



Trade Policy Review Body

TRADE POLICY REVIEW

REPORT BY THE SECRETARIAT

THE MEMBER COUNTRIES OF THE WEST AFRICAN ECONOMIC AND MONETARY UNION (WAEMU)

This report, prepared for the first Trade Policy Review of the West African Economic and Monetary Union, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as required by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement Establishing the World Trade Organization), sought clarification from the member countries of the West African Economic and Monetary Union on its trade policies and practices.

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SUMMARY

1. With the exception of Côte d'Ivoire, which is a developing country, the seven other member States of the West African Economic and Monetary Union (WAEMU), namely Benin, Burkina Faso, Guinea-Bissau, Mali, Niger, Senegal and Togo, are all least developed countries (LDCs). The eight member States as a whole have a GDP of around €97 billion. Depending on the member State, the informal sector accounts from between one to two thirds of real GDP. The total population, numbering 119 million in 2017, is spread over an immense region of 3.5 million km², a large part of it desert, and is growing at an average rate of 3.1% annually.

2. Member States have immense natural resources, including minerals, and vast agricultural potential. Gold is mined in Burkina Faso and Mali, for which it is the most important export. Niger is one of the world's leading producers and exporters of uranium, as is Togo for phosphates. The WAEMU members produce and export limited quantities of mineral resources. Although all eight States have agricultural potential, Côte d'Ivoire reaps the greatest benefit. Its agricultural strategy has enabled it to diversify production and become one of the foremost producers and exporters of several agricultural products such as cocoa, coffee and cashew nuts. For Benin, Burkina Faso and Mali, cotton is a major export, as are fish and shellfish for Senegal, while Guinea-Bissau relies on its exports of cashew nuts.

3. In most countries where they are exploited, mining resources have not so far yielded many benefits for the national economy or the population. In all eight countries, the majority of the population is essentially involved in agriculture, including raising livestock. Nevertheless, apart from hydrocarbons, animal products and cereals, particularly rice and wheat, are the principal imports and their share of imports has not decreased. The other principal imports include chemicals and transport equipment.

4. WAEMU's economic growth overall has been lower than that recorded by the group of African LDCs, no doubt because of the socio-political problems in the region. Over the period 2009-2015, WAEMU's annual economic growth was an average of 5%, driven by Côte d'Ivoire, which accounts for over one third of the Union's GDP. Furthermore, WAEMU's macroeconomic stability, achieved as a result of monetary discipline and, to a certain extent, the budgetary discipline imposed by membership of such a Union, has enabled it to absorb the shocks caused by sharp fluctuations in global prices for the raw materials exported.

5. The share of total trade (intra- and extra-community) in goods and services in WAEMU's GDP rose by seven percentage points between 2009 and 2016 to reach 70.4%. The percentage varies from less than 60% in Guinea-Bissau and the Saharan countries (Burkina Faso, Mali, Niger) to over 100% in Togo, 75% in Senegal, 73% in Côte d'Ivoire and 70% in Benin. Over 90% of the Union's trade in goods (amounting to €22 billion for imports and €20 billion for exports) takes place outside the community, with the European Union (EU), Switzerland, China and India as the major partners. The value of intra-WAEMU trade has increased at a slower pace than trade outside the community and represented around 10% of the total value of member States' trade in 2015, less than the 13% recorded in 2010. It should be noted that the extent of informal trade means that statistics on intra-community trade are undoubtedly under-estimated.

6. Investment in the Union has the advantage of a legal framework for business law that has been harmonized by implementation of the nine uniform acts of OHADA. The Investment Codes of WAEMU members are in general liberal, with no important restrictions on foreign presence, and provide foreign investors with the usual guarantees. They have not, however, yet been the subject of harmonization at the community level and include numerous exceptions and exemptions made necessary by relatively high corporation tax, amounting to 25% and 30% of the profits, as provided in the community provisions. In addition, problems of electricity supply and its high cost are one of the major obstacles to investment within the Union.

7. With the exception of Guinea-Bissau, which has no permanent Mission in Geneva, all WAEMU member States take part in the WTO's activities through their Missions. The eight member States are examining the possibility of utilizing the WAEMU delegation to become better organized and so fulfil their notification obligations and coordinate their participation in the WTO in general. Members, with the exception of Guinea-Bissau and Niger in recent years owing to their contribution arrears, have the benefit of all WTO's technical assistance activities. Prior to this first

common review of the trade policies of all eight WAEMU member States, some of these countries were first reviewed separately and then in groups of two or three. The introduction of an annual review of reforms, policies, programmes and projects in the community by the WAEMU Commission in 2013 also responds to the concern for transparency and has helped members to improve the transposition and implementation of community acts. The simultaneous existence of WAEMU and ECOWAS, each with its own Commission, has meant that overlapping has persisted, has increased costs (for WAEMU members which all belong to ECOWAS) and has slowed down the trade integration impetus, which is much stronger within WAEMU than within ECOWAS. In addition, in August 2016, Côte d'Ivoire ratified the interim Economic Partnership Agreement signed with the EU in November 2008, but by July 2017 had still not started to dismantle tariffs, as required by the Agreement.

8. Among the many documents required for importation and which have not yet been harmonized by the Union's member States are the prior or advance declaration forms, the inspection certificate and the foreign exchange authorization; the export declaration by the country of origin (mandatory in Côte d'Ivoire and Niger); and the cargo tracking note (BSC) issued by private companies authorized by the governments requiring it. The BSC provides information which is usually available in other customs documents. Electronic platforms for exchanging documents, linked to the Customs electronic windows, exist in Benin, Côte d'Ivoire, Senegal and Togo. By May 2017, all WAEMU member States, except for Benin, Burkina Faso and Guinea-Bissau, had ratified the WTO Agreement on Trade Facilitation.

9. Several institutions are involved in import and export procedures alongside the Customs. These include the compulsory customs agents (also required for export); officials of various ministries checking whether or not the various prior authorizations required are submitted, including those from the Directorate-General of the Treasury, which issues foreign exchange commitments, and approved banks which sign them; producers' or exporters' associations, which register exports and sometimes tax them; Chambers of Commerce, involved in guarantees for the transport of goods in transit and weighing them; and inspection companies. With the exception of Niger, which did not renew its contract with the preshipment inspection company but still levies the inspection fee of 1% of the c.i.f value of the goods, and Guinea-Bissau, which suspended this procedure in November 2016, all the other WAEMU member States still impose preshipment inspection, sometimes involving several companies, as is the case in Benin. For all these reasons, streamlining import and export procedures is seen as a priority by all operators. Furthermore, pursuing the efforts made by member States in terms of compliance with the multilateral provisions on customs valuation could make the use of private companies for customs valuation redundant.

10. Despite the determination to achieve fiscal transition declared at the regional level, the taxation of trade remains an important source of government revenue for member States (around 15% in Burkina Faso to over 38% in Côte d'Ivoire, with an average of 24% for WAEMU as a whole), which hampers any initiative to try to reduce it. The ECOWAS common external tariff (CET) has been applied in all member States since January 2015, with the exception of Guinea-Bissau where it came into force in October 2016. It comprises five bands (zero, 5%, 10%, 20% and 35%) and replaced the WAEMU tariff, which had been in force since 2004. For 90% of tariff lines, the ECOWAS CET is identical to the WAEMU tariff, except that rather than the four bands in the WAEMU CET, the ECOWAS CET has a fifth band at a rate of 35% applicable to 130 tariff lines. The average rate of the ECOWAS CET is 12.3%, compared to 12.1% for the WAEMU CET. An optional supplementary measure of national application is supposed to allow member States, if needed, to adjust over a transitional period of five years until 1 January 2020.

11. This supplementary provision comprises an import adjustment tax, which allows tariff protection to be raised or lowered according to a country's needs, and a supplementary protection tax (TCP). This is similar to a safeguard tax and is supposed to replace a similar provision introduced by WAEMU, namely, the special import tax, still in force in some member States (Côte d'Ivoire, Mali and Senegal). Together with its accompanying measures, the ECOWAS CET is thus more complex and involves a greater risk of variation in its application by member States than that of WAEMU.

12. The rates of the ECOWAS CET exceed bindings at the WTO for all member States except for Guinea-Bissau and Togo. Moreover, the numerous other duties and levies imposed by member States and described below are in fact bound at zero, posing a problem of consistency with the

bound tariff lines. In addition to the CET and the two new import taxes described above, WAEMU member States also apply myriad other duties and levies which already existed in WAEMU's tariff, namely: the community solidarity levy of 1%, imposed by WAEMU member States on imports from countries outside ECOWAS; the ECOWAS community levy of 0.5%; and the statistical tax of 1%. If need be, member States individually impose levies on certain products such as sugar in the form of "special", "compensatory" or variable duties. In order to resolve the inconsistency between their taxation regimes and their multilateral commitments, all WAEMU member States, except for Guinea-Bissau, have reserved the right to renegotiate their bound tariffs pursuant to Article XXVIII of the GATT over the period 2015 to 2017, but this renegotiation process has not yet begun.

13. Within ECOWAS, and also WAEMU, trade in local products is, in principle, free of duty and import taxes. Tariff preferences for processed products require two prior approvals (of the product and the manufacturer) in addition to the certificate of origin in order to guarantee the origin of the product and the nationality of the manufacturer. Numerous problems apply to the free movement of community goods (either of origin or after release for consumption in a member State) or those in transit, related, *inter alia*, to each member State's need for revenue or to the existence of fraud. Furthermore, because the security amounting to 0.5% of the c.i.f. value of goods in transit is not high enough – Guinea-Bissau imposes a 2% tax instead – and the goods are unloaded illegally in markets of member States along the route, some member States, including Côte d'Ivoire, require a second guarantee equivalent to at least the total amount of the import duties and taxes suspended, which is refunded after receiving proof that the goods have left national customs territory. Although it is now much less common, a customs escort is still compulsory on several routes, for example, between Mali and Senegal. In May 2017, pilot projects to interlink customs posts were being implemented between Burkina Faso and Togo, and among Côte d'Ivoire, Burkina Faso, Mali and Senegal.

14. All WAEMU member States apply internal taxes, whose regimes have been harmonized, but not the rates. These consist of VAT (Guinea-Bissau applies a general sales tax (IGV) instead), excise duty (including the single special tax on petroleum products) and the advance on profits tax (AIB); ranges are determined for their rates. Except for Niger, which only applies excise duty on imports, all other member States observe the principle of national treatment when applying VAT and excise duty. The AIB is usually only imposed on imports. Member States do not always observe the harmonized regimes (at the community level) for tax exemptions, especially internal taxes.

15. The export regime is still less harmonized than the import regime. Exports are subject to various taxes which have not been harmonized at the community level, while their competitiveness suffers the negative impact of high taxes on inputs, foreign exchange regulations and a number of other factors that affect the business climate, including the cost of access to energy and financing. Benin, Côte d'Ivoire, Mali, Senegal and Togo have industrial free export zones which allow companies proving that they export at least 65% to 80% of their turnover to benefit from a number of concessions. These entail costs for States which the gains from the free zone regime do not appear to cover.

16. Since 2010, the WAEMU Commission has been responsible for the mechanism for the adoption of technical regulations within the Union, in cooperation with the Regional Standardization, Certification and Quality Promotion Organization (NORMCERQ), on the basis of international standards and technical regulations such as those of the Codex Alimentarius and the International Organization for Standardization, to which all the member States belong with the exception of Niger, which is a correspondent member, Guinea-Bissau and Togo. The objective is to improve the quality of local or imported products. There is still room for progress, however, to bring the relevant national regimes up to the minimum international level. The West African Accreditation System (SOAC), revised in 2010, was not yet operational in May 2017.

17. The process of harmonizing national sanitary and phytosanitary (SPS) legislative texts, measures and practices has been going on within WAEMU for a dozen years or so. Attention should be drawn to problems in effective implementation of domestic legislation, which is obsolete in most of the countries, notably the absence or deficiencies of SPS control capacity. In countries where they exist, national SPS committees do not have the means needed to operate correctly. Closer coordination among competent structures as regards SPS control and the introduction of modern risk management approaches are required.

18. In February 2015, regulations on the prevention of biotechnological risks were endorsed by WAEMU, together with ECOWAS and CILSS. These will apply to any use of modified living organisms and their by-products, which might have a negative effect on the environment, especially on biological diversity or human or animal health, with the exception of pharmaceuticals. Within WAEMU, regulations to ban plastic bags and their components were being adopted; similar measures are in place at the national level. National initiatives to ban the import of some products (meat products in particular) within the Union should be noted, particularly in Senegal in the case of poultry, in Mali for beef and poultry, and in Togo for frozen beef, *inter alia*.

19. The protection of intellectual property rights (IPRs) remains a challenge, even though all WAEMU member States have signed the Bangui Agreement, whose uniform provisions are essentially consistent with the WTO's TRIPS Agreement, and have created a common bureau, namely the African Intellectual Property Organization (OAPI). In 2013, OAPI recorded its first protected geographical indications. A revision of the Bangui Agreement in December 2015 now allows the Customs to detain *ex officio* goods they suspect of being counterfeit. By May 2017, Côte d'Ivoire, Guinea-Bissau and Niger had still not accepted the Protocol of Amendment to the TRIPS Agreement, ratified on 23 January 2017, and intended to facilitate access to essential medicines.

20. A large percentage of the working population in the Union's member States is still employed in agriculture. Food insecurity remains a permanent feature in several States, however, exacerbated by the problem of trade in regions affected by terrorist attacks since 2010. Despite the declared objective, per capita food production did not increase to any great extent in member States (with the exception of Benin) over the period 2010-2016, and even fell in some. Nevertheless, higher prices for producers of various food crops since 2010 have led to a substantial rise in production in several States, thereby confirming that agricultural production responds dynamically to price fluctuations. The numerous taxes levied on agricultural products by some member States do not, however, encourage producers.

21. Overall, WAEMU's member States did not generally utilize quantitative restrictions on imports of agricultural products during the review period. In addition to the maximum tariff protection, however, the sugar subsector is still protected by a number of trade barriers such as variable duty, as in Côte d'Ivoire; the obligation to purchase local sugar in Burkina Faso and Mali; and quantitative restrictions on imports in Côte d'Ivoire, Benin and Senegal. Livestock breeding is a priority for increased trade among WAEMU member States, as the main self-sufficient informal activity, notably in Burkina Faso, Mali and Niger, but also as the supplier of dairy products, meat, and hides and skins for export. It would appear that informal exports play a major role because of the plethora of taxes and other levies when crossing borders, despite the free trade that is in principle applied by member States.

22. The fisheries sector plays a key role in the economies of all member States both as regards revenue and food security, even though it is more important in countries such as Senegal and Guinea-Bissau. In general, fisheries do not appear to receive any government support. Fisheries yield substantial revenue from the sale of fishing rights, but without any obligation to unload catches or process them locally. Furthermore, problems of compliance with the health regulations in the major export markets have been noted. Two directives, which also cover (legal or illegal) over-fishing affecting most species, were adopted by the Commission in 2014, although implementing them is proving very difficult.

23. Except for Côte d'Ivoire, which is relatively more industrialized, the manufacturing sector in WAEMU's other member States is little developed, with a few light industries. The availability of secure, clean and inexpensive energy remains the major handicap for industrialization and diversification of WAEMU's economies. Less than 6% of the inhabitants in rural areas have access to electricity in Burkina Faso, Guinea-Bissau and Niger; and only Senegal and Togo have greatly increased their rural populations' access to electricity to 28% and 33%, respectively, close to the level in Côte d'Ivoire. There is no community legislation on electric power, and the relevant domestic laws are divergent. Inefficient monopolies of transport and electricity distribution, together with price fixing mechanisms, exist in most of the countries and discourage investment. Few measures have been adopted to encourage renewable energy. There are initiatives (not yet completed) to interconnect electricity grids between Senegal and Guinea-Bissau and among Benin, Burkina Faso, Mali and Togo. The interconnection between Côte d'Ivoire and Mali has been operating since 2011. Niger has just a few links with Nigeria.

24. Electric power within the Union is essentially of thermal origin, even though there is only very limited production of hydrocarbons in the Union. Only Côte d'Ivoire and, since 2011, Niger, produce crude petroleum. Regulations affecting trade in petroleum products at community level are being streamlined and harmonized so as to lower the financial and environmental cost and the consequent risk of fraud. Systems for the taxation of imports of petroleum products, in particular, respond to distinct and sometimes inconsistent objectives of maximizing fiscal revenue and keeping prices affordable for the population and industries in national territory. The hydrocarbons subsector is subject to various trade measures, including taxes that have generally been harmonized at community level, consumer subsidies, private or public monopolies and quantitative import restrictions in member States which produce crude petroleum or refine it, for example in Niger.

25. In the mining sector, compliance with the Extractive Industries Transparency Initiative (EITI) by all member States (except for Guinea-Bissau) underlines their determination to strive to improve governance in this sector. Small-scale mining and gold panning, in particular are outside this control, however, even though they constitute a non-negligible part of such activities. The State's right to 10% of the capital of mining companies, without payment, has now become a traditional part of mining royalties. The extent of exemptions from various taxes, duties and levies given for mining investment has seriously undermined the net gains for these States, to such an extent that in some countries, such as Niger, the fiscal provisions relating to mining are being reviewed.

26. Services are increasingly playing a predominant role in the economies of WAEMU member States. The areas which have recorded the best performances include mobile financial services, telecommunications and business services, following the installation of fibre optics. A liberal trade policy towards foreign suppliers of services has helped to achieve this, promoting competition and partnerships in several member States. Access to fibre optic infrastructure, however, suffers from a lack of competition, which has incited several regulators in the Union to intervene, notably by putting a ceiling on certain rates. The recent amalgamations and takeovers in the telecommunication sector, by increasing its concentration, could slow down this subsector's performance.

27. In the area of air transport, the Yamoussoukro Decision of 2000 and the community provisions of 2002 opened markets up to regional companies. Prices are slow to decrease, however, because supply is limited. In member States with a coastline, maritime transport services are mostly provided by the major world shipping lines and countries do not usually have their own fleet. One of the many taxes and surcharges imposed at the ports level, the terminal handling charge, introduced in March 2016 for the benefit of shippers, was abolished in January 2017 in Côte d'Ivoire, but is still levied in some other Union ports and raises the cost of imports. As regards rail transport, the renovation and expansion of the two railways between Niamey and Cotonou and between Abidjan and Ouagadougou could boost competition in the land transport sector. Furthermore, the regional transport facilitation programme launched by the WAEMU Commission in 2009 should help to end the chaotic competition that is a feature of road transport, encourage the entry of new operators and thus allow costs to fall and improve the security and reliability of these services.

28. Banking and insurance in member States are open to foreign presence, which is substantial. Their activities are governed by the regulations of the West African Monetary Union (UMOA) for banking services, and the Code of the Inter-African Conference on Insurance Markets (CIMA) for insurance services. Only Benin, Côte d'Ivoire and Senegal made specific commitments on financial services (excluding insurance) under the GATS in 1994. Among recent developments was the simultaneous transposition of the regulatory provisions of "Basel II" and "Basel III" in 2016. Moreover, since 2016, any reinsurance contract assigned abroad concerning over 50% (75% prior to 2016) of a risk has required authorization. In addition, 15% and 5% of the amounts reinsured must be assigned in priority to CICA-RE and Africa-Re, respectively, two multilateral reinsurance companies.

29. Although persons offering most professional services must be citizens of a WAEMU member State, such services are the subject of several regulations designed to install the free movement and establishment of authorized professionals citizens of WAEMU within the community area. Under the GATS, only Côte d'Ivoire and Senegal undertook certain commitments on professional services. For accounting services, the West African accounting standards (SYSCOA) allow financial

information on companies to be obtained; since 2013, it has incorporated the International Financial Reporting Standards (IFRS). In order to help companies in the informal sector to join the formal sector, professionals in approved management centres (CGA) help businessmen to create small or medium-sized enterprises and to keep their accounts according to the SYSCOA. Tax reductions for CGA members are given in some member States.

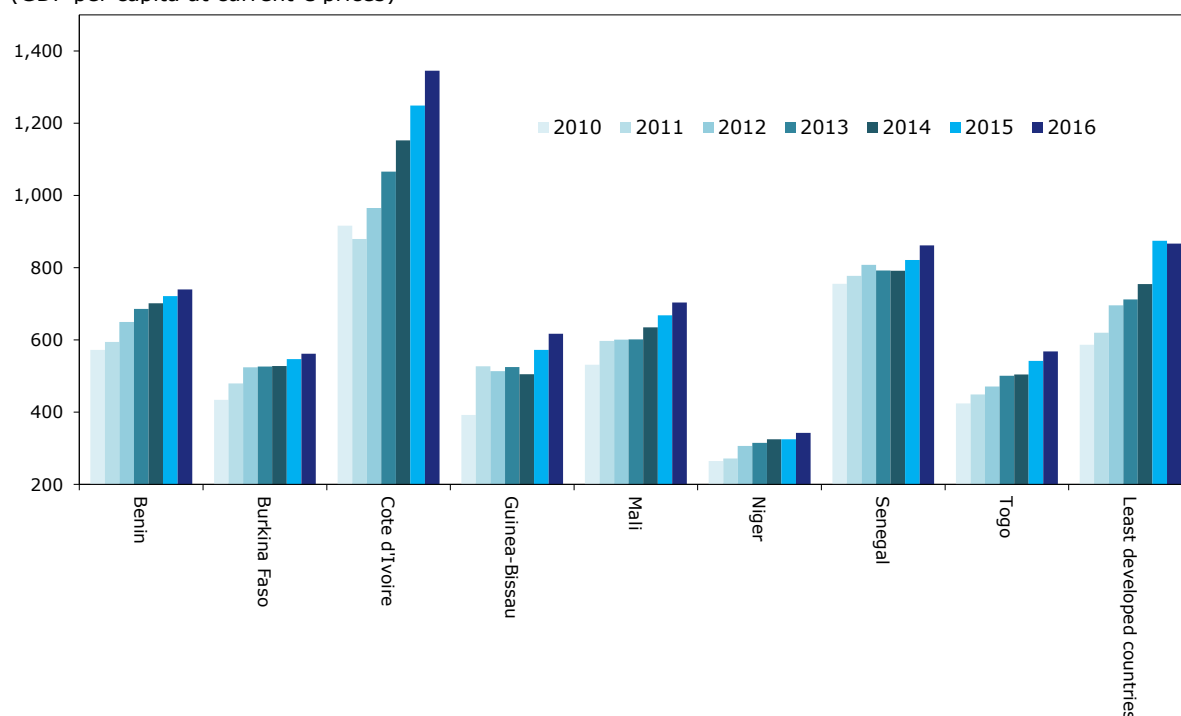
1 ECONOMIC ENVIRONMENT

1.1 Main features

1.1. The West African Economic and Monetary Union (WAEMU) comprises eight States, seven of which belong to the group of least developed countries (LDCs) — Benin, Burkina Faso, Guinea-Bissau, Mali, Niger, Senegal and Togo. Its sole developing-country member (Côte d'Ivoire) accounts for over a third of the Union's gross domestic product (GDP). WAEMU encompasses an area of 3.5 million km² and has over 110 million inhabitants with a population that is growing by about 3% per year. Despite their differences (Chart 1.1), the economies of the eight countries are all dominated by raw materials production and exports, as described in the respective Annexes by country. The Ivorian economy is more diversified, however.

Chart 1.1 GDP per capita, 2010-2016

(GDP per capita at current € prices)



Source: Central Bank of West African States (BCEAO); and World Bank, *World Development Indicators*, viewed at: <http://databank.worldbank.org/data/home.aspx>.

1.2. WAEMU member States have a long common history of integration: firstly, monetary union inside the franc zone with a common currency — the African Financial Community franc (CFAF); and then economic union, including trade. Monetary integration dates from colonial times and is currently governed by a Monetary Cooperation Agreement between France and the African countries in question, namely those of West Africa in the West African Monetary Union (WAMU);¹ those of Central Africa in the Central African Monetary Union (UMAC);² and Comoros.³ Four basic principles govern the franc zone: guaranteed unlimited convertibility of the CFA franc by the French Treasury; a fixed exchange rate against the euro (previously against the French franc); freedom of transfer within the zone (WAMU in the case of WAEMU countries); and the pooling of foreign exchange reserves by the countries of the monetary union. In exchange for convertibility and exchange guarantees, the Central Bank of West African States (BCEAO), the Bank of Central African States (BEAC) and the Central Bank of Comoros are required to deposit a fraction of their

¹ The WAMU Treaty is supplemented by the WAEMU Treaty, which provides for the merger of the two agreements into a new treaty "in due course". This has not yet happened, however.

² UMAC includes Cameroon, Congo, Gabon, Equatorial Guinea, Central African Republic, and Chad.

³ The franc zone encompasses the WAMU and UMAC member States, along with Comoros, France and Monaco.

foreign exchange reserves in individual operational accounts opened at the French Treasury. The BCEAO specifically must deposit 50% of these foreign assets in its operations account.

1.3. As a currency-issuing institution, the BCEAO has exclusive prerogative to issue the CFA franc in the territory of the WAMU member States, and it pursues price stability as the key objective of its monetary policy. It is responsible for defining and implementing the common monetary policy within WAMU; ensuring the stability of the banking and financial system (with common banking regulations, see section 4.4.4); promoting the proper functioning, supervision and security of payment systems; implementing the common foreign exchange policy defined by the Council of Ministers; and managing member States' official foreign exchange reserves.⁴ The BCEAO Monetary Policy Committee is responsible for formulating monetary policy.

1.4. All WAEMU member States have accepted Article VIII of the Articles of Agreement of the International Monetary Fund (IMF).⁵ Current payments to third countries are generally authorized, but the intermediary concerned is expected to demand supporting documents for transfers of amounts equivalent to CFAF 500,000 (€762) or more. All trade (exports and imports) between WAEMU and a non-WAEMU country (even if the latter is part of the franc zone) must be transacted through a bank (approved intermediary) if the value in question exceeds the regulatory threshold. The latter was raised from CFAF 5 million to CFAF 10 million (roughly €15,000) in 2010.⁶ A foreign exchange tax of 0.6% is levied on extra-WAEMU transfers to the benefit of the respective national treasuries. The authorities recognize the need to simplify domiciliation procedures (section 3.1.1.3).

1.5. Under the common foreign exchange rules, all CFAF capital movements between member States are free and unrestricted, which considerably simplifies trade. Capital inflows from non-WAEMU countries are in principle free, except for gold imports. Capital outflows from the community area are subject to controls: investments made by a resident to a non-member State require prior authorization by the Minister responsible for finance; and at least 75% must be financed by borrowing outside WAEMU. When disposed of, the proceeds must be repatriated to the country of origin, unless reinvestment has been previously authorized.⁷

1.6. Member States have a common trade policy within their free trade area, which is described in sections 3 and 4.

1.2 Recent economic trends

1.7. Since 2010, WAEMU member States have achieved fairly modest economic growth, much less than that of the LDC group, to which they all belong except for Côte d'Ivoire. The Union's economic growth has been driven by the very dynamic expansion of the Ivorian economy, which has benefited from the development and diversification of agricultural production, and from many projects to restore and reinforce basic infrastructure. This has occurred against a backdrop of lower prices for the main export commodities (chart 1.2 and section 1.3), which suggests that some member States are starting to diversify sufficiently to reduce their reliance on a narrow range of commodity exports.

1.8. Since 1999, member States have endeavoured to increase convergence between their economies. With a view to strengthening multilateral macroeconomic policy surveillance, in January 2015 the Conference of WAEMU Heads of State and Government adopted an Additional Act establishing a Convergence, Stability, Growth and Solidarity Pact among WAEMU Member States. The Pact defines three first-order and two second-order convergence criteria:

⁴ BCEAO (2010), *Statuts de la Banque centrale des États de l'Afrique de l'Ouest*. Viewed at: <http://www.bceao.int/IMG/pdf/StatutsBCEAO2010.pdf>.

⁵ Online information viewed at: <http://www.imf.org>.

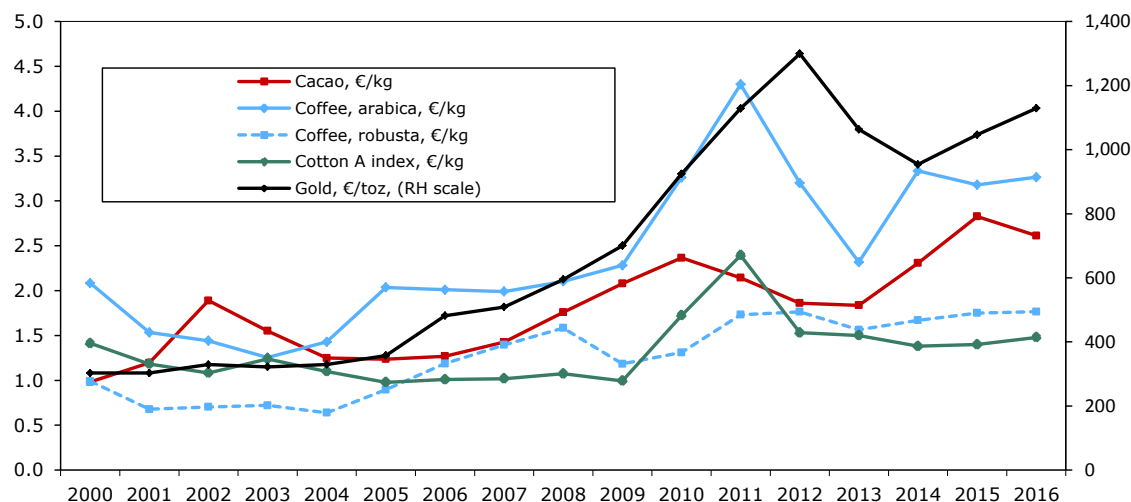
⁶ Regulation No. 09/2010/CM/UEMOA of 1 October 2010. BCEAO (2011), *Règlement relatif aux relations financières extérieures des États membres de l'Union économique et monétaire ouest-africaine (UEMOA) et textes d'application*, viewed at: <http://www.bceao.int>. Imports and exports that are exempt from domiciliation formalities are listed in the annex to Regulation No. 09/2010/CM/UEMOA, viewed at: http://www.uemoa.int/Documents/Actes/CM30112010/Annexe_Regl_09_2010_CM_UEMOA.pdf/IMG/pdf/reglement-relatif-aux-relations-financieres-exterieures-des-etats-de-uemoa-textes-application.pdf.

⁷ Purchases of foreign securities, the issue or sale of which in member States has been authorized by the Regional Council for Public Savings and Financial Markets (CREPMF) (section 4.4.4), are not subject to this requirement.

- the overall budget deficit, including grants, should not exceed 3% of GDP;
- inflation should not exceed 3% per year;
- total domestic and foreign debt should not exceed 70% of nominal GDP;
- the wage bill should not exceed 35% of tax revenue; and
- tax revenue should be at least 20% of nominal GDP (tax burden).

Chart 1.2 Commodity prices, 2000-2016

(€ nominal)



Source: World Bank, Global Economic Monitor (GEM), Commodities. Viewed at: [http://databank.worldbank.org/data/reports.aspx?source=global-economic-monitor-\(gem\)-commodities](http://databank.worldbank.org/data/reports.aspx?source=global-economic-monitor-(gem)-commodities).

1.9. Nevertheless, large fiscal deficits have persisted, owing in particular to the infrastructure investment programmes under way in most member States and the relative stagnation of tax revenue. As Table 1.1 suggests, Togo apart, all other member States have failed to meet the tax burden criterion, which remains below the WAEMU norm.

1.10. In 2009, member States decided to adopt additional criteria for assessing the tax transition,⁸ one of which is relevant to trade policy: duties and taxes at the customs cordon should account for no more than 45% of total tax revenue. In practice, while no longer at the 45% level, the reliance of member States on revenue collected at the customs cordon, either on imports or on exports, remains relatively high (Table 1.2). The various reforms implemented need to be quickened to make tax revenue more substantially dependent on internal taxation, and less on the taxation of international trade.

1.11. Inflation within the Union has stayed low on average (below 3% since 2009, see Annexes by country), thanks to the prudent monetary policy implemented by the BCEAO, the fall in world food and energy prices, and abundant supply on local markets for cereals and fast-moving consumer goods.⁹ The BCEAO's independence from national governments enables it to maintain its price stability policy (Article 8 of the BCEAO Statutes) and uphold the integrity of WAEMU's banking and monetary system, pursuant to its mandate.

⁸ Decision No. 34/2009/CM/UEMOA adopting the criteria and indicators of the tax transition within WAEMU.

⁹ Banque de France (2015), *Rapport annuel de la zone franc*. Viewed at: https://www.banque-france.fr/fileadmin/user_upload/banque_de_france/Eurosystème_et_international/zonefr/2015/0_ZF2015_RAPPORT-GLOBAL.pdf.

Table 1.1 Tax revenue and budget balance as a percentage of GDP, 2011-2016

Member State	WAEMU norm	2011	2012	2013	2014	2015	2016
1. Tax revenue (% of GDP)							
Benin	20%	15.5	14.4	14.8	14.7	14.3	14.1
Burkina	20%	14.5	15.6	16.6	15.2	14.7	16.5
Côte d'Ivoire	20%	13.1	16	15.6	15.2	15.7	16.7
Guinea-Bissau	20%	7.8	7.7	6.8	8.5	10.1	10.0
Mali	20%	14.6	14.5	14.9	15.0	13.8	14.8
Niger	20%	13.4	14.3	15.2	15.5	16.1	13.6
Senegal	20%	18.9	18.6	18.2	19.2	19.8	20.4
Togo	20%	16.4	16.5	20.0	20.7	21.4	22.0
WAEMU	20%	15.2	15.8	16	16.2	16.0	16.7
2. Budget deficit (% of GDP, including grants)							
Benin	-3%	-1.7	-0.4	-1.7	-1.9	-7.9	-3.9
Burkina	-3%	-2.3	-3.1	-3.6	-1.9	-2.1	-3.3
Côte d'Ivoire	-3%	-4.0	-3.2	-2.2	-2.2	-2.9	-4.0
Guinea-Bissau	-3%	-1.9	-2.0	-0.5	-2.3	-2.6	-3.4
Mali	-3%	-3.5	-0.9	-2.3	-2.8	-2.1	-4.3
Niger	-3%	-2.8	1.8	-2.1	-8.0	-9.1	-5.5
Senegal	-3%	-6.7	-5.8	-5.5	-5.2	-4.8	-4.3
Togo	-3%	-1.1	-5.8	-4.6	-3.4	-6.3	-2.2
WAEMU	-3%	-3.6	-2.9	-3.0	-3.2	-4.1	-4.2

Source: WAEMU Commission.

Table 1.2 Duties and taxes levied at the customs cordon, 2010-2015

(% of total tax revenue)

Member State	2010	2011	2012	2013	2014	2015
Benin	19.4	22.4	25.8	26.6	21.2	n.a.
Burkina Faso	17.1	16.1	16.7	16.9	15.3	15.4
Côte d'Ivoire	29.5	29.6	30.4	31.7	34.7	38.6
Guinea-Bissau	27.2	17.2	15.9	15.4	21.7	28.0
Mali	17.5	18.9	16.4	16.4	16.6	14.4
Niger	37.3	40.1	24.9	25.4	24.2	27.5
Senegal	15.2	15.8	14.4	16.2	14.9	n.a.
Togo	24.2	20.9	22.6	19.9	18.2	19.7
WAEMU	22.9	22.8	22.6	23.6	23.5	n.a.

n.a Not available.

Note: Sum of import and export duties and taxes, plus internal taxes (VAT, excise duties).

Source: WAEMU Commission.

1.12. The level of liquidity provided by the BCEAO increased during the review period, to represent 25% of WAEMU GDP in 2015. This reflects the fact that some WAEMU banks have significantly increased their recourse to the BCEAO since 2010, having found it difficult to refinance themselves on the interbank market.¹⁰ Overall, the traditional excess liquidity in CFAF of WAEMU commercial banks, which has persisted since the end of the 1990s, gave way to a shortfall in 2011. According to the BCEAO, the banks relied heavily on its assistance between 2009 and 2015 (via auctions and marginal lending facilities), during which time the Central Bank's lending to them increased tenfold.

1.13. This is explained by: (a) the sharp increase in imports of goods and services, paid for in foreign currency,¹¹ associated with the major infrastructure investments under way in some member States, which are being financed on the regional financial market; and (b) larger fiscal and external imbalances in member States, with banks borrowing from the BCEAO to on-lend to their governments, which have thus become dependent on the BCEAO's liquidity injections to finance their deficits, since direct BCEAO lending to governments is longer possible. Since

¹⁰ Online information viewed at: https://www.banque-france.fr/fileadmin/user_upload/banque_de_france/Eurosysteme_et_international/zonefr/2014/1-la-politique-et-les-agregats-monetaires-dans-l-uemoa.pdf.

¹¹ International Monetary Fund (2016), West African Economic and Monetary Union: Staff Report on Common Policies of Member Countries, press release and statement by the Executive Director. Viewed at: <https://www.imf.org/external/french/pubs/ft/SCR/2016/cr1696f.pdf>.

December 2010, the amount of refinancing that can be granted to credit institutions collateralized by government securities has been capped: total BCEAO lending to credit institutions, backed by bills and securities issued or guaranteed by the National Treasury, local authorities or any other public body of a member State, plus the total value of such bonds and securities held by the BCEAO on its own account, may not exceed 35% of the tax revenue of the State in question, as recorded in the penultimate financial year. At end-December 2015, this rate stood at 32.6%.¹² The residual outstanding amounts of the former statutory advances made by the BCEAO to the States have been consolidated under agreements signed between the BCEAO and the respective finance ministries. The consolidated outstanding loans are intended to be amortized over a ten-year period at a 3% interest rate. In 2014, however, the outstanding amounts were still being calculated.

1.14. Reflecting this liquidity shortfall, since 2013 the commercial banks' have had a net liability position with the rest of the world. The quality of their credit portfolios as well as their solvency ratios have also deteriorated. In this context, in the first half of 2015 the WAMU Council of Ministers decided to raise minimum capital requirements. The IMF also calls on member States to speed up implementation of the Basel II and III standards (section 4.4.4).

1.15. Most of the external debt contracted with private creditors involves only a few countries, essentially those that have issued bonds on international markets (Côte d'Ivoire and Senegal). The overall indebtedness of member States remains low, well below the standards set by the convergence criteria (see Annexes by country).

1.16. Key interest rates and the required reserves ratio remain the main instruments of the common monetary policy. The reserve requirement was set at 7% of the credit institution's account balances at the BCEAO as of 16 December 2010, before falling to 5% on 16 March 2012, after which it remained unchanged until March 2017 when it was lowered to 3%. The key rates are implemented in the context of open-market refinancing operations (purchases or sales of government securities) and the marginal lending facility (formerly the discount rate of the pensions window). These rates were at relatively low levels in 2016; the minimum tender rate, which is the main BCEAO key rate, was 2.5% in December 2016. Banks can also refinance themselves at the marginal lending rate (4.5% at end-2016) for periods of one to seven days.

1.17. In contrast, the rates on bank lending to private clients, especially small and medium-sized businesses and microenterprises, can run as high as 24% per year.¹³ In this connection, the new credit information bureaus are designed to promote better access to credit at lower cost and with less stringent collateral requirements.

1.18. Consolidated balance of payments data from member States show a current account deficit equivalent to at least 5.5% of GDP in most of the years studied (Table 1.3). This was driven by large deficits in goods and services trade, respectively, partly as a result of large-scale investments made by member States during the period (which drew in imports), and the fall in the euro against the dollar in 2013-2016. As of end-2016, foreign exchange reserves covered four months of goods and services imports, compared to five months in 2012.

Table 1.3 Balance of payments, 2010-2016

(€ million)

	2010	2011	2012	2013	2014	2015	2016 ^a
Current account balance	-2,556	-1,241	-3,315	-4,622	-3,883	-3,324	-3,978
Trade balance	-3,633	-2,381	-4,379	-6,628	-6,122	-5,568	-6,052
Goods (net)	-730	693	-868	-2,139	-1,570	-933	-1,607
Exports f.o.b.	13,346	14,235	19,511	19,363	20,337	20,672	20,208
Imports f.o.b.	-14,077	-13,543	-20,379	-21,502	-21,907	-21,605	-21,815
Services (net)	-2,903	-3,074	-3,512	-4,489	-4,552	-4,635	-4,446
Credit	n.a.	n.a.	3,083	3,295	3,337	3,405	3,500
Travel	n.a.	n.a.	895	1,004	1,010	1,000	1,038
Debit	n.a.	n.a.	-6,594	-7,785	-7,890	-8,040	-7,945

¹² Decision No. 397/12/2010 issuing rules, instruments and procedures for the implementation of BCEAO currency and credit policy.

¹³ Within WAEMU, the maximum interest rate was set in January 2014 at 15% for banks and 24% for decentralized financial systems. Decision No. CM/UMOA/011/06/2013 of 28 June 2013.

	2010	2011	2012	2013	2014	2015	2016 ^a
Freight and insurance	n.a.	n.a.	-3,529	-3,818	-3,703	-3,649	-3,682
Primary income	-1,306	-1,327	-1,547	-1,568	-1,627	-1,773	-1,891
Debt interest	-327	-371	-412	-347	-357	-517	-574
Secondary income	2,383	2,467	2,611	3,574	3,866	4,017	3,965
Public administration	928	714	711	1,559	1,666	1,717	1,559
Other sectors	1,455	1,753	1,900	2,015	2,200	2,300	2,406
Migrant worker remittances	1,613	1,363	2,311	2,558	2,524	2,813	2,923
Capital account	3,490	1,160	7,503	1,813	1,773	1,653	1,954
Financial account	148	211	4,336	-2,984	-3,061	-2,613	-2,119
Direct investment	-1,655	-1,446	-1,528	-1,938	-1,560	-1,495	-1,296
Portfolio investment	-22	-425	-406	-90	-1,128	-1,208	-804
Financial derivatives	0	0	0	0	0	0	0
Other investment	1,824	2,083	6,270	-956	-374	89	-19
Indicators (%)							
Current account balance/GDP (%)	-4.7	-2.1	-5.0	-6.6	-5.2	-4.1	-4.5
Current account balance excl. grants/GDP (%)	-5.9	-3.1	-5.9	-7.4	-6.0	-5.0	-5.1

n.a. Not available.

a Projections for 2016.

Source: Central Bank of West African States (BCEAO).

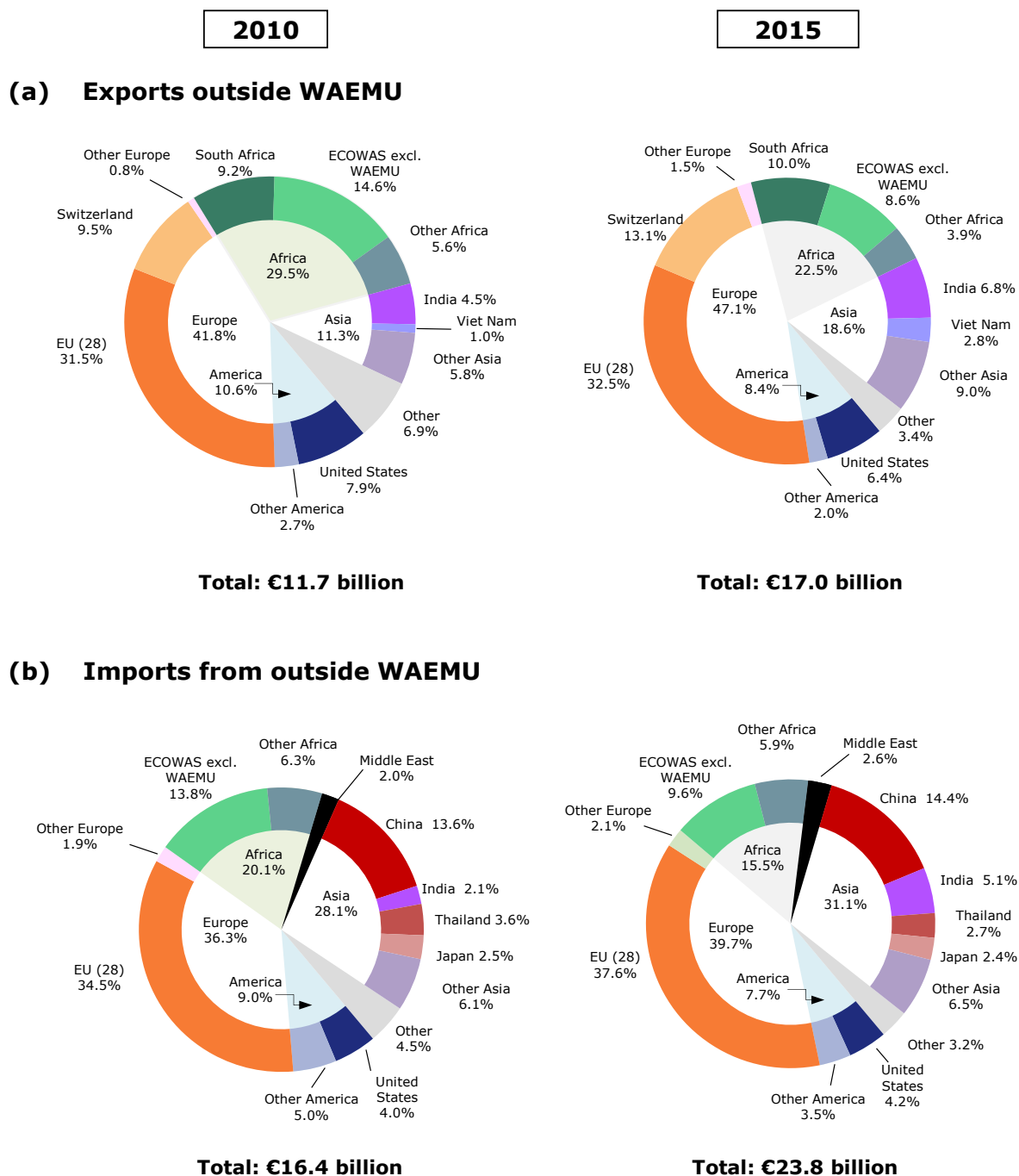
1.3 Trade performance

1.19. The available data (Chart 1.3) show that despite the global economic slowdown, trade in WAEMU member States grew vigorously in 2010-2015. In the latter year, member States traded goods totalling €40 billion with the rest of the world, up sharply from the 2010 level. Extra-community exports accounted for about 87% of the Union's total exports.

1.20. The European Union (EU) remains WAEMU's largest trading partner, for both exports and imports, and its share of WAEMU trade increased during the period. However, for individual countries, WAEMU exports to countries outside the Union go mainly to South Africa, followed by Switzerland (which absorbed over half of Burkina Faso's exports in 2014), France, and the United States of America. The latter country's share in WAEMU exports has not increased despite implementation of the African Growth and Opportunity Act (AGOA). The Commission explains this by the low supply capacity of local companies, the lack of an adequate legal and institutional framework (e.g. the visa for textile exports) and difficulties in satisfying the required conditions.¹⁴

1.21. In 2015, 92% of WAEMU's total imports (worth €22 billion) were from outside the Union (Chart 1.3), compared to 89% in 2010. Although the composition of the main trading partners remains stable, the shares of Nigeria, whose currency depreciated strongly against the CFA franc, China (11% of non-WAEMU imports) and India, have increased substantially. Despite a sharp decline, the EU remains an important partner for WAEMU with five EU Member States among the Union's top ten suppliers, and accounting for almost 25% of extra-WAEMU imports.

¹⁴ WAEMU (2015), *Rapport sur la surveillance commerciale*. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/rapport_2015_de_la_surveillance_commerciale_final_06-05-16_0.pdf.

Chart 1.3 Direction of merchandise trade, 2010 and 2015

Source: WTO Secretariat estimates based on data from the UNSD Comtrade database, and statistical information provided by the authorities. In the case of Guinea Bissau, WTO Secretariat calculations based on data from the UNSD Comtrade database, mirror statistics.

1.22. Apart from Senegal, all member States saw their exports to other WAEMU countries increase in 2010-2015, which may reflect the sustained efforts made to bring down trade barriers. In particular, nearly half of Togo's total exports went to other WAEMU countries in 2015, especially cement and clinker. Niger's intra-community exports are also growing, thanks to the supply of products such as oil; and they could be further boosted when the railway becomes operational (see Annex on Niger). Senegal and Togo are the only member States to send more than 25% of their exports to the regional market; in the cases of Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau and Mali, the proportion remains modest but is clearly increasing (see section 2.1).

1.23. In terms of trade with non-WAEMU members of ECOWAS, Benin's exports to Nigeria, including rice and meat, fell sharply following the prohibitions imposed by the latter country.¹⁵ Exports of these products to ECOWAS countries by Côte d'Ivoire and Senegal also declined; and Côte d'Ivoire's share of imports from the ECOWAS area also shrank substantially.

1.24. While WAEMU imports are diversified, its exports are concentrated in raw materials, the share of which in overall WAEMU trade increased in 2010-2015, to the detriment of manufactures (Chart 1.4).

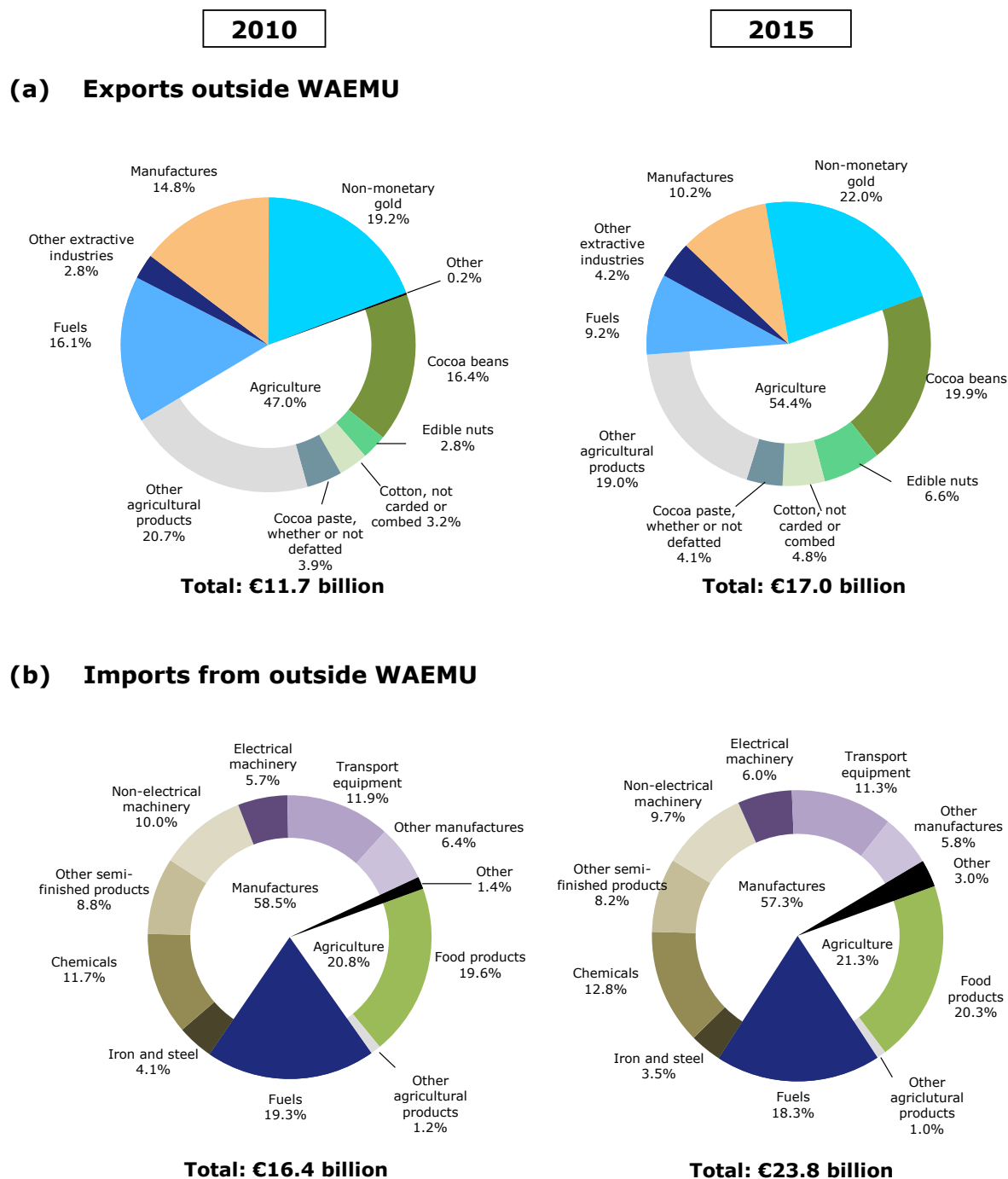
1.25. WAEMU trade is still highly concentrated, especially on the export side. Just 15 products account for over three quarters of total trade value: mineral fuels; cement; agricultural products; vegetable fats and oils; fertilizer; food preparations; fish products; cattle; cigarettes; soap; and iron and iron products. The leading WAEMU export is cocoa and its preparations, which accounted for 25% of total exports in 2015. The second largest product group exported is gold (see Annexes by country).

1.26. The main products imported by member States from outside WAEMU are petroleum products (15-20%); cereals and in particular rice; machinery (automobiles, marine equipment, electrical machinery and equipment); pharmaceuticals (4%); and iron and iron products. The share of cereals has remained virtually stable for two decades, despite efforts to boost local production in the various member States.

1.27. Since 2010, intra-community trade has grown in most member States, particularly Togo, where nearly half of total exports are destined for the WAEMU zone (see Annex on Togo). In comparison, only 13% of Côte d'Ivoire's exports go to the WAEMU zone, and 6% in the case of Guinea-Bissau. On the other hand, the latter depends on WAEMU (mainly Senegal and Mali) for 24% of its merchandise imports.

1.28. WAEMU services trade suffers from a lack of statistics, which severely hampers decision-making on policy formulation and evaluation. Balance of payments data show that the bulk of services trade consists of transport, including freight. The balance of payments deficit for the latter item is large, reflecting strong foreign presence in the maritime transport sector (section 4.4.2.2 and Annexes by country) (Table 1.3).

¹⁵ Online information from the Customs of Nigeria, viewed at: <https://www.customs.gov.ng/ProhibitionList/import.php>.

Chart 1.4 Structure of merchandise trade, 2010 and 2015

Note: In the case of Guinea-Bissau, WTO Secretariat calculations based on data from the UNSD Comtrade database, mirror statistics. Owing to lack of information for Mali, trade data for 2015 have been estimated and need to be verified.

Source: WTO Secretariat estimates based on data from the UNSD Comtrade database, and statistical information provided by the authorities.

Table 1.4 Intra-community trade, 2010 and 2015

	2015		WAEMU				ECOWAS (excl. WAEMU)			
	Total imports € million	Total exports € million	Share (%) of total imports		Share (%) of total exports		Share (%) of total imports		Share (%) of total exports	
			2010	2015	2010	2015	2010	2015	2010	2015
Benin	2,231	564	11%	11%	10%	14%	5%	4%	46%	8%
Burkina Faso	2,687	1,963	23%	15%	6%	9%	4%	4%	3%	3%
Côte d'Ivoire	8,595	10,680	1%	2%	9%	13%	27%	16%	16%	9%
Guinea Bissau ^a	265	257	23%	24%	10%	6%	1%	0%	1%	0%
Mali	3,602	2,858	29.2%	33.1%	9.1%	12.0%	1.6%	1.7%	0.5%	1.5%
Niger	2,217	712	6%	8%	3%	9%	5%	6%	12%	13%
Senegal	5,045	2,355	3%	2%	34%	29%	11%	9%	11%	9%
Togo	1,561	640	7%	5%	17%	48%	4%	4%	6%	9%

a WTO Secretariat calculations, based on data from the UNSD Comtrade database, mirror statistics.

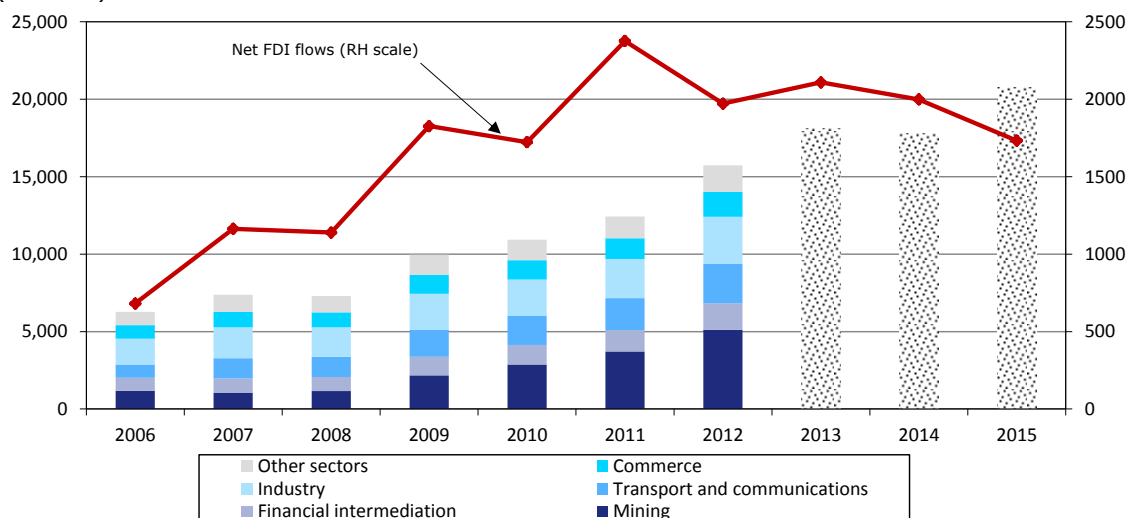
Source: WTO Secretariat calculations, based on data from the UNSD Comtrade database, and statistical information provided by the authorities.

1.4 Foreign direct investment (FDI)

1.29. According to statistics compiled by the United Nations Conference on Trade and Development (UNCTAD), net FDI flows to WAEMU countries rose steeply from 2005 to a peak in 2011, before falling sharply in 2011-2015 (Chart 1.5). For the latter year, these flows are estimated at less than €2 billion, their lowest level since 2008. At these levels, FDI represents only a modest share of the financial flows entering WAEMU countries, behind bank loans or development assistance flows (see above).

Chart 1.5 Stock of inward FDI in WAEMU

(€ million)



Source: UNCTADstat, viewed at: <http://unctadstat.unctad.org/FR/index.html>; and BCEAO, *Évolution des investissements directs étrangers dans les pays de l'UEMOA au cours de la période 2000-2011*.

1.30. In general, the collapse in commodity prices contributed significantly to the dwindling of FDI inflows. Several member States have also experienced major security problems and have seen their FDI inflows dry up, an example being investment in tourism which has disappeared altogether in several cases.

1.31. Côte d'Ivoire alone holds one third of WAEMU's inward FDI stock, with Niger accounting for 22%, and Mali and Senegal each absorbing between 13% and 12%. Other countries have received comparatively little FDI. This pattern partly reflects the rising share of mining investments, which grew from 19% of the total in 2006 to 33% in 2012, and have been concentrated in Niger and Côte d'Ivoire. The share of FDI declined in all other sectors, except for transport and communications.

2 TRADE AND INVESTMENT REGIMES

2.1 Relations with the WTO

2.1. As former Contracting Parties to the GATT 1947, Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal and Togo all became original Members of the WTO in 1995 or 1996. With the exception of Côte d'Ivoire, they all enjoy "least developed country" (LDC) status in the WTO. The eight countries are not party to any of the plurilateral agreements concluded under the aegis of the WTO. They grant at least MFN treatment to all their trading partners and have not been party, as complainants or respondents, to any disputes under the WTO. The eight countries have bound their customs duties and their other duties and taxes individually (section 3.2), but have a common trade policy as States members of the West African Economic and Monetary Union (WAEMU). The eight member States are all members of the Economic Community of West African States (ECOWAS).

2.2. Since 2010, the member States have not signed either the Information Technology Agreement¹ or the Pharmaceutical Understanding.² Benin, Mali, Senegal and Togo have ratified the Protocol amending the TRIPS Agreement with regard to compulsory licensing (section 3.3.4.1).³ Some member States have ratified the Trade Facilitation Agreement, and the process was still ongoing for the others in April 2017 (section 3.2). On balance, the member States have fallen behind with their notifications (see Annexes by country).

2.3. The member States' trade policies have been reviewed three times by the WTO Trade Policy Review Body, except for Côte d'Ivoire and Niger (each country has been reviewed twice), and Guinea-Bissau (reviewed once before). The latest review was that of Côte d'Ivoire, together with Guinea-Bissau and Togo, which took place in 2012.

2.4. A WAEMU representative office was set up in Geneva in January 2011 so as to better coordinate member States' positions at the WTO.⁴ Nonetheless, as of May 2017 the eight countries were still participating individually in the work of the WTO, even in respect of WTO notifications on matters common to them. The eight countries generally support the positions of the African Group, the ACP countries and the developing countries on issues relating to multilateral obligations and the strengthening of technical cooperation activities (Chart 2.1). All in all, however, the lack of human and financial resources prevents them from increasing their participation in the work of the WTO.

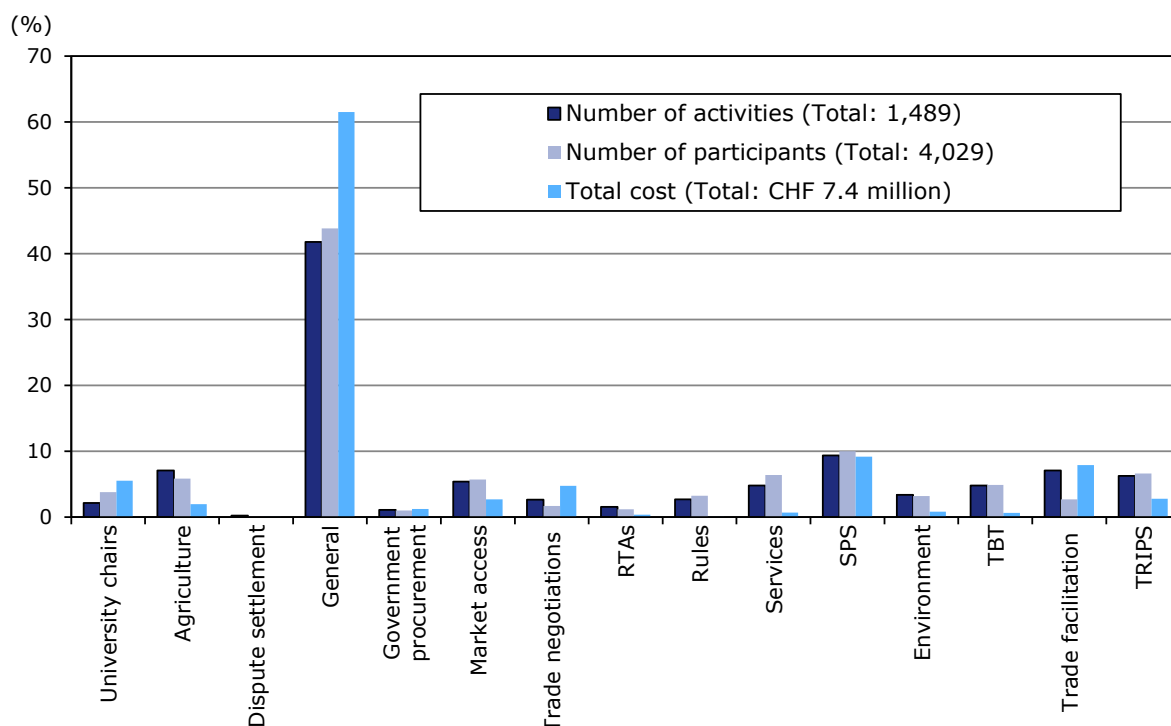
2.5. In June 2017 Guinea-Bissau and Niger were among the WTO's "Inactive Members", i.e. Members whose contributions for three or more full years remain unpaid. The WTO's administrative arrangements require that such Members be urged to liquidate their arrears. Inactive Members are denied access to training or technical assistance, other than activities necessary to meeting their obligations under the WTO Agreement.

¹ Online information viewed at: https://www.wto.org/french/tratop_f/inftec_f/inftec_f.htm.

² WTO document G/MA/W/102 of 2 August 2010. Viewed at: <https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=U:/G/MA/W102.doc>.

³ Online information viewed at: https://www.wto.org/french/tratop_f/trips_f/amendment_f.htm.

⁴ Decision No. 009/2011/PCOM/UEMOA of 14 January 2011.

Chart 2.1 WTO assistance to WAEMU, by field of activity, 2009-2015

Source: WTO Secretariat.

2.2 Regional trade agreements

2.2.1 African Union⁵

2.6. The member States are all founding members of the African Union (AU), the successor to the Organization of African Unity (OAU).⁶ Instituted by the Abuja Treaty, the African Economic Community (AEC), created in 1994 by the OAU, envisages the establishment of a customs union, together with a Continental Free Trade Area (CFTA) and a continent-wide monetary and economic union by 2034.⁷ This process is to begin with the consolidation of the principal regional economic communities (RECs),⁸ followed by their integration. The REC chosen for West Africa is the Economic Community of West African States (ECOWAS), whose rather slow pace of integration differs substantially from that of WAEMU. In fact, the WAEMU Customs Union, of which all the States are also members of ECOWAS, is considerably more advanced than the latter. Moreover, unlike ECOWAS, WAEMU is already a monetary union with a common currency.

2.7. Adopted in 2001, the New Partnership for Africa's Development (NEPAD) is an AU programme. NEPAD envisages a new partnership between Africa and the international community.⁹ Trade, including market access, is one of NEPAD's declared priority objectives. In the Maputo Declaration of 2003, the AU called on all its member States to increase their investment in the agricultural sector to at least 10% of national budgetary resources by 2008; this provided a framework for evaluating public expenditure in the agricultural sector (see section 4.2 and Annexes by country).

⁵ Online information from the African Union, viewed at: <http://www.africa-union.org>.

⁶ The Charter establishing the OAU was signed on 25 May 1963. The Constitutive Act of the African Union was adopted at the summit held in Lomé (Togo) in July 2000. The African Union was proclaimed on 11 July 2001 at Lusaka, Zambia, after ratification of the Constitutive Act by more than 44 of the 53 OAU member States. The Durban Summit of 9 July 2002 launched the African Union.

⁷ Accra Declaration. Viewed at: <http://www.africa-union.org>.

⁸ Community of Sahel-Saharan States (CEN-SAD), Common Market for Eastern and Southern Africa (COMESA), East African Community (EAC), Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS), Intergovernmental Authority on Development (IGAD), Southern African Development Community (SADC), and Arab Maghreb Union (UMA).

⁹ Online information from NEPAD, viewed at: <http://www.nepad.org>.

2.2.2 West African Economic and Monetary Union (WAEMU)

2.8. By adding an economic component, the West African Economic and Monetary Union (WAEMU) complements the West African Monetary Union (WAMU) (section 1.2). The WAEMU Treaty was signed on 11 January 1994 by all member States except the Republic of Guinea-Bissau, which acceded to it on 5 March 1997, and was revised in 2003.¹⁰ The WAEMU institutional framework comprises, *inter alia*: the Conference of Heads of State and Government, which adopts acts additional to the Union Treaty; the Council of Ministers, WAEMU's decision-making body; and the WAEMU Commission, the monitoring and implementing organ. The specialized institutions are the Court of Justice; the Court of Auditors; the Union Parliament, the West African Development Bank; the Central Bank of West African States (BCEAO) (section 1.1) and the Regional Council for Public Savings and Financial Markets (CREPMF) (section 4.4.4). The Treaty establishing the Parliament was adopted in 2003¹¹ and entered into force after being ratified by Côte d'Ivoire in February 2014. However, as of May 2017, the Additional Acts relating to its functioning had not yet been adopted. To fund WAEMU activities, each member State applies the 1% community solidarity levy (PCS) to imports from non-WAEMU countries (section 3.2 and Table A3.1).

2.9. The WAEMU Council of Ministers issues regulations, directives and decisions: regulations are binding and directly applicable in each member State; directives must be transposed into the legislation and practice of member States; and decisions are binding on the persons or member States concerned.

2.10. The WAEMU has harmonized the regimes on taxation at the customs cordon (section 3), and is also developing a regional approach to standardization, accreditation and certification. Community directives have been issued in several sectors of economic activity, including agriculture, fisheries, energy, mining, air transport, telecommunications, financial services and professional services (section 4). There has been progress in transposing community provisions into national legislation since 2010, but their application still remains a challenge. Nonetheless, since the adoption in 2013 of an Additional Act instituting an annual review of community reforms, policies, programmes and projects, the Commission has observed a marked increase in the transposition and application of community acts by the member States. This annual review falls under the direct authority of the Prime Ministers and comprises an evaluation by the Commission's technical services and the relevant ministerial departments, the publication of a trade monitoring report (RSC), and a political component in which the President of the Commission together with the Minister for the Economy and Finance of the member State submit the findings of the evaluation to the Prime Minister.

2.11. One persistent cause of the small volume of intra-community trade resides in the numerous obstacles to trade within the Zone. Indeed, the absence of a single market system (free movement) gives rise to a myriad of taxes and deprives the Union of the single entry point system for goods, which is one of the strongpoints of a community customs territory.

2.12. Since 2005 the Commission and member States have continued their efforts, with the help of the West Africa Trade Hub, to identify obstacles to intra-WAEMU trade with a view to eliminating them: these include abusive or illicit taxation; attempts at tariff rearmament on certain products originating in the Union; technical or administrative obstacles imposed on community products; abusive inspection formalities; minimum import quantities in order to benefit from duty-free status; importation of originating products contingent on the purchase of national products; certificate of origin requirement for local products; withholding of prior import declarations; and measures aimed at extorting bribes on the Union's main road corridors.¹² Since 2005 the Irregular Practices Observatory (OPA) has enabled the Commission to monitor member States' efforts to reduce the number of roadblocks on the main inter-State road corridors, thereby reducing illegal trade levies. The 26th report of the OPA has been available since May 2017. In light of these problems the Union has taken some initiatives, including the construction of 11 juxtaposed control

¹⁰ Online information from WAEMU, viewed at: http://www.uemoa.int/fr/system/files/fichier_article/traitrevisuemoa.pdf.

¹¹ *Traité portant création du Parlement de l'Union économique et monétaire de l'Afrique de l'ouest*. Viewed at: <http://www.uemoa.int/actes/2003/TraitParlement.pdf>.

¹² See in particular the reports of the Irregular Practices Observation Centre, set up by the WAEMU Commission with the help of the West Africa Trade Hub. Viewed at: <https://www.watradehub.com/en>.

posts at the borders between member countries, four of which are operational (see section 3.1.1.8).¹³

2.13. Considering the pivotal role of infrastructure in creating a genuine common market and in developing intra-community trade, the WAEMU Regional Economic Programme (PER) aims to modernize and rehabilitate the Union's economic infrastructure. The first PER drawn up in 2004 for the period 2006-2010 was designed to establish a true "common market"; it encompassed 63 projects and mobilized CFAF 3,500 billion (€5.3 billion). The second PER covered the period 2012-2016 and involved 102 integration projects at a cost of CFAF 6,000 billion (€9.1 billion). The third phase of the PER was under preparation in May 2017 and is projected to cover the period 2017-2021.

2.14. The member States gave the WAEMU Commission (hereinafter "the Commission") exclusive authority over their common third-country trade policy. Given the co-existence of WAEMU and ECOWAS, however, this authority is increasingly being shared between the Commissions of the two communities, as evidenced by the replacement of the WAEMU common external tariff with the ECOWAS common external tariff (CET) in January 2015. The fact that trade integration in ECOWAS is still considerably lagging that of WAEMU has contributed to retarding the latter's integrative endeavours; for example, the revision of the WAEMU Customs Code begun in 2014 was still being debated in ECOWAS in 2017.

2.2.3 Economic Community of West African States (ECOWAS)

2.15. All the member States are also members of ECOWAS, which was established on 28 May 1975 to promote cooperation and integration with a view to creating a West African economic union. Under the revised Treaty of July 1993, ECOWAS will ultimately be the only economic community in the region for the purposes of economic integration and realizing the goals of the AEC (section 2.2.1).¹⁴ The ECOWAS institutional framework consists of the Conference of Heads of State and Government, its decision-making authority; the Commission; the Parliament, the Court of Justice; the West African Investment and Development Bank; the West African Health Organization and the Intergovernmental Action Group against Money Laundering in West Africa. ECOWAS is actively endeavouring to maintain political stability and the rule of law in the subregion. To fund ECOWAS activities, each member State applies the 1% community solidarity levy (PCS) to imports from non-ECOWAS countries (section 3.2 and Table A3.1).

2.16. The 1979 ECOWAS Protocol Relating to Free Movement of Persons, Residence and Establishment led, among other things, to the abolition of the visa requirement for Community nationals travelling between member States,¹⁵ followed by the introduction of the ECOWAS passport and, as of December 2014, the biometric identity card, which led to the abolition of the resident's card. ECOWAS has furthermore introduced a regional third-party motor vehicle insurance regime known as the Brown Card system (section 4.4.3), and launched a monetary cooperation programme with a view to creating a single currency in 2020.

2.17. In December 2001, a decision by the ECOWAS Conference of Heads of State and Government mandated the ECOWAS Secretariat (now the Commission), in collaboration with the WAEMU Commission, to enter into negotiations with the European Union (EU) with a view to concluding an Economic Partnership Agreement (EPA, section 2.3.1 below). The CET of January 2015 is the prelude to the conclusion of such an EPA.¹⁶

2.18. Another important ECOWAS initiative is the West African Power Pool (WAPP, section 4.2.2),¹⁷ the purpose of which is to expand trade in electricity among the 15 member States (energy being one of the main constraints on subregional supply), among other things by coordinating the investment projects submitted to donors.

¹³ Decision No. 08/2001/CM/UEMOA of 26 November 2001 on the adoption and financing of a community programme of juxtaposed control posts at the borders between the member States of the Union.

¹⁴ The ECOWAS members are: Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.

¹⁵ Online information viewed at:

<https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/39769/114931/F1913314371/ORG-39769.pdf>.

¹⁶ Decision No. A/DEC.17/01/06 of 12 January 2016, as amended, adopting the ECOWAS CET.

¹⁷ Online information from ECOWAS, viewed at: <http://www.ecowas.int>.

2.3 Other preferential relations

2.3.1 Relations with the European Union

2.19. The WAEMU member States form part of the 79 ACP countries with which the European Union concluded the agreement signed at Cotonou (Benin) on 23 June 2000¹⁸ to replace the Lomé Convention. The Cotonou Agreement covers the period up to 2020. Its trade provisions constituted one of the mechanisms of cooperation between the ACP countries and the EU, with the EU allowing non-agricultural products and most processed agricultural products originating in 78 ACP countries (excluding South Africa) to enter on a duty-free and non-reciprocal basis up to 31 December 2007.¹⁹ Development aid is provided by the European Development Fund (EDF), to supplement the bilateral initiatives of EU member countries. Total assistance for the period 2014-2020 is €31.5 billion, of which €29 billion under the 11th EDF, an increase of 30% over the 10th EDF.

2.20. The Cotonou Agreement provides for the negotiation of regional EPAs, which were to replace its trade provisions as from 1 January 2008; the WAEMU member States are part of the "West Africa" group, which includes ECOWAS and Mauritania. In June 2014, one such EPA was signed by the West African States (except for Gambia, Mauritania and Nigeria), the ECOWAS and WAEMU Commissions on the one hand, and the European Commission and EU Member States on the other.²⁰ To enter into force, the EPA must be signed by the 16 West African States and by the three Commissions (ECOWAS, WAEMU and EU), and by all the EU member States. It must be ratified by two thirds of the West African member States; as at November 2016, no member State had ratified it. Negotiations on the EPA with West Africa are continuing on some topics.²¹ In August 2016 Côte d'Ivoire ratified the interim EPA it had signed with the EU in November 2008. Côte d'Ivoire had not reduced its tariffs under the interim EPA, but the latter had allowed it continued duty-free access to EU markets for its products (see Annex on Côte d'Ivoire).

2.21. All the member States (except for Côte d'Ivoire) are least developed countries (LDCs) and hence benefit from the EU's "Everything But Arms" (EBA) initiative, which provides for duty-free entry of all products of LDC origin, with the exception of arms and ammunition. In general, benefits under the EBA scheme are relatively marginal, as the bulk of LDC exports to the EU involve products already admitted to EU territory duty free under the MFN regime. By contrast, Côte d'Ivoire's exports to the European Union include some products, notably agri-food products, for which the MFN customs duties are higher than zero.

2.3.2 Relations with the United States of America

2.22. The countries eligible for preferences under the United States' African Growth and Opportunity Act (AGOA) of October 2000 are those that have achieved or made progress in any of the following: establishing a market economy, respecting the rule of law and political pluralism, eliminating barriers to US trade and investment, protecting intellectual property rights, fighting corruption, protecting human and workers' rights, and eliminating certain forms of child labour. When these principles are deemed not to be observed, the country may be declared ineligible. Thus, Guinea-Bissau was one of the 34 countries initially declared eligible under the Act, but was declared ineligible in December 2012, then readmitted in December 2014. Côte d'Ivoire was readmitted in October 2011. Niger has again been eligible since October 2011. Mali again became eligible in January 2014, having been declared ineligible in December 2012.

2.23. Eligible countries are granted duty- and quota-free access to the US market for a range of goods, including selected agricultural and textile products, except for apparel. For the latter there is a special provision relating to the incorporation of third-country fabrics in apparel, alongside a

¹⁸ Cotonou Agreement. Viewed at:

http://europa.eu/legislation_summaries/development/african_caribbean_pacific_states/r12101_fr.htm.

¹⁹ WTO Members agreed to a waiver of the EU's obligations under Article I:1 of the GATT 1994 (on MFN treatment) for the period from 1 March 2000 to 31 December 2007 (WTO document WT/MIN(01)/15 of 14 November 2001).

²⁰ Online information viewed at: http://eur-lex.europa.eu/resource.html?uri=cellar:9107bcf3-9cca-4b93-9818-685e373b4926.0003.02/DOC_1&format=PDF.

²¹ Online information viewed at: <http://ec.europa.eu/trade/wider-agenda/development/economic-partnerships>.

provision concerning handmade (so-called "Category 9") products and another provision concerning articles made from ethnic fabrics. Benin, Burkina Faso, Côte d'Ivoire, Niger (since 2011) and Senegal are eligible under these provisions.²² On the whole, national economic operators in the eight countries are failing to take significant advantage of the AGOA provisions. Côte d'Ivoire, Senegal and Togo are the only countries to have used AGOA provisions to generate annual trade flows exceeding US\$1 million, albeit not on a regular basis.

2.4 Investment regime

2.24. A draft community investment code has been under discussion in WAEMU since 1997. Meanwhile, each member State has introduced its own legislation, as shown in the respective Annexes by country. All the member States are members of the World Bank's Multilateral Investment Guarantee Agency (MIGA). This enables eligible foreign enterprises to obtain MIGA's guarantee coverage for their investments in the member countries. The guarantee is variable, but in general covers the risks associated with foreign exchange restrictions, expropriation, breach of contract, and losses caused by war or civil disturbance (including terrorism). Membership qualifies countries for MIGA technical assistance, which helps them to attract foreign investment.²³ Individually, the member States are also signatories to the International Centre for Settlement of Investment Disputes (ICSID) Convention, though Guinea-Bissau has not yet deposited its instruments of ratification.²⁴

2.5 Organization for the Harmonization of Business Law in Africa (OHADA)

2.25. The WAEMU countries are all among the 17 member States of the Organization for the Harmonization of Business Law in Africa (OHADA), located in Yaoundé.²⁵ Since 2002 they have harmonized their legal frameworks governing the life of enterprises and business activities by implementing the nine OHADA Uniform Acts (Table 2.1). The OHADA Treaty is intended to harmonize business law in the 17 member countries by drafting and adopting simple, modern, common rules suited to the situation of the economies concerned, by implementing appropriate judicial procedures, and promoting recourse to arbitration as a means of settling contractual disputes.

2.26. The OHADA provisions on general commercial law define the status of traders and intermediaries such as customs clearing agents and brokers, and contain common rules for commercial sales. Company law is also harmonized, and this has implications for commercial presence. Hence, foreign companies wishing to operate in WAEMU member States are required to domicile their headquarters and keep their accounts there. However, under the OHADA provisions, companies may initially set up a branch there instead, for a maximum of two years, after which the branch must be affiliated to a company established in one of the OHADA member States. One Uniform Act applies specifically to contracts for the carriage of goods by road via the territory of an OHADA member State. OHADA legislation goes hand-in-hand with the frame of reference provided by the West African Accounting System (SYSCOA), the use of which is mandatory in the member States (section 4.4.5).

²² AGOA, online information viewed at: <https://agoa.info/about-agoa/country-eligibility.html>.

²³ Online information viewed at: <http://www.miga.org/projects/advsearchresults.cfm?srch=s&hctry=90c&hcountrycode=GW>.

²⁴ Online information viewed at: <https://pca-cpa.org/wp-content/uploads/sites/175/2016/01/ICSID-Convention-1965-FR.pdf>.

²⁵ The countries are: Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Comoros, Congo, Côte d'Ivoire, Democratic Republic of the Congo, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mali, Niger, Senegal and Togo.

Table 2.1 OHADA Uniform Acts, 2017

Uniform Act	Entry into force/ Last modified	Website
Uniform Act on general commercial law (AUDCG)	1998/2010	http://www.ohada.org/index.php/en/au-droit-commercial-general-presentation-en/audcg-presentation-and-innovations
Uniform Act on commercial companies and economic interest groups (AUSCGIE)	1998/2014	http://www.ohada.org/index.php/en/auscgie-droit-des-societes-commerciales-et-du-gie-en/auscgie-auscgie-presentation-et-innovations-en
Uniform Act organizing security (AUS)	2011	http://www.ohada.org/index.php/en/organisation-des-suretes-en/auds-presentation-et-innovations-en
Organization of simplified recovery procedures and measures of execution (AUVE)	10 July 1998	http://www.ohada.org/index.php/en/auve-organisation-des-procedures-simplifiees-de-recouvrement-et-des-voies-d-execution-en/auve-presentation-et-innovations-en
Organization of collective proceedings for settlement of liabilities (AUPC)	2015	http://www.ohada.org/index.php/en/aupc-insolvency-law/presentation-and-innovations
Arbitration law	11 June 1999	http://www.ohada.org/index.php/en/aua-droit-de-l-arbitrage-en/aua-presentation-et-innovations-en
Organization and harmonization of business accounting	2001/2002	http://www.ohada.org/index.php/en/auohce-organisation-et-harmonisation-de-la-comptabilite-des-entreprises-en/auohce-presentation-et-innovations-en
Contracts for the carriage of goods by road	1 January 2004	http://www.ohada.org/index.php/en/auctmr-contrats-de-transport-de-marchandises-par-route-en/auctmr-presentation-et-innovations-en
Uniform Act on cooperatives	2011	http://www.ohada.org/index.php/en/auscoop-droit-des-societes-cooperatives-en/auscoop-presentation-et-innovations-en

Source: Online information from OHADA, viewed at: <http://www.ohada.org>.

2.27. The common commercial legislation also deals with security (guarantees) and arbitration. This has made it possible to promote arbitration as the judicial means of settling commercial disputes, and in certain countries has led to the establishment of an arbitration centre within the Chamber of Commerce.

2.28. All the Uniform Acts are directly applicable. The Common Court of Justice and Arbitration (CCJA) entertains all disputes relating to the uniform law, which may be referred to it on appeal from the appeal courts of the member States.

2.29. OHADA's scope of intervention is fairly similar to that of the United Nations Commission on International Trade Law (UNCITRAL), the United Nations body specializing in the reform of trade law through the modernization and harmonization of international trade rules. OHADA and UNCITRAL signed an agreement in 2016 to promote cooperation on matters of common interest, information sharing and joint activities, with a view to boosting international trade.

3 TRADE POLICIES AND PRACTICES BY MEASURE

3.1 Measures directly affecting imports

3.1.1 Procedures

3.1. Some 15 years ago, WAEMU's member States decided to establish their own customs union, with the assistance of the WAEMU Commission (hereinafter "the Commission"). They developed common customs regulations which should eventually lead to the harmonization of customs structures, procedures and regimes within the Union.

3.2. One of the major challenges of this common policy is to strike the right balance between combatting fraud, which is highly prejudicial to member States' economies, and the need to facilitate trade in order to boost economic development. The Customs must be given greater powers if competition between local production and imports is to become more equitable.¹ False customs declarations and smuggling are still endemic.²

3.3. In May 2017, five of the eight member States had ratified the WTO Agreement on Trade Facilitation (TFA) (Table 3.1) and three countries had notified their category A measures. The Commission has introduced a Regional Trade Facilitation Programme and has also assisted member States with self-assessment of their needs and trade facilitation capacity building.

Table 3.1 Status of the Agreement on Trade Facilitation, May 2017

	Benin	Burkina Faso	Côte d'Ivoire	Guinea-Bissau	Mali	Niger	Senegal	Togo
Ratification	No	No	Yes	No	Yes	Yes	Yes	Yes
Cat. A Notification (number of measures notified)	No	Yes (10)	Yes (15)	No	No	No	Yes (19)	No
Cat. B Notification	No	No	No	No	No	No	No	No
Cat. C Notification	No	No	No	No	No	No	No	No
Seminars on self-assessment of needs	2008, 2014	2008, 2014	2008, 2013	No	2008, 2013	2010, 2014	2009	2009, 2013

Source: WTO Secretariat, based on information provided by member States.

3.4. In general, member States' trade procedures have not yet been harmonized and remain fairly costly and variable from one State to another, which explains the low ranking of certain member States in the World Bank's *Doing Business 2017* report (Chart 3.1).

3.1.1.1 Customs information

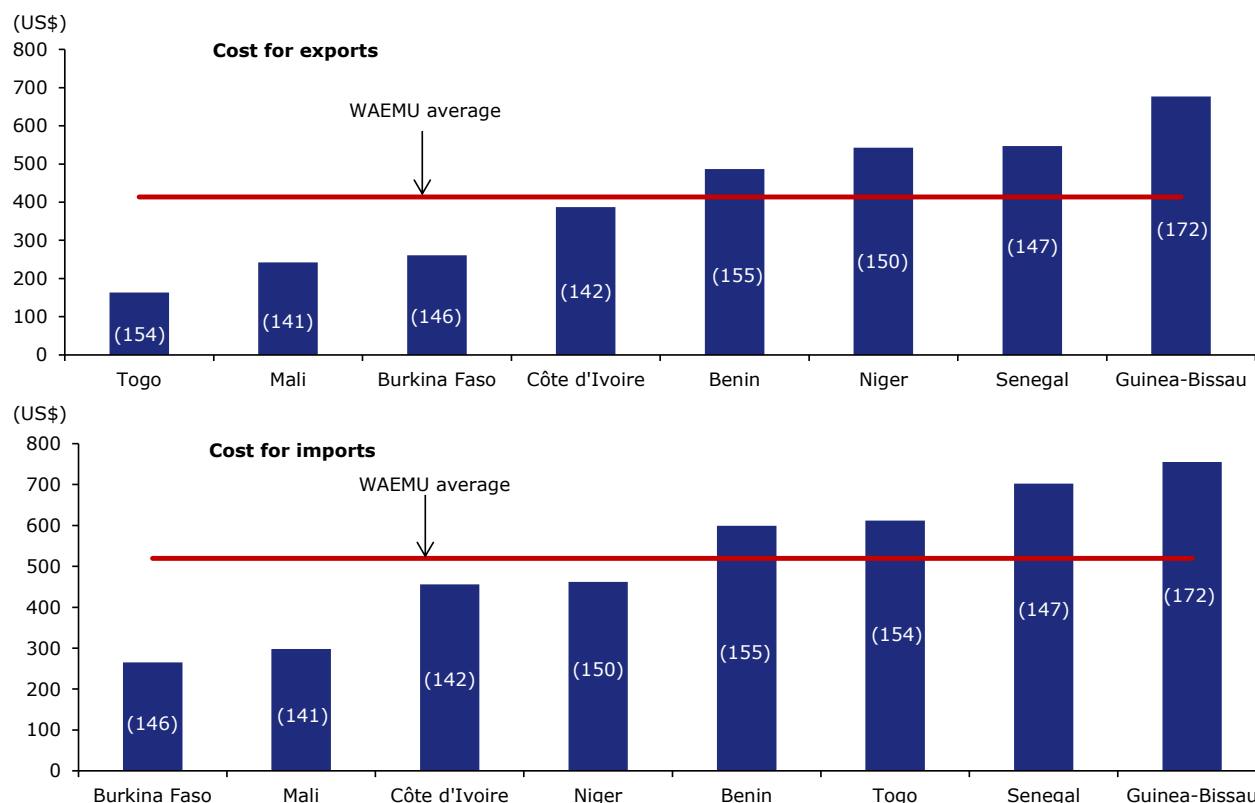
3.5. Since it was adopted in 2001, WAEMU's community Customs Code (CCC) has been in force in all member States in the form of regulations directly applicable in member States' territory.³ It sets out all the procedures applicable to all goods traded between member States, including those of community origin.

3.6. The principal customs legislation in member States consists of the national customs codes, supplemented by implementing texts, which have to take into account the approaches outlined in the CCC. The latter contains the main principles common to all member States, while the national codes provide details concerning the administrative criteria for their observance.

¹ UNIDO (2014), *Étude relative à l'Évaluation de la phase pilote du programme de restructuration et de mise à niveau de l'industrie des États membres de l'UEMOA*. Viewed at: https://www.unido.org/fileadmin/user_media_upgrade/Resources/Evaluation/RAF_TERAF07001-PRMN-UEMOA_2013.pdf.

² Niger's Director-General of Customs estimated, for example, that in 2015 80% of his country's imports from Togo were the subject of false customs declarations. Viewed at: <http://www.republicoftogo.com/Toutes-les-rubriques/Finances/Togo-Niger-alliance-contre-la-fraude-douaniere>.

³ Regulation No. 09/2001/CM/UEMOA adopting the WAEMU Customs Code. Viewed at: http://www.vertic.org/media/National%20Legislation/Togo/TG_Reglement_9_2001_CM_UEMOA.pdf.

Chart 3.1 Cost of cross-border trade procedures, 2016

Note: The WAEMU figures are based on the simple average for each member. The figures in each column correspond to the Ease of Doing Business ranking (total: 190).

Source: World Bank, *Doing Business 2017*. Viewed at: <http://english.doingbusiness.org/reports/global-reports/doing-business-2017>.

3.7. The changes to the CCC needed for the purpose of the TFA concern, in particular, providing advance decisions on tariff classification, origin, or customs procedures for goods upon request prior to their importation; acceptance of copies of documents required for importation or exportation; publication of information, cooperation among authorities at the border, right of appeal, and approved economic operators. In May 2017, the CCC was being revised.

3.8. The CCC does not contain any provisions on these aspects and only some national codes include provisions requiring the publication of customs information, especially binding tariff information (for example, Senegal). Nonetheless, most customs authorities in member States have a website on which some import and export information is available (Table 3.2). In addition, a regional enquiry point for customs matters, including trade facilitation, is reportedly being created as part of a WAEMU trade information portal.

3.9. Private-sector participation in economic policy discussions on customs issues varies greatly from one member State to another. In some, there is close cooperation between the Customs and the private sector (for example, in Senegal and Côte d'Ivoire); cooperation is generally on an ad hoc basis, however, and has not been legally formalized.

Table 3.2 Trade regulations within the TFA framework

Entity (country) Main customs texts	Enquiry point ^a	Website	Scope
WAEMU Commission Customs Code	n.a.	n.a.	n.a.
Benin Law No. 2014-20 of 27 June 2014 containing the Republic of Benin's Customs Code	Customs customer service	http://www.douanes-benin.net	Customs Code, decrees, orders, decisions, service notes and circulars
Burkina Faso Law No. 03/92/ADP of 3 December 1992 amending the Customs Code	n.a.	http://www.douanes.bf	n.a.
Côte d'Ivoire Law No. 64-291 of 1 August 1964, as amended in 1988	n.a.	http://www.douanes.ci	Customs Code, decrees, orders, decisions, service notes and circulars
Guinea-Bissau community Customs Code	n.a.	n.a.	n.a.
Mali Law No. 01-075 of 18 July 2001	National Directorate of Trade and Competition	http://douanes.gouv.ml	Customs Code, customs tariffs (illegible), notices, circulars and orders. Import and export prohibitions
Niger Niger Customs Code of 1961	n.a.	No website in operation	n.a.
Senegal Law No. 2014-10 of 28 February 2014 containing Senegal's Customs Code	Ministry of Trade	http://www.douanes.sn	Customs Code, decrees, orders, decisions, circulars, service notes and notices
Togo Law No. 2014-033 of 28 April 2014	n.a.	https://www.otr.tg/index.php/fr	n.a.

n.a. Not available.

a Paragraph 3.1 of Article 1 of the TFA provides that each Member shall establish enquiry points to answer enquiries and to provide documents, etc.

Source: WTO Secretariat, on the basis of information provided by the authorities.

3.1.1.2 Customs clearing agents and clearance credit

3.10. The criteria for approval of customs clearing agents have been harmonized within WAEMU since 2008.⁴ The services of an approved customs clearing agent (CAD) are mandatory when clearing either import or export transactions on behalf of third parties. In principle, there is a ceiling on their fees, but in practice CADs determine their fees in a highly competitive environment in which there are numerous informal operators.

3.11. CADs have to be approved in each member State and for every customs office where they wish to complete customs formalities on behalf of third parties, meaning that their operating costs are likely to be higher because there is less opportunity to make economies of scale; Togo, on the other hand, has a single approval which covers all customs offices. CADs have to respect the minimum threshold (25%) for participation by nationals of the Union in the registered capital, which must be fully paid up at a bank or notary established in the member State in which the firm intends to set up; they also have to deposit a general guarantee (a minimum of CFAF 25 million or around €18,000) at an authorized bank and dispose of premises with facilities suitable for each office for which approval is given. In May 2017, a draft directive on free movement and the right of establishment for CADs was awaiting adoption by the Union's authorities.

3.12. As stressed by the Commission, efficient customs clearance of goods implies that, as CADs alone are entitled to declare goods on behalf of third parties, they should possess modern means of drawing up declarations and necessarily have an operational connection to the computerized clearance system, although in practice this is not always the case.⁵ In some member States (Benin, Côte d'Ivoire and Senegal, for example), the Customs, the Treasury services and all CADs

⁴ Regulation No. 10/2008/CM/UEMOA of 26 September 2008. Viewed at: http://www.uemoa.int/Documents/Actes/reglement_10_2008_CM_UEMOA.pdf.

⁵ Online information viewed at: <http://www.uemoa.int/sites/default/files/bibliotheque/rec022002progrtransitport.pdf>.

are interlinked by computer, which ensures greater efficiency in collecting the duties and taxes payable.

3.13. CADs must also have a clearance credit with a credit agency in order to speed up the clearance of goods (Article 96 of the CCC). Article 7.3 of the TFA in fact provides for the possibility of accelerated release of goods before final payment of duties and taxes by means of financial security if needed.⁶ In member States where paperless clearance has made progress, only CADs registered with the tax authority and with the necessary financial standing to renew their credit are authorized to operate.

3.1.1.3 Banking domiciliation and electronic payment

3.14. The legislation applicable by member States to trade-related financial transfers between WAEMU and third countries (section 1.1) provides that the commercial invoice must be domiciled with an approved intermediary bank if the amount involved is over CFAF 10 million (or approximately €15,250).⁷ In some member States (Côte d'Ivoire, Senegal) these procedures, which are fairly time-consuming, have been computerized and streamlined, notably by introducing electronic platforms for collecting documents before goods are cleared.

3.15. In countries where these procedures have not yet been computerized and made paperless, for each import transaction, importers have to provide the approved intermediary with two hard copies certified as a true copy of the invoice drawn up by the foreign supplier or copies of the business contract signed with the latter. The bank then opens a domiciliation file with an order number based on the invoice. An attestation of any other import document issued by the Customs Directorate in at least six copies serves as proof of the actual import of the goods. The customs office gives the importer two copies of the import document and, within eight days following completion of the transaction, forwards copies to the Directorate responsible for external finance and the BCEAO, respectively. The importer keeps one of the copies of the import document and forwards the other to the bank with which the transaction is domiciled. Payment for the goods imported, through an approved intermediary, leads to the establishment of an "Exchange form", which has to be endorsed by the intermediary responsible for payment.

3.16. Duties and taxes, fees and levies cannot always be paid electronically in most member States, with the exception of Senegal.

3.1.1.4 Documents required for customs clearance

3.17. Although WAEMU and ECOWAS adopted a single customs declaration (DDU) in 1999, with harmonized community forms, in practice, by May 2017, it was being applied by only a few member States (e.g. Mali).⁸ Yet the DDU provides for a standard list of documents to be submitted for customs clearance, which makes procedures much simpler. Table 3.3 clearly shows the lack of harmonization. A detailed declaration is mandatory in all member States; numerous documents have to be submitted for the purpose and differ from one member State to another. Frequently, the original copies have to be submitted. The community provisions do not yet appear to have harmonized advance declaration procedures, even though this procedure is allowed in several member States. The same applies to the simplified declaration. Some countries have already introduced electronic platforms for collecting documents prior to customs clearance (for example, ORBUS in Senegal).

⁶ Regulation No. 09/2008/CM/UEMOA of 26 September 2008. Viewed at: http://www.uemoa.int/Documents/Actes/reglement_09_2008_CM_UEMOA.pdf.

⁷ Regulation No. 09/2010/CM/UEMOA of 1 October 2010. Viewed at: <http://www.bceao.int/IMG/pdf/reglement-relatif-aux-relations-financieres-exterieures-des-etats-de-uemoa-textes-application.pdf>.

⁸ Regulation No. C/REG.4/08/99 of 20 August 1999.

Table 3.3 Documents required for customs clearance

	Benin	Burkina Faso	Côte d'Ivoire	Guinea-Bissau	Mali	Niger	Senegal	Togo
Original commercial invoice	E	O	E	O	E	O	E	E
Original freight invoice/TRIE carnet	E	n.a.	O		E	O	n.a.	
Insurance certificate for the goods	E	O	O	O	E	O	E	
Inspection certificate/verification attestation	E	O	O	O	E	O		O
Original manifest	E				O	O		
Original transport document (bill of lading, air waybill)	E	O	O	O	E		E	
Certificate of financial settlement/notice of bank payment	E	O	O		O			
Import certificate	E				E			O
Request prior to submission of the manifest (ADM)			O		O			
Advance import declaration (DAI)	E			O	O			O
Prior import declaration (DPI)/Intent to import/Statistical registration form	E	O (P)			E	O	E	O
Cargo tracking note	E	O	O	O	O	O	E	O
Other								
Special import authorization		O (P)			O			
Statistical registration form					O	O		
Declaration attesting to the value					O		E	
National conformity certificate		O			O			

n.a Not available.

E Electronic copy accepted.

O Original hard copy required.

P Partly paperless.

Note: A blank space means that, according to available information, the document is not required.

Source: WTO Secretariat, on the basis of information provided by the authorities.

3.1.1.5 Computerized customs clearance and risk management systems

3.18. Very different computerized customs clearance systems are currently being used in WAEMU (see Annexes by country). Most member States have, in fact, chosen to automate customs clearance procedures using the computerized customs system (ASYCUDA) and are at various stages in use of the system. Côte d'Ivoire, however, uses the Automated Customs Clearance System (SYDAM), while Senegal uses the Automated Management of Customs and Trade Information System (GAINDE). Member States aim to interlink these computerized customs systems (section 3.1.1.8).

3.19. The lack of harmonization of computer systems has numerous effects. For example, according to the Commission, introducing the manifest into customs computer systems is hampered by inconsistency of the data on the system and those required by the Customs Authority. Introducing the obligation to submit data on the basis of a common model such as that of the United Nations EDIFACT (Electronic Data Interface for Administration, Commerce and Transport) and the United Nations Layout Key could help to facilitate customs clearance procedures.⁹

3.20. Moreover, the CCC makes no mention of risk management, even though the majority of member States have introduced their own risk management system (see Annexes by country).

3.1.1.6 Cargo tracking note and other port taxes

3.21. All member States (with the exception of Guinea-Bissau in May 2017) require that a "cargo tracking note" (BSC) be submitted for the import flows going through their sea ports. The BSC is not required by community regulations and is usually imposed by the Ministry responsible for transport in each country. The (high) cost of issuing this document differs from country to country depending on the goods and the type of cargo, and may entail discriminatory treatment depending on the place where the imported goods are loaded.

⁹ In 2016, Senegal was the only member State with an EDIFACT delegation. Viewed at: <http://www.unece.org/cefact/edifact/welcome.html>.

3.22. For the purposes of customs clearance, the BSC appears to be of fairly limited use inasmuch as most of the information it contains can already be found in the manifest; a BSC has to be issued for each bill of lading, however. The supporting documents to be attached electronically include: the detailed commercial invoice; the customs export declaration; the bill of lading; the packing list; the freight bill; the insurance certificate; and, where applicable, a copy of the DAI or its number; and the certificate of origin (see Annexes by country).

3.1.1.7 Inspection prior to shipment or at destination

3.23. Inspection of goods by private bodies other than the Customs, either prior to shipment or at destination, remains mandatory in all member States (see Annexes by country). It has not been the subject of community regulations, although the Commission regularly highlights the administrative hurdles imposed on trade in community goods because of the formalities to be completed. The inspection firms, the procedures and the related commission are therefore not always harmonized and differ from one member State to another. None of the member States has made any relevant notification to the WTO since their previous trade policy reviews.

3.1.1.8 Customs transit and cooperation among authorities present at the border

3.24. With a view to introducing a single entry point system within WAEMU (free movement¹⁰) under which goods can move freely once duties and taxes have been paid at the first point of entry into the community market, the Commission is working to help member States to harmonize and computerize transit procedures. The CCC provides for two types of transit: normal transit for goods arriving at the border of a WAEMU member State and in transit to another member State (Articles 111 to 114); and international transit through other countries, usually those belonging to ECOWAS (Article 118). In practice, transit within WAEMU is made difficult in terms of time and cost because of a plethora of various taxes and barriers that result in offloading each time an internal border within WAEMU is crossed, even if the goods are covered by valid transit documents. Consequently, unlawful unloading of goods in the territories of the member States crossed, whether they have a coast or are landlocked, is typical of transit in the region.

3.25. For 30 years, member States have been trying to implement the Lomé Convention No. A/P4/5/82 on inter-State road transit of goods (TRIE); and Additional Convention No. A/SP/1/5/90 creating a guarantee mechanism for inter-State road transit of goods. All the member States have ratified the Lomé Convention, but Côte d'Ivoire and Niger have not ratified the Additional Convention. The ECOWAS TRIE carnet would allow goods on which duties, taxes and prohibitions have been suspended to be transported by road from one customs office in a given member State to another member State's customs office, following a prescribed route. The entire operation would be covered by a single customs document and without breaking bulk; vehicles would have to be approved according to the criteria defined as regards inviolability and sealing.

3.26. Although progress in implementing the TRIE has been made by member States since 2009 (Table 3.4), it is still not operational for several reasons, including the ineffectiveness of the national bond and the absence of approved means of transport. Currently, vehicles carry goods in transit under a transit declaration that only covers national territory and has to be re-issued in each country crossed before arriving in the country of final destination; the transit provisions apparently vary according to the country and there are even differences within countries between road and air transport procedures.¹¹

Table 3.4 Differences in member States' implementation of the TRIE, 2017

Regime	Implementation (date)	Scope	Bond	Rate of bond (%)	Comments
Benin	n.a.	Abidjan-Lagos corridor	CCI	0.25	Escort + vehicle tracking
Burkina Faso	2004	All corridors	CCI	Single bond (0.50, with Côte d'Ivoire). 0.25 (other countries)	Escort. Electronic tracking

¹⁰ WAEMU (2016), *Rapport 2015 de la surveillance commerciale*.

¹¹ USAID (2015), *Transport and logistics costs on the Tema – Ouagadougou corridor*. Viewed at: http://pdf.usaid.gov/pdf_docs/Pnadu448.pdf.

Regime	Implementation (date)	Scope	Bond	Rate of bond (%)	Comments
Côte d'Ivoire	2012	Only certain corridors	CCI	0.5	Payment of all duties and taxes owing before commencing transit
Mali	2013	Only with Senegal	CCIM	0.25	Escort for sensitive goods
Guinea-Bissau	n.a.	With Senegal	Treasury	2	Escort
Niger	n.a.	n.a.	CCIN	n.a.	Escort
Senegal	n.a.	Not operating		n.a.	n.a.
Togo	2012	Only corridor to Burkina Faso and only container and tanker traffic	CCIT	0.25	Electronic tracking DS

n.a. Not available.

Note: DS: simplified declaration.

Source: WTO Secretariat.

3.27. As part of the transit system envisaged in the CCC and the TRIE, the bond is paid into guarantee funds managed by national chambers of commerce, which take responsibility for the import duty payable if the goods do not leave customs territory during transit. One of the major weaknesses of the system is that in all the member States, except for Côte d'Ivoire, the bond is considerably lower than the amount of the duties and taxes payable, resulting in a lot of unlawful offloading.

3.28. In order to minimize the offloading of goods in transit, most member States require convoys to have a paid escort (Table 3.4), although this is not regulated at the community level.

3.29. In order to boost cooperation and coordination among authorities at common land borders, 11 joint control posts have been created.¹² Their aim is to group together police and customs services, lift certain barriers to trade, particularly in products of WAEMU origin, and facilitate the transit of goods. In May 2017, pilot projects to interlink customs offices were under way between Burkina Faso and Togo, and Côte d'Ivoire, Burkina Faso, Mali and Senegal. The ECOWAS regional customs connectivity project (ALISA) is part of the SAFE framework of standards of the World Customs Organization, with the objective, *inter alia*, of upgrading the performance of the Customs in matters relating to transit. This project did not make any notable progress and has been replaced by the Trade Support and Regional Integration Programme (PACIR), which is understood to be seeking financing. Under the Regional Trade Facilitation Programme, the Commission has a regional information platform aimed at interlinking the Customs in member States and other bodies involved in international trade. This project enjoys support from the World Bank, but also needs more financial resources.

3.30. The lack of reliable and robust systems for communicating and exchanging secure data among the Customs, the tax authorities and banks in member States is one of the major causes of the delays in introducing a modern transit system. The main effects are slow delivery of goods and the large number of false declarations. A 2012 Directive, however, requires that systems for the exchange of information among the Customs and tax authorities in member States should be modernized and harmonized.¹³ This Directive has not been transposed into domestic law in some member States, notably Benin.

3.1.1.9 Disputes, appeals and sanctions

3.31. Article 87 of the CCC provides for the right of appeal. If customs authorities question the type, origin or value declared and the declarant does not accept the Customs' position, the dispute is taken up at the national level by the authority responsible for ruling on customs disputes. According to the WAEMU Commission, appeals committees for disputes are operating in

¹² Decision No. 08/2001/CM/UEMOA of 26 November 2001.

¹³ Directive No. 02/2012/CM/UEMOA of 10 May 2012 on modernization and harmonization of systems for the exchange of information among customs and tax authorities in WAEMU member States. Viewed at: http://www.izf.net/sites/default/files/MaJ2015/uemoa/Directive%202012/Directive_02_2012_CM_UEMOA.PDF.

Côte d'Ivoire and Senegal, but resources remain insufficient for them to function properly.¹⁴ All decisions on classification go before the Commission for consideration and, where applicable, for dissemination in member States. If there is disagreement, one of the parties may request the Commission to arbitrate. Disputes regarding the origin of goods are dealt with bilaterally between the country of destination and the country of origin.

3.1.2 Customs valuation

3.32. WAEMU's community framework governing customs valuation has not changed since 2010¹⁵; it reproduces all the relevant provisions of the WTO Agreement.¹⁶ The community regulations in substance reproduce the "Decision regarding cases where customs administrations have reasons to doubt the truth or accuracy of the declared value".

3.33. According to the Commission, WAEMU's community provisions¹⁷ on the system of reference values, optionally applicable at the national level, have been repealed. Nevertheless, some member States (for example, Côte d'Ivoire and Niger) apply their own lists of reference values for imports (see Annexes by country), including products in cross-border traffic or in travellers' luggage (see Annexes by country).

3.1.3 Rules of origin

3.34. Preferential rules of origin governing intra-WAEMU trade still come under a regime dating back to 1996 and revised in 2001¹⁸, which retains MFN customs duty on intra-community trade except in certain cases and for the following products, deemed to be of WAEMU origin:

- local agricultural, livestock and forestry products;
- traditional craft products; and
- industrial or manufactured goods that have been sufficiently worked or processed to be approved as originating in the country in which the processing or working took place; compliance with this criterion must be proved by a certificate of origin in community format.

3.35. These regulations not only require approval of the firm as producer of the goods in question in a member State (eligibility of the firm), but also approval of the product in terms of the origin criteria (admissibility of the product), in other words, dual approval. If the products are obtained from raw materials partly or wholly originating in non-community countries, the origin status (sufficient processing or working) requires either a change in the first four digits of the HS tariff heading or community value added of 30% or more of the ex-factory cost price excluding tax for the said products.

3.36. The status of originating industrial product may only be conferred on goods processed under the special procedures involving suspension or partial or total exemption from entry duty on the inputs (for example, free zones), unless the MFN duties and taxes due have been paid. At 31 December 2015, 4,491 industrial or manufactured products from 952 WAEMU firms benefited from the preferential intra-community trade regime (Table 3.5). Their number has not increased to any significant extent, probably because of the various crises that affected the business climate in the subregion during the review period and problems relating to the dual approval system.

¹⁴ WAEMU (2015), *Rapport sur la surveillance commerciale*. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/rapport_2015_de_la_surveillance_commerciale_final_06-05-16_0.pdf.

¹⁵ Regulation No. 05/99/CM/UEMOA of 19 March 1999. Viewed at: <http://www.izf.net/pages/r-glement-n-0599cmuemoa>.

¹⁶ Online information viewed at: https://www.wto.org/english/tratop_e/cusval_e/cusval_e.htm.

¹⁷ Regulation No. 4/99/CM/UEMOA of 18 March 1999. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/pages_-_reglement_4_99_cm_.pdfhttp://www.uemoa.int/sites/default/files/bibliotheque/pages_-_reglement_4_99_cm_.pdf.

¹⁸ These are Additional Protocol No. III/2001 of 19 December 2001, viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/pages_-_protocole_additionnel_03.pdf; and the Additional Act, viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/protocole_add_01_2009_cceq_uemoa.pdf.

Table 3.5 Trend in community preferential approvals, 2009-2015

Member State	Type	Total 2009	Total 2015	Overall trend (%)	Annual trend (%)
Benin	Enterprises	58	55	-5	-1
	Products	328	381	16	3
Burkina Faso	Enterprises	59	59	0	0
	Products	311	224	-28	-5
Côte d'Ivoire	Enterprises	317	382	21	3
	Products	1,533	1,983	29	5
Guinea-Bissau	Enterprises	n.a.	1 ^a	n.a.	n.a.
	Products	n.a.	10 ^a	n.a.	n.a.
Mali	Enterprises	49	77	57	10
	Products	207	298	44	7
Niger	Enterprises	21	29	38	6
	Products	73	84	15	3
Senegal	Enterprises	194	307	58	10
	Products	886	1,286	45	8
Togo	Enterprises	37	51	38	6
	Products	279	439	57	10
Total WAEMU	Enterprises	735	962	30	5
	Products	3,617	4,688	26	4

n.a. Not available.

a 2016.

Source: WTO Secretariat, on the basis of on statistics provided by the WAEMU Commission.

3.37. The procedures for obtaining approval for the WAEMU and ECOWAS preferential schemes and certificates/preferences are complex¹⁹:

- the procedures involve up to five national authorities, which in some cases differ according to WAEMU or ECOWAS certificates (Table 3.6);
- a single destination is specified for each certificate (it is only valid for a single exporting country);
- each certificate covers only one type of product;
- the certificate is on paper, which leads to rejection, delays and economic losses; a plan for an electronic certificate of origin for Senegal and Côte d'Ivoire, which are the pilot countries, is being tested under the aegis of WAEMU. This initiative should be extended to the other countries of the Union;
- the certificates have a limited term of validity (six months for ECOWAS and 18 months for WAEMU); and
- certificates can be costly (between CFAF 300 to CFAF 600 per printed sheet).

Table 3.6 Authorities responsible for issuing certificates of origin

Country	Authorities issuing WAEMU and ECOWAS certificates of origin
Benin	1. Chamber of Commerce and Industry of Benin 2. Directorate of Foreign Trade, Ministry of Trade 3. Ministry of the Economy and Finance, Directorate of Regional Integration (ECOWAS certificate)
Burkina Faso	1. Ministry of Trade, Industry and Crafts 2. Single Windows Centre (CGU) 3. Directorate-General of Industrial Development (ECOWAS certificate) 4. Chamber of Commerce and Industry
Côte d'Ivoire	1. Chamber of Commerce and Industry of Côte d'Ivoire 2. Directorate of Industrial Activities, Ministry of Industry 3. Ministry of African Integration (ECOWAS certificate) 4. Directorate-General of Customs
Guinea-Bissau	Directorate-General of Industry (ECOWAS certificate)

¹⁹ For an overview of the complexity of the procedure, see, for example, the Trade Support and Regional Integration Programme (PACIR), institutional and operational support to improve the business environment and strengthen the competitiveness of exports in Côte d'Ivoire. Viewed at: http://veille-i.com/IMG/pdf/final_guide_de_l'entrepreneur_en_afrique_de_l_ouest.pdf.

Country	Authorities issuing WAEMU and ECOWAS certificates of origin
Mali	<ol style="list-style-type: none"> 1. National Directorate of Trade and Competition/Ministry of Trade (Chinese GSP certificate) 2. Ministry for Malians Abroad and African Integration (ECOWAS certificate) 3. National Directorate of Crafts for craft products 4. National Directorate of Industry (WAEMU and ECOWAS certificates of origin), Directorate-General of Customs (for endorsement) 5. National Export Promotion Agency (Indian GSP)
Niger	<ol style="list-style-type: none"> 1. Trade Promotion Department in the Chamber of Commerce 2. Ministry of Industrial, Crafts and Tourism Development (ECOWAS certificate)
Senegal	<ol style="list-style-type: none"> 1. Directorate for Industrial Redeployment (Ministry of Industry and Mining) 2. Senegalese Export Promotion Agency
Togo	<ol style="list-style-type: none"> 1. Ministry of Industry (ECOWAS certificate)

Source: WTO Secretariat, on the basis of online information viewed at: <https://www.giz.de/en/downloads/giz2012-fr-cedeao-pour-commerçants.pdf>. See also ECOWAS Commission, *Trading in the ECOWAS Free Trade Area: ECOWAS Trade Liberalisation Scheme Rules for Traders*.

3.38. In principle, the certificate attesting to community origin should not be required for local or craft products, according to the rules indicated above; this is intended to promote free trade in such products without any duties or taxes and enable nationals to have easier access to food when it is available on the other side of the border. Traders in staple foods within WAEMU, however, are sometimes requested to produce a certificate of origin and some countries such as Togo require export certificates. In Benin, the authorities apparently use certificates of origin to impose quantitative restrictions on exports.²⁰ In Niger, traders in onions say that they have to pay CFAF 130,000 (around €200) per truckload for a certificate of origin.²¹ The WAEMU Commission has urged member States to lift all these restrictions on exports of agricultural products from other member States.²²

3.39. Recent empirical research²³ suggests, in particular, that abusive checks and corruption involving, *inter alia*, certificates of origin and their complexity, as well as the cost of obtaining them, could be among the main reasons for the persistence of informal trade.²⁴ With the aim of remedying these problems, in 2015, the WAEMU Commission introduced a plan for the exchange of electronic certificates within the WAEMU area.²⁵ The pilot phase for the electronic management of certificates of origin has commenced between Senegal and Côte d'Ivoire. The aim is to make this document paperless in all member States and facilitate checks of the authenticity of certificates of origin, in line with the objective set by WAEMU to streamline the procedure for recognizing community products so as to enhance their competitiveness and intra-community trade.²⁶

3.1.4 Customs duty

3.40. Endorsed by the Extraordinary Session of the ECOWAS Authority of Heads of State and Government, held in Dakar on 25 October 2013, the ECOWAS common external tariff (CET) replaced that of WAEMU, which had been in effect since 2000.²⁷ The ECOWAS CET has been applied by all member States since it came into force on 1 January 2015, with the exception of Guinea-Bissau, which has applied it since 30 September 2016.

²⁰ Online information viewed at: <http://www.gufebenin.org/images/documents/outils/arreteguoc.pdf>.

²¹ See, for example, in the case of Togo: http://www.inter-reseaux.org/IMG/pdf/Brief_3_Certificat_d_origine.pdf.

²² WAEMU (2015), *Rapport sur la surveillance commerciale*. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/rapport_2015_de_la_surveillance_commerciale_final_06-05-16_0.pdf.

²³ J. Jarreau et al., *Informal Trade in Benin, Togo and Nigeria: determinants and impacts on price transmission*.

²⁴ The authors refer to the problem of excessive inflexibility on the part of the Customs, abusive checks and corruption with regard to use of certificates of origin in particular.

²⁵ WAEMU (2013), High Level Forum on Trade Facilitation and Single Window Initiatives for Enhanced Regional Economic Cooperation – *Perspectives de l'UEMOA en matière de guichet unique*, Communication by R. Tiemoko Kabran. Viewed at: http://icdt-oic.org/RS_67/Doc/UEMOA.pdf.

²⁶ WAEMU (2015), *Rapport sur la surveillance commerciale*. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/rapport_2015_de_la_surveillance_commerciale_final_06-05-16_0.pdf.

²⁷ The ECOWAS CET was adopted in the WAEMU area on 25 September 2014 by Regulation No. 07/2014/CM/UEMOA amending Regulation No. 02/97/CM/UEMOA adopting the WAEMU common external tariff. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/tec_final_3.pdf.

3.41. The CET introduces a number of innovations such as the inclusion of a fifth rate of 35% (130 tariff lines); the maximum rate under the WAEMU CET was 20%. In addition to the CET, a supplementary optional transitional provision applicable at the domestic level is provided in the community texts and increases the number of levies on imports with the aim of allowing States, if needed, to adapt during the initial years of CET implementation. These other levies on imports, described in section 3.1.5 below, include a new import adjustment tax (TAI) and a new supplementary protection tax (TCP); these are intended to replace a similar provision, still in force in some member States, namely, the special import tax (TCI), while the degressive protection tax (DPT) has definitively been abolished in all member States.

3.42. The overall level of nominal tariff protection (the combination of the CET, the TAI and the TCP) may not therefore exceed 70%.²⁸ This additional provision may only be applied to a maximum of 3% of all tariff lines. The allocation of tariff lines to each of the five CET rates may be revised following a proposal by a member State sent to the ECOWAS CET Management Committee. Proposals are examined every six months and, if the opinion is favourable, they are endorsed by the joint WAEMU/ECOWAS CET Management Committee, which forwards them to the ECOWAS Council of Ministers for adoption by means of an immediately applicable regulation.

3.43. The ECOWAS CET is based on the 2012 version of the Harmonized Commodity Description and Coding System (HS) and is *ad valorem* for all lines. For approximately 90% of the lines, the ECOWAS CET rates are the same as those of the WAEMU CET it replaced. The CET now comprises five rates instead of the previous four: zero, 5%, 10%, 20% and the new 35% rate. The 5,899 tariff lines are distributed as follows:

- 85 tariff lines at the rate of 0% belonging to the zero category for essential social goods;
- 2,146 tariff lines at the rate of 5% belonging to category 1 for basic raw materials and capital goods;
- 1,373 tariff lines at the rate of 10% for intermediate goods;
- 2,165 tariff lines at the rate of 20% for end consumer goods; and
- 130 tariff lines at the rate of 35% for "goods specifically for economic development".

3.44. With the transition to the ECOWAS CET, the average rate rose to 12.3%, slightly higher than the WAEMU average of 12.1% (Tables 3.7 and 3.8). Average tariff protection has become higher for agricultural products (WTO definition) than for other goods. On average, tariff rates have fallen by close to two percentage points for transport equipment, and for beverages and tobacco, and by almost three percentage points for coffee and tea. For products of animal origin, average tariff protection has increased by over five percentage points, while for sugar and confectionery and fisheries products the increase is around one point.

Table 3.7 Structure of the CET, 2011 and 2016

	2011 WAEMU CET	2016 ECOWAS CET
1. Simple average MFN applied rate	12.1	12.3
Agricultural products (WTO definition)	14.6	15.5
Non-agricultural products (WTO definition)	11.6	11.7
Agriculture, hunting, forestry and fishing (ISIC 1)	13.1	11.9
Mining and quarrying (ISIC 2)	5.0	5.1
Manufacturing (ISIC 3)	12.1	12.4
2. Duty-free tariff lines (% of all tariff lines)	1.5	1.4
3. Simple average rate (dutyable lines)	12.3	12.4
4. Non- <i>ad valorem</i> duties (% of all tariff lines)	0.0	0.0
5. Tariff quotas (% of all tariff lines)	0.0	0.0
6. National tariff peaks (% of all tariff lines) ^a	0.0	0.0

²⁸ Regulation C/REG.1/09/13 on supplementary protection measures (MCP) for implementation of the ECOWAS common external tariff.

	2011 WAEMU CET	2016 ECOWAS CET
7. International tariff peaks (% of all tariff lines) ^b	40.6	38.9
8. Overall standard deviation of applied rates	6.9	7.5
9. Nuisance applied rates (% of all tariff lines) ^c	0.0	0.0

a National tariff peaks are duties exceeding three times the overall simple average applied rate.

b International tariff peaks are duties that exceed 15%.

c Nuisance rates are those greater than zero, but less than or equal to 2%.

Note: The 2011 tariff comprises 5,550 tariff lines (at ten-digit level, according to the HS07 nomenclature).
The 2015 tariff comprises 5,889 tariff lines (at ten-digit level, according to the HS12 nomenclature).
The calculations are based on the national tariff line level (ten digits).

Source: WTO Secretariat calculations, based on the WTO TAO database.

3.45. The dispersion of rates has clearly been accentuated, with a coefficient of variation that has risen from 0.57 under the WAEMU CET to 0.61 under the ECOWAS CET. Nevertheless, the share of international tariff peaks has fallen from 40.6% of total lines under the WAEMU CET to 38.9% under the ECOWAS CET, highlighting the reclassification of some products at lower rates. This has slightly increased overall tariff escalation by lowering the average rate on raw materials while increasing that on other stages of processing. In other words, overall, the ECOWAS CET has increased nominal protection and also actual protection. The taxation of inputs under the CET has been one of the concerns expressed by certain industries.

Table 3.8 Summary analysis of the CET, 2011 and 2016

	WAEMU CET 2011		ECOWAS CET 2016	
	Simple average rate (%)	Range of rates (%)	Simple average rate (%)	Range of rates (%)
Total	12.1	0 - 20	12.3	0 - 35
Harmonized system (HS)				
Chapters 1 to 24	15.3	5 - 20	16.1	5 - 35
Chapters 25 to 97	11.5	0 - 20	11.4	0 - 35
By category according to WTO definitions				
Agriculture	14.6	5 - 20	15.5	5 - 35
Products of animal origin	18.8	5 - 20	24.1	5 - 35
Dairy produce	14.2	5 - 20	16.0	5 - 35
Fruit, vegetables, plants	17.3	5 - 20	17.6	5 - 35
Coffee, tea	17.1	5 - 20	14.2	5 - 35
Cereals and other preparations	13.3	5 - 20	13.6	5 - 35
Oilseeds, fats and oils	10.7	5 - 20	11.8	5 - 35
Sugar and confectionery	12.2	5 - 20	13.5	5 - 35
Beverages and tobacco	18.7	5 - 20	17.0	5 - 35
Cotton	5.0	5	5.0	5
Other agricultural products	9.0	5 - 20	9.5	5 - 20
Non-agricultural products	11.6	0 - 20	11.7	0 - 35
Fish and fish products	14.4	5 - 20	15.4	5 - 20
Metals and minerals	11.8	0 - 20	11.7	0 - 20
Chemicals	7.6	0 - 20	8.0	0 - 35
Wood, paper, etc.	11.3	0 - 20	11.5	0 - 20
Textiles	16.4	0 - 20	16.3	0 - 35
Clothing	20.0	20	20.0	20
Leather, footwear, etc.	13.1	0 - 20	12.8	0 - 20
Non-electrical machinery	7.3	5 - 20	7.1	5 - 20
Electrical machinery	11.2	0 - 20	11.2	0 - 20
Transport equipment	10.4	0 - 20	8.6	0 - 20
Other manufactures n.e.s.	14.3	0 - 20	14.2	0 - 20
Petroleum	7.8	0 - 10	7.9	0 - 10
By ISIC sector^a				
Agriculture, hunting, forestry and fishing	13.1	5 - 20	11.9	5 - 35
Mining and quarrying	5.0	0 - 10	5.1	0 - 10
Manufacturing	12.1	0 - 20	12.4	0 - 35

	WAEMU CET 2011		ECOWAS CET 2016	
	Simple average rate (%)	Range of rates (%)	Simple average rate (%)	Range of rates (%)
By stage of processing				
Raw materials	10.6	0 - 20	10.4	0 - 35
Semi-finished goods	10.0	0 - 20	10.1	0 - 35
Finished goods	13.6	0 - 20	13.9	0 - 35

a International Standard Industrial Classification of All Economic Activities (Rev.2), electricity, gas and water excluded (one tariff line).

Source: WTO Secretariat calculations, based on the WTO TAO database.

3.1.4.1 WTO tariff bindings

3.46. ECOWAS member States (including WAEMU member States) have bound their tariffs at the WTO separately, and some did so before these two regional economic communities were established. The successive stages of introduction of the CETs have not been accompanied by harmonization of the States' WTO bound tariff schedules, although discussions are taking place among ECOWAS member States in this regard.

3.47. Up until now, bindings varied considerably in terms of coverage of tariff lines and levels of bound rates (Table 3.9). With the exception of Guinea-Bissau and Togo, for several lines the ECOWAS CET rates exceed the bound rates. Member States' schedules of concessions were transposed into the 2007 version of the HS and certified between October 2013 and August 2015 as part of the transposition exercise undertaken by the WTO Secretariat.

Table 3.9 Tariff bindings by WAEMU members, 2016

	Benin	Burkina Faso	Côte d'Ivoire	Guinea-Bissau	Mali	Niger	Senegal	Togo
Bound tariff lines (% of all tariff lines) ^a	39.6	39.7	34.0	97.7	40.6	96.6	100.0	13.9
Simple average bound rate ^a	27.7	41.0	10.9	48.7	27.9	44.2	30.0	80.0
Range of bound rates (%) ^a	0-100	0-100	0-64	40-50	0-75	0-200	15-30	80.0
Number of lines for which the applied customs duty exceeds the bound rate ^b , including:	623	620	883	0	621	616	115	0
Agricultural products (WTO definition)	15	15	421	0	15	15	94	0
Products of animal origin	0	0	77	0	0	0	60	0
Dairy produce	9	9	20	0	9	9	4	0
Fruit, vegetables, plants	0	0	175	0	0	0	7	0
Coffee, tea	0	0	12	0	0	0	6	0
Cereals and cereal preparations	2	2	38	0	2	2	8	0
Oilseeds, fats and oils	3	3	23	0	3	3	4	0
Sugar and confectionery	0	0	6	0	0	0	2	0
Beverages and tobacco	1	1	37	0	1	1	3	0
Cotton	0	0	0	0	0	0	0	0
Other agricultural products	0	0	33	0	0	0	0	0
Non-agricultural products (WTO definition)	608	605	462	0	606	601	21	0
Fish and fish products	23	23	22	0	23	23	0	0
Metals and minerals	47	47	43	0	47	47	0	0
Chemicals	10	10	9	0	9	9	9	0
Wood, paper, etc.	2	2	2	0	2	2	0	0
Textiles	53	53	12	0	53	53	12	0
Clothing	154	154	96	0	154	154	0	0
Leather, footwear, etc.	22	22	37	0	22	22	0	0
Non-electrical machinery	120	117	94	0	119	116	0	0
Electrical machinery	145	145	121	0	145	145	0	0
Transport equipment	20	20	16	0	20	18	0	0
Other manufactures	8	8	6	0	8	8	0	0
Petroleum	4	4	4	0	4	4	0	0

a The calculations are based on the national tariff line level (HS2007).

b The bound rates transposed have been compared with the ECOWAS CET (in HS2012) at HS subheading level (six-digit HS).

Source: WTO Secretariat calculations based on the WTO Consolidated Tariff Schedules (CTS) database.

3.1.4.2 Tariff preferences

3.48. Within WAEMU/ECOWAS, full exemption from import duties and taxes is in principle given for products from the ECOWAS area²⁹ when they are considered as originating, but the implementation of this provision has encountered problems which considerably limit its scope (section 3.1.3). Tariff preferences are also given under the "interim" Economic Partnership Agreement between Côte d'Ivoire and the European Union (see Annex on Côte d'Ivoire), although by May 2017 they were not being applied.

3.1.5 Other duties and charges (ODC) levied solely upon importation

3.49. As indicated above, in addition to the CET, other duties and charges (ODC) are levied on goods (or their means of transport) solely upon importation. The section below lists a total of six ODCs provided in the regulations in effect in May 2017, of which two are new since the previous trade policy review. Some of these levies are authorized by community regulations, others are domestic levies; in its trade monitoring report for 2015, WAEMU recommends that levies and other taxes which are not part of the CET should be reduced or even abolished.³⁰

3.50. The process of binding tariffs at the WTO covers the whole tariff line, which comprises both customs duty and these "other duties and charges". For example, as can be seen in Table A3.1, Guinea-Bissau's binding of ODCs allows it to retain these ODCs while at the same time remaining in compliance with its obligations. Togo also has ODCs specified for all its bound lines, although they do not exceed the specified rate of 4%. The situation is different for the other member States. In fact, when no ODC is specified for a given tariff line, it is considered to have been bound at zero (Tables 3.9 and A3.1), which raises a problem in the case of ODC rates greater than zero.

3.1.5.1 ECOWAS and WAEMU community levies

3.51. The 0.5% community levy (PC) is imposed on all imports into ECOWAS from third countries (except in the case of Niger, which applies a rate of 1%, see Annex on Niger) and the revenue is used to finance ECOWAS.

3.52. Furthermore, each WAEMU member State (but not those of ECOWAS) still, in principle, applies the community solidarity levy (PCS) of 1% on all imports (except for petroleum products) from non-ECOWAS countries for a transitional period of five years as of 1 January 2015. The revenue serves to finance WAEMU. This rate should fall to 0.8% in July 2017, and then to 0.5% in 2019³¹; by that date, however, all ECOWAS member States will still not be applying the same import levy because the other ECOWAS (non-WAEMU) members do not apply the PCS.

3.1.5.2 Statistical tax (RS)

3.53. The statistical tax (RS) of 1% applies to all products, even those imported under a customs duty exemption procedure. The revenue is to be used to update the national customs' informatics tool.³² In Benin, an additional statistical tax of 5% is levied on goods re-exported (see Annex on Benin).

3.1.5.3 Import adjustment tax (TAI)

3.54. The import adjustment tax (TAI), which may increase or decrease tariff protection, is one of the two additional temporary measures to be applied optionally at the domestic level and intended to enable member States gradually to adjust the impact of the ECOWAS CET. During a five-year transitional period (until 1 January 2020), the TAI may be imposed by any member State wishing

²⁹ In principle, the ECOWAS trade liberalization scheme has been fully implemented since 1 January 2004. Viewed at: <http://unpan1.un.org/intradoc/groups/public/documents/IDEP/UNPAN012953.pdf>.

³⁰ WAEMU (2015), *Rapport sur la surveillance commerciale*. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/rapport_2015_de_la_surveillance_commerciale_final_06-05-16_0.pdf.

³¹ WAEMU (2017), Extraordinary Session of the Conference of Heads of State and Government, Final communiqué, 10 April 2017, Abidjan.

³² Regulation No. 02/2000/CM/UEMOA, 29 June 2000. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/pages_-_reg_02_2000.pdf.

to do so on goods originating from non-ECOWAS countries. In fact, the TAI may not cover more than 3% of an ECOWAS member State's tariff lines. Currently, Côte d'Ivoire, Mali and Senegal apply the TAI (see Annexes by country).

3.55. The TAI may serve to raise the level of protection of the CET if a member State deems it insufficient. In such a case, the TAI allows the member State concerned to ensure the desired level of protection for the product in question. The maximum rate of the TAI corresponds to the difference between the tariff rate previously applied (that of the WAEMU CET for its member States) and the new ECOWAS CET rate on the product concerned.

3.56. On the other hand, if a member State considers the protection given to a product by the CET is exaggerated, it may then continue to apply the tariff in effect prior to the ECOWAS CET (usually, the WAEMU CET rate for its members).

3.1.5.4 Supplementary protection tax (TCP)

3.57. The supplementary protection tax (TCP) is designed to protect a local product if the average volume of imports of the product into the customs territory of a member State has increased by an average of at least 25% (over the last three years for which data are available). The TCP may also be applied if, over a particular month, the average c.i.f. import price (in national currency) of a product falls below 80% of the average c.i.f. price of imports of the product over the last three years for which data are available.³³ The tax may be imposed for a maximum period of one or two years, depending on the case. In May 2017, no member State was applying the TCP.

3.1.5.5 Special import tax (TCI)

3.58. Pending the actual implementation of these supplementary protection measures, the WAEMU member States have decided to continue applying the TCI "as a transitional measure, until the actual entry into force of the safeguard measures and the supplementary protection measures", even though the TCI is very similar to the TAI (see above).³⁴ Consequently, the TCI is still applied in Côte d'Ivoire, Mali and Senegal (see Annexes by country). The WAEMU Commission, however, has not been requested to review the trigger prices, which appear to have been revised upwards for a large number of products.

3.1.6 Internal taxes

3.1.6.1 Value added tax (VAT)

3.59. There have been no important changes to the community regulations on VAT since 2012.³⁵ They specify the scope of VAT, its tax base, the taxation threshold and the deduction regime for all member States. The threshold for imposition of VAT is defined at the national level and, according to the community provisions, should be turnover of CFAF 30 to CFAF 100 million for supplying goods, and CFAF 15 to CFAF 50 million for providing services. VAT applies to products manufactured locally when they are first sold or cleared for home use, in which case the tax base is the selling price plus excise duty, where applicable. The rate is in principle the same for local products and imports, for which the tax base is the customs value plus import and excise duties.

3.60. Pursuant to the community regulations, the VAT rate must be between 15% and 20%; six of the eight WAEMU member States apply a general rate of 18%. Niger applies a rate of 19% and Guinea-Bissau 15%. Member States may apply a reduced rate of 5% to 10% to a maximum number of ten goods or services (Table 3.10).

3.61. The reduced rates and the exemptions are applied by all member States, but differently. They are in fact decided at national level and often include products that do not appear on the community list (Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau and Senegal in particular). With

³³ The calculations are based solely on MFN imports. For further details, see Regulation No. C/REG.1/09/13 on supplementary protection measures (MCP) for implementation of the ECOWAS common external tariff.

³⁴ Regulation No. 06/2014/CM/UEMOA of 25 September 2014.

³⁵ The main provisions can be found in Directive No. 02/2009/CM/UEMOA. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/directive_02_2009_cm_uemoa.pdf.

a view to introducing a large single market (free movement), authorities in member States are currently considering establishing a single VAT regime throughout WAEMU in order to facilitate transactions.

3.62. As can be seen from Table 3.10, a large share of agriculture lies outside the scope of VAT. The terms for this exemption, however, still have to be defined and each member State may apply an independent VAT regime in this sector. A member State may decide to make VAT applicable to agriculture.

3.63. Member States undertake not to grant VAT waivers or exemptions in order to encourage the creation of businesses and investment; measures or provisions aimed at particular sectors; or special agreements.³⁶ In practice, there are a myriad of VAT exemptions to encourage foreign direct investment, particularly at the investment stage and under the national free zone regimes (see Annexes by country). The community provisions do not exclude the application of national customs procedures which defer or suspend VAT on mining, petroleum or forestry activities (see Annexes by country).

Table 3.10 Exemptions and other exceptions to the general VAT regime

Community list of goods and services exempt from VAT
Supply of hospital services, including transport of the injured and sick, and individual treatment given in public hospitals, health centres or similar facilities, and the treatment given by members of the medical and paramedical profession
Deliveries of medicines and pharmaceuticals, as well as specialized equipment and products for medical activities pursuant to Directive No. 06/2002/CM/UEMOA of 19 September 2002 determining the common list of medicines
Unprocessed foods exempt from VAT:
1 Maize, millet, sorghum, fonio, wheat, rice except for luxury rice and other cereals
2 Cassava, sweet potatoes, yams, potatoes, taro and other roots and tubers
3 Beans, soya beans, sesame, groundnuts; peas and other legumes
4 Onions, tomatoes, eggplant, okra, chillies and other vegetables and garden produce
5 Eggs in the shell
6 Fresh meat
7 Unprocessed fish (fresh, smoked, salted or frozen)
8 Raw milk
Supply of services related to school or university education by public or private establishments or by similar institutions
The social consumption band for the supply of water and electricity, defined individually by member States
Banking transactions and insurance and reinsurance services, subject to special taxation
Transfer of buildings, rights <i>in rem</i> in immovable property and transfer of businesses subject to registration duty or equivalent taxation
Supply, at face value, of postage stamps for franking, fiscal stamps and other similar values
Sale of books
Sale of newspapers and news periodicals, except for advertising income
Sale of original works of art by the author
Rental of unfurnished property for use as a dwelling
Gas for household use
Products on which a reduced rate of 5%-10% may be applied
Edible oils
Processed milk
Edible pasta
Cattle and poultry feed
One-day-old chicks
Flour of maize, millet, sorghum, rice, wheat and fonio
Agricultural equipment
Computer equipment
Equipment for generating solar energy
Accommodation and catering services provided by hotels, restaurants and similar approved establishments and services provided by organizers of approved tourist routes
Leasing of agricultural equipment
Repair of agricultural equipment
Services provided by firms in relation to the activities of undertakers

Source: Directive No. 06/2002/CM/UEMOA and its annex, viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/pages_-_directive_06_2002_cm.pdf; annex viewed at: <http://www.uemoa.int/sites/default/files/annexe/annexelistedmedicaments.pdf>; and Directive No. 02/2009/CM/UEMOA, viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/directive_02_2009_cm_uemoa.pdf.

³⁶ This does not apply to special agreements signed before the Directive came into force.

3.64. One of the major VAT-related problems in WAEMU is the delays in refunding the related credits.³⁷ In principle, exports are subject to the zero rate regime, which allows exporters to obtain refund of the VAT paid on their inputs and equipment. Delays in refunding these VAT credits in member States may exacerbate cash flow difficulties for firms facing problems of access to overdraft facilities.

3.1.6.2 Excise duty

3.65. WAEMU has also adopted a community framework governing excise duty, which like the VAT regime, should result in the convergence of tax bases and rates. The community framework sets the limits within which member States may determine the national rates of taxation.³⁸

3.66. Excise duty on some products is mandatory: non-alcoholic beverages (0%-20%), except for water; alcoholic beverages (15%-50%); and tobacco (15%-45%). Moreover, each member State may choose to impose excise duty on a maximum of six goods on the following WAEMU list³⁹: coffee (1%-12%), cola nuts (10%-30%), wheat flour (1%-5%), edible oils and fats (1%-15%), tea (1%-12%), arms and ammunition (15%-40%), perfumery and cosmetic products (5%-15%), plastic bags (5%-10%), marble (5%-15%), gold ingots (3%-15%), precious stones (3%-15%), and private vehicles of 13 HP or more (5%-10%).

3.67. The tax base for imports is the c.i.f. value plus all other duties and taxes, except for VAT. Excise duty has to be applied in the same way to both imports and identical products manufactured locally, which are taxed on their first sale or when cleared for home use. The tax base for local products is the ex-factory selling price, excluding VAT. In 2015, member States made efforts to comply with these provisions, but the community provisions are not always observed (see Annexes by country).

3.1.6.3 Single special tax on petroleum products

3.68. Excise tax on petroleum products is called the "single special tax" because it is not *ad valorem* and is in principle a single tax. The tax is levied on imports and local sales of petroleum products; the rate varies depending on the member State and the products within each member State. Fuel to be used for fishing, towing or sea rescue is exempt. Jet fuel and petrol for aerodynes is also exempt.

3.69. Member States are free to fix the rates, but they must comply with the community regulations on gradually bridging the gap between the rates on petrol and diesel fuel.⁴⁰ WAEMU's aim remains to harmonize prices at the pump, to achieve consistency of internal systems for the taxation of petroleum products, and to eliminate price distortions resulting from different taxes on each product within the Union's countries and between the different products in each country. In practice, taxation of petroleum products varies considerably from one member State to another in spite of the community provisions (see Annexes by country).

3.1.6.4 Advance payment on profits tax (AIB)

3.70. In all member States, an advance (or prepayment) is levied on all customs operations of a value of CFAF 2 million or more, whether upon importation, exportation or re-exportation, including products originating in or destined for WAEMU, as tax on profits, pursuant to domestic laws which differ substantially from one country to another.

³⁷ See in particular IMF (2014), "*Sécuriser les remboursements de crédits de TVA dans les pays membres de l'UEMOA*", Gérard Chambas, Tax Coordination in WAEMU—Looking Back and Forward. WAEMU-IMF Conference, Dakar, 30 April-2 May 2014. Viewed at: <https://www.imf.org/external/french/np/seminars/2014/waemu/pdf/chambas.pdf>. See also: <http://revue.ersuma.org/no-1-juin-2012/dossier-le-recouvrement-des/ETUDE-SUR-LES-DIFFICULTES-DE>.

³⁸ Directive No. 3/98/CM/UEMOA, as amended by Directive No. 03/2009/CM/UEMOA.

³⁹ The list is defined in Directive No. 3/98/CM/UEMOA.

⁴⁰ These regulations basically consist of two texts: Directive No. 06/2001/CM/UEMOA on harmonization of taxation on petroleum products within WAEMU, viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/pages_-_dir_06_2001_cm.pdf; and Directive No. 01/2007/CM/UEMOA dated 6 April 2007, amending Directive No. 06/2001/CM/UEMOA, viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/directive_01_portant_harmonisation_de_la_taxation_des_produits_petroliers.pdf.

3.71. Since 2001, however, a community framework has determined a maximum rate of 3% for all importers, together with the option to apply a higher rate (capped at 5%) for businesses without any tax identification number (NIF).⁴¹ In 2015, the WAEMU Commission reaffirmed the recommendation to cap the AIB at 5%.⁴² Niger complied in 2015.

3.72. The AIB is payable when goods are released for home use or enter under a suspensive procedure; the tax base is the customs value, plus import duties and taxes and excise duty, as well as VAT in some member States. The purpose of the AIB is to ensure minimum payment by all taxpayers so as to maximize the Governments' tax revenue and combat tax fraud. Nonetheless, the AIB also has the effect of making imports far more costly. In this connection, Article 2 of the 2001 Directive requires member States to ensure that the tax is applied equally to imports and domestic transactions. Several member States (for example, Niger and Senegal) do not, however, apply it to domestic transactions.

3.73. The WAEMU Directive excludes the supply of services and the sale of water and electricity from the scope of the AIB. Member States may also exclude firms exempt from profits tax under the Mining, Petroleum, Forestry and Investment Codes. In practice, the scope varies greatly from one State to another. For imports, there are clear-cut differences among member States when applying the AIB, which is liable to distort the conditions of competition. In some member States (for example, Benin), the AIB is not imposed on imports by taxpayers which have met their tax commitments during the previous year; or on imports during the first year of activity of start-ups.

3.74. In principle, payment of the AIB can be deducted from profits tax, but in practice this concession is available only to taxpayers which are subject to a real taxation regime and which record profits. For other importers, the AIB constitutes a non-refundable import tax.

3.1.7 Duty and tax exemptions and concessions

3.75. Pursuant to the community provisions, import duty and tax waivers and exemptions have to be decided at community level and applied uniformly by member States. Nonetheless, this is generally not the case in practice, although such measures are in principle notified to the WAEMU Commission after adoption. In the absence of harmonization of exemptions from import duty and other duties and taxes applied by member States, the actual levels of tariff protection may vary considerably from one member State to another.

3.1.8 Import prohibitions, restrictions and licensing

3.76. The WAEMU Treaty provides for the gradual elimination of quantitative restrictions on intra-community trade, but there is no implementing text for this purpose. Likewise, there is not yet any framework governing the application of such restrictions on trade with third countries. Member States, therefore, continue to restrict certain imports individually, sometimes in contradiction with the Treaty (see Annexes by country).

3.77. The CCC prohibits the import of any foreign product bearing a counterfeit trademark or indication of origin (section 3.3.4). The other community prohibitions currently in force concern goods banned from transit⁴³ and goods permanently banned from warehousing.⁴⁴ In principle, the procedures for importing ozone-depleting substances, veterinary medicines and pharmaceuticals for human use have also been harmonized (section 3.3.1).

3.78. The list of goods banned from transit includes, *inter alia*, arms and dual use products such as explosive powders and substances; pyrotechnic articles (firecrackers, waxed fuses, rockets, hail rockets and the like); military weapons, parts and ammunition; cutlasses, swords, bayonets, parts thereof and scabbards and sheaths therefor; projectiles, mines and parts thereof; revolvers and pistols; hunting shotguns, hunting or target shooting rifles, and ammunition therefor; and narcotic

⁴¹ Directive No. 07/2001/CM/UEMOA of 26 November 2001. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/pages_-_dir_07_2001_cm.pdf.

⁴² WAEMU (2015), *Rapport sur la surveillance commerciale*. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/rapport_2015_de_la_surveillance_commerciale_final_06-05-16_0.pdf.

⁴³ Regulation No. 12/2008/CM/UEMOA of 26 September 2008.

⁴⁴ Regulation No. 13/2008/CM/UEMOA of 26 September 2008.

drugs and psychotropic substances. Also banned are pornographic writings, publications, drawings, posters, engravings, paintings, photographs, snapshots, dies, and reproductions and all objects contrary to decency or liable to disturb public order; tainted products; and counterfeit or pirated goods. A member State's competent authority may, however, grant special authorization for transit.

3.79. The permanent ban on warehousing concerns tainted products and counterfeit or pirated goods or those bearing false indications of origin, as well as goods whose release for home use or export is totally banned for reasons of health, safety, good order and morals, protection of the environment, national treasures and intellectual property, and consumer protection.

3.80. Since July 2005, a WAEMU regulation has prohibited the import and production of ozone-depleting substances on WAEMU territory.⁴⁵ Such substances may, however, be imported with an authorization from the Minister responsible for trade in the country of final destination, subject to a favourable opinion from the Minister responsible for the environment. The determination of the related quotas and their allocation to importers are the responsibility of member States. This regulation is not, however, applied by all member States. The community framework further provides for the registration of importers and distributors of ozone-depleting substances by national offices, as well as the establishment of a community ozone committee (CCO), responsible for ensuring the implementation of the Montreal Protocol on these substances, but whose creation is taking time.

3.1.9 Anti-dumping, countervailing and safeguard measures

3.81. No notification has been received from member States since 2009 indicating that measures have been taken in relation to anti-dumping, countervailing or safeguard duties. In practice, nevertheless, the TCI and the TCP are similar to safeguard measures even if they are not designated or implemented as such (section 3.1.5).

3.82. The WAEMU Anti-Dumping Code of 1 July 2004⁴⁶ reproduces in full the provisions of the relevant WTO Agreement and applies only to imports from third countries. Burkina Faso, Côte d'Ivoire and Mali have notified that they do not have an authority competent to initiate and conduct an investigation within the meaning of Article 16.5 of the Agreement and, therefore, there are no anti-dumping actions within the meaning of Article 16.4 of the Agreement. Burkina Faso (in 2011) and Mali (in 2010), Côte d'Ivoire and Senegal (in 2014) have notified the WTO that they have no legislation on investigations relating to countervailing measures and no competent authority to conduct an investigation within the meaning of Article 25.12 of the Agreement on Subsidies and Countervailing Measures so no measure had been taken in this regard.

3.83. In 2009, Burkina Faso notified the WTO Committee on Safeguards that no law, regulation or administrative procedure on safeguard measures had been adopted. The ways in which member States are authorized to take a safeguard measure, waiving the common trade policy, date back to 1998.⁴⁷ Such measures may only be taken with the authorization of the Commission, following a request submitted by a member State; the Commission "will ensure that the safeguard measures taken comply with the general principles of the relevant rules of the World Trade Organization" (Article 7).

3.84. A member State facing serious economic problems may waive the WAEMU rules only by decision of the Commission, which also approves the type and term of application (not exceeding six months, unless extended) of the measures proposed. An appeal against the Commission's decision may be made to the Council of Ministers. The Commission may also authorize provisional measures, justified by special circumstances, for a maximum term of 90 days to be deducted from the period of the waiver. The measures authorized are implemented solely in the customs territory of the member State concerned.

⁴⁵ Regulation No. 04/2005/CM/UEMOA. It concerns in particular chlorofluorocarbons and hydrochlorofluorocarbons (CFCs and HCFCs) and methyl bromide, which deplete the ozone layer and are a contributory factor in climate change.

⁴⁶ Regulation No. 9/2003/CM/UEMOA of 23 May 2003.

⁴⁷ Regulation No. 14/98/CM/UEMOA.

3.2 Measures directly affecting exports

3.2.1 Procedures

3.85. Member States possess an abundant variety of natural resources (petroleum, mineral ores, agricultural and forestry products, diamonds, etc.) and thus have a comparative advantage for the export of such resources. The complicated export procedures, however, limit exports. All the registration, documentation and inspection formalities for importing goods for commercial purposes (section 3.1.1) also apply to exports. In view of the negative impact of these procedures on the competitiveness of exports, several member States (for example, Senegal) have introduced programmes specifically designed to facilitate exports.

3.86. The bank domiciliation procedures are one example of such obstacles, added to the fact that all earnings from exporting goods have to be repatriated and converted into CFAF.⁴⁸ Exporters have to provide the bank where the transaction is domiciled with four copies of an exchange commitment, together with one copy (usually a hard copy except in Côte d'Ivoire and Senegal) certified as an authentic copy of the commercial contract or any other document in lieu thereof. Exporters then draw up an export document for each shipment, also in four copies. After being forwarded to the bank of domiciliation in order to prepare a domiciliation file, the export documents are then sent by the exporter to the customs service at the same time as the goods to be exported. The customs office gives copies of the export document to the exporter, the bank where the transaction is domiciled, the BCEAO and the department in charge of external finance.

3.2.2 Export taxes

3.87. The numerous export taxes levied by member States (Table 3.11) have not been harmonized at community level (see Annexes by country). The aim is usually to maximize tax revenue, ensure food security (in the case of food crops such as cereals), protect and develop local industry (cotton), or protect the environment (for example, forestry resources). No complaint against these practices has been submitted to the WTO. In many cases, these taxes lessen the products' competitiveness on international markets.

Table 3.11 Principal export taxes in WAEMU member States, 2017

MS	Type of export tax or levy
Benin	Fiscal exit duty of 3% of the f.o.b. value on cocoa beans, crude oil and precious metals and stones; municipal tax: 0.5% Computer fee for exports and re-exports
Burkina Faso	Contribution to the livestock sector Computer fee: CFAF 5,000/declaration, plus CFAF 1,000/additional article and CFAF 2,000 for other types of declaration
Côte d'Ivoire	"Single" <i>ad-valorem</i> exit tax (DUS): - Raw cocoa CFAF 220/kg. - Cocoa butter or unprocessed cocoa: CFAF 50 or 210/kg. - Cashew nuts: CFAF 10/kg. - Cola nuts: 14% <i>ad valorem</i> - Cocoa beans and cocoa by-products: 14.6% or 6.95% of the value - Coffee: 10% <i>ad valorem</i> - Timber and some ligneous products: 1%, 2%, 3%, 10%, 15% or 49% depending on the species - Coffee-Cocoa Council tax - Tax to finance the investment fund in rural areas, the agricultural investment fund and production of burlap bags Registration tax on export sales of coffee, cocoa, by-products, cotton, cashew, shea and kola nuts Tax on exports of scrap metal
Guinea-Bissau	- Cashew nuts: 6% - Other agricultural and livestock products: 0.5-2% (<i>contribuição predial rústica</i>)
Mali	Exports of gold and cotton: 3% <i>ad valorem</i> as a special tax on certain products
Niger	Statistical tax on exports: 3% on all products except for minerals Mining tax calculated according to the share of exports in turnover (5.5-12%) Special re-export tax
Senegal	Gold: 3% of value added exported

⁴⁸ BCEAO Instructions No. 01/99/RC, No. 02/99/RC and No. 03/99/RC.

MS	Type of export tax or levy
Togo	Municipal tax: 0.85% Re-export tax 4-8% of the goods re-exported Export fees on diamonds and other mineral substances (CFAF 100/gram). Computer fee: CFAF 5,000/declaration Toll: CFAF 200/tonne

Source: WTO Secretariat, on the basis of WAEMU Commission, *Rapport sur la surveillance commerciale* 2016; and information provided by the authorities.

3.2.3 Export prohibitions, quantitative restrictions, controls and licensing

3.88. Articles 77 and 78 of the WAEMU Treaty recommend that member States abstain from introducing new quantitative restrictions on exports among themselves or making quotas, standards or other provisions with equivalent effect more restrictive.⁴⁹ Nevertheless, export restrictions, particularly seasonal restrictions, are still to be found in intra- and extra-community trade.⁵⁰

3.89. There are no explicit community prohibitions on export or re-export or any relevant community policy, as is the case for import prohibitions and licensing. Only exports of gold, diamonds and other precious metals require prior authorization from the Minister for Finance under the BCEAO community regulations (section 1), unless the articles only contain a small quantity of metal, weigh less than 500 g. or comprise a maximum of ten gold pieces. All member States have individually acceded to the CITES Convention (section 3.3.3).

3.2.4 Export subsidies and other export support

3.90. Generally, member States' lack of financial resources considerably limits any possibility of granting financial support for exports. In 2010, notifications for 2009 were received from Burkina Faso, Côte d'Ivoire, Mali, Senegal, and Togo indicating the absence of subsidies, including income or price support. Nonetheless, tax concessions are given by some member States to firms which export their production, mostly under legislation on free zones or investment (see, for example, Annex on Senegal). These subsidies are based on some provisions in the community competition regime (section 3.3.5).

3.3 Measures affecting production and trade

3.3.1 Sanitary and phytosanitary (SPS) measures

3.3.1.1 Regulations

3.91. The harmonization of national SPS-related legislative texts, regulations, measures and practices has been under way within WAEMU for the last decade, but member States need assistance in order to produce more concrete results. Assistance is needed in particular in setting up national SPS committees in countries where they do not yet exist, for example, Mali and Guinea-Bissau; and to improve their operation in member States where they already exist (for example, Senegal) so as to facilitate the formulation of SPS policies and enable member States to meet their notification obligations more satisfactorily.

3.92. WAEMU's regulatory and legislative framework on the sanitary safety of plants, animals and foodstuffs dates from 2007.⁵¹ Its aim is to create mechanisms for cooperation, to harmonize the legal texts on SPS matters and to establish mutual recognition of controls among member States, "while at the same time taking into account application of the precautionary principle". International standards are specifically recognized as the basis for drawing up community and national texts on SPS measures so that plants and plant products, animals and products of animal origin, foodstuffs and animal feed, including products of modern biotechnology, move freely

⁴⁹ Online information viewed at:

http://www.uemoa.int/fr/system/files/fichier_article/traitrevisueuemoa.pdf.

⁵⁰ Online information viewed at: http://www.inter-reseaux.org/IMG/pdf/Brief_2_Export_Restrictions.pdf.

⁵¹ Regulation No. 07/2007/CM/UEMOA of 6 April 2007. Viewed at: <http://droit-afrique.com/upload/doc/uemoa/UEMOA-Reglement-2007-07-securite-sanitaire.pdf>.

throughout the territory of the Union, whether of community origin or imported from third countries. In May 2017, this Regulation was being revised in cooperation with ECOWAS.

3.93. In 2009, the Commission adopted two texts implementing the Regulation, relating to the sanitary safety of animals, then in 2013 two other implementing texts on coordination and cooperation mechanisms (section 3.3.2.6 below) as part of the implementation of the Union Agricultural Policy (PAU) and with the aim of organizing a strategy at regional level consistent with international requirements, notably with the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (SPS Agreement).⁵² Pursuant to the 2007 Regulation, the Commission and member States also undertake to prepare community and national texts based on the standards of the Codex Alimentarius, the International Plant Protection Convention (IPPC), the World Organisation for Animal Health (OIE) and those established under the Cartagena Protocol on Biosafety.

3.94. The texts implementing the 2007 Regulation and the administrative measures adopted by member States for its implementation should be published in a common compendium; the plan was to devote a section to SPS measures on WAEMU's trade information portal, which is currently being set up.

3.95. In practice, harmonization of SPS matters is still in its early stages. The veterinary regime for animal health, in particular, has been partly harmonized, whereas food safety and plant protection are not yet properly harmonized within member States. The frame of reference for managing food hygiene in Africa developed in the EU's programme "Better Training for Safer Food" for Africa has been disseminated by the Commission. Operators are free to apply it on a voluntary basis in the same way as the other good hygiene practice guidelines.

3.3.1.2 Food safety

3.96. A regional committee for the sanitary safety of plants, animals and foodstuffs within WAEMU is currently being created. The WAEMU Commission's declared objectives are to introduce national mechanisms for assessing food safety risks and providing scientific advice so as to help member States to adapt their sanitary measures to international standards; harmonize the hygiene and food safety rules for foodstuffs and animal feed; harmonize the special rules on hygiene and food safety for foodstuffs of animal origin, including fisheries products; and harmonize official inspections and microbiological and physico-chemical criteria for assessing the sanitary quality of foodstuffs. Côte d'Ivoire has stated that it is introducing a single structure for managing food safety risks.

3.97. At present, in each member State the import of foodstuffs from other member States is subject to the same control measures as those for imports from third countries. Prior authorization from the veterinary service is required to import animal products from one member State to another, together with an animal health certificate from the country of origin. There is still veterinary inspection of products of animal origin among member States in spite of the existence of a veterinary committee that has been operating since 2006.⁵³ In the absence of full harmonization of texts, mutual recognition of inspections and effective coordination at regional level, after a given food product has entered a member State it cannot be resold in another member State without once again undergoing the same inspections (see Annexes by country).

3.3.1.3 Animal health

3.98. In general, veterinary requirements, particularly those relating to animal health, are partly aligned among member States as regards import, transit and re-export of live animals. All

⁵² Implementing Regulation No. 010/2009/COM/UEMOA of 10 September 2009, listing notifiable animal diseases, Implementing Regulation No. 011/2009/COM/UEMOA of 10 September 2009, listing the special measures to be applied to notifiable animal diseases, Implementing Regulation No. 004/2013/COM/UEMOA of 6 May 2013 on the responsibilities, organization and operation of the Regional Committee for the sanitary safety of plants, animals and foodstuffs within WAEMU; and Implementing Regulation No. 005/2013/COM/UEMOA of 6 May 2013 on organization and operation of cooperation and sanitary expertise mechanisms within WAEMU.

⁵³ Regulation No. 01/2006/CM/UEMOA of 23 March 2006 on the creation and operating methods of a veterinary committee within WAEMU.

importers of live animals and animal products must, in principle, be registered with the national veterinary authorities. The veterinary services at the border conduct an inspection subject to a health visit fee. In practice, numerous animals go through the Union's borders outside the customs posts and avoid any controls.

3.99. The aforementioned 2009 regulations require immediate notification to the Commission and the OIE if any notifiable disease emerges.⁵⁴ In parallel with the community legislation, some provisions in domestic laws also remain in force. Projects initiated by the Commission aim to control Newcastle disease in poultry, anthrax and contagious bovine pleuropneumonia by boosting vaccination campaigns so as to create a common sanitary territory and thereby facilitate trade. Their objective is also to build the capacity of veterinary services, particularly in relation to the re-emergence of avian influenza.

3.100. In 2014, by means of a convention, the Commission gave support to the Union of Poultry Industry Organizations (UOFA) to improve the transport of one-day-old chicks in order to facilitate supplies to breeders; for the creation of a website to show UOFA's activities; for sanitary certification of hatcheries identified in the Union, especially in Côte d'Ivoire, Mali and Senegal; and for advocacy of free movement of poultry products in member States.

3.3.1.4 Phytosanitary measures

3.101. The import of plants and plant products requires a permit from the destination member State, as well as a phytosanitary certificate issued by the exporting country, and in some countries an inspection note (see Annex on Burkina Faso), irrespective of the country of origin, including within the community. The permit is valid for a particular importer, solely for the product concerned and for a given, relatively short, period. It is not valid in any other member State. When a load is cleared for home use in a given State and is then exported to another member State, the latter requires another import permit. Harmonization of phytosanitary permits and certificates, mutual recognition of inspections and better regional coordination would help to remove these barriers. This would, however, require assistance in assessing the phytosanitary status in each member State and the development of a common phytosanitary statute on the basis of which it would be possible to undertake a risk analysis common to all member States, enabling the phytosanitary requirements for imports from third countries to be harmonized.

3.3.1.5 Measures affecting trade in agricultural inputs

3.102. Trade in certified seeds, pesticides and veterinary medicines is subject to technical regulations that have been harmonized within WAEMU, based on the requirement that they be certified or approved. This has considerably facilitated production and trade in agri-food products. The regulations on seeds and pesticides are implemented jointly by the Commission, ECOWAS and the Permanent Interstate Committee for Drought Control in the Sahel (CILSS), to which all member States belong. Provisions concerning trade in other agricultural inputs, notably the supply of fertilizer in the growing season, is decided at national level without any coordination at community level.

3.3.1.5.1 Pesticides

3.103. A 2009 regulation aims to ensure free movement of approved pesticides.⁵⁵ According to Article 5, "[i]n order to guarantee the organization of a regional market as part of the implementation of the regional agricultural policy, pesticides shall move freely throughout the territory of member States according to agricultural-ecological areas, provided that they have been approved and declared as meeting the quality standards laid down in the texts in force in the Union". Since April 2013, the ECOWAS and WAEMU Commissions have entrusted the CILSS with harmonized implementation of the regulatory texts and with setting up and running the West African Committee for Pesticides Approval and the national pesticide management committees (CNGP).

⁵⁴ Implementing Regulation No. 010/2009/COM/UEMOA.

⁵⁵ Regulation No. 04/2009/CM/UEMOA on the harmonization of rules governing approval, sale and control of pesticides within WAEMU. Viewed at: http://www.uemoa.int/Documents/Actes/reglement_04_2009_CM_UEMOA.pdf.

3.104. All the Member States belong to the CILSS and take part in the approval activities of the Sahelian Pesticides Committee (CSP). The CILSS has introduced an approval mechanism for pesticides and other phytosanitary products, including common regulations on the import, export, manufacture and distribution of phytosanitary products, which constitutes a unique example of regional harmonization for pesticides. Although there is no regional approval allowing an importer to operate in all WAEMU countries, pesticides approved by the CSP move freely throughout the territory of the signatories to the CILSS Common Regulations. The CNGPs are responsible for implementing the CSP's decisions.

3.105. In addition, this community framework calls on member States to ratify the pertinent major international conventions, to base their national regulations on the latter's provisions, and to harmonize approval terms and criteria, including those on labelling, packaging and storage of approved pesticides. Five lists have to be drawn up for this purpose: approved pesticides or those with a provisional sales authorization; banned pesticides; pesticides whose toxicity is monitored; those "strictly regulated"; and those deemed to be approved in each member State. Member States have also ratified the Rotterdam, Stockholm, Basel and Bamako Conventions (section 3.3.3). In implementing these Conventions, however, member States are mainly constrained by the lack of human, material and financial resources.

3.3.1.5.2 Veterinary medicines and other veterinary products

3.106. WAEMU has embarked upon a process of harmonizing legislation on veterinary pharmaceuticals within its area. This process (a) lays down the general principles enabling centralized management of marketing authorizations; (b) introduces the structures needed to control the quality of veterinary medicines; and (c) ensures controlled distribution of such medicines. Several regulatory texts date from March 2006.⁵⁶ These texts provide for free trade in approved veterinary products within the Union and help to strengthen a common community sanitary area. Directive No. 7/2006/CM/UEMOA provides in particular for import controls and regulates the movement of veterinary medicines within the Union, their sale; control of the requirements for opening and operating manufacturing facilities, possession for commercial purposes, import and wholesale or retail distribution. This Directive has not yet actually been implemented by all member States, but medicines requiring community marketing authorization (AMM) and an import authorization from one of the member States issued by the veterinary services move freely throughout the territory of the Union, accompanied by the AMM.

3.3.1.5.3 Plant seeds and seedlings

3.107. A legal framework has harmonized control of the quality, certification and sale of plant seeds and seedlings in member States since 2009.⁵⁷ It provides for the creation of WAEMU's Regional Catalogue of Plant Species and Plant Varieties (CREVU) with a view to consolidating those approved at national level. Plant seeds and seedlings certified and registered in the CREVU are traded freely in the WAEMU area. Member States commit themselves to "mutual recognition of certifications based on community technical requirements and standards for plant seeds and seedlings, and control and approval procedures in force in the Union, recognizing them as equivalent" (Article 6). The framework also defines the professions related to the marketing of plant seeds and seedlings. Under an agreement between the Commission, ECOWAS, and the West and Central African Council for Agricultural Research and Development (CORAF), and with support from USAID, efforts are being made to facilitate trade in plant seeds and seedlings.

⁵⁶ Regulation No. 01/2006/CM/UEMOA on the creation and operating methods of a veterinary committee within WAEMU; Regulation No. 02/2006/CM/UEMOA establishing community procedures for authorizing the sale and monitoring of veterinary medicines and establishing a Regional Veterinary Medicines Committee; and Regulation No. 03/2006/CM/UEMOA determining fees in relation to veterinary medicines within WAEMU. See also Directive No. 07/2006/CM/UEMOA on veterinary pharmaceuticals; Implementing Regulation No. 007/2009/COM/UEMOA determining standards and analytical, preclinical and clinical safety protocols for the testing of veterinary medicines; Implementing Regulation No. 008/2009/COM/UEMOA determining the competence and experience criteria for the President and members of the Regional Veterinary Medicines Committee; Decision No. 009/2009/COM/UEMOA determining the criteria for filing an application for community marketing authorization; Decision No. 010/2009/COM/UEMOA appointing the network laboratories responsible for controlling the quality of veterinary medicines within WAEMU; and Decision No. 011/2009/COM/UEMOA determining the list of amendments to applications for marketing authorization.

⁵⁷ Regulation No. 03/2009/CM/UEMOA of 27 March 2009 on harmonization of the rules governing control of the quality, certification and sale of plant seeds and seedlings within WAEMU.

3.108. The CREVU catalogue provides for the possibility of approving genetically modified varieties (GMOs). Nevertheless, the regulations on agricultural products derived from biotechnology, particularly use of GMOs in human and animal food, have not been harmonized, although community regulations are planned. In some countries, the sale and growing of genetically modified products, as well as the import of GMO-derived products, requires authorization from the competent authorities (see Annexes by country). National seed committees have been set up, in Senegal in particular in 1997, in Burkina Faso in 2012, and in Côte d'Ivoire in 2013.

3.3.1.5.4 Fertilizer

3.109. The Commission has not enacted any legislation on fertilizer quality control as ECOWAS has already done so. Nevertheless, it is an observer at the regional committee set up within ECOWAS. The relevant legal corpus has been adopted and sessions to build capacity for controlling fertilizer started in 2017 with support from USAID. The aim is free movement of approved fertilizer.

3.3.2 Standards, technical regulations and accreditation procedures

3.110. Member States' authorities have each declared that their objective is to base national standards and technical regulations on international standards, including those of the International Organization for Standardization (ISO) (to which all member States belong, with the exception of Niger, which is a correspondent member, Guinea-Bissau and Togo)⁵⁸; the Codex Alimentarius for food products; the Regional Standardization, Certification and Quality Promotion Agency (NORMCERQ); as well as European standards, particularly those transposed by the French Association for Standardization (AFNOR), which has a website dedicated to West Africa.⁵⁹ In addition, the national standardization institutes in all member States (except Mali) are also members of the African Organisation for Standardisation (ARSO-ORAN). All member States except Guinea-Bissau have accepted the WTO Code of Good Practice for the Preparation, Adoption and Application of Standards.

3.111. A harmonization process, financed by the European Union since 2001, covers accreditation, certification, standardization and metrology activities, comprising three technical components: upgrading reference laboratories with a view to their international accreditation; building regulatory and technical capacity at national and regional levels; and supporting quality efforts by businesses (ISO 9001 certification, quality awards, creation of technical support centres, etc.). One of the outcomes of the "quality" programme has been the Scheme for the Harmonization of Accreditation, Certification, Standardization and Metrology Activities within WAEMU.⁶⁰ The aim of this 2005 Regulation, updated in 2010, is free movement of products and services within the Union and a larger share in international trade. It is based on the principle of mutual recognition among member States at three levels: recognition of technical regulations, national standards and specifications, recognition of conformity assessment procedures and of their results.

3.112. Under the Regulation, member States must notify the WAEMU Commission of their respective regimes on technical barriers to trade and eliminate any unjustified obstacle to the free movement of goods and services. Support for achieving consistency of national regimes is provided by three technical structures: the West African Accreditation System (SOAC); the Regional Standardization, Certification and Quality Promotion Agency (NORMCERQ); and the West African Metrology System (SOAMET). Their activities are coordinated by a Regional Quality Committee (CREQ).

3.113. Voluntary community standards are prepared and adopted by NORMCERQ and must be approved by the Commission; there is provision for a public enquiry at the preparation stage

⁵⁸ Online information from the International Organization for Standardization, viewed at: http://www.iso.org/iso/fr/about/iso_members.htm.

⁵⁹ Online information viewed at: <http://www.ao.afnor.org>.

⁶⁰ Regulation No. 01/2005/CM/UEMOA of 4 July 2005, replaced by Regulation No. 03/2010/CM/UEMOA of 21 June 2010. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/reg_03_2010_cm_uemoa.pdf.

lasting a maximum of three months.⁶¹ Regional technical committees for standardization, composed of two representatives of each member State, are set up to address specific areas and prepare preliminary drafts of WAEMU standards. By May 2017, 42 standards and four guides on good practice in food production had been approved by the Commission. The revision of the Regulation in 2010 specified the mechanism for adopting technical regulations within the Union; the regulations have to be proposed by the Council of Ministers on the basis of community standards as well as the standards adopted by international standardization organizations, after hearing the views of the NORMCERQ Council.

3.114. According to the SOAC revised in 2010, the conformity of imported goods with technical regulations has to be certified by an accredited laboratory, with a certificate or conformity mark as proof. The purpose of introducing the SOAC is to give member States a single organization for accrediting conformity assessment bodies (laboratories, inspection bodies and certification bodies) so as to ensure international recognition of their technical competence at reasonable cost. By May 2017, however, the SOAC was not yet operating. A constituent general assembly was held in Abidjan in December 2015 and a governing board was set up. It was decided that Côte d'Ivoire should host the headquarters.

3.115. With regard to metrology, Regulation No. 08/2014/CM/UEMOA introduced a harmonized metrology system in member States. Three member States (Benin, Burkina Faso and Mali) have already set up autonomous metrology agencies.

3.116. Although the community framework has been in force since January 2006, mutual recognition is not yet operational within WAEMU. The use of national standards deemed to be scientifically unfounded has been addressed by the Commission as a violation of the community competition regime. The Union has not signed any mutual recognition agreements with third countries, and any measures in this respect remain at national level (see Annexes by country).

3.3.3 Measures to protect the environment

3.117. Having adopted measures to harmonize the regulations on protection of the ozone layer in 2005⁶², WAEMU has had a Common Environmental Improvement Policy (PCAE) since 2008.⁶³ In addition to provisions on sustainable management of natural resources and addressing environmental issues, the text proclaims the member States' commitment to harmonize and standardize their environmental technical regulations. The PCAE also provides for the implementation of appropriate modes of production, consumption and economic use of natural resources, in particular through the promotion of renewable energy (section 4.2.2). Member States have all ratified the major trade-related environmental protection conventions⁶⁴:

- Stockholm Convention on Persistent Organic Pollutants;
- Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade;
- Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
- Framework Convention on Climate Change and its Protocol;
- Vienna Convention for the Protection of the Ozone Layer and its Montreal Protocol on Substances that Deplete the Ozone Layer.

3.118. All WAEMU member States have individually acceded to the Washington Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Niger and Togo have

⁶¹ Approved standards are reviewed every five years and may be modified in order to maintain the highest possible technical level.

⁶² Regulation No. 04/2005/CM/UEMOA of 4 July 2005.

⁶³ Additional Act No. 01/2008/CCEG/UEMOA of 17 January 2008.

⁶⁴ Online information viewed at:

<http://www.basel.int/Countries/StatusofRatifications/PartiesSignatories/tabid/4499/Default.aspx>.

ratified it, and Senegal and Côte d'Ivoire apply the related commitments (see Annexes by country).⁶⁵

3.119. In connection with implementation of the WAEMU regional biosafety programme, regulations on preventing biotechnological risks were endorsed in February 2015, jointly with ECOWAS and the CILSS. The regulations apply to any use, trade in, transit and handling of modified live organisms and/or their by-products which might have a negative impact on the environment, in particular, on the protection and sustainable use of biological diversity, or on human or animal health, with the exception of pharmaceuticals.

3.120. In order to harmonize management of environmental and sanitary risks caused by plastic waste, WAEMU is adopting regulations to prohibit the production, sale and use of plastic bags and the plastic materials or products of which they are composed. Similar measures have been introduced at national level (see Annexes by country).

3.3.4 Protection of intellectual property rights

3.121. The protection of intellectual property rights (IPR) in member States remains a challenge, but considerable efforts have been made since 2010 to update the structures and improve enforcement of the legislation, particularly in respect of geographical indications.⁶⁶ All WAEMU countries have signed the Bangui Agreement (1977) establishing uniform rules and creating a common industrial property organization, the African Intellectual Property Organization (OAPI).⁶⁷ The various spheres of intellectual property covered by the Bangui Agreement are governed by annexes which have the status of domestic laws in each member State.

3.122. The Revised Bangui Agreement (1999), in force since 2002, covers: 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), literary and artistic property (Annex VII), protection against unfair competition (Annex VIII), layout-designs (topographies) of integrated circuits (Annex IX), plant variety protection (Annex X), folklore (Annex XI), traditional knowledge (Annex XII) and genetic resources (Annex XIII). It was notified to the WTO and was examined by the WTO Council for Trade-related Aspects of Intellectual Property Rights (TRIPS) in 2001.⁶⁸ The terms of protection in the Agreement are consistent with the TRIPS Agreement.

3.123. In each of the member States, the OAPI serves as the national industrial property service and provides a common system of administrative procedures for registering relevant rights. For an applicant resident in a member country, the procedure for obtaining a title begins with the filing of an application and supporting documents with the national liaison structure (Table 3.12). The issuing of a title by OAPI (following an application by an applicant domiciled in one of its member countries, or internationally under an agreement or treaty) automatically gives rise to rights valid in all of the member States. The Bangui Agreement introduced a regional procedure for exhaustion of intellectual property rights. There are no special intellectual property courts in the member States or at community level; disputes are usually heard in the commercial courts or, where there are none, in the lower courts.

3.124. The first revision of the Bangui Agreement in 2002 introduced, *inter alia*, the protection of geographical indications (protected geographical indications (PGI)) and brought these provisions into line with those in the TRIPS Agreement, which recognizes geographical indications (GI) and requires WTO Members to put in place the legal means to protect them.⁶⁹ Member States have competence to identify products eligible for a PGI, provide sectors with support during the procedure, exercise external control of observance of the specifications for registered PGIs, and combat fraud and counterfeiting on markets, while the registration and recognition of PGIs are the

⁶⁵ Online information viewed at: <https://cites.org/eng>.

⁶⁶ Chapter 5 of the annex to Regulation No. 09/2001/CM/UEMOA.

⁶⁷ The other members of the Bangui Agreement are Cameroon, Central African Republic, Chad, Comoros, Congo, Equatorial Guinea, Gabon, Guinea, and Mauritania. Viewed at: <http://www.oapi.int/index.php/en/aipo/etats-membres>.

⁶⁸ WTO document IP/Q/GAB/1, IP/Q2/GAB/1, IP/Q3/GAB/1, and IP/Q4/GAB/1 of 18 May 2004.

⁶⁹ Annex VI to the revised Agreement states that geographical indication "means an indication that serves to identify a product as originating from a territory, a region, or a locality within that territory, in those cases where the quality, reputation or other specific characteristic of the product may be essentially attributed to such geographical origin".

responsibility of OAPI.⁷⁰ In 2013, OAPI registered its first PGIs, partly as a result of assistance from the programme to support the introduction of geographical indications (PAMPIG – 2008-2014)⁷¹, whose aim is to increase the number of producers, raise the quality of products, obtain better selling prices, and facilitate access to new export markets and financing. The success of the first African PGIs (Penja white pepper (Cameroon), Oku honey (Cameroon) and Ziama-Macenta coffee (Guinea)) and the promotion of awareness by OAPI have made member States keener. The experience has, however, highlighted a need for technical assistance to build national capacity for identification, validation and support during PGI procedures.

3.125. A new revision of the Bangui Agreement became necessary because of lacunae in several areas, particularly the regulations on the exhaustion of intellectual property rights, the lack of regulations on the transfer of technology and the means available to States to benefit therefrom, as well as the lack of provisions enabling member States to enjoy the flexibilities afforded under international texts (for example, access to medicines and to technological development). In December 2015, the OAPI Administrative Council adopted a draft text revising the Bangui Agreement (Table 3.12).⁷² As regards border measures, as a result of this revision, since December 2016 customs services have been able to withhold *ex officio* goods suspected of being counterfeit. As at May 2017, none of the member States had ratified the revised Bangui Agreement.

Table 3.12 Signature of the revised Bangui Agreement, May 2017

MS	Signature	National liaison structure	Other bodies involved
Benin	January 2016	National Industrial Property Agency (ANAPI)	Beninese Copyright Bureau (BUBEDRA); National Commission to Combat Piracy of Literary and Artistic Works (CNLP)
Burkina Faso	December 2015	National Industrial Property Directorate (DNPI)	Burkina Copyright Bureau (BBDA); National Committee to Combat Piracy of Literary and Artistic Works (CNLPOLA)
Côte d'Ivoire	December 2015	Ivorian Intellectual Property Office	Ivorian Copyright Bureau (BURIDA)
Guinea-Bissau	December 2015	Directorate-General of Industrial Property	Guinean Copyright Society (SGA)
Mali	December 2015	Malian Centre for the Promotion of Industrial Property (CEMAPI)	Malian Copyright Bureau (BUMDA)
Niger	December 2015	Industrial Development Directorate (DDI)	National Copyright Bureau (BNDA); National Committee for the Coordination and Development of Intellectual Property
Senegal	December 2015	Senegalese Agency for Industrial Property and Technological Innovation	Senegalese Copyright and Related Rights Management Society (SODAV); National police force to combat piracy and counterfeiting
Togo	December 2015	National Institute for Industrial Property and Technology (INPIT)	Togolese Copyright Bureau; National Intellectual Property Council; Centre for Technology and Innovation Support

Source: WTO Secretariat, on the basis of information provided by the authorities of the member States.

3.126. In 2017, OAPI member States were considering a formalized strategy for the development of geographical indications. Five WAEMU member States (Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau and Niger) created national interministerial "GI" committees within the Ministry responsible for agriculture in their respective countries.

3.127. Lastly, by May 2017, Côte d'Ivoire, Guinea-Bissau and Niger had still not accepted the Protocol Amending the TRIPS Agreement, ratified on 23 January 2017 and intended to facilitate access to essential medicines by making it easier to gain access to new molecules even when they are the subject of an IPR.⁷³

⁷⁰ Online information viewed at: <http://www.tresor.economie.gouv.fr/File/424194>.

⁷¹ Online information viewed at: <http://www.oapi-igafrrique.org/igafrrique/index.php/a-propos-des-ig>. See also an evaluation of this project at: <http://www.gret.org/projet/evaluation-projet-pampig>.

⁷² Source: <http://www.oapi.int>.

⁷³ See principally Articles 8 (general exception) and 31 (compulsory or non-voluntary licences). Viewed at: https://www.wto.org/english/tratop_e/trips_e/accept_e.htm.

3.3.5 Competition and price control regime

3.128. There are no price controls at community level. Community legislation on competition prohibits any agreement or concerted practice between firms, including decisions on mergers, when the purpose or effect is to restrict or distort competition within the Union.⁷⁴ These provisions also apply to State-owned enterprises and those to which WAEMU member States grant special and exclusive rights.

3.129. The regulation and treatment of practices liable to distort competition operate on two levels, the community level and nationally. Community law covers the following areas: anti-competitive understandings; abuse of a dominant position; State aid; and other practices attributable to member States. In determining a dominant position, the Commission takes into account structural criteria (market share, barriers to entry such as legislative or regulatory obstacles, obstacles related to the operation of the market, obstacles caused by the conduct of the firm, financial power); and behavioural criteria. National legislative competence is limited to areas not regulated at Union level, such as unilateral practices by non-dominant enterprises and consumer protection. There have been some delays in harmonizing the national and community competition regimes. The transposition of the Directive on the definition of the powers of national bodies is still under way in some member States, including Côte d'Ivoire and Guinea-Bissau.

3.130. The Commission has sole competence to examine anti-competitive practices liable to have an impact on trade between member States, as well as those attributable to member States and State aid. It may grant individual (and conditional) exemptions if the anti-competitive practice helps to improve the production or distribution of goods or to promote technical or economic progress; it may also define exemptions by category in the case of specialization agreements, research and development agreements and technology transfer agreements. By May 2017, the Commission had not yet adopted regulations on exemptions by category, but had received requests for individual exemptions.

3.131. At the procedural level, the community competition regime gives the WAEMU Commission not only the responsibility for taking decisions at first instance, but also an active role in investigations and hence, to a large extent, the burden of proof. The national competition bodies have a general investigative function either at national initiative or at the Commission's express request.⁷⁵ Certain contentious cases are examined after being submitted to the Advisory Committee on Competition. These primarily concern: Celtel Niger against the State of Niger in relation to the telecommunication infrastructure sector in Niger; and Africa Steel against SOTACI in the sector producing and distributing reinforcing rods in Côte d'Ivoire.⁷⁶ The Commission's interventions are, in general, few in number. Moreover, the interface between the Commission's powers and that of the national sectoral regulators has yet to be defined.

3.132. Since 2003, the policy on official aid within WAEMU has been governed by Article 88(c) of the Treaty and an implementing regulation.⁷⁷ "Official aid" is defined as any measure which: "(a) involves a direct or indirect cost or a loss of revenue for the State, its subdivisions or any public or private body that the State establishes or designates with a view to managing the aid; and (b) thus bestows an advantage on certain enterprises or certain products". "Official aid liable to distort competition by favouring certain enterprises or certain products" is prohibited. In principle, the prohibition of an official aid programme is determined only after review by the Commission. However, some official aid programmes are prohibited as a matter of course, for example, aid contingent upon performance in exporting to other member States or the use of domestic products over imports from other member States.

⁷⁴ Regulation No. 2/2002/CM/UEMOA on anti-competitive practices within WAEMU; Regulation No. 3/2002/CM/UEMOA on procedures applicable to understandings and abuse of dominant positions; Regulation No. 04/2002/CM/UEMOA on official aid within WAEMU and rules for implementing Article 88(c) of the WAEMU Treaty; and Directive No. 02/2002/CM/UEMOA on cooperation between the Commission and national competition authorities in WAEMU member States.

⁷⁵ Member States also take part in the work of the Union's Advisory Committee on Competition.

⁷⁶ WAEMU (2015), *Rapport sur la surveillance commerciale*. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/rapport_2015_de_la_surveillance_commerciale_final_06-05-16_0.pdf.

⁷⁷ Regulation No. 04/2002/CM/UEMOA of 23 May 2002.

3.133. Member States are required to notify the Commission of any new official aid programme so that it can be reviewed; the Commission may also initiate proceedings *ex officio* when it possesses information concerning allegedly illegal aid. If a review leads to a finding of illegality, the official aid programme must be discontinued. In order to ensure compliance with the notification obligation, the Commission has decided to carry out an annual survey of official aid; any aid that has not been notified becomes illegal. It was not possible to obtain a list of such official aid for the purposes of this report. Since 2009, the WAEMU Commission has been participating in the annual meeting of the International Competition Network. A cooperation agreement has been signed with UNCTAD for capacity building in the Commission and the member States.

3.3.6 Government procurement and public-private partnerships

3.134. Among member States, only the Ivorian authorities are currently considering obtaining observer status in the WTO Agreement on Government Procurement (see Annex on Côte d'Ivoire).

3.135. The Code of Transparency in Public Finance Management, adopted in 2000 by means of a Directive, sets out the basic principles for the award, execution and regulation of government procurement and the award of public service concessions within WAEMU.⁷⁸ The aim of two 2005 Directives is harmonization of national regimes and opening them up to community competition.⁷⁹ Under the Code, member States must ensure that government procurement contracts are executed "economically, transparently and effectively"; guarantee freedom of access to all candidates that meet the selection criteria; and encourage participation by Union nationals. The Code lays down an obligation to notify invitations to tender to the Commission in order to ensure publicity at regional level; the results of all competitions must be published, as must the follow-up reports on contract execution.

3.136. Procurement with external financing is subject to the community provisions to the extent that these are not contrary to the provisions in the financing agreement. Procurement by States for national security needs is not subject to the provisions. National thresholds for the award of contracts may differ from community thresholds for the publication of invitations to tender.

3.137. Any discrimination against nationals of WAEMU member States is prohibited. A preference not exceeding 15% of the amount of the bid has been introduced in favour of any bid submitted by a community enterprise, in place of preferences for nationals. A person holding a procurement contract with a preference is not authorized to subcontract more than 40% of the total value to a non-community enterprise. Bidders who commit to subcontract at least 30% of the total value of the contract to a domestic enterprise may be given a maximum additional preference margin of 5%.

3.138. In 2017, all member States had transposed these community provisions into their respective national Codes. At regional level, the Regional Government Procurement Observatory (ORMP) was set up to monitor and evaluate the quality and performance of national systems.⁸⁰

3.139. Among the efforts made to harmonize government procurement procedures since 2010 is the publication in 2012 by the WAEMU Commission of a series of standard regional procurement documents. These documents determine the rules for government procurement by legal persons to be followed when entering into public service concession agreements. In 2012, the Council of Ministers adopted a Directive on ethics and deontology in relation to government procurement and public service concessions. In 2014, a decision on a plan of action for reform of government procurement and public service concessions and a Directive on regulation of public works contracting were also adopted.

⁷⁸ Directive No. 02/2000/CM/UEMOA of 29 June 2000. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/pages_-_dir_02_2000.pdf.

⁷⁹ Directives No. 04/2005/CM/UEMOA and No. 05/2005/CM/UEMOA of 9 December 2005, viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/directive_04_2005_cm_uemoa.pdf and at: http://www.uemoa.int/sites/default/files/bibliotheque/directive_05_2005_cm_uemoa.pdf.

⁸⁰ Online information viewed at: www.marchespublics-uemoa.net.

3.140. Since late 2014, the Commission has also been working on preparing an institutional and legal framework for promoting public-private partnerships (PPP) within WAEMU. This study aims to harmonize the provisions governing PPPs through secure regulations that provide better guarantees for private investors and ensure a more solid basis for domestic PPP policies.

4 TRADE POLICIES, BY SECTOR

4.1 Agriculture, forestry and fisheries

4.1.1 Agriculture

4.1. Since 2010, the WAEMU Commission has continued its efforts to ensure effective coordination of the objectives and instruments of the WAEMU member States' agricultural policies and, in particular, to facilitate intra-community trade in their products – within a context of very limited resources, which is considerably restricting the scope of its actions. Above all, the Commission has been working to identify the numerous barriers to trade in agricultural products, such as problems associated with the application of SPS measures, levies, whether legal or not, and certificates of origin, which complicate the movement of agricultural products and limit the development of markets for those products at regional level.

4.2. Under the Union Agricultural Policy (PAU) adopted in 2001¹, the main trade policy instruments in the agricultural sector are border duties and taxes, including the ECOWAS CET whose fifth 35% band applies primarily to "sensitive" agricultural products (see Table 3.8), and then internal taxes, specifically VAT. The CET and other duties and taxes provide agriculture with a high level of tariff protection (section 3.1). Exemptions from customs duties and VAT on imports were introduced during the period 2010-2016 to facilitate imports of staple agri-food products, or inputs, or equipment for use in agriculture. The Commission is working on the harmonization of these exemptions, which differ substantially from one country to another.

4.3. The shortcomings observed in the implementation of the community free-trade area (WAEMU and ECOWAS) are also affecting trade in agricultural products, including local specialties. In general, support for agriculture (for example, subsidies granted for the purchase of seed and fertilizer) is decided upon and provided by each member State without coordination at WAEMU or ECOWAS level. However, it is limited given the limited resources of the member States (see Annexes by country).

4.4. Five priority subsectors were identified by the WAEMU Commission in 2007: rice, cattle and meat, poultry, maize, and cotton. A master plan to improve the competitiveness of these subsectors was adopted by the WAEMU Council of Ministers in 2007. The main instrument for financing the PAU, the Regional Agricultural Development Fund (FRDA) for financing upgrading projects at regional level², has been operational since 2011, with an average provisional budget of nearly CFAF 13 billion (less than €20 million). The investments made concern production infrastructure (swampland development), crop storage and marketing (cattle markets, abattoirs), and inspection and testing laboratories. Other measures include animal health protection, agricultural research, support for the organization of priority agricultural subsectors, and subsidized loans for farmers in the member States.

4.5. Where international trade is concerned, the Regional Trade Facilitation Programme is a means of providing coordination, information and aid with decision-making for the purposes of international trade negotiations in the agricultural sector. It is focused on three main topics: intra-community trade facilitation; capacity building for the sanitary, phytosanitary and metrological control services; and the development of common negotiating positions to be taken by the member States at WTO ministerial conferences.³

4.6. In 2004, the Commission carried out and in 2009 updated a study on the rural land question, with financing from the World Bank and technical support from the Rural Hub. Moreover, the Regional Rural Land Observatory in West Africa (ORFAO) has taken the form of a pilot operation implemented by the Commission and involving regional institutions (ECOWAS, CILSS, etc.) and regional agricultural professional organizations.

¹ Additional Act No. 03/2001 adopting the WAEMU agricultural policy. Viewed at: http://www.uemoa.int/actes/2001/acte_additionnel_03_2001.htm. See also Decision No. 05/99/CM/UEMOA adopting the regional special programme for food security in the WAEMU member States (PSRSA/UEMOA).

² Additional Act No. 03/2006. The procedures relating to the intervention, organization and operation of the FRDA are laid down in Regulation No. 06/2006/CM/UEMOA.

³ Online information from WAEMU, viewed at: <http://www.uemoa.int>.

4.7. As noted above, since 2007 cotton has been one of the five priority subsectors of the PAU. The main measures introduced by the WAEMU Commission since 2010 have involved training for the operators in how to prevent contamination of the cotton; training for the managers of ginning companies in how to grade the fibre; and the completion of a study on lint marketing strategy in the four countries of the Sectoral Initiative in Favour Of Cotton (three of the four countries are member States, namely, Benin, Burkina Faso and Mali). As indicated at the time of their 2010 trade policy review, the three member States and Chad, which make up the C-4, consider that the support granted to the cotton producers of some WTO Members is creating distortions in international markets. In these circumstances, in 2003 the four countries adopted a joint position in the Sectoral Initiative in Favour Of Cotton.⁴ They request the WTO Members that use domestic support for cotton production and cotton export subsidies to abolish them and to grant duty- and quota-free access for cotton exports from the least developed countries.

4.8. In 2014, the WAEMU Commission initiated two projects designed to support the restructuring of the rice and maize subsectors in the member States, in order to improve the governance of these subsectors and their products, productivity and competitiveness. The measures to be taken envisage improvements in access to high-quality agricultural inputs (seed, fertilizer, pesticides) and agricultural equipment, and to the markets for local maize. The global cost of this three-year project is CFAF 2.9 billion (€4.4 million).

4.1.2 Fisheries products

4.9. The fisheries and aquaculture sector occupies a strategic position in the economies of the WAEMU countries in terms of both earnings and food security. In general, the small-scale and industrial fishing fleets of the member States receive little or no support from their governments, which derive substantial income from the sale of fishing rights. The problems affecting the West African fisheries sector include⁵:

- illegal, unreported and unregulated (IUU) overfishing affecting the majority of fish species and simultaneously threatening food security, marine ecological balances and the member States' foreign trade potential for these products;
- the nonconformity of most of the locally processed products with the health regulations of the main export markets, such as the EU; and
- the loss of earnings associated with the sale of fishing licences without local enhancement of the value of the catch.

4.10. In 2014, two directives were adopted within the context of the Fisheries and Aquaculture Development Programme (Table 4.1). This Programme has the following objectives: the harmonization of policies and legislations; the assessment of fish stocks in the WAEMU area; the collection of statistical data and the creation of a regional database; the definition of a regional fisheries agreement negotiating strategy; regulation of the licensing conditions; support for the fisheries monitoring, control and surveillance services of the five coastal countries; and the development of intra-community trade in these products.⁶ Directive No. 3 more specifically concerns the coastal member States; it deals with the conditions of access to fisheries resources, measures for the monitoring, control and surveillance of the activities of fishing vessels and fishing craft, the pursuit of fishing-related offences; and community cooperation. Directive No. 4 deals with the management of fishing and aquaculture, fisheries products, research and data collection, and offences and penalties.

⁴ WTO document TN/AG/GEN/4 of 16 May 2003.

⁵ See, for example: <http://www.greenpeace.org/africa/en/News/news/Cooperation-urgently-required-to-ensure-a-future-for-West-African-fisheries>.

⁶ Regulation No. 05/2007/CM/UEMOA, viewed at: http://www.uemoa.int/Documents/Actes/Annexe_Reglement05_plan_concerte_peches.pdf; and Regulation No. 04/2007/CM/UEMOA, viewed at: http://www.uemoa.int/Documents/Actes/Reglement_04_portant_creation_comite_harmonisation_politiques_et_legislations.pdf, and at: http://www.uemoa.int/Documents/Actes/Annexe_Reglement05_plan_concerte_peches.pdf.

Table 4.1 National transposition of WAEMU regulations relating to trade in fisheries products, May 2017

Member States	State of implementation of Directive No. 03/2014/CM/UEMOA establishing a common regime for the sustainable management of fisheries resources in the member States and of Directive No. 04/2014/CM/UEMOA establishing a common regime for the monitoring, control and surveillance of WAEMU fisheries
Benin	Framework Law No. 2014-19 of 7 August 2014 on fishing and aquaculture in the Republic of Benin; its implementing decrees were in the preliminary draft stage in September 2016.
Burkina Faso	In 2012, Burkina Faso adopted a decree transposing Directive No. 4. Moreover: 1. Directorate-General of Water Resources and Forests in charge of overseeing the regulations on fishing and aquaculture within the Ministry responsible for the environment; 2. Directorate-General of Veterinary Services in charge of fisheries product quality control; 3. National Animal Health Laboratory; 4. National Public Health Laboratory; 5. Creation of management and surveillance committees within the fishery areas.
Côte d'Ivoire	Law No. 2016-554 of 26 July 2016 on fishing and aquaculture fully transposes the two fishing Directives.
Guinea-Bissau	In process of being approved.
Mali	These directives were adopted in Mali simultaneously with the enactment of a new law whose implementing decrees were in process of being drawn up in September 2016.
Niger	In process of being approved.
Senegal	Law No. 2015-18 of 13 July 2015 containing the Maritime Fisheries Code with its implementing Decree No. 2016-1804 of 22 November 2016.
Togo	Law No. 98-012 of 11 June 1998 regulating fishing in process of revision.

Source: WTO Secretariat, on the basis of information from the member States and the WAEMU Commission.

4.11. Recent community measures include campaigns to assess pelagic and demersal species in the Togo exclusive economic zone (2012, 2015); surveys; and monitoring of inland fishing catches (2015). Because of the continuity of the West African coast, on the one hand, and the need for information on the state of the regional fisheries potential, on the other, the Programme also covers non-member countries (Mauritania, Gambia, Guinea and Ghana). The vessels of the Dakar and Conakry oceanographic research centres were selected to conduct these fish stocks assessment campaigns. A website for small-scale, maritime, and inland fishing statistics is to be supplied with data on the member States' fisheries.⁷ A list of indicators and a strategy for the framework surveys to be carried out under the Programme have been drawn up and adopted. In practice, the implementation of these initiatives is encountering serious difficulties.⁸ These difficulties may be administrative in nature, associated with the priorities of successive governments, or due to the lack of cooperation among member States in connection with joint surveillance measures or to a shortage of qualified personnel, financial resources and equipment for implementation purposes.

4.12. Despite the objective of supporting the local filleting and canning industry, the MFN import duties on fish are high, at 10%, to which must be added the other duties and taxes (2.5%). Altogether, the duties and taxes paid on frozen fish imports amount to 30.8% of their c.i.f. value, just above the nominal tariff protection for processed products. Côte d'Ivoire has introduced an export fisheries free zone regime.

4.1.3 Livestock products

4.13. Livestock's contribution to agricultural GDP ranges from 5% in Côte d'Ivoire to 44% in Mali and 87% in Niger and provides employment for a substantial proportion of the economically active population. Livestock raising is also a key factor in regional integration. Sheep and goats are major exports from the landlocked Sahel countries to the coastal countries. Burkina Faso, Mali and Niger are the main exporters among the WAEMU member States.

4.14. As the cattle-meat subsector is one of the five priority subsectors identified by the Commission, an initial project now in progress is aimed at rehabilitating and constructing cross-border cattle markets in the member States. Another project involves the rehabilitation or upgrading of abattoirs and slaughtering facilities in order to develop the meat subsector. These measures are aimed at developing community animal processing chains and thereby making it

⁷ Online information viewed at: <http://statpeche-uemoa.org>.

⁸ Online information viewed at: http://statpeche-uemoa.org/images/8/8d/Rapport_atelier_UEMOA_26-05-16_FINAL_REVU.pdf.

possible simultaneously to increase the value-added and hygienic and sanitary quality of the meat marketed and hence its export potential.

4.15. Regional trade is suffering significantly from taxation abuses at the Union's internal borders, which are encouraging informal trade, thus making it difficult to apply sanitary controls.⁹ The regulatory innovations include the introduction by ECOWAS of an "international transhumance certificate" intended to facilitate the movements of livestock raisers from one country to another. The member States' Confederation of National Cattle/Meat Subsector Federations is endeavouring to eliminate these constraints with technical and financial support from the Agribusiness and Trade Promotion¹⁰ subregional programme and in collaboration with the Regional Sahel Pastoralism Support Project. In 2017, a satisfaction survey was in the process of being carried out among transporters of agropastoral products in order to obtain the views of the operators on harassment at the borders and prepare arguments to be put before the authorities.

4.16. However, the formalization of the cattle/meat subsector remains a major problem for all the member States. The Regional Programme for Livestock Development in the Coastal Countries aims to create favourable conditions for orderly transhumance by creating community livestock infrastructure in these countries (Benin, Côte d'Ivoire, Ghana, Nigeria and Togo). This project is in the phase of seeking financing for the national components. In Côte d'Ivoire, Law No. 2016-413 of 15 June 2016 on transhumance and the movement of cattle has been adopted by the National Assembly. As for Senegal, it has abolished the taxes at the points of sale and relaxed the sanitary controls in order to facilitate movements and trade.

4.2 Mining and energy

4.17. All the member States have brought themselves into conformity with the Extractive Industries Transparency Initiative (EITI)¹¹, apart from Benin (which has no mining industry) and Guinea-Bissau. This should help to improve the management of mining revenue and ensure that there is greater transparency in the awarding of contracts, and that mechanisms are put in place to manage mining income so that it benefits the population as a whole. Unfortunately, the management of small-scale mining operations and, in particular, panning for gold lies outside the control of the EITI, despite the fact that exports of gold – mostly the product of non-industrial mining – account for one fifth of the Union's total exports (Table 4.2), with disastrous human and environmental consequences. The community Mining Code was being revised in 2017 in order to take these concerns into account.

4.18. Between 2010 and 2015, gold exports increased strongly, whereas exports of petroleum products (crude) fell heavily; this performance is attributable, in particular, to the fall in Ivorian exports of crude products. Exports of refined petroleum products have continued to increase; they come mainly from Côte d'Ivoire and, to a lesser extent, Senegal, whose refinery processes imported crude products.

Table 4.2 Trade in the principal mineral products

(€ million)

	2005	2010	2015
Imports of mineral products^a, of which:	3,514	5,438	6,748
HS 2710 Petroleum oils and oils obtained from bituminous minerals, other than crude	1,138	2,476	3,129
HS 2709 Petroleum oils and oils obtained from bituminous minerals, crude	1,583	1,617	1,774
HS 2523 Hydraulic cements	268	460	535
HS 2711 Petroleum gases and other gaseous hydrocarbons	73	144	231
HS 3102 Mineral or chemical fertilizers, nitrogenous	82	122	179
Exports of mineral products^a, of which:	2,950	5,179	7,069
HS 7108 Gold (including gold plated with platinum), unwrought or in semi-manufactured forms, or in powder form	639	2,242	3,744

⁹ Sonhaye, A.S. (2013), "La place de l'élevage pastoral dans l'économie et les politiques nationales et régionales", Contribution of pastoral livestock to the security and development of the Saharo-Sahelian areas, N'Djamena Regional Symposium, 27-29 May 2013. Viewed at: http://www.pasto-secu-ndjamena.org/classified/J1-5-AS.Sonhaye_UEMOA-Elevage_economie_pol_nat_regionales.pdf.

¹⁰ ATP is a project financed by the United States Government through USAID; its objective is to increase the volume and value of West African intra-regional trade in agricultural products.

¹¹ Online information from the EITI, viewed at: <http://eiti.org/fr>.

	2005	2010	2015
HS 2710 Petroleum oils and oils obtained from bituminous minerals, other than crude	1,390	1,291	1,632
HS 2709 Petroleum oils and oils obtained from bituminous minerals, crude	469	878	495
HS 2612 Uranium or thorium ores and concentrates	120	181	362
HS 2523 Hydraulic cements	173	290	245

a See the following HS Chapters: 25, 2618-19, 2621, 2701-04, 2706-08, 2709-10, 2711-15, 31, 3403, 68-71 (except for 6807, 701911-19, 701940-59), and 911310-20.

Note: The following data are missing (as at 29 September 2016):
Guinea-Bissau: 2006-2015; Mali: 2009 and 2013-2015; Burkina Faso: 2006.

Source: WTO Secretariat calculations based on data from the UNSD Comtrade database.

4.2.1 Liquid and gaseous hydrocarbons

4.19. Most of the energy produced in the region comes from liquid or gaseous hydrocarbons, of which the member States are net importers, with the exception, since 2012, of Niger (Chart 4.1). As far as natural gas is concerned, all the member States' consumption comes from their production. Hydrocarbons account for around 30% of the total value of the member States' imports, including 15% for refined products and about 10% for crude products; the share of imports of refined products has sharply increased, reflecting the serious problems with local refining activities. Shortages of gas storage capacity are another constraint on the actors in this sector.

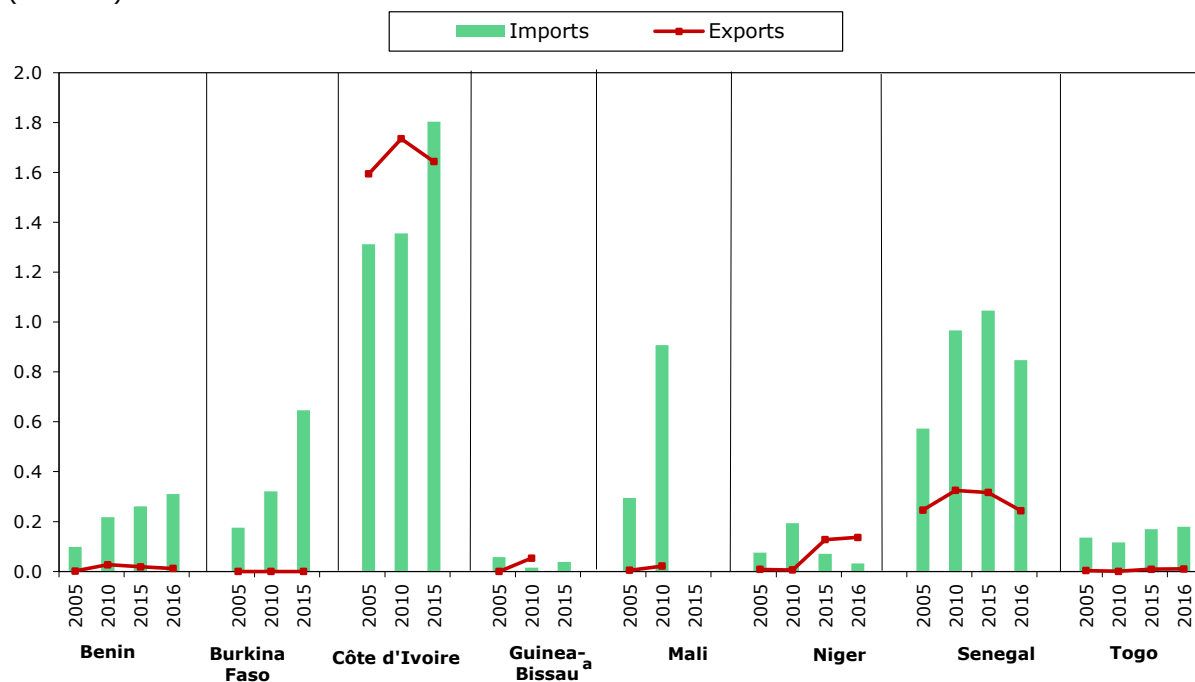
4.20. One of the solutions envisaged for reducing the energy deficit in the subregion was to increase the generation of electricity by gas-burning power stations by importing natural gas from Nigeria. The West African gas pipeline project, begun in 2000 and essentially maritime, was to link Lagos (Nigeria) with Ghana, with branches to Benin and Togo, and make possible a significant increase in these countries' natural gas supplies. As shown in Table 4.2, gas imports have increased only very slightly. Although the gas pipeline has a planned capacity of 450 million cubic feet, the current flow is insufficient to supply all the countries, much of the gas being used to meet the needs of the Lagos region. Consequently, in Benin, Togo and Ghana the power stations are short of gas and power cuts are spreading as far as the capitals.¹² This gas pipeline is operated by a consortium of private multinationals and State-owned enterprises, the Nigerian National Petroleum Corporation (25%); Shell, Chevron, the Volta River Authority (16%); the Benin Gas Company (2%); and the Togolese Gas Company (2%).

4.21. This energy crisis raises questions with regard to long-term mining development policies and, in particular, the role of trade measures in these policies. At present, there is no community energy legislation and the relevant national legislations are dissimilar (see Annexes by country). The main trade policy tools in the sector include State holdings in mining projects (free of charge and/or purchased); tax measures (mining royalties, etc.); and consumer subsidies (regulation of energy product prices, for example).

¹² Online information viewed at: <http://www.jeuneafrique.com/5519/economie/hydrocarbures-ouest-africains-ne-comptez-pas-sur-le-pipeline>.

Chart 4.1 Petroleum trade in the WAEMU countries, 2005, 2010, 2015 and 2016

(€ billion)



Note: Products of chapters 2709 and 2710 in the Harmonized System (HS).

a For Guinea-Bissau, WTO Secretariat calculations, based on data taken from Comtrade, mirror statistics, UNSD.

Source: WTO Secretariat calculations, based on data from the UNSD Comtrade database.

4.22. In particular, the taxation systems for imported petroleum products serve several different policy purposes, which might sometimes benefit from being made more consistent: the first is to maximize tax revenues, and the second to maintain affordable consumer prices, generally by means of periodic price-setting in accordance with world market prices and an equalization system intended, in principle, to ensure a uniform and affordable price (for the population and for industry) throughout national territory. The trade measures employed in the sector are as follows:

- CET MFN rates of 10% on "white products" (petrol, gas oil) and 5% on "black products" (diesel, fuel oil), which can be suspended depending on market conditions;
- VAT, the rate of which also varies depending on whether or not there are exemptions in place;
- a specific (non-*ad valorem*) excise duty levied on petroleum products, which also varies between member States and between products;
- reference prices maintained for imports;
- direct and cross subsidies on the consumption of petroleum products, generally by means of regulated consumer prices and partial or total exemption from certain taxes on these products; and
- quantitative restrictions and import monopolies.

4.2.2 Electricity

4.23. As pointed out by UNIDO, the high cost of electrical energy, the difficulties of access and power cuts are acting as "a real brake on the competitiveness of the industrial sector".¹³ To extricate themselves from this energy crisis, the member States have envisaged several solutions at regional level, as described in a Regional Sustainable Energy Initiative (IREN) published in 2008 and designed to make it possible to cover all the region's electricity requirements by 2030. The IREN programme is based on a four-pronged strategy, namely: (a) to develop a diversified, competitive and sustainable energy supply; (b) to introduce a regional plan for managing electrical energy consumption; (c) to speed up the emergence of a West African electricity market; and (d) to introduce a financing mechanism for the energy sector, the Energy Development Fund (FDE), intended to support the IREN during its start-up phase. This fund received an initial endowment of CFAF 250 billion (€380 million), all of which had been spent on 14 projects in May 2017.¹⁴

4.24. In view of the large amount of financing that needs to be raised, the IREN gives priority to public-private partnerships for the development of the sector. The gradual establishment of the regional market envisaged has improved cooperation among the member States and made possible several interconnections, for example between Mali and Senegal and between the latter country and Mauritania. Progress in establishing independent regulatory bodies with sufficient authority in the areas of arbitration and the management of disputes and differences has been slow (see Annexes by country). However, Decision No. 02/2009/CM/UEMOA on the establishment, organization and operation of the Regional Committee of Energy Sector Regulators of the WAEMU member States provides for national regulatory authorities for the energy sector, as already established in Senegal, for example.

4.25. The IREN emergency programme is based on three essential components: a programme to improve the electrical power supply (thermal generation and network interconnection); a regional energy-saving programme that will enable WAEMU to implement energy efficiency measures for government services, households and industry, including the distribution of low-energy light bulbs; and ensure better governance of the electrical energy sector in terms of the quality of national electricity company management and regulation.

4.26. In general, the national electricity markets are too small to attract private investment, which makes electrical interconnection between the countries of West Africa essential. Thus, the West African Power Pool (WAPP) has been set up, under ECOWAS management, to provide electrical interconnection between the countries of the subregion.¹⁵ At the moment, the following interconnections have still to be established: Senegal-Guinea-Bissau; Burkina Faso-Benin; Burkina Faso-Togo; and Burkina Faso-Mali (in progress). The interconnection of the electrical networks of Côte d'Ivoire and Mali has been operational since 2011. Niger is unconnected, apart from a few links with Nigeria.

4.2.3 Other mining products

4.27. Taken together, exports of gold from Burkina Faso, Mali and Niger account for one fifth of the Union's total exports. The other main product currently being mined from the Union's subsoil is uranium from Niger, which also has important reserves of coal (see Annex on Niger).

4.28. The community Mining Code (CMC), adopted by WAEMU on 23 December 2003, was designed to provide a common framework for the member States' mining legislations.¹⁶ It governs

¹³ UNIDO (2014), "Étude relative à l'Évaluation de la phase pilote du programme de restructuration et de mise à niveau de l'industrie des États membres de l'UEMOA". Viewed at: https://www.unido.org/fileadmin/user_media_upgrade/Resources/Evaluation/RAF_TERAF07001-PRMN-UEMOA_2013.pdf.

¹⁴ Directive No. 06/2001/CM/UEMOA harmonizing the taxation of petroleum products within WAEMU, viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/pages_-_dir_06_2001_cm.pdf; and Decision No. 06/2009/CM/UEMOA adopting the WAEMU strategy known as the Regional Sustainable Energy Initiative (IREN), viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/decision_06_2009_cm_uemoa.pdf.

¹⁵ Online information from ECOWAPP, viewed at: http://www.ecowapp.org/french/french_home.html.

¹⁶ Regulation No. 18/2003/CM/UEMOA of 23 December 2003. Viewed at: <http://www.droit-afrique.com/upload/doc/uemoa/UEMOA-Code-minier-communautaire-2003.pdf>. The Mining Code does not cover quarrying activities.

all the operations relating to prospection for, exploration, holding, movement, treatment, transport, possession, processing and marketing of mineral substances throughout the territory of the Union, with the exception of liquid and gaseous hydrocarbons and quarrying activities. Investors may cite the CMC before the national courts and, if the texts diverge, the CMC takes precedence over the national mining codes. Under Article 12 of the CMC, the granting of a mining title by a member State gives it the right to a 10% share in the mining company's capital free of charge. The holders of mining titles are invited to make the maximum possible use of goods and services of community origin (Article 14). The benefits of the CMC mainly take the form of customs and fiscal concessions (Title 3) offering exemptions from direct and indirect taxes, including customs duties on imported inputs and equipment. These exemptions result in substantial losses of revenue.

4.3 Manufacturing sector

4.29. Since the adoption of the Union's Common Industrial Policy in 1999, there have been no fundamental changes in its "trade policy" component. The promotion of investment and the development of the export capacities of the member States remain a core priority.¹⁷ Where imports are concerned, at ECOWAS level the desire for greater protection of the regional market is still topical, as evidenced by the 35% fifth tariff band of the CET, which entered into force in 2015 and is largely intended to protect the agri-food industry, in particular meat and dairy produce (Table 3.8). Moreover, the measures taken at the time to revive the industrial subsectors, namely, the protection of the domestic market via the degressive protection tax (now abolished) and the special import tax, have been supplemented by two new taxes (section 3.1.5).

4.30. Another relatively ineffective trade policy measure consists in granting exemption from customs duties to goods originating in the ECOWAS area, in order to give them a tariff advantage over imports from third countries: around 4,700 industrial or manufactured products from some 1,000 Union enterprises benefit from admission to the preferential intra-community trade regime (Table 3.5). The fact that their number has not increased very rapidly reflects the small number of manufacturing businesses created annually in the Union. Another reason for the small number of new approvals may well be the complexity of the WAEMU rules of origin¹⁸, which since 2004 have been harmonized with those of ECOWAS¹⁹ (section 3.1.3).

4.31. In 2013, the ECOWAS Quality Programme (ECOQUAL Quality Policy) replaced the corresponding WAEMU Programme, again with the support of UNIDO and EU financing.²⁰ The objective remains to improve industrial governance, make industrial enterprises more competitive, and thereby promote exports. Since September 2014, the West Africa Quality System Programme has been extended to all the West African States and has provided support for 120 primarily agri-food exporters in their efforts to bring their products and services into conformity with international standards.

4.32. A Restructuring and Upgrading Programme (PRMN) was rolled out between 2006 and 2012 to improve the competitiveness of enterprises by providing technical and financial support, in particular with a view to eliminating the tariff protection that would result from the entry into force of the Economic Partnership Agreements (EPAs) (section 2.3.1). According to a programme evaluation, the main constraint on the development of the industrial sector is to be found in the

¹⁷ Additional Act No. 05/99 adopting the WAEMU common industrial policy. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/pages_-_aa0599.pdf.

¹⁸ Additional Protocol No. III/2001 establishing the WAEMU rules of origin, in force since 1 January 2003. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/pages_-_protocole_additionnel_03.pdf. Additional Protocol No. III/2001 was revised by Additional Protocol No. 01/2009/CCEG/UEMOA. Viewed at: http://www.uemoa.int/site/default/files/bibliotheque/protocole_add_01_2009_cceg_uemoa.pdf.

¹⁹ The ECOWAS trade liberalization scheme has been in force since 1 January 2004; the related rules of origin are defined by Protocol No. A/P/01/03 of 31 January 2003.

²⁰ Additional Act No. A/SA.1/02/13 of 28 February 2013, viewed at: http://documentation.ecowas.int/download/fr/documents_juridiques/r%C3_percentA8glement/actes/ECOQUAL.pdf, as supplemented by Regulation No. C/REG.19/12/13 of 17 December 2013 adopting the Scheme for ECOWAS Regional Quality Infrastructure.

large-scale fraudulent importation of goods without payment of the duties and taxes in force and in disregard of the required quality standards.²¹

4.33. WAEMU has published a new community Craft Industry Code²², which has already been transposed into the legislation of some member States.

4.4 Services sector

4.4.1 Telecommunication services

4.34. Telecommunication and information and communication technology (ICT) services in the WAEMU area have been substantially liberalized since the end of the 1990s, by introducing competition into the mobile and internet segments and progressively opening up the wired segment. Although the number of wired lines has remained constant, the number of Internet users has increased by a factor of five and the number of mobiles by a factor of 20 in the course of the last ten years. Fibre-optic technology is being increasingly used in the networks, with a corresponding increase in transmission capacities and hence the quality of the service provided. The market, especially for mobiles, is dynamic and competitive, with recent technologies such as 3G and 4G and 23 operators in the eight member States: the Orange group (present in six countries), MTN (in three), Maroc Telecom & Etisalat (in four), and Maroc Telecom (in two). Recent developments in terms of mergers and take-overs also indicate a sharp increase in concentration in the sector. The national competition authorities are responsible for ensuring competition, including in the telecommunication market (Table 4.3).

4.35. Among recent developments, each of the eight member States now has a national regulatory authority responsible, in some countries, for granting licences (see Annexes by country). The six WAEMU Directives relating to telecommunication and ICT services, adopted by the Council of Ministers in 2006, have all been transposed to the national level since the previous trade policy reviews (Table 4.4).

4.36. The texts were described in detail in the member States' previous reviews and only the recent developments since 2010 are outlined below. In particular, the fourth Directive includes the universal service obligation, for which purpose it provides for a financing fund to be introduced in each of the member States, together with a levy at a maximum rate of 4% to supply the universal service fund. The fund has already been set up in all the member States. In Côte d'Ivoire (2% levy) and in Burkina Faso, this fund is serving to finance the construction of a national backbone. In Togo, the fund is operational: the implementation of "play or pay" appears to have been a success.²³

4.37. The fifth Directive defines the dominant operators and is aimed at harmonizing the interconnection tariffs between operators (dominant operators included) within WAEMU. It provides member States with a framework for determining common pricing principles for telecommunication services and for monitoring by the national regulatory authorities. The Directive specifies the cases in which the authority may intervene in the determination of tariffs and mandates the committees of regulators to establish a common methodology for calculating the reference costs for fixed telephony and the other main services.

²¹ UNIDO (2014), *"Étude relative à l'Évaluation de la phase pilote du programme de restructuration et de mise à niveau de l'industrie des États membres de l'UEMOA"*. Viewed at: https://www.unido.org/fileadmin/user_media_upgrade/Resources/Evaluation/RAF_TERAF07001-PRMN-UEMOA_2013.pdf.

²² Regulation No. 01/2014/CM/UEMOA containing the community Craft Industry Code.

²³ "Play or pay" allows an operator to serve an area identified by the regulator and to deduct the investment it makes from its contribution to the universal service fund.

Table 4.3 Competition in the telecommunication sector, 2008 to 2016

	Benin 2008/ 2016	Burkina Faso 2010/ 2016	Côte d'Ivoire 2008/ 2016	Guinea- Bissau 2008/ 2016	Mali 2008/ 2016	Niger 2008/ 2016	Senegal 2008/ 2016	Togo 2012/ 2016
Local service	M/M	C	n.a./C	M/C	P/C	M/C	P/C	M/C
Domestic long distance service	M/M	C	P/C	M/C	P/C	M/C	P/C	M/C
International long distance service	M/M	C	P/C	M/C	P/C	M/C	P/C	P/C
Wireless local loop ^a	n.a./M	C	P/C	C	P/C	n.a./C	P/C	n.a./C
Data transmission	P	C	C	C	C	C	P	C
DSL ^b	M	C	n.a.	C	P	n.a.	P	C
Leased lines ^c	M	P	P	M	P	C	P	C
Fixed wireless broadband ^d	n.a.	C	n.a.	C	P	n.a.	P	C
Mobile (cell) services	C	C	P/C	P/C	P/C	C	P/C	C
Cable television	n.a.	C	n.a.	C	n.a.	n.a.	P	n.a.
Fixed satellite service	n.a.	P	n.a.	C	P	n.a.	P	C
Internet services	n.a./C	C	C	C	C	M/C	P/C	C
International gateways ^e	n.a./n.a.	P/C	M/C	P/C	P/C	n.a./C	P/C	C

n.a. Not available.

a Enables a telecommunication network and a user to be linked wirelessly.

b Cable modem: broadband internet services.

c Point-to-point communication loop reserved by the network operator for the exclusive use of a subscriber.

d Wireless access technologies that provide faster connections (for example, 2 Mbit/s).

e Installation allowing electronic communications to be sent and received between the installations of a local network and those of another country.

Note: M = Monopoly; P = Partial competition; C = Full competition.

Source: ITU World Telecommunication Regulatory Database. Viewed at: <http://www.itu.int/ITU-D/ict/eve/Default.aspx>, updated by the authorities.

Table 4.4 WAEMU legal texts relating to telecommunications

Text
Directive No. 01/2006/CM/UEMOA relating to the harmonization of control and regulation policies in the telecommunication sector
Directive No. 02/2006/CM/UEMOA relating to the harmonization of regimes applicable to network operators and service providers
Directive No. 03/2006/CM/UEMOA relating to the interconnection of telecommunication networks and services
Directive No. 04/2006/CM/UEMOA relating to universal service and network performance obligations
Directive No. 05/2006/CM/UEMOA relating to harmonization of telecommunication tariffs
Directive No. 06/2006/CM/UEMOA organizing the general framework for cooperation between national telecommunication regulators
Decision No. 09/2006/CM/UEMOA establishing the Committee of National Telecommunication Regulators of the Member States

Source: Information provided by the WAEMU Commission.

4.38. Lastly, the sixth Directive organizes cooperation between national regulatory authorities, which should aim for the convergence of standards with a view to ensuring, in particular, network security and interoperability and the compatibility and mutual recognition of approvals of telecommunication equipment and terminals throughout Union territory; coordination in frequency planning and allocation and control of the use of the radio-frequency spectrum; alignment of national numbering systems; and coordination in collecting the sector's statistical data. This Directive establishes a Committee of WAEMU national telecommunication regulators composed of the national regulatory authorities of the member States, which has met regularly since 2007. A website was in process of being finalized to be ready in 2017. Preliminary drafts of community texts relating to frequency controls at the borders, to homologation and recognition of terminal approvals, and to the harmonization of requests for mobile network services are also in process of finalization.

4.39. ECOWAS has also been active in carrying out several projects with a view to harmonizing the telecommunication markets within the Community. Since 2002, it has played a fundamental role in the West Africa Telecommunication Regulators Assembly (WATRA). The members of WATRA are the national regulatory authorities or, where there are no such authorities, the departments responsible for regulating telecommunication services.²⁴ In June 2016, the ECOWAS Commission issued a call for expressions of interest in a feasibility study on the introduction of free roaming in West Africa.

4.4.2 Transport services

4.40. Certain transport services formed the subject of WTO commitments on the part of Benin, Côte d'Ivoire, Niger and Senegal under the GATS.²⁵ In practice, in May 2017, maritime transport services within, to and from the Union were mainly provided by foreign companies. In the case of air transport, competition has sharply increased since 2010. Rail transport is developing. Although there are still restrictions with respect to the provision of road transport services, this subsector is predominantly informal in several member States. In 2009, the WAEMU Commission drew up a regional transport facilitation programme involving all the stakeholders.²⁶ The National Inter-State Road Transport and Transit Facilitation Committees continued working to improve the regulation of transport operations and thus make it possible to reduce their cost and improve their safety and reliability;²⁷ the institutional base is the Traffic Flow Observatory, an administrative agency of the member States' ministries of transport.

4.4.2.1 Airport and air transport services

4.41. The creation of a single African air transport market, as envisaged by the Yamoussoukro Decision of 1988, considerably liberalized intra-African air transport, helping to improve connections between African countries and regions and make the air transport companies more viable, while promoting business, trade and tourism, as well as intra-African cultural exchanges.²⁸ Since the signing of the Yamoussoukro Ministerial Declaration (YD) in 1988 and the Decision relating to the implementation of the Declaration²⁹, all restrictions on the granting of rights up to the fifth freedom of the air have been abolished in traffic between the member countries of the African Union, as far as African national companies are concerned.³⁰

4.42. The YD introduces a "community ownership clause" which ensures that in a member State of the African Union the companies of any other member State of the Union are accorded the same treatment as a national company of the member in question. It envisages a similar regime for scheduled and unscheduled flights (passengers and all cargo).³¹ Any company, whether wholly or majority held by foreign capital or interests, can benefit from the advantages of the YD if it meets the eligibility requirements, in particular that of having its headquarters, its central administration and its principal place of business physically located in the signatory State concerned.³² The YD also prohibits anticompetitive behaviour in respect of tariff regulation and provides for multidesignation.

4.43. The member States went further in terms of liberalization by also opening up the seventh, eighth and ninth freedoms to competition. A 2002 community regulation liberalized the access of

²⁴ Online information viewed at: <http://smsi.francophonie.org/IMG/pdf/harmonisation-telecom.pdf>.

²⁵ I-TIP database. Viewed at: <http://i-tip.wto.org/services/SearchResultGats.aspx>.

²⁶ Online information viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/decision_39_2009_cm_uemoa.pdf.

²⁷ Order No. 040 MT/CAB of 10 February 2010 amending Order No. 55 of 19 February 2008 establishing the National Inter-State Road Transport and Transit Facilitation Committee, in conformity with Decision No. 16/2005/CM/UEMOA on the establishment, organization and operation of the Technical Monitoring Committee for the elimination of non-tariff barriers in the WAEMU area.

²⁸ Speech by Ms Dipuo Peters, South African Minister for Transport, Conference of African Transport Ministers, 21 January 2015. Viewed at: http://www.financialafrik.com/2015/01/22/luu-preconise-un-marche-unique-du-transport-aerien/#.V_J3PohEnTA.

²⁹ The Decision was taken under Article 10 of the Treaty of Abuja establishing the African Economic Community; it was signed in July 2000 and has been in force since 12 August 2002. Under its Article 2, the Decision takes precedence over all non-conforming bilateral and multilateral air transport agreements.

³⁰ That is, the right for an airline to carry passengers, freight and mail between two States parties other than the State party in which it is licensed.

³¹ WTO document S/C/W/270/Add.2 of 28 September 2007.

³² Article 6.9 of the Decision.

the Union's air carriers to intra-community air links without limitation on frequency or capacity.³³ This allows an air carrier belonging to one of the member States to fly between two other member States or within a member State. The implementation of this provision has facilitated the development of new operators such as ASKY International, with a fleet of nine regional and medium-haul aircraft, and Air Côte d'Ivoire, with a fleet of 12 medium- and long-haul commercial aircraft. The legal texts concerning trade in air transport services are listed below (Table 4.5).

Table 4.5 Community legal texts concerning air transport, 2010

Text	Description
Regulation No. 06/2002/CM/UEMOA on air carrier approval within WAEMU	Determining the conditions for obtaining air carrier approval.
Regulation No.024/2002/CM/UEMOA	Determining the conditions of access of WAEMU air carriers to intra-community air links.
Decision No. 08/2002/CM/UEMOA	Adopting the Common Air Transport Programme.
Directive No. 05/2002/CM/UEMOA on the fundamental principles governing inquiries into civil aviation accidents and incidents within WAEMU	Aimed at improving air safety by facilitating the diligent performance of technical investigations whose sole purpose is to prevent accidents or incidents.
Directive No. 01/2004/CM/UEMOA	Aimed at providing the civil aviation administrations of the WAEMU member States with an appropriate legal status for fulfilling their civil aviation regulatory and monitoring obligations, primarily as regards security and safety.
Regulation No. 07/2005/CM/UEMOA on civil aircraft airworthiness certificates	Establishes the conditions for issuing and renewing civil aircraft airworthiness certificates.
Decision No. 13/2005/CM/UEMOA	Establishes a community mechanism for supervising civil aviation safety in the WAEMU member States (COSCAP).
Decision No. 15/2006/CM/UEMOA	Aimed at creating a regional control and coordination committee and adopting a community legal framework for market access, air carrier licensing and the common aviation agreement.
Regulation No. 08/2013/CM/UEMOA	Contains the community Civil Aviation Code of the WAEMU member States, which covers most of the areas of the Internal Civil Aviation Convention (Chicago Convention establishing the ICAO).

Source: Online information from WAEMU, viewed at: <http://www.uemoa.int>.

4.44. The member States are all members of the International Civil Aviation Organization (ICAO), the African Civil Aviation Commission (AFCAC), and the Agency for the Safety of Air Navigation in Africa and Madagascar (ASECNA).³⁴ The AFCAC was established by the African Union to settle questions relating to a single African sky and to traffic rights, under the YD.³⁵ Its current priorities include managing the liberalized single air transport market in Africa and reducing the risks of accidents related with air transport in the continent. Within the framework of the Common Air Transport Programme, the WAEMU Commission has also provided support for the establishment by the Union's airlines of a Permanent Council of Air Carriers within the WAEMU area, aimed at ensuring cooperation among the main scheduled air carriers in the area.

4.45. Intercontinental routes continue to be subject to controls required under bilateral agreements, which disadvantage both operators and consumers. These routes remain largely in the hands of foreign airlines, which account for over 80% of the traffic.³⁶ However, a few African operators, including Ethiopian Airlines and Kenya Airways, have successfully taken up these challenges.

4.46. Pursuant to other agreements concluded under the aegis of the ICAO, airline transport between the WAEMU member States and the other African countries is still organized by means of route-sharing agreements between the national airlines and the foreign companies of the countries served. A "horizontal agreement" between the WAEMU Commission and the European Union (EU) was signed on 30 November 2009 in order to introduce a community designation clause into the

³³ Regulation No. 24/2002/CM/UEMOA determining the conditions of access of WAEMU air carriers to intra-community air links. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/pages_-_reglement_24_2002_cm_uemoa.pdf.

³⁴ Online information from ASECNA, viewed at: http://www.asecna.aero/asecna_administrations.html.

³⁵ Online information viewed at: <http://www.afcac.org>.

³⁶ Online information viewed at: http://www.proparco.fr/jahia/webdav/site/proparco/shared/PORTAILS/Secteur_prive_developpement/PDF/SPD_24/REVUE_SPD_24_FR.pdf.

aviation agreements between the member States and those of the EU.³⁷ The agreement replaces certain provisions of the 47 existing bilateral agreements relating to air transport services concluded between the EU Member States and WAEMU member countries.³⁸ In particular, Article 2 replaces the nationality restrictions contained in the traditional designation clauses with a community designation clause that allows all community carriers to benefit from the right of establishment. Thus, any WAEMU or EU company may henceforth operate a link between an EU member country and a WAEMU member State provided that one of the 47 bilateral agreements is in force between the two countries served. Member States are required to incorporate the provisions of the agreement into the bilateral agreements they negotiate with EU Member States. The implementation of this agreement faces various difficulties. Senegal has indicated to the WAEMU Commission that it is not applying the horizontal agreement and would like to have it reviewed.

4.47. According to the WAEMU Commission, the causes of the high air tariffs, which are reducing the potential demand for air transport services, include the heavy fiscal pressure due to the multiplication of taxes, particularly non-aviation charges on the air transport documents, and the rise in the cost of aviation fuel.³⁹

4.48. A WAEMU community directive has, in principle, liberalized access to the ground-handling market and put an end to the corresponding legal monopolies to be found in most of the Union's airports.⁴⁰ However, in practice, *de facto* ground-handling monopolies continue to exist in most of the member States (see Annexes by country). In two of the member States, ground-handling is still entrusted to public agencies, as distinct from the other six member States, which have entrusted the provision of ground-handling services at their international airports to a private commercial company. No member State has set up the users committee envisaged by the Directive, which had a consultative role with respect to the tariffs applied to ground-handling services and equality of treatment for users.

4.49. The 2004 Directive on the legal status of civil aviation administrations (Table 4.5)⁴¹ is now being implemented by all the member States, Burkina Faso having set up a National Civil Aviation Agency.

4.4.2.2 Port and maritime transport services

4.50. In general, the main world (foreign) suppliers of maritime transport services dominate the subregional market, apart from cabotage which, in principle, is reserved for local enterprises, although there seem to be numerous departures from this rule.

4.51. For more than a decade, port transit procedures within the Union have been one of the WAEMU Commission's concerns. The objective of a study commissioned in 2002 had been to make them function more smoothly.⁴² The study set out from the finding that the subregional ports are developing within an ill-adapted institutional environment, a difficult fiscal and regulatory framework, and a limited and poorly performing logistical system and proposed a priority action programme designed to lighten, simplify and harmonize the administrative procedures and make

³⁷ Online information from the European Union, "International Aviation: Status of aviation relations by country: UEMOA", viewed at: http://ec.europa.eu/transport/air/international_aviation/country_index/uemoa_en.htm. See also: [http://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:22010A0306\(01\)&from=FR](http://eur-lex.europa.eu/legal-content/FR/TXT/PDF/?uri=CELEX:22010A0306(01)&from=FR).

³⁸ Proposed Council decision relating to the conclusion of the agreement between the European Union and the West African Economic and Monetary Union on certain aspects of air transport services. Viewed at: [http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008PC0463\(02\):FR:HTML](http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52008PC0463(02):FR:HTML).

³⁹ On average, fuel costs for an airline are 36% of its total costs. In Africa, this percentage varies between 45% and 55% Source: "Revue Secteur privé et développement", Proparco Magazine, No. 24, June 2016.

⁴⁰ Directive No. 01/2003/CM/UEMOA. Viewed at: http://www.uemoa.int/actes/2003/directive_01_2003_cm.htm.

⁴¹ Directive No. 01/2004/CM/UEMOA on the status of the civil aviation administrations of the WAEMU member States. The other WAEMU member States to have implemented the Directive are Benin, Guinea-Bissau, Mali and Togo; implementation is in progress in the other member States. Viewed at: http://www.uemoa.int/actes/2004/CM/DIR_01_2004_CM.htm.

⁴² WAEMU Commission (2002), "Programme de simplification et d'harmonisation des procédures administratives et de transit portuaire au sein de l'UEMOA". Viewed at: <http://www.uemoa.int/sites/default/files/bibliotheque/rec022002progttransitport.pdf>.

the ports of the Union cheaper and more efficient. In particular, the study emphasized the need to accede to and implement the principal international conventions on the simplification and facilitation of port procedures (Table 4.6).

Table 4.6 Ratification of the maritime conventions by the member States, May 2017

Convention/country	Benin	Burkina Faso	Côte d'Ivoire	Guinea-Bissau	Mali	Niger	Senegal	Togo
FAL Convention	Yes	No	Yes	Yes	n/a	n/a	Yes	No
Customs Convention on Containers, 1972	No	n/a	No	No	n/a	n/a	No	No
International Convention on the Harmonization of Frontier Controls of Goods, 1982	No	No	No	No	n/a	n/a	No	No
New York Convention on Transit Trade of Landlocked States	No	Yes	No	No	Yes	Yes	Yes	No
Kyoto Convention	No	No	Yes	No	No	n.a.	Yes	No
SOLAS Convention for the safety of life at sea, Dec. 2002 (ISPS and IMDG Codes)	n.a.	n/a	Yes	n.a.	n/a	n/a	n.a.	n.a.
MARPOL Convention (on prevention of pollution)	n.a.	n.a.	Yes	n.a.	n.a.	n.a.	n.a.	n.a.
COLREG Convention (collision regulations)	n.a.	n/a	Yes	n.a.	n/a	n/a	n.a.	n.a.

n.a. Not available.

n/a Not applicable.

Source: WTO Secretariat, on the basis of information provided by the authorities.

4.52. A 2008 community regulation is aimed specifically at establishing competition between maritime transport companies and improving the efficiency of the ports of the WAEMU member States.⁴³ This text confirms the principle of free access to international maritime transport services, on a non-discriminatory basis and subject to reciprocity. Thus, community and foreign shipowners are subject to the same operating conditions on leaving or entering a Union port and when arriving from or departing for third countries. On the other hand, according to the text, only community shipowners are authorized to provide internal and/or intra-community maritime transport services (national or regional cabotage).

4.53. Under this regulation, community and foreign shipowners providing international transport services must pay a fee for traffic rights, the proceeds of which are supposed to be used to build up national funds and a regional fund for the development of the Union's maritime subsector. In practice, this fee generally goes uncollected by the member States. Nevertheless, the African ports continue to be places where goods being loaded and unloaded are heavily taxed. Examples of this are the fees collected by the National Shippers' Councils responsible for the electronic cargo tracking note (BESC) and the shipowner dues collected by some member States (see Annexes by country).

4.54. Conferences or groupings of shipowners that serve the same routes and have concluded amongst themselves agreements on tariffs, traffic, and the organization of services, with a view to restricting competition have been illegal, to and from EU ports, since 2008. In most of the member States, however, the legislation allowing liner conferences has not been repealed, in particular the United Nations Convention on a Code of Conduct for Liner Conferences of 1974, which entered into force in 1983, and the United Nations Convention on the Carriage of Goods by Sea of 1978 (Hamburg Rules), which entered into force in 1992.

4.55. Recently, concessions to international private terminal operators, in particular operators affiliated with shipping lines, have made it possible to refit ports in the region and have helped to improve port services (see Annexes by country). However, in some WAEMU member States, the separation between the port authority responsible for regulation and the entity charged with commercial operations has not yet been fully established.

4.56. Suppliers of port services – pilots, tug operators, ship chandlers – are also the subject of a WAEMU Directive⁴⁴ aimed at introducing trade facilitation measures within the ports in order to reduce transshipment times. This Directive facilitates the implementation of the Common Maritime Subsector Development Programme; harmonizes the actions of the various public and private

⁴³ Regulation No. 02/2008/CM/UEMOA on maritime transport within WAEMU. Viewed at: http://www.uemoa.int/actualite/2008/CM28032008/Reglement_02_2008_CM_UEMOA.pdf.

⁴⁴ Directive No. 03/2008/CM/UEMOA on suppliers of port services within WAEMU.

institutions involved in the maritime subsector; and establishes a harmonized institutional framework for the subsector, including port security and safety matters.⁴⁵ This Directive has not yet been transposed into all the member States' national legislation (see Annexes by country).

4.4.2.3 Land transport services

4.57. Because of the weakness of the rail and crucial river transport systems, road freight transport services play an important role in the free movement of goods within WAEMU and ECOWAS. Both bodies have been working since 2003 to reduce the numerous obstacles, which include restrictive national road transport regulations and bilateral market-sharing agreements (Table 4.7) which, to a large extent, are preventing economies of scale and productivity increases that could result in better market access for new private businesses in the member States. Cabotage (road transport from one point to another within the same member State) is generally prohibited for all foreign enterprises, including those of another member State.

4.58. Access to the profession of interstate carrier is no longer reserved, in principle, for WAEMU nationals but also extends to ECOWAS nationals, although this provision is not being applied in all the member States. Rules on the sharing of road freight (1/3-2/3) between the countries of origin and destination remain in force, but appear to be becoming fewer. Moreover, in some member States, the freight offices still manage their transport rights on a first come, first served basis: each driver registers and waits his turn to carry a load. This system doubly discourages competition by keeping inefficient carriers active. Table 4.7 shows some of the legislation that would need to be revised in order genuinely to promote the expansion of road transport in the Union.

Table 4.7 Texts containing restrictions on access to the WAEMU road transport market, 2017

Entity	Text
ECOWAS	Convention regulating inter-State road transportation between ECOWAS member States, signed at Cotonou on 29 May 1982
ECOWAS	ECOWAS Convention relating to inter-State road transit of goods (TRIE) of 1982
Burkina Faso, Benin, Côte d'Ivoire, Niger and Togo	1970 Niamey Convention regulating road transport
Niger, Togo	1975 Abidjan Protocol on inter-State road transport
Benin, Burkina Faso, Niger	Decree No. 79-109 of 15 May 1979 regulating road transport in the Republic of Benin Decree No. 2000-399 of 17 August 2000 revising Decree No. 79-240 establishing the procedures for the application of Ordinance No. 79-49 of 13 September 1979 regulating and sharing out cargoes to or from the Republic of Benin Bilateral road transport agreement between Benin and Niger, New York, 13 October 1977 Cooperation agreement on transport and transit between Burkina Faso and the Republic of Benin, Cotonou, 13 September 1990 Order No. 001/MTPT/DC/DTT of 8 January 1996 regulating the sharing of road freight between Beninese and third-country carriers Interministerial Order No. 055/MDCTTP-PR/DC/SG/CTT/DGTT/DERC/SER of 2007 prohibiting the public transport of passengers and goods in the Republic of Benin by vehicles in transit
Burkina Faso	Decree No. 2014-683/PRES/PM/MIDT/MEF/MATS/MICA of 1 August 2014 establishing the categories of road transport and the requirements for practising as a haulier
Burkina Faso, Côte d'Ivoire	Ordinance No. 2000-67 of 9 February 2000 Cooperation agreement between Burkina Faso and the Republic of Côte d'Ivoire on maritime transport and transit, signed on 14 October 1989, providing for freight sharing on the basis of 2/3 for Burkina Faso and 1/3 for Côte d'Ivoire
Mali	Bilateral road transport and transit agreements with coastal or land-locked neighbouring countries, in particular with Côte d'Ivoire, Senegal, Togo, Ghana, Guinea, Mauritania, Benin, Burkina Faso, Niger, Gambia, Algeria and Tunisia

⁴⁵ Directive No. 04/2008/CM/UEMOA of 28 March 2008 setting up a harmonized institutional framework for the maritime subsector within WAEMU. Viewed at: http://www.uemoa.int/Documents/Actes/Directive_04_2008_CM_UEMOA.pdf.

Entity	Text
Niger	Order No. 09/MT/DTT-MF of 13 February 2007 establishing the procedures for the removal of freight from Niger in the transit ports Decree No. 2010-733/PCSRD/MTT/A of 4 November 2010 determining the conditions for overland transport of strategic products and the conditions of access to mining and hydrocarbon sites
Senegal	Law No. 2003-04 of 27 May 2003 on land transport policy and organization; and its implementing decree Agreement with Morocco concerning the international road transport of passengers and goods, signed at Dakar on 16 March 2013
Togo, Burkina Faso	Framework cooperation agreement on maritime transport and transit between Burkina Faso and the Togolese Republic, signed at Lomé on 14 September 1990

Source: WTO Secretariat.

4.4.3 Insurance services

4.59. The insurance market in the WAEMU region remains modest, largely because of its population's lack of purchasing power, but it is growing strongly in some member States, in particular thanks to "mobile" bancassurance. It mainly consists of majority foreign-owned insurance groups, either European (AXA, Allianz) or African (NSIA, SAHAM SUNU, SAAR). On 31 December 2016, the membership of the Federation of African National Insurance Companies (FANAF), established in 1973, consisted of 194 insurance companies, including 51 life, 119 non-life and 18 reinsurance companies, four motor-vehicle guarantee funds and one surety company, operating in 29 countries.

4.60. Only Côte d'Ivoire and Senegal have undertaken commitments in respect of insurance under the GATS⁴⁶. These commitments reflect the provisions of the Insurance Code of the member States of the Inter-African Conference on Insurance Markets (CIMA), created in 1992 within the franc zone, which establishes the framework regulations for all direct non-marine insurance activities in 14 African countries, including the member States.⁴⁷ By and large, the member States have not undertaken to open up insurance services for risks located in their respective countries, either to international competition or even to competition from insurers situated in other member States.

4.61. The CIMA Code requires enterprises (including foreign enterprises) operating in the member States to insure all their local risks with companies registered in the domestic market in which they operate. This restrictive legal regime has had limited success, without really improving the efficiency and competitiveness of the services offered. The Code requires that any ceding of reinsurance abroad, involving more than 50% (75% pre-2016⁴⁸) of a risk concerning a person, good or liability on the territory of a member State, with the exception of certain branches, be subject to the authorization of the minister responsible for insurance (Articles 308 and 328 of the CIMA Code). However, this percentage does not include the 15% share which insurance companies must mandatorily cede, as a priority, to the CICA-RE, or that mandatorily ceded to Africa-Re (5%), both multilateral reinsurance enterprises to which the CIMA member States belong.

4.62. In practice, it is probable that the commitments under cover of reinsurance are much greater than those of the fronting insurers, thereby transferring abroad the actual coverage of numerous risks located in the CIMA area, in particular the major petroleum and mining risks. Several companies appear to be practising fronting for a large proportion of major industrial and commercial risks, thus placing these risks at high premiums outside the CIMA area, despite the fact that the regulations impose domiciliation of the insurance in the country in which the risk is located.

⁴⁶ See the WTO I-TIP database. Viewed at: http://i-tip.wto.org/services/GATS_Detail.aspx?id=19341§or_path=0000700043.

⁴⁷ Treaty signed on 10 July 1992 at Yaoundé by the 14 Member States: Benin, Burkina Faso, Cameroon, Central African Republic, Comoros, Congo, Côte d'Ivoire, Gabon, Equatorial Guinea, Mali, Niger, Senegal, Chad and Togo. The Comoros have never ratified and Guinea-Bissau acceded later. The Code was viewed at: [http://www.ressources-actuarielles.net/EXT/ISFA/blogAK.nsf/dx/Code%20CIMA%202014.pdf/\\$file/Code%20CIMA%202014.pdf](http://www.ressources-actuarielles.net/EXT/ISFA/blogAK.nsf/dx/Code%20CIMA%202014.pdf/$file/Code%20CIMA%202014.pdf).

⁴⁸ Regulation No. 005/CIMA/PCMA/CE/2016 amending and supplementing the provisions of Article 308 of the Insurance Code on direct insurance abroad. Viewed at: http://fanaf.org/article_ressources/file/2016-04_Reglement_005.PDF.

4.63. The only compulsory insurance under the CIMA Code is third-party motor vehicle insurance. However, the Code provides for member countries to make other types of insurance compulsory, as is the case in several countries with import insurance. The CIMA Code also envisages a specialization principle according to which one and the same company cannot simultaneously provide life and non-life insurance services.⁴⁹

4.64. The Code provides for insurance premiums to be determined freely by the companies. However, a minimum premium for (compulsory) third-party motor vehicle insurance is set by the governments of the member countries, then validated by the Regional Insurance Supervisory Commission (CRCA), the regulatory body for the sector.

4.65. The Council of Insurance Ministers (CMA) is the CIMA's governing body. In accordance with the Code, national insurance directorates have been established in each of the countries and charged with applying the decisions and recommendations of the CRCA. They authorize the exercise of the profession of insurance intermediary and oversee the mission of the technical experts.

4.66. The CRCA plays a part in ensuring that the sector remains healthy, in particular by seeing to it that only sound enterprises continue to be approved. For example, between September 1995 and December 2007, 19 insurance companies saw their approvals withdrawn by the CRCA, followed by eight others between 2007 and December 2016 (including six in Côte d'Ivoire). Since 2007, 41 new companies have been approved in the member States, including ten in Senegal, eight in Côte d'Ivoire, six in Benin, Burkina Faso and Mali, three in Niger and two in Togo.

4.67. In order to reduce the substantial arrears in premiums, since 2011 an amendment to Article 13 of the CIMA Code has prohibited the issuing of insurance on credit, which should enable the companies to settle claims more promptly. This new provision means that insurance cover will cease if the premiums are not paid.⁵⁰

4.68. In March 2016, the CMA raised the minimum amount of equity capital that insurance companies (both domestic and foreign) must deposit in an approved local bank from CFAF 1 billion to CFAF 5 billion (€7.6 million), except for companies approved before that date, which have three years to reach the new level; the initial capital requirement for mutuals was raised from CFAF 800 million to CFAF 1 billion in March 2016.

4.69. In the countries covered by the CIMA Code, in the absence of an express waiver from the Minister responsible for insurance, it is forbidden to take out direct insurance from a foreign company that has not been approved at national level. In practice, the ministries responsible for insurance grant ad hoc authorizations to one or more unapproved enterprises to enter into association with one or more approved insurance companies to insure particular risks or categories of risk.

4.70. Resident companies are not allowed to provide non-residents with insurance services. Under the Code, contracts to insure people, property or liabilities within a member country must be signed with companies approved for the purpose in the country in question. In general, domestic and foreign companies are not authorized to resort to their own "captive" insurance companies to cover social risks abroad.

4.71. In 1982, ECOWAS introduced a common insurance-liability scheme for transit and transport operations. This system, known as the ECOWAS Brown Card, makes it possible to manage cross-border claims in connection with the third-party motor insurance of engine-propelled land vehicles.

4.72. The distribution of insurance in the CIMA area is characterized by the heavy preponderance of the network of intermediaries (brokers, general agents). About 300 brokers and 600 general agents operate formally in this market, and their production accounts for around 60% of the turnover of the companies, all branches combined. Brokerage in the CIMA area is dominated by

⁴⁹ Article 326 of the CIMA Code.

⁵⁰ Regulation No. 001/CIMA/PCMA/PCE/2011 of 11 April 2011. Viewed at: http://fanaf.org/file/upload/2011_Bulletin-Officiel_CIMA_13eme_edition.pdf.

foreign brokers (Gras Savoye, Marsh, Ascoma, Aon, etc.).⁵¹ Persons exercising the profession of insurance broker or agent must be nationals of a CIMA member State or of a third State that grants corresponding reciprocity to CIMA States and hold a resident's card.

4.73. Brokerage companies, brokers and general agents must, at any time, be able to produce evidence of financial security equivalent to at least CFAF 10 million (around €15,000, Article 525 of the Code). The CIMA Code (Article 533) provides for the Minister responsible for insurance to approve brokers at national level and to draw up, update and make public a list of brokers for submission to the CRCA. The Minister establishes and annually updates the list of approved brokers in the member State in question.

4.4.4 Banking and other financial services

4.74. The practice of banking in WAEMU is governed by provisions that relate both to the member States' respective national legislation and to community law (in particular, the Convention establishing the Banking Commission, the prudential regulations, and the framework law containing the banking regulations of 1 April 2010⁵²), as well as to international conventions (recommendations of the Basel Committee) and international treaties such as the WTO provisions and the OHADA Treaty. Among the member States, only Benin, Côte d'Ivoire and Senegal entered into specific commitments on financial services (excluding insurance) under the GATS in 1994.⁵³

4.75. Recent developments include the simultaneous transposition of the regulatory provisions of "Basel II" and "Basel III".⁵⁴ The BCEAO and the WAMU Banking Commission (Union Monetary Treaty) are responsible for these regulations, as well as for the oversight and prudential monitoring of the banks and financial institutions, performed individually in each of the member States. In addition, Decision No. 014/24/06/2016/CM/UMOA on the supervision on a consolidated basis of the parent-company credit institutions and finance companies within the WAMU, provides for the consolidated prudential monitoring of the institutions concerned. Decision No. 357/11/2016 instituted the revised Banking Chart of Accounts. The BCEAO and the WAMU Banking Commission, in accordance with their powers, are respectively responsible for defining the procedures for implementing these decisions and for organizing and monitoring credit institutions.

4.76. Under the WAMU regulations, access to the financial services market (excluding insurance) by foreign or domestic providers, requires a commercial presence established under the domestic law of the member State in which the establishment wishes to operate. In March 2015, in order to improve the soundness of credit institutions, the WAMU Council of Ministers raised their minimum capital thresholds, fixed respectively at CFAF 10 billion for banks (€15.2 million) and CFAF 3 billion (€4.6 million) for financial institutions of a banking nature, as from 1 July 2015. A two-year grace period was granted to enable non-conforming institutions to bring themselves into conformity.

4.77. Pursuant to the single approval procedure, a credit institution that has obtained approval in a WAMU member State may open branches and/or subsidiaries in one or more other member States, each capitalized with at least CFAF 10 billion, after authorization by the regulatory authority.

4.78. Under Article 25 of the law containing the banking regulations, no one may direct, administer or manage a bank or financial establishment or one of their agencies, if they are not nationals of a WAMU member country, unless they have been allowed assimilation to nationals under an establishment agreement, which has been the case in some member States. Individual exemptions from this rule are often granted; foreign managers who have obtained a waiver to work in a given country of the Union no longer need to apply for one when they change company or country; however, they must obtain a new waiver if there is a change in their duties.

⁵¹ Diarra M. (2013), *La distribution de l'assurance dans la zone CIMA: quels modèles pour demain ?*, Ecole nationale d'assurance. Viewed at:

http://www.enass.fr/PDF/travaux_recherche/MBA_ENASS_2013_DIARRA_Assurance-zone-Cima.pdf.

⁵² Online information from the BCEAO, viewed at: <http://www.bceao.int/IMG/pdf/loi.pdf>.

⁵³ See WTO I-TIP database. Viewed at: http://i-tip.wto.org/services/GATS_Detail.aspx?id=19341§or_path=0000700043.

⁵⁴ Decision No. 013/24/06/2016/CM/UMOA of the WAMU Council of Ministers of 24 June 2016.

4.79. Microfinance, which alone is able to provide access to credit for farmers and small businesses that unable to obtain loans through the traditional banking system, has continued to develop. The microfinance institutions are generally savings and loan cooperatives; these decentralized financial systems (DFS) are covered by common regulations within the Union.⁵⁵ The DFS institutions are exempt from all direct or indirect taxes, charges or fees relating to their savings and lending operations. The management nationality clauses are the same as those for banks; there is no minimum capital requirement or restriction concerning the nationality of the holders of DFS capital. In September 2016, deposits totalled nearly CFAF 1,060 billion (€1.62 billion), for around 17 million members or customers.⁵⁶

4.80. Established in 1996, the West African Regional Securities Exchange (BRVM) and the Central Depository/Settlement Bank (DC/BR) are central components of the regional financial market with headquarters in Abidjan.⁵⁷ On 31 December 2016, the funds raised on the financial market totalled CFAF 6,044 billion (€9.2 billion), nearly half of which consisted of bonds issued by the member States (section 1.2). The BRVM and the DC/BR are the concessionnaires of a community public service established by WAEMU. They are organized in the form of public limited companies, whose capital is shared out between the commercial operators, the regional financial institutions and the member States (13%).

4.81. The Regional Council for Public Savings and Financial Markets (CREPMF) regulates the BRVM, approves participants and oversees its operation; it authorizes the issuing of securities placed on the BRVM.⁵⁸ In each member State the BRVM has a national branch office (ANB). No security issued outside WAMU by a private or public entity or a UCITS not resident in the Union may be listed on the BRVM.⁵⁹

4.82. The management and intermediation companies are the main drivers of this market. They benefit from the exclusive right to trade in the securities quoted on the Exchange and hold most of the securities for the account of their clients. They are set up as public limited companies not subject to the banking regulations. Their capital may be held by nationals of non-WAEMU countries.

4.83. Two WAEMU directives deal with the harmonization of taxation of securities and investment companies in the member States.⁶⁰ The two have been implemented only in Benin and Togo. The Directive applicable to securities is intended to harmonize the taxation of income from securities and the services provided by approved intermediaries on the WAEMU regional financial market. It also provides for the adoption of fiscal incentives for the development of the regional financial market, in order to encourage the expansion of stock market transactions, offer businesses an alternative means of financing, and thus promote increased economic investment in the Union. The Directive harmonizing the taxation applicable to fixed-capital investment companies is intended to harmonize the taxes and charges applicable to these enterprises and the taxes payable on the income of enterprises having their head offices in one of the WAEMU member States. According to the Commission, fixed-capital investment companies play an important part in the financing of small and medium-sized businesses.

4.4.5 Professional and business services

4.84. Professional services have formed the subject of several WAEMU Commission regulations (Table 4.8). These texts deal with free movement and the establishment of approved professionals who are WAEMU nationals within the community area. In 2013, WAEMU issued a directive with a view to harmonizing the rules governing the exercise of the profession of architect in the member

⁵⁵ See BCEAO (2011), "*Recueil des textes légaux et réglementaires régissant les systèmes financiers décentralisés de l'UMOA*". Viewed at: <http://www.bceao.int/IMG/pdf/recueil-des-textes-legaux-et-reglementaires-regissant-les-sfd-de-lumoa.pdf>.

⁵⁶ See BCEAO, viewed at: <http://www.bceao.int/Situation-de-la-microfinance-2016.html>.

⁵⁷ Online information from the BRVM, viewed at: <http://www.brvm.org>.

⁵⁸ Online information from the BRVM, viewed at: <http://www.crepmf.org>.

⁵⁹ Not resident is taken to mean natural persons with their principal centre of interest outside the Union and legal persons with their establishment situated outside the Union.

⁶⁰ Directives No. 02/2010/CM/UEMOA and No. 02/2011/CM/UEMOA harmonizing the taxation applicable to securities in the WAEMU Member States and to fixed-capital investment companies, respectively. Viewed at: http://www.uemoa.int/sites/default/files/bibliotheque/directive_02_2010_cm_uemoa.pdf; and at: http://www.uemoa.int/sites/default/files/bibliotheque/directive_02_2011_cm_uemoa.pdf.

States. Under the GATS, only Benin, Côte d'Ivoire and Senegal have entered into a few limited commitments with regard to business services, while Côte d'Ivoire and Senegal have also undertaken a few with regard to professional services.⁶¹

Table 4.8 Implementation of regulations on professional services by the member States, 2017

	Benin	Burkina Faso	Côte d'Ivoire	Guinea-Bissau	Mali	Niger	Senegal	Togo
Regulation No. 05/2006/CM/UEMOA, adopted on 2 May 2006, relating to the free movement and establishment of chartered accountants and certified public accountants within the WAEMU area	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulation No. 01/2009/CM/UEMOA, adopted on 27 March 2009, establishing a Permanent Council of the Accountancy Profession in the Union	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulation No. 02/2009/CM/UEMOA, adopted on 27 March 2009, establishing a West African Accountancy Council in the Union	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Directive No. 02/97/CM/UEMOA, adopted on 28 September 1997, establishing a National Order of Chartered Accountants and Certified Public Accountants (ONECCA) in the member States of the Union	Yes	No	Yes	No	No	No	Yes	Yes
Directive No. 03/97/CM/UEMOA, adopted on 28 November 1997, establishing a National Accountancy Council in the member States of the Union	Yes	Yes	Yes	No	No	No	Yes	No
Directive No. 04/97/CM/UEMOA, adopted on 28 November 1997, adopting a legal regime of Approved Management Centres (CGA) in the member States of the Union	Yes	Yes	Yes	No	No	No	Yes	Yes
Directive No. 04/2009/CM/UEMOA, adopted on 27 March 2009, instituting a single window for the deposit of financial statements (GUDEF)	Yes	Yes	Yes	No	No	No	Yes	Yes
Special accounting rules applicable to approved participants in the WAEMU regional financial market, annex to Regulation No. 09/2006/CM/UEMOA	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
Regulation No. 10/2006/CM/UEMOA of 25 July 2006 relating to the free movement of lawyers	No	Yes	No	No	No	No	No	No
Regulation No. 05/CM/UEMOA relating to harmonization of the rules governing the profession of lawyer	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.	n.a.
Directive No. 06/2005/CM/UEMOA of 16 December 2005 relating to the free movement of physicians who are nationals of the Union	No	Yes	No	No	No	No	No	No
Directive No. 07/2005/CM/UEMOA relating to the free movement of architects who are nationals of the Union	n.a.	Yes	Yes	n.a.	n.a.	n.a.	n.a.	n.a.
Directive No. 06/2008/CM/UEMOA relating to the free movement and establishment of pharmacists who are nationals of the Union	No	Yes	No	No	No	No	No	No
Directive No. 07/2008/CM/UEMOA relating to the free movement of dental surgeons who are nationals of the Union	No	Yes	No	No	No	No	No	No

n.a. Not available.

Note: Yes: Community text entirely implemented.
No: Community text not entirely implemented.

Source: WAEMU Commission.

4.4.5.1 Legal services

4.85. A new regulation relating to harmonization of the rules governing the profession of lawyer entered into force in the WAEMU area in 2015.⁶² The new regulation establishes uniform standards

⁶¹ See WTO I-TIP database. Viewed at: http://i-tip.wto.org/services/GATS_Detail.aspx?id=19341§or_path=0000700043.

⁶² Regulation No. 05/CM/UEMOA relating to harmonization of the rules governing the profession of lawyer.

for the exercise of the profession and aims to reduce the legal and administrative barriers to the effective use by lawyers of their rights under the WAEMU Treaty. A 2006 regulation had already provided for free movement and freedom of establishment for lawyers within the Union, but had encountered difficulties in connection with its implementation.

4.4.5.2 Accountancy services

4.86. Where accountancy services are concerned, since 1998 enterprises established in the OHADA member countries have been required to present their balance sheets and financial statements on the basis of the frame of reference provided by the West African Accounting System (SYSCOA).⁶³ In 2017, SYSCOA was in force in all the member States. Regulation No. 05/CM/UEMOA of 28 June 2013 amended SYSCOA and incorporated into the system certain international accounting rules, in particular those of the International Financial Reporting Standards (IFRS). Financial institutions (mainly the banks) draw up their balance sheets on the basis of the Banking Chart of Accounts, whereas the insurance companies keep their accounts on the basis of the Code of the Inter-African Conference on Social Welfare (CIPRES).

4.87. Since 2009, all the annual financial statements of businesses and organizations have had to be deposited at a single window for the deposit of financial statements (GUDEF, Table 4.8), in order to combat fraud in the form of manipulation of accounting documents. This Directive is being partially implemented in most of the member States, which have set up a wholly or partially functional GUDEF.

4.88. Community regulations overseen by the Permanent Council of the Accountancy Profession require the certification of the financial statements of companies with share capital (which mainly comprise public limited companies) by professionals enrolled in the Tables of the National Order of Chartered Accountants and Certified Public Accountants (ONECCA) in the community area. Under these community regulations, only auditors duly enrolled in the ONECCA tables of each member State are authorized to certify the financial statements. According to the Commission, chartered accountants and auditors do not need to be member State nationals to offer their services in the Union.

4.89. With a view to bringing informal sector enterprises into the fold of legal economic operators, the Commission has provided for a new type of accountancy professional services. These are the services supplied by the professionals of the Approved Management Centres (CGA), which work mainly with informal sector entrepreneurs, providing them with the accounting assistance they need to create SMEs in the Union. The keeping of accounts by CGA professionals is also regulated by the SYSCOA, which has provided a minimal system of cash-based accounting. According to the Commission, texts adopted within the framework of national finance laws also grant tax reductions in favour of CGA members. Apart from Guinea-Bissau, all the member States have CGAs. The CGA professionals must be member State nationals.

4.90. The National Accountancy Councils are, in principle, responsible for verifying the effective application of the accountancy standards in force in the WAEMU area. The GUDEF must verify that the financial statements have been properly drawn up in a single copy by the national enterprises and that they are actually based on the accounting standards in force in the Union. ONECCA makes sure that the financial statements have been attested and certified by professionals authorized for the purpose.

4.4.6 Tourism

4.91. WAEMU has made the development of tourism one of its stated priorities, having decided to work towards making the Union a major centre for tourism development in Africa. Nevertheless, on 31 December 2015, the number of tourist arrivals throughout the territory of the Union during the preceding year was only 2.2 million, that is 6% less than in 2014, mainly due to the security crisis in the region and the Ebola epidemic in West Africa. However, earnings increased thanks to the dynamism of the intra-community tourism market, which made it possible to improve the occupancy rates for hotels and other forms of accommodation despite the decline in non-regional international arrivals.

⁶³ The SYSCOA was adopted by means of Regulation No. 04/97/CM/UEMOA of 20 December 1996. It entered into force in the WAEMU area on 1 January 1998.

4.92. The sector is generally open to foreign investment; it is also one of the only sectors for which the WAEMU member States made commitments at the WTO in 1994 under the GATS. A WAEMU Regional Tourism Development Programme (PRD TOUR)⁶⁴ was launched in 2011, with the aim of harmonizing the regulatory framework for tourism activities and professions in the community area, adopting common rules for classifying tourist accommodation, building the capacity of the actors in the sector and supporting investment in tourism infrastructure. The cost of implementing the programme over the period 2011-2020 is estimated at CFAF 161 billion (€246 million).

4.93. The sector is broadly subject to the general 18% level of VAT (19% in Niger), which gives rise to recurrent complaints from stakeholders. In 2011, taking advantage of the possibilities offered by a WAEMU Commission directive on reduced VAT, Senegal brought the rate of VAT on tourism activities down to 10%. Moreover, there is a tourism promotion tax in place in the WAEMU countries, but the rate and criteria have not been harmonized among the member States. The sector is also subject to the business tax and the overnight stay tax, at non-harmonized rates. The sector's professionals consider that taxation drives up the cost of stays, which adversely affects the competitiveness of WAEMU as a destination compared with other competing destinations in North and South Africa.

4.94. The development of tourism is also encountering numerous environmental problems which are threatening natural resources; these problems mostly stem from non-sustainable resource exploitation practices. For example, the beaches of Benin, Côte d'Ivoire and Togo are often covered with oil and detritus from ships being cleaned out off the coast. In this connection, Benin, Côte d'Ivoire, Guinea-Bissau, Senegal and Togo signed and ratified the Abidjan Convention in March 1981. This Convention is aimed at solving the common ecological problems of the 22 coastal member States.⁶⁵ The Regional Coordination Unit in Abidjan is charged with coordinating the various technical activities of the Action Plan, under the supervision of the UNEP Regional Office for Africa.⁶⁶

4.95. In order to facilitate regional movements, ECOWAS nationals are exempt from entry visas in all the Community countries, including the WAEMU countries (section 2.2.3). In order to encourage regional tourism, the member States also undertook to facilitate the movement and stay of non-WAEMU nationals in the WAEMU area by means of a single visa.⁶⁷ Thus, any visa issued by a member State to persons who are not nationals of the Union should be accepted in the other member States of the Union, thereby enabling the visa holders to move about freely within community territory. According to the Commission, these provisions are still in process of being drawn up.

⁶⁴ Online information viewed at:

http://www.uemoa.int/Documents/Actes/Annexe_Dec_11_2010_CM_UEMOA.pdf.

⁶⁵ Convention for Cooperation in the Protection, Management and Development of the Marine and Coastal Environment of the Atlantic Coast of the West, Central and Southern Africa Region, adopted at Abidjan in 1981. Viewed at: http://bj.chm-cbd.net/convention/conv-autres/conv-abidjan/texte_Convention-abidjan.pdf/download/fr-BE/1/texte_Convention-abidjan.pdf.

⁶⁶ Online information viewed at: <http://abidjanconvention.org>.

⁶⁷ Regulation No. 06/2009/CM/UEMOA on the mutual recognition of visas issued by WAEMU member States. Viewed at: http://www.uemoa.int/actualite/2009/CM26062009/reglement_06_2009_CM_UEMOA.pdf.

5 APPENDIX TABLES

Table A3. 1 ODC bindings

Benin

Bound tariff lines: 2,029 lines (39.6% of total lines)

ODCs on these bound lines:

Share of bound lines for which no ODCs have been specified (therefore bound at zero): 25.8%

Share of lines for which ODCs have been specified: 13.8%

Ad valorem rates of bound ODCs: 19%

Non-ad valorem rates: None

Names of ODCs: Not specified

Burkina Faso

Bound tariff lines: 2,038 lines (39.7% of total lines)

ODCs on these bound lines:

Share of bound lines for which no ODCs have been specified (therefore bound at zero): 25.9%

Share of lines for which ODCs have been specified: 13.8%

Ad valorem rates: 50%

Non-ad valorem rates: None

Names of ODCs: Not specified

Côte d'Ivoire

Bound tariff lines: 1,772 lines (34% of total lines)

ODCs on these bound lines:

Share of bound lines for which no ODCs have been specified (therefore bound at zero): 23.4%

Share of lines for which ODCs have been specified: 10.7%

Ad valorem rates: 5%; 10%; 15%; 20%; 25%; 30%; 35%; 50%; 55%; and 70%

Non-ad valorem rates (groups of products concerned):

CFAF 600/net kg (animal meat)

10% + CFAF 10/net kg (potatoes);

10% + CFAF 35/net kg (rice);

20% + CFAF 5/net kg (rice);

CFAF 25/net kg (rice);

5% + CFAF 25/net kg (rice);

CFAF 110/1.5 kg gross (dairy produce);

CFAF 60/1.5 kg gross (dairy produce);

25% + CFAF 110/1.5 kg gross (dairy produce);

20% + CFAF 2.5 or F 25/bottle, depending on capacity (sugars and fruit juices);

20% + CFAF 25 /net kg (sauces and preparations therefor);

12.5% + CFAF 25 or F 50/bottle (water);

25% + CFAF 12.5, CFAF 25 or CFAF 50/bottle (water);

30% + CFAF 2,200/bottle and CFAF 2,200/litre of pure alcohol (LPA) (fermented beverages);

30% + CFAF 2,600/bottle and CFAF 2,200/LPA (TSBA) (ethyl alcohol);

30% + CFAF 12/half-litre (beer made from malt);

30% + CFAF 1,350/litre (wine of fresh grapes);

30% + CFAF 500/litre, minimum amount: CFAF 115/litre (vermouth and other wine of fresh grapes);

30% + CFAF 77/litre (wine of fresh grapes);

30% + CFAF 2,750/kg (cigars); and

30% + CFAF 4,750/kg (tobacco and tobacco substitutes)

Names of ODCs

Fiscal duty: 15%; 30%

Duty on oilseeds (TSO): 20%, 40%

Duty on non-alcoholic beverages

TSBA: Duty on alcoholic beverages

TSPT: Duty on tomato puree

TSR: Duty on rice

TST: Duty on tobacco

Guinea-Bissau

Bound tariff lines: 4,944 lines (97.7% of total lines)

ODCs on these bound lines:

Share of bound lines for which no ODCs have been specified (therefore bound at zero): None

Share of lines for which ODCs have been specified: 97.7%

Ad valorem rates: 25%; 48.3%; 50%; and 80%

Non-ad valorem rates: None

Names of ODCs: Not specified

Mali

Bound tariff lines: 2,092 lines (40.6% of total lines)

ODCs on these bound lines:

Share of bound lines for which no ODCs have been specified (therefore bound at zero): 25.9%

Share of lines for which ODCs have been specified: 14.7%

Ad valorem rates: 50%

Non-ad valorem rates: None

Names of ODCs: Not specified

Niger

Bound tariff lines: 4,988 (96.6% of total lines)

ODCs on these bound lines:

Share of bound lines for which no ODCs have been specified (therefore bound at zero): 25.1%

Share of lines for which ODCs have been specified: 71.5%

Ad valorem rates: 50%

Non-ad valorem rates: None

Names of ODCs: Not specified

Senegal

Bound tariff lines: 5,084 lines (100% of total lines)

ODCs on these bound lines:

Share of bound lines for which no ODCs have been specified (therefore bound at zero): 85.8%

Share of bound lines for which ODCs have been specified: 14.2%

Ad valorem rates: 5%; 15%; 25%; 35%; 37%; 48%; 49%; 61%; and 85%;

Non-ad valorem rates: None

Names of ODCs: Fiscal duty; VAT; customs stamp duty

Togo

Bound tariff lines: 701 (13.9% of total lines)

ODCs on these bound lines:

Share of bound lines for which no ODCs have been specified (therefore bound at zero): None

Share of lines for which ODCs have been specified: 13.9%

Ad valorem rates: 3%; and 4%

Non-ad valorem rates: CFAF 200/indivisible tonne

Names of ODCs: Statistical tax; toll on maritime freight; customs stamp duty on duties already paid

Note: The calculations are based on the national tariff line level (HS 2007).

Source: WTO Secretariat calculations, based on the Consolidated Tariff Schedules (CTS) database.