



## **Most Favoured Nation (MFN) clause, the Africa's Continental Free-Trade Agreement and the interim Economic Partnership Agreements of Ivory Coast and Ghana**

Jacques Berthelot (jacques.berthelot4@wanadoo.fr), April 9, 2018

An argument that might make Ivory Coast (IC) and Ghana ponder is linked to the consequences to have both implemented their interim Economic Partnership Agreements (iEPAs) with the EU and signed (or at least initialed) the AfCFTA (Africa's Continental Free Trade Area) at the Extraordinary Summit of Heads of State of the African Union in Kigali on March 21. It is about the MFN (Most Favoured Nation) clause of their iEPAs, obliging them to extend to the EU the tariff advantages granted in the AfCFTA.

However there are three very important differences in the terms of this clause between the West Africa (WA) EPA and the IC's and Ghana's iEPAs. According to Article 16 of the WA EPA *"The West Africa Party shall grant the European Union Party any more favourable tariff that it grants after the signing of this Agreement to a trade partner other than the countries of Africa and the ACP States having both a share of world trade in excess of 1.5 per cent and an industrialisation rate, measured as the ratio of manufacturing value added to Gross Domestic Product (GDP), in excess of 10 per cent in the year preceding the entry into force of the preferential agreement referred to in this paragraph. If the preferential agreement is signed with a group of countries acting individually, collectively or through a free trade agreement, this threshold relating to the share of world trade shall be 2 per cent. For calculation purposes, the official data of the WTO shall be used"*.

But Article 17 of IC's iEPA and Ghana's iEPA does not exclude African countries and ACP States, reduces the partner country's share of world trade and does not mention a rate of minimal industrialization for this partner: *"major trade partner" refers to any developed country, or any country with a share in world trade greater than 1 per cent in the year preceding the entry into force of the free-trade agreement mentioned in paragraph 2, or any group of countries acting individually, collectively or through a free-trade agreement with a share in world trade greater than 1,5 per cent in the year preceding the entry into force of the free-trade agreement mentioned in paragraph 2"*.

Now that IC and Ghana, along with 11 other WA States, have signed the AfCFTA, they have committed to open their markets to 90% of their imports from Africa, even if it is still necessary to wait for the CFTA liberalization scheme to be better specified, particularly after the deposit of the tariff offer of each State specifying the 10% of not liberalized imports, and after ratification of the AfCFTA by 22 States, which would need at least two years. As it is said that the partner's share of global trade will be based on WTO data, WTO shows that in 2016 Africa accounted for 2.2% of world exports and 3.2% of world imports<sup>1</sup>. As a result, IC and Ghana will also have to liberalize 90% of their imports from the EU, well above the 75% forecast in their iEPAs. Furthermore Article 17 of the iEPAs and Article 16 of the WA EPA do not require that *"the more favorable tariff treatment"* corresponds to actual imports. This would imply much higher customs revenue losses for IC and Ghana so that the EU, after having supported

---

<sup>1</sup> WTO, World trade Statistical review 2017:

[https://www.wto.org/english/res\\_e/statis\\_e/wts2017\\_e/wts17\\_toc\\_e.htm](https://www.wto.org/english/res_e/statis_e/wts2017_e/wts17_toc_e.htm)

the CFTA process and imposed the iEPAs, will win on both counts while the IC and Ghana have been taken for a ride twice!

After verification of the provisions on the MFN clause in the other ACP EPAs, three regional EPAs – Cariforum (Article 19), Pacific (Article 8) and Cameroon (Article 19) – are in the same situation as the iEPAs of IC and Ghana which do not exclude the MFN clause in trade agreements with ACP countries. Given the remoteness of Cariforum and the Pacific, this would obviously have an impact only on Cameroon whose rate of liberalization of imports from the EU28-UK would increase from 79.7% in the CEMAC EPA to 90% with the AfCFTA.

On the other hand, the other 3 EPAs in sub-Saharan Africa exclude to apply the MFN clause in their trade agreements with the ACP countries: the EAC (East African Community, Article 15), SADC (Article 28) and ESA (4 COMESA countries, Article 16). On the other hand, these three EPAs do not add the constraint of a minimal industrialization rate for this partner, which is therefore only foreseen in the WA EPA.

Once again this shows the inconsistency of the behaviour of the European Commission at the same time as it has systematically refused to renegotiate the regional EPAs with the countries that have not yet signed them like Nigeria in WA, Tanzania in the EAC and the four other CEMAC countries, and while it intends to negotiate the successor Agreement to that of Cotonou with the Sub-Saharan Africa as a whole.