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Reflections on Adapting to the ECOWAS CET

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While combating the Ebola outbreak currently plaguing Guinea, Liberia, and Sierra Leone remains the absolute priority for these small ECOWAS members, returning to normal will not be business as usual. Along with others, they will have to comply with the Common External Tariff (CET) adopted by the Economic Community of West African States (ECOWAS) which still has an agreed but oft delayed and increasingly unlikely implementation date of January 2015. Secondary as this issue may be right now, the probable welfare effects from the adopted CET — even with the temporary adjustment measures introduced in October 2013 – will be consequential for the small ECOWAS countries if poverty alleviation remains a core goal of ECOWAS states.

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• • • / • • • As suggested by a recent study for Liberia, applying the CET will trigger both revenue and welfare effects that will require a non-negligible degree of economic diplomacy on the part of the enforcing ministries when communicating the new policy to affected commercial players. Specifically, agencies should be preparing to explain the new policy and to distribute as transparently as possible the limited amount of temporary protection measures. Finally, in the interest of economic development among all ECOWAS Members, future CET negotiations should adopt external trade policies and accompanying measures that are more appropriate for the smaller ECOWAS economies.

The now 15 member Economic Community of West African States (ECOWAS) emerged in 1975, when Cape Verde, Guinea, the Gambia, Ghana, Liberia, Nigeria, and Sierra Leone joined the mostly Francophone West African Monetary Union (UMOA, later UEMOA) countries[1] in signing the Treaty of Lagos. Since then, a highly ambitious set of Aims and Objectives has emerged in Article 3 of the Revised ECOWAS Treaty (1993), embracing extensive measures towards regional integration.

The "harmonization and coordination" measures ratified in the 1993 ECOWAS treaty revisions include "the establishment of a common market through:

> (i) the liberalization of trade by the abolition, among Member States, of customs duties levied on imports and exports, and the abolition among Member States, of non-tariff barriers in order to establish a free trade area at the Community level;
> (ii) the adoption of a common external tariff and, a common trade policy vis-à-vis third countries;
> (iii) the removal, between Member States, of obstacles to the free movement of persons, goods, service and capital, and to the right of residence an establishment[2]."

1. Benin, Burkina Faso, Cote d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo; UMOA was initially established in 1962 and succeeded by the West African Economic and Monetary Union (UEMOA) in 1994.

Thus in 2006, ECOWAS members agreed to adopt a four band CET. The initial ECOWAS CET structure was derived from the four UEMOA bands, defined for 5,544 HS-10 product lines, to be finalized within two years and with adoption anticipated in 2011.[3]

Efforts toward harmonization have contributed towards promoting more open and competitive markets. For example, Ghana's maximum MFN duty has been reduced to 20 percent, compared to rates over 200 percent ten years ago.[4] Their ECOWAS commitments are prompting Liberia and Nigeria to move from regimes with 13 and 19 bands, respectively, towards the more transparent and presumably more efficient five band regime.[5] In Sierra Leone, lower tariffs are expected to push down prices on food staples, and revenues are expected to decrease correspondingly.[6]

Delay caused by Special Interests

Its substantial ambition notwithstanding, progress toward integration in ECOWAS has been slower than in the West African Economic and Monetary Union (UEMOA), other Regional Economic Communities (RECs) in Africa, and elsewhere.[7] The Treaty of Lagos called for implementation by 1990,[8] but a large share of internal tariffs persisted. The customs union's initial momentum slowed, and deadlines came, passed

2. ECOWAS. Revised Treaty, ECOWAS Executive Secretariat, Abuja (1993), Article 3, Section D.
3. The UEMOA CET's four original bands were adopted in 2000 defined as 0% for social goods; 5% for raw materials and capital goods; 10% for intermediate goods; and 20% for consumer goods. See "ECOWAS Common External Tariff (CET)," http://www.aidfortrade.ecowas.int/programmes/ecowas-common-external-tariff-cet.
4. World Bank, Ghana, 2010.
5. WT/TPR/S/266/Rev.1, 2012, 13.
6. Plunkett, *Examples*, 3.
7. WT/TPR/S/223, 11
8. Coulibaly and Plunkett, *Lessons*, 2

and were rescheduled, until the European Union (EU) required ECOWAS representation as a single customs union (CU) in the much anticipated EU Economic Partnership Agreement (EPA).[9] The agreed date for implementing the CET is now January 2015, defined for 5899 products at the HS-10 level. The pace of migration is partly attributable to members' varying degrees of development; though much of the delay and recent progress has been contingent upon the CU's larger members' internal policies and actions.

For instance, in 2004 a fifth band (35% on specific goods for regional development) was proposed by Nigeria (originally proposed to be 50%), the largest ECOWAS member by far.[10] This amendment was only approved in 2013 and after much debate, as it was opposed by others, notably UEMOA members who wanted to stick with the 4-band CET. In 2005, when Nigeria initiated the CET's implementation, its customs service allowed for around 1100 exceptions.[11] Within the ECOWAS CET an exceptions list has been compiled, defined at the HS-10 level and developed for the implementation of some protection measures for the transition to the CET that includes over 300 tariff lines. It is noteworthy that in this list, over 200 products are also on the Nigerian Import Ban list (defined at various levels)[12].

Revenue and Welfare Effects for Liberia

Liberia is one of the small ECOWAS Members that will have to increase its average tariff as it moves to the recently adopted CET. Melo and Mancellari (2013) reviewed Liberia's current statutory tariff schedule, including waivers allowing imports of essential goods (e.g. rice, cement) at zero tariff rates. They concluded that this tariff schedule broadly served the country's interests. They also estimated that migrating to the CET and removing any tariff waivers would almost double the economy's average tariff from the current import-weighted applied average of 6.3% (including waivers) to about 14.7% (including removing waivers). Tariff revenues and total border-related revenues would increase by 122.6% and 64.1%, respectively while imports would fall by 4.4%. In terms of welfare, under the CET urban and rural households would have to spend 3% and 6% more, respectively, in order to maintain their current (pre-Ebola) level of well-being. Among others, the difference in estimates between rural and urban household costs reflects the greater share of non-tradables in urban household consumption.

To see the required adjustment, consider Liberia's current tariff regime towards MFN trading partners. As shown in figure 1, it has 13 bands, ranging from 0% to 50%. Migrating to the CET regime requires adjusting two-thirds to three-fourths of these rates. This is a broad logistical, economic and political, challenge. Most adjustment will be upward: 45% of rates are below the CET, while 25% will have to be adjusted downward to comply with the 5-band CET. Since the vast majority of goods imported are not produced domestically, there will be few producers to welcome this move while consumers will have to pay more for imported goods, some now coming from ECOWAS partners, likely to be of lower quality.

To illustrate the challenge here: 272 tariff lines in Liberia's 2013 imports will have to comply with the CET's 35% band. Under Liberia's current regime, only 20 of these lines fall in the 20-35% range, while 19 have duties over 35%. Thus, to comply with the 35% rate, Liberia will have to adjust the rates of 233 products upwards by at least 15 percentage points. Adjusting rates will certainly imply a large change in the current tariff regime for the small ECOWAS members. It could also be problematic for larger ECOWAS members, such as Senegal, with bound rates below the 35%

9. WT/TPR/S/223, 2009, vi.
10. World Bank, Ghana, 2010.
11. Coulibaly and Plunkett, Lessons, 1.
12. See Nigeria Customs Service (NCS) website: https://www.customs.gov.ng/ProhibitionList/import.php

band.[13] Many products calling for an upward adjustment in tariff rates (e.g. rice in Liberia) enter significantly in the consumption basket of the poor, leading to the large welfare estimates predicted by Melo and Mancellari for Liberia.

Special Protection Measures (SPM) poorly designed for small ECOWAS members

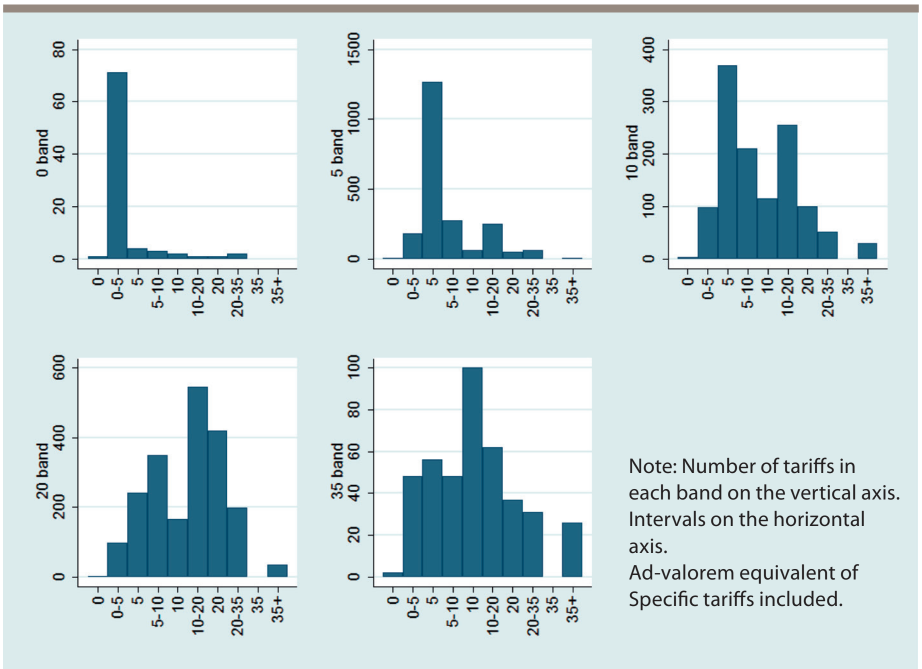
To ease the transition to the CET, an October 2013 regulation, the Special Protection Measures (SPM) was adopted. It is designed to help members adjust to a lower tariff structure. One (of two, see below) SPM is the Import Adjust Tax (IAT) which allows members to apply a tax on imports from non-ECOWAS trading partners. Members can apply an IAT on 3% of tariff lines, with individual duties, respectively, deviating a maximum of twenty percentage points above the CET for five years. When combined with the other SPM (the Special Protection Tax contingent on large increases in imports[14]), the maximum MFN duty cannot exceed 70%.[15]

A major flaw of the current SPM for the smaller ECOWAS members comes in Article 3 Section 2 of the SPM Regulation: "The Import Adjustment Tax can only be applied when the MFN duty specified in the ECOWAS CET is lower than the MFN duty applied by a Member State at the date of the entry into of this Regulation" (our emphasis).

The drawback and inequity of the current SPM is evident from figures 1 and 2. Figure 1 shows the distribution of Liberia's current statutory tariffs compared to its products' corresponding tariff bands under the CET. Take, for example the 35% tariff band at the bottom for which Liberia has no statutory tariff: only 20 tariff lines are above the 35% band while 233 tariffs will have to be adjusted upwards. A similar pattern also holds for the other bands, in particular the 20% band.

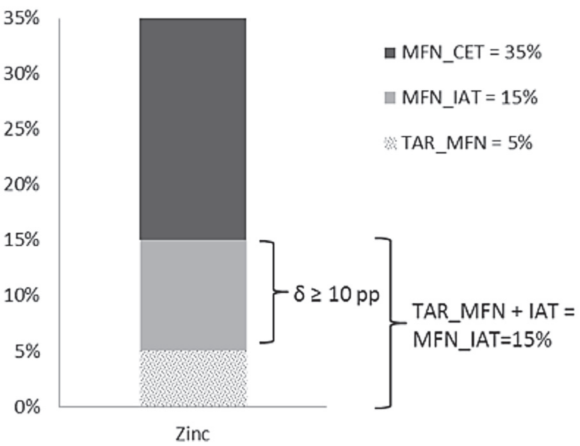
13. WT/TPR/S/223, 7.
14. The second SPM, the Special Protection Tax (SPT) applies the third party goods, but only when 1) "the increase in volume of imports of a product entering the customs territory of a member state during any year equals or exceeds 25% of the average during the last three preceding years for which data are available"; and 2) "the average cif import price during any month, priced in domestic currency, falls below 80% of the average cif import price of the last three years" (SPM Regulation C/REG 1/09/13).
15. SPM Regulation C/REG 1/09/13

Figure 1: Distribution of Liberia Statutory tariff lines for each CET band



It is sensible to assume that the ambiguity (if there is) in the current Article 3 will be removed, in which case temporary adjustment will be applicable on the upward side as well. This case is illustrated in figure 2 for Liberia for imports of zinc (HS72104100) from non-members. For zinc, CET compliance using an IAT requires an upward adjustment of at least 10 percentage points. Since Liberia currently applies a 5% tariff rate, while the CET rate is at 35%, the minimal adjustment would apply a total duty (current 5% rate plus 10% IAT) of 15%, which would keep zinc within 20 percentage points of the CET.

Figure 2: IAT applied to Zinc Imports



Unfortunately, as currently stated, the exceptions stipulated in SPM Regulation offer no broadly useful solution to upward adjustment, as "Notwithstanding paragraph 2 of this Article, the Import Adjustment Tax can be applied to products listed in an Annex attached to this Regulation" (Article 3 Section 3). Thus, as the regulation currently stands for MFN rates below the CET, Members can apply the IAT to items on the abovementioned exceptions list. However, as noted above, this list is apparently largely handpicked by Nigerian producers' associations.

The Asymmetrical Benefits of the ECOWAS CET

The extensive delays in ECOWAS consensus around the CET, the ECOWAS-EPA, and the consequent adoption of the fifth tariff band were partly attributable to Nigeria's arguments to protect its competitiveness. This is perhaps best captured in the president's 2012 budget speech: "It is common wisdom that the best way we can grow our economy and create jobs for our people is for us to patronize Nigerian-made goods."[16]

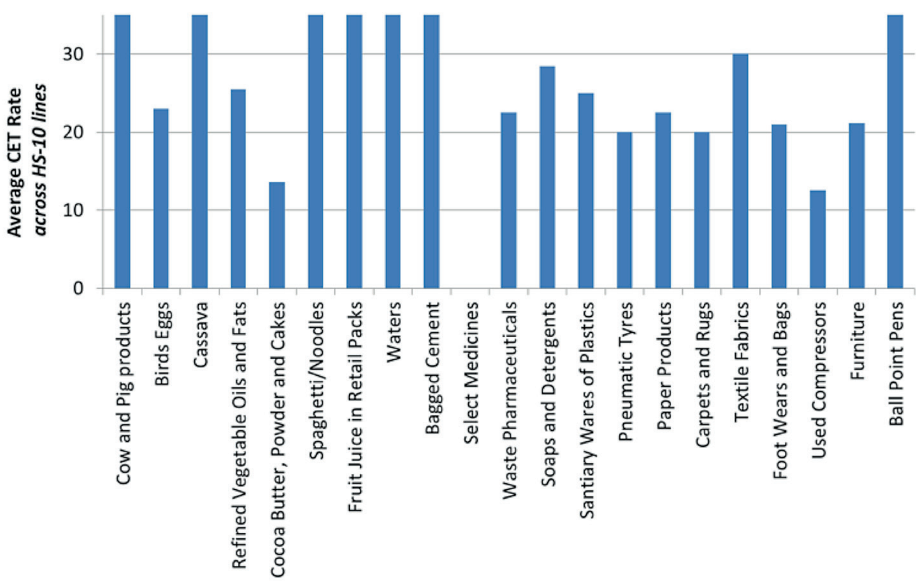
It is therefore unsurprising that the SPM exceptions list largely reflects products on the Nigerian Import Ban List. As shown in Figure 3, the corresponding CET rates on a sample of imports on the import ban list are also quite high[17], giving Nigeria multiple opportunities to apply up to a 55% MRN tariff rate on several of the goods formerly on the ban list.

This structure is hardly suitable for other ECOW-

16. NANTS, *Press Statement*, 3.

17. The simple averages shown are the averages of HS-10 products, grouped according to Nigeria's Import Ban List. The number of products denominating each average may differ depending on what version of the Import Ban List used, although there was normally very little variation within each product group.

Figure 3: CET rates on a sample of imports on the Nigerian Import Ban List*



* Not included here: Bird and Poultry Products, Glass Bottles, Used Motor Vehicles, Telephone Voucher Cards, and Toothpicks, as they are not on the CET exceptions list.

AS members, particularly the five ECOWAS Members with the lowest per capita GDP (2014 IMF estimates)—the Gambia, Guinea, Guinea-Bissau, Liberia, and Niger—who primarily rely on export baskets of raw agricultural and extracted commodities. Foodstuffs that are largely imported by these countries receive an average MFN tariff rate of 23%. The CET will likely raise the prices on non-ECOWAS imported food and manufactured goods, signaling the potential for trade diversion towards higher-cost partners.

Moreover, SPM Regulation C/REG 1/09/13, which outlines the IAT and the SPT, never discusses how waivers will be treated. For Liberia and other countries with tariff waivers, this needs to be clarified as there is no reason why these products should not be eligible for receiving the IAT. This is especially important for products that weigh heavily in households' consumption basket. Needless to say, the current ambiguity in Article 3 Section 2 of SPM Regulation C/REG 1/09/13 needs to be clarified to allow explicitly for the application of SPM for MFN duties currently *below* the CET.

Melo and Mancellari consider IAT product-selection rules under the assumption that eligibility would apply equally for products below and above the CET rate. The most transparent criterion would be to evenly split adjustment over the five year transition period between those MFN rates above and those below the CET rate, with preference given to current rates falling furthest away from the CET (starting with those outside of 20 percentage points). Under such rules, zinc would qualify for an IAT. An alternative, less transparent possible strategy could prioritize IATs for domestically produced goods competing most directly with imports—although this approach would likely be controversial, as it is potentially subject to lobbying and manipulation. Furthermore, in addition to transparency and signaling impartiality, the first approach would narrow the variance in tariffs, helping to reduce distortions.

Towards a better Common Trade Policy Regime for ECOWAS

Along with SADC, ECOWAS has the most diverse membership structure among African RECs, as it assembles landlocked and coastal, resource-rich and resource-poor, large and small. As argued in Melo and Tsikata (2014), this great heterogeneity lays down a dilemma: on the one hand, the gains from deep integration are the greatest; on the other the interests are the furthest apart. The adopted CET and accompanying temporary measures reflect this heterogeneity of interests and the lack of supra-national funds to compensate members for adjustment.

As a first step, transparent communication of the new regime will be essential in the near future along with obvious rectification in the details governing the application of the SPM. Next, the low-income countries need to ensure that, like in the EAC, the CET will be up for reconsideration in a few years (in the case of the EAC it was after five years since first application). The smaller-low-income members with rather similar interests and tariff structures would benefit from closer cooperation and developing a common stance: they will be most adversely impacted by application of the CET-induced price changes that will hit their poor the most.

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