

II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

(1) OVERVIEW

1. The creation of the West African Economic and Monetary Union (WAEMU) in 1994 provided an opportunity to liberalize and restructure Niger's trade policy, to support the post-devaluation economic programme. The establishment of a common market with a common trade policy (CTP) is one of the WAEMU's major objectives. The common external tariff (CET) was introduced in 2000, but the free-trade area among members still has to be completed as far as industrial products are concerned and the CTP is under preparation.

2. Since 1999, which was devoted to consolidating democracy, Niger has experienced social, political and economic renewal.¹ In 2002, the Government adopted a poverty reduction strategy (PRS) which envisages that economic growth will be driven principally by the agricultural and livestock sector and the private sector. In order to develop the private sector and boost investment, the authorities' aim is to improve the regulatory framework as well as the functioning of Niger's judicial system. Tourism and crafts are two priority targets for development. Niger also hopes to benefit from the opening up of subregional markets under the WAEMU, particularly as regards agricultural exports.

3. Niger is a Member of the WTO, where it has been recognized as a least-developed country (LDC). Its participation in the multilateral trading system leaves much to be desired because of the country's low level of financial and human resources; since 1997, a multidisciplinary unit has been following up the WTO's activities at the domestic level, but Niger does not have a mission in Geneva. The implementation of a comprehensive technical assistance programme with the objective of integrating Niger in the global economy could help in combating poverty more effectively; the formulation of such a project targeted to Niger's needs (Annex II.1) is one of the priority objectives of the review of Niger's trade policy prepared by the WTO Secretariat.

(2) CONSTITUTIONAL AND GENERAL LEGAL FRAMEWORK

4. Niger was formerly a colony in French West Africa and became independent on 3 August 1960. From 1974 onwards, it went through a period of political uncertainty, which ended in 1999 with the adoption of a new Constitution and the holding of presidential and legislative elections, followed by the installation of a new Government in January 2000.²

5. Niger's Constitution of 9 August 1999 set up a new institutional framework composed of eight institutions: the Government; the National Assembly; the Constitutional Court; the Supreme Court; the High Court of Justice; the Economic, Social and Cultural Council; the National Communication Observatory; and the National Commission for Human Rights and Fundamental Freedoms. Only the Economic, Social and Cultural Council has not yet been established.³

6. The President of the Republic is the Head of State and is responsible for concluding international treaties and agreements. Presidential elections are held in two rounds every five years. The President may be re-elected for one further term. The current President was elected during the 1999 elections.

¹ IMF (2002a).

² The *coup d'état* on 15 April 1974 installed a military regime that ended in 1987. The 1990s was a period of political instability: a national conference, four republics, two *coups d'état*, two military regimes and two armed rebellions in the north and east of the country.

³ Article 142 of the 1999 Constitution stipulates that that depends on the State's resources.

7. The President of the Republic holds executive power. He appoints the Prime Minister from a list of three persons proposed by a majority of the National Assembly and, on the Prime Minister's proposal, he appoints the other members of the Government. The Government in office since 9 November 2002 comprises 28 ministers. The last census in 2001 showed that Niger's central administration employed 38,831 people.

8. The Prime Minister presents the Government's programme to the National Assembly in a General Policy Declaration which, following a debate, is put to a vote of confidence. The Government implements domestic and foreign policy and directs the public administration in accordance with the programme approved by the Assembly. This action is currently underpinned by the principle of good governance, defined as "the founding principles of responsibility, transparency, rigour and observance of the law in the administration of public affairs".⁴

9. The National Assembly has legislative power. It consists of one chamber with 83 deputies elected for a five-year term, unless it is dissolved, which can only be decided by the President of the Republic. The last legislative elections were held on 24 November 1999.

10. Laws adopted by the National Assembly are transmitted to the President, who enacts them, and they are then published in the *Journal Officiel*. In cases of emergency, the Government may enact measures that would usually be the subject of a law by means of an "ordinance"; 22 ordinances of an economic or commercial nature were enacted from 1998 to 2002. This procedure requires authorization by the National Assembly and is intended to allow the State to continue functioning between legislative sessions. An ordinance must be ratified by the National Assembly at its next session, otherwise it is null and void. The National Assembly may amend an ordinance, which may also be amended by means of another ordinance or a law.

11. The judiciary is independent of the Legislature and the Executive.⁵ Justice is administered by the Constitutional Court, the Supreme Court, and the courts and tribunals provided under the Constitution. The Constitutional Court has jurisdiction over constitutional and electoral matters and rules on the conformity of international treaties and agreements with the Constitution.

12. The Constitution declares that judges, in exercising their functions, are subject only to the authority of the law. Nevertheless, the Government of Niger has noted "serious inadequacies" in Niger's judicial system, for example, the illegibility of decisions, corruption, the extremely slow pace of justice, and the small number of cases dealt with.⁶ Consequently, one of the Government's priorities is "to revise Niger's judicial system in order to make it more compatible with the expectations of citizens and more consistent with the requirements of an economic environment conducive to investment and recovery".⁷

13. For this purpose, the authorities indicate that draft texts are being prepared covering violations and that these will soon be submitted to the National Assembly, together with a programme in support of judicial reform that deals with training and the penitentiary infrastructure. In trade matters, Niger finalized a new Commercial Code in 1997 in order to combine in a single text and

⁴ General Policy Declaration approved by the National Assembly in April 2000.

⁵ Article 98 of the 1999 Constitution.

⁶ General Policy Declaration approved by the National Assembly in April 2000.

⁷ General Policy Declaration approved by the National Assembly in April 2000.

update the relevant provisions on business activities.⁸ The Code takes into account the uniform acts of the Organization for the Harmonization of Business Law in Africa (OHADA) (Chapter III(3)(i)).

14. Local authorities have no responsibility for taxation, which is within the competence of the Executive (central government).

15. Niger's Chamber of Commerce, Agriculture, Industry and Crafts (CCAIN) has a representative role vis-à-vis the public authorities and development partners. One priority focus for action is the round table for the follow-up of the private sector, created in 2000 to provide support for the programme on promotion of the private sector introduced in 1997. Coordination takes place through meetings among representatives of the authorities concerned, donors and the private sector. In order to place these consultations on a formal basis, it is planned to set up a Government-Private Sector Coordination Committee and an Administration-Private Sector Joint Technical Coordination Committee.

(3) TRADE AND INVESTMENT POLICY

(i) Main features

16. The Government's trade and investment policy comes within the more general framework of the PRS adopted in January 2002, which covers the period 2002-2005. This envisages that economic growth will be driven by the agricultural and livestock sector and the private sector and fixes some specific objectives: to simplify the regulatory framework and improve the legal and judicial system; to facilitate access to financing, the creation and development of micro, small and medium-sized enterprises; to benefit from regional integration within the WAEMU, especially as regards the development of agricultural exports; and to liberalize the hotel sector.⁹ Niger intends to integrate its trade policy within the forum on the financing of the PRS. It awaits technical assistance from the WTO for its integration in the global economy so as to combat poverty (Annex II.1).

17. The PRS is the successor to the structural adjustment programme introduced in 1996 with the support of the IMF and the World Bank, which was renewed in 2000; at the domestic level, in 1997 Niger adopted the Economic Recovery Programme.¹⁰ The main objectives of these programmes are to stabilize government finance, reform the civil service, restructure and privatize semi-public enterprises, and develop an appropriate regulatory framework in support of the private sector and a policy on the development of the rural sector. The reform process at the domestic level has been backed by the tariff and non-tariff liberalization within the WAEMU (section 4(ii)(c)).

(ii) General framework

18. The Ministry of Trade and Private Sector Promotion (hereinafter Ministry of Trade) is responsible for Niger's trade policy, decided by the Government. The Minister for Trade is responsible for international trade negotiations and for implementing foreign trade policies. He represents the State at WTO ministerial meetings and trade-related ministerial meetings of the WAEMU, the Economic Community of West African States (ECOWAS) and the ACP-EU Partnership Agreement.

⁸ Book I was established by Ordinance No. 92-048 of 7 October 1992, Book II by Law No. 95-011 of 20 June 1995, Book III by Ordinance No. 96-038 of 29 June 1996, and Book IV by Law No. 97-40 of 1 December 1997.

⁹ Government of Niger (2002), p. 72.

¹⁰ Law No. 97-024 of 8 July 1997.

19. The Minister is also the focal point for the follow-up to the WTO Agreements and for Niger's participation in the WTO's activities, subject to the application of the common trade policy of the WAEMU. In carrying out his functions, the Minister for Trade receives support from a multidisciplinary unit for the follow-up to the Uruguay Round Agreements, set up in 1997.¹¹ The unit is chaired by the Secretary General of the Ministry of Trade and includes representatives of ministries responsible for trade-related policy, as well as representatives of legislative bodies, the private sector and workers.

20. The Minister for Trade is responsible for import and export authorizations and import and export licences where these are required in order to protect consumer health (Chapter III(2)(vi)).¹² The Ministry of Trade also contains the Directorate General of Standardization, Quality and Metrology, which is responsible for drawing up Niger's draft standards and certifying conformity with standards.

21. The Minister for Finance plays an important role in trade policy matters. The Ministry includes the Directorate General of Customs and Indirect Taxation, many of whose activities are concerned with Niger's commitments on tariff and non-tariff measures under regional and bilateral agreements and the WTO. The Minister for Finance represents Niger at ministerial meetings of the franc zone, the WAEMU and the ECOWAS.

22. The Minister for Privatization and Restructuring is in charge of the privatization campaign and the restructuring of State and semi-public enterprises.

(iii) Instruments

(a) International agreements and treaties

23. International agreements and treaties are ratified or approved by the President after an authorization law has been passed by the National Assembly.¹³ If the Constitutional Court declares that an international commitment includes a clause that is contrary to the Constitution, authorization to ratify must await a revision of the Constitution, but no such situation has arisen until now.¹⁴ It should be noted that only the approval of a treaty or agreement is the subject of a law and not the transposition of its provisions.

24. Properly ratified treaties or agreements take precedence over laws once they have been published in the *Journal Officiel* provided that the treaty or agreement is also applied by the other party.¹⁵ The authorities confirm that all treaties and agreements – for example, those relating to the WTO, WAEMU, ECOWAS, OHADA, OAPI, WIPO – come under that category. These acts are immediately applicable as a law of the State of Niger and are automatically enforceable.

(b) Trade in goods

25. Niger's policy on trade in goods essentially consists of implementing the instruments of the WAEMU (Box II.1), which establish a regulatory framework for a series of measures that affect trade in goods, both directly and indirectly. These are, for example, MFN customs duties under the CET, supplementary duties and the preferential regime (Chapter III(2)(iv)). Niger has also introduced a

¹¹ Ordinance No. 10 of 21 April 1997, amended by Ordinance No. 34 of 3 September 2001.

¹² Decree No. 90-146/PRN.MPE of 10 July 1990.

¹³ Article 130 of the 1999 Constitution.

¹⁴ Article 131 of the 1999 Constitution.

¹⁵ Article 132 of the Constitution.

national system of administrative values (Chapter III(2)(iii)). Under the regulatory framework established by the WAEMU, the applicability and levels of excise duty and value-added tax (VAT) are fixed in the Taxation and State Property Regime, as amended by the Finance Law, which also governs taxation of enterprises and individuals and, consequently, the exemptions or rebates on imports (for example, for prospecting for oil or minerals).

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

The WAEMU Treaty;

Additional Act No. 4/96 of 10 May 1996 establishing a preferential tariff regime for trade within the WAEMU, as amended by Additional Act No. 4/98;

Regulation No. 2/97/CM/UEMOA on adoption of the WAEMU's CET;

Directive No. 2/98/CM/UEMOA on harmonization of member States' legislation on value-added tax (VAT);

Directive No. 3/98/CM/UEMOA on harmonization of member States' legislation on excise duty;

Regulation No. 5/98/CM/UEMOA defining the list of categories of goods appearing in the WAEMU tariff and statistical nomenclature, as amended;

Regulation No. 3/99/CM/UEMOA on adoption of the degressive protection tax (TDP) mechanism within the WAEMU, as amended;

Regulation No. 4/99/CM/UEMOA establishing a system of reference values;

Regulation No. 5/99/CM/UEMOA on customs valuation of goods;

Additional Protocol No. III/2001 establishing rules of origin for WAEMU products;

Additional Act No. 3/2001 on adoption of a WAEMU agricultural policy;

Directive No. 06/2001/CM/UEMOA on harmonization of taxation of petroleum products within the WAEMU;

Regulation No. 09/2001/CM/UEMOA on adoption of the WAEMU Customs Code (Book I: Organizational framework, customs procedures and regimes);

Regulation No. 2/2002/CM/UEMOA on anti-competitive practices within the WAEMU;

Regulation No. 3/2002/CM/UEMOA on procedures applicable to understandings and abuse of dominant positions within the WAEMU; and

Regulation No. 4/2002/CM/UEMOA on State aid within the WAEMU and implementing procedures for Article 88(c) of the Treaty.

Source: www.uemoa.int [27 April 2003]

26. Niger's Customs Code (1961)¹⁶ still applies except for the provisions contrary to those in the WAEMU Customs Code, Book I of which came into effect on 1 January 2003.¹⁷ Niger introduced a preshipment inspection programme in 1996.¹⁸

27. The rules on government procurement by the State, local authorities, public, industrial and business establishments, State-owned companies and semi-public companies are covered by the Government Procurement Code, revised in 2002.¹⁹

¹⁶ Law No. 61-17 of 31 May 1961, as amended.

¹⁷ Regulation No. 09/2001/CM/UEMOA.

¹⁸ Decree No. 96-021/PCSN/MEF/P of 12 February 1996, amended by Decree No. 96 370/PCSN/MEF/P.

¹⁹ The former Code was established by means of Ordinance No. 85-32 of 14 November 1985, and the implementing decree No. 89-117/PCMS/PM of 27 April 1989. The new Code was established by means of Ordinance No. 2002-7 of 18 September 2002 and ratified by the National Assembly on 16 October 2002. The implementing texts are being prepared.

(c) Trade in services

28. Niger's policy on trade in services comprises two levels: regulations determined at the supranational level as a result of regional and subregional integration; and domestic regulations, which cover all aspects not included in the supranational regulations.

29. In Niger, banking services are subject to the common banking regulations of the WAEMU and the prudential measures determined by the WAEMU Banking Commission, which also acts as the monitoring body (Chapter IV(5)(iii)). In 1998, the West African Regional Stock Exchange (BVRM) was also created within the WAMU.

30. The insurance market in Niger is governed by the Insurance Code of the Inter-African Insurance Market Conference (CIMA).²⁰

31. Land²¹ and air²² transport are subject to community action within the WAEMU.

32. At the national level, activities in many services sectors are the responsibility of public enterprises wholly or partly controlled by the State. This is the case, *inter alia*, for transport, postal services, communications, culture, public health and education. Nevertheless, in many cases, privatization is planned; the Telecommunications Company of Niger (SONITEL) was privatized at the end of 2001 and the privatization of NIGELEC, which generates and distributes electricity, is planned. The opening up of the telecommunications sector was halted in 1999.²³

(d) Protection of intellectual property

33. Niger is a member of the African Intellectual Property Organization (OAPI)²⁴ established under the Bangui Agreement (1977).²⁵ On 24 February 1999, the Bangui Agreement was revised to bring it into line with the WTO's TRIPS Agreement and Niger ratified the revised Agreement on 28 May 2002. The revised Agreement, together with Annexes I to VIII, entered into force on 28 February 2002; the OAPI's Administrative Council has deferred the entry into force of Annexes IX and X on layout designs (topographies) of integrated circuits and new plant varieties respectively. The annexes to the revised Bangui Agreement (1999) in effect therefore cover patents, utility models, trademarks, industrial designs, trade names, geographical indications, literary and artistic property, and protection against unfair competition.

34. For each of its member States, the OAPI acts as the national industrial property service and provides a common system of administrative procedures for registering rights. The Industrial Development Directorate in the Ministry of Trade acts as the national liaison body in Niger for the purposes of the Bangui Agreement.

²⁰ The CIMA was established in 1992 and also includes Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Gabon, Senegal and Togo.

²¹ Decision No. 2/2001.

²² Directive No. 8/2002/CM/UEMOA on adoption of the common air transport programme of member States of the WAEMU; and Regulation No. 24/2002/CM/UEMOA defining the conditions of access to intra-community air links for WAEMU air transporters.

²³ Ordinance No. 99-045 of 26 October 1999.

²⁴ <http://www.oapi.wipo.net>

²⁵ The OAPI also includes Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mauritania, Senegal and Togo.

35. Each operator has the possibility of monitoring implementation of the provisions of the Bangui Agreement by bringing relevant matters to the attention of Niger's authorities.

36. As far as copyright and related rights are concerned, Niger has introduced a national regime for the protection of copyright, related rights and expressions of folklore.²⁶ The National Copyright Bureau (BNDA) is responsible for collective administration in Niger.

(e) Investment

37. Niger's Investment Code grants benefits depending on the amount invested and guarantees for approved investment projects (Chapter III(3)(ii))²⁷. Niger has established a single window at the CCAIN in order to streamline and speed up approval of investors.

38. Petroleum resources and mining are the property of the State, which regulates their exploitation by issuing operating permits to approved companies in accordance with the provisions in the Petroleum Code²⁸ and the Mining Code.²⁹

39. Investment opportunities were expanded through the privatization programme, which was launched in 1996 as part of the structural adjustment programme supported by the IMF and the World Bank. Six of the 12 enterprises targeted by the programme have been privatized, six enterprises are currently included in the programme, and other enterprises may be added.³⁰

(4) TRADE POLICY FRAMEWORK AGREEMENTS

(i) WTO

(a) Overview

40. Niger was formerly a Contracting Party to the GATT 1947³¹ and has been a Member of the WTO since 13 December 1996.³² Within the WTO, it is recognized as a least-developed country (LDC). It is not a member of any plurilateral agreement, but may become an observer to the WTO Plurilateral Agreement on Government Procurement.

41. It should be noted that Niger supports the request made by the WAEMU Commission to become an observer at the WTO. The member States of the WAEMU are gradually adopting a common trade policy which they also intend to apply within the WTO.

(b) Trade in goods

42. During the Uruguay Round, Niger bound all its tariff lines for agricultural products and a large number of tariff lines for non-agricultural products (estimated by the WTO Secretariat to total 96.4 per cent) in its Schedule of Concessions LIII, annexed to the GATT 1994. Regarding

²⁶ Law No. 93-27 of 30 March 1993.

²⁷ Ordinance No. 97-09 of 27 February 1997, which amends Ordinance No. 89-19 of 8 December 1989.

²⁸ Ordinance No. 92-45 of 16 September 1992.

²⁹ Ordinance No. 93-16 of 2 March 1993.

³⁰ <http://www.nigerprivatisation.com>

³¹ Niger became a Contracting Party to the GATT 1947 on 31 December 1963. Originally, the General Agreement applied to Niger as a French overseas territory. After Niger became independent, it continued to apply *de facto* until Niger became a Contracting Party pursuant to the provisions of paragraph 5(c) of Article XXVI.

³² Ordinance No. 96-03 of 9 November 1996.

agricultural products, the ceiling of bound duties was fixed at 50 per cent, with the exception of tariff lines included in Schedule LIII annexed to the GATT 1947, for which the ceiling is 200 per cent. For non-agricultural products, the bound ceiling is 50 per cent.³³

43. Niger has not made any commitment on domestic support for agricultural products (Part IV of Schedule LIII). Consequently, the commitment applicable to Niger in this respect – defined in Article 7.2(b) of the Agreement on Agriculture – consists of not granting domestic support in excess of the *de minimis* level of the value of the production in question.

44. The Government of Niger has agreed that its tariff data compiled by the Secretariat for the purpose of preparing the review of its trade policy should be incorporated into the integrated database (IDB); prior to this agreement, Niger had never provided any tariff or statistical data on its imports for inclusion in the integrated database.³⁴

45. Niger introduced the Agreement on Implementation of Article VII of the GATT 1994 (Customs Valuation Agreement), on 14 December 2001. The authorities had already invoked the provisions on special and differential treatment in favour of developing countries to defer its implementation (originally fixed at 1 January 2000) for a period of 18 months.³⁵ In addition, the Government of Niger has notified the members of the WTO of its decision to maintain minimum values on a limited basis for a transitional period in accordance with the WAEMU's common position on this issue (Chapter III(2)(iii)).

(c) Trade in services

46. Niger's Schedule of Specific Commitments under the GATS (GATS/SC/64) sets out the commitments undertaken during the Uruguay Round. Sectors for which Niger has undertaken commitments are hotel and restaurant services, travel agencies, tour operators services, tourist guide services, and some transport services. Niger did not take part in the negotiations on basic telecommunication services (concluded in 1997), nor in those on financial services (concluded in 1998).

47. According to Niger's Schedule annexed to the GATS, the supply of services is subject to limitations. Commercial presence (mode 3) requires the prior agreement of the ministries concerned under a discretionary procedure; the limitations under this Schedule are more restrictive than the regime currently applied to foreign investors (Chapter III(3)(ii)). Niger requires as a prior condition that investors in hotel and restaurant services provide a training programme for employees from Niger. It has not bound the supply of services through the presence of natural persons (mode 4), in accordance with the practice of other members of the WTO, with the exception of entry and temporary residence of categories of managers, senior executives and specialists who possess knowledge that is essential to the provision of the service, employed by a company and transferred to a company incorporated in Niger.

48. The final List of Article II (MFN) exemptions under the GATS (GATS/EL/75) concerns maritime transport, particularly any bilateral, plurilateral or multilateral agreement concluded or to be concluded by Niger which exchanges coastal cabotage rights on a basis of reciprocity, in the expectation that such agreements would be concluded in the near future. The List also concerns existing and future measures adopted with a view to implementing the relevant provisions of the

³³ Niger has excluded from binding the non-agricultural tariff lines that were bound in Schedule LIII annexed to the GATT 1947.

³⁴ WTO document G/MA/IDB/2/Rev.15 of 17 September 2002.

³⁵ WTO document WT/LET/301 of 1 June 1999.

United Nations Convention on a Code of Conduct, or any other agreement, which gives the national stevedoring and transit company a minimum share of the transport of cargo between two points, as well as any other measure on the development of auxiliary maritime and port services in Niger for an unlimited period.

(d) TRIPS Agreement

49. Since 1995, Niger has taken advantage of the transitional provisions available under Article 66 of the TRIPS Agreement, which applies to LDCs, in order to delay full application of the Agreement until 2006 (except for Articles 3, 4 and 5). Niger has not yet notified the WTO of the revised Bangui Agreement (1999) and its Annexes I to VIII, which entered into force on 28 February 2002.

(e) Participation in the activities of the WTO

50. Niger does not yet have a mission in Geneva and the mission in Brussels represents Niger at the WTO. The Government of Niger acknowledges that it would be desirable to set up a mission in Geneva as soon as possible in order to follow the WTO's activities more closely and the necessary budgetary measures appear to have been taken in 2003. In the meantime, Niger supports the project to set up a centre to support members and observers at the WTO which have no mission in Geneva.

51. Niger's authorities have some difficulty in keeping up to date with notifications (Table II.1) and improving this aspect is one of the priority objectives of the technical assistance programme proposed for Niger (Annex II.1). It should be noted that Niger would like to see the WTO notification procedures for texts adopted by the WAEMU simplified so that they would be notified by one member of the Organization but apply to all the other members.³⁶

52. Regarding multilateral negotiations within the Doha Agenda framework, the member States of the WAEMU have adopted a common position on agriculture upstream of the common agricultural policy adopted within the WAEMU. It is stated that the aims of the WAEMU member States are:

- "to incite developed countries to liberalize their agricultural policies in practice in order to enhance domestic and external competitiveness of agricultural products of interest to developing countries and least-developed countries, in particular those with high value added;
- to make efforts to expand and improve waivers in favour of developing countries and least- developed countries."³⁷

³⁶ Côte d'Ivoire and Senegal notified to the WTO Regulation No. 5/99/CM/UEMOA on customs valuation of goods (WTO documents G/VAL/N/1/SEN/1 of 27 September 2001 and G/VAL/N/1/CIV/1 of 28 June 2002). Nevertheless, the WAEMU considered it necessary to ask each member State to notify the Regulation individually.

³⁷ Directive No. 01/2001/CM/UEMOA.

Table II.1
Documents relating to Niger's participation in the WTO, April 2003

Agreement	WTO document	Content
Multilateral agreements on trade in goods		
GATT 1994	Schedule LIII - Niger of 15 April 1994	Tariff concessions
Agreement on Implementation of Article VII of the GATT 1994	WT/LET/301 of 1 June 1999	Request for delay for implementation
Agreement on Preshipment Inspection	G/PSI/N/1/Add.5 of 5 February 1997, Add.7 of 24 February 1998, Add.8 of 28 September 1999	Laws and regulations
Agreement on Rules of Origin	G/RO/N/19 of 23 January 1998	Laws and regulations
Agreement on Import Licensing Procedures	G/LIC/N/1/NER/1 of 12 January 1998	Rules and information concerning procedures for submitting applications
General Agreement on Trade in Services		
	GATS/SC/64 of 15 April 1994	Schedule of Specific Commitments on Services
	GATS/EL/64 of 15 April 1994	List of Article II (MFN) exemptions
Marrakesh Agreement establishing the World Trade Organization		
	WT/MIN(01)/15 of 14 November 2001	Waiver from obligations under Article I.1 of the GATT 1994 for the ACP-EU Partnership Agreement
Enabling Clause		
	WT/COMTD/N/11 of 3 February 2000, WT/COMTD/N/11/Add.1 of 2 March 2001, WT/COMTD/N/11/Add.2 of 22 August 2001, WT/COMTD/N/11/Add.2/Corr.1 of 26 March 2002	West African Economic and Monetary Union (WAEMU)

Source: WTO Secretariat.

53. In the context of the review of its trade policy, Niger is requesting further technical assistance (Annex II.1). The main areas concerned are the following: (i) harmonization of laws, regulations and rules with WTO obligations; (ii) notifications; and (iii) training in WTO-related activities, especially the building of negotiating capacity.

(ii) Regional agreements of economic scope

(a) African Union

54. Niger is a founding member of the African Union, which replaced the Organization of African Unity (OAU), and it ratified the Constitutive Act in 2000.³⁸ Ultimately, the African Union will be an economic and monetary union with five institutions: a Pan-African Parliament, a Central Bank, a Monetary Fund, a Court of Justice, and an Economic and Social Commission. The Protocol on the creation of the Pan-African Parliament was adopted in 2002, but the institution has not yet been set up. Currently, there is a transitional support structure and the Commission of the African Union should be set up in July 2003.

³⁸ The Charter establishing the OAU was signed on 25 May 1963. The Constitutive Act of the African Union was adopted at the summit of the Organization of African Unity (OAU) in July 2000 in Lomé (Togo). The African Union, which has now replaced the OAU, was proclaimed on 11 July 2001 at Lusaka, in Zambia, after ratification of the Constitutive Act by more than 44 of the 53 member States of the OAU.

55. The Lusaka summit in 2001 saw the adoption of the New Partnership for Africa's Development (NEPAD), which constitutes "a call for a new relationship of partnership between Africa and the international community, especially the highly industrialized countries".³⁹ The NEPAD combines a multidisciplinary analysis of poverty in Africa with an initiative for the active participation of African States in the WTO and debt reduction that goes beyond the current levels. In the long term, the objective of the African initiative is to link debt reduction to the assessed results of poverty reduction activities.

(b) Economic Community of West African States (ECOWAS)⁴⁰

56. Niger is a founding member of the ECOWAS, whose Treaty was revised in 1993 to include the objective of economic and monetary union.⁴¹ Following this revision, the institutional framework of the ECOWAS provides for the following: a Central Bank, a Parliament, a Court of Justice, an Executive Secretariat, and an Economic and Cultural Council. In 2000, the ECOWAS set up the West African Parliament and the Court of Justice and in 2001 the West African Monetary Institute, which is the precursor of the Central Bank.

57. The 1993 revision of the Treaty established a two-stage programme for the liberalization of trade: the establishment of a free-trade area at the end of 1999 and the adoption of a CET in three stages. In principle, local products and traditional handicrafts may circulate freely within the ECOWAS, together with certain processed products approved under the preferential regime⁴², but for the moment, Niger does not grant such preferential treatment. The liberalization of tariff barriers on approved products should go ahead according to an asymmetric mechanism under which high-income countries would liberalize more rapidly than low-income countries.⁴³ This timetable has not been respected and a new timetable has not yet been fixed; Niger's authorities explain the halt in intra-community liberalization by the absence of a compensation mechanism to offset the loss in customs revenue, and by the approval system. It was also intended to introduce free movement of services, capital and persons within the Community at the end of a period of five years following the introduction of the Customs Union planned for the year 2000.⁴⁴ A community passport was established for this purpose and it should be recognized in the year 2005; Niger plans to introduce the passport in 2004.

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

³⁹ African Union (2001).

⁴⁰ <http://www.ecowas.int>

⁴¹ The Treaty establishing the ECOWAS was signed on 28 May 1975. ECOWAS currently comprises 15 countries: Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Equatorial Guinea, Gambia, Ghana, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.

⁴² WTO document WT/TPR/S/43-2 of 10 February 1998.

⁴³ Group I (Burkina Faso, Cape Verde, Gambia, Guinea-Bissau, Mali and Niger) had a 10-year period for reduction at an annual rate of 10 per cent for approved products. Group II (Benin, Guinea, Liberia, Sierra Leone and Togo) had a period of eight years for reduction, at an annual rate of 12.5 per cent for approved products. Group III (Côte d'Ivoire, Ghana, Nigeria and Senegal) had a period of six years, with an annual rate of reduction of 16.6 per cent for approved products.

⁴⁴ WTO document WT/WGTI/W/22 of 26 January 1998.

59. The ECOWAS is responsible for settling disputes in the subregion. In 2002, it undertook a peacekeeping mission in Côte d'Ivoire.⁴⁵

(c) West African Economic and Monetary Union (WAEMU)⁴⁶

60. Niger is a founding member of the WAEMU⁴⁷, whose Treaty and some of whose projects have been notified to the WTO under the enabling clause since 1999.⁴⁸ With the exception of Côte d'Ivoire, the member States of the WAEMU are all LDCs and also all belong to the ECOWAS, which has wider geographical scope.

61. The Conference of Heads of State and Government defines the broad outlines of Union policy and adopts additional acts to the Union Treaty, which complement the latter without amending it. The Council of Ministers is the WAEMU's decision-making body and adopts regulations, directives and decisions: the regulations are binding and are directly enforceable in all member States; directives must be incorporated into the legislation and procedures of the member States; decisions are binding on the persons or member States to which they are addressed. The Commission is the only body empowered to propose community acts, and has its headquarters in Ouagadougou (Burkina Faso). The Court of Justice was established and put in place in 1995 and the Court of Audit started to function in 1998.

62. The WAEMU complements the WAMU through an economic integration component and incorporates its provisions, including a common currency (the African Financial Community (CFA) franc), administered by the Central Bank of West African States (BCEAO), a specialized autonomous body of the WAEMU (Chapter I(3)(ii)). The main objectives of the WAEMU are: (i) convergence of the economic performance and policies of member States through the institution of a multilateral monitoring procedure; (ii) establishment of a common market; (iii) coordination of sectoral policies; (iv) harmonization of member States' legislation, particularly the taxation regime, to the extent necessary for the proper functioning of the common market.⁴⁹

63. Regarding the liberalization of trade among WAEMU member States, a transitional preferential regime came into effect on 1 July 1996.⁵⁰ Since then, local products and traditional handicrafts have been completely free of import duty and taxes. Approved originating industrial products have also gradually become duty free (Chapter III(2)(iii)), a process which ended on 1 January 2000.⁵¹ The WAEMU has introduced a community mechanism for financial compensation to offset the loss of customs revenue in countries importing originating industrial products during the period 2000-2005, from which Niger has benefited. New WAEMU rules of origin came into effect on 1 January 2003 (Chapter III(2)(v)).⁵²

64. Regarding extra-community trade, including trade among member States of the WAEMU not subject to the preferential regime, the CET was introduced on 1 January 2000 on the basis of a

⁴⁵ <http://allafrica.com/stories/200210270001.html> [22 October 2002].

⁴⁶ <http://www.uemoa.int>

⁴⁷ The WAEMU Treaty was signed on 11 January 1994 by Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal and Togo; Guinea-Bissau acceded to the Treaty on 1 January 1997. WTO document WT/COMTD/N/11 of 3 February 2000.

⁴⁸ WTO document WT/COMTD/N/11 of 3 February 2000.

⁴⁹ Article 4 of the WAEMU Treaty.

⁵⁰ Additional Act No. 04/96, as amended by Additional Acts No. 01/97 and No. 04/98.

⁵¹ Reductions of 30 per cent in 1997, 40 per cent in 1998, 60 per cent in 1999, and 100 per cent in 2000.

⁵² Additional Protocol No. III establishing rules of origin for WAEMU products.

common tariff and statistical nomenclature and a common customs valuation regime for goods. A statistical charge (RS) and a community solidarity levy (PCS) are also applied on a permanent basis (Table II.2). In addition, imports may be subject to a special import tax (TCI) or a degressive protection tax (TDP)⁵³, both are nationally applicable protection mechanisms established by the WAEMU subject to approval by the latter's Commission. Niger imposed a 10 per cent TCI on rice during the period 2000-2002, but has not applied the TDP (Chapter III(2)(iv)).

Table II.2
Permanent duties and taxes applicable to WAEMU extra-community trade

Category	Definition	Customs duty	Statistical charge	Community solidarity levy
0	Essential social goods appearing on a restricted list	0%	1%	1%
1	Staple goods, basic raw materials, capital goods, specific inputs	5%	1%	1%
2	Intermediate products and inputs	10%	1%	1%
3	Final consumer goods and other products not elsewhere specified	20%	1%	1%

Source: WAEMU Commission.

65. In addition to the CET, the member States of the WAEMU are gradually adopting a common trade policy towards third countries, as well as within the WTO (see above). The WAEMU Commission has exclusive competence in this area and in principle no member State may separately negotiate or conclude a bilateral trade agreement with a third country. In 1998, the WAEMU Commission was mandated to undertake negotiations on an agreement to develop trade and investment relations with the United States of America and such an agreement was signed on 24 April 2002.⁵⁴ This agreement commits the partners to encourage and facilitate trade in goods and services and to guarantee conditions conducive to investment. For this purpose, a Trade and Investment Council has been set up in order to deal with any matters relating to trade or investment.

66. Other agreements between the WAEMU and third countries are under preparation. In 1999, the WAEMU Commission commenced negotiations with Tunisia for the purpose of concluding a trade agreement⁵⁵ and an agreement is also being negotiated with Morocco. In September 2000, the WAEMU Commission was mandated to initiate negotiations with the European Union (EU) with a view to concluding a Regional Economic Partnership Agreement (see below).⁵⁶

67. With regard to the coordination of national sectoral policies, the WAEMU has adopted common policies in the following areas: agriculture⁵⁷, energy⁵⁸ and industry⁵⁹. The principal objectives of the common agricultural policy are to help in meeting the population's food needs and in the economic and social development of member States, as well as in reducing poverty in rural areas. The operating procedures for the common agricultural policy should shortly be finalized. In this connection, the protection granted to agricultural products under the CET – relatively higher than that for non-agricultural products – could be increased.

⁵³ Regulation No. 3/99/CM/UEMOA. The TDP should have expired at the end of 2002, but was renewed for 2003.

⁵⁴ Directive No. 07/98/CM/UEMOA.

⁵⁵ Directive No. 07/99/CM/UEMOA.

⁵⁶ Directive No. 03/2000/CM/UEMOA.

⁵⁷ Additional Act No. 3/2001.

⁵⁸ Additional Act. No. 4/2001.

⁵⁹ Additional Act No. 5/1999.

68. Regarding land transport, which is a key aspect for the development of intra-community trade, a community strategy and a road infrastructure network within the WAEMU have been adopted and put before donors.⁶⁰ A community programme on the building of checkpoints on borders between member States has been adopted and should start to be implemented in 2003.⁶¹

69. Harmonization of domestic tax legislation in member States has made progress in respect of the value-added tax (VAT), excise duty, taxation of petroleum products (Box II.1), advance payment of tax on industrial and commercial profits (BIC), the legal framework, government finance accounts and statistics⁶², accounting legislation (SYSCOA)⁶³ and the regional financial market. The WAEMU recently introduced a community policy on competition, which came into effect on 1 January 2003, but is not yet being applied. The draft WAEMU Investment Charter was not adopted by the WAEMU Council of Ministers, however, due to lack of agreement on the question of the incentives for approved projects.

(iii) ACP-EU Partnership Agreement

70. Niger is one of the ACP countries with which the EU has concluded a Partnership Agreement. The latter entered into force on 1 March 2000 and was signed on 23 June 2000 in Cotonou, Benin.⁶⁴ The Agreement replaces the Lomé Convention, which had been in effect since 1975 and whose fourth extension expired at the end of February 2000.⁶⁵

71. Trade provisions are one of the cooperation mechanisms between the ACP countries and the EU. The latter allows duty-free entry for industrial products and processed agricultural products originating in 70 ACP countries on a non-reciprocal basis (the Agreement on Trade, Development and Cooperation applies to South Africa). Because of the structure of trade with the EU, consisting principally of uranium, Niger has mainly benefited from the operation of the STABEX mechanism for groundnuts, although only to a limited extent.

72. WTO Members have granted a waiver to the EU from its obligations under Article I.1 of the GATT 1994 (concerning MFN treatment) for the period 1 March 2000 to 31 December 2007, at which time new trade agreements consistent with the WTO's rules must have been concluded.⁶⁶ There are three options for that date:

- The conclusion of a Regional Economic Partnership Agreement (REPA) between the EU and a regional group (for example, the WAEMU);
- integration of the country concerned in the Generalized System of Preferences (GSP) of the EU; or
- the conclusion of a bilateral partnership agreement.

⁶⁰ Decision No. 2/2001.

⁶¹ Decision No. 8/2000. The borders to be used for a pilot programme are those between Burkina Faso and Côte d'Ivoire and Togo, respectively.

⁶² Directives No. 5/97/CM/UEMOA, 6/97/CM/UEMOA, 4/98/CM/UEMOA, 5/98/CM/UEMOA and 6/98/CM/UEMOA, as amended.

⁶³ Regulation No. 4/96/CM/UEMOA, as amended.

⁶⁴ European Commission press release, IP/00/640.

⁶⁵ Of the 71 ACP countries, 55 are members of the WTO and 41 are LDCs.

⁶⁶ WTO document WT/MIN(01)/15 of 14 November 2001. The waiver granted by the WTO (WT/L/186), which extended the waiver under Article I (MFN) of the GATT for the fourth Lomé Convention between the ACP countries and the EEC (GATT document L/7694), ended on 29 February 2000.

73. In September 2001, the EU initiated negotiations with the WAEMU, in collaboration with the ECOWAS,⁶⁷ for the purpose of concluding a REPA. One of the major components of such an agreement would be the elimination of non-reciprocal trade preferences for the ACP countries concerned. An agreement would provide that at the end of the transitional period – at the latest 2020 – the EU's regional partners will have abolished customs duties on imports from the EU. Consequently, tax revenue will decrease and competition will no doubt be keener. On the other hand, consumers will benefit from lower prices and the catalytic effect on domestic enterprises. Economic studies are needed, however, in order to assess the actual impact on each of the ACP countries' economies.

74. The WAEMU member countries are keeping open the GSP option. It should be noted that the revised GSP mechanism currently in force includes the "Everything But Arms" initiative in favour of LDCs⁶⁸, which came into effect on 5 March 2001, and allows duty-free entry of all products except arms, with some exceptions (rice, bananas and sugar, to which transitional arrangements apply).⁶⁹ As a result of the "Everything But Arms" initiative, the LDCs enjoy the most favourable preferential treatment under the GSP, even more favourable than that under ACP-EU partnership agreements, except in the case of certain products covered by protocols.⁷⁰

(iv) Bilateral agreements

75. Over the years, Niger has concluded several bilateral trade and economic cooperation agreements (Table AII.1). The majority of the agreements with other members of the WTO provide for the MFN regime. More favourable terms – duty-free entry – are provided under the agreement with Tunisia. Within the context of the PCC, however, bilateral trade agreements signed by Niger and other members of the WAEMU will gradually be replaced by agreements between the WAEMU and third countries.

76. Niger has been a member of the Multilateral Investment Guarantee Agency Agreement since 11 June 2002.⁷¹ It has also been a member of the International Centre for Settlement of Investment Disputes (ICSID) since 14 December 1966.

⁶⁷ Directive No. 3/2000/CM/UEMOA.

⁶⁸ EU Regulation 416/2001.

⁶⁹ EU Regulation 2501/2001.

⁷⁰ WTO document WT/TPR/S/102-2 of 26 July 2002, p. 25.

⁷¹ Ordinance No. 2001-6 of 8 August 2001, ratified by Law No. 2002-18 of 11 June 2002.

ANNEX II.1: TRADE-RELATED TECHNICAL ASSISTANCE

77. At the moment, Niger does not have any diplomatic mission in Geneva so technical assistance is an essential means of maintaining links with the WTO. Niger has occasionally used the technical assistance provided by the WTO and other international institutions, but does not appear to have made the best use of it. Technical assistance was requested in particular in order to implement the WTO Agreements and to draw up a plan to promote exports. In accordance with the initial provisions of the Integrated Framework (WT/LDCHL/Rev.1), the evaluation of Niger carried out by the World Bank at that time should have served as the point of departure for global trade-related technical assistance proposals. The international organizations participating in the Integrated Framework have not to date made any significant progress in favour of Niger, due in particular to the domestic political problems and the lack of coordination among participants in the Integrated Framework. A round-table on the private sector held in November 2000 and organized by the UNDP with support from UNIDO has been the only partial response to technical assistance needs and support for the exportable offer.

78. Technical assistance has been provided on an ad hoc basis, principally to meet general needs for information on the WTO, but Niger needs more substantial assistance, above all assistance better adapted to its specific problems, if it is to derive benefit from the multilateral trading system. Moreover, the existing institutions must be strengthened, or new institutions created, and they must be given substantial resources for their work, which could have considerable financial and budgetary implications. This would also require action by several donors with differing expertise.

79. Because of the lack of human resources, institutional difficulties, and the limited absorption capacity of government institutions responsible for foreign trade, as well as supply constraints, Niger should be given more substantial technical assistance.

Trade-related technical assistance needs**Implementation of the WTO Agreements**

80. Niger finds it difficult to implement several provisions of the WTO Agreements. These difficulties are due above all to the lack of institutional capacity in the implementing bodies, their limited knowledge of the WTO Agreements, and the lack of human and financial resources to implement them. The areas in which Niger has the greatest need of assistance are: (i) harmonization of legislation, regulations and rules with the WTO provisions (technical barriers to trade; sanitary and phytosanitary measures; subsidies; trade-related investment measures; customs valuation; trade-related aspects of intellectual property rights (TRIPS)); (ii) notifications; (iii) training of officials in WTO-related areas, particularly the building of negotiating capacity.

81. Regarding application of the WTO Customs Valuation Agreement (Chapter III(2)(iii)), Niger does not derive full benefit from this Agreement, particularly as regards increased fiscal revenue. It has proven to be very difficult to achieve satisfactory results in suppressing fraud, due in part to the very large informal sector and also to an extensive customs cordon and a highly inadequate customs infrastructure. According to the authorities, computerization of customs posts is an important step that needs to be taken. The authorities do not have the confidence to implement the provisions of the Agreement in full and abandon the national administrative values. In order to implement this Agreement, technical assistance should focus on: (i) training on the customs valuation system and valuation controls; (ii) support for participation in meetings of the Technical Committee of the World Customs Organization; and (iii) establishment of a data bank (on values).

82. With regard to intellectual property rights (IPR) (Chapter III(4)(iii)), according to the authorities, Niger has received little assistance from the WTO, WIPO or other relevant organizations. It is thus urgent to enhance knowledge and expertise in the administration, but also in other State and private sector bodies, by means of training courses and workshops and by providing materials. The Industrial Development Directorate in the Ministry of Trade needs legal advice on transposing or harmonizing certain domestic laws with the provisions of the TRIPS Agreement in order to ensure protection of appellations of origin for some of Niger's products (for example, Galmi onions) and to protect industrial designs, especially for textiles. Assistance is also needed in the services responsible for implementing the Agreement, for example the customs, as regards imports of counterfeit goods. Niger needs jurists trained in the areas covered by the TRIPS Agreement, and also needs to train economic operators in the new OAPI regime.

83. The lack of officials trained in WTO-related areas, particularly experts on multilateral negotiations, as well as the lack of a diplomatic mission in Geneva (Niger does not belong to any coalition) limit Niger's opportunities for participating in the multilateral trading system. Due to lack of financial resources, Niger can rarely attend meetings of the WTO. Consequently, it has relied to a large extent on: (i) the Reference Centre; and (ii) the measures taken by the WTO in favour of countries not represented in Geneva to allow them to follow the WTO's activities.⁷²

Training in the multilateral trading system

84. A small number of officials, principally from the Ministry of Trade, have broad knowledge of trade policy and its instruments. Some ministries or administrative services such as those for Rural Development, Animal Resources, Planning, Foreign Affairs, Mining and Energy, Transport and Communication, Privatization and Restructuring, and Customs appear to have limited knowledge of the multilateral trading system (MTS), certain aspects of which are nevertheless of direct interest to them. This is due to the fact that these ministries have few contacts with those dealing directly with such issues or do not apprehend fully the relevance of multilateral trade issues for their field of activity. This factor, together with a probable lack of communication/coordination among ministries, despite the multidisciplinary unit for the follow-up to implementation of the Uruguay Round Agreements, set up in 1997 (Chapter II(3)(iii)), explains why all MTS-related matters are only dealt with by the Ministry of Trade.

85. Officials from ministries such as those of Foreign Affairs, Finance and the Economy (including the Customs), Tourism and Crafts are rarely involved in the technical cooperation activities undertaken at the regional level. The various economic operators in the private sector also have little information about the MTS and its rules; only those directly responsible for these institutions appear to have knowledge of the multilateral system. The 2003 Technical Assistance Action Plan drawn up by the WTO Secretariat⁷³ provides for special efforts to be made in favour of LDCs. These should be expanded through increased collaboration among international organizations in the context of the Integrated Framework or a possible second stage of the JITAP (a programme in which Niger would

⁷² The Reference Centre was established at the Ministry of Trade in 1998 and has an electronic link with the WTO. This allows officials, representatives of universities or business circles and other interested persons to obtain trade-related information and documents by consulting the WTO's database. Under the initiative for countries not represented in Geneva, Niger regularly receives information notes prepared by the Secretariat summarizing the meetings of the WTO's bodies and committees, as well as a daily summary of news of interest to international trade, drawn up on the basis of press agency releases. In addition, since 1999, it has taken part in the Geneva Week organized each year during which representatives of countries with no mission in Geneva are invited to go to the WTO to receive information on the progress of work and to take part in the meetings of WTO bodies.

⁷³ WTO document WT/COMTD/W/104/Rev.1/Add.2 of 25 November 2002.

like to participate)⁷⁴, as well as a follow-up to the round-table on the private sector, principally within the UNDP framework, and at the regional or subregional level, for example, in the WAEMU, OHADA and OAPI.

86. Up until now, the technical assistance provided by the WTO has aimed above all at making the WTO system better known to senior officials. Since 1998, two national seminars on the multilateral trading system have been organized in Niger and officials from Niger have taken part in 13 regional seminars on various WTO-related issues.⁷⁵ In addition, since 1995, four officials have taken part in the 12-week trade policy course and one in the three-week trade policy course designed for LDCs organized by the Training Institute⁷⁶. According to the authorities, these seminars and training courses have done a great deal to make the WTO Agreements better known, but they are still insufficient. In particular, it is essential to hold national seminars and train trainers in order to bolster the national team of experts on the WTO. In the 2003 plan, the WTO Secretariat has indicated the activities envisaged both at the national and regional levels, particularly with the WAEMU.⁷⁷

Access to information

87. There are few enquiry points in Niger. Only the WTO Reference Centre and its library, installed by the WTO in the Ministry of Trade, are designed to provide information on the multilateral trading system through a link with the WTO's official site. These give general information on the WTO and other institutions dealing with trade matters. They are not used to any great extent, however, because they are within the Ministry of Trade, which means that they are not easily accessible to other bodies or ministries dealing with WTO-related matters and are not well known to the private sector and academia.

88. Few people within the Ministry are capable of using the computer equipment supplied. The Centre should therefore be given stronger support to allow it to fulfil its role effectively. The computer equipment provided by the WTO will be replaced and expanded as part of the technical assistance action plan for 2003.

Institutional support for the Ministry of Trade

89. In Niger, the Ministry of Trade plays a leading role in the follow-up and implementation of the WTO Agreements (Chapter II(2)(iii)). It nevertheless finds it extremely difficult to play such a role, not only because of disputes on competence with other bodies (for example, the customs service) or lack of coordination, but also because of the current lack of officials able to deal with the subject. The lack of institutional memory within the Ministry is due to the fact that the majority of well-trained officials, particularly those who attended the GATT/WTO trade policy courses, have left the Ministry for other jobs or have left Niger, but is also due to the lack of financial resources.

⁷⁴ JITAP: "Joint Integrated Technical Assistance Programme".

⁷⁵ Niger has participated in regional seminars on the following themes: trade and environment; the integrated database (IDB); the post-Doha Agenda; sanitary and phytosanitary measures; technical barriers to trade; GATS; agriculture, regional integration; dispute settlement practices and procedures; market access; WTO rules on safeguard, anti-dumping and countervailing measures; textiles; notifications; and the Reference Centre.

⁷⁶ WTO Training Institute.

⁷⁷ WTO document WT/COMTD/W/104/Rev.1/Add.2 of 25 November 2002.

Supply constraints

90. Supply constraints are one of the major obstacles to the expansion of foreign trade in Niger (Chapter IV). In order to overcome these problems, there does not only need to be a wide range of providers of technical assistance, but their action needs to be better coordinated. In this respect, the Integrated Framework, a mechanism involving six multilateral organizations (IMF, ITC, UNCTAD, UNDP, World Bank and the WTO), could coordinate the supply of trade-related technical assistance to LDCs. The Integrated Framework could help Niger to enhance the consistency of its trade-related policies by integrating trade priorities into its poverty reduction strategy. Niger would like to take part in the pilot programme of the revised Integrated Framework.

Integration of international trade into the development plan

91. The development of international trade is integrated in Niger's PRS, adopted in 2002 (Chapter II(2)(ii)). The question of trade was also included in the Programme to Combat Poverty by UNDP, which included the holding of round tables in 1998 and 2001 as well as the round table for the private sector organized jointly by UNDP/UNIDO in 2000.

Integration at the institutional level

92. Niger has the political determination to improve its foreign trade performance, but lacks the institutional capacity needed to plan and implement all the measures required to meet that objective. This is the case, with policy changes at the national level as a result of multilateral, regional and bilateral agreements concluded by Niger (Chapter II(4)). Capacity at the Ministry of Trade and other institutions responsible for promoting trade such as the CCAIN are limited due to the lack of financial resources. Furthermore, the division of responsibility for formulating and implementing trade policy leads to competition for resources.

Integration at the level of the Government-donors partnership

93. Niger receives aid from various sources, but there is little coordination among its development partners, due in part to general lack of coordination in the formulation of policies and between institutions. The World Bank, the IMF, UNDP, the EU (particularly France, which provides over 70 per cent of the bilateral aid, Germany, and Luxembourg), and USAID *inter alia* play a role in foreign trade. The result is not only to limit the benefits which aid could provide but also to impose a heavy additional burden on government authorities, whose capacity is already insufficient. The Integrated Framework was designed in particular to remedy this problem at the level of multilateral organizations and to enhance the coordination and coherence of policies.

Adaptation of legislation

94. Technical assistance could be envisaged in order to bring the legal framework into conformity with the provisions in the WTO Agreements and update it.

Implementation of the Agreements

95. The main problem is lack of information on the provisions of the Agreements to be implemented and on the necessary action to be taken. The crucial question of implementation will not be completely resolved until there is better knowledge of the Agreements. Substantial technical assistance is therefore needed. The areas of most concern to Niger as regards implementation are:

technical barriers to trade; sanitary and phytosanitary measures; subsidies; trade-related investment measures; customs valuation; and trade-related aspects of intellectual property rights (TRIPS).

Participation in the WTO and trade negotiations

96. The issue most cited by Niger's authorities concerns more active participation in the work of the WTO and in trade negotiations. In this connection, the authorities would like their officials to be better informed and prepared for multilateral negotiations and future negotiations. Technical assistance is required in particular in the form of seminars/workshops on subjects included in the WTO work programme under the Doha Ministerial Declaration, especially matters related to competition, investment and government procurement, as well as negotiating techniques.⁷⁸

Notifications

97. Niger has only made a few notifications to the WTO (Table II.1) and continues to encounter difficulties in this respect. According to the authorities, the delay is mainly due to poor understanding of the regulations and the way in which notifications (often considered to be highly technical) must be drawn up and communicated to the WTO Secretariat, but also to limited knowledge of the WTO Agreements. Coordination problems among the ministries concerned should also be mentioned.

98. Niger has indeed received aid from the WTO Secretariat in the form of documents and through participation in seminars by officials from Niger. Nevertheless, as the problems persist, the authorities would like to receive further assistance from the WTO Secretariat on notifications, especially technical missions (or even the holding of a national seminar) to the various ministries and institutions concerned.

⁷⁸ Contained in the WTO's 2003 Technical Assistance Plan.