

III. ANALYSIS OF TRADE POLICY INSTRUMENTS

(1) INTRODUCTION

1. The trade reforms undertaken by Mali under the structural-adjustment programmes in progress since 1988 have led to the dismantling of most non-tariff barriers to trade. Apart from tobacco and matches (imports) and precious substances (e.g. gold and diamonds) in the natural state and young bovine animals (exports), the quantitative restrictions in force are applied to products governed by international conventions to which Mali is a signatory or are maintained for health or safety reasons. Documents (Certificates of Intention to Import for goods with a c.i.f. value of over CFAF 250,000 and Certificates of Intention to Export) are required for goods to enter or leave Mali. Certificates of intention to import and certificates of intention to export gold and cotton are liable to the payment of stamp duty (registration fee). These certificates have been retained despite the trade reforms and they also make it possible to monitor the execution of the Import and Export Programme (IMEX), which acts as a trade forecasting framework (Chapter II.2). A special authorization is required for the export of hides and skins. A verification programme for imports worth more than CFAF 3 million has been operating since 1989.

2. Mali abolished duties and taxes on most exported products in 1991; only sales, including gold exports, are still liable to the Service Provision Contribution (CPS) of 3 per cent, and exports of fishery products are subject to a tax of CFAF 7.5 per kg. Import duties have likewise been greatly simplified. Imports are grouped into three main categories: essential goods (Category I), intermediate and capital goods (Category II) and other products (Category III). The average of import duties (excluding the 1 per cent community levy in total on imports from outside the WAEMU and ECOWAS) is 22.1 per cent, with a 3 per cent minimum and a 35 per cent maximum rising to 75 per cent on sugar due to the 55 per cent short-term tax on this product. Import duties are fairly unselective and show a generally negative escalation from unprocessed to semi-finished products (Table III.1). The entry into force of the WAEMU common external tariff should increase effective protection levels in Mali, *inter alia* by strengthening the (positive) escalation of duties.

Table III.1
Import duties according to degree of finishing, 1997
(Rate and average as a percentage)

Product	Number of lines	Average	Minimum rate	Maximum rate	Standard variation	Variation coefficient
Unprocessed products	693	27.4	3	35	11.9	0.43
Semi-finished products	1,772	18.1	3	75	12.3	0.68
Finished products	3,077	23.3	3	35	13.1	0.56
Total	5,542	22.1	3	75	13.1	0.59

Source: WTO Secretariat on the basis of information from the Malian authorities.

3. Mali possesses no national legislation on anti-dumping, countervailing and safeguard measures. After the devaluation of the CFA franc, an upsurge in counterfeiting was observed. This affects medicines, audio cassettes (the number of counterfeit audio cassettes is currently falling), sports articles and the major brands. A few token penalties have been imposed. The African Intellectual Property Organization (AIPO) Treaty, to which Mali is a signatory, is being amended to align it on the provisions of the Agreement on Trade-Related Intellectual Property Rights.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Registration and documents

4. Exercise of the profession of trader by Malians and nationals of countries which have signed an establishment agreement with Mali is subject to entry in the commercial register and to payment of an occupational tax which at the end of 1997 amounted to CFAF 550,000. Entry is proved by means of an extract from the register, which is valid until a request for removal is received. Before attempting to obtain inclusion in the register, foreigners¹ need an authorization from the Minister for Trade. Nationals and foreigners wishing to work as a commercial agent (commission agent, broker, sales agent) also need authorization; a card ("carte professionnelle") is issued to the agent by the Ministry of Trade. The trader must also be registered with the National Statistics and Informatics Directorate (DNSI) where he is issued with an identifier.²

5. Import formalities can be carried out either by the importer or by a customs agent. Non-customs formalities, which are carried out at the single window of the Ministry of Trade, require the pro forma invoice and the tax discharge, both of which must be attached to the certificate of intention to import; this certificate, and therefore these formalities, are not required for imports for non-commercial purposes with a c.i.f. value of CFAF 250,000 or less (Section (vi)). The final invoices or bills of lading/air waybill, insurance certificate, declaration of release for home consumption and, if necessary, the certificate of intention to import and the certificate of verification by the inspecting company are required at the time of actual importation.

6. The reception by the inspecting company of the documents resulting from non-customs formalities is equivalent to an order to inspect the goods to be imported; copies of these documents are used by the importer to domicile his transaction at a bank and to clear his goods from customs.

(ii) Inspection, customs valuation and customs clearance

7. An import-verification programme was introduced in 1989. The pre-shipment inspection contract concluded for this purpose with the General Inspection Company (SGS) was renewed in 1994. Under the programme, all goods with an f.o.b. value exceeding CFAF 3 million (i.e. about 98 per cent of the total value of certificates of intention to import) are required to undergo qualitative and quantitative inspections, price comparison and verification by the SGS of the tariff heading. Imports with a c.i.f. value exceeding CFAF 250,000, for which a certificate of intention to import is required, are inspected selectively. Hydrocarbons are inspected when the tanker wagons or vehicles are loaded. Inspection covers the nature, quantity of product and the importer's identification. A security label is attached to the transit note intended for the Malian authorities. This security label must be produced on demand and is necessary for the customs declaration to be accepted. The authorities say that this procedure enables the transit operations for these products to be monitored effectively.

8. The following are exempt from inspection: gold, precious stones, works of art, ammunition, weapons and explosives, live animals, fresh products, wood, secondary metals, plants and flowers, fertilizers, cinematographic films, newspapers and periodicals, personal effects and gifts, postal packages, trade samples, crude oil, grants, serums and vaccines, vehicles coming within Chapters HS 8702, 8703 and 8704, and imports by government departments, diplomatic or consular missions and United Nations agencies for their own account.

¹Foreigners means nationals of countries that have not signed an establishment agreement with Mali.

²The identifier issued by the DNSI is used for economic analyses, but another more recent identifier exists which is currently being issued by the National Tax Directorate and which will replace all others.

9. The time-limits for issuing and making available to the importer the inspection certificate (ADV) required for the clearance of goods vary with the issuing zones: Africa, three working days; Europe, four working days; other countries, six working days, from the date on which the complete dossier required is received. The cost of preshipment inspection by the SGS (borne entirely by the Malian State) comes to 0.95 per cent of the f.o.b. value, with a minimum of CFAF 120,000 per inspection. On the basis of the figure of 0.95 per cent, this minimum corresponds to the cost of inspecting goods worth CFAF 12,631,579 francs, that is, over four times the minimum value of imports for which inspection is required.

10. The definition of customs valuation applied in Mali is the Brussels³ definition, which corresponds to the "normal" price of goods, i.e. the price decided on for those goods (between a buyer and an independent seller) at the place and time at which they are declared and under competition conditions. In accordance with the provisions of Article 20 (special and differentiated treatment) of the Agreement on the Implementation of Article VII of GATT 1994, Mali has delayed the transition to transaction value. According to the authorities, the transaction value will be applied from the year 2000, i.e. at the end of the period allowed to the developing countries under this treatment.

11. Declared values are subject to checks (primary, delayed and a posteriori) by the customs service on the basis of the SGS inspection certificate and the value-file invoices. Any dispute can be referred to the Higher Tariff Committee⁴; no appeal has been recorded to date. The values certified by the SGS are regarded as references by the Malian customs, which in practice uses them in the majority of cases. No scale value is applied; however, fixed reference prices exist for oil products in order to reduce fluctuations in forecourt prices.

12. Customs clearance procedures are carried out in two stages: a brief declaration of the goods is made at the border office; the goods are then transported to the office of destination (under customs escort) where the declaration is completed and the goods cleared. After inspection and verification of the goods, an acquittance is issued, the duties are paid and the goods removed. Customs procedures have been computerized since 1985 using the SYDONIA automated customs system which now deals with 95 per cent of traffic. Customs clearance operations in principle last two to three working days at the office of destination. In addition to these formalities there are frequent checks (60 control posts between Bamako and Abidjan)⁵ within the country and at the borders, as well as differences in the application of the official texts, copies of which are not available at all posts.

13. The bulk of customs offences relates to under-invoicing and goods smuggling. The chief products involved in this latter form of fraud are major consumer items like sugar, milk, flour, tea and cigarettes. Moreover, inadequate control of suspensory regimes means, for example, that goods placed in warehouses can be released for home use without payment of the relevant duties and taxes.

³Article 27 of the 1965 Customs Code.

⁴This Committee, which is provided for by Article 22 of the Customs Code, is composed of a representative of the Minister for Planning, a representative of the Minister of Trade and Transport, a representative of the Minister of Finance, a representative of the Minister of Development, a representative of the Economic Affairs Service, a representative of the Chamber of Commerce, a representative of the Director of Customs, and two experts appointed respectively by the representative of the customs service and by the plaintiff. The Chairman of the Committee is appointed by the members on the basis of his knowledge (Article 23).

⁵CEFTE (1997a).

(iii) **Import duties**

14. With regard to import duties, Mali grants at least MFN treatment to all countries. MFN import duties are made up of a customs duty (DD), a fiscal import duty (DFI), a service provision contribution (CPS), the community solidarity levy (PCS) and the community levy (PC). Internal taxes (VAT and excise duties) are also levied at the customs "cordon" on imports. The basis for import duties is the c.i.f. value and for internal taxes the same value plus the import duties. The tariff reform carried out under the structural-adjustment programme and applied since February 1991 was designed to rationalize the system for protecting local products, to simplify the taxation of imported goods and to reduce fiscal drag which leads to smuggling and false value declarations. The customs tariff has therefore been simplified and nominal protection reduced particularly for industrial equipment, the chief agricultural inputs and school equipment. The average level of tariff protection in Mali could increase following the introduction of the common external tariff (TEC) of the WAEMU.⁶

(a) Nature and level of MFN duties.

15. Mali adopted the Harmonized System (HS) nomenclature in 1994. The customs tariff in force at the end of 1997 contains only *ad valorem* duties; the total number of eight-digit tariff headings in the HS (1996 version) is 5542. Mali does not apply any seasonal duties, tariff quotas or variable levies. The structure of import duties has been simplified under the tariff reform: the number of taxes and customs-duty rates has been reduced.⁷ For taxation purposes, imports are grouped into three main categories: basic products (Category I), intermediate and capital goods (Category II) and other products (Category III).⁸ Since August 1997, raw materials, intermediate goods and spare parts intended for industry have been taxed as Category I products. The import duties currently in force include: the DD at 0 per cent (Category I) and 5 per cent (Categories II and III); the DFI at zero per cent (Category I), 10 per cent (Category II) and 25 per cent (Category III); the CPS at 3 per cent on petroleum products and 5 per cent on other products⁹; the PC and PCS of 0.5 per cent each levied on behalf of ECOWAS and WEAMU; and a short-term import tax (TCI) levied on sugar at the 55 per cent rate (25 per cent until March 1997)¹⁰; the TCI on rice was suspended following devaluation. The TCI was introduced to strengthen protection for lines of national production subject to "strong competition". Its rate is calculated on the national cost price and the world price.

16. The average of import duties (not including the 1 per cent total PC and PCS) is 22.1 per cent, with a minimum of 3 per cent and a 35 per cent maximum (75 per cent on sugar as a result of the TCI of 55 per cent). Import duties are fairly unselective: the coefficient of variation is 0.59 and indicates that, in general, duties differ moderately from one type of product to another. The least heavily taxed products are those of the chemical and pharmaceutical industries, non-electric machines and oil. The most highly taxed goods are fishery products, tobacco, clothing, leather products, footwear, furniture (other than metal), pottery and china (Chart III.1).

17. Forty-nine per cent of tariff headings were not used in Mali in 1996. The average of import duties calculated on the tariff headings used is slightly lower: 21.7 per cent. The collection rate for import duties (i.e. total receipts in respect of import duties versus the c.i.f. value of imports released for home use) is 9.4 per cent.

⁶CEFTE (1997a).

⁷13 taxes and 27 customs duties rates used to be applied.

⁸The new WAEMU classification into four categories should be adopted not later than 1 July 1998 and applied from 1 January 1999.

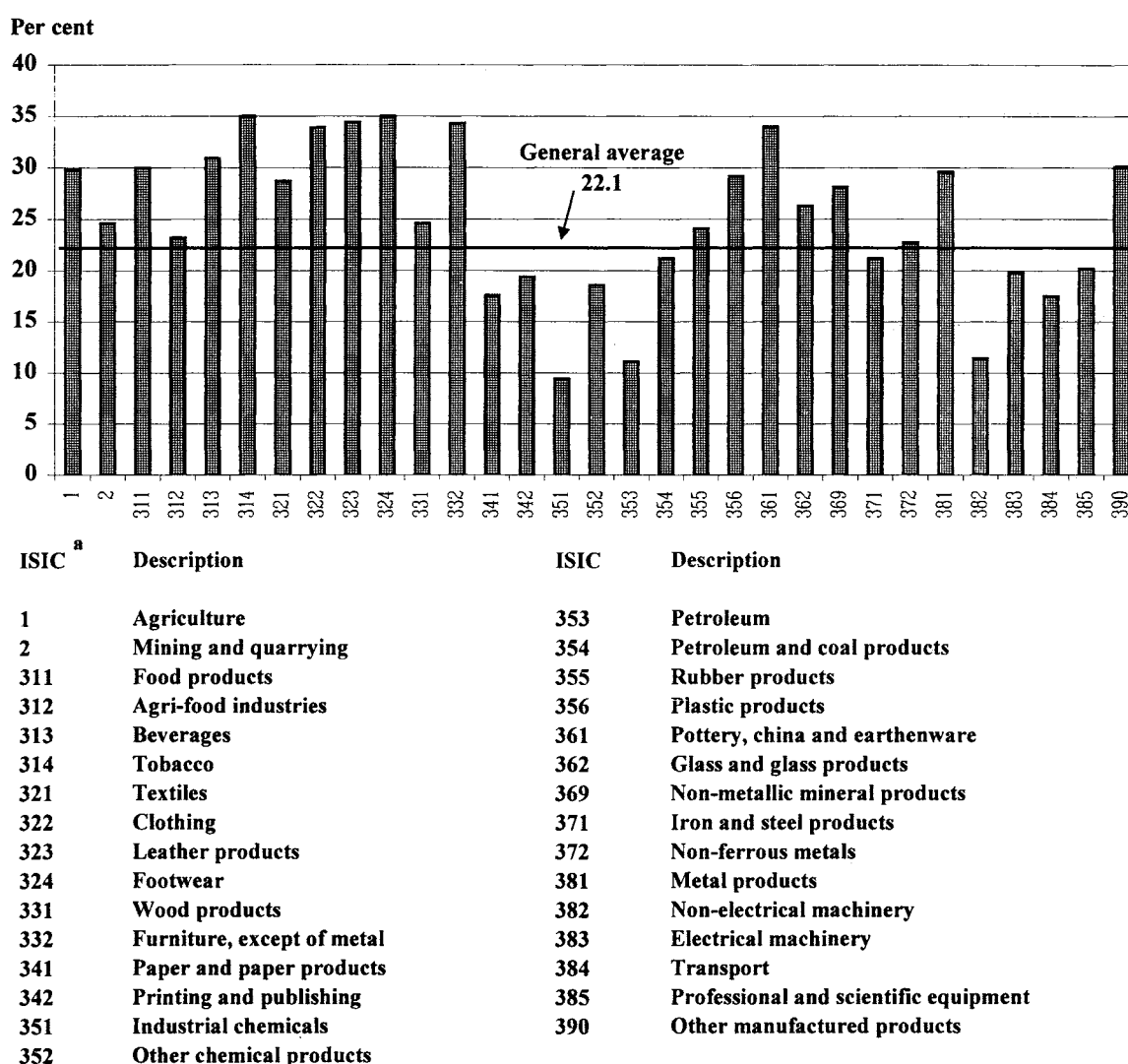
⁹80 per cent of exempted imports are subject to the CPS.

¹⁰The TCI on sugar is reduced during Lent and restored to its previous level after this "sensitive" period.

18. Import duties show a generally negative escalation from unprocessed products to semi-finished goods (Chart III.2). With the exception of wood products, paper products, chemicals, petroleum, petroleum and coal products, rubber products and iron and steel products on which import duties are progressive, the other types of goods are subject to duties of negative escalation (Table AIII.1).

Chart III.1

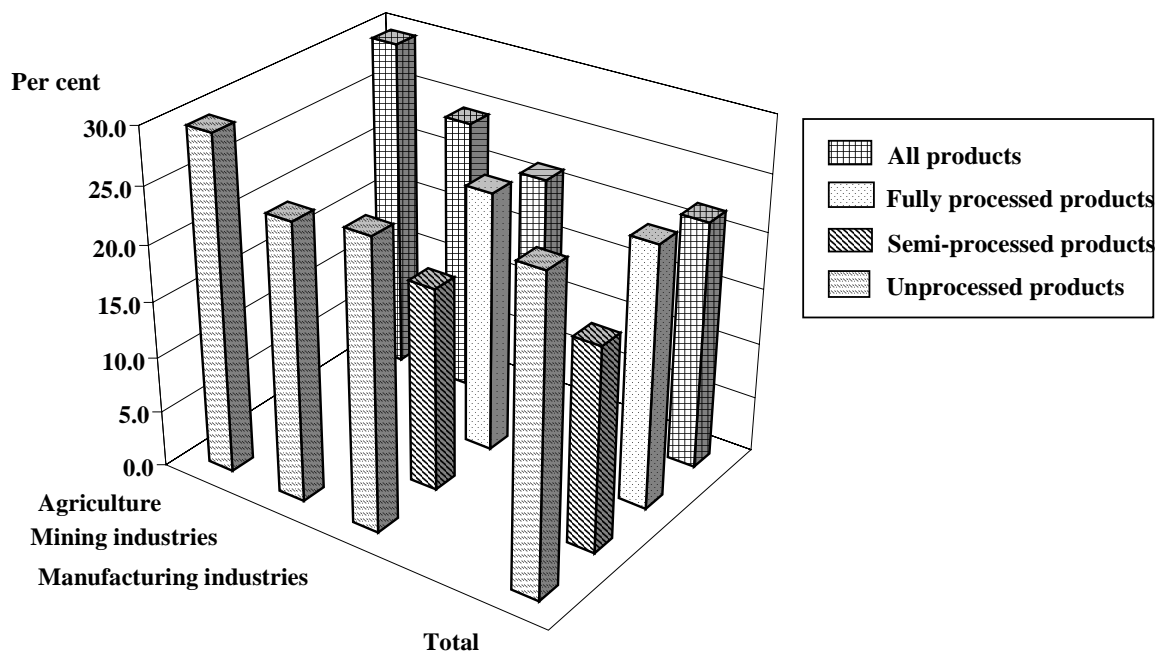
Average import duties (excluding community levy) by type of product, 1997



^a International Standard Industrial Classification.

Source: WTO Secretariat calculations on the basis of Malian Government data.

Chart III.2
Average import duties by degree, CITI Revision 2, 1997



Source: WTO Secretariat estimates.

(b) Other duties and taxes

19. Value added tax (VAT) has been in force since 1991. There are now two rates: a reduced rate of 10 per cent and a normal rate of 15 per cent; these rates are the lowest in the WAEMU. VAT on imports is calculated on the c.i.f. price increased by the import duties.¹¹ The following are exempt from VAT: the sale by farmers of their products and the products of their livestock production, operations carried out by fishermen in connection with the unprocessed products of their fishing, the sale of original works of art by creative artists, the sale of grain cereals, the sale of raw edible meat and offal, bread, sugar cane, real-estate promoters and developers with an annual turnover of CFAF 1 million or less, breeding animals, seed potatoes and vegetables, rice, maize, groundnuts, cotton seeds, fertilizers, pesticides, farm equipment, water pumps, medicinal products, medical and surgical instruments and appliances, school books, stamps and stamped paper, certain petroleum products, bread and sugar cane. Exports are zero-rated as regards reimbursement of the VAT levied on the inputs and factors of production used in their manufacture.

20. The service provision tax (TPS) is payable by all persons who provide services and who have an annual turnover of more than CFAF 1 million.¹² The TPS also has a reduced rate of 7 per cent,

¹¹Article 487 of the General Tax Code.

¹²The following operations are subject to the TPS: the rental of goods and services, contract work not coming under a production activity, intermediate activities (commission agents, brokers), sales for on-the-spot consumption, entertainment and recreation activities, activities involved in pursuing a profession, bank, finance-house and credit-agency activities, transport activities, advertising activities.

which is applied to transport, entertainment and water supply and evacuation activities, and telephony. Other services are subject to the normal 15 per cent rate. Unlike VAT, the TPS is not tax-deductible, which gives rise to a cascade of fiscal charges which are likely to cripple the competitiveness of all tradeables, particularly exports.

21. A Special Tax on Certain Products (ISCP), an excise duty whose basis for imported products is the c.i.f. value plus customs duties, is levied on a number of goods (Table III.2). The amount of this tax is included in the VAT assessment basis. Since 1993, moreover, an Advance Payment on Various Taxes and Charges (ADIT) has been levied at the customs "cordon" on behalf of the Treasury. This advance payment is 5 per cent of the c.i.f. value; it is levied on all imports and is deducted from all taxes. The ADIT was introduced in order to get "informal" taxpayers to identify themselves in order not to lose the sums paid as an advance on all taxes and charges. In practice, operators often prefer to lose this advance deduction, probably because it is less than the sum they would have to pay if they made an official declaration to the tax authorities; a desire to escape the various administrative constraints involved in any declaratory procedure certainly plays an important role here.

Table III.2
Special tax on certain products (ISCP), 1998
(Percentage)

Description	ISCP
Cola nuts	15
Water	10
Malt beer put up in containers of 50cl or over	30
Other malt beers	20
Sparkling wine	30
Wine and alcohol-muted grape must	20
Vermouth and wine from plants or aromatized wine	5
Beers other than malt beers	20
Other ethyl alcohols	90
Spirits distilled from wine or grape marc	90
Whiskies	90
Rum and tafia	90
Gin and geneva	90
Vodka	90
Liqueurs	90
Other alcohols	90
Cigars, cigarettes containing tobacco or a tobacco substitute	40
Homogenized or reconstituted tobacco	20
Tobacco extracts and sources	20
Salt	10
Partly refined petroleum	10
Aviation spirit	25
4 star petrol	125
Regular petrol	125
Jet fuel	25
Kerosene	3
Diesel	90
Fuel oil	2
Lubricating oils	10
Grease	10
Natural gas	10
Cartridges	20

Source: Malian authorities.

(c) Bindings of duties and taxes

22. Under the Uruguay Round, Mali bound the customs duty rates applicable to agricultural products (like other WTO Member countries) and those applicable to products coming under Chapters 44, 81 and 92 of the Harmonized System. A 60 per cent ceiling rate was granted for this purpose by Mali for all these products. The other duties and charges on imports of these products were bound at 50 per cent. However, the tariff bindings for agricultural products do not concern goods previously included on Mali's List (XCIV), i.e. those for which duty rates were bound when Mali was a colony. The other duties and charges notified by Mali for this purpose include the Degressive Protection Tax (TDP), which is no longer in force, but not the CPS. Following the introduction of the TEC, the WAEMU Commission intends to renegotiate the tariff concessions of all member countries, including those on the old lists.

(d) Tariff preferences

23. The ECOWAS trade liberalization scheme consists in principle of two main components: the abolition, as of 1994, of all non-tariff barriers on all products originating in the ECOWAS countries and the progressive reduction of intra-community tariff barriers. In accordance with the ECOWAS agreements, local products and traditional handicrafts must be permitted, from 1 January 1990, to circulate free of all import duties, provided they appear on the list of products recognized by the community and are accompanied by a certificate of origin issued by the competent body appointed by the exporting country. Finished manufactured goods originating in the community are entitled to tariff reductions based on a number of different criteria, including the level of industrial development of each of the countries and their island or land-locked situation. For Mali, the complete tariff reduction period has been set at ten years, i.e. a rate of reduction of 10 per cent per year (Chapter II.5(ii)(b)). In practice, numerous tariff and non-tariff barriers persist; the timetable for liberalizing intra-community trade is not being respected and as of the end of 1997 no product had been approved.

24. Under the WAEMU agreements, local products and traditional handicrafts originating in the union are exempted from import duty in Mali (Table II.2). Likewise, manufactured products certified under the Preferential Community Tax (TPC) qualify for a 60 per cent reduction on import duties and taxes¹³; 544 products (including agro-industrial products, tobacco, cigarettes and textiles) belonging to 151 WAEMU enterprises were already certified at the end of 1997.¹⁴ Manufactured products not subject to the TPC should enjoy a 5 per cent reduction, which is not applied in Mali.

(e) Tariff and tax exemption

25. In 1996, 17.3 per cent of the total value of imports released for home use were exempt and 6.5 per cent of exempted imports were effected by approved enterprises (Table III.3). Practically all exemptions are granted on the basis of the investment code, the mining code, the special code on fixed assets and the Vienna Convention or for imports effected under externally financed projects. For example, 8 per cent of total imports were exempted under the mining code in 1995, compared with around 42 per cent in 1996. However, import duty exemptions under the investment code have been abolished, apart from those which were granted under the former code. The share of exceptional exemptions is marginal (1.3 per cent of the total). Partial exemptions have been applied since August 1997 for the benefit of industrial enterprises whose imports of raw materials, intermediate

¹³Until June 1997 manufactured products certified under the TPC enjoyed a 30 per cent reduction on import duties and taxes. Certification is issued by a WAEMU commission.

¹⁴Certified products accounted for only 4 per cent of total trade in intra-WAEMU manufactured products at the end of 1996. Up to July 1997 products of 11 Malian enterprises had been approved.

products and spare parts are taxed at the Category I rate: only the CPS is levied on such imports. The free enterprises enjoy exemptions under a regime suspending import duties on their export activities (Chapter II(4)(ii)).

Table III.3
Exemptions by major categories, 1996
(CFAF million and percentage)

	C.i.f. value	% share
Investment code	2,027	2.5
Mining code	33,795	41.7
Exceptional admissions	1,020	1.3
External financing	23,271	28.7
Diplomatic privileges	2,333	2.9
NGOs	762	0.9
Approved companies	3,204	4.0
Miscellaneous (army, police etc)	14,571	18.0
Total	80,983	100.0
% imports		17.3

Source: Malian authorities.

26. Monitoring of the conditions to be fulfilled by approved enterprises is provided for but ineffective. Each department concerned should act individually: for example, the National Labour Directorate for the monitoring of employment obligations. However, where conditions are not observed, this can be brought to the attention of the National Directorate for Industry, which can withdraw the approval.

(iv) Rules of origin

27. Mali has no national rules on the origin of goods. However, rules of origin exist (for preferential treatment purposes) in trade agreements to which Mali is a signatory. Rules of origin within the ECOWAS and WAEMU framework are based on percentages of local inputs used or on the percentage of national value added in the final product (Chapter II.5(ii)(b) and (c)). New rules of origins based on the provisions of the WTO Agreement are due to come into force in the WAEMU in the year 2000. Under the Lomé Convention, full processing (goods entirely produced locally) or sufficient processing (change of tariff heading) of a product gives it as its origin the ACP country in which the processing took place (Chapter II.5(iii)).

(v) Anti-dumping, countervailing and safeguard measures

28. Mali has no national legislation on anti-dumping, countervailing or safeguard measures, nor has Mali applied any such measures.

(vi) Prohibitions, quantitative restrictions and licensing

29. Mali has abolished most quantitative import restrictions. The only remaining prohibitions are retained for reasons of safety or health or to comply with international conventions to which Mali is a signatory (e.g. the Montreal Convention).

30. Decree 89-194/P-RM of 15 June 1989 regulating external trade provides for two regimes: a liberalized-trade regime and a prohibition regime. Article 23 of the Decree stipulates that certain

goods may be the subject of surveillance or special provisions for reasons of safety or public morals, consumer protection, protection of industrial or commercial property, protection of origin (Malian origin in particular) or other political, economic or social considerations. Import prohibitions are a specific response to some of these concerns. The list of prohibited products is published by the Minister for Trade. Import prohibitions may be absolute or restrictive. There is an absolute prohibition on imports of narcotics and psychotropic substances, medicinal products for human use (except with the authorization of the Minister of Health) and veterinary use (except with the joint authorization of the Ministries of Health and Livestock Production) and natural or manufactured foreign products bearing a sign or indication likely to imply that they were manufactured in Mali or are of Malian origin.

31. Restrictive prohibitions concern products which may be imported only on submission of a health or phytosanitary certificate (Section (vii)(b) below) and of an authorization from the security services (arms and ammunition), the competent departments of the Ministry for Water and Forests (fishing nets with a mesh size of less than 50 mm. unstretched) or of the Minister for Trade (cigarettes, tobacco and matches imported without authorization solely by the National Tobacco and Match Company despite the lifting of the legal import monopoly in 1989). This type of prohibition also affects imports of motor vehicles apart from passenger and light vehicles, which may be authorized by the technical services of the Ministry of Transport.¹⁵ Hydrocarbon imports come under special regulations (Section (ii) above).

32. All imports exceeding CFAF 250,000 in c.i.f. value must be declared in a Certificate of Intention to Import. The application form is sold for CFAF 600 by the Chamber of Commerce. There are two categories of certificate of intention to import: with financial settlement (ARF) if the transaction is to be paid for in foreign currency or CFA francs; and without financial settlement (SRF) for transactions without financial counterparts.¹⁶ The completed forms must be submitted to the single window at the DNAE, which is manned by a representative of the latter directorate, a representative of the National Directorate for the Treasury and Public Accounts (or Exchange Office)¹⁷ and a representative of the National Tax Directorate (State Property Service). The latter levies stamp duty and registration fees amounting to CFAF 3000 per tranche of CFAF 500,000 of c.i.f. value (pro forma invoice basis); registration fees for the first tranche are set at CFAF 6,000, i.e. 600 francs per sub-tranche of CFAF 50,000. The DNAE representative is responsible for checking that the certificate of intention to import agrees with the pro forma invoice, the identifier number and the valid (unexpired) tax clearance. The period for examining applications is 24 hours. Certificates of intention to import are personal and cannot be transferred. They are valid for six months from the date of registration with the DNAE services; this period can be extended by three months on submission of proof that the goods have been despatched.

(vii) Standards and ecological and other technical requirements

(a) Standards, testing and certification

33. Mali has been attempting to introduce a system of quality standardization and control since 1992. Law No. 92-013/AN/RM of 17 September 1992 and its implementing Decree No. 92-235/P-RM of 1 December 1992 govern the system. However, Mali has no national standards; the only standards currently in force are international standards (e.g. the WHO and FAO Codex

¹⁵WTO document G/LIC/N/3/MLI/1 of 10 June 1997.

¹⁶Certificates of Intention without financial settlement relate to grants, imports by subsidiaries, samples, for example.

¹⁷The allocation of foreign exchange for import purposes is subject to the submission of a copy of the certificate of intention to import.

Alimentarius). Some Malian laboratories (the National Health Laboratory, the Laboratory of the National Building and Public Works Research and Testing Centre, and the Laboratories of the Rural Economy Institute) have been selected, but neither testing nor certification is carried out by the State authorities since they are still not equipped, owing to lack of funding; interested natural or legal persons can carry out such testing and certification themselves.

34. According to the authorities, the quality standardization and control system will be operational some time in 1998. Seminars are being organized on the subject of standardization to make the population aware of the subject. The National Quality and Standardization Directorate of the Ministry of Industry, Trade and Handicrafts is the department competent for technical regulations, standards and conformity-assessment procedures.

35. A National Quality Standardization and Control Council is responsible for proposing legislative, regulatory, financial and technical measures likely to help the development of standardization in Mali and for adopting draft national standards prepared by technical committees. The six technical committees set up in 1994¹⁸ are responsible for identifying requirements and proposing draft standards in their respective fields; their task is also to carry out public enquiries prior to their proposals. A joint order of the Ministry of Industry and of the ministry for the field concerned is required to approve the standards. In Mali, standards may be either compulsory (standards adopted by the inter-ministerial order) or optional.

(b) Sanitary and phytosanitary regulations

36. Sanitary and phytosanitary protection is the responsibility of the Ministries of Health, Rural Development and the Environment. Legislation¹⁹ determines "legally contagious"²⁰ diseases and states what special measures must be taken to deal with each disease (vaccination, slaughter for health reasons). Transhumance is authorized for cattle, sheep, goats and camels originating in States which have signed an agreement with the Republic of Mali,²¹ subject to the issue of a transhumance certificate. Imports of domestic or wild animals are subject to the submission of a health certificate issued by the country of origin. Animals without a certificate are quarantined.

37. All imports of animal products are, in principle, subject to control by the State veterinary services. Meat imports and exports must be accompanied by a health certificate; livestock imports or transit must be accompanied by a health and vaccination certificate. The State levies a tax for the purposes of this control. For inspections in abattoirs, for example, the State levies a tax per slaughtered animal which varies with the species and the commune of slaughter from CFAF 150 to 4,000 per head. In practice, animals cross the frontier away from the border posts and thus escape control.

¹⁸The technical committees existing in Mali: the "Fruit, Vegetables and Oil Seeds" Committee, the "Civil Engineering and Construction Materials" Committee, the "Cereals and Derivatives" Committee, the "Chemistry and Environment" Committee, the "Textiles, Hides and Skins" Committee and the "Electronics" Committee. They bring together the various parties in the fields concerned and were set up respectively by Orders No. 94-0644/MCIT-DNI, No. 94-0645/MCIST-DNI, No. 94-0643/MCIT-DNI, No. 94-0646/MCIT-DNI, No. 94-0647/MCIT-DNI and No. 94-1754/MCIT-DNI.

¹⁹Law 95-060 penalizing offences against animal health measures on the territory of the Republic of Mali and Decree 95-372/P-RM of 18 April 1995 governing animal health measures on the territory of the Republic of Mali.

²⁰Article 2 of Decree 95-372/P-RM.

²¹Article 41 of Decree 95-372/P-RM. Mali has signed agreements authorizing transhumance with the following countries: Burkino Faso, the Niger, Ghana, Mauritania, Senegal, Algeria and Libya. Draft agreements with Guinea, Côte d'Ivoire and Nigeria are in preparation.

38. Legislation on packaging and phytosanitary controls dates from the beginning of the 1960s.²² These texts no longer correspond to the situation in the agricultural sector, including livestock production, fisheries and forestry; they are to be reviewed in 1998. Under this legislation, plant imports and exports are subject to the production of a phytosanitary certificate. Controls are not carried out in all regions owing to a lack of facilities and staff.

(c) Environmental protection measures

39. The Investment Code takes the effects on the environment as one of the criteria for assessing projects submitted for approval. In addition, the Government is framing a National Environmental Action Plan (PNAE). A Law on the Living Environment²³, which was passed in 1991, lays down waste-elimination procedures, prohibits water pollution and makes the discharge of polluting substances into the air subject to prior authorization. No implementing decree has yet been issued; there are no Malian environmental standards and sectoral policies (tourism, industry, transport, mines) do not specify any.

40. Procedures are in progress for the signing by Mali of the International Convention on International Trade in Endangered Species of Wild Fauna and Flora (Washington Convention). A law²⁴ protects wildlife and its habitat; it provides for hunting seasons to be laid down by Order and defines protected species. The exploitation of forestry resources is also governed by a law²⁵ which defines clearance procedures, protected species and customary rights.

(d) Marking and labelling requirements

41. Orders by the Minister for Trade lay down marking and labelling requirements. Compulsory details mainly concern the term "sale in Mali" or the space for identifying the importer on the outside packaging. According to the authorities, the words "sale in Mali", compulsory on certain similar local products, allow them to be distinguished from goods smuggled into the country.

(viii) Government procurement

42. Mali is not a signatory to the Plurilateral Agreement on Government Procurement negotiated during the Uruguay Round. The first Malian Government Procurement Code dates from 1983; the one currently in force goes back to 1995.²⁶ The code governs purchases by the State and local authorities, public institutions, State companies and companies with a majority public holding. Government purchases worth more than CFAF 10 million (250 million for purchases by public institutions and companies and by companies with a majority public holding) are subject to government procurement tendering procedures.

43. The Code provides that contracts may be concluded as a result either of open or restricted tendering (international or locally published) or by private agreement. The conclusion of contracts by auctioning (open or restricted), which is also allowed by the Code, is not practised in Mali. The award of contracts by private agreement only takes place in the event of failure of the tendering procedure, in an emergency or if the State's higher interests must be protected.²⁷ An invitation to tender may be preceded by a competition or followed by a preselection. In the case of purchases by

²²Various decrees and orders dating from 1962.

²³Law 91-047/AN/RM on protection of the general and living environment.

²⁴Law 95-031 determining the management conditions for wildlife and its habitat.

²⁵Law 95-004 determining the management conditions for forestry resources.

²⁶Decree 95-401/P-RM.

²⁷Decree 95-401/P-RM, Article 34.

Government authorities, a restricted invitation to tender may be used when the contract is worth less than CFAF 20 million for supplies and CFAF 50 million for works, or when only a very few candidates can furnish the works, supplies or services required. In such a case, the opinion of the General Government Procurement Directorate is needed (Article 29 of the Code).

44. For purchases by means of an invitation to tender, every public institution must open a dossier and set up a commission to examine the tenders. The General Government Procurement Directorate only has a job of oversight: it authorizes (after verification and, if appropriate, amendment of the descriptive dossiers) the issue of the invitation to tender and gives its opinion on the decision of the examining commission, on which it must not be represented. A preferential 15 per cent margin on the adjusted prices of supply contracts (10 per cent for service contracts) is granted to Malian enterprises, this margin being taken into account when the tenders are compared.

45. Donors who finance Government purchases are not required to pay duties or taxes. Since 1990 duties and taxes must be settled by means of a cheque on the Treasury (amounting to a simple bookkeeping exercise). This procedure, which appears to be a way of limiting fiscal and customs fraud in connection with government procurement, is not applied in practice. Duties and taxes in respect of Government purchases of petroleum products financed from abroad are paid by the donors, who are later reimbursed.

46. Table III.5 shows the amounts involved from 1994 to 1996 according to methods of concluding Government procurement contracts. The share of such contracts financed from the national budget rose strongly over that period (36.9 per cent of the total amount in 1996 compared with 16.9 per cent in 1994). The private agreement method is more often used in concluding contracts financed from the national budget (about 60 per cent of Government purchases financed by the State budget) than for externally financed Government purchases (less than 4.5 per cent of the total purchases financed from abroad).

Table III.4
Amounts and methods of concluding Government procurement contracts, 1994-96
(CFAF million)

	1994		1995		1996 ^a	
	National budget	External financing	National budget	External financing	National budget	External financing
Private agreement	5,708	1,539	..	..	9,469	1,132
Open invitation to tender	3,784	38,752	..	..	6,190	1,876
Restricted invitation to tender	72	6,861	..	..	109	23,929
Total	9,564	47,152	12,056	40,052	15,768	26,937

.. Not available.

^a Up to 30 November 1996.

Source: Calculations by the WTO Secretariat from data supplied by the Malian authorities.

(ix) Local content requirements

47. According to the authorities, no local-content requirements are in force in Mali.

(x) Other measures

48. Mali has banned trade with Israel. According to the authorities, no official countertrade agreement or agreement designed to influence the quantity or value of goods and services exported to

Mali is in force. Likewise, the authorities are not aware of the existence of such agreements between Malian and foreign enterprises.

49. Mali takes part in international trade sanctions decided on by the United Nations Security Council or by regional institutions of which it is a member. The WTO Secretariat is not aware of any measure taken by Mali for balance-of-payments purposes.

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Regulations

50. The registration formalities required for the importation of goods for commercial purposes also apply to exports; these formalities confer the title of trader. Besides traders, producers such as livestock farmers, craftsmen or their associations may also export their products. Specifically, all commercial exports must be carried out on the basis of a certificate of intention to export (IE) issued by the services of the DNAE (Section (iii) below).

51. All export transactions exceeding CFAF 1 million in value are subject to the opening of a domiciliation dossier with an approved bank. All export earnings must be repatriated and converted into CFA francs within 180 days (Annex I.1).

(ii) Export duties and taxes

52. The only export taxes in force are the 3 per cent CPS on the f.o.b. value of gold and the tax of CFAF 7.5 per kg, on fish; these taxes are also levied on domestic sales of these products. The CPS, which was introduced in order to provision the Autonomous Amortization Fund, was originally levied on imports and exports of all products. It was incorporated in the national budget and suspended as far as exports were concerned in 1991 (Law 91-32), except on gold exports.²⁸

53. Export duties and taxes were abolished on most products in 1991. After devaluation, the export tax on livestock products was abolished in order not to compromise the opportunities for development and market access of these products in the subregion. Duties and taxes on exports (export tax, service provision contribution, registration fees) of untreated skins have been suspended since April 1997.²⁹

(iii) Export licensing, prohibitions and other measures restricting exports

54. Under Article 23 of Decree 89-194, the authorities can take special measures which they consider necessary as regards exports. For example, exports of young male bovine animals, five years old and less, and of non-sterile breeding females of the bovine species are prohibited, except by way of exception under special agreements between Mali and third countries which wish to establish the nucleus of livestock production (Chapter IV.2(f)).³⁰ The export prohibition also covers precious substances (e.g. gold and diamonds) in the untreated state.

55. The forms needed to obtain the certificate of intention to export, which is required for all export operations, are obtained from the Chamber of Commerce and handed in at the DNAE single window after completion. Certificates relating to gold and cotton are subject to stamp duty in

²⁸The CPS should apply to all precious substances, including gold for the time being.

²⁹Order No. 97-0551/MFC-SG abrogating Order No. 96-0001/MFC-SG of 5 January 1996 fixing the tariff for export duties and taxes on untreated skins.

³⁰Order 72-1223/MP-MFC.

accordance with the scale applied to the corresponding import certificates (Section 2(vi) below). Certificates for other products are not subject to these duties.

56. As in the case of import operations, exports of certain products may be the subject of surveillance or special measures for various economic, political or social reasons.³¹ A phytosanitary certificate is essential for the export of plants; exports of works of art must be authorized by the Minister for Arts and Culture. Exports of meat and live animals are likewise subject to the production of a health certificate.³² A simplified export procedure is currently laid down for livestock exports in order not to encourage informal exports, i.e. without export documents: a provisional IE is issued at the time of departure from the territory simultaneously with the issue of the health certificate by the livestock agent. This provisional IE is then forwarded to the DNAE for registration.

57. Exports of hides and skins are subject to a special export authorization by the DNAE.³³ Professional exporters of these products are subject to other conditions, including approval of their installations and materials by the Malian Livestock and Meat Office and the constitution of homogeneous bates or "assortments" for export (Chapter IV.2(ii)(f)).

(iv) Export subsidies

58. The authorities state that Mali does not grant any export subsidies.

(v) Duty and tax concessions, and free zones.

59. Certain specific measures have been taken to encourage the development of exports: introduction of VAT, abolition of export duties and taxes, including stamp duties, and the creation of free zones as provided for by the Investment Code of February 1991. Free enterprises, at least 80 per cent of whose production must be exported, enjoy exemption from all fiscal, parafiscal and customs duties and taxes (Chapter II.4(ii)). Three enterprises are currently approved under this regime: a fruit and vegetable production enterprise, a bandage production unit which exports mainly to the subregion and a citrus fruit enterprise which also processes and packages oilseed products, established in Sikasso. These free zones and enterprises could be a source of distortion and unfair competition: the enterprises pay duties and taxes when they market more than 20 per cent of their production on the domestic market but it is not certain that they are compelled to do so as regards their intermediate consumption.

60. The mining code provides for exemption from duties, taxes and charges on exports of mining products as well as on the turnover and related proceeds of sales (Chapter II.4(iii)). However, the CPS is levied on gold exports (Section 3(ii) above). The temporary admission regime is used in Mali mainly by the construction and public works sector for imported work-site machinery which is re-exported in the same state. Two processing enterprises employ this regime: a factory producing unbleached cloth and a bleach factory. The Mali Customs Code, a new version of which is being prepared, makes no provision for the drawback regime.

(vi) Export promotion, financing and assistance

61. Until 1990 export promotion was handled by the Malian External Trade Centre set up in 1977. A division of the DNAE currently has this responsibility. This institutional change (transition from an autonomous structure (EPIC) to a division of a national directorate) has not improved the

³¹Article 23 of Decree 89-194/P-RM.

³²Order 90-2442/MFC-CAB.

³³Decree 95-416/P-RM of 23 November 1995 regulating the trade in hides and skins.

effectiveness of this structure, which is now operating at the expense of the State budget and possesses resources regarded as inadequate.³⁴ The bulk of trade promotion actions takes place within the framework of the WEAMU and with its assistance (e.g. the Ouagadougou Fair). The institutionalization of certain fairs such as the Bamako Fair and Exhibition (FEBAK) and the conclusion of bilateral agreements are intended as a support for these actions. Furthermore, the National Investment Promotion Centre (CNPI) was set up in 1996 to help the development of production in general and therefore, indirectly, to promote exports.

(vii) Other measures

62. No voluntary restraint in respect of exports is applied by Mali. Moreover, the establishment of export cartels is not prohibited by legislation.

(4) OTHER MEASURES AFFECTING PRODUCTION AND TRADE

(i) State trading, State enterprises and privatization

63. The policy of State withdrawal from companies with public capital started in 1988 with the implementation of the Public Enterprise Sector Adjustment Programme (PESAP). The first phase of the PESAP (1988-92) covered 35 State enterprises, of which six were to be rehabilitated, 14 privatized and 15 wound up. The 1996-98 action plan for State enterprise reform which is in progress provides, among other things, for the State to sell off all or part of its shareholdings in seven enterprises and restructure another seven. At the end of 1997 a total of 20 State enterprises had been dissolved or wound up and 40 totally or partially privatized; other enterprises have merely been reorganized.

64. The execution of the PESAP has come up against three obstacles: the low level of internationalization of the privatization programme (Table III.5), the absence of clear privatization laws and procedures and the relationship between disbursement and privatization (transfers carried out hastily in order to respect deadlines). Privatization is currently governed by Law 94-041 which determines the basic principles for the transfer of State enterprises and stipulates that privatization must be authorized by a decree of the Council of Ministers; the decree implementing this law has not yet been issued. It is planned to review this law, which is regarded as over-rigid³⁵, and to set up a privatization committee. Transfers currently take place through invitations to tender. When an invitation to tender produces no result, the transfer may be carried out by private agreement.

³⁴EPIC means a public industrial and commercial institution.

³⁵The purpose of reviewing the law is: (i) to introduce greater flexibility into the method of transferring ownership of part of the capital of mixed investment companies (SEM) held by the State; (ii) to reduce the time limits for certain withdrawals by empowering the Government to transfer the State's shares in SEM assets provided that the share in the enterprise's capital does not exceed CFAF 750 million; (iii) to authorize the private agreement procedure if it proves impossible to carry out the transfer under conditions of free competition and equality between tenderers; (iv) to make the Finance Minister responsible for overseeing the enterprises to be privatized; (v) to assign responsibility for the conduct of privatization operations by means of a decree; (vi) to provide for direct participation by the EPICs without resorting to winding-up, which has frequently harmful social consequences.

Table III.5
State enterprises and privatizations [please supply the missing data]

Enterprises	State share(%)	Foreign share(%)	Comments
(a) Privatized enterprises			
Mali Development Bank (BDM)	20	17	Partial privatization (1989)
BETRAM (maintenance, sales)	0	0	Total privatization (1993)
COMATEX (textile industry)	20	80	Partial privatization (1994)
EDIM (publishing, printing)	10	0	Partial privatization (1991)
EMAB (furniture manufacturing)	0	0	Total privatization (1990)
FRUITEMA (fruit & vegetable sales)	10	20	Partial privatization followed by winding up
Grand Hotel (hotel industry)	0	0	Total privatization (1994)
HUICOMA (oil mill)	40	0	Partial privatization (1990)
ITEMA (textiles)	20	0	Partial privatization (1990)
LPM (paper making)	0	0	Total privatization (1991)
OTER (rural development)	0	0	Total privatization (1995)
PETROSTOCK (storage & distribution of petroleum products)	0	0	Total privatization (1996)
PPM (pharmacies)	0	0	Total privatization (1991)
SEMA (real estate)	20	0	Partial privatization (1991)
SEPAMA (oil mill)	0	0	Total privatization (1995)
SEPOM (oil mill)	0	0	Total privatization (1988); taken over by Huicoma
SMECMA (agricultural equipment)	0	0	Total privatization (1991)
SNED (studies)	0	0	Total privatization (1993)
SOCAM (tomato concentrates)	20	40	Partial privatization (1989)
SOCIMA (construction materials)	0	0	Total privatization (1991)
SOGEMORK (gold mining)	20	100	Partial privatization (1995)
SUKALA.SA (sugar manufacture)	40	60	Partial privatization (1996)
TAMALI (tannery)	0	100	Total privatization (1993)
UCEMA (lime and ceramics)	0	0	Total privatization (1991)
ULB (milk production & marketing)	0	0	Total privatization (1995)
MOTEL Bamako	0	0	Total privatization (1995)
Campement Bandriagara (hotel trade)	0	0	Total privatization (1996)
Campement Bougouni (hotel trade)	0	0	Total privatization (1996)
Rizeries officielles du Niger (hulling of paddy)	0	0	Total privatization (1996)
Centre des travaux de Niono (hydro-agricultural infrastructure)	0	0	Total privatization (1996)
Kanaga (hotel trade)	0	0	Total privatization (1997)
(b) Enterprises in the process of privatization			
Abattoir frigorifique de Bamako	100	0	Privatization in 1998
CNAR (insurance)	87	0	Privatization in 1998
EMAMA (maintenance)	87	0	Privatization in 1998
Hotel de l'Amitié (hotel trade)	100	0	30-year concession granted from 30 June 1998
Hotel Azalai (hotel trade)	..	0	Privatization planned for 1998
BMCD (Bank)	100	0	Privatization planned for 1998
SONATAM (tobacco and matches)	100	0	Monopoly; partial privatization planned
SOMACO-SA (canning plant)	20	40	Total privatization planned
MALITAS (travel agency)	28.3	0	Total privatization planned
SMPC (chemicals)	20	0	Total privatization planned
(c) Other State enterprises			
BNDA (Bank)	39.5	38	
BNDA (Bank)	39.5	38	
BCS-SA (Bank)	49.5	50	
BHM (Bank)	15	0	
UMPP (pharmaceuticals)	100	0	
CMDT (cotton)	60	40	Monopoly
ON (agricultural development)	100	0	
EDM (energy production and distribution)	97.2	2.8	Monopoly
SOMILO (gold mine exploitation)	51	49	
SOMISY-SA (gold mine exploitation)	20	80	
SEMOS-SA (gold mine exploitation)	18	72	

Continued - Table III.5

Enterprises	State share(%)	Foreign share(%)	Comments
SONAREM (mining prospecting)	100	0	
Air Mali (air transport)	10	0	
ADM (airport management)	100	0	Monopoly
COMANAV (river transport)	100	0	Monopoly
RCFM (rail transport)	100	0	Monopoly
SONAM (naval equipment)	12.8	0	
ACI-SA (real estate)	50	0	
OPAM (management of national security stocks)	100	0	
ORT (tourism and hotel management)	100	0	
ONP (National Post Office)	100	0	Monopoly
PPM (distribution of pharmaceuticals)	100	0	
SOTELMA (telecommunications)	100	0	Monopoly
PMU-MALI (betting & horse race organization)	75	0	
CESPA	100	0	
SLMTP (rental of public works equipment)	80	0	

Source: Malian authorities.

(ii) Subsidies and other forms of production assistance

65. The Malian State carries out research, agricultural extension, plant protection, infrastructure maintenance and training through research institutes, rural-development operations and agricultural development projects. The Rural Economy Institute specialises in agronomical, animal husbandry, forestry, environmental and hydro-biological research. The National Agricultural Extension Programme started in 1992. Extension activities are also carried out by NGOs, the Chamber of Agriculture and producers' organizations.

66. Agricultural inputs and equipment are prefinanced by the CMDT on concessionary terms (e.g. without interest) in the zones for which it is responsible. Through the Malian Agricultural Products Office (OPAM) the Malian State manages the cereals stock set up to ensure the country's food security.³⁶ The level of this stock is currently set at 35,000 tonnes of cereals. Production aid is provided for by the Investment Code and the Mining Code in the form of tax and/or customs concessions (Chapter II.4(i) and(ii)). Additional concessions are provided for by the Investment Code for regional development purposes (Chapter II.4(i)).

(iii) Price regulation and competition policy

67. Price freedom and freedom of competition has been introduced over the whole of Malian territory since 1992. However, the Council of Ministers can regulate prices by decree in economic sectors and in areas where price competition is limited, in crisis situations or in cases of excessive market increases.³⁷

68. Agreements which may result in the distortion of competition are prohibited. Abuses of dominant positions (including refusals to sell, tied sales, discriminatory selling conditions) are likewise prohibited. The seller is required to issue an invoice and to inform his customer about selling prices and terms. The practice of introductory prices and loss leaders is prohibited. All advertising containing allegations, suggestions or statements which are false or likely to mislead is prohibited.

69. The DNAE is responsible for preparing texts relating to competition policy and for ensuring that they are applied. The Government recently reorganized it as the National Directorate for Trade and Competition (DNCC).

³⁶The State also manages food aid.

³⁷Ordinance 92-021/P-CTSP instituting freedom of prices and competition.

(iv) Measures for the protection of intellectual property rights

70. In Mali, intellectual property rights are governed by the 1979 Bangui Agreement, the other signatories to which are Benin, Burkino Faso, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Djibouti, Gabon, Guinea, Guinea-Bissau, Mali, Mauritania, the Niger, Senegal and Togo. The main purpose of this Agreement is to promote and protect industrial property. It establishes a uniform system for the protection of intellectual property and, in particular, a single system for the filing of applications for patents, registration of utility models, trade marks, service marks and other intellectual property rights recognized by all the countries signatory to the Agreement.

71. The African Intellectual Property Organization (AIPO) is responsible for administering the agreement. The national liaison structure (SNL) of Mali for relations with the AIPO has been in operation since 30 September 1984, when the country acceded to the Agreement. This service, which has its office at the National Directorate for Industry, is responsible for centralizing and forwarding to the AIPO statements concerning innovations on the territory of Mali; it is also responsible for informing the public and raising its awareness. The SNL receives an annual appropriation from the AIPO, which issues industrial property titles. Applications for the protection of intellectual property rights are infrequent in Mali. Protection titles for patents lodged between 24 November 1958 and 30 September 1984 were issued by Orders of the Minister for Industry and published in the Official Gazette. To date, Mali has filed 35 applications with AIPO for patents of invention, two applicants for utility models and five applications for registration of industrial designs and models. According to SNL data, 21 trademark applications have been filed with the trade court registrar.

72. Work is in hand at the AIPO to align the current provisions on the obligations of the member States contained in the Agreement on Trade-Related Aspects of Intellectual Property Rights resulting from the Uruguay Round (TRIPS) (Box III.1). Mali is a member of the 1967 Stockholm Convention establishing the World Intellectual Property Organization (WIPO); it has not yet ratified the Agreement on Related Rights signed under WIPO auspices. It has also signed other related international agreements, in particular the Paris and Berne Conventions and the Patent Cooperation Treaty. Mali intends to sign the Nice, Lisbon, Strasbourg and Locarno agreements.

73. Copyright protection is provided by Law 84-26/AN-RM of 17 October 1984 which is currently being revised to bring it into line with the provisions of the TRIPS Agreement. According to the authorities, the revised law will be adopted before the end of 1998; among other things, it will protect copyright and related rights connected with data-processing software and data bases. The Malian Copyright Office (BMDA), a public professional institution, is responsible for defending the material and moral interests of creators and for informing the population, including the administration, about the subject and raising public awareness. The BMDA deplores the lack of interest shown by the Malian authorities, particularly the police, courts and customs administration, in the copyright question.

74. In Mali, counterfeiting mainly concerns medicinal products, audio cassettes, sports articles and leading brands. The BMDA estimates that 30 per cent of the audio cassettes sold in Mali in 1997 were pirated (compared with 80 per cent in 1990). The rise in the cost of imports following the devaluation of the CFA franc resulted in an increased consumption of counterfeit medicinal products. Aware of this situation, the authorities have decided not to levy import duties and taxes on essential medicines. Pirating and counterfeiting activities do not result in many convictions; those that do take place are token only.

Box III.1: The Bangui Agreement on Intellectual Property

Patent legislation - Patents may relate to any new invention involving an inventive step and industrially applicable; plant varieties, animal species and essentially biological processes for the breeding of plants or animals, other than micro-biological processes, cannot be patented. The protection of plant varieties is laid down in Article 27.3 (b) of the Agreement on Trade-Related Intellectual Property Rights (TRIPS).

Layout designs of integrated circuits are not currently protected. Patents are protected for a period of ten years which may be renewed twice for periods of five years. As renewal is not automatic, the period must be brought into conformity with the provisions of the TRIPS Agreement, which provides for a 20-year period for the protection of patents counted from the filing date. There are also divergences with respect to the granting of compulsory licences, which may be issued where the working of the patented invention is prevented by importation of the protected product. According to Article 27.1 of the TRIPS Agreement, patent rights may be enjoyed without discrimination as to the place of invention of the product. Article 58.2 of Annex I of the Bangui Agreement concerning counterfeiting when there is no local working is not consistent with the provisions of Article 27.1. The provisions regulating the granting of compulsory licences on public interest grounds must also be brought into conformity with Article 31 of the Agreement. Moreover, the Agreement stipulates that the judicial authorities shall have the authority to order the defendant to prove that the process to obtain an identical product is different from the patented process (Article 34). Failing such proof, the process is assumed to be counterfeited. This provision does not appear in the Bangui Agreement.

Legislation with respect to trademarks - Trademarks and service marks are protected for a period of ten years from the date of application for registration, renewable indefinitely. The TRIPS Agreement (Article 16.1) provides for protection against identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In the case of the use of an identical sign, a likelihood of confusion is presumed. The Agreement also provides for increased protection of well-known trademarks (Article 16.2) as well as protection against the use of identical or similar signs for products that are not similar. These protections are not explicitly provided for by the Bangui Agreement. According to Article 19.1 of the TRIPS Agreement, the registration of a trademark may be cancelled only after an uninterrupted period of non-use of at least three years. This period is five years under the Bangui Agreement (Article 22).

Copyright - Any original intellectual, artistic or scientific work and a title thereof enjoy an exclusive incorporeal property right enforceable against all persons. The protection applies in particular to books and other writings, lectures, addresses and other works of such nature, works created for the stage, musical works, pictorial works, architectural works, maps and graphic reproductions, cinematographic, broadcasting and audiovisual works, photographic works and translations and arrangements of the above-mentioned works as well as folklore products.

The TRIPS Agreement also provides protection for computer programs and compilations of data which by reason of the selection or arrangement of their contents constitute intellectual creations (Article 10). The Bangui Agreement contains no corresponding provision. The related rights stipulated in Article 14 of the TRIPS Agreement, such as the protection of performers, producers of phonograms (sound recordings) and broadcasting organizations, do not appear in the Bangui Agreement either.

Industrial designs and other forms of intellectual property - The creator of any industrial design has the exclusive right to its exploitation and sale under the Bangui Agreement. The duration of the protection conferred by a certificate of registration for an industrial design expires five years after the deposit of the application for registration, but the registration may be renewed twice. The TRIPS Agreement (Article 26.1) grants broader rights, in particular with respect to imports. The Bangui Agreement provides for the registration of trade names for a renewable period of ten years from the date of filing. Only registered names can be the subject of criminal penalties. Appellations of origin are protected if they are registered by the AIPO or if a registration effect results from an international convention to which Mali is a party.

Source: WTO (1997)