Testimony by the Honorable Erastus Mwencha

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U.S. House Subcommittee on Africa, Global Health

And Global Human Rights

April 27, 2022

Introduction

Madame Chair, Mr. Ranking Member and other esteemed Members of the Subcommittee on Africa, Global Human Rights and Global Health, thank you for inviting me back to testify before you. And how fortuitous to be testifying alongside my dear friend *Secretary-General Wamkele Mene* of the AfCFTA Secretariat, and the renowned *Dr. Landry Signe* of the Thunderbird School of Business. Together, I have no doubt that we shall adequately advocate for how the United States can promote its success.

Considering that the cumulative value of United States Direct Investment Abroad (USDIA) to all fifty-five Member States of the African Union between 2000 and 2020 is less than US$ 50 billion—less than 0.8 percent of aggregate USDIA—my testimony will therefore focus on how to leverage the following initiative as a lever for successful US support to the AfCFTA:

i. African Growth and Opportunity Act (AGOA)

ii. The AfCFTA

iii. Prosper Africa

It is worth noting, that while implementing the above initiatives it is imperative that they are implemented in strict observance with climatic change regulations and human rights.

For more than two decades now, AGOA has been an important component of the various tools to stimulate business interests between African beneficiaries and the United States. However, AGOA has its limitations of stimulating investment, in that it is not a mutually negotiated arrangement and therefore lacks stability and predictability. Since investment is critical to deepening business relations the ongoing development of the AfCFTA gives African and American businesses an additional opportunity to enhance competitiveness; further reducing the tariff, non-tariff, technical and non-technical barriers to both intra-African trade, and economic relations with the United States—the sort of expanded commercial activity that produces thousands of jobs on both sides of the Atlantic Ocean. At this juncture, I would be remiss if I did not express my gratitude to the United States for the strong interest in extending support to TradeMark East Africa. This entity has played a significant role in regional trade integration, trade facilitation as well as development of green corridors. It continues to support investment in soft and hard infrastructure along trade corridors which integrates women in business.

As you are aware, once the AfCFTA is fully implemented, the volume of intra-African trade shall grow by up to 52.3 per cent. For a market of more than 1.2 billion (mostly young) people, and a combined GDP of more than $3.4 trillion, the world's investment capital stands to benefit from the amalgamation of Africa's ever-growing middle class, natural resources, value-addition processes, supply chains and distribution networks; with a focus of reducing the cost of doing business. As you know, in some instances transaction costs can be as high as 40% more than the value of the product at consumer point.

From this perspective, it is of absolute importance to ensure that programs like AGOA continue to underscore the partnership between Africa and the United States. While AGOA has led to some economic development in Africa, the program also has fallen short of its original goal, with oil producing countries and textile/garment exporters garnering more from AGOA than most other beneficiaries. And as I advocated to the Senate Finance Committee and the House Ways and Means Committee previously, AGOA could be truly transformational by making significant changes: first, nothing prevents the United States Congress from extending the program for much longer beyond 2025. As you experienced with the Caribbean Basin Initiative (CBI), giving market access programs affords American investors confidence to infuse their resources into a region for the longer-term. Secondly, a truly transformation program should include all those products currently subject to tariff rate quotas. The European Union arranged for an almost 100 percent duty-free; quota free Everything but Arms (EBA) program; knowing that such generous access would neither significantly disrupt European production, nor trade.

Thirdly, when we talk about withholding AGOA benefits to what you may consider non-compliant beneficiaries, I urge the U.S. Congress to look into the powerful governance tools African states and regional financial partners have designed under the African Peer Review Mechanism (APRM). To achieve this, AGOA cannot be treated as merely a government-to-government enterprise but must genuinely be dealt with as a business-to-business venture. If and when an African country is in violation of agreed rules, the corrective measures should be administered on a case-by-case basis and targeted so as not to impugn the country's business community and therefore the entire economy.

Interestingly, the goodwill generated by AGOA feeds into the AfCFTA. That is why I have argued against bilateral free trade agreements. I know that this was not a popular view in both the United States and in Kenya, my home country. But the reality is this: Even if a successful bilateral Kenya – US FTA could have become a model for other bilateral FTAs, such an agreement would have had a negative impact on the AfCFTA because African countries belong to various regional arrangements.

Besides, Article 4 of the Protocol on Trade in Goods and Article 4 of the Protocol on Trade in Services guarantee most favored nation (MFN) treatment of each country in the AfCFTA, which Kenya is likely to benefit from more compared with an FTA with the United States.

At this juncture, I would like to pivot to a section that is near and dear to my heart: I am really encouraged that the Prosper Africa initiative includes financial entities like the U.S. International Development Finance Corporation (DFC) and the U.S. Trade Development Agency (USTDA). As the U.S. experienced under DFC's predecessor entity OPIC, the world requires American capital, and African borrowers are also good development partners. Combined with the USTDA's trade capacity building resources, I am happy to note that Prosper Africa could be a true vanguard for U.S. trade with Africa. I say this with confidence because the United States has the second largest African Diaspora after Brazil. That Diaspora – both native-born and new residents – currently numbers 46 million. According to Nielsen, a global performance management company, this population will grow to 74.5 million by 2060, and its buying power stands at US$1.5 trillion today.

With African-born Americans maintaining ties to their countries of origin and serving as commercial liaisons between African countries and the United States, capital channeled through this African Union-recognized population should have a bigger development impact than the US$ 46 billion sent as remittances to Africa in 2020.

Thank you for this opportunity to share my views. I hope this Subcommittee and the rest of the U.S. Congress will look favorably on suggestions from those who stand to benefit most from both programs.