



Study on the coherence of trade policies in West Africa

Synthesis

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PPRI
October 2010



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This document has been written with the support of the French Development Agency.

Only the authors are responsible for the analyses and conclusions presented in this document.

Special thanks for their rereading and their useful comments to Mr Cuzon, Ms Thirion, Ms Roumegous and Mr Adam.

Background, aims and methods of the study

In a regional context affected by increased trade liberalisation, the question of the coherence of trade policies is crucial for West African countries, which want to develop their regional trade while taking advantage of the opening of export markets.

The question of the coherence of trade policies in the region is all the more important in that West African countries are involved in many different trade negotiations at different levels, regional (integration process), bilateral (EPA) and multilateral (WTO). The drawing up of both national and regional trade policies depends and will continue to depend on these negotiation processes.

It is especially important that national or regional trade policies, as transversal policies, are consistent with other policies implemented to meet global development goals. A trade policy is not an end in itself. It is a means to development and a support for sectoral policies. Therefore, trade needs to be incorporated in development strategies so that it really contributes to the development of West African countries. Countries also need to be better coordinated regionally, and take account of their regional and multilateral commitments.

The overall aim of this study is to identify the main activities needed to consolidate the overall coherence of trade policies in West Africa. The need is to create synergies between the different levels for defining and implementing trade policies, and with the development goals that have been fixed by the region.

In this context, the aim of the study is first to identify accurately the problems in the coherence of West African trade policies, differentiating between the various possible cases (how the different WTO/EPA/ECOWAS CET current negotiations fit together; the links between trade policy and sectoral policies; coordination between national and regional levels, etc.). For each identified case, the aim is to analyse the consequences, identify the causes of the incoherence and, as applicable, analyse the effects of measures already taken (nationally and regionally) to consolidate the coherence needed.

Finally, based on this diagnosis, the study will:

- Formulate recommendations for national and regional West African institutions so that they can improve the overall coherence of their trade policies;
- Examine the support that the WTO's Trade Policy Review Mechanism (TPRM) could provide in increasing the coherence of trade policies within the West Africa region;
- Identify the needs for capacity building and/or institutional support for strengthening the overall coherence of trade policies, which could be provided by the French Development Agency or other development partners.

Several levels of coherence were analysed in the study:

- “horizontal coherence” between trade policies and other national and regional public policies. This is a question of identifying and dealing with any contradictions in public policies;
- “vertical coherence”, which is part of the process of regional integration, between national trade policies and common trade policies. In fact, the issue is one of complying with commitments made regionally, and aligning the trade policies of the different WAEMU and ECOWAS countries and the trade policies defined at a regional level.
- In addition, at the regional level, the situation in West Africa, with two different regional organisations in charge of conducting the regional integration process, raises the question of the coherence between the WAEMU and ECOWAS.

Finally, the national and regional trade policies in West Africa are dependent on different negotiating arenas:

- a regional negotiating arena that is particularly focussed on finalising the ECOWAS CET and thus on constituting a Customs Union;
- a bilateral negotiating arena, especially between the West African region and the European Union, on the Economic Partnership Agreement (EPA);
- a multilateral negotiating arena, attached to the WTO, of which all West African States are members (except Liberia, which has Observer status). It should be noted that each country negotiates individually, the WAEMU and the ECOWAS have ad hoc Observer status in the WTO Trade and Development Commission.

At this last level, there are two questions: i) what coherence is there between the trade policies applied and the commitments made by the countries/regions, and ii) how do the different levels of negotiations fit together?

The study has two main sections:

- The diagnosis, which deals with:
 - The coherence between national trade policies and regional trade policies;
 - The coherence between national trade policies as compared to international commitments and coordination with the various negotiations frameworks;
 - The coherence between national and regional trade policies and sectoral policies;
 - The alignment needed between the ECOWAS and WAEMU processes.
- Recommendations for: States and regional organisations; donors; the WTO.

The diagnosis

REVIEW OF NATIONAL AND REGIONAL TRADE POLICIES

First the study identified national trade policies in the 3 countries covered by the study (Burkina Faso, Nigeria, Senegal), and regional trade policies under WAEMU and ECOWAS.

These are the results of the first analysis:

- **WAEMU has a common trade policy based particularly on:**
 - i) a common market set up on 1 July 1996 for unprocessed products and traditional crafts, and gradually, up to 1 January 2000, for certified industrial products, which was extended to all ECOWAS countries in 2004;
 - ii) a Customs Union set up on 1 January 2000, based on a Common External Tariff (CET) for all WAEMU Member States, comprising four categories of products taxed from 0 to 20%.
 - iii) common rules of origin, common rules on competition, alignment of VAT and excise duties, alignment of a joint recognition of standards, common safeguard and protection measures (TDP – Degressive Protection Tax, TCI – Conjunctural Import Levy, reference values and anti-dumping laws).

In addition, WAEMU has a “regional strategy for implementing the WAEMU programme of aid for trade” and a “logical framework for implementing the WAEMU programme of aid for trade”. The general aim of the WAEMU aid for trade strategy is to help Member States increase their exports of goods. The

logical framework is designed as a basis for programming which should be common to all international donors, and also national and regional financial institutions (particularly development banks) and services that are part of the world trade system.

- **At present there is no common ECOWAS trade policy** in terms of a community text adopted by Heads of State and government, but the trade department is working on drawing up a text. The approach consists of using the WAEMU trade policy as a basis and extending it to non-WAEMU countries, with adjustments if necessary.

In addition, a certain number of measures have already been implemented which will serve as a foundation for the future common trade policy: i) the Trade Liberalisation Scheme, ii) setting up community levy; iii) the Interstate Road Transit Scheme for goods; iv) aligning rules of origin with WAEMU rules; v) aligning with WAEMU standards; vi) adopting a law on competition; vii) aligning interior indirect fiscal legislation; viii) finalising the ECOWAS Common External Tariff.

ECOWAS Member States decided to adopt a Common External Tariff (CET) in January 2006, structured around four categories of custom duty at this time. The Heads of State of the ECOWAS decided to create a 5th CET tariff band, through an additional act, during the Conference held in June 2009 in Abuja.

In addition, as part of the discussions on finalising the ECOWAS CET, the ECOWAS Commission plans to work on temporary protection measures to counter increased imports liable to compete with regional production. Three measures are currently under study: the Degressive Protection Tax, the ECOWAS Safeguard Tax and the ECOWAS Compensatory Tax.

ECOWAS, as the WAEMU has done, has fixed a limiting range for VAT rates applied by Member States. ECOWAS has fixed a list of products eligible for excise duty (different from WAEMU's), adopted rules of origin aligned with WAEMU rules. Moreover, the WAEMU quality programme, and thus the process of alignment of standardisation and mutual recognition of common rules on standards, has been extended to the whole region.

ECOWAS does not have a strategy of aid for trade but the EPA Programme for Development (PAPED) which is a joint WAEMU-ECOWAS Programme could be considered as a regional aid for trade strategy, especially because the different measures identified are very much broader than the EPA framework.

- **For WAEMU Member States, notably Burkina Faso and Senegal, trade policy globally consists of implementing the common trade policy**, i.e. free movement of goods and services within WAEMU and ECOWAS and setting up CET, including safeguard measures, within WAEMU for the moment. They also usually apply VAT, excise duties and reference values, in compliance with WAEMU regulations. However, each country has its peculiarities.

Burkina Faso does not have a trade policy document strictly speaking, but is finalising a policy for promoting Trade, Industry and Crafts which will be used as a reference framework.

Burkina never used TCI (Taxe Conjoncturelle à l'Importation – Conjunctural Import Levy) but retained a Degressive Protection Tax of 5% for certain products, although community texts indicate it was abolished in January 2006. It also collects other taxes on imports such as the Contribution to the Import Verification Programme (CPVI), or the tax charge per ton of import paid to carriers. Also, due to the food crisis in Niger, Burkina Faso encourages exporters not to export cereals to its neighbour.

In addition, Burkina Faso has completed its Diagnostic Analysis of Trade Integration, entitled *Le défi des exportations dans un pays enclavé* (The challenge of exports in a landlocked country). It contains an action matrix for the following sectors: cotton, livestock, farming and agribusiness; sesame; peanuts, cashews and shea nuts; cereals; horticulture; mines; industrial and processed products; the investment climate; transport and trade facilitation; customs; and trade policies and institutions. A national export strategy is being drawn up on this basis.

Senegal applies a Conjunctural Import Levy (TCI) of 10% to wheat flour, tomato concentrate, sweet and not sweetened condensed milk, and fruit juice, based on trigger prices authorised by the WAEMU Commission and applies an equalisation tax to sugar for general consumption. Since 1998 it has also applied 20% surtaxes on a certain number of products not originating in WAEMU or ECOWAS, and a 1% additional levy on cloth, a charge for the pastoral fund and a COSEC (Conseil national des chargeurs –Council for national carriers) levy on products imported by sea.

Senegal has also created a Market Regulation Agency (MRA) with the intention of regulating agricultural markets based on dialogue between producer organisations and import traders. So, for onions, in order to limit the price drop caused by competition from imported onions, this dialogue gives rise to a yearly freezing of imports during the production season of local onions.

In 2001 Senegal drew up an Export Development and Promotion Strategy (STRADEX) that aims for a better use of national export potential by taking account of international demand. Based on the Diagnostic Analysis of Trade Integration carried out in 2002, which is based on the STRADEX analyses, Senegal, like Burkina Faso, drew up an action matrix in 2007 entitled: *Cadre intégré de développement du commerce extérieur du Sénégal* (Integrated development framework of foreign trade in Senegal).

Nigeria is completing a document on trade and industrial policies. Since 2004 it has applied free movement of goods and services within ECOWAS. It must also comply with existing regulations in terms of rules of origin common to ECOWAS and WAEMU, alignment of common standards with both regions, reference values and alignment of excise duties and VAT. Moreover, Nigeria has adopted ECOWAS's Common External Tariff. In compliance with this decision, the new tariff regime applies to 2008-2012, and comprises 5 tariff bands.

However, since the ECOWAS's CET is not implemented at regional level yet, Nigeria regularly produces lists of prohibited imports to strengthen the protection of industries. There are currently 27 categories of products on the list. The government revises the list regularly.

Nigeria's trade policy is very unpredictable, due to the fact that the list of custom duties and prohibited imports is revised frequently. This problem should be solved with the implementation of ECOWAS's CET.

EXAMPLES OF INCOHERENCE THAT HINDER TRADE

There are two types of situation that hinder trade within WAEMU/ECOWAS: i) countries not complying with community regulations; ii) abnormal practice by private or public operators.

- **Examples of countries not complying with community regulations** include: higher tariffs within the common market; cases of not recognising WAEMU certificates of origin; cases of not complying with WAEMU CET; cases of prohibition or tariff-rate quota; cases of applying excessively the TCI and standards; cases of various

inconsistencies concerning waivers of applying VAT, applying reference values, minimum values or different taxes.

The case of measures taken during the 2008 food crisis should be noted, when many countries prohibited or restricted exports. These safeguard measures could be acceptable under Article 86 of the revised WAEMU Treaty, but this supposes that countries had requested permission from the Commission for applying them, which they did not, given the urgency of the situation.

In addition, some countries such as Senegal set up systems of trade regulation based on consultation within value-chains. This is not incoherence, strictly speaking. It could even be considered as a way of by-passing constraints fixed by regional and international trade rules for regulating trade.

- **Examples of abnormal practice include:** declaring less than the actual quantities imported, and thus taxed; reducing the CIF value; changing the type of product; paying a flat rate tax; not verifying standards and rules of origin; unwarranted levy at the border on unprocessed or certified products; unnecessary checks all along trade corridors, and even closing borders.
- **The main reasons suggested to explain these inconsistencies are:**
 - Delays in applying commitments and the end of compensation for losses of customs duties set up after the WAEMU CET was created;
 - The priority given to national interests, which can be divergent for different Member States, and the difficulty of conceiving of a transfer of sovereignty;
 - The lack or weakness of follow-up mechanisms to ensure that trade policies are implemented correctly;
 - The inadequacy of ex ante or even ex post impact studies on implementing trade policies;
 - The weakness of Departments in charge of trade policies, both in WAEMU and ECOWAS, and also nationally;
 - The lack of political will to apply regulations correctly (lack of means of verification, no coercive means, ...);
 - Lack of information and awareness campaigns on regulatory measures and how to apply them, both for government services and operators;
 - Lack of knowledge of mechanisms for lodging complaints;
 - “Operator vulnerability” that “allows” abnormal practice and increases corruption;
 - Operators consider that cost and delays are too high for some official procedures;
 - The existence of informal trade networks that elude all trade rules.
- **The main measures and instruments to deal with these inconsistencies are given below:**

Nationally:

 - Senegal has created CRADES, *Centre de recherche et d'analyse des échanges et statistiques* (centre for research and analysis into trade and statistics), to provide the statistical and economic information and analyses needed to draw up, assess and monitor trade policies and prepare bilateral and multilateral trade negotiations.
 - National studies and analyses by countries themselves are also tools for flagging problems of incoherence, and for doing needed adjustment to correct them.

- The WTO trade policies reviews, made regularly by the WTO with the Member States under review, are the only real tool for monitoring the implementation of trade policies and their coherence with regional policy and international commitments.

Regionally:

- **WAEMU**, in the near future, is planning to introduce a trade monitoring mechanism to ensure that common trade policies are implemented correctly;
- **ECOWAS** plans to set up a Trade Surveillance Observatory once the ECOWAS CET is finalised or as soon as the common trade policy has been adopted;
- The Observatory of Abnormal Practices on major roads set up in 2005 allows to analyse the trend of road harassment problems on a number of corridors in West Africa;
- The Council of Ministers of the Union adopted a regional road monitoring plan on 16 December 2005, limiting the number of checkpoints at the start, the border crossing and the final destination;
- WAEMU has set up a procedure for lodging complaints about misapplication or non-application of community rules;
- Regional organisations should take part in trade policy reviews of Member States.

NON-COMPLIANCE WITH INTERNATIONAL COMMITMENTS

1. An analysis of commitments made by both LDC and other countries in the region shows that incoherences mostly involve compliance with bound duty.

When the CET was created, some countries and products were affected by a tariff increase that was not compatible with duty rates notified to the WTO. Moreover, many West African countries granted France concessions that pre-dated the Uruguay Round under the French West Africa status. In this case, notified duty is much lower than CET, particularly for Burkina Faso.

It should be emphasised that when the 5th band at 35% is included in the ECOWAS CET, bound rates for many countries will be lower than the applied rate. This is the case particularly for Senegal, which has bound its products at 30%.

Other cases of countries in the region not complying with WTO regulations:

- The compatibility of the Conjunctural Import Levy (TCI), based on the special safeguard clause of the WTO Agreement on Agriculture; WAEMU countries do not have the right to this because they have bound their tariffs at a ceiling rate;
- Other taxes (VAT applied solely to imported products, import surtaxes...);
- Prohibitions, including those via excessive standards, applied by some countries such as Nigeria;
- Reference values or customs evaluation values.

2. In terms of trade negotiations, the central question for the region is that of alignment and regional coherence

The WAEMU Treaty states that from now on Member States undertake to agree on common positions before starting negotiations in an arena in which the Union is not represented as a contractual party, as is the case with negotiations in the WTO. However the ECOWAS Treaty has no equivalent ruling.

In addition, WAEMU has notified its Treaty to the WTO, under the enabling clause. WAEMU and ECOWAS have only the status of ad hoc observer to the Trade and Development Committee.

In order for WAEMU and ECOWAS to negotiate on behalf of their Member States, two limiting conditions must be removed:

- i) The WAEMU/ECOWAS common market needs to be recognised as a Free Trade Agreement. However, currently, despite the existence of a free-trade area, WAEMU and ECOWAS countries do not apply the free practice principle;
- ii) Member States must commission WAEMU and ECOWAS to negotiate for them, as is the case for EPAs, which means a loss of national sovereignty.

Over and above this question of representing countries to the WTO, although a commitment already exists on agreed positions, two main roadblocks have been identified that cause problems either with WTO rules or with the aim of regional integration:

- Absence of alignment of tariff bindings, which is damaging to the regional integration process. If custom duties are raised to protect against a sudden increase of imports, for example, which ceiling duty will be used? Will this be done only for the affected country, or regionally to avoid rerouting of imports? ...
- The other difficulty with national commitments to the WTO, and which is a real problem for the integration process in West Africa and also in other regions of Africa, is the existence of different statuses within a single regional integration area. Thus, out of the 15 ECOWAS countries, 4 are developing countries (Côte d'Ivoire, Cape Verde, Ghana and Nigeria) and are therefore obliged to reduce their bound duty if a new WTO agreement is reached, whereas the LDC are not obliged to agree to a reduction.

3. In order to improve participation in trade negotiations, Member States have used many tools and set up institutional procedures which often work very well.

Thus **most** WAEMU countries have created committees for monitoring trade negotiations.

WAEMU wants to strengthen the cooperation that it is currently organising between Member States, by setting up a Consultative Committee for Trade Negotiations, to assist the WAEMU Commission and the Member States in preparing, monitoring and running trade negotiations, with the aim of reaching multilateral, plurilateral or bilateral trade agreements and also regional trade agreements. In addition, given the strategic importance of trade negotiations for WAEMU Member States, the Commission has suggested setting up a regional coordination mechanism between Geneva, Brussels, the capitals and the WAEMU Commission in order to prepare the position of Member States more efficiently, taking their specific interests into consideration.

In ECOWAS, the preparation and monitoring of negotiations remains very limited due to lack of human and other resources within ECOWAS, and also due to lack of ECOWAS representatives in Geneva.

ECOWAS countries and regional organisations have received and continue to receive a lot of capacity building support from WTO, OIF and French cooperation agencies.

Particularly since the Doha Round, regional organisations and Member States, and also the private sector and producer organisations have drawn on local and international expertise to improve the preparation of international and bilateral trade negotiations.

RISKS OF INCONSISTENCIES RELATED TO EPAS

In the context of the Cotonou Agreement signed in 2000 in Cotonou, the WAEMU Commission and the ECOWAS Executive Secretariat (which became a Commission in 2006) together headed negotiations with the European Union for creating an Economic Partnership Agreement in West Africa. The negotiations were due to be concluded by 1 June 2008, but in early 2010, no conclusion had yet been reached.

There are several risks of inconsistencies related to these negotiations, which have got bogged down, including:

- **Regional integration processes**

Since 2008, several tariff regimes coexist in the region in dealings with the EU: LDCs which have not signed EPAs and are subject to the “everything except arms” agreement; Nigeria, a developing country that has not signed an EPA and is subject to GSP; Ghana and Côte d’Ivoire, which are also non-LDCs and have made intermediary EPAs (IEPAs); Cape Verde which has become a developing country and has a transition period of at least 3 years. This juxtaposition of tariff regimes is in total contradiction with the existence of the WAEMU CET in the case of Côte d’Ivoire and of a future ECOWAS CET in the case of Ghana. This is a danger for the regional integration processes that are underway and for the conclusion of a regional EPA.

- **Sectoral policies**

The main fear of ECOWAS countries is the risk of growing competition from European imports which could hinder the development of the limited regional industrial sector and the agricultural sector that does not have the same advantages or the same support as European agriculture. In order to limit risks, and based on a very detailed study of the definition of sensitive products that would be excluded from the free-trade area, the region proposed tariff dismantling of 70% of goods over 25 years. The EU refused this proposal and today continues to hold to dismantling tariffs for at least 80% of tariff lines.

In order to monitor EPA negotiations more closely and play a greater part in them:

- Member States have set up national committees for monitoring EPAs, as they did for international trade negotiations;
- At the regional level, the negotiating structure is composed of the following entities: the ECOWAS Council of Ministers, the Ministerial Monitoring Committee, the ECOWAS group of ambassadors in Brussels and permanent representatives in Geneva, the Regional Negotiations Committee and the Technical Support Committee. In addition there is a liaison committee and a task force, both of which include ECOWAS and WAEMU Commission members and European Commission representatives. The Task Force includes also Member States from West Africa and from the European Union.
- Besides support in capacity building for WTO negotiations, which is generally also used during EPA negotiations, special support has been provided nationally and regionally (ECOWAS and WAEMU), especially backed by the European Union.
- To an even greater extent than for WTO negotiations, regional organisations and Member States and also the private sector and producer organisations have been able to draw on local and international expertise for better follow-up and active participation in EPA negotiations, particularly in defining sensitive products.

As for other bilateral trade negotiations, the WAEMU Treaty gives to the Commission the exclusive hand in negotiating and concluding Bilateral Trade Agreements on behalf of Member States which is not yet the case today for ECOWAS.

THE COHERENCE BETWEEN NATIONAL AND REGIONAL TRADE POLICIES AND SECTORAL POLICIES

As private sector representatives and Farmers' Associations have particularly emphasised, at a national level there are still no agricultural or industrial sectoral policy documents, although countries have a multitude of sectoral strategies, plans, programmes, projects, etc. which are not always mutually consistent.

- **As for the agricultural sector**, most implemented laws on agricultural orientation (Loi d'orientation agricole, LOA) and programmes aim to improve local food security and to have food sovereignty as a long-term goal, improve income and standard of living of rural populations, improve the environment of product quality, to help them take their place in global and regional markets.

These are also the main objectives of WAEMU's Unified Agricultural Policy (UAP) and ECOWAS's agricultural policy (ECOWAP), and there is also an objective of strengthening the common market.

To meet these objectives, the main sectors mentioned nationally and regionally are the food industry, particularly rice, maize, cattle/meat, poultry, dairy, fruit and vegetables and cotton.

- It is generally mentioned that the industrial sector in the region is only just starting in most countries, and is mostly centred on agriculture.

Regionally, the Common Industrial Policy (CIP) for WAEMU adopted in 1999 or ECOWAS's West African CIP (PICAO) which was adopted in 2010, aim to: i) ensure and enhance the competitiveness of industrial enterprises in the region; ii) speed the adaptation of industry in the Union to the structural changes that are taking place; iii) preserve and develop the export capacities of Member States, as part of the new state of world trade; iv) encourage the creation of an environment favourable to initiative and to developing business, particularly SME/SMI; v) encourage the building of a strongly integrated industrial fabric within the Union, based particularly on SME/SMI; vi) encourage the diversification and densification of the regional industrial fabric. The CIP is based on 6 programmes: i) the development of structures and programmes for promoting Quality; ii) upgrading companies and their environment; iii) promoting information networks; iv) promoting investments and exports; v) developing SME/SMI and vi) consolidating regional consultation.

The importance of coherence between common trade policy and common industrial policy is emphasised by both regional organisations, as are the risks of the future EPA (cf. PICAO).

- Cases of incoherence between trade policies and agricultural or industrial policies generally involve WAEMU's Common External Tariff, which has been widely criticised because custom duty levels are not sufficiently protective to support the development of local industry sectors identified as being strategic. However, in certain cases, this is the common market itself which is questioned.

In the agricultural sector, in a context of increased competition on international markets and highly volatile prices, the producer organisations and the private sector, and also WAEMU itself, criticise the WAEMU CET, which is not very consistent with the aims of the UAP: food sovereignty; development of regional trade; improving the standard of living of producers; securing agricultural investments. The main cases mentioned, that we will illustrate here are: rice, which suffers from strong competition from Asian rice; poultry; oils; milk and other dairy produce; tomato concentrate. Other cases mentioned were: flour, pasta, sugar and fruit juices.

In the industrial sector, apart from agribusiness, several products were or are still affected by competition from imports considered to be too great or unfair because of the existence of

the CET, the creation of the WAEMU-ECOWAS free-trade area or because the products do not meet standards or rules of origin.

The main industry sectors mentioned are: the production of batteries threatened by Asian products which apparently do not always comply with standards (Burkina Faso, Senegal); the sheet metal and reinforcing steel sector threatened by Asian products which apparently do not always comply with standards (Burkina Faso, Senegal); the tyre sector threatened by Asian products which apparently do not always comply with standards (Burkina Faso); plastic production (Senegal, Burkina Faso).

- The main causes of incoherences mentioned during our interviews were as follows;
 - The process of drawing up the WAEMU common trade policy, which began in 1996 in the middle of the Structural Adjustment Plan period which aimed to withdraw the government from productive sectors and liberalise trade. The influence of the Bretton Woods institutions gave the impression that States were not very involved in drawing up the CET;
 - The existence of diverging interests between WAEMU Member States which led to aligning with more open countries, to the detriment of countries with higher protection levels;
 - The leadership of finances and trade and the lack of consultation with sectoral departments, the private sector and producer organisations;
 - The lack of common sectoral policy at the time the WAEMU CET was drawn up.

It should be noted that the process of drawing up the ECOWAS CET is slightly different because ECOWAP already existed and the PICA0 has just been adopted. So it should be easier to envisage an open discussion on trade policy instruments that can be defined to support sectoral policy. Moreover, discussions on the 5th band show that thinking had gone further than just re-categorising certain products solely for ECOWAS and non WAEMU countries;

 - The lack of ex ante and ex post impact studies on implementing CET;
 - The lack of overall vision at both the national and regional levels;
 - The weakness of national sectoral policies;
 - The weakness of institutions and turnover;
 - The action of private sector lobbies;
 - The difficulties of institutional reform of ECOWAS;
 - Pressure from donors.
- In addition, the negative effects of Nigerian trade policies were emphasised, particularly in terms of encouraging smuggling, but mostly because the trade policies are so unpredictable, so that long-term strategic sectoral decisions are impossible.
- First it must be emphasised that, apart from Nigeria, there are almost no national or even regional institutional mechanisms that can deal with the coherence between trade policies and sectoral policy.

However, several national and regional instruments have been and are being used to make trade policies more consistent with sectoral policy, particularly:

- Impact studies, in the context of EPA negotiations and implementing a 5th band, even if these are insufficient;
- Safeguard measures available, despite their limits: Conjunctural Import Levy, reference values, anti-dumping laws and waiver measures during crises for WAEMU; Conjunctural Import Levy, Degressive Protection Tax, compensation duties being studied for ECOWAS; market regulation mechanisms via Interprofessions to limit imports at the time national products come onto the market (cf. Senegal).

It should be noted that during our interviews at both national and regional levels, interviewees emphasised the need to think about other trade policy instruments, even if they are not allowed under WTO rules, such as quotas, minimum import price, variable levies...

- Re-categorising as part of the ECOWAS CET and creating a 5th band
- Aid for trade strategies

Based on the Diagnostic Analysis of Trade Integration, some countries today are working on drawing up their aid for trade strategy. WAEMU has drawn up a strategy for aid for regional trade. Moreover, the West Africa EPA Development Programme (EPADP), joint to WAEMU and ECOWAS, can also be used as the basis for a common strategy of aid for trade at the regional level.

These strategies of aid for national and regional trade could be used as a basis for donor interventions for support for national and regional trade policies in the region, including capacity building. These strategies could help make the interventions of different technical and financial partners more coherent.

- The ECOWAS CET process that is being defined is changing markedly, and tending to replace the WAEMU CET that was applied in 2000 by a re-categorisation of products with tariff bands and a 5th band. This process can be a source of incoherences, because:
 - The work done is mainly on the harmonisation of lists of countries, and seems to leave little room for considering the region's sectoral priorities in order to ensure that the finalised CET is consistent with these priorities;
 - At present no provision seems to have been made to carry out impact studies or organise consultations with civil society;
 - Heads of ECOWAS sectoral departments, representatives of sectoral ministries and non government players are not always present at ECOWAS CET joint management committee (CCG) meetings. ECOWAS has a budget for inviting only two representatives of each Member State and several resource people.

THE ALIGNMENT NEEDED BETWEEN THE ECOWAS AND WAEMU PROCESSES

There is a basic trend for a rapprochement between the 2 institutions, with the long term prospect of having a single regional organisation in West Africa. Examples of this include the nomination of Prof. Bamba to the Macroeconomic Commission, whereas he was previously in WAEMU, or the attempts by Senegal and Burkina Faso to preside ECOWAS.

WAEMU is firmly committed to a process of aligning its integration programme with that of ECOWAS, with a view to gradually extending its actions over the whole of the West Africa region. For WAEMU, it is clearly in this context that they place all they do jointly with ECOWAS to negotiate and conclude an EPA between the whole of West Africa (ECOWAS +

Mauritania) and the European Union, following the remit received from Heads of State and Governments.

- The coherence between the two regional integration processes is certainly a central concern for both regional organisations. However, some cases of incoherence in coordination exist, but these are largely a question of a staggered timetable for the two processes, the difficulty of creating common working habits for counterparts of the two institutions and problems of coordination:
 - The finalisation of the ECOWAS CET: Some products “re-categorised” by WAEMU still appear in the initial category in the tariff grids used for discussions on the ECOWAS CET;
 - The non alignment of VAT and excise duty;
 - The non-existence of regional reference values within ECOWAS;
 - The safeguard measures specified in the ECOWAS Customs Union are different from the ones that exist today in WAEMU;
 - Lack of a formal complaint procedure apart from Solicited Requests to the ECOWAS law court, whereas WAEMU has a procedure;
 - ECOWAS lacks authority for bilateral trade negotiations, unlike WAEMU, which has authority;
 - ECOWAS, unlike WAEMU, has no regional procedure for aligning national positions in international trade negotiations.
- Several examples of joint WAEMU-ECOWAS measures show that both organisations are determined to strengthen coordination. Although some experiences appear positive, others face operational problems:
 - ECOWAS CET joint management committee (CCG)

Although everyone seems to agree that this committee was useful for coordinating the work of WAEMU countries and non-WAEMU countries, operational problems have been noted, particularly: the lack of a clear timeframe, not meeting deadlines, lack of methodology, etc. Moreover, it should be emphasised that WAEMU has its own CET management committee, which raises the question of the current duplication of entities, and in the long term, once the ECOWAS CET has been finalised, of the point of keeping the WAEMU CET management committee.
 - The WAEMU-ECOWAS Ministerial Monitoring Committee for EPA negotiations
 - Joint Technical Secretariat

The JTS has enabled important progress to be made in the process of convergence of the two organisations, at least for bringing up problems and having frank discussions. There is agreement about its importance in respecting the decision of Heads of State to move towards a single institution.

The operational problems raised are mainly related to the fact that the JTS is a new entity (meaning a new learning phase) and it will have to prove itself credible. The big issue is to get beyond the stage of recognising the need for it, and onto the stage of credibility. Despite the frequency of meetings, coordination is not self-evident, but the JTS cannot force the Technical Management bodies to meet. If technicians have not met their counterpart before the JTS meeting, the first day of the meeting is used for this.

Difficulties in coordination differ according to the areas of cooperation. This can be explained by the different positions held by WAEMU and ECOWAS in the following areas:

- . For industry and the CET, ECOWAS relies on WAEMU's experience (WAEMU Common Industrial Policy (CIP) and CET):
- . For EPA negotiations, WAEMU and ECOWAS have no other choice but to work together, because they have to negotiate together following the roadmap that has been adopted;
- . For agriculture, there are two different agricultural policies, and neither institution seems ready to make concessions.

Recommendations

These recommendations are based on successful experiences, identified good practice and feedback from the different players interviewed. They involve both institutional procedures that can be set up and instruments that can be drawn on to make trade policies in West Africa more coherent. They are addresses to Member States and regional organisations, the WTO and technical and financial partners.

RECOMMENDATIONS FOR COUNTRIES AND REGIONAL ORGANISATIONS

Given the existence, nationally and regionally, of mechanisms for sharing information, working together, and thus making policies more coherent, the issue is not so much one of creating new mechanisms as of making sure that they function properly and fulfil their mission. Moreover, beyond developing institutional mechanisms for enhancing coherence, technical and political leaders should work on the very notion of coherence in its own right.

Therefore the main recommendations for countries and regional organisations are as follows:

1. Strengthen national and regional expertise in public policies and in making them mutually consistent

- Give the Ministers for Trade their rightful place in Member States and in the WAEMU and ECOWAS Departments in charge of common trade policies, by increasing the number of people working on writing and monitoring trade policies; by strengthening existing expertise, particularly in i) drawing up, assessing, implementing and monitoring national and regional trade policies, ii) preparing and following bilateral and multilateral trade negotiations, iii) coherence of national or regional trade policies with regional and international commitments and with sectoral policy.
- Strengthening sectoral Ministries nationally and sectoral Departments regionally, particularly those in charge of Agriculture and Industry, focussing especially on: i) drawing up, implementing and assessing sectoral policy; ii) understanding national and regional trade policies and bilateral and multilateral trade negotiations; iii) making sectoral policies consistent with national and regional trade policies and regional and international commitments.

2. Improving collaboration between sectors

Nationally

- Strengthen (where it exists) or create a "cell" within the Prime Ministry which should guaranteeing an inter-sectoral approach, with the remit of ensuring that policies are mutually consistent. It could be jointly coordinated with the Ministry

of Trade. As well as organising regular meetings on the subject, the cell should write regular memos on the various aspects of the coherence of trade policies (with the community's trade policies, with international commitments and with sectoral policy) and an annual report on the coherence of national trade policies. The cell's actions and reports could be put on line on the prime Ministry and Ministry of Trade website, if one exists. There is also a need to plan for having these national cells in a network that could be run and coordinated by regional units on the coherence of trade policies.

Regionally

- Create a unit, within the Presidency of WAEMU and ECOWAS for ensuring an inter-sectoral approach, specifically given over to the coherence of trade policies within Trade Departments or General Directorates, with the remit of organising meetings for interested parties inside and outside the organisations, on how the Commission organises and coordinates its work on the coherence of trade policies. The units could be run jointly with the Department of Trade. They will base their work on the inter-service group, the mechanism for monitoring trade policies, the work of the Observatory of Abnormal Practices and the work of the national cells network that they will run and coordinate. The regional units will write regular memos and an annual report on the coherence of common trade policies. The studies and reports would be put on line on the WAEMU and ECOWAS websites.
- Create an informal inter-service group within WAEMU and ECOWAS on the coherence of trade policies, which would convene members of the Departments involved, including the General Directorate.

3. Involve private sector representatives and producer organisations more closely in drawing up trade policies

The private sector, Farmers' Associations, and civil society must be consulted at every stage of drawing up and implementing trade policies. They must take part in ex ante and ex post impact studies, the various existing procedures for drawing up policy and the implementation and monitoring procedures. They must be included in the work of the Units or cells in charge of the coherence of trade policies, including work at a regional level.

4. Define realistic aims and plan for the costs of adjustment and a global vision

As a general rule, regional organisations tend to set deadlines that are too short, and risk losing credibility. However, the WAEMU and ECOWAS regional integration processes are relatively young, and there are sometimes strongly divergent interests, and in this situation, community interest tends to get lost behind national interests. Therefore, regional organisations need to consider the time it takes for institutional processes to draw up trade policies, particularly if they want to be participative and mutually consistent.

5. Improve the monitoring and assessment of the implementation and consistency of trade policies

It is vital to set up mechanisms for monitoring and assessing the implementation of national trade policies with the aim of making them consistent. This needs to be done at the national level (cf. CRADES in Senegal) and at the regional level (cf. the surveillance mechanism of trade policies planned by WAEMU).

These mechanisms must include: i) a computerised statistical database, for a deeper understanding of trade flows; ii) a monitoring mechanism for the trade regime of

countries, and the trade regime of the Customs Union, and how it is implemented by Member States; iii) a mechanism for assessing the impact of the trade policies of a country and the region on economic activity, and particularly on some agricultural sectors and branches of industry liable to be directly affected by changes to the CET or the use of safeguards or other instruments of trade policies; iv) a monitoring mechanism that ensures that national trade policies are consistent and compliant with common trade policies and international commitments (WTO rules and principles, EPA, ...).

The national surveillance mechanisms need to be aligned and put into a regional network, so that national information can be cross tabulated.

In this way, regional surveillance mechanism for trade policies could use the network of national surveillance mechanisms, the Observatories of Abnormal Practices and formal complaint mechanisms.

Lastly, the activities of the **Observatory of Abnormal Practices** must be extended over time and space to routes and ECOWAS countries that are not yet covered. All of these reports need to be made available on the ECOWAS and WAEMU websites.

6. Systematic impact studies

In order to improve the coherence of WAEMU and ECOWAS trade policies, two things are vital: i) systematic ex ante impact studies when any changes are made to common trade policies, and ii) systematic ex post impact studies to assess the potential and real effects of trade policies implemented. Thus when the ECOWAS CET is drawn up, it is particularly important to carry out ex ante impact studies on the main priority industry sectors identified in the sectoral policy (UAP-ECOWAP, CIP-PICAO). These studies should cover CET rates, and also available protection instruments (Degressive Protection Tax, Conjunctural Import Levy, reference values, compensation duties, safeguard measures,...) or ones that could be negotiated with WTO (quotas, minimum import prices, variable levies, ...).

Member States should also carry out their own impact studies, as Senegal has, so that they can defend their choice of trade policy at the national, regional and international levels, and show that it is consistent with their general economic policy and their sectoral policy.

7. Strengthening mechanisms for formal complaints and settling disputes

Although regional mechanisms for formal complaints already exist, particularly in WAEMU, the mechanisms need to be reinforced and better known nationally and regionally.

At the national level, this is mainly a case of i) specifying which structure hears complaints about poor application of community regulations or abnormal practice, conducts the investigation and sends details to WAEMU or ECOWAS, ii) informing operators of the existing mechanisms for making complaints, and the procedures to follow, via information sessions, press articles, radio and TV adverts, ..., iii) circulating regular information to operators about cases of incoherence and how they can be dealt with regionally.

For WAEMU, the need is to i) increase the workforce of the “Directorate for Competition” which deals with complaints, or create a specific place for dealing with them; ii) coordinate the activities of the Directorate with those of the Directorate for Customs; iii) coordinate these activities with information from the Observatory of Abnormal Practices; iv) coordinate these activities with information from the future trade surveillance mechanism; v) improve the coordination with national complaint mechanisms, in order to increase the effectiveness of the whole formal complaint system; vi) programme activities for increasing national and regional expertise to improve and harmonise the system for receiving and dealing with complaints; vii)

improve the understanding of the mechanism of complaints and their results, working with Member States.

For ECOWAS, the need is to create a functional system for lodging complaints related to trade activities within the ECOWAS Commission, and have a specific place for this, as the WAEMU does for countries and economic operators who want to press charges.

The two regional mechanisms must be coordinated and their scope of action needs to be clearly defined to avoid any confusion.

8. Reinforcing monitoring mechanisms and implementing coercive measures

For complaint mechanisms to be credible, the monitoring mechanisms must be effective and coercive measures must really be enforced.

Therefore it is vital to:

- Reinforce the various monitoring services and make them more effective nationally, and link them to regional services where these exist, particularly for Customs and Veterinary Services;
- Ensure that the Directive limiting the number of checkpoints on international trunk roads, and the Decision on applying the measures of the Directive are applied correctly. The latter sets the practical modalities of checks linked to the regional road monitoring plan adopted by the Council of Ministers of the Union on 16 December 2005. A new Plan that extends to the whole of ECOWAS could be drawn up;
- Specify which coercive measures correspond to cases where community regulations are not applied, or cases of bad practice, by an operator or a country;
- Create checkpoints (cf. Decision no. 08/2001/CM/WAEMU on the financing of the Community Programme for building eleven checkpoints on the main inter-State corridors, adopted on 26 November 2001 by the WAEMU Council of Ministers);
- Harmonise and intercalate customs information systems, in order to secure the whole IT chain and have a centralised database available to all Member States. This will ensure that priority is given to sending electronic data before sending goods;
- At a regional level, consider possibilities for strengthening coercive entities, particularly regional Courts of Justice;
- Reinforce the political commitment of countries by mobilising i) the Conference of Heads of State and Governments, which has a role of giving political direction and thrust to the integration process; ii) the Council of Ministers, which also plays a role of giving political thrust, particularly to certain difficult briefs.

9. Improve the information on and awareness of community and national measures and regulations

Lack of information and awareness on the part of agents who are supposed to apply regulations and operators who are supposed to comply with them is a major cause of bad practice.

Therefore, it is vital that both regional organisations work together with Member States to implement a very active policy of information and awareness raising, particularly in the following areas: i) current regional trade regulations and their national application: CET, rules of origin, safeguard measures, reference values, ...; ii) SPS standards and techniques; iii) mechanisms for formal complaints; iv) other common policies; iv) how regional organisations operate; v) the implications of current trade negotiations (WTO, EPA, ...).

It is also vital to make all of these reports more readily available on the ECOWAS and WAEMU websites.

10. Improve WAEMU and ECOWAS participation in the WTO and in defending the interests of the region in bilateral and multilateral trade negotiations

The following recommendations would accomplish this:

- Urgently finalise the ECOWAS CET and settle the question of implementing free circulation, so that the region, in its role as Customs Union, can be notified under Article XXIV of the Free Trade Agreement, (this is also the case for the current WAEMU Customs Union). Implementing free circulation raises the question of the proper application of the transit regime and also of other tax revenue that will compensate for lost earnings. Therefore it is important to apply WAEMU's Fiscal Transition Programme, and this should be extended to all ECOWAS countries, and even to envisage additional support measures, particularly for landlocked countries which have the most to lose from the implementation of free circulation. Specific expert appraisal could be used on this point.
- Set up the Consultative Committee for trade negotiations planned by WAEMU and extend this to ECOWAS and a regional coordination mechanism between Geneva, Brussels, the capitals and the WAEMU Commission which would be extended to ECOWAS. The possibility of setting up representation, if possible common to WAEMU and ECOWAS, should also be studied.
- Work on WAEMU and ECOWAS representing the Member States in trade negotiations, in two cases:
 - i) bilateral, outside EPA, by aligning WAEMU and ECOWAS remits, based on the revised WAEMU treaty;
 - ii) multilateral, which supposes giving them a remit to negotiate. This question must be dealt with at the highest level (Conference of Heads of State).
- Reinforce national mechanisms for consultation and monitoring negotiations (capacity building and funding needed for them to function correctly). In addition, they must be able to have information and draw on the necessary expertise to be able to build national negotiation positions.
- Continue and consolidate actions in capacity building, starting from an inventory, by WAEMU and ECOWAS working with Member States, of i) the capacity building actions carried out over the last 10 years and still underway; ii) other available offers that are not used at present; iii) needs in capacity building for trade negotiations in the widest sense (regional deals integration process, WTO, EPA, other bilateral negotiations, aid for trade, ...) depending on the different target audiences.
- Make better use of trade policy reviews to improve the consistency of trade policies.
- Work with the WTO on:
 - the harmonisation and regionalisation of bound duty notified to the WTO by the various Member States;
 - a proposition asserting the right of LDC status in the context of a Customs Union comprising LDC developing countries and non LDC developing countries.
- Regionally, work on the different protection instruments that can be implemented to defend the interests of the region, particularly: safeguard measures (Conjunctural Import Levy, Degressive Protection Tax); compensatory duties; anti-dumping laws; reference values that could be extended and especially increased; other protective measures available, even

if they are contrary today to WTO rules, such as: quotas, minimum import price, variable levies...; market regulation based on the organisation of industry sectors and interprofessions.

11. Improve coordination between WAEMU and ECOWAS

It seems critical to consider the best way in terms of institutional organization and timing to go to a unique regional organization conducting the regional integration process.

In the mean time, the priority need is to reinforce the existing entity, the Joint Technical Secretariat, the aim of which is precisely to improve coordination between the two regional institutions.

The following need to be done: i) reinforce the Joint Technical Secretariat by taking on new staff; ii) make each entity participate systematically in the other's meetings; iii) make it automatic to consult each other on drawing up projects/programmes; iv) ensure that both structures have a similar institutional architecture; v) develop exchanges of experience; vi) develop common WAEMU-ECOWAS projects; vii) coordinate monitoring and assessment mechanisms; viii) coordinate mechanisms for lodging complaints; ix) coordinate actions of information and awareness; x) coordinate and harmonise the fiscal transition programme; xi) coordinate the positions of trade negotiations outside the EPA.

As for existing regulations apart from finalising and implementing the ECOWAS CET, there is also a need to harmonise VAT rates, excise duties, reference values and the various additional protection measures.

To conclude, WAEMU has drawn up an aid for trade strategy that should be used as a basis for donor interventions for support for national and regional trade policies in the region, including capacity building. The EPA Development Programme joint to WAEMU and ECOWAS could also serve as a basis for a common aid for trade strategy.

RECOMMENDATIONS FOR TECHNICAL AND FINANCIAL PARTNERS

The main recommendations for technical and financial partners are as follows:

- 1. Give greater consideration to the regional dimension in national development programmes and projects**
- 2. Give greater consideration to ensuring that sectoral or cross-functional support is consistent with trade policies in terms of their national and regional support,** especially by basing it on national and regional aid for trade strategies to improve coordination with other technical and financial partners and better meet the expectations of countries and regional organisations.
- 3. Continue and consolidate capacity building programmes nationally and regionally for:** i) national and regional institutions in charge of drawing up and implementing trade policies; ii) national and regional institutions in charge of drawing up and implementing sectoral and transversal policies; iii) private sector and producer organisations.

Capacity building would be for: i) drawing up and implementing trade policies; ii) making policies mutually consistent; iii) monitoring trade negotiations and implementing commitments. It can be achieved by making short-term assistance and expertise available, depending on the needs, or by drawing on longer-term technical support.

Any technical support supplied for individual countries needs to be alerted to regional issues.

RECOMMENDATIONS FOR THE WTO

1. Make reviews of trade policies into mechanisms and tools for ensuring that trade policies are consistent

In order for trade policy reviews to be useful for making national trade policies more coherent in all their dimensions, it is suggested that WAEMU and ECOWAS should be more closely involved in trade reviews in the region; gradually to arrive at a single review for all the countries in the region, and plan to include in the reviews a new part given over to the coherence between national and regional trade policies, and with WTO commitments.

2. Support WAEMU/ECOWAS represent all of their Member States

This means notifying ECOWAS under Article XXIV or the enabling clause, when it has become a Customs Union with a finalised CET.

In the meantime, work closely with WAEMU and ECOWAS so that they can better represent their Member States (setting up representatives in Geneva, participating as observers in all working sessions in the Doha Round,...).

3. Working with ECOWAS and WAEMU to encourage the notification of regional bound duty

This means, among other things:

- before ECOWAS becomes a Customs Union, working with WAEMU to enable notification of tariffs and other duties at the WAEMU level to replace national bound duty;
- when ECOWAS becomes a Customs Union, replace the binding at the WAEMU level by binding at the ECOWAS level.
- plan for technical support for the tariff binding process and other duties at the regional level.

4. Actively deal with the problem of coherence caused by LDC and non LDC belonging to a single Customs Union

Expert appraisal needs to be carried out, especially for WAEMU and ECOWAS as part of negotiations underway in the Doha Round for development.

5. Revive and reinforce technical assistance programmes

- There is a need to restart JITAP-type technical assistance programmes for all WAEMU and ECOWAS countries, and the two regional organisations in close collaboration with existing programmes; have more capacity building programmes for national and regional negotiators, in Geneva and in their own countries, in order to have a critical mass of negotiators; reinforce capacity building programmes for the private sector and producer organisations.

6. Contribute to the consolidation of national and regional mechanisms for monitoring trade negotiations

Contingent on expressed needs in the context of coordination with all technical and financial partners, help consolidate mechanisms for monitoring negotiations via: financial support for national and regional negotiators, including representatives of the private sector and producer organisations; technical and financial support to help monitoring mechanisms function correctly.