

# AGOA Fact Sheet

November 2023



## Key Points

- The African Growth and Opportunity Act (AGOA) is not a trade agreement. It is a United States (U.S.) law that allows duty free access for qualifying goods imports from qualifying sub-Saharan African countries.
- AGOA builds on a system called the Generalised System of Preferences (GSP), which allows duty free access for qualifying goods from qualifying developing countries around the world.
- AGOA provides access for more products than GSP and is renewed for longer periods of time which allows for enhanced access and more certainty.
- Countries have to meet specific criteria to qualify for AGOA benefits, and are reviewed every year. If a beneficiary country does not meet the criteria, it will lose AGOA benefits until it becomes eligible again.
- AGOA is set to expire in 2025. The last time this happened was in 2015, when it was renewed for 10 years.
- South Africa was the largest utiliser of AGOA in 2021. Within South Africa, the Western Cape is a major utiliser of AGOA, with 5 of South Africa's top 10 AGOA exports coming almost exclusively from the Western Cape.
- AGOA utilisation is especially concentrated at a sector level, for example, agriculture, where it plays a critical role in supporting competitiveness.
- AGOA especially supports competitiveness of our products against similar products from other countries that have free trade agreements with the U.S.
- In 2021, nearly 30,000 jobs were sustained in the Western Cape through exporting activities by AGOA-related exporting sectors, with the majority of these jobs originating from the agricultural sector.
- AGOA renewal relies on Congress, because it is an Act of Congress. The annual eligibility review, on the other hand, is done by the US Government, which is tasked with the implementation of AGOA.
- In order to promote regional integration in Africa, AGOA allows beneficiary countries to source products and inputs from each other and still qualify for duty-free access to the U.S.
- Early renewal of AGOA will prevent a chilling effect on investment.
- South African exclusion from AGOA would weaken the regional integration objectives of AGOA and the AfCFTA and the opportunity to capitalise on green industrial value chains.

## 1. Who is Wesgro?

Wesgro is the official tourism, trade and investment promotion agency for Cape Town and the Western Cape.

Ensuring Cape Town and the Western Cape is a sought-after source market, Wesgro's Trade unit is responsible for supporting businesses in the province with exporting their goods and services to the rest of the world. The unit also supports local businesses seeking to expand into African markets.

Key services offered by the Trade team include: export training and mentoring; trade and networking events; connecting exporters to the wider trade ecosystem (export councils and industry associations); trade research and intelligence; trade missions and exhibitions; B2B facilitation; supporting with trade barriers; and the management of the online Cape Trade Portal ([www.capetradeportal.com](http://www.capetradeportal.com)).

## 2. What is AGOA?

The African Growth and Opportunity Act (AGOA) is a law of the United States of America (U.S.) which establishes a unilateral trade preference programme. AGOA allows certain exports from South Africa and many other sub-Saharan African (SSA) countries to enter the U.S. market duty free. It is important to note that it is therefore not a trade agreement.

AGOA builds upon the U.S. Generalized System of Preferences (GSP) and cannot be understood in isolation of GSP. Both GSP and AGOA provide eligibility criteria, with which designated beneficiary countries need to continually comply to qualify for duty free preferences.

AGOA provides eligible SSA countries with duty-free access to the U.S. market for over 1,800 products, in addition to the more than 5,000 products that are eligible for duty-free access under the GSP program.

If a product falls into a category that is classified as AGOA eligible, an exporter can claim duty free preferences if the product meets the rules of origin. In general, at least 35% of a product's value must be grown, produced, or manufactured in an AGOA-eligible country (different rules apply for textiles).

AGOA was signed into law by former U.S. President Clinton in 2000 and was initially set to run for eight years. Over the years there have been several extensions and amendments. In 2015, President Obama extended AGOA until 2025 through the AGOA Extension and Enhancement Act of 2015.<sup>1</sup>

Amongst other things, AGOA aims to promote increased trade, investment, economic development as well as enhanced access and opportunities between the U.S. and SSA countries. It also promotes the rule of law and market-oriented reforms in SSA countries. The legislation includes the objective of expanding and deepening investment and trade relations between the U.S. and SSA to encourage economic growth, development, and facilitate regional integration, as well as integration of SSA into the global economy.

For any AGOA beneficiary, including South Africa, AGOA benefits can be lost either if AGOA expires and is not renewed, or, if that country is found during a review to no longer comply with the eligibility criteria of AGOA or GSP. For example, upon the completion of the 2024 AGOA review, Uganda and three other countries were removed as beneficiaries from the programme effective from the start of 2024.<sup>2</sup> In contrast, during the same review, it was decided that Mauritania would be reinstated as a beneficiary of the programme.<sup>3</sup> This was based on progress that had been made regarding its 2019 termination of benefits due to worker rights concerns as well as the government's willingness to work diligently with the US in pursuit of substantial and measurable progress on worker rights in addition to eliminating forced labour across the country.

## 3. What is the Generalised System of Preferences?

GSP is not unique to the U.S. Rather, it is a system established under the World Trade Organisation (WTO) which allows developed countries to offer non-reciprocal preferential treatment to products originating in developing countries. For example, South Africa is a beneficiary country under GSP programmes run by both Turkey and Japan.<sup>4</sup> Developed countries that give such preferences can unilaterally determine which countries and which products are included in their schemes.<sup>5</sup>

<sup>1</sup> United States International Trade Commission (USITC). African Growth and Opportunity Act (AGOA): Program Usage, Trends, and Sectoral Highlights. March 2023.

<sup>2</sup> The White House. Letters to the Speaker of the House and President of the Senate on Intent to Terminate the Designation of the Central African Republic, the Gabonese Republic, Niger, and the Republic of Uganda as Beneficiary Sub-Saharan African Countries Under the African Growth and Opportunity Act. 30 October 2023.

<sup>3</sup> Office of the United States Trade Representative. Statement from Ambassador Katherine Tai on the African Growth and Opportunity Act Eligibility Review. 31 October 2023.

<sup>4</sup> Braude, Wolf. Why AGOA is vital for South African food exporters. 30 May 2023. Published in News24.

<sup>5</sup> World Trade Organization Website.

In 1974, the U.S. implemented a trade preference programme under GSP, designed to “promote economic growth in the developing world.” It provides preferential duty-free access for approximately 3500 products from “beneficiary developing countries” (BDC) around the world. An additional 1500 GSP products are also duty free when imported from a “least-developed beneficiary developing country” (LDBDC). South Africa is designated as a BDC, but not a LDBDC.<sup>6</sup> As of 2022, there were 119 GSP BDCs, of which 44 were LDBDCs.<sup>7</sup>

The vast majority of GSP products are also eligible for duty-free access under AGOA. AGOA however, builds upon this, by offering GSP beneficiary countries in SSA additional duty-free access for up to about 1,800 dutiable products that are not eligible to be imported duty free under GSP. AGOA also provides South Africa with access to many products that would otherwise only be available to LDBDC countries under GSP (approximately 30 percent of GSP products are reserved for LDBDCs, roughly 1500 items).<sup>8</sup> Notably, AGOA adds items such as apparel and footwear, wine, certain motor vehicle components, a variety of agricultural products, chemicals, steel and many others.<sup>9</sup>

A big benefit of AGOA is that the AGOA program is designated to run for longer periods at a time and does not require constant re-authorization like GSP. It is therefore more predictable than GSP, even though individual country eligibility is up for review each year, the programme itself is not. For example, in 2015 the programme was renewed for a period of 10 years. GSP, on the other hand, has lapsed several times in recent years, including twice during 2017–21. It last expired on 1 January 2021 and has not been reauthorized yet, thus currently GSP beneficiary countries are not being afforded duty-free treatment. Reauthorization of GSP usually allows for retrospective application of duty-free treatment, but it is not certain. The expiration of GSP does not affect AGOA beneficiaries.<sup>10</sup>

AGOA also provides expanded access by eliminating certain quantitative limits on GSP benefits.<sup>11</sup>

## 4. What are the eligibility requirements set out in AGOA?

In order to qualify for AGOA benefits, a country must be designated as a beneficiary SSA country and must comply with the eligibility criteria on an ongoing basis.

AGOA requires the U.S. President to monitor and determine, annually, whether a country meets the AGOA eligibility requirements. The President has delegated authority for this review to the United States Trade Representative (USTR), who leads the annual interagency eligibility review that provides recommendations to the President. Each year the USTR carries out an eligibility review, which includes a period for public comment and hearings. Since 2015, out of cycle reviews can also be held in response to public petitions.

The eligibility requirements to be an AGOA beneficiary cover a range of criteria, organised into 5 categories:<sup>12</sup>

- **Economic**, which entails criteria regarding market economy, economic reform, and the elimination of barriers to U.S. trade.
- **Political**, which covers considerations in relation to rule of law, political pluralism, and anti-corruption.
- **Poverty reduction**, which considers policies aimed at reducing poverty.
- **Labour and human rights**, which stipulates certain criteria on worker rights, forced labour, child labour, and other human rights.
- **Terrorism and security**, which requires that the country does not engage in activities that undermine U.S. national security or foreign policy interests or engage in gross violations of internationally recognized human rights.

It is important to note that AGOA doesn’t establish a specific minimum requirement for fulfilling eligibility criteria. Instead, it mandates that countries “make continual progress toward establishing” these criteria, which is a more rigorous standard compared to the “taking steps” standard outlined in GSP. This standard grants the President the flexibility to take into account the unique circumstances and context of each country when assessing its eligibility. The Administration may remove country eligibility entirely or for specific products but must notify Congress 60 days before any termination.<sup>13</sup>

<sup>6</sup> U.S. Generalized System of Preferences Guidebook.

<sup>7</sup> USITC. AGOA Program Usage, Trends, and Sectoral Highlights. March 2023.

<sup>8</sup> USITC. AGOA Program Usage, Trends, and Sectoral Highlights. March 2023.

<sup>9</sup> AGOA.info

<sup>10</sup> USTR. GSP Expiration: Frequently Asked Questions. January 2021.

<sup>11</sup> USITC. AGOA Program Usage, Trends, and Sectoral Highlights. March 2023.

<sup>12</sup> USITC. AGOA Program Usage, Trends, and Sectoral Highlights. March 2023.

<sup>13</sup> Congressional Research Service. In Focus: African Growth and Opportunity Act. 5 May 2023.

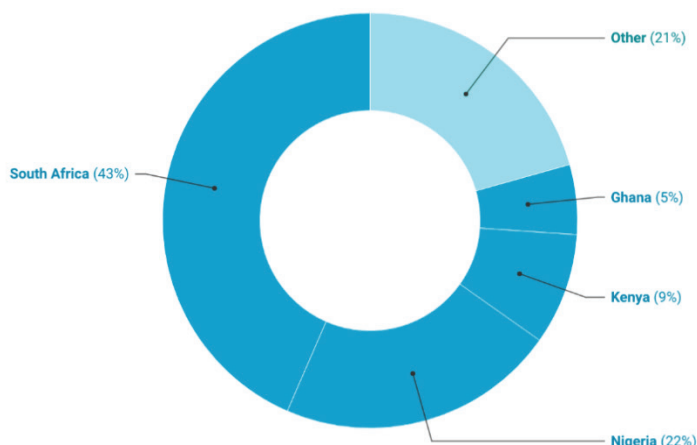
GSP eligibility criteria are set out in the Trade Act of 1974, and include worker rights, arbitral awards, and intellectual property rights, among others.<sup>14</sup> Further to this, GSP stipulates an income threshold, requiring a beneficiary developing country to “graduate” from the program if it attains high-income country status. A country’s income level is based on the World Bank’s income groups, which are updated annually. Only Seychelles and Equatorial Guinea have ever lost their AGOA eligibility due to their income-based graduation from GSP.<sup>15</sup> GSP beneficiaries are assessed every three years. Currently, South Africa is subject to an ongoing GSP eligibility review,<sup>16</sup> based on intellectual property rights concerns pertaining to South Africa’s Copyright Amendment Bill. Due to GSP expiration, however, the United States Trade Representative (USTR) does not expect to move toward final determination of these reviews while the program is without authorisation.<sup>17</sup> It needs to be seen what will happen if GSP is reauthorised.

## 5. How important is AGOA for South Africa?

AGOA continues to have a positive impact on South Africa’s economy, with the country being the leading exporter of AGOA (including GSP) products into the U.S. market. South Africa has also maintained a trade surplus with the U.S. since the inception of AGOA in 2000.

- South Africa’s exports to the U.S. grew at an average annual rate of 12.98% from 2002 to 2022.
- The U.S. was South Africa’s second largest export market in 2022, after China, and third largest source market for imports, after China and Germany.
- South Africa’s exports have significantly benefited from AGOA/GSP preferences, with an average annual share of 31 percent of SA exports to the U.S. trading under the programme since inception until 2021.
- 70 percent of SA agricultural products to the US relied on AGOA, while 50 percent of footwear; 49 percent of miscellaneous manufactures and 36 percent of forest product exports benefited from the programme.
- AGOA especially supports the competitiveness of South African exports in instances where products from other countries benefit from free trade agreements (FTAs) with the U.S. For example, when it comes to market share for citrus, South Africa competes with Mexico, Chile, Peru and Morocco, who all have FTAs with the U.S.
- There are more than 600 U.S. companies in South Africa, many with regional headquarters in the country.
- The U.S. was South Africa’s top source market for inward foreign direct investment (FDI) projects and second largest based on the amount of capital invested over the past 20 years.
- Various sectors in which the U.S. are invested in South Africa are major beneficiaries of AGOA, including food & beverages, chemicals, industrial equipment, textiles<sup>18</sup> and consumer goods.

Figure 1: Leading AGOA Exporters, 2021



Source: USITC Dataweb, 2022

<sup>14</sup> USITC. AGOA Program Usage, Trends, and Sectoral Highlights. March 2023.

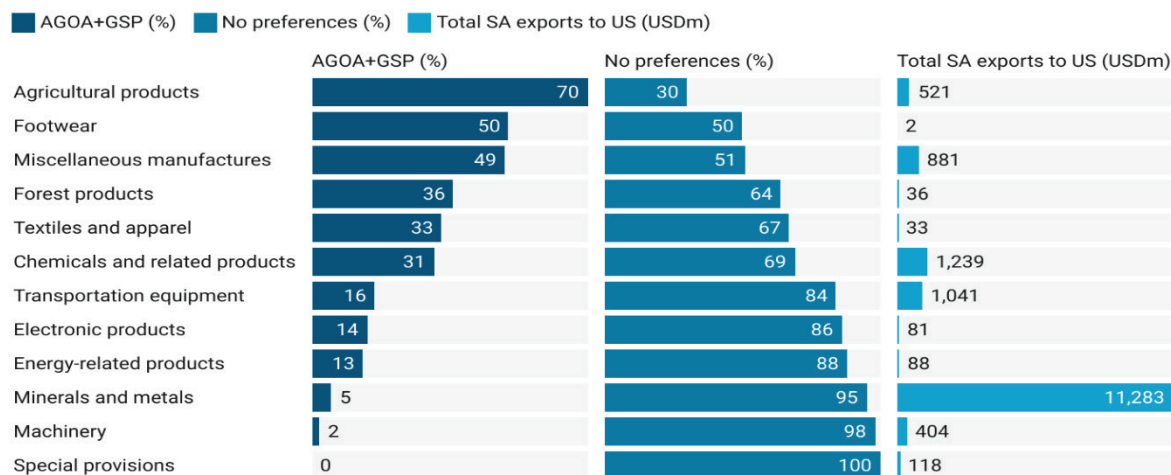
<sup>15</sup> USITC. AGOA Program Usage, Trends, and Sectoral Highlights. March 2023.

<sup>16</sup> Office of the United States Trade Representative. Current Reviews: Active and Recently Closed GSP Country Practices Reviews. Accessed October 2023.

<sup>17</sup> USTR. GSP Expiration: Frequently Asked Questions. January 2021.

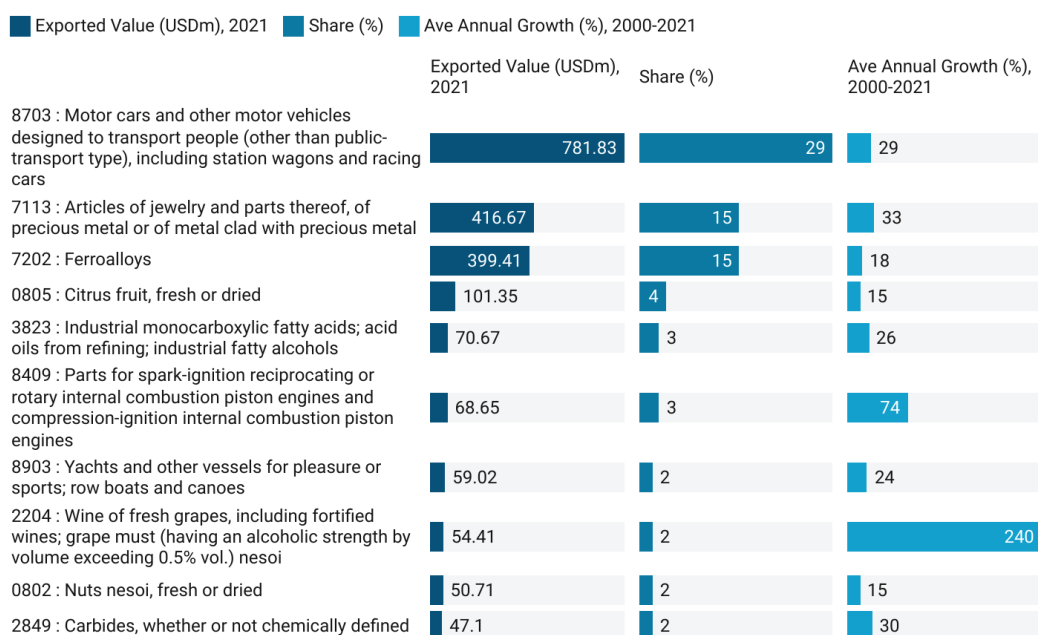
<sup>18</sup> Though, due to not qualifying for third country benefits, textiles are not exported to the U.S. under AGOA as much as from other beneficiary countries.

**Figure 2: Composition of SA exports to the U.S. by Program, 2021**



Source: USITC Dataweb, 2022

**Figure 3: SA top 10 exports under AGOA (incl GSP), 2021**



Source: USITC Dataweb, 2022

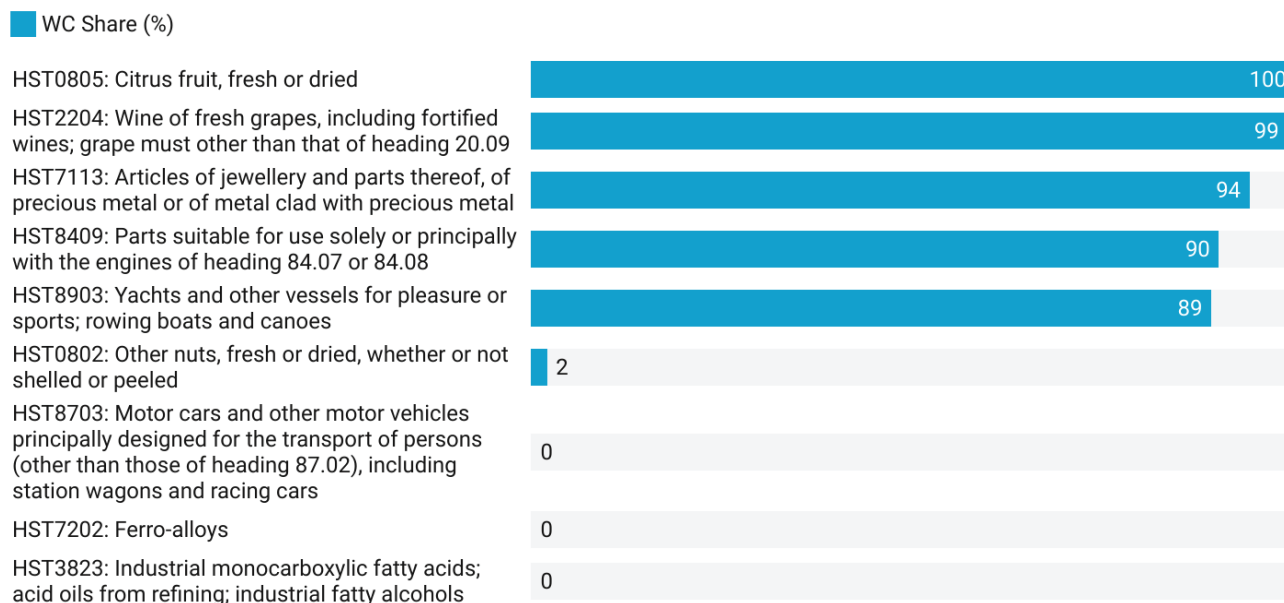
## 6. How important is AGOA for the Western Cape?

The Western Cape province contributed and benefited significantly from AGOA/GSP preferences.

- The Western Cape’s exports to the United States grew at an average annual rate of 14.8 percent between 2002 and 2022.
- The U.S. held the second largest share of the Western Cape’s global exports at 8.20 percent in 2022.
- In 2022, primary and secondary agriculture accounted for 33 percent of the total value of the Western Cape’s exports to the U.S.
- Five out of ten of South Africa’s top exports to the U.S. under AGOA come from the Western Cape. In each case, the province was responsible for close on 90 – 100 percent of those exports. (Figure 4)
- Figure 5 sets out the Western Cape’s top exports to the United States. Top exports that are AGOA eligible include “articles of jewellery”, citrus, engine parts, wine, prepared/preserved fruit and nuts, fruit juices, fish, grapes and dried fruit.
- Over the past five years, the fastest growing AGOA eligible exports from the Western Cape to the U.S. have been fruit juices, preserved fruits and dried fruits .
- In 2021, nearly 30,000 jobs were sustained in the Western Cape through exporting activities by AGOA-related exporting sectors, with the majority of these jobs originating from the agricultural sector - which created 6,554 direct jobs, 547 indirect jobs and 1,489 induced to jobs to reach an economy-wide total of 8,591 jobs sustained in the Western Cape’s agricultural sector<sup>19</sup> (Figure 6).

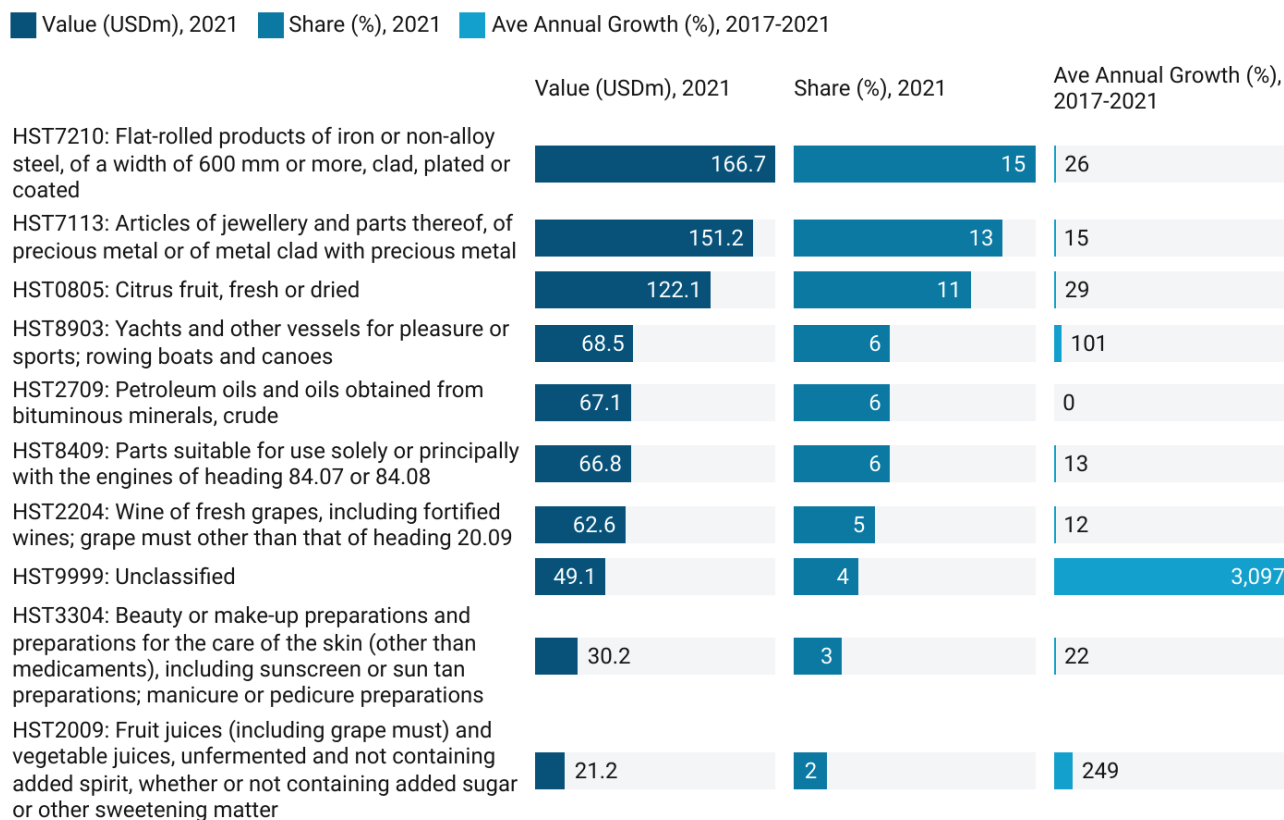
<sup>19</sup> More information on this study is available here: <https://www.wesgro.co.za/corporate/resources/importance-of-agoa-on-exports-and-employment-in-the-western-cape>

**Figure 4: WC Share of SA top 10 exports under AGOA (incl GSP), 2021**



Source: Quantec, 2022

**Figure 5: WC top export products (HS4) to the US, 2021**



Source: Quantec, 2022

**Figure 6: Multiplier Effect on Employment of Western Cape AGOA-eligible exporting sectors to the United States, 2021**

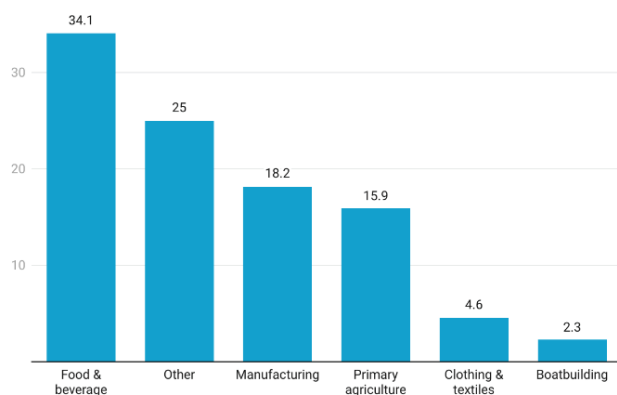
	WC exports to the US (ZARm)	Direct	Indirect	Induced	Economy-wide
Agriculture	2421	6554	547	1489	8591
Basic iron and steel products; casting of metal	2536	2867	1119	1414	5400
Food	1319	2303	350	812	3465
Other transport equipment	1021	1305	181	611	2097
Other manufacturing groups	2465	703	150	1126	1979
Other chemical products	994	1034	218	564	1817
Beverages and tobacco	976	890	262	626	1778
Motor vehicles, parts and accessories	1124	955	263	501	1719
Leather and leather and fur products	177	419	57	110	586
Machinery and equipment	305	361	37	174	572

## 7. How do Western Cape Exporters view AGOA and the U.S. market?

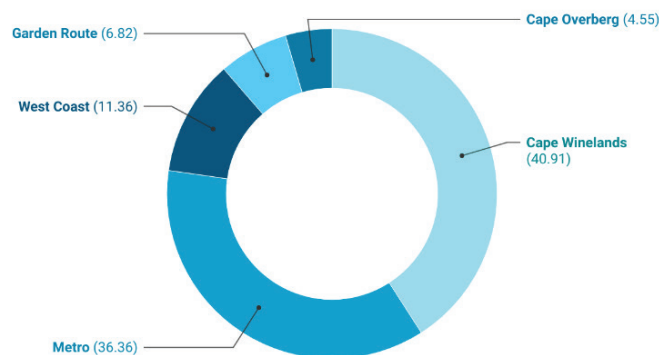
Wesgro surveyed Western Cape exporters to understand the importance of AGOA and the U.S. market in the province. The results demonstrate the importance of AGOA for the Western Cape.<sup>20</sup>

- 81.82% of exporters surveyed viewed the U.S. as a priority market for the sustainable growth of their business.
- This was higher among micro, small and medium- sized businesses (SMMEs), with 91.5 percent of SMMEs respondents viewing the U.S. as a priority market.
- 60.87 percent of U.S. export respondents indicated that they utilise AGOA.
- 82.4 percent of U.S. export respondents indicated that 80-100 percent of their exports to the U.S. benefitted from AGOA.
- 68.75 percent of U.S. export respondents indicated that AGOA had a significant impact on the growth of their business.
- This was higher among SMMEs, with 80 percent of SMMEs indicating that AGOA had a significant impact on the sustainable growth of their business.
- Over 60 percent of exporters surveyed indicated that 80-100 percent of their input costs were sourced from South Africa or Africa.

**Figure 6: Exporters Surveyed by District**



**Figure 7: Exporters Surveyed by Business Sector**



<sup>20</sup> In total, 44 exporters responded to the survey, 23 (or 52.27%) of which export to the U.S. and 21 (or 47.37%) that do not.

## 8. How does AGOA support regional integration?

In its 2000 statement of policy within AGOA I, Congress expressed support for, among other goals, “encouraging increased trade and investment between the U.S. and SSA; reducing tariff and non-tariff barriers and other obstacles to SSA and U.S. trade,” and “expanding U.S. assistance to SSA’s regional integration efforts.”

The United States International Trade Commission (USITC) AGOA Report states that two forms of regional integration most directly tied to AGOA are trade integration (i.e., intra-SSA trade) and investment integration (i.e., intra-SSA investment).

Given South Africa’s position as dominant importer, exporter, and investor on the Continent, as well as by far the most successful utiliser of AGOA, South Africa’s inclusion in AGOA strengthens this objective of African regional integration.


South Africa’s continued inclusion in the programme also enables it to play a key role in supporting the establishment of potentially very significant value chains across the Continent and the U.S.

This is particularly important and beneficial in the current global environment, given the green transition, the race for clean energy supply chains, and the U.S. and Europe’s focus on diversification of supply chains.

- The rest of Africa accounted for 24 percent of South Africa’s total exports to the world in 2022 and 8 percent of the country’s global imports. By 2022, South Africa’s exports to Africa had reached a value of ZAR491.03bn, up from ZAR264.85bn recorded in 2013.
- The rest of Africa accounted for 32 percent of the Western Cape’s global exports and 6 percent of global imports.
- The Western Cape’s exports to the rest of Africa have risen overall over the past ten years (albeit with fluctuation), from a value of ZAR40.33bn earned in 2013, to ZAR59.92bn in 2022. The province’s annual exports growth averaged 8 percent during this period.
- Africa was the Western Cape’s top export region in 2022, which at a value of ZAR59.92bn accounted for a 33 percent share of the province’s global exports.
- The African Continent was also the top destination for outward FDI from the Western Cape in terms of both the number of projects and capex. Africa accounted for about 45 percent of the province’s outward FDI projects and 58 percent of capex.
- According to FDI Intelligence statistics, a total of 125 FDI projects were recorded into Africa from the Western Cape between 2013 and 2022. These projects represent a total capital investment of R43.30 billion and led to the creation of 13 452 jobs.
- USITC AGOA Report found that a number of South African AGOA-exporting firms and industries each source at least 40 percent of their inputs from within Africa; most of the firms and industries in this group source between 80-100 percent of inputs. This group spans multiple sectors, including food and beverages, clothing, apparel, and others.<sup>21</sup>

<sup>21</sup> USITC. AGOA Program Usage, Trends, and Sectoral Highlights. March 2023.





## Did you know?

- The African Continental Free Trade Agreement (AfCFTA) is the largest free trade area established since the World Trade Organization.
  - The AfCFTA promises to integrate over 50 small and fragmented markets into one single market of 1.4 billion people and a combined GDP of USD 2.4 trillion.<sup>22</sup>
  - The AfCFTA aims to remove trade barriers, unlock opportunities for regional value chains and increase the continent's global competitiveness in global value chains – through tapping into manufacturing opportunities, including agro-processing, mining, automotive, chemicals, clothing and footwear, and machinery production.<sup>23</sup>
- The aim is that by 2034 Africa will have achieved tariff liberalisation of 97 percent of goods in a staged manner.<sup>24</sup>
  - A 2022 World Bank report in association with the AfCFTA Secretariat indicated that the full implementation of the AfCFTA scenario could increase intra-Africa exports by up to 109 percent and global exports by 32 percent by 2035, lift 50 million people out of poverty and raise overall income by 8 percent by 2035.<sup>25</sup>

## 9. How do I find out if my products qualify for AGOA?

Not all products qualify for duty-free benefits under AGOA or GSP. Some products are duty-free in general, thus they are duty-free for products from all countries. Some products that do not qualify for AGOA carry duties. Whether or not a product qualifies for AGOA (or GSP) is set out in the Harmonized Tariff Schedule of the United States (US HTS). AGOA products are designated “D”.

In order to find out whether your products qualify for AGOA, the following links and their related steps may be helpful.

Firstly, go to the Regulatory Certification Requirements to Export page on the Cape Trade Portal which can be found at the following link <https://capetradeportal.com/for-western-cape-exporters/regulations-requirements-and-certifications-to-export/>. Secondly, go to the drop down and select AGOA.info.<sup>26</sup> After selecting AGOA.info, you are taken to a page reflecting a database of products listed according to their HS code. In order to navigate the data base, expand the sections under the headings “Introduction”, “Things to know”, “Guide to classification codes...” This will help you get a better understanding of how to utilise the platform in determining the relevant GSP and AGOA classifications which may be applicable to specific products. AGOA.info is a central hub of information run by tralac.

It is also important to note that in order to qualify for duty free access to the US market under AGOA, an exporter needs to be registered correctly with the South African Revenue Service (SARS). This information is easily accessible on the SARS website under **Customs and Excise** ⇒ **Registration, Licensing and Accreditation** ⇒ **Exporters**.

## 10. How to get in touch with Wesgro regarding AGOA?

If you require any further information in this regard, please feel free to reach out to us through the [Cape Trade Portal](#).

<sup>22</sup> <https://au.int/en/theme/2023/acceleration-of-afcfta-implementation>

<sup>23</sup> <https://futures.issafrica.org/thematic/08-afcfta/>

<sup>24</sup> <https://futures.issafrica.org/thematic/08-afcfta/>

<sup>25</sup> “Echandi, Roberto; Maliszewska, Maryla; Steenberg, Victor. 2022. Making the Most of the African Continental Free Trade Area: Leveraging Trade and Foreign Direct Investment to Boost Growth and Reduce Poverty. Washington, DC: World Bank.

<sup>26</sup> The AGOA.info is an online information and exporter support portal on the African Growth and Opportunity Act (AGOA) which was launched at the start of 2002 by the Trade Law Center (tralac). The site serves as a vehicle for effective dissemination of AGOA-related information among stakeholders in both Sub-Saharan Africa and the US.