THE ECONOMIC PARTNERSHIP AGREEMENT (EPA) BETWEEN WEST AFRICA AND THE EUROPEAN UNION

I. Background

Pursuant to the modalities established for the negotiation of the new partnership agreements in Articles 35 and subsequent ones of the Cotonou Agreement, the West Africa region negotiated the Economic Partnership Agreement (EPA) under the structure ECOWAS plus Mauritania. The negotiating countries are made up of a total of 16 countries, twelve (12) of which are considered as LDCs and four (4) as developing countries (Nigeria, Côte d'Ivoire, Ghana and Cape Verde). All these countries are Members of the WTO with the exception of Liberia.

The EPA negotiations between West Africa and the European Union, which started in October 2003 could not be concluded in December 2007 as specified in the Cotonou Agreement (cf. Article 37.1), nor even at the end of October 2009 as agreed on 17th June 2007 by the Chief Negotiators of the two regions. Negotiations of an EPA between the two contracting Parties were finally concluded in Brussels on 6th February 2014 and in July 2014, the ECOWAS Heads of State endorsed the EPA for signature.

The regional Agreement covers goods and development cooperation and also includes a rendezvous clause that provide for further negotiations on services and rules chapters. The signature process is currently ongoing. While all EU member states have completed the ratification process, only 12 out of 16 countries have appended signature and undergoing the ratification process at national level. West African countries that haven't sign to the EPA are: Nigeria, Burkina Faso, The Gambia and Mauritania.

In addition to the Text of the agreement, there are binding Protocols on the implementation modalities for the EPADP. The protocols, which are intended to clarify the modalities for implementation of some critical issues, will be attached as annexes on the one hand, and the unilateral or joint declarations, which the Parties will be required to publish in support of the agreement on the other. The protocols mainly refer to:

- The Protocol on WA market access offer and the timetable for tariff dismantling;
- The Protocol on Mutual Administrative Assistance in Customs matters between West Africa and the European Union; and
- The Protocol on the modalities for the implementation of the EPADP.

II. Parties to the Agreement – West Africa versus the European Union

The West Africa Parties to the Agreement are: Benin, Burkina Faso, Cape Verde, The Gambia, Ghana, Guinea, Guinea Bissau, Ivory Coast, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Togo, ECOWAS and UEMOA.

The European Union Parties to the Agreement are: Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, Netherlands Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, United Kingdom, and the European Union.

III. Key Elements of the WA-EU EPA

- Duty-Free-Quota-Free access into EU for all imports from West Africa;
- Asymmetric and gradual opening of West Africa market to EU goods. West Africa committed to liberalize 75% of imports from the EU over a period of 20 years;
- Free movement of goods between the Parties;
- Sanitary and Phyto-Sanitary measures aiming, inter alia, to promote health and safety, as well as intra-regional harmonization of measures with international standards;
- Asymmetric Rules of Origin taking into account the different levels of development of the two Parties;

- Provision to review West Africa's liberalization schedule taking into account evolution of sectoral policies;
- Commitment by the EU and its member states to fund the EPADP beyond the expiry date of the Cotonou Agreement;
- Exemption of the regional integration autonomous funding mechanism from duties and taxes subject to tariff reduction;
- European Union Party undertakes to refrain from the use of export subsidies for agricultural products exported to West Africa;
- Establishment of joint decision making and advisory bodies to boost involvement of all stakeholders in implementation and monitoring of the EPA;
- Strengthening of administrative and customs cooperation to facilitate trade development;
- Trade defense measures with safeguards, which allow the reintroduction of duties if imports disturb or threaten to disturb economy;
- Support for agricultural policies to strengthen agricultural sectors and ensure food security;
- Deepening cooperation toward sustainable management of fishery resources;
- Dispute settlement provisions;
- Provisions on the duration of the Agreement, its entry into force and procedures for review;
- Rendezvous clause to continue negotiations on other trade related issues.

IV. Justification: Why Ghana signed to the WA - EU EPA

First, the adoption of the EPA was crucial to ensure that Ghana's exports to the EU were not disrupted. Ghana would have undermined the process of regional integration in the West Africa sub-region if it had failed to sign the WA - EU EPA.

Second, Ghana have designed an EPA accompanying measures (National EPA response strategy) to help address cross-cutting issues and the possible demise of local enterprises as a result of their inability to compete against cheaper imports from the EU. The response strategy guarantees enhanced capacity and thereby competitiveness and diversification.

Third, protecting the agricultural sector against devastation and unfair trade practices, Ghana have excluded from liberalization all agricultural produce and agro-processed products. Other sensitive and special products including cement, textiles, and vehicle have also been protected under the 25% exemptions of goods from any tariff liberalization.

Fourth, the West Africa market access offer of 75% with a 5-year moratorium and transitional period of 20 years is far better than the Ghana Interim EPA (iEPA) offer of 80% with a transitional period of 15 years. Besides, clauses such as Rules of Origin, Most-Favoured-Nation (MFN), non-execution clause, subsidies, etc. favours Ghana more than what was inscribed in the Ghana iEPA.

Fifth, the trade defense measures in Article 20 (Anti-dumping and Countervailing measures); Article 21 (Multilateral Safeguard measures) and Article 22 (Bilateral Safeguard measures) in the EPA Agreement gives Ghana and West Africa adequate flexibility to impose temporary protection, while covering the adjustment costs without compromising the EPA as a whole.

Last but not the least, it is undeniable fact that the non-traditional export sector is an emerging sector in the Ghanaian economy with great potential for inclusive growth and expansion. Ghana's exports to the EU market are estimated to be close to 50% of annual total exports. The expiration and non-replacement of Ghana's iEPA by October 2014 meant that Ghana would have join the cumbersome Generalized System of Preferences (GSP) regime, being applied to all developing countries without recourse to size and special economic circumstances. The terms of the GSP regime are less favourable than the Cotonou, with additional high tariffs to be imposed on horticultural products and processed cocoa, among others. Hence, the decision to adopt EPA will inevitably help to improve competitiveness of the private secor, diversification and value addition while boosting realization of the national export strategy.

V. Conclusion

There have been a number of criticisms raised about the EPA's over the last ten years and the ECOWAS negotiators left no stone unturned and went to great lengths to take these concerns and criticisms into consideration in the course of the negotiations, with the overall objective of getting a fair and balanced agreement for people of the West African sub-region. The ECOWAS European Partnership Agreement would result in removal of duties over a period of twenty years in respect of 75% of the imports from the EU, but not from the rest of the world.

The regional integration process in West Africa is being led by two organizations namely: The Economic Community of West African States (ECOWAS) and the West African Economic and Monetary Union (UEMOA). Whereas the ECOWAS Authority of Heads of State and Government designated the President of the ECOWAS Commission as the Chief Negotiator on behalf of the ECOWAS member states, the European Commission also tasked to negotiate the EPA on behalf of the EU member states, in line with their trade policy. After all member states have sign, the agreement will be submitted to the contracting Parties for ratification.

In every negotiation there are trade-offs. Hence, in the wisdom of ECOWAS Authority of Heads of State and Government, the West African negotiators have, on the balance, made a great effort.

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