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Łukasz JUREŃCZYK[1]
Maria Ewa SZATLACH[2]

THE US–KENYA FREE TRADE AGREEMENT: A GATEWAY OF CLOSER COMMERCIAL COOPERATION WITH AFRICA

The subject of this paper is the legitimacy and purpose of concluding a free trade agreement (FTA) between the USA and Kenya. The main research problem lies in whether the US-Kenya FTA can become a template for strengthening trade cooperation between the US and Africa and strengthening the American economic position on the continent. The main hypothesis is that the successful negotiations leading to the conclusion of an FTA, satisfactory for both the US and Kenya, might motivate other African countries to negotiate with the US in this regard. The US-Kenya FTA could become a model document, helping the US and African countries to negotiate free trade cooperation. It may prove to be a milestone on the road to closer economic cooperation between the United States and Africa.

Keywords: The United States, Kenya, Africa, free trade agreement, preferential trade agreement, commercial cooperation.

1. INTRODUCTION

In 2021 Kenya had 49,801 thousand inhabitants who generated a GDP of 109,49 billion dollars, which was just 2199 dollars per capita. For comparison, however, the second largest economy of East Africa – Ethiopia, had a GDP of 92,76 billion dollars generated by 98,729 thousand inhabitants, which means that its GDP per capita was more than half lower than in Kenya (International Monetary Fund 2021). Kenya is East Africa's largest and most important business, financial, and transportation hub, with 80 percent of region's trade flowing through Mombasa Port (Bureau of African Affairs, 2018). As "the gateway to East Africa", Kenya plays a vital role as a transportation hub for much of Sub-Saharan Africa (USAID). In 2014, the World Bank reclassified Kenya from a low-income country to a lower middle-income country (Congressional Research Service, 2015). From the perspective of commercial cooperation with the United States, this was important because it limited Kenya's possibilities to benefit from certain concessions for the poorest countries.

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[1] Łukasz Jureńczyk, Kazimierz Wielki University in Bydgoszcz, Poland; e-mail: lukasz jurenczyk@ukw.edu.pl (corresponding author). ORCID: 0000-0003-1149-925X.
[2] Maria Ewa Szatlach, Kazimierz Wielki University in Bydgoszcz, Poland; e-mail: szatlach@ukw. edu.pl. ORCID: 0000-0003-1376-2904.

The United States has several trade agreements with East Africa of which Kenya is a member. Since 2000, Kenya enjoys preferential trade benefits under the African Growth and Opportunity Act (AGOA). The program eliminates import tariffs and quotas on goods from many African countries. In 2001, the USA signed a cooperation agreement with the Common Market for Eastern and Southern Africa. In February 2015, the U.S. – East African Community (EAC) Cooperation Agreement was signed to increase the US investment and trade with the region. In 2018, the United States signed Trade and Investment Framework Agreements (TIFA) with the EAC (Bureau of African Affairs, 2018). Kenya is a member of both organizations. In recent years, bilateral cooperation between the USA and Kenya has been increasing, primarily in the commercial area. In June 2018, the USA and Kenya signed the bilateral commercial Memorandum of Understanding (MoU). In turn, in August 2018 President Donald Trump and President Uhuru Kenyatta established the U.S.-Kenyan Trade and Investment Working Group (TIWG). Under the TIWG the states agreed to work together to: pursue exploratory talks on a future bilateral trade and investment framework; maximize the remaining years of the AGOA; strengthen commercial cooperation; and develop short-term solutions to reduce trade and investment barriers. In April 2019, the inaugural meeting of the Group was held in Washington, and subsequent meetings are held regularly twice a year (Office of the United States Trade Representative, 2020).

The purpose of the paper is to analyze and assess the legitimacy and purposefulness of the US-Kenya free trade agreement in the context of strengthening trade cooperation between the United States and Africa and American economic position on the continent. The first part of the paper presents the economic relations between the United States and Africa in historical terms. The second part deals with trade relations between the United States, Kenya and Africa in the second decade of the 21st century. The third part of the paper outlines the impact of preferential trade agreement (PTAs) on the economic development of countries participating in such agreements. This impact is analyzed in the context of the concepts of economic regionalism. The fourth part is devoted to the discussion on the legitimacy and possibilities of strengthening trade relations between the USA, Kenya and Africa thanks to bilateral and comprehensive free trade agreements. The main research problem lies in the question of whether the US – Kenya FTA can become a template for strengthening trade cooperation between the United States and Africa and help to strengthen its economic position on the continent? The main hypothesis of the paper assumes that the success in negotiations leading to the conclusion of a free trade agreement satisfactory for the US and Kenya might motivate other African countries to negotiate with the United States in this regard. The agreement could become a model document and help the United States and African countries to negotiate free trade cooperation. As the United States and African states have a common interest in concluding agreements regulating future trade relations, the agreement between the USA and Kenya may prove to be a milestone on the road to closer economic cooperation between the United States and Africa. The conclusion of comprehensive bilateral free trade agreements will require significant negotiation efforts and intensive adaptation efforts. In turn, increasing trade cooperation will require active implementation of the provisions of agreements and creation of incentives enabling full use of the opportunities they will provide.

2. US ECONOMIC POLICY TOWARDS AFRICA

Since the end of World War II, the US economic policy toward Africa focused mainly on economic aid to the countries of this continent. During the Cold War, both the United States and the USSR accepted African non-alignment and neutrality (Cohen, 2008). The new international situation after 1989 forced the United States to develop a new foreign economic policy. In the 1996 National Security Strategy (NSS), the African continent found itself in the American area of political and economic interest, although it was not a priority region. The 1997 NSS highlighted threats to American security from Africa: state-backed terrorism; drug trafficking; international crime; environmental degradation; and the spread of diseases. The 2006 NSS identified Africa as a high-priority continent and stated that the US security depended on helping Africa in developing democracy in areas (countries) of struggle and conflict. The George W. Bush administration significantly increased not only humanitarian and development aid, but also military aid and economic and investment support (Fulford, 2009).

In 1997, President Bill Clinton presented the Partnership for Economic Growth and Opportunity in Africa, the aim of which was to further integrate Africa into the world economy as well as increase American trade and direct investment in African continent. The legal aspects of the implementation of the Partnership were included in The African Growth and Opportunity Act – AGOA, adopted in May, in which Africa was recognized as a region with great economic potential. The AGOA was created to ensure the access of Sub-Saharan African countries to the US market by creating favorable relationships with US entrepreneurs and encouraging African countries to reform through both economic and trade measures. According to its provisions, customs duties were removed on a number of goods not covered by the US system of preferences. The AGOA also provided for the creation of free trade area (FTA) as well as technical and financial assistance (Dumała, 2009). The following AGOA included: support for increased investment in the region (AGOA II); extension of preferential access for goods from Africa (AGOA III); and introduction of credit clauses (AGOA IV). AGOA's provisions were considered a selective policy because they were based on the assumption that the USA should focus only on those African countries that introduce elements of the market economy and implement economic reforms, and are ready to break down barriers to US goods and investments (Shinn, 2009).

One of the important institutions influencing the shape of American economic policy towards Africa is the US Trade Representative Office of African World, which negotiates the US trade and investment policy with 48 countries in Sub-Saharan Africa. The Office calls for economic development, the creation of new jobs and the reduction of areas of poverty. The Office works on the most effective delivery systems for African goods - from processed fruit and vegetables to shoes for the US market (Chappell, 2010). In many cases, this means, for example, teaching African trading partners to create business plans from scratch, or to efficiently pack and ship goods to the United States. One example of the Office's successful work is Mauritius, which is transforming from a low-income agricultural country into a diversified middle-income economy with growing industrial, financial and tourism sectors. Mauritius has achieved success in the development of new sectors: diamond processing; the optical industry; and the production of jewelry (Chappell, 2010).

Africa is important for the USA due to several interests:

- geostrategic – from its territory strategic communication routes (Horn of Africa and South Africa) can be controlled (from the military and economic point of view),
- raw material – it is a source of natural resources that are valuable and important for the American economy, mainly energy,
- transnational – global threats are spreading from Africa: migration; diseases; crime; fundamentalism and terrorism,
- political – African states are the most numerous regional group in the United Nations (Lizak, 2005).

Therefore, American institutions dealing with research on strategic areas recommend maintaining a constant and high level of commitment, both bilateral, such as cooperation with Kenya, and multilateral with African oil-producing countries. A good illustration of this commitment is the US support for the Gulf of Guinea Commission (GGC), which is a regional organization founded in 1999 and includes: Angola, Cameroon, Congo Republic, Democratic Republic of Congo, Equatorial Guinea, Gabon, Nigeria, and Sao Tome and Principe. It was created to promote economic cooperation, harmonize the exploitation of natural resources, and support peace and stabilization in the region.

Finally, it should also be underlined, that the United States and China are the two most important bilateral partners of modern Africa. Both powers see the African continent as a growing and significant source of natural resources, especially oil. It should be remembered that, apart from China and the USA, there is a noticeable expansion and interest in Africa of other countries: Russia, Japan, South Korea, India, Brazil, Iran, Turkey and the European Union members (APEC Review, 2007).

3. US TRADE WITH AFRICA AND KENYA IN THE XXI CENTURY

In 2008, US exports to Africa stood at 28.4 billion dollars, while its imports from Africa totaled 113.5 billion dollars (United States Census Bureau, 2022a). Given the Kenyan roots of President Barack Obama, African leaders, the Kenyan authorities, had great hopes for intensifying cooperation with the United States. President Obama made his first visit to Africa in July 2009, which further fueled hopes and expectations of the inhabitants of the continent. In the first year of Obama's office, however, trade with Africa collapsed, which mainly concerned imports into the USA (Kieh, 2014). In 2009, US exports to Africa amounted to 24.3 billion dollars and imports fell to 62.4 billion dollars. This collapse was mainly caused by the global economic crisis. In the next two years of Barack Obama's presidency, the value of trade with Africa increased, which concerned both American exports and imports. In 2010, they stood at 28.3 and 85 billion dollars respectively, and in 2011 at 32.9 and 93 billion dollars. In 2012, exports amounted to 32.7 billion dollars, while imports dropped significantly to 66.8 billion dollars (United States Census Bureau, 2022a).

In the face of another collapse in trade between the United States and Africa in July 2013, the Barack Obama administration presented the Trade Africa initiative. It focused on strengthening cooperation with East African countries in order to significantly expand U.S. – African private and public sector collaboration to increase trade with and within Africa. Under the program, one of the ways to increase the profitability of trade was to reduce the time of loading goods and transporting them by sea (USAID, 2017). Africa was seeking to: "double intra-regional trade in the EAC; increasing the EAC exports to the United States by 40 percent; reducing by 15 percent the average time needed to import or export a container from the ports of Mombasa or Dar es Salaam to the land-locked interior; and decreasing by 30 percent the average time a truck takes to transit selected borders" (USAID, 2016). In 2015, the program was extended to the US partners from other parts of Africa. Despite the initiation of this program, the level of trade between the USA and Africa continued to decline in subsequent years. In 2016, the US exports amounted to 22.3 billion dollars and imports to 26.6 billion dollars. The situation did not change that much in the next years. In 2018, the US exports amounted to 26.1 billion dollars and imports to 35.8, while in 2019 to 26.7 billion and to 30.2 billion dollars respectively. 2020 was the worst year due to the COVID-19 pandemic, when the US exports amounted to 21,9 billion dollars, and imports to 23,7 billion. There was some rebound in 2021 when with 26,7 and 37,6 billion respectively (United States Census Bureau, 2022a). As can be seen, while for more than a decade, the US exports to Africa remained at a relatively similar level, imports dropped significantly.

As for Sub-Saharan Africa, in the sample 2018 goods trade was 40.9 billion dollars in total, of which American exports totaled 15.8 billion dollars (down 14.1% from 2008) and goods imports totaled 25.1 billion dollars (down 70.9% from 2008). This means that US goods trade deficit with Sub-Saharan Africa was 9.3 billion dollars in 2018. The top 5 US export markets in the Sub-Saharan Africa for 2018 were South Africa (5.5 billion dollars), Nigeria (2.7 billion), Ethiopia (1.3 billion), Ghana (769 million), and Togo (642 million). The top 5 US import suppliers from the Sub-Saharan Africa for 2018 were South Africa (8.5 billion dollars), Nigeria (5.6 billion), Angola (2.7 billion), Cote d'Ivoire (1.2 billion), and Madagascar (892 million). Kenya was not among the top American trading partners from Sub-Saharan Africa (Office of the United States Trade Representative).

In the second decade of the 21st century, trade between the USA and Kenya fluctuated significantly. In 2010, the value of goods sold by each country was in the range of 300-400 million dollars with a relatively small US trade surplus of 64.2 million dollars. Until 2013, there was a steady increase in trade between countries, with a growing favorable US trade balance. In 2014, there was a surge in American exports to Kenya, which meant that the USA recorded a huge trade surplus exceeding 1 billion dollars. After a favorable for the United States transition year of 2015, from 2016, American exports fell and remained at a much lower level between 551 million in 2021 and 365.5 million in 2018, with gradually, but systematically growing Kenyan exports from 552.5 million dollars in 2016 to 685,3 million dollars in 2021. For this reason, between 2016 and 2019 Kenya recorded a trade surplus in the range from 118.3 million dollars in 2017 to 277.8 million dollars in 2018 (United States Census Bureau, 2022b). Between 2010 and 2021, the United States exported to Kenya goods worth over 7.16 billion dollars and imported goods worth over 6,38 billion dollars. Over 768 million dollars in the US trade surplus is the consequence of a record-breaking US exports in 2014.

In exemplary year 2018, total bilateral goods trade amounted to 1 billion dollars, of which American exports to Kenya totaled 365.5 million dollars and imports from Kenya totaled 643.3 million dollars. The US goods trade deficit with Kenya was 277.8 million dollars. The top American export categories in 2018 were aircraft (103 million dollars), machinery (41 million), agricultural products (37 million), plastics (37 million), electrical machinery (31 million), and others (16 million). These are relatively high value-added manufactured goods. The top import categories in 2018 were woven apparel (240 million dollars), knit apparel (153 million), edible fruit and nuts (cocoa, brazil, cashew) (74 million), coffee, tea and spice (50 million), and others (55 million) (Office of the United States Trade Representative). The US imports from Kenya was mainly relatively low-value products. In 2018, Kenya was the fourth largest exporter to the United States among the

AGOA member states. Under the agreement, Kenya exported 470 million dollar worth of goods, which accounted for 73% of all its exports to the USA. Only Nigeria (4.36 billion), South Africa (2.36 billion), Angola (2.01 billion) and Chad (601 million dollars) were ahead of Kenya in this respect (Felter, 2020). This is important because products exported to the USA under AGOA were duty-free.

Table 1. US trade in goods with Kenya in 2010–2021 in million US dollars

Year	Exports	Imports	Balance
2010	375.3	311.1	64.2
2011	461.4	381.6	79.9
2012	568.6	389.5	179.1
2013	635.7	452.3	183.4
2014	1,640.8	591.3	1,049.5
2015	943.5	573.1	370.4
2016	397.5	552.5	-155.0
2017	454.0	572.3	-118.3
2018	365.5	643.3	-277.8
2019	401,3	667.1	-276.2
2020	372.2	568.8	-196.7
2021	551.0	685.3	-134.3
Total	**7166.8**	**6388,2**	**768.1**

Source: Own study based on (United States Census Bureau, 2022b).

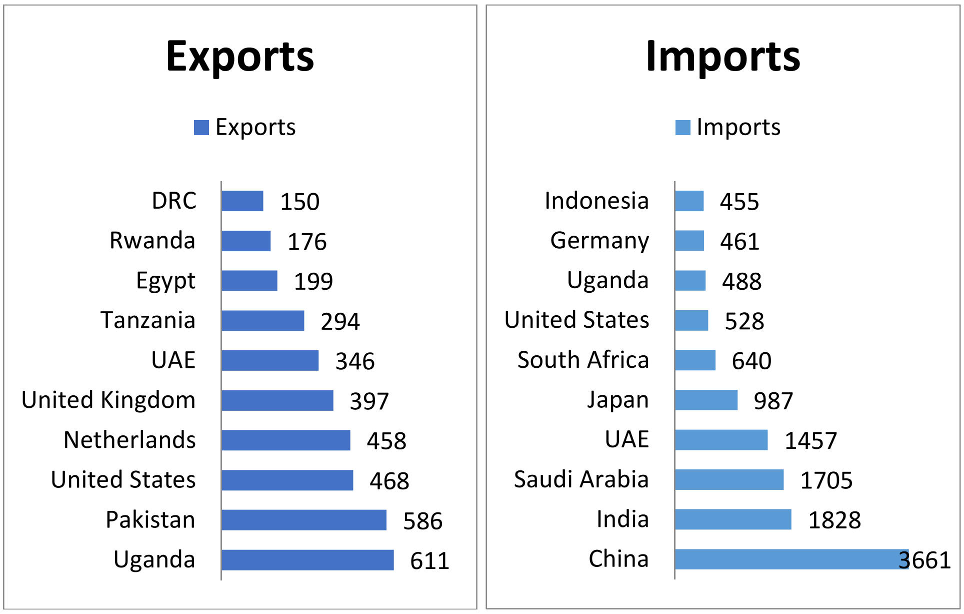

Figure 1. Top 2018 Kenyan trade partners (in millions of dollars).

Source: Own work after (World Integrated Trade Solution; González, 2020).

In 2018, the United States was the most important recipient of goods from Kenya, after Uganda and Pakistan, and before the Netherlands and Great Britain. At the same time, the United States was in seventh place as a supplier of goods to Kenya, after China, India, Saudi Arabia, the United Arab Emirates (UAE), Japan and South Africa, and before Uganda, Germany and Indonesia. It should be emphasized that in this respect, China with export value of 3.67 billion dollars was significantly ahead of India (1.83 billion), Saudi Arabia (1.7 billion) and UAE (1.46) (World Integrated Trade Solution). Due to the difference in economic potential, Kenya was much less important for the United States as a trading partner. In 2018, Kenya was the 98th trading partner of the US, with 110th largest goods export market and 85th largest supplier of goods imports (Bureau of African Affairs, 2018).

In 2019, there was a minor increase in trade between the United States and Kenya reaching almost 1.1 billion dollars. The top US goods exports to Kenya in 2019 were aircraft (59 million), plastics (58 million), machinery (41 million), and cereals (wheat) (27 million dollars). The top US imports from Kenya in 2019 were apparel (454 million), edible fruit and nuts (mostly nuts) (55 million), titanium ores and concentrates (52 million), and coffee (34 million dollars) (Office of the United States Trade Representative, 2020). The United States mainly exported industrial goods to Kenya, and imported agricultural products and, to a lesser extent, natural resources.

Because in 2018 American exports to Kenya decreased by nearly a third compared to 2014, the Donald Trump administration began looking for means to reverse this trend. First of all, the USA tried to reduce trade barriers, connect firms to financing and guide them through bureaucracy (Paquette, 2019). During the meeting in the White House at the end of August 2018, Presidents Trump and Kenyatta decided to establish a Strategic Partnership between two countries. The core of the newfound relations was to enhance trade and investment (Warutere, 2018).

In February 2020, President Kenyatta visited the United States again. During the visit, the Kenyan-US trade and investment pact was sealed. The purpose of the agreement was primarily to strengthen commercial cooperation in the small and medium enterprises (SME) sector and to provide technical assistance and trade capacity building for maximizing Kenya's utilization of trade benefits under the AGOA (Mbabazi, 2020). It turned out that most small-holder farmers and entrepreneurs did not even know about the AGOA's existence or they did not take any actions to maximize the benefits it provides (Muluvi, Odhiambo, Otieno, 2015). Another goal was the adoption of a phytosanitary protocol by Kenya that allowed wheat growers in Washington State, Oregon and Idaho access to Kenya's 470 million dollars wheat market for the first time in over a decade (Shalal, Lawder, 2020). In 2020, trade was temporarily constrained by the COVID-19 pandemic, but there was a rebound in 2021.

4. THE IMPACT OF PREFERENTIAL TRADE AGREEMENTS (PTAS) ON ECONOMIC DEVELOPMENT OF PARTICIPATING COUNTRIES

Before analyzing the impact and purposefulness of the US – Kenya free trade agreement in the context of enhancing trade cooperation between the United States and Africa, we should pay attention to the importance of free trade agreements (FTA) in the concepts of economic regionalism, which could be understood as a preferential economic cooperation of countries located in the region. This cooperation is primarily concerned with the elimination of tariff barriers, but not with their elimination in relation to third countries

(Haliżak, 2004). In the context of the above definition, the main driving force of economic regionalism is the creation of Preferential Trade Agreements (PTAs), which give individual countries preferential access to the market of the member states (or to the market of a given country in a bilateral agreement) (Haggard, 1997). There are several forms of PTAs:

- customs union, which eliminates internal trade barriers and imposes a common external tariff,
- free trade area (created on the basis of Free Trade Agreement), which eliminates internal trade barriers but does not establish a customs union,
- common market, that allows the free movement of goods, services, capital, and people.

PTAs take various forms and sizes - they differ in the level of economic development (GDP), the degree of market openness and the intensity of integration processes. Nowadays, a new type of PTAs are bilateral agreements which cover geographically distant countries without common borders (Nowara, 2008).

Most of the literature on economic regionalism focuses on the analysis of the impact of PTAs on the economic development of countries participating in such agreements. In order to answer the question about the impact of these agreements, it is necessary to briefly characterize PTAs. They are based on two logics: on the one hand, it is the liberalization of trade between the signatory countries, and on the other, it is the discrimination against a third party (de Melo, Panagariya, 1993). Since such an agreement rarely eliminates external trade barriers, neoclassical economists call it the second-best alternative to multilateral trade. Their arguments are largely based on the views of the Canadian economist, Jacob Viner, who analyzed the functioning of trade agreements. Although Viner's concept of trade creation and trade shift effect was created over 70 years ago, it is still widely accepted in international economic relations. According to Viner, preferential trade agreements promote trade creation when more expensive domestic products are replaced by cheaper products imported from a participating country. The greater domestic consumption generates an increase in additional trade and welfare of citizens. In turn, the trade shift effect arises when imports of cheaper industrial goods from a country with no signed agreement is replaced with more expensive imports from the country with which the free trade agreement is signed. As a result, the increase in trade between – in this case – the two countries – comes at the expense of direct imports from other countries, i.e. a trade shift effect does not increase overall welfare (Viner, 1950). In the opinion of economists, even in the event of adverse effects related to the shift in trade, free trade agreements can increase the welfare of countries thanks to the economy of scale and improved terms of trade (Krugman and Obstfeld, 2007).

The decision to establish an FTA depends largely on the preferences and bargaining power of various social groups and politicians, and on the very essence of national institutions. Structuralists – in the context of free trade agreements between two states of unequal economic power – point to the problem of the emergence of hegemony effect. Many strong nations, such as the United States, use free trade agreements as a means of consolidating their political influence over weaker partners (Eichengreen, Frankel, 1995).

Contemporary theories of economic regionalism are related to the third wave of regionalism that began at the turn of the 20th and 21st centuries. It is characterized by an increase in preferential trade agreements, most of which, like the US – Kenya agreement, are bilateral (Żołądkiewicz, 2009). It can even be said that practically every member state of the World Trade Organization (WHO) participates in some kind of agreement, such as a free trade area or customs union. The wave of the 1930s was a reaction to the global crisis, the wave of the 1960s was an attempt to imitate the European Communities, and now the modern wave is characterized by a large number of agreements establishing free trade areas (FTAs) between highly developed and developing countries, also known as North-South Agreements. These agreements increase mutual benefits, but they can also create tensions between differing economic standards and regimes. Under the new regionalism, highly developed countries have become active participants in a comprehensive network of free trade agreements, the most prominent example of which is the United States (Bouzas, 2007).

Economic analyzes indicate that North-South Agreements can be a powerful force stimulating exports of developing countries thanks to access to the markets of high developed countries. North-South Agreements can also act as a stimulus to attract the inflow of foreign direct investment to poorer countries that have problems with capital and investments. Some researchers point to the fact that they can encourage developing countries to restructure and adapt their institutions to effective cooperation within the framework of the agreement and to adopt some of their partners' solutions. However, the nature and extent of benefits depend on the content of the agreement, the economic structure of partners and the national policies of both parties (Ethier, 1998).

5. DISCUSSIONS ON THE US – KENYA FREE TRADE AGREEMENT

President Kenyatta's visit to the United States in February 2020 primarily gave impetus to strengthening trade relations with Kenya by starting negotiations on a free trade agreement. In the same month, the presidents of the USA and Kenya also met at the African Union Summit in Addis Abeba, in Ethiopia, where they announced the possibility of such an agreement. The US Trade Representative, Robert E. Lighthizer, said at the time: "There is enormous potential for us to deepen our economic and commercial ties" (Bearak, 2020). On March 17, 2020, President Trump formally notified the American Congress about his intention to negotiate on this matter. The FTA agreement was meant to be a turning point in Trump's policy towards Africa, because he did not pay much attention to the continent before. American-African relations have suffered from the 2018 arrogant and reckless statements of President Trump, in which he opposed immigration from African states, calling them "shithole countries" (de Greef, Chan, 2018). The agreement with Kenya is to become a model for subsequent bilateral agreements with other African countries. It is intended to initiate a counterbalance by the United States to China's growing economic engagement in Africa (Felter, 2020). The free trade agreement with Kenya is to be the first of its kind with Sub-Saharan African country and second on the continent, after the 2006 FTA with Morocco.

The free trade agreement with Kenya is to be part of a larger geopolitical strategy towards Africa, which aims to strengthen American position on the continent. The U.S. – Kenia FTA has to set a template for future trade deals on the continent and counteract the dynamically growing influence of China (Rodríguez, 2020). The choice of Kenya as a model country for trade cooperation was the result of a detailed, multi-faceted analysis. It was based not so much on economic factors, but rather a combination of geostrategic significance, Kenya's great willingness to conclude an agreement, and the possession of leverage for negotiations (Caporal, 2020). The United States has important political and military interests in Kenya. This includes, common peace-keeping activities, including in Somalia and South Sudan, and the fight against international terrorism, including mainly

Islamist organization al-Shabab. Nevertheless, Kenya's economic position in the region certainly favored the country as a potential main trading partner.

In economic terms, a factor in favor of Kenya is the growing absorption of the market, caused by the increase in population and the enrichment of its inhabitants. The middle class expects higher quality industrial products, which is why they do not always want to buy less prestigious goods offered by Chinese companies. In addition, Kenya annually imports food valued at around 2.5 billion dollars. There is an upward trend, not only because of the growing population of Kenya, but also due to the changing consumer preferences. They are increasingly moving away from traditional, local food in favor of imported products. Accordingly, the United States wants to increase its share of food exports to Kenya. This gives, among other things, the possibility of expansion of American fast food chains, the sale of basic food products and alcoholic beverages, but also eatables for the more demanding middle class (Foreign Agricultural Service, 2019).

Given the gap in the economic potential of states, Kenya may gain primarily from bilateral relations. Principal Secretary to the Ministry of Foreign Affairs, Macharia Kamau, stated at the end of January 2020 that Kenya could benefit from the FTA in numerous ways. He said: "We hope that it would improve our trade relations with the US and increase job opportunities for Kenyans and increase travel between the two countries for more tourism and impact other sectors of the economy" (Simiyu, 2020). The Kenyan authorities, therefore, see the FTA as a path to greater US economic involvement in the country. Kenya needs the United States and other Western countries as development partners in order not to be at the mercy of China alone.

As mentioned before, significant influence on the will of Americans to conclude a free trade agreement with Kenya, and in future also with other countries of the region and continent, has China's increased economic involvement in Africa. It is worth noting that China tried and failed to secure a FTA with Kenya. Since 2016, China has been negotiating with the EAC to establish a free trade zone. Kenya, which is looking for opportunities to diversify economic cooperation with external partners, is the main impediment in negotiations with China. Currently, Kenya is only in favor of a preferential trade agreement with China. Kenya's actions, are conditioned, among others, by dissatisfaction with the large negative trade balance with China (Office of the United States Trade Representative, 2019). Nevertheless, Kenya signed a number of smaller trade agreements with China, including during a visit to Nairobi in January 2022 of Chinese Foreign Minister Wang Yi. This is worth emphasizing that Kenya does not want to become a party in the global US – China rivalry. According to President Uhuru Kenyatta, Kenya has no interest in being drawn into a „proxy war" between Beijing and Washington. He does not want to choose between these countries, but intends to work with both, because it is in the interest of Kenya (Reuters News Agency, 2020). For the Kenyan authorities, the US administration's argument about the need to oppose China's economic expansion in Africa is frustrating and causes concern. To be credible to Kenya and other African partners, the US must prove that its goals for Africa go far beyond countering China's rise in Africa (Devermont, 2020).

The announcement of the FTA negotiations sparked criticism from members of the African Continental Free Trade Agreement (AfCFTA) formed under the treaty signed on March 21, 2018 in Kigali, Rwanda and the East African Community. They expressed dissatisfaction that the negotiations were to be bilateral rather than multilateral. They argued that bilateral free trade agreements with third countries could weaken AfCFTA, as well as trade between African countries and the continent's economic integration. They also indicated that African countries could obtain better conditions by negotiating together.

However, this argument was not convincing for the Kenyan authorities, which did not change their position. Securing trade relations with the United States proved to be more important to Kenyan Government. The new trade agreement with the USA is particularly important for Kenya because it is not classified by the UN as a Least Developed Country (LDC). LDCs have the right to export duty free to the USA under the Generalized System of Preferences (GSP). The GSP excludes some of Kenya's top exports such as textiles and apparel, which in turn are covered by the AGOA, which expires in 2025. This means that if an agreement replacing AGOA is not signed, Kenya will suffer much greater losses than its neighbors (Caporal, 2020). However, the USA and Kenya will have to make sure that the FTA does not undermine the importance of the AfCFTA, of which Kenya is a founding member. In August 2019, the United States and the African Union signed a joint statement regarding the development of the AfCFTA to achieve its fullest potential and deepen trade relationship (Office of the United States Trade Representative, 2020).

A free-trade deal between the United States and Kenya would replace the AGOA. The parties hoped that an agreement could be concluded within two years, but this deadline quickly became unrealistic. Negotiations are complex and multi-threaded because they must meet the rules, requirements and procedures set out by the US Congress in the demanding 2015 Trade Promotion Authority (TPA) law. Beyond tariffs and quotas issues, the TPA law's objectives include: services; investment; intellectual property; labor; the environment; non-tariff barriers; dispute settlement; digital trade; and state-owned enterprises. For the agreement to become template for other African countries, it must be comprehensive. The biggest negotiation problems can raise issues such as customs and trade facilitation, labor, and environment (Caporal, 2020). During the second meeting of the Trade and Investment Working Group, which took place in early November 2019 in Nairobi, a number of issues related to trade and investment were discussed, including: services; digital trade; intellectual property; agriculture; environment; customs and trade facilitation; technical barriers to trade; labor; and state-owned enterprises. The goal of the talks was to maximize the commercial benefits of the AGOA and the assumptions of the future FTA. In addition, the USA has committed to training Kenyan officials for relevant ministries, departments, and agencies on best practices that could strengthen the trade policy environment (Office of the United States Trade Representative, 2019).

Kenya has to face many challenges before the FTA can be concluded. Detailed issues include, among others: high import tariffs on dairy, corn, and other products; sanitary and phytosanitary barriers, like import bans on genetically modified products or complex requirements on meat, dairy, and poultry; restrictions on government procurement; trade barriers in insurance and telecommunication services; and restrictions on foreign direct investment (FDI) in combination with local requirements (González, 2020). In addition, Kenya must increase the attractiveness of its own exports so that its products are more willingly purchased by a demanding American consumer. Kenya has to diversify and improve marketing of its products. A good solution is to re-brand some of the products to make them more exclusive. In addition, Kenya should invest more in trade-related infrastructure, including logistic and storage infrastructure. It is necessary to build more of high-quality warehouses, cold storage vehicles and rail carriages. Kenya should also focus on expanding international market access through trade preferences and other trade initiatives (Wakaya, 2019). Modernization of the ports in Mombasa and Lamu, in which US construction companies can get involved, is also crucial. This would facilitate trade not only with Kenya, but also with other East and Central African countries, and increase the region's investment attractiveness.

The US Trade Representative for Africa, Constance Hamilton, said the AGOA has not been “a game-changer for many countries”. According to her, the decades-old trade legislation, which provides tariff-free access on 6,500 products to 39 countries does not meet today's expectations of trade cooperation between the USA and Africa. She believes that a more comprehensive agreement is needed for all 49 Sub-Saharan countries. Representatives of the American administration are aware, however, that it is impossible to cover bilateral agreements with the entire continent, especially until 2025. Many African countries may not meet the stringent requirements for specific areas of cooperation (Devermont 2020). Nevertheless, the agreement with Kenya is to set a new standard of cooperation, which is to be gradually achieved in relations with an increasing number of African states.

After President Biden's administration took power, negotiations on the US – Kenya free trade agreement ended in an impasse. The administration also does not say whether or how it wants to reactivate the negotiations. For this reason, on August 20, 2021 seven Republican senators, headed by Senator Jim Inhofe, wrote a letter to the United States Trade Representative, Katherine Tai, on the matter. They highlighted the importance of the FTA and called for priority to be given to this matter (Inhofe, 2021). So far, there has been no firm response from the US government.

6. CONCLUSIONS

Trade between the United States and Africa peaked in 2008, but in the following years import to the United States collapsed from 113.5 billion dollars in 2008 to 25.4 in 2015, which has not yet been rebuilt enough. It has allowed the USA to improve its trade balance with Africa, but at a low level of trade. Volume of trade between the USA and Kenya has been changing differently. In peak 2014, its level exceeded 2.23 billion dollars, with a huge US trade surplus of 1.05 billion dollars. In subsequent years, the level of trade was much lower, and the United States began to record a small trade deficit. This shows that trade between Kenya and the USA does not fit into trends in trade between the United States and Africa.

The main trading partner of both Africa and Kenya for more than a decade has been China, which has been systematically strengthening its economic position on the continent. For countries that are not major exporters of energy resources, such as Kenya, the trade balance with China is very negative. American companies want to increase trade with both Kenya and Africa. These efforts support the American authorities, which want to strengthen the economic position in Africa and reduce the distance to China. Economic cooperation with Africa is of increasing importance due to the increasing population of the continent and the economic development of many African countries, including Kenya.

The free trade agreement is expected to be a way to increase trade cooperation between the USA and Kenya. The FTA is to be a comprehensive and constitute model agreement that the United States wants to transfer in the coming years to cooperate with other African countries. To be able to conclude the FTA, the USA and Kenya must regulate issues not only regarding customs and tariffs, but also a number of specific issues regarding broadly understood economic cooperation. The development disparities between the USA and African countries, including Kenya, mean that negotiations are complicated and encounter many problems. Similarly, deepening trade exchange, including primarily the possibility of Kenya and other African countries exporting to the USA agricultural and manufactured goods will require compliance with high US standards. The conclusion of the free trade agreement between the United States and Kenya should, however, motivate other African countries to negotiate on this matter. Trade and broader economic cooperation with the USA may translate into an increase in their development opportunities. The FTAs could also make African countries more of the US economic and business partners, rather than recipients of development aid. In addition, strengthening the US economic presence in Africa can help the countries of the continent to reduce their economic dependence on China.

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