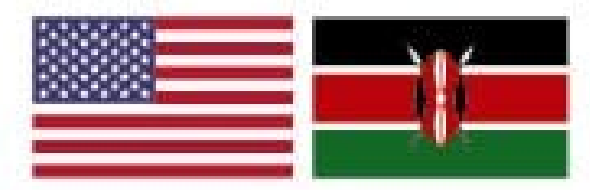


Kenya - United States FTA



FROM AGOA TOWARDS A BILATERAL FREE TRADE AREA

Following a meeting between Kenya President Uhuru Kenyatta and United States President Donald Trump at the White House, plans to initiate negotiations towards a bilateral **Free Trade Area** were announced on 6 February 2020. No Sub-Saharan African country has yet concluded a FTA with the United States; the 2006 U.S.-Morocco FTA is currently the only such agreement between an African country and the United States.

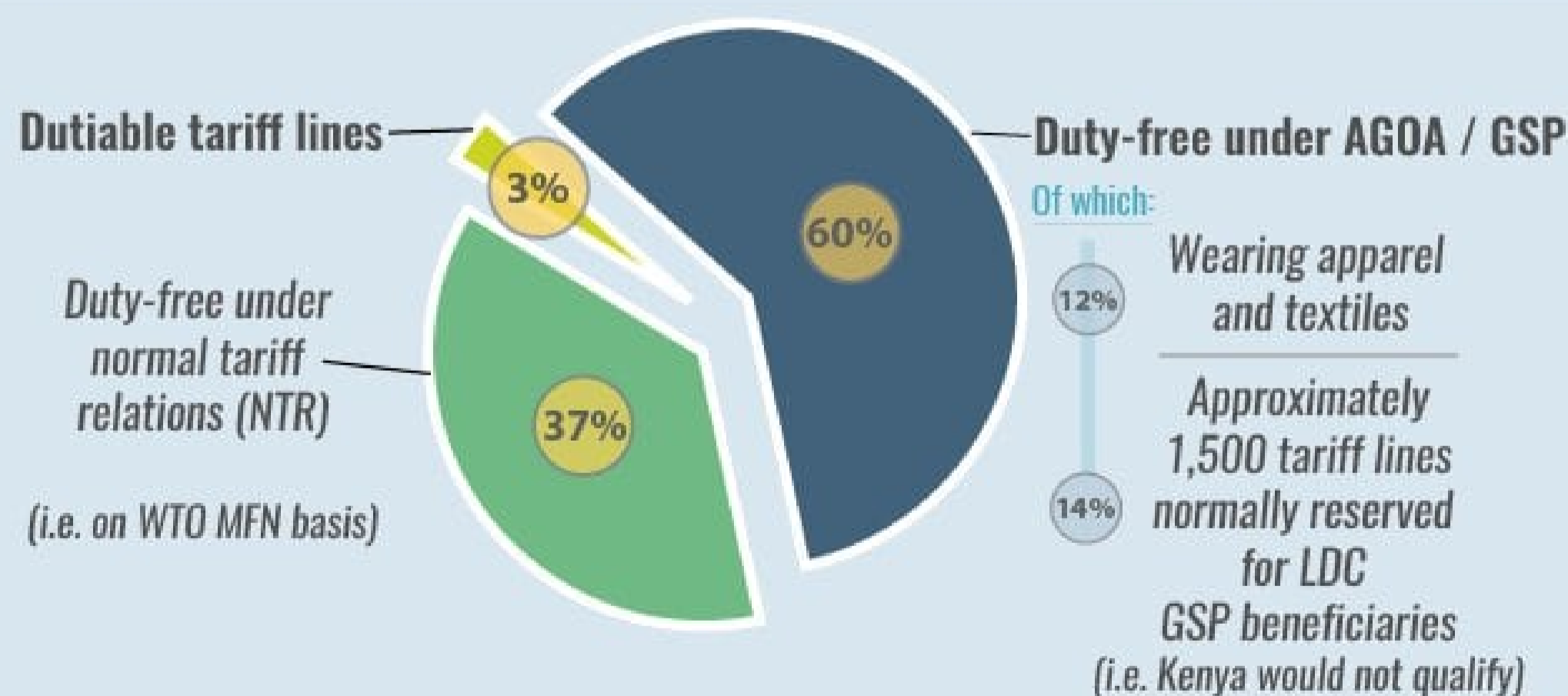
BACKGROUND: AGOA 2000-2025

- The **African Growth and Opportunity Act (AGOA)** forms part of United States legislation enacted by the U.S. Congress in May 2000 under former President Bill Clinton. This represented a new trade and investment policy towards Sub-Saharan Africa, and resulting in a deeper and more meaningful economic and political relationship.
- **AGOA** is non-reciprocal: it offers qualifying products made in eligible African 'beneficiary' countries preferential, duty-free access to the U.S. market. Kenya became an AGOA beneficiary at the time of AGOA's inception and was also one of the first countries eligible to export apparel under separate apparel provisions.
- **Kenya** has been a leading beneficiary of AGOA preferences, and was one of the first African countries to export under the programme.
- **AGOA** builds on and extends preferences available under the US **Generalized System of Preferences (GSP)**, *inter alia* by significantly expanding the list of qualifying products (including to sensitive categories such as textiles and apparel), by removing the competitive need limitations (CNL) which potentially capped preferences when U.S. imports exceeded a certain threshold, and by providing longer-term preferences that are not subject to the same periodic expiry and renewal requirements of the GSP.



Kenya's current US market access under AGOA: Breakdown of U.S. tariff lines / preference program

Current market preferences for Kenya's exports to the U.S. are non-reciprocal, and unilateral



Until AGOA expires, Kenya is still able to enjoy duty-free access to the U.S. for **97%** of possible tariff lines.

37% of all tariff lines are currently duty-free to WTO member States (Most-Favoured Nation principle)

3% of all tariff lines attract U.S. import duties when produced and exported by Kenya to the US

60% of all tariff lines benefit from AGOA / GSP duty-free access. This includes approximately 1,500 tariff lines ordinarily reserved for LDC countries under the GSP scheme. Without AGOA, Kenya - as a non-LDC - would not qualify for preferences for these products but would in tariff lines that have full GSP status, provided the GSP programme is active. The GSP requires periodic reauthorization

RECENT TIMELINES: TOWARDS A KENYA - U.S. FREE TRADE AREA:



TOWARDS A BILATERAL FREE TRADE AREA

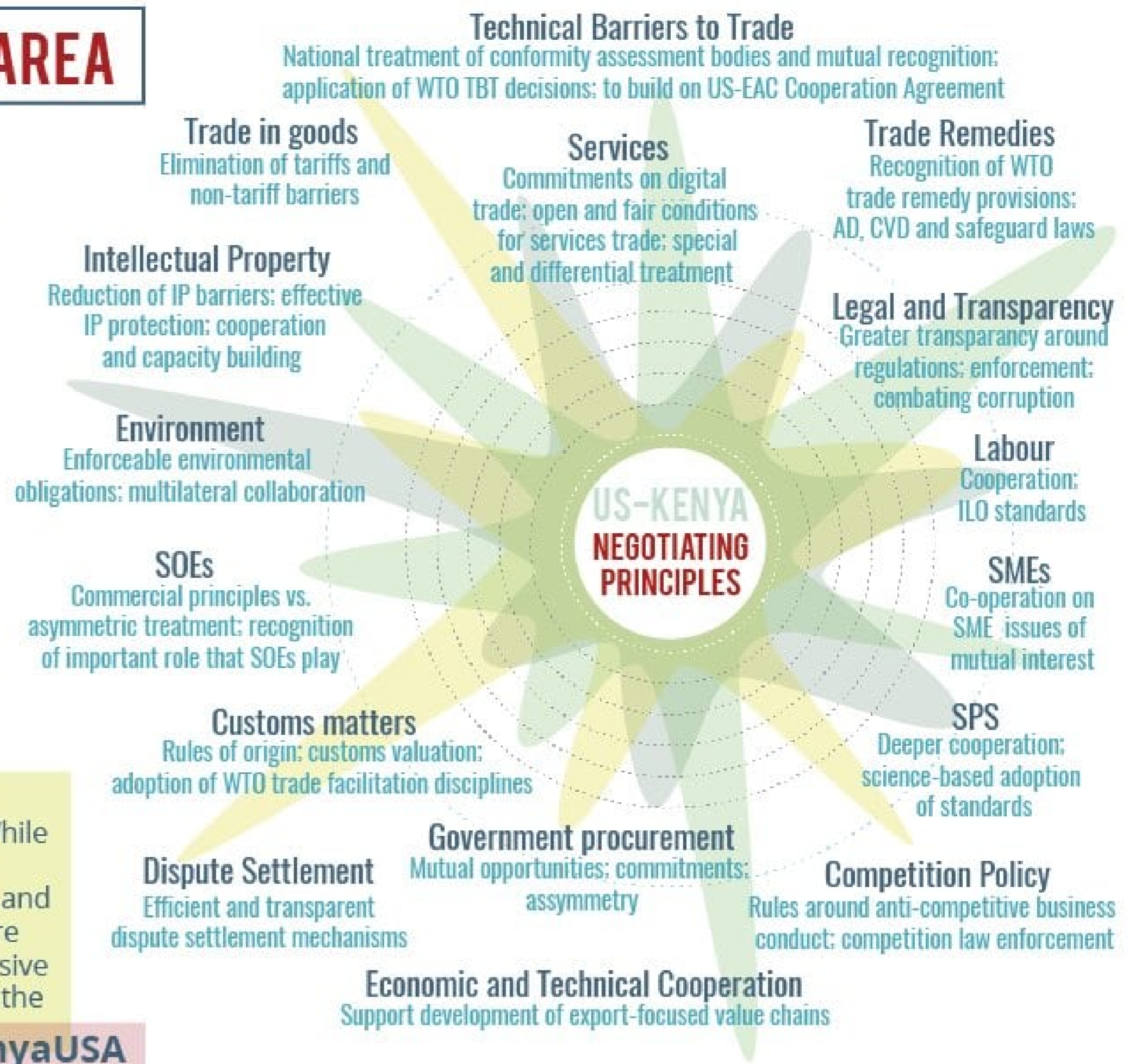
What is a FTA, and what is covered?

A **Free Trade Area**, or Free Trade Agreement, is a legal pact between two or more countries that typically removes or significantly reduces impediments to the flow of goods and services between the partner countries. For this purpose, modern FTAs go beyond the mere reduction of tariffs on traded goods, and also address trade in services, investment, technical barriers to trade (non-tariff barriers), dispute resolution, customs administration and cooperation, sanitary/phytosanitary standards, and other regulatory disciplines. The parties to the **Kenya-U.S. FTA** have confirmed that they intend negotiating a comprehensive agreement between themselves. At this stage the negotiations are between Kenya and the US, although by virtue of the fact that Kenya is a member of the East African Customs Union (and any FTA will have implications for the remaining EAC Members), other member countries could join the negotiations.

What are the negotiating principles?

Both the United States and Kenya have published specific **negotiating objectives** ahead of the formal start to FTA negotiations in July 2020. While there is a high degree of correlation in the thematic areas (a combined summary of issues raised is provided alongside), the specific objectives and approaches often differ. What is clear is that a wide range of subjects are set to be addressed in the negotiations, with the end goal a comprehensive FTA. The respective documents can be downloaded from **AGOA.info** at the following web address:

www.AGOA.info/bilaterals/KenyaUSA



UNITED STATES' TRADE IN GOODS WITH KENYA SINCE THE START OF AGOA IN 2000



Two-way trade in goods between Kenya and the United States 2000 - 2019



Follow updates on the US-Kenya FTA negotiations and related news



How did Kenya's exports enter the U.S. during 2019?



KENYA's exports to the United States by programme since 2000 | \$ million

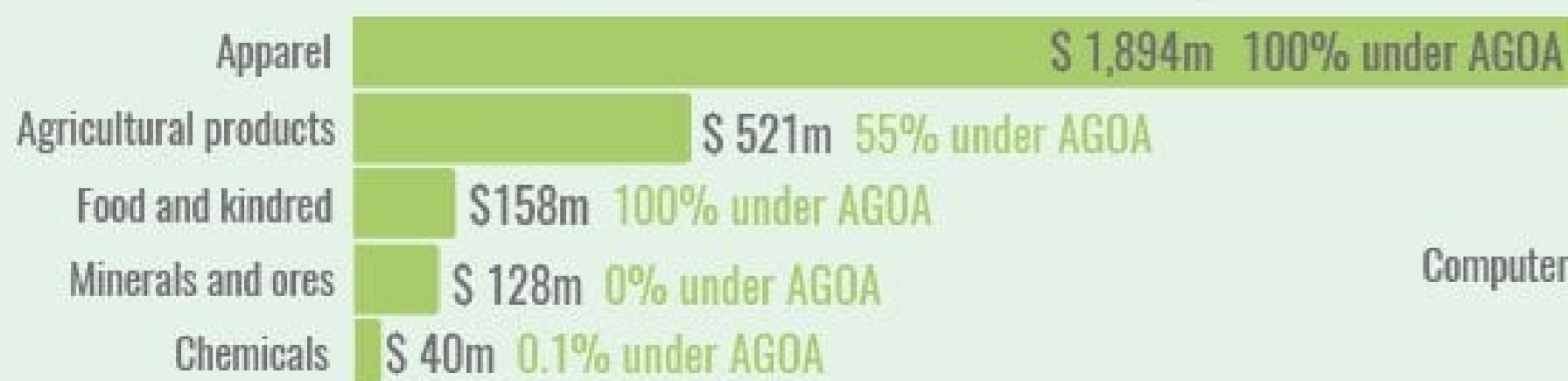
	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
TOTAL Kenya exports to U.S.	109	129	189	249	352	348	353	326	344	280	311	381	390	433	591	573	553	572	645	667
-- Exports under AGOA	0	55	124	181	280	272	265	250	252	205	221	288	288	337	417	428	391	402	467	512
-- Exports under GSP	4	4	5	4	7	6	8	5	3	3	5	4	5	6	6	6	5	5	4	6
-- No preferences claimed	105	70	60	65	65	69	80	71	87	72	86	88	97	91	168	139	157	164	173	149

Source: Extracted from USITC Dataweb database. Totals may not always perfectly correspond due to rounding

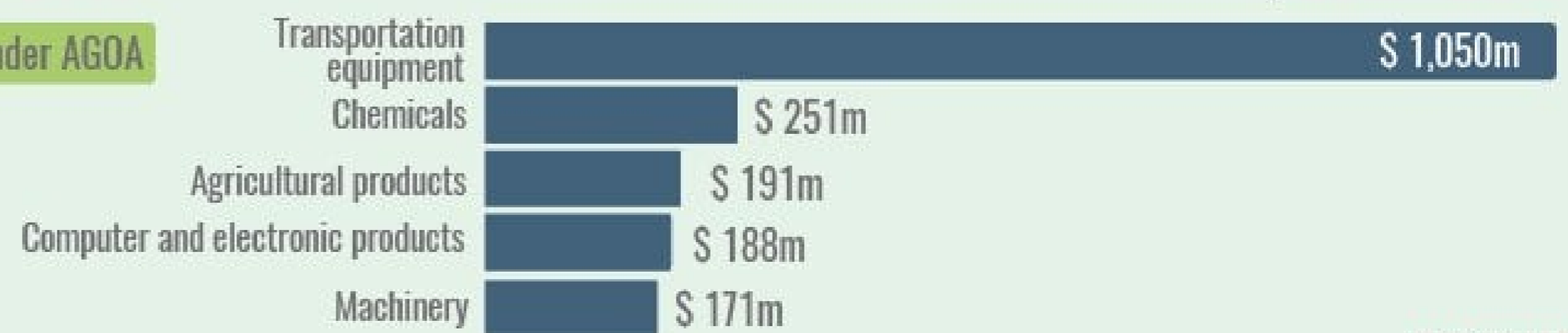
United States exports to Kenya since 2000 | \$ million

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
TOTAL U.S. exports to Kenya	235	574	268	193	387	626	516	576	441	638	358	444	534	604	1614	921	378	428	331	386

TOP 5 EXPORTS FROM KENYA TO THE U.S. | 2015-2019*



TOP 5 IMPORTS BY KENYA FROM THE U.S. | 2015-2019*



*YEARS COMBINED

Acknowledgements

This Infographic has been created by the Trade Law Centre (tralac). The AGOA.info web portal forms part of tralac's offerings.

Eckart Naumann | TRALAC 11/2020