



The ECOWAS Trade Liberalization Scheme (ETLS) undermined by the Interim EPAs (iEPAs) of Ivory Coast and Ghana

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If the Economic Partnership Agreement (EPA) of West Africa (WA) is not finalized, the LDCs will not be obliged to open their markets to 73.8% of their imports from the EU28-UK (United Kingdom). The Interim EPAs (iEPAs) of Ivory Coast (IC) and Ghana will nevertheless disrupt in a number of ways the functioning of intra-regional trade in the ECOWAS Trade Liberalization Scheme (ETLS) and lead indirectly to opening up the LDCs' and Nigeria's markets to the EU28-UK exports to the CI and Ghana. Indeed, the Ghana's EPA impact study carried out in January 2015 by the World Bank and the Ghanaian Ministry of Trade and Industry pointed out that for this country *"The export market the most important for employment is ECOWAS: exporters to ECOWAS employed 38.7% of the workers in the sample. The second largest market is the European Union, with 4.9% of the workers of the sample"*¹. A similar finding applies to IC.

The first question is which import duties (ID) IC and Ghana will use for their imports from the EU: those of the ECOWAS CET (Common External Tariff) in force theoretically since January 2015 or those of their iEPAs? If they favour ID and protection of farmers, they will prefer the WA CET, but if they yield to the pressures of the importers and the immediate interest of the consumers, they will choose the ID of the iEPAs with a maximum ID of 20% against 35% for the WA CET (for the majority of excluded products, mainly agricultural and heavily subsidized by the EU). The European Commission might prefer ID of iEPAs to favour European exporters.

Even if the liberalization of imports from the EU only begins in T5 (2021) these imports would be immediately taxed at the lower ID of iEPAs than those of the WA CET. The result will be a diversion of investments within ECOWAS to the benefit of IC and Ghana and to the detriment of the other ECOWAS States, giving to the former a better competitiveness of their products than that of the rest of WA. A fortiori if the WA EPA is definitively buried, the iEPAs becoming permanent, investors would favour investing in IC and Ghana. As Ghana's imports of liberalized products from groups A, taxed at 5% (commodities, capital goods and specific inputs) and B taxed at 10% (inputs and intermediate products) in the tariff offer for the WA EPA accounted to 93% of all its imports of liberalized products in 2015 and 70.2% of all its imports (including excluded products) from the EU28-UK, the majority of its imports are not finished products. The only petroleum products (and the whole Chapter 27 of the Harmonized System) accounted for 26.2% of Ghana's total imports from the EU28-UK in 2015, taxed at an average of 9.90%, which will already considerably reduce the cost, in particular the cost of transport, of all domestic products, including raw agricultural commodities that circulate freely within ECOWAS. Similarly, the liberalized products of IC taxed at 5% and 10% in the WA CET accounted for 88.5% of all its liberalized products and 60% of all its imports from the EU28-RU. For example, for Senegal, there is a risk of a sharp increase in imports of products other than those already

¹ MacLeod, Jamie; Von Uexkull, Jan Erik; Shui, Lulu, *Assessing the economic impact of the ECOWAS CET and economic partnership agreement on Ghana*, 1st January 2015, <http://documents.worldbank.org/curated/en/845041467999971258/Assessing-the-economic-impact-of-the-ECOWAS-CET-and-economic-partnership-agreement-on-Ghana>

imported from IC (61.5 billion CFA francs in 2015) and Ghana (17.8 billion CFA francs)². In fact, the question is more complicated for the IC EPA since many ID in group A (liberalized as of T5) and group B (liberalized in T10) are taxed at 20%³ and, depending on the products, the WA CET would have lower ID!

The second risk, incurred more from T5, is that the progressively liberalized imports by IC and Ghana from the EU will be re-exported, directly or indirectly, to the other WA States without taxing them given the laxity of ECOWAS rules of origin. If the imported raw materials benefit from an added value of at least 35% of the ex-factory finished product price excluding taxes, the product shall be considered as *originating* and may be traded duty-free within ECOWAS. A thorough re-evaluation of these rules of origin is therefore urgent and crucial as the processed domestic products of Ghana and CI will benefit from T5 of lower production costs related to their duty-free imports of much of their imported inputs and equipment from the EU.

Regional integration being the first objective of the WA EPA, it is clear that the Heads of State of WA, ECOWAS and WAEMU, as well as the European Commission, Parliament and Council do not care about the disintegration of WA. Not only would the CET, in force since January 2015, no longer apply to these two countries, but the other common policies introduced with difficulty since 1975 would be seriously undermined, particularly the agricultural policy (ECOWAP) given the weight of IC in the regional agricultural trade.

The LDCs, Nigeria and Cape Verde should require an extraordinary meeting of ECOWAS to safeguard the process of regional integration. First, it is necessary to evaluate in depth all the consequences of the iEPAs for the other ECOWAS States, in particular in the likely hypothesis that the WA EPA will be buried definitively. The next step is to put in place all the necessary safeguards to ensure that these iEPAs, which will become permanent, do not destroy Community policies, in particular the CET, and to tighten ECOWAS rules of origin in order to shelter the other ECOWAS States from the detrimental impacts of these iEPAs. An exclusion of IC and Ghana from a large part of Community policies, in particular the CET, could be considered.

If Nigeria renounces definitively to sign the WA EPA, it is said that DG Trade would consider pressing IC and Ghana to apply the WA CET instead of the iEPAs ID as well as the classification of the WA EPA's tariff lines and their dismantling schedule instead of IC and Ghana classification of tariff lines and dismantling schedules. But such a substitution should not take place without the explicit agreement of the European Parliament and Council and of all WA States. If Ghana's tariff offer and its dismantling schedule are close to those of the regional EPA, this is not at all the case for the IC iEPA. Even if the ID of the 2 iEPAs and their dismantling were aligned with those of the WA EPA, this would not significantly change the negative impact of the 2 iEPAs on the other AO States. Although the LDCs would continue to benefit from EBA (Everything But Arms) by being able to tax their imports from the EU as now, they would suffer, on the one hand, of their imports from IC and Ghana given the laxity of the ECOWAS rules of origin and, on the other hand, they would lose competitiveness for their exports to the EU since the EU rules of origin are more flexible in EPAs (including the iEPAs) than in the current Cotonou and TSA regimes that apply to LDCs.

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http://www.ansd.sn/ressources/publications/NACE_2015%20VERSION%20FINALE%20DU%208%20SEPT%202016.pdf

³ <http://data.consilium.europa.eu/doc/document/ST-12129-2008-ADD-1/fr/pdf>

The rules of origin of ECOWAS

The following shall be considered as *originating* products circulating in ECOWAS without a certificate of origin:

- agricultural and livestock products, but these products must comply with sanitary and phytosanitary standards of ECOWAS
- articles made by hand, with or without the use of tools, implements or devices operated directly by the manufacturer.

On the other hand manufactured products can only circulate with a certificate of origin. This certificate is only valid for a given product and a given recipient and only for 6 months. The exporting company must be approved in the ETLs: first by the National Accreditation Committee, to which it submits all the company's proofs (copy of the statutes, and all details of the manufacturing costs (including salaries) of the products for which a certificate of origin is requested. The list of approved and non-approved companies is then submitted to the ECOWAS Commission, which validates it before notification to all ECOWAS member States. This means that certificates of origin can only be issued to enterprises in the modern sector, whether public or private, and that a large part of the manufactured WA production, which is that of the artisanal informal sector, escapes so that their products cross the ECOWAS borders as if they were originating products. Moreover, 75% of trade between Member States, corresponding to products from the informal sector, are not recorded in customs statistics⁴.

In addition there is a frequent, if not widespread, practice of corruption by customs officers who do not seriously check the certificates of origin. According to NANTS, "*Extortions, intimidation and harassment perpetuated by the police, gendarmerie, customs and immigration officers on duties at the various borders have remained serious contributors to the hindrances to the implementation of the ETLs in West Africa. Such corrupt practices and other forms of indiscipline among these law enforcement agencies have sometimes provided excuses for some unscrupulous traders who engage in smuggling of goods under the pretext of ETLs goods... Another side to this is the attitude of some traders who engage in improper identification of their goods/products thereby making it difficult for the Customs to determine the validity or otherwise of such goods being promoted under the ETLs*"⁵.

ID on exports from Ghana to the other ECOWAS States

Let us suppose that the other WA States decide to tax all their imports from Ghana (and IC but we have data only on Ghana) on the basis of the ECOWAS CET so as not to be flooded with the EU products that Ghana will gradually import duty-free from T5 (2021), assuming also that the timing of liberalization of its iEPA would be aligned with that of the WA EPA. Even if Ghana's exports to ECOWAS were limited to €842 million in FOB value in 2013, or only to 8.8% of its total exports of €9.5 billion and one third (33.4%) of its exports to the EU28 of €2.8 billion, nevertheless these exports to ECOWAS would have generated ID of around €140 million in FOB Ghana (involving an average ID of 16.6%) and €161 million in CIF ECOWAS (assuming an average difference of 15% between FOB and CIF). And these ID would amount to €178 million in 2020 and €214 million in 2035, taking into account an increase in exports equal to 2/3 of the growth rate of the population of other WA States. ID to be paid to ECOWAS States would exceed by 2021 the GSP duties to be paid to the EU28-UK without the EPA.

⁴ <http://www.subsahara-afrika-ihk.de/wp-content/uploads/2016/10/DP195-Overview-Trade-Barriers-West-Africa-Torres-Seters-July-2016.pdf>

⁵ <http://www.nants.org/wp-content/uploads/2015/04/The-Current-Status-challenges-and-benefits-of-Implementing-the-ETLS-English.pdf>