the USTR asserting that the EAC's 2016 decision to phase in a ban on imports of used clothing and footwear was inconsistent with the AGOA beneficiary criteria for countries to establish a market-based economy and eliminate barriers to United States trade and investment. This petition prompted the USTR to initiate an out-of-cycle review to determine whether Kenya, Rwanda, Tanzania, and Uganda – the AGOA-eligible members of the EAC – were meeting AGOA's eligibility criteria.<sup>61</sup> All the other countries of the EAC backtracked on their decision. Rwanda became the only country to implement the phase-out plan raising its tariffs in 2016 from \$0.20 to \$2.50 per kilogram. As a consequence, the United States suspended Rwanda's eligibility from duty-free treatment for all apparel products.<sup>62</sup> This incident not only upended the EAC's decision to have a common position on the trade in second-hand apparel, but it also illustrated the reciprocal nature of AGOA.

Finally, as mentioned above, AGOA concerns trade in goods only. However, it is worth noting that the services sector continues to be a growing component of the US – Africa trading relationship. In 2020, the leading services export sectors from the United States to Africa included travel services (\$2.2 billion), financial services (\$1.6 billion), telecommunications, computers, and information services (\$683 million), and air transport services (\$415 million). The leading services import sectors in 2020 were travel (\$1.1 billion), air transport (\$333 million), and technical, trade-related, and other business services (\$255 million). According to the USTR, American private sector engagement in Africa has been expanding in other industries such as scientific and other technical services, cloud computing and data storage services, and other creative industries.<sup>63</sup>

ii. CBI<sup>64</sup>

Perhaps as a function of their geographical proximity, it should come as no surprise that the United States is CARICOM's largest trading partner and, in turn, the Caribbean is the United States' sixth largest trading partner.<sup>65</sup> According to the 2021 USTR Report on the implementation of the CBI, at their peak in 2005, CBI beneficiary countries supplied nearly 2 percent of total imports into the United States, but the share decreased to 0.2 percent in 2020, primarily due to the exit of the CAFTA-DR beneficiaries, the Netherlands Antilles, and Panama from the CBI programme.

Additionally, US imports from CBI beneficiaries decreased for a second consecutive year from \$6.1 billion in 2018 to \$5.6 billion in 2019 and \$5.1 billion in 2020, which represented declines of 8.2 percent and 8.9 percent,

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<sup>61</sup> USTR Press Release, President Donald J. Trump Upholds AGOA Trade Preference Eligibility Criteria with Rwanda, 30 July 2018. Available at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/july/president-donald-j-trump-upholds-agoa>

<sup>62</sup> USTR Press Release, President Donald J. Trump Upholds AGOA Trade Preference Eligibility Criteria with Rwanda, 30 July 2018. Available at <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2018/july/president-donald-j-trump-upholds-agoa>

<sup>63</sup> 2022 USTR Biennial Report on the Implementation of the African Growth and Opportunity Act. Available at <https://ustr.gov/issue-areas/preference-programs/african-growth-and-opportunity-act-agoa/biennial-reports>

<sup>64</sup> The data in this section is drawn from the Fourteenth USTR Report to Congress on the Operation of the Caribbean Basin Economic Recovery Act, 31 December 2021. Available at [http://www.sice.oas.org/TPD/USA\\_CBI/Studies/14th\\_CBI\\_Rpt\\_2021\\_e.pdf](http://www.sice.oas.org/TPD/USA_CBI/Studies/14th_CBI_Rpt_2021_e.pdf)

<sup>65</sup> Reimagining the U.S. Strategy in the Caribbean, Centre for Strategic & International Studies (CSIS) Report by Daniel F. Runde, Linnea Sandin, and Amy Doring, published on 8 April 2021. Available at <https://www.csis.org/analysis/reimagining-us-strategy-caribbean>

respectively. The USTR opined that the declines were largely attributed to disruptions caused by the COVID-19 pandemic.

On a positive note, US imports under the CBI tariff preferences increased to \$1.2 billion in 2020, from \$1.1 billion in 2019 and \$1 billion in 2018. The increase in 2020, 7.7 percent, was preceded by an increase of 11.6 percent in 2019. However, the rise in 2020 was primarily driven by a higher value of one item, US imports of petroleum products—from Trinidad and Tobago and more significantly from Guyana.

According to some assessments, with the exception of Trinidad and Tobago, a net exporter of petroleum, the CBI and CBERA have increased the presence of the United States in the English-speaking Caribbean, but have failed to meaningfully advance the region's economic growth and development. Commentators have attributed this to the initiative's design which largely reflects and represents the interests of the United States and provides minimal economic assistance and trade concessions.<sup>66</sup> Like AGOA, although the United States designates the CBI as non-reciprocal programmes, US export growth to the region has been a corollary benefit of the CBI throughout the history of the programme. However, during the 2019-2020 period, US exports decreased likely due to disruptions related to the COVID-19 pandemic. In 2020, the value of total US exports to CBI countries amounted to \$11.1 billion, a 20.0 percent decrease from the previous year. In 2019, US exports were \$13.9 billion, a 3.3 percent increase from 2018. Collectively, the CBI region ranked 24th among US export destinations in 2020 and absorbed 0.9 percent of total US exports to the world.

Additionally, the 2021 USTR Report indicates that US total goods trade (total exports plus general imports) with the CBI countries was \$16.2 billion in 2020. The US goods trade surplus with the CBI countries reached \$6 billion in 2020.

Finally, like AGOA, the CBI concerns trade in goods only. However, services comprise not only a major component of the CARICOM economy, but also a significant part of the US-CARICOM trading relationship. For example, the United States continues to be the primary source of tourist arrivals for the CARICOM region.<sup>67</sup> Overall, tourism services accounted for 13.9 percent of Caribbean GDP and 15 percent of employment in 2019, making the Caribbean the sub-region most dependent on tourism in the world.<sup>68</sup> Other services upon which Caribbean countries are extremely dependent include the periphery services which support the tourism and hospitality industries and a variety of financial, information and communication technology, and other business services.<sup>69</sup>

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<sup>66</sup> The Impact of the Caribbean Basin Initiative Program on the Economic Growth & Development in the English-Speaking Caribbean Region by Michael Campbell of Florida A&M University, published in 2014 in the Journal of Economics and Economic Education Research.

<sup>67</sup> Elizabeth Morgan, CARICOM/US Relations: a chequered trade history, in CARICOM Today, 14 June 2019. Available at <https://today.caricom.org/2019/06/13/caricom-us-relations-a-chequered-trade-history/>

<sup>68</sup> Reimagining the U.S. Strategy in the Caribbean, CSIS Report by Daniel F. Runde, Linnea Sandin, and Amy Doring, published on 8 April 2021. Available at <https://www.csis.org/analysis/reimagining-us-strategy-caribbean>

<sup>69</sup> Trade in Services Statistics in the Greater Caribbean: Addressing the Challenge, Reaping the Benefits. Available at <http://www.acs-aec.org/index.php?q=trade/trade-in-services-statistics-in-the-greater-caribbean-addressing-the-challenge-reaping-the-be-0>

## SECTION 4: THE ROAD AHEAD

While the CBERA does not have a time limit, AGOA expires in 2025, CBTPA in 2030, and the additional benefits for Haiti in 2025. It is therefore well past time for African and CARICOM countries to consider what lies ahead for them with respect to their trading arrangements with the United States.

A key consideration is that both AGOA and the CBI programmes originate not from international treaties but from US domestic legislation. This places the eligible African and CARICOM countries in the position of rule-takers, rather than partners in these trade relationships. This bears inherent risk not the least of which is the ability of the United States to unilaterally withdraw benefits from any eligible country. More importantly, the nature of AGOA and CBI means that both Africa and CARICOM have no say in the identification of priority areas for trade and instead are subject to the trading priorities as defined by the United States.

Moreover, although the majority of AGOA-eligible countries favour a renewal of AGOA, the USTR does not appear to view the continuity of this relationship in the same light. As the USTR reports “most African countries have focused on advocating for an additional renewal of AGOA, as opposed to seeking other high standard reciprocal trade agreements. ...The [US] Administration views [the US-Kenya STIP] approach as potentially serving as a model for use with other willing countries on the continent.”<sup>70</sup> As mentioned above, rather than a fully-fledged trade agreement, the US – Kenya STIP is more a good governance partnership with some trade-related aspects. Indeed, more recently, the United States appears to favour this model of partnership – rather than FTAs – even at a regional scale, with one example being the Indo-Pacific Economic Framework for Prosperity (IPEF). In May 2022, the United States launched the IPEF negotiations with 13 countries from the Asia-Pacific region.<sup>71</sup> The partnership aims to enhance collaboration on the following four pillars: (i) trade; (ii) supply chains; (iii) clean energy, decarbonization, and infrastructure; and (iv) tax and anti-corruption.<sup>72</sup>

Another aspect for Africa and CARICOM to consider is whether the AGOA and CBI programmes remain fit for purpose given the evolving ambitions of Africa and CARICOM as regions with their own developmental agendas and priorities. For a start, in light of the enhanced integration efforts across both regions, would it be appropriate for AGOA to be expanded to all of Africa, and for the CBI to include Suriname? Do the current eligibility criteria reflect regional and sub—regional priorities? The example of the EAC’s initiative on second-hand clothes and the suspension of Rwanda from the AGOA eligibility list for apparel products highlights the need for countries to discuss the possible tensions between compliance with AGOA and regional integration efforts.

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<sup>70</sup> 2022 USTR Biennial Report on the Implementation of the African Growth and Opportunity Act. Available at <https://ustr.gov/issue-areas/preference-programs/african-growth-and-opportunity-act-agoa/biennial-reports>

<sup>71</sup> The 13 countries are Australia, Brunei Darussalam, Fiji India, Indonesia, Japan, the Republic of Korea, Malaysia, New Zealand, Philippines, Singapore, Thailand, and Vietnam. The 14 IPEF partners represent 40 percent of global GDP and 28 percent of global goods and services trade. See White House Fact Sheet: In Asia, President Biden and a Dozen Indo-Pacific Partners Launch the Indo-Pacific Economic Framework for Prosperity, 23 May 2022. Available at <https://www.whitehouse.gov/briefing-room/statements-releases/2022/05/23/fact-sheet-in-asia-president-biden-and-a-dozen-indo-pacific-partners-launch-the-indo-pacific-economic-framework-for-prosperity/>

<sup>72</sup> Indo-Pacific Economic Framework for Prosperity (IPEF). Available at <https://ustr.gov/trade-agreements/agreements-under-negotiation/indo-pacific-economic-framework-prosperity-ipef>

More broadly, both Africa and CARICOM need to reflect on whether the product eligibility criteria under AGOA and CBI support value addition and the proposed growth of regional value chains in both regions. A high proportion of exports from CARICOM to the United States comprise fossil fuels. Likewise, a high proportion of exports from Africa to the US have been precious stones and metals, such as platinum and diamonds, as well as mineral fuels and apparel. These exports reflect the continued inability of African and CARICOM economies, under the current trading arrangements with the

United States, to move away from primary products to high value-added components of industrialization. Therefore, it may be opportune for both regions to push for the United States to reorient its trade and investment policies to support the development of productive capacities and value addition of trade and services.<sup>73</sup>

The utilization of AGOA and the CBI programmes remains a major concern for the future of these trading relationships since it is not uniform and, in some cases, sub-optimal. Over the decades, it has become apparent that not all eligible countries under the two schemes have the capacity to export these products. For instance, while Barbados, Grenada, and Jamaica claimed CBI preferences on over 90 percent of eligible goods in 2020, the British Virgin Islands, Montserrat, and St. Vincent and the Grenadines did not use the programs at all when exporting eligible goods.<sup>74</sup> In the case of AGOA, only 16 of the 35 AGOA-eligible countries have national AGOA utilization strategies, with COMESA and ECOWAS also having developed plans for their respective regional blocs.<sup>75</sup> The remainder of the AGOA-eligible countries are yet to articulate their strategies. This underutilization points towards the need for African and CARICOM countries to recalibrate the utility of AGOA and CBI as part of their overall national and regional development.

Looking to the future, it may be worth considering whether Africa and CARICOM have outgrown the one-directional AGOA and CBI programmes and are now ready to engage on a more reciprocal footing with the United States. The TIFAs may be a starting point for negotiations of this nature, offering a basis for either bilateral or regional talks, and taking account of the fact that different countries or sub-regions may have different trading priorities.

Ultimately, the responsibility lies with Africa and CARICOM to chart their destinies in terms of the future of trading arrangements with the United States, starting by better articulating their national and regional trade and development priorities. As one author suggests, “African [and CARICOM] leaders should get down to the

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<sup>73</sup> James Thuo Gathii, Joe Biden is meeting African leaders - why free trade is a major talking point, in *The Conversation*, 13 December 2022. Available at <https://agoa.info/news/article/16117-joe-biden-is-meeting-african-leaders-why-free-trade-is-a-major-talking-point.html>

<sup>74</sup> Fourteenth USTR Report to Congress on the Operation of the Caribbean Basin Economic Recovery Act, 31 December 2021. Available at [http://www.sice.oas.org/TPD/USA\\_CBI/Studies/14th\\_CBI\\_Rpt\\_2021\\_e.pdf](http://www.sice.oas.org/TPD/USA_CBI/Studies/14th_CBI_Rpt_2021_e.pdf)

<sup>75</sup> 2022 USTR Biennial Report on the Implementation of the African Growth and Opportunity Act. Available at <https://ustr.gov/issue-areas/preference-programs/african-growth-and-opportunity-act-agoa/biennial-reports>

hard, but necessary job of building internal resilience through [the] harnessing of the synergies and complementarities, income generation and job creation, which could come from deeper integration.”<sup>76</sup>

Finally, Africa and CARICOM should learn from each other’s experiences in examining what has and has not worked in their trading relations with the United States to advance their evolving trade relations between themselves. Where their interests align, Africa and CARICOM may also coordinate trade negotiating efforts using existing fora like the African Caribbean and Pacific Group of States (ACP) as well as the WTO.

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<sup>76</sup> Key to Africa’s growth is within the continent, in the East African, 17 December 2022. Available at <https://agoa.info/news/article/16118-key-to-africa-s-growth-is-within-the-continent.html>