

**ANNEX 5: SOUTH AFRICA**

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## 1 ECONOMIC ENVIRONMENT

### 1.1 Main features of the economy

1.1. South Africa is one of the largest economies in Africa. It is a member of the Southern African Customs Union, accounting for over 90% of SACU's combined GDP. With a per capita GDP of about USD 6,700 in 2022 (Table 1.1), South Africa is classified as an upper-middle-income country. It has a relatively diversified economy dominated by the services sector (about 70% of GDP). Financial services accounted for almost a quarter of gross value added (Table 1.1). Its sophisticated financial system, flexible exchange rate regime<sup>1</sup>, and relatively large industrial base are sources of strength for economic development. Based on the World Economic Forum's (WEF) Global Competitiveness Index, in 2019, South Africa was the second most competitive country in Africa, and the 60<sup>th</sup> out of 141 economies globally.<sup>2</sup> According to the same index, it ranked high in the finance system (18<sup>th</sup>) and market size (35<sup>th</sup>) categories.

1.2. With a Gini coefficient of consumption (or income) per capita of 0.67 in 2018, South Africa is ranked by the World Bank as the "most unequal" among 164 countries in the world.<sup>3</sup> The top 10% of the population hold 80.6% of financial assets.<sup>4</sup> In 2015 (the year with the most recent data), close to half of its population was in chronic poverty (poor and highly unlikely to escape poverty).<sup>5</sup> This could undermine inclusive growth.<sup>6</sup> The unemployment rate rose from 25% in 2014 to 33% in 2022, while the unemployment rate of youth (18- to 24-year-olds) reached over 60% (63.9% in the first quarter of 2022).<sup>7</sup>

1.3. The economy is facing mounting challenges, including an undermaintained infrastructure<sup>8</sup>, governance issues, and high exposure to underperforming SOEs and to the consequent risk of debt sustainability.<sup>9</sup> Load-shedding in electricity generation, related to the underperformance of ESKOM (a wholly state-owned enterprise and the country's main power generator) and to the lack of maintenance of power generation facilities, is causing serious concerns for producers and investors (Section 4.2.2). Consequently, South Africa's productivity is comparatively low and declining.<sup>10</sup>

1.4. Climate change is another challenge faced by South Africa. Reflecting the country's high energy intensity, CO<sub>2</sub> emissions per unit of GDP are high.<sup>11</sup> South Africa relies on coal for electricity generation (Chart 4.2). The Government introduced a carbon tax in 2019 at ZAR 120 (EUR 6.5) per

<sup>1</sup> IMF (2023), *South Africa: Staff Concluding Statement of the 2023 Article IV Mission*, 23 March.

<sup>2</sup> World Economic Forum (2020), *The Global Competitiveness Report 2019*. Viewed at: [https://www3.weforum.org/docs/WEF\\_TheGlobalCompetitivenessReport2019.pdf](https://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf).

<sup>3</sup> World Bank (2022), *Inequality in Southern Africa: An Assessment of the Southern African Customs Union*. Viewed at: <https://documents1.worldbank.org/curated/en/099125303072236903/pdf/P1649270c02a1f06b0a3ae02e57ead7a82.pdf>.

<sup>4</sup> World Bank (2022), *Inequality in Southern Africa: An Assessment of the Southern African Customs Union*.

<sup>5</sup> World Bank (2018), *Overcoming Poverty and Inequality in South Africa: An Assessment of Drivers, Constraints, and Opportunities*. Viewed at: <https://openknowledge.worldbank.org/server/api/core/bitstreams/52926444-c451-55e1-af2e-2a6d989c348f/content>.

<sup>6</sup> OECD (2022), *OECD Economic Surveys: South Africa 2022*. Viewed at: <https://doi.org/10.1787/d6a7301d-en>.

<sup>7</sup> OECD (2022), *OECD Economic Surveys: South Africa 2022*.

<sup>8</sup> For example, maintenance of roads is not conducted as regularly as needed. OECD (2022), *OECD Economic Surveys: South Africa 2022*.

<sup>9</sup> In 2021, support to SOEs in terms of state guarantees amounted to around 16% of GDP. According to the OECD, "[t]he widespread underperformance of SOEs is due to mismanagement, corruption, overstaffing, and an uncontrolled wage bill. The market discipline faced by SOEs is low". OECD (2022), *OECD Economic Surveys: South Africa 2022*, p. 12.

<sup>10</sup> OECD (2022), *OECD Economic Surveys: South Africa 2022*.

<sup>11</sup> According to the OECD report, in 2018, the CO<sub>2</sub> emissions per unit of GDP in South Africa were higher than in Brazil, China, India, and Indonesia. OECD (2022), *OECD Economic Surveys: South Africa 2022*.

tonne of CO<sub>2</sub> equivalent emission.<sup>12</sup> However, the carbon tax rate is considered relatively low by the OECD, which also suggested to increase carbon pricing progressively and reduce exemptions.<sup>13</sup>

**Table 1.1 Selected macroeconomic indicators – GDP structure, 2014-22**

|   | 2014    | 2015    | 2016    | 2017    | 2018    | 2019    | 2020    | 2021    | 2022    |
|---|---------|---------|---------|---------|---------|---------|---------|---------|---------|
| GDP (current ZAR billion)   | 4,133.9 | 4,420.8 | 4,759.6 | 5,078.2 | 5,363.2 | 5,625.2 | 5,568.0 | 6,208.6 | 6,628.6 |
| GDP (current USD billion)   | 380.9   | 346.5   | 323.6   | 381.1   | 405.3   | 389.3   | 338.3   | 420.1   | 405.3   |
| Real GDP growth (annual %)  | 1.4     | 1.3     | 0.7     | 1.2     | 1.6     | 0.3     | -6.0    | 4.7     | 1.9     |
| GDP per capita (USD)  | 7,053.6 | 6,304.7 | 5,787.4 | 6,743.2 | 7,020.5 | 6,624.1 | 5,673.2 | 6,985.3 | 6,687.1 |
| Population (million)  | 54.0    | 55.0    | 55.9    | 56.5    | 57.7    | 58.8    | 59.6    | 60.1    | 60.6    |
| Unemployment rate (%)   | 25.1    | 25.4    | 26.7    | 27.5    | 27.1    | 28.7    | 29.2    | 34.3    | 33.5    |
| <b>Gross value added by economic activity (% of GVA at current basic prices)</b>        |         |         |         |         |         |         |         |         |         |
| Agriculture, forestry and fishing   | 2.4     | 2.5     | 2.7     | 2.8     | 2.5     | 2.2     | 2.9     | 2.8     | 3.2     |
| Mining and quarrying  | 6.4     | 5.7     | 5.9     | 5.8     | 6.0     | 6.2     | 7.0     | 8.5     | 8.1     |
| Manufacturing   | 13.8    | 13.9    | 13.9    | 13.8    | 13.8    | 13.8    | 13.0    | 13.2    | 13.7    |
| Electricity, gas and water  | 2.8     | 2.9     | 2.9     | 3.0     | 3.0     | 3.0     | 3.1     | 3.1     | 3.2     |
| Construction  | 3.9     | 3.9     | 3.7     | 3.5     | 3.4     | 3.3     | 2.7     | 2.5     | 2.4     |
| <b>Services</b>   |         |         |         |         |         |         |         |         |         |
| Trade, catering and accommodation   | 14.1    | 14.0    | 13.9    | 13.8    | 13.9    | 13.9    | 13.1    | 13.5    | 13.6    |
| Transport, storage and communication  | 9.0     | 9.0     | 8.8     | 8.7     | 8.4     | 8.3     | 7.4     | 7.2     | 7.6     |
| Finance, real estate and business services  | 23.0    | 23.2    | 23.1    | 23.3    | 23.6    | 23.8    | 24.3    | 23.5    | 23.3    |
| General government services   | 8.5     | 8.7     | 8.8     | 8.7     | 8.9     | 8.9     | 9.3     | 8.7     | 8.6     |
| Personal services   | 16.1    | 16.4    | 16.4    | 16.7    | 16.6    | 16.7    | 17.3    | 17.0    | 16.3    |
| <b>Gross value added by economic activity (% annual growth at constant 2015 prices)</b> |         |         |         |         |         |         |         |         |         |
| Agriculture, forestry and fishing   | 10.9    | -3.6    | -5.2    | 19.1    | 0.5     | -6.5    | 17.8    | 7.4     | 0.9     |
| Mining and quarrying  | -1.5    | 4.8     | -3.4    | 2.4     | -0.8    | -0.7    | -12.3   | 12.0    | -7.1    |
| Manufacturing   | -0.6    | -0.2    | 0.4     | -0.2    | 1.5     | -0.7    | -11.7   | 6.7     | -0.4    |
| Electricity, gas and water  | -1.2    | -4.6    | -3.6    | 0.3     | 0.9     | -3.3    | -5.8    | 1.9     | -2.5    |
| Construction  | 1.4     | 1.0     | 1.4     | -5.7    | -1.5    | -3.4    | -17.8   | -2.0    | -3.4    |
| <b>Services</b>   |         |         |         |         |         |         |         |         |         |
| Trade, catering and accommodation   | 1.0     | 1.1     | 1.6     | -1.3    | 1.0     | -0.4    | -12.0   | 6.2     | 3.5     |
| Transport, storage and communication  | 2.6     | 2.4     | 1.5     | 1.0     | 2.9     | -0.6    | -15.3   | 5.0     | 8.3     |
| Finance, real estate and business services  | 2.3     | 1.7     | 1.8     | 2.5     | 3.5     | 2.2     | 0.9     | 2.5     | 3.4     |
| General government services   | 3.1     | 2.5     | 1.9     | 1.4     | 1.9     | 1.3     | 1.1     | 0.0     | 0.1     |
| Personal services   | 1.7     | 0.9     | 1.2     | 1.3     | 0.6     | 1.3     | -1.7    | 5.3     | 2.6     |

Source: Statistics South Africa, Statistical Publications. Viewed at: <https://www.statssa.gov.za/>.

## 1.2 Recent economic developments

1.5. Before the COVID-19 pandemic, South Africa's economic performance was already weak. Its GDP per capita in 2019 was lower than in 2014, and over the period 2014-19, GDP growth averaged close to 1.1% (Table 1.1). The pandemic led the economy to contract in 2020 when GDP fell by 6%; in the same year, the job market situation worsened and unemployment went up, while SOEs' performance deteriorated with increased pressure on public finances.

1.6. In 2021, the economy recovered by 4.7%. Export growth and an increase in household consumption and investment were behind this recovery (Chart 1.1). Exports were driven by a strong global demand and favourable commodity prices. Increased household consumption and investment

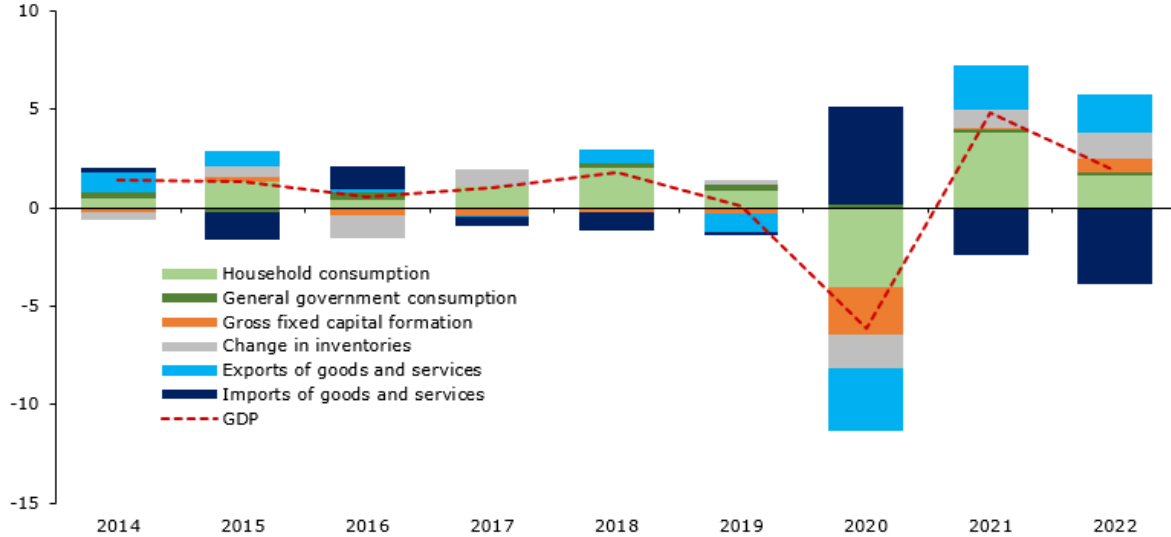
<sup>12</sup> The carbon tax is implemented in two phases: a first phase from 1 June 2019 to 31 December 2022 and a second phase from 2023 to 2030. The carbon tax rate increased annually by inflation plus 2% until 2022, and annually by inflation thereafter. OECD (2022), *OECD Economic Surveys: South Africa 2022*.

<sup>13</sup> In FY2021/22, businesses were granted a delay for the payment of the carbon tax as part of the pandemic response measures. In addition, many industry-specific tax-free emissions allowances lowered the average carbon tax rate (ranging from ZAR 6 to ZAR 48) per tonne of CO<sub>2</sub> equivalent emissions, making South Africa's carbon price low by international comparison. OECD (2022), *OECD Economic Surveys: South Africa 2022*.

might have resulted from the reopening of the economy, higher government support to individuals and businesses, and facilitated access to credit.

**Chart 1.1 GDP growth and contributions, 2014-22**

(Percentage points)



Source: Statistics South Africa, P0441 – Gross Domestic Product (GDP), 1<sup>st</sup> Quarter 2023. Viewed at: <https://www.statssa.gov.za>.

1.7. To address the negative impact of the pandemic, the Government mobilized ZAR 500 billion (close to 10% of year 2020 GDP), 40% of which was indirect support for loan guarantees for enterprises.<sup>14</sup> The rest included ZAR 63 billion as the COVID-19 Temporary Employer-Employee Relief Scheme, was distributed through relief to employers to preserve jobs. This scheme was complemented by grants and/or tax relief to businesses. As a result, the government debt to GDP ratio rose between 2020 and 2022 (Table 1.2), leaving limited fiscal space to respond to other adverse shocks (e.g. SOEs contingent liabilities, social spending needs, and climate events).

**Table 1.2 National government finances, 2014-22**

(% of GDP)

|  | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|--|------|------|------|------|------|------|------|------|------|
| Total revenue  | 22.5 | 23.4 | 23.5 | 23.1 | 23.6 | 23.5 | 22.4 | 24.3 | 24.9 |
| Tax revenue, of which:                                   | 22.0 | 22.4 | 22.8 | 22.5 | 23.0 | 22.8 | 21.4 | 23.5 | 24.2 |
| Taxes on income, profits and capital gains               | 13.2 | 13.4 | 13.5 | 13.8 | 13.8 | 13.7 | 12.9 | 14.3 | 14.6 |
| Taxes on goods and services                              | 8.4  | 8.4  | 8.5  | 8.2  | 8.5  | 8.4  | 8.3  | 8.5  | 8.6  |
| Value added tax  | 6.2  | 6.1  | 6.2  | 5.8  | 6.1  | 5.9  | 6.0  | 6.0  | 6.2  |
| Excise duties, of which:                                 | 2.0  | 2.1  | 2.1  | 2.1  | 2.3  | 2.3  | 2.1  | 2.3  | 2.1  |
| Fuel levy <sup>a</sup>                                   | 1.1  | 1.2  | 1.3  | 1.4  | 1.4  | 1.4  | 1.4  | 1.4  | 1.2  |
| Other <sup>b</sup>                                       | 0.3  | 0.2  | 0.2  | 0.2  | 0.2  | 0.2  | 0.2  | 0.2  | 0.2  |
| Taxes on international trade and transactions, of which: | 1.0  | 1.0  | 1.0  | 0.9  | 1.0  | 1.0  | 0.8  | 0.9  | 1.1  |
| Import duties <sup>c</sup>                               | 1.0  | 1.0  | 1.0  | 0.9  | 1.0  | 1.0  | 0.8  | 0.9  | 1.1  |
| Less: SACU payments                                      | 1.2  | 1.2  | 0.9  | 1.0  | 0.9  | 0.9  | 1.1  | 0.8  | 0.7  |
| Non-tax revenue <sup>d</sup>                             | 0.5  | 1.1  | 0.7  | 0.6  | 0.6  | 0.6  | 1.0  | 0.8  | 0.6  |
| Total expenditure  | 26.8 | 27.3 | 27.3 | 27.2 | 27.1 | 29.1 | 31.9 | 29.7 | 29.2 |
| Cash book balance before borrowing                       | -4.3 | -3.9 | -3.8 | -4.1 | -3.5 | -5.6 | -9.5 | -5.5 | -4.4 |

<sup>14</sup> OECD (2022), *OECD Economic Surveys: South Africa 2022*.

|  | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|--|------|------|------|------|------|------|------|------|------|
| National government debt at face value (end of period) |      |      |      |      |      |      |      |      |      |
| Total  | 43.3 | 45.2 | 47.1 | 48.6 | 51.5 | 56.1 | 68.9 | 68.8 | 71.1 |
| Domestic   | 39.3 | 40.4 | 42.5 | 44.1 | 46.1 | 50.3 | 61.8 | 61.7 | 63.2 |
| Foreign  | 3.9  | 4.8  | 4.6  | 4.4  | 5.4  | 5.8  | 7.0  | 7.1  | 7.9  |

- a From April 2014, levies on imported fuel have been moved to fuel levy. From June 2019, carbon fuel levy has been added to the fuel levy.
- b Including levy on financial services and taxes on the use of goods and permission to use goods or to perform activities.
- c As from April 2012, import duties include customs duties and specific excise duties on imports.
- d Including departmental revenue and other miscellaneous revenue but excluding premiums on debt portfolio restructuring and loan transactions.

Source: South African Reserve Bank, *Full Quarterly Bulletin – No 308 – June 2023*. Viewed at: <https://www.resbank.co.za/>.

1.8. The South African Reserve Bank (SARB), the Central Bank, reacted by implementing an expansionary monetary policy to limit the impact of the pandemic on the economy. In fact, between March and July 2020, the SARB gradually reduced the repurchasing rate from 6.25% to 3.50% and maintained it at that level up to November 2021. It also increased its interventions in the money market to provide more liquidity to financial institutions.<sup>15</sup> As a consequence, inflation rose to 6.9% in 2022 (Table 1.3), which is above SARB's target of 3%–6% per year. The rise in inflation from late 2021 has led to a tightening of monetary policy again; price stability being the main objective of the policy.

1.9. South Africa has a floating exchange rate regime with rare interventions by the SARB in the foreign exchange market.<sup>16</sup> From the beginning of 2022, both the food and energy prices and the depreciation of the rand (the national currency) put upward pressure on inflation. According to the SARB, the exchange rate is one of the key drivers of inflation in South Africa and its impact is mainly transmitted through import prices.<sup>17</sup> South Africa's international reserves were equivalent to about five months of imports of goods and services in 2022 (Table 1.3).

**Table 1.3 Money and interest rates, external sector, and balance of payments, 2014–22**

|  | 2014  | 2015 | 2016  | 2017 | 2018 | 2019 | 2020  | 2021 | 2022 |
|--|-------|------|-------|------|------|------|-------|------|------|
| <b>Money and interest rate</b>                                   |       |      |       |      |      |      |       |      |      |
| Broad money (annual % change)                                    | 7.2   | 10.5 | 6.1   | 6.4  | 5.6  | 6.2  | 9.4   | 5.7  | 8.6  |
| Repo rate (end of period)  | 5.8   | 6.3  | 7.0   | 6.8  | 6.8  | 6.5  | 3.5   | 3.8  | 7.0  |
| Treasury bills – 91-day (end of period)                          | 6.1   | 6.9  | 7.6   | 7.5  | 7.6  | 7.2  | 3.9   | 3.9  | 6.5  |
| Prime lending rate (end of period)                               | 9.3   | 9.8  | 10.5  | 10.3 | 10.3 | 10.0 | 7.0   | 7.3  | 10.5 |
| CPI (annual % change)  | 6.1   | 4.6  | 6.4   | 5.3  | 4.7  | 4.1  | 3.3   | 4.5  | 6.9  |
| <b>External sector</b>   |       |      |       |      |      |      |       |      |      |
| ZAR per USD (period average)                                     | 10.9  | 12.8 | 14.7  | 13.3 | 13.2 | 14.4 | 16.5  | 14.8 | 16.4 |
| Nominal effective exchange rate (percentage change) <sup>a</sup> | -10.3 | -5.5 | -10.8 | 9.7  | -1.0 | -5.1 | -11.3 | 7.5  | -2.7 |
| Real effective exchange rate (percentage change) <sup>a</sup>    | -3.3  | 1.2  | -3.7  | 10.5 | 2.5  | -0.2 | -8.3  | 6.1  | 1.9  |
| Current account/GDP  | -4.8  | -4.3 | -2.7  | -2.4 | -2.9 | -2.6 | 1.9   | 3.7  | -0.5 |
| Trade/GDP  | 59.5  | 56.7 | 55.9  | 53.5 | 54.5 | 53.9 | 50.7  | 56.1 | 65.1 |
| Exports of goods and services (% of GDP at current prices)       | 29.0  | 27.7 | 28.2  | 27.3 | 27.5 | 27.2 | 27.5  | 31.1 | 33.5 |
| Imports of goods and services (% of GDP at current prices)       | 30.5  | 29.0 | 27.7  | 26.2 | 27.0 | 26.7 | 23.2  | 25.0 | 31.5 |
| Total reserves (includes gold, USD billion)                      | 49.1  | 45.8 | 47.4  | 50.7 | 51.6 | 55.1 | 55.0  | 57.6 | 60.6 |

<sup>15</sup> OECD (2022), *OECD Economic Surveys: South Africa 2022*.

<sup>16</sup> IMF (2022), *2021 Article IV Consultation – South Africa*. Viewed at: <https://www.imf.org/en/Publications/CR/Issues/2022/02/10/South-Africa-2021-Article-IV-Consultation-Press-Release-Staff-Report-and-Statement-by-the-513001>.

<sup>17</sup> SARB (2018), *Annual Report 2017/18*. Viewed at: <https://www.resbank.onlinereport.co.za/2018/>.



|  | 2014    | 2015    | 2016   | 2017   | 2018    | 2019    | 2020   | 2021    | 2022   |
|--|---------|---------|--------|--------|---------|---------|--------|---------|--------|
| In months of imports of goods and services | 4.4     | 4.9     | 5.3    | 4.9    | 4.7     | 5.1     | 7.2    | 5.4     | 4.8    |
| <b>Balance of payments (USD million)</b>   |         |         |        |        |         |         |        |         |        |
| Balance on current account                 | -18,308 | -15,035 | -8,658 | -9,024 | -11,870 | -10,140 | 6,576  | 15,338  | -1,834 |
| Capital transfer account (net receipts +)  | 22      | 19      | 16     | 18     | 18      | 17      | 14     | 15      | -1,769 |
| Balance on financial account <sup>b</sup>  | 22,876  | 16,408  | 8,935  | 8,253  | 10,988  | 7,249   | -7,839 | -17,020 | 4,094  |
| Unrecorded transactions <sup>c</sup>       | -4,590  | -1,391  | -294   | 753    | 865     | 2,874   | 1,249  | 1,667   | -491   |

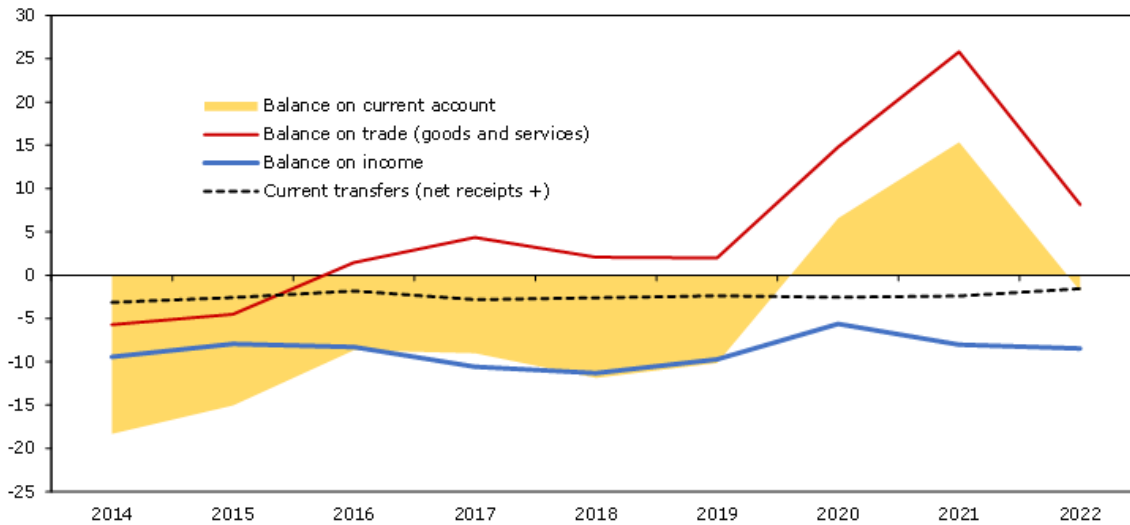
- a Weighted average exchange rate against most important currencies. The minus sign indicates depreciation.
- b A net incurrence of liabilities (inflow of capital) is indicated by a positive (+) sign. A net disposal of liabilities (outflow of capital) is indicated by a negative (-) sign. A net acquisition of assets (outflow of capital) is indicated by a negative (-) sign. A net disposal of assets (inflow of capital) is indicated by a positive (+) sign.
- c Transactions on the current, capital transfer, and financial accounts.

Source: South African Reserve Bank, *Full Quarterly Bulletin – No 308 – June 2023*. Viewed at: <https://www.resbank.co.za/>.

1.10. Trade (imports and exports of goods and services) accounted for 65% of GDP in 2022, up from about 60% in 2014 (Table 1.3). South Africa has run trade in goods and services surpluses since 2016. However, after having been in deficit over several years, its current account moved to surplus as from 2020 before recording a deficit in 2022. The current account deficit is driven mainly by the income account and current transfers (Chart 1.2).

**Chart 1.2 Balance of payments – current account, 2014-22**

(USD million)



Source: South African Reserve Bank, *Full Quarterly Bulletin – No 308 – June 2023*. Viewed at: <https://www.resbank.co.za/>.

1.11. Over the review period, the Government eased licensing requirements for power generation, announced a plan to create a mechanism for private-sector participation in transmission infrastructure (Section 4.2.2), completed a spectrum auction (Section 4.4.2), and took steps to improve third-party access to ports and freight networks.<sup>18</sup> In the area of public procurement, in 2022, a Judicial Commission made proposals on anti-corruption reform measures (Section 3.3.6).

1.12. The reforms are yet to build up the resilience of the economy that remains highly vulnerable to external shocks including tighter global financial conditions, volatile commodity prices, and the energy crisis, as well as internal constraints such as limited fiscal space and infrastructure

<sup>18</sup> IMF (2023), *South Africa: Staff Concluding Statement of the 2023 Article IV Mission*, 23 March.

bottlenecks (e.g. intense power cuts). According to the SARB forecast, real GDP would grow by 0.3% in 2023 and 1% in 2024<sup>19</sup>, and the IMF projects it at 0.1% in 2023.<sup>20</sup>

### 1.3 Trade performance and foreign direct investment

#### 1.3.1 Merchandise trade

1.13. South Africa's merchandise exports became more concentrated in mineral products and precious stones and metals, up from 40% in 2014 to almost half of total merchandise exports in 2022 (Chart 1.3 and Table A1.1). The share of agricultural products remained more or less the same over the review period, while the share of manufactured products dropped.

1.14. In 2022, most exports went to the EU-27 (21%), followed by China (9.6%), the United States (8.8%), and Japan (7%) (Chart 1.4 and Table A1.2). South Africa's exports to other SACU members declined from 13.1% in 2014 to 9.2% in 2022, while those to other African countries declined as well, from 13.5% to 10.7% during the same period. This declining trend contradicts the Government's target of reaching 25% of trade with other SACU members by 2030, as indicated in South Africa's National Development Plan 2030.<sup>21</sup>

1.15. From 2014 to 2022, the top two items imported into South Africa remain unchanged: mineral products (23.2% of total merchandise imports) and machinery and electrical equipment (20.5%) (Chart 1.3 and Table A1.3). The biggest part of mineral imports was petroleum oils (including oils obtained from bituminous minerals other than crude); their share in total merchandise imports went up from 5.8% in 2014 to 16.7% in 2022. This reflects the inadequate capacity of South Africa's refineries to meet domestic demand, as well as increases in energy prices. The share of pulp wood (including paper and paperboard) imports in total merchandise imports went up from 1.4% in 2014 to 4.1% in 2022.

1.16. South Africa imports mainly from the EU-27 (21.8%), followed by China (20.1%), India (7.4%), and the United States (7.3%). From 2014 to 2022, imports from Middle East countries, in particular the United Arab Emirates, increased significantly. Imports from other SACU members increased substantially, in particular imports from Namibia doubled. Imports from other African countries fell (Chart 1.4 and Table A1.4).

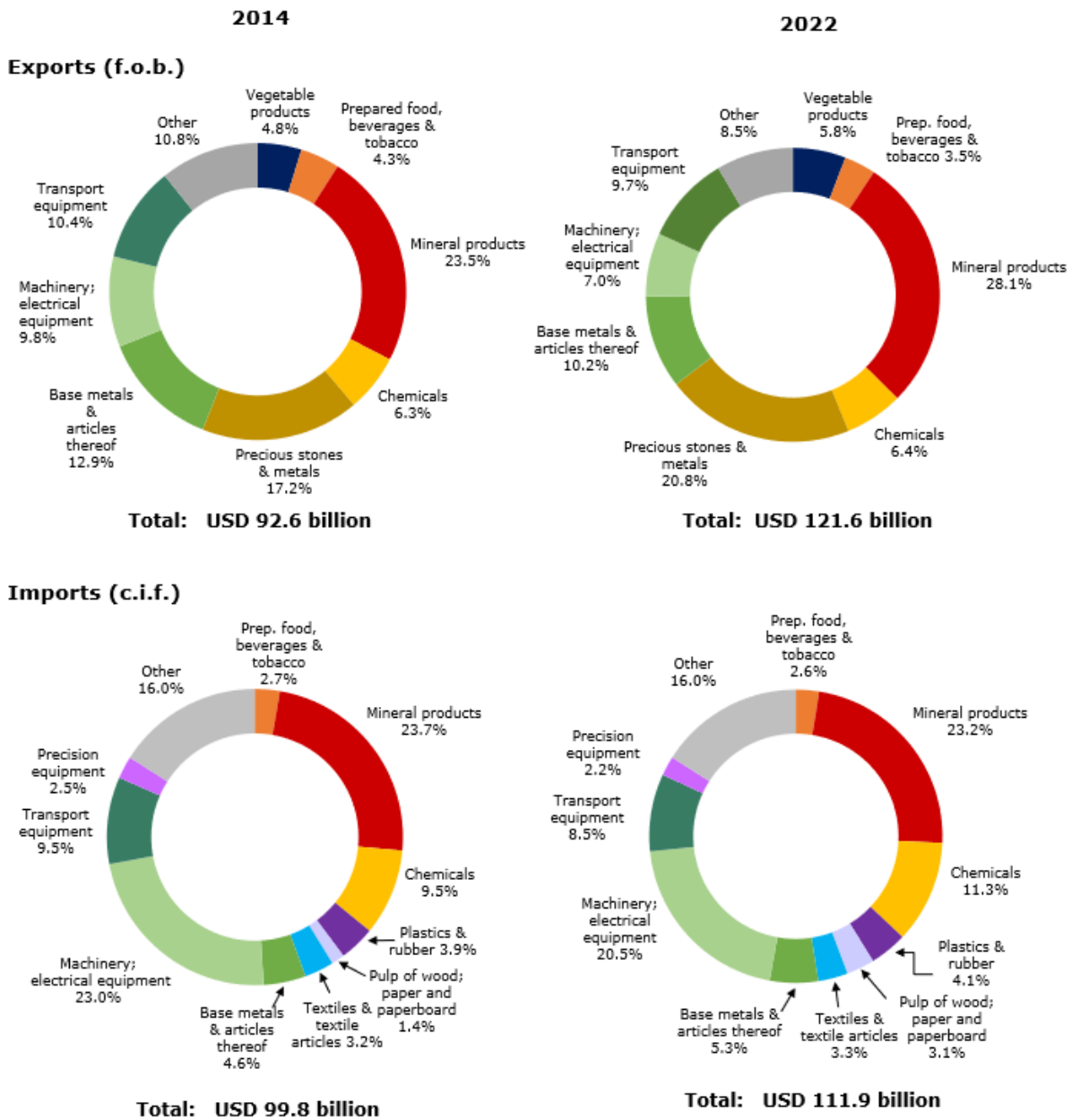
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<sup>19</sup> SARB (2023), "Statement of the Monetary Policy Committee", 25 May. Viewed at: <https://www.resbank.co.za/content/dam/sarb/publications/statements/monetary-policy-statements/2023/may/Statement%20of%20the%20Monetary%20Policy%20Committee%20May%202023%20.pdf>.

<sup>20</sup> IMF (2023), *South Africa: Staff Concluding Statement of the 2023 Article IV Mission*, 23 March.

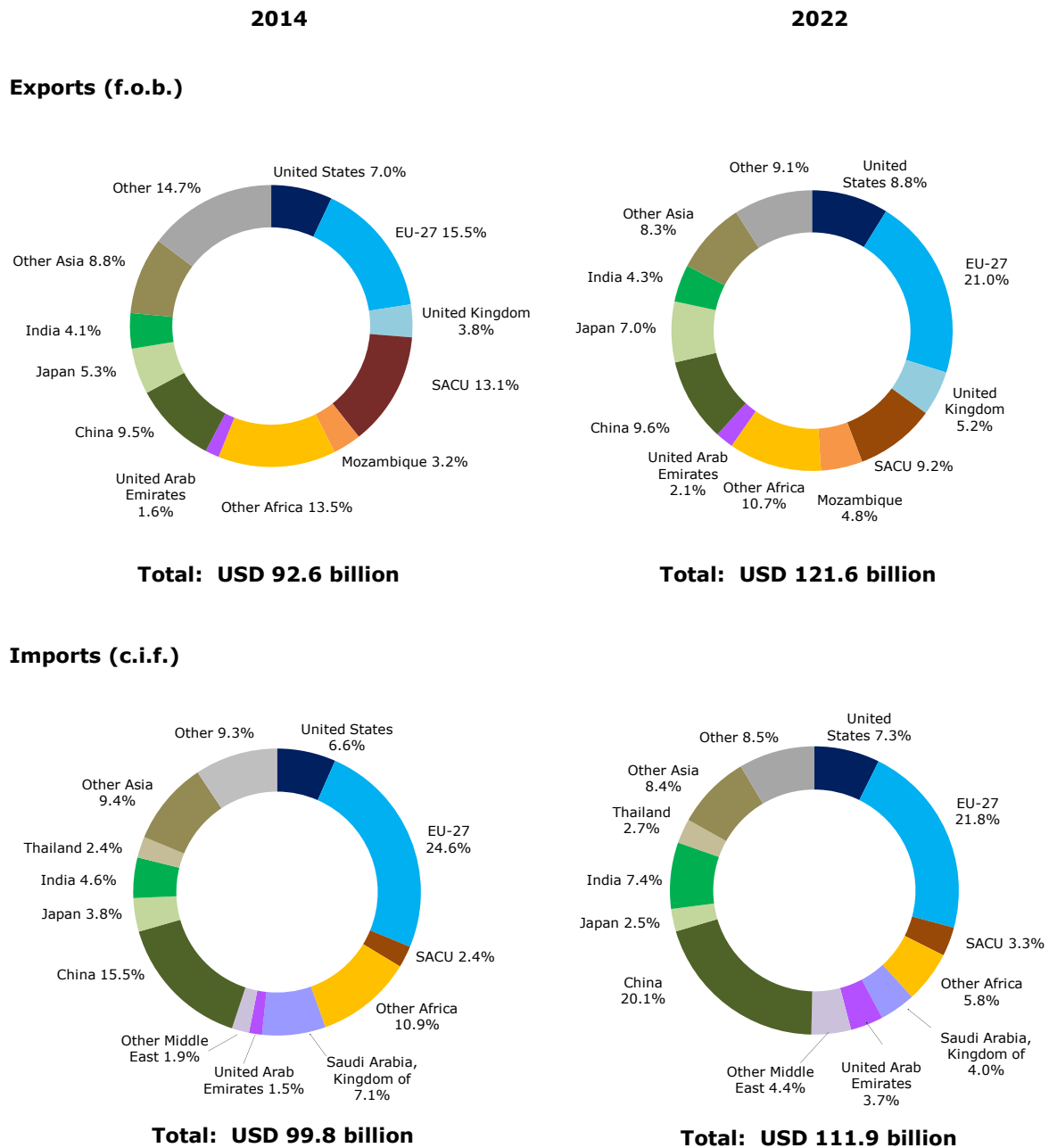
<sup>21</sup> National Planning Commission, *National Development Plan 2030*. Viewed at: [https://www.gov.za/sites/default/files/gcis\\_document/201409/ndp-2030-our-future-make-it-workr.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/ndp-2030-our-future-make-it-workr.pdf).

**Chart 1.3 Product composition of merchandise trade by main HS section, 2014 and 2022**



Source: WTO Secretariat calculations, based on UN Comtrade database.

**Chart 1.4 Direction of merchandise trade, 2014 and 2022**

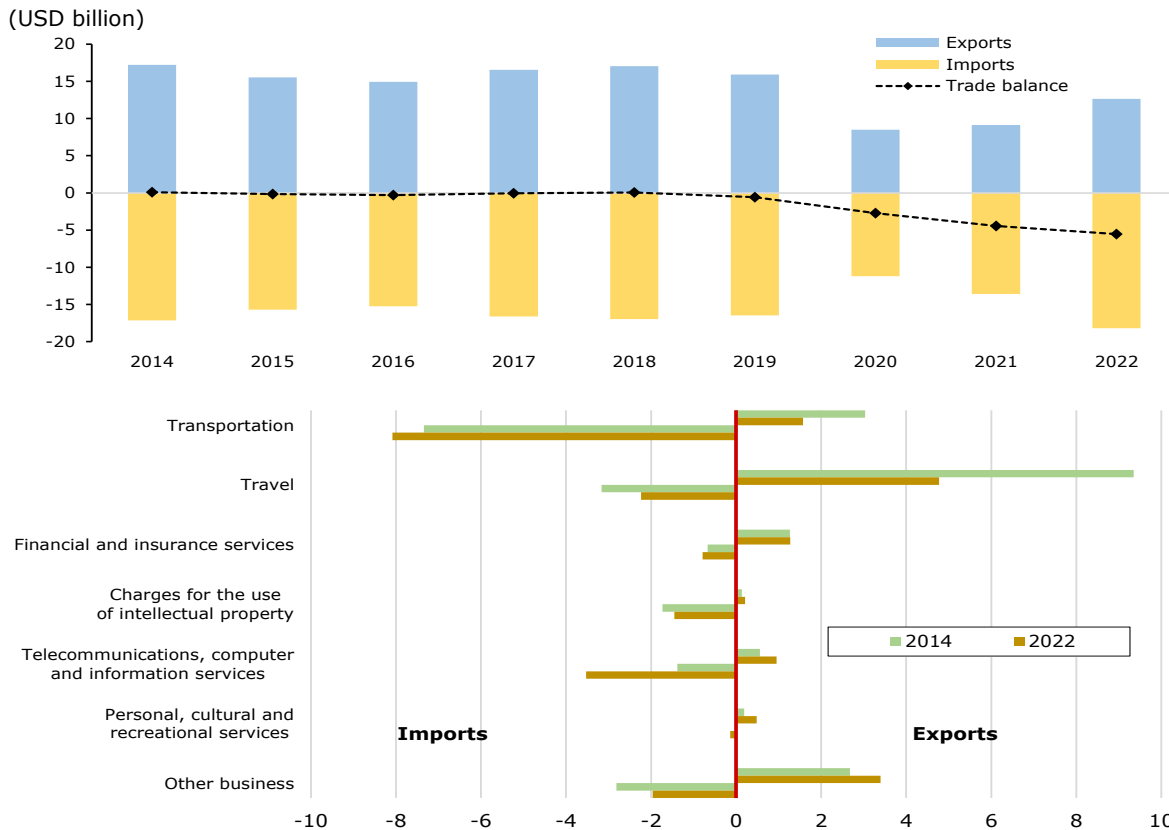


Source: WTO Secretariat calculations, based on UN Comtrade database.

### 1.3.2 Trade in services

1.17. Exports of services had a nosedive in 2020 when the pandemic started, and recovered slowly after. Transportation and travel services have not fully recovered, and their trade values are still below the pre-pandemic level (Chart 1.5). Exports of telecommunications, computer and information services, and other business and miscellaneous services rebounded strongly, while financial services recovered as well.

1.18. Imports of services are concentrated in transport services; telecom, computer and information services; travel; other business services; and charges for the use of intellectual property. The import value of telecom, and computer and information services has grown strongly in recent years, perhaps on account of the increased reliance on IT technology and products.

**Chart 1.5 Trade in services, 2014-22**

Source: South African Reserve Bank, *Full Quarterly Bulletin – No 308 – June 2023*. Viewed at: <https://www.resbank.co.za/>.

### 1.3.3 Foreign direct investment

1.19. FDI inflows into South Africa spiked in 2021. Although they dropped in 2022, they were still higher than the pre-pandemic level (Table 1.4). FDI flows abroad registered a negative figure in 2020.

**Table 1.4 FDI flow and stocks, 2014-22**

|                           | 2014  | 2015  | 2016  | 2017  | 2018  | 2019  | 2020  | 2021  | 2022 |
|---------------------------|-------|-------|-------|-------|-------|-------|-------|-------|------|
| FDI (USD billion)         |       |       |       |       |       |       |       |       |      |
| FDI flow in South Africa  | 5.8   | 1.7   | 2.2   | 2.0   | 5.4   | 5.1   | 3.1   | 40.2  | 9.2  |
| FDI flow abroad           | 7.7   | 5.7   | 4.5   | 7.4   | 4.1   | 3.1   | -2.0  | 0.1   | 2.2  |
| FDI stock in South Africa | 138.9 | 126.8 | 135.5 | 156.4 | 138.6 | 145.2 | 133.1 | 174.8 | ..   |
| FDI stock abroad          | 146.0 | 154.7 | 175.6 | 273.0 | 246.4 | 215.0 | 251.0 | 223.8 | ..   |

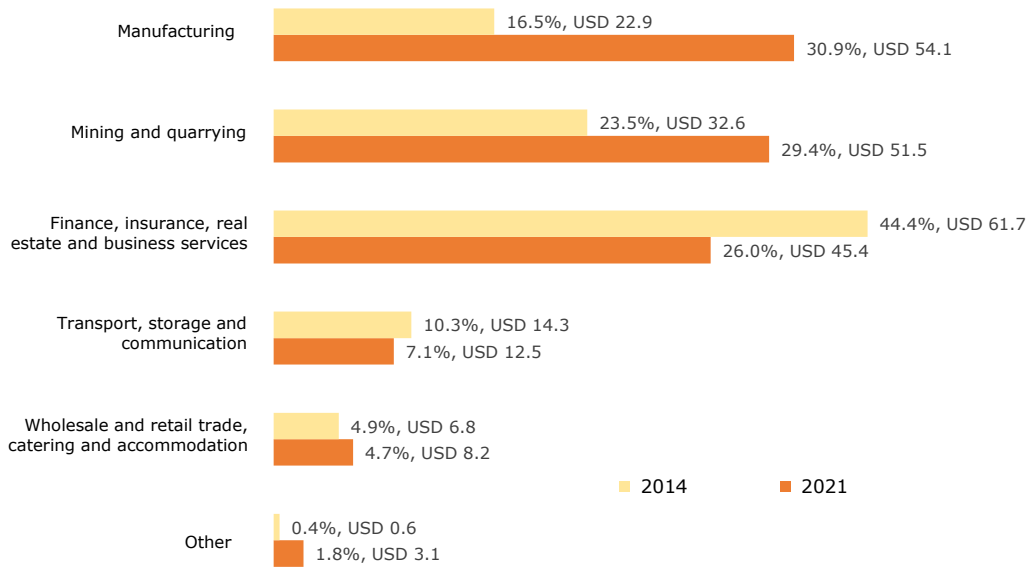
.. Not available.

Source: South African Reserve Bank, *Full Quarterly Bulletin – No 308 – June 2023*. Viewed at: <https://www.resbank.co.za/>.

1.20. At the sectoral level, manufacturing replaced financial services to become the largest recipient sector in terms of FDI stock in 2021, followed by mining and quarrying, and financial services (Chart 1.6). FDI mainly originated from the Netherlands, which is also the main destination for South African investment. Other main sources of FDI into South Africa are the United Kingdom, Belgium, and the United States, while other main destinations are the United Kingdom, the United States, Mauritius, and Switzerland. South Africa's investment in other SACU members accounted for 1.8% of the total, down from 2.2% in 2014.

**Chart 1.6 FDI stock by sector, 2014 and 2021**

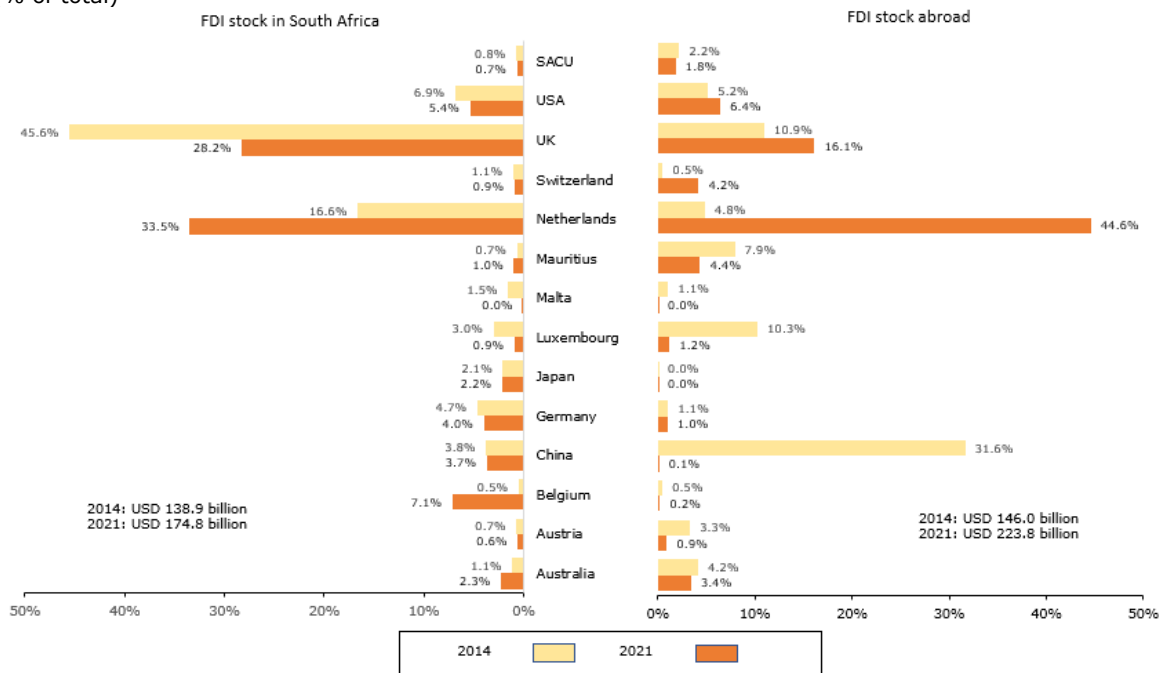
(USD billion, % of total)



Source: South African Reserve Bank, *Full Quarterly Bulletins – No 279 March 2016 and No 307 – March 2023*. Viewed at: <https://www.resbank.co.za/>.

**Chart 1.7 FDI stock by source of investment, and destination of investment**

(% of total)



Source: South African Reserve Bank, *Full Quarterly Bulletins – No 279 – March 2016 and No 307 – March 2023*. Viewed at: <https://www.resbank.co.za/>.

## 2 TRADE AND INVESTMENT REGIMES

### 2.1 General framework

2.1. There were no changes over the review period to the 1996 Constitution of the Republic of South Africa. The provisions of the Constitution that set out the structure and institutions of government are described in detail in the Secretariat Report for the Southern African Customs Union's (SACU's) TPR in 2003.<sup>22</sup> This Report also describes the procedures for enacting legislation and the steps required for treaties to be signed and ratified, and to enter into force.<sup>23</sup>

2.2. Several government departments were reconfigured in 2019 to promote coherence, better coordination, and improved efficiency. In this regard, the Department of Trade, Industry and Competition (DTIC) was created through a merger of the Department of Trade and Industry with the Economic Development Department.

### 2.2 Trade policy formulation and objectives

2.3. The DTIC is the main government agency responsible for trade and investment policies in South Africa.<sup>24</sup> Various other government departments and agencies have trade and investment-related responsibilities (Sections 3 and 4). Through the government cluster framework, which is designed to group government departments with cross-cutting programmes, the DTIC participates in the clusters on (i) economic sectors, investment, employment, and infrastructure development; and (ii) international cooperation, trade, and security.<sup>25</sup>

2.4. The International Trade Administration Commission (ITAC) continues to administer customs tariff investigations, trade remedies, and import and export controls. The Tariff Investigations Unit of ITAC oversees investigations to change ordinary customs duties, and on the introduction of rebate and drawback provisions. ITAC is also responsible for tariff-related issues in SACU, such as customs, import and export controls, and contingency trade remedies pursuant to the International Trade Administration Act.<sup>26</sup>

2.5. Two specific parliamentary committees (the Portfolio Committee on Trade and Industry, and the Select Committee on Trade and Industry, Economic Development, Small Business Development, Tourism, Employment and Labour) oversee South Africa's trade policies.

2.6. Trade policy continues to be guided by the 2010 Trade Policy and Strategy Framework (TPSF), as revised in 2012, and by the 2021 Trade Policy for Industrial Development and Employment Growth.<sup>27</sup> The main objectives of the former are to diversify South Africa's economic base, as well as to seek the manufacture and the export of high value-added products. It recommends a "'strategic tariff policy' approach" with tariff policy being decided on a sector-by-sector basis.<sup>28</sup> The Trade Policy for Industrial Development and Employment Growth is focused on supporting South Africa's industrial development and employment growth. It sees tariffs as a key instrument of industrial policy and emphasizes that the tariff regime needs to be "carefully calibrated to the specificities of each sector".<sup>29</sup> It indicates that South Africa will increase efforts to effectively deploy trade defence instruments against unfair and injurious imports and foresees a stronger role for the South African

<sup>22</sup> WTO document WT/TPR/S/114, 24 March 2003, Annex 4.

<sup>23</sup> WTO document WT/TPR/S/34, 6 April 1998, Section II.

<sup>24</sup> The DTIC's objectives are to (i) increase the contribution of small, medium, and micro-sized enterprises (SMMEs); (ii) ensure the implementation of Broad-Based Black Economic Empowerment (B-BBEE); (iii) increase the levels of foreign direct investment; (iv) expand market access opportunities for South African goods and services; and (v) contribute towards building skills, technology, and infrastructure platforms in the economy.

<sup>25</sup> Government of South Africa, *Guide to Government: What Are the Government Clusters*. Viewed at: <https://www.gov.za/faq/guide-government/what-are-government-clusters-and-which-are-they>.

<sup>26</sup> ITAC, *International Trade Administration Act*. Viewed at: <http://www.itac.org.za/upload/International%20Trade%20Administration%20Act.pdf>.

<sup>27</sup> DTIC (2021), *A Trade Policy for Industrial Development and Employment Growth*. Viewed at: [http://www.thedtic.gov.za/wp-content/uploads/SA\\_Trade\\_Policy.pdf](http://www.thedtic.gov.za/wp-content/uploads/SA_Trade_Policy.pdf).

<sup>28</sup> ITAC (2010), *A South African Trade Policy and Strategy Framework*, p. xiv. Viewed at: <http://www.itac.org.za/upload/Trade%20Policy%20and%20Strategy%20Framework.pdf>. For further information, see WTO document WT/TPR/S/324/Rev.1, 5 February 2016, Section 2.1.

<sup>29</sup> DTIC (2021), *A Trade Policy for Industrial Development and Employment Growth*, p. 2.

Revenue Service (SARS) in eliminating illicit trade and addressing under-invoicing. The Policy promotes, for the first time, the implementation of measures to empower women and also stresses the importance of regional economic integration and expanded bilateral engagements.

2.7. South Africa is implementing several other, more recent, development strategies that have trade and investment-related components, namely the National Development Plan 2030, the Re-imagined Industrial Strategy (RIS), and the Economic Reconstruction and Recovery Plan.

2.8. The National Development Plan 2030, issued in February 2013, sets several long-term objectives and actions in which international trade features prominently. The Plan also recognizes the importance of expanding and diversifying exports to boost domestic growth and employment, noting that prerequisites are more competitive South African businesses that need to be supported by investment and stable macroeconomic policies. With respect to building an inclusive rural economy, the Plan calls for a positive trade balance for primary and processed agricultural products. It also envisages further regional integration through logistics corridors, connecting supply chains with neighbouring countries, and expansion of trade penetration, including in niche products, in fast-growing markets such as those in Africa, East Asia, and Brazil.<sup>30</sup>

2.9. The RIS, adopted in June 2019, is a five-year broad policy plan focused on how the Government can help South African industries be more dynamic, competitive, and better performing. It incorporates and builds on key aspects of other national policy documents adopted by the Cabinet. Trade policy is seen as an important instrument for helping achieve certain objectives. For instance, the RIS envisages exploring different trade measures to mitigate high levels of imports and to develop interventions to support the sugar and poultry sectors. The RIS also aims at realigning South Africa's trade agenda with the WTO, the African Continental Free Trade Area (AfCFTA), the Tripartite Free Trade Area (TFTA), the Southern African Development Community (SADC), and SACU (Main Report, Section 2).<sup>31</sup> The RIS has a subprogramme on industrial competitiveness, as well as customized sector-specific programmes/master plans. Some of these have been formulated by the DTIC, namely the Cultural and Creative Industries (CCI) Masterplan, the Master Plan for the Commercial Forestry Sector in South Africa 2020-2025, the South African Poultry Sector Master Plan, the South African R-CTFL Value Chain Master Plan to 2030, the Automotive Industry Master Plan to 2035, the Sugar Value Chain Master Plan 2030, the Steel and Metal Fabrication Master Plan 1.0, and the Master Plan for the South African Furniture Industry (Sections 3 and 4).<sup>32</sup> Others are being implemented by different government departments, and include master plans on forestry, agriculture, and agro-processing; the digital economy; the oceans economy; tourism; renewable energy; and the health economy.

2.10. The Economic Reconstruction and Recovery Plan was introduced by the President at the Parliament in October 2020 to, *inter alia*, address the economic and social consequences of the COVID-19 pandemic; achieve a sufficient, secure, and reliable energy supply within two years; create mass employment; increase infrastructure investment; reduce data costs; increase localization for reindustrialization and growth; and reinvigorate vulnerable sectors such as tourism. These broad objectives are to be achieved through, *inter alia*, the modernization and reform of industries and associated state-owned enterprises; re-orientation of trade policies to pursue greater regional integration to boost exports; lowering business entry and operational barriers; and promotion of greater beneficiation of raw materials. The Plan also aims to ensure the inclusion of South African manufactured products into major African value and supply chains, especially after the effective implementation of the AfCFTA (Main Report, Section 2).<sup>33</sup> The Economic Reconstruction and Recovery Plan targets the substitution of 20% of imported goods (42 product categories) with domestically produced goods within a five-year period.

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<sup>30</sup> Government of South Africa, *National Development Plan 2030*. Viewed at: <https://www.gov.za/issues/national-development-plan-2030> and [http://www.dac.gov.za/sites/default/files/NDP%202030%20-%20Our%20future%20-%20make%20it%20work\\_0.pdf](http://www.dac.gov.za/sites/default/files/NDP%202030%20-%20Our%20future%20-%20make%20it%20work_0.pdf).

<sup>31</sup> DTIC. Viewed at: <http://www.thedtic.gov.za/wp-content/uploads/Re-imagining-Industrial-Strategy-FINAL-13-June-2019.pdf>.

<sup>32</sup> DTIC, *Master Plans*. Viewed at: <http://www.thedtic.gov.za/media-room/master-plans/>.

<sup>33</sup> Government of South Africa, *The South African Economic Reconstruction and Recovery Plan*. Viewed at: [https://www.gov.za/sites/default/files/gcis\\_document/202010/south-african-economic-reconstruction-and-recovery-plan.pdf](https://www.gov.za/sites/default/files/gcis_document/202010/south-african-economic-reconstruction-and-recovery-plan.pdf).



2.11. Since 2014, new or amended trade/trade-related laws were enacted in the areas of investment (Section 2.4, customs (Section 3.1.1.), special economic zones (Section 3.2.4), sanitary and phytosanitary measures (Section 3.3.3), competition policy (Section 3.3.4.1), and intellectual property rights (Section 3.3.7).

## 2.3 Trade agreements and arrangements

### 2.3.1 Participation in the WTO

2.12. South Africa is an original Member of the WTO. It ratified the WTO Agreement on Trade Facilitation in 2017 (Section 3.1.1). South Africa is not a signatory to the joint statement initiatives on investment facilitation for development, electronic commerce, or services domestic regulation. It is not a member of the WTO Informal Working Group on MSMEs, nor is it a proponent of the Buenos Aires Declaration on Trade and Women's Economic Empowerment. Regarding the work programme to examine all trade-related issues arising from e-commerce, as established by the 1998 Declaration on Global Electronic Commerce, South Africa was the co-proponent of a working paper assessing the moratorium on customs duties on electronic transmissions that sought more clarity on its scope and development impact.<sup>34</sup> South Africa's priorities in the WTO are set out in detail in the 2021 Trade Policy for Industrial Development and Employment Growth. The Policy states that, while South Africa supports the principles of the rules-based multilateral trading system, it is seeking a rebalancing of WTO agreements, and advocates for an approach to WTO reform based on principles of inclusivity and development. It also sees the WTO as having a key role in addressing the global public health crisis caused by the COVID-19 pandemic.

2.13. South Africa continues to defend its trade interests through the WTO's dispute settlement mechanism (Main Report, Section 2). South Africa submits tariff and trade data annually to the WTO Integrated Database (IDB). It also continues to make regular notifications to the WTO (Table A2.1), though some are outstanding, namely agriculture (export subsidies, domestic support, volume of imports under tariff and quota commitments, use of the agricultural special safeguard provisions, notification under the decision on possible negative effects of the reform programme on Least Developed Countries and Net Food-Importing Developing Countries (LDC-NFIDC)), replies to questionnaires on import licensing procedures, quantitative restrictions,, subsidies, and state trading enterprises. In addition, it has yet to notify the Protection, Promotion, Development and Management of Indigenous Knowledge Act (Section 3.3.7).

### 2.3.2 Regional and preferential agreements

2.14. South Africa has signed some RTAs through SACU and the SADC. It has ratified the AfCFTA. Products originating from South Africa are eligible for non-reciprocal preferences under the GSP schemes of some developed and developing countries. In addition, South Africa is also eligible for unilateral preferences under the United States' African Growth and Opportunity Act (AGOA) (Main Report, Section 2).

2.15. South Africa also maintains a separate trade preference agreement with the European Union under the Trade, Development and Cooperation Agreement (TDCA), but the trade component of it has been replaced by provisions under the SADC-EU Economic Partnership Agreement (EPA) (Main Report, Section 2.3.6).

### 2.3.3 Other agreements and arrangements

2.16. South Africa has been a permanent member of the G20 since 1999. In December 2010, South Africa joined the BRIC, which thus became the BRICS, a bloc of emerging economies composed by Brazil, the Russian Federation, India, China, and South Africa. The bloc aims for collaboration in international fora where members share common objectives, as well as the undertaking of development projects in sectors such as agriculture, science, statistics, development finance institutions, security, and justice. The New Development Bank has been created to support some of these projects.<sup>35</sup> One of the commitments by BRICS members at the 2019 Summit

<sup>34</sup> WTO document WT/GC/W/833, 8 November 2021. South Africa also submitted a draft ministerial decision calling for a reinvigoration of the work under the Work Programme, in WTO document WT/GC/W/838/Rev.2, 25 November 2021.

<sup>35</sup> New Development Bank. Viewed at: <https://www.ndb.int/>.

Declaration was on cooperation against under-invoicing, although follow-up and implementation are still pending.

2.17. India, Brazil, and South Africa (IBSA) participate in a trilateral forum for, *inter alia*, consultation and coordination on international and regional political issues, consultations on WTO-related issues, climate change policies, and security collaboration. It also envisages assistance in projects through an IBSA Fund.<sup>36</sup>

## 2.4 Foreign investment regime

2.18. Trade and Investment South Africa (TISA), a division of the DTIC, is responsible for developing investment policies. Investment South Africa (InvestSA), established in 2016, serves as the national investment agency to support foreign direct investment inflows and renders the services of a one-stop shop to promote and attract investment. Since 2019, InvestSA has overseen the implementation of South Africa's ease of doing business (EODB) programme under the oversight of the Presidency. The Bizportal (<https://www.bizportal.gov.za>) is its e-government initiative, which enables online business registration with the Companies and Intellectual Properties Commission (CIPC), reservation of a company's name, and registration for income tax and withholding taxes.

2.19. Foreign companies investing in South Africa must apply the laws applicable to all companies operating in the country, as well as sector-specific legislation. More precisely, they must register with the CIPC as required by the Companies Act, 2008, before conducting business, opening a bank or financial account, establishing offices, acquiring intellectual property, or contracting employees. Companies must also apply other generally applicable laws, such as those relating to labour, corporate governance, competition, consumer protection, intellectual property, and the environment. In the context of this Review, a full understanding was not reached on the type and scope of Broad-Based Black Economic Empowerment (B-BBEE) requirements on foreign companies investing in South Africa. However, it is understood that in the cases where foreign companies have global practices that prevent compliance with ownership elements of B-BBEE through the traditional sale of shares to black South Africans, recognition of contributions as equity equivalent (EE) can replace the direct sale of equity.<sup>37</sup>

2.20. Investment incentives for companies (both domestic and foreign) are detailed in Section 3.3.1 and Section 4. A complete list of restrictions to foreign investment was not available.

2.21. The Competition Amendment Act (Act No. 18 of 2018<sup>38</sup>) (Section 3.3.4.1) introduced a prior review mechanism under Section 18A for mergers involving a foreign acquiring firm, on national security grounds.<sup>39</sup> The Act provides for the President to establish a committee to assess whether any such mergers would have an adverse effect on national security interests. It also requires the President to publish in the Government Gazette a list of national security interests, including the markets, industries, goods or services, sectors, or regions in which such a merger must be notified to the committee. As of mid-2023, Section 18A of the Act had not come into effect; as such, the committee envisaged therein has not been established. The President had not issued regulations to outline the list of national security interests, nor issued regulations to outline the processes for compulsory dual notification to the Competition Commission and the committee.

2.22. South Africa remains a party to the SADC's 2010 Protocol on Finance and Investment. Under the Protocol, signatories must give investors "fair and equitable treatment" and pay "prompt,

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<sup>36</sup> IBSA, *About IBSA*. Viewed at: <http://www.ibsa-trilateral.org/>.

<sup>37</sup> DTIC, *B-BBEE Codes, B-BBEE Acts, Strategies & Policies*. Viewed at: <http://www.thedtic.gov.za/financial-and-non-financial-support/b-bbee/b-bbee-codes-b-bbee-acts-strategies-policies/>.

<sup>38</sup> Competition Amendment Act No. 18 of 2018. Viewed at: <https://www.gov.za/documents/competition-amendment-act-18-2018-englishafrikaans-14-feb-2019-0000>.

<sup>39</sup> UNCTAD (2019), "South Africa Introduces a Screening Mechanism of Foreign Investment", 14 February. Viewed at: <https://investmentpolicy.unctad.org/investment-policy-monitor/monitor/3406/south-africa-introduces-a-screening-mechanism-of-foreign-investment->.

adequate and effective compensation" to foreign investors in the event of expropriation. It also provides for international arbitration for foreign investors.<sup>40</sup>

2.23. Over the review period, South Africa introduced new investment legislation, to provide certain guarantees to investors from countries with which it does not have a bilateral investment treaty (BIT) in force, but also to ensure that investor-state disputes are first handled through domestic courts, rather than through an international arbitration body.<sup>41</sup> The 2015 Protection of Investment Act entered into force in June 2018. Its aims are to (i) provide national treatment to foreign investors and for their investments not to be treated less favourably than South African investors in like circumstances; (ii) ensure the physical security of property owned by foreign investors be at the level provided to domestic investors; (iii) enable the repatriation of funds, subject to taxation and other applicable legislation to foreign investors; and (iv) provide a mediation process to resolve disputes. The Act indicates that new BITs will be subject to the South African Constitution and national legislation.<sup>42</sup>

2.24. South Africa has BITs in force with China, Cuba, the Czech Republic, Finland, the Islamic Republic of Iran, the Republic of Korea, Mauritius, Nigeria, the Russian Federation, Senegal, Sweden, and Zimbabwe.<sup>43</sup> Since 2014, of South Africa's BITs with Argentina and several countries in Europe (Austria, Denmark, France, Germany, Greece, Italy, the Netherlands, Switzerland, and the United Kingdom) have been terminated.

2.25. South Africa currently has double taxation agreements (DTAs) in force with 78 economic partners.<sup>44</sup> Since January 2014, new DTAs have entered into force with Cameroon; Chile; Hong Kong, China; Kenya; Qatar; and the United Arab Emirates. New protocols have been added to existing DTAs with Botswana, Brazil, Cyprus, India, Norway, and Türkiye. Additionally, DTAs with Lesotho, Mauritius, Singapore, and Zimbabwe were renegotiated.

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<sup>40</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016; and SADC, *Protocol on Finance and Investment*, Articles 5-6. Viewed at: [https://www.sadc.int/sites/default/files/2021-08/Protocol\\_on\\_Finance\\_Investment2006.pdf](https://www.sadc.int/sites/default/files/2021-08/Protocol_on_Finance_Investment2006.pdf).

<sup>41</sup> The Act has provisions that stipulate that the Government may consent to international arbitration subject to the exhaustion of domestic remedies.

<sup>42</sup> Protection of Investment Act. Viewed at: <https://static.pmg.org.za/151215Act22of2015ProtectionOfInvestmentAct.pdf>.

<sup>43</sup> UNCTAD, *Investment Policy Hub: South Africa*. Viewed at: <https://investmentpolicy.unctad.org/international-investment-agreements/countries/195/south-africa>.

<sup>44</sup> SARS, *Summary of All Bilateral Double Taxation Agreements and Protocols Amending the Double Taxation Agreements*. Viewed at: <https://www.sars.gov.za/wp-content/uploads/Legal/Agreements/LAPD-IntA-DTA-2013-01-Status-Overview-of-All-DTAs-and-Protocols.pdf>.

### 3 TRADE POLICIES AND PRACTICES BY MEASURE

#### 3.1 Measures directly affecting imports

##### 3.1.1 Customs procedures and requirements

3.1. The Customs and Excise Act, 1964 sets out the rules governing customs procedures in South Africa.<sup>45</sup> It has been amended a number of times since 2014. According to the authorities, major amendments include those related to the establishment of Special Economic Zones, the introduction of the advance ruling system in customs valuation, and an export tax on scrap metal. In 2014, the Customs Control Act, 2014 and the Customs Duty Act, 2014 were published in the Government Gazette; they will come into effect on a date yet to be determined by the President.<sup>46</sup> The Customs Control Act establishes a customs control system for all goods imported into or exported from South Africa, and prescribes the operational aspects of the system.<sup>47</sup> The Customs Duty Act provides for the imposition, assessment, and collection of customs duties. The authorities state that, as the President has not determined the date for their entry into force, these two Acts have not been implemented.

3.2. Customs procedures are administered by the Customs Administration<sup>48</sup> under the South African Revenue Service (SARS).

3.3. Any person (local or foreign) who imports goods into South Africa must register with SARS as an importer. Any foreigner (individual or legal person) must nominate a registered agent located in South Africa before registering to import goods into the country. The nominated agent must assume full liability for the acts of the foreign principal in relation to any business activity with Customs.<sup>49</sup>

3.4. Upon request by Customs, based on random selection by the risk management system, import clearance documentation (e.g. commercial invoice, bill of lading, insurance documents, and packing list) must be lodged within seven days<sup>50</sup> after the arrival of goods in South Africa. A certificate and declaration of origin are required when preferential duties are applicable and for goods subject to anti-dumping or countervailing duties. Import permits/licences are required in certain instances (Section 3.1.2). According to the authorities, provided that all requirements (including documentation) are met, it may take four hours for cargo arriving by sea to be cleared if it is risk-free.

3.5. The data provided by the authorities show an increase in the percentage of low-risk goods to reach almost 98% of total imports in 2022-23. Low-risk goods enter the South African market with no reaction from the system, while some of them may be subject to post-clearance inspection. Medium-risk goods are subject to documentary review requirements, and high-risk goods must be physically examined.

3.6. Since the previous Review, SARS has introduced various reforms on trade facilitation, with a view to further streamlining procedures. In particular, in 2020, SARS launched the Registration, Licensing and Accreditation (RLA) system, a self-service automated system to make it easier for stakeholders and intermediaries to register and/or be licensed for Customs purposes. Customs clients submit their RLA applications on the electronic RLA platform through eFiling.<sup>51</sup> Other reforms include setting up an Advance Payment Notification (APN) data system to reduce illicit financial flows, and adopting a Number Plate Recognition system on the cargo processing system at land ports.<sup>52</sup>

<sup>45</sup> SARS, *Customs and Excise Act, No. 91 of 1964*. Viewed at: <https://sars.mylexisnexis.co.za/#>.

<sup>46</sup> SARS, *New Customs Legislation Update*. Viewed at: <https://www.sars.gov.za/customs-and-excise/about-customs/new-customs-legislation-update/>.

<sup>47</sup> Government Gazette, No. 37862, 23 July 2014, *Customs Control Act, 2014*. Viewed at: <https://www.sars.gov.za/wp-content/uploads/Legal/AABC/LAPD-LPrim-Act-2014-03-Customs-Control-Act-2014.pdf>.

<sup>48</sup> SARS, *About Customs*. Viewed at: <https://www.sars.gov.za/customs-and-excise/about-customs/>.

<sup>49</sup> SARS, *Importers*. Viewed at: <https://www.sars.gov.za/customs-and-excise/registration-licensing-and-accreditation/importers/>.

<sup>50</sup> Or within such further time as the Commissioner may allow.

<sup>51</sup> SARS, *Registration, Licensing and Accreditation*. Viewed at: <https://www.sars.gov.za/customs-and-excise/registration-licensing-and-accreditation/>.

<sup>52</sup> SARS (2022), *Annual Report – South African Revenue Service 2021/22*.

3.7. On 30 November 2017, South Africa ratified the WTO Agreement on Trade Facilitation. The current rate of implementation commitments stands at 90.3% (all Category A), with a timeframe spanning from February 2017 to February 2038.<sup>53</sup> In 2018, South Africa notified the definitive dates for implementation of its Category B provisions: 22 February 2028 for advance rulings, and 22 February 2038 for the implementation of a single window.<sup>54</sup>

3.8. Tariffs, excise duties, and most rebates and drawbacks are harmonized within SACU (Main Report, Section 3), while VAT and other taxes/levies are not. South Africa imposes levies on both imported and domestically produced goods. These include:

- Levies on certain agricultural products (Section 4.1.1.2);
- Environmental levies on plastic carriers and flat bags, electrical filament lamps, tyres, carbon dioxide emissions of motor vehicles, and a carbon tax (Section 1.1);
- Levies on certain petroleum oils and oils obtained from bituminous minerals (fuel levies, including road-accident-fund levy); and
- A health promotion levy on sugary beverages, and preparations for making sugary beverages.

3.9. VAT is levied at a standard rate (currently 15%, up from 14% from 1 April 2018) on all imported or domestically produced goods and services, with a limited range of goods and services exempt or subject to zero rate.<sup>55</sup> The authorities state that, during this review period, VAT was not collected from local recipients of the supply of electronic services; instead, it was levied on foreigners who supply electronic services to local recipients.

3.10. Zero-rated VAT applies to, *inter alia*, exports; certain goods supplied to enterprises located in customs-controlled areas (CCAs) and Special Economic Zones (SEZs), and to SEZ operators; petrol, diesel, and illuminating paraffin; certain basic foodstuffs; and certain services, such as international transport and related services.<sup>56</sup>

3.11. Currently, zero-rated VAT also applies to certain agricultural products such as animal feed, seedlings, and fertilizers. The VAT Act was amended to remove this zero rating with effect from a date to be determined by the Minister of Finance.<sup>57</sup>

3.12. VAT is exempted on, *inter alia*, financial services; public transportation of fare-paying passengers by road and rail; the supply of residential accommodation under a lease agreement; and the supply of certain educational services.

3.13. The base for the VAT remains the same as at the time of the previous Review. For locally produced goods and services, VAT is collected on the "domestic open-market value". For imported goods, VAT is collected on the f.o.b. value plus a 10% "upliftment" on the value for customs duty purposes. The authorities indicate that the 10% "upliftment" is to adjust the taxation base to the c.i.f. value, as transport and insurance costs are not taken into account if the VAT were to be based on the f.o.b. value only. The 10% coefficient does not apply to imports from other SACU members. On imported services, VAT is collected on the "considered value" of the supply, or the open market value, whichever is greater.

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<sup>53</sup> WTO TFA database. Viewed at: <https://tfadatabase.org/en/members/south-africa>.

<sup>54</sup> WTO document G/TFA/N/ZAF/1/Add.1, 28 February 2018.

<sup>55</sup> SARS (2022), *Taxation in South Africa*. Viewed at: <https://www.sars.gov.za/wp-content/uploads/Ops/Guides/Legal-Pub-Guide-Gen01-Taxation-in-South-Africa.pdf>.

<sup>56</sup> International transport (all modes) of persons and goods are subject to zero-rate VAT, with certain conditions and exceptions. Related services, such as insuring or arranging of insuring of transport, as well as "ancillary transport services" such as stevedoring, cargo inspection, preparation of customs documentation, and storage of transported goods or goods to be transported are also subject to zero-rate VAT.

<sup>57</sup> SARS (2022), *Taxation in South Africa*.

### 3.1.2 Import prohibitions, restrictions, and licensing

3.14. A Border Management Authority (BMA) was established on 1 April 2023.<sup>58</sup> The BMA is in charge of certain functions transferred from the Department of Home Affairs; the Department of Agriculture, Land Reform and Rural Development; the Department of Health; and the Department of Forestry, Fisheries and the Environment. These functions relate to immigration, health, agriculture (SPS), environmental, and access control at the 72 ports of entry in South Africa.<sup>59</sup>

3.15. The importation of the following goods, *inter alia*, into South Africa is prohibited: narcotic and habit-forming drugs in any form; fully automatic, military, and unnumbered weapons, explosives, and fireworks; poison and other toxic substances; cigarettes with a mass of more than 2 kilogrammes per 1,000; goods to which a trade description or trademark is applied in contravention of any Act (e.g. counterfeit goods); unlawful reproductions of any works subject to copyright; and prison- and penitentiary-made goods.

3.16. In 2016, South Africa notified to the WTO that its import control is regulated mainly under the International Trade Administration Act (Act No. 71 of 2002).<sup>60</sup> In 2018, South Africa notified its import licensing procedures<sup>61</sup>, and in 2019 (the most recent notification regarding its import licensing procedures), South Africa confirmed that the procedures and the legislation remained unchanged.<sup>62</sup> The authorities indicate that South Africa plans to update its relevant notification before the end of 2023.

3.17. The notifications indicated that South Africa's import licensing regime was complying with international agreements; health, environmental, and safety requirements; and public interest.<sup>63</sup> Applications for import licences are considered mainly by the Import and Export Control Directorate of the ITAC, or:

- The Police Service (Narcotics Bureau) for the importation of narcotic drugs and psychotropic substances in terms of the 1988 United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances;
- The National Regulator for Compulsory Specifications for homologation of tyres for vehicles to ensure required safety specifications;
- The Department of Environment Affairs in terms of the Basel Convention on the Control of Transboundary Movement of Hazardous Wastes and Their Disposal, and the Montreal Protocol on Substances that Deplete the Ozone Layer;
- The Department of Energy for fossil fuels;
- The Department of Health (Radiation Control) for radioactive chemical elements and isotopes; and
- The Police Service (Firearm Register) for arms and ammunitions.<sup>64</sup>

3.18. A licence is valid for a maximum of 12 months and is not extendable. According to South Africa's notification to the WTO, unused licences are not transferrable, and there is no penalty for non-use of a licence or portion of a licence.<sup>65</sup>

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<sup>58</sup> Parliamentary Monitoring Group, Border Management Authority Act of 2020. Viewed at: <https://pmg.org.za/bill/645/>.

<sup>59</sup> Department of Home Affairs. Viewed at: <http://www.dha.gov.za/>.

<sup>60</sup> WTO document G/LIC/N/1/ZAF/1, 2 December 2016.

<sup>61</sup> WTO document G/LIC/N/3/ZAF/7, 19 December 2018.

<sup>62</sup> WTO document G/LIC/N/3/ZAF/8, 4 November 2019.

<sup>63</sup> WTO document G/LIC/N/3/ZAF/7, 19 December 2018.

<sup>64</sup> WTO document G/LIC/N/3/ZAF/7, 19 December 2018.

<sup>65</sup> WTO document G/LIC/N/3/ZAF/7, 19 December 2018.

3.19. Out of over 8,400 tariff lines (at the HS 8-digit level), around 280 tariff lines are subject to import controls<sup>66</sup>, i.e. a permit is required (Table 3.1).

**Table 3.1 Goods subject to import control measures under ITAC regulations, 2023**

| Description  | Tariff heading   | Purpose of control  |
|--|--|---|
| Used goods, waste and scrap  | Various  | Health, environmental reasons, public interest, and in terms of the Basel Convention  |
| Fish, fresh or frozen, crustaceans and molluscs  | 03.02 to 03.08   | Environmental reasons   |
| Asbestos   | 25.24  | Environmental reasons   |
| Mineral fuels, mineral oils and products of their distillation   | 27.07-27.15  | Strategic reasons   |
| Radioactive chemical elements and radioactive isotopes   | 28.44, 28.45   | Health and environmental reasons  |
| Chemicals applicable in the use of drug manufacturing<br>Salt and optical isomers of substances included in the table                  | 2806.10, 2807.00, 2841.61, 2902.30, 2909.11, 2914.11, 2914.12, 2914.31, 2915.24, 2916.34, 2922.43, 2924.23, 2932.91, 2932.92, 2932.93, 2932.94, 2933.32, 2939.41, 2939.42, 2939.44, 2939.49, 2939.61, 2939.62, 2939.63   | 1988 United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances  |
| Rubber and articles thereof including new and used pneumatic tyres   | 40.03, 40.04, 40.11, 40.12   | Monitoring for quality specification  |
| Used clothing and rags   | 63.09, 63.10   | Public interest   |
| Cobalt, cadmium antimony, manganese, beryllium, chromium, germanium, vanadium, gallium, hafnium, indium, niobium, rhenium and thallium | 81.05, 81.07, 81.10, 81.11, 81.12  | Health and environmental reasons  |
| Metal working machinery  | 84   | Monitoring the processing of scrap metals, to prevent stolen infrastructure including copper cables from being smelted, granulated or cutting into pieces to hide their origin. |
| Road wheels fitted with tyres  | 8708.70, 8716.90.20  | Monitoring for quality specification  |
| Revolvers and pistols, other firearms, parts, ammunition and parts   | 9302-9306  | Security reasons  |
| Gambling machines  | 9504.30  | Quality specifications and public interest  |
| Ozone-depleting substances   | 2903.19.10, 2903.39, 2903.7, 3808.91.1, 3808.92.3, 3808.93.8, 3808.94.8, 3808.99.1, 3813.00.29, 3813.00.31, 3813.00.33, 3813.00.35, 3813.00.37, 3813.00.39, 3813.00.41, 3813.00.43, 3814.00.1, 3814.00.2, 3814.00.3, 3824.71, 3824.72, 3824.73, 3824.74, 3824.75, 3824.76, 3824.77, 3824.78, 3824.79 | Montreal Protocol   |

Source: WTO document G/LIC/N/3/ZAF/7, 19 December 2018.

3.20. South Africa notified to the WTO that tariff quotas (TQs) continued to be applied on 53 types of agricultural products, on an MFN basis.<sup>67</sup> Some out-of-quota rates are lower or equal to the corresponding in-quota rates (Table A3.1). According to the authorities, if TQs are not providing any advantages to importers, the Department of Agriculture does not open these items. For this reason, from 2017 many TQs are "not opened" (i.e. no in-quota imports of these products entered the

<sup>66</sup> ITAC (2022), *Import and Export Control*. Viewed at: <http://www.itac.org.za/upload/ImportExportControl.pdf>.

<sup>67</sup> WTO documents G/AG/N/ZAF/91, 16 August 2018; G/AG/N/ZAF/94, 2 March 2020; G/AG/N/ZAF/95, 2 March 2021; G/AG/N/ZAF/109, 14 February 2022; and G/AG/N/ZAF/110, 14 February 2022.

South African market). Out of 53 types of products, 30 types in 2017 and 28 types in 2018-20 were "not opened". The average fill ratio of TQs dropped from 75% in 2016, to 25% in 2017, 21% in 2018, 19% in 2019, and 20% in 2020. If excluding "not opened" items, the average fill ratio became 26.7% in 2017, 20.5% in 2018, 19.1% in 2019, and 19.9% in 2020.

3.21. All TQs are global quotas. They are administered through import licences issued by the Department of Agriculture, and applicants need to register with SARS and the Department of Trade, Industry and Competition (DTIC).<sup>68</sup>

## 3.2 Measures directly affecting exports

### 3.2.1 Export procedures and requirements

3.22. In general, customs requirements and procedures for exports from South Africa are similar to those for imports (Section 3.1.1).

3.23. SARS issues certificates of origin (CoOs) for exports from South Africa to its RTA partners, and some chambers of commerce issue CoOs for exports under GSP schemes.

### 3.2.2 Export taxes, charges, and levies

3.24. Under the Export Levy Act, an export tax is levied on unpolished diamonds at a rate of 5% of the f.o.b. value, with a view to encouraging local processing, developing skills, and creating employment. Export levies apply to the export and/or production of various agricultural products (Section 4.1.1.2).

3.25. On 1 August 2021, an export tax was introduced on scrap metals under the Customs and Excise Act, 1964.<sup>69</sup> According to the authorities, this duty was introduced on national security grounds, and is to "provide foundries and mills with better access to higher quality and more affordable scrap metals in the local market"<sup>70</sup>, as well as to stimulate domestic production, enhance investment and create jobs.<sup>71</sup> Certain ferrous and non-ferrous waste and scrap metals are subject to *ad valorem* duty rates (10%, 15%, or 20%), while agreement-specific rates apply to South Africa's exports under its RTA agreements.<sup>72</sup>

3.26. Before the introduction of the export duty on scrap metals, the ITAC introduced a Price Preference System (PPS) with a view to improving the availability of scrap metal at "affordable" prices for foundries and mills in the domestic market. Under the PPS, export authorization from the ITAC may be granted if exporters demonstrate that they sold scrap metals to the domestic industry at a discount price or other formula determined by ITAC. However, an investigation by ITAC found that the PPS alone was unable to achieve the target of providing foundries and mills with "affordable" and quality scrap metal. Against this backdrop, the export duty on scrap metal was introduced, and the PPS was extended from 31 July 2021 to 31 July 2023.<sup>73</sup>

### 3.2.3 Export prohibitions, restrictions, and licensing

3.27. In November 2022, the Government decided to prohibit exports of ferrous and non-ferrous metal waste, scrap, and semi-finished ferrous and non-ferrous metal products<sup>74</sup> for six months (from

<sup>68</sup> For details of the TQ allocation system, please refer to WTO document WT/TPR/S/324/Rev.1, 5 February 2016.

<sup>69</sup> SARS (2022), *Annual Report – South African Revenue Service 2021/22*. Viewed at: <https://www.sars.gov.za/wp-content/uploads/Docs/StratAnnualPerfplans/SARS-AR-27-Annual-Report-2021-2022.pdf>.

<sup>70</sup> SARS, *Export Duty on Scrap Metals*. Viewed at: <https://www.sars.gov.za/customs-and-excise/export-duties-and-levies/export-duty-on-scrap-metals/>.

<sup>71</sup> SARS (2021), *Export Duty on Scrap Metal*. Viewed at: <https://www.sars.gov.za/wp-content/uploads/Ops/Guides/LAPD-CE-G03-Export-Duty-on-Scrap-Metal.pdf>.

<sup>72</sup> SARS, Schedule 1/Part 6 of the Schedule to the Act. Viewed at: <https://www.sars.gov.za/wp-content/uploads/Legal/SCEA1964/LAPD-LPrim-Tariff-2021-02-Schedule-No-1-Part-6.pdf>.

<sup>73</sup> SARS, *Export Duty on Scrap Metals*.

<sup>74</sup> With exceptions for stainless steel and ferrous waste and scrap generated in the ordinary course of business as a by-product of a manufacturing process.



30 November 2022 to 30 May 2023), so as to "limit damage to infrastructure and the economy".<sup>75</sup> On 15 June 2023, this export ban was extended for another six months.<sup>76</sup> The ban is complemented by an export permit system for semi-finished metal products, and an import permit system for furnaces and various other scrap transformation machines (Table 3.1), both from November 2022.

3.28. An export prohibition also applies to a certain grade of methyl bromide, in accordance with certain international environmental agreements.

3.29. According to an ITAC report, export controls may be maintained for the reasons of ensuring compliance with international obligations, assisting local manufacturers to obtain raw materials before they are exported, controlling the outflow of goods of a strategic nature, or curbing the exportation of smuggled or stolen goods.<sup>77</sup> Out of around 8,400 tariff lines, about 180 lines are under export control, including precious stones, ferrous and non-ferrous waste and scrap, and used motor vehicles.<sup>78</sup>

### 3.2.4 Export subsidies, finance, and assistance

3.30. South Africa notified to the WTO that it did not provide export subsidies to its agricultural products in 2016, 2017, and 2018.<sup>79</sup> The authorities state that South Africa has not provided export subsidies to agricultural products since 2018 (Section 4.1.1).

3.31. South Africa maintains its duty rebate, refund, and drawback regime, under which importers can claim rebates, refunds, or drawbacks on imports of certain goods incorporated or used in goods to be exported (Main Report, Section 3.4.6). South Africa also has its country-specific rebate programme – the Gautrain Rapid Rail Link project.

3.32. South Africa's Industrial Development Zone (IDZ) Programme was replaced by the Special Economic Zone (SEZ) Programme in 2016.<sup>80</sup> In accordance with the Special Economic Zones Act No. 16 of 2014 (SEZ Act), an SEZ is an economic development tool to promote national economic growth and exports, by using support measures to attract "targeted" foreign and domestic investments and technology.<sup>81</sup> "Targeted" investments include investments supporting the Government's economic and industrial development policies.

3.33. Compared with IDZs, which were more export-oriented and provided only VAT and customs tariff incentives, SEZs have broader coverage and provide more incentives to eligible businesses. SEZs in South Africa may be sector specific or multi-product, and are defined under the SEZ Act in the following categories:

- IDZ: an industrial estate with domestic and foreign investment in value-added and export-oriented manufacturing industries and services;
- Free port: a duty-free area adjacent to a port of entry where imported goods may be unloaded for value-adding activities;
- Free Trade Zone: a duty-free area offering storage and distribution facilities for value-adding activities within an SEZ for subsequent export; and

<sup>75</sup> Government Gazette No. 47627, 30 November 2022.

<sup>76</sup> Government Gazette No. 48791, 15 June 2023.

<sup>77</sup> ITAC (2022), *Import and Export Control*.

<sup>78</sup> ITAC (2022), *Import and Export Control*.

<sup>79</sup> WTO documents G/AG/N/ZAF/93, 3 October 2018; G/AG/N/ZAF/105, 21 September 2021; and G/AG/N/ZAF/107, 27 September 2021.

<sup>80</sup> DTIC (2018), *Special Economic Zones Advisory Board: Annual Report 2017/18*. Viewed at: [http://www.thedtic.gov.za/wp-content/uploads/SEZ\\_Annual\\_Report.pdf](http://www.thedtic.gov.za/wp-content/uploads/SEZ_Annual_Report.pdf); and DTIC, *Special Economic Zones*. Viewed at: <http://www.thedtic.gov.za/sectors-and-services-2/industrial-development/special-economic-zones/>.

<sup>81</sup> Government Gazette No. 37664, 19 May 2014, *SEZ Act*. Viewed at: [http://www.thedtic.gov.za/wp-content/uploads/SEZ\\_Act.pdf](http://www.thedtic.gov.za/wp-content/uploads/SEZ_Act.pdf).

- Sector Development Zone: a zone focused on the development of a specific sector or industry through the facilitation of general or specific industrial infrastructure, incentives, or technical and business services, mainly for the export market.

3.34. A number of incentives are available to businesses located in SEZs and to SEZ operators, with a view to facilitating revenue generation, creating jobs, attracting FDI, and enhancing their international competitiveness.<sup>82</sup> The authorities state that, as at 2023, six SEZs<sup>83</sup> have been designated by the National Treasury for SEZ incentives. Investors located in these zones may apply for the following incentives, provided they fulfil a number of qualifying criteria.

- 15% corporate tax to certain enterprises (those involved in the value chain leading to exports), compared with a standard tax rate at 28%. The authorities indicate that generally, services are excluded;
- Small business corporations (SBCs) located in an SEZ pay corporate income tax at either an applicable graduated rate (i.e. tax rates increase with the taxable income of the SBC), or 15%, whichever is lower (Section 3.3.1);<sup>84</sup>
- Building allowances: eligible companies may reduce their taxable income by claiming a special allowance (at a rate of 10% per year) on the cost of any new or unused building or improvement to such buildings;
- Employment Tax Incentive (ETI): for businesses outside SEZs, a standard ETI reduces the amount of PAYE (Pay as You Earn) by employers, with a view to encouraging businesses to employ people between 18 and 29 years old (Section 3.3.1). For businesses within an SEZ, the age limit is lifted;
- Import tariff and excise duty incentives for businesses located in a CCA within an SEZ: if the imported goods are stored and go through manufacturing (including processing, cleaning, and repair) within the CCA, and are exported subsequently, their import tariffs and excise duties may be reduced or exempted. Goods manufactured in a CCA and subsequently supplied to the domestic market are subject to the payment of import tariffs and excise duties;
- VAT incentives for businesses located in a CCA within an SEZ: goods and services purchased by these businesses from the domestic market are subject to a zero-rate VAT, while goods and services they import are exempt from VAT. Goods sold to the domestic market are subject to the standard VAT;
- 12I tax allowances: for eligible Greenfield investment (i.e. new industrial projects using only new and unused manufacturing assets) and Brownfield investment (i.e. expansions or upgrades of existing industrial projects), investment or training allowances are provided (Section 3.3.1).<sup>85</sup>

3.35. An SEZ Fund was established and was effective from 1 July 2013 to 31 March 2023<sup>86</sup>, with a view to providing multi-year funding for initiatives to improve SEZ infrastructure and related performance. So far, the bulk of the funding has been committed to infrastructure development inside SEZs.<sup>87</sup> The authorities indicate that the nature of government funding cycles, which is often inflexible, may not meet investors' demand for rapid response, and may hamper SEZ operators in financing their zone development. It is administered by the Industrial Finance Branch of the DTIC, with budget allocated by the National Treasury over a three-year period. According to the authorities,

<sup>82</sup> SARS Legal Counsel, *Simplified Overview of Special Economic Zones Tax and Customs Incentives*.

<sup>83</sup> These are Coega IDZ, East London IDZ, Richards Bay IDZ, Dube Trade Port, Maluti-A-Phofung SEZ, and Saldanha Bay Freeport IDZ.

<sup>84</sup> SARS Legal Counsel, *Simplified Overview of Special Economic Zones Tax and Customs Incentives*.

<sup>85</sup> DTIC, *12I Tax Allowance Incentive*. Viewed at:

<http://www.thedtic.gov.za/financial-and-non-financial-support/incentives/12i-tax-allowance-incentive/>.

<sup>86</sup> DTIC, *Special Economic Zones*. Viewed at:

<http://www.thedtic.gov.za/sectors-and-services-2/industrial-development/special-economic-zones/>.

<sup>87</sup> DTIC (2018), *Special Economic Zones Advisory Board Annual Report 2017/18*.

ZAR 1.4 billion was allocated for the current financial year, and the DTIC disbursed ZAR 357 million in the previous financial year.

3.36. The authorities state that a technical committee comprising representatives of the National Treasury, SARS, DTIC sector desks, and other relevant stakeholders is in charge of considering applications for designation of new SEZs. Investors seeking to locate in an SEZ must apply to this SEZ and obtain approval from its board.

3.37. From 2016, all existing IDZs automatically became SEZs, while new SEZs were being established.<sup>88</sup> By the end of FY2022/23, South Africa had 11 SEZs located in different provinces: Atlantis SEZ, Coega IDZ, Dube Trade Port, East London IDZ, Maluti-A-Phofung SEZ, Musina/Makhado SEZ, Nkomazi SEZ, OR Tambo SEZ, Richards Bay IDZ, Saldanha Bay Freeport IDZ, and Tshwane Automotive SEZ. Proposed SEZs, i.e. those anticipated to be designated in 2023, include Namakwa SEZ and Coega Pharmaceutical and Vaccine SEZ. The authorities indicate that by now, SEZs have attracted 190 operational investors, with 23,281 job posts created.

3.38. The Export Marketing and Investment Assistance (EMIA) Programme under the DTIC aims to partially compensate exporters for the costs incurred in developing export markets and to attract FDI (Table A3.2).<sup>89</sup> Trade and Investment South Africa (TISA) and the Industrial Financing Branch (IFB) of the DTIC administer the EMIA programme. Assistance takes the form of exhibition fees, stand construction, and travel and daily allowances. Since 1 September 2022, the DTIC has implemented a new Online Incentive Solution (OIS) platform, and all EMIA individual participation applications must be submitted via this channel.

3.39. The DTIC manages two other export promotion incentives: the Sector Specific Assistance Scheme (SSAS), which provides cost-sharing grants to sector coordinators recognized by the DTIC, and the Capital Projects Feasibility Programme (CPFP), which partially covers feasibility study costs for projects promoting exports (Table A3.2).

3.40. Under the DTIC, the Export Promotion Directorate remains responsible for supporting South Africa's exports of goods and services. It provides information and advice on new markets and publishes reports on the export process, quality and other standards requirements, and e-commerce.

3.41. The Export Credit Insurance Corporation (ECIC) provides export credit insurance for goods and services, with a view to improving the competitiveness of South African exporters. It provides insurance coverage for losses arising from both political risk and commercial risk. The ECIC is engaging with the DTIC to explore amending the Export Credit and Foreign Investment Re-Insurance Amendment Act, 1957, with a view to authorizing the ECIC to provide insurance cover to non-South African financial institutions.<sup>90</sup> In 2018, the ECIC signed a Memorandum of Understanding (MoU) with the African Export-Import Bank (Afreximbank), with a view to promoting trade and investment between South Africa and the rest of Africa.<sup>91</sup> In 2022, the top three countries in ECIC's insurance portfolio were Ghana, Zimbabwe, and Ethiopia, accounting for 46.9%, 26.1%, and 8.5%, respectively. The three largest sectors were power (43.4%), construction (24.8%), and construction including civil engineering structures (16.7%).<sup>92</sup>

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<sup>88</sup> SARS Legal Counsel, *Simplified Overview of Special Economic Zones Tax and Customs Incentives*. Viewed at: [http://www.thedtic.gov.za/wp-content/uploads/SEZ\\_Tax.pdf](http://www.thedtic.gov.za/wp-content/uploads/SEZ_Tax.pdf).

<sup>89</sup> DTIC, *Export Marketing and Investment Assistance (EMIA)*. Viewed at: <http://www.thedtic.gov.za/financial-and-non-financial-support/incentives/export-marketing-and-investment-assistance/>.

<sup>90</sup> ECIC (2022), *Integrated Report 2022*. Viewed at: <https://www.ecic.co.za/about-us/corporate-reports/integrated-reports/>.

<sup>91</sup> ECIC, *ECIC and Afreximbank Partnership*. Viewed at: <https://www.ecic.co.za/about-us/ecic-and-afreximbank-partnership/>.

<sup>92</sup> ECIC, *ECIC Corporate Governance*. Viewed at: <https://www.ecic.co.za/vision-and-mission/>.

### 3.3 Measures affecting production and trade

#### 3.3.1 Incentives

3.42. South Africa has a myriad of incentive programmes. Many have requirements on localization and must be B-BBEE compliant, i.e. be compliant with the Broad-Based Black Economic Empowerment Act, 2003, as amended, which seeks to correct non-participation in the economy by historically disadvantaged communities. The programmes may provide both non-tax incentives (e.g. cost-sharing grants, loans with preferential terms) and tax incentives.

3.43. Most incentives are administered by the DTIC and aim at, *inter alia*, encouraging innovation, promoting exports, attracting investment, and facilitating infrastructure development (Table A3.2).

3.44. The DTIC also provides a number of incentives to various sectors including agriculture and aquaculture, manufacturing, and services such as the film industry. The Department of Tourism administers some incentive programmes for the tourism industry (Section 4.4.4).

3.45. Some incentives aim to increase employment, encourage R&D, improve energy efficiency and energy saving, and facilitate the development of SMEs. Incentives are administered by various agencies such as SARS, the Department of Science and Innovation, the Industrial Development Corporation, and the Small Enterprise Development Agency (SEDA). The schemes include:

- The ETI<sup>93</sup>, which covers the period from 1 January 2014 to 28 February 2029, is a cost-sharing mechanism that reduces the amount of PAYE to be paid by employers, to encourage the recruitment of young workers (18-29 years old);
- Research & Development Incentive (SIID) provides tax deductions for R&D expenditures that occurred before 1 October 2022: 150% of eligible operating costs are allowed for corporate income tax deduction;
- Section 12H Learnership Agreement Tax Allowance (S12H) aims to encourage skill development of the workforce and is available for all learnership agreements which entered into force before 1 April 2022. It takes the form of tax deductions;
- Energy Efficiency Allowance (S12L) aims to encourage entities to improve their energy efficiency. Eligible taxpayers are entitled to a tax deduction of ZAR 0.95 per kilowatt hour or kilowatt hour equivalent of energy efficiency savings;
- SEDA's Technology Programme (STP) provides cash grants (capped at ZAR 600,000 per project) to small enterprises with job creation potential. Small businesses with more than 50% ownership by women who are in the manufacturing and processing sectors with high product demand, or service-related industries with a manufacturing component, are eligible.<sup>94</sup>

3.46. In accordance with the Income Tax Act, 1962, SBCs, i.e. companies with an annual gross income of less than ZAR 20 million, are subject to progressive corporate income tax rates lower than the normal flat rate of 28%.<sup>95</sup>

3.47. The 12I Tax Incentive is designed to support Greenfield and Brownfield investments (Section 3.2.4). It offers support for both capital investment and training. Applications for this incentive made after 31 March 2020 are not accepted. The incentive takes the form of investment allowances, and training allowances, and is managed by the DTIC. Eligible projects are:

<sup>93</sup> SARS, *Employment Tax Incentive (ETI)*. Viewed at: <https://www.sars.gov.za/types-of-tax/pay-as-you-earn/employment-tax-incentive-eti/>; and SARS, *Guide to the Employment Tax Incentive*. Viewed at: <https://www.sars.gov.za/wp-content/uploads/Ops/Guides/LAPD-ETI-G01-Guide-to-the-Employment-Tax-Incentive.pdf>.

<sup>94</sup> KPMG (2020), *Incentivise Your Investment Strategy – A Guide to South African Government and Tax Incentives*. Viewed at: <https://assets.kpmg.com/content/dam/kpmg/za/pdf/2021/tax-and-government-incentive-guide-2020.pdf>.

<sup>95</sup> SARS Legal Counsel, *Simplified Overview of Special Economic Zones Tax and Customs Incentives*.

- Greenfield projects with a minimum investment of ZAR 60 million;
- Brownfield projects with a minimum additional investment of ZAR 30 million; and
- Those projects classified under SIC Code, Section C: Manufacturing.<sup>96</sup>

### 3.3.2 Standards and other technical requirements

3.48. The legal framework for the setting of standards and technical regulations comprises the Legal Metrology Act (Act No. 9 of 2014); the Standards Act (Act No. 8 of 2008); the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act (Act No. 19 of 2006); and the National Regulator for Compulsory Specifications Act (Act No. 5 of 2008).

3.49. The South African Bureau of Standards (SABS) remains responsible for standards development and provides training, advisory, and conformity assessment services (including local content verification in designated sectors).<sup>97</sup> It is also South Africa's enquiry point under the TBT Agreement. The SABS is responsible for the notification of technical regulations to the WTO. It is a member of the International Organization of Standardization (ISO), the International Electrotechnical Commission (IEC), the African Regional Standardization Organization (ARSO), and the Southern African Development Community Cooperation in Standardization (SADCSTAN).

3.50. The South African National Accreditation System (SANAS) assesses and accredits bodies that provide conformity assessment services (testing, inspection, and certification).<sup>98</sup> In this regard, South Africa has mutual recognition agreements (MRAs) in place with several regional cooperation bodies (Table 3.2).

**Table 3.2 MRAs with recognized regional cooperation bodies**

| Recognized regional cooperation body   | Scope of International Laboratory Accreditation Cooperation (ILAC) MRA recognition   |
|--|--|
| Inter-American Accreditation Cooperation (IAAC)<br>European co-operation for Accreditation (EA)<br>Asia Pacific Accreditation Cooperation Incorporated (APAC)<br>African Accreditation Cooperation (AFRAC) | Calibration: ISO/IEC 17025<br>Testing: ISO/IEC 17025<br>Medical testing: ISO 15189<br>Inspection: ISO/IEC 17020<br>Proficiency testing providers: ISO/IEC 17043<br>Reference material producers: ISO 17034 |
| Arab Accreditation Cooperation (ARAC)  | Calibration: ISO/IEC 17025<br>Testing: ISO/IEC 17025<br>Medical testing: ISO 15189<br>Inspection: ISO/IEC 17020  |
| Southern African Development Community Cooperation in Accreditation (SADCA)  | Calibration: ISO/IEC 17025<br>Testing: ISO/IEC 17025   |

Source: Information provided by the authorities.

#### 3.3.2.1 Standards

3.51. The SABS has numerous technical committees and subcommittees that prepare South African National Standards (SANS) and other normative documents. SANS are developed in accordance with the rules set out in the SABS National Norm: 2021 Edition 2, "Norm for the development of South African National Standards". All SANS go through various development stages. During this process, draft SANS are submitted for a 60-day public comment period. All comments received are discussed and resolved by the relevant national committees through a consensus process. Draft standards need to be ratified by the Standards Approval Committee of the SABS before being published in the Government Gazette.

<sup>96</sup> DTIC, *12I Tax Allowance Incentive*. Viewed at: <http://www.thedtic.gov.za/financial-and-non-financial-support/incentives/12i-tax-allowance-incentive/>.

<sup>97</sup> SABS, *Integrated Annual Report 2021/22*. Viewed at: [https://www.sabs.co.za/About-SABS/docs/SABS\\_Annual\\_Report\\_2021\\_22\\_Signed\\_051022.pdf](https://www.sabs.co.za/About-SABS/docs/SABS_Annual_Report_2021_22_Signed_051022.pdf).

<sup>98</sup> SANAS. Viewed at: <https://www.sanas.co.za/Pages/index.aspx>.

3.52. In mid-2023, SABS' standards catalogue included 7,602 national standards, of which 4,692 were adopted based on international standards and 2,911 were home-grown. The SABS follows a national plan for the setting of standards, which is aligned with the priorities contained in South Africa's National Development Plan (Section 2.2).

### 3.3.2.2 Technical regulations

3.53. The Department of Trade, Industry and Competition (DTIC) and other government entities, such as the departments responsible for communication, water and sanitation, health, and agriculture, are responsible for developing, approving, and amending technical regulations.

3.54. The National Regulator for Compulsory Specifications (NRCS), an independent organization falling under the DTIC, is responsible for drafting technical regulations in the areas of electrotechnical; legal metrology; food and associated industries; automotives; chemicals; materials; and mechanical products. Government departments/entities and persons or companies may request the NRCS to develop or amend a technical regulation; this request must be justified. South Africa has over 70 NRCS-administered technical regulations in force. Most of the products/services regulated by the NRCS require conformity assessment in the country of origin before the products are imported to South Africa.

3.55. In 2017, the NRCS released a document setting out the development approval processes for requests for new, as well as amendments to or withdrawal of existing, technical regulations.<sup>99</sup> As indicated by the authorities, the new procedure requires the NRCS to conduct a consultation with relevant stakeholders before the regulation is finalized.

3.56. Technical regulations are enforced under the Compulsory Specifications Act and the Legal Metrology Act. Under the latter, suppliers of products/services are required to have NRCS certificates, such as a Letter of Authority and/or type approval certificate. Non-compliance with the regulations is punishable through a directive issued under Section 15(1) and Section 15(3) of the NRCS Act. Under Section 15(3), noncompliant products/services can either be recalled from the market, taken back to the country of origin, or confiscated or destroyed by the NRCS.

3.57. As indicated by the authorities, South Africa has in place a National TBT Committee that meets three times per year to gather information on notifications to be made to the WTO. All government entities that have responsibility for approving technical regulations participate. Over the review period, South Africa notified 77 technical regulations to the WTO (Table A2.1).

3.58. In 2018, the NRCS issued its Conformity Assessment Policy, which contains the general principles for recognizing the competency of domestic and foreign conformity assessment bodies (CABs), as well as setting minimum criteria for accepting conformity assessment results.<sup>100</sup> It states that as a general rule, the NRCS recognizes CABs that are accredited by SANAS, or others affiliated with the International Accreditation Forum (IAF) and/or the (ILAC, and it accepts their conformity assessment results. The Policy also indicates that where South Africa is a signatory to an MRA or where the NRCS is signatory to a Technical Acceptance Agreement, the terms and conditions stated therein are to be upheld by the NRCS.

### 3.3.2.3 Marking, labelling, and packaging

3.59. Over the review period, South Africa notified several new labelling requirements to the WTO TBT Committee. These related to:

- The labelling and advertising of foodstuffs.<sup>101</sup> Reportedly, this will introduce several changes to advertising of foods on labels, including with respect to prohibiting (i) use of words, logos, or pictures that imply food is superior in some way; (ii) potentially

<sup>99</sup> NRCS (2017), *Development and Approval Process for Technical Regulations*. Viewed at: <https://www.nrcs.org.za/Documents/Policies/Development%20and%20approval%20process%20for%20technical%20regulations.pdf>.

<sup>100</sup> NRCS (2018), *The Conformity Assessment Policy of the National Regulator for Compulsory Specifications (NRCS)*. Viewed at: <https://www.nrcs.org.za/Documents/Policies/NRCS%20CPO%20112-01%20Conformity%20Assessment%20Policy.pdf>.

<sup>101</sup> WTO document G/TBT/N/ZAF/250, 21 April 2023.

misleading terms unless they are linked to a protocol approved and registered with the Department of Agriculture or regulated under the Agricultural Product Standards Act; (iii) endorsements by celebrities, organizations, and medical practitioners; and (iv) the use of the word "meat" where products contain less than 25% meat. It also proposes to make mandatory food warning labels for items high in sugar and fat;<sup>102</sup>

- The labelling, advertising, and composition of cosmetics;<sup>103</sup>
- Labelling of alcoholic beverages;
- Labelling of locally manufactured and imported tea, coffee, chicory, and related products;<sup>104</sup>
- The packing and marking of certain food products under the Agricultural Product Standards Act (No. 119 of 1990), namely dried fruit, bread wheat, pulses, potatoes, peaches and nectarines, popcorn kernels, vinegar, garlic, fresh fruit, bananas, soya beans, pineapples, litchis, onions and shallots, rice, and tomatoes.<sup>105</sup> Some of the marking requirements are in place to ensure that products are easily identifiable and traceable;
- Packing and marking of processed meat products and certain raw processed meat products<sup>106</sup>;
- Goods and packages containing genetically modified organisms or ingredients or components<sup>107</sup>; and
- Energy efficiency labelling of electrical and electronic apparatus.<sup>108</sup>

3.60. Specific trade concerns have been raised in the TBT Committee regarding (i) regulations relating to the labelling of alcoholic beverages; (ii) regulations relating to the composition, production, and labelling of wine and spirits intended for sale in South Africa; (iii) amendment to regulations relating to health messages on container labels of alcoholic beverages; and (iv) labelling and advertising of pre-packaged foodstuff.<sup>109</sup>

### 3.3.3 Sanitary and phytosanitary requirements

3.61. South Africa's main SPS requirements remain the same as at the time of the previous Review.<sup>110</sup> All imported animal, plant, and food products, including those from other SACU members, must meet South Africa's SPS requirements. If a consignment does not meet the import requirements, risk management measures will be undertaken, i.e. the consignment may be treated and released, sent back to the country of origin, or destroyed. An appeal system is available under most of the SPS laws. South Africa actively participates in and gets guidance from the Codex Alimentarius, the World Organisation for Animal Health (WOAH, formerly OIE), and the International Plant Protection Convention (IPPC).

<sup>102</sup> *Businesstech* (2023), "Big Changes for Food Labels in South Africa – Including Sugar Warnings and an End to 'Super-Food'", 6 February. Viewed at: <https://businesstech.co.za/news/lifestyle/662355/big-changes-for-food-labels-in-south-africa-including-sugar-warnings-and-an-end-to-super-food/>.

<sup>103</sup> WTO documents G/TBT/N/ZAF/225, 8 March 2018; and G/TBT/N/ZAF/209, 19 September 2016.

<sup>104</sup> WTO documents G/TBT/N/ZAF/242, 16 March 2020; and G/TBT/N/ZAF/241, 13 March 2020.

<sup>105</sup> WTO documents G/TBT/N/ZAF/248, 28 September 2022; G/TBT/N/ZAF/239, 26 September 2019; G/TBT/N/ZAF/234, 13 February 2019; G/TBT/N/ZAF/233, 3 December 2018; G/TBT/N/ZAF/230, 27 June 2018; G/TBT/N/ZAF/229, 14 May 2018; G/TBT/N/ZAF/227, 25 April 2018; G/TBT/N/ZAF/219, 9 August 2017; G/TBT/N/ZAF/217, 12 April 2017; G/TBT/N/ZAF/215, 16 February 2017; G/TBT/N/ZAF/212, 6 October 2016; G/TBT/N/ZAF/195, 29 March 2016; G/TBT/N/ZAF/189, 6 May 2015; G/TBT/N/ZAF/179, 25 September 2014; G/TBT/N/ZAF/175, 7 March 2014; and G/TBT/N/ZAF/174, 28 February 2014.

<sup>106</sup> WTO documents G/TBT/N/ZAF/238, 4 June 2019; and G/TBT/N/ZAF/240, 8 October 2019.

<sup>107</sup> WTO document G/TBT/N/ZAF/216, 12 April 2017.

<sup>108</sup> WTO document G/TBT/N/ZAF/173, 14 February 2014.

<sup>109</sup> WTO e-Ping. Viewed at: <https://epingalert.org/en/Search/TradeConcerns?domainIds=1&memberResponding=C710>.

<sup>110</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016.

3.62. All departments responsible for SPS controls transferred their relevant functions to the newly established BMA as from April 2023 (Section 3.1.2). These include the Department of Agriculture, Land Reform and Rural Development (DALRRD) (formerly known as the Department of Agriculture, Forestry and Fisheries (DAFF)); the Department of Health (DoH); and the DTIC (including National Regulator for Compulsory Specifications (NRCS)).

3.63. South Africa's SPS laws include the Agricultural Pests Act; the Agricultural Product Standards Act; the Animal Diseases Act; the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act; the Foodstuffs, Cosmetics and Disinfectants Act; the Liquor Products Act; the Meat Safety Act; the Medicines and Related Substances Act; and the National Regulator for Compulsory Specifications Act.<sup>111</sup>

3.64. From 1 January 2014 to 20 July 2023, South Africa submitted 60 SPS-related notifications to the WTO, including 9 emergency notifications referring to a temporary ban of imports of certain animal, plant, and food products due to the outbreak of various animal or plant diseases.<sup>112</sup> Other notifications relate to amendments of regulations, changes to the certification process, and compulsory requirements or specifications for imports into South Africa. Major amendments to SPS-related legislation include the following:

- In 2017, amendments were made to the National Regulator for Compulsory Specifications Act, 2008, so that for all imports of fish and fishery products and canned meat products, the competent authority in the exporting country must issue a health certificate/guarantee (adhering to the CODEX Principles and Code of Practice, etc.) for each consignment exported to South Africa;<sup>113</sup>
- In 2021, the Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 was amended to include, *inter alia*, provisions on the Globally Harmonized System (GHS) of Classification and Labelling of Chemicals, and the OECD principles of Good Laboratory Practice;<sup>114</sup> and
- In 2022, the Foodstuffs, Cosmetic and Disinfectants Act, 1972 was amended. The amendment focuses on the maximum limits for pesticide residues that may be present in foodstuffs.<sup>115</sup>

3.65. South Africa is also developing some new legislation related to SPS measures. For example, in 2021, the Plant Health (Phytosanitary) Bill (B14-2021) was prepared to provide for phytosanitary measures so as to, *inter alia*, prevent the introduction and spread of regulated pests in the country, and regulate the movement of plants, plant products, and other regulated articles into, within, and out of the country.<sup>116</sup> The authorities state that the Bill was tabled before Parliament for consideration and deliberation.

3.66. At the WTO, four SPS-related specific trade concerns (STCs) were raised by trading partners to South Africa between 2014 and 2023. They are related to general import restrictions due to BSE (ID 362); South Africa's revised veterinary health certificates for the import of cattle, sheep, and goats from Botswana, Eswatini, Lesotho, and Namibia (ID 404); import restrictions on poultry due to highly pathogenic avian influenza (ID 431); import restrictions on bovine meat, pet food, and other by-products of animal origin (ID 522); and delays in granting SPS access for poultry, beef, pork, fish, and seafood (ID 564).<sup>117</sup>

<sup>111</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016.

<sup>112</sup> WTO SPS & TBT Platform, SPS notifications. Viewed at: <https://eping.wto.org/en/Search/Index?domainIds=2&countryIds=C710&distributionDateFrom=2014-01-01>.

<sup>113</sup> Government Gazette No. 41186, 20 October 2017; and WTO document G/SPS/N/ZAF/56, 30 October 2017.

<sup>114</sup> Government Gazette No. 44726, 18 June 2021; and WTO document G/SPS/N/ZAF/75, 7 July 2021.

<sup>115</sup> Government Gazette No. 47632, 2 December 2022; and WTO document G/SPS/N/ZAF/78, 22 December 2022.

<sup>116</sup> South African Parliament, *Plant Health (Phytosanitary) Bill (B14-2021)*. Viewed at: <https://www.parliament.gov.za/bill/2298248%23:~:text=To%20provide%20for%20phytosanitary%20measures,of%20the%20Republic%3B%20and%20to>.

<sup>117</sup> WTO, *South Africa and the WTO*. Viewed at: [https://www.wto.org/english/thewto\\_e/countries\\_e/south\\_africa\\_e.htm](https://www.wto.org/english/thewto_e/countries_e/south_africa_e.htm).



3.67. South Africa developed an electronic system for import and/or export certification (eCertification) via the National Plant Protection Organisation of South Africa (NPPOZA). The exporting country must provide a phytosanitary certificate that proves to the importing country that its SPS requirements are satisfied. South Africa began the first phase of the migration to the new system in November 2019. In 2022, South Africa developed a module to allow its trading partners to send their electronic phytosanitary certificates (ePhytos), which used to be sent via the IPPC hub, to the NPPOZA directly.<sup>118</sup> The authorities indicate that the eCertification export system is fully functional and South Africa is exchanging ePhytos with all the trading partners.

3.68. The Genetically Modified Organisms Act, 1997 (Act No. 15 of 1997), as amended by Genetically Modified Organisms Act, 2006 (Act No. 23 of 2006), regulates the development and use of GMOs. There has been no amendment to the GMO Act since 2014.

3.69. Under the GMO Act, any activity with GMOs, including importation, exportation, transit, development, production, release, and distribution, is not allowed in South Africa without a permit. In 2022, South Africa published a list of GMO approved activities, where clearance and approval are granted for importation for use as food or feed. From 2001 to 2022, a total of 105 approvals were granted, related mainly to maize (75 approvals), soybean (22), and cotton (4). One approval each was granted to the importation of canola, oilseed rape, rice, and wheat.<sup>119</sup>

3.70. In 2021, South Africa made a public notice that the New Breeding Techniques (NBTs) and their products were going to be subject to the regulatory system and the risk assessment framework for GMOs (with revised application templates for contained use, trial release, commodity clearance, and general release). The NBTs provide new methods for genetic engineering and enable the production of a range of innovative products that are differentiated from those generated using early genetic engineering tools.<sup>120</sup>

### 3.3.4 Competition policy and price controls

#### 3.3.4.1 Competition policy

3.71. The main institution on competition remains the Competition Commission (CCSA), which is responsible for investigating, controlling, and evaluating restrictive business practices, abuse of dominant positions, and intermediate mergers. The Competition Tribunal adjudicates complaints of prohibited conduct, authorizes or prohibits large mergers, and adjudicates appeals against the Commission's decisions on intermediate mergers and exemptions. The Competition Appeal Court considers appeals against decisions of the Tribunal.

3.72. The CCSA has signed MoUs with sectoral regulators, some of which are responsible for sectors in which there may be a natural monopoly.<sup>121</sup> It is also in the process of signing MoUs with the Construction Industry Development Board, National Research Foundation, and the Financial Sector Conduct Authority.

3.73. The major piece of legislation on competition remains the Competition Act, 1998, most recently amended in 2019. The Act covers economic activities in South Africa, as well as those overseas with an effect in the country. It regulates various anti-competitive behaviours including restrictive practices and abuse of dominant positions (firms with a market share of 35% and above), establishes a notification and prior approval procedure for certain mergers and acquisitions, and

<sup>118</sup> WTO documents G/SPS/N/ZAF/65, 12 November 2019; G/SPS/N/ZAF/68, 6 May 2020; and G/SPS/N/ZAF/73, 7 April 2021; and G/SPS/N/ZAF/77, 23 February 2022.

<sup>119</sup> DALRRD, *Commodity Clearance Approvals*. Viewed at: [http://www.old.dalrrd.gov.za/doc/Commodity%20Clearance%20Approvals%20\\_GMO%20Act%2015%201997.pdf](http://www.old.dalrrd.gov.za/doc/Commodity%20Clearance%20Approvals%20_GMO%20Act%2015%201997.pdf).

<sup>120</sup> Government of South Africa (2021), *Public Notice: South Africa's Regulatory Approach for New Breeding Techniques*, 27 October.

<sup>121</sup> The authorities state that the CCSA has signed MoUs with Auditor General; B-BBEE Commission; Council for Medical Schemes; Department of Agriculture, Forestry and Fisheries; Independent Communications Authority; Information Regulator; ITAC; Media Development and Diversity Agency; National Agricultural Marketing Council; National Liquor Authority; National Consumer Commission; National Empowerment Fund; National Energy Regulator; National Gambling Board; Ports Regulator; Bureau of Standards; Council for the Architectural Profession; Governing Body Foundation; National Association for Specialised Education; National Association of School Governing Bodies; and Federation of Governing Bodies.

imposes penalties for breaching the law. In accordance with Section 10 of the Competition Act, the CCSA may grant exemptions to firms from complying with certain provisions of the Act on the following grounds: export promotion; assisting SMEs or firms controlled or owned by historically disadvantaged persons; stopping the decline of an industry or protecting the stability of any industry; and promoting employment or industry expansion.

3.74. Amendments to the Act are mainly related to small, medium, and micro-sized enterprises (SMMEs) and historically disadvantaged persons (HDPs), including the prohibition of dominant firms from imposing unfair prices, the restrictions on price discrimination, the additional consideration of mergers, the expansion of the market inquiries provision to include the impact of the adverse effect on competition on SMMEs and HDPs. Maximum penalties for repeat offenders of the Act were increased, and the "yellow card" warning was removed for certain infringements; thus first-time offenders became susceptible to administrative penalties. The Amendment Act also imposes reverse responsibilities such as requiring dominant firms to show in the case of a prima facie price discrimination, that the differential pricing does not impede effective participation of SMMEs and HDPs. Regarding the acquisition of a South African business by a foreign firm, the merger may be blocked by the Government if it is considered to have an adverse effect on national security interests (Section 2.4).

3.75. The Competition Act requires the mandatory notification of all mergers above certain monetary thresholds specified by the CCSA<sup>122</sup>, prior to the implementation of such mergers. On 2 April 2019, the CCSA issued its "Guidelines for the determination of penalties for failure to notify mergers", which aim to further encourage merger notifications. According to an OECD report, in 2021, the CCSA received 241 merger notifications and, overall, 281 merger cases were finalized. Of the cases finalized, 60 were approved subject to conditions, and 217 were approved without conditions. Of the remaining four cases, two were prohibited and two were abandoned by the parties.<sup>123</sup> CCSA's Annual Report stated that, in FY2021/22, 295 mergers were notified, out of which the CCSA recommended and/or imposed conditions on 74 merger cases. According to the CCSA's annual report, intervention in mergers resulted in a net saving of 1,618 jobs.<sup>124</sup>

3.76. Since 2014, the CCSA has initiated the following market inquiries: data market; private healthcare market; liquefied petroleum gas (LPG) market; public passenger transport market; and retail market. Through these inquiries, the CCSA found features or a combination of features of these sectors that may prevent, distort, or restrict competition.

3.77. The CCSA also monitors concentration levels in certain "priority sectors": information and communication technologies; energy; financial services; food and agro-processing; infrastructure and construction; intermediate industrial products; mining; pharmaceuticals; and transport. The average market share of dominant firms in these sectors was identified by the CCSA at around 52.5%.<sup>125</sup> In addition, the CCSA also uses "dawn raids" as a tool to gather evidence of anti-competitive conduct by businesses in South Africa.<sup>126</sup>

3.78. The CCSA is involved in international frameworks on competition policy such as the International Competition Network (ICN), the Competition Committee of the OECD, and UNCTAD, and it participates in the collaborative framework between SACU and SADC members' national competition authorities.<sup>127</sup> The CCSA also chairs the African Competition Forum (ACF), a network of African national and multinational competition authorities, and has been contributing towards the development of the AfCFTA.

<sup>122</sup> CCSA, *When Must the Competition Commission Be Notified of a Merger?* Viewed at: <https://www.compcom.co.za/merger-thresholds/>.

<sup>123</sup> OECD (2022), *Annual Report on Competition Policy Developments in South Africa – 2021*.

<sup>124</sup> CCSA (2022), *Annual Report 2021-22*. Viewed at: [https://www.compcom.co.za/wp-content/uploads/2022/10/CC\\_Annual-Report-2021\\_22\\_Proof16\\_signed.pdf](https://www.compcom.co.za/wp-content/uploads/2022/10/CC_Annual-Report-2021_22_Proof16_signed.pdf).

<sup>125</sup> Baker Mackenzie (2019), *An Overview of Competition and Anti-Trust Regulations in Africa*.

<sup>126</sup> If the competition authority suspects that an infringement of competition law has occurred, it may carry out unannounced inspections ("dawn raids") at the premises of companies suspected of involvement (and, in some circumstances, also at the premises of their customers and/or competitors).

<sup>127</sup> SADC members signed a Declaration on Regional Cooperation in Competition and Consumer Policies in September 2009.

### 3.3.4.2 Price controls

3.79. Prices of public utilities, such as electricity and water, as well as reserved postal services, and fuel, are regulated.

3.80. The CCSA has initiated investigations on price transmission and margins in the value chains of the major basic food items.<sup>128</sup> It has monitored the prices of essential foods since the onset of the COVID-19 pandemic, and issues its "Essential Food Price Monitoring Reports" on a quarterly basis.<sup>129</sup> The CCSA stated that it would continue to monitor food prices and probe essential food price increases that appear to be abnormal or excessive, as food price inflation affects all consumers and in particular the poorest households.<sup>130</sup>

### 3.3.5 State trading, state-owned enterprises, and privatization

3.81. South Africa notified the WTO in 2018 that it did not maintain any state trading enterprises pursuant to the provisions of Article XVII:4(a) of the GATT 1994 and Paragraph 1 of the Understanding on the Interpretation of Article XVII.<sup>131</sup>

3.82. State-owned enterprises continue play a significant role in South Africa's economy, particularly in the backbone sectors of energy, transport services, and communications services, which are crucial to the well-functioning of the rest of the economy. As such, underinvestment in infrastructure, mismanagement, and the resultant high levels of debt accrued by some of these enterprises have had negative implications for other economic activities.

3.83. Awareness of governance concerns about the management of SOEs has led the Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud (see Section 3.3.6) to, *inter alia*, recommend the establishment of a standing Appointment and Oversight Committee for Board and Executive Appointments for State-Owned Enterprises, as well strengthening the auditing of SOEs. No information was available on measures taken to implement the Committee's recommendations.

3.84. Most major public entities fully or partially owned by the Central Government that operate on a commercial basis are listed in Schedule 2 to the Public Finance Management Act<sup>132</sup> (Table 3.3).

3.85. Some developments since 2014 have included privatization of 51% of the Government's shares in South African Airways (Section 4.4.3) and the separation of Postbank in 2019 from being a division of South African Post Office to becoming its subsidiary. Full information on privatization developments over the review period was not available.

**Table 3.3 State-owned enterprises**

| SOE   | Activity                                | Share owned by State (%) | Ministry responsible for oversight     |
|---|---|--------------------------|--|
| Air Traffic and Navigation Services Company | Air transport control                   | ..                       | ..                                     |
| Airport Company South Africa                | Airport ownership and management        | 74.6                     | ..                                     |
| South African Express                       | Air transport services                  | 100                      | Department of Public Enterprises (DPE) |
| South African Airways                       | Air transport services                  | 49                       | DPE                                    |
| Passenger Rail Agency of South Africa       | Rail and certain bus transport services | 100                      | Department of Transport                |
| Alexkor                                     | Alluvial diamond mining                 | 100                      | DPE                                    |

<sup>128</sup> CCSA (2022), *Essential Food Price Monitoring Report*, August. Viewed at: [https://www.compcom.co.za/wp-content/uploads/2022/08/EFPM-Report\\_Aug-2022.pdf](https://www.compcom.co.za/wp-content/uploads/2022/08/EFPM-Report_Aug-2022.pdf).

<sup>129</sup> CCSA (2023), *Essential Food Price Monitoring Report*, March. Viewed at: [https://www.compcom.co.za/wp-content/uploads/2023/03/EFPM-Report\\_Mar-2023.pdf](https://www.compcom.co.za/wp-content/uploads/2023/03/EFPM-Report_Mar-2023.pdf).

<sup>130</sup> CCSA (2022), *Essential Food Price Monitoring Report*, August.

<sup>131</sup> WTO document G/STR/N/17/ZAF, 11 September 2018.

<sup>132</sup> Public Finance Management Act. Viewed at: <https://www.treasury.gov.za/legislation/pfma/act.pdf>.

| SOE  | Activity  | Share owned by State (%) | Ministry responsible for oversight                           |
|--|---|--------------------------|--|
| Central Energy Fund <sup>a</sup>                                   | Energy  | 100                      | Department of Mineral Resources and Energy                   |
| Electricity Distribution Industry Holdings                         | Electricity   | ..                       | ..   |
| Eskom  | Electricity generation, transmission, and distribution                          | 100                      | DPE  |
| Pebble Bed Modular Reactor   | Nuclear power generation <sup>b</sup>   | 64                       | ..   |
| Petroleum, Oil and Gas Corporation of South Africa (PetroSA)       | Hydrocarbons provider   | ..                       | ..   |
| South African Nuclear Energy Corporation                           | Development, use, and management of nuclear technology                          | 100                      | Department of Mineral Resources and Energy                   |
| Land and Agricultural Development Bank of South Africa (Land Bank) | Financial services for farmers  | 100                      | ..   |
| National Housing Finance Corporation (NHFC)                        | Development finance for affordable housing for low- to middle-income households | ..                       | ..   |
| Public Investment Corporation (PIC)                                | Investment management   | 100                      | National Treasury  |
| Broadband Infrastructure Company                                   | Communications infrastructure   | ..                       | ..   |
| South African Broadcasting Corporation                             | Broadcasting  | ..                       | ..   |
| South African Post Office  | Postal  | 100                      | Department of Communications and Digital Technologies (DCDT) |
| Telekom SA   | Telecom   | 50.7 <sup>c</sup>        | DCDT and PIC   |
| <b>Other</b>   |   |                          |  |
| Armaments Corporation of South Africa Ltd.                         | Armament procurement  | 100                      | ..   |
| Denel  | Defence-related manufacturing   | 100                      | DPE  |
| Industrial Development Corporation of South Africa (IDC)           | Industrial development through company shareholdings                            | ..                       | ..   |
| South African Forestry Company Ltd. (SAFCOL)                       | Forestry  | 100                      | ..   |
| Independent Development Trust                                      | Social infrastructure programmes  | 100                      | Department of Public Works                                   |

.. Not available.

a The Central Energy Fund is responsible for five subsidiaries: National Oil Company, Petroleum Agency of South Africa; South African Gas Development Company; African Exploration Mining and Financing Corporation, and the Strategic Fuel Fund.

b The Pebble Bed Modular Reactor is a public-private partnership, with government ownership shares held by Eskom and the Industrial Development Corporation of South Africa (IDC).

c The Government owns 39% of the Telekom SA's shares and a further 10.9% are held by the PIC, which is wholly owned by the Government.

Source: WTO document WT/TPR/S/324/Rev.1, 5 February 2016; Airports Company South Africa (ACSA), *Strategic Direction*. Viewed at: <https://www.airports.co.za/business/investor-relations>; National Government of South Africa, *Central Energy Fund SOC Ltd*. Viewed at: <https://nationalgovernment.co.za/units/view/81/central-energy-fund-soc-ltd-cef>; Government of South Africa, *State-Owned Enterprises and Other Public Institutions*. Viewed at: <https://www.gov.za/about-government/contact-directory/soe-s>; Department of Public Enterprises, *SOCs in the DPE Portfolio*. Viewed at: <https://dpe.gov.za/state-owned-companies/>; and information provided by the authorities.

3.86. As indicated in the previous Review, the DPE reports directly to Cabinet on the SOEs falling under its jurisdiction (Table 3.3). Cabinet in turn reports to Parliament. The oversight of the remaining SOEs is dispersed across several line ministries.

### 3.3.6 Government procurement

3.87. The public procurement system has not seen any significant changes since 2014.<sup>133</sup> The major legislation remains the State Tender Act (No. 86 of 1968), the Public Finance Management Act (No. 1 of 1999), and the Promotion of Administrative Justice Act (No. 3 of 2000). Public procurement rules apply to commercial contracts concluded by state organs including SOEs for their acquisition of goods and services, and the disposal and letting of state assets. Foreign firms can only bid through a local agent.

3.88. According to an IMF report, public procurement spending was 15% of GDP in FY2021/22.<sup>134</sup> The public procurement system remains largely decentralized, as government departments or public entities determine and regulate their own procurement systems. The public sector supply chain management (SCM) system (implemented in 2003) aims to ensure uniformity in bidding, contract documentation, and procedure standards. Competitive bidding is the most used procuring method, while price quotations or the limited bidding process may be adopted.

3.89. The regime provides for preferences to domestic suppliers.<sup>135</sup> The National Industrial Participation (NIP) programme requires that suppliers of goods and services to the Government, with an import content equal or exceeding USD 10 million or equivalent, must participate in domestic economic activity. This obligation requires the seller/supplier to engage in commercial or industrial activity equal to or exceeding 30% of the import content of total goods or services purchased under the government tender.<sup>136</sup>

3.90. Awareness of corruption cases<sup>137</sup> in public procurement led the Government to set up a Judicial Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in 2018.<sup>138</sup> Considering that the public procurement system is the "primary site for the redirection of state resources", the Commission made a number of recommendations to the Government on reforms to prevent future occurrences of corruption in public procurement, by, *inter alia*, reducing the fragmentation of the procurement system, and enhancing the transparency of the system.<sup>139</sup> Several proposals are reflected in the draft Public Procurement Bill, which was expected to be submitted to Parliament by March 2023.<sup>140</sup>

3.91. South Africa is neither a signatory nor an observer to the plurilateral WTO Agreement on Government Procurement.

### 3.3.7 Intellectual property rights

#### 3.3.7.1 Overview

3.92. In 2022, South Africa was ranked 60<sup>th</sup> among the 132 economies featured in WIPO's Global Innovation Index with innovation performance that exceeds expectations for its level of development. It was ranked 14<sup>th</sup> among the 36 upper-middle-income countries included in the

<sup>133</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016.

<sup>134</sup> IMF (2023), *Public Procurement in South Africa: Issues and Reform Options*, SIP/2023/041. Viewed at: <https://www.imf.org/en/Publications/selected-issues-papers/Issues/2023/06/26/Public-Procurement-in-South-Africa-Issues-and-Reform-Options-535223>.

<sup>135</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016.

<sup>136</sup> DTIC, *NIP FAQs*. Viewed at: [http://www.thedtic.gov.za/sectors-and-services-2/industrial-development/nip-faqs/#:~:text=The%20National%20Industrial%20Participation%20\(NIP,any%20or%20a%20combination%20of.](http://www.thedtic.gov.za/sectors-and-services-2/industrial-development/nip-faqs/#:~:text=The%20National%20Industrial%20Participation%20(NIP,any%20or%20a%20combination%20of.)

<sup>137</sup> OECD (2022), *Economic Surveys: South Africa 2022*, OECD Publishing, Paris. Viewed at: <https://doi.org/10.1787/d6a7301d-en>.

<sup>138</sup> State of the House (2022), *State Capture Commission Response*. Viewed at: <https://www.stateofthenation.gov.za/assets/downloads/State%20Capture%20Commission%20Response.pdf>.

<sup>139</sup> State of the House (2022), *State Capture Commission Response*, p.16.

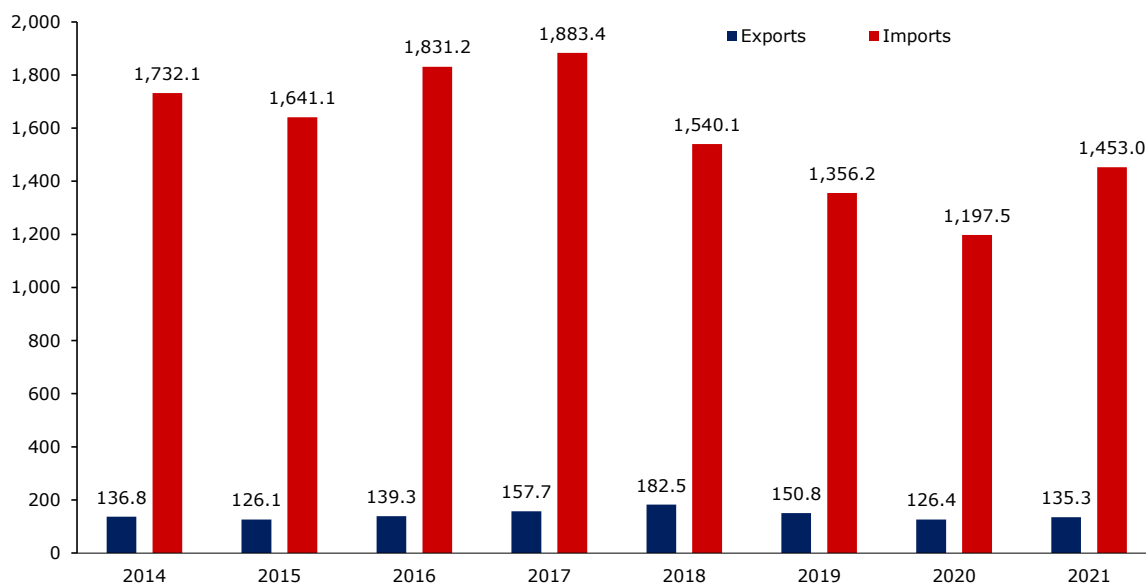
<sup>140</sup> State of the House (2022), *State Capture Commission Response*.

analysis, with high relative rankings for knowledge and technology outputs and creative outputs. It was ranked 2<sup>nd</sup> among the 27 sub-Saharan African economies covered by the index.<sup>141</sup>

3.93. South Africa is a net importer of intellectual property (IP). Exports of IP royalties and licensing fees were relatively stable between 2014 and 2021, whereas imports have fluctuated, peaking in 2017 (Chart 3.1).

**Chart 3.1 Charges for the use of intellectual property rights, 2014-21**

(USD million)



Source: IMF data. Viewed at: <https://data.imf.org/>.

3.94. In 2016, South Africa released its Intellectual Property Consultative Framework<sup>142</sup>, which lays out a two-phase approach to formulating a national policy on IP. It also established an Inter-Ministerial Committee on Intellectual Property (IMCIP) to provide a coordinated approach to IP policy formulation as well as consistency in South Africa's participation in multilateral IP forums.<sup>143</sup> The national Intellectual Property Policy of South Africa (IP Policy) aims to, *inter alia*, promote a holistic, balanced, and coordinated approach to IP and help the Government to transition South Africa from a natural resources-based to a knowledge-based economy.<sup>144</sup>

3.95. Phase I of the IP Policy was released in 2018 and focused on patents and public health and international IP cooperation.<sup>145</sup> Most of its recommendations concern reforms to patent legislation and processes. Other recommendations relate to clarifying the remit and scope of the intersection between competition law and IP; South Africa's approach to international and regional cooperation; promoting knowledge awareness about IP among South Africans; and creating a system to protect

<sup>141</sup> WIPO *Global Innovation Index 2022*. Viewed at: [https://www.wipo.int/global\\_innovation\\_index/en/2022/#:~:text=Which%20are%20the%20most%20innovative,United%20Kingdom%20and%20the%20Netherlands](https://www.wipo.int/global_innovation_index/en/2022/#:~:text=Which%20are%20the%20most%20innovative,United%20Kingdom%20and%20the%20Netherlands).

<sup>142</sup> The Intellectual Property Consultative Framework replaced the Draft National Policy on Intellectual Property of 2013. Companies and Intellectual Property Commission, *Submission by South Africa: Exceptions and Limitations*. Viewed at: [https://www.wipo.int/export/sites/www/scp/en/meetings/session\\_27/3rdparty\\_comments/south\\_africa.pdf](https://www.wipo.int/export/sites/www/scp/en/meetings/session_27/3rdparty_comments/south_africa.pdf).

<sup>143</sup> The Inter-Ministerial Committee on Intellectual Property brings together the ministries responsible for trade and industry; health; economic development; international relations and cooperation; science and technology; communications; telecommunications and postal services; higher education and training; agriculture, forestry, and fisheries; art and culture; energy; and environmental affairs.

<sup>144</sup> Intellectual Property Policy of the Republic of South Africa, Phase I. Viewed at: [https://www.gov.za/sites/default/files/gcis\\_document/201808/ippolicy2018-phasei.pdf](https://www.gov.za/sites/default/files/gcis_document/201808/ippolicy2018-phasei.pdf).

<sup>145</sup> Intellectual Property Policy of the Republic of South Africa, Phase I. Viewed at: [https://www.gov.za/sites/default/files/gcis\\_document/201808/ippolicy2018-phasei.pdf](https://www.gov.za/sites/default/files/gcis_document/201808/ippolicy2018-phasei.pdf).

traditional knowledge. Phase II of the IP Policy will be focused on meeting the medium-term development goals and needs of South Africa once in-depth studies have been completed.

### 3.3.7.2 International context

3.96. South Africa is party to a handful of WIPO-administered treaties.<sup>146</sup> South Africa intends to accede to the Hague Agreement, the Madrid Protocol, the Beijing Treaty and the Marrakesh Treaty soon. As indicated in the IP Policy, the IMCIP is charged with analysing the WIPO treaties to which South Africa is not currently a party with a view to seeing whether they could benefit the country.

3.97. Over the review period, two RTAs containing IP provisions entered into force: the EPA between the United Kingdom, SACU, and Mozambique<sup>147</sup>, and the EPA between the European Union and SADC (Main Report, Section 2).<sup>148</sup> Both contain provisions on cooperation, information sharing, accession to IP conventions, and enforcement of protection. Protocol 3 to the respective RTAs contain provisions on geographical indications and trade in wines and spirits. These apply to South Africa and the United Kingdom under the SACUM-UK EPA and to South Africa and the EU member States under the SADC-EU EPA. Annex I to the respective protocols lists the GIs protected by each party. For South Africa, under both agreements, protected GIs include several wines, Karoo meat, Rooibos, and Honeybush. Both agreements establish a Special Committee on Geographical Indications and Trade in Wines and Spirits to monitor the development of the respective protocols and to facilitate cooperation and information exchange.

3.98. In 2016, South Africa ratified the Protocol Amending the TRIPS Agreement. South Africa was also active in the negotiations that culminated in the adoption of the Ministerial Decision on the TRIPS Agreement, on 17 June 2022.

### 3.3.7.3 Domestic IP system

3.99. South Africa's IP regime continues to be largely administered by the Companies and Intellectual Property Commission (CIPC). Key developments over the review period included the entry into force of the Protection, Promotion, Development and Management of Indigenous Knowledge Act (Act No. 6 of 2019)<sup>149</sup>, which is being implemented by the Department of Science and Innovation, and the 2015 Bioprospecting, Access, and Benefit-Sharing Amendments Regulations. Additionally, South Africa's first GI register has been created (Section 3.3.5.3.4) and steps are being taken to automate the CIPC's IP processes through the Intellectual Property Automated System (IPAS).

#### 3.3.7.3.1 Copyright and related rights

3.100. There were no changes to the laws and implementing regulations governing copyright and related rights over the review period. These are the Copyright Act and its implementing Regulations, the Performers' Protection Act, and the Registration of Copyright in Cinematographic Films Act. The key features of these Acts are described in the previous Review.<sup>150</sup> A Copyright Amendment Bill and a Performers' Protection Amendment Bill were introduced to the National Assembly in 2017 and 2016, respectively.<sup>151</sup> As of mid-2023, the two Bills were before the National Council of Provinces.

<sup>146</sup> South Africa is party to the Berne Convention for the Protection of Literary and Artistic Works; the Paris Convention for the Protection of Industrial Property; the WIPO Convention; the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure; and the Patent Cooperation Treaty.

<sup>147</sup> Economic Partnership Agreement between the Southern African Customs Union Member States and Mozambique and the United Kingdom of Great Britain and Northern Ireland. Viewed at: <https://www.sacu.int/docs/agreements/2021/SACU-Mozambique-UK-EPA-EN.pdf>.

<sup>148</sup> EPA between the EU and its Member States and the SADC EPA States. Viewed at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L:2016:250:FULL&from=EN>.

<sup>149</sup> Protection, Promotion, Development and Management of Indigenous Knowledge Act (Act No. 6 of 2019). Viewed at: <https://www.wipo.int/wipolex/en/members/profile/ZA>.

<sup>150</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016, Table 3.7.

<sup>151</sup> Performers' Protection Amendment Bill. Viewed at: [https://static.pmg.org.za/B24B-2016\\_Performers\\_Protection.pdf](https://static.pmg.org.za/B24B-2016_Performers_Protection.pdf).

3.101. South Africa has several collective management organizations (CMOs) operating in the areas of music; publishing, print and visual arts; and audio-visual.<sup>152</sup> As indicated by the authorities, the CIPC currently regulates only the collective management of rights in sound recordings and performs an audit on an annual basis on how royalties have been distributed to the beneficiaries. Other rights remain unregulated. It was noted that the two above-mentioned Bills are aimed at regulating all CMOs, *inter alia*, given that non-payment of royalties is of concern.<sup>153</sup> The Copyright Tribunal's remit with respect to CMOs is limited to disputes regarding royalty tariff setting.

3.102. South Africa does not impose a levy on devices/bank media that could be used to copy protected materials.

### 3.3.7.3.2 Trademarks

3.103. There have been no changes to the laws and implementing regulations governing trademarks (Trade Marks Act and Trade Mark Regulations, Merchandise Marks Act, and Liquor Products Act). The key features of these Acts are described in the previous Review.<sup>154</sup> Trademark applications remained relatively steady over the review period, and are dominated by applications from residents (Table 3.7).

**Table 3.4 Applications for trademarks and trademarks registered, 2014-21**

|                                | 2014   | 2015   | 2016   | 2017   | 2018   | 2019   | 2020   | 2021   |
|--------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|
| <b>Trademark applications</b>  |        |        |        |        |        |        |        |        |
| Resident                       | 20,475 | 21,594 | 22,676 | 22,381 | 22,542 | 21,583 | 22,104 | 25,786 |
| Non-resident                   | 14,943 | 15,326 | 15,112 | 15,337 | 15,820 | 15,788 | 14,219 | 14,077 |
| Total                          | 35,418 | 36,920 | 37,788 | 37,718 | 38,362 | 37,371 | 36,323 | 39,863 |
| Abroad                         | 11,946 | 16,431 | 13,328 | 14,088 | 11,489 | 13,589 | 13,219 | 11,032 |
| <b>Trademark registrations</b> |        |        |        |        |        |        |        |        |
| Resident                       | 17,019 | 14,547 | 6,139  | 8,549  | 16,745 | 16,712 | 12,022 | 10,162 |
| Non-resident                   | 14,759 | 12,659 | 5,142  | 5,727  | 15,247 | 14,049 | 10,873 | 6,712  |
| Total                          | 31,778 | 27,206 | 11,281 | 14,276 | 31,992 | 30,761 | 22,895 | 16,874 |
| Abroad                         | 10,336 | 10,943 | 12,213 | 13,168 | 10,618 | 12,017 | 10,643 | 9,895  |

Source: WIPO, *Statistical Country Profiles*.

### 3.3.7.3.3 Geographical indications

3.104. There were no changes to laws governing GIs over the review period (Trade Marks Act, Merchandise Marks Act, and Liquor Products Act). Under the Trade Marks Act, GIs can be registered as collective or certification marks.

3.105. In 2019, a first register and registration process for GIs in South Africa was operationalized through regulations issued under the Agricultural Products Standards Act.<sup>155</sup> This enables registration of local and foreign GIs as GIs in South Africa and incorporates an opposition procedure. No information was available on whether any products have been registered under the South African GI Registry.

<sup>152</sup> These CMOs appear to be the South African Music Rights Organization; the South African Recording Rights Association Limited; the National Organisation of Reproduction Rights in Music; the Composers, Authors and Publishers Association; the Dramatic, Artistic and Literary Rights Organization; Christian Copyright Licensing International; Motion Picture Licensing Company; Association of Independent Record Companies of South Africa; and Recording Industry of South Africa's Audio Visual.

<sup>153</sup> PMG (2018), *Copyright Bill Subcommittee: Regulation of Collecting Societies*. Viewed at: <https://pmg.org.za/committee-meeting/26093/>.

<sup>154</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016, Table 3.7.

<sup>155</sup> Regulations Relating to Protection of Geographical Indications Used on Agricultural Products Intended for Sale in the Republic of South Africa (No. R. 447/2019). Viewed at: [https://www.gov.za/sites/default/files/gcis\\_document/201903/42324rg10925gon447.pdf](https://www.gov.za/sites/default/files/gcis_document/201903/42324rg10925gon447.pdf). The proposed regulations were notified to the WTO TBT Committee in 2016 (WTO document G/TBT/N/ZAF/214, 16 December 2016).



### 3.3.7.3.4 Industrial designs

3.106. There were no changes to laws and regulations governing industrial designs over the review period (Designs Act (Act No. 195 of 1993, as last amended in 2013<sup>156</sup>) and Designs Regulations, 1999. The main features of the Act are described in the previous Review.<sup>157</sup> Industrial design applications have been driven by applications from non-residents and from abroad, and they peaked in 2016. Industrial design registrations fluctuated over this period, showing no clear trend (Table 3.8). Some design registration processes are still done manually, which has led to delays in registration.<sup>158</sup>

**Table 3.5 Industrial design applications and registrations, 2014-21**

|                      | 2014  | 2015  | 2016  | 2017  | 2018  | 2019  | 2020  | 2021  |
|----------------------|-------|-------|-------|-------|-------|-------|-------|-------|
| <b>Applications</b>  |       |       |       |       |       |       |       |       |
| Resident             | 772   | 723   | 1,087 | 1,012 | 977   | 976   | 970   | 728   |
| Non-resident         | 1,201 | 1,237 | 1,107 | 1,114 | 966   | 908   | 738   | 833   |
| Total                | 1,973 | 1,960 | 2,194 | 2,126 | 1,943 | 1,884 | 1,708 | 1,561 |
| Abroad               | 1,767 | 1,403 | 2,030 | 2,710 | 1,833 | 2,346 | 1,809 | 886   |
| <b>Registrations</b> |       |       |       |       |       |       |       |       |
| Resident             | 343   | 371   | 411   | 686   | 687   | 908   | 694   | 861   |
| Non-resident         | 549   | 645   | 719   | 975   | 833   | 976   | 801   | 807   |
| Total                | 892   | 1,016 | 1,130 | 1,661 | 1,520 | 1,884 | 1,495 | 1,668 |
| Abroad               | 2,126 | 1,321 | 1,995 | 2,656 | 1,698 | 2,151 | 1,824 | 801   |

Source: WIPO, *Statistical Country Profiles*.

### 3.3.7.3.5 Patents

3.107. There were no changes to the Patents Act and the Patent Regulations over the review period. The key features of these Acts are described in the previous Review.<sup>159</sup> Over the period 2014-21, patent applications were driven by non-resident applications. Total applications steadily declined from 2017 to 2020 and then sharply increased in 2021 (Table 3.9). The CIPC has suggested that this may have been due to the economic recovery after relaxation of COVID-19 restrictions.<sup>160</sup> The number of patents in force grew steadily over the review period, from 55,031 in 2014 to 85,431 in 2021.<sup>161</sup>

**Table 3.6 Applications for patents and patents registered, 2014-21**

|                           | 2014  | 2015  | 2016  | 2017  | 2018  | 2019  | 2020  | 2021   |
|---------------------------|-------|-------|-------|-------|-------|-------|-------|--------|
| <b>Applications</b>       |       |       |       |       |       |       |       |        |
| Resident                  | 802   | 889   | 704   | 728   | 657   | 567   | 542   | 1,804  |
| Non-resident              | 6,750 | 6,608 | 6,506 | 6,816 | 6,258 | 6,347 | 6,146 | 9,156  |
| Total                     | 7,552 | 7,497 | 7,210 | 7,544 | 6,915 | 6,914 | 6,688 | 10,960 |
| Abroad                    | 1,520 | 1,197 | 1,316 | 1,461 | 1,204 | 950   | 915   | 947    |
| <b>Patents registered</b> |       |       |       |       |       |       |       |        |
| Resident                  | 445   | 453   | 403   | 595   | 451   | 694   | 313   | 565    |
| Non-resident              | 4,620 | 4,046 | 3,852 | 4,940 | 4,295 | 5,468 | 3,153 | 5,542  |
| Total                     | 5,065 | 4,499 | 4,255 | 5,535 | 4,746 | 6,162 | 3,466 | 6,107  |
| Abroad                    | 890   | 773   | 674   | 835   | 992   | 861   | 710   | 748    |

Source: WIPO, *Statistical Country Profiles*.

3.108. Phase I of the IP Policy largely focuses on the shortcomings of the existing legal and regulatory framework with respect to IP and public health and makes several recommendations. These recommendations include (i) progressively replacing the existing "depository system" for patents with a "substantive search and examination" system in order to give greater legal certainty

<sup>156</sup> The Designs Act was last amended by the Intellectual Property Amendment Act (Act No. 28 of 2013), which provides for protection mechanisms for indigenous knowledge as a form of IP in South Africa.

<sup>157</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016, Table 3.7.

<sup>158</sup> DTIC (2022), *Presentation to the Portfolio Committee on Trade, Industry, and Competition*.

Viewed at: <http://www.thedtic.gov.za/wp-content/uploads/PCTrade-CIPC-AR2021-22-Q1-2022-23.pdf>.

<sup>159</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016, Table 3.7.

<sup>160</sup> CIPC, *Annual Report 2021/2022*. Viewed at: [https://www.cipc.co.za/wp-content/uploads/2022/10/30-September-2022-CIPC-Annual-Report-Final\\_2022.pdf](https://www.cipc.co.za/wp-content/uploads/2022/10/30-September-2022-CIPC-Annual-Report-Final_2022.pdf).

<sup>161</sup> WIPO, *Statistical Country Profiles*.

to patent holders and to ensure the system is effective in promoting innovation<sup>162</sup>; (ii) eventually enacting opposition proceedings into the Patent Law both prior to and after the grant of a patent, while in the interim it is recommended that the law recognizes a third party observation system and for existing provisions in administrative law to be used in lieu of post-grant oppositions; (iii) developing patentability criteria to be incorporated into the Patents Act to promote genuine innovation; (iv) expanding disclosure requirements in the Patents Act to require applicants to provide information regarding the status of similar and related applications filed in other jurisdictions; (v) allowing parallel importation in a controlled manner pursuant to consultations with respective stakeholders, including through clarification of enabling provisions in the Patents Act, as well as the incorporation of provisions in sector-specific laws other than those dealing with medicines if necessary<sup>163</sup>; (vi) developing exceptions for research and experimental activities with broader application than publicly funded research; (vii) encouraging the use of voluntary licences; and (viii) putting in place a workable compulsory licensing system.<sup>164</sup> Steps to implement Phase I of the IP Policy have included progressively replacing the existing depository system for patents with a substantive search and examination system. Implementation of other recommendations are awaiting legislative reform.

3.109. As of March 2023, five applications for compulsory licences had been made, none of which were granted, and all applications were made before the review period. The difficulty in granting compulsory licences has been attributed to the fact that applications for compulsory licences are subject to a judicial process before the Commissioner of Patents. As such, litigation timeframes and expenses apply. Delays can also occur if the Commissioner's decision to grant a licence is appealed. Obstacles to government use of patented subject matter are linked to the prior negotiation requirements set out in Section 4 of the Patents Act, and the possibility of litigation proceedings if the patentee disagrees with the conditions attached to the licence.<sup>165</sup>

### 3.3.7.3.6 Plant varieties and genetic resources

3.110. Protection of plant varieties is covered by the Plant Breeder's Rights Act (Act No. 15 of 1976, as last amended in 1996).

### 3.3.7.4 Enforcement of intellectual property rights

3.111. South Africa's latest notification of its Checklist of Issues on Enforcement was in 1998.<sup>166</sup> As indicated by the authorities, over the review period, South Africa prioritized enforcement of IP rights by targeted collaboration, building capacity, and training all law enforcement partners<sup>167</sup>, as well as through general education to the public. Multi-agency operations that focus on visible enforcement are part of the new strategic approach. With the support of WIPO, a pocket guide on Investigating and Prosecuting IP Crime has been drafted, which is based on the TRIPS Agreement.

3.112. The Counterfeit Goods Act (Act No. 37 of 1997 (as amended in 2001)) is the main piece of legislation on the criminalization of dealing in counterfeits and pirated goods.<sup>168</sup> In addition, some provisions contained in the Trade Marks Act, the Copyright Act, and the Patents Act also provide for sanctions against the various IPR offences. Sanctions under the Counterfeit Goods Act remain unchanged.<sup>169</sup> As indicated by the authorities, there were 18 cases concluded under the Act in FY2021/22.

<sup>162</sup> The rationale for and expected benefits of introducing a substantive search and examination system for South Africa are described in detail in the Policy.

<sup>163</sup> As indicated in the IP Policy (Phase I), while provisions allowing parallel imports of medicines are set out in Article 15C of the Medicines and Related Substances Act 101, 1965, reportedly a narrow interpretation of Section 52 of the Patents Act could give rise to challenges should parallel importation be pursued.

<sup>164</sup> Intellectual Property Policy of the Republic of South Africa, Phase I. Viewed at: [https://www.gov.za/sites/default/files/gcis\\_document/201808/ippolicy2018-phasei.pdf](https://www.gov.za/sites/default/files/gcis_document/201808/ippolicy2018-phasei.pdf).

<sup>165</sup> IP Policy, Phase I.

<sup>166</sup> WTO document IP/N/6/ZAF/1, 23 February 1998.

<sup>167</sup> The authorities indicated that around 500 officers from SARS, the South African Police Service, and the prosecution service were trained in one year in four training workshops.

<sup>168</sup> Counterfeit Goods Act. Viewed at: <https://www.gov.za/documents/counterfeit-goods-act>.

<sup>169</sup> First-time offenders are punishable by a maximum fine of ZAR 5,000 per article or item, or imprisonment for a maximum period of three years, or both depending on the circumstances and severity of the offence. Subsequent/repeat offenders are punishable by a maximum fine of ZAR 10,000 per article or item,

3.113. The SARS may seize and detain counterfeit goods imported into the country, either on its own initiative or upon application by the property right holder.

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or imprisonment for a maximum period of five years, or both depending on the circumstances and the severity of the offence.

## 4 TRADE POLICIES BY SECTOR

### 4.1 Agriculture, forestry, and fisheries

#### 4.1.1 Agriculture

##### 4.1.1.1 Overview

4.1. The contribution of agriculture, forestry, and fishing to gross value-added was 3.2% in 2022 (Table 1.1). South Africa's agriculture sector is characterized by dualism; it has well-developed and well-resourced commercial farms on the one hand, and a large, smallholder (subsistence) sector on the other. In 2021, large farms generated around 67.7% of total farming revenues, medium-sized farms 7.1%, small farms 18.1%, and micro farms 7.1%.<sup>170</sup>

4.2. South Africa continues to pursue its long-standing land reform objectives, which aim to address the injustices of the apartheid era, *inter alia*, by providing redress and equitable access to land and producer support to previously disadvantaged individuals. New principles for the country's Land Reform Programme were introduced in 2012 through the National Development Plan 2030 (NDP 2030) (Section 2.2) and include "deracialization" of the rural economy as well as democratic and equitable land allocation (by gender, race, and class).

4.3. The Agri-BEE Charter was amended in 2017 and contains initiatives to advance access and participation of black people in the agriculture value chain.<sup>171</sup> The Charter is implemented under the 2013 B-BBEE Amendment Act. Key amendments to the Charter include a sub-minimum and discounting principle to encourage agricultural enterprises to meet minimum targets set for empowerment indicators for ownership, skills development, and enterprise and supplier development.<sup>172</sup> In addition, in 2022, a National Policy for Beneficiary Selection and Land Allocation was signed, which aims to allocate at least 50% of land acquired to women.

4.4. The fundamental challenges that agriculture faces are unfavourable production conditions in several regions caused by poor land quality, highly variable climatic conditions, and most importantly scarce water.<sup>173</sup> Other challenges include lack of access to finance for smallholder farmers; rising input costs; lack of inclusion of previously disadvantaged black people in the export sector and in value chains, especially in processing firms; and infrastructure bottlenecks (road, rail, harbour, electricity).<sup>174</sup> Over the medium term, policy uncertainty due to trade disruptions (including those related to the COVID-19 pandemic) in foreign markets and non-tariff barriers, such as food safety or quality requirements, pose challenges to agricultural exports.<sup>175</sup>

4.5. South Africa was a net exporter of agricultural products (WTO definition) throughout the review period (Table 4.1).

<sup>170</sup> Information based on data provided by Statistics South Africa's Agriculture Survey 2021. Large farms are those with a turnover of over ZAR 30 million; medium-sized farms (ZAR 18 million to ZAR 30 million); small farms (ZAR 3 million to ZAR 18 million); and micro farms (ZAR 3 million and under). Reportedly, data are only collected on farms that pay value added tax.

<sup>171</sup> DTIC, *B-BBEE Charters*. Viewed at: <http://www.thedtic.gov.za/financial-and-non-financial-support/b-bbee/b-bbee-charters>.

<sup>172</sup> Enterprise and supplier development provisions target the empowerment of black-owned small, medium, and micro enterprises (SMMEs) that supply agricultural products and services.

<sup>173</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016.

<sup>174</sup> Government Communication and Information System (GCIS), *South Africa Yearbook: Agriculture* (various editions, 2014/15-2020/21). Viewed at: <https://www.gcis.gov.za/content/resourcecentre/sa-info/yearbook>.

<sup>175</sup> GCIS, *South Africa Yearbook: Agriculture* (2020/21). Viewed at: <https://www.gcis.gov.za/content/resourcecentre/sa-info/yearbook>.

**Table 4.1 South Africa's trade balance in agricultural products, 2014-22**

(USD million)

|                      | 2014  | 2015  | 2016  | 2017  | 2018   | 2019  | 2020   | 2021   | 2022   |
|----------------------|-------|-------|-------|-------|--------|-------|--------|--------|--------|
| <b>Trade balance</b> | 3,336 | 2,769 | 2,539 | 3,286 | 3,943  | 3,526 | 4,306  | 5,066  | 5,548  |
| <b>Exports</b>       | 9,670 | 8,801 | 8,682 | 9,867 | 10,473 | 9,866 | 10,260 | 11,924 | 12,816 |
| % total exports      | 10.4  | 11.0  | 11.4  | 11.2  | 11.2   | 11.0  | 12.0   | 9.8    | 10.5   |
| <b>Imports</b>       | 6,334 | 6,032 | 6,322 | 6,581 | 6,530  | 6,340 | 5,954  | 6,858  | 7,267  |
| % total exports      | 6.3   | 7.1   | 8.4   | 7.9   | 7.0    | 7.2   | 8.6    | 7.3    | 6.5    |

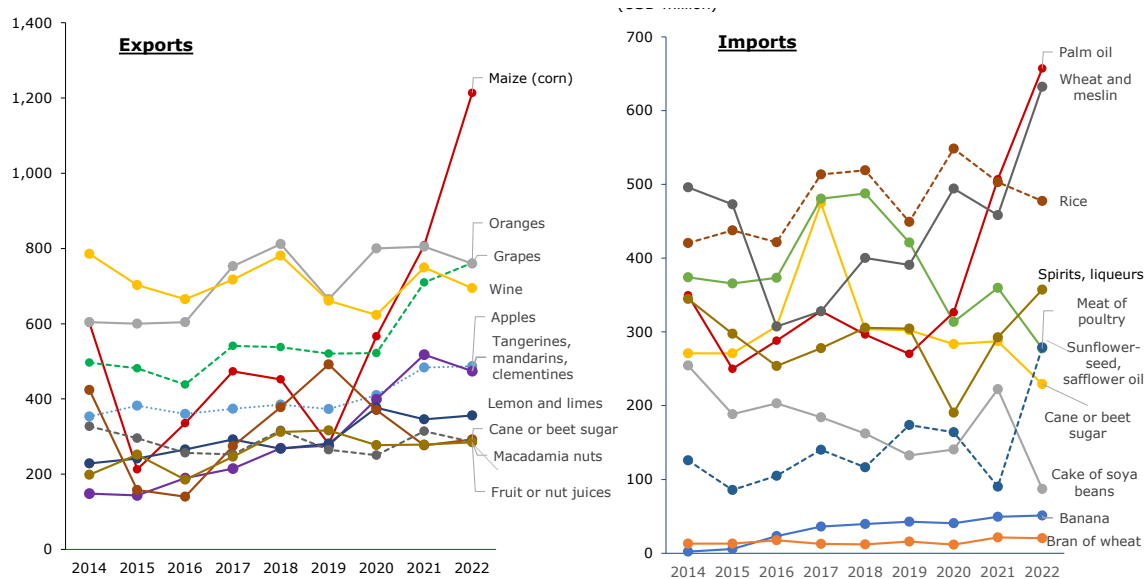
Note: WTO definition of agriculture: HS Chapters 01-24 less fish and fishery products (HS 03, and 0508, 0511.91, 1504.10, 1504.20, 1603-1605, and 2301.20), plus some selected products (HS 2905.43-2905.45, 3301, 3501-3505, 3809.10, 3823, 3824.60, 4101-4103, 4301, 5001-5003, 5101-5103, 5201-5203, and 5301-5302).

Source: WTO Secretariat calculations, based on UN Comtrade data.

4.6. South Africa is among the world's biggest exporters of citrus fruit, sugar, and wine. In 2022, the top four exports were maize (Chinese Taipei, Japan, and Viet Nam were the biggest importers); oranges (the Netherlands, China, and the United Arab Emirates), grapes (the Netherlands and the United Kingdom), and wine (the United Kingdom, Germany, and the United States). Exports of maize have seen a steep increase since 2019. The top four imports were palm oil, wheat and meslin, rice, and spirits and liqueurs. Imports of palm oil and wheat and meslin have increased significantly in recent years, while imports of poultry products have seen a steep decline (Chart 4.1).

**Chart 4.1 Main traded agricultural products, 2014-22**

(USD million)



Note: Apples (HS 080810); banana (HS 080390); bran of wheat (HS 230230); cake of soya beans (HS 230400); cane or beet sugar (HS 1701); fruit or nut juices (HS 2009); grapes (HS 080610); lemon and limes (HS 080550); maize (corn) (HS 100510, 100590); macadamia nuts (HS 080261, 080262); meat of poultry (HS 0207); oranges (HS 080510); palm oil (HS 151110, 151190); rice (HS 1006); spirits, liqueurs (HS 2208); sunflower-seed, safflower oil (HS 151211, 151219); tangerines, mandarins, clementines (HS 080520, 080521, 080522, 080529); wheat and meslin (HS 1001); and wine (HS 2204).

Source: WTO Secretariat calculations, based on UN Comtrade database.

#### 4.1.1.2 Institutional, legislative, and policy framework

4.7. In June 2019, the Department of Agriculture, Land Reform and Rural Development (DALRRD) was established from the merger of the Department of Agriculture, Forestry and Fisheries (DAFF) and the Department of Rural Development and Land Reform (DRDLR). A separate Department of Environment, Forestry and Fisheries (DEFF) was also formed. Over the medium term, the DALRRD is to focus on providing redress and equitable access to land and on creating employment in the

agricultural sector, enhancing agricultural production and food security, developing the agricultural value chain through greater market access, and promoting an inclusive rural economy.<sup>176</sup>

4.8. The state-owned Land and Agricultural Development Bank of South Africa (Land Bank) specializes in providing loans to the commercial farming sector and agri-businesses, as well as helping historically disadvantaged persons participate in agricultural activities. Over the review period, it was obliged to suspend loan operations due to a default on debt payments to its lenders. Lending resumed in late 2022, with the launch of a joint scheme between the Land Bank and the DALRRD to offer ZAR 1.95 billion in loans through a blended finance scheme up to end-2025.<sup>177</sup> The aim of this scheme is to facilitate meaningful participation of black producers and majority black-owned enterprises owning and controlling the agricultural value chains. It has a sector focus that is in line with the Agriculture and Agro-processing Master Plan and Oceans Economy Master Plan (see below and Section 4.1.3).<sup>178</sup> The Government does not provide agricultural insurance.

4.9. The main law on agriculture is the Marketing of Agricultural Products Act (Act No. 47 of 1996, most recently amended in 2001).<sup>179</sup> It provides for regulatory measures to intervene in the marketing of agricultural products and establishes the National Agricultural Marketing Council, which aims, *inter alia*, to improve market access in foreign markets and promote agricultural exports.<sup>180</sup> Other agriculture-related laws are listed in South Africa's previous Review.<sup>181</sup>

4.10. South Africa continues to implement the National Policy on Food and Nutrition Security, which was launched in 2013 and aims to boost food security and support subsistence farmers.<sup>182</sup>

4.11. Under the 2019 Re-Imagined Industrial Strategy (Section 2.2), three agriculture-related master plans were released in 2020, namely the Agriculture and Agro-processing Master Plan, which falls under the responsibility of the DALRRD, and the Sugar Master Plan and Poultry Master Plan, which fall under the responsibility of the Department of Trade Industry and Competition (DTIC).

4.12. The Agriculture and Agro-processing Master Plan aims to expand production and food security through agricultural production schemes; strengthen South Africa's participation in global value chains through commodity corridors; provide comprehensive post-settlement support, extension services, and farmer training; and facilitate the revitalization of essential infrastructure and equitable access to critical factors of production. Information was not available on the policy tools/support measures that are being used to implement this plan.

4.13. The Sugar Industry Master Plan seeks to create diversified revenue streams for sugar producers and create new job opportunities. As part of the Master Plan, industrial users and retailers agreed to give preference to local sugar production, by purchasing 80% of their sugar needs from South African farms and millers during the first year and increasing to 95% by 2023.

4.14. To address the "threat" of strong import competition to the local production of poultry<sup>183</sup>, the Government (the DALRRD and the DTIC), together with key stakeholders in the industry, including poultry producers, farmers, processors, exporters, importers, and organized labour, developed the Poultry Master Plan. The Plan is expected to ensure that locally produced poultry products capture over time an increasingly larger proportion of the domestic market. Since FY2020/21, chicken producers have committed to ZAR 1.5 billion of fresh investment in their own production facilities

<sup>176</sup> GCIS, *South Africa Yearbook: Agriculture* (2019/20). Viewed at: <https://www.gcis.gov.za/content/resourcecentre/sa-info/yearbook>.

<sup>177</sup> Landbank, *Blended Finance*. Viewed at: <https://landbank.co.za/Products-and-Services/Pages/Blended-Finance.aspx>.

<sup>178</sup> Targeted commodities are grains and oilseeds; fruits and nuts (citrus, deciduous, sub-tropical fruits, and nuts); and livestock (poultry, piggeries, and red meat)

<sup>179</sup> Marketing of Agricultural Products Act. Viewed at: <https://www.gov.za/documents/marketing-agricultural-products-act>.

<sup>180</sup> NAMC, *The NAMC Profile*. Viewed at: <https://www.namc.co.za/about-us/profile/>.

<sup>181</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016.

<sup>182</sup> The National Policy on Food and Nutrition Security for the Republic of South Africa. Viewed at: [https://www.gov.za/sites/default/files/gcis\\_document/201409/37915gon637.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/37915gon637.pdf).

<sup>183</sup> Reportedly, imports of poultry entered South African economy in large quantities in the years preceding 2019, displacing South African poultry meat, especially in the lower price category. GCIS, *South Africa Yearbook: Agriculture* (2020/21).

within the next four years. As part of the investment drive, the industry and various government agencies will invest ZAR 1.7 billion in the establishment of 50 commercial-scale contract farms.<sup>184</sup>

4.15. Tariff protection to agriculture, hunting, forestry, and fishing (ISIC classification) averaged 3.7% in 2023, with tariffs ranging from zero to 44%. According to the WTO definition of agricultural products, the simple applied average tariff was 10.1%, with tariffs ranging from zero to 95% (Main Report, Section 3, Table A3.1). Tariff lines on agricultural products (WTO definition) attracting rates of more than 50% include poultry products, certain cheeses, and pineapple (Main Report, Section 3, Table 3.3). Several agricultural products are subject to non-*ad valorem* duties (Main Report, Section 3, Table 3.1).

4.16. South Africa administers tariff quotas for agricultural products within the framework of its WTO tariff quota commitments (Section 3.1.2) and under its RTAs (Main Report, Section 3.3.3).

4.17. As indicated in the previous Review, levies apply to the export and/or production of the following products: citrus, cotton, certain dairy products, deciduous fruits, dried fruits, fynbos (protea), lucerne, mango, olives, pecan nuts, potatoes, pork, poultry, red meat, sorghum, table grapes, wine grapes, and winter cereals. Levies are collected at the first point of sale by the various agricultural associations to fund their activities; the rates are published on a regular basis in the Government Gazette. Under the Marketing of Agricultural Products Act, guideline prices are established based on average market prices for all products to which levies are applicable. According to the authorities, these prices are for administrative purposes and to ensure the levy does not exceed 5% of the actual market price. The guideline price is the average price at the first point of sale and has no impact on the market price.<sup>185</sup> There were no changes over the review period in this regard.

4.18. South Africa is overdue with regard to its domestic support notifications; the last notification covers the years 2011 to 2013.<sup>186</sup> As reported by the OECD, support to agriculture in South Africa over the period 2019-21 was 2.6% of farm receipts, with market price support and payments based on input use accounting for the biggest shares of support provided to farmers. The OECD considers that the level of price distortions is low and domestic prices align with world prices. Exceptions are sugar and wheat due to import tariffs. Most direct payments take the form of fuel tax refunds and investment subsidies provided to smallholder farmers.<sup>187</sup>

4.19. New support mechanisms introduced since 2014 include the launch of a ZAR 1 billion Agri-Industrial Fund in 2021 to help black producers and entrepreneurs to acquire or develop operations in prioritized value chains and the establishment of a COVID-19 Agricultural Disaster Support Fund with ZAR 1.2 billion for smallholder and communal farmers in distress.<sup>188</sup>

4.20. Other support schemes that were in place prior to this Review period include (i) the Comprehensive Agricultural Support Programme, which offers support services to previously disadvantaged landowners to help them in their farming activities; (ii) mechanization support; (iii) smallholder development; and (iv) loans provided through the Micro Finance Institution of South Africa (Mafisa) and the Agri-BEE Fund, also to support previously disadvantaged farmers.<sup>189</sup>

4.21. As of December 2022, South Africa had definitive anti-dumping duties in force on frozen bone-in chicken portions (from Brazil, Denmark, Germany, Ireland, the Netherlands, Poland, Spain, and the United Kingdom), garlic (from China), pasta (from Egypt, Latvia, Lithuania, and Türkiye), and chicken meat portions (from the United States). Provisional anti-dumping duties were applied in 2022 to frozen potato chips from Belgium, Germany, and the Netherlands.<sup>190</sup> South Africa notified the WTO that no agricultural special safeguards (SSG) were invoked from 2016 to 2020.<sup>191</sup> In the

<sup>184</sup> GCIS, *South Africa Yearbook: Agriculture* (2020/21).

<sup>185</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016.

<sup>186</sup> WTO document G/AG/N/ZAF/83, 26 February 2015.

<sup>187</sup> OECD (2022) *Agricultural Policy Monitoring and Evaluation 2022: Reforming Agricultural Policies for Climate Change Mitigation*. Viewed at: [https://www.oecd-ilibrary.org/agriculture-and-food/agricultural-policy-monitoring-and-evaluation-2022\\_7f4542bf-en](https://www.oecd-ilibrary.org/agriculture-and-food/agricultural-policy-monitoring-and-evaluation-2022_7f4542bf-en).

<sup>188</sup> WTO document G/AG/GEN/180, 12 March 2021.

<sup>189</sup> DALRRD, *Development Finance*. Viewed at: <http://www.daff.gov.za/index.php/core-business/food-security-agrarian-reform/development-finance>.

<sup>190</sup> WTO document G/ADP/N/377/ZAF, 14 April 2023.

<sup>191</sup> WTO documents G/AG/N/ZAF/97-101, 10 May 2021.

context of this Review, South Africa confirmed that no SSGs have been applied since 2020. Bilateral safeguards have been used for poultry under the EPA with the European Union.

#### 4.1.2 Forestry

4.22. The Department of Forestry, Fisheries and the Environment (DFFE) is mandated to give effect to the right of citizens to an environment that is not harmful to their health or well-being, and to have the environment protected for the benefit of present and future generations.<sup>192</sup> The main law governing the sector is the National Forest Act, 1998 (Act No. 84 of 1998). The South African Forestry Company is a state-owned enterprise operating in the forestry sector; it falls under the responsibility of the Department of Public Enterprises.

4.23. Forests cover over 38 million ha (about 31.1%) of the land surface area. The forestry sector employed around 158,400 workers, about 1.3% of the workforce in 2020/21. Forestry provides livelihood support to 716,000 people of the rural population. About 80% of South Africa's plantation forests are Forestry Stewardship Council (FSC®)-certified, indicating achievements in ensuring sustainable forest management.<sup>193</sup> According to the FAO, forestry exports (including both timber and processed forestry products) were valued at USD 1,582 million in 2021 and imports at USD 1,071.

4.24. The forestry industry is one of South Africa's strategic economic sectors under the Agricultural Policy Action Plan (APAP) and the NDP 2030. Previously, DAFF was pursuing an annual afforestation target of 10,000 ha (net). However, the target has not been met due to various reasons that include challenges with acquisition of water use licences for afforestation and the need to conduct environmental impact assessments since forestry classifies as a stream flow reduction activity in terms of environmental law. There were new efforts to review the target by the DFFE. The focus remains on encouraging cooperatives, simplifying and streamlining the regulatory environment, providing training and extension, supporting the implementation of rural credit, and offering incentives for new entrants (especially those previously disadvantaged).

4.25. Under the Re-imagined Industrial Strategy, the DTIC issued a Master Plan for the Commercial Forestry Sector in South Africa for 2020-2025.<sup>194</sup> Its target is to establish 151,000 ha of new plantations and bring 68,820 ha of DFFE-owned plantations back into production by 2026.

#### 4.1.3 Fisheries

4.26. The South African coastline covers more than 3,000 km. These shores are particularly rich in biodiversity, with some 10,000 species of marine plants and animals (about 15% of global ocean species).<sup>195</sup> South Africa has one of the largest exclusive economic zones (EEZs) in the world.<sup>196</sup> The value of the fisheries production sector is around ZAR 6 billion per annum and the sector directly employs some 27,000 people in the commercial sector (about 16,000 in the primary sector and 11,000 in the secondary and tertiary sectors).<sup>197</sup>

4.27. According to the FAO, South Africa produced 602,000 tonnes (live weight equivalent) of fish in 2020; of this, 6,000 tonnes were produced through aquaculture. While the marine catch is

<sup>192</sup> The DFFE was renamed on 1 April 2021, from the previous Department of Environment, Forestry and Fisheries (DEFF). In June 2019, the DFFE was established by incorporating the forestry and fisheries functions from the previous Department of Agriculture, Forestry and Fisheries into the Department of Environmental Affairs.

<sup>193</sup> GCIS, *South Africa Yearbook: Forestry, Fisheries and the Environment* (2020/21).

<sup>194</sup> DTIC, 2020. *Master Plan for the Commercial Forestry Sector in South Africa 2020-2025*.

<sup>195</sup> GCIS, *South Africa Yearbook: Agriculture* (2014/15) and *South Africa Yearbook: Forestry, Fisheries and the Environment* (2020/21).

<sup>196</sup> Nairobi Convention (2021), "South Africa Works to Maximize Economic Benefits from the Ocean While Maintaining Environmental Standards", 10 August. Viewed at: <https://www.nairobiconvention.org/south-africa-works-to-maximize-economic-benefits-from-the-ocean-while-maintaining-environmental-standards/>.

<sup>197</sup> GCIS, *South Africa Yearbook: Forestry, Fisheries and the Environment* (2020/21); and Government of South Africa. Viewed at: <https://www.gov.za/about-sa/fisheries#:~:text=In%20South%20Africa%2C%20the%20%EF%AC%81sheries,the%20basic%20needs%20of%20life.>



expected to decrease by around 13% by 2030, aquaculture production is projected to double.<sup>198</sup> Exports of fish products amounted to USD 655 million in 2022, representing 0.5% of total exports. The main export market is the European Union, with other important markets being China; Hong Kong, China; Australia, and Mozambique. South Africa imported USD 486 million of fish products in the same year (0.4% of total imports), mainly from Morocco and Thailand. According to the authorities, the main marine catch fish species exported are hake, sole, horse mackerel, kingklip, monkfish, pilchard, anchovy, tuna, abalone, rock lobsters, squid, and Patagonian toothfish. The main aquaculture fish species exported are tilapia, abalone, mussels, oysters, and catfish. Commercial exports of fish require a permit.<sup>199</sup> The legal basis for this permit requirement is Section 13 of the Marine Living Resources Act (see below).

4.28. The DFFE has responsibility for the fisheries sector. The Marine Living Resources Act, 1998 (Act No. 18 of 1998) and its implementing regulations provide for the conservation of the marine ecosystem, the long-term sustainable use of marine living resources, and the orderly access to exploitation.<sup>200</sup>

4.29. Fishing rights are allocated to individuals or companies for a period not exceeding 15 years under Section 18 of the Marine Living Resources Act as effected by the General Policy on the Allocation of Commercial Fishing Rights and by sector-specific policies for each fishery subsector. Annual scientific stock assessments of each fishery are conducted to ascertain the maximum sustainable yield and determine an annual "total allowable catch" (TAC) or a "total allowable effort" (TAE) or a combination thereof. The TAC and/or TAE is apportioned to right holders. Additionally, annual catch permits with catch limitations are issued. As indicated by the authorities, South Africa does not allow foreign vessels to fish in its EEZ; however, they may enter the EEZ under specific circumstances (i.e. for bunkering, transshipment after fishing on the High Seas, fuelling, landing, change of crew, *force majeure*, and repairs).

4.30. In 2016, South Africa acceded to the FAO Port State Measures Agreement (PSMA), which seeks to stop IUU fishing and deny access to fishers attempting to unload illegal catch in its ports.<sup>201</sup> The authorities noted that all landed fish is monitored for IUU purposes, as well as to gather scientific data. They reported that during FY2021/22, more than ZAR 20 million of illegal catch was confiscated.

4.31. Under the 2012 Small-Scale Fisheries Policy, preferential access to long-term fishing rights is granted to small-scale fishing communities traditionally dependent on marine living resources for their livelihood.<sup>202</sup> These rights had previously been oriented towards the export-driven, commercial fisheries sector, which was inaccessible to black people during apartheid. It provides a range of institutional management instruments and provides capacity-building, compliance monitoring, and enforcement mechanisms for small-scale fishers.

4.32. The 2013 National Aquaculture Policy Framework (NAPF) provides for a framework for the establishment and development of the aquaculture industry.<sup>203</sup> An Aquaculture Development Bill has been drafted, which provides for an institutional framework for the aquaculture sector; the DFFE intends to submit the Bill to Parliament by the end of FY2023/24.<sup>204</sup>

4.33. A National Freshwater (Inland) Wild Capture Fisheries Policy was endorsed by cabinet in August 2021. The policy is based on the three pillars of social, economic, and sustainable

<sup>198</sup> FAO (2022), *The State of World Fisheries and Aquaculture: Towards Blue Transformation*. Viewed at: <https://www.fao.org/3/cc0461en/cc0461en.pdf>.

<sup>199</sup> Government of South Africa, *Export Fish on a Commercial Basis*. Viewed at: <https://www.gov.za/services/export-permits/export-fish-commercial-basis>.

<sup>200</sup> Marine Living Resources Act and Regulations. Viewed at: <https://www.ecolex.org/details/legislation/marine-living-resources-regulations-lex-faoc077701/>.

<sup>201</sup> Stop Illegal Fishing (2016), "South Africa Accedes to the FAO Port State Measures Agreement", 29 June. Viewed at: <https://stopillegal-fishing.com/news-articles/south-africa-accedes-fao-port-state-measures-agreement/>.

<sup>202</sup> Policy for the Small Scale Fisheries Sector in South Africa. Viewed at: [https://www.gov.za/sites/default/files/gcis\\_document/201409/35455gon474.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/35455gon474.pdf).

<sup>203</sup> National Aquaculture Policy Framework. Viewed at: [https://www.gov.za/sites/default/files/gcis\\_document/201409/36920gon763.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/36920gon763.pdf).

<sup>204</sup> Aquaculture Development Bill. Viewed at: <https://www.gov.za/xh/node/780520>.

development. Through this policy, the small-scale inland fisheries sector will be formally recognized. The main priority for the sector is domestic food security, job creation, and economic development.

4.34. In 2014, the Government launched Operation Phakisa: Oceans Economy. This aims to help unlock the economic potential of South Africa's oceans through various growth areas that include aquaculture and marine protection services and ocean governance.<sup>205</sup> Marine fisheries were not included as a priority, given they were considered to have a robust legislative framework already in place.

4.35. An Oceans Economy Master Plan (OEMP) is currently being developed and is set to be finalized in June 2023.<sup>206</sup> The OEMP seeks to advance stabilization revival and growth of the subsectors within the oceans economy (marine vessel manufacturing and repair, marine transport, offshore oil and gas, aquaculture, and fisheries) to contribute to job creation, increased GDP, and economic recovery.

4.36. Information was not available on the South African fishing fleet, FDI restrictions in place in the fisheries sector, or on the level and type of government subsidies provided to the marine fishing sector. An Aquaculture Development Enhancement Programme (ADEP) is in place, which provides grant support for certain aquaculture operations that are level 1-4 B-BBEE compliant. Grants are provided for up to 45% (50% for small black enterprises) of qualifying investments. The grant is capped at ZAR 20 million.<sup>207</sup>

## 4.2 Mining and energy

### 4.2.1 Mining

4.37. Mining and quarrying accounted for 8.1% of gross value added in 2022 (up from 6.4% in 2014) (Table 1.1) and directly employed 457,000 workers. Mineral products account for more than one fifth of South Africa's merchandise exports, with coal and iron ores being the main exported products (Table A1.1)

4.38. The main laws governing the mining sector are the Mineral and Petroleum Resources Development Act (Act No. 28 of 2002, as last amended in 2008), the Mine Health and Safety Act (Act No. 29 of 1996, as last amended in 2008), the Diamond Act (Act No. 56 of 1986, as last amended in 2005), and the Precious Metals Act (Act No. 37 of 2005).

4.39. The Department of Mineral Resources and Energy (DMRE) is responsible for the regulation and development of the minerals (and energy) sector and for ensuring sustainable and affordable energy, following the merger of two separate departments for minerals and energy.<sup>208</sup> The South African Diamond and Precious Metals Regulator (SADPMR) regulates the diamond and precious metals industries; it buys, sells, exports, and imports diamonds through its Diamond Exchange and Export Centre (DEEC), as well as controlling the acquisition, possession, smelting, refining, fabrication, use, and disposal of precious metals.<sup>209</sup> The State Diamond Trader, a public entity, has the right to purchase up to 10% of the run-of-mine production of all South Africa's diamond producers; it sells to registered customers with a view to developing the diamond cutting and polishing industry, with a focus on supporting historically disadvantaged persons.<sup>210</sup> The Government fully owns Alexkor, an alluvial diamond mining company (Section 3.3.5).

<sup>205</sup> DFFE. Viewed at:

[https://www.dffe.gov.za/sites/default/files/docs/publications/aquaculture\\_photobook2016.pdf](https://www.dffe.gov.za/sites/default/files/docs/publications/aquaculture_photobook2016.pdf).

<sup>206</sup> Parliamentary Monitoring Group, *Update on the Ocean Economy Master Plan and Operation Phakisa Programmes, with Minister of Forestry, Fisheries and the Environment*. Viewed at:

<https://pmg.org.za/committee-meeting/36358/#:~:text=The%20purpose%20of%20the%20Oceans,economic%20recovery%20and%20potential%20growth>.

<sup>207</sup> DTIC (2022), *A Guide to the DTIC Incentive Schemes 2021/22*. Viewed at: <http://www.thedtic.gov.za/wp-content/uploads/the-dti-incentive-schemes-guide.pdf>.

<sup>208</sup> DMRE, *Annual Report 2020/21*. Viewed at: <https://www.energy.gov.za/files/Annual%20Reports/DMRE-Annual-Report-2020-21.pdf>.

<sup>209</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016; and SADPMR, *Overview*. Viewed at: <http://www.sadpmr.co.za/pages/about-us/overview>.

<sup>210</sup> State Diamond Trader, *Who We Are*. Viewed at: <https://www.statediamondtrader.gov.za/who-we-are/>.

4.40. South Africa is endowed with 53 different kinds of minerals.<sup>211</sup> Since 2021, the Government has made its geoscience data publicly available to help attract investment. The main minerals extracted, in volume terms, are coal (25%), platinum group metals (24%), gold (16%), and iron ore (11%).<sup>212</sup> In 2021, South Africa was the world's biggest exporter of manganese ores and concentrates (HS 2602); chromium ores and concentrates (HS 2610); platinum (HS 7110, 711011, 711019); rhodium (HS 711031, and 711039), iridium, osmium, and ruthenium (HS 711041, 711049). It was the world's 2<sup>nd</sup>-biggest exporter of palladium (HS 711021, 711029); the 3<sup>rd</sup>-biggest exporter of iron ores and concentrates (HS 2610); 6<sup>th</sup> biggest exporter of coal (HS 2701), 9<sup>th</sup> of diamonds (HS 7102), and 12<sup>th</sup> of gold (HS 710811, 710812, 710513).

4.41. A Broad-Based Socio-Economic Empowerment Charter for the Mining and Minerals Industry (Mining Charter) was issued in 2018.<sup>213</sup> It contains targets to ensure broad-based and meaningful transformation of the industry, including shareholding requirements for historically disadvantaged persons/companies that mining right holders must comply with. In addition, right holders must spend 70% or more of their procurement on goods manufactured in South Africa (i.e. goods with a minimum of 60% local content). Local content verification is undertaken by the South African Bureau of Standards (SABS).<sup>214</sup>

4.42. In 2022, the DMRE released its Exploration Strategy for the Mining Industry of South Africa, which seeks to revitalize exploration activity, which has been lagging. To reach its target of attracting a 5% share of global exploration expenditure, the Government plans to provide more support to junior exploration companies with 51% ownership by historically disadvantaged South Africans and from public private partnerships for feasible projects. An exploration and mining investment promotion plan is expected.<sup>215</sup>

4.43. Under the Mineral and Petroleum Resources Development Act, minerals under the soil are owned by the State on behalf of its citizens. Foreigners and nationals may apply for a prospecting right, mining permit, reconnaissance permit, beneficiation right, exploration right, and/or mining right if they comply with requirements set out in the Act.

4.44. As indicated in the previous Review, applications for the various rights/permits are assessed based on a "first in, first assessed" principle, although preference may be accorded to applications from historically disadvantaged peoples if received on the same date.<sup>216</sup> The absence of a transparent and efficient cadastral system has been identified as having an adverse effect on investment decisions in the sector.<sup>217</sup> Reportedly, there has been a backlog in the processing of rights, permits, and licence renewals.<sup>218</sup>

4.45. Taxation revenue from the domestic mining sector includes corporate income tax, dividends tax, and mineral royalties. Exemptions from royalty payments, *inter alia*, used to apply to small businesses with gross sales under ZAF 10 million.<sup>219</sup>

4.46. Average tariff protection for mining and quarrying remains low at about 0.1% in 2023 (ISIC definition), with rates ranging from zero to 10% (Main Report, Table A3.1).

4.47. Import prohibitions are maintained on uncut diamonds. Exports of unpolished diamonds may only be carried out by a producer, a manufacturer (if it is a synthetic diamond), a dealer, or a holder

<sup>211</sup> DMRE. Viewed at: <https://www.dmr.gov.za/>.

<sup>212</sup> DMRE (2022), *The Exploration Strategy for the Mining Industry of South Africa*. Viewed at: [https://www.gov.za/sites/default/files/qcis\\_document/202204/46246gon2026.pdf](https://www.gov.za/sites/default/files/qcis_document/202204/46246gon2026.pdf).

<sup>213</sup> 2018 Mining Charter. Viewed at: [https://www.gov.za/sites/default/files/qcis\\_document/201809/41934gon1002.pdf](https://www.gov.za/sites/default/files/qcis_document/201809/41934gon1002.pdf).

<sup>214</sup> SABS. Viewed at: <https://www.sabs.co.za/>.

<sup>215</sup> DMRE (2022), *The Exploration Strategy for the Mining Industry of South Africa*. Viewed at: [https://www.gov.za/sites/default/files/qcis\\_document/202204/46246gon2026.pdf](https://www.gov.za/sites/default/files/qcis_document/202204/46246gon2026.pdf).

<sup>216</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016.

<sup>217</sup> DMRE (2022), *The Exploration Strategy for the Mining Industry of South Africa*; and Mining Weekly (2021), "Minerals Council Offers to Part Pay Cost of Replacing Samrad System", 4 March. Viewed at: <https://m.miningweekly.com/article/minerals-council-recommends-replacement-of-samrad-to-encourage-greater-investment-in-exploration-mining-2021-03-04>.

<sup>218</sup> Mining Weekly (2021), "Minerals Council Offers to Part Pay Cost of Replacing Samrad System", 4 March.

<sup>219</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016.

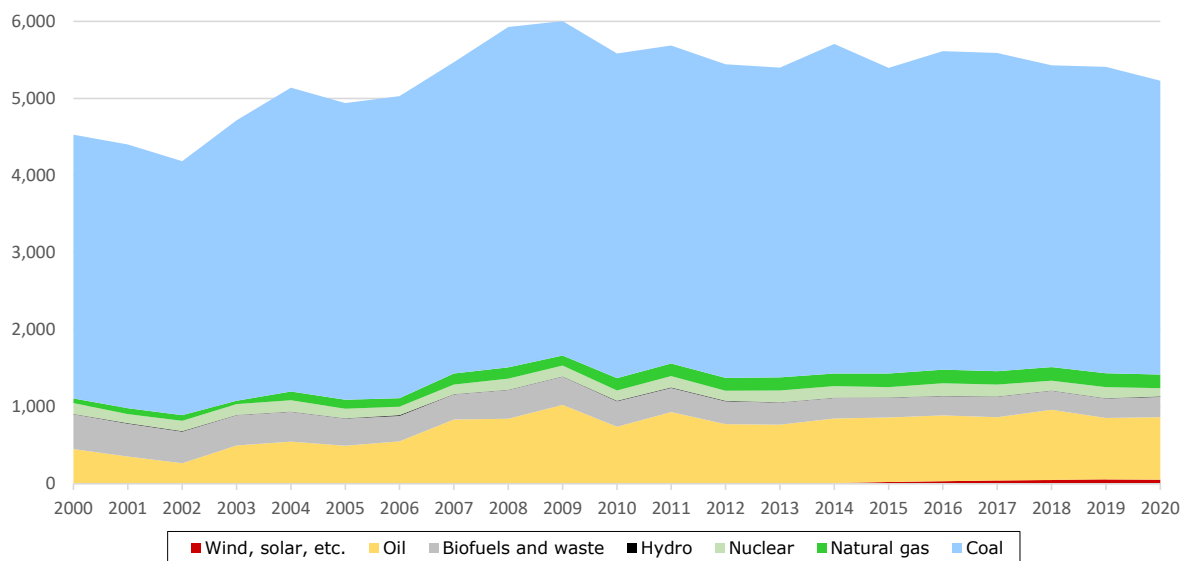
of an export permit. South Africa continues to levy an export tax of 5% on unpolished diamonds (Section 3.2.2).

#### 4.2.2 Energy

4.48. South Africa continues to rely heavily on coal to meet its domestic energy needs (Chart 4.2). The 1998 White Paper on Energy Policy continues to guide the development of legislation, regulations, and strategies in the sector.<sup>220</sup>

**Chart 4.2 Total energy supply by source, 2000-20**

(Unit: 1,000 TJ)



Source: IEA, *South Africa*. Viewed at: <https://www.iea.org/countries/south-africa>.

#### 4.2.3 Electricity

4.49. The Electricity Regulation Act (No. 4 of 2006) governs the operation of the electricity sector in South Africa. It provides for the establishment of the national energy regulator (National Energy Regulator of South Africa (NERSA)) and regulates licensing processes, as well as the generation, transmission, distribution, and trade in electricity.<sup>221</sup> An Electricity Amendment Bill was tabled in Parliament in 2023; reportedly, it seeks to create a competitive electricity market, allowing several generators to compete on a level playing field.<sup>222</sup>

4.50. The DMRE is responsible for policy formulation and implementation. SOEs operating in the sector are Eskom, Electricity Distribution Industry Holdings, the Central Energy Fund, and the South African Nuclear Energy Corporation (Section 4.2.3).

4.51. Electricity generation, while dominated by Eskom is, increasingly, open to participation of independent power producers (IPPs). Eskom has a statutory monopoly on electricity transmission. Electricity is distributed to households either directly by Eskom or by the respective municipalities. Data were not available on South Africa's installed electricity capacity, national production of electricity, or the licensing framework for the generation of electricity.

4.52. South Africa's electricity system is in crisis due to, *inter alia*, mismanagement, corruption, and high levels of debt at Eskom; lack of maintenance of Eskom's coal power plants; and

<sup>220</sup> White Paper on Energy Policy. Viewed at: [https://www.energy.gov.za/files/policies/whitepaper\\_energy\\_policy\\_1998.pdf](https://www.energy.gov.za/files/policies/whitepaper_energy_policy_1998.pdf).

<sup>221</sup> Electricity Regulation Act. Viewed at: <https://faolex.fao.org/docs/pdf/saf67612.pdf>.

<sup>222</sup> Government of South Africa (2023), "Minister Khumbudzo Ntshavheni: Launch of the Operation Vulindlela Progress Report", 30 May. Viewed at: <https://www.gov.za/speeches/minister-khumbudzo-ntshavheni-launch-operation-vulindlela-progress-report>.

underinvestment in the sector. While capacity shortages started to be observed as early as 2008, the situation has escalated since 2019 as Eskom's ability to supply the national grid has further declined. Load-shedding (scheduled power cuts) has increased exponentially in recent years, which is having negative consequences for other economic activities.<sup>223</sup>

4.53. Recent measures taken to address this situation have reportedly included:

- Institutional measures including (i) the establishment of a National Energy Crisis Committee of Ministers in 2022 to oversee an Energy Action Plan that aims to end load-shedding<sup>224</sup>; and (ii) the appointment in 2023 of a Minister for Electricity, for the first time, with specific responsibility for addressing the deepening load-shedding crisis.
- Reforms to restructure/support Eskom, including (i) initial steps to unbundle Eskom through the creation of a subsidiary transmission company, the National Transmission Company of South Africa (NTCSA) in 2022; and (ii) the introduction of an Eskom Debt Relief Bill in Parliament in 2023 aimed at restoring the financial stability and sustainability of the company.<sup>225</sup>
- Measures to encourage new private-sector generation capacity and to accelerate procurement of this capacity, including (i) the easing of licensing regulations for electricity self-generation from 1 MW to 100 MW in 2021; (ii) the removal of a requirement for companies to obtain a permit to generate their own power in 2022; (iii) the removal of licensing requirements in 2023 to generate electricity, for facilities that have a connection to the transmission or distribution power system under certain conditions<sup>226</sup>; (iv) implementation of reduced timeframes for registration and obtaining environmental authorizations<sup>227</sup>; and (v) the introduction of tax incentives for investments in rooftop solar.

4.54. Information was not available on the regulation of electricity prices. Under the Integrated National Electrification Programme, South Africa is pursuing the objective of universal access to electricity by 2025. No data were available on developments over the review period.

#### 4.2.4 Petroleum and gas

4.55. Several Acts govern the oil and gas industry in South Africa.<sup>228</sup> The DMRE is responsible for policy formulation and implementation. The Central Energy Fund, an SOE, manages the oil and gas assets and operations of the Government. Its subsidiaries include (i) the Petroleum, Oil and Gas Corporation of South Africa (PetroSA), which operates upstream oil and natural gas producing infrastructure in South Africa, along with the GTL plant in Mossel Bay; and (ii) the Petroleum Agency

<sup>223</sup> Data regarding government subventions provided to Eskom over the review period were not available.

<sup>224</sup> Government of South Africa (2022), "National Energy Crisis Committee of Ministers briefs media on National Energy Crisis", 1 August. <https://www.gov.za/speeches/media-briefing-national-energy-crisis-committee-ministers-1-aug-2022-0000>. The Energy Action Plan was announced by the President in July 2022. The resources and expertise needed to implement the Plan are being provided by the Resource Mobilisation Fund, which was launched in 2023. Government of South Africa (2023), "Statement on the Cabinet Meeting of 15 March 2023", 16 March. Viewed at: <https://www.gov.za/speeches/statement-cabinet-meeting-Wednesday-15-march-2023-16-mar-2023-0000>.

<sup>225</sup> National Treasury, *Explanatory Note: Eskom Debt Relief*. Viewed at: [https://www.treasury.gov.za/comm\\_media/press/2023/2023050801%20Explanatory%20note%20on%20the%20Eskom%20debt%20settlement%20arrangement.pdf](https://www.treasury.gov.za/comm_media/press/2023/2023050801%20Explanatory%20note%20on%20the%20Eskom%20debt%20settlement%20arrangement.pdf).

<sup>226</sup> White and Case (2023), "South Africa Exempts Private Generators from Generation Licence Requirements", 27 January. Viewed at: <https://www.whitecase.com/insight-alert/south-africa-exempts-private-generators-generation-licence-requirements>.

<sup>227</sup> White and Case (2023), "South Africa Exempts Private Generators from Generation Licence Requirements", 27 January.

<sup>228</sup> These are the Petroleum Products Act 2003, No. 120 of 1977; Petroleum Products Amendment Act, No. 2 of 2005; Gas Act 2001, No. 48 of 2001; Gas Regulator Levies Act, 2002, No. 75 of 2002; Petroleum Pipelines Act, 2003, No. 60 of 2003; Petroleum Pipelines Levies Act, 2004, No. 28 of 2004; National Energy Act, 2008, No. 34 of 2008; Central Energy Fund Act, Act No. 38 of 1977; Central Energy Fund Amendment Act, Act No. 48 of 1994; Electricity Regulation Act; National Nuclear Regulatory Act; Nuclear Energy Act; National Energy Regulator Act No. 40 of 2004; National Energy Act No. 34 of 2008; National Ports Act No. 12 of 2005; and Mineral and Petroleum Resources Development Act, No. 28 of 2002. WTO document WT/TPR/M/324/Add.1.

of South Africa which is responsible for, *inter alia*, licensing onshore and offshore oil and natural gas exploration and production activities.

4.56. At the time of South Africa's previous Review, the downstream oil sector was diversified and included companies such as BP, Sasol, Shell, Chevron, Total, and Engen, which were in charge of importation and distribution. Smaller independent operators operated service stations.<sup>229</sup> No update has been received in this respect.

4.57. Data/information was not available on petroleum and gas production and respective reserves in South Africa or on the pricing and taxation systems for petroleum products.

4.58. The review period saw a diversification in imports of natural gas. In 2014, over 90% of imported natural gas (HS 2711) came from Mozambique. However, by 2022, Mozambique accounted for only 51% of imports. It has increased imports of natural gas from the United States (25% in 2022), Togo (9%), and Nigeria.

4.59. Imports of natural gas from Mozambique are transported through the 535-mile Sasol Petroleum International Gas pipeline to Sasol's Secunda synfuels plant. Sasol, the South African Government, and the Government of Mozambique own the pipeline through a joint venture. The pipeline has a peak capacity of 524 million cubic feet per day of natural gas.<sup>230</sup>

4.60. South Africa imports crude oil mostly from the Kingdom of Saudi Arabia (49.3% in 2022), Nigeria (35%), and Angola (9.4%), which is refined in the country. However, given South Africa's declining refining capacity, crude imports have decreased, and imports of finished products have increased, notably from the United Arab Emirates and India.<sup>231</sup>

### 4.3 Manufacturing

4.61. South Africa has a relatively developed and diverse industrial base. The manufacturing sector contributed 13.7% to gross value added in 2022 (Table 1.1). The sector experienced a sharp contraction in 2020 due to the COVID-19 lockdowns (down 12.5%), but overall has held its share in the economy. The largest industries are the automotive industry<sup>232</sup>, the food and beverage industry, and the petroleum, chemical, and steel and metals industries.

4.62. South Africa's manufacturing sector benefits from preferential market access under its RTAs and PTAs. South Africa is the number one beneficiary of the African Growth and Opportunity Act (AGOA) preferences in terms of Sub-Saharan Africa exports to the United States (excluding crude petroleum); its main exports to the United States include cars and (basic petro-) chemicals.<sup>233</sup>

4.63. South Africa's industrial policy framework, while incorporating key aspects of national policy documents (such as the NDP 2030), is based on the National Industrial Policy Framework (NIPF) of 2007. The NIPF has been further developed through successive Industrial Policy Action Plans<sup>234</sup>, as well as the Re-imagined Industrial Strategy of 2019 (Section 2.2), which focuses on, *inter alia*, strategic value chains, the promotion of "localisation" (i.e. local content), and sectoral master plans. To date, eight such sector plans have been elaborated, including for the automotive industry; the clothing, textiles, footwear and leather industries; the steel and metal industry; and the furniture industry.<sup>235</sup>

<sup>229</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016.

<sup>230</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016.

<sup>231</sup> The value of South Africa's imports of crude oil (HS 2709) dropped from a peak of USD 10,965 million in 2018 to USD 4,398 million in 2022. Conversely, the value of petroleum oils (other than crude) (HS 2710) increased from USD 4,521 million in 2018 to USD 18,730 million in 2022.

<sup>232</sup> According to the Automotive Industry Master Plan, about one third of manufacturing value-added comes directly or indirectly from vehicle assembly and automotive component manufacturing activity.

<sup>233</sup> U.S. International Trade Commission (2023), *African Growth and Opportunity Act (AGOA): Program Usage, Trends, and Sectoral Highlights*. Viewed at: <https://www.usitc.gov/publications/332/pub5419.pdf>.

<sup>234</sup> DTI, Industrial Policy Action Plan 2018/19-2020/21. Viewed at:

[https://www.gov.za/sites/default/files/gcis\\_document/201805/industrial-policy-action-plan.pdf](https://www.gov.za/sites/default/files/gcis_document/201805/industrial-policy-action-plan.pdf).

<sup>235</sup> DTIC, *Master Plans*. Viewed at: <http://www.thedtic.gov.za/media-room/master-plans/>.

4.64. Tariffs remain an important trade policy instrument for the manufacturing sector. MFN tariffs on manufacturing activities (ISIC 3) average 8.9% in 2023, ranging from zero to 532.3% (Main Report, Table A3.1). The highest MFN tariffs are applied, on average, to imports of clothing and textiles, followed by food, beverages, and tobacco.

4.65. South Africa administers a number of incentive schemes to encourage innovation and exports, and to provide the "critical" infrastructure for investment (Table A3.2). In addition, the DTIC implements nine specific incentive schemes in support of the manufacturing sector (Table 4.3). Data on these schemes was not available.

**Table 4.2 Manufacturing incentive schemes, 2022**

| <b>Scheme/objective</b>   | <b>Eligibility</b>   | <b>Incentive</b>   |
|---|--|--|
| <b>Automotive Investment Scheme (AIS)</b>   | Light motor vehicle or component manufacturers, with production target above certain level.<br><br>Must be B-BBEE compliant.   | Cash grant of 20% for vehicle manufacturers and 25% for component manufacturers of the value of qualifying investments in productive assets, disbursed over 3 years. Additional cash grants of 5% or 10% for strategic projects.                     |
| <b>People-Carrier Automotive Investment Scheme (P-AIS)</b>                          | Minimum investment of ZAR 30 million for assembler projects; and ZAR 1 million for component manufacturing projects.<br>Must be B-BBEE compliant.  | Cash grant of 20%-35% of qualifying investments of CKD vehicle assemblers and component manufacturers.   |
| <b>Medium and Heavy Commercial Vehicles Automotive Investment Scheme (MHCV-AIS)</b> | Must be B-BBEE compliant.  | Cash grant of 20% for vehicle manufacturers and 25% for component manufacturers and tooling companies of the value of qualifying investment in productive assets, disbursed over 3 years. Additional cash grant of 5% or 10% for strategic projects. |
| <b>Black Industrialist Scheme (BIS)</b>   | Must have more than 50% black shareholding and management control.<br>Minimum investment of ZAR 30 million.<br>Must achieve at least 4 points from a list of 8 points where factors such as employment, market share, localization of production or diversification, and export are considered.<br>Must be B-BBEE compliant. | Grant of 30%-50%, up to a maximum ZAR 50 million. The sharing ratio depends on the level of black ownership and management control.  |
| <b>Agro-processing Support Scheme (APSS)</b>  | Minimum investment of ZAR 1 million.<br>Boost the local capacity of identified products, or of export orientation.<br>At least 50% of the materials are sourced from South African suppliers, and at least 30% from black South African suppliers.<br>Must be B-BBEE compliant.  | Grant of 20%-30%, up to a maximum ZAR 20 million over a two-year period. An additional 10% grant may be awarded for projects meeting criteria in employment, geographical distribution, and local content (70%).                                     |
| <b>Manufacturing Competitiveness Enhancement Programme (MCEP)</b>                   | Working capital loan:<br>- not applicable for start-ups;<br>- capped at ZAR 50 million per annum;<br>- repayment period of 48 months;<br>- B-BBEE level 4.<br>Plant and equipment loans:<br>- for black industrialists;<br>- start-ups may apply;<br>- capped at ZAR 50 million;<br>- repayment period 84 months.            | Loans at preferential interest rate (4%).  |
| <b>Clothing &amp; Textiles Competitiveness Improvement Programme (CTCIP)</b>        | To create a group of globally competitive clothing and textile companies.  | Grant of 65% to individual companies and 75% to company clusters.  |
| <b>Strategic Partnership Programme (SPP)</b>  | To encourage large private-sector enterprises (in partnership with the Government) to support, nurture, and develop SMEs within the partner's supply chain or sector.<br>The strategic partner must be B-BBEE compliant, while the SME supported must be at least 51% owned by black South African citizens.                 | Grants of 50:50 for manufacturing projects; and 70:30 for projects supporting the manufacturing supply chain.<br>Maximum ZAR 15 million per financial year, over 3 years.  |

Source: DTIC (2022), *A Guide to the DTIC Incentive Schemes 2021/22*. Viewed at: <http://www.thedtic.gov.za/wp-content/uploads/the-dti-incentive-schemes-guide.pdf>.

## 4.4 Services

### 4.4.1 Financial services

4.66. South Africa has a large, sophisticated, and resilient financial services sector with the bulk of the assets in banking, followed by pension funds and insurance.<sup>236</sup> The financial services sector has a relatively high level of independence and financial compliance standards. It is regulated by bodies such as the Prudential Authority (PA), which falls under the authority of the South African Reserve Bank (SARB), and Financial Sector Conduct Authority (FSCA). Since 2018, South Africa has been implementing the Twin Peaks' model, with two authorities, i.e. the PA responsible for regulating and supervising banks, insurers, cooperative financial institutions, financial conglomerates, and certain market infrastructures<sup>237</sup>; and the FSCA responsible for overseeing market conduct regulation and supervision of market participants and structures, as well as prudential supervision of pension funds and investment funds.<sup>238</sup>

4.67. In 2019, South Africa ranked 19<sup>th</sup> out of 141 in the Global Competitiveness Index for its financial systems.<sup>239</sup> The Johannesburg Stock Exchange (JSE) ranked in the top 20 of all the exchanges in the world and was the largest stock exchange in Africa based on market capitalization in 2021.<sup>240</sup>

4.68. Under the GATS, South Africa bound commercial presence in all insurance and insurance-related services for market access and in banking and other financial related services for both market access and national treatment.<sup>241</sup>

4.69. The South African legislative framework on financial services changed significantly from 2014 to 2023 (Table 4.3).

**Table 4.3 Legal instruments and amendments to legislation on financial services**

| Legal instruments and amendments   | Amendment purposes  | Entry into force/published                   |
|--|---|--|
| Development Bank of Southern Africa Amendment Act, 2014 (Act No. 41 of 2014)     | To, <i>inter alia</i> , increase the authorized share capital of the Bank and amend the provisions regarding the certification of issued shares.  | January 2015                                 |
| Banks Amendment Act, 2015 (Act No. 3 of 2015)                                    | To enable the application of the provisions on arrangements and compromises in the Companies Act, 2008, for banks under curatorship.  | June 2015                                    |
| Financial and Fiscal Commission Amendment Act, 2015 (Act No. 4 of 2015)          | To, <i>inter alia</i> , strengthen the requirements for organs of state concerning the Commission's recommendations on the assignment of a power or function by an organ of state in one sphere of government to an organ of state in another sphere of government. | July 2015                                    |
| Finance Act, 2015 (Act No. 19 of 2015) and Finance Act, 2016 (Act No. 7 of 2016) | To approve unauthorized expenditure and provide for matters connected therewith.  | December 2015 and January 2017, respectively |
| Financial Intelligence Centre Amendment Act, 2017 (Act No. 1 of 2017)            | To, <i>inter alia</i> , extend the objectives of the Centre to provide for sharing of information; to administer measures pursuant to resolutions adopted by the Security Council of the United Nations; to provide for   | May 2017                                     |

<sup>236</sup> Financial Sector Conduct Authority (2022), *Financial Sector Outlook Study*. Viewed at: <https://www.fsc.co.za/Documents/FSCA%20Financial%20Sector%20Outlook%20Study%202022.pdf>.

<sup>237</sup> GCIS, *South Africa Yearbook: Finance* (2018/19). Viewed at: <https://www.gcis.gov.za/sites/default/files/docs/resourcecentre/yearbook/yb1919-10-Finance.pdf>. The Prudential Authority is an amalgamation of the SARB's Banks Supervision Department, the Insurance Division of the Financial Services Board and the Supervisory Team of the Co-operative Banks Development Agency.

<sup>238</sup> GCIS, *South Africa Yearbook: Finance and Economy*. (2019/20) Viewed at: <https://www.gcis.gov.za/sites/default/files/docs/resourcecentre/yearbook/Yearbook2020-7-Finance%20and%20Economy.pdf>.

<sup>239</sup> World Economic Forum (2019), *The Global Competitiveness Report*. Viewed at: [https://www3.weforum.org/docs/WEF\\_TheGlobalCompetitivenessReport2019.pdf](https://www3.weforum.org/docs/WEF_TheGlobalCompetitivenessReport2019.pdf).

<sup>240</sup> Financial Sector Conduct Authority (2022), *Financial Sector Outlook Study*.

<sup>241</sup> WTO Schedule of Specific Commitments for financial services (WTO document GATS/SC/78/Suppl.3, 26 February 1998).



| Legal instruments and amendments                               | Amendment purposes   | Entry into force/published |
|--|--|----------------------------|
|  | risk management and compliance programmes, governance, and training relating to anti-money laundering and counter terrorist financing.   |                            |
| Financial Sector Regulation Act, 2017 (Act No. 9 of 2017)      | To, <i>inter alia</i> , establish a system of financial regulation by establishing the Prudential Authority and the Financial Sector Conduct Authority, and conferring powers on these entities; to make provision for the licensing of financial institutions.  | August 2017                |
| Insurance Act, 2017 (Act No. 18 of 2017)                       | To, <i>inter alia</i> , provide for a legal framework for the prudential regulation and supervision of insurance business, and to introduce a legal framework for microinsurance to promote financial inclusion.   | January 2018               |
| Financial Matters Amendment Act, 2019 (Act No. 18 of 2019)     | To, <i>inter alia</i> , amend the Banks Act, 1990, to regard national state-owned companies as public companies for purposes of the application of the Banks Act; to determine prerequisites for these companies and their holding companies to qualify to apply for establishment as a bank.  | May 2019                   |
| Financial Sector Laws Amendment Act, 2021 (Act No. 23 of 2021) | To, <i>inter alia</i> , amend the South African Reserve Bank Act, 1989, to provide for the performance of resolution functions by the Reserve Bank; the Banks Act, 1990, to exclude banks in resolution from the application of certain provisions; to establish a deposit insurance scheme, including a Corporation for Deposit Insurance and a Deposit Insurance Fund. | January 2022               |

Source: Compiled by the WTO Secretariat, based on Government Gazettes.

4.70. South Africa is a member of the Financial Action Task Force (FATF), the Eastern and Southern Africa Anti-Money Laundering Group, and the Egmont Group.<sup>242</sup> In October 2021, the FATF Mutual Evaluation Report (MER) concerning the effectiveness of South Africa's anti-money laundering (AML) and counter-financing of terrorism (CFT) regime revealed many deficiencies across a broad range of assessed areas. It also indicated that there was a better rating achieved in respect of technical compliance, which speaks to the strengths of the AML/CFT legal framework. While some of the deficiencies that were highlighted in the MER were addressed during the 12-month observation period afforded to South Africa from October 2021, a decision to "grey list" South Africa was taken in February 2023. South Africa, through its National Treasury Department, is required to report back to the FATF on progress being made to address the remaining deficiencies as itemized in the FATF action plan within the allotted timeframes.

#### 4.4.1.1 Banking and other credit institutions

4.71. Under the Banks Act, 1990 (as amended), banks in South Africa may be owned and controlled by any person (nationals or foreigners). A bank licence is required, and an annual fee is levied. Applicants proposing to register or operate as banks or subsidiaries/branches of foreign banks need to first be registered as a company under the Companies Act, 2008; must have a minimum capital of ZAR 250 million; and must maintain a prudential capital adequacy ratio of at least 11.5% as set by the PA with a minimum leverage ratio of at least 4%.<sup>243</sup>

4.72. From 2014 to mid-2023, 27 bank licence applications were approved, including 4 bank licences, 3 branch licences from foreign banks, 1 mutual bank licence, 4 co-operative bank licences,

<sup>242</sup> GCIS, *South Africa Yearbook: Finance* (2015/16),. Viewed at: <https://www.gcis.gov.za/sites/default/files/docs/resourcecentre/yearbook/Finance-SAYB1516.pdf>.

<sup>243</sup> SARB Prudential Authority, *Bank Licensing in the Republic of South Africa* (including checklist). Viewed at: [https://www.resbank.co.za/content/dam/sarb/what-we-do/prudential-regulation/functions-of-the-prudential-authority/licensing/Banking%20licencing%20in%20the%20Republic%20of%20South%20Africa%20\(2021%20update\).pdf](https://www.resbank.co.za/content/dam/sarb/what-we-do/prudential-regulation/functions-of-the-prudential-authority/licensing/Banking%20licencing%20in%20the%20Republic%20of%20South%20Africa%20(2021%20update).pdf).

and 15 representative office licences. Nine of these applications were from nationals and 18 from foreigners.<sup>244</sup>

4.73. Commercial banks are prohibited from engaging in insurance activities and are not allowed to hold more than 49% of the issued shares of an insurance company. There are also restrictions on establishing foreign branches. The CEO of the branch and at least one other executive officer must be residents of South Africa. The parent company must have held at least USD 1 billion in net assets for 18 months. The capital of the branch needs to be at least the highest of ZAR 250 million and 8% of assets. The foreign institution must have an investment grade debt rated by an internationally recognized credit rating agency.<sup>245</sup> Limits are set on maximum interest rates and initiation fees that a bank can charge.<sup>246</sup>

4.74. Under Section 6(6) of the Banks Act, 1990, the SARB issued a capital framework based on the Basel III framework for all banks, controlling companies, branches of foreign institutions, eligible institutions, and auditors of banks or controlling companies. The directive served to inform all relevant persons of matters related to the prescribed minimum required capital ratios, as well as the application of various components of said capital requirements such as the systemic risk capital requirement (Pillar 2A), the domestic systemically important bank (D-SIB) capital requirement, the countercyclical buffer range, and the capital conservation buffer range.<sup>247</sup>

4.75. The Banking Association South Africa (BASA) represents banks in global structures and provides input to policymakers and stakeholders on the high-value payments system managed by the SARB; international and regional payments initiatives; and new innovations, such as the Central Bank Digital Currency (CBDC), cryptocurrencies, and Distributed Ledger Technology (DLT). For example, the BASA hosts the Southern African Development Community Banking Association (SADC BA), which works to strengthen and integrate the regional banking system, among other objectives. BASA remains a member of the International Banking Federation (a chair in 2018).<sup>248</sup>

4.76. In 2021, over 81% of South Africa's population had access to a bank account.<sup>249</sup> In 2021/22, South Africa had 31 registered banking institutions (down from 34 in 2014), which consisted of 18 banks and 13 local branches of international banks. There were also 4 mutual banks, 5 cooperative banks, and 29 authorized representative offices (down from 39 in 2014) of international banks.<sup>250</sup> The authorities indicate that the main reason for the drop in the number of representative offices was largely due to new strategies and business decisions from the representative offices' respective head offices, but may also have been due to the FATF grey listing (see above) and electricity challenges (Section 4.2.2). The banking sector remains dominated by the five largest banks, which collectively held 89.9% of total banking sector assets in 2021.<sup>251</sup> Total deposits from the public amounted to ZAR 4.9 trillion, and loans and advances to companies to ZAR 1.4 trillion.<sup>252</sup>

4.77. The New Development Bank (NDB) was established in FY2014/15 by BRICS countries and, in 2016/17, the NDB approved loans of over USD 3.4 billion.<sup>253</sup> By 2019, the NDB had approved

<sup>244</sup> Approved licence applications from foreigners were for branches for foreign banks (from entities in China, the United Kingdom, and India) and for representative offices (from entities in Switzerland, the United Kingdom, Portugal, Spain, Qatar, Australia, Zimbabwe, Sweden, Mauritius, and the Isle of Man).

<sup>245</sup> WTO Services Trade Policy Database. Viewed at: <http://i-tip.wto.org/services/SearchApplied.aspx>.

<sup>246</sup> WTO Services Trade Policy Database. Viewed at: <http://i-tip.wto.org/services/SearchApplied.aspx>.

<sup>247</sup> South African Reserve Bank Directive 5/2021, Ref.: 15/8/1/3, 20 May 2021. Viewed at: <https://www.resbank.co.za/content/dam/sarb/publications/prudential-authority/pa-documents-issued-for-consultation/2021/Proposed%20Directive%20Withdrawal%20of%20the%20temporary%20treatment%20of%20structured%20credit%20exposures%20due%20to%20the%20Covid-19%20pandemic.pdf>.

<sup>248</sup> BASA (2018), *Annual Report 2018*. Viewed at: <https://www.banking.org.za/wp-content/uploads/2019/08/BASA-Annual-Report-2018.pdf>.

<sup>249</sup> FSCA (2022), *Financial Sector Outlook Study*. Viewed at: <https://www.fsca.co.za/Documents/FSCA%20Financial%20Sector%20Outlook%20Study%202022.pdf>.

<sup>250</sup> GCIS, *South Africa Yearbook: Finance and Economy* (2021/22). Viewed at: <https://www.gcis.gov.za/sites/default/files/docs/gcis/6.Finance%20and%20Economy.pdf>.

<sup>251</sup> GCIS, *South Africa Yearbook: Finance and Economy* (2021/22).

<sup>252</sup> Banking Association South Africa (2021), *Integrated Report*. Viewed at: <https://www.banking.org.za/reports/integrated-report-2021/>.

<sup>253</sup> GCIS, *South Africa Yearbook: Finance* (2016/17). Viewed at: <https://www.gcis.gov.za/sites/default/files/docs/resourcecentre/yearbook/Finance2017.pdf>.

almost USD 2 billion to fund South Africa's development initiatives and an estimated USD 1.5 billion per year was available for funding South Africa's infrastructure build programme. South Africa had made capital contributions to the NDB bank amounting to ZAR 18.5 billion by 2020 and a contribution of ZAR 9.2 billion was expected over the medium term.<sup>254</sup>

4.78. Digitalization has been a key priority in the banking sector over the recent years.<sup>255</sup> However, fintech growth and investment remain low, with market share of 2% in 2019.<sup>256</sup> In April 2020, the Intergovernmental Fintech Working Group (established in 2016) launched the Innovation Hub, which is intended to support the sector in introducing innovations that complement the core mandates of regulators, including financial stability and soundness, consumer protection, financial inclusion, and fair lending practices.<sup>257</sup> South Africa has three new entrants using digitally driven business models, including Tyme Bank in 2018, Discovery Bank in 2019, and Bank Zero in 2021, reflecting a growing trend of digital banking services.

#### 4.4.1.2 Insurance

4.79. Depending on their activities, insurance companies may be regulated by the Insurance Act No. 18 of 2017, the Long-Term Insurance Act, 1998, or the Short-Term Insurance Act, 1998. All insurance companies must be licensed by the PA.<sup>258</sup> The Insurance Act, 2017 replaced the prudential section of the two other acts. The Long-Term Insurance Act and the Short-Term Insurance Act are still applicable from a market conduct perspective. The South African Insurance Association (SAIA) represents insurers internationally and is a member of the African Insurance Organisation (AIO), the Global Federation of Insurance Associations (GFIA), the International Union of Marine Insurance (IUMI), the Organisation of East and Southern African Insurers (OESAI), and the International Association of Engineering Insurers (IMIA).<sup>259</sup>

4.80. An insurance company is either insured as a non-life insurer or as a life insurer except in the case of composite reinsurers and micro-insurers. Insurance companies are prohibited from engaging in banking activities and capital markets activities (e.g. trading in securities or underwriting of securities), especially without the approval of the PA.<sup>260</sup> Licensing fees apply. As of 2023, licensing fees were ZAR 199,450 for insurers and ZAR 53,000 controlling companies.<sup>261</sup> The insurer needs to hold a certain amount of capital (ZAR 15 million for life and non-life insurance companies, ZAR 30 million for composited reinsurers, and ZAR 4 million for micro-insurers) and comply with the financial sector laws for their licence to be approved by the PA.<sup>262</sup> As indicated by the authorities, an insurer (other than a reinsurer, a branch of a foreign reinsurer, Lloyds underwriter, or Lloyds) may not, without the approval of the PA, conduct any business, including business similar to insurance business, outside South Africa.

4.81. Reinsurance arrangements within or outside South Africa may be used to mitigate an insurer's capital requirements under the Financial Soundness Standards for Insurers, where it satisfies certain eligibility criteria. The PA applies limitations on certain reinsurance arrangements or transactions that could give rise to fronting and the risk of market spirals.

4.82. As indicated by the authorities, compulsory insurance in South Africa includes workers' compensation, unemployment insurance, and insurance covering occupational diseases in mines and

<sup>254</sup> GCIS, *South Africa Yearbook: Finance and Economy* (2019/20). Viewed at: <https://www.qcis.gov.za/sites/default/files/docs/resourcecentre/yearbook/Yearbook2020-7-Finance%20and%20Economy.pdf>.

<sup>255</sup> Financial Sector Conduct Authority (2022), *Financial Sector Outlook Study*. Viewed at: <https://www.fsca.co.za/Documents/FSCA%20Financial%20Sector%20Outlook%20Study%202022.pdf>.

<sup>256</sup> Accenture (2019), *Unlocking Digital Value in South Africa's Retail Banking and Insurance Sector*. Viewed at: [https://www.accenture.com/\\_acnmedia/pdf-105/accenture-dti-unlocking-digital-value-south-africa-telecoms.pdf](https://www.accenture.com/_acnmedia/pdf-105/accenture-dti-unlocking-digital-value-south-africa-telecoms.pdf).

<sup>257</sup> South African Insurance Association (2021), *Annual Review– Rising to Unexpected Challenges*. Viewed at: <https://www.saia.co.za/index.php?id=321>.

<sup>258</sup> Prudential Authority, *Regulatory Strategy 2021–2024*. Viewed at: [https://www.resbank.co.za/content/dam/sarb/what-we-do/prudential-regulation/PA\\_Regulatory\\_and\\_Supervisory\\_Strategy\\_2021.pdf](https://www.resbank.co.za/content/dam/sarb/what-we-do/prudential-regulation/PA_Regulatory_and_Supervisory_Strategy_2021.pdf).

<sup>259</sup> South African Insurance Association (2021), *Annual Review– Rising to Unexpected Challenges*.

<sup>260</sup> WTO Services Trade Policy Database. Viewed at: <http://i-tip.wto.org/services/SearchApplied.aspx>.

<sup>261</sup> WTO Services Trade Policy Database. Viewed at: <http://i-tip.wto.org/services/SearchApplied.aspx>.

<sup>262</sup> Government Gazette (2018), Vol. 631, No. 41388, 18 January.

works, with the premiums being set out the underlying legislation. The Road Accident Fund provides compulsory cover to all users of South African roads against injuries sustained or death arising from motor vehicle accidents.

4.83. In 2021, the PA published several regulatory instruments and guidance notes that entail the prudential standards with audit requirements for insurers and controlling companies.<sup>263</sup> The PA supervised 158 institutions consisting of 66 life insurers, 70 non-life insurers, 9 professional reinsurers, and 9 micro-insurers, as well as 4 composite micro-insurers. South Africa's life insurance sector was dominated by five companies that collectively held 72% of the total assets. The non-life insurance sector was dominated by eight foreign-owned companies that held 60% of gross premiums and constituted less than 2% of the total insurance industry assets. The micro-insurance policies are limited to ZAR 100,000 for life insurance and ZAR 300,000 for non-life insurance.<sup>264</sup>

4.84. As indicated by the authorities, motor insurance remains the largest non-life insurance industry's class of business, making up approximately 37% of the non-life insurance business. In 2022, insurance penetration measured using premiums was 17.2% of GDP in South Africa, among the highest penetrations in the world. South Africa holds 70% of the African insurance industry's market premiums.<sup>265</sup>

#### 4.4.2 Telecommunications services

4.85. Over the review period, transport, storage, and communication services contributed an average of 7.6% to gross value added (Table 1.1). In 2019, the National Department of Communications and Digital Technologies (DCDT) was established through the merger of the Department of Communications and the Department of Telecommunications and Postal Services. Its mission is to create an enabling environment for the provision of communication services to all South Africans in a way that encourages socio-economic development and investment<sup>266</sup>, and it has a new mandate to drive the use of emerging technologies. SOEs and government agencies that have activities/responsibilities related to telecommunications services are listed in Table 4.4. The legal framework remains the Electronic Communications Act No. 36 of 2005 (as amended in 2007 and 2014).

**Table 4.4 SOEs and government agencies, telecommunications sector**

| Entity (legislative basis)                                   | Responsibilities / activities  |
|--|--|
| Independent Communications Authority of South Africa (ICASA) | Regulates telecommunications, broadcasting, and postal services. Responsible for overseeing competition and consumer protection.   |
| Broadband Infraco (Broadband Infraco Act No. 33 of 2007)     | Provision of long-distance national and international broadband connectivity to licensed private-sector partners, licence-exempt projects of national importance, and underserved areas. |
| SENTECH  | Provider of electronic communications network services to the broadcasting and communications industry.  |
| Telkom SA  | Telecom operator.  |

Source: WTO document WT/TPR/S/324/Rev.1, 5 February 2016; and information provided by the authorities.

4.86. South Africa's NDP 2030 (Section 2) sees information and communication technology (ICT) as underpinning the development of a more inclusive and prosperous knowledge economy, given technology's role as an enabler of economic activity. It recognizes a challenging environment within

<sup>263</sup> PA, Guidance Notice 5 of 2021 on Audit Requirements; and South African Insurance Association (2022). *Annual Review 2022*. Viewed at: <https://www.saia.co.za/index.php?id=321>.

<sup>264</sup> GCIS, *South Africa Yearbook: Finance and Economy (2021/22)*. Viewed at: <https://www.gcis.gov.za/sites/default/files/docs/gcis/6.Finance%20and%20Economy.pdf>; and Financial Sector Conduct Authority (2022), *Financial Sector Outlook Study*. Viewed at: <https://www.fsca.co.za/Documents/FSCA%20Financial%20Sector%20Outlook%20Study%202022.pdf>.

<sup>265</sup> FSCA (2022), *Financial Sector Outlook Study*. Viewed at: <https://www.fsca.co.za/Documents/FSCA%20Financial%20Sector%20Outlook%20Study%202022.pdf>.

<sup>266</sup> DCDT, *Our Mandate*. Viewed at: <https://www.dcdt.gov.za/about-us/mandates.html>; and Government of South Africa, *Department of Communications and Digital Technologies (DCDT)*. Viewed at: <https://nationalgovernment.co.za/units/view/428/departments-of-communications-and-digital-technologies-dcdt>.

South Africa characterized by poor ICT infrastructure, high prices, a lack of competition, and regulatory shortcomings. It stresses the need for a new policy framework to realize the goal of a fully connected society and envisages the State's role as facilitating competition and private investment, intervening to address market failure, and being directly involved to ensure universal access and help marginalized communities to develop the capacity to use ICT effectively.<sup>267</sup>

4.87. Strategies being pursued in the telecommunications sector include the 2016 National Integrated ICT Policy White Paper<sup>268</sup> and the Department of Telecommunications and Postal Services' 2016 Strategic Plan.<sup>269</sup> As indicated in the previous Review, South Africa's licensing regime is technologically neutral under the Electronic Communications Act. There are two categories of licences: individual licences, which allow for the provision of services at national or provincial levels; and class licences, which enable services to be provided at the local and district levels. Applications for class licences may be made at any time. Applications to obtain an individual network licence (e.g. to deploy networks, fibre, and base stations) may only be made when the Minister has issued an invitation to apply. However, operators may buy an existing individual network licence subject to prior approval.

4.88. There continue to be two operators in the fixed line segment: Telekom (the former incumbent) and Neotel. The Government has a controlling share in Telekom. Reportedly, the following services are under monopoly: domestic fixed long distance, international gateways, international fixed long distance, and digital subscriber line (DSL).<sup>270</sup> Four operators provide mobile services: Vodaphone, MTN, Telekom Mobile, and Cell C. Information was not available on operators' market share. The ITU estimates that prices for broadband and high consumption mobile and voice packages are unaffordable for a large percentage of the South African population.<sup>271</sup>

4.89. There were various developments over the review period with respect to enhancing telecommunications infrastructure and increasing broadband access. Reportedly, the entry into force of a Rapid Deployment Policy and Policy Direction and a standard draft by-law for wayleave approvals should speed up the building of telecommunications infrastructure, such as wires and towers.<sup>272</sup> A long-awaited spectrum auction was held in 2022; reportedly, spectrum allocation had been a major bottleneck in deploying wireless technologies.<sup>273</sup> Additionally, more spectrum will be freed up with the transition from analogue terrestrial television broadcasting to digital terrestrial broadcasting. Government initiatives to increase broadband access include a South Africa Connect initiative to increase connections to public facilities.<sup>274</sup> As part of the 2020 Presidential Employment Stimulus (Section 1), ZAR 346 million was earmarked to expand broadband connectivity to 1 million people in low-income communities.<sup>275</sup>

4.90. ICASA regulates mobile termination rates. It intervenes only on the wholesale side. The interconnection framework allows operators to negotiate interconnection agreements among

<sup>267</sup> National Development Plan 2030. Viewed at:

[https://www.gov.za/sites/default/files/gcis\\_document/201409/ndp-2030-our-future-make-it-workr.pdf](https://www.gov.za/sites/default/files/gcis_document/201409/ndp-2030-our-future-make-it-workr.pdf).

<sup>268</sup> National Integrated ICT Policy White Paper. Viewed at:

[https://www.gov.za/sites/default/files/gcis\\_document/201610/40325qon1212.pdf](https://www.gov.za/sites/default/files/gcis_document/201610/40325qon1212.pdf).

<sup>269</sup> Department of Telecommunications and Postal Services (2016), *Strategic Plan (2015-20) and Annual Performance Plan (2016/17)*. Viewed at: <https://static.pmg.org.za/160525dtps.pdf>.

<sup>270</sup> ITU, DataHub: South Africa. Viewed at:

<https://datahub.itu.int/data/?e=ZAF&c=701&i=100045&s=2585>.

<sup>271</sup> ITU, ICT Price Basket. Viewed at: <https://www.itu.int/en/ITU-D/Statistics/Dashboards/Pages/IPB.aspx>. The price basket index measures the affordability of communications services, with 2% GNI per capita as being the affordable entry level.

<sup>272</sup> Government of South Africa (2023), "Minister Khumbudzo Ntshavheni: Launch of the Operation Vulindlela Progress Report", 30 May.

<sup>273</sup> National Development Plan 2030, p. 192.

<sup>274</sup> SA Connect is being implemented through the State Information Technology Agency and Broadband Infraco. Phase 1 of SA Connect has been completed and involved connecting 970 government facilities (including schools, health facilities, post offices, police stations, and government offices) in rural district municipalities to broadband services. Phase 2, which aims to connect over 42,000 government facilities across South Africa, is awaiting funding. DCDT, *SA Connect*. Viewed at: <https://www.dcdt.gov.za/sa-connect-document.html>.

<sup>275</sup> Presidential Employment Stimulus. Viewed at: [https://www.gov.za/sites/default/files/gcis\\_document/202010/presidential-employment-stimulus.pdf](https://www.gov.za/sites/default/files/gcis_document/202010/presidential-employment-stimulus.pdf).

themselves; they only revert to ICASA if they cannot arrive at an agreement. There is a dedicated tribunal that adjudicates in interconnection disputes.

4.91. Given the geographical size of South Africa, providing universal service is a challenge. Projects to finance universal service are covered by the Universal Service and Access Fund established under the Electronic Communications Act. It comprises contributions from all licence holders at the rate of 1% of their revenue.<sup>276</sup> In addition, operators that were issued spectrum licences in the above-mentioned 2022 auction were required to ensure a level of coverage in rural areas and to public institutions.

4.92. New Number Portability Regulations came into effect in March 2022, repealing those in place since 2005.<sup>277</sup>

#### 4.4.3 Transport

4.93. The Department of Transport remains responsible for regulating transport in South Africa (rail, road, maritime, air, and public transport). In 2022, transport, storage, and communication accounted for 7.6% of gross value added in 2022 (Table 1.1). South Africa is an important transit point for exports and imports of goods in the region.

4.94. Key challenges facing the transport sector over the review period included managing the impact of the COVID-19 pandemic; disruption caused by industrial action at South Africa's ports<sup>278</sup>; steep increases in maritime container freight rates<sup>279</sup>; depletion of the rail network due to under-maintenance as well as theft and sabotage of rail infrastructure<sup>280</sup>; and a backlog in the maintenance of the road network.<sup>281</sup>

4.95. The guiding policy documents for the transport sector are the National Transport Master Plan 2050, approved by the Cabinet in 2016, and the White Paper on National Transport Policy 2021.<sup>282</sup> Both seek to create a sustainable integrated transport system (within the country and region) as well as enhanced infrastructure to facilitate the movement of goods and people and improve trade competitiveness. They also provide for the establishment of an independent single transport economic regulatory authority to implement government policy.

4.96. South Africa is a signatory to the 1996 SADC Protocol on Transport, Communications and Meteorology, which provides a framework for the cooperation in implementing an integrated

<sup>276</sup> Further information on the use of the Universal Service Access Fund may be viewed on the website of the Universal Service and Access Agency of South Africa: <http://www.usaasa.org.za/usaif/>.

<sup>277</sup> Bowmans (2022), "South Africa: Number Portability Regulations Come Into Effect", 8 March. Viewed at: <https://bowmanslaw.com/insights/technology-media-and-telecommunications/south-africa-number-portability-regulations-come-into-effect/>.

<sup>278</sup> Port Technology International (2022), "South African Terminals Remain Choked Up as Strike Action Ends", 20 October Viewed at: <https://www.porttechnology.org/news/south-african-terminals-remain-choked-up-as-strike-action-ends/>; and UNCTAD (2022), *Review of Maritime Transport*. Viewed at: [https://unctad.org/system/files/official-document/rmt2022\\_en.pdf](https://unctad.org/system/files/official-document/rmt2022_en.pdf).

<sup>279</sup> UNCTAD notes that over the period December 2020-December 2021, rates per TEU on the Shanghai to South Africa (Durban) route increased from USD 2,521 to USD 6,450. UNCTAD (2022), *Review of Maritime Transport*. Viewed at: [https://unctad.org/system/files/official-document/rmt2022\\_en.pdf](https://unctad.org/system/files/official-document/rmt2022_en.pdf).

<sup>280</sup> Bloomberg (2023), "Theft of Hundreds of Miles of Cable Hits South Africa Rail Route", 31 May. Viewed at: <https://www.bloomberg.com/news/newsletters/2023-05-31/supply-chain-latest-cable-theft-idles-crucial-south-african-rail-route>.

<sup>281</sup> Reportedly 80% of the national road network is older than its design life, and a steady year-on-year decline in the condition of the provincial road network has occurred since the 1990s. This situation has been partly linked to budget cuts for road maintenance to service debts related to an e-toll project. Businesstech (2022), "80% of South Africa's Roads Have Reached the End of Their Design Life: Minister", 24 February. Viewed at: <https://businesstech.co.za/news/motoring/562306/80-of-south-africas-roads-have-reached-the-end-of-their-design-life-minister/> and (2022), "The Final Plan for E-Tolls in South Africa", 26 October. Viewed at: <https://businesstech.co.za/news/government/638129/the-final-plan-for-e-tolls-in-south-africa/>.

<sup>282</sup> Department of Transport (2022), *White Paper on National Transport Policy 2021*. Viewed at: [https://www.gov.za/sites/default/files/gcis\\_document/202205/46422gen1050.pdf](https://www.gov.za/sites/default/files/gcis_document/202205/46422gen1050.pdf). This replaces the 1996 White Paper on Transport. Department of Transport (2016), *National Transport Master Plan 2050*. Viewed at: [https://www.transport.gov.za/documents/11623/39906/00\\_TableContents2017.pdf/1f534d84-dba9-4bff-b252-b5acb3a97deb](https://www.transport.gov.za/documents/11623/39906/00_TableContents2017.pdf/1f534d84-dba9-4bff-b252-b5acb3a97deb); <https://www.transport.gov.za/natmap-2050>.

transport network.<sup>283</sup> At the SADC level, a Regional Infrastructure Development Master Plan (which *inter alia*, incorporates transport) and a Regional Corridor Strategy are also being implemented.

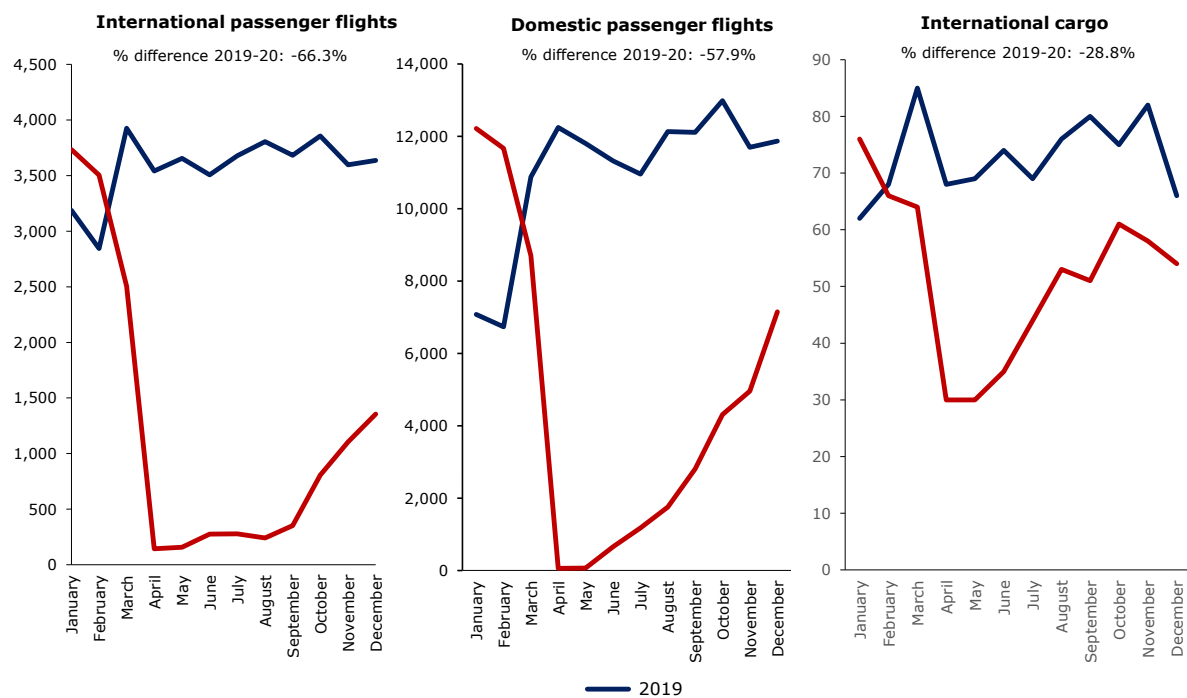
#### 4.4.3.1 Air transport

4.97. South Africa has three main international airports (Johannesburg O.R. Tambo, Cape Town International, and Durban's King Shaka International). In addition, it has seven domestic airports (Bloemfontein, East London, George, Kimberley, Pilanesburg, Port Elizabeth, and Upington).

4.98. The Airport Company of South Africa (ACSA), an SOE, owns and operates South Africa's nine main airports.<sup>284</sup> ACSA is legally and financially autonomous from the Government and operates under commercial law. It is 70% owned by the Government, through the Department of Transport. Twenty percent of its shares are owned by the Public Investment Corporation, and the remainder are held by black economic empowerment shareholders and employees.<sup>285</sup> Ground handling services must be licensed by ACSA and may be provided by airlines themselves or by third parties.

4.99. The air transport sector was severely affected by the COVID-19 pandemic, with the number of international and domestic passenger flights dropping by 66.3% and 57.9%, respectively, between 2019 and 2020. Cargo flights were less severely affected (Chart 4.3). Information was not available on government support to the airlines sector in response to the COVID-19 pandemic.

**Chart 4.3 Impact of COVID-19 on air transport, 2019 and 2020**



Source: ICAO, *Operational Impact on Air Transport*. Viewed at: <https://data.icao.int/coVID-19/operational.htm>.

4.100. The Air Services Licensing Council is responsible for licensing airlines in South Africa, seemingly under the framework of the Air Services Licensing Act (Act No. 115 of 1990).<sup>286</sup> Under

<sup>283</sup> SADC, *Protocol on Transport, Communications and Meteorology 1996*. Viewed at: <https://www.sadc.int/document/protocol-transport-communications-and-meteorology-1996>.

<sup>284</sup> ACSA, *Company Profile: About Airports Company South Africa*. Viewed at: <https://www.airports.co.za/about-us/airports-company/company-profile>.

<sup>285</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016.

<sup>286</sup> Air Services Licensing Act (Act No. 115 of 1990). Viewed at: <https://www.transports.gov.za/documents/11623/19945/AirServicesAct2016.pdf/fdf85dd4-c0d1-43d2-93fe-985b9628514c>.

the Act, licensed operators must either be natural persons resident in South Africa or a company in which 75% of the shareholders are residents. The Act also provides the possibility for the responsible Minister to make exemptions to this rule. As of mid-2023, there were five licensed commercial airlines in South Africa (South African Airways (SAA), Airlink, CemAir, FlySafair, and Lift Airline). Of these, SAA is 49% owned by the Government. It narrowly avoided bankruptcy following a state bailout, debt restructuring, and sale of 51% of the company to a group of investors (Takatso Consortium) in 2021 (Section 3.3.5).<sup>287</sup> In 2021, Mango Airlines, the low-cost subsidiary of SAA, entered bankruptcy protection.<sup>288</sup>

4.101. Information was also not available on developments over the review period with respect to signature/entry into force of new bilateral air services agreements.

#### 4.4.3.2 Maritime services

4.102. South Africa has eight main commercial ports. Of these, there are five main ports located on South Africa's East Coast, namely Richards Bay, Durban, East London, Port Elizabeth, and Mosel Bay, and two main ports on its West Coast (Cape Town and Saldanha). It also has a deep-water transshipment hub at Ngqura Port. The main activities of these ports are described in South Africa's previous Review and have not changed.<sup>289</sup> As indicated in the previous Review, Transnet National Ports Authority (TNPA) is in charge of the landlord function for ports, and Transnet Port Terminals is responsible for ports and cargo terminal management. The Ports Regulator of South Africa regulates the tariffs and general port management function of the TNPA. Information was not available on port efficiency, on port calls at South Africa's ports, or whether private-sector participation in the provision of port services is permitted.

4.103. Information was not available on ship registration requirements and related eligibility criteria or on the size of South Africa's shipping fleet. Reportedly, there are plans to create a national shipping company.<sup>290</sup>

4.104. As indicated in its previous Review, South Africa allows both local and foreign-owned vessels on international trade routes to carry its coastal cargo. Information was not available on the size of the cabotage market and the main goods transported between domestic ports. The White Paper on National Transport Policy 2021 (see above) calls for the introduction of cabotage protection legislation at a continental level in Africa or regional level in Southern Africa, as well as negotiations on bilateral shipping or taxation agreements with non-resident ship owners. This is in response to the considerable competition and economic pressures from foreign competitors in the freight market.

#### 4.4.3.3 Rail transport

4.105. South African has a large rail network of 30,400 track-km. Transnet Freight Rail, an SOE, *inter alia*, owns and operates South Africa's freight railways (both the tracks and the rolling stock). The Passenger Rail Agency of South Africa (PRASA) owns and operates the urban commuter network. Bombela Concession Company (Pty) Ltd partially financed and constructed the Gautrain Rapid Rail link that connects Johannesburg, Pretoria, Kempton Park, and O.R. Tambo International Airport under a concession agreement with the Gauteng Provincial Government.<sup>291</sup>

4.106. Transnet is experiencing difficulties due to mismanagement, high levels of debt, underinvestment in infrastructure, broken trains, theft/sabotage of tracks, and competition from the private sector (transport of freight via road). This has had a negative spill-over to other aspects of

<sup>287</sup> *The Guardian* (2021), "South African Airways Resumes Flights after Bankruptcy", 23 September. Viewed at: <https://guardian.ng/news/south-african-airways-resumes-flights-after-bankruptcy/>.

<sup>288</sup> CH Aviation (2021), "South Africa's Mango to Enter Bankruptcy Protection", 26 July. Viewed at: <https://www.ch-aviation.com/portal/news/106085-south-africas-mango-to-enter-bankruptcy-protection>.

<sup>289</sup> WTO document WT/TPR/S/324/Rev.1, 5 February 2016 (Annex 4, Table 4.3).

<sup>290</sup> *Maritime Executive* (2022), "South Africa Releases Plan to Launch National Shipping Company", 3 November. Viewed at: <https://maritime-executive.com/article/south-africa-releases-plan-to-launch-national-shipping-company>; and *BusinessTech* (2022), "Big Plans for New State-owned Shipping Company in South Africa", 3 November. Viewed at: <https://businesstech.co.za/news/government/640377/big-plans-for-new-state-owned-shipping-company-in-south-africa/>.

<sup>291</sup> The contract also includes operation and maintenance of this service for 15 years. Bombela Concession Company (Pty) Ltd. Viewed at: <https://www.bombela.com/who-we-are/>.



the economy, including lower than expected coal and iron ore exports due to train services running at below capacity.<sup>292</sup>

4.107. The 2022 National Rail Policy White Paper puts forward ideas of how these challenges could be addressed. For example, it suggests increased focus on the road-to-rail migration strategy (i.e. positioning rail as the backbone of the transport system including freight logistics and passenger mobility) and encourages substantial third-party or private-sector participation in the rail sector. Moreover, to address the rail sector challenges, the Government was to produce a National Rail Master Plan to help secure investment, improve governance of institutions, and integrate regulatory frameworks. The policy was meant to align with the Vision 2040 for Railway Revitalization in Africa adopted by African Transport Ministers in 2014, covering infrastructure renewal, automated signalling, cross-border interoperability, and compatibility with international standards. Integrating freight transport operations is one major area of focus in the Master Plan, i.e. via a "pit to port" strategy with more equal share between road and rail transport modes in freight service delivery. The Policy states that the market structure will be split between infrastructure and train operators.<sup>293</sup>

#### 4.4.4 Tourism

4.108. The Department of Tourism has overall responsibility for the tourism sector in South Africa. Other government institutions in tourism include the Tourism Grading Council of South Africa (TGCSA), South Africa's quality assurance body for national tourism products, and the Tourism B-BBEE Charter Council, which advises on sector-specific matters affecting B-BBEE in entities within the sector. Private-sector operators are represented by the Tourism Business Council of South Africa (TBCSA) and the South African Tourism Services Association (SATSA).

4.109. The Tourism Act, 1993 has been replaced by the Tourism Act, 2014, which seeks to, *inter alia*, develop and promote sustainable tourism to benefit all residents and foreign visitors; promote quality tourism products and services; provide support for marketing of South Africa domestically and internationally as a tourist destination; provide for the continued existence of the South African Tourism Board; provide for the establishment of the Tourism Grading Council; and regulate the tourist guide profession. The norms and standards for the safe operations of the tourism sector in the context of COVID-19 pandemic and beyond were adopted as part of the Act and aligned with the World Tourism Organization (UNWTO) safety guidelines.<sup>294</sup>

4.110. According to the World Economic Forum Travel and Tourism Development Index 2021, South Africa ranked 68<sup>th</sup> of 117, with a score of 3.8 of 7 (from 61<sup>st</sup> of 140 with a score of 4.0 in 2019) and has the largest travel and tourism market in Africa.<sup>295</sup>

4.111. Tourism has been identified as one of the strategic sectors under the NDP 2030 and the Re-imagined Industrial Strategy, given its labour intensity and potential to stimulate economic growth. The National Tourism Sector Strategy (NTSS: 2016-2026) provides a blueprint for the sector and seeks to position South Africa as one of the top 20 tourism destinations globally. It is based on several pillars, including effective marketing, ease of access (into and within the country), visitor experience, and inclusive growth. In addition, the Tourism Strategic Plan for 2020/21 to 2024/25 aims to achieve 21 million tourist arrivals in 2030; it, *inter alia*, emphasizes the importance of tourism in contributing to South Africa's priorities of economic transformation and job creation.<sup>296</sup> According to the authorities, a Tourism Crisis Management Strategy is under development.

4.112. The COVID-19 pandemic had a major impact on the sector. According to official data, tourism's contribution to GDP declined from 3.7% (ZAR 208 billion) in 2019 to 2.2%

<sup>292</sup> *The Economist* (2023), "South Africa's Collapsing Railway Company Is a Cautionary Tale", 19 January. Viewed at: <https://www.economist.com/leaders/2023/01/19/south-africas-collapsing-railway-company-is-a-cautionary-tale>.

<sup>293</sup> Department of Transport, 2022 *National Rail Policy White Paper*. Viewed at: [https://www.gov.za/sites/default/files/qcis\\_document/202205/46356qon2077.pdf](https://www.gov.za/sites/default/files/qcis_document/202205/46356qon2077.pdf).

<sup>294</sup> Tourism Act, 2014 (Act No. 3 of 2014), *Government Gazette*, No. 37538.

<sup>295</sup> World Economic Forum (2022), *Travel & Tourism Development Index 2021*. Viewed at: [https://www3.weforum.org/docs/WEF\\_Travel\\_Tourism\\_Development\\_2021.pdf?\\_ql=1\\*x30ao8\\*\\_up\\*MQ..&clid=EA1aIQobChMI55zumNyS\\_wIVBP93Ch37GwQ2EAAAYASAAEgLSofD\\_BwE](https://www3.weforum.org/docs/WEF_Travel_Tourism_Development_2021.pdf?_ql=1*x30ao8*_up*MQ..&clid=EA1aIQobChMI55zumNyS_wIVBP93Ch37GwQ2EAAAYASAAEgLSofD_BwE).

<sup>296</sup> Department of Tourism, *Tourism Strategic Plan 2020/21-2024/25*. Viewed at: <https://www.tourism.gov.za/AboutNDT/Publications/Strategic%20Plan%20%202020-21%20to%20%202024-25.pdf>.

(ZAR 123 billion) in 2020 due to COVID-19-related restrictions and its share of total employment declined from 4.8% (about 780,000 directly employed persons) in 2019 to 3.1% (about 459,000 directly employed persons) in 2020.<sup>297</sup> Likewise, arrivals of foreign travellers declined from about 15 million in 2019 to about 3 million in 2020.<sup>298</sup> In response to the pandemic, the Government launched a Tourism Sector Recovery Plan in 2020 in collaboration with the private sector. This aims to protect key tourism assets and rejuvenate supply.

4.113. South Africa has various incentive schemes (in addition to the above-mentioned Tourism Sector Recovery Plan). The Tourism Enterprise Partnership (TEP) and Tourism Incentive Programme seek to support SMMEs by helping them participate in local and international trade exhibitions, thus creating direct linkages with international tourism companies. The Market Access Support Programme (MASP) aims to reduce the cost burden for small tourism enterprises to participate in international trade platforms (i.e. covering exhibition fees, accommodation, and return airfare for exhibitions and marketing roadshows) and thereby improve their access to buyers in new and growth markets to unlock demand growth. The Tourism Grading Support Programme encourages wider participation in the tourism grading system and reduces the cost burden of grading on small tourism enterprises by offering discounts of between 80% and 90% on the cost of star grading assessment fees for accommodation establishments and meeting venues.<sup>299</sup>

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<sup>297</sup> Statistics South Africa (March 2023), *Tourism Satellite Account for South Africa, Final 2018 and Provisional 2019 and 2020*. Report No. 04-05-07. Viewed at: [https://www.statssa.gov.za/?page\\_id=1854&PPN=Report-04-05-07&SCH=73591](https://www.statssa.gov.za/?page_id=1854&PPN=Report-04-05-07&SCH=73591).

<sup>298</sup> Statistics South Africa (2022), *Tourism*. Report No. 03-51-02. Viewed at: <https://www.statssa.gov.za/publications/Report-03-51-02/Report-03-51-022022.pdf>.

<sup>299</sup> GCIS, *South Africa Yearbook: Tourism* (2021/22). Viewed at: <https://www.gcis.gov.za/content/resourcecentre/sa-info/yearbook>.

## 5 APPENDIX TABLES

**Table A1.1 Merchandise exports by HS section/chapter/subheading, 2014-22**

| HS section/HS chapters/subheadings   | 2014         | 2015     | 2016     | 2017     | 2018     | 2019     | 2020     | 2021      | 2022      |
|--|--------------|----------|----------|----------|----------|----------|----------|-----------|-----------|
| <b>Total exports (USD million)</b>   | 92,590.7     | 80,264.5 | 75,912.6 | 88,233.2 | 93,677.4 | 89,396.0 | 85,226.8 | 121,321.3 | 121,616.3 |
|  | (% of total) |          |          |          |          |          |          |           |           |
| 1-Live animals and products  | 1.2          | 1.3      | 1.4      | 1.2      | 1.2      | 1.2      | 1.2      | 1.0       | 0.9       |
| 2-Vegetable products   | 4.8          | 5.0      | 5.4      | 5.4      | 5.5      | 5.3      | 6.4      | 5.3       | 5.8       |
| HS 08 Edible fruit and nuts; peel of citrus fruit or melons  | 3.1          | 3.6      | 3.8      | 3.8      | 3.9      | 3.8      | 4.5      | 3.6       | 3.6       |
| 3-Fats and oils  | 0.3          | 0.3      | 0.4      | 0.3      | 0.3      | 0.2      | 0.4      | 0.3       | 0.4       |
| 4-Prepared food, beverages and tobacco   | 4.3          | 4.4      | 4.4      | 4.2      | 4.3      | 4.4      | 4.2      | 3.3       | 3.5       |
| 5-Mineral products   | 23.5         | 20.7     | 20.4     | 25.3     | 23.8     | 25.0     | 23.6     | 24.0      | 28.1      |
| HS 27 Mineral fuels  | 10.2         | 9.7      | 9.8      | 12.0     | 10.7     | 9.8      | 8.1      | 8.7       | 14.3      |
| HS 2701 Coal; briquettes, ovoids and similar solid fuels manufactured from coal                                      | 5.5          | 5.1      | 5.5      | 6.5      | 6.7      | 5.3      | 4.6      | 5.0       | 11.0      |
| HS 26 Ores, slag and ash   | 12.8         | 10.5     | 10.1     | 12.8     | 12.4     | 14.6     | 15.0     | 14.9      | 13.2      |
| HS 2601 Iron ores and concentrates, including roasted iron pyrites   | 7.4          | 5.1      | 4.7      | 5.4      | 4.6      | 6.5      | 7.2      | 8.1       | 5.3       |
| 6-Chemicals and products thereof   | 6.3          | 6.6      | 6.1      | 6.2      | 6.3      | 6.2      | 6.5      | 6.3       | 6.4       |
| 7-Plastics and rubber  | 2.3          | 2.1      | 2.2      | 2.0      | 2.0      | 2.1      | 1.9      | 1.6       | 1.8       |
| 8-Raw hides and skins; leather, furskins and articles thereof  | 0.5          | 0.5      | 0.4      | 0.4      | 0.3      | 0.3      | 0.2      | 0.2       | 0.2       |
| 9-Wood, cork, straw  | 0.6          | 0.6      | 0.6      | 0.6      | 0.6      | 0.6      | 0.5      | 0.5       | 0.5       |
| 10-Pulp of wood; paper and paperboard  | 1.8          | 1.9      | 2.0      | 1.9      | 1.8      | 1.4      | 1.7      | 1.2       | 1.6       |
| 11-Textiles and textile articles   | 1.4          | 1.5      | 1.5      | 1.5      | 1.5      | 1.4      | 1.3      | 1.2       | 1.0       |
| 12-Footwear, headgear, etc.  | 0.3          | 0.3      | 0.3      | 0.3      | 0.2      | 0.2      | 0.2      | 0.2       | 0.2       |
| 13-Articles of stone, plaster, cement  | 0.5          | 0.6      | 0.6      | 0.5      | 0.5      | 0.5      | 0.4      | 0.4       | 0.4       |
| 14-Precious stones and metals  | 17.2         | 17.1     | 17.4     | 16.0     | 17.2     | 16.8     | 22.6     | 27.5      | 20.8      |
| HS 71 Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal | 17.2         | 17.1     | 17.4     | 16.0     | 17.2     | 16.8     | 22.6     | 27.5      | 20.8      |
| HS 7110 Platinum, unwrought or in semi-manufactured forms, or in powder form   | 7.0          | 8.5      | 8.0      | 7.5      | 8.4      | 9.3      | 12.6     | 19.1      | 13.7      |
| 15-Base metals and articles thereof  | 12.9         | 12.2     | 12.0     | 12.0     | 12.1     | 11.0     | 9.2      | 9.6       | 10.2      |
| HS 72 Iron and steel   | 7.6          | 6.9      | 7.0      | 6.8      | 6.7      | 6.0      | 4.7      | 5.2       | 5.4       |
| HS 7202 Ferro-alloys   | 4.6          | 4.4      | 4.7      | 4.2      | 4.0      | 3.6      | 3.2      | 3.4       | 3.5       |
| 16-Machinery, electrical equipment   | 9.8          | 9.8      | 9.3      | 8.1      | 8.1      | 8.1      | 7.6      | 6.9       | 7.0       |
| HS 84 Machinery and mechanical appliances; parts thereof   | 7.2          | 7.2      | 6.8      | 6.1      | 6.2      | 6.1      | 5.8      | 5.5       | 5.5       |
| 17-Transport equipment   | 10.4         | 12.7     | 13.3     | 12.0     | 12.3     | 13.6     | 10.5     | 9.4       | 9.7       |
| HS 87 Vehicles   | 9.5          | 11.5     | 12.1     | 11.1     | 11.6     | 12.8     | 9.8      | 8.8       | 9.1       |
| HS 8703 Motor cars and other motor vehicles for the transport of persons   | 4.7          | 6.9      | 7.0      | 6.4      | 6.5      | 7.5      | 5.4      | 4.4       | 4.7       |

| HS section/HS chapters/subheadings                | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 |
|---|------|------|------|------|------|------|------|------|------|
| HS 8704 Motor vehicles for the transport of goods | 3.3  | 3.0  | 3.6  | 3.4  | 3.7  | 3.9  | 3.3  | 3.3  | 3.3  |
| 18-Precision equipment                            | 0.8  | 0.8  | 0.8  | 0.7  | 0.6  | 0.7  | 0.7  | 0.5  | 0.5  |
| 19-Arms and ammunition                            | 0.2  | 0.4  | 0.4  | 0.3  | 0.3  | 0.1  | 0.0  | 0.1  | 0.1  |
| 20-Miscellaneous manufactured articles            | 0.8  | 0.8  | 0.8  | 0.7  | 0.7  | 0.6  | 0.5  | 0.4  | 0.5  |
| 21-Works of art, etc.                             | 0.1  | 0.1  | 0.1  | 0.1  | 0.1  | 0.1  | 0.1  | 0.1  | 0.1  |
| Other   | 0.1  | 0.3  | 0.3  | 0.5  | 0.2  | 0.2  | 0.3  | 0.1  | 0.1  |

Source: WTO Secretariat calculations, based on UN Comtrade database.

**Table A1.2 Merchandise exports by destination, 2014-22**

|   | 2014            | 2015            | 2016            | 2017            | 2018            | 2019            | 2020            | 2021             | 2022             |
|---|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|------------------|------------------|
| <b>Total exports (USD million)</b>                          | <b>92,590.7</b> | <b>80,264.5</b> | <b>75,912.6</b> | <b>88,233.2</b> | <b>93,677.4</b> | <b>89,396.0</b> | <b>85,226.8</b> | <b>121,321.3</b> | <b>121,616.3</b> |
|   | (% of total)    |                 |                 |                 |                 |                 |                 |                  |                  |
| <b>Americas</b>   | <b>9.2</b>      | <b>9.8</b>      | <b>9.2</b>      | <b>9.2</b>      | <b>8.6</b>      | <b>8.6</b>      | <b>9.8</b>      | <b>12.1</b>      | <b>10.4</b>      |
| United States   | 7.0             | 7.7             | 7.2             | 7.5             | 6.8             | 7.0             | 8.4             | 10.7             | 8.8              |
| Other America   | 2.2             | 2.1             | 2.0             | 1.7             | 1.8             | 1.6             | 1.4             | 1.4              | 1.6              |
| <b>Europe</b>   | <b>21.8</b>     | <b>23.2</b>     | <b>24.2</b>     | <b>23.6</b>     | <b>25.3</b>     | <b>25.9</b>     | <b>25.6</b>     | <b>26.8</b>      | <b>27.2</b>      |
| EU-27   | 15.5            | 16.5            | 18.0            | 17.8            | 18.3            | 19.1            | 18.9            | 18.8             | 21.0             |
| Germany   | 4.6             | 6.2             | 7.0             | 6.6             | 7.1             | 8.0             | 7.5             | 7.7              | 7.3              |
| Netherlands   | 3.3             | 2.5             | 2.6             | 3.2             | 3.4             | 3.3             | 3.9             | 3.4              | 4.9              |
| Belgium   | 2.7             | 2.9             | 3.0             | 2.8             | 2.6             | 3.1             | 2.8             | 2.9              | 3.3              |
| Italy   | 1.1             | 1.4             | 1.5             | 1.2             | 1.0             | 0.8             | 0.8             | 1.0              | 1.5              |
| EFTA  | 1.8             | 1.7             | 1.3             | 1.2             | 1.2             | 1.1             | 1.2             | 0.8              | 0.5              |
| Other Europe  | 4.5             | 4.9             | 4.8             | 4.6             | 5.8             | 5.7             | 5.5             | 7.2              | 5.7              |
| United Kingdom  | 3.8             | 4.1             | 4.2             | 3.9             | 5.1             | 5.2             | 5.0             | 6.7              | 5.2              |
| <b>Commonwealth of Independent States (CIS)<sup>a</sup></b> | <b>0.4</b>      | <b>0.4</b>      | <b>0.4</b>      | <b>0.4</b>      | <b>0.5</b>      | <b>0.5</b>      | <b>0.5</b>      | <b>0.4</b>       | <b>0.3</b>       |
| <b>Africa</b>   | <b>29.8</b>     | <b>29.4</b>     | <b>28.3</b>     | <b>26.3</b>     | <b>26.6</b>     | <b>26.6</b>     | <b>23.3</b>     | <b>21.3</b>      | <b>24.7</b>      |
| Mozambique  | 3.2             | 2.9             | 3.0             | 3.2             | 3.4             | 4.1             | 3.6             | 3.6              | 4.8              |
| Botswana  | 5.1             | 5.1             | 4.9             | 4.3             | 4.3             | 4.4             | 3.8             | 3.6              | 3.9              |
| Namibia   | 4.9             | 5.2             | 4.7             | 4.0             | 3.8             | 4.0             | 3.1             | 2.8              | 2.9              |
| Zimbabwe  | 2.5             | 2.5             | 2.6             | 2.4             | 2.5             | 2.2             | 2.6             | 2.4              | 2.6              |
| Zambia  | 2.9             | 2.9             | 2.8             | 2.5             | 2.6             | 2.4             | 2.0             | 1.9              | 2.2              |
| Eswatini  | 1.6             | 1.6             | 1.5             | 1.5             | 1.5             | 1.5             | 1.4             | 1.2              | 1.3              |
| <b>Middle East</b>  | <b>3.2</b>      | <b>3.1</b>      | <b>3.3</b>      | <b>3.5</b>      | <b>3.3</b>      | <b>2.9</b>      | <b>2.8</b>      | <b>2.7</b>       | <b>3.0</b>       |
| United Arab Emirates  | 1.6             | 1.5             | 1.9             | 2.1             | 2.0             | 1.8             | 1.8             | 1.9              | 2.1              |
| <b>Asia</b>   | <b>27.6</b>     | <b>26.9</b>     | <b>27.4</b>     | <b>29.8</b>     | <b>28.9</b>     | <b>29.1</b>     | <b>28.7</b>     | <b>30.1</b>      | <b>29.2</b>      |
| China   | 9.5             | 9.2             | 9.1             | 9.8             | 9.1             | 10.7            | 11.5            | 11.2             | 9.6              |
| Japan   | 5.3             | 5.0             | 4.6             | 4.7             | 4.8             | 4.8             | 4.5             | 6.8              | 7.0              |
| Other Asia  | 12.9            | 12.6            | 13.7            | 15.3            | 14.9            | 13.6            | 12.8            | 12.2             | 12.6             |
| India   | 4.1             | 4.0             | 4.3             | 4.7             | 4.8             | 4.5             | 3.8             | 3.4              | 4.3              |
| Korea, Republic of  | 1.4             | 1.4             | 1.8             | 2.2             | 2.0             | 1.7             | 1.6             | 1.8              | 2.2              |
| <b>Other</b>  | <b>7.8</b>      | <b>7.2</b>      | <b>7.1</b>      | <b>7.1</b>      | <b>6.9</b>      | <b>6.4</b>      | <b>9.3</b>      | <b>6.6</b>       | <b>5.2</b>       |
| Memo:   |                 |                 |                 |                 |                 |                 |                 |                  |                  |
| EU-28   | 19.3            | 20.6            | 22.2            | 21.8            | 23.4            | 24.4            | 23.8            | 25.5             | 26.2             |
| SACU  | 13.1            | 13.3            | 12.6            | 11.4            | 11.0            | 11.3            | 9.6             | 8.8              | 9.2              |

a Commonwealth of Independent States, including certain associate and former member States.

Source: WTO Secretariat calculations, based on UN Comtrade database.

**Table A1.3 Merchandise imports by HS section/chapter/subheading, 2014-22**

| HS section/HS chapters/subheadings  | 2014            | 2015            | 2016            | 2017            | 2018            | 2019            | 2020            | 2021            | 2022             |
|---|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|------------------|
| <b>Total imports (USD million)</b>  | <b>99,794.6</b> | <b>85,511.0</b> | <b>75,149.1</b> | <b>83,086.9</b> | <b>92,637.0</b> | <b>88,037.5</b> | <b>68,943.2</b> | <b>93,439.6</b> | <b>111,880.3</b> |
|   | (% of total)    |                 |                 |                 |                 |                 |                 |                 |                  |
| 1-Live animals and products   | 1.1             | 1.4             | 1.5             | 1.8             | 1.7             | 1.6             | 1.6             | 1.5             | 1.2              |
| 2-Vegetable products  | 1.8             | 2.2             | 3.0             | 2.1             | 1.9             | 2.0             | 2.7             | 2.0             | 1.8              |
| 3-Fats and oils   | 0.8             | 0.7             | 0.9             | 0.9             | 0.7             | 0.7             | 1.0             | 0.9             | 1.1              |
| 4-Prepared food, beverages and tobacco  | 2.7             | 2.9             | 3.2             | 3.3             | 3.0             | 3.2             | 3.4             | 3.0             | 2.6              |
| 5-Mineral products  | 23.7            | 16.1            | 13.9            | 15.2            | 19.0            | 17.2            | 14.3            | 17.0            | 23.2             |
| HS 27 Mineral fuels   | 23.3            | 15.7            | 13.4            | 14.8            | 18.5            | 16.9            | 14.0            | 16.6            | 22.8             |
| HS 2710 Petroleum oils and oils obtained from bituminous minerals, other than crude                           | 5.8             | 5.5             | 3.4             | 5.4             | 4.9             | 5.1             | 5.2             | 9.0             | 16.7             |
| 6-Chemicals and products thereof  | 9.5             | 10.4            | 10.4            | 10.9            | 10.9            | 10.7            | 13.0            | 12.6            | 11.3             |
| HS 30 Pharmaceutical products   | 2.1             | 2.5             | 2.5             | 2.7             | 2.7             | 2.7             | 3.5             | 3.3             | 2.3              |
| HS 38 Miscellaneous chemical products   | 1.7             | 1.8             | 1.8             | 1.9             | 1.8             | 1.8             | 2.4             | 2.1             | 2.0              |
| 7-Plastics and rubber   | 3.9             | 4.1             | 4.4             | 4.4             | 4.4             | 4.2             | 4.4             | 4.6             | 4.1              |
| 8-Raw hides and skins; leather, furskins and articles thereof   | 0.4             | 0.4             | 0.4             | 0.4             | 0.3             | 0.3             | 0.3             | 0.3             | 0.3              |
| 9-Wood, cork, straw   | 0.4             | 0.5             | 0.5             | 0.5             | 0.4             | 0.4             | 0.4             | 0.5             | 0.4              |
| 10-Pulp of wood; paper and paperboard   | 1.4             | 1.5             | 1.6             | 1.8             | 2.6             | 2.9             | 3.0             | 3.0             | 3.1              |
| 11-Textiles and textile articles  | 3.2             | 3.7             | 3.9             | 3.7             | 3.6             | 3.7             | 4.5             | 3.7             | 3.3              |
| 12-Footwear, headgear, etc.   | 1.1             | 1.2             | 1.3             | 1.2             | 1.1             | 1.1             | 1.1             | 1.1             | 1.0              |
| 13-Articles of stone, plaster, cement   | 1.0             | 1.2             | 1.2             | 1.1             | 1.2             | 1.2             | 1.1             | 1.1             | 0.9              |
| 14-Precious stones and metals   | 1.0             | 0.7             | 1.1             | 1.2             | 1.3             | 1.3             | 1.6             | 1.6             | 1.3              |
| 15-Base metals and articles thereof   | 4.6             | 5.5             | 5.4             | 5.3             | 4.9             | 4.9             | 5.2             | 6.1             | 5.3              |
| 16-Machinery, electrical equipment  | 23.0            | 25.0            | 24.5            | 23.4            | 21.7            | 22.4            | 23.4            | 21.3            | 20.5             |
| HS 84 Machinery and mechanical appliances; parts thereof  | 13.3            | 13.9            | 13.7            | 13.2            | 12.4            | 12.7            | 13.1            | 12.1            | 11.2             |
| HS 85 Electrical machinery and equipment and parts thereof  | 9.7             | 11.2            | 10.8            | 10.2            | 9.3             | 9.7             | 10.3            | 9.2             | 9.3              |
| HS 8517 Telephone sets  | 3.2             | 4.0             | 4.0             | 3.8             | 3.7             | 3.5             | 3.6             | 3.3             | 3.1              |
| 17-Transport equipment  | 9.5             | 10.4            | 9.9             | 10.0            | 8.7             | 9.1             | 7.2             | 7.7             | 8.5              |
| HS 87 Vehicles  | 8.2             | 8.4             | 7.7             | 8.4             | 7.6             | 7.8             | 6.4             | 6.7             | 7.4              |
| 18-Precision equipment  | 2.5             | 2.7             | 2.9             | 2.7             | 2.6             | 2.7             | 2.9             | 2.5             | 2.2              |
| HS 90 Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments | 2.3             | 2.5             | 2.7             | 2.6             | 2.4             | 2.5             | 2.8             | 2.4             | 2.0              |
| 19-Arms and ammunition  | 0.1             | 0.1             | 0.1             | 0.1             | 0.1             | 0.1             | 0.0             | 0.1             | 0.1              |
| 20-Miscellaneous manufactured articles  | 1.6             | 1.8             | 1.8             | 1.8             | 1.7             | 1.7             | 1.6             | 1.5             | 1.2              |
| 21-Works of art, etc.   | 0.1             | 0.0             | 0.1             | 0.1             | 0.1             | 0.0             | 0.0             | 0.1             | 0.0              |
| Other   | 6.5             | 7.3             | 8.0             | 8.2             | 8.0             | 8.4             | 7.4             | 8.0             | 6.6              |

Source: WTO Secretariat calculations, based on UN Comtrade database.

**Table A1.4 Merchandise imports by origin, 2014-22**

|   | 2014            | 2015            | 2016            | 2017            | 2018            | 2019            | 2020            | 2021            | 2022             |
|---|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|------------------|
| <b>Total imports (USD million)</b>                          | <b>99,794.6</b> | <b>85,511.0</b> | <b>75,149.1</b> | <b>83,086.9</b> | <b>92,637.0</b> | <b>88,037.5</b> | <b>68,943.2</b> | <b>93,439.6</b> | <b>111,880.3</b> |
|   | (% of total)    |                 |                 |                 |                 |                 |                 |                 |                  |
| <b>Americas</b>   | <b>10.1</b>     | <b>11.1</b>     | <b>11.6</b>     | <b>10.6</b>     | <b>9.7</b>      | <b>9.9</b>      | <b>10.0</b>     | <b>10.4</b>     | <b>10.5</b>      |
| United States   | 6.6             | 7.0             | 6.7             | 6.6             | 6.0             | 6.6             | 6.4             | 7.0             | 7.3              |
| Other America   | 3.5             | 4.0             | 4.9             | 4.0             | 3.7             | 3.4             | 3.5             | 3.4             | 3.1              |
| Brazil  | 1.4             | 1.6             | 1.9             | 1.9             | 1.6             | 1.3             | 1.5             | 1.4             | 1.4              |
| <b>Europe</b>   | <b>29.6</b>     | <b>31.4</b>     | <b>32.9</b>     | <b>32.7</b>     | <b>30.3</b>     | <b>31.6</b>     | <b>31.0</b>     | <b>28.9</b>     | <b>25.9</b>      |
| EU-27   | 24.6            | 26.5            | 28.2            | 27.8            | 25.4            | 26.3            | 26.2            | 24.5            | 21.8             |
| Germany   | 10.0            | 11.3            | 11.8            | 11.5            | 9.9             | 9.9             | 9.1             | 8.1             | 7.3              |
| Italy   | 2.7             | 2.6             | 2.5             | 2.7             | 2.8             | 2.5             | 2.6             | 2.8             | 2.2              |
| France  | 2.2             | 2.3             | 3.0             | 2.5             | 2.2             | 2.3             | 2.3             | 2.1             | 1.9              |
| Spain   | 1.7             | 1.7             | 1.8             | 1.9             | 1.5             | 1.8             | 2.2             | 1.7             | 1.5              |
| Netherlands   | 1.4             | 1.5             | 1.7             | 1.5             | 1.2             | 1.3             | 1.4             | 1.7             | 1.4              |
| EFTA  | 0.9             | 1.0             | 1.2             | 1.0             | 1.1             | 1.1             | 1.5             | 1.3             | 0.7              |
| Other Europe  | 4.1             | 4.0             | 3.6             | 3.8             | 3.9             | 4.2             | 3.3             | 3.1             | 3.4              |
| Türkiye   | 0.7             | 0.7             | 0.6             | 0.7             | 0.7             | 0.7             | 0.8             | 1.0             | 1.7              |
| United Kingdom  | 3.3             | 3.2             | 2.9             | 3.0             | 3.1             | 3.3             | 2.5             | 2.0             | 1.6              |
| <b>Commonwealth of Independent States (CIS)<sup>a</sup></b> | <b>0.5</b>      | <b>0.6</b>      | <b>0.4</b>      | <b>0.5</b>      | <b>0.6</b>      | <b>0.6</b>      | <b>0.8</b>      | <b>0.7</b>      | <b>0.5</b>       |
| <b>Africa</b>   | <b>13.3</b>     | <b>10.8</b>     | <b>10.7</b>     | <b>10.3</b>     | <b>12.3</b>     | <b>11.7</b>     | <b>9.9</b>      | <b>9.8</b>      | <b>9.0</b>       |
| Nigeria   | 5.1             | 3.5             | 2.8             | 2.1             | 4.1             | 4.1             | 3.1             | 2.4             | 2.0              |
| <b>Middle East</b>  | <b>10.5</b>     | <b>6.5</b>      | <b>6.9</b>      | <b>7.8</b>      | <b>9.7</b>      | <b>8.5</b>      | <b>7.2</b>      | <b>9.4</b>      | <b>12.1</b>      |
| Saudi Arabia, Kingdom of                                    | 7.1             | 3.1             | 3.8             | 4.6             | 5.8             | 4.2             | 3.9             | 4.4             | 4.0              |
| United Arab Emirates  | 1.5             | 1.3             | 1.4             | 1.3             | 1.5             | 2.4             | 1.7             | 2.0             | 3.7              |
| Oman  | 0.5             | 0.6             | 0.5             | 0.7             | 1.2             | 1.1             | 1.0             | 2.0             | 2.4              |
| <b>Asia</b>   | <b>35.6</b>     | <b>39.3</b>     | <b>37.1</b>     | <b>37.7</b>     | <b>36.8</b>     | <b>37.1</b>     | <b>39.7</b>     | <b>40.0</b>     | <b>41.2</b>      |
| China   | 15.5            | 18.3            | 18.1            | 18.3            | 18.4            | 18.5            | 20.8            | 20.6            | 20.1             |
| Japan   | 3.8             | 3.7             | 3.4             | 3.4             | 3.1             | 3.2             | 2.8             | 2.8             | 2.5              |
| Other Asia  | 16.4            | 17.3            | 15.6            | 15.9            | 15.2            | 15.4            | 16.2            | 16.7            | 18.6             |
| India   | 4.6             | 4.9             | 4.2             | 4.7             | 4.1             | 4.9             | 5.2             | 5.7             | 7.4              |
| Thailand  | 2.4             | 2.4             | 2.9             | 3.0             | 3.1             | 3.0             | 3.1             | 3.2             | 2.7              |
| Malaysia  | 1.0             | 1.0             | 1.0             | 1.0             | 1.1             | 1.0             | 1.1             | 1.1             | 1.4              |
| <b>Other</b>  | <b>0.3</b>      | <b>0.3</b>      | <b>0.3</b>      | <b>0.4</b>      | <b>0.6</b>      | <b>0.6</b>      | <b>1.3</b>      | <b>0.8</b>      | <b>0.8</b>       |
| Memo:   |                 |                 |                 |                 |                 |                 |                 |                 |                  |
| EU-28   | 27.9            | 29.7            | 31.0            | 30.8            | 28.5            | 29.7            | 28.6            | 26.5            | 23.5             |
| SACU  | 2.7             | 2.9             | 3.4             | 3.8             | 3.5             | 3.8             | 3.6             | 4.1             | 3.8              |

a Commonwealth of Independent States, including certain associate and former member States.

Source: WTO Secretariat calculations, based on UN Comtrade database.

**Table A2.1 Selected notifications, 2014-31 July 2023**

| WTO agreement  | Description of requirement  | Periodicity       | Most recent notifications  |
|--|---|-------------------|--|
| <b>Agreement on Agriculture</b>  |   |                   |  |
| Article 18.2 (MA:2)  | Volume of imports under tariff and other quota commitments                    | Annual since 1996 | G/AG/N/ZAF/110, 14/02/2022   |
| Articles 5.7 and 18.2 (MA:5)   | Annual use of the special safeguard provisions                                | Annual since 1996 | G/AG/N/ZAF/101, 02/03/2021   |
| Article 18.2 (DS:1)  | Domestic support  | Annual since 1996 | G/AG/N/ZAF/83, 26/02/2015  |
| Articles 10 and 18.2 (ES:1)  | Export subsidies (volumes and outlays)  | <i>Ad hoc</i>     | G/AG/N/ZAF/107, 27/09/2021   |
| Article 16.2 (NF:1)  | Decision on possible negative effects of the reform programme on LDC-NFIDC    | Annual since 1996 | G/AG/N/ZAF/104, 15/09/2021   |
| <b>Agreement on the Application of Sanitary and Phytosanitary Measures</b>                     |   |                   |  |
| Article 7, Annex B   | SPS to be notified promptly   | Once              | 48 notifications (excluding addenda, revisions, and corrigenda) between 01/01/2014 and 02/05/2023, from G/SPS/N/ZAF/34, 04/06/2014 to G/SPS/N/ZAF/81, 17/07/2023   |
| <b>Agreement on the Implementation of Article VI of the GATT 1994 (Anti-Dumping Agreement)</b> |   |                   |  |
| Article 16.4   | Anti-dumping actions taken  | Semi-annual       | G/ADP/N/377/ZAF, 14/04/2023  |
| <b>Agreement on Rules of Origin</b>  |   |                   |  |
| Paragraph 4 of Annex II  | Preferential Rules of Origin  | <i>Ad hoc</i>     | G/RO/N/158, 21/07/2017   |
| <b>Agreement on Subsidies and Countervailing Measures</b>                                      |   |                   |  |
| Article 25.11  | Countervailing actions taken  | Semi-annual       | G/SCM/N/399/Add.1/Rev.2, 28/04/2023  |
| <b>Agreement on Technical Barriers to Trade</b>  |   |                   |  |
| Article 10.6   | Information about technical regulations, standards, and conformity assessment | Once              | 77 notifications (excluding addenda, revisions, and corrigenda) between 01/01/2014 and 02/05/2023, from G/TBT/N/ZAF/173, 14/02/2014 to G/TBT/N/ZAF/250, 21/04/2023 |
| <b>General Agreement on Trade in Services (GATS)</b>   |   |                   |  |
| Article III:3  | New laws, regulations, or administrative guidelines                           | <i>Ad hoc</i>     | S/C/N/727-730, 25/02/2014<br>S/C/N/766, 18/09/2014<br>S/C/N/767-770, 29/09/2014<br>S/C/N/788, 14/01/2015   |
|  | Preferential treatment to services and service suppliers of LDCs              | <i>Ad hoc</i>     | S/C/N/853, 07/12/2015  |
| <b>Agreement on Customs Valuation</b>  |   |                   |  |
| Article 22   | Checklist of issues   | <i>Ad hoc</i>     | G/VAL/N/2/ZAF/1, 22/12/ 2014   |
| Decision A.4   | Change of laws and regulations  | <i>Ad hoc</i>     | G/VAL/N/1/ZAF/2, 15/01/2015  |
|  |   | <i>Ad hoc</i>     | G/VAL/N/3/ZAF/1, 22/12/ 2014   |
| <b>Agreement on Import Licensing Procedures</b>  |   |                   |  |
| Article 7.3  | Import licensing procedures   | Annually          | G/LIC/N/3/ZAF/8, 04/11/2019  |
| Articles 1.4(a) and/or 8.2(b)  | Changes in administrative procedures  | <i>Ad hoc</i>     | G/LIC/N/1/ZAF/1, 02/12/2016  |



| WTO agreement   | Description of requirement             | Periodicity   | Most recent notifications                                    |
|---|--|---------------|--|
| <b>Agreement on Trade Facilitation</b>                                  |  |               |  |
| Articles 1.4, 10.6.2 and 12.2.2   | Import, export, and transit procedures | <i>Ad hoc</i> | G/TFAN/ZAF/2, 10/03/2023                                     |
| Articles 15 and 16  | Category commitments                   | <i>Ad hoc</i> | G/TFA/N/ZAF/1/Add.1, 28/02/2018<br>G/TFA/N/ZAF/1, 01/12/2017 |
| <b>GATT 1994</b>  |  |               |  |
| Article XVII:4(a) and paragraph 1 of the interpretation of Article XVII | State trading                          | Annually      | G/STR/N/17/ZAF, 11/09/2018                                   |

Source: Compiled by the WTO Secretariat, based on notification documents.

Table A3.1 WTO tariff quotas, 2020

| HS code           | Product description              | Tariff rates 2020        |   | Quota commitment (Metric tonnes) | Fill ratio (%) 2020 |
|-------------------|----------------------------------|--------------------------|---|----------------------------------|---------------------|
|                   |                                  | In-quota (%)             | Out-of-quota (% or cents)                   |                                  |                     |
| 0201 and 0202     | Meat of bovine animals           | 13.8; 32                 | 40% or 240 c/kg                             | 26,254                           | 2.1                 |
| 0203              | Meat of swine                    | 7.4                      | 0%; 15% or 130 c/kg                         | 4,691                            |                     |
| 0204              | Meat of sheep                    | 13.2; 16.6; 19           | 40% or 200 c/kg                             | 6,002                            | 19.1                |
| 0206              | Edible offal                     | 7.6                      | 0%; 22% or 240 c/kg;<br>30% or 130 c/kg     | 2,544                            |                     |
| 0207              | Meat and edible offal of poultry | 7.4; 16.4; 9             | 0%  | 29,033                           |                     |
| 0401              | Milk and cream, fresh            | 19.2                     | 0%  | 53,657                           |                     |
| 0402              | Milk powder                      | 19.2                     | 450 c/kg (max. 96%)                         | 4,470                            | 0.0                 |
| 0403              | Buttermilk and yoghurt           | 19.2                     | 0%; 450 c/kg (max. 96%)                     | 213                              | 0.0                 |
| 0404              | Whey                             | 19.2                     | 450 c/kg (max. 96%)                         | 2,786                            | 0.0                 |
| 0405              | Butter                           | 15.8                     | 500 c/kg (max. 37%);<br>500 c/kg (max. 79%) | 1,167                            | 0.0                 |
| 0406              | Cheese                           | 19                       | 500 c/kg (max. 95%)                         | 1,989                            | 0.0                 |
| 0407 and 0408     | Eggs                             | 3.8                      | 0%; 19%                                     | 9,000                            | 0.0                 |
| 0701              | Potatoes                         | 9.8                      | 0.44 c/kg                                   | 48,161                           |                     |
| 070520            | Chicory, fresh                   | 0.6                      | 0%  | 4                                |                     |
| 0708              | Peas and beans, fresh            | 4.8; 6.6                 | 0%; 15%                                     | 263                              | 0.0                 |
| 0710              | Vegetables, frozen               | 4.8; 6.6; 7.4; 9.8       | 0%; 10%; 20%; 24%;<br>30%                   | 583                              | 77.7                |
| 0712              | Dried vegetables                 | 7.4; 9.8                 | 20%; 4 c/kg                                 | 860                              | 100.0               |
| 071320 and 071390 | Dried peas                       | 4.8; 6.6                 | 0%; 15%; 24%                                | 5,184                            | 0.0                 |
| 071330            | Dried beans                      | 4.8                      | 10%; 15%                                    | 11,063                           | 80.8                |
| 071340            | Lentils                          | 9.8                      | 0%  | 1,601                            |                     |
| 080620            | Grapes, dried                    | 4.6                      | 10%   | 397                              | 0.0                 |
| 0813              | Dried fruit                      | 6; 6.6; 8.8; 10.8;<br>14 | 10%   | 349                              | 6.3                 |
| 0901              | Coffee                           | 23.8                     | 0%; 20%; 6 c/kg;<br>10 c/kg                 | 15,746                           |                     |
| 0902              | Tea                              | 34                       | 0%; 400 c/kg                                | 11,375                           |                     |
| 1001 ex 1100      | Wheat or wheat equivalent        | 4.2; 14.4; 19.8          | 0%; 51,66c/kg                               | 108,279                          | 78.7                |
| 1002              | Rye                              | 4.2                      | 0%  | 83                               |                     |
| 1003              | Barley                           | 8.2                      | 0%  | 14,552                           |                     |
| ex 1100           | Barley equivalent                | 8.2                      | 0%  | 96,248                           |                     |
| 1004 ex 1100      | Oats or oat equivalent           | 6.6; 19.8                | 0%  | 7,333                            |                     |
| 1005 ex 1100      | Maize or maize equivalent        | 8.6; 10; 19.8            | 0%; 5%                                      | 269,000                          | 0.0                 |
| 1007              | Grain sorghum                    | 6.6                      | 3%  | 21,116                           | 0.0                 |
| 1008              | Other cereals                    | 8.6                      | 0%; 5%                                      | 145                              | 0.0                 |
| 1201              | Soya beans                       | 8                        | 8%  | 1,717                            |                     |
| 1202              | Groundnuts                       | 14                       | 10%   | 7,908                            |                     |
| 1204              | Linseed                          | 9.4                      | 10%   | 202                              |                     |
| 1205              | Oilseed rape                     | 8.0                      | 0%; 10%                                     | 871                              | 0.0                 |
| 1206              | Sunflower seed                   | 9.4                      | 9.4%  | 14,514                           |                     |
| 120921            | Lucerne seed                     | 5.0                      | 0%  | 576                              |                     |

| HS code               | Product description      | Tariff rates 2020             |   | Quota commitment (Metric tonnes) | Fill ratio (%) 2020 |
|-----------------------|--------------------------|-------------------------------|---|----------------------------------|---------------------|
|                       |                          | In-quota (%)                  | Out-of-quota (% or cents)                                       |                                  |                     |
| 1507, 1508, 1510-1515 | Vegetable oils           | 9.8; 12.2; 13.4; 16.2         | 0%; 9.8%; 10%   | 61,083                           |                     |
| 1701                  | Sugar                    | 21                            | 527,75c/kg  | 62,037                           |                     |
| 1702                  | Other sugars             | 13.6                          | 0%  | 6,391                            |                     |
| 1703                  | Molasses                 | 13.6                          | 0%  | 34,533                           |                     |
| 1901                  | Malt extracts            | 7.4; 19.2; 19.8               | 20%; 10% or 55 c/kg less 90%                                    | 6,119                            | 0.0                 |
| 1902                  | Pasta                    | 10.8                          | 20%; 30%; 3 c/kg; 40%; 5.5 c/kg                                 | 1,749                            | 74.1                |
| 1903                  | Tapioca                  | 8.6                           | 0%  | 5,448                            |                     |
| 2008                  | Preserved fruit and nuts | 6.6; 7.4; 8.6; 12; 14         | 0%; 5%; 20%; 55%; 0.99 c/kg                                     | 1,636                            |                     |
| 2106                  | Food preparations        | 7.4                           | 0%; 5%; 10%; 20%; 154 c/L                                       | 3,109                            | 58.1                |
| 2204-2208             | Wine and spirits         | 13.4; 14.6; 19.6; 24.2; 119.4 | 25%; 136 c/L; 154 c/L; 317 c/L of absolute alcohol              | 9,572,405                        | 0.1                 |
| 2209                  | Vinegar                  | 14.6                          | 5 c/L   | 15,000                           |                     |
| 2303                  | Corn gluten feed         | 8.6                           | 0%  | 3,960                            |                     |
| 2304-2306             | Oil-cake                 | 6.6                           | 6.6%  | 120,667                          |                     |
| 2401                  | Tobacco                  | 8.8                           | 77 c/kg; 15% or 860 c/kg less 85%; 860 c/kg less 85% (max. 44%) | 16,773                           | 0.2                 |
| 5201                  | Cotton                   | 12                            | 0%; 15%; 160 c/kg   | 17,101                           | 0.0                 |

Source: Information provided by the authorities.

**Table A3.2 Selected incentive schemes administered by the DTIC, 2023**

| Schemes and objectives   | Eligibility  | Incentive  |
|--|--|--|
| <b>Innovation incentives</b>   |  |  |
| <b>Technology and Human Resources for Industry Programme (THRIP)</b> | <ul style="list-style-type: none"> <li>– 50% paid by the Government for large companies or registered industry associations;</li> <li>– 75% for SMMEs; and</li> <li>– 80% or 90% for SMMEs with different levels of B-BBEE.</li> </ul>   | Cash incentive: cost-sharing grant for up to ZAR 8 million per annum, for a maximum of 3 years for approved projects in applied R&D in science, engineering, and technology.   |
| <b>Support Programme for Industrial Innovation (SPII)</b>            | B-BBEE ownership: <ul style="list-style-type: none"> <li>– 0-25%: 50% qualifying costs incurred;</li> <li>– 25.1%-50%, or &gt;50% ownership by women or people with disabilities: 75% or 65% of qualifying costs incurred; and</li> <li>– &gt;50%: 85% or 75% of qualifying costs incurred.</li> </ul>           | Cash incentive: <ul style="list-style-type: none"> <li>– Product process development scheme: Maximum ZAR 2 million cash grant. Small, very small, micro enterprises, individuals.</li> <li>– Matching scheme: Maximum ZAR 8 million cash grant. All enterprises and individuals.</li> </ul>  |
| <b>Export promotion incentives</b>                                   |  |  |
| <b>Export Marketing and Investment Assistance (EMIA)</b>             | At least 35% local content or value addition (including raw material and packaging).   | Cash incentive: Cost-reimbursable grants for individual exporters to grow export markets.  |
| <b>Sector Specific Assistance Scheme (SSAS)</b>                      | Eligible coordinators: Export councils, industry associations, provincial investment and economic development agencies, business chambers, Small Enterprise Development Agency (SEDA), local municipalities, metropolitan councils, etc.   | Cash incentive: Cost-sharing grants to registered sector coordinators, covering their export development and promotional costs, export product and service development costs, and costs to enhance their export capacities. Maximum funding: ZAR 1.9 million.  |
| <b>Capital Projects Feasibility Programme (CPFP)</b>                 | A minimum local content: 50% for goods and 70% for professional services, of which 10% should be sub-contracted to South African black professionals or black-owned firms.<br><br>Minimum project investment: ZAR 15 million.<br><br>B-BBEE compliant.   | Cash incentive: <ul style="list-style-type: none"> <li>– Feasibility studies costs for capital projects: 50% for projects outside Africa, 55% for projects in Africa (excluding South Africa);</li> <li>– Feasibility studies costs for manufacturing projects in South Africa: 50% for projects with total assets above ZAR 30 million, 70% for projects below ZAR 30 million.</li> </ul> Capped at ZAR 8 million.  |
| <b>Infrastructure investment incentives</b>                          |  |  |
| <b>Special Economic Zone (SEZ) Programme</b>                         |  | Tax incentive<br>Details described in Section 3.2.4 of the report.   |
| <b>Critical Infrastructure Programme (CIP)</b>                       | Supporting "critical" infrastructure: i.e. if the investment would not take place without the said infrastructure, or the investment would not operate optimally.<br>B-BBEE compliant.<br>Projects that have applied for the Shared Economic Infrastructure Facility (SEIF) are not eligible for CIP incentives. | Cash incentives: <ul style="list-style-type: none"> <li>– A cash grant of 10%-30% of the total qualifying infrastructure development costs;</li> <li>– For agro-processing and state-owned aerospace, and defence national strategic testing facilities: 10%-50%;</li> <li>– For projects that alleviate water and/or electricity dependence: 10%-50%;</li> <li>– For distressed municipalities and state-owned industrial parks: up to 100%;</li> <li>– For all, maximum ZAR 50 million.</li> </ul> |

Source: DTIC (2022), *A Guide to the DTIC Incentive Schemes 2021/22*. Viewed at: <http://www.thedtic.gov.za/wp-content/uploads/the-dti-incentive-schemes-guide.pdf>; and KPMG (2020), *Incentivise Your Investment Strategy – A Guide to South African Government and Tax Incentives*. Viewed at: <https://assets.kpmg.com/content/dam/kpmg/za/pdf/2021/tax-and-government-incentive-guide-2020.pdf>.