The contradictions of Ghana's interim EPA

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I – MOTI excessive estimate of the GSP+MFN duties to pay on Ghana's exports to the EU

Ghana's Ministry of Trade and Industry (MOTI) justifies the EPA by saying that €400 million (M) of import duties (ID) would have to be paid annually to continue to export to the EU, an out of proportion figure. In reality the GSP duties would have been of €66.9 M in 2015 on exports to the EU28 and of €44.9 M on exports to the EU28 less United Kingdom (EU28-UK), the Brexit reducing these duties by one third. If the European Commission applies Article 8 of Regulation 978/2012 of 25 October 2012 on the GSP – as imports of cocoa products from Ghana by the EU28-UK have exceeded 17.5% of its total imports from GSP countries for 3 years – these ID would be those of the MFN and would rise from €16.4 M to €27.7 M, increasing the total ID from €44.6 M to €55.9 M, or 14% of the alleged €400 M.

If the agricultural and fish products accounted for 58.2% of the EU28-UK imports from Ghana in 2015, they represented 97% of the ID GSP to pay. The Brexit will have a significant impact as 32% of imports in value of the EU28 from Ghana have come from the UK, of which 55.8% for bananas and 53.5% for processed tuna.

Ghana's exports to the EU28-UK cannot be expected to grow for two reasons:

- Stagnation and ageing of the EU28-UK population, expected to decline after 2030.
- Exports to the EU will face a significant competitiveness erosion vis-à-vis the Andean and Central American countries having concluded FTAs with the EU since 2012 as they enjoy also duty free-quota free exports to the EU for the same Ghanean products, except for bananas where they will pay a declining duty limited to €75 per tonne from 2020 on when the non LDCs ACPs will have to pay the full MFN duty of €126 without EPAs.

II - Heavy losses of ID on imports from the EU28-UK and exports to other ECOWAS states

The losses of ID are largely underestimated by the MOTI as it relies on a 2015 impact study by the World Bank and MOTI with 2013 data, based on a very rough model (TRIST) challenged by other experts and even by the study itself. And this study does not take into account the ID that Ghana would have to pay on exports to the other ECOWAS States.

The study is unclear because it assesses at the same time the increase of ID linked to the implementation of the West Africa (WA) CET (common external tariff) which would increase the average ID from 7.9% to 9.8%. And, although the EPA will reduce ID on imports from the EU28, the net impact of the CET + EPA would be an increase in ID to 8.7% instead of 7.9% before the CET implementation.

For MOTI the EPA would represent a loss of total government revenues of $234 M, or €176 M (at 2013 exchange rate). SOL estimates the losses of ID on liberalized products at €151 M on EU28-UK FOB exports in 2015 but at €367 M in T20 (2035) taking into account four factors: gap between CIF Ghana imports and FOB EU28-UK exports of liberalized products and 3 other factors: population increase (by 46%) from 2015 to 2035, trade diversion favouring more imports from the EU and lower VAT (value added tax) on imports. Cumulative losses from T5 (2020) to T20 (2035) would reach €4 billion.

The large underestimate of ID losses by MOTI is due to multiple factors:

- Underestimate of the percentage of liberalized products to 65% when they have been of 75% in 2015 (for the EU28-UK).
- Assumption that total government revenues, including ID and VAT on imports, would increase by 3% annually, based on the GDP growth rate estimated by the IMF, adding: "*As other revenue sources increase in importance… the noticeable impact of import revenue losses from the EPA will fall*". It is then easy to deduce that the EPA would increase them by 1.2% per year without the CET reform. Yet the latest IMF report on Ghana shows that growth slowed to 2.5% in the first four months of 2015 to 2016 and the share of import revenue has increased.
- According to the study "*In 2035 annual imports are forecast to be 0.5 percent higher than they would be under the CET… Again, this is a static model, and as such does not account for any rise in imports due to causes other than the CET and EPA*". It is contradictory to assume a 3% GDP growth without almost any import growth when the World Bank shows that Ghana imports of goods and services represented 55% of GDP in 2015! SOL estimates that Ghana CIF imports would increase by 61% from 2015 to 2035.
- Large underestimate of trade diversion, between zero and 2.8% of imports by 2035 according to sectors, while the joint study by Fontagné and Laborde of IFPRI estimated it at 32.5% for WA. SOL has retained 25%.
- The study says that the EPA would increase by 77% the profitability of the manufacturing sector due to lower prices of imported inputs and equipment from the EU. Forgetting the loss of competitiveness due to the competition of finished goods imported from the EU.
- The report only says that "*the effect of EPA on Ghana's exports to other ECOWAS countries is ambiguous*" when they would imply large ID as these countries would tax their imports to not being flooded by products that Ghana (and Ivory Coast) would import duty free from the EU. As soon as T5 (2020) ID on these exports would double the ID losses on imports from the EU and in T20 (2035) they would reach €580 M and €3.1 billion in cumulative ID from T5 to T20. With the cumulative ID losses on imports from the EU total cumulative losses would jump to €13.7 billion in 2035.

Comparing these cumulative losses on imports from the EU28-UK with EPA with cumulative GSP and MFN losses on exports to the EU28-UK without EPA, the first would exceed the second as soon as T6 (2021) and the net losses would reach €5.9 billion in T20 (2035). On a purely financial level, Ghana made a very bad bet by ratifying the interim EPA (iEPA).

III – The other constraints linked to the ratification of the interim EPA

The requirement for the other ECOWAS States to tax their imports from Ghana would end the free movement of goods within ECOWAS when the first objective of the WA EPA was to foster regional integration.

The EPA would largely limit Ghana's political space for development in many ways:

- Inability to raise export taxes without EU agreement.
- The standstill clause (Article 15 of the iEPA and 9 of the WA EPA) forbids Ghana to raise ID on imports from the EU beyond those of its tariff offer. As the maximum ID was of 20% the likely proposal of DG Trade to align the provisions of the iEPA on those of the WA EPA contradicts the standstill clause since the maximum ID in the WA EPA is 35%.
- The MFN clause (Articles 17 of the iEPA and 6 of the WA EPA): Ghana will extend to the EU the most favourable treatment granted to other major developed and emerging countries with which it would conclude trade agreements. This could include China and India but also the UK with which Ghana has close links.

- Rendez-vous clause (Articles 44 of the iEPA and 106 of the WA EPA): while the WA EPA provides that negotiations to extend liberalization to new issues would *begin* six months after the conclusion of the WA EPA, the iEPA says this extension must be *concluded* one year after the signing of the iEPA.
- Bilateral safeguards (Articles 25 of iEPA and 22 of WA EPA) are the same but the WA EPA provides that they will be applicable 4 years, with possible renewing for 4 years when the iEPA provides that they will be applicable 2 years with option to renew 2 years. The WA EPA provides that the EU only can use safeguards in case of sharp declines in the sugar price.
- Infant industry clause: the iEPA has no specific article on this issue, whereas Article 23 of the WA EPA stresses that "*These measures may be applied for a period of up to eight (8) years. The application of the measures may be extended by a decision of the Joint Council of the EPA*", which is much longer than "*on temporary basis*" in "*exceptional circumstances*" allowed for export taxes and the four years mentioned for bilateral safeguards.
- Multilateral safeguards: Article 21 of the WA EPA provides that the EU will not use for more than 5 years the multilateral safeguards of GATT and the Agreement on Agriculture, which implies that it can use them later. There is no article on multilateral safeguards in the iEPA nor allusion to the Complementary Protection Tax (CPT) of ECOWAS which applies in case of a 25% rise in imports or a decline of the CIF price for a month below 80% of the price of the last three years. Each ECOWAS State can fix the CPT up to 70% of its bound MFN duties at the WTO. The iEPA prevents Ghana (and Ivory Coast) to use TCP to imports from the EU, a heavy blow to regional integration.
- Prohibition of quantitative restrictions (Articles 18 of the iEPA and 34 of the WA EPA), while the EU uses them for sensitive agricultural products in its free trade agreements.
- The sharp decline in tax revenues would reduce budgets on education, health, small farmers, environment protection. Yet Ghana is confronted with three challenges: demographic, climate change and food deficit, even with the EU excluding cocoa where it was on average of €76 M from 2010 to 2015.
- Ghana would suffer from EU agricultural dumping as the iEPA will liberalize 32% of agricultural imports from the EU in T20 (2035). In 2013, EU28 subsidies to its agricultural exports to Ghana were of €70.9 M (€57.2 M to meat, €8.3 M to cereals and €5.4 M to dairy products).

<u>Conclusion: 2 alternatives to the EPA very favorable in Ghana that the EU does not want</u>

The first alternative would be a WTO waiver on trade preferences to all sub-Saharan Africa EPAs as the United States got for AGOA, renewed for 10 years 2015. This would be much easier now that the banana war with the Andean and Central America countries has been buried twice: in December 2009 at the WTO and with the EU FTAs since 2012.

The second would be to get GSP+ for Ghana (and Ivory Coast and Nigeria), which would not pose any legal problem since they have signed or ratified the 27 international conventions required and fulfill the economic vulnerability criteria. President Bern Lange of the INTA Committee had already suggested to Kenya to seek GSP+ as an alternative to the East Africa Community EPA that Tanzania and Burundi refused to sign.