AGOA Countries: Challenges and Considerations in Exporting Horticultural Products to the United States

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Table of Contents

I. Introduction……..5

A. AGOA Agricultural Product Exports to the United States……..……5
B. AGOA Horticultural Product Exports to the United States……...6
C. Outline of the Report……7

II. Overview of U.S. Import Approval System…….……....8

A. Import Approval Process for Fruits, Vegetables, and Cut Flowers……9
1. Pest Risk Analysis……...……9
2. Risk Mitigation……..11
3. Pest-Free Area/Regional Approach to Horticultural Exports and Imports….. 13
4. Irradiation of Horticultural Product Exports…….……...14
5. Implementation of the "Systems Approach" for Importation……...14
6. Preclearance of Horticultural Product Exports……15
B. USDA Rulemaking Prior to Import Approval of Fruits and Vegetables…….……....16
1. Normal Rulemaking Process…….....16
2. Notice-Based Streamlined Approach for Certain Fruit and Vegetable Imports..…….....17
C. APHIS Regulations on Nursery Stock and Other Plant Product Imports…….19
D. APHIS Priority Setting……20

III. AGOA Country Import Approvals……..…….21

A. Overview of APHIS Import Requests……...21
B. Comparison of EU and U.S. Import Regimes…….……..24
C. APHIS Treatment of Horticultural Product Imports from AGOA Countries……...26
1. Fruits and Vegetables……..……...27
2. Tree Nuts……28
3. Cut Flowers……....29
4. Plants for Planting……..31
D. Analysis of Specific APHIS Import Requests from AGOA Countries……32
1. U.S. Market Access Granted to White Asparagus from Senegal…….….32
2. U.S. Market Access Granted to Baby Corn from Zambia…….33
3. U.S. Market Access Granted to Baby Squash and Courgettes from Zambia…34
4. Market Access Request in Process for Tomatoes from ECOWAS Region…...35
5. Market Access Request on Hold for Bananas and Plantains from Uganda…...35
E. Additional Import Requirements of FDA and AMS…….……..……..35

IV. USAID/USDA Technical Assistance for AGOA Countries……38

A. Role of USAID in Trade Capacity Building……39
B. Role of USDA in Trade Capacity Building……..41

V. Conclusions and Recommendations on AGOA Horticultural Trade……..44

A. Recommendations for AGOA Countries – Take Ownership…..…….44
B. Recommendations for APHIS – Import Approval Process……...47
C. Recommendations for U.S. Federal Agencies – Capacity Building……49
D. Recommendations for the International Community – Provide Useful Information....51

VII. Annexes

A. Value of AGOA Country Agricultural Exports to the United States
B. Value of U.S. Imports by Food Group
C. Regional Value of U.S. Horticultural Product Imports
D. AGOA World Horticultural Product Exports
E. AGOA Fresh Fruits & Vegetables Eligible for U.S. Import
F. World Exports of Fresh Fruits & Vegetables Eligible for U.S. Import
G Current In-Progress PPQ Risk Analyses
H. AGOA Country & Regional Case Situations
    1. Cameroon
    2. Ethiopia
    3. Ghana
    4. Kenya
    5. Senegal
    6. Tanzania
    7. Uganda
    8. Zambia
    9. The Common Market for Eastern and Southern Africa (COMESA)

I. Introduction

Congress, the Administration, and other stakeholders continue to be involved in serious efforts to improve upon the African Growth Opportunity Act (AGOA), which was first signed into law a decade ago, on May 18, 2000. To meet its objective of enhancing U.S. market access for sub-Saharan African countries that are pursuing market reforms measures, the AGOA preferential trade legislation was designed to encourage and support countries in this region "that are taking often difficult but critical steps necessary to create more open, market and growth-oriented economies."[1]

AGOA eligibility currently extends to 38 African countries, with some benefitting from exports of natural resources such as oil and minerals, while others have been able to develop textile and apparel industries in which goods are more easily manufactured and exported without barriers to market in the United States. Nigeria and Angola are leading oil producers and suppliers to the U.S.; these two countries alone accounted for 80 percent of all AGOA imports in 2008.

A. AGOA Agricultural Product Exports to the United States

In contrast, the value of agricultural exports to the United States from 14 other AGOA-eligible countries was less than $1 million in 2009. In fact, three of these countries – Namibia, Seychelles, and Chad had less than $100,000 in agricultural exports under AGOA in 2009 (see Annex A).

While the value of AGOA agricultural exports to the U.S. since enactment of AGOA has grown by nearly 52 percent over the nine-year period from $508 million in 2000 to $770 million in 2009, only two AGOA countries – the Republic of South Africa and Ghana – rank among the top 50 countries that export food and beverage products to the United States. In 2009, South Africa's agricultural exports to the U.S. were valued at $174 million (with 23 percent of the value being wine and 18 percent being fresh oranges), while Ghana's exports were valued at $96 million (with 91 percent of the value being cocoa and cocoa products). Other leading AGOA agricultural exporters to the U.S. in 2009 include Ethiopia with exports valued at $85 million, Liberia at $75 million, Malawi at $64 million, Nigeria at $63 million, and Kenya at $59 million.

To place AGOA agricultural exports to the U.S. in further perspective, U.S. food imports from all countries totaled $80.5 billion in 2008 (see Annex B), which means that all AGOA countries combined represent only a one percent share of U.S. agricultural imports. This small market share and AGOA's limited success in stimulating export diversification is evidence that "AGOA has fallen short of the potential impetus that preferences could otherwise provide African exporters."[2]

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[1] 2008 Comprehensive Report on U.S. Trade and Investment Policy Toward Sub-Saharan Africa and Implementation of the African Growth and Opportunity Act, Office of the U.S. Trade Representative (May 2008), p. 21.

[2] AGOA: Exports and Development in Sub-Saharan Africa, Paul Brenton and Mombert Hoppe, International Trade Department, The World Bank, The Africa Journal, AGOA Special Edition, The Corporate Council on Africa (2006), p. 37.

This disappointing agricultural trade performance can be explained in part by the ineligibility of AGOA countries to export a number of products to the U.S. and price competitiveness in the U.S. market, but significant supply side constraints also play a major role in limiting exports, including "poor rural infrastructure such as "roads, water and electricity."[3] Since the livelihood of millions of the world's poorest people in AGOA countries are heavily dependent on the agriculture sector, it makes sense to examine the factors that inhibit growth of export earnings from this sector.

B. AGOA Horticultural Product Exports to the United States

"Rising consumer incomes, international trade agreements, and improved technology have led to the substantial growth in the volume and variety of U.S. fresh fruit and vegetable imports.… As a result, the U.S. has increasingly become a net importer of fresh produce."[4] Nevertheless, "because fresh produce is highly perishable and seasonal, geography has played a major role in the global trade patterns of fresh produce."[5] The significance of geography is demonstrated by the fact that U.S. fresh vegetable imports are largely from Mexico and Canada, while fresh fruit imports are primarily from Central and South America. Annex C graphically compares the total value of U.S. horticultural product imports from various regions, with North American (i.e. Canada and Mexico) imports valued at $11.7 billion in 2008 and South American imports valued at $5 billion, while AGOA imports were only valued at $210 million and North African imports valued at $118 million.

While technological advances in transportation may be helping expand fresh produce trade, phytosanitary "measures to prevent the spread of pests and diseases have increasingly become a critical factor in determining" U.S. trading partners.[6] The U.S. Department of Agriculture's Animal and Plant Health Inspection Service (APHIS) has the lead role in assuring the health of horticultural products imported into the United States.

AGOA global horticultural product exports valued at $34.9 billion in 2008 is ample evidence that these countries are successful exporters. In fact, horticultural product exports from AGOA countries to all markets have grown by $10.2 billion in just four years (see Annex D).

For purposes of this paper, "horticultural products" include high-value commodities and products, such as fresh fruits and vegetables, tree nuts, cut flowers, nursery products, essential oils, and wine. In terms of value, the main horticultural product imports from AGOA countries to the U.S. are fruits (chiefly fresh citrus), tree nuts (mostly macadamia nuts and cashews), and wine (virtually all from South Africa). Fruit juices are also imported from AGOA countries, but they are not considered horticultural products because they have been processed. The phytosanitary risk has been mitigated for processed products, which means such products no longer present a phytosanitary issue.

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[3] AGOA and Agriculture, International Food & Agricultural Trade Policy Council/Partnership to Cut Hunger and Poverty in Africa (August 2009), p. 4.
[4] Increased U.S. Imports of Fresh Fruits and Vegetables, USDA Economic Research Service Report, FTS-328-01 (September 2007), p. 1.
[5] *Id*. at p. 2.
[6] *Id.*

U.S. horticultural product imports in the aftermath of AGOA have grown from $113 million in 2000 to $210 million in 2008, which represents a near doubling of these AGOA exports to United States over eight years. Since implementation of AGOA, there have been sizable increases in U.S. imports of tree nuts and wine from AGOA countries. On a much smaller scale, total U.S. imports of cut flowers from AGOA countries have jumped from $597,000 in 2000 to $1.6 million in 2008. Since many cut flowers from AGOA countries are first shipped to the Netherlands, and not directly from Africa to the U.S., the amount of U.S. cut flower imports from AGOA countries is under-reported because U.S. Customs consider them imports from the Netherlands.

While these increases are impressive in percentage terms, their overall amount could arguably be greater given the demand in the U.S. and the potential many African countries have for producing a number of horticultural products. Fruit, vegetable, cut flower, and plant exports to the United States may offer some of the most exciting, but still unfulfilled high-price market for AGOA countries. Further increases in trade, however, require that U.S. import approval procedures are met.

C. Outline of the Report

This report outlines U.S. import approval procedures for horticultural products and examines the extent to which this process hindered AGOA country horticultural product exports to the U.S.[7] The paper concludes that simply providing duty-free treatment is not enough to trigger more trade for these high-value agricultural products, and explores what additional steps are required – on both the African and U.S. side – to remedy this situation, and to help meet the broader agenda of "expanding the number of beneficiary countries which use AGOA benefits; diversifying AGOA exports away from primary commodities such as oil; making trade capacity building more effective for AGOA beneficiaries; and strengthening the link between poverty reduction and trade in Africa."[8]

Section II of the report presents a brief overview of APHIS import approval procedures for horticultural products. Section III compares the U.S. and EU import regimes and analyzes APHIS import approvals of horticultural products from AGOA countries. Section IV discusses U.S. technical assistance activities to assist AGOA countries in building phytosanitary regimes. Section V concludes with a number of recommendations aimed at increasing the trade of high-value horticultural products from AGOA countries.

[7] This policy brief is a follow on paper to the AGOA and Agriculture brief, which argued that the "U.S. could help African producers meet U.S.…phytosanitary standards", and called for an examination of "whether some of its import approval procedures could be streamlined – without in any way sacrificing safety – in order to facilitate greater trade from Africa", p. 3.

[8] U.S. Trade and Investment Relationship with Sub-Saharan Africa: The African Growth and Opportunity Act and Beyond, Congressional Research Service, Danielle Langton (October 28, 2008).

II. Overview of U.S. Import System

For AGOA export eligibility, the AGOA country products must be exported directly from the beneficiary country to the United States and the AGOA country "must provide at least 35 percent value added to an exported product in the course of the production process."[9]

Before the U.S. permits the importation of horticultural products from any country, APHIS must complete an extensive analysis of pest and disease risks associated with those products and determine whether and how those risks can be mitigated to allow for safe importation. As food products, horticultural product imports are subject to plant health statutes and regulations administered by APHIS[10] and food safety statutes and regulations administered by the U.S. Department of Health and Human Services' Food and Drug Administration (FDA).

Meat and poultry inspections are conducted by USDA's Food Safety and Inspection Service (FSIS) under the Federal Meat Inspection Act[11] and the Poultry Products Inspection Act.[12] FSIS reviews the exporting country's meat and poultry inspection systems to ensure the safety of the products entering the U.S. market.

FDA oversees the safety of human and animal foods (not under the jurisdiction of FSIS) pursuant to the Federal Food, Drug and Cosmetic Act,[13] which makes importers responsible for ensuring that food products are safe, sanitary, and labeled according to U.S. requirements. FDA also regulates imports of seafood and processed foods through registration and processing procedures.

Additionally, the U.S. Bioterrorism Act requires that domestic and foreign facilities that manufacture, process, pack, or hold food for human and animal consumption in the U.S. must register with FDA. This statute seeks to protect the American public by requiring countries exporting food products to the U.S. (with the exceptions of meat, poultry and egg products) to provide FDA with advance notice of each shipment entering the U.S., in order to allow FDA to target inspections more effectively and ensure the safety of imported food products.

Although a number of developing countries face obstacles in complying with stringent phytosanitary measures, many are eventually successful. Many so-called phytosanitary trade barriers are merely the result of differences in regulatory practices and the lack of adequate testing and certification in developing countries. Each country's national phytosanitary regulations and standards are shaped by its own pest experience, the inherent risk levels to plant health, and the willingness of the government and industry to allocate resources to control risks.

[9] USAID web site: http://satradehub.org

[10] Established in 1972, APHIS is a relatively new agency, which emerged from animal and plant health bureaus within USDA that operated independently of one another for most of the 1900s. In 1987, the APHIS international programs staff was given "foreign service" status, which increased the influence of APHIS personnel in the international arena. Today, the International Services program within APHIS is responsible for facilitating international trade and promoting international safeguards.

[11] 21 U.S.C. 601 et seq

[12] 21 U.S.C. 451 et seq

[13] 21 U.S.C. 301 et seq

Likewise, countries interested in exporting horticultural products clearly need to have committed private sector representatives and government officials working hand-in-hand to gain U.S. approval for importation of their products.

U.S. fruit and vegetable imports are subject to APHIS "Q56" plant health regulations requiring that a pest risk analysis (PRA) be completed by APHIS as a pre-requisite to export to the United States. This process, which is designed to protect U.S. plants from disease and pest infestation, may add considerable time to the product import approval process.

The APHIS Q56 import approval process consists of two significant parts: 1) the PRA development process, and 2) the regulatory process. Fruit, vegetable and cut flower imports are subject to the more restrictive "Q56 regulations"[14] and live plants for planting are currently subject to the less restrictive "Q37 regulations"[15] (note: efforts are underway to enhance the regulatory regime governing imports of plants for planting through pending rulemaking).

A. Import Approval Process for Fruits, Vegetables, and Cut Flowers

The Plant Protection Act authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles to prevent the introduction of plant pests into the United States or their dissemination within the United States.[16] APHIS regulations authorized by this Act are directed at the importation of fruits and vegetables into the U.S. from certain parts of the world, and are designed to prevent the introduction or dissemination of plant pests that are not widely distributed within the U.S.[17]

Therefore, the first step for any country seeking to export a commodity to the United States is a determination of whether the horticultural product is already eligible for U.S. import. A list of APHIS-approved fresh fruits and vegetables eligible for importation to the U.S. from particular AGOA countries can be found in Annex E, and a compilation of the total number of countries eligible to export these products to the U.S. is available in Annex F. For non-listed fruits and vegetables, a potential exporting country is allowed to ship its particular product to the U.S. only after successfully completing the APHIS approval process as set forth in its Q56 regulations. This is effectively a "pre-qualification system"[18] that is administered by APHIS for each import commodity of interest.

1. Pest Risk Analysis

The International Plant Protection Convention (IPPC) states that a country's phytosanitary measures must be technically justified by a PRA. A PRA is the process of evaluating biological or other scientific evidence to identify and rate the risks of specific pests and diseases associated

[14] 7 C.F.R. 319.56
[15] 7 C.F.R. 319.37
[16] 7 U.S.C. 7701 et seq.
[17] 7 C.F.R. 319.56-1 through 319.56-49
[18] Reconciling Food Safety with Import Facilitation Objectives: Helping Developing Countries Producers Meet U.S. and EU Food Requirements, International Food & Agricultural Trade Policy Council, IPC Position Paper – Standard Series (June 2008), p. 12.

with a commodity. Clearly, a PRA is done to protect a country's crops from damage that can be caused by harmful (quarantine) pests that could be brought in with imported commodities.

An APHIS PRA must be completed for any horticultural products originating from any countries whose products are currently prohibited from entering the United States. APHIS conducts a PRA in response to a request by the ministry of agriculture of a prospective exporting country for authorization to ship a specific commodity to the U.S. Import approval requests must contain some minimum data elements[19] before they are deemed to be complete and ready for processing (see Table 2).

After a country petitions USDA to allow importation of a specific commodity, APHIS conducts a PRA "to identify the economic and environmental damage pests associated with the commodity might cause if the pests were to enter the United States."[20] At the start of the risk assessment process, APHIS Plant Protection and Quarantine (PPQ) staff prepares a comprehensive list of potential pests in the region based on databases of pests worldwide. Once the list of quarantine pests is compiled from the long list of potential pests, those with similar characteristics may sometimes be compiled into sub-groups that can be managed in the same manner (e.g., surface pests can be visually inspected, while the presence of certain pests will require treatment).

For each AGOA country/commodity requested, a draft PRA is developed, which relies on the exporting country to conduct pest surveys and examine issues, such as whether the commercially harvested commodity is a host for a particular pest. APHIS analysts consider commodity risk factors to estimate the likelihood of introducing a particular pest into the U.S. Commodity factors include the type of commodity, the nature of raw material used to produce the commodity, and the intended use of the product. APHIS also evaluates the ability of the pest to survive, multiply, and spread in the territory of the importing country, which can be a function of the distribution of the commodity and the availability of susceptible hosts or other vectors.

APHIS analysts evaluate the export area to determine the prevalence of a pest or disease, the phytosanitary status of the adjoining area, the regulatory infrastructure of the exporting country, surveillance systems, and previous risk assessments (including those that have already been conducted in neighboring countries) of the commodity. If a PRA has already been conducted for the same commodity in an adjacent country, the time involved for the import approval process may be reduced.

If the prospective exporting country does not agree that certain pests are present, it may refute the original PRA finding with science and APHIS would respond by adjusting the PRA or disagreeing, which can add six months or longer to the import approval process. Since the burden is on the exporting country to demonstrate the commodity will not cause U.S. pest infestation, it may also take time for the country to develop a treatment that APHIS agrees will address its pest concerns.

[19] 7 C.F.R. 319.5
[20] Phytosanitary Regulations Shape Fruit and Vegetable Trade Patterns

After a PRA is completed by the Center for Plant Health Science and Technology (CPHST), it is forwarded to APHIS program managers, so they have the necessary information to anticipate, assess and manage any plant pests and diseases. No horticultural product "import is risk free, but APHIS may recommend that the commodity be allowed to enter the U.S. if certain steps are followed to reduce pest risk to acceptable levels. In these cases, APHIS works with the exporting country to develop a plan outlining the procedures and treatments required as a condition of commodity entry into the United States."[21]

APHIS bases its decisions to allow fruit and vegetable imports on whether the risk associated with their importation can be successfully mitigated, and not on economic considerations such as the profitability of farmers in the exporting country in shipping a particular product to the U.S. However, APHIS will expedite the processing of import requests for pest risks deemed to be "routine."[22] In the case of resource-poor countries, the range of available pest mitigation options is often limited, so the number and type of quarantine activities that become the import conditions may mean that exports of the commodity are not possible.

2. Risk Mitigation

Unfortunately, in some cases there has been a misconception among some AGOA countries that if they conduct a PRA, they will eventually be allowed to ship product to the U.S. The reality is that the PRA process only takes them part of the way, since they have to comply with the risk mitigation measured required by APHIS to be eligible for U.S. importation.

APHIS plant protection regulations provide for the importation of fruits and vegetables in the United States if "the application of one or more…designated phytosanitary measures…mitigates the risk posed by those commodities…"[23] Typically, the number and diversity of pests that require mitigation make it unlikely that a single measure will be adequate to reduce the risk of pest introduction to an acceptable level. In such cases, a combination of measures in a system approach is proposed, which could include monitoring of production areas, management programs to achieve area pest freedom, packing house inspection and post-harvest treatment of the commodity, maintenance of consignment security and traceability in transit, and inspection upon arrival in the United States.

A number of fruit and vegetable imports originating from certain countries are subject to their own unique APHIS regulation with specific import requirements. For example, to export baby corn from Zambia, the production site "must have been inspected at least once during the growing season and before harvest" for a particular pest.[24] After harvest, the corn must be inspected by Zambia's national plant protection organization (NPPO) and found free of certain pests.

As part of the science-based APHIS approval process, CPHST participates, cooperates, and collaborates "with foreign and domestic plant health organizations to develop and validate

[21] *Id.*
[22] National Plant Board Report, p. 12.
[23] 7 C.F.R. 319.56-4(a)
[24] 7 C.F.R. 319.56-43(a)(1)

offshore mitigation methods to reduce potential pest pathways to the United States."[25] Nevertheless, some have claimed the "most glaring deficiency is that the risk mitigation decision is not always tied to the evidence in a manner that is transparent to stakeholders. …There is a sense in some quarters that if the scientists of PPQ can identify a problem, a solution can be negotiated. The basis for that negotiation is not always found in the risk analysis, rendering the process opaque to all of those not involved in the process."[26]

The type of treatment required for U.S. importation depends on the availability of alternatives. In examining the type of treatment to be undertaken, consideration will be made of the actions that are possible at the various sequential stages of the production, packing and distribution process. Undeniably, the facilities, equipment and the staff available will limit the options for resource-poor countries.

In the case of grapes from Namibia, the "grapes must receive mandatory cold treatment…and mandatory methyl bromide fumigation… Cold treatment may be administered in transit or upon arrival. However, the methyl bromide fumigation must be done at the Port of Entry."[27] Boxes from different pallets must be selected and each box is to be inspected, paying particular attention to finding mealybugs or snails."[28]

In other cases, APHIS approval is not possible because the exporting country does not have the technical capacity to support the PRA or does not have sufficient inspectors to carry out the required risk mitigating measures. Sometimes, the exporting country is simply not aware of all the requirements that may be necessary before it can be eligible for export to the United States.

On occasion, the U.S. government will assist the exporting country with capacity building to develop its phytosanitary institutions and/or systems as part of a trade agreement, with the added benefit for U.S. producers that infrastructure will then be established and in place for such countries to import U.S. food products in the future. For example, if well-defined structures, such as cold storage facilities are constructed, they would have a dual purpose as serving as both an export and import platform for shipping or receiving commodities.

Once a fruit or vegetable is approved for import, detailed APHIS PPQ import manuals for fresh fruits and vegetables as well as cut flowers and greenery are available for reference. The Fresh Fruits and Vegetables Import Manual contains step-by-step procedures for importing fruits and vegetables that are not intended for planting or growing.[29] This manual provides general inspection procedures for clearing commercial importation of fruits and vegetables, and special procedures for imports from certain countries.

The Cut Flowers and Greenery Import Manual provides "background, procedures, and reference tables for regulating the fresh cut portion of the plant when it is imported for decoration or

[25] The Plant Protection & Quarantine Strategic Plan for the Center for Plant Health Sciences and Technology, USDA APHIS PPQ (Fiscal Years 2007-2012), p. 2.
[26] Peer Review Report of the Procedures and Standards that Govern the Consideration of Import and Export Requests Under the Plant Protection Act, National Plant Board (July 2006), p. 16.
[27] *Id.* at p. 2-63.
[28] *Id.*
[29] See Fresh Fruits and Vegetables Import Manual, USDA APHIS PPQ.

ornamentation, and for protecting plants that are threatened with extinction due to trade in those plants or their derivatives."[30] This manual contains a guide to the level of pest risk for various cut flowers, such that imports of chrysanthemums from the African region are identified as high pest risk and imports of lilies from South Africa are considered low pest risk (and thus allowed expedited entry into the U.S.).[31]

3. Pest-Free Area/Regional Approach to Horticultural Exports and Imports

A plant pest or disease may not pose the same risk when imported from specified regions of a country. Recognition of regionalization as an approved and even mandated approach to facilitating trade is expressly set forth in Article 6 of the WTO SPS Agreement. The SPS Agreement acknowledges that countries have different growing regions and particular pests and diseases may or may not be found in each of these regions. Prior to this agreement, countries "tended to ban an entire country's exports (of a product) from entry, if that product was associated with an unwarranted pest or disease in the exporting country. That is, all such products from the exporting country were prohibited, even if they came from a region without a disease or pest. Regionalization provides for acceptance of such imports if the exporting country can demonstrate that they are from a disease-free or pest-free area…"[32]

Countries are required to recognize that there are disease-free and pest-free areas and areas with low pest and disease prevalence. However, exporting countries claiming to have pest and disease free growing areas must provide evidence supporting such claims to any importing country requesting the documentation.

In some cases, legitimate pest introduction concerns will lead APHIS to take one or even two regional approaches to allowing a particular horticultural product to have access to the U.S. market. First, and most common, is the identification of a defined region within an exporting country that is eligible to export because it is able to demonstrate that it has procedures in place to prevent pest infestation. After a pest-free export region is identified and the exporting country demonstrates that it has effective procedures in place to minimize the pest risk, APHIS will sometimes take the additional steps of limiting the areas in the United States into which the product may be shipped as well as the time of year for such shipments. Allowing importation of a product only into a defined U.S. region provides a distance barrier from where host material is grown in the U.S. and allowing imports to enter the U.S. only during the winter months provides a cold temperature barrier.

The relevant APHIS plant protection regulations allowing for imports from "pest-free areas" or region state as follows:

> "…[C]ertain fruits and vegetables may be imported into the United States provided that the fruits and vegetables originate from an area that is free of a specific pest or pests. In some cases, fruits and vegetables may only be imported if the area of export is free of all

[30] See Cut Flowers and Greenery Import Manual, USDA APHIS PPQ, p. 1-1.
[31] *Id*. See Table 2-6, p. 2-16 & 2-18.
[32] Sanitary and Phytosanitary (SPS) Concerns in Agricultural Trade, Geoffrey S. Becker, Congressional Research Service (December 15, 2008), p. 10.

> quarantine pests that attack the fruit or vegetable. In other cases, fruits or vegetables may be imported if the area of export is free of one or more quarantine pests that attack the fruit or vegetable and provided that the risk posed by the remaining quarantine pests that attack the fruit or vegetable is mitigated by other specific phytosanitary measures…"[33]

For a less-developed country, a lack of resources to purchase bait traps and hire trained staff to monitor the traps necessary to establish and maintain a pest-free area is a major impediment to this course of action to become eligible to export product to the United States. Therefore, even if APHIS approves exports from a pest-free area, resources have to be committed to ensure the area maintains this status, and in many cases this conditional import approval keeps the exporting country from ever shipping product to the U.S. On the other hand, if a country lacks resources to implement a pest-free area, perhaps a promising market could encourage private sector investors to pay for these costs, or a joint public-private sector approach could be used to achieve pest-free area status. An example, as discussed later in this paper, is a company owned by Dutch investors that provided the initial capital to develop the Ethiopian flower industry.

4. Irradiation of Horticultural Product Exports

For countries that are unable to establish or maintain pest-free areas, an alternative to gaining export approval is irradiation of the product prior to shipment to the U.S. Unfortunately, it is very expensive to establish and maintain an irradiation facility in an exporting country. Ghana is the only AGOA country that has an irradiator, but it is not functional, since the government and the domestic produce industry to not have the resources to operate the facility. Part of the expense is the U.S. requirement that its inspectors must be present at the irradiator to monitor the actual sterilization of any fruits and vegetables to be exported that are known to harbor pests. The exporting country has to pay for this preclearance activity, which may not be economically feasible if there is not continuous product going through the irradiator to justify the expense.

5. Implementation of the "Systems Approach" for Importation

As an alternative to having to export product from a pest-free zone or requiring irradiation of the product prior to shipment, APHIS now allows importation if the products are produced and processed according to a "systems approach" designed to mitigate the pest risk associated with importation. Under the "systems approach," a series of compliance procedures or steps are required, which in their totality, reduce pest risks and provide sufficient quarantine security for U.S. growers of a particular commodity. These steps may include certifying orchards from where fruit can originate, field surveys, trapping and field bait treatments, field sanitation practices, inspecting the fruit, and fruit cutting for certain pests. In many cases, the systems approach demands the construction and maintenance of greenhouses (to grow the horticultural product) that serve as pest exclusionary structures. The systems approach is intended to allow the importation of certain products, while continuing to provide protection against the introduction of quarantine pests into the United States.

Both exporting countries and domestic producers can make claims that may slow down or accelerate the approval process, but sound science wins out at the end of day in APHIS decision-

[33] 7 C.F.R. 319.56-5

making, as it should. For example, if a domestic industry challenges an APHIS pest risk assessment, it usually results in APHIS going back and amending elements of its systems approach to further eliminate opportunities for new pest introduction into the United States.

A major problem is that most AGOA countries do not have the infrastructure or other capabilities necessary to implement a systems approach on the ground. This means that after obtaining U.S. import approval for a particular product, a number of countries will not be able to actually export product to the U.S., since they are unable to implement the APHIS proposed systems approach. Countries cannot work from a regional approach e.g. East African Community because the specific location where the product is grown, harvested and shipped must still be able to implement the APHIS systems approach, which requires unique mitigation measures for the particular product. However, the regional entity can assist in the PRA process and more generally in providing transportation infrastructure, etc.

6. Preclearance of Horticultural Product Exports

For risk mitigation, countries sometimes implement preclearance inspections, which involve treatments and/or other mitigation measures conducted in exporting countries in conjunction with APHIS International Services under the direct supervision of APHIS personnel in accordance with phytosanitary procedures specified by APHIS. Preclearance activities are designed to identify and/or mitigate the risk of pest introductions through action taken in foreign countries. APHIS personnel conduct inspections of plant products, oversee the packing facilities and conduct field inspections of plant products. Integrity checks to ensure compliance with APHIS guidelines may also be conducted at the U.S. port of entry, but preclearance may cause U.S. Customs and Border Protection to not inspect the product at entry to the United States.

Unfortunately, preclearance has been oversold to developing countries as a means to avoid time-consuming inspections at the U.S. port of entry. This is evidenced by the fact that no AGOA countries other than South Africa have been able to afford the costs of implementation and maintenance. Preclearance is costly, since the exporting country needs to pay for the entire expense associated with having an APHIS inspection official come to the country on a seasonal basis for a period of time that can range from one to four months per year. In the case of preclearance of citrus exports from South Africa, a Foreign Service national is employed to supervise the preclearance operations.

Otherwise, only well-developed exporting countries, such as Chile, who export large volumes of fruits and vegetables are able to get the cost of preclearance down to a competitive rate (i.e., as low as 10 cents a box). To facilitate exports, some countries voluntarily establish preclearance programs and in other cases, treatment in the country of origin is required prior to export. In the case of South Africa, the highly destructive false coddling moth was found in a citrus shipment, which called for a complete preclearance program with on-the-ground field and packinghouse inspections as well as cold treatment in route to the U.S.

B. USDA Rulemaking Prior to Import Approval of Fruits and Vegetables

The rulemaking process for fruit and vegetable import approvals is initiated by APHIS advancing a particular import request as a priority. Under the Administrative Procedures Act (APA)[34] provisions, agencies including APHIS are required to publish in the Federal Register any substantive rules of general applicability. A proposed rule is prepared by APHIS administrative rule writers, which proposes to add, change, or delete existing regulatory requirements for the potential product import. This process relies on the availability of APHIS administrative rule writers who are also responsible for animal health and other issues that compete for their time.

The Office of Management and Budget (OMB) reviews all rulemaking actions that are deemed "significant." Under the APA, APHIS and other federal agencies must provide the public the opportunity to submit written comments for consideration by APHIS.[35] After reviewing and taking into account the submitted comments, APHIS prepares a final rule for publication. USDA's Office of General Counsel also reviews proposed and final rules prior to issuance, and sometimes the White House may have an interest in the regulation, which can lengthen the import approval process. Following these reviews, the final rule is published in the Federal Register.

Depending on the risk management measures required, either "rulemaking" or a "notice-based process is undertaken by APHIS. The rulemaking process is significantly longer and requires additional reviews and clearances than the notice-based approach.[36]

1. Normal Rulemaking Process

If there is a substantial health risk presented by importation of a particular product, the exporting country is historically obligated to go through the normal rulemaking process. When rulemaking involves highly controversial or sensitive imports, USDA goes through the additional step of issuing an advance notice of public rulemaking, which takes much more time to complete. Otherwise, the public aspect of USDA's normal rulemaking process begins with a 60-day public comment period on a proposed rule that includes a PRA, which is published in the Federal Register. APHIS then reviews the comments received and may adjust the PRA accordingly before publishing a final rule with a target date for allowing importation. In cases where there is little or no controversy, the final rule may be issued without delay.

"Significant" rules take longer because more analyses are required, which are usually fairly detailed and have a longer clearance process. APHIS estimates that the normal rulemaking process takes up to two years if the rule is "not significant" from the time of the initial import request to final publication, but the typical time for rulemaking is up to three years if it is "significant."[37] In some cases the import approval process can extend much longer, and the prime example is Mexican avocados, where ultimately it took over 10 years for Mexico to obtain

[34] 5 U.S.C. 552
[35] 5 U.S.C. 553
[36] Discussion with APHIS staff.
[37] *Id.*

the ability to ship Hass avocados to the entire U.S market throughout the year. Similarly, it took Senegal 7 ½ years to gain APHIS market access approval to ship white asparagus to the U.S.

In instances where a commodity has fewer pests of concern, a PRA by itself could be completed in a matter of months. However, if a prospective exporting country delays its responses to APHIS, several months may be added to the approval process. Once the initial bilateral consultations are completed, APHIS has to develop functional risk mitigation measures, which can be a lengthy process, sometimes extending for years, since it is a function of available mitigation and the plant health capacity of the exporting country. In total, the entire import approval process can take years, especially if there are unexpected developments, such as the last minute interception of a new pest that has not previously been addressed, or if there is domestic political pressure against approval.

2. Notice-Based Streamlined Approach for Certain Fruit and Vegetable Imports

USDA took steps to expedite the import approval process for fruits and vegetables when it issued its Q56 regulations on July 18, 2007, which streamlined the approval process for importing fruits and vegetables, including those from Africa. APHIS developed its new "notice-based" approach to shorten the federal rule-making process for products. Indeed, this option has led to significantly reduced import approval waiting periods for the particular products entering the United States under this approach, while still providing pest risk assessments for public comment. Blueberries from South Africa and baby carrots from Ghana are two examples of products that were fast-tracked under the notice approach.

The notice-based approach provides the following benefits.

> "While this new process continues to provide stringent protections for U.S. agriculture, it employs notices rather than lengthier rulemaking to solicit public involvement in the process. It is a less time-consuming approach that allows USDA plant health specialists to focus on more complex domestic and import issues. Under the new process, a commodity becomes eligible if the risk analysis demonstrates that it can be brought safely into the United States subject to one or more of the five designated phytosanitary measures. A notice announcing the availability of the pest risk analysis then is published in the *Federal Register* with the opportunity for public comment. After the comment period ends, all comments are considered and if appropriate, a notice is published in the *Federal Register* announcing that USDA will begin issuing import permits for the commodity."[38]

The notice-based process for eligible commodities offers a much-needed alternative to going through the formal rulemaking-based process. However, as with the rule-making based process, a PRA must first be conducted for new fruits or vegetables considered for importation. If the PRA shows that the commodity's risk can be sufficiently mitigated by appropriate phytosanitary measures, a notice announcing the availability of the PRA is published in the Federal Register to provide a 60-day public comment period. Barring substantive comments that disprove the

[38] USDA Allows Sweet Cherries from Australia Under Streamlined Process, APHIS News Release (February 4, 2008).

findings of the PRA, a notice is published to announce that APHIS will issue import permits for the commodity."[39]

A commodity's pest risk must be sufficiently mitigated by one or more of the following five designated phytosanitary measures to be eligible for approval under the notice-based process:

- port-of-entry inspection;
- limiting entry to commercial shipments only;
- use of approved postharvest treatment;
- a phytosanitary certificate accompanying the commodity, attesting that it originated from pest-free area; or
- a phytosanitary certificate accompanying the commodity, attesting that it is free from a specific pest or pests.[40]

"Imports that require more complex risk-mitigation methods continue to be subject to the full rulemaking process."[41] If all five of the designated phytosanitary measures can be met, the notice-based streamlined approval process for final import approval can move as quickly as one year, if the exporting country is timely in its responses and there is no U.S. industry opposition. For this to happen, CPHST would need to complete its PRA in two months after the import request, and APHIS would have to develop its management and mitigation plan and the exporting country would need to respond in about one month, followed by an APHIS public notice with a 60-day comment period, and then notice of the final rule after reviewing the comments.

This expedited time frame is in contrast to the two to five-year period that APHIS has taken to evaluate and approve new import requests under the rulemaking-based system. If exporting countries are slow in responding to APHIS and if U.S. industry challenges the import request, the actual time frame for import approvals under the normal rulemaking process takes three years on average, as compared to the notice-based streamlined approach that takes closer to 18 months on average. For controversial products like avocados, citrus or tomatoes, where there is strong domestic industry resistance to imports, it can take additional years for market access to occur. On the other hand, if the import commodity is a tropical fruit or some other fruit or vegetable not grown in the United States, and which is not a host for serious pests, the time schedule for APHIS approval is fairly predictable.

Since introduction of the new notice-based process in July 2007, eight commodities have been approved by APHIS for importation from Africa, as shown in the following table:

[39] *Id.*
[40] *Id.*
[41] *Id.*

Table 1. AGOA Country Import Approvals under the Notice-Based Process

Country	Commodity	Request Received
Ghana	Eggplant	Dec. 2003
Ghana	Okra	Dec. 2003
Ghana	Peppers (bell & chili)	Dec. 2003
Kenya	Baby carrots	March 2005
Kenya	Baby corn	March 2005
Senegal	White asparagus	June 2001
South Africa	Blueberries	Feb. 2007
South Africa	Ribes (currants & gooseberries)	Feb. 2007

In fact, USDA published a final rule establishing a notice-based process for approving the importation of peeled baby carrots and baby corn from Kenya, eggplant and peppers from Ghana, and Ribes from South Africa, on July 18, 2007 (the same month the new process became effective).[42] The PRAs completed for these commodities had concluded that they could "be safely imported into the United States subject to one or more of the five designated phytosanitary measures, and therefore…eligible for the new notice-based approval process"[43] as outlined above.

After implementing its notice-based Q56 regulations, APHIS launched a new, searchable database, known as the "fruits and vegetables import requirement" (i.e., FAVIR),[44] which provides prospective exporters with access to regulations and information – by commodity or country – pertaining to the importation of fruits and vegetables into the United States.

C. APHIS Regulations on Nursery Stock and Other Plant Product Imports

Live plants, including nursery stock, are a significant pathway of plant pest and disease introduction. Such introductions are thought to have increased as the volume of plant imports have grown. APHIS currently tries to prevent these introductions through inspection at ports combined with PRAs to identify protective measures for particular species of imported plants.

APHIS Q37 "plants for planting" regulations identify a lengthy list of "articles from…designated countries and localities" that are prohibited "from being imported or offered for entry into the United States…"[45] The APHIS Q37 list of prohibited articles range from hibiscus from Africa to akee from Nigeria, since plant pests exist in each of these places that are capable of being transported with the prohibited article.

However, it is widely agreed that this approach is not adequately preventing the accidental import of plant pests. APHIS has proposed to amend its Q37 regulations that currently work differently than the Q56 regulations for fruits and vegetables, since all nursery products are

[42] USDA APHIS News Release (July 24, 2007).
[43] *Id.*
[44] USDA APHIS website: https://www.aphis.usda.gov/favir
[45] 7 C.F.R. 319.37-2(a)

eligible for import into the United States unless they are prohibited. In contrast, Q56 fruit and vegetable regulations prohibit all imports unless they are on an approved list of products eligible for export to the United States.

In situations where scientific evidence indicates that a plant is potentially a quarantine pest plant or quarantine pest host, the plant cannot be imported into the United States until a PRA is completed and appropriate mitigation measures are implemented. Pending APHIS rulemaking would move Q37 rulemaking for nursery stock products closer to the Q56 model for fruits and vegetables.

APHIS created a "Plants for Planting Review Group" that has completed a risk ranking of all nursery stock from previous years. This group considers imports on a pathway-by-pathway basis, with a pathway being determined by the genus of the plant and its country of origin. Among other things, the group takes into account the frequency of actionable pest interceptions when ranking the risks. As a result of this ranking, APHIS sends letters to the countries of origin for the riskiest imports, requesting that the appropriate NPPO take necessary steps to ensure that its country's exports are free of pests. If an NPPO fails to satisfactorily reduce the risks associated with its exports, APHIS reserves the right to take more restrictive action.

D. APHIS Priority Setting

It is indisputable that PPQ's agenda is crowded with import and export requests and myriad other demands on APHIS resources. "Legitimate yet often competing demands originate from within APHIS and USDA, Congress, the Executive Office of the President, other federal agencies, states, agricultural producers, exporters and importers, processors and distributors, the environment community, academia, and the general public."[46] To manage the volume of requests, given limited APHIS resources, the agency must evaluate each request, and develop a priority list involving input from multiples staffs, coordination of resources, and consideration of political concerns. The status of any one request is not guaranteed a specific slot in terms of date of completion, since the issues addressed by APHIS PPQ are not static in nature.[47]

Each market access request must also compete with the limited resources of PPQ and the interests of each of its work units, whether dealing with a trade-oriented issue or responding to domestic plant health concerns. PPQ's responsibility to its stakeholders to resolve U.S. export and domestic quarantine issues always takes precedence over requests of foreign trading partners. In fact, APHIS is capable of only publishing a certain number of regulations per year.

At the beginning of 2010, APHIS was considering more than 250 market access requests from more than 50 countries, and these are in addition to numerous regulatory changes for domestic plant quarantine concerns.[48] Of the 120 PRAs in-process on June 30, 2009 (see Annex G), the U.S. has trade agreements with 41 of these countries who are seeking approval to import certain commodities. Another 14 in-process PRA's involve Colombia, Panama, and Korea, which are

[46] National Plant Board Report, p. 8.
[47] Discussion with APHIS staff.
[48] *Id.*

the three trade agreements now pending approval by Congress. Furthermore, an additional 22 pending PRAs involve African countries that are eligible for preferential treatment under AGOA.

There appears to be an APHIS priority for considering import requests from countries that have completed trade agreements with the United States, since the purpose of such agreements is to enhance mutual trade. Moving an import request to the "front of the queue" for consideration does not necessarily mean that countries implementing a new trade agreement are in violation of an SPS Agreement mandate that import approvals are to be undertaken purely on scientific grounds. As an agency with limited staff resources, APHIS may be directed to focus its efforts on import requests from countries that offer a reciprocal market access opportunity. For example, if Australia was seeking APHIS approval to export its apples to the U.S., and the U.S. apple industry was also seeking approval to export apples to Australia, such a request would have priority over another APHIS import request. Such requests would easily be given priority over requests from AGOA countries that are unlikely to ever comply with the risk mitigation requirements necessary to address known pest incidence.

Even though APHIS may give some priority on horticultural product import approvals to AGOA countries with trade preferences, the U.S. government is just as likely to try to accommodate the needs of countries that are of geopolitical interest to the United States (even when there is no trade agreement relationship). For example, APHIS is currently evaluating country requests to import apples from China, pomegranates from India and Turkey, mangos from Pakistan, and lettuce from Egypt.

III. AGOA Country Import Approvals

In handling requests for approval of horticultural product imports, the process is most effective and expeditious when there is a high degree of communication between APHIS and the prospective exporting country. At any stage of the process, time delays in responding to requests for information can impede progress in gaining import approval. Therefore, it is critical that there be a good working relationship between APHIS and its counterpart in the respective AGOA country.

A. Overview of APHIS Import Requests

The following table outlines the status of several – but not all – of the AGOA country import approval requests to APHIS since enactment of this legislation in 2001. The far right column in the Table 2 below indicates whether the products are being exported to Europe.

Table 2. Status of Selected AGOA Country Fruit & Vegetable APHIS Import Requests

Country/ Commodity	Import Request Received	APHIS PRA & Mitigation	Country Response	Import Approval Status	APHIS Process	Export to EU
East African Region						
Passion Fruit						
Kenya	March 2005			PRA under review		Yes
Uganda	May 2005			PRA under review		Yes
ECOWAS*						
Mango						
Ghana	2005 or earlier			Request on hold		Yes
Senegal	2005 or earlier			Request on hold		Yes
Papaya						
Ghana	Dec. 2003			Request on hold		Yes
Tomatoes						
Ghana	2003 or earlier			Request on hold		
Senegal	2003 or earlier			Request on hold		Yes
Ghana						
Eggplant	Dec. 2003	March 2006 & March 2007		Access granted Oct. 2007 if the eggplant is irradiated Ghana then asked if systems approach was an option	Notice	Yes
Okra	Dec. 2003	Jan. 2007	June 2007	Access granted Oct. 2007	Notice	
Peppers-bell & chili	Dec. 2003	March 2007	June 2007	Access granted Oct. 2007 if the peppers are irradiated Ghana then asked if a systems approach was an option	Notice	Yes
Kenya						
Avocados	2005			Request on hold		Yes
Beans-green & runner	March 2005		June 2008	In rulemaking		Yes
Carrots-baby	March 2005			Access granted Oct. 2007	Notice	
Corn-baby	March 2005			Access granted Oct. 2007	Notice	
Courgettes	2005			Request on hold		Yes
Eggplant	2005			Request on hold		Yes
Leeks	2005			Request on hold		
Mango	2005			Request on hold		Yes
Okra	2005			Request on hold		
Peas-shelled	March 2005	March 2006		Access granted Oct. 2006	Rulemaking	Yes
Peas-snow & sugar	March 2005			PRA & possible mitigations ready for 2010 consultations		Yes
Peppers-chili	March 2005			PRA & possible mitigations ready for 2010 consultations		Yes
Raspberries	2005			Request on hold		
Madagascar						
Litchi	2005 or earlier			Request on hold		Yes
Namibia						
Grapes	2000 or earlier			Access granted Oct. 2006	Rulemaking	

Senegal						
Asparagus-white	June 2001			Access granted Dec. 2008	Notice	
Melons	2005 or earlier			Request on hold		Yes
Peppers-bell	2001			Request on hold		Yes
Strawberries	2001			Info needed to complete PRA		
South Africa^						
Blueberries		Feb. 2007		Access granted Sept. 2007 Treatment granted thru rulemaking	Notice	
Litchi				PRA under review		
Ribes-currants & gooseberries		Feb. 2007		Access granted Oct. 2007	Notice	
Persimmon				PRA under review		
Stone Fruit				Completed PRA & risk mitigation documents	Notice	
Uganda						
Avocados	May 2003			Request on hold		
Bananas	March 2003			Request on hold		
Plantains	March 2003			Request on hold		Yes
Pineapples	May 2003			Request on hold		
Zambia						
Beans	June 2001		None	Request on hold		Yes
Carrots-baby	June 2001	Nov. 2005	April 2005	Access granted May 2006	Rulemaking	
Corn-baby	June 2001	June 2004	Nov. 2004	Access granted May 2006	Rulemaking	
Courgettes-baby	June 2001	April 2005	June 2005	Access granted Dec. 2008	Rulemaking	Yes
Squash-baby	June 2001	April 2005	June 2005	Access granted Dec. 2008	Rulemaking	Yes
Leeks			None	Request on hold		
Onions			None	Request on hold		
Peas-sugar & snap	June 2001			Request on hold		Yes
Peppers-chili	June 2001			Request on hold		

* APHIS conducted regional PRA for Economic Community of West African States (ECOWAS)
^ South Africa had numerous import requests that are not listed in this table

Notes: 1) Import requests may be on hold because of the need for mitigation of *Bactrocera invadens (Bi)*, which may not be feasible for the exporting country
2) APHIS notice-based treatment is available for products requiring less stringent risk mitigation

Source: USDA APHIS PPQ (June 2010)

In 2005, Kenya requested APHIS import approvals for a number of fruits and vegetables, which it has since prioritized, giving preference to shelled peas, baby corn, baby carrots, passion fruit, green and runner beans, snow and sugar peas, and chili peppers. APHIS plans to begin working on import requests for avocados, courgettes, eggplant, leeks, mangos, okra, and raspberries, but Kenya is well-advised to reconsider its U.S. import efforts on many of these commodities, in the aftermath of Federal Import Quarantine Order issued on December 29, 2008, which prevents the entry of *Bactrocera invadens* (*Bi*) into the U.S. Most of these commodities have been confirmed as host for this invasive fruit fly species, which poses a serious threat to many fruits and vegetables grown in the U.S. Host products from countries such as Kenya that have this pest are only allowed entry into the U.S. upon meeting one of the following conditions: 1) production in an APHIS recognized pest free area, 2) production under a systems approach, or 3) export after

receiving an APHIS approved treatment. Given these conditions for U.S. import, Kenya will want to determine its priority commodities for import approval, to avoid going through the process of providing APHIS the information needed to complete the PRAs, when such commodity exports are unlikely.

Import requests may be abandoned by the exporting country at any point in the APHIS approval process after it becomes clear that the country simply does not have the resources available to complete a PRA or meet the mitigation requirements once the PRA is completed. If APHIS requires that the commodity must originate from a pest free area or the commodity must be irradiated, or a systems approach is not appropriate for the particular commodity, the import request is placed on hold because the exporting country is unable to comply with the APHIS requirements.

Additionally, a country may not appear on a list of eligible countries for export to the U.S. due to its decision to not proceed with the import approval process after assessing that it could not compete in the U.S. market, rather than because of the inability to meet phytosanitary standards. Of course, in many instances, countries do have real plant health issues, either with the presence of quarantine pests or a lack of technical capacity to mitigate the pest risk.

The import approval process is also affected by the need for changing measures that are developed to address real or perceived plant health threats. Unfortunately, identification of new pests and diseases, and increased import volumes from new or less proven sources, can strain the import approval capacity of APHIS and its counterpart agencies in other countries.

Putting the import request on hold is what happened in the case of the request for mango from Ghana and Senegal because of the inability to comply with these requirements. Ghana has an irradiator, but it is not functional and no other AGOA country has irradiation facilities. It should be noted that India sought approval to export its mango to the U.S. for more than a decade, but only after it irradiated the mango was it able to ship this commodity to the U.S.

It is also noteworthy that many, if not most of the import requests received from AGOA countries were submitted before publication of an APHIS final rule published in the Federal Register on May 30, 2006, that established the prerequisite information required to initiate an import request.[49] This means that several post-AGOA enactment requests did not include the information that APHIS deemed necessary to efficiently process the import requests, with the result that the process for approving AGOA requests and others submitted before this date was much slower. Now that the requirements for submitting requests are clearly set forth in an APHIS regulations and the notice-based approval process is available, future APHIS approvals should be less time consuming. Of course, the prevalence of pests requiring mitigation measures that are not feasible will still keep certain products from being exported to the U.S.

B. Comparison of EU and U.S. Import Regimes

European Commission import procedures require that certain plants and plant product imports be accompanied by a phytosanitary certificate issued by the National Plant Protection Organization

[49] 7 C.F.R. 319.5

(NPPO) of the exporting country before they can enter any of the 27 European Union member countries. The phytosanitary certificate verifies that the plant products: 1) have been subject to appropriate inspections; 2) are considered to be free from quarantine harmful organisms and practically free from other harmful organisms; and 3) are considered to conform with the phytosanitary regulations of the importing country.[50] The EU also denies the entry of imports of certain commodities for particular countries according to a list that it maintains.

Upon entry into the EU, horticultural products are subjected to compulsory plant health, identity and documentary checks with a view to ensuring compliance with the EU's general and specific import requirements before being released for circulation within the EU.[51] Although the EU requires that every consignment of product must be meticulously inspected on arrival in the EU, plant health checks may be carried out at a reduced frequency where it can be justified. [52] Any commodity that has had one percent or more of its consignments intercepted (over a three-year period) because of harmful organisms is ineligible for consideration for expedited entry.[53]

In the case of non-compliance at EU import, one or more to the following measures are taken immediately: refusal of entry into the EU of all or part of the consignment; removal of infested produce from the consignment; destruction; imposition of a quarantine period until examination or official test results are available; and in exceptional circumstances, appropriate treatment is undertaken to alleviate the risk of spreading harmful organisms.[54]

According to European Commission officials, the EU is in the process of evaluating its current plant health regime. Among other objectives, the development of a modified regime is aimed at further preventing the introduction into the EU of organisms harmful to plants and their spread within the EU, since some Mediterranean-based EU fruit and vegetable producing countries are starting to express concerns about susceptibility to pests from countries outside the EU. The current plant health regime already allows for "protected zones" within the EU which receive, at the request of EU member countries, special protection against the introduction of one or more harmful organisms. [55] These EU member countries are protected due to the absence of the specified harmful organism or, when the organism is present in the protected zone, it is subject to eradication efforts. A protected zone may comprise an entire country or cover only a part of its territory.[56]

The key difference between the U.S. and EU import regime for fruits, vegetables and cut flowers, is that the U.S. system requires pre-approval and the EU system does not. The U.S. phytosanitary approach also calls for risk mitigation in the host country, since it does not scrutinize horticultural products at the port of entry to the degree carried out by the EU. The EU import system is also based on the fundamental premise of recognizing the phyosanitary standards of the exporting country. This approach makes it easier to export horticultural products to the EU, but there are reasons that make such a system workable. For instance, unlike

[50] European Commission web site: http://www.ec.europa.eu/food/plant/organisms
[51] Guidance Document, Health & Consumer Protection Directorate-General, European Commission, p. 16.
[52] EC web site.
[53] *Id.*
[54] *Id.*
[55] *Id.*
[56] *Id.*

the U.S., some species of fruit flies are already present in EU countries. Since the U.S. has tropical climates in Florida, South Texas and Southern California and significant citrus and other fruit growing industries are important to these states, the introduction of fruit flies is a greater concern in the U.S. than it is in the EU. As a significant producer and exporter of citrus products, the U.S. views its more cautious treatment of produce imports as justified, so it is not surprising that AGOA and other countries find it more difficult to ship produce to the U.S. than to the EU.

Essentially all fruits and vegetables for which AGOA countries are seeking U.S. market access are currently being exported to the EU, but in many cases these AGOA countries may only be shipping to certain countries within the EU where pest introduction is not a concern.
Although the EU has a more open approach to fruit and vegetable imports, countries such as Spain, who export clementines to the U.S., are expressing concern about the importation of fruits from African countries (with known fruit fly pests) into the EU. For the time being, African countries are generally able to ship most fruits and vegetables to the EU, since pest introduction has not the same concern level in EU as it is in the United States. However, in addition to the current review of its plant health regime, the EU is expected to consider new import restrictions in light of *Bi* fruit fly infestation, which could ultimately jeopardize the ability of Spain to ship its citrus to the United States.

The EU has opened its borders among its 27 member states, which allows imported product to move freely within its internal market. Similarly, the 50 U.S. states do not have border controls, so once a horticultural product enters the U.S., APHIS has a limited capacity to restrict imports to a defined areas within the U.S. that do not present any plant health protection concerns. In the case of Hass avocado imports from Mexico, APHIS first allowed entry into 19 Northeastern states with colder climates and gradually expanded the export area to the entire U.S., as a way to minimize the risk of pest introduction in the California avocado growing area.

A wide range of horticultural products are more easily exported from Africa to Europe because EU import procedures only require that plants and plant products be accompanied by a phytosanitary certificate issued by the NPPO of the exporting country. Upon entry into the EU, horticultural products are subjected to compulsory plant health, identity and documentary checks with a view to ensuring compliance with the EU's general and specific import requirements before being released for circulation within the EU.[57]

C. APHIS Treatment of Horticultural Product Imports from AGOA Countries

A number of considerations come into play in determining how to assist AGOA countries in benefiting from enhanced trade flows in horticultural products, which include "nursery stock, plants, roots, bulbs, seeds, and other plant products" (also called "plants for planting");[58] fruits, vegetables and nuts;[59] and cut flowers[60], which are subject to different import restrictions under separate regulations administered by APHIS.

[57] Guidance Document, Health & Consumer Protection Directorate-General, European Commission, p. 16.
[58] 7 C.F.R. 319.37 through 319.37-14
[59] 7 C.F.R. 319.56-1 through 319.56.48
[60] 7 C.F.R. 319.74-1 through 319.74-4

1. Fruits and Vegetables

In 2008, the leading AGOA country fruit exporters to the U.S. were South Africa with exports valued at $68.2 million, Kenya at $3.8 million, and Swaziland at $1.6 million. Meanwhile, the leading AGOA vegetable exporters to the U.S. in 2008 were Ghana with exports valued at $4.6 million, South Africa at $3.8 million, Malawi at $3.5 million, and Ethiopia at $1.4 million. The most significant AGOA fruit and vegetable exports are shown in the following table.

Table 3. Value of AGOA Country Fruit & Vegetable Exports to the U.S. ($ millions)

Fruit & Vegetable Product	1999	2008
Oranges-Fresh	$0.9	$33.6
Clementines	0	$5.9
Grapes-Dried	$1.2	$5.8
Lemon Juice-Boxed*	0	$5.5
Apple Juice-Concentrate*	0	$4.1
Yams-Fresh	$0.8	$3.5
Pimento	0	$3
Pineapple Juice*	0	$2.5
Lemon Juice-Frozen*	0	$2.3
Beans-Dried	0	$1.9
Lentils-Dried	0	$1.8
Avocados-Prepared	$0.5	$1.7
Peas-Dried	$0.1	$1.4

*Fruit juices are not considered horticultural products by APHIS, since pest risk is mitigated during processing

Garden peas from Kenya as well as baby squash and courgettes from Zambia were some of the first vegetables considered for import approval after enactment of the AGOA trade preference scheme. In the case of Kenya, FAS sent three staff persons to the country to provide technical assistance to help advance its plant protection framework, but unfortunately, this aid has not led to new exports. In the last two years, okra and peppers from Ghana; baby carrots and baby corn from Kenya; and white asparagus from Senegal have been aided by expedited APHIS procedures for approval to access the U.S. market, but it remains to be seen if these import approvals lead to exports to the U.S. To date, exports of vegetables to the U.S. from countries such as Senegal and Zambia have yet to materialize, even though both countries are able to ship French beans to the EU (see Annex H). Trade preferences combined with streamlined APHIS import procedures have made it somewhat easier for AGOA countries to gain access to the United States, but the economics of shipping such products to the U.S. is a completely different hurdle.

Many sub-Saharan African countries produce bananas, but so do several other countries, so it is not unusual for world overall supply to drive down prices. Excess supply puts downward pressure on wholesale market prices and profitability. Profitability is also affected by the mode of transportation, whether shipments are by air or sea. For example, a variety of mango is transported to the EU by sea, while another variety of mango from Burkina Faso and Senegal is transported by air.

Given the difficulties experienced in transport of papaya caused by the delicacy of the product, the sometimes small returns on investment means that many growers choose not to grow it for export.[61] Papaya must be harvested when ripe and exports have long run up against problems of keeping…as sea transport takes between two and three weeks in most cases…"[62] However, a number of "recent innovations in the conservation of fresh fruits have resulted in renewed interested in sea freight for papaya…"[63] Although the U.S. is the world's largest importer of papaya, the longer shipping distances and the resultant lack of profitability may help explain why the U.S. does not import papaya from AGOA countries.

2. Tree Nuts

In 2009, the leading edible tree nut exports from AGOA countries to the U.S. were shelled macadamia nuts valued at $19.5 million and shelled cashews valued at $14 million. The leading AGOA tree nut exporting countries to the U.S. in 2009 were South Africa valued at $15.9 million, Tanzania at $5.8 million, and Kenya at $5 million.

Dried or processed tree nut imports are subject to the same APHIS import requirements as dried fruits and vegetables (including dried beans and peas),[64] and of course the same food safety requirements. Dried or processed beans, peas, and tree nuts may generally be imported into the U.S. "without permit, phytosanitary certificate, or other compliance."[65] Tree nuts include cashews, macadamia nuts, kola nuts, almonds, pecans, and coconuts.

Cashew production in sub-Saharan Africa is highly dispersed, with more than 5 million small-scale farmers in more than a dozen countries producing cashews.[66] "In the largest producing countries, up to two-thirds of the population may depend on cashews for their livelihood, and holdings can range from a few trees to a few acres per farmer. In some countries, such as Mozambique, cashew production is an important component of the Gross National Product, with taxes on export earnings providing "an important revenue stream for the national government."[67] "However, in most of Africa, tree productivity is less than one-third of its potential; and a dearth of processing facilities allows producers access to only the lowest-value portion of the production chain – raw in-shell nuts, which garner less than 10 percent of the value of the shelled kernels." The most productive age span for a cashew tree is 5 to 25 years, but many trees in sub-Saharan Africa are over 40 years old, which contributes to low productivity. "Furthermore, farmers generally do not use fertilizer or pest control products, tree pruning is rare, and nuts are collected for harvest after they have fallen to the ground."[68]

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[61] FruiTrop, CIRAD, No. 130 (January 2006), p. 3.
[62] *Id.*
[63] *Id.*
[64] 7 C.F.R. 319.56-11
[65] *Id.* Less stringent APHIS import requirements for dried and processed products is a factor in explaining why the U.S. imports significant quantities of tree nuts, dried beans, and dried peas from AGOA countries compared with fresh fruits and vegetables.
[66] ITC, p. 2-3.
[67] *Id.*
[68] *Id.*

Sub-Saharan agricultural "producers account for approximately one-quarter of the value of global trade in cashews, mainly in the unprocessed, in-shell form."[69] "Even though cashew-processing (i.e. shelling) industries have traditionally been small or nonexistent in most African countries, the "increase in exports of shelled cashews, although relatively small, reflects national and international efforts to promote cashew processing" in sub-Saharan Africa in order to capture more of the downstream value of the domestic cashew industry.[70] The U.S. International Trade Commission (ITC) determined that the coordinated support effort by international development agencies, nongovernmental organizations, foreign governments and global traders in providing marketing assistance, and coordinating public and private investment initiatives led to increased exports of cashews, as did strong global demand.

This would represent an improvement over the historical approach of India to Africa. While it is helpful that Indian interests have invested in the African nut sector, they have typically shipped the raw nuts, so the labor involved in the further processing could provide jobs in India.

3. Cut Flowers

APHIS cut flower regulations only require inspection "at the port of first arrival," a phytosanitary certificate (or equivalent documentation issued by the NPPO of the country in which the production site is located), and fumigation for certain insects.[71] Cut flowers and foliage that are found to have certain plant pests "may be treated with radiation."[72] "If an inspector finds that imported cut flowers are so infested with a plant pest or infected with disease" and cannot be cleaned or treated, "the entire lot may be refused entry into the United States."[73]

"Cut flowers are an internationally traded, high-value commodity" with world-wide retail trade "worth over $25 billion annually."[74] Even though flowers are highly perishable, certain varieties are traded globally in large volumes, with 20 to 30 types of cut flowers accounting for the vast majority of international sales.[75] Over time, improved air transport and special packaging…have enhanced trade in cut flowers."[76]

A successful cut flower operation is dependent upon trained labor for crop management, picking, grading, bunching and packing. Other essentials include adequate cool room capacity, reliable supplies of quality planting stock, constant supplies of packaging materials, post-harvest dis-infestation facilities (since most export destinations, including the U.S., have no tolerance for pests and diseases), refrigerated transport to market, and location near an airport. To establish a new farm requires technical advice on production, postharvest treatment (exported flowers may be in transit and at sea for up to five days before reaching the U.S. market or they be transported

[69] ITC, p. 2-1.
[70] ITC, p. 2-3.
[71] 7 C.F.R. 319.74-2
[72] 7 C.F.R. 319.74-2(e)
[73] 7 C.F.R. 319.74-2(f).
[74] Sub-Saharan Africa: Factors Affecting Trade Patterns of Selected Industries, First Annual Report, United States International Trade Commission, Investigation No. 332-477, USITC Publication 3914 (April 2007), p. 2-30.
[75] *Id.*
[76] *Id.*

much faster by air), financial, marketing and legal aspects. A high initial capital flow and commitment for a number of years before returns particular products become commercially viable are fundamental to success in this specialist, capital intensive business. Market research is also crucial, so there is a detailed understanding of the key markets to exploit sales opportunities. Even though the flower market has traditionally been served by a number of small operations, it appears the future lies in combining sales to take advantage of economies of scale as well as consistency of supply.

"Floriculture, and especially cut flowers, is proving to be a lucrative trade prospect for many African countries."[77] Floriculture is a sub-set of horticulture that is a growing and profitable export segment. Kenya was one the first African countries to have successfully organized domestic institutions to promote its cut flowers in European and other markets.[78] Cut flowers certainly offer significant export opportunities for AGOA countries "given their climates, abundant availability of land and labor and counter-cyclical seasonality to the northern markets."[79] "The widespread use of air-freight transport, together with increases in the use of logistical practices such as cold-chain management, have allowed a shift in production to countries that enjoy competitive advantages" in the basic resources of land, labor and climate.[80]

The relatively small amount of U.S. cut flower imports from AGOA countries have included roses, carnations, chrysanthemums, tulips, lilies and anthuriums, with Kenya, South Africa, Uganda and Ethiopia being the chief exporters.[81] Since cut flowers are highly perishable, such exports require timely deliveries. Obstacles to increased trade include high shipping costs, lack of direct flights, and the need to sell directly "to the United States instead of through traditional marketing and distribution networks in Europe."[82]

According to the ITC, "upgraded airports, roads, and cold storage facilities" have contributed to increased sub-Saharan African exports of cut flowers.[83] The ITC also cited the following factors that affect cut flower trade to the U.S. and the EU:

- preferential tariff treatment of exports to the U.S. under AGOA and to the EU under the Cotonou Agreement
- favorable climate, low wages relative to other developing suppliers in Latin America and Asia, and the proximity to the EU market
- favorable investment environment, including infrastructure improvements and duty-free treatment of packaging, seeds, agrochemicals, and other inputs for flower farms in Kenya and Uganda
- a dynamic private sector environment with minimal government interference, which has led to the creation of large and medium scale companies in Kenya that has

[77] Web site: http://www.sadctrade.org/taxonomy/term/6
[78] *Id.*
[79] *Id.*
[80] *Id.*
[81] USTR Report, p. 19.
[82] *Id.*
[83] Sub-Saharan Africa: Factors Affecting Trade Patterns of Selected Industries, p. xiii.

provided stability, technological leadership, a well-trained workforce, and close linkages with European importers

- status as signatory to the International Union for the Protection of New Varieties of Plants provided the Kenyan industry with better access to new and better plant varieties, while increasingly sophisticated technology has improved productivity and the quality of flowers, so local propagators now supply a large portion of the planting material needed by Kenyan producers
- USAID support for a cold storage facility at the airport in Uganda and subsequent shipping improvements have reduced freight rates and improved the quality of Uganda flowers
- USAID also supported the development of an active industry export association and provided technical support to facilitate new exports to the U.S. under AGOA

Much of the world's cut flower trade goes through the Netherland's auction house, and even if flowers are purchased for the U.S. market, they can be rejected if they are found to have pests upon arrival in the United States.

4. Plants for Planting

A few AGOA countries, including Kenya, Ethiopia and Uganda, have developed an expanding "plants for planting" export trade to the United States. Plants for planting are subject to APHIS Q37 regulations, which require a phytosanitary certificate and inspection at port of entry, with size and age restrictions. Plants for planting imports are not dependent upon the completion of an in-country pest risk analysis prior to import approval, but APHIS is currently undergoing a rule-making process on its plants for planting regulation, which is expected to add new requirements to the import process.

As an example of AGOA country plant exports, Uganda exported 1.5 million pelargonium plants in 28 shipments to the U.S. during the one-year period from October 1, 2008 to September 1, 2009. Pelargonium is a geranium-like plant that has been approved for export from four authorized facilities in Kenya, one facility in Uganda and one facility in Ethiopia, among other authorized facilities in Mexico, Guatemala, Costa Rica, El Salvador and Germany.[84] During this same time period, Kenya shipped 1.8 million pelargonium plants and Ethiopia shipped 19.6 million plants. One shipment of pelargonium from Kenya with 50,200 plants was destroyed because an actionable pest was found during inspection and another shipment of 4,500 plants was destroyed because it did not meet the APHIS Q37 phytosanitary requirements. For this same year, Mexico shipped 26 million pelargonium plants and Guatemala shipped 8 million plants to the United States.

In total, the U.S. currently imports about 25 different plant products from Uganda. Uganda also shipped 724,000 poinsettia plants, 823,000 begonia plants, 824,000 lobilia plants, 1.4 million petunia plants, and 3.3 million calibrachoa plants to the United States during the 2008/2009 marketing year. Ethiopia ships over 100 different plants to the U.S., including 673,000 salvia plants. For this plant, which is recognizable by its spike of red flowers, three shipments totaling

[84] APHIS PPQ web site.

of 40,900 plants had to be fumigated to eliminate a pest, while another four shipments of 49,300 plants had to be destroyed (either as a result of a pest or because the exporter declined to pay for fumigation, which can be costly for a product that is already perishable).

D. Analysis of Specific APHIS Import Requests from AGOA Countries

Part of the APHIS challenge in moving AGOA market access requests forward is the scarcity of information available to complete a PRA, the lengthy timeframe for country responses to APHIS requests or country consultations on PRAs, and the capacity of countries to meet risk mitigation requirements for export to the U.S.[85] These dynamics place additional demands on APHIS staff who must conduct research to obtain information normally provided by foreign NPPOs, and where APHIS must balance its efforts to advance requests for which there is little evidence that its efforts will result in any exports to the U.S. after the import approval process is completed.[86] In many cases, the level of cooperation that APHIS has with the exporting country is the critical factor in the length of time it takes to complete a PRA.

Each of the following import requests are examples of how AGOA country/commodity import requests have been either granted, put on hold, or denied.

1. U.S. Market Access Granted to White Asparagus from Senegal

Senegal took the first step in gaining approval to export white asparagus to the United States by requesting authorization to import in June of 2001, but APHIS did not complete the pest risk assessment until 2007, with market access granted on December 19, 2008. The risk assessment estimated the likelihood and consequences of introducing quarantine pests via the importation of fresh asparagus from Senegal, with the following conclusions:

> "A number of arthopods, nemotodes, bacteria, fungi, and viruses can infect or feed upon the Sengalese asparagus crop. Eight of these arthopods and one fungus are quarantine pests that are likely to remain with asparagus spears during the shipment. Seven pests are highly likely, and two moderately likely to become established in the U.S. Five pests can cause significant adverse economic or environmental impacts; four would have moderate impacts…
>
> It is insufficient to use port-of-entry inspection as the sole mitigation measure safeguarding the U.S. from possible introduction of these pests via imports of asparagus from Senegal. Additional phytosanitary measures are necessary to reduce risk. No-single post-harvest measure is known that can reduce the risk to an acceptable level, but a combination of measures in a systems approach may be feasible."[87]

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[85] Discussion with APHIS PPQ staff.
[86] *Id.*
[87] Importation of Fresh Asparagus (*Asparagus officinalis*) from Senegal into the Continental United States – A Qualitative Pathway-Initiated Risk Assessment, U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine (March 2007), p. 1.

The risk assessment contained an evaluation of the decision history for U.S. importation of asparagus from other African countries after pointing out that asparagus was a new crop to Senegal. Entry of green asparagus from South Africa was denied in 1981, due to no treatment for arthopods and rust diseases, but entry was allowed for fresh, white asparagus harvested before it emerges from the soil.[88] In 2002, entry was allowed for white asparagus shoots, but entry was refused if green was visible on the asparagus.

Among the APHIS conditions for import into the U.S. is the requirement that each consignment of asparagus must be accompanied by a phytosanitary certificate by the plant protection organization of Senegal, with the additional declaration: "The white asparagus in this consignment has been inspected and found free of *Cochliobolus pallescens*." Additionally, if any green color is visible on the product, entry to the U.S. is prohibited.

2. U.S. Market Access Granted to Baby Corn from Zambia

Zambia first initiated import requests for several vegetables in June 2001 (see Table 2). In the case of "USDA authorization to permit importation of fresh, dehusked ears of immature baby corn into the Continental United States", the import request was made by Zambia "through the Chief Executive Officer of the Zambian Export Growers Association."[89] Since entry of this commodity into the U.S. presented "a potential pathway for the introduction of exotic plants"[90], APHIS examined pest interceptions from the Southern African region and identified the quarantine pests likely to follow this pathway as well as pests associated with corn in Zambia, to determine which pests were likely to follow the pathway. As part of this risk assessment, APHIS also evaluated the both the economic and environmental impact, and assigned "cumulative risk ratings for the likelihood of introduction" according to the "quantity of the commodity imported annually and the probability that a pest would survive post-harvest treatment and shipment."[91] The government of Zambia indicated its intention to export approximately 400 metric tons of baby corn to the United States annually. In 2002, one of the two large commercial agricultural companies in Zambia "exported 100 metric tons of baby corn to the United Kingdom."[92]

In January of 2006, 4 1/2 years after Zambia's initial request, APHIS issued a proposed rule "to allow importation in the continental United States."[93] The PRA released in June 2005 "and supporting documents identified one pest of quarantine significance present in Zambia," had determined that a fungus could be introduced into the U.S. via baby corn from Zambia.[94] In May of 2006, APHIS issued a final rule amending its fruit and vegetable regulations to allow the importation of baby corn from Zambia, "subject to inspection at the first port of arrival" and

[88] *Id.* at p. 6.
[89] Importation of Fresh, Dehusked, Immature, Baby Corn, *Zea Mays* L., from Zambia to the Continental United States: A Qualititative, Pathway-Initiated Risk Assessment, USDA APHIS PPQ (June 2005), p. 3.
[90] *Id.* at p. 4.
[91] *Id.* at p. 24.
[92] Final Rule: Importation of Baby Corn and Baby Carrots from Zambia, USDA Animal and Plant Health Inspection Service, Vol. 71, No. 100, Federal Register (May 24, 2006), p. 29768.
[93] Proposed Rule: Importation of Baby Corn and Baby Carrots from Zambia, USDA Animal and Plant Health Inspection Service, Vol. 1, No. 7, Federal Register (January 11, 2006), p. 1700.
[94] *Id.*

"accompanied by a phytosanitary certificate with an additional declaration stating that the commodity has been inspected and found free of the quarantine pest listed on the certificate."[95]

3. U.S. Market Access Granted to Baby Squash and Courgettes from Zambia

Zambia also made an import request for approval of baby squash and baby courgettes in June of 2001, but APHIS did not grant access to the U.S. market until 6 1/2 years later in December 2008 (see Table 2). As a condition of entry, APHIS requires that "both commodities must be produced in accordance with a systems approach that includes requirements for pest exclusion at the production site, fruit fly trapping inside and outside the production site, and pest-excluding packinghouse procedures."[96] A systems approach was necessary, since "the PRA and supporting documents identified 10 pests of quarantine significance present in Zambia that could be introduced into the United States through the importation" of these two commodities.[97] "APHIS…determined that measures beyond standard port-of-entry inspection are required to mitigate the risks posed by these plant pests."[98]

APHIS requires that the two commodities "have to be grown in insect-proof, pest-free greenhouses that are approved jointly by the Zambian NPPO and APHIS."[99] These "greenhouses would also have to be inspected monthly for the 10 quarantine pests of concern by the Zambian NPPO or its approved designee, beginning 2 months before harvest and continuing for the duration of the harvest. …Outside the greenhouse, approved fruit fly traps with an approved protein bait would have to be placed inside a buffer area 500 meters wide around the greenhouse at a density of 1 trap per 10 hectares, with a total of at least 10 traps."[100] Additionally, the commodities "would have to be packed within 24 hours of harvest in a pest-exclusionary packinghouse."[101]

The United States is a major squash producer and importer, with the U.S. producing 430,100 metric tons of squash valued at $229 million in 2006, while imports that year totaled 240,590 metric tons.[102] USDA evaluated three levels of Zambian squash exports to the U.S. of 260 metric tons (i.e. Zambia's average annual global exports of squash), 400 metric tons (i.e. the amount of squash the government of Zambia projected it would export to the U.S.) and 1,000 metric tons, and determined that net U.S. consumer welfare gains would outweigh U.S. producer welfare losses.[103]

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[95] Final Rule: Importation of Baby Corn and Baby Carrots from Zambia, USDA Animal and Plant Health Inspection Service, Vol. 71, No. 100, Federal Register (May 24, 2006), p. 29766.
[96] Final Rule: Importation of Baby Squash and Baby Courgettes from Zambia, USDA Animal and Plant Health Inspection Service, Vol. 73, No. 244, Federal Register (December 18, 2008), p. 76863.
[97] Proposed Rule: Importation of Baby Squash and Baby Courgettes from Zambia, USDA Animal and Plant Health Inspection Service, Vol. 73, No. 96, Federal Register (May 16, 2008), p. 28372.
[98] *Id.*
[99] *Id.* at p. 28373.
[100] *Id.*
[101] *Id.*
[102] APHIS Final Rule on Baby Squash and Baby Courgettes, p. 76865.
[103] *Id.* at pp. 76865-78866.

4. Market Access Request in Process for Tomatoes from ECOWAS Region

APHIS is currently working on a regional PRA on tomatoes from Ghana and Senegal. USDA first received a market access request from Senegal in 2003 or earlier, and conducted a site visit in February 2007 to evaluate the productions areas, transportation conditions and the tomato packing facilities. At the time, CPHST advised Senegal that its recommendation would be for the tomatoes to be grown in screen houses, with fruit fly trapping programs needing to be set up to prove the production sites are fruit fly free zones.

APHIS ended up developing a risk assessment on tomatoes that considered all member countries of the Economic Community of West African States (ECOWAS) "to avoid duplication of work for each country and to ensure that the pest assessment list was comprehensive"[104] and because APHIS was under pressure to assist AGOA countries on a regional basis. The PRA and possible risk mitigation were sent to Senegal and Ghana for consultation on October 2007, since these two countries submitted tomato import requests to APHIS, but no official response has been received from either country.

5. Market Access Request on Hold for Bananas and Plantains from Uganda

APHIS first received a market access request for both bananas and plantains from Uganda in May of 2003. Unfortunately, this request has been placed on hold by APHIS, since Uganda does not currently have the resources available to meet the pest risk mitigation requirements necessary before import to the U.S. There are a number of pests that require mitigation, but the primary concern is *Bactrocera invadens.*

On May 8, 2009, APHIS issued a federal import quarantine order for host materials for this invasive fruit fly species. The purpose of this order is to prevent a harmful plant pests from being introduced in the U.S., only currently admissible products will be allowed entry from countries infested with this pest upon one of three conditions: 1) origination from an APHIS recognized pest-free area within the country; 2) production under a systems approach approved in APHIS Q56 regulations, including production in an APHIS approved pest exclusionary structure; or 3) receipt of an APHIS approved treatment.

E. Additional Import Requirements of FDA and AMS

In addition to APHIS, FDA and USDA's Agricultural Marketing Service (AMS) play a role in regards to fruit and vegetable imports. "Importers can import foods into the United States without prior sanction by FDA, as long as the facilities that produce, store, or otherwise handle the products are registered with the FDA, and prior notice of incoming shipments is provided to FDA."[105] Although imported food products are potentially subject to FDA inspection when offered for import at U.S. ports of entry, the reality is that FDA's 500 inspectors will only able to inspect less than one percent of the nearly 20 million shipments of food, devices, drugs and

[104] Information provided by APHIS PPQ staff.
[105] FDA web site: http://www.fda.gov/Food/International/Activities

cosmetics that will enter the U.S. this year from more than 300,000 foreign facilities based in more than 150 different countries.[106]

In response to food safety concerns associated with outbreaks, recalls and other factors, FDA officials have said the agency "is planning to conduct 'fresh produce sampling blitzes' of foreign and domestic products, chase down positive results from a USDA survey, step up inspections and write mandatory produce safety regulations,"[107] but FDA cannot inspect its way to food safety. FDA's current limited capability of testing and inspecting imports at the border is likely to be enhanced by new food safety legislation that will provide the resources and authorities necessary to overhaul the system, so FDA is able to prevent problems throughout the supply chain. Importing companies will be held responsible for the food supply chain and inspections will extend to foreign facilities, with a focus on produce, seafood and dairy as high risk priorities. Even with FDA plans to increase foreign food facility inspections in fiscal year 2010, the agency only plans to complete 1,000 foreign facility inspections.

Historically, FDA has only played a limited role in regulating imports of fruits and vegetables because of inadequate resources. This is about to change with currently pending House and Senate versions of new food safety legislation both containing new provisions to certify imports and especially produce imports. Approval of new food safety legislation containing additional mandates on imports will mean exporters from AGOA countries will need to comply with a modified U.S. import regime. Imported produce will face not only plant health requirements, but food safety measures. For example, produce imports will need to be accompanied by a certificate.

Presumably, AGOA countries will need training on the new U.S. food safety requirements. Since FDA "has relatively few formal collaborative arrangements with its developing country counterparts,"[108] it should consider negotiating memoranda of understanding or other cooperative agreements with the governments of AGOA countries, to advance food safety capability in these countries.

The House has already approved new food safety legislation (H.R. 2749) and the Senate is currently considering similar legislation (S. 510). This legislation may well create new challenges to AGOA countries to seeking to export fruits and vegetables to the U.S. For example, S. 510 contains a new foreign supplier verification program and import certifications for food imports. The import certification provisions of H.R. 2749 only apply in situations where there is scientific risk-based evidence that government controls are inadequate to ensure the food products is safe, where there is scientific evidence that the food presents a serious adverse health threat, or where the U.S. has an agreement to establish a certification program.

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[106] The Safety of Food and Drug Imports, Presentation of FDA Commissioner Margaret Hamburg to the Center for Strategic & International Studies (February 4, 2010).
[107] FDA Steps Up Sampling of Fresh Produce of U.S., Foreign Suppliers, Food Chemical News, Vol. 51, No. 28 (September 14, 2009), p. 1.
[108] Global Health Interventions for U.S. Food and Drug Safety: A Report of the CSIS Global Health Policy Center, Thomas J. Bollyky (November 2009), p. 11.

A positive feature of S. 510 provides for building the capacity of foreign governments to meet new U.S. food safety requirements. A number of federal agencies are to be included in the development of a plan to help expand the technical, scientific, and regulatory capacity of foreign governments and their respective food industries. S. 510 also directs FDA to establish no less than five foreign offices in order to provide safety related technical assistance to the appropriate foreign entities on FDA-related products. FDA has already opened offices in China, Latin America and Europe, and is pursuing options to locate an office in the Middle East, but there is nothing planned for Africa.

The new food safety legislation will cause FDA's oversight of food imports to go through a complete overhaul to move towards a prevention-based system.[109] Congress recognized that FDA cannot simply weed out unsafe products at ports, and that instead the agency needs to ensure that safety is built into products by relying on foreign food facilities to adopt preventative measures.

The House and Senate bills contain authority to hold U.S.-based importers accountable for effectively demonstrating that safety and compliance with U.S. standards are built into products before they arrive at U.S. ports. To carry out this new authority, FDA will also be increasing its inspection capacity at U.S. entry points and giving its inspectors new tools for targeting that pose the greatest risk of non-compliance. FDA is planning to strengthen the role of third-party certification programs, in which foreign governments or qualified third party agents certify that imported products meet U.S. safety standards. FDA will also be strengthening its oversight of food imports by increasing its own inspection of foreign facilities and making new investments in countries and regions who are major trading partners with the U.S.

S. 510 requires a traceability system for fresh produce, while FDA is directed to conduct a pilot project to explore tracing processed foods. Both the House and Senate bills require frequent food facility inspections and require implementation of Hazard Analysis and Critical Control Points (HACCP) systems. All facilities that manufacture, process, pack or hold foods would need to develop and implement a food safety plan with risk-based preventive controls to address identified hazards and prevent adulteration.

H.R. 2749 requires FDA to "establish a tracing system for food that is for import into the United States. Any such regulations may include "the establishment and maintenance of lot numbers" and "a standardized format for pedigree information." It also requires that certain imported foods be accompanied by a certification that the food complies with specified requirements of the Federal Food, Drug and Cosmetic Act. FDA will require certification for food imported from a particular country or region if certification would assist FDA in determining whether to refuse to admit such article, for a type of food that could pose a significant risk to health, or if the U.S. and the other country have agreed to certify certain articles. Finally, the bill requires FDA to "assess and collect an annual fee for the registration of an importer of food", which will be $500 in 2010. "An article of food imported or offered for import shall be refused admission unless the appropriate unique facility identifiers…are provided for such article."

[109] FDA already operates such a system for all fish and fishery products under the provisions of the Federal, Food, Drug and Cosmetic Act.

The Senate bill contains a foreign supplier verification program, which requires importers to verify the safety of foreign suppliers and imported food. "Verification activities under a foreign supplier verification program…may include monitoring records for shipments, lot-by-lot certification of compliance, annual on-site inspections, checking the hazard analysis and risk-based preventive control plan of the foreign supplier, and periodically testing and sampling shipments." The bill also allows FDA to require certification for high-risk foods, and to deny entry to a food that lacks certification or that is from a foreign facility that has refused U.S. inspectors. It also creates a voluntary qualified importer program in which importers with a certification of safety for their foreign supplier can pay a user-fee for expedited entry into the U.S.

S. 510 also authorizes $825 million in federal appropriations for fiscal year 2010 for FDA's food safety activities and such sums as necessary for fiscal years 2011 through 2014. The bill also directs FDA to increase field staff to no fewer than 3,800 staff members in FY 2010, and adds about 200 staff members each year thereafter to reach 5,000 additional staff in FY 2014.

U.S. marketing standards for fruits and vegetables administered by USDA's AMS are another consideration for AGOA countries seeking to export to the United States. Both the U.S. and EU have long maintained marketing standards concerning the shape and size of certain fruits and vegetables. U.S. Grade Standards provide the produce industry with a uniform language for describing the quality and condition of more than 312 fruit, vegetable and specialty products.

Most AMS grading and auditing services are voluntary and fee-based. Some inspections are driven by national mandatory inspection programs for certain commodities under marketing orders and other federal legislation. Inspections are also performed for import and export programs for some meat, poultry, egg, dairy, and fruit and vegetable products.

Beginning on July 1, 2009, the EU abolished its marketing standards on 16 of the 26 fruits and vegetables that were subject to such requirements, but standards will remain in place for apples, citrus fruit, kiwi fruit, lettuce, peaches and nectarines, pears, strawberries, sweet peppers, table grapes and tomatoes. According to the European Commission, "the aim is to reduce the wastage of edible produce and provide consumer access to a broad a range of fruit and vegetables as possible."[110]

IV. USAID/USDA Technical Assistance for AGOA Countries

Trade capacity building, or trade-related technical assistance, supports U.S. trade policy objectives by enhancing the ability of developing countries to trade.[111] Trade capacity building activities strengthen the agricultural institutions and regulatory systems of other countries, and "encourage compliance with international norms, and foster adoption of U.S. approaches to

[110] FruiTrop, French Agricultural Research Centre for International Development Performance of Tropical Production and Processing Systems Department (CIRAD), Dennis Loeillet, No. 163 (January 2009), p. 1.
[111] FAS' Role in Trade Capacity Building, USDA Foreign Agricultural Service, Fact Sheet (April 2006), p. 1.

agricultural policy and regulatory procedures."[112] Of course, "this leads to economic development and growth, and ultimately greater capacity to purchase U.S. products."[113]

Despite this enlightened recognition of the trade value of capacity building in developing countries, USDA had no presence in Africa to address phytosanitary issues prior to Congressional approval of AGOA in 2000. The AGOA statute calls on the President to target U.S. governmental assistance and trade capacity building in AGOA beneficiary countries, and this mandate includes assistance to both government and non-government entities.[114] AGOA "directs the President to target technical assistance to governments – (1) to liberalize trade and exports; (2) to harmonize laws and regulations with WTO membership; (3) to engage in financial and fiscal restructuring; and (4) to promote greater agribusiness linkages. The Act also includes assistance for developing private sector business associations and networks among U.S. and Sub-Saharan African enterprises."[115]

Non-tariff barriers, including phytosanitary standards "may well explain part of the limited ability of African agricultural exports to exploit the elimination of tariffs. Certainly, it is a common perception in many African countries that phytosanitary "measures in developed countries are used to exclude products from developing countries."[116] In recognition of this situation, USAID and USDA have worked together in a program to evaluate African horticultural products for the U.S. market.[117] Their efforts include "an examination of the phytosanitary risks associated with specific products as well as increasing the familiarity of African players with the commercial requirements of the market."

A. Role of USAID in Trade Capacity Building

USAID "is the main on-the-ground implementer" of trade capacity activities in sub-Saharan Africa.[118] As the chief funder of trade capacity building, USAID provides the resources for specific commodity projects. USAID funds various technical assistance programs throughout Africa aimed at improving trade between the region and the United States.[119] It also funds an international business linkage program called the South African International Business Program, which is implemented by the Corporate Council on Africa. In fiscal year 2007 alone, the U.S. obligated $505 million to trade capacity building activities in sub-Saharan Africa, which brings the cumulative seven-year total for all trade capacity building (not just agriculture-related; beginning in 2001) to $1.6 billion.[120]

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[112] *Id.*
[113] *Id.* at p. 2.
[114] U.S. Trade and Investment Relationship with Sub-Saharan Africa: The African Growth and Opportunity Act, Congressional Research Service, Vivian C. Jones (July 24, 2009), p. 19.
[115] *Id.* at pp. 19-20.
[116] Trade Enhancing Goals for Reducing SPS Barriers, Presented by Deputy Administrator Dan Sheesley, International Services, Animal and Plant Health Inspection Service, USDA's Agricultural Outlook Forum (February 16, 2006).
[117] *Id.*
[118] USTR Comprehensive Report (May 2008), p. 10.
[119] *Id.*
[120] USTR Comprehensive Report (May 2008), p. 5.

USAID has since established four African Global Competitiveness Hubs (Trade Hubs) in Africa, with two hubs in Accra, Ghana and Dakar, Senegal serving West Africa, a hub in Gaborone, Botswana serving Southern Africa, and a hub in Nairobi, Kenya serving East and Central Africa. USAID established the Southern Africa Trade Hub in June 2002, as part of the Trade for African Development and Enterprise (Trade) Initiative.[121] The Trade Hubs are intended to help African countries "take full advantage of the increased trading opportunities through duty free acesss to the U.S. economy under AGOA", by bringing together U.S. and African businesses; enhancing the competitiveness of African products and services; expanding the role that trade can play in African poverty reduction strategies; improving the delivery of public services supporting trade; building African capacity for trade policy formation and implementation; and strengthening the enabling environment for African businesses.[122]

The Trade Hub staff consists of long and short-term regional and international experts in trade policy, trade negotiations, customs, transport, energy issues and business linkages complemented by a team of local support staff.[123] In recent years, the Trade Hubs were also charged with working with regional organizations, such ECOWAS, COMESA, and the Southern African Development Community (SADC) and with promoting regional harmonization and integration in Africa.

AGOA's mandate to encourage trade-related technical assistance is primarily implemented by the USAID through the African Global Competitiveness Initiative (AGCI). This $200 million, five-year Presidential initiative was launched in 2006, with the aim of "promoting the export competitiveness of enterprises in sub-Saharan Africa in order to expand trade with the United States, other international trading partners, and regionally within Africa."[124] The AGCI program is implemented through a series of projects that are continental, regional, or national in scope.

USAID's Africa Bureau, Office of Sustainable Development "provides general oversight of the implementation of the AGCI program. …USAID regional missions manage regional activities, trans-border issues, and some selected multi-country activities that cannot be managed bilaterally. …USAID bilateral missions and U.S. embassies are partners in the implementation of national-level AGCI projects."[125]

Beginning in September 2006, AGCI funding has allowed USDA and USAID to jointly implement a program[126] whereby "USDA provides three SPS advisors to lead USDA's technical assistance programs and provide regulatory guidance to USAID's SPS systems development programs in East, West, and Southern Africa."[127] These three advisors based in Nairobi, Kenya, Dakar, Senegal, and Pretoria, South Africa work with their AGOA country and regional "counterparts to implement SPS improvement activities that are critical to building the institutional regulatory capacity necessary to facilitate trade. …In Mozambique, USDA and the Ministry of Agriculture collaborated to design and implement a national fruit fly surveillance

[121] USAID web site: http://www.satradehub.org
[122] *Id*.
[123] *Id*.
[124] USAID web site: http://usaid.gov.locations/sub-saharan_africa/initiatives.agci.html
[125] African Global Competitiveness Initiative, USAID AGCI Brief (March 2010).
[126] USTR Comprehensive Report (May 2008), p. 54.
[127] *Id*.

program that is required to maintain market access for Mozambican fresh horticultural products."[128]

U.S. capacity-building activities are intended to assist African countries with the export of fresh agricultural products by meeting international phytosanitary standards. USDA's SPS regional advisors in based in Kenya, Senegal and South Africa at the AGCI phytosanitary hubs managed by USAID, work with their African counterparts in three African regions to implement a wide range of phytosanitary improvement activities that are critical to building institutional regulatory capacity necessary to access the U.S. market.

B. Role of USDA in Trade Capacity Building

Both in Washington and overseas, USDA "conducts trade-capacity building, technical assistance, and education and research activities to enhance…AGOA…countries' ability to trade with the United States and other countries…to foster a more prosperous, open region."[129] Much of this activity can be linked to the "AGOA Acceleration Act of 2004, " which directs the President to "assign at least 20 full-time personnel for the purpose of providing" agricultural technical "assistance" to "not fewer than 10 eligible sub-Saharan African countries…having the greatest potential to increase marketable exports of agricultural products to the United States and the greatest need for technical assistance, particularly with respect to pest risk assessments and complying with sanitary and phytosanitary rules of the United States."[130] Clearly, these individuals are tasked with advising AGOA countries on improvements in their SPS standards and are to be available to help them meet U.S. requirements for obtaining eligibility to import particular products.

It is interesting that the USDA Deputy Under Secretary for Farm and Foreign Services testified that "nearly 20 USDA personnel are located at American embassies and trade hubs on the sub-Saharan African continent,"[131] since the AGOA Acceleration Act mandates at least 20 full-time staff. The testimony also notes that "since AGOA was enacted, USDA has conducted training in phytosanitary issues for more than 35 sub-Saharan countries.[132]

Despite the provisions of the AGOA Acceleration Act of 2004, which was aimed at assisting "in the development of the private sector business associations and civil society networks among U.S. and Sub-Saharan African (SSA) enterprises…much of the…information, and possibly over 85% of AGOA access remain a mystery to SSA enterprises, most notably civil societies, both in Africa and the U.S. The lack of information and mystery therein has drastic economic and social impact on the country's ability to take full advantage of AGOA."[133] As an expert observer noted

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[128] Statement of USDA Deputy Under Secretary for Farm and Foreign Agricultural Services Bud Philbrook,, USDA, before the Subcommittee on Trade, Ways & Means Committee, U.S. House of Representatives (November 17, 2009), p. 4

[129] USDA and the African Growth and Opportunity Act, U.S. Department of Agriculture, Foreign Agricultural Service, Fact Sheet (July 2009).

[130] 19 U.S.C. 3701 note

[131] Statement of Bud Philbrook, p. 1.

[132] *Id*. at p. 4.

[133] The Impact of the African Growth and Opportunity Act (AGOA) on Africa and America, Presentation of Dr. Patrick Wilson, 8th Annual AGOA Conference, Nairobi, Kenya (August 2009).

a number of steps that must be undertaken for "demystifying AGOA", including maintaining and strengthening SPS standards, implementing HACCP plans, and complying with FDA requirements.[134]

The following USDA programs are designed to provide technical training and research opportunities for policymakers, scientists, private sector representatives, university professors, and other agricultural professionals. A significant amount of these programs should be directed at demystifying AGOA.

- Cochran Fellowship Program—has provided training for more than 1,200 participants from 26 countries in sub-Saharan Africa," since 1984. The Cochran program provides short-term training in the United States to help countries develop market-driven food systems and increase trade links with U.S. agribusinesses."[135]

- Borlaug International Agricultural Science & Technology Fellowship Program—provides six to eight weeks collaborative research training for leading scientists and policy makers from developing and middle-income countries. Since 2005, 96 individuals from 16 AGOA countries have been trained under this program.[136] A successful Borlaug initiative is the public-private partnership with the World Cocoa Foundation, which helps "cocoa producing countries learn state-of-the-art modern production and processing techniques to improve overall quality and increase exports of high quality cocoa and cocoa products worldwide."[137]

- Faculty Exchange Program—"brings university instructors of agricultural economics and science to the United States to work with U.S. professors to upgrade their technical knowledge and develop new and revised coursed for their home universities. In 2008, the program supported nine university instructors in Ethiopia, Ghana, Mozambique, Nigeria, and Senegal."[138]

- Scientific Cooperation Research Program—has helped U.S. scientists cooperate with 16 African country partners in 43 long-term research projects that are focused on animal and plant diseases and pests, food safety, and new products and emerging technologies.[139]

The FAS leads USDA's trade capacity building efforts in developing countries. In identifying trade capacity building priorities, FAS coordinates with its overseas offices, the U.S. Trade Representative's Office,[140] and USAID. This implies that political pressures at any particular

[134] *Id*.
[135] USDA and AGOA Fact Sheet.
[136] *Id*.
[137] Statement of Philbrook, p. 5.
[138] USDA and AGOA Fact Sheet, p. 2.
[139] *Id*.
[140] Section 117 of AGOA supported the creation of the position of Assistant U.S. Trade Representative for Africa to serve as the "primary point of contact in the executive branch for those persons engaged in trade between the U.S. and Sub-Saharan Africa," as well as the chief advisor to the USTR on trade and investment issues pertaining to Africa.

point in time on occasion may affect where resources are directed to advance an economic agenda in a less developed country of interest. This may cause limited U.S. government resources, including rulemaking staff, to be allocated toward particular commodity exports at any given time.

The FAS draws upon technical expertise in other USDA agencies (including APHIS), FDA, the Environmental Protection Agency, land grant universities, and the private sector. As detailed previously, activities include U.S. experts providing instruction in other countries, as well as foreign government officials, scientists, or university professors coming to the United States for training.

FAS trade capacity building efforts in developing countries include "programs and activities designed to build institutions and regulatory frameworks that facilitate and create an environment conducive to market-driven agricultural growth."[141] FAS helps developing countries strengthen their policy and regulatory phytosanitary and food safety framework by providing training and technical assistance that allow these countries to put workable and credible institutional systems in place. FAS training is intended to demonstrate "how to collect, analyze, and disseminate statistical and economic information needed by decision makers to trade, regionally and globally."[142] Training is also "provided to help countries improve grades and standards for fruits, vegetables and bulk commodities, and technical assistance in cold chain processes to preserve the safety and quality of perishable products."[143] FAS attaches also provide information to African countries on the requirements for exporting agricultural products to the U.S.

To address SPS issues after enactment of AGOA, FAS hired personnel with SPS expertise (including former APHIS staff). Funding from Congress was provided to USAID, which, in turn, funded FAS. The three current African-based SPS advisor positions are in Dakar, Senegal, Nairobi, Kenya, and Cape Town, South Africa.

Initially, these SPS advisors conducted training that was focused narrowly on USDA's risk assessment program and completing paperwork for PRAs. This emphasis proved to be a less than effective use of resources, since the PRA process of determining the likelihood of serious pest (such as fruit flies) incidence by itself does not necessarily lead to new trade because many countries are still unable to implement the appropriate risk mitigation measures to make exports possible.

The scope of the U.S. phytosanitary assistance has since become broader, with training now conducted on all phases of the import approval process from PRA to risk mitigation measures. Agricultural technical training programs now conducted by USDA are intended to provide instruction on creating phytosanitary standards, completing PRAs, complying with regulations for foods to meet international requirements, supplying technology, and marketing techniques.

"To ensure that African systems are consistent with international standards, training is provided" on compliance with U.S. regulatory requirements for processed food as established by USDA

[141] USDA FAS web site: http://www.fas.usda.gov/icd/tcb/tcb.asp
[142] *Id.*
[143] *Id.*

and FDA.[144] USDA has provided HACCP training throughout sub-Saharan Africa to improve market access for processed agricultural products. However, SPS advisors do not have the expertise, nor should they be expected to be able to evaluate the market potential of any particular commodity in the U.S. market. Since APHIS is a regulatory agency charged with protecting U.S. plant health and not trade development, it does not have a permanent trade capacity presence in Africa. The U.S. government conducts its trade capacity building in African countries through its trade hubs and through direct SPS capacity training, with the support of FAS, USAID, and the U.S. Trade Representative, whose notable work touches on SPS issues.

V. Conclusions and Recommendations on AGOA Horticultural Trade

AGOA provides an additional justification for APHIS assistance on imports of horticultural products, but only in the last few years has the U.S. been able to begin to deliver on its promise to further African exports to the United States. This section discusses actions that may be undertaken to enhance AGOA-U.S. horticultural trade, which faces the challenge of shipping highly perishable commodities, long distances, into a competitive market that is already supplied by many other countries in the Western Hemisphere.

In evaluating the following recommendations, USDA has also pointedly commented:

> "[I]t is important to note that even if APHIS determines that the pest or disease risk associated with the importation of a particular product can be appropriately mitigated, this does not mean that export of such product to the United States will begin immediately. USDA efforts at analyzing risk and granting approvals are more effective if infrastructure is in place to take advantage of exporting opportunities. A country or industry may not have the ability to take the steps needed to mitigate the pest and disease risk associated with its products, or may not have the transportation or marketing structure in place."[145]

A. Recommendations for AGOA Countries – Take Ownership

For AGOA countries to obtain U.S. market access for horticultural products in which they have a comparative advantage (and improve their domestic agriculture productivity and internal food security), a concerted government and private business sector commitment and focus on specific exports is required. The first significant hurdle faced by any AGOA country seeking to gain import approval of a horticultural product is its ability to identify the known pests through surveys. It is critical that each AGOA country determine early in the process if the existence of certain serious pests is likely to preclude its approval to ship the commodity to the U.S.

Such analysis should shortly follow a market feasibility study to determine if there is sufficient demand in the U.S. for the commodity. APHIS may be less inclined to make an import request a priority if it already knows the exporting country is infested with pests that represent a

[144] *Id.*
[145] Philbrook statement, p. 3.

significant threat to U.S. agriculture or staff believes there is unlikely to be a market in the U.S. after the commodity is approved for U.S. import.

Numerous factors play a role in whether an AGOA horticultural product market can be developed in the United States. Shipping costs represent a huge barrier for entry into a market as economies of scale are fundamental to profitable trade in any agricultural commodity. The case in point is South Africa, which has reached a critical mass on exporting numerous products, so it is able to fill an entire ship with product at much lower transportation costs.

The economics of supply and demand are relevant to future African export opportunities. Thus, a key factor in developing a successful market is demand in the recipient country. Most African countries are eligible to export bananas, but the banana market in the EU and U.S. is only going to grow as consumption expands through increased population. This banana example points to the need for the following initial consideration before seeking a U.S. import approval.

- market feasibility study—An early first critical step in pursuing an export opportunity for a specific horticultural product is for the AGOA country to conduct a market feasibility study to ensure there is demand for the product in the United States. Perhaps U.S. demand for a product is only seasonal, when is cannot be produced in the U.S. or other established importing countries. The AGOA product must also be price competitive with U.S. imports of the product from other countries or regions (i.e. Canada, Mexico, Central America, and South America). It may easier to export fruits, vegetables, cut flowers and other products unique to African countries or having distinguishing characteristics which could ultimately be marketed with a particular cache or brand identity. For example, decades ago, white asparagus was first flown from Taiwan to Europe to meet a uniquely European consumer preference.
- internal pest assessment—Another initial step is to survey the pests associated with the horticultural product that are present in the exporting county.
- evaluate risk mitigation capacity—It is also prudent to examine the capacity of the country to implement expected risk mitigation measures.
- develop a business plan—Prior to initiating the import approval process, there must be a clear business/marketing plan that includes the following considerations: 1) U.S. consumer preferences and seasonal needs for the product, 2) cost competitiveness, 3) infrastructure limitations, and 4) phytosanitary capability. A reasonable expectation of a long-term market with positive financial returns should be prerequisites before resources are expended on seeking U.S. import approval of a product.
- commitment of government & private sector—Both the government and private sector of the exporting country have to be fully committed to developing the U.S. market for the product. The 2005 MOU between the Tanzanian government and the country's cashew processors, which provided financial incentives and domestic industry commitment, serves as a blueprint for future government/industry partnerships.
- request progress reports from APHIS during the import approval process—AGOA countries should take advantage of SPS Agreement provisions that require APHIS to

keep import applicants informed of progress "upon request…with any delay being explained."[146]

Beyond the commercial difficulties inherent in penetrating a new market, critical technical problems remain to be solved before this actually happens. Most importantly, to successfully enhance AGOA country participation in U.S. and world markets for horticultural products, strong phytosanitary capacity must be established in these countries. This includes the ability to monitor and control plant pests, to conduct inspections and pest risk assessments, and to implement plant health programs for production and export.[147] To have a viable plant heath program that meets U.S. phytosanitary standards, AGOA countries must have the "ability to operate effective eradication or quarantine programs for pests and diseases, conduct reliable science-based pest and disease surveillance, and implement measures to keep out exotic pests and diseases. This infrastructure depends on well-trained, experienced and dedicated staff throughout the country,"[148] thus the following are fundamental.

- improve AGOA country phytosanitary standards—Many AGOA countries have the necessary phytosanitary legal structure in place that meet IPPC standards, but several countries are still lacking this fundamental building block for developing export capability.
- maintain continuity with qualified government phytosanitary officials—Countries having the most success in obtaining import approvals are ones that have developed phytosanitary expertise and on-going relationships with their APHIS counterparts. AGOA countries should make every effort to retain its experienced professionals through changes in government and otherwise.
- focus on horticultural product exports subject to lower phytosanitary standards—Since the importation of fresh produce raises the issue of new pest introduction into the U.S. under the more rigid APHIS Q56 regulations, AGOA countries should consider focusing on the export of nursery products under the less-stringent APHIS Q37 regulations or avoid phytosanitary concerns and restrictions by developing further "processed" fruit and vegetable products for export, such as dried, prepared, preserved, canned or frozen products. Of course, there are still high tariffs on some processed products even under AGOA.
- dedicate adequate phytosanitary resources in exporting country—Sufficient resources must be made available for risk analysis in support of import approval requests.
- enhance regional inspection procedures—Opportunities exist to improve phytosanitary infrastructure on a region-wide basis. Many AGOA countries need to update and improve inspection procedures for outgoing products for pests and diseases. New programs must focus on bringing together plant health authorities to evaluate inspection procedures and explore ways to reduce constraints that limit or delay the movement of horticultural products meant for export. AGOA countries must identify the highest-risk pathways and focus on border control procedures/needs that will target priority pests. Commodity inspection manuals must be updated and export permit procedures and regulation must be streamlined.

[146] Section 1(b) of Annex C of the Agreement on the Application of Sanitary and Phytosanitary Measures.
[147] Dan Sheesley presentation.
[148] *Id.*

- establish a multidisciplinary team of African-based AGOA horticultural product export advisors – A significant portion of existing USDA programs, including the Cochran Fellowship Program, the Borlaug International Agricultural Science & Technology Fellowship Program, the Faculty Exchange Program, and the Scientific Cooperation Research Program should be directed at developing a core of local professionals who are able to build up certified capacity in the region.
- basic transportation system & other infrastructure—Paved roads in the exporting county are critical to transporting fruits, vegetables, and cut flowers, so they are not bruised in transit from the field to an airport or seaport. Similarly, reliable electricity is an essential need to have operational cold storage facilities. In other words, there is a clear need to invest in infrastructure to reduce supply-side constraints and transaction/marketing costs.

In AGOA, Congress "declares the position that free-trade agreements…should be negotiated, where feasible, between interested countries" in Sub-Saharan Africa "and the United States in order to serve as a catalyst for increasing trade and investment…"[149] AGOA countries should take heed of this advice and consider entering into free trade agreements with the United States, since these agreements generally include renewed commitments to the principles of the WTO SPS Agreement and seem to lead to the delivery of additional phytosanitary technical assistance, since the U.S. knows that enhancement of trade capacity may also lead to additional U.S. exports. A case in point is the U.S.-Central America Free Trade Agreement, which resulted in Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua making numerous requests for phytosanitary assistance. Therefore, it is recommended that AGOA countries consider the following.

- pursue formal SACU FTA or other African country FTA negotiations—AGOA countries should consider entering free trade agreement negotiations with the U.S., reinvigorating the U.S.-Southern African Customs Union (SACU) FTA negotiations or consider new FTAs between African regional FTAs, such as COMESA, and the U.S. Since AGOA does not explicitly provide the U.S. with any additional export opportunities, U.S. agencies are not surprisingly less inclined to make assistance to African countries a priority. A reciprocal FTA changes this dynamic because U.S. stakeholders know that providing any phytosanitary assistance may also have the long-term benefit of eventually stimulating U.S. exports to new markets. Moreover, entering FTAs can also serve to attract greater private sector investment.

B. Recommendations for APHIS – Import Approval Process

Most phytosanitary measures are based on legitimate science and concerns about introduction of diseases or pests. APHIS phytosanitary regulations are science-based and are not intended to serve as disguised barriers to trade. This does not mean that APHIS, like any other federal agency, is insulated from being on the receiving end of political pressure to expedite or slow the horticulture product import process. The historical role of APHIS is of an agency singularly responsible for preventing the introduction and establishment of exotic pests and diseases. Today, APHIS continues to be the primary U.S. government agency responsible with

[149] Vivian Jones CRS Report (July 24, 2009), p.24.

implementing phytosanitary measures to safeguard the U.S. horticultural sector from new pest introductions, while USDA as a department becomes increasingly charged with expanding both agricultural export and import trade. USDA's trade enhancement efforts arguably place APHIS in situations fraught with conflict.

APHIS has made improvements beginning with its "systems approach" to risk management, consisting of a number of sequential safeguards designed to progressively reduce risk to a significant level. If one mitigating measure fails, other safeguards are in place to ensure the reduction of pest or disease risks. The more recent development of the streamlined, notice-based import approval process in 2007 has also proved useful in expediting the approval of commodities that do not present serious pest threats. However, before a country approaches APHIS with a product approval request, it must determine whether it has the capacity of carry out risk mitigation. This appears to be an issue for many AGOA countries, in terms of the conditions placed on imports, the rates of approval, and the length of time required to process requests compared to other country requests.

APHIS is currently considering options for expanded use of the notice-based approval process.[150] While the regulatory part of the process is subject to change in the future, there is not much flexibility in the PRA part of the process in terms of significantly simplifying the process or significantly reducing the time required, unless APHIS sets a lower quality standard in terms of the PRA thoroughness, which would be unacceptable to U.S. stakeholders. However, APHIS can work to ensure that the risk assessment process is undertaken more expeditiously, considering relevant information from exporting countries is available. APHIS recommendations include:

- use of notice-based import approval process—APHIS staff would say that the formal rulemaking procedure is the most significant choke point responsible for delaying of specific import approvals. APHIS administrative rule writers have hundreds of other agency rules that they must draft each year and there is simply not enough staff to always write new import rules on a timely basis. If more imports could be treated under the notice-based streamlined approach, APHIS import approvals would proceed more expeditiously. Where appropriate, APHIS is using the notice-based approval process with AGOA country import approval requests.
- need for APHIS emphasis on timeliness—Under Annex C of the SPS Agreement, APHIS is effectively required to ensure that all PRAs are delivered within agreed timelines, since certain delays may cause APHIS to fall short of its WTO commitments. The SPS Agreement mandates that "when receiving an application, the competent body" must "promptly" examine the completeness of the documentation" and inform "the applicant in a precise and complete manner of all deficiencies."[151] Agencies such as APHIS are further required to transmit "as soon as possible the results of the procedure in a precise and complete manner to the applicant so the corrective action may be taken if necessary."[152] If some of the AGOA import

[150] Discussion with APHIS staff.
[151] Section 1(b) of Annex C of the Agreement on the Application of Sanitary and Phytosanitary Measures.
[152] *Id.*

requests have taken years to complete, it raises serious questions about whether APHIS has always been in compliance with its SPS Agreement obligations.

- APHIS enhancement of transparency—Annex C of the SPS Agreement also requires APHIS to make its import approval process easy to follow, so there should be on-going consultations between countries through the various stages of the process. If AGOA countries are making too many import requests that APHIS views as non-viable, perhaps the approval process in still not transparent or accessible enough for public and private decision-makers.
- reasonable and necessary APHIS risk mitigation measures—Additionally, Annex C states that "any requirements for control, inspection and approval…are limited to what is reasonable and necessary."[153] As part of its SPS commitment, it is critical that APHIS does not force AGOA countries to implement risk mitigation measures that are excessive.
- strategic APHIS approach to allocation of resources—It appears that geopolitical priorities push APHIS to direct its limited resources to move some import request over others. For more resource poor countries, perhaps APHIS could provide additional assistance by undertaking "quick PRA" scans to identify the presence of potential pest deal-killers. If a quick PRA overview is promising (and the requesting country has already taken its own internal step of determining there is potential market viability for the product), the country moves to the next more intensive phase of the APHIS appraisal process, while other import requests with serious pest problems are flagged as non-viable, so resource-poor countries are not given false hope and unnecessarily waste precious resources on products that have little chance of ever gaining APHIS approval.
- APHIS priority to trade preference countries—Consideration could be given to providing priority to import approval requests from U.S. trade preference beneficiaries. This would mean providing sufficient resources to these requests, not sacrificing on safety. This would serve as a logical complement to the granting of U.S. trade preferences, which are intended, after all, to enhance exports from these countries.

C. Recommendations for U.S. Federal Agencies – Capacity Building

Unlike other U.S. nonreciprocal trade programs, the AGOA statute contains language providing technical assistance to help build the capacity of sub-Saharan countries to take advantage of its trade preferences. In many respects, USAID has taken a piece-meal approach in its mission to assist countries with trade capacity building in regard to agriculture, while APHIS is limited both by resources and its mission to protect U.S. agriculture. The implementation of new food safety legislation means that AGOA countries will need technical assistance to meet more stringent import requirements.

The benefits of AGOA are concentrated in a few countries, with several AGOA-eligible countries exporting very little under the program.[154] With the need to provide real financial benefits to all AGOA countries through expanded export markets, there needs to be a strong

[153] Section 1(e) of Annex C
[154] CRS Report, p. 28.

focus on continued targeted capacity building and technical assistance. Exports of agricultural commodities in general – and horticultural products in particular – offer significant opportunities to help raise incomes and spur economic growth in a number of African countries. To enhance horticultural trade, the various U.S. agencies could do the following.

- research collaboration on pest mitigation—One of the most helpful activities to assist trade opportunities for less-developed African countries over the last few years has been offshore pest initiatives to identify and develop control methods for key pests of economic importance to the United States. Those efforts include developing collaborative research programs with foreign ministries of agriculture to control the pests prior to them reaching the U.S. mainland.
- phytosanitary & risk mitigation training workshop/course—For phytosanitary capacity building, APHIS could continue to plan and organize courses and workshops that offer expertise and support as well as tools and technologies to AGOA countries, who are in need of assistance. In fact, the CPHST Strategic Plan calls for action to support trade capacity development in countries, including Africa "by teaching and demonstrating how the U.S. practices and implements standards set forth in the IPPC", so "developing countries will be able to build capacity for global international trade and foreign import to the United States."[155] This plan has already been put into action as evidenced by a multi-week APHIS "Plant Health Systems Analysis Course" to address Senegal's "lack of technical capacity to analyze, design and implement appropriate pest and disease control programs", by identifying specific changes that will enable Senegal's Plant Health System develop action plans for long-term improvement of its Plant Health Organization.[156]
- targeted USAID focus in AGOA countries—To enhance the entry of African fresh fruits and vegetables into the global and U.S. market, USAID needs to expand efforts for improving the phytosanitary standards and risk mitigation capacity in many more AGOA countries. USAID will need to take on this role, since APHIS authority is limited to responding to requests for approval of certain products for import and the occasional workshop. If the product requests are not practically feasible because of high pest risk or lack of capability to implement risk mitigation measures in the exporting country, then the likelihood of import approval is significantly reduced.
- better coordination of USAID efforts with USDA—Since USAID is more likely to have funds for trade capacity building relating to the export of horticultural products from African countries, it would also be helpful if the agency could better coordinate its initiatives with APHIS and FAS. In the past, USAID has been criticized for its sometimes-conflicting priorities and missions, but future efforts keyed in with APHIS and FAS could help ensure that the appropriate infrastructure and technical assistance is already in place or capacity development is possible to put various AGOA countries in position to export certain horticultural products.
- USAID development of African phytosanitary expertise—Resources should be directed toward satisfying an initial need for outside expertise to train local phytosanitary experts and build up certified capacity in the region, with a long-term

[155] *Id*.
[156] *Id*.

goal being to develop country/region-owned and managed firms capable of doing this work on contract. To enhance the outreach of the existing Trade Hubs, USAID could also fund a phytosanitary swat team of experts that are associated with a regional entity, such as COMESA, who have the capability and are tasked with going to individual AGOA countries and assisting with APHIS compliance, so countries are able to implement plans to export horticultural products to the United States

- training on the farm—To take advantage of AGOA export opportunities offered by preferential treatment, foreign expertise in working on farms that produce specific horticultural products needs to be available. The AGOA country government and private sector must both play a role in providing this on the ground training either by developing the expertise at their universities or hiring outside experts.
- establish FDA African office to provide assistance on food safety requirements—Since FDA has already opened offices in Asia, Europe and Latin American, and is already planning to establish an office in the Middle East, the agency could also open an office in Africa, so AGOA countries are able to receive the technical assistance necessary to comply with the new U.S. food safety requirements on food imports.
- inter-agency coordination of AGOA communications—FAS, APHIS and FDA should consider how they can best communicate their requirements and procedures to AGOA countries and how they can cooperate on technical capacity building.
- amend AGOA statute to provide specific targeted assistance—AGOA contains general laudatory language on technical assistance to "promote exports", "bring… regimes into compliance" with WTO standards, and "promote greater agribusiness linkages."[157] This statute could be amended to provide direct USAID assistance for a number of employees to build phytosanitary infrastructure in AGOA countries. USDA personnel have assisted in the design of field work to be conducted in other countries to substantiate PRA assertions on a particular commodity, participate in the implementation phase of such studies, and perform a pest monitoring function while the study is underway. Unfortunately, this active level of U.S. involvement in assisting countries seeking to export horticultural products may raise the specter of unfair bias against domestic producers, who may have valid concerns about the threat of new pest introductions. Furthermore, the mission of APHIS is to protect the U.S. against pests. Therefore, it is more appropriate for an independent agency such as USAID to provide this expertise. Another option would be to provide funds to a non-U.S. entity, such as a foreign government or national institution, a non-governmental organization, an international organization, or a private company to provide this assistance.

D. Recommendations for the International Community – Provide Useful Information

There are also ways in which the international community can collaborate in order to provide greater assistance to African countries interested in increasing horticultural exports.

- establish international database on pests & PRAs—A significant obstacle to enhanced trade in new horticultural products is the lack of international databases on pests and PRAs. Each time a request is made to export a commodity to a country, both the

[157] 19 U.S.C. 3722(b)(2)

destination and exporting country have to collect pest information where research has already been conducted, but the data is not widely available. Since the IPPC is already charged with setting international phytosanitary standards, it could help advance trade if it also were to compile data on pests that could be readily available for countries seeking to gain eligibility to ship its commodities to new markets.

- share data on pests & PRAs—APHIS could develop Memoranda of Understanding (MOU) and Memoranda of Cooperation (MOC) with foreign governments and Regional Plant Protection Organizations to coordinate efforts, leverage resources and share information. Sharing of databases, technology, and PRAs with governments, industry and other stakeholders will "increase the trading capacity of partners and obtain useful data in return."[158]
- business plan development, phytosanitary/food standards & risk mitigation DVD—APHIS, USAID, IPPC, FDA, FAO, and the World Bank could collaborate on creating a multi-purpose handbook and/or DVD (in English and foreign languages) that addresses the entire spectrum of issues that must be addressed in developing an export market for a product. This resource could be used in conjunction with numerous workshops held in various AGOA countries.
- U.S. & EU phytosanitary dialogue—APHIS and European Commission plant health officials as well as other large horticultural product importers could enter a dialogue about coordinating and streamlining plant health procedures with a view to facilitating imports from developing countries in order to avoid sacrificing plant health or food safety.
- explore further international harmonization of phytosanitary standards—Examine ways to expand the scope of the IPPC in working to develop global standards for specific processed horticultural products.

[158] *Id.* at p. 8.

Annex A

Value of AGOA Country Agricultural Exports to the United States
($ Millions)

Country	Value in 2009
South Africa	$173.6
Ghana	$96
Ethiopia	$84.7
Liberia	$74.9
Malawi	$64.3
Nigeria	$63.3
Kenya	$59.2
Tanzania	$33.9
Madagascar	$31.1
Uganda	$24.3
Cameroon	$23.4
Rwanda	$14.5
Swaziland	$7
Mozambique	$5.1
Burundi	$4
Congo (Brazzaville)	$2.6
Gabon	$1.9
Congo (Kinshasa)	$1.7
Zambia	$0.8
Sierra Leone	$0.6
Senegal	$0.5
Guinea	$0.5
Mauritius	$0.4
Burkina Faso	$0.3
Djibouti	$0.3
Mali	$0.3
Benin	$0.2
Botswana	$0.2
Niger	$0.2
Namibia	$0.1
Seychelles	0
Chad	0
Total	$769.7

Source: USDA's Foreign Agricultural Service web site at: http://www.fas.usda.gov/gats/default.aspx

Annex B

Value of U.S. Imports by Food Group

U.S. food imports, value by food group and sector

Food group	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
						Million $				
Total U.S. food imports 1/	43,716.0	46,006.6	46,711.6	49,861.9	55,965.7	62,151.4	68,523.0	75,323.4	81,886.1	89,630.7
Live farm animals	1,240.6	1,469.3	1,833.7	1,782.3	1,289.6	1,108.1	1,671.7	2,166.2	2,579.0	2,273.2
Meats	3,269.7	3,831.2	4,261.9	4,286.6	4,428.3	5,724.1	5,761.8	5,256.1	5,389.9	5,093.0
Fish and shellfish	8,877.6	9,902.5	9,685.8	9,990.8	10,895.0	11,145.2	11,890.1	13,176.2	13,508.7	14,027.6
Dairy and eggs	997.4	1,013.7	1,102.9	1,116.3	1,216.9	1,400.4	1,485.6	1,490.3	1,609.2	1,729.9
Vegetables	3,589.2	3,727.5	4,124.0	4,345.0	5,030.6	5,689.7	6,006.1	6,576.4	7,209.6	7,748.7
Fruits	4,793.7	4,647.4	4,677.7	5,080.7	5,569.5	5,976.4	6,909.3	7,737.9	9,257.5	9,919.6
Nuts	793.9	808.7	670.2	700.5	775.6	1,078.4	1,121.9	1,099.4	1,181.4	1,350.9
Coffee and tea	3,108.7	2,921.3	1,915.7	1,942.2	2,227.3	2,559.7	3,309.3	3,695.5	4,171.4	4,855.5
Cereals and bakery	2,737.2	2,822.9	3,097.3	3,463.7	3,745.6	4,139.7	4,383.6	5,068.5	6,091.7	7,897.3
Vegetable oils, oilseeds	1,555.6	1,526.7	1,318.7	1,448.3	1,691.4	2,488.0	2,626.1	3,066.7	3,853.4	6,179.3
Sugar and candy	1,593.5	1,560.9	1,606.5	1,860.4	2,137.6	2,114.3	2,500.6	3,055.3	2,606.8	2,981.3
Cocoa and chocolate	1,521.9	1,403.0	1,535.0	1,759.8	2,438.2	2,483.5	2,750.0	2,658.8	2,661.6	3,298.5
Other edible products	2,496.1	2,496.2	2,590.4	2,797.4	4,073.8	5,111.7	5,736.5	6,176.9	6,364.8	6,968.8
Beverages 2/	4,759.0	5,149.9	5,444.9	6,196.9	7,008.3	7,423.0	8,280.6	9,587.7	10,353.7	10,267.2
Liquors	2,381.9	2,725.5	2,847.0	3,091.1	3,438.2	3,709.2	4,089.9	4,511.5	5,047.7	5,039.9
Total animal foods	14,385.3	16,216.7	16,884.3	17,175.9	17,829.8	19,377.8	20,809.2	22,088.8	23,086.7	23,123.7
Total plant foods	22,189.9	21,914.5	21,535.5	23,398.0	27,689.4	31,641.3	35,343.3	39,135.5	43,398.0	51,199.9
Total beverages	7,140.9	7,875.5	8,291.9	9,288.0	10,446.5	11,132.2	12,370.5	14,099.2	15,401.3	15,307.2
U.S. agricultural imports 3/	37,672.8	38,974.5	39,366.0	41,915.3	47,383.7	53,989.2	59,291.1	65,325.8	71,913.0	80,465.4
Nonfood ag. imports 4/	5,216.3	5,595.9	5,187.1	5,135.2	5,751.2	6,692.1	6,748.0	7,690.0	8,583.3	9,902.2

1/ Values are obtained by HS-6 codes and calendar year (January to December).
See Appendix for the HS-2, HS-4, and HS-6 codes corresponding to each food group and sector. 2/ Excludes liquors.
3/ U.S. agricultural imports are less than U.S. food imports because fish/shellfish and liquors are not defined as agricultural by USDA.
4/ Inedible imports are estimated from total agricultural imports plus fish/shellfish plus liquors minus total food imports.
Source: USDA, www.fas.usda.gov/ustrade.

U.S. food imports, value of top 50 suppliers

Country	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
						Million $				
Top 50 food import sources 1/										
CANADA	9,246.4	10,026.4	11,193.8	11,793.2	11,817.6	12,852.5	13,765.6	14,635.8	16,395.1	18,935.2
MEXICO	5,334.2	5,722.0	5,859.7	6,108.1	6,951.3	7,919.7	9,012.9	9,989.7	10,909.6	11,547.7
CHINA, PEOPLES REPUI	1,006.6	1,144.9	1,253.1	1,610.4	2,136.7	2,491.9	2,891.9	3,726.6	4,306.9	4,946.6
FRANCE(*)	2,076.2	1,955.1	1,920.3	2,185.3	2,545.9	2,648.1	2,847.6	3,164.7	3,634.0	3,604.3
ITALY(*)	1,454.0	1,579.4	1,593.6	1,842.5	2,145.5	2,376.7	2,668.5	2,840.1	3,111.7	3,298.7
THAILAND	1,991.5	2,213.4	2,018.9	1,794.8	1,982.4	2,003.7	2,183.5	2,537.8	2,616.7	3,026.7
CHILE	1,251.0	1,482.6	1,468.3	1,623.8	1,841.8	1,967.2	2,224.3	2,621.3	2,773.0	2,933.1
BRAZIL	1,292.2	1,060.3	904.9	1,022.9	1,383.9	1,542.1	1,860.0	2,922.2	2,676.8	2,689.6
IRELAND	351.1	355.7	347.4	362.3	1,327.7	2,017.5	2,453.5	2,453.2	2,447.6	2,522.2
AUSTRALIA(*)	1,244.4	1,545.3	1,706.7	1,854.3	2,064.8	2,420.4	2,392.8	2,384.6	2,552.1	2,299.8
INDONESIA	939.7	906.2	856.1	903.9	1,035.7	1,232.7	1,432.9	1,506.2	1,594.9	2,100.7
NETHERLANDS	1,138.3	1,320.6	1,403.9	1,567.5	1,706.7	1,729.9	1,699.9	1,904.4	2,088.4	1,972.6
MALAYSIA	293.8	251.7	220.7	242.3	329.4	535.8	599.2	716.9	1,023.1	1,710.4
UNITED KINGDOM	1,188.3	1,192.5	1,138.2	1,193.6	1,256.0	1,384.8	1,394.6	1,429.1	1,594.1	1,600.7
INDIA	991.2	1,038.6	921.8	995.5	1,068.2	1,181.7	1,181.8	1,225.7	1,257.5	1,592.6
NEW ZEALAND(*)	858.6	974.1	1,056.2	1,114.5	1,183.2	1,462.1	1,500.4	1,440.1	1,430.5	1,478.6
VIETNAM	289.0	485.0	618.2	785.6	951.4	910.6	1,014.6	1,083.4	1,287.2	1,436.0
GERMANY(*)	670.3	691.2	664.8	709.6	809.6	928.1	1,018.6	1,098.6	1,225.7	1,312.8
COSTA RICA	849.8	855.5	841.0	844.9	895.0	926.8	961.8	1,184.2	1,275.3	1,264.3
COLOMBIA	854.9	792.8	633.6	653.2	687.9	744.3	1,008.0	1,001.3	1,001.0	1,231.2
GUATEMALA	664.4	680.0	592.9	652.5	739.8	756.1	887.6	872.4	1,010.9	1,230.0
SPAIN	741.2	705.3	678.2	764.8	890.5	931.8	1,013.2	1,080.7	1,165.6	1,213.3
ARGENTINA	693.8	700.7	654.6	620.6	573.1	627.0	805.0	945.1	1,036.6	1,169.6
ECUADOR	989.7	702.7	745.0	826.3	900.7	863.1	944.4	1,035.4	1,061.7	1,159.0
PHILIPPINES	607.3	590.9	543.0	565.3	650.8	710.4	765.8	823.9	910.5	1,125.9
PERU	250.2	216.2	222.9	262.6	310.1	392.6	492.8	630.3	744.1	881.8
SWITZERLAND(*)	135.9	131.4	124.9	161.5	193.3	223.7	226.0	249.4	369.9	681.7
JAPAN	432.1	439.8	394.3	416.9	445.5	468.1	516.6	538.2	572.3	657.8
COTE D'IVOIRE	289.2	251.8	221.3	274.5	402.6	459.4	603.3	453.3	425.8	613.4
HONDURAS	229.3	357.0	335.3	344.3	330.9	385.2	433.5	412.9	491.7	542.3
SWEDEN	265.2	270.9	337.3	371.6	393.9	416.1	459.6	415.3	462.5	468.6
RUSSIAN FEDERATION	372.7	326.0	291.5	342.0	332.2	307.5	398.9	483.2	560.9	437.1
EL SALVADOR	130.2	188.4	107.3	87.2	119.4	114.1	199.5	243.7	344.5	429.3
NICARAGUA	152.6	207.1	170.2	176.9	182.0	228.0	243.9	298.1	340.2	411.0
BELGIUM-LUXEMBOURG	148.4	139.0	163.2	165.2	198.5	258.3	301.8	352.8	373.1	398.5
DENMARK(*)	372.3	425.6	415.0	424.4	470.9	454.0	414.6	372.0	386.4	384.8
AUSTRIA	43.5	68.5	115.9	111.7	206.3	363.8	470.2	766.4	621.9	366.2
JAMAICA	98.1	96.3	100.6	108.2	125.5	129.9	153.1	253.6	258.7	355.0
TURKEY	175.5	141.8	151.5	149.3	214.1	205.0	235.7	270.1	322.0	340.2
KOREA, REPUBLIC OF	169.2	190.1	202.4	219.8	225.1	246.9	284.6	292.8	312.2	339.4
TAIWAN	360.1	321.7	320.4	251.3	248.5	273.8	278.1	263.2	279.7	329.9
POLAND	105.2	126.0	150.7	193.4	231.4	239.9	235.5	230.0	265.3	289.9
DOMINICAN REPUBLIC	202.5	210.7	226.0	246.9	268.2	242.9	243.0	303.8	300.0	278.4
NORWAY(*)	194.6	191.4	155.0	168.7	182.2	168.5	184.0	221.5	255.2	240.8
GREECE	91.2	109.0	106.8	136.0	132.2	143.5	163.1	167.9	260.2	212.8
SOUTH AFRICA, REPUBI	136.2	169.9	149.5	167.1	187.3	189.8	217.9	247.7	218.2	211.6
TRINIDAD AND TOBAGO	60.2	48.6	43.7	47.4	55.7	56.7	83.6	116.2	146.1	210.2
ISRAEL(*)	107.7	102.0	112.6	121.8	150.4	180.3	175.1	171.6	198.1	204.9
SINGAPORE	98.2	109.3	92.8	99.5	127.1	96.8	98.2	109.2	129.5	151.9
PANAMA	171.5	139.8	139.1	134.3	145.2	137.1	167.2	154.7	152.2	150.3
REST OF WORLD	1,906.2	2,055.5	2,026.5	2,042.1	2,211.7	2,604.5	2,714.6	2,682.4	2,709.0	2,641.6
WORLD	43,716.0	46,006.6	46,711.6	49,861.9	55,965.7	62,151.4	68,523.0	75,323.4	81,886.1	89,630.7

(*) = Includes sub-countries.

1/ Values are estimated from shares based on HS-2 codes. Includes fish and total beverages.

The European Union-27 would rank second after Canada if it were included one country.

Source: USDA, www.fas.usda.gov/ustrade.

Annex C

Regional Value of U.S. Horticultural Product Imports
($ millions)

Export Region/ Horticultural Product	1999	2008	10-Year Average Annual (Increase/Decrease)
AGOA Countries			
Wine & Wine Products	$8.4	$44.5	43%
Edible Tree Nuts	$18.3	$42.4	13.2%
Oranges-Fresh	$0.1	$33.6	350%
Misc. Horticultural Products	$5.2	$18.1	24.8%
Fruit Juices	$14.5	$17	1.7%
Vegetables & Preparations	$2	$9.7	38.5%
Nursery Products	$4.4	$8.2	8.6%
Fruit-Processed	$4.9	$7.4	5.1%
Fruit-Dried	$2.6	$7.2	10.7%
Essential Oils	$2.4	$7	19.2%
Clementines	0	$5.9	+%
Cut Flowers	$0.3	$1.6	43.3%
All Horticultural Products	$99.5	$210	11.1%
North Africa			
Olives	$18.1	$56.3	22.1%
Clementines	0	$25.3	+%
Essential Oils	$4.7	$11.1	13.6%
Fruit Juices	$3.2	$3.6	1.3%
Beverages	0	$3.2	+%
Tomatoes-Dried Powder	$5.1	$2.7	-4.7%
Dates	$0.1	$2.7	260%
Capers	$1.4	$2.6	10%
Fruit-Dried	$0.1	$2.6	250%
All Horicultural Products	$44.6	$117.8	12.5%
South America			
All Horticultural Products	$2,582	$5,023	9.5%
Central America			
All Horticultural Products	$1,053	$2,000	9%

North America			
Greenhouse Tomatoes-Fresh	$27.4	$700	245.5%
Potatoes-Frozen	$291	$649.8	12.3%
Avocados-Fresh	0	$497.3	+%
Bell Peppers-Fresh	0	$352.8	+%
Roma Tomatoes-Fresh	$123.8	$318.5	15.7%
Chili Peppers-Fresh	$106.3	$246.9	13.2%
Grapes-Fresh	$213	$226.2	0.6%
Other Tomatoes-Fresh	$321	$214.1	-3.3%
Squash-Fresh	$99.2	$203	10.5%
Tree Nuts	$76	$192.1	15.3%
Onions/Shallots/Garlic/Leeks	$114.4	$191.2	6.7%
Cucumbers-Fresh	$61.4	$187.8	20.6%
Broccoli-Frozen	$105.7	$177.3	6.8%
Potatoes-Fresh	$89.2	$168.8	8.9%
Asparagus-Fresh	0	$149.4	+%
All Horticultural Products	$5,196	$11,687	12.5%

Source: USDA's Foreign Agricultural Service web site at: http://www.fas.usda.gov/gats/default.aspx

Annex D

AGOA World Horticultural Product Exports

AGOA TOTAL WORLD HORTICULTURAL PRODUCT EXPORTS

Commodities Imported								January - December Cumulative To Date Values in Thousands of dollars				
		1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	Jan - Oct 2009
Partner	Product						Value	Value	Value	Value	Value	Value
World	Misc. Hort Products						5,044,379	5,565,620	6,267,251	6,591,421	7,035,106	5,619,246
World	Wine & Wine Prdcts						3,443,061	3,795,855	4,179,568	4,655,656	4,654,039	3,259,116
World	Fresh Veg Exc Potato						3,254,427	3,448,734	3,835,443	4,119,680	4,291,025	3,382,741
World	Fresh Fruit Other						2,103,480	2,414,345	2,726,584	3,137,409	3,433,105	3,180,528
World	Essential Oils						2,019,811	2,444,934	2,491,012	2,476,190	2,692,655	1,951,406
World	Fruit Juices						838,679	994,784	1,137,735	1,726,754	1,899,788	1,122,379
World	Fresh Fruits, Decidi						1,087,166	1,268,913	1,317,272	1,419,864	1,422,279	1,273,163
World	Vegetables, Frozen						1,012,372	1,015,347	1,102,097	1,250,220	1,411,985	1,150,777
World	Edible Tree Nuts						1,046,307	1,083,796	1,056,348	1,123,503	1,263,527	944,302
World	Vegtbls,Prep or Pres						941,193	1,006,753	1,073,541	1,135,845	1,190,299	956,588
World	Fruit, Processed						686,436	749,475	876,093	1,000,909	1,151,338	918,771
World	Nsry Pdt Exc Cut Flo						979,815	962,944	1,002,532	1,046,423	988,264	724,859
World	Cut Flowers						396,617	418,716	452,585	500,696	480,084	407,439
World	Fruit, Frozen						223,185	284,424	355,242	411,763	442,323	310,090
World	Olives,Prep or Pres						297,509	315,548	305,426	421,148	438,472	307,688
World	Fresh Fruits, Citrus						307,146	356,394	407,356	501,064	422,870	332,137
World	Fresh Melons						280,449	311,358	351,823	412,160	408,699	390,254
World	Vegtbls,Dried/Dehydr						175,930	192,884	233,395	266,084	316,357	274,575
World	Fruit, Dried						186,257	200,472	200,439	238,541	262,399	211,407
World	Fruit, Prep, Misc						119,844	148,718	172,713	200,038	223,415	179,130
World	Potatoes, Fresh & Seed						74,632	91,256	116,230	126,868	168,839	119,457
World	Dried Beans						56,444	73,310	72,196	91,934	136,626	95,464
World	Hops						26,870	33,175	35,982	37,827	56,928	35,994
World	Ginseng						28,541	26,168	37,488	35,610	27,265	23,081
World	Dried Peas						14,156	15,965	20,008	17,322	25,607	22,034
World	Vegetable Juices						9,221	10,243	12,483	14,581	22,408	26,471
World	Dried Lentils						6,132	6,471	13,257	9,435	19,731	14,518
World	Dried Chickpeas						7,583	7,485	10,474	13,725	18,772	16,666
Grand Total							**24,667,644**	**27,244,088**	**29,862,574**	**32,982,670**	**34,904,205**	**27,250,281**

Notes:

1. Data Source: Department of Commerce, U.S. Census Bureau, Foreign Trade Statistics

Annex E

AGOA Fresh Fruits Eligible for U.S. Import

Country	Eligible Fruits
Angola	Bananas, Pineapples
Benin	Bananas, Pineapples
Burkino Faso	Bananas, Pineapples
Cameroon	Bananas, Pineapples
Congo	Bananas, Pineapples
Ghana	Bananas, Pineapples
Guinea	Bananas, Pineapples
Kenya	Pineapples*
Liberia	Bananas, Lemons, Limes, Pineapples
Mali	Bananas, Pineapples
Mauritania	Bananas, Pineapples
Namibia	Grapes
Niger	Bananas, Pineapples
Nigeria	Bananas, Pineapples*
Senegal	Bananas, Pineapples
Sierra Leone	Bananas, Pineapples
South Africa	Apples, Blueberries, Cranberries, Currants & Gooseberries, Grapefruit*, Grapes, Lemons, Limes, Oranges, Peaches, Pears*, Pineapples, Plums, Tangerines
Togo	Bananas, Pineapples

*Country is among top 10 producing countries

AGOA Fresh Vegetables Eligible for U.S. Import

Country	Eligible Vegetables
Ghana	Eggplant*, Bell & Hot Peppers*, Okra*, Garlic, Mushrooms, Onions
Kenya	Mushrooms, Onions, Shelled Peas
Niger	Broccoli, Cauliflower, Brussel Sprouts, Cabbage & other brassicas, Mushrooms, Onions
Nigeria	Garlic, Mushrooms, Onions
Senegal	Green Beans, Mushrooms, White Asparagus
South Africa	Artichokes, Asparagus, Mushrooms
Sudan	Asparagus, Mushrooms
Tanzania	Garlic, Mushrooms, Onions
Zambia	Baby Carrots, Baby Corn, Baby Squash, Courgettes

*APHIS will only allow importation on the condition that these commodities will be irradiated in Ghana under an APHIS preclearance program and irradiation facilities are not available in Ghana

Annex F

World Exports of Fresh Fruits & Vegetables Eligible for U.S. Import

World production and exports of fresh fruits eligible for importation into the United States

	Summary information on countries eligible to export these fresh fruits to the United States						Rank of commodity in United States	
	Countries eligible to export to the United States		Eligible country production and exports as a percent of world total volume 1/		Number of eligible countries within top 10			
Commodity	Total number of countries 2/	Number of low- and middle-income countries 3/	Production 4/	Exports 4/	Producers 4/	Exporters 4/	Fresh fruit production 5/	Per capita disappearance 6/
Apples	17	11	14	38	2	4	5	2
Apricots	10	6	6	3	1	0	17	24
Avocado	23	12	52	65	3	5	16	10
Bananas	74	57	35	72	5	7	22	1
Cantaloup and Honeydew	36	21	16	84	3	8	2 and 6	4 and 17
Cherries	6	3	4	14	0	1	12	18
Cranberries and Blueberries	39	26	nd	nd	nd	nd	15 and nd	25 and 21
Dates	2	1	0	0	0	0	21	nd
Figs	4	1	1	4	0	1	18	nd
Grapefruit	41	25	41	45	3	3	7	12
Grapes	51	33	76	82	7	8	4	5
Kiwi	12	3	95	81	6	6	19	22
Lemons and Limes	47	27	44	71	4	6	11 and nd	13 and 15
Mango	17	15	62	73	5	6	nd	16
Olives	2	1	0	0	0	0	nd	nd
Oranges	44	27	32	71	3	6	3	6
Papayas	30	19	42	63	2	4	20	19
Peaches	15	8	8	12	1	3	9	9
Pears	14	9	10	34	2	3	10	11
Pineapple	71	57	69	78	7	7	nd	8
Plums	15	11	8	33	1	3	13	20
Raspberries and Blackberries	20	11	nd	nd	nd	nd	nd and nd	23 and nd
Strawberries	91	53	94	97	9	9	8	7
Tangerines	42	25	20	62	2	4	14	14
Watermelons	39	22	6	58	3	4	1	3

nd=no data.

1/ Represents an upper bound since FAO reports production and statistics for nations as a whole, though in some cases only specific regions of a country may be eligible to export to the United States.

2/ Countries eligible to export each commodity to the United States as of June 2009 according to USDA Animal and Plant Health Inspection Service regulations.

3/ According to country classification developed by World Bank for 2009.

4/ World production and export data for 2006 from the United Nations Food and Agriculture Organization, FAOSTAT.

5/ Rank of commodity among fresh fruits produced in the United States in 2007 according to USDA-ERS analysis.

6/ Rank of commodity among fresh fruits consumed in the United States in 2007 according to USDA-ERS analysis.

Sources: USDA, Economic Research Service, Vegetable and Melons Yearbook, http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1212, and Food Availability Data, http://www.ers.usda.gov/Data/FoodConsumption/FoodAvailIndex.htm; USDA, Animal and Plant Health Inspection Service, Fresh Fruit and Vegetable Import Manual, http://www.aphis.usda.gov/import_export/plants/manuals/ports/; World Bank, World Development Indicators 2009, http://go.worldbank.org/K2CKM78CC0; United Nations, Food and Agriculture Organization, FAOSTAT, http://faostat.fao.org/default.aspx.

World production and exports of fresh vegetables eligible for importation into the United States

	Summary information on countries eligible to export these fresh vegetables to the United States						Rank of commodity in United States	
	Countries eligible to export to the United States		Eligible country production and exports as a percent of world total volume 1/		Number of eligible countries within top 10			
Commodity	Total number of countries 2/	Number of low- and middle-income countries 3/	Production 4/	Exports 4/	Producers 4/	Exporters 4/	Fresh vegetable production 5/	Per capita disappearance 6/
Artichokes	30	27	23	29	3	2	17	20
Asparagus	57	36	9	89	6	7	18	21
Bell pepper	37	20	17	80	3	5	9	8
Broccoli and cauliflower	49	26	15	76	5	7	8 and 12	11 and 19
Brussels sprouts	49	26	nd	nd	nd	nd	19	27
Cabbage and other brassicas	51	26	8	48	1	6	6	5
Carrot	39	26	21	38	3	3	5	7
Celery	14	11	nd	nd	nd	nd	7	9
Cucumber	47	20	8	60	2	6	11	10
Eggplant	38	21	2	56	1	4	nd	22
Escarole	17	6	nd	nd	nd	nd	nd	28
Garlic	100	65	96	97	8	9	16	15
Green bean	44	26	19	59	5	5	13	17
Lettuce	37	24	11	67	2	4	1	2
Mushroom	All	nd	100	100	9	10	nd	16
Mustard greens	30	18	nd	nd	nd	nd	nd	24
Okra	36	25	3	nd	1	nd	nd	26
Onion	95	62	86	95	8	9	2	3
Potato	2	0	2	5	0	1	nd	1
Pumpkin and squash	37	20	12	87	2	7	10 and 14	13 and 14
Radish	28	17	nd	nd	nd	nd	nd	23
Spinach	35	19	2	35	2	3	15	18
Sweet corn	44	30	29	1	2	0	4	6
Sweet potato	1	0	nd	0	0	0	nd	12
Tomato	35	16	7	38	1	4	3	4
Turnip greens	18	13	nd	nd	nd	nd	nd	25

nd=no data.

1/ Represents an upper bound since FAO reports production and statistics for nations as a whole, though in some cases only specific regions of a country may be eligible to export to the United States.

2/ Countries eligible to export each commodity to the United States as of June 2009 according to USDA Animal and Plant Health Inspection Service regulations.

3/ According to country classification developed by World Bank for 2009.

4/ World production and export data for 2006 from the United Nations Food and Agriculture Organization, FAOSTAT.

5/ Rank of commodity among fresh vegetables produced in the United States in 2007 according to USDA-ERS analysis.

6/ Rank of commodity among fresh vegetables consumed in the United States in 2007 according to USDA-ERS analysis.

Sources: USDA, Economic Research Service, Vegetable and Melons Yearbook, http://usda.mannlib.cornell.edu/MannUsda/viewDocumentInfo.do?documentID=1212, *and Food Availability Data,* http://www.ers.usda.gov/Data/FoodConsumption/FoodAvailIndex.htm; USDA, Animal and Plant Health Inspection Service, Fresh Fruit and Vegetable Import Manual, http://www.aphis.usda.gov/import_export/plants/manuals/ports/; World Bank, World Development Indicators 2009, http://go.worldbank.org/K2CKM78CC0; United Nations, Food and Agriculture Organization, FAOSTAT, http://faostat.fao.org/default.aspx.

Annex G

Current In-Progress PPQ Risk Analyses

Current In-Progress PPQ Risk Analyses as of June 30, 2009

Country/Countries/Territory	Commodity or commodities
Argentina	Cantaloupe and Honeydew
Argentina	Citrus (Lemon)
Argentina	Passionfruit
Argentina	Raspberry
ASEAN[1]	Litchi, Longan, and Rambutan
Australia	Custard apple
Australia	Litchi
Australia	Longan and Rambutan
Australia	Mango
Australia	Mangosteen
Australia	Stone fruit (Apricot, Nectarine, Peach, and Plum)
Brazil	Japanese squash (Tetsukabuto)
Central[2] & South America[3]	Blueberries
Central America[2]	Guava
Central America[2]	Litchi
Central America[4]	Pepper
Central America[2]	Pitaya
Central America[2] & Mexico	Longan
Central America[2] & Mexico	Rambutan
Central America[2] & Mexico	Red Pitaya
Chile	Baby kiwi
Chile	Cape gooseberry
Chile	Clementine orange (Citrus)
Chile	Fig and Pomegranate
Chile	Horned cucumber
Chile	Purple passionfruit
Chile	Rosemary, Sage, Tarragon, and Thyme
Chile	Tomato
China	Apple
China	Mangosteen
China	Rambutan
China	Sand pear
Colombia	Arugula
Colombia	Celery

[1] Brunei, Cambodia, Indonesia, Laos, Malaysia, Philippines, Thailand, and Vietnam
[2] Belize, Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua, and Panama
[3] Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Paraguay, Peru, Uruguay, and Venezuela
[4] Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua

This list reflects all import requests currently being evaluated by APHIS-PPQ that meet the requirements in Title 7, *Code of Federal Regulations*, Section 319.5. The risk analyses and rulemaking or other policy documents for each issue on this list may be in any stage of preparation, review, or clearance, but have not yet been released publicly. When a risk analysis is released for public comment or used as a basis for a proposed or final regulatory action, we will remove it from this list.

Country/Countries/Territory	Commodity or commodities
Colombia	Lemongrass
Colombia	Sage
Colombia	Spinach
Colombia	Swiss chard
East Africa[5]	Passionfruit
ECOWAS[6]	Mango
ECOWAS[6]	Papaya
ECOWAS[6]	Tomato
Ecuador	Cucurbita
Egypt	Lettuce
El Salvador	Chipilin
El Salvador	Chufle
El Salvador	Izote
El Salvador	Pacaya (Fresh immature inflorescence)
Fiji	Eggplant
Fiji	Papaya
Ghana	Eggplant (systems approach)
Ghana	Pepper (systems approach)
Guatemala	Avocado
Hawaii	Avocado (Sharwil)
Hawaii	Cherimoya and Soursop
Hawaii	Guava
India	Pomegranate
Israel	Barhi dates
Israel	Squash blossoms
Japan	Orange (Unshu) (update of 1995 PRA)
Japan	Persimmon (entire United States)
Jordan	Beans
Jordan	Strawberries
Kenya	Beans
Kenya	Chili pepper
Kenya	Sugar snap peas and snow peas
Korea	Peppers (continental United States)
Korea	Shepherd's purse
Korea	Sweet potato (entire United States)
Korea	Tomato
Korea	Orange (Unshu) (update of 2006 PRA)

[5] Kenya, Tanzania, Uganda

[6] Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo

This list reflects all import requests currently being evaluated by APHIS-PPQ that meet the requirements in Title 7, *Code of Federal Regulations*, Section 319.5. The risk analyses and rulemaking or other policy documents for each issue on this list may be in any stage of preparation, review, or clearance, but have not yet been released publicly. When a risk analysis is released for public comment or used as a basis for a proposed or final regulatory action, we will remove it from this list.

Country/Countries/Territory	Commodity or commodities
Korea	Wild chives (update of 2005 PRA)
Madagascar	Litchi
Malaysia	Jackfruit
Malaysia	Papaya
Malaysia	Pineapple
Malaysia	Starfruit
Mexico	Avocado (expansion to Puerto Rico)
Mexico	Fig
Mexico	Grapefruit
Mexico	Guava (systems approach)
Mexico	Pitaya
Mexico	Potato
Mexico	Potato (mini-tuber)
New Zealand	Persimmon (entire United States)
Pakistan	Mango
Panama	False coriander
Panama	Pepper
Peru	Citrus
Peru	Fig
Peru	Papaya
Philippines	Asparagus
Philippines	Banana (continental United States)
Philippines	Banana (Guam and Territories)
Philippines	Mango (Expansion)
Puerto Rico	Rambutan
Senegal	Melon
South Africa	Allium
South Africa	Apricot, Cherry, Plumcots, and Pluots
South Africa	Avocado
South Africa	Litchi
South Africa	Persimmon
Spain	Apricots
Spain	Avocado
Taiwan	Longan
Taiwan	Pummelo
Turkey	Black figs
Turkey	Pomegranate
Uganda	Avocado
Uganda	Banana and Plantain
United Kingdom	Potatoes (Ware potatoes)

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Country/Countries/Territory	Commodity or commodities
United Kingdom	Wall rocket
Uruguay	Grapefruit, Lemon, and Orange
Uruguay	Melon and Watermelon
Vietnam	Mango
Zambia	Fine green beans
Zambia	Garlic and Leek
Zambia	Okra
Zambia	Pepper
Zambia	Sugar snap peas and snow peas

If you have questions or need further information regarding a specific country/commodity request, please submit your questions to PPQ.Risk.Analyses.In.Progress@aphis.usda.gov

This list reflects all import requests currently being evaluated by APHIS-PPQ that meet the requirements in Title 7, *Code of Federal Regulations*, Section 319.5. The risk analyses and rulemaking or other policy documents for each issue on this list may be in any stage of preparation, review, or clearance, but have not yet been released publicly. When a risk analysis is released for public comment or used as a basis for a proposed or final regulatory action, we will remove it from this list.

Annex H

AGOA Country & Regional Case Situations

The following countries provide a sampling of case scenarios for further examination of the technical assistance and trade capacity building activities in selected AGOA countries and their relative export success.

1. Cameroon

The total value of Cameroon's agricultural exports to the United States was $25.4 million in 2009, with cocoa and cocoa product exports valued at $10.8 million. Horticultural products to the United States were only valued at $322,000 in 2009.

Chief Horticultural Product Exports from Cameroon to the U.S.
($ million)

Horticultural Product	2000	2009
Frozen Apple Juice Concentrate	0	$0.1
Frozen Vegetables	0	$0.1
Misc. Horticultural Products	0	$0.1

Comparison of Horticultural Exports to EU & U.S. from Cameroon
(in metric tons)

	EU		US	
	2000	2008	2000	2009
Horticultural Product				
Apple Juice Concentrate-Frozen			0	824
Avocados		9	0	0
Bananas	204,978	279,530	0	0
Beans-Preserved/Prepared			0	17
Beer			0	6
Cassava-Frozen			0	9
Cassava-Fresh/Dried			0	9
Eggplant		48	0	0
Leguminous Vegetables-Frozen			0	7
Litchi/Passion Fruit		11	0	0
Mango		225	0	0
Mung Beans-Dried			0	73
Non-Alcoholic Beverage			0	20
Other Mixed Condiments			0	3
Other Vegetables-Frozen			0	5
Papaya	18	20	0	0
Peaches-Processed			0	17
Pineapple	2,975	9,924	0	0

Plantains	9	0	0
Plums & Prunes-Processed		0	1
Potatoes-Fresh & Seed		0	30
Tomatoes-Dried/In Powder		0	10
Yucca-Prepared/Preserved		0	29

In 2008, Cameroon received $60,000 from the USDA as part of the Borlaug International Agricultural Science and Technology Fellows Program. This program helps countries strengthen their agricultural trade and scientific capacity be providing short-term scientific training and collaborative research programs to entry-level scientists, policymakers and university faculty. The program is intended to help build capacity and market access for sustainable and competitive agricultural sectors by promoting the adoption of sound regulatory and food safety policies and new technologies. Cameroon also received $24,000 from USDA through this program in 2008 to focus on SPS measures. The only other U.S. agricultural trade-related assistance for capacity building to Cameroon in the last decade was $666,900, which was provided in 2003.

2. Ethiopia

About 80 percent of the 75 million people in Ethiopia "are farmers who plow their fields with oxen" where "only a quarter of the country's estimated 175 million fertile acres is being farmed."[1] In 2007, Ethiopia's AGOA/GSP exports were valued at $9 million, and included apparel, foliage, cut flowers, nuts, beans, and spices.[2] "Ethiopia has ideal climatic conditions for the production of cut flowers" and foliage "due to the high altitude…of the Addis Ababa region."[3] Among AGOA countries, Ethiopia is the third largest exporter of agricultural products to the United States in term of value. In 2009, Ethiopia's agricultural exports to the U.S. were valued at $84.7 million, with niger oilseed exports totaling $39.9 million and coffee exports at $38.5 million.

Chief Ethiopian Horticultural Product Exports to the U.S.
($ million)

Horticultural Product	2000	2009
Nursery Plants	0	$2.2
Edible Tree Nuts	0	$1.8
Dried Beans	0	$0.6
Beer	$0.5	$0.3

According to the Ethiopian Development Research Institute (EDRI) "a modern, export oriented and private sector based floriculture industry began to emerge in Ethiopia in the late 1990s."[4] The first pioneer farm started production and export in 2000 and until 2003, only three farms

[1] "The Ultimate Crop Rotation," Stephanie McCrummen, The Washington Post, November 23, 2009, p. 12.
[2] USTR Report, p. 101.
[3] USITC April 2007 report, p. 2-32.
[4] Micro Evidence on the Development of Cut-flower Industry in Ethiopia, Presentation of Mulu Gebreeyesus, Ethiopian Development Research Institute (EDRI), Initiative for Policy Dialog Task Force on Africa (July 10-11, 2008).

were involved in exporting.[5] The floriculture industry in Ethiopia has witnessed phenomenal growth, such that by January 2008, about 67 farms were exporting cut flowers.[6] After starting with just one exporting flower farm in 2000, Ethiopia now has a 5% share of the EU market (see table in Appendix H) and has become the second largest flower exporter in Africa after Kenya. In 2007, Ethiopia's flower farms employed about 25,000 permanent workers and general additional temporary employment for construction and other related activities, with flowers becoming one of the country's five largest export commodities.[7]

According to some estimates, flower export revenues have risen by a factor of six in the past five years. Meanwhile, exports to the U.S. for flowers "are up considerably, increasing from just $400,000 in 2006 to almost $2 million in 2007."[8] An important development is the fact that there is a direct flight from Addis Ababa to Dulles Airport, which makes reduces the transportation time. The Washington metropolitan area has become a growing market for Ethiopian flower imports, but it is interesting to note that the direct flight has probably been added as a result of the large Ethiopian immigrant community in the Washington area who travel between the two countries rather part of a plan to promote the flower trade.

The Ethiopian Investment Agency found that two-thirds of the approved flower projects were foreign-owned and that most of the flower farms were located in a radius of 50 kilometers of Addis and clustered in a few areas.[9] The impressive growth of the Ethiopian flower industry is also explained by the example of a company owned by Dutch investors that leased fully prepared plots to interested flower growers and carried out all initial investments, including construction of greenhouses, irrigation systems, packing sheds, cold rooms and other facilities, installation of machines, and the planting of flowers.[10] This particular company leased plot of 25 acres or more to interested investors, with ownership to be transferred to the lessee after about 8 years, which "makes it possible for growers to start immediately on a large scale, without having to take big financial and technological risk themselves."[11] This same company also handles the marketing of the flowers for most of the farms in its area.

Foreign direct investment has a significant presence in Ethiopia's flower sector, with Dutch, Indian, and Israeli interests owning 34%, 22%, and 12% of the total number of foreign-owned farms respectively.[12] Clearly, the Ethiopian government is "marketing abroad one of the hottest commodities in an increasingly crowded and hungry world: farmland."[13] The Ethiopian government is not involved in production, but is the major supplier of one of the most critical inputs, which is land, with the government leasing the land directly or indirectly for 52 flower farms at a low price for a long period.[14] The Development Bank of Ethiopia is the first major external source of finance, while the government also subsidizes transport and infrastructure.

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[5] *Id.*
[6] *Id.*
[7] *Id.*
[8] USTR Report, p. 33.
[9] EDRI presentation.
[10] *Id.*
[11] *Id.*
[12] *Id.*
[13] The Ultimate Crop Rotation, Washington Post (November 23, 2009), p. 1.
[14] EDRI presentation.

About 95% of the road is asphalted between the farms and the Addis Ababa airport, and "on average it takes 1 hour and 40 minutes for loaded trucks to reach the airport." [15] Bruising of flowers is a significant consideration for transport, which means paved roads and easily accessible airport key components of successful flower trade.

Roses constitute the major flower produced in and exported from Ethiopia, accounting "for 77% of flower covered land, 62% of exported stems, and 85% of total export revenue in 2007. Export sales are usually made in two ways: direct sales and auction. Direct sales involve a consignment agent who offers a relatively low but guaranteed price. Auction (mainly through Holland auction offers better price potential and entry is relatively easy but price is not guaranteed."[16] Currently, Ethiopian exporters use both channels, with the Holland auction being the main channel accounting for about 54% of total export sales in 2007, while direct sale account for 44% of exports.[17]

The largest cost component is airfreight, amounting to 21.4% of total sales revenue in 2007.[18] Plant material, chemicals, fertilizers, and packaging materials costs combined account for 15.8% of total revenue.[19] Exporters pay about 4.5% of total sales revenue as commissions and marketing agent's fees, and labor cost component is very low, accounting for only 5.3% of total revenue. Total costs are about 64% of total sales revenue, which means "the gross profit of the exporters reaches 36% of total revenue depending on the year."[20]

In 2008, Ethiopia received $1.5 million from the U.S. Agribusiness and Trade Expansion Program (ATEP). The objective of this program is to increase export sales by $450 million in four targeted agricultural subsectors: oilseeds/pulses, horticulture/floriculture, leather/leather products, and coffee. For the eight-year period from 2001 through 2008, the U.S. has provided Ethiopia a total of $10.3 million for agriculture trade-related capacity building assistance.

Comparison of Horticultural Exports to EU & U.S. from Ethiopia (in metric tons)

	EU		US	
	2000	2007	2000	2009
Horticultural Product				
Beer			47	172
Cut flowers		16,087	0	0
Edible Tree Nuts			0	578
Nursery Plants		839	0	17,260*
Vegetables-Dried		19,451	0	1,556^
Vegetables-Fresh	3,490+	3,405	0	0
Wine			14	7

[15] *Id.*
[16] *Id.*
[17] *Id.*
[18] *Id.*
[19] *Id.*
[20] *Id.*

+French Beans
*Thousands of plants
^Dried Beans

3. Ghana

Ghana ranks as the second largest agricultural exporter among AGOA counties to the United States, with cocoa and cocoa product exports valued at $87.4 million in 2009. In comparison, the other leading agricultural exports were fresh yam exports valued at $4.3 million and fresh/dried yams valued at $1 million in 2009.

In a 2007 study, the ITC reported "on a six-year African Development Bank-sponsored project on behalf of the government of Ghana" aimed to increase raw and processed cashew production."[21] Perhaps it is still early in this project and Ghana's domestic production has increased, but Ghana had no cashew exports to the U.S. until 2009, and these shelled cashews were only valued at $211,000.

Chief Horticultural Product Exports from Ghana to the U.S.
($ million)

Horticultural Product	2000	2009
Yams-Fresh	$1	$4.3
Cassava-Fresh/Dried	0	$1
Soup & Broth-Dried	$0.2	$0.4
Cashew Nuts-Shelled	0	$0.2

Comparison of Horticultural Exports to EU & U.S. from Ghana
(in metric tons)

	EU		US	
	2000	2008	2000	2009
Horticultural Product				
Bananas & Plantains		46,232	18	12
Beer			4	9
Beverages-Non-Alcoholic			5	21
Cabbage-Fresh/Chilled			30	0
Cashew Nuts-Shelled			0	49
Cassava-Fresh/Dried			33	1,304
Cassava-Frozen			46	15
Cassava-Starch			51	107
Citrus Peal			0	5
Courgettes		10	0	0
Eggplant		375	0	0
Litchi/Passion Fruit		95	0	0
Fruit-Frozen			0	4
Onions		7	0	0

[21] USITC April 2007 report, 2-12.

Oranges		1,232	0	0
Papaya		1,061	0	0
Pineapples-Fresh/Dried	35,601		43	6
Soups & Broths-Dried			134	198
Yams-Fresh			1,886	4,832
Yucca-Prepared/Preserved			0	128

In 2008, Ghana received $3,091,900 from the U.S. to support private sector businesses and farmers to meet international standards and to export their products. For the eight-year period from 2001 through 2008, the U.S. has provided Ghana with $26.7 million for agricultural trade-related capacity building.

4. Kenya

Kenya's agricultural exports to the United States were valued at $59.2 million in 2009, with coffee exports valued at $45.8 million. Instead of focusing on other products such as textiles and apparel, which declined in value from a high of $272 million in 2003 to an estimated $180 million in 2009, Kenya needs to take better advantage of export opportunities for horticultural products.[22] In fact, Kenya is much better positioned than many other AGOA countries in regard to its phytosanitary capacity.

Kenya was the first sub-Saharan African country to develop it floriculture industry which benefited from "a dynamic private sector environment, fostered by government policies" that contribute to the growth of this industry.[23] "The Kenyan floriculture industry employs approximately 100,000 people directly and 500,000 in related services."[24] While Kenya supplies about 30% of the EU cut flower market, Kenya's cut flower exports to the U.S. were valued at $1.1 million in 2008, as set forth in the following table.

Chief Horticultural Product Exports from Kenya to the U.S.
($ million)

Horticultural Product	2000	2009
Macadamia Nuts	$0.1	$4.1
Pineapple Juice-Frozen	$0.2	$3.7
Cut Flowers	0	$1.9
Cashew Nuts	$0.2	$0.9
Nursery Plants	$0.7	$0.5

Since Kenya possesses "a perfect agricultural climate for off-season vegetable production and export to Europe, it has been providing European tables with vegetables for nearly 50 years."[25] Kenya's success has been due to market segmentation, servicing niche markets, and investing in

[22] KAM: Government Should Incentivise Textiles Sector, Kenya Association of Manufacturers (July 17, 2009).
[23] Sub-Saharan Africa: Factors Affecting Trade Patterns of Selected Industries, First Annual Report, United States International Trade Commission, Investigation No. 332-477, USITC Publication 3914 (April 2007), p. 2-29.
[24] *Id.* at p. 2-31
[25] Building Competitiveness in Africa's Agriculture: A Guide to Value Chain Concepts and Applications, C. Martin Webber & Patrick Labassee, The World Bank (2010), p. 73.

marketing."[26] "The industry has constantly refocused its efforts on exporting higher unit-priced products," which means products not fitting this profile have been dropped, while "the industry has also expanded into products of greater value such as pre-packed and mixed vegetable packs."[27] The "Horticultural Crops Development Authority…of Kenya was initially directly involved in the trading of vegetables but eventually switched to a more facilities function, and now it focuses on certification schemes."[28]

Comparison of Horticultural Exports to EU & U.S. from Kenya
(in metric tons)

	EU			US	
	2000	2007	2008	2000	2009
Horticultural Product					
Asparagus			152		0
Avocados	11,422		11,841		0
Beans-Dried					6
Beer					73
Cashew Nuts					174
Courgettes			65		0
Cut Flowers		90,529			11,292*
French Beans	23,515		38,308		0
Fruit Juices		12,326			11,830+
Litchi/Passion Fruit			838		0
Macadamia Nuts					629
Mango			39		0
Mushrooms			8		0
Nursery Plants		2,081			6,079*
Onions			324		0
Papaya			51		0
Peas			12,800		0
Pineapple			14		0
Pineapple-Processed					616
Plantains			6		0

*Thousands of plants
+ Pineapple Juice-Frozen

In 2003, "a four-year, $7.5 million program was launched to enhance the competitiveness of the Kenyan horticulture" sector by USAID and Kenya.[29] "About 5,000 cashew nut farmers along coastal Kenya…received training in better tree management," as part of an effort to increase Kenya's cashew kernel exports to the United States.[30] Indeed, the value of shelled cashew exports to the U.S. increased by $1.2 million over the six-year period from 2002 to 2008. In addition, "Kenya's Ministry of Agriculture and the Kenyan Agricultural Research Institute have

[26] *Id.*
[27] *Id.*
[28] *Id.*
[29] USITC report (April 2007), p. 2-12.
[30] *Id.*

also funded programs to help cashew farmers meet" European standards, allowing them to remain in the EU market.[31]

In 2008, the U.S. provided another $900,000 in agriculture trade-related trade capacity building assistance to Kenya. Of this total, $200,000 was provided to the Kenya Horticulture Development Program "to increase the incomes of 80,000 smallholder farmers."[32] This goal of helping these small farmers is addressed through five major components: 1) product traceability, 2) growth of local markets; 3) new product development for smallholder producers, 4) tree crop interventions in coastal regions, and 5) Kenya-U.S. trade enhancement. This program intervenes on SPS issues to access markets and increases the use of integrated pest management.

Another $250,000 of the $900,000 from the U.S. total in 2008 was provided to Tegemeo Agricultural Policy and Research Analysis. The Tegemeo Institute of agricultural policy and development is conducting research focusing on monitoring the implementation of reforms by the Kenyan government in the major input and output sectors, analyzing the competitiveness of several commodities, including corn, dairy, horticulture and sugar, as well as simplifying legislation for agriculture. For the eight-year period from 2001 through 2008, the U.S. has provided Kenya with a total of $4.5 million in assistance for agriculture trade-related capacity building.

5. Senegal

Agriculture remains the cornerstone of the Senegalese economy, since it employs up to 75 percent of the population. Peanuts, sugar cane, gum arabic and cotton are the primary cash crops. "Peanuts are the engine of the rural economy and their production accounts for around 40 percent of the cultivated land," taking up 5 million acres and providing employment for as many as one million people.[33] The value of gum arabic exports soared to $280 million in 2006, making it by far the leading agricultural export.[34] Additionally, a wide variety of fruits and vegetables are grown for local and export markets, with green beans, industrial tomatoes, cherry tomatoes, melons and mangos being Senegal's main fruit and vegetable cash crops.[35]

In 2000, the total value of Senegal's agricultural exports to the United States was only $112,000, with such exports being valued at $537,000 in 2009.

Horticultural Product Exports from Senegal to the U.S.
($)

Horticultural Product	2000	2008
Misc. Horticultural Products	$0	$11,000

[31] *Id.*
[32] USAID Trade Capacity Building Database web site.
[33] Senegal – Agricultural Situation Country Report 2007, Global Agriculture Information Network, USDA Foreign Agricultural Service, GAIN Report No. SG7001 (January 1, 2007), p. 4.
[34] *Id.* p. 3.
[35] *Id.*

Exports of fruits and vegetables from Senegal are growing steadily even though they remain low reaching approximately 50,000 tons in 2007, with Europe still being the primary market.[36] About 70% of the European market is dominated by green beans, cherry tomatoes, mangos, and melons.[37] In order for Senegal to benefit from AGOA, the country needs to address phytosanitary concerns and improve existing value chains (i.e., improve ocean transportation of green beans, extend the market of cherry tomatoes, increase the competitiveness of melons, and expand the seasonality of mangos).[38]

According to an assessment of USDA's FAS, the potential for industrial tomato production is high, especially along the Senegal River valley, but the current level of production of double concentrate tomato paste does not meet Senegal's domestic needs.[39] FAS also reported:

> "The overall potential of the horticultural sector is limited by the presence of various pests (including fruit and white flies), and therefore needs technical assistance to develop in country SPS capacity for meeting international standards, and infrastructure to increase the efficiency of surveillance and compliance. Senegal needs also to work with its regional partners to harmonize phytosanitary standards and procedures, strengthen pest surveillance and detection capabilities, including border inspection operations, develop risk assessment capability, and overcome bottlenecks related to regulatory issues and trade."[40]

Currently, the phytosanitary regulatory infrastructure of Senegal does not have the capacity to perform critical phytosanitary functions due their lack of expertise and clearly documented regulations pose impediments to potential exporters of commodities.[41] Additionally, there is a need to form a more constructive and sustainable relationship between the NPPO and the private sector to encourage/facilitate trade.[42]

Comparison of Horticultural Product Exports to EU & U.S. from Senegal (in metric tons)

	EU		US	
	2000	2008	2000	2009
Horticultural Product				
Cassava-Fresh/Dried			0	6
Citrus Peel			0	2
French Beans	5,448		0	0
Mango		6,034	0	0

[36] *Id.* p. 6.
[37] *Id.*
[38] *Id.*
[39] *Id.*
[40] *Id.* at p. 7.
[41] Emerging Markets West Africa Plant Systems Analysis Training Workshop, Dakar, Senegal Fiscal Year 2009, APHIS (August 15, 2008).
[42] *Id.*

Melons	2,571		0	0
Onions		25	0	0
Pineapple		26	0	0
Tomatoes-Fresh/Chilled	8,731		0	0
Sauce & Preparations			0	1

In 2008, the U.S. provided grants to private enterprises and nongovernmental organizations, with $90,816 going to Senegal to promote the expansion and development of export trade. For the eight-year period from 2001 through 2008, the U.S. has provided Senegal with a total of $3.8 million in assistance for agriculture trade-related capacity building.

6. Tanzania

Tanzania's agricultural exports to the United States were valued at $33.9 million in 2009, with coffee exports valued at $23.1 million and horticultural product exports valued at $9.3 million. Tanzania has found success in cashew production, with U.S. exports growing by $7.8 million in four years, from 2004 to 2008. Cashew exports to the U.S. also grew by 1,443 metric tons (to 1,772 tons) over this same four-year period, as a result of a unique government and domestic industry agreement.

In 2005, the government of Tanzania and the cashew "producers of Tanzania developed and executed a joint Memorandum of Understanding (MOU) that contained and incentive package of reduced government taxes and levies and a commitment from the processors to expand domestic processing. USAID provided $393,000 to facilitate the effort."[43] The goal of the MOU was to increase processing in Tanzania by 10,000 metric tons per year over five years, resulting in 30,000 additional jobs and over $10,000 in increased export earnings.[44] The by the end of 2006, "the Cashew Board of Tanzania had reopened four processing plants, three of which account for 80 percent of Tanzania's kernel exports."[45]

Chief Horticultural Product Exports from Tanzania to the U.S.
($ million)

Horticultural Product	2000	2009
Cashew Nuts-Shelled	0	$5.5
Vegetable Extracts-Medical	0	$3.2

Comparison of Horticultural Product Exports to EU & U.S. from Tanzania
(in metric tons)

	EU		US	
	2000	2007	2000	2009
Horticultural Product				
Cashew Nuts-Shelled		1,658	0	1,213
Clove Oil			5	0

[43] USITC April 2007 Report, p. 2-13.
[44] *Id.*
[45] *Id.*

Cut Flowers	2,835	0	0
French Beans		0	0
Nursery Plants	1,071	0	199*
Vegetables-Dried	4,583	14	355+

*Thousands of plants
+Dried peas and beans

In 2008, the U.S. provided $816,348 to Tanzania for the Smallholder Horticulture Out-growers Promotion Project. This project is designed to strengthen horticulture export market linkages and domestic farm-to-market channels for high-value vegetables through increased productivity and compliance with global market standards. Using a value chain approach, the project promotes market-oriented growth of vegetables in the northern highlands of Tanzania to increase quantity and quality of vegetables for export. The project facilitates the integration of small out-growers into exporters' value chain.

Another $771,784 was also made available from the U.S. in 2008 in the form of grants to private enterprises and nongovernmental organizations to promote the expansion and development of export trade. For the eight-year period from 2001 through 2008, the U.S. has provided Tanzania with a total of $3.4 million in assistance for agriculture trade-related capacity building.

7. Uganda

Uganda's agricultural exports to the United States rose from a value of $15.1 million in 2008 to $24.3 million in 2009, with the most valuable exports being coffee and vanilla beans.

"In 2005, cut flowers were Uganda's eight-largest export by value and amounted to $35 million."[46] "Virtually all Ugandan flowers are exported to the EU, approximately 60 percent to the Dutch auctions and the remainder directly to supermarkets and other EU retailers."[47] In 2009, Uganda exported 755,300 cut roses to the U.S., which were valued at $83,000.

"The government of Uganda encourages export-led growth by granting duty-free import of most inputs for flower farms… The industry is now looking to expand the number of farms and the range of flowers and cuttings for export in order to achieve economies of scale and minimize freight rates."[48]

USAID supports the Agricultural Productivity Enhancement Program, which is an $18 million activity that expands rural economic opportunities and increases household income by strengthening the production and marketing of such export commodities as coffee, vanilla, and flowers.[49]

Comparison of Horticultural Products Exports to EU & U.S. from Uganda (in metric tons)

[46] *Id.* at p. 2-31.
[47] *Id.* at 2-32.
[48] *Id.* at 2-39.
[49] USTR Report, p. 52.

	EU		US	
	2000	2007	2000	2008
Horticultural Products				
Cut Flowers		4,708	0	219*
Nursery Plants		1,183	0	3,825*
Bananas & Plantains		1,665	0	0
Vegetables-Fresh/Chilled		1,843	0	16
Beer			0	10
Pineapples-Reduced			0	2
Other Enzymes			3	2

*Thousands of plants

In 2008, the U.S. provided $244,529 to Uganda as grants to private enterprises and nongovernmental organizations to promote the expansion and development of export trade. For the eight-year period from 2001 through 2008, Uganda received a total of $18.9 million in total U.S. agricultural trade-related capacity building assistance.

8. Zambia

In 2007, Zambia's AGOA/GSP exports to the U.S. were only valued at $230,000 and included jewelry and cut flowers.[50] USAID has supported the Market Access Trade and Enabling Policies Project, which "focuses on identifying foreign markets for Zambian goods and working with exporters to complete transactions in those markets."[51] The Zambia Agribusiness Technical Center also "assists smallholder producers of high-value products, such as coffee and honey through the provision of expertise, start-up capital, and the forging of market linkages."[52]

Comparison of Horticultural Product Exports to EU & U.S. from Zambia (in metric tons)

	EU		US	
	2000	2008	2000	2008
Horticultural Product				
Cut Flowers				44,900*
French Beans	2,806			0
Litchi	85			0

*Thousands of plant

In 2008, the U.S. provided Zambia with $349,800 in assistance for agricultural trade-related capacity building. As part of this total amount, $16,000 was directed to USAID's Market Access, Trade and Enabling Policies project. This five-year project is designed to increase Zambia's exports of agricultural and natural resource products into regional and international

[50] USTR Report, p. 140.
[51] USTR Report, p. 52.
[52] *Id.*

markets. For the eight-year period from 2001 through 2008, Zambia received a total of $3.3 million for agricultural trade-related capacity building from the U.S.

9. The Common Market for Eastern and Southern Africa (COMESA)

Already a regional economic community made up of 19 countries accounting for about half of Africa's population, COMESA has initiated a Common Investment Area to facilitate cross-border and foreign direct investments and "decided to establish a COMAID Unit, which will coordinate Aid for Trade at national and regional levels."[53] By 2007, producers from the COMESA region exported "well over a billion dollars of fresh flowers, fruits and vegetables annually to the European market and within the region, with occasional exports to Australia."[54] In contrast (as of 2007), producers in the region were:

> "[O]nly allowed to export a limited number of products (three for Zambia and three for Kenya) to the U.S. market out of the more that 15 or so types of vegetables grown for the export market. The current list of approved commodities does not allow producers to increase exports to the U.S. as the region's business strategy is to export processed value-added products in the form of multiple vegetable packs comprising a range of vegetables in a single pack and ready to eat. The few commodities currently approved to not match the required pack mixes. Accordingly, the export of vegetables to the U.S. from the COMESA region has been erratic and intermittent. Zambia, for example, exported some $100,000 annually or so of snow peas in the 2000-2003 period, and this is now discontinued as this modality is not attractive to export. This compares to Zambia's total fresh vegetable exports valued at $40 million.
>
> The COMESA's regions interest in the U.S. market dates back to April 1998, when a formal request for conduction Pest Risk Assessments (PRAs) was made by the Zambian Government to the U.S. Government. This request and requests from other COMESA member states was pending for more than eight years until 2006 when two additional products were approved…
>
> It is noteworthy to highlight that COMESA member states have, over the years, performed extremely well in exporting fresh vegetables, fruits and flowers to the European Union. The growing and exporting of cut flowers has become one of the most vibrant and successful industries in the region. Kenya is one of the largest suppliers of quality cut flowers and fresh vegetables to the European Market with annual exports standing at over…$700 million annually."[55]

Instead of considering U.S. import requests from large regions such as the 19 countries making up COMESA, APHIS is more inclined to evaluate smaller regions of neighboring countries, where the pest situations are similar. For example, APHIS received an import request for passion fruit from Uganda in 2003 and Kenya in 2005, but it conducted a PRA for what it calls

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[53] Testimony of Sindiso Ngwenya, Assistant Secretary General of COMESA, submitted to U.S. House Subcommittee on Africa and Global Health, Committee on Foreign Affairs, July 12, 2007, p. 1.
[54] *Id* at p. 3.
[55] *Id.* at pp. 4-5.

the East African region for Kenyan, Tanzania, and Uganda, even though APHIS did not receive a request from Tanzania. If APHIS ever does receive a request from Tanzania, the most of the PRA work will have already been completed. APHIS not only wants to avoid duplicating work for each country, but it wants to ensure that the pest list is comprehensive. This regional approach is not unique to Africa, and in fact, APHIS has conducted PRAs in Central America, where it has an import request from one or two countries, and it will go ahead and evaluate another neighboring country.

The COMESA Secretariat received $91,000 in 2005 and $200,000 in 2006 from USAID for trade-related agricultural capacity building assistance.[56]

[56] USAID web site: http://tcb.eads.usaidallnet.gov/query/do