

### III. TRADE POLICY BY MEASURE

#### (1) OVERVIEW

##### (i) Import measures

1. Since the first review in 1998, Mali has taken several steps to liberalize foreign trade. The introduction of the Common External Tariff (CET) of the WAEMU as of 1 January 2000 unified, simplified and lowered the customs tariff. Taking into account the standing supplementary duties of the WAEMU and the ECOWAS, levied solely on imports from third countries (including the community levies of 1.5 per cent *ad valorem* and the statistical fee of 1 per cent *ad valorem*), the simple average of MFN customs duties actually applied by Mali has gone down from 22.1 per cent in 1997 to 14.6 per cent (tariff applicable in October 2003). Despite these major changes, Mali continues to give a significant level of protection to agricultural products, thereby reducing the purchasing power of households. Tariff peaks affect sugar, which is also subject to a special import tax (TCI), as was already the case at the time of the first review in 1998.

2. Regarding customs valuation, Mali has applied the transaction value since 1 January 2004 (i.e. over three and a half years after 1 June 2000, the time-limit for deferred application of the relevant WTO Agreement). Reference values also apply to certain products (for example, cotton fabrics), covering at least 76 tariff lines, which in most cases amounts to a new form of protection. As part of implementation of the WTO Customs Valuation Agreement, the WAEMU is seeking a solution to the problem of reference values.

3. Forty-two per cent of Mali's tariff lines have been bound. As a result of the tariff bindings made by France on behalf of French West Africa (AOF), the rate of customs duty actually applied by Mali in 54.3 per cent of the cases appears to be up to 20 percentage points above the bound levels.

4. Mali also applies tariff preferences for local products and traditional handicrafts of WAEMU or ECOWAS origin, and for certain industrial products manufactured by enterprises approved by the WAEMU and the ECOWAS; a number of Malian enterprises therefore enjoy free-trade treatment on the subregional market. The increased flexibility of the WAEMU and ECOWAS rules of origin as of 2003 should further facilitate intra-community trade in industrial products. The functioning of the free-trade area within the WAEMU and within the ECOWAS is still hampered, however, by several non-tariff barriers (for example, lack of harmonization of standards for products) and physical barriers (the many checkpoints on main roads).<sup>1</sup>

5. Since the first review, Mali has retained its regulations on marking and labelling for certain imported products which compete with local products (for example, fabrics, cigarettes). All import transactions are subject to notice of intent to import under the inspection programme and, consequently, to payment of the contribution to the latter (0.65 per cent of the f.o.b. value); at the time of the first review, the State was responsible for paying the services of inspectors. Mali has extended the scope of prohibited imports to include bovine meat and has established a system of authorization for meat and animals of other species. The import and export of live bovine breeding animals is also banned without an authorization from the Governments of Mali and of the country concerned; the Malian authorities explain this requirement by the desire to promote local bovine species, which are generally better adapted to the climate, and to protect them from diseases such as bovine spongiform encephalopathy. Trade with Israel is still banned.

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<sup>1</sup> WAEMU Commission (2003b).

**(ii) Export measures**

6. Since it first appeared before the TPRB, Mali has not modified its export regime. Gold and cotton are the only products subject to export duty (CPS) of 3 per cent and all exports are exempt from VAT. All export transactions require notice of intent to export under the inspection programme and, consequently, payment of the contribution to the latter (0.65 per cent of the f.o.b. value). As regards export subsidies, there is a free enterprise regime which grants tax concessions to approved enterprises that export 80 per cent of their production; three enterprises currently operating benefit from this regime.

**(iii) Domestic measures**

7. Mali has ratified the revised Bangui Agreement (1999), which harmonizes the intellectual property protection regime of its members with WTO commitments under the TRIPS Agreement. As a "least developed country" (LDC), Mali has an additional period until 2006 for full implementation of the TRIPS Agreement. The authorities are actively combating piracy and counterfeiting on the domestic market with the means available to them.

8. Mali has strengthened the institutional framework with regard to free pricing and competition. In 2004, this framework was being revised to adapt it to the WAEMU regulations on competition, which cover anti-competitive practices and State aid, and also to give consumers greater protection.

9. In 1999, Mali revised its Government Procurement Code in order to fight corruption more effectively; the Code still includes a policy giving preference to Malian enterprises. As a result of the new practices, the percentage of contracts concluded through private agreement has declined noticeably in favour of contracts awarded following an open invitation to tender.

**(2) MEASURES DIRECTLY AFFECTING IMPORTS****(i) Registration<sup>2</sup>**

10. Mali's foreign trade regulations stipulate that import transactions may be carried out by persons who can prove they have the status of importer or by enterprises that have signed an agreement with the State and in implementation of the latter's provisions, or by foreign enterprises under a government procurement contract, or by administrative, technological, professional, scientific or cultural institutions, or by a public authority for its operational needs.<sup>3</sup> The requirement of prior agreement by the Minister of Trade for foreign persons wishing to engage in such activities was abolished in 2001.<sup>4</sup> Some commercial activities may nevertheless be reserved for Malian nationals by decree (for example, the import of arms and ammunition).

11. The exercise of commercial activities is subject to registration in the Register of Commerce or the Directory of Crafts. The required formalities may be carried out at the Enterprise Formalities Centre (CFE) within the Chamber of Commerce and Industry of Mali (CCIN). Applications are usually processed within 48 hours and the information sent to the administrative departments concerned (for example, the National Directorate for Taxation, the National Directorate for Statistics and Data Processing Department (DNSI)), and a tax identification number is issued.<sup>5</sup> With the

<sup>2</sup> The sources consulted were IMF (2004) and UNCTAD (2000).

<sup>3</sup> Decree No. 00-505/P-RM of 16 October 2000.

<sup>4</sup> Law No. 01-142 of 7 June 2001.

<sup>5</sup> "Guide du créateur d'entreprise au Mali" [on line]. Available at <http://www.chez.com/afriquentreprenre/mali.html> [20 November 2003].

exception of some occupations (for example, cattle exporters), the payment of an import-export business tax is required and the amount is determined on the basis of turnover.<sup>6</sup>

**(ii) Customs procedures**

12. Since the first review of its trade policy, Mali has adopted a new Customs Code, which came into effect on 1 January 2002.<sup>7</sup> Its implementing provisions are determined in orders by the Minister of the Economy and Finance, but the majority of these are still at the draft stage. According to the new Code, the type of customs regime requested may be definitive (import or export) or suspensory (transit, storage depot, industrial warehouse, in-bond factory (production under customs control), temporary admission, temporary import, temporary export). Goods transported in bond or under a suspensory customs regime must be covered by security.

13. According to the new Customs Code, a single detailed declaration (DDU) is used for imports and exports and this requirement has applied since 1 January 2004. Only approved customs agents may carry out customs clearance operations, and this is a new feature since the first review of trade policy. Approval from the Minister in charge of the customs is needed in order to engage in the activity of customs agent and foreigners may only be given approval under conditions of reciprocity for Malians in their country of origin.

14. All approved customs agents may draw up DDUs provided that their offices are computerized. If this is not the case, the declaration is made out manually. Customs procedures have been automated since 1985 using the automated customs system (ASYCUDA), which covers 95 per cent of current traffic.

15. A DDU must be accompanied by the following documents: under the inspection programme a notice of intent to import and an inspection certificate; for customs clearance operations, the invoice, a declaration attesting to the value (or if applicable the reference value), a certificate of origin where necessary, and the other usual documents (insurance, status, tax identification of the importer).

16. Mali's import inspection programme (PVI) was introduced in 1989 and notified to the WTO in 1998.<sup>8</sup> It applies to imports whose f.o.b. value is CFAF 3 million or more and which are not exempt from inspection as a result of an order.<sup>9</sup> These must be the subject of a prior import declaration (DPI) issued by the company COTECNA (which replaced the *Société Générale de Surveillance*), responsible for the PVI since 1 October 2003 following an invitation to tender.<sup>10</sup> After it has inspected the goods, the COTECNA issues an inspection certificate (or "a notice of refusal to issue a certificate"), which importers attach to their customs declaration dossiers. All import transactions, whether or not subject to the PVI, must pay the contribution for the PVI, which is around 0.65 per cent of the f.o.b. value of the goods imported and is payable by the importer; until 2000, it

<sup>6</sup> The business tax amounts to 35 per cent of turnover, of which 10 points correspond to the contribution and 15 points to rental value.

<sup>7</sup> Law No. 01-075 of 18 July 2001.

<sup>8</sup> WTO document G/PSI/N/1/Add.7 of 24 February 1998, which concerns Decree No. 89-196/P-RM of 15 June 1989.

<sup>9</sup> The following are exempt from inspection: gold, precious stones, works of art, ammunition, arms and explosives, live animals, fresh produce, wood, scrap metal, plants and flowers, fertilizer, cinematographic films, newspapers and periodicals, personal effects and gifts, parcels, commercial samples, crude petroleum, donations, serums and vaccines, vehicles in Chapters HS 8702, 8703 and 8704, and imports by government departments, diplomatic or consular missions and United Nations agencies for their own use.

<sup>10</sup> "Programme de vérification des importations: beaucoup de bruit pour rien ?", *L'Essor*, 4 July 2003 [on line]. Available at [http://www.malipages.com/presse/news\\_07\\_03/news\\_0003.asp](http://www.malipages.com/presse/news_07_03/news_0003.asp) [18 November 2003].

was paid by the Government.<sup>11</sup> The aim of the PVI is to ensure better control over the fiscal revenue collected by the customs; overall, 46.3 per cent of budget revenue (excluding grants) was levied by the customs in 2002, a slight decrease in comparison with 1999.

17. A DDU must be accompanied by the following documents: for the inspection programme, a notice of intent to import and an inspection certificate; for customs clearance operations, the invoice, a declaration attesting to the value (or if applicable the reference value), a certificate of origin where necessary, and the other usual documents (insurance, status, tax identification of the importer). When the DDU has been submitted, customs clearance may begin and the time it takes ranges from two to six hours.

18. The goods may not be released until all duties and taxes have been paid, unless there is a clearance credit or a credit for duties and taxes. In addition, importers must make an advance payment on several levies and taxes (ADIT), at a rate of 3 per cent of the c.i.f. value for operators in the formal sector and 13 per cent for operators in the informal sector. The advance is refunded to importers once they have paid the levies and taxes due.

### (iii) Customs valuation

19. The WAEMU's regulations on customs valuation were adopted in 1999 and came into effect in Mali on 1 January 2004 following the establishment of national regulations and the implementation of a training programme.<sup>12</sup> One of the two relevant WAEMU instruments fully incorporates the provisions of the Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994 (Customs Valuation Agreement)<sup>13</sup>; Mali requested deferral of the Agreement's application for five years pursuant to the principle of special and differential treatment in favour of developing countries, and this period ended on 1 June 2000. The second instrument adopted by the WAEMU establishes a common system of reference values.

20. The common system of reference values is applied nationally. The member States of the WAEMU propose to the WAEMU Commission goods to appear on a list of goods subject to reference values, which is updated every six months. The WAEMU member States draw up domestic lists and decide on reference values, which are used to determine the basis for calculating duties and taxes. The list provided to the WTO Secretariat by the Malian authorities dates from 16 September 2003 and comprises at least 76 tariff lines, chiefly fabrics (Table AIII.1).<sup>14</sup> The scheme applies only to goods not originating in the WAEMU.

### (iv) Customs levies

#### (a) Overview

21. As far as import duties are concerned, Mali grants at least most-favoured-nation (MFN) treatment to all countries. Imports other than those eligible for exemption or preferential treatment given to goods originating in the WAEMU are subject to import duties, composed of the following: a

<sup>11</sup> According to the Secretariat's report for the review of Mali's trade policy in 1998, "The cost of preshipment inspection by the SGS (borne entirely by the Malian State) comes to 0.95 per cent of the f.o.b. value, with a minimum of CFAF 120,000 per inspection". (WTO document WT/TPR/S/43, Chapter III, page 27.)

<sup>12</sup> Circular No. 02-020/DGD-SDRE of 7 September 2003.

<sup>13</sup> Regulation No. 5/99/CM/UEMOA. See Order No. 02-2589/MEF-SG and Instruction No. 004/MEF-SG of 31 December 2002.

<sup>14</sup> Order No. 03-2034/MEF-SG/MCPEA/MEF of 16 September 2003.

customs duty (DD), the statistical fee (RS), the WAEMU community solidarity levy (PCS) and the ECOWAS community levy (PC). Domestic taxes (VAT and excise duty) are also levied by the customs on imports of any origin.

(b) Import duties

*Level of customs duty actually applied*

22. In October 2003, Mali's tariff was composed of 5,492 10-digit tariff lines, for the most part based on the WAEMU's Tariff and Statistical Nomenclature.<sup>15</sup> This in turn is based on the 2002 version of the Harmonized Commodity Description and Coding System (HS). The customs duty varies according to the category of product: staple goods (0 per cent); basic commodities, including basic raw materials, capital goods and specific inputs (5 per cent); inputs and intermediate goods (10 per cent); and final consumer goods (20 per cent). The final consumer goods category comprises a large number of agricultural products, which therefore benefit from a higher level of protection than non-agricultural products, even though the former are the largest item in consumers' budgets.

23. The introduction of the WAEMU's CET has replaced the customs duty and the fiscal import duty with a single DD and, consequently, unified the customs tariff. Another major change since the first review is the decrease in the maximum rate of duty from 35 per cent to 20 per cent (Table AIII.2), which has noticeably narrowed the standard variation. These changes, together with the reclassification of imports, have greatly lowered the average tax on products which are largely imported, particularly cereals (70 per cent less) and sugar and confectionery (60 per cent less). Nevertheless, the CET imposes a maximum customs duty of 20 per cent on food products, as was already the case under the national tariff structure.

24. In addition to the DD, goods not originating in the WAEMU and put up for consumption are subject to standing supplementary duties: the WAEMU's RS, at a level of 1 per cent<sup>16</sup>, the WAEMU's PCS, amounting to at a level of 1 per cent<sup>17</sup>, and the ECOWAS PC, at a figure of 0.5 per cent. The PCS is payable to the WAEMU and collected on its behalf, whereas the RS and the ECOWAS PC go to the State's budget. The simple average of MFN customs duties and standing supplementary taxes is 14.6 per cent (duties actually applied, Table III.1), in comparison with a simple average of 22.1 per cent in 1997.

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<sup>15</sup> According to information provided to the Secretariat by the WAEMU Commission ("*Point de la mise en œuvre des réformes communautaires: République du Mali*"), dating from October 2003, Mali's tariff shows the following divergences in comparison with the original CET: 53 tariff lines in Mali's current tariff do not have any equivalent in the original CET; 31 tariff lines in the original CET (mainly vegetables, machinery and appliances) do not appear in Mali's current tariff; and 18 tariff lines in the original CET are not classified in the same way in Mali's tariff.

<sup>16</sup> Goods acquired in the context of financing by foreign partners are exempt, subject to a specific clause on exemption from any fiscal or parafiscal levy, and goods imported in accordance with diplomatic privilege (Regulation No. 2/2002/CM/UEMOA).

<sup>17</sup> Additional Act No. 4/96.

**Table III.1**  
**Breakdown of customs duties, rates actually applied and final bound rates of Mali, October 2003**  
 (Percentage)

	Tariff		
	Customs duty	Rate actually applied	Uruguay Round <sup>a</sup>
1. Tariff lines bound (as a percentage of all tariff lines)	42.0	42.0	42.0
2. Tariff lines eligible for duty-free entry (as a percentage of all tariff lines)	1.2	0.0	0.5
3. Duties other than <i>ad valorem</i> (as a percentage of all tariff lines)	0.0	0.0	0.0
4. Tariff quotas (as a percentage of all tariff lines)	0.0	0.0	0.0
5. Duties other than <i>ad valorem</i> , without any <i>ad valorem</i> equivalent (as a percentage of all tariff lines)	0.0	0.0	0.0
6. Simple arithmetic average	12.1	14.6	29.6
Agricultural products (HS 01-24)	15.0	17.5	57.5
Non-agricultural products (HS 25-97)	11.6	14.1	16.9
WTO agricultural products <sup>b</sup>	14.2	16.7	58.8
WTO non-agricultural products <sup>c</sup>	11.8	14.3	14.5
7. Domestic tariff "peaks" (as a percentage of all tariff lines) <sup>d</sup>	0.0	0.0	0.0
8. International tariff "peaks" (as a percentage of all tariff lines) <sup>e</sup>	41.2	41.2	49.2
9. Standard variation in rates applied	6.9	6.9	24.9
10. "Nuisance" rates applied (as a percentage of all tariff lines) <sup>f</sup>	0.0	0.0	0.0

<sup>a</sup> Bindings by Mali during the Uruguay Round and by France on behalf of Mali.

<sup>b</sup> WTO Agreement on Agriculture.

<sup>c</sup> Excluding petroleum products.

<sup>d</sup> The domestic tariff "peaks" correspond to duties that are higher than three times the simple arithmetic average of the rates applied (indicator 6).

<sup>e</sup> The international tariff "peaks" correspond to duties that exceed 15 per cent.

<sup>f</sup> The "nuisance" rates are rates that exceed 0 but are equal to or less than 2 per cent.

Note: Indicators 1 to 5 are calculated on the basis of 5,492 tariff lines in 2003. The other indicators are based on the 2,307 bound lines.

Source: WTO Secretariat calculations based on data provided by the Malian authorities; WTO, Consolidated Tariff Schedules (CTS) Database

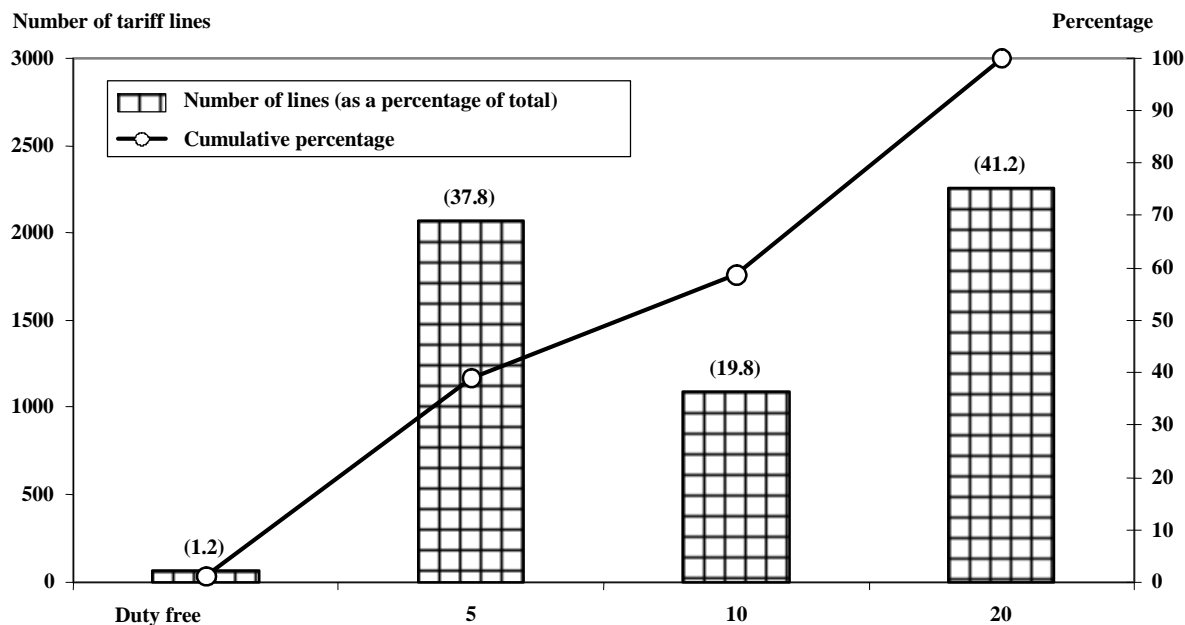
25. As was the case at the time of the first review in 1998, Mali also applies a special import tax (TCI) on imports of sugar from third countries (55 per cent), but the TCI on wheat flour, which existed at the time of the first review, was abolished on 17 August 2001. The TCI is a nationally applied additional protection mechanism within the WAEMU to protect domestic producers of basic commodities against competition from imported products<sup>18</sup> and it is not planned to eliminate it. The Malian authorities indicate that imported sugar is subsidized by exporters and the aim of the TCI is to offset this unfair competition. Mali does not apply the TDP.

#### *Dispersion of duties actually applied*

26. The grouping of products into four major categories under the CET has considered lessened the dispersion of duties since the first review of Mali's trade policy. As far as customs duties are concerned, currently 79 per cent of tariff lines are almost equally divided between the 5 and 20 per cent rates (Chart III.1). Mali has also lowered the peak in rates actually applied from 36 per cent to 22.5 per cent (Table AIII.2). Application of the 55 per cent TCI on sugar, which already existed at the time of the first review, means that the maximum rate actually applied rises to 77.5 per cent.

<sup>18</sup> Annex No. 2 to Regulation No. 6/99/CM/UEMOA on adoption of the TCI specifies that the TCI automatically applies to certain products: condensed milk, crude vegetable oils, refined vegetable oils, meat products, sugar, double tomato concentrate, cigarettes and cigarillos, detergent powder, matches, jute sacks, polypropylene bags (for sugar), and batteries.

**Chart III.1**  
**Breakdown of customs duties, October 2003**



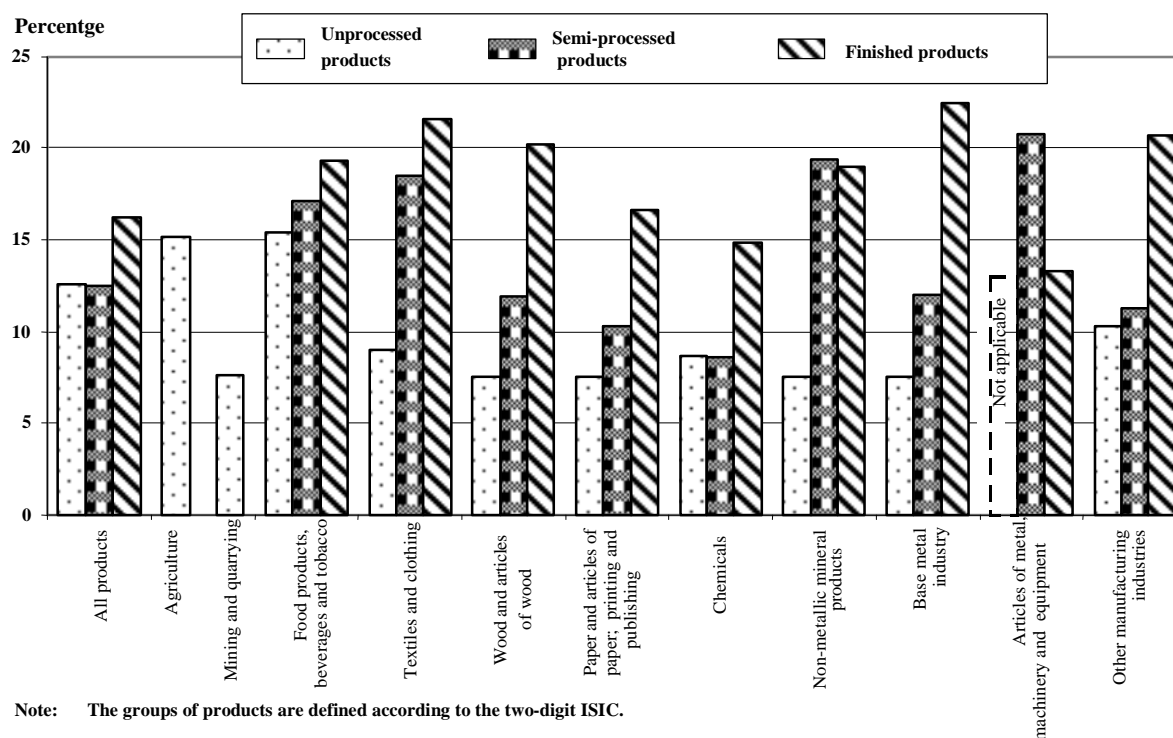
**Note:** The figures in brackets correspond to the percentage of the total number of lines.

**Source:** WTO Secretariat calculations based on data provided by the Malian authorities.

*Escalation of duties actually applied*

27. Mali has a tariff regime (based on the WAEMU's CET) under which the manufacturing sector has actual levels of protection that are higher than those indicated by the nominal rates (Chart III.2). For example, the simple average of tariffs on unprocessed or semi-processed products are lower than the simple average imposed on final products, with the exception of certain sectors such as machinery and equipment, where finished products come under category 1 of the WAEMU's CET, in other words, basic commodities.

**Chart III.2**  
**Escalation of duties actually applied, October 2003**



Note: The groups of products are defined according to the two-digit ISIC.

Source : WTO Secretariat calculations based on data provided by the Malian authorities.

### *Relationship between applied duties and bound duties*

28. The analysis of Mali's tariff bindings undertaken by the Secretariat using the database compiled for this purpose<sup>19</sup> shows that the bindings affect 42 per cent of Mali's tariff lines (Table III.1). These bindings are the result of two distinct processes: the tariff concessions made by France on behalf of French West Africa (AOF) at a time when Mali Faso was a French colony; and Schedule XCIV – Mali resulting from the Uruguay Round. According to the analysis, Mali bound duties applicable to agricultural products at a ceiling of 60 per cent, with the exception of those included in Schedule XCIV – Mali annexed to the GATT 1947 and those applicable to products in Chapters 44 (wood and articles of wood), 81 (other base metals), and 92 (musical instruments) of the Harmonized System. Other duties and taxes on imports of the same products were bound at 50 per cent.

29. The rate of customs duty actually applied is below the levels included in Schedule XCIV – Mali resulting from the Uruguay Round. It should be noted, however, that if the tariff bindings prior to the Uruguay Round are taken into account, for 54.3 per cent of the lines the duties actually applied by Mali are up to 20 percentage points higher than the bound level (Table AIII.2). This is the case for many Chapters in the Harmonized System, in particular Chapters 3 (fish and fish products), 4 (milk

<sup>19</sup> Consolidated Tariff Schedules (CTS) Database. This Database was created as a result of a decision by the WTO Committee on Market Access taken on 27 November 1998. It contains all information on concessions on goods in a format that is useful for analytical purposes (MS-Access 97), without, however, prejudging the legal status of these concessions. The WTO Members can amend the information given under their names.



and dairy produce), 34 (soap), 39 (plastics) and 52 (cotton), 54 (man-made fibres), 61 and 62 (clothing), 64 (footwear), and 85 (electrical machinery and equipment). Two of the countries affected by the question of tariff concessions made by France on behalf of the AOF, namely Côte d'Ivoire and Senegal, have renegotiated these tariff concessions under Article XXVIII since the end of the Uruguay Round. When Mali first appeared before the TPRB, the Secretariat indicated the following: "With the introduction of the TEC, the WAEMU Commission intends to renegotiate the tariff concessions of all member countries, including those on the old lists for which bindings were made at a time when the countries were colonies."<sup>20</sup> The WAEMU Commission has informed the Secretariat that this question is under consideration and it is still planned to draw up a common list of tariff bindings.

#### *Tariff preferences*

30. Mali grants exemption from import duties for imports of goods eligible for the transitional preferential tariff regime of the WAEMU.<sup>21</sup> This regime has been in effect since 1 July 1996 and it allows for full exemption from MFN customs duties for local products and traditional handicrafts contained in an exhaustive list.<sup>22</sup> Industrial products from producing enterprises approved by the WAEMU Commission have also been eligible for full exemption since 1 January 2000. Applications for approval are made by member States and approvals are the subject of decisions by the WAEMU.<sup>23</sup> The number of industrial products concerned increased from 948 to 2,359 between May 1998 and the end of 2002<sup>24</sup>, and several Malian enterprises have been approved under the exemption regime.<sup>25</sup> Approved products must show the mark of origin on their packaging.

31. Local products and handicrafts that are not included in the exhaustive lists, as well as industrial products originating in the WAEMU but not approved under the preferential regime, are subject to import duties but not to the PCS and the PC.

32. Petroleum products (except for lubricants) are not subject to the PCS.

33. Mali has also granted exemption from import duties (DD, PC, PCS) for imports of goods eligible for the ECOWAS preferential regime since 1 January 2004. This regime provides total exemption from MFN customs duties for local products and traditional handicrafts, as well as industrial products produced by approved enterprises. Applications for approval are dealt with by a

<sup>20</sup> WTO document WT/TPR/S/43 of 2 October 1998, page xii.

<sup>21</sup> Additional Act No. 4/96 (WTO document G/RO/N/35 of 24 September 2001), as amended by Additional Act No. 1/97 and Additional Act No. 4/98. Regulation No. 4/2001/CM/UEMOA allows exemption from application of the CET for imports of inputs taxed at a higher rate than certain finished products. These are admitted under a suspensory customs regime if they are to be used to manufacture pharmaceuticals (Chapter 30 of the HS), books, brochures and printed matter (49 01), or certain machinery, appliances and parts thereof (84 32 10 00 00; 84 32 30 00 00; 84 32 90 00 00; 84 37 10 00 00; 84 37 80 00 00). In the CET structure, pharmaceuticals are considered social products in the zero category (no customs duty applies) and inputs used to manufacture pharmaceuticals are therefore also exempt.

<sup>22</sup> Annexes 1 and 2 to Additional Act No.4/96.

<sup>23</sup> Decisions Nos. 04/96/COM/UEMOA, 03/98/COM/UEMOA, 04/98/COM/UEMOA, 01/99/COM/UEMOA and 01/2000/COM/UEMOA.

<sup>24</sup> UEMOA Commission (2003b).

<sup>25</sup> SUKALA-sa (17 01 99 10 00; 22 07 10 90 00); SIECO (28 06 10 00 00; 28 07 00 00 00; 28 28 90 10 00; 28 51 00 00 00; 34 01 20 00 00); SODEMA (33 04 99 00 00; 34 01 11 90 00; 34 02 20 00 00; 34 05 40 00 00); SONATAM (36 05 00 00 00); *Compagnie Commerciale et Industrielle du Mali* (39 17 23 10 00); SOME PAC (48 08 10 00 00; 48 19 20 00 00); *Manufacture Africaine "Le BELIER"* (55 11 10 00 00). See <http://www.izf.net/izf/Guide/Mali/TPCmali.htm> [27 November 2003].

national approval commission and are then sent to the ECOWAS administrative departments, which circulate the list to other member States. Mali has not yet established such a commission.

34. Applications to benefit from preferences for any product of WAEMU or ECOWAS origin must be substantiated by a certificate of origin.

(c) Domestic taxes

*Excise duty*

35. Mali still imposes a special tax on certain products (ISCP) of any origin (including from the WAEMU), and on those produced locally. The main changes since the first review are the removal of petroleum products from the ISCP regime (see below), the addition of cosmetic products, the increase in the rate of the ISCP following the introduction of the WAEMU regulations on excise duty and the taxation of petroleum products (Table III.2).<sup>26</sup> The basis is the c.i.f. value.

36. Petroleum products are subject to the domestic tax on petroleum products (TIPP), which has replaced the ISCP since July 2001 following the introduction of the WAEMU regulations on the taxation of petroleum products (Table III.2). The rates vary depending on the product: 5, 6, 10, 25, 93 and 125 per cent.<sup>27</sup> The basis is the c.i.f. value. According to the Malian authorities, 40 per cent of the revenue collected by the customs comes from petroleum products.

**Table III.2**  
**Special tax on certain products (ISCP), 1998 and 2004**  
(Percentage)

Nomenclature	Product	1998	2004
08 02 90 10 00	Cola nuts	15	25
22 02 10 00 00	Mineral water	10	10
22 03 00 10 00	Beer made from malt in containers of 50 cl or less	30	45
22 03 00 90 00	Other beer made from malt	20	45
22 04 10 00 00	Sparkling wine	30	45
22 04 21 00 00	Other wine	20	45
22 04 29 00 00	Other wine	20	45
22 04 30 00 00	Other wine	20	45
22 05 10 00 00	Vermouth	5	45
22 05 90 00 00	Vermouth	5	45
22 06 00 10 00	Beer other than malt beer	20	45
22 06 00 90 00	Other	90	45
22 07 10 10 10	For medicinal use	n.a.	45

**Table III.2 (cont'd)**

<sup>26</sup> The member States of the WAEMU have adopted common regulations with the objective of harmonizing legislation on excise duty (Directive No. 3/98/CM/UEMOA). Under these regulations, excise duty is imposed on tobacco, tobacco products, alcoholic and non-alcoholic beverages (with the exception of water); in addition, four products selected from a common list of nine products – coffee, cola, wheat flour, edible oils and fats, perfumery and cosmetic products, tea, arms and ammunition – may be made subject to excise duty. The rate of excise duty is fixed freely by each member State within specified ranges. The member States of the WAEMU have also adopted common regulations with the objective of harmonizing legislation on the taxation of petroleum products (Directive No. 6/2001/CM/UEMOA). Petroleum products are subject to excise duty. The member States of the WAEMU are free to fix its level, but must gradually narrow the gap between individual products.

<sup>27</sup> IMF (2004).

Nomenclature	Product	1998	2004
22 07 10 90 00	Undenatured ethyl alcohol	90	45
22 07 20 00 00	Ethyl alcohol and other spirits	n.a.	45
22 08 20 00 00	Spirits obtained by distilling grape wine or grape marc	90	45
22 08 30 00 00	Whiskies	90	45
22 08 40 00 00	Rum and tafia	90	45
22 08 05 00 00	Gin and geneva	90	45
22 08 60 00 00	Vodka	90	45
22 08 70 00 00	Liqueurs and cordials	90	45
22 08 90 00 00	Other	90	45
24 02 10 00 00	Cigars	40	25
24 02 20 00 00	Cigarettes containing tobacco	40	25
24 02 90 00 00	Other	20	25
24 03 91 00 00	Homogenized tobacco	20	25
24 03 99 00 00	Other	20	25
33 01	Essential citrus fruit oils	n.a.	15
33 03	Perfumes and toilet waters	n.a.	15
33 04	Beauty or makeup products	n.a.	15
33 07	Pre-shaving, shaving or after-shave preparations	n.a.	15
93 06 21 00 00	Cartridges	20	45
93 06 21 00 90	Parts	n.a.	45
93 06 29 00 00	Other	20	45
93 06 30 00 00	Other	20	45
93 06 30 00 90	Parts	n.a.	45

n.a.: Not applicable.

Source: Malian authorities.

#### Value added tax (VAT)

37. As part of the harmonization of VAT legislation in the WAEMU member States<sup>28</sup>, Mali has considerably simplified and unified its VAT regime since 2000. The WAEMU regulations provide for a single rate of VAT on a common basis and at a convergent rate, with the exception of common exemptions; in Mali, the general rate of VAT is 18 per cent. VAT on imports is calculated on the c.i.f. price plus import duties, with the exception of the PCS and ISCP, where applicable.

38. Pursuant to the WAEMU regulations, the VAT exemptions granted by Mali concern deliveries of medicines and pharmaceuticals, unprocessed food products and basic food commodities, banking operations and the supply of insurance and reinsurance, which are subject to special taxation (Chapter IV(5)(iv)); imports of goods whose delivery is exempt from VAT within Mali; and international exports and transport.

39. Consequently, Mali has abolished the regime that was in effect at the time of the first review of its trade policy, namely VAT of around 15 per cent and a reduced rate of 10 per cent, which was only partly covered in view of the large number of exemptions. Another result of the reform of VAT has been the amalgamation of the VAT applicable, the contribution for the supply of services (CPS) and the tax on the supply of services (TPS).

<sup>28</sup> Directive No.2/98/CM/UEMOA.

(d) Exemptions from import duty and domestic taxes

40. Mali grants exemption from customs duty to enterprises approved under the Mining Code (Chapter IV(3)(i)), free enterprises approved under the Investment Code (Chapter II(3)(e)), tourism enterprises and hotels, and, under the special Code on real estate investment, enterprises building social housing<sup>29</sup>; there may also be exemptions for projects approved under regimes A and B of the Investment Code, at the discretion of the Minister of Trade (Chapter II(3)(e)). The annual amount of revenue lost as a result of the exemptions granted depends on the level and nature of the investment (for example, the opening of new goldmines). In 2003, exemptions (of all types) amounted to CFAF 35.8 billion (US\$59.7 million), while in 2001 the figure was CFAF 48.2 billion (US\$80.3 million), mainly because of the equipment imported by the holder of a new mobile telephony licence. The amount of exemptions granted under the Mining Code in 2003 amounted to CFAF 2.8 billion (US\$4.7 million).

41. Furthermore, the State of Mali takes responsibility for import duty and domestic taxes on imports for government procurement financed from external funds pursuant to an agreement between the State of Mali and the source of the funds.

(v) **Rules of origin**

42. The WAEMU's new rules of origin came into effect on 1 January 2003<sup>30</sup> and have been incorporated in full by the ECOWAS.<sup>31</sup> Originating products are products wholly obtained or those that have undergone sufficient working or processing in a member State (with the exception of products manufactured in free zones or under suspensory customs regimes). Local products and traditional handicrafts<sup>32</sup>, as well as those in which at least 60 per cent of the raw materials used to manufacture them comes from the country in question, are also wholly obtained.

43. Products obtained are defined according to two rules: a change in tariff classification in one of the first four digits of the Tariff and Statistical Nomenclature, although there is a list of exceptions<sup>33</sup>; or community value added of 30 per cent or more of the ex-factory cost price excluding tax (the WAEMU's former rules of origin defined the threshold of community value added at 40 per cent).<sup>34</sup>

(vi) **Prohibitions and products subject to authorization, sanitary and phytosanitary measures**

44. Despite the amendments made to the regulations on the foreign trade regime in 2000<sup>35</sup> and notified to the WTO by Mali in 2001<sup>36</sup>, two regimes still exist: liberalized trade; and prohibitions, either absolute or restrictive.<sup>37</sup> The liberalized trade regime remains unchanged. A notice of intent to

<sup>29</sup> Ordinance No. 92-028/P-CTSP of 14 May 1992.

<sup>30</sup> Additional Protocol No.III establishing the rules of origin of the WAEMU.

<sup>31</sup> Protocol A/P1/1/03.

<sup>32</sup> The following are deemed to be local products: animal, mineral or plant products that have not undergone any industrial processing. The following are considered to be traditional handicrafts: articles generally made by hand, with or without the help of tools, instruments or devices directly worked by the craftsman.

<sup>33</sup> Regulation No. 12/2002/CM/UEMOA.

<sup>34</sup> Regulation No. 13/2002/CM/UEMOA.

<sup>35</sup> Decree No. 00-505/P-RM of 16 October 2000.

<sup>36</sup> WTO document G/LIC/N/1/MLI/1 of 27 August 2001 updating WTO document G/LIC/N/3/MLI/1 of 10 June 1997.

<sup>37</sup> WTO documents G/LIC/N/3/MLI/1 of 10 June 1997 and G/LIC/N/1/MLI/1 of 27 August 2001. Decree No. 00-505/P-RM of 16 October 2000.

import (DPI) is still required, although Mali's latest notification to the WTO (2001) states that this document is issued without any limit as to value or volume.<sup>38</sup> The authorities explain that this requirement is for statistical reasons in order to monitor foreign trade trends under the Import and Export Programme (IMEX).

45. As regards the prohibition regime (Table AIII.3), the main change since 1998 has been the extension of the scope of the absolute prohibition regime, particularly to bovine meat (which was subject to an authorization in 1998), as well as to alcoholic beverages in sachets (which may not be sold or manufactured in Mali).<sup>39</sup> The scope of application of the restrictive regime has also been extended, even though some restrictions have not changed. This is the case for imports of cigarettes and tobacco, *inter alia*, for which Ministry of Trade authorization is still required. The Malian authorities explain this requirement by the highly sensitive nature of the cigarettes and tobacco sector, on the one hand because of its contribution to the national budget (particularly in terms of customs duty and ISCP) and, on the other, because of the risk of tobacco consumption for the population.

46. Mali has no official relations, including trade relations, with Israel, as was the case at the time of the first review.

**(vii) Technical standards and accreditation procedures<sup>40</sup>**

47. Since the first review of its trade policy, Mali again became a subscriber member of the International Organization for Standardization (ISO) in 1999, which allows it to maintain contact with the ISO and to adopt international standards.<sup>41</sup> For the time being, Mali is not in a position to become a full member, which would allow it to have some say in the work of the ISO and to participate in drawing up standards deemed to be of importance for Mali's economy.

48. At the national level, neither the regulatory framework<sup>42</sup> nor the institutional framework have changed since 1998. The National Industry Directorate (DNI) within the Ministry of Trade acts as the secretariat of the National Standardization and Quality Control Council<sup>43</sup>, and seven technical committees carry out technical work in the following sectors: cereals and their products, fruit, vegetables and oilseeds; textiles, hides and skins; chemicals and the environment; civil engineering and building materials; food products of animal origin; and electronics. These committees were set up in 1994 and bring together various actors in the relevant areas. Their work has led to the introduction of 93 national standards; the only standards currently in effect are international standards (for example, the Codex Alimentarius of the WHO and FAO).

49. Concerning accreditation, Mali receives support from the WAEMU, which has launched a subregional programme for the creation of an accreditation, standardization and quality promotion system, with financial support from the EU and technical support from the UNIDO. The programme extends over three years (2001-2004) and aims, *inter alia*, to establish a regional accreditation

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<sup>38</sup> The document is available from the single window set up for this purpose within the Ministry of Trade. It is valid for six months and may be renewed once for three months.

<sup>39</sup> Order No. 01-3442/MICT-SG of 16 October 2001, amended by Order No. 03-0878/MICT-SG of 2 May 2003.

<sup>40</sup> The main source is the WAEMU document "*Programme pour la mise en place d'un système d'accréditation, de normalisation et de promotion de la qualité*".

<sup>41</sup> <http://www.iso.org>

<sup>42</sup> Law No. 92-013/AN-RM of 17 September 1992 and its Implementing Decree No.92-235/P-RM of 1 December 1992.

<sup>43</sup> The National Standardization and Quality Control Council has not included adoption of Annex III to the WTO Agreement on Technical Barriers to Trade in its agenda.

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secretariat, to set up or strengthen standards documentation centres, to harmonize procedures for the preparation of standards, and to promote quality in enterprises.

**(viii) Marking and labelling requirements**

50. There has been no change since 1998 in respect of marking and labelling requirements. Some imported products – cigarettes, matches, batteries, yarn for weaving and fabrics – must show on the packaging indications of the destination, for example, “sale to Mali”, and the identification number of the importer or his address (Table AIII.4). In each case, the imports affected compete with domestic products, which must indicate “manufactured in Mali”. The Malian authorities explain this requirement by the need to distinguish between lawfully imported products or Malian products and those entering through informal channels in order to combat fraud and smuggling.

**(ix) Contingency measures**

51. At the time of the first review of its trade policy, Mali did not have any domestic legislation on anti-dumping, countervailing or safeguard measures. Since then, the WAEMU has adopted common regulations on safeguard measures (1998)<sup>44</sup>; Mali has not yet had recourse to these regulations and no safeguard measures have been taken. A WAEMU Anti-dumping Code will come into effect on 1 July 2004 and fully incorporates the relevant WTO provisions.<sup>45</sup>

**(x) State trading**

52. Mali has undertaken a far-reaching privatization programme since the first review. The State nevertheless continues its policy of intervening directly in some sectors of the economy (Table III.3). At the time of the first review, the Mali National Tobacco and Matches Company (SONATAM), a State enterprise that has been partly privatized since 2000 (Table III.3), had a monopoly on imports of tobacco products and matches, but this is no longer the case. Matches may be freely imported and other operators may be authorized to import tobacco and cigarettes subject to a decision by the Minister of Trade (section (2)(vi)).

53. The Malian authorities have not yet made any notification to the WTO on State trading enterprises within the meaning of Article XVII of the GATT.

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<sup>44</sup> Regulation No. 14/98/CM/UEMOA.

<sup>45</sup> Regulation No. 9/2003/CM/UEMOA.

**Table III.3**  
**State holdings in the capital of State enterprises, 1998 and 2003**

Enterprise	Main activity	State holding in 1998 (percentage)	State holding in 2003 (percentage)
<b>Primary:</b>			
FRUITEMA	Sale of fruit and vegetables	10	Closed
Abattoir frigorifique de Bamako	Slaughterhouse	100	15
Compagnie malienne de développement du textile (CMDI)	Cotton	60	60
SEPAV MALI	Poultry products	0	30 <sup>a</sup>
<b>Secondary:</b>			
Complexe sucrier du Kala Supérieur (SUKALA-SA)	Sugar	40	40
Éditions imprimeries du Mali (EDIM)	Publishing, printing	10	10
Huilerie cotonnière du Mali (HUICOMA)	Oil and soap	40	96 <sup>a</sup>
Société nationale des tabacs et allumettes (SONATAM)	Tobacco and matches	100	35
Société de gestion et d'exploitation des mines d'or de Kalana (SOGEMORK)	Mining	20	20
Société des conserves du Mali (SOMACO-SA)	Canning	20	Closed
EMBAL MALI	Plastic bags	n.a.	20 <sup>a</sup>
Compagnie malienne des textiles (COMATEX)	Textiles	20	20
Industries Textiles du Mali (ITEMA)	Textiles	33.3	Being liquidated
Société malienne de produits chimiques (SMPC)	Packaging and marketing of phytosanitary products and agricultural fertilizer	20	Being liquidated
Société malienne d'études et de construction de matériel agricole (SMECMA)	Agricultural machinery	n.a.	44.4 <sup>a</sup>
Usine malienne des produits pharmaceutiques (UMPP)	Pharmaceuticals	100	100
Électricité du Mali (EDM)	Generation and distribution of energy	97.2	40
SOMILO	Mining	51	51
SOMISY SA	Mining	20	20
SEMOS SA	Mining	18	18
YATELA SA	Mining	n.a.	20
MORILA SA	Mining	n.a.	18
SEPT SA	Phosphates	n.a.	35.8 <sup>a</sup>
<b>Tertiary:</b>			
Banque nationale pour le développement agricole (BNDA)	Banking	39.5	39.5
Banque malienne de la solidarité (BMS)	Banking	n.a.	7.16
Banque de l'habitat du Mali (BHM)	Banking	15	15
Banque de développement du Mali (BDM)	Banking	20	20
Banque malienne de crédits et dépôts (BMCD)	Banking	100	Merger with the BDM
Agence des zones industrielles du Mali (ACI-SA)	Real estate	50	51
Société d'équipement du Mali (SEMA)	Real estate	20	0
Compagnie nationale d'assurance et réassurance (CNAR)	Insurance	87	0
Entreprise malienne de maintenance (EMAMA)	Maintenance	87	Closed
Mali Tombouctou Air Service (MALITAS)	Air transport	28.3	Closed
Société nationale de recherches et d'exploitation des ressources minières du Mali (SONAREM)	Mining exploration	100	Closed
Air Mali	Air transport	10	Liquidated
Compagnie malienne de navigation (COMANAV)	River transport	100	100
Régie des chemins de fer du Mali (RFCM)	Rail transport	100	100
Société navale malienne (SONAM)	Shipyard	12.8	Liquidated

Table III.3 (con't)

Enterprise	Main activity	State holding in 1998 (percentage)	State holding in 2003 (percentage)
ORT	Tourism	100	Being liquidated
Société nationale des télécommunications du Mali (SOTELMA)	Telecommunications	100	100
Pari Mutuel Urbain du MALI (PMU-Mali)	Organization of betting and horse racing	75	75
Société malienne de matériel de travaux publics (SLMTP)	Leasing of public works machinery	80	Liquidated
SIMANA	Sale of agricultural machinery	100	Closed

a State purchase of the shares of the CMDT.

n.a. Not applicable.

Source: Malian authorities.

### (3) MEASURES DIRECTLY AFFECTING IMPORTS

#### (i) Registration

54. The registration formalities applicable to imports of goods for commercial purposes also apply to exports (section (2)(i)); these formalities bestow the title of trader with the status of importer and holder of an import-export permit. In addition to traders, producers such as livestock breeders, craftsmen or their associations may also export their production.

#### (ii) Customs procedures

55. A declaration of intent to export must be made for any export transaction and 0.6 per cent of the f.o.b. value is payable for the PVI. The DDU is also used for export transactions under the same conditions as for imports (section (2)(ii)). Approval from the Foreign Exchange Board is also required. Any export transaction exceeding CFAF 1 million must be domiciled with an approved bank, which must ensure the repatriation of the sums involved.<sup>46</sup> All export earnings must be repatriated and converted into CFA francs within 180 days.

56. Products for export are inspected by the COTECNA, which delivers an inspection certificate, unless they are exempt from this formality.

#### (iii) Export duties and taxes

57. Exports are exempt from VAT. Production of gold, which for the most part is exported, is subject to a levy of 3 per cent *ad valorem* under the CPS, as was the case at the time of the first review.<sup>47</sup> Exports of cotton are also subject to a CPS of 3 per cent.

#### (iv) Prohibitions and products subject to licensing, sanitary and phytosanitary measures

58. Updating of the notification to the WTO concerning the regulations governing Mali's foreign trade<sup>48</sup> also applies to exports. According to these regulations, prohibitions are either absolute or restrictive. The absolute prohibition regime applies to exports of young bovine breeding animals,

<sup>46</sup> Regulation No. 09/98/CM/UEMOA of 20 December 1998, whose implementing provisions are laid down in Instruction No. 03/99/RC of 1 February 1999 of the BCEAO.

<sup>47</sup> IMF (2004).

<sup>48</sup> WTO documents G/LIC/N/3/MLI/1 of 10 June 1997 and G/LIC/N/1/MLI/1 of 27 August 2001.



whereas the restrictive regime affects the following: (i) exports of meat and live animals (which require a health or animal health certificate issued by the Ministry of Livestock); (ii) hunting trophies (submission of a permit or certificate in conformity with the CITES issued by the competent technical services); (iii) plants (submission of a phytosanitary certificate issued by the competent technical services); and (iv) works of art (authorization from the Ministry responsible for art and culture).<sup>49</sup>

**(v) Export subsidies and promotion**

59. In 2001, Mali notified the WTO that it had no subsidy programmes.<sup>50</sup> It should be noted, however, that the State grants tax concessions to enterprises approved under the export free enterprise regime provided in the Investment Code (Chapter II(3)(iii)(e)).<sup>51</sup> Approval is given provided that, *inter alia*, 80 per cent of production is exported; production sold on the domestic market is subject to customs duties and taxes. The Malian authorities explain that the purpose of this regime is to attract foreign investment, modernize the industrial infrastructure, create jobs and value added, train the workforce, promote exports and transfer technology.

**(vi) State trading**

60. The Mali Textile Development Company (CMDT), a partly privatized State enterprise<sup>52</sup> is included in the privatization programme for 2003 and continues to have a monopoly on the cotton ginning market and the sale of cotton fibre and by-products (Table III.3 and Chapter IV(2)(ii)(b)).<sup>53</sup>

**(4) DOMESTIC MEASURES**

**(i) Protection of intellectual property rights**

**(a) Overview**

61. Mali is a member of the African Intellectual Property Organization (OAPI), set up by the Bangui Agreement (1977).<sup>54</sup> Since the first review of Mali's trade policy in 1998, the intellectual property protection regime has changed as a result of the revision of the Bangui Agreement in 1999, ratified by Mali on 19 June 2000. The revised Bangui Agreement entered into force on 28 February 2002, together with its Annexes I to VIII covering the following areas: patents (Annex I); utility models (Annex II); trademarks and service marks (Annex III); industrial designs (Annex IV); trade names (Annex V); geographical indications (Annex VI); copyright and related rights (Annex VII); and protection against unfair competition.

62. The OAPI Administrative Council has deferred the entry into force of Annexes IX and X dealing, respectively, with layout-designs (topographies) of integrated circuits, which are protected under Article 35 of the TRIPS Agreement, and new plant varieties, for which patents are required

<sup>49</sup> Decree No. 00-505/P-RM of 16 October 2000, whose implementing provisions are set out in Order No.01-3442/MICT/SG of 16 October 2001.

<sup>50</sup> WTO document G/SCM/N/71/MLI of 2 August 2001.

<sup>51</sup> Mali is eligible for the provisions of Article 27 and Annex VII of the Agreement on Subsidies and Countervailing Measures.

<sup>52</sup> The State still holds 60 per cent of the shares while DAGRIS (formerly the *Compagnie française pour le développement des textiles*) holds 40 per cent.

<sup>53</sup> IMF (2004).

<sup>54</sup> The Bangui Agreement (1977) establishing the African Intellectual Property Organization (OAPI) replaced the African and Malagasy Industrial Property Office, set up in 1962. The other members of the OAPI are Benin, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Mauritania, Niger, Senegal and Togo. See <http://www.oapi.wipo.net>.

under Article 27 of the TRIPS Agreement. For the time being, the OAPI does not have the necessary competence to examine applications for protection under Annex IX, and the majority of its member States do not have the necessary centres of expertise capable of examining applications that might be filed under Annex X.

63. In undertaking the revision, the member States of the OAPI wished “to make its provisions consistent with the requirements of international intellectual property treaties to which the member States belong, in particular the TRIPS Agreement; to simplify procedures for issuing titles; to broaden the scope of protection; and make good certain legal gaps”.<sup>55</sup> The subjects and terms of protection have been modified in order to harmonize them with the provisions of the TRIPS Agreement (Table III.4), and penalties for counterfeiting have increased significantly with the objective of enhancing their dissuasive effect.<sup>56</sup>

**Table III.4**  
**Subjects and terms of protection under the Bangui Agreement (1977) and its revision (1999)**

Agreement	Bangui Agreement (1977)	Bangui Agreement (1999)
Patents	10 years, renewable for a maximum of two further periods of 5 years <sup>b</sup>	20 years
Utility models	5 years	10 years
Trademarks or service marks	10 years, renewable every 10 years	10 years, renewable every 10 years
Industrial designs	5 years	5 years
Trade names	10 years, renewable every 10 years	10 years, renewable every 10 years
Appellations of origin	n.a.	n.a.
Literary and artistic property		
Copyright	Lifetime of the author + 50 years	Lifetime of the author + 70 years
Films, radio and audiovisual programmes	50 years	70 years
Photographs	25 years	25 years
Related rights for performances	n.a.	50 years
Related rights for phonograms	n.a.	50 years
Related rights for radio broadcasts	n.a.	25 years
Layout-designs (topographies) of integrated circuits <sup>a</sup>	n.a.	10 years
Protection of new plant varieties <sup>a</sup>	n.a.	25 years

<sup>a</sup> The revised Bangui Agreement regime is not yet in force.

<sup>b</sup> The applicant must prove to the OAPI's satisfaction that the invention is being worked in one of the member States.

n.a. Not applicable.

Source: WTO Secretariat.

64. Under the 1992 Constitution, the Agreement applies as a law of the State in Mali and is automatically enforceable; no domestic legal instrument is required to enact it. Mali's regime on

<sup>55</sup> OAPI, “Explanatory note on the revised Bangui Agreement” [on line]. Available at <http://www.oapi.wipo.net> [12 November 2003].

<sup>56</sup> Under the Bangui Agreement (1977), no penalty could be applied if, after expiry of a period of five years from the patent application, the patent had not been worked. This condition was deleted in the revised Bangui Agreement (1999).

copyright and related rights dates from 1984 and is being revised in order to bring it into line with the relevant provisions in the Bangui Agreement (1999).<sup>57</sup>

65. 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.<sup>58</sup> The procedure commences with the filing of an application, which must be submitted to the OAPI by applicants domiciled outside the OAPI member States, either through an agent appointed in one of the member States or through procedures laid down in the Patent Cooperation Treaty.<sup>59</sup> For applicants domiciled in one of the OAPI member States, applications are filed either with the national structure for liaison with OAPI (SNL) or directly with the OAPI or through an agent appointed in one of the member States. The CEMAPI acts as the SNL (Table III.5).

**Table III.5**  
**Applications for titles filed by the CEMAPI with the OAPI, 2002-2003**

Title	2002	2003
Patents	6	10
Trademarks	27	34
Trade names	23	25
Industrial designs	5	17

Source : Malian authorities.

66. After the application has been received by the Director General of the OAPI, the Organization initiates the procedure, registers the application and examines it. Any decision to reject an application may be the subject of an appeal to the Higher Appeals Commission, whose decision is final. If a patent is issued, the relevant rights remain in force subject to payment of the fees required to maintain the validity of the patent.

67. The national authorities are responsible for protecting intellectual property rights. They have pointed to a number of problems in this respect, particularly as regards piracy of musical works by Malian artists<sup>60</sup> and the import of counterfeit goods (for example, lengths of printed fabric).<sup>61</sup> The State lacks the means to promote awareness among the population, as well as the human and financial resources needed to prevent the sale of pirated works.

68. As regards multilateral intellectual property protection treaties, Mali has been a member of the World Intellectual Property Organization (WIPO) since 14 August 1982. Although the revised Bangui Agreement (1999) commits its members to acceding to certain arrangements, treaties and conventions administered by the WIPO, Mali has not complied fully in this respect.<sup>62</sup> In 2002, Mali

<sup>57</sup> Law No. 84-26/AN-RM of 17 October 1984.

<sup>58</sup> The OAPI provides guides for applicants on its site (<http://www.wipo.oapi.net>).

<sup>59</sup> Lists of approved agents are available on the OAPI site (<http://www.wipo.oapi.net>).

<sup>60</sup> In January 2003, there was a big march in Bamako against piracy. According to the information available, cassette tapes are manufactured abroad and imported freely ("*La musique malienne en danger*", *Le Mag*, No. 653 of 24 March 2003 [on line]. Available at [http://mali-music.com/mag/mag2003/mag2003\\_04.htm](http://mali-music.com/mag/mag2003/mag2003_04.htm) [20 November 2003]). See also "*A propos de piraterie*" [on line]. Available at <http://www.afribone.com/Editoriaux/99-00/24.html> [20 November 2003].

<sup>61</sup> "*Contrebande de pagnes: Non assistance à Comatex en péril*", *L'Essor*, 30 August 2002 [on line]. Available at [http://www.malipages.com/presse/news\\_08/news\\_0008.asp](http://www.malipages.com/presse/news_08/news_0008.asp).

<sup>62</sup> For example, Mali has not yet acceded to the Madrid, Hague, Lisbon and Vienna Agreements, the Budapest and Nairobi Treaties, the Rome Convention or the International Convention for the Protection of New Varieties of Plants.

ratified the WIPO treaties on copyright, performances and phonograms, which have not yet entered into force.

**(ii) Competition policy<sup>63</sup>**

69. At the national level, the regulatory framework for competition policy has not changed since 1998.<sup>64</sup> It has established pricing freedom and free competition. To a large extent, this domestic legislation will be superseded by the introduction of the relevant WAEMU regulations, which should in principle have occurred in early 2003.<sup>65</sup> The WAEMU's regulations will have broader scope than those in the domestic legislation, particularly as regards concentration of enterprises which are not among the questions dealt with in the domestic legislation.<sup>66</sup>

70. Since the first review, Mali's authorities have created the National Competition Council (CNC), which is an advisory body in the Office of the Minister of Trade.<sup>67</sup> The Council draws up an annual report on the competition situation in Mali and this is used as a basis for government action; for example, as a result of the 2001 report, priority was given to combating fraud. The CNC also expresses its opinion on issues relating to price controls and concentration of enterprises.

71. The role of the National Directorate for Trade and Competition Department (DNCC) has not changed. It prepares texts on competition policy and is responsible for monitoring their application. The institutional structure, including administrative structures, is currently being re-examined in order to implement the WAEMU regulations.

72. Certain prices are still subject to administrative controls. These concern in particular water and electricity (Mali Energy (EDM) holds the concession in both cases (Chapter IV(3)(iii)) and telecommunications (SOTELMA has a monopoly on fixed telephony); these three sectors are the subject of sectoral regulations. The price of hydrocarbons is subject to ceilings that are set monthly according to trends in global prices. The margins on generic essential medicines are also fixed.

**(iii) Subsidies and other forms of production support**

73. In 2001, Mali notified the WTO that it had no subsidy programmes.<sup>68</sup> It should be noted, however, that the State grants tax concessions to enterprises approved under the Investment Code (Chapter II(3)(iii)(e)). It also provides support for the cotton subsector agricultural activities in general through several measures (Chapter IV(2)(i)).

74. There are a number of pressures within the WAEMU to lower subsidies and support for production for example through the phasing out of subsidies granted for petroleum products within

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<sup>63</sup> UNCTAD, "Competition: The case of Mali", communication from Mali (on line). Available at <http://r0.unctad.org/en/subsites/cpolicy/docs/IGE0702/Mali.pdf> [27 November 2003].

<sup>64</sup> Ordinance No. 92-021/P-CTSP of 13 April 1992.

<sup>65</sup> Regulations No. 2/2002/CM/UEMOA and No. 3/2002/CM/UEMOA.

<sup>66</sup> Understandings that are liable to distort competition are prohibited. Abuse of a dominant position (including refusal to sell, conditional sales, discriminatory conditions of sale) is also prohibited. The seller must issue an invoice and inform the client of the price and the conditions of sale. "Loss leader prices" as well as sale at a loss are prohibited. Any advertising that contains false or misleading claims, indications or presentations is forbidden.

<sup>67</sup> Decree No. 99-202/P-RM of 11 July 1999.

<sup>68</sup> WTO document G/SCM/N/71/MLI of 2 August 2001. Mali is eligible for the provisions of Article 27 and Annex VII to the Agreement on Subsidies and Countervailing Measures.

five years as of 2003<sup>69</sup>, a draft “WAEMU Investment Charter”, currently suspended, and in 2003 the entry into force of the WAEMU regulations on State aid within the WAEMU, which are not yet in effect.<sup>70</sup>

**(iv) Government procurement**

**(a) Overview**

75. The rules on government procurement are contained in the Government Procurement Code, which was revised in 1999.<sup>71</sup> The main objective of the revision was to boost the anti-corruption campaign, which is the subject of a World Bank report prepared at the request of the President of Mali in 1999.<sup>72</sup> The report paints an unflattering picture of government procurement under the 1995 Code, underlining the extent of corruption, abuse of the private agreement procedure, non-observance of procedures for submitting bids, ineffective control of State enterprises and the fact that the award of contracts is not made public. It further notes the scale of corruption in the award of government procurement contracts, *inter alia*, and proposes to the Government a strategic approach to combat corruption based on three major elements: limiting the opportunities for corruption, imposing penalties, and ensuring transparency in government action. In 2003, Mali reinforced its anti-corruption mechanism by creating the post of “Inspector General”<sup>73</sup>, one of whose tasks is “to monitor the propriety and accuracy of the revenue and expenditure transactions by institutions of the Republic, State departments, local authorities, public institutions or any other body receiving financial assistance from the State” (Article 2).

76. Mali is neither a member nor an observer of the WTO Plurilateral Agreement on Government Procurement and does not have the intention of becoming one.

**(b) Regulations**

77. The Government Procurement Code governs purchases by the State and local authorities, public institutions and, in principle, State companies and companies in which the State has a majority holding. It covers contracts proposed by ministerial departments for an amount exceeding CFAF 10 million (US\$16,700) financed out of the State budget and CFAF 50 million (US\$83,300) in the case of State enterprises and government institutions of an industrial or commercial nature. The threshold was lowered in 2002 in order to reinforce the anti-corruption drive.<sup>74</sup>

78. The Code stipulates that contracts may be awarded either through open or selective adjudication, by open or selective invitation to tender (either internationally or published locally) or through a direct understanding (private agreement). In principle, contracts are awarded by private agreement only if the invitation to tender procedure has been unsuccessful, if there is an emergency or if the higher interests of the State must be protected, and the authorization of the General Directorate for Government Procurement (DGMP) is required<sup>75</sup>; in practice, however, the report prepared by the Secretariat for the first review of Mali’s trade policy noted that private agreement was the procedure

<sup>69</sup> This ban does not cover direct subsidies through enterprises “when they do not distort the free play of competition” (Article 12 of Directive No. 6/2001/CM/UEMOA).

<sup>70</sup> Regulation No. 4/2002/CM/UEMOA.

<sup>71</sup> Decree No. 95-401/P-RM of 10 November 1995, amended by Decree No.99-292/P-RM of 21 September 1999.

<sup>72</sup> World Bank (2001).

<sup>73</sup> Law No. 03-32/AN-RM of 12 August 2003.

<sup>74</sup> Order No. 02-2025/MEF-SG of 18 September 2002.

<sup>75</sup> Decree No. 95-401/P-RM, Article 34.

used for 60 per cent of government procurement financed out of the State budget and around 4.5 per cent of government procurement financed from external funds. It was also noted that the adjudication method was not used; open adjudication assists transparency. According to the data provided by the Malian authorities, private agreement was used for only 11.8 per cent of government procurement in value terms in 2003, which is a marked decrease in comparison with 2000 and preceding years (Table III.6).

**Table III.6**  
Amounts and methods of awarding government procurement contracts, 2000-2002  
(CFAF millions)

	2000		2001		2002 <sup>a</sup>	
	Number	Value (CFAF billions)	Number	Value (CFAF billions)	Number	Value (CFAF billions)
Open invitation to tender	315	53.3	317	106.0	202	64.0
Selective invitation to tender	65	5.8	97	6.0	91	6.4
Private agreement	51	63.4	78	33.2	41	11.8
Total	431	122.5	492	145.2	334	82.1

<sup>a</sup> From 1 January to 14 October 2002.

Source : Malian authorities.

79. An invitation to tender may be preceded by a competition or followed by pre-selection. For purchases made by government departments, a selective invitation to tender may be used when the contract does not exceed CFAF 20 million for supplies or CFAF 50 million for works, or if only very few candidates can provide the work, supplies or services needed. If this is the case, the opinion of the DGMP is required.

80. Public institutions involved in procurement through an invitation to tender must draw up a dossier and establish a commission to examine the bids. The role of the DGMP is solely to monitor the procedure; after verification and, where applicable, changes to the specifications, it authorizes the invitation to tender and expresses its opinion on the decision of the bid commission, although it cannot be represented thereon.

81. A preferential margin of 15 per cent of the adjusted prices for contracts for supplies (10 per cent for contracts for services) is given to Malian enterprises; the margin is taken into account when assessing bids. Following the revision of the Code in 1999, foreign enterprises may set up as a group in order to be given preference, provided that half the members of the group are Malian nationals and on the condition that the national members of the group carry out at least 30 per cent of the contract (50 per cent at the time of the first review).<sup>76</sup>

82. The 1999 revision of the Code also introduced penalties for corruption by bidders, candidates and holders of a government procurement contract. The penalties involve exclusion from participation and compensation for damages resulting from the corruption. These amendments were made in response to recommendations made by the World Bank.

<sup>76</sup> Decree No. 99-292/P-RM, new Article 20.