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Economic Partnership Agreements and Regional Trade Flow Dynamics: The ECOWAS Case

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1. Statement of the Issues

The Cotonou Agreement, signed in June 2000, has as its central objective "reducing and eventually eradicating poverty consistent with the objectives of sustainable development and the gradual integration of the ACP countries into the world economy" (article 1).

Yet, several voices have spoken up to question the means of achieving this result and, ultimately, the real intentions behind the provisions contained in the Cotonou Agreement. ACP countries, the European Parliament, and certain member countries (the United Kingdom and Belgium first and foremost) have expressed reservations as to the real impact that Economic Partnership Agreements (EPAs) will have on development.

The controversies, fuelled by NGOs, around the implications of WTO commitments to modify the asymmetrical Lomé agreements emphasise the poor (according to them) reasons brought about by WTO constraints, and thereby feed suspicion as to the European Commission's motives. They raise suspicions as to the real intentions of the European Union and of economic lobbies when it comes to facilitating their exports to ACP countries.

President Jacques Chirac, for his part, seemed to join the critics when, during the France-Africa Summit in Bamako (on 03/12/2005), he stated that "finally, the logic of the agreements that Europe will negotiate with ACP countries must be reviewed: open up economic spaces, very well, but at a reasonable pace and while maintaining, constantly, unconditional preferences"[1].

In order to contribute to elaborating France's position, an inter-ministerial working group to reflect on EPAs has been formed in which the DGTPE (for the Ministry of the Economy and Finances), the DGCID (for the Ministry of Foreign Affairs), and the AFD participate.

The purpose of this study, therefore, is to feed reflection within the French government—and beyond—on the development impact of establishing EPAs. Let us specify that this consists of examining what is expected of EPAs as regards their development dimension rather than envisaging the development pillar of the Cotonou Agreement. Indeed, EPAs have two separate components: a development component (by financing cooperation projects) and a trade component (by establishing free trade zones). Nevertheless, the trade component should, in theory, contribute to the development dimension by lifting obstacles to trade that generate distortions.

The specific link between trade and development is explicit in articles 34 to 37. Tariff dismantling is discussed there as a decisive element to develop trade and increase competitiveness.

Yet, is tariff dismantling enough to lift "barriers to trade" and, thereby, develop trade? First, one must take into account the fact that customs duties on imports have already been sharply reduced over the past decade in the countries studied (except Nigeria) which, by definition, lowers the potential impact on prices and trade flows of dismantling tariff barriers. Second, multiple, non-tariff obstacles can cause the stimulation of trade supposed to result from tariff dismantling to fail.

The study is therefore structured in the following manner. The observations made of the evolution of the intra-regional trade for a sample set of products following the liberalisation process that consisted of implementing WAEMU's common external tariff show changes that correspond little to expectations. Indeed, one can very concretely show fac-

[1] Original quote: "il faut enfin revoir la logique des accords que l'Europe va négocier avec les pays ACP : décloisonner les espaces économiques, très bien, mais à un rythme raisonnable et en maintenant, en permanence, des préférences sans contrepartie."

tors limiting the development of trade; they are the multiple market failures and government failures or insufficiencies that limit the potential effect of tariff dismantling on prices or that lessen the importance of prices as an effective signal to economic operators. If customs barriers are not, therefore, the principal obstacle to trade, the states involved in the process of building the future West African free trade zone must suggest justified support if EPAs are to truly foster intra-regional trade.

2. Working Methods and Date Interpretation

The analysis is based on research conducted in six ECOWAS countries that are known to represent the diversity of situations in regard to regional trade, as either centres of consumption, merchandise transit zones, or important production countries for the region. These countries are Benin, Ghana, Mali, Niger, Nigeria, and Senegal. Côte d'Ivoire was taken into consideration through its statistics on external trade. Thirteen principal products were chosen (cattle, corn, onions, rice, tomatoes, fertiliser, cement, textiles, plastic dishes, edible oils, beverages, aluminium cooking utensils, and soap) and correspond to 287 tariff lines. In addition to considerable difficulties collecting information, establishing comparable data formats, and manipulating voluminous databases, care needed to be taken in using the data because numerous transactions turned out to contain erroneous information connected to failures to consider informal trade, errors enforcing laws, erroneous origins, etc.

The existence of these errors is not neutral. It raises governance issues because external trade policy decisions are based on fragile foundations. They also reveal a certain demobilisation among customs administrations and a fragility of public authorities in the face of operators' individual interests. Some errors are, of course, involuntary and linked to incomplete and correctable registration systems, but many undoubtedly arise from the strategies of actors (customs agents and importers) whose common interest would be to share the drop in applied tariffs [2]. Thus, importers seek to lower the tax base for products by declaring inferior quality and thus lower commercial values in customs declarations. Errors on origins are also frequent and their consequence for products is the possibility of obtaining duty-free treatment in virtue of their pretend origin within the community.

[2] There are four conditions for tariffs to be correctly applied: (i) correct product categorisation, (ii) the honesty of the declaration of origin, (iii) the exactitude of the declared value, and (iv) the correct application of rules of origin.

3. Reminder of the Regional Integration Process

Trade relations between WAEMU, ECOWAS (outside WAEMU), the European Union, and the rest of the world are moving towards greater trade integration. The turning points are thought to be:

- the establishment of the WAEMU CET starting on 1 January 2000, even though products from the union had in theory circulated freely since July 1996;
- the establishment of the ECOWAS free trade zone (FTZ), starting on 1 January 2006;
- the establishment of the ECOWAS CET at the end of the transitional period, that is starting on 1 January 2008; and the establishment of the EPA whose transitional phase will coincide with the establishment of ECOWAS CET, but which will be complete in 2020.

The establishment of the WAEMU CET was a top-down process elaborated by the WAEMU Commission that imposed itself on the member states little by little starting in 1996. Categorisation in four classes and the implementation of levy mechanisms, according to the transit principle starting on 1 January 2000, marked the birth of the Customs Union. But, to complete the work, it was necessary to specify the rules of origin and take steps to harmonise the states' domestic tax laws.

The principle of the ECOWAS CET is a copy of the WAEMU CET. Exceptions are planned during a transitional period until 1 January 2008 for approximately 1,900 products presented by the member states. It can be admitted that, overall, CET implementation corresponds to a reduction in customs duties for non-WAEMU ECOWAS countries if one takes into account the weight of Nigeria in this body. This should certainly bring about large changes in regional trade flows.

However, regional trade evolution prospects must be formulated in regard to what was observed with the establishment of the WAEMU CET, and which often calls into question predictions based on conventional market operations.

4. The Reality of Trade with the Establishment of the WAEMU CET

It is impossible to identify a clear trend in the evolution of ECOWAS intra-regional trade since the mid-1990s.

The WAEMU countries appear to be those that have most extensively developed trade with their neighbours, as their exports range from 16% to 58% (one can bear in mind that intra-EU trade represents between 65% and 70% of total EU trade, which denotes, by comparison, ECOWAS' relatively low level of integration). However, extra-ECOWAS exports are usually higher than countries' exports towards their ECOWAS partners.

When the CET was established, the Commission was counting on intra-WAEMU trade growing to attain 25% of otal trade by the end of 2005. Trade was supposed to grow more rapidly between countries within the WAEMU zone than with countries outside the zone, given the tariff dismantling that the creation of the FTZ implied in comparison to trade with non-WAEMU countries. Processed products were expected to benefit doubly from the tariff cuts and gain regional market shares thanks to the reduction in duties paid on inputs purchased from outside the zone and to the larger sales opportunities due to free circulation. The WAEMU products that had been duty-free since 1996 and those that were the object of informal trade were little concerned by the establishment of the CET and could fear an increase in competitive pressure from products imported from non-WAEMU countries. One could, therefore, expect a relatively strong diversion of trade.

This hoped-for objective was not attained. It was as if the countries very open to the outside (Senegal and RCI) had taken advantage of the CET to trade, of course, with their neighbours but above all to develop external trade (imports). The rise in regional trade in these two countries is, thus, masked by the sharp increase in total trade: the two grew in equal proportions.

As the most "integrated" country (Mali) had little margin for manoeuvre on the regional market, it rapidly benefited (in 2000) from internal liberalisation before running up against the limitations of the regional market and suffering from the greater opening of external borders brought about by the adoption of the CET.

The other intermediary countries—some of which are isolated—have not exhausted their potential to expand regional trade and have natural protection from imports. Their share of regional trade grew. However, trends are not fundamentally different pre- and post-2000. If one looks at the distribution of rises and falls by country, it would appear that the countries that mostly benefited from the tariff dismantling for their exports within the zone are those countries that had a relatively strong industrial base. However, the example of Mali is there the disprove this hasty conclusion. In Benin as in Togo, the draw from the traffic of re-exportation to Nigeria is what determines the trade dynamic more than the tariff changes between these countries and the other West African partners.

Ultimately, each country is a unique case whose trade behaviour is explained more by the relations it maintains with its immediate neighbours and by the way it adapted to the implementation of the CET.

Product-by-product analysis shows some trade flow changes. For cattle, it is as if the creation of the free trade zone within ECOWAS (with a unified sanitary certificate) had stimulated the regional cattle trade. In fact, one must, above all, see a trade diversion effect initially towards Côte d'Ivoire with a drop from 25 to 6 million CFA francs in deliveries to this country between 2001 and 2002. In numerous situations, one can see large growth in purchases outside WAEMU (corn) and seemingly little effect on intra-WAEMU trade—which reveals the regional production's inability to withstand the competition.

For other products, however, establishing the CET seems to have had no influence. Transportation costs weigh so heavily in the final price of some very heavy products (cement, fertiliser, etc.) that customs tariffs are insignificant. One can therefore expect that changing customs duties alter the direction of trade little or not at all.

5. The EPA's Expected Effects

The EPA logic does not easily allow one to predict the intensity of trade flows between WAEMU and the rest of ECOWAS. Products imported from the European Union could influence the trade dynamic: thanks to inexpensive imports from the EU, non-WAEMU ECOWAS countries could increase the profitability of their companies and thus attain better price competitiveness than the products from WAEMU countries that already have access to less-taxed European inputs. Nothing indicates that these more competitive products will be exported to WAEMU countries rather than to the EU. While trade creation seems certain, its direction is uncertain.

But, the specificity of Nigeria will play a preponderant role in trade logics. Two effects are foreseeable: regional products could be drawn to Nigeria insomuch as tariffs will drop for this country; but there could also simply be a reduction of trade or a switch to formal trade for the countries that formerly re-exported to Nigeria when it imposed bans. The rise in intra-regional trade would then mask the inclusion in official statistics of some of the informal trade not previously recorded.

6. Hypotheses to Explain “Paradoxes” in Trade Flow Evolution

Beyond trade “anomalies”, the issue here is to identify the factors that explain why intra-regional trade did not clearly benefit from the establishment of the CET. This review of the economic and political evolution of the region should lead us to question the prospects announced with the establishment of the ECOWAS Customs Union and a FTZ with the European Union.
The explanations that can be given are of two natures:

- Beyond any consideration of trade policy or actors’ strategies, there are constraints that operate on trade and that determine certain trade flow orientations and their intensity. These factors are exogenous to trade actors.

- There are also, however, a certain number of obstacles to trade motivated by administrative decisions, which reflect government failures, and by market failures that result, in particular, from the reasoning of economic operators in the specific context of West Africa.

6.1 General Political and Economic Factors

6.1.1 Exchange Rate Fluctuations

Exchange rate fluctuations are a factor of uncertainty that affects long-cycle operations in particular. Cattle traders have often been penalised when the depreciation of the naira in relation to the CFA franc cancelled out the traders’ margins between the time the purchase was concluded in nairas and the cattle were herded to their destination. Inversely, rice purchases in WAEMU are boosted when the naira re-appreciates.

6.1.2 Insecurity in Conflict Zones

The political context is a large factor in operators’ destination choices, outside of price considerations. The insecurity that can reign on roads or the disintegration of the rule of law that reduces the possibility of resolving financial and trade disputes lowers the attractiveness of destinations that are, however, economically profitable in the short term. Generally speaking, the public authorities were surprised by economic operators’ capacity to adapt to the Côte d’Ivoire crisis. Perhaps they had overestimated the real level of economic inter-dependence and regional integration. Otherwise, how can one explain that with 40% of the WAEMU zone’s economic activity, the prevention of transit through Côte d’Ivoire and trade with this country had so little impact on the economies of the other countries?

6.1.3 The Nigeria Tropism

Nigeria adopts an unorthodox trade policy. This country’s trade policy is a sharp contrast to that of its neighbours because of its instability and its rather protectionist tendencies. Thus, while the tariff range fell from 0-300% in 1995 to 0-150% in 2000, the government continues to levy high customs duties on certain products and to ban the importation of others. West African products are not exempt from these restrictions.

Yet, the country’s prohibition policy is of limited effectiveness. Most of the prohibited products (vegetable oils; wheat flour; non-alcoholic beverages; sweets; cotton fabric and several other textiles; plastic bathtubs, chairs, tubs and domestic articles; etc.) enter the country and are officially registered. The ineffectiveness of this policy is all the more persistent as the domestic production of prohibited products is structurally in deficit compared to the demand.

6.2 Barriers Linked to Administrative Malfunctions

These malfunctions have different political ramifications depending on whether they are the result of intentional or involuntary practices by those who perpetuate them. One must acknowledge, in certain cases, failures to apply rules out of a lack of knowledge or a lack of rigour.

Among approximate applications of laws, one can cite the VAT. Levying VAT on imported agricultural products seems to be the most widespread practice. The incomprehension of a majority of WAEMU exporters that complain about paying VAT when crossing internal borders is the result of the inefficiency of compensation mechanisms between countries. Thus, a cattle trader who paid the VAT in his country of origin and is asked to pay it in the country of destination will have a hard time getting the authorities in the country of final sale to acknowledge the payment of the VAT at departure. Examples of double levying of VAT are numerous and this practice is all the more unfair for operators as some identical merchandise imports are exempt.

6.2.1 Wrongful Over-Taxation

Higher tariffs are sometimes applied, which does not mask collusion between customs agents and importers. Customs officials furthermore acknowledge that this is a poor application of regulations resulting from the fact that some customs agents demand certificates of origin—which have not been required since December 2002 for products from within the zone—and that, without these certificates, the customs duty is levied. In some cases, no distinction is made between WAEMU and non-WAEMU countries.

6.2.2 Administrative Customs Requirements

The transportation of merchandise in transit is a major problem for isolated countries. Indeed, merchandise arrives primarily in the port of Cotonou and, to a lesser degree, the ports of Lomé, Téma and Abidjan or Dakar. In all cases, merchandise destined for countries in the Sahel transit through one country, or even two or three countries. This multiplies transport costs, incidental costs, transport times, and the risk of lost merchandise. According to the operators met, this problem is most acute along the Cotonou-Niamey corridor.

Within ECOWAS, road transit is governed by the TIE (interstate road transport)[3] and TRIE (interstate merchandise transit)[4] Conventions. By virtue of these agreements, a single customs document should suffice for a shipment arriving in one port and destined for a different country. In principle, then, a shipment should circulate without stop, with only one set of customs forms and one insurance policy (to cover the risk of unloading before it reaches its destination and the payment of port taxes and internal taxes). In practice, the administrations of the various countries crossed do not enforce these conventions; there are multiple controls at all levels of the transportation chain.

[3] The purpose of the TIE is to define the conditions under which inter-state road transport must be conducted within ECOWAS.

[4] The TRIE Convention suspends duties and taxes on the transport of merchandise in transit from one member state to another member state.

6.3 Opportunistic Behaviours

A report by the Mali Vérificateur général (equivalent to the Court of Accounts) draws a very critical picture of the respect of customs regulations by civil servants: “Various forms of collusion between certain economic operators and state agents have weakened the system. This situation, which results more from the failures of certain highly-placed civil servants than from inadequate laws, has generated a considerable loss of revenue for the state budget”[5]. Beyond simple errors made by individuals inadvertently or out of poor knowledge of the regulations, customs rules are sometimes deliberately ignored.

6.3.1 Under-Declaration of Values

The under-declaration of values can be seen by comparing the prices of imports according to origin. Such under-declarations are facilitated by the informality surrounding regional transactions because it is much more difficult for operators to mask the transaction value that necessarily figures on invoices for merchandise from abroad.

6.3.2 Under-Taxation

It is in importers' interest to obtain a reduction in the tariff applied. It is sometimes difficult to decipher, according to the source, the favouritism that an importer receives. Perhaps “preferential treatment” can only be explained by individual traders' ability to influence customs agents.

6.4 Abuses of Power

Transporting perishable goods exposes traders to the extortion that can be exercised by “law enforcement” officers: faced with the risk of blockage and losses of animals or fresh goods, transporters must pay a “fine” for passage. This practice is also encouraged by the dilapidated state of the lorry fleet and the tendency to overload lorries, which gives law enforcement officers an easy excuse to impose their extortion via fines.

Road harassments are regularly mentioned as the primary obstacle to trade. The amounts demanded therefore fluctuate greatly according to the roads travelled, periods, and types of merchandise. Operators declare that the phenomenon of corruption has spread; outside WAEMU, even Ghana is affected by this gangrene.

The transactions subject to the greatest harassment are those whose imports are limited by the state. In Nigeria, compared to high protection rates exceeding 100% on certain imported goods (110% on rice, for example) and the fines and seizures on the importation of prohibited products, harassment costs are much more attractive when one avoids official duties. Thus, there is an illicit fiscal market at borders which governs official and parallel trade flows between Nigeria and its immediate neighbours in ECOWAS. This capacity of law enforcement officers to pervert the exercise of coercion results from a weakness on the part of the state more than it does from an inherent flaw in the exercise of economic functions by the state.

[5] Original quote: “Diverses connivences entre certains opérateurs économiques et des agents de l'Etat ont affaibli le système. Cette situation, résultant plus de la défaillance de certains hauts fonctionnaires que de l'inadaptation des textes, a occasionné un manque à gagner considérable pour le Budget de l'Etat.”

6.5 Government Failures: Bypassing Agreements

There do, however, exist practices by governments that re indeed interventions in efficient market operations and limit the establishment of trade flows in line with competitive advantages.

6.5.1 Flat-Rate Customs Clearance

In Benin, because the establishment of the CET corresponded to an increase in customs tariffs on most products, there was a risk of a large drop in import flows and, thereby, fiscal revenues, for the country. Certain “arrangements” with the CET principle were therefore found. The most spectacular is the establishment of a flat-rate tariff, the amount of which is approved by the Council of Ministers.

6.5.2 Tied Imports

Another way of bypassing trade commitments taken in WAEMU is tying imports to domestic purchases. This is done notably with rice in Niger. An analogous rule is applied in Ghana. Since 2002, a law has obliged organisations that receive state subsidies (for example, schools, hospitals, the army) to purchase local rice at a price set between producers and the government, which is, therefore, to the detriment of imports.

6.5.3 Tariff Quotas

To avoid too large a drop in fabric imports in Benin, an agreement was reached with the authorities: only part of imports is subject to all duties and taxes. The amount to be paid is calculated in function of the total amount levied before application of the CET. In this way, the real rates applied are lower than the rates set by WAEMU regulations.

6.5.4 VAT Exemptions

VAT exemptions are general practices in all countries in the zone, implemented temporarily by governments who evoke exceptional circumstances or food crises. Knowing that VAT will not be levied on the merchandise at entry, operators do not hesitate to import more than storage organisations can buy, betting on later sales. According to importers in Mali, VAT and customs duty exemptions are the only way margins can be made on rice.

6.5.5 Industry Negotiations

The examples of the sugar and onion commodity chains in Senegal reveal control of imports through an arsenal of measures, not only tariff measures but also concerted control with operators.

6.6 Technical and Administrative Obstacles to Trade

6.6.1 Administrative Obstacles

Administrations often evoke wrongful uses of the suspensive arrangement to justify abusive administrative controls. Suspensive arrangements, which most of the time are the result of the investment laws in force in WAEMU countries, allow companies to receive, among other things, customs duty exemptions (in principle temporary) on their inputs to roduce goods destined for export. Whereas in principle the same rules of origin apply to all imports from ECOWAS countries, in practice one can see that these rules are only applied if the products do not compete with national producers. This seems to confirm that the zeal of customs agents is protective in vocation: administrative requirements are enforced only when the national economic interest seems to be at stake.

6.6.2 Standards

Another form of restrictions is the introduction of standards that limit, even prevent, imports as well as outlets for the final demand. This is the case for edible oils in Nigeria (4-litre minimum packaging), aluminium utensils in Burkina Faso (with shape standards), and tomato concentrate (with the ban on all forms of colouring).

6.6.3 Rules of Origin

In Nigeria in particular, the establishment of additional conditions over and above those demanded by ECOWAS leads to the creation of barriers to trade. Companies' means to bypass this administrative red tape are, thus, to switch to the informal sector, stick to the national market, or agree with foreign operators on merchandise delivery under cover of transit or the transportation of personal effects.

6.7 Market Failures

The characteristics of markets can also explain why the conditions to stimulate intra-regional trade might not be met.

6.7.1 Supply Characteristics

- Seasons Determine Flow Intensity

Product flows cannot be thought of merely in function of price characteristics. The seasonal availability of products explains a shortage or, on the contrary, a supply. Thus, agricultural products only find themselves in competition from one country to another during a short period of time, whereas during other periods, only one country can supply the market. This immediately results in strong import flow rigidity in relation to price.

- Actors' Unorthodox Strategies Linked to Missing Markets (Credit and Transport)

Traders do not always reason their transactions one-by-one, and tend to have more comprehensive strategies. Thus, they may make one sale at a loss if doing so allows them to ensure a large profit on another sale. This type of trade-off is very frequent in West Africa because of the lack of credit and the lack of a freight market. For example, it is known that Nigerian exporters of rice or onions—the products with which they earn their margins—perform such trade-offs with products the nature or quality of which they do not always choose, such as fertiliser, so as to cover the transport costs for their lorries during the return voyage. These trade-off or barter strategies also make it possible to overcome the lack of credit, formal currency convertibility, and exchange rate risks.

- Incompressible Fixed Costs

With the exception of Nigeria, markets are small in West Africa. It is therefore difficult for operators to specialise and traders often take advantage of all trade opportunities. The technical means used are therefore generally "polyvalent", especially in the case of lorries. Resources are rarely used efficiently.

6.7.2 Demand Characteristics

- Demand Rigidity for Certain Products

The demand for food products is rigid. In periods of shortfall, there can therefore be increases in imports that are not justified by prices or any modification in transaction costs. Often, therefore, trade flow measurements cannot be linked to a change in the access conditions (prices and taxes) for products.

- Quality Differences (Non-Homogenous Products)

Quality differences determine purchasing behaviours that prices can account for only with difficulty. Thus, one can have products for which the price cut for quality deemed insufficient is not enough to boost demand. What complicates the analysis is the social and geographical differentiation of the demand. For example, in Niger, imported rice is most appreciated by urban segments of the population. Broken rice, while inexpensive, is hardly in demand. In Senegal, on the contrary, broken rice is part of food habits and more broken rice is imported than whole rice.

6.7.3 The Available Financing Limitation (Lack of a Credit Market)

- Supply Limited by Financial Capacities

Difficulty accessing financing does not allow operators to adjust their strategies to conditions that ensure maximum profit. Under-investment is widespread and trade transactions are slowed. The lack of modern means of payment also results, for businesses in the formal sector, in difficulties getting VAT credits paid, which harms their profitability.

On a different level, the lack of banking networks is a source of insecurity for traders. Thus, to bring approximately twenty bovines from Maradi to Lagos, one must have on-hand a minimum of 3 million CFA francs in cash.

6.7.4 Operators’ Strategies and Market Power

- Monopoly Positions (Market Failure)

One encounters multiple examples of oligopolies and dominant positions. In each country, a few importers control most distribution circuits, and variations in their stocks influence price variations. Wholesalers are more numerous but they are manifestly not able to come to agreements that would allow them to maintain their margins no matter what the supply price. Under these conditions, import access prices do not provide a very clear signal to orient end demand. This is the case in the rice market.

The regional fertiliser market is shared by two companies, subsidiaries of multinational firms; the cement market is shared by three multinational firms.

The press regularly speaks of “paradoxical” contracts in which prices do not correspond to market prices, and makes insinuations about the financing of political parties.

- Dumping Strategies

Operators can have very aggressive trade strategies with absolutely no reference to production costs. Thus, in Benin, imported Asian fabrics have won large market shares through market penetration strategies based on dumping. Several of our interlocutors emphasised that the purchase price for printed cloth is lower than the price of unbleached fabric bought in China.

- Collusion among Operators

In the cement market, intra-regional exports are relatively limited. Generally, cement manufacturers seem to effectuate equalisations across the various countries so as to maintain a level of activity and a share of the market. One can indeed think that the disappearance of a factory could not sustainably be compensated for by exports from a factory in a neighbouring country, given transport costs. It is therefore preferable to not abandon local production to a competitor, even when production is no longer profitable.

- Payment of Market Entrance Fees

This practice was mentioned for corn in Benin where, faced with the risk of overabundance on national markets, traders cause merchandise to be retained by producers by agreeing to not buy merchandise or make payment conditions sufficiently disadvantageous for those who might be tempted to sell directly on the Cotonou market.

6.7.5 Conclusion in Regard to Market Failures

We note that isolating government failures without taking into account the weight of lobbies and the connection to market failures would be a serious error. State action is not inscribed in an autonomous logic: while certain practices are inherent characteristics of states (standardisation, coercion, few financial constraints), they are often driven by the capacity of economic agents to take advantage of the faculties that states have to free themselves of the law of maximal efficiency. It is, therefore, this intimate link between government failures and market failures that gives birth to the ensemble of rules (regulations) that weaken the reign of prices as the primary determining factor in economic choices. The issue of tariffs is relegated to second place.

7. What Prospects for Effective Application of a FTZ?

The question of the effects of EPAs must be viewed from two angles: the political angle and the economic angle, with both coming together in the assessment of how acceptable economic effects are in a given social and political context.

7.1 Intra-Regional Trade Flow Modification Prospects

The most commonly accepted prospect is the stimulation of WAEMU trade to non-WAEMU ECOWAS. The products that will undergo such an effect are those for which there is already a demand in Nigeria. In a certain manner, the list of prohibited products is a good indicator of the products for which Nigeria protects itself from imports primarily because it maintains that it does not have any competitive advantage. One must, in addition, consider the products that Nigeria already imports and on which there are no restrictions and that will have an additional advantage with the establishment of the CET.

One can therefore cite, for the first, fresh or refrigerated beef, sheep and pork meats (even if WAEMU countries' supply capacity is very limited), manioc, corn, sorghum, millet, sweets, biscuits, cement, and even pasta, noodles and mineral water; and, for the second, live cattle, rice, tomatoes, onions, tomato concentrate, palm oil, cotton, and peanuts.

However, it is not impossible that, by virtue of the reduction of the WAEMU zone's tariffs vis-à-vis the non-WAEMU ECOWAS zone, trade in the other direction takes place: Nigeria's advantage over WAEMU countries resides in a more favourable cost of energy, the incidence of which on energy-consuming productions would be an improvement in competitiveness. Aluminium products, fertilisers, and plastic goods would be concerned in this case.

At the same time, because non-WAEMU ECOWAS' average tariff would be cut more vis-à-vis the EU than would WAEMU's vis-à-vis the EU, the EU should gain market shares in countries such as Nigeria and, a certain extent, in WAEMU. This would concern flours, flour-milling, chemical and pharmaceutical products, poultry meat, and agrifood products.

Consequently, certain activities that use inputs from the EU would have an additional advantage over countries that previously paid more for their inputs. One can think that producers of biscuits, noodles, and plastic products would be concerned by this. For these products, ECOWAS manufacturers could win out over WAEMU manufacturers.

7.2 The Weight of Productivity Differentials

Certain products have such competitive advantage over European or ECOWAS products that they would be little affected by the tariff differentials generated by the EPA. One can think of products from emerging countries such as textiles, protein plants, palm oil, rice (notably in costal zones), and also fertiliser, metallurgy products, etc.

Faced with such competitive pressure, we can wonder whether the adaptation to which "price truth" must lead is realistic. Developed economies such as Europe are unable to find the resources necessary to increase the price competitiveness of their fabrics vis-à-vis Asian products. What about West Africa? Furthermore, one cannot fail to mention all the subsidy measures that artificially increase the competitiveness of other countries and which are widely denounced by operators and non-governmental organisations alike.

7.3 Lessons from Experience

Finally, all the analyses conducted lead us to question the relevance of forecasting for regional trade. States' and actors' practices throughout the last decade let one think that there will be a great deal of resistance to the internal free circulation of goods and the establishment of a common external tariff.

The evolution observed in recent years—an increase in imports from the EU—foreshadows, in the eyes of the authorities of several countries in the zone, the effect that establishing an EPA would have. This is true, above all, for Nigeria where the re-appreciation of the currency at the end of the year 2005 led to a strong surge in import volumes (+45%).

8. Conclusion

8.1 The Stakes of EPA Negotiations

Observations of economic behaviours that are heretical in regard to the expectations of the writers of the Cotonou Agreement abound. Only a second-tier optimum—that is, a compromise that integrates states' and economic agents' limits to attain an optimum spontaneously and that aims to obtain it in a second approach—is attainable. Standard economic theory—which refers to trade negotiation bodies—admits that such a compromise is preferable to seeking to eliminate at all cost failures if a few would unfailingly persist. Negotiation is then the means to attain this objective.

However, by approaching negotiations on the scope and limits of liberalisation, one runs up against two essential problems. First, we take the path of least resistance: we address government failures, with no guarantee that we will obtain greater effectiveness (we remain in a first-tier logic) unless we simultaneously address the causes that perpetuate market failures. Indeed, it is easier to obtain an agreement in high places, government to government, than it is to solve the problems raised by the multitude of actors' manoeuvrings on market operations.

We also remain in the logic of seeking maximal economic efficiency with a noteworthy lack of consideration of generated added value distribution and redistribution aspects. Hardly any concessions are made to the question of inequity. Here, if donors are resolved in their commitment to attaining the Millennium Goals, they should include a concern for poverty alleviation in the negotiations on EPAs and sensitive products.

Often, it is through the prism of trade policy that one can identify the state of the forces present, the relations that can form between the various commodity chain actors, and their capacity to influence decision-makers. It is these economic policy considerations, rather than pure economic rationale, that determine, for negotiators, the margins for manoeuvre to defend national activities during international negotiations, whether they be on economic partnership agreements or WTO negotiations.

Accompanying EPA negotiations can therefore only be done if one places economic policy again at the heart of analyses and arguments. Because of this, discussions on sensitive products go beyond technical considerations.

The establishment of the ECOWAS CET calls into question the national compromises of non-WAEMU ECOWAS countries and revives frustrations from the imposition of the CET, from the top, on operators in WAEMU countries. ECOWAS will soon find itself in a contradictory unification process[6], which aims to avoid the emergence of national or category-based demands that claim to be able to ignore CET rules, and the concern to maintain a certain degree of flexibility in its application by setting up accompanying mechanisms.

There is a risk that the compromise reached with the WAEMU CET will shatter when extended to ECOWAS. The principle of liberalisation had the merit of simplifying rules because of its "uniformising" nature. When it comes to granting exceptions,

[6] This "uniformising" approach tested by WAEMU is revealed, for the countries, by gaps between the CET level and the consolidated tariff level theoretically admissible by the WTO, which is higher for seven WAEMU countries.

we must face the fact that the balance of power between countries will act to defend protecting one product rather than another. Exceptions, therefore, run the risk of being a wedge in the crack ready to appear between countries; they will, then, be a centrifugal factor in a political construction that attempted to be integrating. This is undoubtedly what justifies the reticence of the fiscal, customs and trade policy directorate to accept modifications to both categories and tariffs for certain products.
Finally, the risk persists that the countries begin to implement different strategies depending on the economic functions attributed to products. They would, then, apply specific measures to them, outside the provisions of the ECOWAS CET, in the same way that the WAEMU countries did following the introduction of the WAEMU CET.

8.2 Collaboration Possibilities to Accompany the Negotiations

Policy reasons will be decisive in trade negotiations and, specifically, in the inclusion of products on the list of sensitive products. Often, the decision will be oriented by an assessment of the short term, under the influence of pressure groups (economic lobbies, urban consumers, civil servants, etc.). Economic analysis can then serve as a counter argument that would emphasise the longer-term political harm that could arise from neglecting a commodity chain or, on the contrary, granting attention and excessive means to a sector. Highlighting the potential to create added value and redistribution capacities that a commodity chain could confer can advocate for a redefinition of negotiating positions. Government power can then find an ally in economic expertise, the latter re-introducing economic (and social) rationality in public choices by emphasising the redistributive effects of trade policy options.

Operators' collaboration to suppress barriers to trade that limit the scope of any administrative decision on trade requires specific accompaniment. Several programmes that relied on strengthening both institutions and operators have existed (JITAP, PRCC, for example), but practice has shown that while the formal sector can have access to the services provided, information remains confined. It is appropriate to envisage working directly with the least structured operators (rural organisations, traders on regional markets) who most often display poor knowledge of their rights and regulations. The support work for customs administrations that form an information window must also be continued, in the aim of harmonising practices in particular.

However, one must concede that barriers to trade—in particular those that come from market failures—are based on economic and social factors over which legislators will have little hold in the short term.

We think that the relationship between tariff dismantling and trade development has been sufficiently analysed to reveal the inadequacy of the former to obtain the latter. The logical progression which is at the basis of the Cotonou Agreement, and that we questioned in the introduction, is therefore not accomplished and cannot be accomplished without intervention on the productive base. This is enough, in our eyes, to invalidate a rigid posture that would make tariff dismantling a condition for the economic development of budding regional unions. Building the link between trade development and businesses' competitiveness is a field of work for West Africa.

Indeed, to what extent do production and investment conditions make it possible to improve companies' capacity to meet a growing demand? This recurrent question on the business environment, the lack of certain markets (credit, insurance) for entire segments of the economy, and the weakness of public goods (infrastructures first and foremost) emerge as limiting factors before the limiting factors in trade barriers. For dominant sectors in terms of jobs and wealth creation—agriculture first and foremost—that have ultimately been able to maintain their place despite all these constraints on the development of their productivity, has the question of policies more favourable than price support not been the priority to escape the poverty trap and begin an accumulation process? The trade issue would then move from the question of trade barriers to the question of preserving the conditions to maintain prices in regional bodies. With its 2006 report, UNCTAD has made it possible to re-legitimise the role of protection in economic development. The community of donors should, therefore, not fail to reopen the debate. It is an occasion to review the question of the role of protection in countries' development.