



**GSP+ duties Nigeria could have paid to EU28-UK in 2015 without EPA**  
 Jacques Berthelot (jacques.berthelot4@wanadoo.fr), December 3, 2016

Table 1, summarizing the detailed table 2, shows that Nigeria's exports to the EU28-UK have reached €16.449 billion in 2015, in EU CIF value, on which it should have paid €8.839 million of GSP duties – at an average rate of 0.54% –, as it did not sign an interim EPA in 2007 as Ghana and Ivory Coast did, allowing them to benefit duty free-quota free exports to the EU. Clearly the actual GSP duties were larger as they were based on EU28 imports and not yet on E28-UK imports.

96.8% of Nigeria's exports to the EU28-UK were non-agricultural or fish products of HS chapters 25 to 97 but they accounted for only 48.3% of the GSP duties whereas agricultural and fish exports accounting for 3.2% of total exports paid 51.7% of GSP duties.

However, if Nigeria requested to the EU Commission to benefit from the GSP+ regime, it would have paid only €3.506 million of GSP+ to the EU28-UK, 60.4% less than for standard GSP of €8.839 million, at an average rate of 0.21% instead of 0.54%. However here the GSP+ duties on agricultural and fish products would represent only 1.50% of total GSP+ duties. Let us remember that Nigeria did apply twice for GSP+, the first time in 2007, but did not receive any answer from DG Trade, despite it complied with all the conditions (on the 27 international conventions and economic vulnerability). The truth is that agreeing on Nigeria request is a too heavy pill to swallow for the EU Commission which is even less prepared to agree now than its only objective is that Nigeria sign the regional EPA.

Table 1 – GSP+ duties Nigeria could have paid to EU28-UK in 2015 without EPA and GSP paid

| Euros<br>Chapters of the Harmonized System | UE28-UK imports |           | GSP     |       | GSP+    |       |
|--|-----------------|-----------|---------|-------|---------|-------|
|  | Euros           | Tonnes    | Euros   | Rate  | Euros   | Rate  |
| Sub-total 01-24                            | 531224653       | 1907668   | 4573526 | 0,86% | 52420   | 0,01% |
| Sub-total 25-97                            | 15917363623     | 417604957 | 4265475 | 0,27% | 2619845 | 0,22% |
| Total 01-97                                | 16448588276     | 419512625 | 8839001 | 0,54% | 2672265 | 0,21% |
| 01-24/01-97                                | 3,23%           | 0,45%     | 51,74%  |       | 0,51%   |       |
| 25-97/01-97                                | 96,77%          | 99,55%    | 48,26%  |       | 99,49%  |       |

Table 2 (in annex) allows to identify the specific HS chapters paying the highest GSP and GSP duties:

- For the GSP duties, raw hides and skins (chapter 41) takes the lead with €3.415 million, followed by cocoa (chapter 18) with €2.473 million and fish (chapter 3) with €2 million. These 3 chapters accounted for 89.2% of all GSP duties.
- For the GSP+ duties, raw hides and skins are the only significant chapter, with €2.581 million, accounting for 99.5% of total GSP+ duties.

Now that Ghana and Ivory Coast will implement their interim EPAs (iEPAs), Nigeria should avoid importing from these two Ecowas countries, directly or indirectly, products they would import duty free in T5 when they would begin to open their markets to EU exports. The more so as Ghana and Ivory Coast have accounted for 91.4% of all Nigeria's imports from Ecowas in 2014 (last year available on ITC TradeMap), even if imports from Ecowas have accounted for only 12.3% of imports from the EU28.

Indeed some claim that the other Member States of ECOWAS should not tax their imports from Ghana (and Ivory Coast) for their domestic products but only for liberalized imports from the EU. However, this restriction does not hold as their domestic products will benefit from lower production costs due to their duty free imports of inputs and equipment from the EU. Since Ghana imports of liberalized products of groups A taxed at 5% (for commodities, capital goods and specific inputs) and B taxed at 10% (on inputs and intermediate goods) have represented in 2015 93% of all imports of liberalized goods and 70.2% of all imports (including excluded

products) from the EU28-UK, this implies that the bulk of imports are not finished products. The petroleum products alone (in fact the whole HS chapter 27) accounted for 26.2% of Ghana total imports from the EU28-UK in 2015, which were taxed at 9.90% on average and this alone would reduce significantly the cost of production and especially the transport cost of all domestic products. Likewise Ivory Coast's imports of groups A and B from the EU28-UK have accounted for 88.5% of all liberalized products and 60% of all products.

In her statement to the INTA committee on 13 October Ms Hannah Tetteh, Ghana's Minister of Foreign Affairs, acknowledged that Ecowas trade liberalization scheme (TLS) does not permit to export imported products duty free on the regional market. However Ghana could still export duty free to the other Ecowas Member States imported products from the EU that it would processed enough to be considered as original products. This could be particularly harmful for processed products from milk powder and cereals imported from the EU from T5 on when they would be fully liberalized, the CET and iEPA rate falling from 5% to zero, because these two products are highly subsidized by the EU.

Therefore Ecowas lax rules of origin allowing the free movements of products on the regional market should be reassessed and changed in the context of the interim EPAs. And Nigeria should join Ecowas LDCs – which would suffer even more from Ghana and Ivory Coast dumping as the share of their total imports coming from these two countries is much higher than that of Nigeria – to challenge the Ecowas TLS rules of origin. By signing the regional EPA, LDCs (except the Gambia and Mauritania) accepted reluctantly the correlative losses of tariff revenues without questioning the free movement of goods within ECOWAS. It is likely that they would now challenge their previous stance after the implementation of Ghana's and Ivory Coast's interim EPAs to which they were not associated and which are contradicting the provisions of the regional EPA.

However we have just shown in another paper<sup>1</sup> that, if the EU had complied with its obligation, enshrined in article 16 of the WA EPA on the MFN clause to grant to regional EPAs and iEPAs the same tariff advantages granted in its other FTAs – particularly in CETA, TTIP and FTAs with the Andean and Central American countries – this would have changed the behaviour of WA States that would not have signed these EPAs, but would have requested to receive the GSP+ status or a WTO waiver to reintroduce the EU preferential agreements as the US did with the AGOA, renewed in 2015 up to 2025. Similarly, the European Parliament and the EU Council of Ministers would likely not have followed the European Commission on EPAs and iEPAs. But it is not too late for them to retract their decisions which are largely due to the fraudulent behaviour of the European Commission which misled them in many ways and failed to honour its commitments. Article 1130 of the French Civil Code stipulates that "*Error, fraud and violence vitiate consent if they are of a nature that, without them, one of the parties would not have contracted or contracted on substantively different terms, and their determining character shall be assessed in the light of the persons and circumstances in which the consent was given*"<sup>2</sup>. Similarly article 49 of the Vienna Convention on the Law of Treaties states: "*If a State has been induced to conclude a treaty by the fraudulent conduct of another negotiating State, the State may invoke the fraud as invalidating its consent to be bound by the treaty*"<sup>3</sup>.

---

<sup>1</sup> *The signing of the EPAs and interim EPAs was extorted by the European Commission's fraudulent behaviour*, SOL, December 3, 2016.

<sup>2</sup> <https://iej.univ-paris1.fr/openaccess/reforme-contrats/titre3/stitre1/chap2/sect2/ssect1/para2-vices-consentement/>

<sup>3</sup> [http://legal.un.org/ilc/texts/instruments/english/conventions/1\\_1\\_1969.pdf](http://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf)

Table 2 – GSP+ duties Nigeria could have paid to EU28-UK in 2015 without the WA EPA

| Chapters of the Harmonized System         | Euros       |           | UE28-UK imports |        | GSP     |        | GSP+ |  |
|---|-------------|-----------|-----------------|--------|---------|--------|------|--|
|   | Euros       | Tonnes    | Euros           | Rate   | Euros   | Rate   |      |  |
| 01- Live animals                          | 7936        | 1         | 0               | 0      | 0       | 0      |      |  |
| 02- Meats                                 | 242         | 0         | 0               | 0      | 0       | 0      |      |  |
| 03- Fish                                  | 47554909    | 39404     | 1998886         | 4,20%  | 0       | 0      |      |  |
| 04- Dairy produce                         | 5982        | 18        | 2176            | 36,38% | 2176    | 36,38% |      |  |
| 05- Products of animal origin             | 646647      | 10580     | 0               | 0      | 0       | 0      |      |  |
| 06- Live trees and other plants           | 23691       | 43        | 237             | 1%     | 0       | 0      |      |  |
| 07- Vegetables                            | 407615      | 5912      | 8512            | 2,09%  | 1396    | 0,34%  |      |  |
| 08- Fruits                                | 1450271     | 6057      | 486             | 0,04%  | 0       | 0      |      |  |
| 09- Coffee, tea, spices                   | 7120468     | 32018     | 723             | 0,01%  | 0       | 0      |      |  |
| 10 - Cereals                              | 2619        | 18        | 93              | 3,55%  | 93      | 3,55%  |      |  |
| 11- Milling products                      | 97915       | 2040      | 28208           | 28,81% | 26226   | 26,78% |      |  |
| 12- Oilseeds                              | 45915919    | 310007    | 7               | #0%    | 5       | #0%    |      |  |
| 13- Lac, gums, resins                     | 1863264     | 8935      | 0               | 0      | 0       | 0      |      |  |
| 14- Vegetable plaiting materials          | 153         | 0         | 0               | 0      | 0       | 0      |      |  |
| 15- Animal and vegetable fats and oils    | 13319       | 98        | 711             | 5,34%  | 242     | 1,82%  |      |  |
| 16- Preparations of meats and fish        | 200         | 0         | 8               | 4%     | 0       | 0      |      |  |
| 17- Sugars and sugar confectionery        | 1498        | 4         | 116             | 7,74%  | 66      | 4,41%  |      |  |
| 18- Cocoa and cocoa preparations          | 425346364   | 1486763   | 2473106         | 0,58%  | 168     | #0%    |      |  |
| 19- Preparations of cereals               | 99897       | 930       | 25053           | 25,08% | 22048   | 22,07% |      |  |
| 20- Preparations of vegetables, fruit     | 17304       | 145       | 1753            | 10,13% | 0       | 0      |      |  |
| 21- Miscellaneous edible preparations     | 324256      | 1633      | 23443           | 7,23%  | 0       | 0      |      |  |
| 22- Beverages                             | 313330      | 3008      | 8940            | 2,85%  | 0       | 0      |      |  |
| 23- Residues, oilseeds meals              | 7641        | 53        | 0               | 0      | 0       | 0      |      |  |
| 24- Tobacco                               | 3213        | 1         | 1068            | 33,24% | 0       | 0      |      |  |
| Sub-total 01-24                           | 531224653   | 1907668   | 4573526         | 0,86%  | 52420   | 0,01%  |      |  |
| 25- Salt, sulphur, earths, cement         | 15787       | 256       | 0               | 0      | 0       | 0      |      |  |
| 26- Ores, slag and ash                    | 19676895    | 149651    | 0               | 0      | 0       | 0      |      |  |
| 27- Mineral fuels, mineral oils           | 15542065420 | 415036740 | 0               | 0      | 0       | 0      |      |  |
| 28- Inorganic chemicals                   | 582         | 0         | 0               | 0      | 0       | 0      |      |  |
| 29- Organic chemicals                     | 249181      | 170       | 0               | 0      | 0       | 0      |      |  |
| 30- Pharmaceutical products               | 16630       | 4         | 0               | 0      | 0       | 0      |      |  |
| 31- Fertilizers                           | 9699695     | 355350    | 624401          | 6,44%  | 0       | 0      |      |  |
| 32- Tanning or dyeing extracts            | 5215        | 4         | 5               | 0,10%  | 0       | 0      |      |  |
| 33- Essential oils                        | 55495       | 109       | 0               | 0      | 0       | 0      |      |  |
| 34- Soap and washing preparations         | 153063      | 341       | 0               | 0      | 0       | 0      |      |  |
| 35- Albuminoid substances                 | 1747        | 0         | 0               | 0      | 0       | 0      |      |  |
| 36- Explosives; pyrotechnic products      | 0           | 0         | 0               | 0      | 0       | 0      |      |  |
| 37- Photographic or cinematographic goods | 257         | 0         | 0               | 0      | 0       | 0      |      |  |
| 38- Miscellaneous chemical products       | 16436       | 12        | 0               | 0      | 0       | 0      |      |  |
| 39- Plastics                              | 490016      | 5682      | 0               | 0      | 0       | 0      |      |  |
| 40- Rubber                                | 37622987    | 273109    | 35              | 0      | 0       | 0      |      |  |
| 41- Raw hides and skins                   | 154739825   | 62253     | 3414891         | 2,21%  | 2581153 | 1,67%  |      |  |
| 42- Articles of leather                   | 66673       | 3         | 734             | 1,10%  | 0       | 0      |      |  |
| 43- Furskins and artificial fur           | 47445       | 4         | 0               | 0      | 0       | 0      |      |  |
| 44- Wood and articles of wood             | 31384614    | 1387237   | 0               | 0      | 0       | 0      |      |  |
| 45- Cork and articles of cork             | 0           | 0         | 0               | 0      | 0       | 0      |      |  |
| 46- Manufactures of straw                 | 17082       | 13        | 3               | #0%    | 0       | 0      |      |  |
| 47- Pulp of wood                          | 124         | 0         | 0               | 0      | 0       | 0      |      |  |
| 48- Paper and paperboard                  | 5939        | 15        | 0               | 0      | 0       | 0      |      |  |
| 49- Printed books, newspapers             | 100951      | 64        | 0               | 0      | 0       | 0      |      |  |
| 50- Silk                                  | 0           | 0         | 0               | 0      | 0       | 0      |      |  |
| 51- Wool                                  | 20          | 0         | 0               | 0      | 0       | 0      |      |  |
| 52- Cotton                                | 3501290     | 18685     | 112346          | 3,21%  | 0       | 0      |      |  |
| 53- Other vegetable textile fibres        | 0           | 0         | 0               | 0      | 0       | 0      |      |  |
| 54- Man-made filaments                    | 909         | 2         | 49              | 5,39%  | 0       | 0      |      |  |
| 55- Man-made staple fibres                | 114067      | 1512      | 3792            | 3,32%  | 0       | 0      |      |  |
| 56- Wadding, felt and nonwovens           | 732         | 0         | 47              | 6,42%  | 0       | 0      |      |  |
| 57- Carpets and floor coverings           | 613         | 0         | 23              | 3,75%  | 0       | 0      |      |  |
| 58- Special woven fabrics                 | 99124       | 9         | 4603            | 4,64%  | 0       | 0      |      |  |
| 59- Covered textile fabrics               | 1008        | 1         | 51              | 5,02%  | 0       | 0      |      |  |
| 60- Knitted or crocheted fabrics          | 432         | 0         | 27              | 6,25%  | 0       | 0      |      |  |
| 61- Apparel knitted or crocheted          | 222365      | 127       | 21300           | 9,58%  | 0       | 0      |      |  |
| 62- Apparel not knitted or crocheted      | 52441       | 11        | 4973            | 9,48%  | 0       | 0      |      |  |
| 63- Other made up textile articles        | 20421       | 14        | 1173            | 5,74%  | 0       | 0      |      |  |
| 64- Footwear                              | 47703       | 59        | 5346            | 11,21% | 0       | 0      |      |  |
| 65- Headgear                              | 16780       | 13        | 0               | 0      | 0       | 0      |      |  |
| 66- Umbrellas                             | 53          | 0         | 1               | 1,20%  | 0       | 0      |      |  |
| 67- Prepared feathers and down            | 124111      | 594       | 0               | 0      | 0       | 0      |      |  |

|  |             |           |         |       |         |       |
|--|-------------|-----------|---------|-------|---------|-------|
| 68- Articles of stone, plaster, cement     | 4023        | 6         | 0       | 0     | 0       | 0     |
| 69- Ceramic products                       | 1451        | 1         | 15      | 1,03% | 0       | 0     |
| 70- Glass and glassware                    | 14955       | 13        | 59      | 0,39% | 0       | 0     |
| 71- Natural or cultured pearls             | 14794133    | 4380      | 0       | 0     | 0       | 0     |
| 72- Iron and steel                         | 3873959     | 35338     | 0       | 0     | 0       | 0     |
| 73- Articles of iron or steel              | 599067      | 2930      | 0       | 0     | 0       | 0     |
| 74- Copper and articles thereof            | 36169002    | 84501     | 0       | 0     | 0       | 0     |
| 75- Nickel and articles thereof            | 125412      | 143       | 0       | 0     | 0       | 0     |
| 76- Aluminium and articles thereof         | 1024859     | 5194      | 45796   | 4,47% | 38692   | 3,78% |
| 78- Lead and articles thereof              | 9976777     | 90943     | 4072    | #0%   | 0       | 0     |
| 79- Zinc and articles thereof              | 33          | 0         | 0       | 0     | 0       | 0     |
| 80- Tin and articles thereof               | 156         | 0         | 0       | 0     | 0       | 0     |
| 81- Other base metals                      | 213         | 0         | 0       | 0     | 0       | 0     |
| 82- Tools, implements, cutlery             | 268601      | 59        | 0       | 0     | 0       | 0     |
| 83- Miscellaneous articles of metal        | 11004       | 13        | 0       | 0     | 0       | 0     |
| 84- Nuclear reactors, boilers, machinery   | 18335523    | 9005      | 0       | 0     | 0       | 0     |
| 85- Electrical machinery and equipment     | 17757729    | 79046     | 0       | 0     | 0       | 0     |
| 86- Railway or tramway locomotives         | 6943        | 81        | 0       | 0     | 0       | 0     |
| 87- Other vehicles                         | 299672      | 203       | 17004   | 5,67% | 0       | 0     |
| 88- Aircraft                               | 9590397     | 595       | 0       | 0     | 0       | 0     |
| 89- Ships                                  | 113628      | 3         | 0       | 0     | 0       | 0     |
| 90- Optical, photographic, cinematographic | 3545206     | 235       | 4760    | 0,13% | 0       | 0     |
| 91- Clocks and watches                     | 817         | 0         | 0       | 0     | 0       | 0     |
| 92- Musical instruments                    | 8141        | 5         | 0       | 0     | 0       | 0     |
| 93- Arms and ammunition                    | 0           | 0         | 0       | 0     | 0       | 0     |
| 94- Furniture; bedding                     | 39749       | 80        | 0       | 0     | 0       | 0     |
| 95- Toys, games and sports requisites      | 3023        | 0         | 4       | 0,13% | 0       | 0     |
| 96- Miscellaneous manufactured articles    | 30178       | 117       | 0       | 0     | 0       | 0     |
| 97- Works of art                           | 134844      | 22        | 0       | 0     | 0       | 0     |
| Sub-total 25-97                            | 15917363623 | 417604957 | 4265475 | 0,27% | 2619845 | 0,22% |
| Total 01-97                                | 16448588276 | 419512625 | 8839001 | 0,54% | 2672265 | 0,21% |
| 01-24/01-97                                | 3,23%       | 0,45%     | 51,74%  |       | 0,51%   |       |
| 25-97/01-97                                | 96,77%      | 99,55%    | 48,26%  |       | 99,49%  |       |

Source: Eurostat and TARIC ([http://ec.europa.eu/taxation\\_customs/dds2/taric/taric\\_consultation.jsp?Lang=fr](http://ec.europa.eu/taxation_customs/dds2/taric/taric_consultation.jsp?Lang=fr))