Footloose Garment Investors in Southern and Eastern Africa

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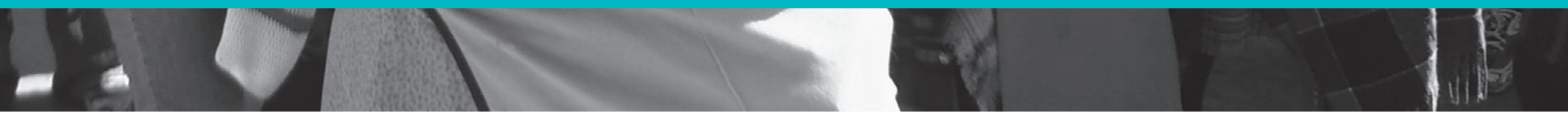

Several Southern and Eastern African countries, and especially Lesotho and Swaziland, have attracted foreign investment in garments as part of a strategy for economic development. While many donors and institutions, such as the World Bank and the OECD, praise the benefits of foreign investment for development, this paper looks at the impact of foreign direct investment in garments from the perspective of sustainable development and poverty eradication. The findings of research in these countries[1] show how foreign investors in the garment industry can easily leave, and have become footloose. They highlight how the costs to the host country, the workers, communities and the environment need to be taken into account when looking at the costs and benefits of foreign investment.

What attracted garment investment to Africa?

The garment industry is largely driven by the brands and retailers who control the whole supply chain and decide where some or all of the production takes place. Large retailers such as Wal-Mart are becoming increasingly important – taking over from specialised garment retailers – with large orders and downward pressure on prices.

Although the highest profits in the garment production chain are mostly made by those nearest to the consumption stage rather than the production stage, multinationally operating production companies are known to have made the production stage into a profitable business and are increasingly arranging a large part of the supply chain to the specifications of the brands and retailers. These production companies pick and choose from their global production networks as – in an increasingly integrated and open global economy – garments are produced in every part of the world. Transnational production companies from Asia are playing a crucial role in the international garment supply chains and are investing in production operations not only in the Asian region but also in countries in Africa and Central America.

In the choice as to where to locate, or withdraw, a certain part of the garment production chain, the brand, the retailer or a transnational production company will be looking at various aspects to meet demands, such as labour costs, proximity and total production time, trade possibilities and trade barriers or trade protection measures (such as quotas and safeguards against garments from China), infrastructure, and, increasingly, compliance with labour conditions. If conditions are no longer being met in one country, production is moved elsewhere.

Trade agreements that influence garment investors

The multi-fibre agreement – MFA

The MFA was created in 1974 and imposed quotas that limited the imports from developing countries because developed countries were trying to protect their own garment industries. Quotas have particularly constrained imports from Asian countries, including China, India and Taiwan, to the EU and US. This has created opportunities for other developing countries to develop their own garment industries.

The MFA remained in effect until it was replaced by the Agreement on Textile and Clothing (ATC) under the WTO in 1995. The ATC decided that the quotas had to be phased out by 2004. Since the quotas have been phased out, other "regulation mechanisms" have become more important for trade and investment in garments, such as trade agreements with import tariffs and non-tariff measures, and rules of origin which define the percentage of goods or services included in the exported product which must originate from the exporting country.

AGOA

Since 2000, the African Growth and Opportunity Act (AGOA) authorises the duty-free and tariff-free imports of more than 6400 products, including garments, from sub-Saharan African countries (39 countries as of December 2007) into the United States. The AGOA puts a cap on the export of garments and grants 24 least developed countries (LDCs, with a per capita annual income below US$ 1500) duty-free access for garments that are made from fabric sourced anywhere in the world (i.e. there is no requirement for the material to be of US or African origin). This special rule of origin, also known as the "third-country fabric provision", was initially supposed to expire in September 2004. Following heavy lobbying by the exporters from Africa, the third-country fabric provision was extended in 2007 until 2012 (in AGOA IV). The EU had provided quota-free and duty-free access for African countries under the Lomé Convention, but imposed much stricter rules of origin.

Until 2004, the multi-fibre arrangement (MFA) and the Agreement on Textile and Clothing under the World Trade Organisation (WTO) (see box) limited the amount of garment exports from many developing countries that were important garment exporters, such as China and India. The search for more export possibilities and cheaper production have caused garment producing companies to roam the world in search of the best opportunities and profitability.

The attraction of Africa prior to 2004 was that its garments exports were less restricted by MFA quotas. Asian garment producers have identified the USA's African Growth and Opportunity Act (AGOA: see box) as a main attraction for investment in Eastern and Southern Africa in the garment industry, because AGOA allowed duty-free and tariff-free imports into the US.

In Lesotho, 32 of 39 garment producing investors, mostly exporting to the US, were Taiwanese owned – according to figures from July 2005. Several others investors in Lesotho are from China, Singapore and South Africa. An important garment investor which has gone into, and then left, Botswana, Kenya, Tanzania and Uganda has been Apparel Tri-Star, (see box 2) a Sri Lankan production company. Tri-Star and many of the other Asian investors supply US Brands – such as GAP, Tommy Hilfiger and Gloria Vanderbilt – and US supermarkets such as Wal-Mart, Family Dollar, Target and Sears.

At the end of the MFA phase-out period in 2004, increasing competition from low-cost countries whose exports were no longer restricted by quotas, made some Asian investors close their production in Africa. Garment foreign investment in Africa has proven to be footloose, as foreign garment producers leave as soon as their profitability is at stake.

National investment policies

AGOA was based on the idea that increasing exports from developing countries is an important strategy for countries' economic development and employment creation. Donor countries, and institutions such as the World Bank, have pressed developing countries to attract foreign investment, not least in order to increase their exports and create employment, and advised them how to improve their "investment climate" and take national measures that benefit foreign investors. African countries such as Kenya, Lesotho, Swaziland and Uganda have been very eager to attract foreign direct investment (FDI). However, little FDI (outside the extractives) has gone to small and poor African countries. As a result, many African countries are competing against each other to attract investment. They are often so desperate for investment that they provide many incentives to foreign investors. For the Southern and

Eastern African countries in question, these incentives could mean the difference between benefiting from the investments in the garment industry or totally losing out. However, faced with the ending of MFA quotas and increased competition in the garment industry, countries have become vulnerable to pressure and lobbying from garment companies to provide better incentives or more subsidies, such as subsidising electricity costs, and relaxing labour regulation, to allow longer permitted working hours and lower minimum wages.

Incentives offered by Southern and Eastern African countries to attract foreign investors include:

- **Tax related incentives such as:**
  - Very low tax or no tax on corporate profits and dividends for shareholders;
  - Duty-free importation or VAT exemption for equipment, capital goods and inputs for manufacturing exporters;
  - VAT refunding for local purchases by textile and garment exporters;
  - Tax deduction of 125% to 150% for cost of training of employees.

- **Incentives offered to create an investment-friendly environment include:**
  - Free and full repatriation of profits and capital repayments;
  - One-stop shop, i.e. creating one place where investors and traders can have all their authorisation procedures taken care of in one go;
  - Building of utilities and infrastructure specifically for foreign investors, such as power lines;
  - Signing several regional or international free trade, economic or tax agreements – some of which give exports from African countries preferential access to overseas markets;

In addition, Southern and Eastern African countries have investment promotion agencies that also support investors in different ways once they are established. Investment promotion has resulted in factory shells, and dormitories, being built especially for the garment investors. Swaziland has even maintained special diplomatic relationships with Taiwan, which is the home country of many of the garment investors. In return, Taiwan also supports the Taiwanese investors with some financial support for wages, equipment and other costs. In order to keep the investments, the incentives are regularly reviewed and renewed.

Turning a blind eye towards working conditions

In order not to scare off foreign investors, governments in Southern and Eastern Africa have undertaken little to enforce labour laws or act when workers complain about their working conditions. In 2001, the Department of Labour in Swaziland admitted that in an attempt to keep investors happy it did not pursue labour law violations to its fullest ability. One example of how far governments take the side of the foreign investors is the sacking of the 'AGOA girls' in 2003 by the President of Uganda, because the workers were "not disciplined" when they went on strike against their exploitative labour conditions and because "their action would have scared off investors".[2]

In addition, the governments did not put in place safeguards in case companies would suddenly leave the country. Quite a few companies have left without paying pensions, terminal and other benefits, or even the last wages. Some companies left overnight leaving no trace for workers to gather their dues, such as TW Garments in Lesotho, or Sheung Lee and Suntay Lon in Swaziland.

Impact on labour, poverty and sustainable development

It is important to look at the impact of foreign garment investors in Southern and Eastern African countries from the perspective of poverty eradication and sustainable development, in order to assess the extent to which the claimed benefits of export oriented foreign investment that underpin US AGOA policy as well as the incentives provided by the countries have been realised.

Employment vs labour conditions

AGOA certainly gave a boost to the garment industry in several Sub-Saharan countries, leading to job creation. In Lesotho, for instance, the garment industry is the largest employer in a country where about half of the population is unemployed. In July 2007, employment in the garment industry in Lesotho was estimated at 44,000 workers, compared to 55,000 in 2004. Indeed, in the run-up to the MFA phase-out, several factories already closed down at the end of 2004, and a few more at the beginning of 2005. In Swaziland, large-scale investments with more than 30 garment factories investing between 2001 and mid-2004, resulted in the sector employing around 30,000 workers at its peak. By 2007, there were between 15,000 and 16,000 garment workers, down 50% from 2004. In both countries, after an initial downturn, from 2006 onwards employment has been more stable.

Employment, however, has to be seen in the light of the many abusive and exploitative working conditions that researchers found in garment factories in Lesotho, Swaziland, Botswana, Kenya, Uganda and Tanzania. In many factories, workers work long hours without adequate rest periods, sometimes 7 days per week. Forced and often unpaid overtime is endemic as high production targets force workers to work overtime. Health and safety standards are being violated, such as no provision of protective equipment and masks, denial of first aid, unsafe chemicals and workplaces. Communication and movement in the factories is being limited. Workers undergo verbal and physical abuse by managers and supervisors, and women experience sexual harassment. Employment is often illegally terminated and workers are temporarily laid off when orders are low. Job insecurity is increased by some factories employing casual workers. There is no payment of social security benefits such as sickness benefit or maternity leave, and no guarantee that employers pay into pension funds. Trade unions are being repressed, so that workers cannot fight to improve their conditions.

In general, jobs are not secure because African countries' competitive position in the garment sector is weak and the foremost foreign garment investors have been leaving very quickly when part of the profitability was lost. When companies closed down at the end of 2004 and in early 2005, some closed down overnight, without informing the workers beforehand and disappearing without trace. Worse, some companies such as Apparel Tri-Star have been leaving without paying wages or terminal benefits they owed. Workers who lost their jobs became homeless and penniless, some did not even have enough money to pay the fare back home.

An income that does not reduce poverty

Wages of workers in the foreign-owned garment factories are at or below minimum wage level. Even if wages provide more income than unemployment or from other available (informal) jobs, wages are insufficient to make a living, even if both man and woman in a family have a job. Research in Lesotho into living conditions of garment workers and their children has shown that the workers' income does not provide the means to have access to decent housing, clean water and medical facilities. Children do not get adequate food and clothing, even those children who live with their grandparents – because of their parents' low wages and long working hours – as the money sent home by their mothers is not enough. Workers have to borrow money to send their children to school[3], money they borrow from loan sharks to whom they have to pay very high interest rates, which results in workers falling into a debt and poverty trap.

Beneficial for the country's economy and sustainable development?

- **Environment**
  Waste water from the garment factories has caused pollution because it contained chemicals, for instance to bleach denim. Some companies have water filters to treat the waste water, which are sometimes ineffective. Several factories have nothing in place. When communities complained about pollution, governments did not take action to tackle the problem.

- **Transfer of know how**
  Foreign investors in the garment sector in Southern and Eastern Africa have been shown to provide very

Apparel Tri-Star in Uganda and Africa

Uganda welcomed Apparel Tri-Star by guaranteeing a loan of US$ 5 million from the Uganda Development Bank. Tri-Star was also given an advance on the promised loan of just over US$ 3 million (which has never been repaid) and a loan collateral in cash through the Bank of Uganda, at the instructions of the president.
The government converted a warehouse into a garment factory and dormitories. In addition to offering free premises, it gave a subsidy towards training the workers. The government also provided power lines, three standby generators and the recruitment of 2000 employees.
It was estimated that getting the company operational has cost 7.57 billion Ugandan Shillings (US$ 3.8 million) of which 6.1 billion Ugandan Shillings were provided by the government.

Because of the bad treatment, abusive working conditions and low wages, the workers protested and went on strike. However, they were sacked with the help of the President of Uganda. Finally, Tri-Star laid off most of the workers in October 2006, and left Uganda without repaying any of its debts.

Apparel Tri-Star has been roaming Africa, closing down in one country without paying the terminal benefits or wages, and setting up shop in other countries for just a few years, leaving behind the same situation or worse. Tri-Star opened a factory in Botswana in 2001, which was closed down in 2003 without paying the workers their wages. In Kenya, Tri-Star started operating in 1994 and left in 2004, exactly the period of the tax holidays it had been granted, after having treated the workers very badly and not giving them all their benefits. In Tanzania, Tri-Star was established in 2003 and closed down in May 2005 without giving any notice to the workers or paying them any benefits.

low transfer of skills. Most managerial and supervisory positions are held by expatriates, who have been recruited specifically in their home countries. Very little training is being given to the local workers. There is little room for workers to advance to a better position.

- **No building up of the local economy**
  AGOA and foreign investment have increased garment exports from Sub-Saharan Africa. After the MFA phase-out period, these garment and textile exports decreased by 12% in 2005 and by 11% in 2006. In 2006, garments made up only 2.2%, or US$ 1,291 million, of the total exports to the US under the AGOA. Foreign investors' own companies have been the main beneficiaries of these exports under AGOA, while hardly any locally owned garment companies have been set up in countries such as Lesotho, Swaziland, Tanzania and Uganda. Since most of the fabrics are imported from Asia, with few links to the local economy has been established in this respect. The garment industry has in practice been enclave production, with few links to the local economy except through transport and a boost to the informal economy through food vendors that sell meals at the factories, for example.

- **Financial losses**
  Foreign investors enjoyed tax holidays, which meant that governments forewent tax income that could have been used to stimulate the local economy. Moreover, foreign investors also had a negative impact on economies by using money from governments for infrastructure or factory buildings and then leaving the country early or going bankrupt. When closing down, some foreign investors left behind unpaid bills or never repaid loans.

The main contributions to the local economy by the foreign garment investors have been employment and the extremely low wages, from which financial costs and lost benefits have to be deducted.

Company rights vs workers rights

The investment promotion bodies, the incentives, the donor and advisory mechanisms to help attract foreign investors, the WTO's ATC agreement and bilateral investment agreements are not made conditional on investors' respect for labour rights, community interests and the environment. They provide foreign investors with rights and benefits, but do not impose obligations on investors nor provide workers and communities with mechanisms to protect their rights and interests. AGOA also demands that African countries eliminate barriers to all US trade and investment in Africa, including that US firms be given equal treatment to African firms, and demands further privatisation and opening up of markets in service sectors.

However, labour rights provisions have been included in AGOA and are increasingly included as part of other trade negotiations and agreements at the regional or bilateral level. Though, such labour rights provisions are not often enforced. Section 104 – F of the AGOA states that countries should have established, or should make progress to establish "Protection of internationally recognized worker rights, including the right of association, the right to organize and bargain collectively, a prohibition on the use of any form of forced or compulsory labour, a minimum age for the employment of children, and acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health". Section 104 has only been used twice in Sub-Saharan Africa to redress malpractices towards labour. The first is the case of Swaziland, where the US pressured the government into changing its labour legislation or face the withdrawal of trade privileges. The second is the case of Uganda, where the trade union asked for the AGOA preferences to be reversed because of labour abuses in the Tri-Star factory producing garments for the US market.

In practice, what has helped in the past – in a few cases – to improve the exploitative labour conditions to a certain extent, is action by labour rights activists in the host and home country, supported by consumer action.

Conclusion

In economic terms, AGOA has increased foreign investment and garment exports from Sub-Saharan Africa, and has created many formal jobs, even becoming a major employer in Lesotho. However, this foreign investment, and related jobs and exports, decreased after the MFA phase-out and is very dependent on the special " third-country fabric provision" of AGOA. In the garment sector, there is little job security. No local garment economy has been established and no transfer of know how has taken place by the garment investors. Only foreign garment investors have seen profitable returns on their investments (for a certain period), while the costs for the governments giving tax abatements, other incentives and subsidised infrastructure have been very high. Some governments have become dependent on a footloose investment sector which has become very costly to sustain. "Insufficient local participation at higher levels, inadequate training and productivity improvement and poor integration with the local population – all of which signify that the investments have not taken root and will vanish in the long term".[4]

In terms of poverty eradication and sustainable development, workers and their communities hardly benefit because wages and conditions are sub-standard and no action is taken against such abusive working conditions, and against environmental pollution. The argument that workers would otherwise have no jobs or no income should not be an argument to sustain exploitation that has consequences for generations to come, for instance because workers cannot even send their children to school. Little of the money spent by governments to attract foreign investors has gone back into the communities or the local economy. For those who become unemployed, the lack of termination benefits and other employment possibilities has made the long-term damage extensive.

The precious budgets and donor aid of developing countries, which are being spent on incentives, policy advice, infrastructure and other instruments to attract foreign investment, as well as trade and investment agreements, are mostly not being linked to obligations on investors, nor providing means whereby workers and others who experience negative consequences can have a say. Where trade preferences have been linked to conditions to respect internationally recognised worker rights, they have been insufficient to tackle the many abuses in the garment sector.

Those advising and deciding on investment policy measures have not taken into account that in the garment production sector the price pressure of the dominant garment distribution chains in the developed countries mean that the garment investors pass on the costs of the low prices to the weakest links in the chain: the workers, poor communities and African governments who are desperate for the investment which it is claimed will promote economic development.

Recommendations

Governments

- Proper criteria need to be developed which are specific to the garment sector in order to guide the host countries' and donors' investment, and development policies. These criteria should ensure that benefits for workers and long-term economic, social and environmental sustainability are guaranteed, and proper impact assessments of foreign investment in the garment sector are made.

- Policies to attract investment and provide incentives should be geared towards ensuring long term commitments. They should be selective so that the garment industry becomes more integrated, and local companies are upgraded or new ones created. Governments could share information about the records on labour and integration of companies investing in their countries, as one of the ways to prevent companies from taking structural advantage of the desperation for investment, which some developing countries display. Regional investment treaties could include collective elimination of harmful incentives, including tax holidays, with a view of stopping the downward spiral of competing incentives.

- Government action to attract investment should not undermine the enforcement of, or weaken, labour regulation, but should create safeguards in case companies suddenly close down. This should lead to compliance with internationally agreed social and environmental standards and principles, such as the core ILO Conventions, the OECD Guidelines for Multinational Enterprises, the ILO Tripartite Declaration and the Rio Principle. Trade and investment agreements should support and share responsibility for enforcing these standards, based on an assessment of Section 104 – F of AGOA. For instance, investment and trade agreements could include programmes like the "Better factories" programme[5] run by the ILO and resulting from the trade agreement between Cambodia and the US. In addition, these agreements should include principles or clauses that hold companies responsible for compliance with international social and environmental standards, and result in actions or sanctions taken against non-compliant companies, rather than against the whole country.

- Investment promotion instruments and policies should include a voice for workers in advisory channels and ensure that they participate in garment sector assessments in order to re-tailor and re-balance measures towards foreign investment. Donor agencies, including the World Bank's Foreign Investment Policy Advisory Service and the OECD Policy Framework on Investment, should start discussing and acting on the lack of guarantees for benefits to workers and the need to redress abuses.

Companies

- Production companies must comply with national laws and internationally agreed labour rights wherever they produce, uphold contracts with national governments and not leave the country without paying their workers and settling their debts.

- Retailers and brands need to do more to monitor the behaviour of, and the conditions in, the factories that produce their garments. They should make sure that their purchasing and sales practices, their supply conditions and choice of garment producers do not lead to products being made under internationally unacceptable labour conditions, as laid down in ILO conventions, nor by workers earning a wage they cannot live on. They should work within Multi-Stakeholder initiatives, in which retailers and brands work with workers, trade unions and other workers' rights organisations to improve conditions.[6]

Endnotes

1 Where no specific reference is made, the information and figures contained in this briefing are taken from the following SOMO report, in which more information can be found: E. de Haan, M. Vander Stichele, Footloose Investors – Investing in the Garment Industry in Africa (SOMO, August 2007) <http://www.somo.nl/html/paginas/pdf/Footloose_Investors_aug_2007_EN.pdf>.That SOMO report is based on research and interviews with workers, trade unions and officials about foreign investment in the garment sector in Swaziland and Lesotho in particular, but also Kenya, Uganda and Tanzania. Similar findings can be found in: S. Lall, "FDI, AGOA and manaufactured exports form a land-locked. Least developed Arican economy: Lesotho", QEH Working Paper Series, Working Paper # 109, 2003.

2 Daily Monitor, February 2006.

3 In Lesotho, although there is free public education, part of the children nevertheless either do not receive any education, or only a few years. Most of the women interviewed in the study mentioned a lack of suitable clothing and no money for transport to school as the main reasons for their children not receiving sufficient primary education.

4 UNCTAD, World Investment Report 2006. FDI from Developing and Transition Economies: Implications for Development (New York and Geneva: United Nations, 2006); See also S. Lall, idem.

5 See for instance: http://www.betterfactories.org/ILO/aboutBFC.aspx?z=2&c=1

6 For example, in the Netherlands the Fair Wear Foundation (http://en.fairwear.nl/) and in the UK the Ethical Trading Initiative (www.ethicaltrade.org/). In addition to monitoring and verification of compliance with good labour standards, members of these initiatives also engage in research and training activities that support better conditions throughout supply chains

Colophon

This paper is based on the research report:
E. de Haan & M. Vander Stichele, 'Footloose Investors. Investing in the Garment Industry in Africa', August 2007.

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