

PROPOSED FREE TRADE AGREEMENT WITH SOUTHERN AFRICA

1. The five countries included in the proposed free trade agreement negotiations: Botswana; Lesotho; Namibia; South Africa and Swaziland; are at different stages of economic and political development. All of the countries are Members of the World Trade Organization (WTO) and are beneficiaries under the African Growth and Opportunity Act (AGOA).¹ At a minimum these countries have demonstrated a willingness to embrace free trade and economic development based on free market principles.
2. The United States must evaluate the extent to which increased trade and investment between it and the countries of Southern Africa will be beneficial. Different sectors of the U.S. economy will be impacted in different ways and to various degrees depending on the extent the domestic producers are engaged in international competition with products from these countries.
3. The United States must take into account the extent to which a free trade agreement will benefit the countries of Southern Africa and the potential dangers an FTA might present. A free trade agreement should assist the countries of Southern Africa in their development both economically and politically while at the same time respecting the sovereign right of these countries to set their own priorities for development. In keeping with this principle, it is important to respect the right of sovereign nations to protect their markets from goods and services that they deem to be a danger to their human, animal and plant health or are determined to be abhorrent to their population.²
4. Free trade and economic development should be supportive of domestic laws and regulations intended to protect endangered species, the environment and to promote animal welfare. For example, Botswana and Swaziland ban the use of steel-jawed leg-hold traps. The proposed free trade agreement with the United States should respect the ban imposed on leg-hold traps by these countries and ensure that the ban will not be attacked under the agreement.
5. The proposed free trade agreement with Southern Africa must promote sustainable development in these countries. Sustainable development is

¹ World Trade Organization membership information can be viewed at www.wto.org. Status as an AGOA beneficiary reported in the *Federal Register* notice at 69296.

² The United States banned the importation of products made with Cat and Dog Fur in 2002. See The Tariff Suspension and Trade Act of 2000, P.L. 106-476, §§ 1441-1443 (Dog and Cat Protection Act of 2000).

development which does not endanger the natural environment, compromise the health or welfare of humans or threaten the habitat of native species.

Environment

6. Preserving and protecting the natural resources and the environment are important aspects of sustainable development. The proposed FTA should enshrine a commitment from all Parties to effectively enforce their environmental laws. The proposed FTA should provide a mechanism whereby environmental laws of the Parties and the enforcement procedures are reviewed on a consultative basis with the aim of improving and strengthening both.
7. The proposed FTA should provide for Civil Society participation concerning environmental protection and enforcement. There should be a mechanism in the FTA allowing for Civil Society submissions on environmental matters *i.e.*, requesting reports or to initiate a dispute for an alleged failure to effectively enforce domestic environmental laws, including the failure to comply with international obligations.
8. Protection of endangered species and animal protection and welfare laws should be included under the broader heading of environmental protection unless the countries decide that it should be listed separately. The same Civil Society participation rights should be agreed to for animal protection and welfare laws.
9. The Parties to the proposed FTA should encourage the use of labeling for all products.

Agriculture

10. Agriculture is an important component to the economies of the SAFTA countries. The Parties to the SAFTA should allow for protection of sensitive products/sectors in the event of market surges or unfair trade practices.
11. The economic future of the SAFTA countries will depend, in large measure, on how each is able to develop and expand its agricultural sector. Many of the SAFTA countries are experiencing severe environmental problems brought on or exacerbated by unsustainable agricultural practices, including: over-exploitation of land and water resources; degradation of forest lands; depletion of forest resources; desertification; air, water, soil and solid waste pollution and limited fresh water resources.
12. The proposed SAFTA should encourage sustainable agricultural development and provide technical assistance so that these countries can implement better agricultural practices and protect the environment.

13. One particularly harmful practice that is unsustainable is industrial farming. Factory farming methods should not be forced upon developing and least developed countries. The United States should not encourage the adoption of these unsustainable agricultural practices in developing and least developed countries.
14. The proposed SAFTA should provide for agricultural phase-in periods to account for each of the countries' level of development and ability to fully implement its obligations. Verified organic and animal friendly products should be accorded special treatment including zero duty and other market access privileges.

Dispute Settlement

15. Dispute settlement is an important aspect of all trade agreements. The settlement of trade disputes in a timely manner with enforceable rules and procedures, including penalties for non-compliance provides needed certainty to parties. It must be recognized that disputes arising under the provisions of trade agreements are not always commercial in nature. The proposed SAFTA should allow for the settlement of commercial disputes and for disputes concerning environmental or species protection.
16. The United States should insist that any SAFTA dispute settlement system include provisions for transparency and public participation. In keeping with its recent proposal to the World Trade Organization (WTO), the United States should ensure that its proposed free trade agreements provide for transparency and public participation.³ Inclusion of these provisions in the proposed SAFTA will help to strengthen the position of the United States at the WTO.

Civil Society Participation and Transparency

17. An open and transparent system allowing for the participation of Civil Society will assist in the development of the SAFTA countries. The proposed SAFTA should encourage the Parties to allow for public participation, including comment periods and hearings conducted by the competent authorities. The United States should offer technical assistance concerning transparency and Civil Society participation and encourage public/private partnerships to achieve development and understanding in this area.

Conclusion

18. The proposed SAFTA has the potential to accomplish much more than just increased trade and greater market access for the United States, Botswana, Lesotho, Namibia, South Africa and Swaziland. The SAFTA can create an atmosphere where increased trade does not threaten environmental or animal

³ *Contribution of the United States to the Improvement of the Dispute Settlement Understanding of the WTO related to Transparency, Communication of the United States, TN/DS/W/13 (22 Aug. 2002).*

protection measures. The proposed SAFTA can help encourage greater transparency and involvement of Civil Society in the government decision-making process of all the Parties. All these objectives should be pursued during the negotiations for the SAFTA.

19. Thank you for the opportunity to provide these comments.