

II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

(1) OVERVIEW

1. Since 1998, when Mali first appeared before the Trade Policy Review Body (TPRB), the Executive has adopted a new consultation structure for economic coordination and development of the private sector. The strengthening of regional integration is deemed to be the only viable response to globalization that is within Mali's scope, and therefore the authorities have continued to liberalize trade policy within the framework of the WAEMU, which has introduced a Common External Tariff (CET) and has moved ahead with its free-trade area project. The integration process within the larger Economic Community of West African States (ECOWAS) was revived and accelerated when negotiations were initiated with the European Union (EU) with a view to concluding an Economic Partnership Agreement (EPA). The regional integration efforts have extended to other important areas.

2. Although Mali has received technical assistance since the first review, the authorities consider that its participation in the multilateral trading system remains unsatisfactory. In order to remedy this, Mali – a "least-developed country" (LDC) which could benefit from the support of its development partners under the Integrated Framework pilot programme – would like to see the implementation of a comprehensive and effective technical assistance programme (Annex II.1).

(2) GENERAL CONSTITUTIONAL, LEGAL AND INSTITUTIONAL FRAMEWORK

3. Few major changes have been made to the 1992 constitutional framework or to the general legal framework since 1998.¹ The President of Mali is the Head of State and is elected by universal suffrage for a five-year term renewable once only. The current President, Amadou Toumani Touré, was elected on 12 May 2002.

4. The President of the Republic appoints the Prime Minister and the other members of the Government on the latter's proposal. The present Government took office on 16 October 2002 and comprises 28 ministers.²

5. Parliament consists of a single chamber, the National Assembly, which exercises legislative power and controls the activities of the Government. The 147 deputies are elected by direct universal suffrage for five years and may be re-elected; the latest legislative elections were held in July 2002.

6. Laws adopted by the National Assembly are transmitted to the President, who enacts them, and they are then published in the *Journal Officiel*. In cases of emergency, the Government may enact measures normally coming within the scope of ordinary law by means of an "ordinance"; these must then be made the subject of a law; no such measure has been taken since the first trade policy review.

7. Judicial power is independent from the Executive and the Legislature. The Supreme Court is the highest jurisdiction in Mali. The Court of Appeal deals with appeals against rulings by courts of first instance, commercial courts and justices of the peace with extended jurisdiction in civil,

¹ The current Constitution was adopted by referendum on 12 January 1992 and enacted by Decree No. 92-073 P-CTSP of 25 February 1992. In 2000, the Government proposed the amendment of 50 clauses in the Constitution and these were adopted by the National Assembly. The referendum on their endorsement, which should have taken place in December 2001, has been postponed indefinitely.

² Decree No. 02-496/P-RM of 16 October 2002, as amended by Decree No. 02-505/P-RM of 11 November 2002.

commercial and criminal cases and by the labour courts in social cases.³ Mali also has a court of assize, administrative tribunals and courts for minors.

8. Reform of Mali's judicial system is a priority because malfunctioning has been noted as regards the state of the infrastructure, financial and human resources, training and documentation, and the very credibility of the judicial system.⁴ The plan of action for reform for the period 2000-2010 affects all levels. Nevertheless, an assessment made in 2003 highlighted a number of problems, including the financing of the programme, which amounts to CFAF 91 billion (US\$152 million), of which 10 per cent is to be covered by Mali and 90 per cent by the international community.

9. As regards consultation, it is the responsibility of the Higher Council of Local Authorities to consider and give a substantiated opinion on any local or regional development policy. Likewise, the Economic, Social and Cultural Council prepares for the President of the Republic, the Government and the National Assembly an annual report on expectations, needs and problems in civil society and makes proposals for reform. It is systematically consulted on any draft finance law, any tax provision and any economic, social or cultural project.

10. Since Mali first appeared before the TPRB, the Executive has been given a new three-tier consultation structure: the National Economic Coordination Committee, chaired by the Prime Minister, is composed of economic and financial directorates and joint-trade groups and associations; the Committee on the Development of the Private Sector, chaired by the Minister of Industry, groups the economic departments and joint-trade groups and makes proposals to enhance competitiveness in the economy and upgrade enterprises (technology, economic and trade information, training, infrastructure); the Ad Hoc Committee brings together groups of experts composed of academics, leading figures in enterprises and in government, whether Malian or foreign, in order to analyse problems that are hampering the development of the private sector and to propose solutions.⁵

(3) TRADE AND INVESTMENT POLICY

(i) Main features

11. The Government's trade and investment policy comes within the more general framework of the Government's General Policy Declaration presented to the National Assembly in December 2002, which takes its inspiration from the outline given by the President of the Republic in connection with of the Poverty Reduction Strategy Paper (PRSP), determining the medium-term objectives. The President's outline describes three major axes: "development of the rural sector, motor for the economy; investment in human resources; renewal of the political framework and governance".⁶

12. More specifically, the President's outline notes that industrialization is the weak link in Mali's development process. The private sector is the catalyst and, in order to support it, "the Government must pursue policies that create and preserve an environment that enables the private sector to affirm itself and become a major important employer, creator of wealth and motor of the economy".⁷ It is stated that the Government must adopt measures that encourage business and financial intermediation.

³ Law No. 88-39/AN-RM of 8 February 1988 on restructuring of the judiciary.

⁴ Malian authorities, "*Le PRODEJ de sa création à nos jours*".

⁵ "*Le Guide pratique de vos affaires*". Available at <http://www.izf.net/izf/Guide/Mali/Page3.htm> [27 October 2003].

⁶ Outline letter from the President of the Republic of 23 October 2002.

⁷ *Idem*.

13. With regard to trade, the outline emphasizes that consolidation of regional integration is the only viable response to globalization that is within Mali's scope. The Government commits itself, in particular, to strengthening the WAEMU and the ECOWAS with a view to African union (see below) and to the implementation of the New Partnership for Africa's Development (NEPAD). Strategic cooperation with Mali's development partners would help to mobilize essential resources. Mali hopes, in particular, for tangible results from its participation in the Integrated Framework's pilot programme, for which the preliminary diagnostic study phase ended in March 2004.

(ii) Institutional framework

14. The Minister of Industry and Trade (hereinafter the Minister of Trade) is the authority chiefly responsible for drafting, evaluating and implementing the Government's industrial and trade policy. Investment and promotion of the private sector come under the authority of the Minister of State in the Office of the Minister of the Economy and Finance. The latter has an important role to play in trade policy as it has responsibility for the General Customs Directorate and also for Mali's participation in the WAEMU and the franc zone. The Minister of Foreign Affairs and International Cooperation is responsible for Mali's participation in the African Union and the ACP-EU Agreement. The trade aspects of bilateral, plurilateral and multilateral agreements are dealt with by the Minister of Trade.

15. The National Directorate for Trade and Competition (DNCC) within the Ministry of Trade includes the secretariat of the National Commission on Follow-up to the WTO Agreements and Relations with the UNCTAD. This Commission was established in 1998 with the task, *inter alia*, of making notifications, taking action to harmonize national regulations with WTO commitments, following up the implementation of commitments by WTO Members *vis-à-vis* Mali, examining the impact of WTO provisions on Mali's economy, and ascertaining what assistance the WTO can provide to Mali.⁸ The ministries involved (for example, the Ministry of Finance), the Chamber of Commerce and Industry of Mali (CCIM) and joint-made groups or associations take part in the work of the National Commission.

16. The DNCC is also in charge of issuing the certificates of intent to import or export needed to import or export goods to or from Mali.⁹ As was the case when Mali first appeared before the TPRB, the Malian authorities explained that this requirement is for statistical reasons in order to monitor foreign trade trends within the framework of the Import and Export Programme (IMEX).

17. The Minister of Trade grants import licences for products subject to restrictive prohibitions (Chapter III(2)(vi)) and has authority in respect of contingency measures. As part of its responsibilities for industrial policy, the Ministry includes the Mali Industrial Property Centre (CEMAPI) and a Standardization and Quality Promotion Department. The Minister of State in the Office of the Minister of the Economy and Finance is responsible for the National Investment Promotion Centre (CNPI), which includes a single window for investment promotion (see below).

18. Since Mali first appeared before the TPRB, the role of the CCIM, which comes under the Minister of Trade, has changed. The CCIM may propose to the Government any measure intended to promote the development of commercial, industrial or services activities.¹⁰ It expresses its opinion on relevant issues. If there is disagreement with the Government, it may bring the matter to the attention of the National Assembly, as was the case in 2003 when the new Tax Code was discussed and adopted; the National Assembly may also on its own initiative request the CCIM for an opinion, as

⁸ Decision No. 10/MICA/SG of 27 March 1998.

⁹ WTO document G/LIC/N/3/MLI/2 of 27 August 2001.

¹⁰ Article 2 of Law No. 98-014 of 19 January 1998.

was done in 2003 when institutional and political texts were adopted. Since early 2004, the CCIM has had an Arbitration and Conciliation Centre, whose task is to settle disputes between Malian nationals and foreigners regarding trade, industry or the supply of services. The CCIM has operated an Enterprise Formalities Centre (CFE) since 1996.

(iii) Instruments

(a) International agreements and treaties

19. International agreements and treaties are ratified or approved by the President after the National Assembly has adopted a law authorizing ratification or approval.¹¹ It should be noted that it is only approval of a treaty or agreement that is the subject of a law and not the incorporation of its provisions.

20. Treaties or agreements that have been properly ratified (for example, the WTO Agreement) take precedence over laws once they have been published in the *Journal Officiel*, provided that the agreement or treaty is applied by the other party.¹² These acts take effect immediately as a law of the State in Mali and are automatically enforceable. For example, the WTO Agreement's provisions may be directly cited in legal proceedings, but this has not yet been the case.

(b) Trade in goods

21. Mali's policy on trade in goods basically consists of implementing the instruments of the WAEMU (see below), which lay down a regulatory framework for a series of measures that affect trade in goods both directly and indirectly. These include MFN customs duties under the CET, supplementary duties and the preferential regime, as well as safeguard or anti-dumping measures (Chapter III(2)). The scope and levels of excise duty and VAT are determined in Mali's General Tax Code, revised in 1999 in accordance with the regulatory framework established by the WAEMU.

22. The Commercial Code includes laws, decrees, ordinances and orders governing commercial activities on both domestic and foreign markets and investment in Mali.¹³ It also deals with company law and contract law; Mali has adopted the seven uniform acts of the Organization for the Harmonization of Business Law in Africa (OHADA), which has meant a quasi-general revision of commercial law texts since 1998. As regards the exercise of professions related to trade and production, the regime was amended in 2001 and now states that the exercise of some commercial activities may require approval, without any discrimination as to nationality, in the form of an order from the Minister of Trade or a decree adopted by the Council of Ministers.¹⁴ It is also specified that the exercise of some commercial activities is restricted to Malian nationals (for example, the import of arms and ammunition).

23. The regulatory framework for foreign trade was redefined in 2000.¹⁵ As was the case at the time of the first review, there are two regimes: one known as "liberalized"; and the other involving prohibitions (either total or restrictive). Products subject to the prohibition regime are defined in a

¹¹ Title XIV of the 1992 Constitution.

¹² Article 116 of the 1992 Constitution.

¹³ Law No. 92-002/AN-RM of 27 August 1992.

¹⁴ Law No. 01-042 of 7 June 2001.

¹⁵ Decree No. 00-505/P-RM of 16 October 2000.

ministerial order, whose contents have also been amended since 1998.¹⁶ The main changes concern the treatment given to transport vehicles and the special regime governing cattle and meat.

24. Mali's new Customs Code came into effect in 2002. It is consistent with the WAEMU Customs Code, Book I of which came into force on 1 January 2003 (Chapter III(2)(ii)).¹⁷ The implementing texts have not yet been signed. Mali has had an import inspection programme since 1989.¹⁸

25. The rules on government procurement are contained in the Government Procurement Code, which was revised in 1999 (Chapter III(4)(iv)).¹⁹ The rules on standardization remain unchanged (Chapter III(2)(vii)).²⁰

(c) Trade in services

26. Mali has a two-tier policy on trade in services: regulations at the supranational level as a result of regional and subregional integration; and national regulations, which encompass all the aspects not covered in the supranational regulations.

27. The banking services sector in Mali is subject to the WAEMU's common banking regulations and the prudential measures determined by the WAEMU's Banking Commission (Chapter IV(5)(iv)), which also monitors the sector. In 1998, the West African Regional Stock Market (BRVM) was also created within the WAMU.

28. Land and air transport are subject to common action within the WAEMU.²¹

29. At the national level, activities in many services sectors are the responsibility of public enterprises wholly or partly controlled by the State. This is the case in particular for transport, posts, telecommunications, culture, public health and education. Nevertheless, in many cases, privatization is planned: in 2003 and 2004 for the Mali Telecommunications Company (SOTELMA), the Malian Shipping Company (COMANAV), and the granting of a concession for the management of Mali Airports (ADM). Activities in other services sectors are provided by private operators, subject to the relevant commercial law and taxation provisions, etc.

(d) Protection of intellectual property

30. Mali is a member of the African Intellectual Property Organization (OAPI), established by the Bangui Agreement (1977), which was revised in 1999 to bring it into line with the TRIPS Agreement.²² Mali ratified the Bangui Agreement (1999) on 19 June 2000. The revised Agreement,

¹⁶ Order No. 01-2699/MICT-SG of 16 October 2001.

¹⁷ Law No. 01-075 of 18 July 2001 and Regulation No. 09/2001/CM/UEMOA.

¹⁸ Decree No. 89-196/P-RM of 15 June 1989.

¹⁹ Decree No. 95-401/P-RM of 10 November 1995, as amended by Decree No. 99-292/P-RM of 21 September 1999.

²⁰ Law No. 92-013/AN-RM of 17 September 1992 and its Implementing Decree No. 92-235/P-RM of 1 December 1992.

²¹ Directive No. 8/2002/CM/UEMOA on adoption of the common air transport programme of the member States of the WAEMU; and Regulation No.24/2002/CM/UEMOA determining the conditions for access to intra-community air links for WAEMU air transporters.

²² The OAPI also includes Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mauritania, Niger, Senegal and Togo. See the OAPI site: <http://www.oapi.wipo.net>.

together with Annexes I to VIII thereto, came into force on 28 February 2002 (Chapter III(4)(i))²³; the OAPI Administrative Council has deferred the entry into force of Annexes IX and X dealing, respectively, with lay-out designs (topographies) of integrated circuits and new plant varieties for reasons of technical competence and the lack of the necessary infrastructure.

31. For each of its member States, the OAPI serves as the national industrial property office and provides a common system of administrative procedures for registering rights. The CEMAPI acts as the national liaison structure for the purposes of the Bangui Agreement.²⁴

32. Mali's regime on copyright and related rights dates from 1984 and is currently being revised; this was also the case at the time of the 1998 review (Chapter III(4)(i)).²⁵ The draft revision is the subject of consultation among various partners (producers, performers, publishers) of the Malian Copyright Office (BUMDA), which is responsible for collective administration in Mali. The Malian authorities have indicated that the delay in revising the text is caused by the time taken to implement the WIPO's technical assistance programme.

33. The national authorities are responsible for protecting intellectual property rights. In addition to the CEMAPI (industrial property) and the BUMDA (artistic property), the customs authorities, the police, the judicial system, etc. have responsibilities in this respect.

(e) Investment

34. Mali's Investment Code has not changed since the first trade policy review and still grants tax concessions and guarantees for approved investment projects.²⁶ Enterprises of a purely commercial nature and petroleum and mining exploration and exploitation enterprises are excluded from approval under the Code; their activities are governed by the Mining Code²⁷ (Chapter IV(3)). Since 2002 tourism enterprises have been able to benefit from the Tourism and Hotel Investment Code.²⁸

35. The Investment Code provides for three regimes: regime A for small and medium enterprises (SMEs); regime B for large enterprises; and the free-zone regime. Enterprises are given exemption from tax on industrial and commercial profits, from the business tax for five and eight years under regimes A and B respectively, from the tax on income from property and the tax on mortmain assets, for new buildings, for five years for real estate development companies, and staggered payment, over three years, of registration fees for acts creating enterprises, with exemption from these if the capital is increased (regimes A and B).²⁹ Enterprises approved under regimes A, B or C may also obtain exemptions from or reductions of duties and taxes on imports of goods needed for their activities subject to submission of an application to the Ministry of Industry and Trade, which deals with the applications on a case-by-case basis.

²³ These cover patents, utility models, trademarks, industrial designs, trade names, geographical indications, literary and artistic property, and protection against unfair competition.

²⁴ Ordinance No. 02-029/P-RM of 28 February 2002.

²⁵ Law No. 84-26/AN-RM of 17 October 1984.

²⁶ Law No. 91-048/AN-RM of 26 February 1991.

²⁷ Ordinance No. 99-032 P-RM of 19 August 1999, ratified by Law No. 00-11 of 30 May 2000.

²⁸ Law No. 02-015/AN-RM of 3 June 2002.

²⁹ In addition to these concessions, enterprises setting up in areas that are not yet sufficiently industrialized are given exemption from taxes on industrial and commercial profits and the business tax for two additional years in zone II (regions of Koulikoro, Sikasso and Ségou) and four additional years in zone III (regions of Kayes, Mopti, Timbuktu, Gao and Kidal).

36. Enterprises mainly engaged in export (over 80 per cent of their production is exported) may be approved under the free-zone regime (free enterprises).³⁰ These enterprises are granted total exemption from duties and taxes (including import duties) related to their export activities for 30 years.³¹

37. Foreign investors are given the same guarantees as Malians. The most important ones are: (i) the right to transfer capital and income for investments financed by contributions in foreign currency in the currency transferred at the time of the investment; (ii) the right to settlement of disputes, initially amicable settlement or under bilateral agreements³² and thereafter by the International Centre for Settlement of Investment Disputes (ICSID) if the former are not successful. Mali has been a member of the Treaty establishing the Multilateral Investment Guarantee Agency (MIGA) since October 1990.

38. The formalities required in order to obtain approval under the Code have not changed since the first review.³³ An application for approval must be submitted to the single window of the CNPI and include a feasibility study. There is no minimum threshold for investment. The only essential provision is value added of 35 per cent or more. After the application for approval has been considered by an interministerial commission, approval is given in the form of an order by the Minister responsible for industry within a period of 30 days; there is no appeals procedure if approval is refused and the Malian authorities indicate that the single window only accepts complete applications; applications that do not meet this requirement are returned to the applicant. An authorization to engage in the activity is also required in many fields: industry, construction and public works, real estate, firms of architects, consulting engineers, culture, tourism, public transport of passengers or goods, and establishments classified as hazardous, unhealthy or difficult.

39. Since 2002, administrative formalities for setting up enterprises have been transferred to the CNPI's single window for simplification purposes.³⁴ Investors who file an application for approval are given a registration number that serves as an authorization to engage in the activity. The single window approved 695 applications under the Investment Code between 1998 and 2003 (Table II.1). The Malian authorities indicated that 70 per cent of the action plan for streamlining formalities, initiated in 1998, has been completed.

³⁰ Decree No. 95-423/P-RM of 6 December 1995. By the end of 1997, no free enterprise had set up in Mali.

³¹ Approval under the free-zone regime has been given to 14 enterprises, of which three are operating: *Société SADA-SA* (production of cotton wool) taken over by SATCOMA; West African Tannery (leather tanning); and *Société Nouvelles Tanneries du Mali* (N.T.N.) (leather tanning).

³² Germany (1977), Switzerland (1978) and Tunisia (1986).

³³ Decree No. 95-423/P-RM of 6 December 1995.

³⁴ Law No. 96-067 of 3 December 1996, as amended by Ordinance No.02-028/P-RM of 28 February 2002.

Table II.1
Approvals under the Investment Code and authorizations to engage in an activity issued by the single window, 1998-2003

| | 1998 | 1999 | 2000 | 2001 | 2002 | 2003 | Total |
|---|------|------|------|------|------|------|-------|
| Approvals under the Investment Code | 110 | 117 | 122 | 119 | 93 | 134 | 695 |
| Construction, public works and special works | 300 | 361 | 275 | 245 | 316 | 392 | 1 889 |
| Mapping and surveying | 14 | 5 | 5 | 2 | 4 | 8 | 38 |
| Consulting engineers | 17 | 18 | 34 | 13 | 23 | 26 | 131 |
| Architects | 5 | 11 | 1 | 4 | 3 | 3 | 27 |
| Real estate developers | 9 | 8 | 13 | 20 | 24 | 33 | 107 |
| Urbanists | | 7 | 6 | 1 | | 3 | 17 |
| Surveyors | | 18 | 9 | 4 | 2 | 1 | 34 |
| Tourism establishments | 33 | 69 | 64 | 50 | 28 | 30 | 274 |
| Travel agents | 8 | 7 | 15 | 16 | 18 | 9 | 73 |
| Producers of events | 1 | 1 | | | | | 2 |
| Establishments classified as hazardous, unhealthy or difficult | 14 | 16 | 45 | 25 | 39 | 40 | 179 |
| Public transport of passengers | | | | | | 3 | 3 |
| Authorizations to set up without benefits under the Investment Code | | | | | 14 | 5 | 19 |
| Total | 511 | 638 | 589 | 499 | 564 | 687 | 3,488 |

Source: Malian authorities.

(4) TRADE POLICY FRAMEWORK AGREEMENTS

(i) WTO

(a) Multilateral agreements

40. Mali became a WTO Member on 31 May 1995. It is recognized to be a “least developed country (LDC)”. Mali is not party to any plurilateral agreement and does not intend to become an observer to the WTO Plurilateral Agreement on Government Procurement.

41. During the Uruguay Round, Mali bound customs duties applicable to certain agricultural products at a ceiling of 60 per cent – except for the goods previously included in Schedule XCIV of the GATT 1947 – and those applicable to products in Chapters 44, 81 and 92 of the Harmonized System, while “other duties and taxes” on imports of these products were bound at 50 per cent. Mali also inherited the tariff bindings made by France on behalf of French West Africa (AOF) during the colonial era.³⁵ Consequently, almost 42 per cent of the lines in Mali’s tariff have been bound, but for 54.6 per cent of these the customs duty actually applied is above the bound level (Chapter III(2)(iv)(b)).

42. The Government of Mali submitted its tariff data for incorporation into the Integrated Database (IDB) in 1999 and 2003 for the purpose of the review of its trade policy.³⁶

43. Mali appears to have encountered some problems as regards updating its notifications to the WTO (Table II.2). According to the authorities, these are due, on the one hand, to lacunae in

³⁵ Benin (Dahomey), Burkina Faso (Upper Volta), Côte d’Ivoire, Guinea, Mali (French Sudan), Mauritania, Niger and Senegal.

³⁶ WTO document G/MA/IDB/2/Rev.17 of 14 October 2003.

compiling and processing information and, on the other, to the inadequate training of the officials responsible for drawing up the notifications.

Table II.2
WTO documents relevant to Mali, April 2004

| Agreement | WTO document | Content |
|---|--|--|
| Multilateral Agreements on trade in goods | | |
| GATT 1994 | Schedule XCIV - Mali of 15 April 1994 | Tariff concessions |
| Agreement on Implementation of Article VII of the GATT 1994 | WT/LET/78 of 26 April 1996 WT/LET/306 of 29 July 1999 | Implementation deferred Minimum values |
| Agreement on Implementation of Article VI of the GATT 1994 | G/ADP/N/78/Add.5 of 12 October 2001 G/ADP/N/MLI/1 of 3 August 2001 | Absence of measures Laws and regulations |
| Agreement on Preshipment Inspection | G/PSI/N/1/Add.7 of 24 February 1998 | Laws and regulations |
| Agreement on Subsidies and Countervailing Measures | G/SCM/N/71/MLI of 2 August 2001 G/SCM/N/68/Add.1/Rev.3 of 18 October 2002 | Absence of measures |
| Agreement on Trade-Related Investment Measures | G/TRIMS/N/1/MLI of 25 June 1997 G/TRIMS/N/2/Rev.9 of 28 September 2001 | Absence of measures Absence of measures |
| Agreement on Rules of Origin | G/RO/N/35 of 24 September 2001 | Preferential regime |
| Agreement on Import Licensing Procedures | G/LIC/N/3/MLI/1 of 10 June 1997 G/LIC/N/3/MLI/2 of 27 August 2001 | Laws and regulations Laws and regulations |
| General Agreement on Trade in Services | | |
| | GATS/SC/53 of 30 August 1995 | Schedule of specific commitments on services |
| | GATS/EL/53 of 30 August 1995 | List of Article II (MFN) exemptions |

Source: WTO Secretariat.

44. Mali also has problems in applying the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (Customs Valuation Agreement). At the time of the first review in 1998, the authorities had invoked the provisions on special and differential treatment in favour of developing countries to defer its implementation until 2000.³⁷ Mali then expressed a wish to maintain minimum values for a certain number of products on a transitional basis³⁸, but the matter was never actually followed up in the WTO Committee on Customs Valuation. The list of minimum values currently applicable in Mali covers at least 76 tariff headings, mostly fabrics (Chapter III(2)(iii)).

45. Mali's Schedule of Specific Commitments under the GATS (GATS/SC/53) concerns only tourism-related services (Chapter IV(5)(iii)); Mali did not take part in the negotiations on basic telecommunications services, which ended in 1997, or in those on financial services, which terminated in 1998. The final list of Article II (MFN) exemptions under the GATS (GATS/EL/53) concerns maritime transport.

46. Since 1995, Mali has applied the transitional provisions allowed under Article 66 of the TRIPS Agreement (which apply to LDCs) in order to defer full implementation of the Agreement

³⁷ WTO document WT/LET/78 of 26 April 1996.

³⁸ WTO document WT/LET/306 of 29 July 1999.

until 2006 (with the exception of Articles 3, 4 and 5). It has not yet notified the revised Bangui Agreement and Annexes I to VIII thereto, which entered into force on 28 February 2002.

(b) Participation in WTO activities

47. The member States of the WAEMU, including Mali, are gradually adopting a common trade policy (CTP), which they also intend to apply within the WTO. Mali therefore supports the request made by the WAEMU Commission to become an observer at the WTO. Senegal has notified the Treaty and subsequent instruments on behalf of the WAEMU States.³⁹ As far as the multilateral negotiations under the Doha Development Agenda are concerned, the member States of the WAEMU have adopted common positions on many issues⁴⁰, particularly with regard to the subsidies given by some WTO Members for cotton, which was the subject of a proposal at the Cancún Ministerial Conference.⁴¹ The WAEMU Commission is considering the possibility of drawing up a common list of WAEMU tariff bindings to replace the members' national lists.

48. Mali is eligible to participate in the WTO trade policy courses and has received technical assistance from the WTO. Other areas in which additional technical assistance is sought have been identified in order to draw up a targeted programme (Annex II.1).

(ii) Regional economic agreements

(a) African Union⁴²

49. The achievement of African unity is one of Mali's fundamental objectives.⁴³ Mali is a founding member of the African Union, which replaced the Organization of African Unity (OAU).⁴⁴ Ultimately, the African Union will be an economic and monetary union with the following institutions in addition to the Conference of Heads of State and Government and the Council of Ministers: the Peace and Security Council (protocol being ratified), the Commission (created in July 2003), the Pan-African Parliament (protocol being ratified), a central bank, a monetary fund, the African Investment Bank, the Court of Justice (statute prepared), the Economic, Social and Cultural Council (statute prepared), and technical commissions.

(b) Economic Community of West African States (ECOWAS)⁴⁵

50. Mali is a founding member of the ECOWAS, whose Treaty was revised in 1993 in order to revive the economic integration process.⁴⁶ Following this revision, the institutional framework of the ECOWAS provides for the following in addition to the Conference of Heads of State and Government and the Council of Ministers: the Parliament, the Economic and Social Council (under preparation),

³⁹ WTO documents WT/COMTD/N/11 of 3 February 2000, WT/COMTD/N/11/Add.1 of 2 March 2001, WT/COMTD/N/11/Add.2 of 22 August 2001, and WT/COMTD/N/11/Add.2/Corr.1 of 26 March 2002.

⁴⁰ Directive No. 06/2003/CM/UEMOA.

⁴¹ WTO document WT/L/539 of 29 August 2003.

⁴² <http://www.africa-union.org>.

⁴³ Article 117 of the 1992 Constitution.

⁴⁴ The Charter establishing the OAU was signed on 25 May 1963. The Constitutive Act of the African Union was adopted at the summit of the Organization of African Unity (OAU) in July 2000 in Lomé (Togo). The African Union, which has now replaced the OAU, was proclaimed on 11 July 2001 in Lusaka, Zambia, after ratification of the Constitutive Act by over 44 of the 53 member States of the OAU.

⁴⁵ <http://www.ecowas.int>.

⁴⁶ The Treaty establishing the ECOWAS was signed on 28 May 1975. ECOWAS currently comprises 15 countries: Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.

the Court of Justice, the Executive Secretariat, the Bank for Investment and Development, the Central Bank (West African Monetary Institute, predecessor of the Central Bank, created in 2001) and technical commissions.

51. Another objective of the 1993 revision of the Treaty was the establishment of a customs union in 2000, followed by the creation of an economic and monetary union in 2004. The timetable for the customs union has not been respected, even though a review of the “single trade liberalization scheme (TLS)” has been decided⁴⁷, providing for the gradual lifting of tariff barriers on industrial products originating in the ECOWAS.⁴⁸ The achievement of monetary union has been deferred until a later date.⁴⁹

52. In 2000, the Executive Secretariat of the ECOWAS noted that “... [t]he non-application of the trade liberalization scheme constitutes the most glaring failure for ECOWAS” and indicated that intra-community trade only accounted for 11 per cent of members’ total trade.⁵⁰ In order to turn the situation around, in 1999 the economic integration process was given renewed impetus.⁵¹ The progress made relates in particular to the establishment of a mechanism to compensate for the loss of customs revenue caused by the preferential regime⁵², harmonized with that of the WAEMU.⁵³ Less progress has been made in introducing the CET of the ECOWAS.⁵⁴ The new timetable for the TLS includes creation of a free-trade area as of 1 January 2004 and a customs union by 2007. The intra-community preferences granted by member States of the ECOWAS concern local products and traditional handicrafts, as well as the approved industrial products, in line with the model defined by the WAEMU (see below).

53. Together with the WAEMU Commission, the ECOWAS is involved in negotiations with the EU on the conclusion of an Economic Partnership Agreement (EPA) (see below).⁵⁵ The ECOWAS is also the focal point for the implementation of the New Partnership for Africa’s Development (NEPAD) project launched at the Lusaka summit in 2001.⁵⁶

⁴⁷ Decision A/DEC.6/7/92.

⁴⁸ In order to be eligible for preferential treatment, industrial products must be approved by the Executive Secretariat for inclusion in the regime. In all, 404 enterprises have been granted 1,074 approvals for some 1,500 products. The majority of these enterprises are in Nigeria (171), Ghana (113), and Côte d’Ivoire (44), because of their more highly developed industrial fabric. In Mali, only two enterprises have been approved under the preferential regime. According to the ECOWAS Executive Secretariat (2000a): “Eight countries [out of 15] have lifted tariff barriers in respect of unprocessed products under the TLS, namely, Benin, Burkina Faso, Côte d’Ivoire, Gambia, Ghana, Guinea, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo. However, only Benin has removed tariff barriers to trade in industrial products [from Ghana, Nigeria and Togo]”.

⁴⁹ The date of July 2005 has been determined by non-WAEMU countries for the achievement of their own monetary zone (ZMEA), which would eventually be linked with that of the WAEMU countries. The date of 2003 was not retained because of the poor performance recorded in comparison with the economic convergence criteria. See ECOWAS Executive Secretariat (2000b).

⁵⁰ Executive Secretariat of the ECOWAS (2000a).

⁵¹ ECOWAS press release No. 46/1999. See also Executive Secretariat of the ECOWAS (2000b), Chapter II.

⁵² Protocol A/P2/1/03. The fund’s resources consist of a community solidarity levy (0.5 per cent of the value of imports from outside the ECOWAS) payable to the ECOWAS by all West African countries since 1 July 2003.

⁵³ Protocol on the definition of the concept of “products of origin”, adopted by the WAEMU on 5 April 2002. Harmonization also concerns the definition of value added, approval procedures and related documents (for example, certificates of origin).

⁵⁴ Executive Secretariat of the ECOWAS (2000b).

⁵⁵ Decision A/Dec.11/12/01.

⁵⁶ African Union (2001).

54. In cooperation with donors, the ECOWAS has launched many projects to complete the communications, energy, transport and tourism networks in the subregion and make them inter-operational. The main achievements are the trans-Saharan and trans-coastal common networks and standards for classifying tourist accommodation.

55. The ECOWAS is also responsible for settling disputes in the subregion (for example, in Côte d'Ivoire, Liberia and Guinea-Bissau).

(c) West African Economic and Monetary Union (WAEMU)⁵⁷

56. Mali is a founding member of the WAEMU⁵⁸, whose institutions consist of the Conference of Heads of State and Government, the Parliament, the Council of Ministers, the Commission, the Court of Justice and the Court of Audit. The member States of the WAEMU also belong to the ECOWAS (see above), whose geographical scope is broader.

57. The WAEMU complements the WAMU by an economic integration component and incorporates its provisions (Chapter I(3)(ii)). The main objectives of the WAEMU are: (i) convergence of the economic performance and policies of member States through the establishment of a multilateral monitoring procedure⁵⁹; (ii) creation of a common market; (iii) coordination of sectoral policies; and (iv) to the extent necessary for the proper operation of the common market, harmonization of member States' legislation, including the regime on duties and taxes on goods.

58. The WAEMU has gradually liberalized trade (Box II.1). The preferential regime allows local products and traditional handicrafts originating in member States to enter free of duty (since 1 July 1996), as well as approved industrial products originating in the Union (since 1 January 2000). Products not originating in the Union are subject to the CET, introduced on 1 January 2000, on the basis of a common tariff and statistical nomenclature and a common regime for customs valuation of goods. Supplementary duties are also imposed on a permanent basis: a statistical fee (RS) and a community solidarity levy (PCS). The PCS finances the fund to offset the loss of customs revenue caused by application of the preferential regime, which will end as of 2006. In addition, imported goods may also be subject to the special import tax (TCI) or the degressive protection tax (TDP); the TDP should have expired at the end of 2002 but was renewed in 2003 and then again until 2005.⁶⁰ Mali applies a TCI of 55 per cent on sugar, but has not applied the TDP. The harmonization of domestic tax legislation in member States also applies to indirect taxes.

⁵⁷ <http://www.uemoa.int>.

⁵⁸ The WAEMU Treaty was signed on 11 January 1994 by Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal, and Togo; Guinea-Bissau acceded to the Treaty on 1 January 1997. The Treaty and certain projects were notified to the WTO under the Enabling Clause (see Table II.1).

⁵⁹ Additional Act No. 4/99.

⁶⁰ Regulation No. 19/2003/CM/UEMOA.

Box II.1: Main trade-related instruments of the WAEMU

Additional Act No. 4/96 establishing a preferential tariff regime for trade within the WAEMU;
Additional Act No. 4/98 establishing a common preferential tax on industrial products of origin;
Regulation No. 2/97/CM/UEMOA on adoption of the WAEMU's CET;
Directive No. 2/98/CM/UEMOA on harmonization of member States' legislation on value added tax (VAT);
Directive No. 3/98/CM/UEMOA on harmonization of member States' legislation on excise duty;
Regulation No. 5/98/CM/UEMOA defining the list of categories of goods appearing in the WAEMU Tariff and Statistical Nomenclature, as amended;
Regulation No. 14/98/CM/UEMOA defining the conditions under which member States of the WAEMU are authorized to adopt safeguard measures;
Regulation No. 3/99/CM/UEMOA on adoption of the degressive protection tax (TDP) mechanism within the WAEMU, as amended;
Regulation No. 4/99/CM/UEMOA establishing a system of reference values;
Regulation No. 5/99/CM/UEMOA on customs valuation of goods;
Additional Act No. 6/99 establishing a financial compensation mechanism within the WAEMU;
Additional Protocol No. III/2001 establishing rules of origin for WAEMU products;
Directive No. 6/2001/CM/UEMOA on harmonization of taxation of petroleum products within the WAEMU;
Regulation No. 9/2001/CM/UEMOA on adoption of the WAEMU Customs Code (Book I: Organizational framework, customs procedures and regimes); and
Regulation No. 9/2003/CM/UEMOA on the Community Anti-dumping Code.

Source : www.uemoa.int [15 March 2004]

59. In addition to the CET, the WAEMU member States are gradually adopting a CTP vis-à-vis third countries and within the WTO (see above). Mali recognizes the WAEMU Commission's exclusive competence for negotiating trade agreements; the bilateral agreements signed by Mali will gradually be replaced by agreements concluded by the WAEMU. A non-preferential agreement on the development of trade and investment relations between the member States of the WAEMU and the United States of America was signed on 24 April 2002. Other agreements between the WAEMU and third countries are under preparation: Algeria, Egypt, Lebanon, Morocco and Tunisia. The WAEMU Commission is cooperating with the ECOWAS Executive Secretariat in the negotiations with the EU with a view to concluding an Economic Partnership Agreement (EPA) (see below).

60. With regard to the coordination of national sectoral policies, the WAEMU has adopted common policies in the following areas: agriculture⁶¹, energy⁶² and industry.⁶³ The operating procedures for the Union's agricultural policy (PAU) should be finalized soon. The protection granted to agricultural products by the CET, which is relatively higher than that granted for non-agricultural products, may be increased.

61. Regarding transport, which is a key aspect for the development of intra-community trade, a common strategy and a road infrastructure network within the WAEMU have been adopted and put before donors.⁶⁴ A common programme on the building of checkpoints on the borders between member States has been adopted and its implementation appears to be under way.⁶⁵

⁶¹ Additional Act No. 3/2001.

⁶² Additional Act No. 4/2001.

⁶³ Additional Act No. 5/1999.

⁶⁴ Decision No. 2/2001.

⁶⁵ Decision No. 8/2000.

62. The harmonization of domestic tax legislation in member States has also made progress as regards advances on tax on industrial and commercial profits (BIC), the legal, accounting and statistical framework for government finance, accounting legislation (SYSCOA) and the regional financial market. The WAEMU has recently introduced a common policy on competition, which came into effect on 1 January 2003, but is not applied in member States (Chapter III (4)(iv)). A draft "WAEMU Investment Charter" has not been adopted for lack of agreement on the concessions to be granted for approved projects.

(d) ACP-EU Partnership Agreement

63. Mali is one of the 77 ACP countries with which the EU has signed a Partnership Agreement, which provisionally entered into force on 1 March 2000.⁶⁶ Trade provisions are one of the mechanisms for cooperation between the ACP countries and the EU. The latter allows industrial products and processed agricultural products originating in 77 ACP countries to enter duty-free without reciprocity. Mali also benefits from the compensation granted under the COM-STABEX mechanism for cotton.

64. The WTO Members have granted the EU a waiver from its obligations under Article I.1 of the GATT 1994 (concerning MFN treatment) for the period 1 March 2000 to 31 December 2007, by which time new trading arrangements consistent with the WTO's rules must have been concluded.⁶⁷ Under the Cotonou Agreement, these arrangements will be in the form of an Economic Partnership Agreement between the EU and various regional groups.⁶⁸ The EU initiated the negotiations on 27 September 2002. The first phase involved all the ACP countries and the EU and dealt with horizontal issues of interest to all parties; the second phase began with the launching of negotiations with the Central African Economic and Monetary Community (CEMAC) on 4 October 2003 and with West African countries, represented by the ECOWAS, in collaboration with the WAEMU, on 6 October 2003.⁶⁹ The EU considers that the negotiations on the Economic Partnership Agreement will strengthen the regional integration process within the ECOWAS.

65. The EU supports the participation of West African countries through a €20 million capacity-building programme. The ECOWAS has also obtained from the European Development Fund (EDF) financing for studies to assess the impact of the Economic Partnership Agreement on the economies of member States. In this connection, one of the consequences of the creation of a free-trade area between the EU and West African countries at the conclusion of the transitional period – the year 2020 at the latest – will be the elimination of customs duties on products of EU origin covered by the EPA and the resulting loss of tax revenue. The member States of the ECOWAS have requested EU financing to cover this loss during a transitional period.⁷⁰ At the ECOWAS ministerial meeting held in

⁶⁶ The Agreement was signed on 23 June 2000 in Cotonou, Benin, and entered into force definitively on 1 April 2003 after ratification. The Agreement replaced the Lomé Convention, which had been in effect since 1975 and whose fourth extension expired at the end of February 2000.

⁶⁷ WTO document WT/MIN(01)/15 of 14 November 2001. The waiver granted by the WTO (WT/L/186), which extended the waiver under Article I (MFN) of the GATT for the Fourth Lomé Convention between the ACP countries and the EEC (GATT document L/7604), ended on 29 February 2000.

⁶⁸ According to the EU, the option of the generalized system of preferences (GSP) is not on the table. It should be noted that the revised GSP scheme currently in force includes the "Everything but Arms" initiative in favour of LDCs, which came into effect on 5 March 2001, and allows duty-free entry of all products except arms, with some exceptions (rice, bananas and sugar, to which transitional arrangements apply).

⁶⁹ Press release of the trade DG of the European Commission of 3 October 2003.

⁷⁰ Executive Secretariat of the ECOWAS (2000b).

Accra in April 2003, the ministers requested the EU to provide additional resources in order to allow the West African region to meet the cost of adjusting its economy.⁷¹

⁷¹ ECOWAS press release No. 73/2003 (23 July 2003) (in French only).

ANNEX II.1: TRADE-RELATED TECHNICAL ASSISTANCE

(1) OVERVIEW

1. Mali participates in the Integrated Framework (IF) process initiated in 1997. As originally envisaged in the IF, Mali has undertaken an assessment in order to determine its technical assistance needs and to be given an integrated response.¹ Although this process has yet not been fully completed, it has allowed certain areas for priority action to be identified and this has been used as the basis for activities by the WTO since the first review of Mali's trade policy.

2. The action being taken by the WTO or in which the WTO participates directly is as follows:

- Programming by the WTO of a certain number of activities in favour of Mali in 2004;
- Participation by Mali in Phase II of the JITAP (Joint Integrated Technical Assistance Programme/Programme Intégré Conjoint d'Assistance Technique), for which the implementing agencies are the International Trade Centre (ITC), the United Nations Conference on Trade and Development (UNCTAD) and the WTO;
- Participation by Mali in the redefined IF, for which the implementing agencies are the International Monetary Fund (IMF), the ITC, the UNCTAD, the United Nations Development Programme (UNDP), the World Bank and the WTO.

3. The development of international trade in Mali also receives support either at the national level or at the regional level (WAEMU and ECOWAS), from several development partners such as United Nations organizations (UNDP, Food and Agriculture Organization of the United Nations (FAO)), the World Bank in the context of the Poverty Reduction Strategy Paper (PRSP)², the European Union³, the *Agence intergouvernementale de la Francophonie* (the Intergovernmental Francophone Agency)⁴, the *Agence française de développement* (French Development Agency)⁵, and other bilateral partners. A number of activities are also implemented by non-governmental bodies (NGOs, charities).

¹ WTO documents WT/LDC/HL/12/Add.7 of 23 October 1997 and WT/COMTD/IF/7 of 12 December 1997.

² Three projects being implemented concern the award of government procurement contracts, combating corruption and enhancing the investment climate ("World Bank Group in Mali", available at <http://www.worldbank.org/ml/reports/index.html> [1 December 2003]). See also "Development debates", [on line]. Available at <http://www.worldbank.org/wbi/devdebates/AFRFR/reports.html> [1 December 2003]; and "West Africa – Regional integration assistance strategy", [on line]. Available at <http://www.worldbank.org/afr/ml/> [1 December 2003].

³ Commission of the European Union (2003); Commission of the European Union (2002).

⁴ "Programme de formation en négociation d'accords commerciaux et d'investissements internationaux" (Training programme for the negotiation of trade agreements and international investment); "Concertations économiques francophones" (Francophone economic consultations); "Appui technique aux PMA francophones" (Technical support for Francophone LDCs); "Renforcement des capacités des organisations d'intégration économique régionale" (Capacity building in regional economic integration organizations). See *Organisation internationale de la Francophonie* (2002).

⁵ http://www.afd.fr/projets/projets_pays.cfm?id=2.

(2) ACTION CARRIED OUT BY THE WTO SINCE 1995⁶

4. Between January 1998 and December 2003, officials from Mali took part in 18 seminars and 12 regional training courses, as well as 30 other activities organized by the WTO on various aspects of the multilateral trading system.⁷ Over the same period, in addition to five WTO technical missions to Bamako, three seminars and two national workshops were organized on the spot to cover, *inter alia*, subjects such as the Doha Development Agenda (DDA), the GATS, and trade-related investment measures. The organization of a national information workshop on multilateral trade negotiations immediately prior to the ministerial meeting in Cancún facilitated Mali's participation in the latter. Seven officials from Mali took part in the trade policy courses organized by the WTO's Training Institute.

5. As regards support infrastructure, a reference centre was set up in February 1998 for official users (in the premises of the Ministry responsible for trade) and is in operation. The Internet connection functions only 30 per cent of the time, however, which limits the actual capacity of this tool.

(3) ACTION PLANNED BY THE WTO FOR 2004

(i) Technical assistance for 2004⁸

6. The WTO has included several activities for Mali in its 2004 Technical Assistance and Training Plan, which provides for participation by those concerned in Mali by the following activities: trade policy courses in Geneva; regional trade policy courses; short-term trade policy courses on the Doha Development Agenda; workshops or seminars at the regional or subregional level on a number of issues; negotiating techniques; meetings to promote awareness among parliamentarians; and various activities at WTO headquarters.

7. These actions focus on the following four major aspects: development of human resources; institutional strengthening; support for the implementation of the WTO Agreements; and support for participation by the authorities in the Doha Development Agenda.

(ii) Participation by Mali in Phase II of the JITAP

8. Mali was one of the countries chosen to participate in Phase II of the JITAP, which came into effect in February 2003.⁹ After a preparatory stage in 2003, the JITAP was due to commence in Mali in January 2004 and will be implemented during the period 2004-2006.

⁶ This part of the Annex has been prepared using, *inter alia*, information available in the technical assistance database kept by the WTO's Training and Technical Cooperation Institute.

⁷ These covered the following subjects: trade and the environment; the Integrated Database (IDB); the Doha Agenda, the post-Doha Agenda, and preparations for Cancún; sanitary and phytosanitary measures; technical barriers to trade; the GATS; agriculture; regional integration; dispute settlement practices and procedures; market access; customs valuation; WTO rules on safeguards and antidumping and countervailing measures; review of trade policies; textiles; notifications; and the reference centre.

⁸ WTO document WT/COMTD/W/119/Rev.1 of 14 November 2003.

⁹ Phase II of the JITAP (2003-2005) extends its scope to Botswana, Cameroon, Malawi, Mali, Mauritania, Mozambique, Senegal and Zambia, and it is supported by Canada, Denmark, Finland, France, Japan, Netherlands, Norway, Sweden, Switzerland and the United Kingdom in an amount of around US\$14 million (WTO Press Release WTO/328 of 20 December 2002 and Report on the progress of the JITAP for 2003, period from 1 November 2003 to 31 January 2004).

9. The JITAP has three main objectives: the building of national capacity to understand the multilateral trading system, assistance in bringing domestic legislation into conformity, and helping to boost exports. One key aspect of the programme is participation by the private sector, academics and parliamentarians in order to enhance national capacity.

10. The Programme is carried out at the international level by the implementing agencies (the ITC, UNCTAD and WTO) and at the national level by the National Pilot Committee (CNP).¹⁰ The National Trade and Competition Department is the focal point. Two national consultants have drawn up a programme of activities proposed for Mali, which has been approved by the CNP and transmitted to JITAP headquarters. The national validation workshop was held on 10 December 2003.

(iii) Participation by Mali in the redefined Integrated Framework

11. In October 2001, Mali was one of the LDCs selected to take part in the redefined IF programme.¹¹ In this context, a diagnostic study on Mali's trade integration (DSTI) was finalized in March 2004.¹² The aim is to draw up and endorse a plan of action to be used by the agencies concerned to implement trade-related technical assistance.

12. Mali's needs for trade-related technical assistance are many. The priority areas of action identified by the authorities are building capacity for negotiations and the implementation of the WTO Agreements, and integrating Mali into world trade. The planned activities should aim to strengthen national capacity, develop infrastructure, and support export sectors.

¹⁰ Decision No. 03-30/MIC/SG of 3 June 2003.

¹¹ The revised IF programme is supported by the World Bank, the UNDP, the European Commission, Belgium, Canada, Denmark, Finland, France, Ireland, Italy, Japan, Netherlands, Norway, Sweden, Switzerland, United Kingdom and United States in an amount of approximately US\$12 million (<http://www.integratedframework.org>).

¹² <http://www.integratedframework.org/>.