



## **EAC duties losses on imports from EU28-UK from 2015 to 2040 if the EPA is signed<sup>1</sup>**

Jacques Berthelot (jacques.berthelot4@wanadoo.fr), December 31, 2016

### Outline

- I – The weight of UK in the EAC exports to the EU28 post Brexit
- II – GSP and GSP+ duties that Kenya could have paid on exports to the EU28-UK in 2015
- III – EAC duties losses on imports from EU28-UK from 2015 to 2040 if the EPA is signed
- IV – Kenyan exports will lose in competitiveness and other alternatives to the EPA exist

In the Brexit context it is useful to actualize the losses of duties that the EAC will face on its imports from the EU28 minus UK (EU28-UK) if the EAC-EU EPA (Economic Partnership Agreement) were signed and implemented.

### **I – The weight of UK in the EAC exports to the EU28 post Brexit**

Table 1 shows that UK received 17% of all imports of EU28 from EAC in 2015 and 27.8% from Kenya, and received 20.4% of all imports of EU28-UK from EAC and 38.5% from Kenya.

Table 1 – EU28 and EU28-UK imports from EAC in 2015: total and on HS06 and HS07

€ million	EU28 extra	EAC	Kenya	Tanzania	Uganda	Rwanda	Burundi	EAC/EU	Kenya/EAC
EU total imports at CIF values									
EU28	1725566	2614.4	1330.3	695.6	485.1	64.4	39	0,15%	50,9%
EU28-UK	1463867	2171.2	960.3	656.4	463.4	53.4	37,7	0,15%	44,2%
UK	261698	443.2	370	39.2	21.7	11	1,3	0,17%	83,5%
UK/EU28	15,2%	17%	27,8%	5,6%	4,5%	17%	3,4%	111,8%	163,5%
UK/EU28-UK	17,9%	20,4%	38,5%	6%	4,7%	20,5%	3,5%	114%	188,7%
EU Imports of live plants and flowers (HS chapter 06)									
EU28	1698.4	525.2	460.2	17.3	47.6	0	0,07	30,9%	87,6%
EU28-UK	1513.2	450.2	388.7	15.2	46.2	0	0,07	29,8%	86,3%
UK	185.2	75	71.5	2.1	1.4	0	0	40,5%	95,3%
UK/EU28	10,9%	14,3%	15,5%	12,1%	3%	0	0	131,2%	108,4%
UK/EU28-UK	12,2%	16,7%	18,4%	13,8%	3,1%	0	0	136,9%	110,2%
EU imports of edible vegetables (HS chapter 07)									
EU28	4299.4	201.7	179.2	11.7	10.1	0.5	0.2	4,7%	88,8%
EU28-UK	3421.1	85.6	75.6	5	4.4	0.4	0.2	2,5%	88,3%
UK	878.3	116	103.5	6.7	5.8	0.1	0	13,2%	89,2%
UK/EU28	20,4%	57,5%	57,8%	57%	56,7%	10%	0	281,9%	100,5%
UK/EU28-UK	25,7%	135,5%	136,9%	132,5%	131,1%	11,2%	0	527,2%	101%

Source: Eurostat

For the most important Kenyan exports, those to live plants and flowers (chapter 06 of the Harmonised System of trade classification), the UK received 15.5% (€71.5 million, M) of the €460 M of Kenyan exports to the EU28 and 18.4% of those to the EU28-UK (of €388.7 M). For the second most important Kenyan exports, those of edible vegetables (HS chapter 07),

<sup>1</sup> This is a revised version of December 31, 2016 of the previous one of July 23, 2016, having corrected the error made on the impact of trade diversion which does not play without EPA. We have inserted the report of November 10, 2016 on GSP and GSP+ duties that Kenya could have paid on exports to the EU28-UK in 2015.

the UK received 57.8% (€103.5 M) of the €179.2 M of Kenyan exports to the EU28 so that these exports to the UK were 36.9% larger than those to the EU28-UK (of €75.6 M). For these two HS chapters the share of Kenya in EAC exports to the EU28 or EU28-UK is overwhelming: 87.6% to the EU28 (of which 95.3% to the UK) and 86.3% to the EU28-UK for chapter 06; and 88.9% to the EU28 (of which 89.2% to the UK) and 88.3% to the EU28-UK.

Given that the UK has accounted for 35.6% of EAC exports and 37.7% of Kenyan exports to the EU28-UK of these two essential HS chapters, it is clear that the EPA cannot be signed without a profound reassessment of its impact post-Brexit on the EAC and its Member States.

## **II – GSP and GSP+ duties that Kenya could have paid on exports to the EU28-UK in 2015**

Annex 1 shows the huge benefit that Kenya and the whole EAC would get if Kenya would request the benefit of the GSP+ (generalized system of preferences+) status instead of the standard GSP in case Tanzania and Burundi will not sign the EAC-EU EPA in January 2017.

Indeed, based on the EU28-UK imports from Kenya in 2015 (taking into account the Brexit for the future), the GSP duties that Kenya would have had to pay (without the present benefit of the Market access regulation No 1528/2007 of 20 December 2007) would have been of €69.956 M instead of only €209,460 with the GSP+ status (Annex 1). Indeed the EU Commission implementing regulation (EU) 2016/330 of 8 March 2016 suspending the tariff preferences for certain GSP beneficiary countries in respect of certain GSP sections – which would have applied to the Kenya section of Live plants and floricultural products (chapter 06 of the Harmonized System) – does not apply to the GSP+, and this section accounts for 62% of all GSP duties (€43.323 M). The other significant GSP duties on agricultural products – vegetables (€6.395 M), fruit preparations (€1.398 M), fruits (€676,804) and tobacco (€372,551), as well as fish preparations (€3.787 M) and fish (€684,057) – are duty free in GSP+. The only significant GSP+ duties outside chapters 01 to 24 would be also on a processed agricultural product in chapter 41 (hides and skins) for €206,783 so that all industrial products proper can be imported duty free and quota free. In other words Kenya would get almost the same LDC status as the other 4 EAC Member States.

The objection that the GSP and even the GSP+ regimes are not sure because the EU Commission can change them frequently unilaterally should be dismissed since the new reform of 2012: "*The current scheme was established by Regulation (EU) No 978/2012, preferences under which started to apply on 1 January 2014 and will be effective for 10 years... The EU has ensured that the revised scheme is sufficiently stable and predictable for economic operators*"<sup>2</sup>, and, "*Given that graduation has never applied to EBA, it is only fair to treat GSP+ countries in the same fashion*" as we said for the graduated sector of chapter 06. As for the possible graduation of becoming an upper-middle-income country according to the World Bank classification, Kenya is very far from it as its GNI (gross national income) per capita was of 1,340 dollars in 2015 against a minimum of 4,125 dollars to graduate to upper-middle-income country<sup>3</sup> so that it will remain a low-middle-income economy for some time to come.

<sup>2</sup> [http://trade.ec.europa.eu/doclib/docs/2014/november/tradoc\\_152865.pdf](http://trade.ec.europa.eu/doclib/docs/2014/november/tradoc_152865.pdf)

<sup>3</sup> <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups>

As for the adhesion (signing or ratification) to the 27 international conventions required by the EU Commission – 7 on Human Rights, 8 on labour rights, 8 on environment protection and 4 on good governance –, apparently Kenya has not adhered to the Convention on the Prevention and Punishment of the Crime of Genocide and to the Freedom of Association and Protection of the Right to Organise Convention (No 87) although it has ratified the very close Right to Organise and Collective Bargaining Convention (No 98) in 1964. In any case Bern Lange, the President of the INTA Committee of the European Parliament has suggested to Kenya to apply to the EU Commission to get the GSP+ status in case the regional EAC EPA could not be ratified in time.

### **III – EAC duties losses on imports from EU28-UK from 2015 to 2040 if the EPA is signed**

The following data are based on EU28-UK exports at FOB values in 2015, from Eurostat.

The EAC-EU agreement has established 4 categories of products according the schedules of liberalization, T being the year of entry into force (assuming 2015):

- Products fully liberalized immediately upon the entry into force of the EPA (annex 2a)
- Products taxed at 10% and progressively liberalized from T7 to T15 (annex 2b)
- Products taxed at 25% and progressively liberalized from T12 to T25 (annex 2c)
- Products totally excluded from liberalization, mostly taxed at 25%, with some taxed at 10%, 35% or 60%

Given the number of columns necessary from 2015 to 2040, the figures are shown in two tables.

EAC total duties on imports of liberalized products were of €113.227 million in 2015, based on EU exports at FOB<sup>4</sup> values of €963 million, implying an average duty rate of 11.75%. Import duties were of €84.140 million on products of Annex 2b at an average duty rate of 9.98% and of €29.087 million on products of Annex 2c at an average duty rate of 24.2%<sup>5</sup>. These duties would progressively disappear from T7 to T25 if we did not take into account other factors at play.

Indeed the duties losses must add four components to the EU FOB values:

- The gap between the EU FOB value and the EAC CIF value
- The large increase of the EAC population
- The trade diversion from T7 on
- The reduction in the revenues from the value added tax (VAT) based on imports.

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<sup>4</sup> FOB (free on board): price of a product ready to be exported (port, airport, station). CIF (cost, insurance, freight): price of a product once arrived in the country of importation, before import duties.

<sup>5</sup> We found several tariff lines (TLs) at HS6 digits level which were listed at the same time in Annex2b and Annex2c and even one was also listed in the exclusion list of Annex d. As the Eurostat definition of TLs at HS8 level were not the same as the TLs of the EAC agreement, we have opted to allocate all these TLs at the Annex 2b duty rate of 10%. The most important of these TLs were of the codes 271019 (oil products) for €42.055 million, 961 900 (sanitary towels) for €29.320 million (code which was also in the exclusion list) and 380891 (bromomethane) for €19.758 million. The EAC customs service should be able to clarify this allocation.

## **2.1 – The gap between the EU FOB value and the EAC CIF value**

We assume an average gap of 30% between the EU FOB values and the EAC CIF values. Clearly this gap varies a lot according to the products (transported by sea or by air), the EU exporting countries and the EAC importing countries.

Thus the €963 million of EU FOB exports of the liberalized products of Annexes 2b and 2c in 2015 imply €1.252 billion in CIF value and €147.195 million in import duties, of which €109.382 million on Annex 2b products and €37.813 million on Annex 2c products.

The progressive reduction of the import duties following the liberalization schedule of Annexes 2b and 2c allows to calculate an average decline of the total duties rate going from 11.75% in T (2015) to 5.49% in T12 (2027), 2.41% in T15 (2030), 1.07% in T20 (2035) and finally 0% in T25 (2040).

## **2.2 – The large increase of the EAC population**

According to the UN Population data base revised in 2015, the EAC population would rise from 161.342 million in 2015 to 310.318 million in 2040, i.e. by 92.34%. We assume that this would raise imports from the EU by 2/3 of the population growth rate, with an annual rate of imports and of corresponding duties decreasing from 1.93% between T and T6 to 1.56% between T24 and T25.

CIF imports would rise by only the population increase up to T6, before the liberalisation begins in T7, adding a trade diversion impact and a VAT (value added tax) impact.

If the EPA is not implemented and assuming the same composition of imports and the same CET (common external tariff) as in 2015, CIF imports of liberalized products of Annexes 2b and 2c would rise from €1.252 billion in 2015 to €1.649 billion in 2025 (T15) and €1.941 billion in 2040 (T25). And the annual losses of ID would rise from €24.8 million in T7 to €154.7 million in T15 and €228.1 million in T25.

## **2.3 – The trade diversion from T+7 on**

Trade diversion would foster more imports from the EU to the detriment of intra-EAC imports and of imports from third countries as these imports would continue to be taxed.

Even if Fontagné et al.'s estimated that the trade diversion impact would raise imports with the EPA and the corresponding ID by 33.6%<sup>6</sup>, we will limit this rate to 25% in comparison with other estimates, as we did for the WA EPA. It is likely that the actual trade diversion would be lower because the loss of competitiveness of regional companies and the fall in customs revenues should limit the increase in imports from the EU.

Trade diversion will add €358 M to EAC imports from the EU28-UK in T7, €412 M in T15 and €485 M in T25. So that total imports with trade diversion would rise from €1.252 billion in 2015 to 1.790 billion in T7 (2022), €2.061 billion in T15 (2030) and €2.2426 billion in T25 (2040).

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<sup>6</sup> [http://lionel.fontagne.free.fr/paper/fontalabmita\\_JAE.pdf](http://lionel.fontagne.free.fr/paper/fontalabmita_JAE.pdf)

The ID on imports due to trade diversion would rise at the same rate of liberalized imports, but would be reduced from €176 M in T7 to €96.4 in T15 and 0 in T25.

## 2.4 – The rise of revenues from the value added tax (VAT) on imports

The ID on the liberalized products were of €147.195 M in 2015 and the VAT (at 16%) on imports, being based on the total of CIF value + ID of €1.399 billion, was of €223.8 M.

Table 2 – EAC losses of ID on imports from the EU28-UK with the EPA from 2015 to 2040

Millions d'€	T0 en 2015	T7	T8	T9	T10	T11	T12	T13	T14	T15
EU FOB exports	963									
Import duties rates of liberalized products, actual duties based on the EU FOB export values and annual rates of duties losses										
Total duties	113,227	96,399	87,985	81,946	71,157	62,743	52,933	43,006	33,196	23,269
Duties losses		16,828	25,242	31,281	42,070	50,484	60,294	70,221	80,031	89,958
% of duties loss		14,86	22,29	27,63	37,16	44,59	53,25	62,02	70,68%	79,45
Rate of duties	11,75	10,01	9,14	8,50	7,39	6,51	5,49	4,46	3,45	2,41
Population growth and corresponding rates of import growth at 2/3 of population growth rates										
Population (1000)	161342	197070	202515	208054	213694	219434	225273	231214	237259	243410
Rate M growth	2/3pop rate	1,933	1,84	1,83	1,81	1,79	1,77	1,76	1,74	1,73
CIF imports	1252	1432	1458	1485	1511	1538	1565	1593	1621	1649
Annual losses of import duties with EPA compared to without EPA (at a rate of 11.75%)										
ID without EPA	147,2	168,3	171,3	174,5	177,5	180,7	183,9	187,2	190,5	193,8
ID with EPA		143,3	133,3	126,2	111,7	100,1	85,9	71	55,9	39,7
Impact of trade diversion on losses of import duties and VAT with EPA										
Trade diversion		358	364,5	371,3	377,8	384,5	391,3	398,3	405,3	412,3
CIF M + diversion	1252	1790	1822,5	1856,3	1888,8	1922,5	1956,3	1991,3	2026,3	2061,3
ID on diversion	147,2	179,2	166,6	157,8	139,6	125,1	107,4	88,8	69,9	49,6
M + ID on diversion		1969,2	1989,1	2014,1	2028,4	2047,6	2063,7	2080,1	2096,2	2110,9
VAT with EPA		315,1	318,3	322,3	324,5	327,6	330,2	332,8	335,4	337,7
VAT without EPA										
M +ID without EPA	1399,1	1600,3	1629,3	1659,5	1688,5	1718,7	1748,9	1780,2	1811,5	1842,8
VAT without EPA	223,8	256	260,7	265,5	270,2	275	279,8	284,8	289,8	294,8
Net loss of customs revenues with the EPA = VAT gains – ID losses										
VAT gain with EPA		59,1	57,6	56,8	54,3	52,6	50,4	48	45,6	42,9
ID loss with EPA		-10,9	4,7	16,7	37,9	55,6	76,5	98,4	120,6	144,2
Net loss of ID+VAT		-70	-52,9	-40,1	-16,4	3	26,1	50,4	75	101,3
Cumulative loss of ID + VAT with the EPA (negative loss is a gain)										
Cumulative losses		-70	-122,9	-163	-179,4	-176,4	-150,3	-99,9	-24,9	76,4

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Comment [1]: CA

Table 2 – continued

T+15	T16	T17	T18	T19	T20	T21	T22	T23	T24	T25
Import duties rates of liberalized products, actual duties based on the EU FOB export values and annual rates of duties losses										
Total duties	20,361	18,965	17,452	16,056	14,543	13,531	8,726	5,817	2,909	0
Duties losses	92,866	94,262	95,775	97,171	98,684	94,746	104,501	107,410	110,318	113,227
% of duties loss	79,45	83,25	84,59	85,82	87,16	83,68	92,29	94,86	97,44	100
Rate of duties	2,41	1,97	1,81	1,07	1,07	1,92	0,91	0,60	0,30	0
Population growth and corresponding rates of import growth at 2/3 of population growth rates										
Population (1000)	249666	256026	262488	269049	275706	282458	289300	296229	303236	310318
Rate M growth	1,71	1,7	1,68	1,67	1,65	1,63	1,61	1,6	1,58	1,56
CIF imports	1677	1706	1735	1764	1793	1822	1851	1881	1911	1941
Annual losses of import duties with EPA compared to without EPA (at a rate of 11.75%)										
ID without EPA	197	200,5	203,9	207,3	210,7	214,1	217,5	221	224,5	228,1
ID with EPA	40,4	33,6	31,4	18,9	19,2	35	16,8	11,3	5,7	0
Impact of trade diversion on losses of import duties and VAT with EPA										
Trade diversion	419,3	426,5	433,9	441	448,3	455,5	462,8	470,3	477,8	485,3
CIF M + diversion	2096,3	2132,5	2168,9	2205	2241,3	2277,5	2313,8	2351,3	2388,8	2426,3
ID on diversion	50,5	42	39,3	23,6	24	43,7	21,1	14,1	7,2	0
M + ID on diversion	2146,8	2174,5	2208,2	2228,6	2265,3	2321,2	2334,9	2365,4	2396	2426,3
VAT with EPA	343,5	347,9	353,3	356,6	362,4	371,4	373,6	378,5	383,4	388,2
VAT without EPA										
M +ID without EPA	1874	1906,5	1938,9	1971,3	2003,7	2036,1	2068,5	2102	2135,5	2169,1
VAT without EPA	299,8	305	310,2	315,4	320,6	325,8	331	336,3	341,7	347,2
Net loss of customs revenues with the EPA = VAT gains – ID losses										
VAT gain with EPA	43,7	42,9	43,1	41,2	41,8	45,6	42,6	42,2	41,7	41
ID loss with EPA	146,5	158,5	164,6	183,7	186,7	170,4	196,4	206,9	217,3	228,1
Net loss of ID+VAT	102,8	115,6	121,5	142,5	144,9	124,8	153,8	164,7	175,6	187,1
Cumulative loss of ID + VAT with the EPA (negative loss is a gain)										
Cumulative losses	179,2	294,8	416,3	558,8	703,7	828,5	982,3	1147	1322,6	1509,7

Source: Eurostat

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Without the EPA, where there is no trade diversion, the VAT on liberalized imports will rise to €256 M in T7 to €294.8 M in T15 and €347.2 M in T25. With the EPA, where trade diversion raises imports but with falling ID rates, the VAT on imports would rise from €315.1 M in T7 to €337.7 M in T15 and €388.2 M in T25. Which implies annual gains of VAT on imports due to the EPA, rising from €59.1 M in T7 to €42.9 M in T15 and €41 M in T25.

With the EPA in the first year of liberalization (T7, 2022), trade diversion inflates the ID on imports, but the net losses of ID start already at T8 (€4.7 M) and rise at €144.2 M in T15 (2022), €186.7 M in T20 (2035) and €228.1 M in T25 (2040). Finally the EPA generates first annual net customs revenues (DD + VAT) up to T10 (2025), resulting in cumulative gains of €24.9 M to T14 (2021) but afterwards cumulative losses increase from €703.7 M in T20 (2035) to €1.510 billion in T25 (2040).

Table 3 – EAC loss of customs revenues without trade diversion

€ million	T0 en 2015	T7	T8	T9	T10	T11	T12	T13	T14	T15
EU FOB exports	963									
Import duties rates of liberalized products, actual duties based on the EU FOB export values and annual rates of duties losses										
Total duties	113,227	96,399	87,985	81,946	71,157	62,743	52,933	43,006	33,196	23,269
Duties losses		16,828	25,242	31,281	42,070	50,484	60,294	70,221	80,031	89,958
% of duties loss		14,86	22,29	27,63	37,16	44,59	53,25	62,02	70,68%	79,45
Rate of duties	11,75	10,01	9,14	8,50	7,39	6,51	5,49	4,46	3,45	2,41
Population growth and corresponding rates of import growth at 2/3 of population growth rates										
Population (1000)	161342	197070	202515	208054	213694	219434	225273	231214	237259	243410
Rate M. growth	2/3 taux pop.	1,933	1,84	1,83	1,81	1,79	1,77	1,76	1,74	1,73
CIF imports	1252	1432	1458	1485	1511	1538	1565	1593	1621	1649
Annual losses of import duties with EPA compared to without EPA (at a rate of 11.75%)										
ID without EPA	147,2	168,3	171,3	174,5	177,5	180,7	183,9	187,2	190,5	193,8
ID with EPA		143,3	133,3	126,2	111,7	100,1	85,9	71	55,9	39,7
VAT without EPA and with EPA										
M + ID without EPA	1399,1	1600,3	1629,3	1659,5	1688,5	1718,7	1748,9	1780,2	1811,5	1842,8
VAT without EPA	223,8	256	260,7	265,5	270,2	275	279,8	284,8	289,8	294,8
M + ID with EPA		1575,3	1591,3	1611,2	1622,7	1638,1	1650,9	1664	1676,9	1688,7
VAT with EPA		252	254,6	257,8	259,6	262,1	264,1	266,2	268,3	270,2
Net loss of customs revenues with the EPA										
ID+VAT without EPA		395,3	387,9	384	371,3	362,2	350	337,2	324,2	309,9
ID+VAT with EPA		424,3	432	440	447,7	455,7	463,7	472	480,3	488,6
Net loss with EPA		29	44,1	56	76,3	93,5	113,7	134,9	156,1	178,8
Cumulative loss of ID + VAT with the EPA										
Cumulative losses		29	73,1	129,1	205,4	298,9	412,6	547,5	703,6	882,4

Table 3 – continued

T+15	T16	T17	T18	T19	T20	T21	T22	T23	T24	T25
Import duties rates of liberalized products, actual duties based on the EU FOB export values and annual rates of duties losses										
Total duties	20,361	18,965	17,452	16,056	14,543	13,531	8,726	5,817	2,909	0
Duties losses	92,866	94,262	95,775	97,171	98,684	94,746	104,501	107,410	110,318	113,227
% of duties loss	79,45	83,25	84,59	85,82	87,16	83,68	92,29	94,86	97,44	100
Rate of duties	2,41	1,97	1,81	1,07	1,07	1,92	0,91	0,60	0,30	0
Population growth and corresponding rates of import growth at 2/3 of population growth rates										
Population (1000)	249666	256026	262488	269049	275706	282458	289300	296229	303236	310318
Rate M. growth	1,71	1,7	1,68	1,67	1,65	1,63	1,61	1,6	1,58	1,56
CIF imports	1677	1706	1735	1764	1793	1822	1851	1881	1911	1941
Annual losses of import duties with EPA compared to without EPA (at a rate of 11.75%)										
ID without EPA	197	200,5	203,9	207,3	210,7	214,1	217,5	221	224,5	228,1
ID with EPA	40,4	33,6	31,4	18,9	19,2	35	16,8	11,3	5,7	0
VAT without EPA and with EPA										
M + ID without EPA	1874	1906,5	1938,9	1971,3	2003,7	2036,1	2068,5	2102	2135,5	2169,1
VAT without EPA	299,8	305	310,2	315,4	320,6	325,8	331	336,3	341,7	347,2
M + ID with EPA	1717,4	1739,6	1766,4	1782,9	1812,2	1857	1867,8	1892,3	1916,7	1941
VAT with EPA	274,8	278,3	282,6	285,3	290	297,1	298,8	302,8	306,7	310,6
Net loss of customs revenues with the EPA										
ID+VAT without EPA	315,2	311,9	314	304,2	309,2	332,1	315,6	314,1	312,4	310,6
ID+VAT with EPA	496,8	505,5	514,1	522,7	531,3	539,9	548,5	557,3	566,2	575,2
Net loss with EPA	181,7	193,6	200,1	218,5	222,1	207,8	232,8	243,3	253,8	264,6
Cumulative losses of ID + VAT with the EPA										
Cumulative losses	1064,1	1257,7	1457,8	1676,3	1898,4	2106,2	2339	2582,3	2836,1	3100,7

Source : Eurostat

However, it is useful to estimate (Tables 3) the loss of customs revenues in the absence of trade diversion, as the estimate that its level is at 25% of CIF imports is an unverified assumption.

We see that without trade diversion with EPA the cumulative losses are about twice as large as with trade diversion estimated at 25% of CIF imports. And here the losses appear immediately on ID and VAT.

Let us add that about half of the losses of import duties would impact the 4 LDCs as shown in table 4, even if these shares are based on total EU exports and not specifically on the exports impacting the most the ID of each country. There is a good reason for them to not sign and implement the EPA and to help Kenya to get the GSP+ status from the EU.

Table 4 – Distribution of total exports of the EU28-UK to EAC countries from 2010 to 2015

€ million	2010	2011	2012	2013	2014	2015	Total	average	% average	% 2015
Burundi	71.8	76.6	80.7	81.7	104.5	105.5	520.8	86.8	3.03%	3.18%
Kenya	1356.1	1290.8	1397.6	1348.7	1342.2	1717	8452.3	1408.7	49.18%	51.18%
Rwanda	146	145.6	181.2	172.7	159.5	176.4	981.4	163.6	5.71%	5.32%
Tanzania	634.3	842.9	836	734.4	807.4	889.9	4744.8	790.8	27.61%	26.86%
Uganda	377	428.5	423.9	409.7	425.1	424.7	2488.8	414.8	14.48%	12.82%
EAC	2585.1	2784.4	2919.2	2747.2	2838.7	3313.4	17188.1	2864.7	100%	100%

Source: Eurostat

Let us mention all the other major constraints attached to the EU-EAC EPA which would hinder EAC development beyond the customs duties losses: particularly the standstill clause, the MFN clause, the "rendez-vous" clause, the ceiling on export taxes, the EU refusal to take into account the huge domestic subsidies to its agricultural exports.

### **III – Kenyan exports to the EU will lose their competitiveness and other alternatives exist to the EPA**

Beyond the best alternative which would be the GSP+ status for Kenya, its exporters to the EU28-UK would have to pay much lower duties to the EU than those calculated as their exports would fall significantly because, beyond Brexit, the most important threat to their exports is their competitiveness erosion after the full implementation of several other EU free trade agreements (FTAs) concluded or to be concluded. Already the FTAs with three Andean countries – Colombia, Ecuador, Peru – and six Central American countries – Costa Rica, El Salvador, Guatemala, Honduras, Nicaragua and Panama – allow them to export duty free to the EU most of their agricultural products (other than those with entry prices in the EU), particularly all those central to the EAC: of chapter 06 (of which cut flowers<sup>7</sup>) as well as of chapter 07 (including cabbages, cauliflowers, fresh or chilled beans and other fresh or chilled vegetables) which are the core of the EAC agricultural exports to the EU. Not to speak of the TAFTA, CETA and many other on-going negotiations with developing countries, particularly Mercosur, Vietnam, Philippines. However, reduced or zero ID on imports from countries that have signed FTAs show that the EU does not care if they don't comply with the international conventions it requires from the ACP countries to grant them GSP+ status as seen in Colombia, Honduras and El Salvador. Given that Pakistan got the GSP+ status in December 2010 despite its violation of several international conventions on human rights<sup>8</sup>, it is clear that

<sup>7</sup> *What Brexite means for the global flower industry*, <https://www.hortzone.com/blog/2016/07/15/brexit-means-global-flower-industry/>

<sup>8</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52016DC0029&from=EN>

the recognition of compliance with these criteria is primarily the result of an EU political decision.

In fact there are alternative solutions to the EPA which depend only of the EU political will:

- 1) A WTO waiver to return to the unilateral trade preferences of the Lomé Conventions as the Latin American countries exporting bananas and India that had prosecuted the EU on these preferences should no longer oppose it. The EU has only to follow the US example which got a ten years extension of the AGOA in 2015.
- 2) To be coherent with the EU Everything But Arms (EBA) Decision of 2001 and with the WTO plea to grant DFQF (duty free-quota free) treatment to all LDCs exports, the share of the four LDCs in the EAC exports to the EU28-UK should be deducted from the 82.5% which are to be liberalized in the EPA. As this share was of 48.82% in 2015, the percentage of EAC exports to liberalize would fall to 33.68%.
- 3) A final solution would be to establish a Regional Solidarity Fund to which the 5 EAC Member Countries would contribute to cover the export duties due by Kenyan exporters to the EU if the EPA is not signed. The contribution should rest on several factors among which the relative percentage of their extra-EAC imports and their per capita gross national income (GNI) and maybe on other factors to be agreed. The data of ITC TradeMap are only available for the 5 countries in 2011.

Table 5 – Share of extra-EAC imports and GNI per capita of EAC countries in 2015

€ 1000	Total imports	Intra-EAC imports	Extra-EAC imports	Share of extra-EAC imports	Per capita GNI in 2015
EAC	24754,2	1497,8	23256,4	100%	778,8
Kenya	10789,2	220,9	10,568,3	45,44%	1136,5
Tanzania	8029,8	271,5	7758,3	33,36%	781,7
Uganda	4042,7	497,3	3545,4	15,25%	565,6
Rwanda	1082,9	315,1	767,8	3,30%	612,2
Burundi	809,6	193	616,6	2,65%	232,2

Source: World Bank indicators; ITC TradeMap:  
[http://www.trademap.org/Country\\_SelProduct\\_TS.aspx?nvpm=1||3981||TOTAL||2|1|1|1|2|1|3|1|1](http://www.trademap.org/Country_SelProduct_TS.aspx?nvpm=1||3981||TOTAL||2|1|1|1|2|1|3|1|1)

- 4) The worst solution to be banished would be that Kenya would ratify the interim EPA as this would disintegrate the EAC regional integration which is supposed to be the first objective of the EPA. Happily this solution is legally impossible because, contrary to what happened with the Ivory Coast and Ghana interim EPAs, the interim EPA agreed on 27 November 2007 in EAC was already a full regional EPA and not an individual EPA with Kenya alone so that the other 4 EAC Member countries would have to agree to it, which they will clearly not do. But the European Commission is accustomed to legal sleights of hands and could yield to the suggestion of the Chairman of the Joint Parliamentary Assembly ACP-EU, Patrick Gomes, who said in Nairobi on December 21, 2016: "*ACP is already asking the EU to be flexible and allow Kenya to sign EPA individually, if regional blocs frustrate the collective approval*"<sup>9</sup>.

<sup>9</sup> <http://bilaterals.org/?eu-could-cut-aid-to-nations&lang=en#.WF2MQHQ2xKo.email>



Table 1 – EU28-UK GSP and GSP+ duties on imports from Kenya in 2015

HS chapters	EU imports	GSP duties	Duty rate	GSP+ duties	Duty rate
01 live animals	281759	0	0%	0	0
02 meats	0	0	0	0	0
03 fish	15114208	684057	4.54%	0	0
04 dairy and eggs	19	0	0%	0	0
05 other prod. of animal origin	33197	0	0%	0	0
06 plants, flowers	388670029	43323083	11.15%	0	0
07 vegetables	75632848	6394974	8.46%	0	0
08 fruits	57565192	676804	1.18%	0	0
09 coffee, tea, spices	143937899	540	0.009%	0	0
10 cereals	62677	113	0.001%	113	0.001%
11 milling products	980	89	9.08%	89	9.08%
12 oilseeds	10440502	32	#0%	32	#0%
13 lacs, gums, resins	3815054	0	0%	0	0
14 plaiting material	44813	0	0%	0	0
15 fats	2172418	81020	3.73%	0	0
16 fish preparations	18473997	3787169	20.50%	0	0
17 sugar	1407	115,7	8.22%	89	6.33%
18 cocoa	2132999	25	#0%	20	#0%
19 cereal preparat°	41985	1737	4.14%	29	0.069%
20 processed F&V	91654596	13978212	15.25%	2287	0.0025%
21 edible preparat°	2373573	5367	0.23%	0	0
22 beverages	33577	0	0%	0	0
23 waste, feedstuff	34980	0	0%	0	0
24 tobacco	2637411	372551	14.13%	0	0
Total 01-24	815106614	69305789	8.50%	2659	0.00033%
25 salt, sulphur	16146542	0	0	0	0
26 ores, slag, ash	10648838	0	0	0	0
27 mineral fuels	660	0	0	0	0
28 inorganic chemicals	2162	0	0	0	0
29 organic chemicals	2737	0	0	0	0
30 pharmaceuticals	194320	0	0	0	0
31 fertilizers	27	0	0	0	0
32 tanning & dyeing extracts	1761019	0	0	9	9
33 essential oils	105848	0	0	0	0
34 soap, washing	15215	0	0	9	9
35 albuminoidal substances		0	0	0	0
36 explosives		0	0	0	0
37 photographic	144	0	0	0	0
38 miscellaneous chemicals	776553	0	0	0	0
39 plastics	1178656	45	0.01%	0	0
40 rubber	220431	27	0.01%	0	0
41 hides & skins	45925359	264399	0.58%	206783	0.45%
42 articles of leather	315278	2146	0.68%	0	0
43 furskins	122	0	0	0	0
44 wood & articles	334347	0	0	0	0
45 cork & articles	864	0	0	0	0
46 manufactures of straw	145463	0	0	0	0
47 pulp of wood	541	0	0	0	0
48 paper	14897	0	0	0	0
49 printed books	81936	0	0	0	9
50 silk		0	0	0	0
51 wool	841312	0	0	0	9
52 cotton	186917	151	0.08%	0	0
53 other vegetable fibres	2807633	0	0	0	0
54 man-made filaments	47	0	0	0	0
55 man-made staple fibres		0	0	0	0

56 wading & special yarn	475	30	6.32%	0	0
57 carpets	4244	260	6.13%	0	0
58 special woven fabrics	257		0	0	0
59 impregnated fabrics	202		0	0	0
60 knitted, crocheted fabrics	3003	192	6.39%	0	0
61 apparel crocheted	1582799	151949	9.60%	0	0
62 apparel not crocheted	1389277	157140	11.31%	0	0
63 other man-made textiles	453210	43470	9.59%	0	0
64 footwear	636290	21403	3.36%	0	0
65 headgear	3836	0	0	0	0
66 umbrellas	26	0	0	0	0
67 prepared feathers	40214	0	0	0	0
68 articles of stone	511770	0	0	0	0
69 ceramic	312351	3170	1.01%	0	0
70 glass	10621	316	2.98%	0	0
71 pearls	2408479	0	0	0	0
72 iron & steel	457637	0	0	0	0
73 articles of iron & steel	409606	0	0	0	0
74 copper & articles	875873	0	0	0	0
75 nickel & articles	1366	0	0	0	0
76 aluminium & articles	510723	4803	0.94%	0	0
78 lead & articles	46993	0	0	0	0
79 zinc & articles		0	0	0	0
80 tin & articles		0	0	0	0
81 base metals	26877	0	0	0	0
82 tools	196793	1	#0%	0	0
83 miscel. articles base metals	36012	0	0	0	0
84 machinery	5386866	0	0	0	0
85 electrical machinery	5402527	0	0	0	0
86 railway	18190	0	0	0	0
87 other vehicles	446788	4	#0%	0	0
88 aircraft	23656067	0	0	0	0
89 ships	514	0	0	0	0
90 optical, photography	1716296	5	#0%	0	0
91 clocks	4645	2	0%	0	0
92 musical instruments	2919	0	0	0	0
93 arms & ammunition	1261	0	0	0	0
94 furniture	108919	0	0	0	0
95 toys	1508893	282	#0%	0	0
96 miscellaneous articles	29761	0	0	0	0
97 works of art	154408	0	0	0	0
Sub-total 25-97	130064856	649795	0.50%	206801	0.16%
Total 01-97	945171470	69955584	7.40%	209460	0.02%
01-24/01-97	86.24%	99.07%		1.27%	
25-97/01-97	13.76%	0.93%		98.73%	0.30%

Source: Eurostat and TARIC