



Committee on Regional Trade Agreements

FACTUAL PRESENTATION

**ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE EUROPEAN UNION AND GHANA
(GOODS)**

Report by the Secretariat

This report, prepared for the consideration of the Economic Partnership Agreement between the European Union and Ghana, has been drawn up by the WTO Secretariat on its own responsibility and in full consultation with the Parties. The factual presentation reproduces as closely as possible the terminology used in the Agreement and in the comments provided and does not imply official endorsement or acceptance by the Secretariat of such terminology. The report has been drawn up in accordance with the rules and procedures contained in the Decision for a Transparency Mechanism for Regional Trade Agreements (WT/L/671) and thus does not imply any value judgement by the Secretariat regarding the contents of the Agreement.

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Key Facts

Parties to the Agreement:	The European Union and its Member States and Ghana
Date of Signature:	28 July 2016
Date of Entry into Force:	15 December 2016 (provisional application prior to the completion of ratification by all signatory parties)
Date of Notification:	3 April 2017

1 TRADE ENVIRONMENT¹

1.1. The Interim Economic Partnership Agreement (EPA – hereafter the Agreement) between the European Union (EU) and Ghana is the EU's 40th RTA and Ghana's 3rd RTA as notified to the WTO.² The economies of the Parties are considerably different in terms of size and share of global trade. With a GDP in 2016 of 14,905 billion Euros (US\$16,408 billion), the EU was the world's second largest trader of merchandise (excluding intra-EU trade), while Ghana had a GDP of US\$43,264 million and was the world's 53rd largest exporter and 61st largest importer of merchandise (excluding intra-EU trade). The EU was, in 2016, Ghana's largest source of imports (accounting for 31.2% of its imports), and 4th largest export market (accounting for 13.3% of its exports). For the EU, Ghana was the 57th largest source of imports (accounting for 0.13% of its imports) and 54th largest export market (accounting for 0.16% of its exports).

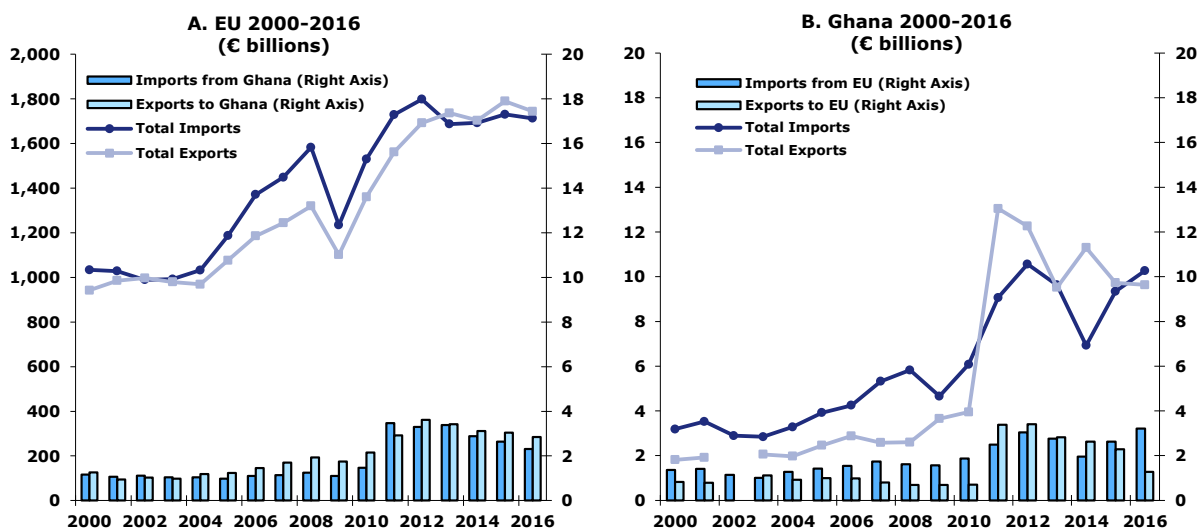
1.2. The Parties' composition of trade is also significantly different. The EU's exports and imports consist mainly of manufactured products (80.5% of exports and 65.8% of its imports), while Ghana's main exports consist of agricultural products (31.7%) and fuels and mining products (28%), while its imports mainly consist of manufactured products (63.1%); other commodities and transactions not classified elsewhere also account for a large share of Ghana's exports (31.5%) and imports (23.3%). The EU's trade to GDP ratio for the period 2014-2016 was 16.8, while Ghana's was 44.2.³

1.3. Bilateral merchandise trade between the Parties as well as their global trade for the period 2000-2016 is shown in Chart 1.1 below. Both Parties have had global trade deficits for much of this period. The EU's balance of trade has been positive for more recent years since 2013 while Ghana had a trade surplus in 2014 and 2015. In their bilateral trade, the EU has had a small surplus for most of the period.

¹ Source for this section: WTO Trade Profiles 2017. Export figures are calculated f.o.b. and import figures are calculated c.i.f.; ranking in world trade excludes intra-EU trade. For bilateral trade, the figures are based on Eurostat, Global Trade Atlas and UNSD Comtrade.

² The WTO's RTA Database (rtais.wto.org).

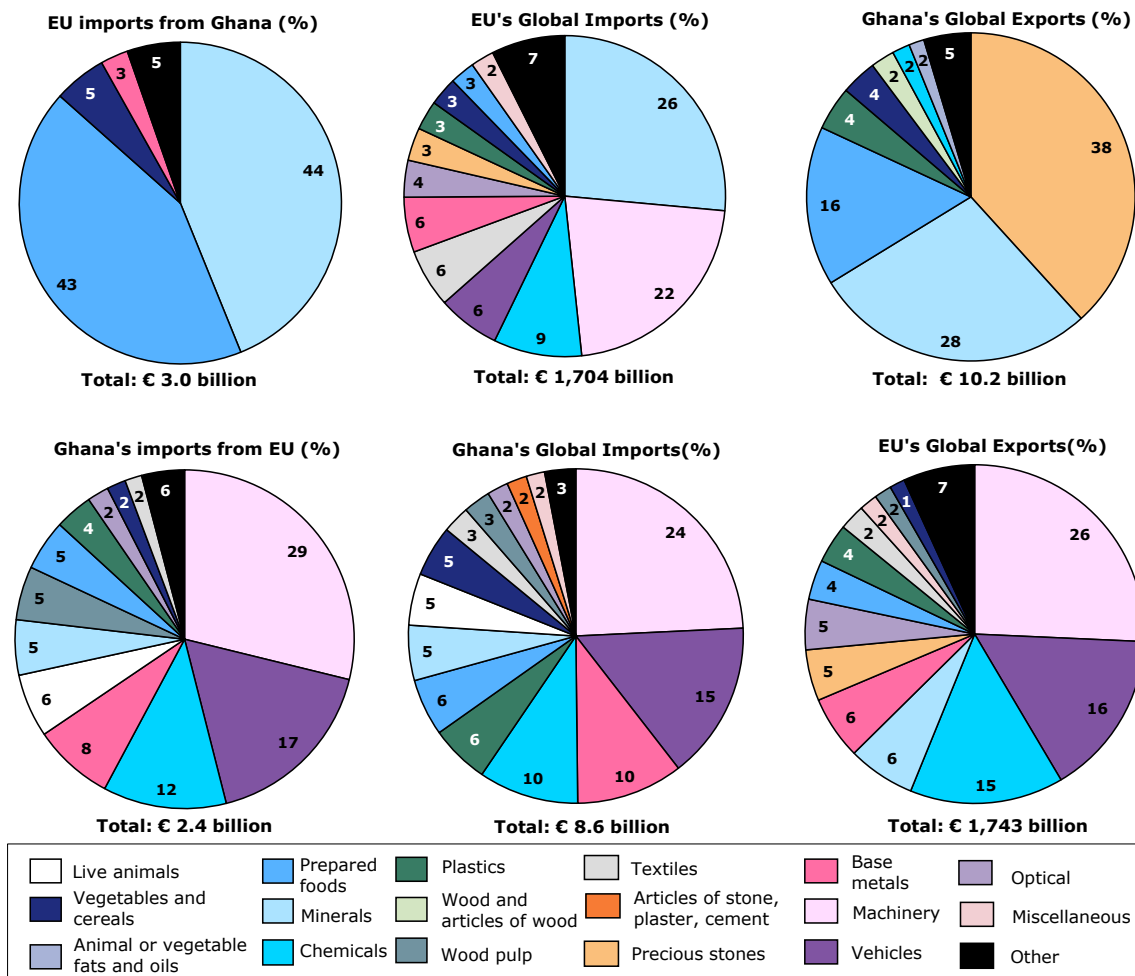
³ WTO, Trade Profiles, 2017.

Chart 1.1 EU and Ghana: Merchandise bilateral trade and with world

Note: Data for 2000-2003 are for EU(15); 2004-2006 for EU(25); 2007-2012 for EU(27); and 2013 onwards for EU(28). For Ghana exchange rate EUR per USD is: 1.09 (2000), 1.12 (2001), 1.06 (2002), 0.89 (2003), 0.81 (2004), 0.80 (2005), 0.80 (2006), 0.73 (2007), 0.68 (2008), 0.72 (2009), 0.76 (2010), 0.72 (2011), 0.78 (2012), 0.75 (2013), 0.75 (2014), 0.90 (2015), and 0.90 (2016).

Source: Eurostat, Global Trade Atlas, and UNSD Comtrade database.

1.4. Chart 1.2 shows the commodity structure of trade between the EU and Ghana and each Party's global trade, during the period 2013-2015, on the basis of Harmonized System (HS) Sections. Ghana's imports from the EU reflect the overall structure of EU exports to the world, with machinery, transport equipment and chemicals forming the three largest EU export categories (56.2% of its global exports in 2013-2015), and the three largest categories of imports by Ghana from the EU (57.8% of Ghana's imports from the EU). The EU's main imports from Ghana were minerals and prepared foods which accounted for 86.6% of its imports from Ghana; the two categories were also among Ghana's largest export categories (43.7% of its global exports) although precious stones, at 38.3% of its exports was Ghana's largest export category.

Chart 1.2 EU and Ghana: product composition of merchandise trade, 2013-2015

Note: Exchange rate EUR per USD: 0.75 (2013), 0.75 (2014) and 0.90 (2015).

Source: Eurostat, Global Trade Atlas, and UNSD, Comtrade database.

2 CHARACTERISTIC ELEMENTS OF THE AGREEMENT

2.1 Background Information

2.1. The Agreement was signed by the Parties on 28 July 2016 and provisionally applied since 15 December 2016. It was notified to the WTO on 3 April 2017 under Article XXIV:7 of the GATT 1994 and its Understanding.⁴ The text of the Agreement along with its Annexes is available on the Website of the European Union:

EU: [http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22016A1021\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:22016A1021(01)&from=EN)

2.2. The Agreement aims to allow Ghana to benefit from enhanced market access to the EU within the framework of the EPA negotiations, while awaiting the conclusion of the full EPA; establish the grounds for negotiation of an EPA that contributes to poverty reduction, promote regional integration, economic cooperation and good governance in West Africa and improve West African capacities in trade policy and trade related issues; promote the harmonious and gradual integration of Ghana into the world economy according to its political choices and its development priorities; strengthen the existing links between the Parties on the basis of solidarity and mutual interest; and create an agreement that is compatible with GATT Article XXIV. Title II (Partnership

⁴ WTO document WT/REG382/N/1, 4 April 2017.

for Development) calls for development cooperation and development finance cooperation to support the implementation of the Agreement; foster an improvement to the business climate; support the implementation of rules; promote the upgrading of productive sectors in Ghana; and cooperate on financial adjustment and in international fora.

2.3. The Agreement contains seven Titles, and various appendices and annexes, as well as a Protocol on mutual administrative assistance in customs matters, all of which form an integral part of the Agreement (Box 2.1).

Box 2.1 Structure of the Agreement

Preamble	
Title I	Objectives
Title II	Partnership for Development
Title III	Trade Regime for Goods
Chapter 1	Custom Duties and Non-Tariff Measures
Chapter 2	Trade Defence Measures
Chapter 3	Customs and Trade Facilitation
Chapter 4	Technical Barriers to Trade and Sanitary and Phytosanitary Measures
Title IV	Services, Investment and Trade Related Rules
Title V	Dispute Avoidance and Settlement
Chapter 1	Objective and Scope
Chapter 2	Consultations and Mediation
Chapter 3	Dispute Settlement Procedures
Chapter 4	General Provisions
Title VI	General Exceptions
Title VII	Institutional, General and Final Provisions
Appendix I	Priority Products for Export from Ghana to the EC
Appendix II	Competent Authorities
Annex 1	Customs Duties on Products Originating in Ghana
Annex 2	Customs Duties on Products Originating in the EC Party
Annex 3	List of Fees and Other Charges of the Ghanaian Party Referred to in Article 11(2)
Annex 4	List of Outermost Regions of the EC Party Concerned by Article 74
Protocol on Mutual Administrative Assistance in Customs Matters	

Source: The Agreement.

2.4. As the Agreement is an interim agreement, Article 71 notes that the Parties will continue negotiations according to the provisions of the Agreement. When negotiations are complete, the resulting draft amendments shall be submitted for approval to the relevant authorities. Moreover, the Agreement will be superseded by a global EPA concluded at the regional level with the EU at its entry into force (Article 75). Given that negotiations are continuing, the date of full implementation of the Agreement (envisaged for 31 December 2022 in the Agreement) may be subject to change.

3 PROVISIONS ON TRADE IN GOODS

3.1 Import duties and charges, and quantitative restrictions

3.1.1 General provisions

3.1. Under Article 19 of the Agreement imported products originating in the other Party shall not be subject either directly or indirectly to internal taxes or other internal charges of any kind in

excess of those applied directly or indirectly to like national products. They will also not otherwise apply internal taxes or other internal charges which afford protection to national production. Imported products from the other Party shall be treated no less favourably than the treatment accorded to like national products in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use.⁵ They Article also states that the Parties shall not establish or maintain internal quantitative regulations relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, any specified amount being sourced domestically. In addition no Party may otherwise apply internal quantitative regulations to protect national production. Notwithstanding these provisions, subsidies may be paid exclusively to national producers including from the proceeds of internal taxes or charges applied consistently with the provisions of the Article and subsidies effected through government purchases of national products or for their benefit. Article 19 does not apply to Government procurement, and is without prejudice to the provisions on trade defence under the Agreement.

3.2. The Parties agree that no new customs duties on imports shall be introduced on trade between them (notwithstanding provisions on trade defence under Articles 23 and 24) and those currently applied shall not be increased from the date of entry into force of the Agreement (Article 15). Notwithstanding this, in the context of the finalization of the implementation of the Economic Community of West African States (ECOWAS) common external tariff, Ghana may revise until 31 December 2011, its basic customs duties on imports from the EU, as long as the general incidence of those duties is not higher than those specified by Ghana in Annex 2 of the Agreement (Article 15). The Parties indicate that the ECOWAS common external tariff (CET) entered into force on 1 January 2015. From 1 February 2016 Ghana revised upwards its MFN rates for 130 tariff lines from 20% to 35% in accordance with the fifth band of the ECOWAS CET. The Parties are currently engaged in updating the market access offer in conformity with Article 15 of the Agreement, thus taking into account the implementation of the ECOWAS CET. The Parties note that this work has not yet been finalized.

3.3. With regard to other fees and charges, the Parties reaffirm their commitment to respect the provisions of GATT Article VIII. However, fees and other charges related to legal obligations at the time of signature of the Agreement and indicated in Annex 3, shall apply for a maximum period of ten years. The period can be extended by the EPA Committee if necessary to respect these legal obligations. The fees and charges concerned are a destination inspection fee (1% of the c.i.f. value of the good) charged by inspection companies for services rendered, and it emanates from the implementation of the WTO Agreement on Customs Valuation and Destination Schemes.

3.4. The Parties also commit to give each other MFN treatment in the case they become parties to new free trade agreements following signature of the Agreement: the EU agrees to provide any more favourable treatment provided in new FTAs to Ghana, while Ghana shall give more favourable treatment provided in any FTA with a majority trading partner.⁶ If Ghana obtains substantially more favourable treatment from the major trading partner than provided by the Agreement, the Parties will enter into consultations and jointly decide on the implementation of MFN treatment by Ghana to the EU. However, the Parties emphasize that the provisions of the Chapter shall not be so construed as to oblige them to extend reciprocally any preferential treatment applicable as a result of one of them being party to an FTA with third parties on the date of signature of the Agreement (Article 17).

3.5. Under Article 18, all prohibitions or restrictions on imports (and exports) between the Parties, whether made effective through quotas, licences or other measures were to be eliminated upon the entry into force of the Agreement; the exceptions were anti-dumping, countervailing and safeguard measures taken according to Articles 23, 24 and 25 of the Agreement.

⁵ These provisions shall not prevent the application of differential internal transport charges which are based exclusively on the economic operation of the means of transport and not on the nationality of the product.

⁶ Major trading partner is defined by Article 17.6 as "any developed country, or any country accounting for a share of world merchandise exports above 1% in the year before the entry into force of the free trade agreement, or any group of countries acting individually, collectively or through a free trade agreement accounting collectively for a share of world merchandise exports above 1.5% in the year before entry into force of the free trade agreement."

3.1.2 Liberalization of trade and tariff lines

3.6. The EU liberalizes all tariffs for imports from Ghana except those listed in Annex 1. The exceptions include products in Chapter 93 (arms and ammunition) which will continue to be subject to MFN duties; products of heading 1006 (rice) duties on which were to be eliminated from 1 January 2010 (except for 10061010 which was eliminated at entry into force); and sugar (HS 1701) which was subject to a transition period for tariff elimination (see section 3.5.1 below). In addition tariffs on bananas under HS 08030019 were not liberalized for exports to the outermost regions of the EU and duties on sugar were not eliminated on 1 October 2009 for imports by the French Overseas Departments; these provisions were to remain in force for 10 years and would be extended by another 10 years unless the Parties agreed otherwise.

3.7. Ghana's liberalization schedule is divided into four groups: Group A products were to be liberalized by 1 January 2013; liberalization was to start for Group B on 1 January 2013 and was to be completed by 31 December 2017; liberalization will start for Group C on 1 January 2018 and will be completed by 31 December 2022; products in Group D are excluded from liberalization; any further liberalization of these products will take place in line with Ghana's development objectives after a period of at least 25 years. The Agreement was initially supposed to enter into force on 1 January 2008. However, following signature by Ghana on 28 July 2016 and ratification by the Ghanaian Parliament on 3 August 2016, the Agreement entered into force on 15 December 2016. As a result, implementation of tariff liberalization was delayed. The Parties indicate that discussions are ongoing to review the liberalization schedule and apply the liberalization foreseen by the Agreement as soon as possible. Ghana will also maintain the right to charge a levy on imports of 0.5% of the CIF value of the product until 31 December 2017. The levy was to be eliminated on 1 January 2018 at the latest. However, the Parties note that the levy has not yet been eliminated and discussions are ongoing between the parties on the implementation of this provision.

3.8. Notwithstanding the delay in implementation mentioned in paragraph 3.7 above, Tables 3.1 and 3.2 below show tariff elimination commitments by the EU and Ghana, respectively, and further details are provided in Annex I. In 2016 around 25% of the EU's applied tariff was already duty free for imports from MFN sources. This share corresponded to around 99% of average annual EU imports from Ghana during the period 2013-2015 just before the Agreement entered into force.⁷ In 2016 as a result of the Agreement entering into force, an additional 74.7% of the EU's tariff was eliminated for imports from Ghana; these tariff lines corresponded to 0.9% of the EU's imports from Ghana during 2013-2015. Around 0.2% of the tariff (18 lines) will remain dutiable for imports from Ghana following full implementation of the Agreement.

**Table 3.1 EU
Tariff elimination commitments under the Agreement and corresponding average trade**

Duty phase-out period	Number of lines	% of total lines in EU's tariff schedule	Value of EU's imports from Ghana (2013-2015) € million	% of EU's total imports from Ghana 2013-2015
MFN (2016)	2,360	25.1	2,213.8	99.1
2016	7,036	74.7	19.2	0.9
Remain dutiable	18	0.2	0.0	0.0
Total	9,414	100.0	2,233.0	100.0

Note: Based on the HS 2012 nomenclature.

Source: WTO estimates based on data from EU authorities and WTO-IDB.

3.9. In 2016 around 1.6% of Ghana's applied tariff was duty free for imports from MFN sources.⁸ As a result of the Agreement an additional 53.7% of the tariff (3,289 lines) became duty free for

⁷ In 2016 the EU's MFN applied tariff consisted of 9,414 lines of which 89.4% were subject to *ad valorem* rates of duty. Of the remaining 998 lines 652 had specific rates of duty, 199 compound, 64 mixed rates and 83 lines had other rates of duties.

⁸ In 2016 Ghana's MFN applied tariff contained 6,128 lines at the 10 digit level (HS 2017 nomenclature), all of which carried *ad valorem* rates of duty.

imports from the EU, corresponding to around 67% of Ghana's average annual imports from the EU during 2013-2015. Further liberalization is scheduled for 2021 and 2022 (74 and 1,321 lines, corresponding to 0.6% and 4.8% of imports from the EU during 2013-2015 respectively). At the end of liberalization, around 22% of Ghana's tariff will remain subject to duties, corresponding to 4.8% of its imports from the EU during 2013-2015.

**Table 3.2: Ghana
Tariff elimination commitments under the Agreement and corresponding average trade**

Duty phase-out period	Number of lines	% of total lines in Ghana's tariff schedule	Value of Ghana's imports from EU (2013-2015) € million	% of Ghana's total imports from EU 2013-2015
MFN (2016)*	98	1.6	218.0	6.9
2016	3,289	53.7	2109.9	67.0
2021	74	1.2	19.7	0.6
2022	1,321	21.6	151.5	4.8
Remain dutiable	1,346	22.0	648.3	20.6
Total	6,128	100.0	3,147.5	100.0

* Ghana applies the ECOWAS CET.

Note: Based on the HS 2017 nomenclature.

Source: WTO estimates based on data for Ghana provided by the EU authorities.

3.1.3 Liberalization schedule

3.10. Notwithstanding the delay in implementation mentioned in paragraph 3.7 above, Tables 3.3 and 3.4 below show tariff elimination by the Parties according to broad HS Section. Table 3.3 shows that the EU completed implementation of its commitments under the Agreement in 2016; the 18 lines remaining subject to duties after full implementation are found in HS Section XIX (arms and ammunition). Table 3.4 shows that Ghana's tariff liberalization is front loaded, with the majority of tariffs eliminated in 2016. These tariffs are spread out across all HS Sections. Once implementation is complete, tariffs remaining dutiable for imports from the EU are found across all HS Sections, with average duties ranging from 10.2% to 20%.

Table 3.2 EU: Tariff elimination under the Agreement, by HS Section

HS Section	MFN Average %	No. of lines	MFN duty-free lines 2016	Number of additional duty-free lines under the Agreement 2016	Remain dutiable	Avg. Final Tariff (Dutiable)
I	9.8	931	107	824		
II	5.5	557	150	407		
III	5.9	128	23	105		
IV	15.0	840	95	745		
V	0.8	234	170	64		
VI	4.3	1,168	303	865		
VII	4.6	301	62	239		
VIII	3.1	130	45	85		
IX	2.4	213	99	114		
X	0.0	195	195			
XI	8.0	1,159	39	1,120		
XII	8.2	106	2	104		
XIII	4.0	240	33	207		
XIV	0.6	56	45	11		
XV	1.8	953	500	453		
XVI	2.3	1,375	307	1,068		

HS Section	MFN Average %	No. of lines	MFN duty-free lines 2016	Number of additional duty-free lines under the Agreement 2016	Remain dutiable	Avg. Final Tariff (Dutiable)
XVII	4.9	269	30	239		
XVIII	2.5	322	89	233		
XIX	2.2	22	4		18	2.7
XX	2.6	208	55	153		
XXI	0.0	7	7			
Total	5.1	9,414	2,360	7,036	18	2.7

Note: For the calculation of averages, specific rates are excluded and the *ad valorem* parts of alternate rates are included.
Based on the HS 2012 nomenclature.

Source: WTO estimates based on data from EU authorities.

Table 3.3 Ghana: Tariff elimination under the Agreement, by HS Section

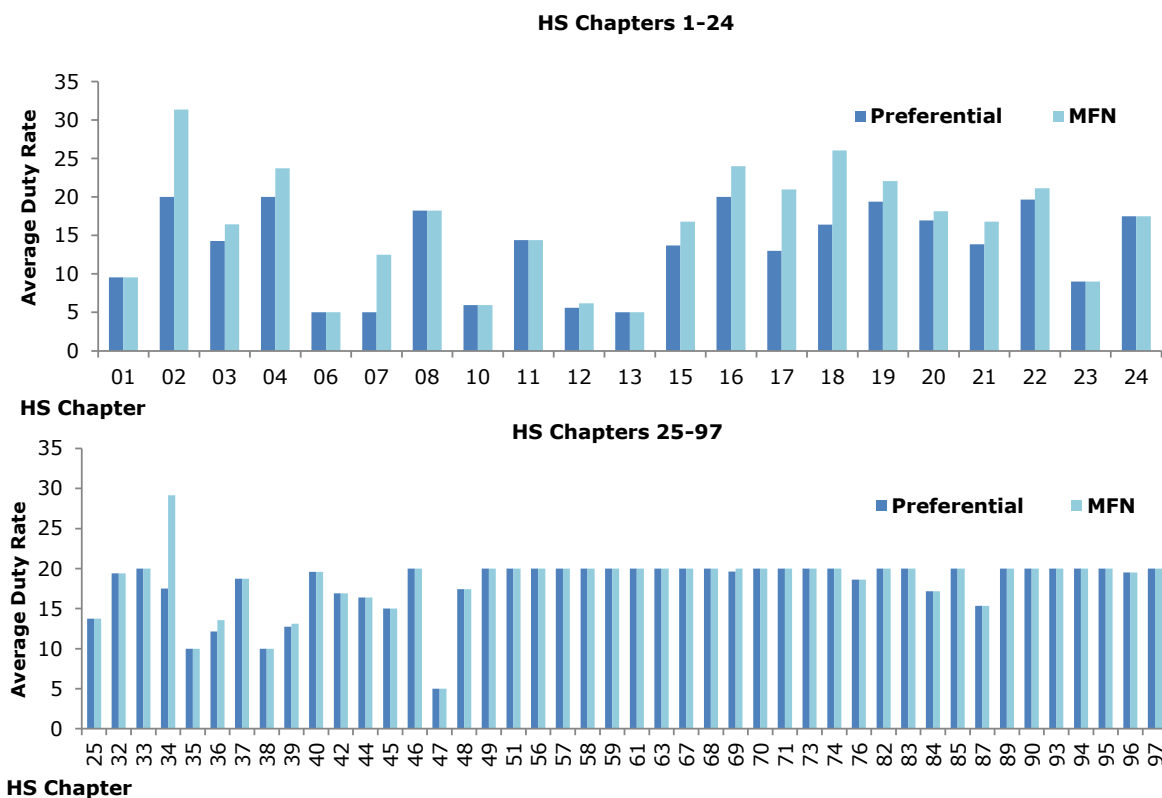
HS Section	MFN Average %	No. of lines	MFN* duty-free lines 2016	Number of additional duty-free lines under the Agreement			Remain dutiable	Avg. Final Tariff (Dutiable)
				2016	2021	2022		
I	17.2	400		75		22	303	15.5
II	13.7	376		74	1	207	94	10.2
III	14.9	59		17			42	13.7
IV	18.2	284		48	4	3	229	17.4
V	6.1	173	3	158			12	13.8
VI	7.2	932	64	758	4	35	71	17.0
VII	10.9	232	2	122		1	107	14.3
VIII	12.3	82		48		8	26	16.9
IX	12.1	127		82		1	44	17.3
X	10.1	170	14	104		3	49	17.4
XI	16.9	826	1	227		553	45	20.0
XII	15.8	73		5	6	60	2	20.0
XIII	16.8	160		53		10	97	19.9
XIV	10.6	54	1	39		12	2	20.0
XV	12.5	640		398		183	59	19.6
XVI	8.5	843	2	701	8	79	53	18.8
XVII	8.8	284	3	243	3	2	33	15.9
XVIII	10.9	214	8	124	13	54	15	20.0
XIX	14.8	60		3	29	24	4	20.0
XX	18.6	132		10	6	59	57	19.8
XXI	20.0	7				5	2	20.0
Total	12.1	6,128	98	3,289	74	1,321	1,346	16.6

* Ghana applies ECOWAS CET.

Note: Based on the HS 2017 nomenclature.

Source: WTO estimates based on the data of Ghana provided by the EU authorities.

3.11. Chart 3.1 shows Ghana's average preferential duties remaining by HS Chapter once tariff commitments are fully implemented. The average preferential duties remaining for imports from the EU range from 5% in Chapters 6, 7, 13, and 47, up to average rates of 20% which are found in almost half of HS Chapters with duties remaining. While for most Chapters MFN and preferential rates are the same, average rates for imports from the EU are lower in some Chapters, notably HS 2, 3, 4, 7, 12, 15-22, 34 and 36, thus providing additional preferential access for EU imports.

Chart 3.1 Ghana: Average of dutiable rates, by HS Chapter

Based on the HS 2017 nomenclature.

Source: WTO estimates based on data for Ghana provided by the EU authorities.

3.1.4 Tariff rate quotas

3.12. There are no provisions on tariff rate quotas in the Agreement.

3.2 Rules of origin

3.13. The Agreement does not have rules of origin but the Parties agreed to establish a common and reciprocal regime governing rules of origin at the latest by 30 June 2008. The regime was to enter into force no later than the first day of the provisional application of the Agreement, based on the rules of origin as defined by the Cotonou Agreement and providing for improvement while taking into account the development objectives of Ghana. The Parties note that the reciprocal common regime for rules of origin has not been established thus far but the matter is currently being discussed between them.

3.14. The provisions on rules of origin will be reviewed by the Parties no later than three years after the entry into force of the Agreement with the objective of simplifying the concepts and methods used to determine origin, taking into account the development objectives of Ghana. The Parties will take into account technological development, production processes and any other factors including ongoing reforms with regard to rules of origin which might require amendment of the negotiated regime. Any amendment or replacement will be made through a decision by the EPA Committee.

3.3 Export duties and charges, and quantitative restrictions

3.15. No new customs duties on exports or equivalent charges shall be introduced on trade between the Parties, nor shall existing customs duties on exports be increased from the date of entry into force of the Agreement (Article 16). In exceptional circumstances, if Ghana can demonstrate specific needs in terms of revenue, infant industry protection, temporary customs

duties on exports or equivalent charges may be introduced on a limited number of additional goods; an increase in existing charges could also take place following consultations with the EU. The Parties will revisit Article 16 in the EPA Committee at least three years following the entry into force of the Agreement, taking into account the impact on development and economic diversification of Ghana.

3.16. In Appendix I of the Agreement Ghana was expected to identify priority products for export to the EU and to notify them to the EPA Committee not later than three months following entry into force of the Agreement. The EPA Committee was expected to adopt the products. The Parties indicate that no such products have been identified yet nor discussed in the EPA Committee.

3.17. All prohibitions or restrictions on exports (and imports) between the Parties, whether made effective through quotas, licences or other measures were to be eliminated upon the entry into force of the Agreement; the exceptions were anti-dumping, countervailing and safeguard measures taken according to Articles 23, 24 and 25 of the Agreement (Article 18).

3.4 Regulatory Provisions of the Agreement

3.4.1 Standards

3.18. Chapter 4 of the Agreement deals with Technical Barriers to Trade and Sanitary and Phytosanitary Measures

3.4.1.1 Sanitary and phytosanitary measures

3.19. The provisions of Chapter 4 shall apply to sanitary and phytosanitary measures (SPS measures) as defined in the WTO Agreement on SPS measures (WTO SPS Agreement) insofar as they affect trade between the Parties (Article 38). Its objectives are to facilitate trade in goods between the Parties, to increase their capacity to identify, prevent and eliminate unnecessary obstacles to their bilateral trade as a result of technical regulations, standards and conformity assessment procedures applied by either Party, while not affecting their capacity to protect public, plant and animal health (Article 37).

3.20. The Parties reaffirm their rights and obligations under the WTO Agreements, and in particular the WTO SPS Agreement, the International Plant Protection Convention (IPPC), Codex Alimentarius and the World Organization for Animal Health (OIE). They also reaffirm their commitment to enhance public health in Ghana, in particular through the streamlining of capacities to identify non-compliant products (Article 36).

3.21. The Parties agree on exchanging information on SPS measures, including: any changes to their technical import requirements; import prohibitions to address problems relating to public, animal or plant health, safety and the environment, as soon as possible in accordance with SPS recommendations; other topics agreed by the Parties to be of potential importance in their trade; and epidemiological surveillance on animal disease and the occurrence of pests of known and immediate danger to the other Party. They also agree to cooperate to alert each other early when new regional rules may impact bilateral trade. They recognize the importance of cooperation in SPS measures for the implementation of the Agreement. They agree to cooperate including through financial support for harmonized SPS measures, based on relevant international standards; building capacity among public and private actors, including information and training, in order to help exporters to conform to EU rules and standards and of participating in international organizations; and the development of national capacities for the assessment of product compliance and access to the EU market (Article 43). The competent authorities are the European Commission and/or the EU Member States for the EU, and the Ministry of Food and Agriculture for Ghana (Annex II).

3.4.1.2 Technical Barriers to Trade

3.22. The provisions of Chapter 4 shall apply to technical regulations, standards and conformity assessment as defined in the WTO Agreement on Technical Barriers To Trade (WTO TBT Agreement) insofar as they affect trade between the Parties (Article 38). Its objectives are to facilitate trade in goods between the Parties, to increase their capacity to identify, prevent and

eliminate unnecessary obstacles to their bilateral trade as a result of technical regulations, standards and conformity assessment procedures applied by either Party, while not affecting their capacity to protect public, plant and animal health (Article 37).

3.23. The Parties reaffirm their rights and obligations under the WTO Agreements and in particular the WTO TBT Agreement. They also agree to exchange information with a view to collaborating so that their products meet technical regulations and standards required to access each others' markets and to alert each other early when new regional rules may impact trade between them (Article 41). They also recognize the importance of cooperation in technical regulations, standards and conformity assessment for the full implementation of the Agreement. They agree to cooperate including through financial support for the adoption of technical standards and regulations, conformity assessment procedures, based on relevant international standards; building capacity among public and private actors, including information and training, in order to help exporters to conform to EU rules and standards and of participating in international organizations; and the development of national capacities for the assessment of product compliance and access to the EU market (Article 43). The competent authorities are the European Commission and/or the EU Members States for the EU and the Ghana Standards Authority for Ghana (Annex II).

3.4.2 Safeguard mechanisms

3.24. Chapter 2 deals with trade defence instruments. Article 23 refers to anti-dumping and countervailing measures, Article 24 to multilateral safeguard measures and Article 25 to bilateral safeguards disciplines.

3.4.2.1 Global safeguards

3.25. In Article 24, the Parties agree that, subject to the provisions of Article 24 they maintain their rights to adopt measures in accordance with Article XIX of the GATT 1994, the WTO Agreement on Safeguards and Article 5 of the WTO Agreement on Agriculture.⁹ This provision shall not be subject to the dispute settlement provisions of the Agreement.

3.26. Notwithstanding the commitment to the relevant WTO Agreements, the EU shall, considering the overall development objectives of the Agreement and the small size of Ghana's economy, exclude imports from Ghana from any measure taken pursuant to Article XIX of the GATT 1994, the WTO Agreement on Safeguards and Article 5 of the WTO Agreement on Agriculture for five years from the date of entry into force of the Agreement. Not later than 120 days before the end of the five years, the EPA Committee shall review the operation of these provisions in the light of the development needs of Ghana, with a view to extending their application.

3.4.2.2 Bilateral safeguards

3.27. After having examined alternative solutions, Article 25 permits the Parties to apply bilateral safeguards of limited duration, which derogate from their tariff liberalization commitments under Articles 12 and 13 of Chapter 1 of the Agreement, under certain conditions. Such measures may be taken where a product originating in one Party is being imported into the territory of the other Party in such increased quantities and under such conditions as to cause or threaten to cause: (i) serious injury to the domestic industry producing like or directly competitive products in the territory of the importing Party; (ii) disturbances in a sector of the economy, particularly where these disturbances produce major social problems, or difficulties which could lead to serious deterioration in the economic situation of the importing Party; or (iii) disturbances in the markets of like or directly competitive agricultural products or mechanisms regulating those markets. Such safeguard measures shall not exceed what is necessary to remedy or prevent serious injury or disturbances as described above. The safeguard measures may consist of one or more of the following: a suspension of the further reduction of the rate of import duty for the product concerned, as provided for by the Agreement; an increase in the customs duty on the product concerned up to a level not exceeding the customs duty applied to other WTO Members; and an introduction of tariff rate quotas on the product concerned.

⁹ For the purposes of Article 24 origin shall be determined in accordance with the non-preferential rules of origin of the Parties.

3.28. Where a product originating in Ghana is being imported in such increased quantities and under such conditions as to cause or threaten to cause the serious injury or disturbances identified above, to one or several of the EU's outermost regions, the EU may take surveillance or safeguard measures limited to the region or regions concerned.

3.29. Ghana may take safeguard measures where a product originating in the EU, as a result of the reduction of duties, is being imported in such increased quantities and under such conditions as to cause or threaten to cause disturbances to an infant industry producing like to directly competitive products.

3.30. Bilateral safeguards may only be maintained for such time as necessary to prevent or remedy the serious injury or disturbances described above. They shall not be applied for a period exceeding two years but where the circumstances warranting their continuation exist, they may be extended for a further period of no more than two years. Where Ghana applies a safeguard or the EU applies a measure limited to the territory of one or more of its outermost regions, the measure may however be applied for a period not exceeding four years, and where the circumstances warrant continuation, extended for another four years. Safeguards that exceed one year shall contain clear elements progressively leading to the elimination of the causes and measures at the end of the period of application, at the latest. Unless in exceptional circumstances submitted for approval to the EPA Committee, safeguards shall not be applied on imports of products previously subject to a safeguard for a period of at least one year from the expiry of the measure.

3.31. If a Party feels that there is a threat of injury or other disturbance as described above, it shall immediately refer the matter to the EPA Committee for examination. The EPA Committee may make any recommendation to remedy the situation. If no recommendation is made or no satisfactory situation has been reached within 30 days of the matter being referred to the Committee, the importing Party may adopt the appropriate measures to remedy the circumstances. Before taking any measures, Ghana shall supply the EPA Committee with all the relevant information required for a thorough examination by the Committee, with a view to seeking a solution acceptable to the Parties. In the selection of the measures, priority must be given to those which permit the correction of the problem efficiently and quickly, while disturbing to the least extent possible the good operation of the Agreement. Any safeguard measures taken must be notified immediately to the EPA Committee and shall be the subject of periodic consultations in the Committee, particularly to establish a timetable for their abolition as soon as the circumstances permit.

3.32. Provisional measures may be taken in exceptional circumstances without complying with the requirements above, for a maximum of 180 days for the EU and 200 days for Ghana, and for measures taken by the EU limited to the territory of one or more of its outermost regions. The duration of any provisional measures shall be counted as part of the definitive safeguard measure and any extension. In taking such provisional measures the interests of all the Parties involved shall be taken into account. The importing Party shall inform the other Party and immediately inform the EPA Committee.

3.33. The WTO Agreements shall not be invoked to preclude a Party from adopting safeguard measures in conformity with Article 25. According to the Parties no safeguard measures have been adopted thus far.

3.34. In Article 26 the Parties recognize the importance of cooperation in trade defence including through assistance in the development of regulatory and institutional capacity for trade defence.

3.4.2.3 Other measures

3.35. When compliance with the provisions of the Agreement lead to problems of availability of, or access to foodstuffs or other products essential for food security, and where this situation gives rise to or is likely to give rise to major difficulties for Ghana, it may take appropriate measures in accordance with safeguard procedures under Article 25 of the Agreement. According to the Parties no such measures have been taken to date.

3.4.3 Anti-dumping and countervailing measures

3.36. The Parties may take anti-dumping or countervailing actions in accordance with the relevant WTO Agreements (Article 23). Before taking such measures the Parties shall consider the possibility of constructive remedies as provided for in the relevant WTO Agreements, and may hold consultations to this end. The EU shall notify Ghana of the receipt of a properly documented complaint before initiating an investigation. The provisions of Article 23 shall be applicable to all investigations initiated after the entry into force of the Agreement; the Article shall not be subject to the dispute settlement provisions of the Agreement.

3.37. In Article 26 the Parties recognize the importance of cooperation in trade defence including through assistance in the development of regulatory and institutional capacity for trade defence.

3.4.4 Subsidies and State-aid

3.38. The Agreement has no provisions on State aid and on subsidies (other than the provisions under Article 23 of the Agreement).

3.4.5 Customs-related procedures

3.39. Chapter 3 of the Agreement on customs and trade facilitation aims to reinforce cooperation in customs related procedures and trade facilitation with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the administrations, fulfil the objectives of effective control and the promotion of trade facilitation, and help promote the development and regional integration of the signatories. In doing so, the Parties recognize that legitimate public policy objectives, including in relation to security and the prevention of fraud, shall not be compromised in any way.

3.4.6 Customs and administrative cooperation

3.40. Article 21 contains special provisions on administrative cooperation, while Article 28 deals with customs and administrative cooperation and Article 29 with customs legislation and procedures. In Article 21 the Parties agree that administrative cooperation is essential for the implementation and control of preferential treatment under the Agreement. They underline their commitment to combat irregularities and fraud in customs and related matters. Preferential treatment may be temporarily suspended by a Party if it finds, on the basis of objective information, there is a failure to provide administrative cooperation¹⁰ and/or of irregularities or fraud.¹¹ The Party must inform the EPA Committee of its findings and hold consultations with the other Party to reach a solution acceptable to both Parties. The Party must also publish a notice to importers in its Official Journal indicating the products concerned at the same time. If no solution is found within three months of such consultations, the Party may temporarily suspend preferences for the products concerned and inform the EPA Committee of its decision to do so. The suspensions shall be limited to that necessary to protect the financial interests of the Party concerned and shall not exceed a period of six months, which may be renewed. They shall be subject to periodic consultations in the EPA Committee with a view to their termination as soon as the conditions for their application are no longer met.

3.41. In Article 28 the Parties agree to cooperate on customs and administration.¹² The Protocol on mutual administrative assistance in customs matters provides the framework for assistance to

¹⁰ A failure to provide administrative cooperation is defined by Article 21 as (a) a repeated failure to respect the obligations to verify the originating status of the product(s) concerned; (b) a repeated refusal or undue delay in carrying out and/or communicating the results of subsequent verification of the proof of origin; and (c) a repeated refusal or undue delay in obtaining authorization to conduct administrative cooperation missions to verify the authenticity of documents or accuracy of information relevant to the granting of the preferential treatment in question.

¹¹ A finding of irregularities or fraud may be made *inter alia*, where there is a rapid increase, without satisfactory explanation, in imports of goods exceeding the usual level of production and export capacity of the other Party, which is linked to objective information concerning irregularities or fraud.

¹² This includes commitments to exchange information concerning customs legislation and procedures; develop joint initiatives on import, export and transition procedures, including towards ensuring effective service to the business community; cooperate on the automation of customs and other trade procedures and collaborate where appropriate on establishing common standards on data exchange; establish as far as

be provided to ensure the correct application of their customs legislation, in particular by preventing, investigation and combating operations in breach of that legislation. The Protocol has provisions on assistance on request as well as spontaneous assistance.

3.42. The Parties' trade and customs legislation, provisions and procedures are to be based on international instruments and standards applicable in the field, including the substantive elements of the revised Kyoto Convention on the simplification and harmonization of customs procedures, the WCO Framework of Standards to Secure and Facilitate Global Trade, the WCO data set and the Harmonized System (Article 29). They also agree to ensure that any restrictions, controls or requirements must be used for a legitimate public policy objective, and be non-discriminatory, proportionate and applied uniformly and also to treat goods in transit or imported from the other Party not less favourably than domestic goods. Other provisions include the use of international standards and instruments relevant to transit; cooperation and coordination between all concerned authorities and agencies to facilitate traffic in transit; and measures to improve working methods, non-discrimination, transparency, efficiency, integrity and accountability of operations. Efforts will also be made to maintain good relations with the business community including by making information including legislation publicly available, as far as possible, electronically, and timely and regular consultations with trade representatives on legislative proposals (Article 30). The importance of cooperation in general for customs and trade facilitation is also recognized in Article 35. They agree to cooperate, in accordance with the provisions of Article 4 (development finance cooperation), including by facilitating support, notably through the elaboration of appropriate simplified legal and regulatory provisions; information and sensitization of operators, including staff training; and capacity building, modernization and interconnection of customs administration.

3.43. The Parties agree that Article VII of the GATT 1994 and the Agreement on the Implementation of Article VII of the GATT 1994 shall govern customs valuation rules applied to their reciprocal trade. They also agree to cooperate with a view to reaching a common approach to issues relating to customs valuation (Article 31) and to facilitating progress of customs reform in West Africa (Article 32). They agree to continue negotiations on the Chapter in order to complement it in a regional framework and a full EPA (Article 33).

3.44. A Special Committee on trade and customs facilitation will be established within the EPA Committee. According to the Parties this Committee has not yet been established. The Committee will report to the EPA Committee and will discuss customs issues that are meant to facilitate trade between the Parties and monitor and the implementation and application of the Chapter and of rules of origin (Article 34).

3.4.7 Other regulations

3.4.7.1 Outermost regions

3.45. Taking account of the geographical proximity of the outermost regions of the EU and Ghana and in order to reinforce economic and social links between these regions and Ghana, the Parties shall endeavour to facilitate cooperation in all areas covered by the Agreement as well as to facilitate trade in goods and services, promote investment and encourage transport and communication links between the outermost regions and Ghana. These objectives shall also be pursued, wherever possible, through the joint participation of Ghana and the outermost regions in the framework and specific programmes of the EU in the areas covered by the Agreement. The EU shall endeavour to ensure coordination between the different financial instruments of its cohesion and development policies to foster cooperation between Ghana and the outermost regions in the areas covered by the Agreement. However, nothing in the Agreement shall prevent the EU from applying existing measures aimed at addressing the structural, social and economic situation of the outermost regions pursuant to Article 299(2) of the EU Treaty (Article 74).

possible, common positions on customs in international fora; cooperate in the planning and delivery of technical assistance, notably to facilitate customs and trade facilitation reforms; and promote coordination between all related agencies, internally and across borders.

3.5 Sector-Specific Provisions of the Agreement

3.5.1 Sugar

3.46. Under the provisions of Protocol 3 of the Cotonou Agreement, customs duties on imports of sugar (under HS1701) were eliminated on 1 October 2009. The Agreement confirms that after that date the Protocol will no longer be in force between the Parties (Annex 1:3) and hence EU customs duties on imports from Ghana of sugar will be eliminated on 1 October 2009. Between 1 October 2009 and 30 September 2015, the EU could impose the applied MFN tariff on products under HS 1701 from Ghana imported in excess of levels deemed to cause a disturbance in the EU sugar market (Annex 1:5).¹³ The EU confirms it has never taken such a measure. Until that time and in addition to the tariff rate quota (TRQ) under the Sugar Protocol, a TRQ at zero duty of 75,000 metric tonnes was provided for the marketing year¹⁴ 2008/09 for products under HS 1701, white sugar equivalent, from the ESA States. Import licences were to be granted for the additional TRQ only if the importer agreed to purchase the products at a price at least equal to the guaranteed prices fixed for sugar imported into the EU under the Sugar Protocol.

3.47. Least developed countries will not be subject to these provisions but imports from these countries will nevertheless be subject to the safeguard clause under the Agreement. Any measure taken pursuant to paragraph 5 shall be notified and subject to periodic consultations in the EPA Committee. The EU indicates that the procedure ended on 30 September 2015. For the period from 1 October 2015, in applying the safeguard measures under Article 25 of the Agreement (see Section 3.4.2 above) for products under HS 1701, disturbances in the market were deemed to arise if the EU market price of white sugar fell during two consecutive months below 80% of the EU market price during the previous marketing year. The EU indicates that such measures have never been applied.

3.48. Imports of products under HS 17049099, 18061030, 18061090, 21069059 and 21069098 were subject to a special surveillance mechanism from 1 January 2008 to 30 September 2015 to ensure that the arrangements described above were not circumvented. A cumulative increase in imports from Ghana by over 20% in volume during 12 consecutive months compared to the average annual imports over the three previous 12 months, were to be analysed by the EU and if it considered that there was circumvention, it could suspend preferential treatment and impose the MFN tariff. The EU indicates this has never happened. The conditions for granting an import licence for products under HS 1701 between 1 October 2009 and 30 September 2012 were that the importer had to purchase the products at a price not lower than 90% of the reference price set by the EU for the relevant marketing year. The reference price has been replaced by a reference "threshold" and is currently €404 per tonne.¹⁵ The provisions on sugar imports are not applicable to the French overseas territories for a period of 10 years from entry into force of the Agreement and extendable by another 10 years unless the Parties agree otherwise (Annex I:9).

4 GENERAL PROVISIONS OF THE AGREEMENT

4.1 Transparency

4.1. While there is no section in the Agreement dedicated to transparency, there are transparency commitments under specific provisions such as for SPS and TBT measures (Article 41), dialogue on tax policy and administration (Article 78) and customs procedures (Article 29).

4.2 Current payments and capital movements

4.2. There are no provisions on current payments and capital movements in the Agreement. However, the Parties note that the rendez-vous clause under Article 44 envisages the possibility to launch negotiations on trade in services which may include capital movement at some point.

¹³ The levels were 3.5 million tonnes in a marketing year of such products originating in the ACP States signatory to the Cotonou Agreement; and 1.38 million tonnes in marketing years 2009/2010 rising to 1.45 million tonnes in marketing year 2010/2011 and 1.6 million tonnes in the following four marketing years, of such products originating in ACP States that are not recognized by the UN as least developed countries.

¹⁴ The marketing year was from 1 October-30 September.

¹⁵ Regulation (Eu) No. 1308/2013 of the European Parliament and of the Council of 17 December 2013. Available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013R1308&from=EN>.

4.3 Exceptions

4.3. General exceptions are found in Article 68 while Article 69 refers to Security Exceptions. Article 68 is based on Article XX of the GATT 1994, while Article 69 is based on GATT Article XXI.

4.4. Under Article 70, nothing in the Agreement or any arrangement adopted under the Agreement shall be construed to prevent the Parties from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers that are not in the same situation, in particular with regard to their place of residence or to the place where their capital is invested. Nothing in the Agreement shall be construed to prevent the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes under the avoidance of double taxation treaties or other tax arrangements or domestic fiscal legislation. The Parties rights and obligations under any tax convention are also maintained. In the event of any inconsistency between the Agreement and any such tax convention, the convention shall prevail to the extent of the inconsistency.

4.4 Accession and Withdrawal

4.5. In the case of any request by a third State to become a member of the EU, the EPA Committee shall be advised. During the negotiations between the EU and the third State, the EU will provide Ghana with any relevant information and Ghana in turn shall convey its concerns to the EU so it can take them fully into account. The EU shall notify Ghana of any accession to the EU.

4.6. Any new Member State of the EU shall accede to the Agreement from the date of its accession to the EU by means of a clause to that effect in the Act of Accession. If the Act of Accession does not contain an accession clause, the EU Member State shall accede by depositing an act of accession with the General Secretariat of the Council of the EU, which shall send certified copies to Ghana. The Parties shall review the effects of accession by a new Member State on the Agreement and the EPA Committee may decide on any transitional or amending measures that might be necessary (Article 77).

4.7. Termination is governed by Article 75 of the Agreement. Either Party may give written notice to the other of its intention to denounce the Agreement. Denunciation shall take effect six months after notification to the other Party (Article 75). The Agreement shall be superseded by a global EPA concluded at the regional level with the EU on the date of its entry into force.

4.5 Institutional framework

4.8. The Agreement forms an EPA Committee, which was due to be established within three months from the date of signature of the Agreement. The Parties agree that the composition, organization and operation of the Committee will respect the principle of equality.

4.9. The Committee, which will determine rules for its organization and functioning, is responsible for the administration of the Agreement and the fulfilment of all its tasks mentioned in the Agreement. Each Party is to designate a focal point within the Committee to facilitate communication and effective implementation. The meetings of the Committee may be open to third parties and specifically the ECOWAS Commission may be invited to its meetings. The Parties indicate that the Committee has been informally formed as the rules of procedure are still under preparation.

4.10. In addition, the Agreement establishes a Special Committee for Customs and Trade Facilitation (Article 34).

4.6 Dispute settlement

4.11. Title V deals with dispute avoidance and resolution. Dispute settlement procedures under the Agreement aim to avoid and settle any dispute between the Parties with a view to arriving, where possible, at a mutually agreed solution. The procedures shall apply to any dispute on the interpretation and application of the Agreement except for Title II which deals with development

cooperation and development finance for which the procedures set out in Article 98 of the Cotonou Agreement will continue to apply in case of disputes concerning development finance cooperation.

4.12. According to Article 65 of the Agreement, the arbitration bodies set up under the Agreement will not adjudicate disputes concerning the Parties' rights and obligations under the WTO Agreements. The Parties right to recourse under the dispute settlement provisions of the Agreement is without prejudice to any action, including dispute settlement, in the WTO. Nevertheless, once a Party has taken a dispute to either forum, it cannot institute a dispute settlement proceeding regarding the same measure in the other forum until the first proceeding has ended. Nothing in the Agreement shall preclude a Party from implementing the suspension of obligations authorized by the WTO's Dispute Settlement Body.

4.13. The Parties will aim to resolve disputes through consultation in good faith with the aim of reaching a mutually agreed solution. Consultations will be held within 40 days (15 days for matters of urgency or perishable or seasonal goods) of the submission of the request which shall be made in writing to the other Party with a copy to the EPA Committee. The consultations shall be deemed to have been concluded within 60 days (30 days for matters of urgency or perishable or seasonal goods) of the date of submission of the request unless both Parties agree to continue the consultations.

4.14. If consultations are not held within these timeframes or if consultations are concluded without agreement, the complaining Party may request the establishment of an arbitration panel in accordance with Article 49. Article 48 describes the Agreement's mediation procedures. The Parties are to agree on a mediator who will be appointed by the Chair of the EPA Committee (or his/her delegate) if the Parties are unable to agree within ten days of the date of request for mediation. The mediator will convene a meeting with the Parties not later than 30 days after being selected, receive submissions not later than 15 days before the meeting, and notify an opinion not later than 45 days after having been selected. The opinion may include a recommendation on how to resolve the dispute although the opinion is not binding. The proceedings on mediation shall remain confidential.

4.15. In the case that the Parties have failed to resolve a dispute through consultations or mediation, the complaining Party may request the establishment of an arbitral panel. The request shall be made in writing to the other Party and the EPA Committee. Within ten days of submitting the request, the Parties shall consult to reach agreement on the composition of the Panel which shall consist of three members. If they fail to reach agreement, either Party may request the Chair of the EPA Committee to select all three members by lot from the list established under Article 64 of the Agreement.¹⁶ The members will be selected within five days of the request to the Chair of the EPA Committee. The date of establishment of the Panel will be the date on which the members are selected.

4.16. The Panel shall notify an interim report to the Parties not later than 120 days from its establishment. Any Party may submit written comments to the interim report to the Panel within 15 days of the notification of the report (Article 51). The Panel will notify its ruling to the Parties and to the EPA Committee within 150 days of its establishment. If it believes that a longer time-period is needed, it must inform the Parties and the Committee in writing of the reasons for the delay and date on which it intends to conclude its work. The ruling should in any case not be notified later than 180 days from the date of the establishment of the Panel. In case of urgency, including those involving perishable and seasonal goods, the Panel will make every effort to notify its ruling within 75 days and at the latest within 90 days of its establishment.¹⁷ Either Party may request the Panel to recommend how the Party complained against could bring its measures into compliance (Article 52).

4.17. The time to comply with the Panel's ruling shall be notified by the Party complained against within 30 days after the notification of the Panel's ruling to the complaining Party and the EPA Committee. If there is disagreement among the Parties on the reasonable period of time, the complaining Party shall, within 20 days from the notification by the other Party, request the Panel

¹⁶ The members selected shall be one each from the list presented by both Parties and one among the individuals selected by the Parties to act as Chair.

¹⁷ The Arbitration Panel may give a preliminary ruling within 10 days of its establishment on whether it deems the case to be urgent.

(and the other Party as well as the Committee) in writing to determine the reasonable period of time. The Panel will provide a ruling within 30 days from receipt of the request. The reasonable period of time may be extended by agreement between the Parties (Article 54). The Party complained against shall notify the other Party of steps it has taken to comply with the Panel ruling before the end of the reasonable period of time. If there is disagreement about the compatibility of the steps taken with the ruling, the complaining Party may request, in writing, the arbitration Panel to rule on the matter. The Panel shall notify its ruling within 90 days (45 days in case of urgency or cases involving perishable or seasonal products) of the request (Article 55). If the Party complained against fails to notify the steps it takes before the expiry of the reasonable period of time, or if the Panel notifies that these are not compatible with the Party's obligations to comply with the Panel ruling, the Party shall, if so requested by the complaining Party, present an offer for temporary compensation. If no agreement on compensation is reached within 30 days of the end of the reasonable period of time or the Panel ruling that the measures taken were not compatible with its original ruling, the complaining Party shall be entitled, upon notification to the other Party, to adopt appropriate measures. In adopting such measures the Party shall endeavour to select measures that least affect the attainment of the objectives of the Agreement and shall take into consideration their impact on the economy of the Party complained against.¹⁸ The EU will exercise due restraint when asking for compensation or adopting appropriate measures, taking into account the developing country status of Ghana (Article 56). The Party complained against will notify the other Party and the EPA Committee of any measure it has taken to comply with the Panel ruling and of its request for the end to appropriate measures taken by the other Party. Failing agreement on the compatibility of the notified measure with the provisions of the Agreement within 30 days of the submission of the notification, the complaining Party shall request in writing, with a notification to the other Party and the EPA Committee, the Panel to rule on the matter. The Panel ruling must be made within 45 days of this request. If the Panel finds that the measure taken to comply with its ruling is not in conformity with the provisions of the Agreement, it will determine whether the complaining Party can continue to apply appropriate measures. If it finds that the measure complies with its ruling, the appropriate measures shall be terminated (Article 57).

4.7 Relationship with other agreements concluded by the Parties

4.18. With the exception of development cooperation provisions under Title II of Part 3 of the Cotonou Agreement, in case of any inconsistency between the provisions of the Agreement and the provisions of Title II of Part 3 of the Cotonou Agreement, the provisions of the Agreement shall prevail. Furthermore, nothing in the Agreement shall be construed to prevent the adoption by the Parties of any measures, including trade and trade related measures, deemed appropriate as provided for under Articles 11b, 96 and 97 of the Cotonou Agreement. The Parties also agree that nothing in the Agreement requires them to act in a manner inconsistent with their WTO obligations (Article 80).

4.19. Table 4.1 below shows all other RTAs involving the Parties, including notified and non-notified RTAs.

Table 4.1 EU – Ghana: Participation in other RTAs (notified and non-notified in force), as of 6 March 2018

RTA Name	Date of entry into force	Coverage	GATT/WTO Notification	
			Year	WTO Provision
EUROPEAN UNION				
EU - Canada	21-Sept-17	Goods & Services	2017	GATT Art. XXIV & GATS Art. V
EU - Colombia and Peru - Accession of Ecuador	01-Jan-17	Goods & Services	2017	GATT Art. XXIV & GATS Art. V
EU - SADC*	10-Oct-16	Goods	2017	GATT Art. XXIV
EU - Côte d'Ivoire	03-Sept-16	Goods	2008	GATT Art. XXIV
EU - Georgia	01-Sep-14	Goods & Services	2014	GATT Art. XXIV & GATS Art. V
EU - Republic of Moldova	01-Sep-14	Goods & Services	2014	GATT Art. XXIV & GATS Art. V
EU - Cameroon	04-Aug-14	Goods	2009	GATT Art. XXIV

¹⁸ These appropriate measures will under no circumstances affect development assistance to Ghana.

RTA Name	Date of entry into force	Coverage	GATT/WTO Notification	
			Year	WTO Provision
EU - Ukraine	23-Apr-14	Goods & Services	2014	GATT Art. XXIV & GATS Art. V
EU - Central America**	01-Aug-13	Goods & Services	2013	GATT Art. XXIV & GATS Art. V
EU - Colombia and Peru and Ecuador	01-Mar-13	Goods & Services	2013	GATT Art. XXIV & GATS Art. V
EU - Eastern and Southern Africa States Interim EPA	14-May-12	Goods	2012	GATT Art. XXIV
EU - Republic of Korea	01-Jul-11	Goods & Services	2011	GATT Art. XXIV & GATS Art. V
EU - Serbia	01-Feb-10	Goods	2010	GATT Art. XXIV
	01-Sep-13	Services	2013	GATS Art. V
EU - Papua New Guinea / Fiji	20-Dec-09	Goods	2011	GATT Art. XXIV
EU - CARIFORUM States EPA	01-Nov-08	Goods & Services	2008	GATT Art. XXIV & GATS Art. V
EU - Bosnia and Herzegovina	01-Jul-08	Goods	2008	GATT Art. XXIV
	01-Jun-15	Services	2016	GATS Art. V
EU - Montenegro	01-Jan-08	Goods	2008	GATT Art. XXIV
	01-May-10	Services	2010	GATS Art. V
EU - Albania	01-Dec-06	Goods	2007	GATT Art. XXIV
	01-Apr-09	Services	2009	GATS Art. V
EU - Algeria	01-Sep-05	Goods	2006	GATT Art. XXIV
EU - Egypt	01-Jun-04	Goods	2004	GATT Art. XXIV
EU - Lebanon	01-Mar-03	Goods	2003	GATT Art. XXIV
EU - Chile	01-Feb-03	Goods	2004	GATT Art. XXIV
	01-Mar-05	Services	2005	GATS Art. V
EU - Jordan	01-May-02	Goods	2002	GATT Art. XXIV
EU - San Marino	01-Apr-02	Goods	2010	GATT Art. XXIV
EU - The former Yugoslav Republic of Macedonia	01-Jun-01	Goods	2001	GATT Art. XXIV
	01-Apr-04	Services	2009	GATS Art. V
EU - Mexico	01-Jul-00	Goods	2000	GATT Art. XXIV
	01-Oct-00	Services	2002	GATS Art. V
EU - Israel	01-Jun-00	Goods	2000	GATT Art. XXIV
EU - Morocco	01-Mar-00	Goods	2000	GATT Art. XXIV
EU - South Africa	01-Jan-00	Goods	2000	GATT Art. XXIV
EU - Tunisia	01-Mar-98	Goods	1999	GATT Art. XXIV
EU - Palestinian Authority	01-Jul-97	Goods	1997	GATT Art. XXIV
EU - Faroe Islands	01-Jan-97	Goods	1997	GATT Art. XXIV
EU - Turkey	01-Jan-96	Goods	1995	GATT Art. XXIV
European Economic Area (EEA)	01-Jan-94	Services	1996	GATS Art. V
EU - Andorra	01-Jul-91	Goods	1998	GATT Art. XXIV
EU - Syria	01-Jul-77	Goods	1977	GATT Art. XXIV
EU - Norway	01-Jul-73	Goods	1973	GATT Art. XXIV
EU - Iceland	01-Apr-73	Goods	1972	GATT Art. XXIV
EU - Switzerland - Liechtenstein	01-Jan-73	Goods	1972	GATT Art. XXIV
EU - Overseas Countries and Territories (OCT)	01-Jan-71	Goods	1970	GATT Art. XXIV
EU - Kosovo	01-Apr-16	Goods	Not notified	
GHANA				
Economic Community of West African States (ECOWAS)	24-Jul-93	Goods	2005	Enabling Clause
Global System of Trade Preferences among Developing Countries (GSTP)	19-Apr-89	Goods	1989	Enabling Clause

* The Agreement has been provisionally applied between Botswana, Lesotho, Namibia, South Africa, Swaziland and the EU as from 10 October 2016; and between Mozambique and the EU as from 4 February 2018. The Agreement will enter into force after it has been ratified by all the Parties.

** The notifications made in February 2013 (see WT/REG332/N/1 and S/C/N/680) stated that: "Provisional application of the Agreement by all signatory parties is expected in the course of the second quarter 2013"; Further notifications to confirm the dates of entry into force between the EU and Central American countries are awaited.

Source: WTO Secretariat.

4.8 Government procurement

4.20. There are no provisions in the Agreement on Government procurement. Among the Parties, the EU is a party to the WTO's Agreement on Government Procurement.

4.9 Intellectual Property Rights

4.21. Under Title IV (Services, Investment and Trade Related Rules), the Parties agree to build on the Cotonou Agreement and cooperate to facilitate all the necessary measures to enable them to conclude a global EPA between West Africa and the EU, which will include provisions on intellectual property rights.

4.10 Other

4.10.1 Partnership for development

4.22. Title IV on a Partnership for development provides for financial and non-financial cooperation between the Parties to implement the Agreement and in the achievement of the EPA's objectives. Development cooperation and support for the implementation of the Agreement shall be carried out within the framework of the relevant rules and procedures of the Cotonou Agreement, in particular the programming procedures of the European Development Fund and the relevant financial instruments provided by the General Budget of the EU. In addition the Member States of the EU undertake to support through their respective development policies and instruments, development cooperation activities for regional economic cooperation and integration and for the implementation of the Agreement both nationally and regionally. The Parties also agree to cooperate to facilitate the participation of other donors willing to support Ghana's efforts to achieve the objectives of the Agreement (Article 4).

4.23. Other provisions include the recognition that the business sector is an important vector of development and commitment to provide support for improving the business climate; support to the implementation of rules; and reinforcing and upgrading the productive sectors of the economy concerned by the Agreement in Ghana (respectively articles 5, 6 and 7). The Parties also recognize the fiscal challenge resulting from tariff elimination for Ghana and agree to establish dialogue and cooperation on this issue especially under the provisions of development cooperation (Article 4 above). They also agree to cooperate in international fora where issues relevant to the EPA are discussed.

4.10.2 Services, Investment and Trade related rules

4.24. Under Title IV (Services, Investment and Trade Related Rules), the Parties agree to build on the Cotonou Agreement and cooperate to facilitate all the necessary measures to enable them to conclude a global EPA between West Africa and the EU, which will include provisions on (i) trade in services and electronic commerce, (ii) investment, (iii) competition and (iv) intellectual property. The Parties will support negotiations on the global EPA on the basis of the EC-West Africa Road Map and subsequent developments since its adoption. They welcome a two-step approach starting with formulating and implementing regional policies and building regional capacity, to be followed by a deepening of the EC-West Africa trade provisions mutually agreed on concerning these issues.

ANNEX 1

1. Tables A1.1 and A1.2 show tariff liberalization by the EU and Ghana respectively (by total, agricultural and non-agricultural products). In 2016 the EU's average applied MFN tariff was 5.12%. Its average applied MFN tariff for non-agricultural products was 4.35% and 12.73% for agricultural products. Upon the entry into force of the Agreement the overall average tariff facing exporters from Ghana fell to 0.01%; it was 0.01% for non-agricultural products and zero for agricultural products. This provided exporters from Ghana an average margin of preference of 99.8% overall, and 99.77% and 100% respectively for non-agricultural and agricultural exports respectively. The share of duty free tariff lines for imports from Ghana rose from 25.07% on an MFN basis to 99.81% overall; for non-agricultural products it rose to 99.75% from 26.77% and for agricultural products from 19.13% to 100%.

Table A1.1 EU: Indicators of MFN tariff rates and preferential rates for imports from Ghana

Origin of goods	Year	ALL PRODUCTS			Agricultural products ^a			Non-agricultural products		
		Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)
		Overall (%)	On dutiable (%)		Overall (%)	On dutiable (%)		Overall (%)	On dutiable (%)	
MFN	2016	5.12	7.01	25.07	9.11	12.73	19.13	4.35	5.95	26.77
Ghana	2016	0.01	2.73	99.81	0.00	0.00	100.00	0.01	2.73	99.75

a WTO Definition.
Based on the HS 2012 nomenclature.

Source: WTO estimates based on data from EU authorities.

2. In 2016 Ghana's average applied MFN tariff was 12.15%. Its average applied MFN tariff for non-agricultural products was 11.56% and 15.51% for agricultural products. Upon the entry into force of the Agreement the overall average tariff facing exporters from the EU fell to 7.83%; it was 7.13% for non-agricultural products and 11.81% for agricultural products. This gave EU exporters an additional average margin of preference of 35.55% overall, and 38.32% and 23.85% for non-agricultural and agricultural products respectively. The share of duty free tariff lines for imports from the EU rose from 1.6% on an MFN basis to 55.27% overall; for non-agricultural products it rose to 60.41% from 1.88% and for agricultural products from zero to 26.14%.

Table A1.2 Ghana: Indicators of MFN tariff rates and preferential rates for imports from the EU

Origin of goods	Year	ALL PRODUCTS			Agricultural products ^a			Non-agricultural products		
		Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)
		Overall (%)	On dutiable (%)		Overall (%)	On dutiable (%)		Overall (%)	On dutiable (%)	
MFN*	2016	12.15	12.35	1.60	15.51	15.51	0.00	11.56	11.78	1.88
EU	2016	7.83	17.51	55.27	11.81	16.00	26.14	7.13	18.01	60.41
	2017	7.83	17.51	55.27	11.81	16.00	26.14	7.13	18.01	60.41
	2018	7.83	17.51	55.27	11.81	16.00	26.14	7.13	18.01	60.41
	2019	6.80	15.21	55.27	10.81	14.64	26.14	6.10	15.40	60.41
	2020	5.84	13.05	55.27	9.85	13.33	26.14	5.13	12.95	60.41

Origin of goods	Year	ALL PRODUCTS			Agricultural products ^a			Non-agricultural products		
		Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)	Average applied tariff		Share of duty-free tariff lines (%)
		Overall (%)	On dutiable (%)		Overall (%)	On dutiable (%)		Overall (%)	On dutiable (%)	
	2021	4.72	10.85	56.48	8.62	11.80	26.91	4.03	10.53	61.70
	2022	3.64	16.58	78.04	7.35	15.41	52.29	2.99	17.15	82.58

* Ghana applies the ECOWAS CET.

a WTO Definition.
Based on the HS 2017 nomenclature.

Source: WTO estimates based on data for Ghana provided by the EU authorities.

3. Table A1.3 shows market access opportunities for Ghana's top 25 exports in the EU. Ghana's top 25 global exports accounted for 89.6% of its total exports in 2013-2015, which were covered by 80 tariff lines at the HS six digit level. Of these lines 34 were already duty free on an MFN basis when the Agreement entered into force. At entry into force of the Agreement the remaining 46 tariff lines were liberalized.

Table A1.3 EU: Market access opportunities under the agreement for Ghana's top 25 exports to the world

Ghana's top export products in 2013-2015		Access Conditions to EU's import markets			
HS number and description of the product		Share in global exports (%)	MFN 2016		No. of duty free lines under the agreement 2016
			Average MFN applied rate (%)	No. of lines	
			duty-free	dutiable	
710813	Gold, incl. gold plated with platinum, in semi-manufactured forms, for non-monetary purposes	34.1	0.0	2	
270900	Petroleum oils and oils obtained from bituminous minerals, crude	24.8	0.0	2	
180100	Cocoa beans, whole or broken, raw or roasted	13.8	0.0	1	
710812	Gold, incl. gold plated with platinum, unwrought, for non-monetary purposes	3.9	0.0	1	
392410	Tableware and kitchenware, of plastics	2.3	6.5		1
080131	Fresh or dried cashew nuts, in shell	1.6	0.0	1	
271019	Medium oils and preparations, of petroleum or bituminous minerals, not containing biodiesel, n.e.s.	1.0	2.0	12	13
080132	Fresh or dried cashew nuts, shelled	0.8	0.0	1	
400122	Technically specified natural rubber "tsnr"	0.8	0.0	1	
260200	Manganese ores and concentrates, incl. ferruginous manganese ores and concentrates, with a manganese content of >= 20%, calculated on the dry weight	0.8	0.0	1	
330499	Beauty or make-up preparations and preparations for the care of the skin (other than medicaments), incl. sunscreen or suntan preparations	0.8	0.0	1	
151329	Palm kernel and babassu oil and their fractions, whether or not refined, but not chemically modified	0.6	10.2		5

Ghana's top export products in 2013-2015		Access Conditions to EU's import markets				
HS number and description of the product	Share in global exports (%)	MFN 2016			No. of duty free lines under the agreement 2016	
		Average MFN applied rate (%)	No. of lines			
			duty-free	dutiable		
440890	Sheets for veneering, incl. those obtained by slicing laminated wood, for plywood or for other similar laminated wood and other wood, sawn lengthwise, sliced or peeled, whether or not planed, sanded, spliced or end-jointed, of a thickness of <= 6 mm	0.6	2.8	1	3	3
440799	Wood, sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness of > 6 mm	0.5	0.5	4	1	1
271012	Light oils and preparations, of petroleum or bituminous minerals which >= 90% by volume "incl. losses" distil at 210°C "astm d 86 method"	0.4	3.9	2	10	10
760110	Aluminium, not alloyed, unwrought	0.4	3.0		1	1
151190	Palm oil and its fractions, whether or not refined	0.3	9.5		4	4
210111	Extracts, essences and concentrates, of coffee	0.3	9.0		1	1
260600	Aluminium ores and concentrates	0.3	0.0	1		
440721	Mahogany "swietenia spp.", sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or end-jointed, of a thickness of > 6 mm	0.3	1.5	1	2	2
392490	Household articles and toilet articles, of plastics	0.3	6.5		1	1
180400	Cocoa butter, fat and oil	0.2	7.7		1	1
120740	Sesamum seeds, whether or not broken	0.2	0.0	2		
441192	Fibreboard of wood or other ligneous materials, whether or not agglomerated with resins or other organic bonding agents, of a density of > 0,8 g/cm ³	0.2	7.0		2	2
190110	Food preparations for infant use, put up for retail sale, of flour, groats, meal, starch or malt extract, not containing cocoa or containing < 40% by weight of cocoa calculated on a totally defatted basis, n.e.s. and of milk, sour cream, whey, yogurt, kephir or similar goods of heading 0401 to 0404, not containing cocoa or containing < 5% by weight of cocoa calculated on a totally defatted basis, n.e.s.	0.2	15.4		1	1
TOTALS		89.6		34	46	46

Note: Based on the HS 2012 nomenclature.

Source: WTO estimates based on data from EU authorities and UNSD-Comtrade database.

4. Table A1.4 shows market access opportunities for the EU's top 25 exports to Ghana. The EU's top 25 global exports accounted for 27.1% of its total exports in 2013-2015, which were covered by 57 tariff lines at the HS six digit level. Of these lines five were already duty free while 52 were subject to duties on an MFN basis when the Agreement entered into force. At entry into force of the Agreement 32 lines were liberalized. Additional liberalization is to take place in 2021 (3 lines) and 2022 (1 line). At the end of liberalization, 16 lines will remain subject to duties for imports from the EU. The products concerned are motor vehicles and cinematographic products and faced MFN duties of 15% and 20% respectively in 2016.

Table A1.4 Ghana: Market access opportunities under the agreement for the EU's top 25 exports to the world

EU's top export products in 2013-2015		Access Conditions to Ghana's import markets								
HS number and description of the product		Share in global exports (%)	MFN 2016*		No. of duty free lines under the agreement				Remain dutiable	
			Average MFN applied rate (%)	No. of lines	duty-free	duty-free	2016	2021		2022
				duty-free						
271019	Medium oils and preparations, of petroleum or bituminous minerals, not containing biodiesel, n.e.s.	2.7	8.1			13	13			
710813	Gold, incl. gold plated with platinum, in semi-manufactured forms, for non-monetary purposes	2.3	10.0			2	2			
880240	Aeroplanes and other powered aircraft of an of an unladen weight > 15.000 kg	2.3	5.0			1	1			
271012	Light oils and preparations, of petroleum or bituminous minerals which >= 90% by volume "incl. losses" distil at 210°C "astm d 86 method"	2.1	7.9	1		6	6			
870340	Motor cars and other motor vehicles principally designed for the transport of <10 persons, incl. station wagons and racing cars, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion	1.9	15.0			3				3
870360	Motor cars and other motor vehicles principally designed for the transport of <10 persons, incl. station wagons and racing cars, with both spark-ignition internal combustion reciprocating piston engine and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power	1.9	15.0			3				3
300460	Other medicaments, containing antimalarial active principles described in Subheading Note 2 to this Chapter	1.8	0.0	1						
300490	Medicaments consisting of mixed or unmixed products for therapeutic or prophylactic purposes, put up in measured doses "incl. those for transdermal administration" or in forms or packings for retail sale	1.8	0.0	2						
870323	Motor cars and other motor vehicles principally designed for the transport of <10 persons, incl. station wagons and racing cars, with only spark-ignition internal combustion reciprocating piston engine of a cylinder capacity > 1.500 cm ³ but <= 3.000 cm ³	1.1	15.0			3		3		
841112	Turbojets of a thrust > 25 kn	0.7	5.0			1	1			
880330	Parts of aeroplanes or helicopters, n.e.s.	0.7	5.0			1	1			
841191	Parts of turbojets or turbopropellers, n.e.s.	0.7	5.0			1	1			
962000	Monopods, bipods, tripods and similar articles	0.7	20.0			1				1
710231	Non-industrial diamonds unworked or simply sawn, cleaved or bruted	0.6	5.0			1	1			

EU's top export products in 2013-2015		Access Conditions to Ghana's import markets							
HS number and description of the product	Share in global exports (%)	MFN 2016*		No. of duty free lines under the agreement				Remain dutiable	
		Average MFN applied rate (%)	No. of lines						
				duty-free	dutiable	2016	2021		2022
870899	Parts and accessories, for tractors, motor vehicles for the transport of ten or more persons, motor cars and other motor vehicles principally designed for the transport of persons, motor vehicles for the transport of goods and special purpose motor vehicles, n.e.s.	0.6	10.0		1	1			
848180	Appliances for pipes, boiler shells, tanks, vats or the like	0.6	10.0		1	1			
711319	Articles of jewellery and parts thereof, of precious metal other than silver, whether or not plated or clad with precious metal	0.6	20.0		1			1	
870324	Motor cars and other motor vehicles principally designed for the transport of <10 persons, incl. station wagons and racing cars, with only spark-ignition internal combustion reciprocating piston engine of a cylinder capacity > 3.000 cm ³	0.5	15.0		3				3
870840	Gear boxes and parts thereof, for tractors, motor vehicles for the transport of ten or more persons, motor cars and other motor vehicles principally designed for the transport of persons, motor vehicles for the transport of goods and special purpose motor vehicles, n.e.s.	0.5	10.0		1	1			
710812	Gold, incl. gold plated with platinum, unwrought, for non-monetary purposes	0.5	5.0		1	1			
870350	Motor cars and other motor vehicles principally designed for the transport of <10 persons, incl. station wagons and racing cars, with both diesel engine and electric motor as motors for propulsion	0.5	15.0		3				3
870370	Motor cars and other motor vehicles principally designed for the transport of <10 persons, incl. station wagons and racing cars, with both diesel engine and electric motor as motors for propulsion, capable of being charged by plugging to external source of electric power	0.5	15.0		3				3
851762	Machines for the reception, conversion and transmission or regeneration of voice, images or other data, incl. switching and routing apparatus	0.5	10.0		1	1			
300220	Vaccines for human medicine	0.5	0.0	1					
853710	Boards, cabinets and similar combinations of apparatus for electric control or the distribution of electricity, for a voltage ≤ 1.000 v	0.5	5.0		1	1			
TOTALS		27.1		5	52	32	3	1	16

* Ghana applies the ECOWAS CET.

Note: Based on the HS 2017 nomenclature.

Source: WTO estimates based on data for Ghana provided by the EU authorities and Eurostat.