

III. TRADE POLICIES AND PRACTICES BY MEASURE

(1) INTRODUCTION

1. Ghana has continued to implement market opening measures commenced in the 1980s under its Economic Recovery Programme. These have further simplified and liberalized its trade regime. Trade taxes are an important source of government revenue, accounting for almost one third of total taxes in 1998. Over half of this revenue was from tariffs. However, reliance on trade taxes for government revenue is expected to decline substantially following the introduction of a value-added tax in late 1998. The VAT rate was increased from 10% to 12.5% in June 2000.

2. Following the removal of the "special import tax" of 17.5% in 1999, and the lowering of the highest tariff rate of 25%, mainly on consumer goods, to 20% in 2000, the simple average applied MFN tariff rate was 13% in early 2000. Ghana has a four-tier tariff structure, with rates of zero, 5%, 10% and 20%. However, the "temporary" introduction of another "special import tax" of 20% in April 2000 on mainly consumer goods – covering 7% of tariff lines – effectively added a fifth tariff rate of 40% and raised the average applied MFN tariff to currently almost 15%. Ghana applies MFN tariffs to all trading partners, except for duty-free imports from ECOWAS members.

3. While tariffs are exclusively *ad valorem*, the transparency of the tariff system is undermined by the widespread use of exemptions, often administered under poorly specified authority. These exemptions undermine tariff protection in a non-transparent and arbitrary manner. In 1998, some 40% of imports were exempt from payment of import duties, mainly through bonded warehouses and free-zone enterprises. End-use tariff concessions also apply on some goods. Mandatory destination inspection replaced preshipment inspection from April 2000. Minimum import prices no longer apply. Ghana adopted the transaction valuation of imports, except for used vehicles, from February 2000. Improved clearance procedures also include selective inspection targeting of high-risk consignments. At end-July 2000, about one third of consignments were inspected, and clearance times had been reduced, although delays of a week were still common for some goods.

4. Apart from tariffs – of which all agricultural items and only a few manufacturing lines are bound – imports face few formal trade barriers. There are no import quotas, for example, and only a small number of items are prohibited or subject to permits mainly for health and safety reasons. The VAT on raw foodstuffs is applied only to imported (excluding ECOWAS) produce and thus discriminates against imports. However, the VAT also favours imports of some VAT-exempt products, such as bicycles and books. Ghanaian standards are based mainly on international norms and are being harmonized with those of ECOWAS members. Government procurement arrangements appear to be non-transparent and favour domestic suppliers, who have received a formal price preference of 12.5% since January 1999.

5. Ghana has no legislation allowing the imposition of anti-dumping, countervailing or safeguard measures on imports. However, the Government does monitor the impact of "unfair" import competition on domestic industries and may take compensatory action against such products. The recent introduction of a "special import tax" was partly a response to these concerns.

6. Remaining export restrictions cover mainly taxes on cocoa, on which the statutory marketing board (COCOBOD) has an export monopoly – partially relaxed from 2000-01 – and prohibitions on round logs. Export subsidies *per se* are not applied, but generous financial incentives are available to exporters. Scaled income tax rebates of up to 75% are provided to firms that export at least one quarter of production. Free-zone enterprises, which can be located outside designated enclaves, exporting at least 70% of production receive more generous tax concessions, including a maximum

company income tax rate of 8% after a ten-year tax holiday, and full duty and tax exemptions on imported inputs. Income from non-traditional exports is also taxed at 8% instead of the normal company tax rate of 35%.

7. Ghana provides little financial assistance to industry. Investment incentives apply to all investors. These range from tax holidays for certain activities, such as agriculture, to accelerated depreciation allowances and tariff exemptions on a range of imported machinery and equipment.

8. In the area of intellectual property protection, Ghana is making progress towards compliance with WTO requirements. Draft laws on all areas of the TRIPS Agreement are currently before Parliament. In the case of copyright, patents and trade marks, existing legislation is being amended to bring it into line with WTO requirements, such as increasing the term of patent protection from ten to 20 years. Ghana has applied its own "banderole" system since 1992 to help control pirated musical works. In other areas, new legislation has been drafted.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Registration and documentation

9. Ghana has no restrictions on the rights of individuals and entities, including foreign companies, to import goods and services. The main legislation governing importation is the Customs, Excise and Preventive Service Law (Management) (Duties, Rates and Other Taxes) of 1994, and the Export and Import Act of 1995. There are no special registration requirements for importers. Any entity may import goods commercially provided it is a legally registered business, partnership, body corporate or company. Imports may be made either by using a standard bank letter of credit or by collection, provided prior approval is obtained from the Central Bank.¹ Clearing and forwarding agents must be licensed by the Customs, Excise and Preventive Services (CEPS), and importers are required to use clearing agents unless they have their own shipping divisions.

10. Documentation requirements were changed from 1 April 2000 when the Destination Inspection Scheme replaced preshipment inspection. The Import Declaration Form (IDF) is issued automatically and remains the main document required from the importer. It provides, for statistical purposes only, details of the imported goods. This form must be submitted for each inspection 21 days prior to the goods arriving in port. The importer must provide other supporting documents, including the final invoice², packing list, airway bill or bill of lading, and sales contract, at least ten days in advance of importation.³ These measures are meant to ensure that Final Classification and Valuation Reports (FCVR) are issued before the arrival of imported goods at the port. A FCVR is needed to clear the goods through customs upon payment of the assessed duties. Where inspection is not required, a Gateway Pass is subsequently issued allowing clearance; however, if a discrepancy is found a Gateway Lock is placed on the goods to prevent importation. Destination inspection services

¹ Other facilities available to finance imports include bill for collection; pre-payment; open account and special credit lines, such as suppliers' credit; foreign loans; and guaranteed credits administered by Ghanaian banks.

² Certificates of value are needed for all goods, irrespective of origin. Importers must also supply the actual manufacturer's invoice as well as the supplier's or exporter's invoice where they are different parties, unless the exporter is a "stockist" or his bank has certified that the exporter's invoice accurately reflects that of the manufacturer.

³ Documentation covering imports by air or emergency items need not comply with the 21- and ten-day requirements. Documents should, however, be submitted to the inspection companies on the day orders are placed. Faxed copies of documents are acceptable for processing purposes.

have been contracted to two private agencies: Gateway Services Ltd (GSL) handles sea imports, and GSBV is responsible for air and land imports.

11. In addition to customs documentation other requirements include providing certain import documents to the Internal Revenue Service and the Ghana Shippers Council for sea imports. Importers must also comply with other port procedures and documentation requirements to obtain the goods once cleared by customs.

12. Ghana continues to use the ASYCUDA system for recording and clearing imports.⁴

(ii) Customs inspection and clearance

13. Before the establishment of destination inspection, all Ghanaian imports above an f.o.b. value of US\$5,000 were subject to compulsory preshipment inspection at the exporting port. Contracts with the four private companies providing such services were not renewed from 31 March 2000, as part of the Government's longer-term objective of giving CEPS greater responsibility over customs. The main rationale for preshipment inspection was to guard against duty evasion through false declaration or under-invoicing of imports. These objectives remain central to the new destination inspection system. It also aims to facilitate trade by providing an efficient import verification system.

14. Destination inspection occurs in Ghana at the importing port. Inspection is to be better targeted at higher-risk consignments. A computerized risk-management system enables selection of high-risk goods based on certain features, such as the type and origin of imported goods as well as the compliance history and reliability of the traders involved. By determining the risk of each consignment, CEPS expects to facilitate trade by faster clearance of low-risk goods through the Green Channel, without inspection. Other products are cleared through either the Yellow or Red Channel, depending upon their assessed risk level, and may be inspected. Container X-ray scanners have been installed at the main seaport of Tema and at Kotoka International Airport to expedite inspections by reducing the need to open containers. Some major land borders, such as Elubo and Aflao, are about to be installed with X-ray scanners. Many goods that affect human safety and the environment, including foodstuffs, beverages, pharmaceuticals, chemicals, electrical appliances, and second-hand goods, have been classified as high-risk goods and are automatically subject to physical or laboratory inspection.⁵ Random inspections are to be conducted on all imports, including Green Channel goods. The target set by CEPS was to reduce inspection rates from 100% to 70% and 50% by June and July 2000, respectively, and to 20% for dutiable goods and to 10% for non-dutiable goods by 2001. According to CEPS, the inspection rate had fallen to 31% by end-July 2000. Better inspection targeting of high-risk goods should be more effective in preventing fraudulent activities and will facilitate trade by expediting the clearance of other imports.

15. A key price verification role has been retained in the destination inspection system, aimed at protecting revenue collection; this is done on the basis of transaction value at destination by customs officers attached to the inspection companies. Details declared by the importer may be verified in the exporting country by affiliates of the inspection agencies checking (without physical inspection) the

⁴Devised by UNCTAD, the Automatic System for Customs Data (ASYCUDA) is a computerized customs management system that covers most importation procedures, including the production of trade statistics.

⁵ Other items classified as high-risk goods are: electric cables and cords; switches; sockets; plugs; electric pressing irons; kettles; incandescent bulbs; fluorescent tubes; dry-cell batteries; pyrotechnic products; and arms, ammunition and explosives.

valuation and classification particulars.⁶ It is also hoped that the new procedures will provide better checks to ensure that duties are paid. Under the preshipment inspection system, importers often failed to collect Clean Reports of Findings needed to clear goods, thereby suggesting that goods were possibly being cleared without the payment of duties. A transaction price database is also being assembled and updated to assist CEPS to more accurately assess and verify declared values. According to the authorities, the prices contained in the database are used only to detect suspicious declared values, and are not substituted by CEPS to levy import duties.

16. The minimum threshold value was removed with the change-over to destination inspection. This was partly due to past abuse of these limits by importers splitting shipments to avoid preshipment inspections. All imports, irrespective of their mode of financing, are now subject to destination inspection, unless specifically exempted by the Minister of Trade and Industry. Exempt goods include gold, precious stones, works of art, live animals, foodstuffs from neighbouring African countries, fresh or frozen fish caught in Ghanaian waters by locally owned vessels, scrap metals, and crude oil.

17. Improved operational procedures, including greater computerization, are directed at strengthening the effectiveness of the CEPS. Most data collection and control functions are currently performed manually. The CEPS computer systems are being upgraded to more effectively implement the risk-management inspection system and the transaction price database. Similarly, CEPS is being restructured to provide enhanced internal performance monitoring and other operational procedures. While there had been some "teething" problems with the new inspection system, the authorities claimed that imports are normally cleared within one to two days, and that longer delays were mainly due to incomplete documentation submitted by importers or valuation disagreements.⁷ Customs decisions may be appealed. Initial objections can be raised at the operational level. A formal appeal against valuation assessments may be lodged with the Commissioner of Customs, in which case the importer may either clear the goods by paying the assessed duty, under protest (for subsequent refund pending the appeal) or they can be stored by customs in bonded warehouses. The Commissioner's decision can be appealed to the courts; however, this rarely occurs. An Appeals Committee is being established.

18. Bonded warehouses are privately run and are governed by Part VII of the CEPS Law and Departmental Instructions 1984. The main bonded warehouse at Tema is computerized. According to CEPS, past problems of non-payment of duties on goods disappearing from bonded warehouses have been largely rectified through the introduction of better inventory controls and system checks, especially the Greater Accra CEPS Regional Office at James Town where a manual system inadequately controlled over 200 bonded warehouses. CEPS also now requires all importers using bonded warehouses to apply in advance for permission; this normally takes about five days. The substantial use made of bonded warehouses to clear imports compounds the difficulties of ensuring that duties are paid on these goods. The list of specified goods ineligible for bonded warehousing excludes some products that are difficult to control, such as motor vehicle and machinery spares, cosmetics, clothing, confectionery, and office supplies. Goods are not restricted to excisable products, such as alcoholic beverages and tobacco products, and include many consumer products. Available data indicate that some 14% of total imports in 1998, valued at almost Cedi 1 trillion, passed through bonded warehouses, including many duty-free goods. Bonded goods were the single largest category of exempt imports in 1998, accounting for 35%.

⁶ The details declared by the importer are contained in the Verification Order, which is transmitted electronically by the inspection agencies to their affiliates in the exporting country.

⁷ According to the private sector, longer delays, from four to seven days, are frequent in clearing goods at Tema seaport.

19. A recent administrative directive to reduce the time limit on warehousing of goods from two years to one year is of uncertain legality given that the legislation has not been amended; such amendments are now under way. According to CEPS, widespread access to storage in bond is provided to help relatively small importers of consumer goods to defer duty and VAT payments, thereby facilitating trade. The severity of statutory penalties for misuse of bonded goods, which can include fines, forfeiture of goods, and revocation of warehouse licences, appear in practice to have been inadequate.

(iii) Tariffs and special import taxes

20. Ghana's tariff is based on the Harmonized System (HS). While in principle Ghana adopted the eight-digit classification, some products are disaggregated to the ten-digit level. There are currently approximately 5,500 tariff lines in the Ghanaian customs schedule. The tariff schedule has four columns, giving the ECOWAS preferential rate, if applicable; the MFN rate; the value-added tax rate; and the "special import tax", recently applied on some goods.

21. Tariff policy is primarily the responsibility of the Ministry of Finance. Tariffs are mainly set during budgetary deliberations at the beginning of each calendar year. Amended rates are contained in legislation passed by Parliament. The Ministry of Finance proposes rate changes in consultation with CEPS and other relevant ministries, including Trade and Industry and Food and Agriculture, and these are submitted to Cabinet for approval. Tariffs may also be changed throughout the year, but this is less likely. The latest tariff amendments are contained in the Customs and Excise Duties and Other Taxes (Amendment) Act of 2000.

22. The Government's policy objective is to reduce the average tariff rate gradually over the next three years to less than 10%. According to the Government, tariff reforms are aimed at enhancing the external competitiveness of local industry, harmonizing tariff rates with regional levels, and removing distortions.

(a) MFN levels, structure, and escalation

23. Ghana applies the MFN duty to all non-ECOWAS countries whether or not they are WTO Members. Its simple average applied MFN tariff – including the special import tax – is 14.7% (Table III.1). This compares with 17% at the time of the last Trade Policy Review in 1992. The average applied MFN tariff rate for agricultural products, including fishing (HS chapters 1 to 24), is 20.2%, compared with 13.8% for industrial products (HS chapters 25 to 97).

24. Ghana's tariff comprises four main MFN rates: zero and 5%, mainly on raw materials and capital goods; 10%, mostly on intermediary goods; and 20% on many consumer goods. The most common rates are 10% and 20% (Chart III.1). Some 13.5% of tariff lines have a zero duty.

Table III.1
Tariff indicators, 2000
(Per cent)

Indicator	All goods	Agriculture ^a	Manufacturing ^a
Bound tariff lines ^b	14.8	100	1.1
Duty-free tariff lines ^c	13.5 (13.5)	6 (6)	15 (15)
Simple average applied MFN rate ^b	14.7 (13.2)	20.2 (17.4)	13.5 (12.2)
Simple average applied MFN rate ^c	14.7 (13.2)	20.2 (17.3)	13.8 (12.5)

Table III.1 (cont'd)

Indicator	All goods	Agriculture ^a	Manufacturing ^a
Range of MFN applied rates ^b	0-279(0-279)	0-40(0-20)	0-40(0-20)
Applied MFN tariff standard deviation (dispersion) ^c	12.1 (9.9)	9.9 (5.8)	12.2 (10.3)
<i>Ad valorem</i> duties (per cent of tariff lines)	100	100	100

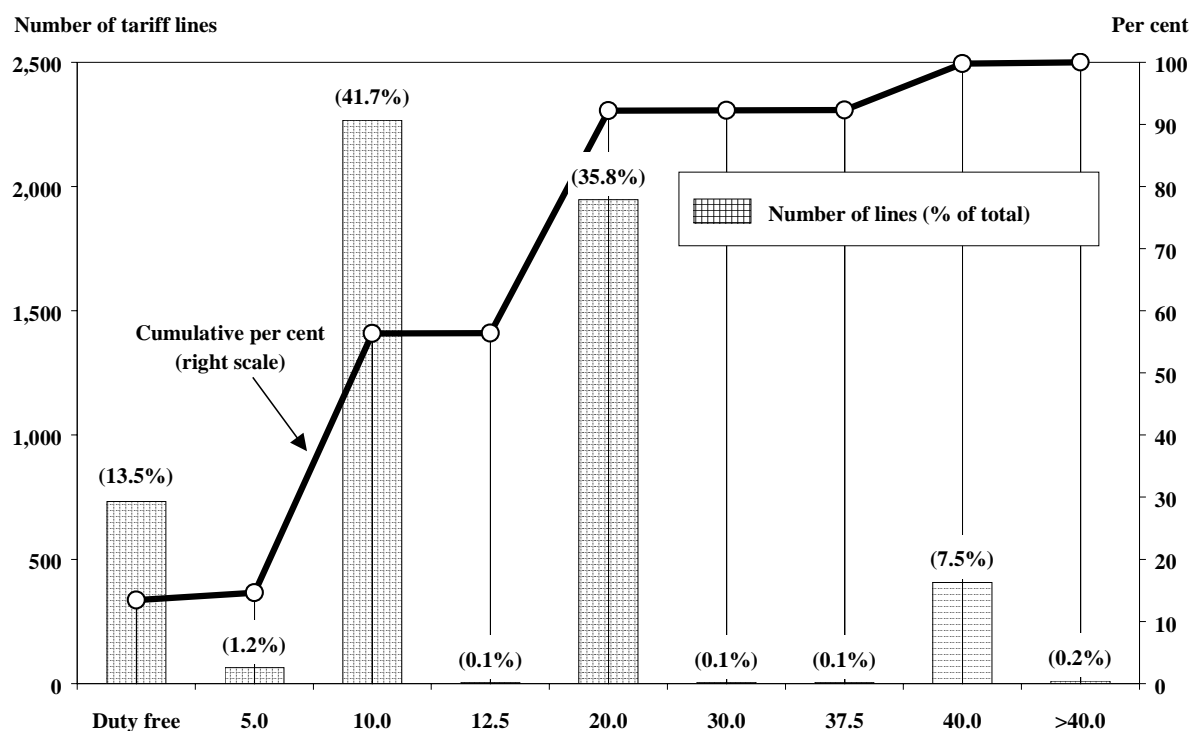
Note: Figures in brackets exclude the 20% "special import tax" applied since April 2000.

- a Sectoral tariff averages vary with the definition used. The HS definition of agriculture (HS 01-24) includes fishing and forestry, and for manufacturing (HS 25-97) excludes food processing, beverages, and tobacco products. While conventional, these definitions do not correspond precisely to those for "agricultural" and other products negotiated in the Uruguay Round. The WTO Agreement on Agriculture excludes fish and fish products (HS chapter 3 and parts of chapter 16) and includes items regarded as "agricultural" from HS chapters 29, 33, 35, 38, 41, 43, 50, 51, 52 and 53 (Annex 1 of the Agreement). Petroleum products (HS 2709 and 2710) are also excluded from both agricultural and manufacturing sectors. The breakdown of tariffs by the International Standard Industrial Classification (ISIC) attempts to clarify the distinction between the agriculture/processed food, beverage, and tobacco sectors by including such processing as manufactured products (as distinct from the primary activities).
- b Sectoral averages based on the WTO classification, which coincides with the definition of agriculture adopted in the Agreement on Agriculture.
- c Sectoral averages based on the HS definition. On an ISIC basis, the average MFN tariff rate is 17.3% (16.5%) on agriculture, including fisheries, and 14.6% (13%) on manufacturing.

Source: WTO Secretariat, based on data provided by the Ghanaian Government.

Chart III.1

Frequency distribution of MFN tariff rates, including special import tax, 2000



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

25. The tariff on consumer goods was lowered from 25% to 20% on 1 January 2000.⁸ In April 2000, however, a "temporary" additional "special import tax" of 20% was imposed, mainly on consumer products, covering around 7% of tariff lines (Chart III.2).⁹ This effectively added a higher, fifth, tariff rate of 40%, and raised tariffs on these products substantially above the 25% level that applied prior to the 2000 changes. The mean tariff rate on consumer goods inclusive of the special tax is 23%, and is highest on average in chemicals, textiles and leather, and wood and wooden furniture. This is much higher than on capital goods (4%) and intermediate goods (13%) (Chart III.3).

26. Higher tariff rates, varying from 10% to 279%, apply only on a few refined petroleum products. Average duties vary slightly by stage of processing, indicating minimal tariff escalation overall. However, within manufacturing groups, escalation is most pronounced in textiles and leather; chemicals; wood and wooden furniture; basic metals; and food, beverages and tobacco. At 13%, average tariffs on semi-processed products are slightly lower than for primary and fully processed goods, which both have averages of 15% (Chart III.3). Tariff disparities are relatively wide overall with a standard deviation of 12 percentage points (Chart III.4). Relative tariffs are twice as disparate in manufacturing as in agriculture.

27. The authorities have indicated that the special import tax is being reviewed with the aim of reducing its product coverage, but no timetable has been announced for its removal. The removal of this tax would improve the tariff structure by reducing average duty levels and narrowing rate disparities.¹⁰ Special import taxes on various consumer goods were applied frequently in Ghana during the 1990s. The last such special import tax of 17.5% was abolished only in March 1999.

28. Tariff duties in Ghana are exclusively *ad valorem*. Ghana does not apply any seasonal duties, tariff quotas or variable levies.

(b) MFN tariff bindings

29. Ghana increased its coverage of bindings during the Uruguay Round from zero to 15% of tariff lines. In agriculture, all tariffs were bound, mainly at a ceiling rate of 99%, effective in 2004. Lower bound rates of 40% and 50% were set on a few agricultural products, to apply from 1995.¹¹ Very few industrial tariffs – 1% of tariff lines – were bound, at ceiling rates of mainly 30% and 40%, but also at 35% and 45%. These bindings were limited primarily to agricultural inputs, such as fertilizers, as well as tools and equipment.

⁸ Tariff rates on a number of duty-free products were increased and some duties lowered in the 1998 Budget. Increased duties include the introduction of a 5% tariff on certain fish and tools, and raising the rate on imported iron rods to 25%. The tariff on solar water heaters was reduced from 25% to 10%.

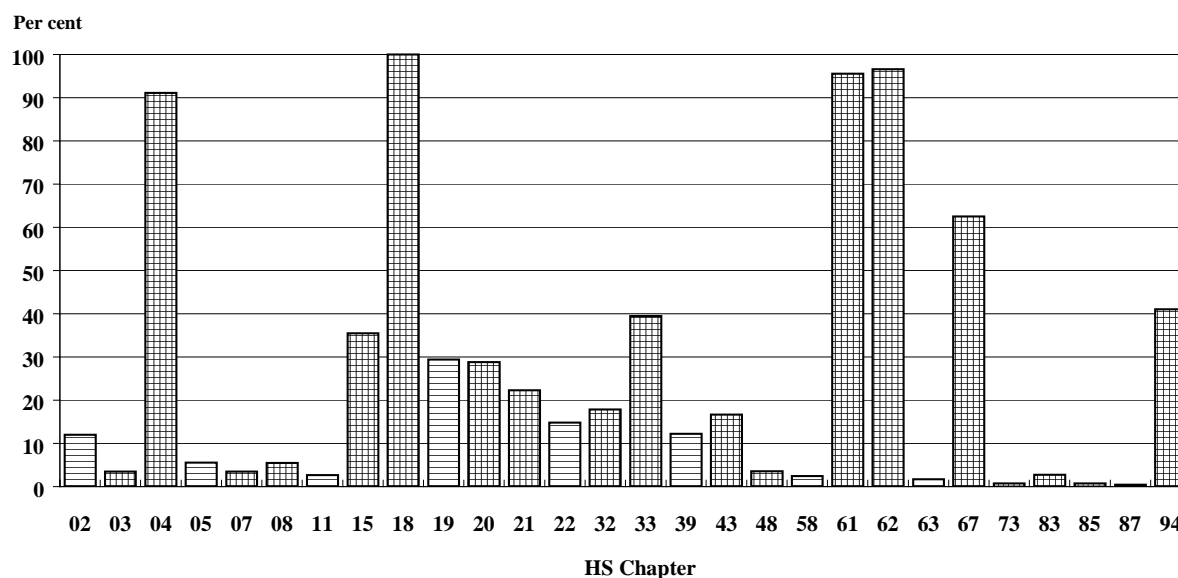
⁹ The special import tax was applied almost exclusively to goods that were already subject to a 20% tariff. Goods covered included various foodstuffs, such as potatoes, grapes, apples, wheat and meslin flour, animal and vegetable oils and fats, cocoa powder and related preparations, bread and pastries, fruit and vegetable juices; as well as a wide range of other manufactured products, including beer, cosmetics, cleaning fluids, paints, varnishes, plastic articles, paper and related products, new and worn clothing, and wooden and metal furniture.

¹⁰ Removing the 20% special import tax would lower the unweighted average MFN tariff overall to 13%; to 17% for agriculture; and to 13% for manufacturing (based on HS definitions). Tariff dispersion as measured by the standard deviation would also fall to around ten percentage points.

¹¹ Products subject to a 40% bound rate included live poultry, milk and cream, wheat, and oil cake. Tea was bound at a rate of 50%.

Chart III.2

Share of lines subject to special import tax by HS chapter, 2000



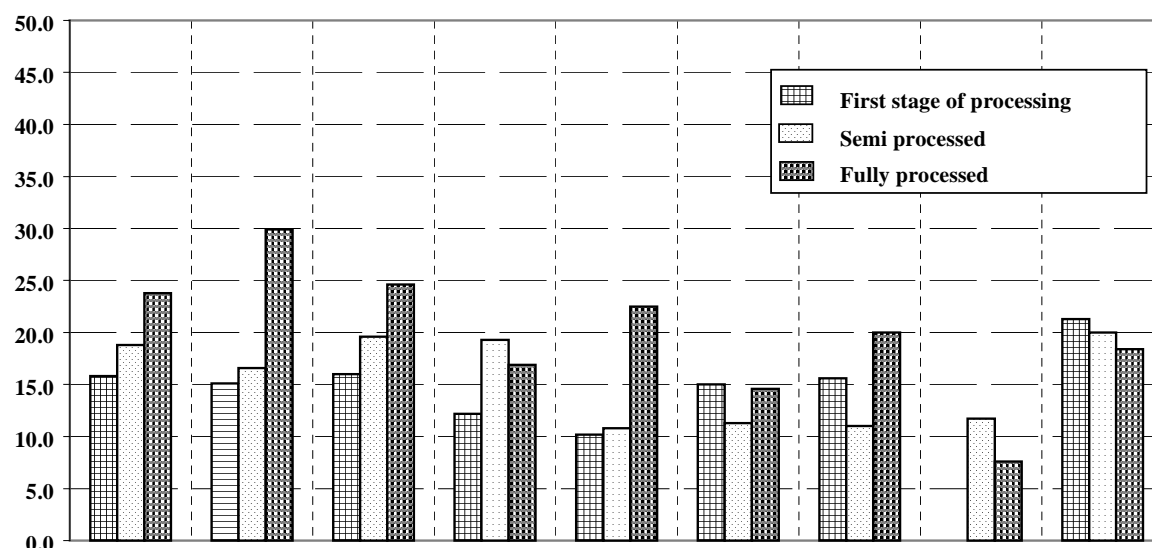
Chapter	Description
02	Meat and edible meat offals
03	Fish and crustaceans, molluscs and other aquatic invertebrates
04	Dairy produce, birds eggs, natural honey, edible products of animal origin
05	Products of animal origin, n.e.s.
07	Edible vegetables and certain roots and tubers
08	Edible fruit and nuts; peel of citrus fruits or melons
11	Products of the milling industry; malt; starches; wheat gluten
15	Animal or vegetable fats and oils and other cleavage products; prepared edible fats; etc.
18	Cocoa and cocoa preparations
19	Preparations of cereals, flour, starch or milk; pastrycooks' products
20	Preparations of vegetables, fruit, nuts or other parts of plants
21	Miscellaneous edible preparations
22	Beverages, spirits and vinegar
32	Tanning or dyeing extracts; tannins and their derivatives; inks
33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations soap
39	Plastics and articles thereof
43	Furskins and artificial fur; manufactures thereof
48	Paper and paperboard; articles of paper pulp, of paper or of paperboard
58	Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery
61	Articles of apparel and clothing accessories, knitted or crocheted
62	Articles of apparel and clothing accessories, not knitted or crocheted
63	Other made up textile articles; sets; worn clothing and worn textile articles; rags
67	Preparation and articles made of feathers or of down; artificial flowers; articles of human hair
73	Articles of iron or steel
83	Miscellaneous articles of base metal
85	Electrical machinery and equipment and parts thereof
87	Vehicles other than railway or tramway rolling-stock, and parts and accessories thereof

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

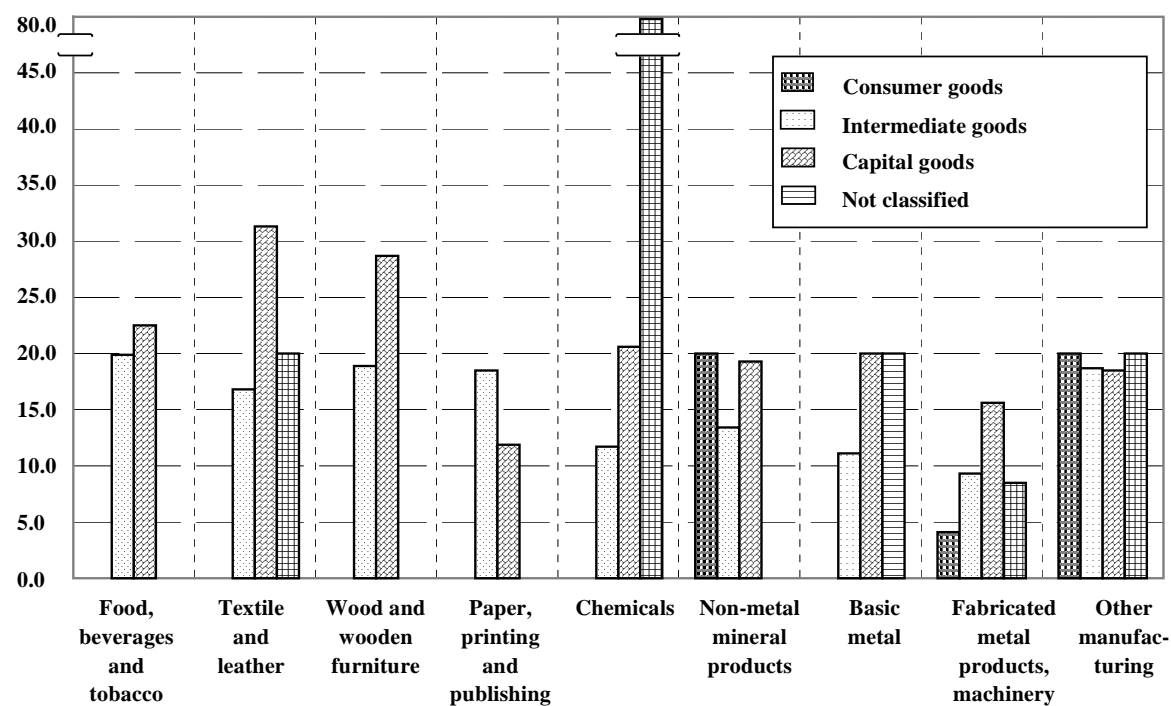
Chart III.3

Tariff averages by ISIC 2-digit category, including special import tax, 2000

(a) By stage of processing

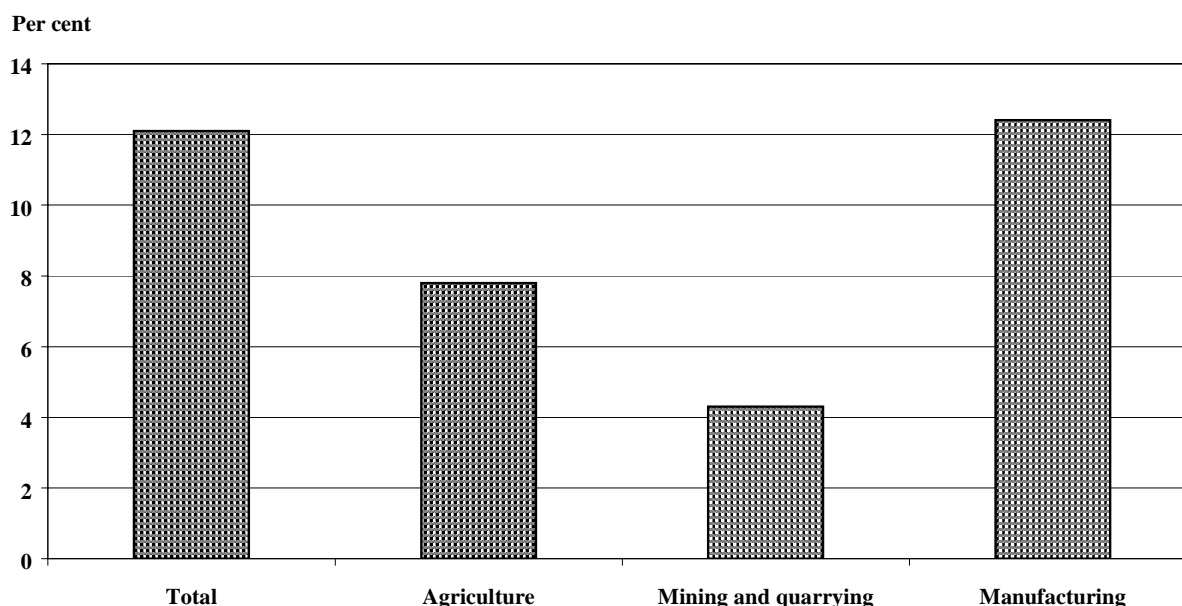


(b) By broad economic category



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

Chart III.4
Tariff disparities by ISIC sector, 2000



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

(c) Other duties and taxes

30. The Government re-introduced a value-added tax of 10% on goods and services, in late 1998, to replace the 15% sales tax.¹² The rate was increased to 12.5% in June 2000. Tax credits are allowed for VAT paid on inputs, and exports are zero rated. The VAT applies to both domestic and imported products and thus taxes consumption broadly, including services, without raising the costs of downstream processors and exporters. The VAT is applied equally across imports: it is levied at the same rate on the duty-inclusive c.i.f. price; thus, the system does not generally discriminate against imports. The one major exception is raw foodstuffs, which are exempt from VAT if produced in an ECOWAS country.¹³ The VAT of 12.5% on imports of raw foodstuffs from other origin becomes effectively a tariff, equivalent to a higher rate because it is levied on the tariff-inclusive import price.¹⁴ Agricultural inputs are exempt from VAT.

31. Many other products are exempt from VAT, including some fishing inputs, domestic consumption of electricity, transportation, construction, pharmaceuticals, bicycles, books, and machinery and equipment. Even though these exemptions were partly designed to relieve processors of exempt goods of the tax on their inputs, a major disadvantage is that the VAT system discriminates against the production of exempt goods. While the product itself is exempt from VAT whether

¹² VAT was first introduced in March 1995 at a rate of 17.5%, but was repealed after only 3.5 months.

¹³ This includes rice, millet, cassava, yam, guinea corn, plantain, vegetables, fruit, nuts, coffee, cocoa, shea butter, maize, sorghum; meat whether smoked, dried or fried; and seafood.

¹⁴ At a tariff rate of 20%, a 12.5% VAT on imports, which is not levied on domestic goods, would be equivalent to an additional tariff of 15%. The discriminatory VAT rate would be the same as the tariff rate equivalent only if the imported goods had a zero tariff. The special tax on imports of 20% is not included in the base for calculating the amount of VAT paid on imports.

imported or not, domestic producers are unable to claim tax credits for VAT paid on inputs used in their production. Imports are advantaged since overseas exporters generally receive such credits on processed inputs provided the product is taxable in the country of origin. The VAT may therefore tax Ghanaian producers selling exempt goods at home in the same way as excise or sales taxes levied on inputs. While producers of certain goods, such as of pharmaceuticals¹⁵, receive relief from this penalty as their main inputs are also declared VAT exempt, producers of other goods, such as bicycles and books, do not.

32. Excise taxes apply to both imported and domestic tobacco products, alcoholic beverages, bottled water, soft drinks, malt-based beverages, and petroleum products.¹⁶ Additional taxes covering road, energy, strategic stock, and exploration levies, apply to imported and domestic petroleum products other than liquefied petroleum gas (LPG), which is levied separately. These charges are paid by all users of petroleum products and therefore tax processors, including farmers, fishermen, and exporters, as such taxes are no longer rebated.

33. A tax of 25%, introduced on luxury goods in the 1995 Budget to replace the super sales taxes, has been abolished.

34. An inspection fee of 1% of the c.i.f. value of imports is levied by CEPS, on behalf of inspection agencies to cover the costs of providing inspection services. An ECOWAS customs levy of 0.5% has also been applied to imports from non-ECOWAS members since April 2000.

(d) Tariff preferences

35. Ghana applies MFN tariffs on all imports, except on most goods from ECOWAS members, which are duty free mainly since 1996. This applies to a wide range of processed and unprocessed agricultural products as well as manufactured goods. To be eligible, imports must meet the ECOWAS rules of origin and have at least 60% of their raw materials sourced from within the Community or have a minimum value added of 35% of the ex-works price (excluding tax). Additional industrial products can also be imported duty free from designated Community enterprises; these firms must be at least 25% owned by citizens of member States. Many designated firms are located in Nigeria. A range of traditional handicrafts can also be imported duty free from ECOWAS members.

36. The share of Ghana's imports from ECOWAS members rose slightly in 1998, to almost 25%; most come from Nigeria and Côte d'Ivoire.

(e) Concessions and exemptions

37. Ghana maintains several schemes providing tariff concessions and exemptions on certain imports administered under, often poorly specified authority. These concessions are used widely and have contributed to declining tariff revenue as a share of government taxation receipts. In 1998, tariff revenue accounted for some 17% of tax collections. Rationalizing the use of such exemptions could

¹⁵ In June 2000, the scope of the VAT exemption on "essential drugs" was expanded to include all drugs defined under Chapter 30 of the Harmonized System and also 34 active ingredients that have no alternative besides the production of these drugs.

¹⁶ Current excise rates are: 140% on tobacco products; 50% on alcoholic beverages; 20% on water and carbonated beverages; 5% on malt-based beverages; and rates range from 11% to 27% on petroleum products. Technically, under current legislation, excise duties can be applied only to domestically produced goods, but an excise component is included in the tariff applied to imported excisable products. Thus, the tariff rate will overstate the degree of protection afforded Ghanaian producers of such goods by the extent of the excise duty applied to domestic products. Where the tariff rate equals the excise duty, tariff protection will effectively be zero.

improve efficiency by making the tariff structure more transparent and removing many of the rate anomalies generated by the current system of exemptions. Concessions on capital goods and other inputs contribute to tariff escalation and widen disparities in effective protection for producers, especially of final products that are protected by the highest tariff protection of 40%.¹⁷ Limiting the use of concessions would also improve fiscal balances, thereby helping to finance overall tariff and tax reforms.

38. Data on the extent and relative importance of various exemption schemes is incomplete. Available data for 1998 indicate that some 40% of imports were exempt. Just over half of these were exemptions under the Third Schedule of the Customs and Excise Act, and the rest were exempt imports cleared through bonded warehouses and free zones. Because of the widespread use of exemptions, the implicit tariff rate (tariff revenue divided by value of imports) is well below the simple average rate. In 1997 and 1998, for example, the implicit rate of 7% was only about half the simple average in those years. Considerable scope therefore exists for improving tax revenue by reducing the scope of exemptions.¹⁸

39. Third Schedule exemptions accounted for some 24% of imports in 1998. Part A exemptions include imports by the Volta Aluminum Company for use in the aluminum smelter at Tema as well as in its mines, and by the Volta River Authority. Part B exemptions include imports of advertising matter; West African raw foodstuffs and fish caught by Ghanaian-owned vessels; agricultural machinery, equipment, and chemicals; fishing floats and gear approved by the Commissioner; jute bags imported by COCOBOD; and packing materials bearing a company logo used in exports. Many of these exemptions, although initiated by other ministries, such as Food and Agriculture and Employment and Health, are subject to approval by the Ministry of Finance. In 1998, over 5% of imports were exempted from duties under such letters. The Minerals Commission is also a substantial importer of exempt goods, importing some 7% of imports in 1998.¹⁹ Since cocoa, most minerals, and almost all the production by Volta Aluminum Company is exported, some of these concessions benefit mainly exports.

40. Concessional, usually zero, tariffs are also provided as incentives to foreign firms investing in Ghana that are registered with the Ghana Investment Promotion Centre. In 1998, some 2% of imports were exempt under these provisions. These concessions cover mainly duty-free importation of machinery, equipment and parts thereof classified in Chapters 82, 84 and 85 of the Tariff. Certain hotels, restaurants, and local film and electronic-media operators can import additional equipment, such as televisions and furnishings, under Chapter 98B of the Customs Tariff.²⁰ Firms may also apply to the Centre for duty-free import of other plant and machinery not exempt under these arrangements. Moreover, the Centre can negotiate additional specific incentive packages to promote strategic or major investments, subject to the approval of the President of Ghana.

41. The Commissioner of CEPS also has legislative authority to grant concessionary rates, usually zero, on inputs for specified end-uses imported by approved manufacturers (Chapter 98A of the Customs Tariff: "Goods Admissible at Concessionary Rates When Imported by Manufacturers

¹⁷ Tariff exemptions reduce the effective protection provided producers of exempt goods while increasing it to users of the exempt inputs.

¹⁸ Ministry of Trade and Industry (undated). This study stated that "...what needs to be done is to narrow the spread of the present tariff structure [and] lower the rates to achieve a uniform tariff regime. This process will boost revenue, encourage compliance and reduce [the] tax burden" (p.8).

¹⁹ Under the Minerals Commission Law of 1986, the Minerals Commission is exempt from the payment of taxes and duties as approved in writing by the Secretary of Finance (Section (18)).

²⁰ Chapter 98B is headed "Goods Admissible at Concessionary Duty Rates When Imported by Enterprises under the Ghana Investment Promotion Centre Act of 1994".

Approved by the Commissioner"). Eligible goods include materials used in the manufacture of agricultural implements and machinery, machetes, fishing nets, pharmaceuticals, plastic pipes and tubes, mosquito nets and coils, bicycles, iron rods, corrugated building sheets, and nails.²¹ These concessions are commonly used by manufacturers despite frequently involving additional delays of up to seven days in clearing imports.²²

42. The rationale for these concessions is unclear.²³ Most of the eligible goods are not of a dual use nature and are consumed as inputs not final goods, and could therefore be replaced by a zero tariff.²⁴ Moreover, for those few products where the concessionary rate is not zero, it is equal to the actual applied tariff of 10%. The criteria and procedures for administering these end-use tariff concessions, including the selection of eligible products and end-users, are also unclear. A few concessions would appear to be necessary to maintain the competitiveness of domestic producers of goods that can be imported at zero tariff rates under other concessional arrangements. For example, Chapter 98 allows duty-free importation of all raw materials used to manufacture fishing nets, which themselves can be imported as fishing gear at zero duty under the Third Schedule.²⁵ Some beneficiaries of Chapter 98 concessions, such as bicycle manufacturers, are also penalized by the VAT system. However, the net impact of these arrangements on producers of VAT-exempt goods is unknown since the penalty incurred, the amount of VAT paid on inputs for which no tax credit is received on domestic sales, is unrelated to the savings in tariff duties on imported inputs.

43. It is also unclear how the interests of Ghanaian (or potential) producers of such inputs are taken into account. While end-use arrangements benefit the users of eligible inputs, they discriminate against the domestic production of these inputs. Moreover, such arrangements are themselves discriminatory in that they can introduce varying input prices among manufacturers of different products. While manufacturers of plastic pipes and tubes, for example, can import plastic duty free, other manufacturers importing the same input to produce other goods are required to pay the full tariff, unless the same concession is extended to their use. Thus, these arrangements undermine the transparency of the tariff structure and can distort resource allocation by providing "tailor-made" protection. They can be a major source of discretion in customs administration.

44. The Government is taking steps to rationalize the use of these exemptions. According to the authorities, all exemptions have required parliamentary approval since 1992. This was re-emphasized in the 2000 Budget, when the Government also announced that it would review the system of duty exemptions. It immediately removed such concessions for non-government organizations.

45. The largest single source of duty exemptions continues to be bonded warehouse imports (section (ii) above). In addition, "free-zone" enterprises are important users of exempt imports (section (3)(vi)). Exporters are also entitled to full drawback of duties paid on imported inputs used to

²¹ Imports of unmanufactured tobacco, materials for the manufacture of evaporated milk, and certain packaging materials by approved manufacturers receive a concessionary tariff rate of 10%.

²² The importer must apply in writing to the Commissioner of CEPS for approval on each consignment, and application can only be made once the imported goods have arrived.

²³ COCOBOD benefits from two tariff concessions: duty-free imports of jute bags, under Part A of the Third Schedule; and plastic granules under Chapter 98.

²⁴ This would ensure that all importers using the product would receive the same zero tariff rate and eliminate the need for special customs processing, which delays clearance.

²⁵ Other examples are agricultural chemicals and pesticides; materials imported for the manufacture of machetes; and materials of base metal for the manufacture of agricultural implements and machinery.

manufacture exports. However, the system administered by CEPS is apparently not working well; the scheme is said to be cumbersome and there are often major delays in receiving duty refunds.²⁶

(iv) Customs valuation

46. Tariffs are levied on the c.i.f. (cost, insurance, and freight) value of imports. Ghana converted to the transaction valuation of imports in accordance with the WTO Customs Valuation Agreement from 1 February 2000.²⁷ The authorities saw the replacement of mandatory preshipment inspection with destination inspection in April 2000 as an integral part of Ghana's implementation of its WTO commitments. Some initial problems had occurred in implementing transaction valuation, including substantial fraudulent under-invoicing. The authorities have indicated that Commissioner's valuation, based on minimum import prices, has been discontinued. The relevant customs legislation is currently being processed. Ghana is a member of the World Customs Organization.

47. Special valuation arrangements continue to apply for imported second-hand motor vehicles. Import values are assessed using set nominal depreciation rates. The new purchase price is used for vehicles less than six months old. The value for older cars up to 1.5 years, allowing for depreciation on new car price, is 85%; from 1.5 to 2.5 years, 75%; and from 2.5 to 5 years, 60%. Imported vehicles between five and ten years of age will be valued at 50% of the new purchase price.

(v) Import prohibitions, quantitative restrictions, and licensing

48. Ghana maintains few import restrictions. Those applied are mainly to protect human health and national security, such as restrictions on imports of obscene articles, dangerous weapons, contaminated food or infected animal carcasses, and raw coffee imported overland. Some products are conditionally prohibited and require a licence to be imported. The Ministry of Finance must license imports of rough or uncut diamonds. Imports of evaporated or condensed milk of fat content below 8% or 26% for dried milk or powder, excluding clearly identified skimmed milk, must also be licensed. Brandy, rum, and whisky must be certified as being stored in wood for at least three years prior to importation. Imports of parrots are prohibited.

49. Special permits are required to import products such as drugs (issued by the Ministry of Health); chemicals (Environmental Protection Council Certificate); meat products (Veterinary Services Department); arms and ammunition (Ministry of Interior); explosives for mining (Ministry of Interior); gaming and gambling machines (Ministry of Interior); and telecommunications equipment (National Frequency and Registration Board).

50. Imports of motor vehicles, including trucks, lorries, and buses, older than ten years were banned in the 2000 Budget. Previously, imported over-age motor vehicles were subject to a penalty tariff of 20% for cars more than five years old; 20% from five to ten years old; and 50% for cars older than ten years.

51. Only drugs, cosmetics and other chemical substances that are registered with the Food and Drugs Board can be imported, and then only if supported by a quality assurance certificate issued by the competent authority in the exporting country.

²⁶ According to the private sector, delays of more than four months are common in obtaining refunds, and some claims are never received.

²⁷ Ghana notified to the WTO that it would be invoking the Special Provisions Available to Developing Country Members to delay the application of the Agreement, on 3 November 1999 (WTO Document G/VAL/2/Rev.9).

52. Commercial sale and importation of unapproved seeds is prohibited, and can only be made by a registered commercial seed producer or importer (Seeds (Certification and Standards) Decree of 1992 and The Seeds Act of 1995). The Minister of Food and Agriculture is responsible for approving seeds and registering sellers, including importers, based on advice from the National Seed Committee (Seeds (Certification and Standards) Regulations of 1973).

(vi) Anti-dumping, countervailing, and safeguard measures

53. Ghana does not currently have any national legislation on anti-dumping, countervailing, and safeguard measures.

54. The authorities indicated that the recent introduction of a special import tax on some products was partly designed to counter unfair trading practices of foreign exporters selling at prices assessed to be unrealistically low prices by CEPS, which were causing injury to domestic producers.²⁸ However, these arrangements allowing the use of special import taxes to provide anti-dumping or other relief are not public and allow no formal appeal procedures.

55. The Ministry of Trade and Industry monitors world markets and the impact of imports on domestic competing industries so that compensatory measures can be taken to ensure that foreign goods compete fairly.²⁹ The National Economic Forum of 1997 also recommended that anti-dumping measures were needed to protect local industry.³⁰

(vii) Standards and other technical requirements

(a) Standards, testing, and certification

56. The Ghana Standards Board is mainly responsible for standardization matters.³¹ It sets standards and conducts quality assurance and conformity testing for both imports and exports. The Board is mainly government funded, but also receives fees from its quality assurance and testing activities. It is a member of the International Organization for Standardization (ISO), the African Regional Organization for Standardization, and the International Organization for Legal Metrology. The Board provides laboratory and inspection services for CEPS, mainly on meat, poultry, beverages, and engineering products.

57. Ghana primarily adopts international standards, especially ISO or Codex norms. A Technical Committee first examines international standards. These are generally applied unless found inadequate; there have been few cases of this to date. Where no international norms exist, standards from other countries are usually used; historically from Britain but increasingly from the EU or South Africa. Ghana has adopted its own standards in only a small number of cases, such as for cassava chips. Ghana currently has about 46,500 standards, of which about 18,000 are ISO norms. Some 2,700 international and foreign standards, on basic engineering design and manufacturing, were

²⁸ The special import tax was also applied to "reduce pressure on the country's critical foreign exchange position".

²⁹ Government of Ghana (1998).

³⁰ National Planning and Development Commission (1997).

³¹ The Board has been notified to the WTO as the contact point (point of enquiry) for issues related to the Agreement on Technical Barriers to Trade and for the Agreement on the Application of Sanitary and Phytosanitary Measures.

adopted in 1999. Ghana is in the process of adopting some IEC standards. All Ghanaian standards are mandatory.³² The Government's objective is to replace these with voluntary standards.

58. Ghanaian standards do not discriminate against imports: the same standards apply to imports and domestic goods. Importers and domestic manufacturers must register with the Board. All locally manufactured goods must bear the Ghana Standards Certification Mark issued by the Board to licensed suppliers. Conformity tests from accredited foreign testing agencies are generally accepted. Ghana has a Mutual Recognition Agreement with Japan on food exports and has recently been accredited with the EU for testing fish exports to the European market. Ghana is involved in fast-tracking standards harmonization among ECOWAS members and is currently working on this with the Standards Board of Nigeria. As part of this fast-track approach, Ghana also has mutual recognition agreements with other ECOWAS members whereby it recognizes the conformity tests of national agencies. The Ghana Standards Board is also collaborating with the Ministry of Lands and Forestry to develop quality standards for managing Ghana's forests.

59. The Board also inspects exports of certain Ghanaian goods to ensure that standards required by overseas markets are met: it issued 1,737 health certificates on exports in 1999, of which 1,686 were on fish exports to the EU.³³ New standards and quality requirements are being extended to non-traditional products to help promote exports to major markets. COCOBOD is responsible for all quality inspection, grading, and certification of cocoa exports.

60. Quality assurance is provided through factory inspections and accreditation. ISO 9000 specifications have been adopted in Ghana since 1998.

61. Product certificates, which are legally valid for one year, are issued to accredited firms. The Board monitors firms every six months. It also protects consumers' health and safety by conducting laboratory tests on imported and domestic goods, such as drugs, cosmetics, drinks, household products, building materials, and foodstuffs. It is required by legislation to provide quality certificates for registration of locally manufactured drugs, cosmetics or other chemical substances by the Food and Drugs Board, established under the Food and Drugs Law of 1992.³⁴ The Government is concerned that some imports may be of insufficient standard or quality, and pose risks to consumers. For this reason, the Board is to become increasingly involved in the destination inspection of imports. Ghana has no strong consumer association and does not have product liability legislation to safeguard consumers.

62. The Board has also set limits on the fat content of beef, pork, mutton, and poultry to protect human health. These are applied uniformly to imported and domestic meat. The maximum fat content levels by weight are 25% for beef, 42% for pork, 35% for mutton, and 15% for poultry.

63. Other Board activities include forensic tests for medical institutions and law enforcement agencies. It is also responsible for metrology inspection, verification, and calibration to validate measuring and weighing instruments for trade and industry.

³² Standards include specifications on building materials, food and agricultural products, industrial and household products, electrical goods, pharmaceuticals, and quality management.

³³ Ghana Standards Board (1999).

³⁴ Legislation requires the Food and Drugs Board to cooperate with the Ghana Standards Board to ensure adequate and effective standards for food and drugs.

(b) Sanitary and phytosanitary arrangements

64. SPS measures in Ghana are primarily the responsibility of the Directorates of Plant Protection and Regulatory Service, and Veterinary Service of the Ministry of Food and Agriculture. The Prevention and Control of Plant Pests and Diseases Act of 1965 is to be replaced by the Plant Quarantine Act, which has been drafted. There are no distinctions made between imported and domestic products. Ghana's quarantine regulations are based on the FAO or the Inter-African Phytosanitary Council.

65. Importation of designated plants and plant products requires a phytosanitary certificate from an authorized body of the exporting country and an import permit issued by the Plant Protection and Regulatory Service. Prohibited imports include soil; bud wood of cocoa (unless imported through a non-cocoa-producing third country, such as Britain); and all plants infected by pests and diseases. These include rice from locations known to have kernel smut, tungro and mottle viruses; plants from countries with cocoa witchbroom disease; and all coconuts in husk from various countries. Ghana recognizes phytosanitary certificates issued in accordance with the requirements of the International Plant Protection Convention. The Plant Protection and Regulatory Service issues phytosanitary certificates on exports required by importing countries. Goods must be inspected within 14 days of being exported. It also has statutory responsibilities over plant pest and disease management, pesticide regulation and control, and inspection and certification.

66. Regulations controlling pests and diseases apply to all agricultural produce, including fruit and vegetables. These include for example, spotted wilt for pineapples; scab and bacterial leaf spot for mangoes; fruit spot for pears; and grey mould for lettuces.

67. The Veterinary Services Directorate conducts animal quarantine. Current arrangements, since 1 June 1997, apply to imported products of meat and dairying, live animals, such as cattle, sheep, goats and pigs, as well as veterinary vaccines, drugs, and equipment. Imports require a permit issued by the Veterinary Services Directorate and must have a veterinary health certificate from the exporting country. This should certify that the animals were free from infectious disease; fit for human consumption; slaughtered in approved abattoirs; and free from radioactive contaminants. The International Office of Epizootics (OIE) provides weekly reports on livestock and poultry diseases worldwide to member countries, including Ghana.

68. Ghana maintains a ban on imports of pigs and pork from the West African sub-region because of the recent outbreak of swine fever disease.

(c) Marking, labelling, and packaging

69. Ghana's regulations on labelling, marking and packaging of specified products are contained in the 1992 Ghana Standards Board (Food, Drugs and Other Goods) General Labelling Rules. Imported and domestic food and drugs must bear English markings identifying such attributes as the type of product, the country of origin, producer's or importer's name, the ingredients or components, net weight, instructions on use, and the expiration date for perishable foods. These food-labelling requirements are consistent with those of the General Codex Standard on Food Labelling. Similar labelling is required on a range of other specified products, including electrical goods, such as televisions, air-conditioners, lamps and household appliances, as well as cement, batteries, paints, pesticides, detergents, poultry feed, toiletries, and cosmetics.

70. Fines are levied on suppliers of improperly labelled products. Products are also confiscated unless tested and approved by the Ghana Standards Board, in which case suppliers have 28 days to

re-label the goods as required for sale. The Board has taken steps to increase inspections to reduce food items from being sold with expired "use by" dates.

(viii) Government procurement

71. The state-owned Ghana Supply Company Ltd is the centralized agency handling government procurement in Ghana. However, authority for public procurement rests with the Finance Minister (Financial Administration Regulations of 1979). The Minister has increasingly issued directives enabling goods to be procured directly, thereby decentralizing government procurement. Consequently, the Company accounts for only about 5% of total government procurement (amounting to US\$7.4 million in 1999). The rest is procured directly by the ministries and state-owned entities, which have substantial autonomy over their procurement. They are not required to follow the Company's criteria on procurement, such as requiring competitive bidding on contracts above Cedi 1 billion and using open tendering procedures, including providing access by foreign tenderers. Since no manual exists to codify the rules on government procurement, such arrangements are likely to vary significantly between ministries. Procurement by individual entities is not audited externally. Avenues for appeal against procurement decisions appear limited, especially against contracts let by ministries and state-owned enterprises.

72. Since January 1999, local firms have received a 12.5% price preference over foreign suppliers. Contractors are also required to use 40% local materials where available. However, there is no reliable information on how individual entities apply these preference margins for local suppliers; larger preferences may be possible in some instances. The Government is committed to public procurement of locally manufactured goods. It recently issued directives to ensure that this occurred as much as practicable. The Government is also implementing a system whereby public-sector organizations are to purchase "made-in Ghana" goods to support local industry and to promote quality production.³⁵

73. Ghana is not member of, nor observer to, the Plurilateral Agreement on Government Procurement. The Government is considering introducing codified rules on public procurement, which will be administered by a central body.

(ix) State trading

74. According to the authorities, no state-owned or other company directly holds an import monopoly or has exclusive privileges. The import monopoly on crude oil by the Ghana National Petroleum Corporation was removed in April 1996.

(x) Local-content requirements

75. According to authorities, Ghana has no local-content arrangements.

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Registration and documentation

76. There are no specific requirements for exporters of non-traditional goods; registration with the Ghana Export Promotion Council is no longer necessary. Non-traditional exports are subject to completion of an export form on exportation: this became a legal requirement, largely for statistical

³⁵ Government of Ghana (2000a).

purposes, in September 1995. Non-traditional exports cover all goods and services other than cocoa beans; lumber and logs; unprocessed gold and other minerals; and electricity.

77. However, exporters of traditional products are subject to foreign exchange surrender requirements administered by the Bank of Ghana. For each export transaction they must provide a bank-approved exchange control form (A2 form). Except for the overland export of logs³⁶, such forms are valid for three months, but may be renewed once by the same bank for a further three months. These surrender requirements apply only to cocoa and gold; they no longer apply to lumber. Currently about 98% of export receipts from cocoa beans must be surrendered, allowing 2% retention. For gold, the retention limit is set by agreement between the Government and the companies; on average, 25-30% is surrendered.

78. Exporters of non-traditional goods can hold up to 100% of export receipts in offshore foreign currency accounts to buy imported inputs and meet other allowable business expenses (i.e. capital imports and debt service obligations).

(ii) Export taxes

79. Traditional exports are taxed while non-traditional products are exempt. The tax is mainly applied to cocoa, but exports of gold, bauxite, manganese, and certain processed timber are also taxed at 6% of the f.o.b. value. An export tax is also levied on aviation jet fuel.

80. The tax on cocoa exports is collected as a 100% profit tax on COCOBOD. The Government taxes cocoa farmers by setting growers' prices well below world levels, and collecting as revenue COCOBOD's inflated profits. Its total cocoa receipts, after expenses – including payments to growers – accrue to the Government. However, unlike a conventional export duty, this arrangement taxes both exports and domestic sales, although the tax falls mostly on exports since these account for 80% of cocoa receipts. Farmers are taxed whether the cocoa beans are exported or sold at home. Thus, unlike conventional export taxes, the tax does not distort production patterns by encouraging domestic processing of cocoa products.³⁷ However, farmers bear the tax, assuming, as the empirical evidence suggests, that Ghana has insufficient market power to be able to pass it on to foreign consumers through higher world cocoa prices (Box III.1). Although undergoing reform, Ghana's heavy taxation of cocoa has severely affected the industry and the economy generally (Chapter IV(2)(iii)).

81. The implicit tax rate on cocoa production is being reduced below the rates in the 1970s and 1980s (around 45%), when Ghanaian farmers received only 40-50% of the international cocoa price.³⁸ Government policy is to reduce the tax by raising growers' returns to over 60% the world price. Cocoa export tax receipts have also fallen in recent years due to the collapse in international cocoa prices. In 1998, cocoa tax receipts amounted to Cedi 401 billion, equivalent to about 15% of the Government's total tax collections; they are expected to fall in 1999 and 2000 to Cedi 254 billion and Cedi 160 billion, respectively.³⁹

³⁶ These are valid for one month and cannot be renewed.

³⁷ Export taxes depress the domestic price of the product by diverting sales on to the home market. This penalizes the producer of these products. Downstream processors benefit since they can purchase the primary product at prices below world levels, akin to an implicit input subsidy. Where the subsidy is large, these arrangements can end up distorting resource allocation by generating processed exports that rely on long-term government assistance.

³⁸ Bulir (1998).

³⁹ Government of Ghana (2000a).

Box III.1: The incidence of cocoa export taxes

Whether the incidence of an export tax is borne by the domestic producer or the foreign consumer depends on the supply situation of the country and demand conditions for the product in the world market. If a country is "small", i.e. its exports of a particular commodity represent a minor share of world supply, it will have no influence on world price, that is, the country will be a price taker on international markets. Any reduction in export volumes caused by the export tax will not raise the export price. In this case, the domestic producers of the taxed commodity will bear the full incidence of the export tax, and are unable to pass on the tax to foreign consumers via increased prices.

Ghana would appear to be a price taker for its cocoa exports. Experience from other countries using export taxes demonstrates that even where such terms of trade benefits are thought to be important, they can be difficult to capture in practice. This is especially true in the longer term, when world demand for any particular commodity is likely to be more elastic due to greater product and country substitution. Thus, export taxes on cocoa have not raised export returns in Ghana. Rather, it has penalized the cocoa industry and misallocated resources away from a (relatively efficient) activity.

Source: WTO Secretariat.

(iii) Export prohibitions, controls, and licensing

82. Ghana maintains few export restrictions. The main restriction is on exports of round or unprocessed logs. In the late 1980s, the export of 18 species of logs was banned, and in 1995 log exports were suspended outright. Government policy has been to replace export taxes on logs progressively with prohibitions, to encourage downstream processing of timber products and to help preserve forests. The efficacy of using export prohibitions to achieve such economic objectives as well as to meet environmental concerns is, however, questionable (Chapter IV(2)(iii)). Exports of parrots, as well as raw rattan cane and bamboo are also prohibited.

83. Export permits are required for wildlife, timber products, precious minerals, fish, and antiques.

(iv) State trading

84. COCOBOD has monopoly rights over the export of cocoa beans grown in Ghana under special marketing and taxation arrangements (Chapter IV(2)(iii)). Recent guidelines released by the Government propose the partial liberalization of cocoa bean exports from October 2000. Gold and diamonds mined by small-scale miners (working claims of less than ten hectares) must be marketed and exported by the Precious Minerals Marketing Corporation and Miramex Co. Ltd.

85. Ghana has not notified any state-trading enterprise to the WTO as having monopoly rights over exports.

(v) Export assistance

86. According to the authorities, Ghana does not provide direct subsidies to assist exports of goods or services.

87. Nevertheless, Ghana assists exporting companies by providing concessional income tax rates. Non-traditional exporters are taxed at a company tax rate of 8%, instead of the standard rate of 35%, regardless of export performance. Moreover, another scheme still provides direct export incentives

through company income tax rebates to all exporters, according to export performance.⁴⁰ The rebate is available to manufacturers exporting at least 5% of their production. It increases with the share of production exported. The maximum company tax rebate of 75% – corresponding to a tax rate of 8% – is granted to manufacturers exporting more than one quarter of their production. Agricultural and manufacturing products attract different rebates⁴¹; exports of services are ineligible. This scheme appears to overlap with the general tax concession granted to non-traditional exporters, and therefore would seem largely redundant, except for traditional exporters.

88. Although the tax rebate is applied to income from all sources and not just exports, the scheme provides a substantial financial incentive for firms to increase their exports. These tax savings provide substantial incentives for manufacturers to raise export shares to cross over into higher rebate brackets. When export shares rise above 25% the incentive for additional exports disappears.

89. Such concessional income tax schemes assist manufacturers in the same way as government subsidies by allowing them to reduce their income tax payments. These "tax expenditures" financed from forgone revenue can, however, be potentially costly to the economy. They undermine the transparency and efficiency of the tax system, and are likely to contribute to the Government's budgetary problems. Providing such export incentives may also go against the Government's liberalization objectives and could establish exporting activities that are dependent on long-term government support.

(vi) Free-trade zones

90. Legislation for establishing free-trade zones was passed in 1995, aimed at promoting economic development (The Free Zone Act and related regulations). The Ghana Free Zone Programme is seen as an integral part of attracting foreign investment under the Government's Gateway to West Africa Project. It involves deregulation of ports and airline transportation and the establishment of export-processing zones. Three zones have been designated: at Tema, Sekondi, and Fumesua. A number of difficulties have slowed their development, including securing title to designated land and obtaining adequate supplies of utility services, such as electricity, water, and communications. No zone is yet operational, but Tema is expected to commence in 2001. These zones are being developed and run privately by licensed operators, and a number of large projects are anticipated to come on stream. The largest so far is for the construction of an oil refinery at Sekondi, by a U.S. company, at a cost of US\$2.7 billion.

91. Enterprises can be designated as free-zone firms without physically locating in a free-zone enclave. Investors may choose to operate outside an enclave as a single factory enterprise. There are currently 64 of these companies registered, of which about 46 are operational. Licensed enterprises are mainly engaged in the production of wood and furniture products: metal fabrication; garments; food processing, including salt and cocoa; cosmetics; plastic products; and pharmaceuticals. In 1998, production from licensed enterprises amounted to US\$158.5 million, of which exports amounted to US\$145.4 million (ex-factory values).⁴² Most exports of eligible firms did not exceed US\$5 million; exceptions included the Pioneer Food Cannery (exports of US\$70 million) and West African Mills (US\$52 million). Capital invested in free-zone projects at end of 1998 amounted to US\$117.2 million.

⁴⁰ The corporate tax rebate scheme was already in place at the time of the previous Trade Policy Review of Ghana (GATT, 1992, Vol. I).

⁴¹ Firms engaged in agricultural production that export between 5% and 15% of output receive a tax rebate of 40%; for exports from 15% to 25% the rebate is 60%. The corresponding rebate rates for other manufacturers are 30% and 50%.

⁴² Ghana Free Zones Board (1998).

92. Free-zone firms receive a range of generous concessions, including exemption from all import duties, excise taxes, and other direct and indirect taxes, charges, and levies on inputs used in production. In addition, firms are exempt from income tax for ten years, and pay a maximum company income tax rate of 8% thereafter. According to the authorities, these incentives were designed mainly to match similar concessions provided by neighbouring countries. The main requirement to become a designated free-zone enterprise is to export a minimum of 70% of production. The legislation permits a firm to sell up to 30% of production domestically. Domestic sales in principle attract normal taxes and duties. While other criteria apply, including minimum employment levels for Ghanaians and local content to the maximum extent possible, the free-zone system effectively is similar to a general export incentives scheme. Although the income tax concessions apply to all profits, including from domestic sales, they provide substantial incentives for firms to export 70% of output. Thus, when combined with other concessional income tax schemes for exporters (see above), Ghana provides generous export incentives.⁴³

93. Exempt imports by free-zone enterprises have increased. In 1998, some 13% of total imports, equivalent to 6% of exempt imports, went to such enterprises. Such incentives suffer from the same general drawbacks inherent in the income tax rebate scheme for exporters (see section (v) above). They also discriminate against non-exporting producers that sell domestically and therefore do not benefit from the income tax concessions. The domestic sales limit of 30% for free-zone enterprises seems generous, especially in light of the substantial income tax benefits applied. These disadvantages are compounded by the extent to which this limit, and the payment of VAT and tariffs on domestic sales, is effectively enforced. Poor enforcement of these arrangements could further undermine not only the tariff protection afforded domestic industries, in a non-transparent and potentially distorting manner, but also result in non-payment of VAT and other duties on imports. Monitoring and control systems for free zones are reportedly weak, and substantial sale leakages to the domestic market are thought to occur. The Government is concerned about this aspect and is endeavouring to stop such leakages.⁴⁴

(vii) Export promotion and finance

94. The Government funds export promotion activities undertaken by the Ghana Export Promotion Council. The Council assists exporters by identifying potential overseas markets and by advising exporters on product development, costing, and pricing. The Council publishes, for example, minimum export prices for various goods as a guide to exporters. It also participates in trade fairs and works with the Government in rationalizing export procedures and formulating export policies. Part of the Council's funding is provided by external agencies and bilateral donors.

95. It funds a variety of schemes to promote exports, including an Export School to enhance knowledge and skills of exporters. The Export Production Village Programme, for example, helps small rural producers in dealings with exporters, assists with sourcing of inputs, and provides extension services. Products covered include agricultural produce, handicrafts, and manufactured goods such as salt.⁴⁵ The Council also participates in various other activities, such as the Agricultural Diversification Project, aimed at expanding non-cocoa tree and horticultural exports; and the task

⁴³ The tax benefits for free-zone enterprises exceed those available under alternative schemes. Although the long-term company tax rate of 8% is the same, income of free-zone enterprises is exempt from tax for ten years. In addition, duty exemptions cover imported inputs whereas other exporters (apart from exporters like COCOBOD and the Volta Aluminum Company, which receive specific duty concessions) must rely on the less effective drawback scheme for refunds of duties paid on imported inputs.

⁴⁴ Government of Ghana (2000a).

⁴⁵ Other products to have benefited from the programme include fruit, vegetables, spices, various tree crops, shrimps, batik handicrafts, rattan furniture, jewellery, wooden items, and processed cashew nuts.

force on Problems Affecting Production and Export of Non-traditional Exports, which looked primarily at pineapple exports. Other projects include the export of cassava chips at Sefwi Wiawso, fish smoking and processing at Sekondi, and black pepper at Aboadze Juaboso Bia and Sefwi Wiawso.

96. External donors have also directly funded a number of projects designed to facilitate non-traditional exports. These include the Trade and Investment Reform Programme and the Ghana Trade and Investment Gateway Project.

97. The Export Finance Company provides loans to non-traditional exporters as well as export credit guarantees and insurance. However, the Company has only limited financial resources and is still recovering from losses incurred in the early 1990s due to poor loan performances. Restructuring of the company is expected to be completed by December 2000, and fresh capital is to be injected to assist the company in becoming a leading provider of finance for the non-traditional export sector. The Private Enterprise and Export Development project was established in 1993, by the World Bank, to promote non-traditional exports by refinancing and guaranteeing exports and assisting commercial banks in providing credit to small exporters. The project set up an export credit refinance and guarantee facility at the Bank of Ghana to assist exporters to obtain short-term finance from participating financial institutions. The project was completed in March 1998. The Bank continues to extend such credit through the banking system, and the Prudential Bank, started in 1996, provides short-term loans of up to one year to small exporters of handicrafts, garments, and agricultural produce. Exporters must have a firm export order and loans are limited to 60% of the value of sales. The Export Development and Investment Fund was also established recently to guarantee the provision of short-, medium- and long-term investment finance for exporters.

(4) MEASURES AFFECTING PRODUCTION AND TRADE

(i) Investment incentives

98. The Ghana Investment Promotion Centre Act of 1994 eliminated investment screening and prior approval for investment incentives. In addition to tariff and VAT exemptions on imported machinery and equipment (section (2)(iii)(e)), income tax concessions are granted, mainly benefiting agricultural production. Income from cocoa is exempt from tax, and tax holidays of ten years apply to income from tree crops (coffee, oil palm, sheabutter, rubber, and coconut) and cattle grazing, and of five years for cash crops and poultry farming. Fishing income also receives a tax holiday of five years. Accelerated depreciation provisions apply to all sectors, but efforts are under way to replace these with standard capital allowances.

(ii) Credit arrangements

99. The Business Assistance Fund, administered by the Ministry of Trade and Industry, is a credit scheme set up in 1994 to provide finance to distressed but potentially viable enterprises. The Fund was capitalized to a value of Cedi 10 billion. Loan recovery under the scheme has been disappointingly low. It is presently around 20% and as a result no new loans are being approved; the emphasis is now on loan recovery. The Ministry also runs an Industrial Clusters Programme for Small-scale Enterprises to promote production of textile and garments, wood products, food and beverages, and packaging.

100. The National Board for Small-Scale Industries provides credit to small-scale entrepreneurs through various schemes, such as the Revolving Loan Fund Scheme and the Small and Micro Enterprises Promotion Fund PAMSCAD credit line. Loans totalling Cedi 267 million were made to 775 entrepreneurs in 1999.

101. Improving access to rural credit is an important component of the Government's Accelerated Agricultural Growth and Development Strategy. The government-owned Agricultural Development Bank (ADB) is the main supplier of rural finance; in 1997 it accounted for some three quarters of bank finance to the rural sector. The ADB runs several finance schemes, including the Inventory Credit Scheme to fund mainly fish and maize inventories, and the Nucleus Outgrowers Scheme for crops, such as cotton. Over half of its agricultural loans in 1998 were in industrial crops (cotton, groundnuts, oil palm, and soybean) as well as cocoa production and marketing.

102. Requirements for commercial banks to grant at least 20% of their loans to the agriculture sector at concessional rates were removed in 1990. Rural banks receive a tax holiday for ten years and their company income tax rate was reduced from 35% to 8% in 1998.

(iii) State enterprises and privatization

103. The Government continues to privatize state-owned enterprises through the activities of the Divestiture Implementation Committee, set up under legislation passed in 1993. From 1993-99, about 133 enterprises were divested, including manufacturing operations, such as the production of textiles and matches. Total divestiture receipts over this period amounted to Cedi 280 billion. However, most divestments occurred before 1997, when important state enterprises were privatized. These included Ashanti Goldfields (at US\$462.4 million); various state-owned banks (US\$65.2 million) and 30% of Ghana Telecom (US\$38 million).⁴⁶ A number of privatizations were implemented through flotation on the Ghana Stock Exchange, which commenced operations in 1992.⁴⁷ The Government has retained minority ownership in some 30 privatized enterprises. Examples include Ashanti Goldfields (20% government equity), Tema Food Complex Corporation or GAFCO (25%), GNTC Bottling Company (29%) and Tema Steel Works (40%).

104. Divested enterprises are selected by the Government. All divestments made by the Committee must be approved by the President's Office. The privatization process slowed between 1997 and 1999. Out of well over 300 state-owned enterprises that initially existed some 250 have been privatized; however, many of the larger and more sensitive enterprises remain state owned. The Government has attempted to accelerate the divestiture programme, with plans to privatize some 80 enterprises, over 1999 and 2000, covering mainly transport, energy, and banking. Divestiture receipts projected over these two years were Cedi 250 billion. By end June 2000, receipts had amounted to Cedi 173 billion. The Government's latest timetable of privatization runs until end 2003; it includes four fully owned large and strategic enterprises as well as fifteen medium-sized enterprises (Table III.2). Major delays have occurred in privatizing many of these in the past, such as the Tema Oil Refinery, the Ghana Oil Company, and the Ghana Commercial Bank. Outside banking, the only large and strategic enterprise privatized so far has been the 30% divestiture of Ghana Telecom, in 1996.

105. The divestiture process is open to foreign investors, who currently hold some 10% of ownership of firms divested by the Committee. While no joint-venture requirements apply, preference is given for local participation of at least 25%. Moreover, where bids are equal, Ghanaians receive preference. Deferred payment arrangements, normally for up to three years, may be negotiated. A substantial level of arrears exists in privatization payments, some more than three years

⁴⁶ Other enterprises privatized included Tema Food Complex Corporation, Ghana Oil Palm Development Corporation, GIHOC Bottling, Ghana National Manganese Company, Golden Tulip Hotel, West African Mills, Tema Steel Company, and Ghana Rubber Estates Ltd.

⁴⁷ These included Ashanti Goldfields Company, Aluworks Company, Ghana Aluminium Company, Ghana Commercial Bank, and the Social Security Bank.

old: almost half of the payments from 1998 to end June 2000 are outstanding, mainly owed by domestic investors.

Table III.2
Privatization timetable until 2003

Enterprises to be privatized
<p>Large and strategic</p> <p>State Insurance Company</p> <p>State Housing Company</p> <p>Mim Trading Company</p> <p>Electricity Company of Ghana</p> <p>Medium sized state-owned enterprises</p> <p>Ghana Publishing Corporation – Takoradi Press</p> <p>Ghana National Procurement Agency</p> <p>Ghana Reinsurance Company</p> <p>GNTC Commercial properties</p> <p>Volta Lake Transport Company</p> <p>Tema Oil Refinery</p> <p>City Express Services</p> <p>Omnibus Service Authority</p> <p>GHASEL Asutsuare and Komenda</p> <p>Ghana National Petroleum Corporation (non-core assets)</p> <p>Pomadze Poultry Enterprises Limited</p> <p>Ghana Commercial Bank</p> <p>GIHOC Distilleries</p> <p>Benso Oil Palm Plantation</p> <p>Ghana Consolidated Diamonds</p> <p>Joint ventures</p> <p>Ghana Sanyo Company Limited</p> <p>Western Veneer and Lumber Limited</p> <p>Small sized state-owned enterprises</p> <p>GIHOC Footwear</p> <p>GIHOC Fibre Products</p> <p>Atebubu Commercial Farms</p>

Source: Government of Ghana.

(iv) Competition policy

106. Efforts are under way to put in place legislation on competition. A draft bill is currently undergoing legislative procedures. The objective of the legislation is to ensure fair competition in the market.

(v) Assistance to research and development

107. The Ministry of Environment, Science and Technology is responsible for policy issues relating to science and technology. The Council for Scientific and Industrial Research (CSIR) is a statutory organization responsible for coordinating scientific and industrial research. It has 13 research institutes and centres under its control and covers both agricultural and manufacturing research, such as crops, livestock, soil and land use, forestry, food processing, and transportation. Legislation was passed in 1996 to increase the commercial activities of the Council. It is required to

generate at least 30% of its operational budget by the year 2002. Other organizations under the Ministry involved in technology development and transfer are: the Ghana Atomic Energy Commission (GAEC), the Ghana Regional Appropriate Technology Industrial Service Foundation (GRATIS), the Development and Application of Intermediate Technology (DAFIT), and the Rural Enterprise Project (REP).

108. The National Agricultural Research Project (NARP) commenced in 1991 with donor assistance. Its objectives were to rehabilitate research activities, improve research management and facilitate research-extension farmer linkages. To achieve these objectives, the NARP's main components were research management development, human resource development, rehabilitation of facilities, and financial support. Unlike previous research projects, the NARP supported research into all major crops, animals, and other areas, such as fisheries, agro-forestry and soils. Funds released under the programme from 1996-98 totalled Cedi 5.1 billion, of which leguminous crops, livestock and root and tuber crops received the highest support, of 9% each, while cotton had the lowest share, at 2.3%. The implementation period of two years for these projects was too short to make any meaningful impact. A Research Grant Scheme was also established to finance agricultural research at universities. The NARP project closed in March 1999 and cost US\$29.5 million, of which the Government contributed US\$5.7 million. A new donor-funded scheme, the Agricultural Services Investment Programme (ASIP), is being implemented; this also has a research component. It is hoped that the ASIP will be able to build upon the gains made under the NARP.

109. Some individual research and extension funds have also been in operation. For example, the Ghana Grains Development Board was formed in 1979 to provide research and extension services for maize production. Studies have shown that such funding has generated very high economic returns. The Cocoa Research Institute of Ghana conducts most cocoa research, funded by a growers' levy. It also provides extension services to cocoa farmers, but these are being merged with those provided by the Ministry of Food and Agriculture.

(vi) Protection of intellectual property rights

110. Ghana is undertaking changes in its intellectual property legislation aimed at meeting its commitments under the TRIPS Agreement. It is a member of the World Intellectual Property Organization and a founding member of the African Regional Industrial Property Organization. Ghana joined the Paris Convention in 1996, and the Patent Co-operation Treaty in February 1997.

111. A new copyright law to replace the 1985 Copyright Act has been approved by the Government and is expected to be passed into law soon. Ghana is a member of the Universal Copyright Convention, and the new legislation is claimed by officials to be consistent with the Berne Copyright Convention and TRIPS. The Copyright Office administers copyright protection. Ghana implemented the "Banderole" system of identifying genuine musical works in 1992 to control pirated products. Only those carrying this adhesive authentication label can be sold legally in Ghana. According to officials, this system has successfully controlled piracy of musical works; piracy rates have fallen from 90% to about 10% for local works and 25% for foreign works. Many copyright disputes are settled by arbitration with the Copyright Administrator acting as arbitrator. If unsuccessful, legislation also enables right holders to invoke court action to protect their intellectual property, and to seek damages and seizure of offending material. Copyright infringement is also a criminal offence subject to imprisonment and/or fines. Penalties are to be increased substantially under the new legislation, including imprisonment of up to five years.

112. A Monitoring Team, comprising police, officials from the Copyright Office, and members of the Ghanaian Copyright Society, monitors compliance of copyright legislation. Its functions are to be

expanded under the new law. Customs currently detains all imported pre-recorded musical works until cleared by the Copyright Office. These enforcement functions have been incorporated and strengthened in the proposed legislation. The new legislation will expressly protect computer software. However, although not mentioned in the current legislation, it is covered as literary work, and Copyright officers are collaborating with the private sector to control pirated software.

113. Patent protection exists under the Patent Law of 1992. This provides for a patent protection term of ten years with two renewable periods of five years each. In order to comply with TRIPS, the legislation is being amended to extend this term to 20 years. Other TRIPS commitments that require amendments to Ghana's legislation include extending patent protection to protect inventions in all fields of technology; providing such protection irrespective of whether products are imported or locally produced; the compulsory licensing of rights by government without the holder's authorization on grounds of public interest; and for reversing the burden of proof on infringements of process patents.⁴⁸ Although it specifically allows for injunctions, damages or other remedies available under the general law of civil procedures, and for criminal sanctions for intentional infringement of patents, it does not, according to WIPO, meet the special requirements on enforcement covering border measures. As a result of the shortcomings, an amendment bill, which is before Parliament for promulgation, is aimed at conforming with the TRIPS Agreement.

114. Ghana's current legislation does not protect geographical indications, layout designs (topographies) of integrated circuits, plant varieties, or protection against unfair competition. Legislation covering these areas has been prepared to conform with the TRIPS Agreement and is currently before Parliament for promulgation.

115. Ghana does not have an independent industrial design law, thus its protection for industrial designs is limited. All designs registered in the U.K. are automatically protected under the United Kingdom Designs (Protection) Ordinance of 1928. The Textile Designs (Registration) Decree of 1973 also establishes a registration system and protects such designs for five years, renewable for two consecutive periods of five years. A new draft bill on industrial design, which conforms with the TRIPS Agreement, is before Parliament.

116. Trade marks on goods are currently protected under the TradeMarks Act of 1995. This already provides for registration of marks for seven years, renewable for periods of 14 years. Ghana currently has approximately 31,000 registered trade marks. However, according to WIPO, the legislation has some shortcomings in several respects.⁴⁹ These include the non-protection of trade marks for services (service marks); the exclusive rights conferred on registered owners to protect against the use of identical or similar marks; treatment of well-known marks⁵⁰; and ensuring that marks can only be removed from the registry following at least three years of non-uninterrupted use by the owner.⁵¹ The TradeMarks Act does not provide for criminal procedures against wilful counterfeiting of trade marks. However, the Merchandise Marks Act of 1964 does provide protection against the use of fraudulent trade marks by making it an offence to forge or falsely apply another mark that is likely to deceive. It also authorizes CEPS to request documentation from the importer, upon representations from the registered owner; and when Customs is satisfied that the trade mark is fake, to detain or seize the offending goods. In view of these shortcomings, a new Trade Mark

⁴⁸ WIPO (1995).

⁴⁹ WIPO (1995).

⁵⁰ Existing legislation allows for only defensive procedures to be taken by registered owners of well-known marks.

⁵¹ While existing legislation allows for removal of procedures after five years of uninterrupted non-use, they can also be removed at any time if there is no *bona fide* intention of using it.

Amendment Bill has been submitted to Parliament for promulgation, aimed at conformity with the requirements of the TRIPS Agreement.

117. Protection of industrial property is the responsibility of the Registrar General's Department. Ghana has notified to the WTO as the contact point under the TRIPS Agreement, the Registrar General for patents and the Copyright Administrator for copyright protection.⁵²

⁵² WTO Document IP/N/3/Rev.4, dated 22 June 2000.