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Committee on Customs Valuation

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**NOTIFICATION UNDER ARTICLE 22 OF THE AGREEMENT ON
IMPLEMENTATION OF ARTICLE VII OF THE GENERAL
AGREEMENT ON TARIFFS AND TRADE 1994**

MALI

The following communication, dated 14 January 2013, is being circulated at the request of the delegation of the Republic of Mali.

In accordance with notification requirements for WTO Members, most notably those laid down in Articles 20.1 and 22.1 of the Agreement on Implementation of Article VII of the GATT 1994, I have pleasure in attaching hereto the Republic of Mali's notifications under the Customs Valuation Agreement.

Please find attached, for the purposes of notification, copies of the following texts from the Republic of Mali:

- Regulations on customs valuation in Member countries of the West African Economic and Monetary Union (WAEMU) and the Annex containing interpretative notes thereto;
- Order No. 02 02589/MEF-SG of 31 December 2002 establishing procedures for determining the customs value of imported goods and the Annex thereto containing interpretative notes to Articles 3-6, 8-11 and 13;
- Order No. 09-1030/MEF-SG of 5 May 2009 establishing the reference values serving as the basis for the assessment of customs duties and taxes on certain products.

By applying these texts since 1 October 2003, Mali has implemented the WTO Customs Valuation Agreement.

REGULATION No. 05/99/CM/UEMOA ON CUSTOMS VALUATION

**THE COUNCIL OF MINISTERS OF THE WEST AFRICAN ECONOMIC
AND MONETARY UNION (WAEMU)**

Having regard to the WAEMU Treaty, more particularly Articles 4, 76 and 82 thereof;

Having regard to Regulation No. 02/97/CM/UEMOA of 28 November 1997 adopting the Common External Tariff of the West African Economic and Monetary Union (WAEMU);

Seeking to promote and expedite the establishment of the customs union between the WAEMU member States;

Wishing to implement the related measures concerning the Common External Tariff (CET);

Considering the importance that the WAEMU attaches to developing its trade, both internal and external;

Considering the need to guarantee both to customs administrations and to economic operators that equitable, uniform and neutral customs valuation rules consistent with commercial practices will apply;

On the proposal of the Commission;

Having regard to the Opinion dated 19 March 1999 of the Statutory Committee of Experts.

Issues the Present Regulation

TITLE ONE

Article 1

1. In this Regulation:

- (a) "customs value of imported goods" means the value of goods for the purposes of levying duties and taxes under the Common External Tariff;
- (b) "produced" includes grown, manufactured and mined;
- (c) "identical goods" means goods which are the same in all respects, including physical characteristics, quality and reputation. Minor differences in appearance would not preclude goods otherwise conforming to the definition from being regarded as identical;
- (d) "similar goods" means goods which, although not alike in all respects, have like characteristics and like component materials which enable them to perform the same functions and to be commercially interchangeable. The quality of the goods, their reputation and the existence of a trademark are among the factors to be considered in determining whether goods are similar;
- (e) the terms "identical goods" and "similar goods" do not include, as the case may be, goods which incorporate or reflect engineering, development, artwork, design work, and plans and sketches for which no adjustment has been made under paragraph 1(b)(iv) of Article 4 because such elements were undertaken in the Union;
- (f) goods shall not be regarded as "identical goods" or "similar goods" unless they were produced in the same country as the goods being valued;
- (g) goods produced by a different person shall be taken into account only when there are no identical goods or similar goods, as the case may be, produced by the same person as the goods being valued;
- (h) "goods of the same class or kind" means goods which fall within a group or range of goods produced by a particular industry or industry sector, and includes identical or similar goods;
- (i) "agreement" means the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994.

2. For the purposes of this Regulation, persons shall be deemed to be related only if:
 - (a) they are officers or directors of one another's businesses;
 - (b) they are legally recognized partners in business;
 - (c) they are employer and employee;
 - (d) any person directly or indirectly owns, controls or holds 5% or more of the outstanding voting stock or shares of both of them;
 - (e) one of them directly or indirectly controls the other;
 - (f) both of them are directly or indirectly controlled by a third person;
 - (g) together they directly or indirectly control a third person; or
 - (h) they are members of the same family.
3. Persons who are associated in business with one another in that one is the sole agent, sole distributor or sole concessionaire, however described, of the other shall be deemed to be related for the purposes of this Regulation if they fall within the criteria of paragraph 2.
4. In this Regulation, "persons" applies, where appropriate, to a legal person.

Article 2

1. How the customs value of imported goods is to be determined forms the subject of Articles 3 and 5 to 9 of this Regulation. The methods of valuation are set out in sequential order of application. The primary method of determining customs value is defined in Article 3 below and imported goods are to be valued in accordance with the provisions of that Article, whenever the conditions prescribed therein are fulfilled.
2. Where the customs value cannot be determined under the provisions of Article 3, it is to be determined by proceeding sequentially through the succeeding Articles referred to in paragraph 1 to the first such Article under which the customs value can be determined. Except as provided for in Article 7, it is only when the customs value cannot be determined by applying the provisions of a particular Article that the provisions of the next Article in the sequence can be used.
3. If the importer does not request that the order of Articles 8 and 9 be reversed, the normal order of the sequence is to be followed. If a request is made but it then proves impossible to determine the customs value by applying the provisions of Article 9, the customs value is to be determined by applying the provisions of Article 8, if it can be so determined.
4. Where the customs value cannot be determined under the provisions of Articles 3 and 5 to 9, it is to be determined under the provisions of Article 10.

Article 3

1. The customs value of imported goods shall be the transaction value, that is, the price actually paid or payable for the goods when sold for export to the Union, adjusted in accordance with the provisions of Article 4, provided:
 - (a) that there are no restrictions as to the disposal or use of the goods by the buyer other than restrictions which:
 - (i) are imposed or required by the laws and regulations of the public authorities of the Union;
 - (ii) limit the geographical area in which the goods may be resold; or
 - (iii) do not substantially affect the value of the goods.
 - (b) that the sale or price is not subject to some condition or consideration for which a value cannot be determined with respect to the goods being valued;
 - (c) that no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of Article 4; and

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- (d) that the buyer and seller are not related, or where the buyer and seller are related, that the transaction value is acceptable for customs purposes under the provisions of paragraph 2.
2. (a) In determining whether the transaction value is acceptable for the purposes of paragraph 1, the fact that the buyer and the seller are related within the meaning of Article 1 shall not in itself be grounds for regarding the transaction value as unacceptable. In such case the circumstances surrounding the sale shall be examined and the transaction value shall be accepted provided that the relationship did not influence the price. If, in the light of information provided by the importer or otherwise, the customs administration has grounds for considering that the relationship influenced the price, it shall communicate its grounds to the importer and the importer shall be given a reasonable opportunity to respond. If the importer so requests, the communication of the grounds shall be in writing.
- (b) In a sale between related persons, the transaction value shall be accepted and the goods valued in accordance with the provisions of paragraph 1 whenever the importer demonstrates that such value closely approximates to one of the following occurring at or about the same time:
- (i) the transaction value in sales to unrelated buyers of identical or similar goods for export to the Union;
 - (ii) the customs value of identical or similar goods as determined under the provisions of Article 8;
 - (iii) the customs value of identical or similar goods as determined under the provisions of Article 9.

In applying the foregoing tests, due account shall be taken of demonstrated differences in commercial levels, quantity levels, the elements enumerated in Article 4 and costs incurred by the seller in sales in which the seller and the buyer are not related, that are not incurred by the seller in sales in which the seller and the buyer are related.

- (c) The tests set forth in paragraph 2(b) are to be used at the initiative of the importer and only for comparison purposes. Substitute values may not be established under the provisions of paragraph 2(b).

Article 4

1. In determining the customs value under the provisions of Article 3, there shall be added to the price actually paid or payable for the imported goods:

- (a) the following, to the extent that they are incurred by the buyer but are not included in the price actually paid or payable for the goods:
- (i) commissions and brokerage, except buying commissions;
 - (ii) the cost of containers which are treated as being one for customs purposes with the goods in question;
 - (iii) the cost of packing, whether for labour or materials;
- (b) the value, apportioned as appropriate, of the following goods and services where supplied directly or indirectly by the buyer free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods, to the extent that such value has not been included in the price actually paid or payable:
- (i) materials, components, parts and similar items incorporated in the imported goods;
 - (ii) tools, dies, moulds and similar items used in the production of imported goods;
 - (iii) materials consumed in the production of the imported goods;
 - (iv) engineering, development, artwork, design work, and plans and sketches undertaken elsewhere than in the Union and necessary for the production of the imported goods;

- (c) royalties and licence fees related to the goods being valued that the buyer must pay, either directly or indirectly, as a condition of sale of the goods being valued, to the extent that such royalties and fees are not included in the price actually paid or payable;
- (d) the value of any part of the proceeds of any subsequent resale, disposal or use of the imported goods that accrues directly or indirectly to the seller;
- (e) the cost of transport of the imported goods to the port or place of importation;
- (f) loading, unloading and handling charges associated with the transport of the imported goods to the port or place of importation; and
- (g) the cost of insurance.

2. Additions to the price actually paid or payable shall be made under this Article only on the basis of objective and quantifiable data.

3. No additions shall be made to the price actually paid or payable in determining the customs value except as provided for in this Article.

Article 5

- 1. (a) If the customs value of the imported goods cannot be determined under the provisions of Article 3, the customs value shall be the transaction value of identical goods sold for export to the Union and exported at or about the same time as the goods being valued.
- (b) In applying this Article, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of identical goods sold at a different commercial level and/or in different quantities adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. The transaction value of identical goods shall be adjusted to take account of significant differences in costs and charges, referred to in Article 4, paragraph 1(e), (f) and (g), between the imported goods and the identical goods in question arising from differences in distances and modes of transport.

3. If, in applying this Article, more than one transaction value of identical goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

Article 6

- 1. (a) If the customs value of the imported goods cannot be determined under the provisions of Articles 3 and 5, the customs value shall be the transaction value of similar goods sold for export to the Union and exported at or about the same time as the goods being valued.
- (b) In applying this Article, the transaction value of similar goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the customs value. Where no such sale is found, the transaction value of similar goods sold at a different commercial level and/or in different quantities adjusted to take account of differences attributable to commercial level and/or to quantity, shall be used, provided that such adjustments can be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustment, whether the adjustment leads to an increase or a decrease in the value.

2. The transaction value of similar goods shall be adjusted to take account of significant differences in costs and charges, referred to in Article 4, paragraph 1(e), (f) and (g), between the imported goods and the similar goods in question arising from differences in distances and modes of transport.

3. If, in applying this Article, more than one transaction value of similar goods is found, the lowest such value shall be used to determine the customs value of the imported goods.

Article 7

If the customs value of the imported goods cannot be determined under the provisions of Articles 3, 5 and 6, the customs value shall be determined under the provisions of Article 8 or, when the customs value cannot be determined under that Article, under the provisions of Article 9 except that, at the request of the importer, the order of application of Articles 8 and 9 shall be reversed, subject to acceptance by the customs authorities concerned.

Article 8

1. (a) If the imported goods or identical or similar imported goods are sold in the Union in the condition as imported, the customs value of the imported goods under the provisions of this Article shall be based on the unit price at which the imported goods or identical or similar imported goods are so sold in the greatest aggregate quantity, at or about the time of the importation of the goods being valued, to persons who are not related to the persons from whom they buy such goods, subject to deductions for the following:

- (i) either the commissions usually paid or agreed to be paid or the additions usually made for profit and general expenses in connection with sales in such country of imported goods of the same class or kind;
- (ii) the usual costs of transport and insurance and associated costs incurred within the Union;
- (iii) where appropriate, the costs and charges referred to in paragraph 1(e), (f) and (g) of Article 4; and
- (iv) the customs duties and other national taxes payable in the Union by reason of the importation or sale of the goods.

(b) If neither the imported goods nor identical nor similar imported goods are sold at or about the time of importation of the goods being valued, the customs value shall, subject otherwise to the provisions of paragraph 1(a), be based on the unit price at which the imported goods or identical or similar imported goods are sold in the Union in the condition as imported at the earliest date after the importation of the goods being valued but before the expiry of 90 days after such importation.

2. If neither the imported goods nor identical nor similar imported goods are sold in the Union in the condition as imported, then, if the importer so requests, the customs value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons in the Union who are not related to the persons from whom they buy such goods, due allowance being made for the value added by such processing and the deductions provided for in paragraph 1(a) of this Article.

Article 9

1. The customs value of imported goods under the provisions of this Article shall be based on a computed value. Computed value shall consist of the sum of:

- (a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;
- (b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the Union;
- (c) the cost or value of the elements listed in paragraph 1(e), (f) and (g) of Article 4.

2. A member State may not require or compel any person not resident in the Union to produce for examination, or to allow access to, any account or other record for the purposes of determining a computed value. However, information supplied by the producer of the goods for the purposes of determining the customs value under the provisions of this Article may be verified in a non-member State of the Union by the authorities of a member State with the agreement of the producer and provided they give sufficient advance notice to the government of the country in question and the latter does not object to the investigation.

Article 10

1. If the customs value of the imported goods cannot be determined under the provisions of Articles 3 and 5 to 9, the customs value shall be determined using reasonable means consistent with the principles and general provisions of this Regulation and Article VII of GATT 1994 and on the basis of data available in the Union.

2. No customs value shall be determined under the provisions of this Article on the basis of:

- (a) the selling price in the Union of goods produced in the Union;
- (b) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (c) the price of goods on the domestic market of the country of exportation;
- (d) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of Article 9;
- (e) the price of the goods for export to a country that is not a member of the Union;
- (f) minimum customs values; or
- (g) arbitrary or fictitious values.

3. If the importer so requests, the importer shall be informed in writing of the customs value determined under the provisions of this Article and the method used to determine such values.

Article 11

Where the conversion of currency is necessary for the determination of the customs value of imported goods, the conversion rate to be used shall be the one duly published by the Central Bank of West African States (BCEAO) on the date on which the customs declaration is registered.

Article 12

All information which is by nature confidential or which is provided on a confidential basis for the purposes of customs valuation shall be treated as strictly confidential by the authorities concerned which shall not disclose it without the specific permission of the person or government providing such information, except to the extent that it may be required to be disclosed in the context of judicial proceedings.

Article 13

1. In the event of a dispute concerning the determination of customs value, the importer or any other person liable to pay duties under the Common External Tariff shall have the right of appeal, without any penalty.

2. The initial appeal may be to the customs administration.

3. Notice of the decision by the administration shall be made to the appellant and the grounds shall be set down in writing. The appellant shall also be informed of any rights of further appeal.

4. If the dispute is brought before a judicial body, the rules of procedure in the courts shall be those in force in each member State.

Article 14

If, in the course of determining the customs value of imported goods, it becomes necessary to delay the final determination of such customs value, the importer of the goods shall nevertheless be able to withdraw them from customs if, where so required, the importer provides sufficient guarantee in the form of a surety, a deposit or some other appropriate instrument, covering the ultimate payment of customs duties for which the goods may be liable.

Article 15

Upon written request, the importer shall have the right to an explanation in writing from the customs authorities of how the customs value of the imported goods was determined.

Article 16

A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, may be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustments, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only identical imported goods for which a transaction value exists involved a sale of 500 units, and it is recognized that the seller grants quantity discounts, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of Article 5 is not appropriate.

Note to Article 6

1. In applying Article 6, the customs authorities shall, wherever possible, use a sale of similar goods at the same commercial level and in substantially the same quantities as the goods being valued. Where no such sale is found, a sale of similar goods that takes place under any one of the following three conditions may be used:

- (a) a sale at the same commercial level but in different quantities;
- (b) a sale at a different commercial level but in substantially the same quantities; or
- (c) a sale at a different commercial level and in different quantities.

2. Where a sale under any one of these three conditions is found, adjustments will then be made, as the case may be, for:

- (a) quantity factors only;
- (b) commercial level factors only; or
- (c) both commercial level and quantity factors.

3. The expression "and/or" allows the flexibility to use the sales and to make the necessary adjustments in any one of the three conditions described above.

4. For the purposes of Article 6, the transaction value of similar imported goods means a customs value, adjusted as provided for in paragraphs 1(b) and 2, which has already been accepted under Article 3.

5. A condition for adjustment because of different commercial levels or different quantities is that such adjustment, whether it leads to an increase or a decrease in the value, may be made only on the basis of demonstrated evidence that clearly establishes the reasonableness and accuracy of the adjustment, e.g. valid price lists containing prices referring to different levels or different quantities. As an example of this, if the imported goods being valued consist of a shipment of 10 units and the only similar imported goods for which a transaction value exists involved a sale of 500 units, the required adjustment may be accomplished by resorting to the seller's price list and using that price applicable to a sale of 10 units. This does not require

that a sale had to have been made in quantities of 10 as long as the price list has been established as being bona fide through sales at other quantities. In the absence of such an objective measure, however, the determination of a customs value under the provisions of Article 6 is not appropriate.

Note to Article 8

1. The term "unit price at which ... goods are sold in the greatest aggregate quantity" means the price at which the greatest number of units is sold in sales to persons who are not related to the persons from whom they buy such goods at the first commercial level after importation at which such sales take place.

2. As an example of this, goods are sold from a price list which grants favourable unit prices for purchases made in larger quantities.

Sale quantity	Unit price	Number of sales	Total quantity sold at each price
1-10 units	100	10 sales of 5 units 50 sales of 3 units	65
11-25 units	95	5 sales of 11 units	55
over 25 units	90	1 sale of 30 units 1 sale of 50 units	80

The greatest number of units sold at a particular price is 80; therefore, the unit price in the greatest aggregate quantity is 90.

3. As another example of this, two sales occur. In the first sale, 500 units are sold at a price of 95 currency units each. In the second sale, 400 units are sold at a price of 90 currency units each. In this example, the greatest number of units sold at a particular price is 500; therefore, the unit price in the greatest aggregate quantity is 95.

4. A third example would be the following situation where various quantities are sold at various prices.

(a) Sales

Sale quantity	Unit price
40 units	100
30 units	90
15 units	100
50 units	95
25 units	105
35 units	90
5 units	100

(b) Totals

Total quantity sold	Unit price
65	90
50	95
60	100
25	105

In this example the greatest number of units sold at a particular price is 65; therefore, the unit price in the greatest aggregate quantity is 90.

5. Any sale in the Union, as described in paragraph 1 above, to a person who supplies directly or indirectly free of charge or at reduced cost for use in connection with the production and sale for export of the imported goods any of the elements specified in paragraph 1(b) of Article 4 should not be taken into account in establishing the unit price for the purposes of Article 8.

6. It should be noted that "profit and general expenses", referred to in paragraph 1 of Article 8, should be taken as a whole. The figure for the purposes of this deduction should be determined on the basis of information supplied by or on behalf of the importer unless the importer's figures are inconsistent with those obtained in sales in the Union of imported goods of the same class or kind.

Where the importer's figures are inconsistent with such figures, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the importer.

7. The "general expenses" include the direct and indirect costs of marketing the goods in question.

8. Taxes payable by reason of the sale of the goods for which a deduction is not made under the provisions of paragraph 1(a)(iv) of Article 8 shall be deducted under the provisions of paragraph 1(a)(i) of Article 8.

9. In determining either the commissions or the usual profits and general expenses under the provisions of paragraph 1 of Article 8, the question whether certain goods are "of the same class or kind" as other goods must be determined on a case-by-case basis by reference to the circumstances involved. Sales in the Union of the narrowest group or range of imported goods of the same class or kind, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of Article 8, goods of the same class or kind includes goods imported from the same country as the goods being valued as well as goods imported from other countries.

10. For the purposes of paragraph 1(b) of Article 8, the "earliest date" shall be the date by which sales of the imported goods or of identical or similar imported goods are made in sufficient quantity to establish the unit price.

11. Where the method in paragraph 2 of Article 8 is used, deductions made for the value added by further processing shall be based on objective and quantifiable data relating to the cost of such work. Accepted industry formulas, recipes, methods of construction and other industry practices would form the basis of the calculations.

12. It is recognized that the method of valuation provided for in paragraph 2 of Article 8 would normally not be applicable when, as a result of the further processing, the imported goods lose their identity. However, there can be instances where, although the identity of the imported goods is lost, the value added by the processing can be determined accurately without unreasonable difficulty.

On the other hand there can also be instances where the imported goods maintain their identity but form such a minor element in the goods sold in the Union that the use of this valuation method would be unjustified. In view of the above, each situation of this type must be considered on a case-by-case basis.

Note to Article 9

1. As a general rule, customs value is determined under this Regulation on the basis of information readily available in the Union. In order to determine a computed value, however, it may be necessary to examine the costs of producing the goods being valued and other information which has to be obtained from outside the Union. Furthermore, in most cases the producer of the goods will be outside the jurisdiction of the authorities of the member States. The use of the computed value method will generally be limited to those cases where the buyer and seller are related, and the producer is prepared to supply to the authorities of the Union the necessary costings and to provide facilities for any subsequent verification which may be necessary.

2. The "cost or value" referred to in paragraph 1(a) of Article 9 is to be determined on the basis of information relating to the production of the goods being valued, supplied by or on behalf of the producer. It is to be based upon the commercial accounts of the producer, provided that such accounts are consistent with the generally accepted accounting principles applied by the country where the goods are produced.

3. The "cost or value" shall include the cost of elements specified in paragraphs 1(a)(ii) and (iii) of Article 4. It shall also include the value, apportioned as appropriate under the provisions of the relevant note to Article 4, of any element specified in paragraph 1(b) of Article 4 which has been supplied directly or indirectly by the buyer for use in connection with the production of the imported goods. The value of the elements specified in paragraph 1(b)(iv) of Article 4 which are undertaken in the Union shall be included only to the extent that such elements are charged to the producer. It is to be understood that no cost or value of the elements referred to in this paragraph shall be counted twice in determining the computed value.

4. The "amount for profit and general expenses" referred to in paragraph 1(b) of Article 9 is to be determined on the basis of information supplied by or on behalf of the producer unless the producer's figures are inconsistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the Union.

5. It should be noted in this context that the "amount for profit and general expenses" has to be taken as a whole. It follows that if, in any particular case, the producer's profit figure is low and the producer's general expenses are high, the amount of the producer's profit and general expenses taken together may nevertheless be consistent with that usually reflected in sales of goods of the same class or kind. Such a situation might occur, for example, if a product were being launched in the Union and the producer accepted a nil or low profit to offset high general expenses associated with the launch.

Where the producer can demonstrate a low profit on sales of the imported goods because of particular commercial circumstances, the producer's actual profit figures should be taken into account provided that the producer has valid commercial reasons to justify them and the producer's pricing policy reflects usual pricing policies in the branch of industry concerned. Such a situation might occur, for example, where producers have been forced to lower prices temporarily because of an unforeseeable drop in demand, or where they sell goods to complement a range of goods being produced in the Union and accept a low profit to maintain competitiveness. Where the producer's own figures for profit and general expenses are not consistent with those usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to the Union, the amount for profit and general expenses may be based upon relevant information other than that supplied by or on behalf of the producer of the goods.

6. Where information other than that supplied by or on behalf of the producer is used for the purposes of determining a computed value, the authorities of the Union shall inform the importer, if the latter so requests, of the source of such information, the data used and the calculations based upon such data, subject to the provisions of Article 12.

7. The "general expenses" referred to in paragraph 1(b) of Article 9 cover the direct and indirect costs of producing and selling the goods for export which are not included under paragraph 1(a) of Article 9.

8. Whether certain goods are "of the same class or kind" as other goods must be determined on a case-by-case basis by reference to the circumstances involved. In determining the usual profits and general expenses under the provisions of Article 9, sales for export to the Union of the narrowest group or range of goods, which includes the goods being valued, for which the necessary information can be provided, should be examined. For the purposes of Article 9, "goods of the same class or kind" must be from the same country as the goods being valued.

Note to Article 10

1. Customs values determined under the provisions of Article 10 should, to the greatest extent possible, be based on previously determined customs values.

2. The methods of valuation to be employed under Article 10 should be those laid down in Articles 3 and 5 to 9 inclusive, but a reasonable flexibility in the application of such methods would be in conformity with the aims and provisions of Article 10.

3. Some examples of reasonable flexibility are as follows:
- (a) Identical goods - the requirement that the identical goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; identical imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of identical imported goods already determined under the provisions of Articles 8 and 9 could be used.
 - (b) Similar goods - the requirement that the similar goods should be exported at or about the same time as the goods being valued could be flexibly interpreted; similar imported goods produced in a country other than the country of exportation of the goods being valued could be the basis for customs valuation; customs values of similar imported goods already determined under the provisions of Articles 8 and 9 could be used.
 - (c) Deductive method - the requirement that the goods shall have been sold in the "condition as imported", in paragraph 1(a) of Article 8, could be flexibly interpreted; the "90 days" requirement could be administered flexibly.

Note to Article 11

For the purposes of Article 11, the "time of importation" is the time when the customs declaration is registered.

Note to Article 13

1. Article 13 provides the importer with the right to appeal against a valuation determination made by the customs administration for the goods being valued. Appeal may first be to a higher level in the customs administration, but the importer shall have the right in the final instance to appeal to the judiciary.
2. "Without penalty" means that the importer shall not be subject to a fine or threat of fine merely because the importer chose to exercise the right of appeal. Payment of normal court costs and lawyers' fees shall not be considered to be a fine.
3. However, nothing in Article 13 shall prevent a member State from requiring full payment of assessed customs duties prior to an appeal.

MINISTRY OF THE ECONOMY
AND FINANCE

GENERAL SECRETARIAT

REPUBLIC OF MALI
ONE PEOPLE-ONE GOAL-ONE FAITH

ORDER NO. 09 1030/MEF.SG of 5 May 2009

Establishing reference values serving as a basis for the assessment
of customs duties and taxes on certain products.

THE MINISTER OF THE ECONOMY AND FINANCE

Having regard to the Constitution;

Having regard to Law No. 01-075 of 18 July 2001 on the Customs Code;

Having regard to Law No. 92-002 of 27 August 1992 on the Commercial Code of the
Republic of Mali, amended by Law No. 01-042 of 7 June 2001;

Having regard to Decree No. 00-505/P-RM of 16 October 2000 regulating external trade;

Having regard to Regulation No. 02/97/CM/UEMOA of 28 November 1997, adopting the
WAEMU Common External Tariff;

Having regard to Regulation No. 04/99/CM/UEMOA of 25 March 1999, establishing a system for
the determination of customs value in WAEMU, known as the reference value system;

Having regard to Decree No. 09-157/PRM of 9 April 2009 appointing the members
of the Government;

ORDERS:

Article 1: The reference values serving as a basis for the assessment of customs duties and taxes
are fixed in accordance with the Annex to this Order.

Article 2: The reference value is a minimum value applicable to the products listed in the Annex
to this Order and not originating in the West African Economic and Monetary Union (WAEMU).
It may be revised every six (06) months.

Article 3: This Order rescinds any earlier incompatible provisions, more particularly those
of Order No. 08-181/MF-SG of 28 January 2008.

Article 4: This Order, which shall take effect as from the date of signature, shall be registered,
published and communicated wherever necessary.

Bamako, 5 May 2009

Copies: THE MINISTER OF THE ECONOMY AND FINANCE

- Original
- PRM-SGG-AN-CS-CESC-CC-HCCT
- Prime Minister's office, all ministerial offices
- All Governorates
- All General Directorates and National Directorates/MEF
- Archives
- J.O.R.M

32 08 20 10 00 32 08 90 10 00	Auto varnish	CFAF 4,500	kg net
32 09 10 20 00 32 09 90 20 00	Water-based paint for buildings	CFAF 650	kg net
34 01 19 10 00	Ordinary soaps	CFAF 409	kg net
34 02 20 00 00	Washing preparations, put up for retail sale	CFAF 1,590	kg net
46 01 99 10 00	Mats and matting	CFAF 1,000	kg net
48 18 40 00 00	Sanitary towels	CFAF 450	Packet
48 18 90 00 00	Make-up remover pads	CFAF 460	Packet
48 20 20 00 00	Exercise books	CFAF 1,525	kg net
52 07 10 00 00	Cotton yarn	CFAF 2,800	kg net
52 08 51 90 00 52 08 52 90 00 52 09 21 00 00 to 52 09 49 00 00 52 09 51 90 00 52 10 21 00 00 to 52 10 49 00 00 52 10 51 90 00 52 11 21 00 00 to 52 11 49 00 00 52 11 51 90 00 52 12 12 00 00 to 52 12 15 00 00 52 12 22 00 00 to 52 12 25 00 00	Woven fabrics of cotton, bleached, dyed, printed, otherwise printed, or made from yarns of different colours	CFAF 1,300	kg net
52 08 29 10 00 52 08 39 10 00 52 09 29 10 00 52 09 39 10 00	Bazin, damask and similar woven fabrics	CFAF 4,400	kg. net
52 08 51 10 00 52 08 52 10 00 52 09 51 10 00 52 10 51 10 00 52 11 51 10 00	Printed woven fabrics (WAX)	CFAF 5,600	kg net
Chapters 54 and 55	Man-made fabrics	CFAF 3,300	kg net
56 01 10 00 00	Sanitary towels	CFAF 450	Packet
56 01 21 10 00	Cotton wool sticks	CFAF 270	Packet
56 01 29 00 00	Make-up remover pads	CFAF 460	Packet
63 05 32 00 00 63 05 33 00 00 63 05 39 00 00 63 05 90 00 00	Polypropylene woven sacks and bags	CFAF 1,868	kg net
69 07 10 00 00 69 07 90 00 00 69 08 10 00 00 69 08 90 00 00	Flags and tiles	CFAF 350 Premium grade CFAF 314 Other grades	kg net
76 15 19 60 00	Household articles of aluminium	CFAF 2,300	kg net
85 06 10 11 00	Primary cells R20	CFAF 114	Unit
85 06 10 90 00	Primary cells R6	CFAF 70	Unit
87 11 10 90 00	Motorcycles	CFAF 200,000	Unit
87 11 20 90 00	Other motorcycles of a cylinder capacity exceeding 50cc but not exceeding 250cc	CFAF 200,000	Unit
87 12 00 00 00	Adults' bicycles	CFAF 30,000	Unit