SOUTH AFRICA'S AGRI TRADE WITH THE US UNDER AGOA

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What role does the US play in current SA agri exports?

South Africa currently enjoys valuable preferential access to mainly traditional markets – the EU, UK, USA, Africa and some South American countries (under Mercosur). In the equally lucrative and fast-growing South and East Asian region, only one agreement potentially exists - a preferential trade agreement with India that remains under negotiation. No trade agreements exist with Middle Eastern states. However, government maintains close relationships with most markets in these regions and efforts continue to deepen trade. Preferential access is the first prize of trade, it bilaterally removes tariffs, and usually incorporates a set of binding protocols and agreements that enhance trade and cooperation, remove obstacles to current trade and include mechanisms for dealing with disagreements.

Overall, SA agri products are exported globally as follows: Africa 37%, Asia 27%, EU 19%, **Americas 7%**, and the Rest of World (including the UK which comprises over half of this) makes up 10%. The main export crops comprise maize, wine, grapes, citrus, berries, nuts, apples and pears, sugar, avocados, and wool. SA now exports roughly half of its agricultural produce in value terms. The industry, therefore, needs exports to maintain revenue, economies of scale, and thereby jobs and domestic product affordability. Placing exports at risk is to place agri jobs and indirectly domestic food security at risk.

Total SA exports to the US (including non-agricultural products) grew by 16% between 2017 and 2012 and comprised 11% of total SA exports in 2021.

SA exports & agricultural exports to the US

Product	Value in 2021, USD
All SA products	13,100 billion
Agricultural products	582 million
Processed food and agro-based products	257 million
Total Agri products	839 million (6% of total SA exports to US)

Source: TradeMap

AGOA, GSP and eligibility

AGOA essentially expanded a <u>unilateral</u> preferential tariff regime called the Generalised System of Preferences (GSP), which was launched by key developed markets under the UN Conference on Trade and Development (UNCTAD) in the early 1970s. The concept was that extending such unilateral duty-free access would create an enabling trading environment for developing countries. The following countries grant GSP preferences: Australia, Belarus, Canada, the European Union, Iceland, Japan, New Zealand, Norway, the Russian Federation, Switzerland, Turkey, and the USA. South Africa is a beneficiary under GSP programmes run by Japan, Russia, Turkey and traditionally the USA. Like AGOA, the GSP is not a trade agreement, but rather a unilateral benefit offered to less economically developed countries, allowing these countries to increase and diversify their trade with the USA. It is not restricted to African countries, however.

Both GSP and AGOA operate according to a set of eligibility criteria, and can therefore be withdrawn if a recipient country breaches such criteria. The US GSP criteria broadly comprise: enforcing arbitral awards; not having nationalised, expropriated or otherwise seized property of U.S. citizens or corporations without providing, or taking steps to provide effective compensation; taking steps to afford internationally recognised worker rights; implementing commitments to eliminate the worst forms of child labour; and the extent to which a country provides adequate and effective protection of intellectual property rights. More than 5,000 products are eligible for duty-free access under the US GSP programme. It must be noted though that the US GSP is currently not active. It expired in December 2020. The programme is usually extended for 2 to 3 years at a time. The GSP programme has lapsed prior to its reauthorisation in 10 of the 14 times it was extended though. A sizeable group within Congress is actively lobbying for its renewal, noting that the absence of GSP makes useful imports more expensive for US firms, and decreases US competitiveness and attractiveness vs China. Several bills to reauthorise GSP have been introduced to Congress. The President holds the primary authority for GSP but a Trade Policy Staff Committee administers GSP and provides annual country review recommendations to the President.

AGOA extended the preferences to nearly all of Sub-Saharan Africa, adding duty-free access to the U.S. market for over 1,800 products, in addition to the GSP products. Since its enactment in 2000, AGOA has been at the core of U.S. economic policy and commercial engagement with Africa. Thirty-five countries were eligible for AGOA benefits in 2023. The eligibility criteria for GSP and AGOA have a large degree of overlap, and countries must be GSP-eligible in order to receive AGOA's trade benefits. A number of countries have lost and then regained AGOA eligibility over the years AGOA has been in force. For example Cote d'Ivoire, Guinea, Niger, Swaziland, and The Gambia.

AGOA eligibility criteria cover issues such as firstly a market-based economy, rule of law and political pluralism, elimination of barriers to United States trade and investment, developmental economic policies, a system to combat corruption and bribery, protection of internationally recognized worker rights; then secondly <u>does not engage in activities that undermine United States national security or foreign policy interests</u>; and thirdly – does not engage in gross violations of internationally recognized human rights or provide support for acts of international terrorism and cooperates in international efforts to eliminate human rights violations and terrorist activities. the concern with recent political developments is that this 2nd key criterion could be used to rule SA as no longer eligible for AGOA, although as noted above, eligibility can be restored upon proof of progress under the specific area. However, given the political complexities of the interplay between the Ukrainian conflict, the close SA-Russian relationship and SA's BRICS membership, any alleged transgression may be viewed in a different light to previous issues which were raised with other African states, and the ineligibility decision may be harder to reverse. There are lesser penalties – the US also may merely withdraw, suspend or limit the application of duty-free treatment with respect to specific articles from a country if it decides that this would be more effective in promoting compliance with AGOA eligibility requirements than terminating the designation of the country as a beneficiary sub-Saharan African country.

If rendered ineligible for AGOA, SA would, however, remain eligible for preferential market access under the GSP programme once it is reauthorised. Some SA agri products might lose preferences though due to the differences between the two systems. Specifically where some AGOA products either do not appear under GSP or are reserved for Least Developed Countries (LDCs) only. This is explored in the table below. If the USA wished to close the GSP door as well, it could seek to use SA's more advanced developmental status and 'graduate' or remove it from GSP (e.g. as with Equatorial Guinea and Seychelles). Such graduation would not be on the basis of Gross National Income per capita as SA has not breached this t2threshold, but could be applied on the basis of the level of economic development (i.e., income per capita, living standards, or other economic factors deemed appropriate. This would then trigger automatic exclusion from AGOA as GSP is a prerequisite for AGOA; and could conveniently be used to avoid the more political route of AGOA exclusion. SA agri exports would then be subject to normal Most Favoured Nation (MFN) tariffs under WTO rules, in line with any other exporter that lacks preferential access to the US.

Coincidentally, the Office of the United States Trade Representative (USTR) has announced the initiation of the annual review of the eligibility of sub-Saharan African countries to receive AGOA benefits. The relevant AGOA Subcommittee will consider written comments, written testimony, and oral testimony during July 2023 and make recommendations for the President on AGOA country eligibility for calendar year 2024. Information on the submission process can be found at https://www.federalregister.gov/documents/2023/05/17/2023-10480/annual-review-of-country-eligibility-for-benefits-under-the-african-growth-and-opportunity-act-for

Selected top agricultural exports under AGOA vs GSP vs MFN tariffs, 2021

Product	AGOA preference	GSP preference*	MFN tariff
Fresh or dried macadamia nuts, shelled	D – AGOA	A+	5 cents/kg
Fresh or dried mandarins incl. tangerines and satsumas	D – AGOA	Non-GSP	1.9 cents/kg
Fresh or dried oranges	D – AGOA	Non-GSP	1.9 cents/kg
Wine of fresh grapes, incl. fortified wines, <2 litres	D – AGOA	A (below 14% alcohol volume is A+, above is A)	16.9 cents/litre (over 14% volume)
Ice cream and other edible ice	D – AGOA	A+	20%
Frozen rock lobster and other sea crawfish	-	Non-GSP	Free

Source: TradeMap and Tralac

Note: * "A+" means for export by LDCs only. "A" means can be exported by all GSP countries, including SA.

From the table above it can be seen that the selection of key agricultural products sold into the USA currently is nearly all enjoying preferential access solely on the strength of AGOA. If AGOA access was lost, these products would not be eligible for any preferential access as GSP is currently not active, and even if it was active, the SA products are not on the GSP list, except for export by LDC countries, which SA is not. They would therefore fall under MFN, and the great majority would attract a duty. MFN would apply until GSP is renewed. Thus risk outside of AGOA remains consistent.

It can be noted that trade preferences and market access are often used as tools of economic diplomacy. Agricultural products are arguably more vulnerable to such pressure as they often require phytosanitary certificates and related approved protocols to access markets. For example, SA avocados have been waiting in line for years to gain such technical approval to access the US market. Citrus exports could be higher, but an adjustment to the citrus protocol is required to widen the applicable exporting zone in SA (currently only the Western Cape and Northern Cape are permitted to ship to the US). As with other markets, approvals or changes are often delayed for hard-to-determine reasons. In theory, such processes can also be delayed to express displeasure or indifference. In the absence of a bilateral trade agreement, there is little to no recourse for the exporting beneficiary country outside of deepening and strengthening the relationship.

With new trade agreements with Asian or Middle Eastern markets still many years away, it is thus in South Africa's interests to preserve access to traditional markets such as the US, firstly by protecting GSP and AGOA access, and further by ensuring that the US is not motivated to place obstacles in the path of expanding market access. The US market under AGOA still has room to grow. SA for example has never developed or deployed a National AGOA Strategy to boost exports. Such strategies comprise a set of actions to progressively boost the value of beneficiary market access to the US. Around 19 other AGOA beneficiaries have been assisted in designing these strategies, including our neighbours Lesotho, Namibia, Botswana and Mozambique. It is thus in SA's interest and the interest of the agricultural sector to protect and retain preferential market access under AGOA