

Trade Policy Review Body

TRADE POLICY REVIEW

NIGER

Report by the Secretariat

This report, prepared for the Trade Policy Review of Niger, has been drawn up by the WTO Secretariat on its own responsibility. The Secretariat has, as requested by the Agreement establishing the Trade Policy Review Mechanism (Annex 3 of the Marrakesh Agreement establishing the World Trade Organization), sought clarification from the Government of Niger on its trade policies and practices.

Any technical questions arising from this report may be addressed to Mr S. Stamnas (tel 022.739.5382).

Document WT/TPR/G/118 contains the policy statement submitted by the Government of Niger.

Note: This report is subject to restricted circulation and press embargo until the end of the meeting of the Trade Policy Review Body on Niger.

TABLE OF CONTENTS

	<u>Page</u>
SUMMARY OBSERVATIONS.....	vii
(1) ECONOMIC ENVIRONMENT	vii
(i) Overview.....	vii
(ii) Monetary and exchange policy	vii
(iii) Trade and balance-of-payments structure	viii
(2) TRADE POLICY	viii
(i) Multilateral	viii
(ii) Regional	ix
(iii) Interregional.....	x
(3) INVESTMENT POLICY	x
(4) SECTORAL POLICIES	x
(5) OUTLOOK.....	xi
I. ECONOMIC ENVIRONMENT	1
(1) OVERVIEW	1
(2) BACKGROUND	1
(3) RECENT ECONOMIC DEVELOPMENTS	2
(i) Macroeconomic indicators.....	2
(ii) Monetary and exchange policy	3
(iii) Budget policy.....	5
(4) TRENDS IN TRADE.....	6
(i) Breakdown of trade.....	6
(5) OUTLOOK.....	9
II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES	10
(1) OVERVIEW	10
(2) CONSTITUTIONAL AND GENERAL LEGAL FRAMEWORK.....	10
(3) TRADE AND INVESTMENT POLICY	12
(i) Main features	12
(ii) General framework	12
(iii) Instruments.....	13
(4) TRADE POLICY FRAMEWORK AGREEMENTS	16
(i) WTO	16
(ii) Regional agreements of economic scope	19
(iii) ACP-EU Partnership Agreement.....	23
(iv) Bilateral agreements	24
III. TRADE POLICIES AND PRACTICES BY MEASURE.....	30
(1) OVERVIEW	30
(i) Import measures.....	30

(ii)	Export measures.....	30
(iii)	Domestic measures	30
(2)	MEASURES DIRECTLY AFFECTING IMPORTS	31
(i)	Registration.....	31
(ii)	Customs procedures.....	31
(iii)	Customs valuation.....	33
(iv)	Customs levies	34
(v)	Rules of origin	38
(vi)	Prohibitions and products subject to licensing.....	39
(vii)	Sanitary and phytosanitary measures.....	39
(viii)	Technical standards and accreditation procedures.....	40
(ix)	Contingency measures	40
(x)	State trading	41
(3)	MEASURES DIRECTLY AFFECTING EXPORTS	41
(i)	Duties, taxes and taxable values	41
(ii)	Sanitary and phytosanitary measures.....	41
(iii)	Prohibitions and products subject to licensing.....	41
(iv)	Export subsidies and promotion	42
(v)	State trading	42
(4)	DOMESTIC MEASURES.....	42
(i)	Legal regime governing enterprises and companies in Niger.....	42
(ii)	Investment regime.....	43
(iii)	Protection of intellectual property rights	46
(iv)	Competition policy	51
(v)	Subsidies and other forms of production aid	52
(vi)	Government procurement	53
IV.	TRADE POLICY BY SECTOR.....	54
(1)	OVERVIEW	54
(2)	AGRICULTURE, LIVESTOCK, FORESTRY AND FISHING	55
(i)	Overview.....	55
(ii)	Agricultural policy.....	56
(3)	MINING	58
(i)	Uranium and other mining resources.....	58
(ii)	Petroleum	59
(4)	INDUSTRY	60
(5)	SERVICES	61
(i)	Telecommunications.....	61
(ii)	Tourism.....	62
(iii)	Financial services.....	62
	REFERENCES	65
	APPENDIX TABLES.....	67

CHARTS

III. TRADE POLICIES BY MEASURE

III.1	Escalation of duties actually applied (including the principal supplementary taxes) according to the ISIC two-digit classification of industry, 2002	36
-------	--	----

TABLES

I. ECONOMIC ENVIRONMENT

I.1	Basic economic indicators for Niger, 1995-2001	2
I.2	Economic indicators for Niger, 1995-2001.....	3
I.3	Structure of exports, 1995-2002	7
I.4	Structure of imports, 1995-2002	8
I.5	Exports by destination, 1998-2001	8
I.6	Imports by origin, 1998-2001	9

II. TRADE POLICY REGIME: FRAMEWORK AND OBJECTIVES

II.1	Documents relating to Niger's participation in the WTO, April 2003	19
II.2	Permanent duties and taxes applicable to WAEMU extra-community trade	22

III. TRADE POLICIES BY MEASURE

III.1	Rate of MFN duties (customs duty plus principal supplementary taxes) actually applied, 2002	35
III.2	Breakdown of MFN customs duties applied and bound, 2002	35
III.3	Investment-related conditions and benefits in Niger	45
III.4	Subjects and terms of protection under the Bangui Agreement (1977) and its revision	47
III.5	Fines and terms of imprisonment under the Bangui Agreement (1977) and its revision (1999)	50
III.6	Categories of State aid programmes under WAEMU regulations	53

APPENDIX – TABLES

III. TRADE POLICIES AND PRACTICES BY MEASURE

AIII.1	Bound MFN tariff rates by HS Chapter, 2002	69
AIII.2	Applied MFN tariff rates (customs duties plus main additional taxes), by HS Chapter, 2002.....	73

SUMMARY OBSERVATIONS**(I) ECONOMIC ENVIRONMENT****(i) Overview**

1. Niger is a landlocked country in the Sahara region in the heart of West Africa, with one of the lowest levels of human development according to the UNDP. Its economy is mainly based on agriculture and livestock breeding (36.7 per cent), trade, tourism and transport (23.6 per cent), and industry is not highly developed. Economic growth depends above all on trends in agriculture, which vary considerably depending on the rainfall as Niger has no control over its water resources. Consequently, as a result of the satisfactory rainfall during the 2000/2001 agricultural season, Niger had an exceptional rate of real economic growth of 5.9 per cent in 2001 and 3 per cent in 2002, well above the average of 1.9 per cent for the decade 1990-2000.

2. Since the devaluation of the CFA franc in 1994, Niger has initiated a structural reform and macroeconomic stabilization programme. The major objectives are to stabilize government finance and to open the economy up to competition. One of the key components has been the liberalization of trade policy, which has been carried out within the West African Economic and Monetary Union (WAEMU). Not all the economic benefits of this programme have come to fruition, however, due to the political upheavals that took place up until 1999, when democracy was reinstated.

3. The current framework for Niger's economic reform is a poverty reduction and growth facility (PRGF) drawn up on the basis of the poverty reduction strategy paper (PRSP). This document was prepared under the direction of the Government of Niger and approved by the IMF in 2002. Under the Highly Indebted Poor Countries (HIPC) initiative, Niger benefited from the maximum reduction of its external debt in 2000. Nevertheless, because of accumulated arrears, debt servicing took up around 30 per cent of

exports in 2002, which is an unsustainable level. In addition, Niger also has a large internal debt because of accumulated arrears in the payment of civil service wages, which periodically leads to social disturbances.

4. Poverty affects two adults in three, of whom 86 per cent live in rural areas. The recovery of the rural economy is a major objective of the PRSP, together with the development of the private sector. To achieve this, Niger hopes to take greater advantage of regional trade, especially as regards the development of exports of agricultural and livestock products.

5. It should be noted that a significant share of economic activity (industrial and business activities and other services), as well as trade, is in the informal sector. Economic and trade data are therefore not wholly reliable.

(ii) Monetary and exchange policy

6. The Central Bank of West African States (BCEAO), which is a specialized autonomous institution of the WAEMU, defines common monetary and exchange policy. In order to ensure financial discipline on the part of each country, the WAEMU has a Convergence, Stability, Growth and Solidarity Pact. Each of the member States of the WAEMU is subject to multilateral monitoring. According to the WAEMU Commission, Niger does not meet seven of the eight convergence criteria, particularly as regards government spending.

7. Since 1999, the CFA franc has shadowed the euro, which replaced the French franc. Exchange transactions, capital movements and payments of any kind may only be made through authorized intermediaries. Supporting documentation is required for taking out any capital, except towards the WAEMU.

(iii) *Trade and balance-of-payments structure*

8. Uranium is the major export (61 per cent of the total in 2002), and goes to the European Union (EU), Niger's leading trade partner, and to Japan. The second largest export is livestock products, mainly to Nigeria. The latter is also the destination for a large re-export trade.

9. The EU is the principal origin for manufactures, while fuel, electricity, fertilizer and cereals are imported from Nigeria. The WAEMU accounts for around 22 per cent of Niger's imports, but its member countries only take 3 per cent of exports. Niger also imports rice (12 per cent of the total in 2001).

10. Since 1995, Niger has had a deficit in its current balance, but this was brought down to 6 per cent of GDP in 2000. An improvement in the financial transactions account, notably through the debt reduction in 2000, led to an overall deficit of CFAF 32.7 billion (corresponding to 2.6 per cent of GDP) in 2001.

(2) **TRADE POLICY**

(i) **Multilateral**

11. Niger has been a member of the WTO since 16 December 1996, continuing the relationship initiated with the GATT 1947. It is recognized as a least-developed country (LDC). Niger grants at least MFN treatment to imports from WTO member countries. It is not party to the WTO Plurilateral Agreement on Government Procurement, but is considering becoming an observer.

12. Since 1 January 2000, Niger's tariff has been entirely based on the WAEMU's common external tariff (CET). The CET groups customs duties into four major categories: essential goods (0 per cent); staple goods, including basic raw materials, capital goods and specific inputs (5 per cent); intermediate goods and inputs (10 per cent); and final consumer goods (20 per cent). As a

result of the CET, Niger's simple average of MFN customs duties fell from 20 per cent in 1997 to 12.1 per cent in 2000, according to estimates by the authorities.

13. In addition to the CET, Niger and the other members of the WAEMU apply permanent supplementary duties consisting of the statistical charge (RS) and the community solidarity levy (PCS) on imports from third countries, which total 2 per cent; a PCS of 0.5 per cent is also levied for the ECOWAS. The combined effect of the application of MFN customs duties and supplementary duties is an increase in the simple average of duties actually applied, which amounts to 14.6 per cent. Outside the WAEMU framework, Niger has an import verification programme for transactions exceeding CFAF 2 million (around €1,300), which involves a tax of 1 per cent.

14. During the Uruguay Round, Niger bound all its tariff lines for agricultural products and the majority of the tariff lines for non-agricultural products, estimated to cover 96.4 per cent of tariff lines. The ceiling rate of bound duties for agricultural products was set at 50 per cent, with the exception of those bound at 200 per cent (around 3 per cent of tariff lines), and at 50 per cent for non-agricultural products.

15. On 14 December 2001, Niger introduced the Customs Valuation Agreement. The authorities nevertheless still use administrative values for 868 products. These will be replaced by the reference values adopted by the WAEMU, for which the authorities intend to request a reservation from the Members of the WTO.

16. Since December 2002, Niger has applied a national standardization, accreditation and certification system. For 2003, it is planned to draw up national standards for food products (rice, oil, milk), building materials (cement, reinforcing steel), water and the environment.

17. In May 2002, Niger revised its government procurement policy by adopting a new Code, although it is not yet being implemented. It has nevertheless maintained preferences in favour of domestic enterprises and excludes foreign enterprises from procurement financed through the National Treasury.

18. Niger has undertaken commitments under the GATS on tourism services, but did not take part in the negotiations on basic telecommunications services, or on financial services, concluded since the end of the Uruguay Round.

19. Niger has ratified the revised Bangui Agreement (1999), drawn up by the African Intellectual Property Organization (OAPI), which entered into force in February 2002. This ensures convergence between the intellectual property protection regime of its members and WTO obligations under the TRIPS Agreement. As an LDC, Niger has an additional period until 2006 for full implementation of the TRIPS Agreement.

20. Niger does not participate fully in the multilateral trading system because of its inadequate human and financial resources; consideration is being given to setting up a mission in Geneva. Few notifications have been made and there are gaps in the understanding of Members' obligations. There is also a danger that Niger and the WAEMU member countries will find themselves on the margins of the negotiations under the Doha Agenda.

21. Niger participates in the Integrated Framework (IF) as launched in 1997, but is not included in the revised IF pilot programme, even though it would like to be. Annex II.1 of the report by the Secretariat attached hereto contains a WTO draft technical assistance programme for Niger. The main objectives would be: (i) harmonization of legislation, regulations and rules with WTO provisions; (ii) notifications; and (iii) training in WTO-

related areas, particularly the building of negotiating capacity.

(ii) Regional

22. Niger's trade policy mainly consists of implementing the common trade policy (CTP) of the WAEMU, a subregional market consisting of some 72 million people. Niger is also a member of the ECOWAS, which includes Nigeria, whose trade liberalization programme has been suspended.

23. Local products and traditional handicrafts of WAEMU origin enter duty free, together with a limited number of industrial products – 2,240 in December 2002 – from producing enterprises approved by the WAEMU Commission. Intra-community trade has also been boosted by the harmonization of national tax legislation on excise duty and VAT, which are applied by Niger in accordance with the principle of national treatment.

24. According to estimates by the IMF, only one third of the WAEMU's intra-community trade is completely duty free. This relatively low level can be explained by the barriers to trade but also by the low level of industrialization of members, the complementarity of agricultural production, and the dependence on exports of certain basic commodities to developed countries.

25. The adoption of an operational common agricultural policy (CAP) appears to be imminent. This will have as its objective the promotion of development of the agricultural sector by reducing competition from imports from countries outside the WAEMU through an increase in the CET. The impact on consumers' well-being does not appear to have been taken into account for the moment, even though staple foods account for a large part of household expenditure in low-income countries such as Niger.

(iii) Interregional

26. Niger is one of the African, Caribbean and Pacific (ACP) countries with which the European Union signed a Partnership Agreement in 2000, whose non-reciprocal preferences are the subject of a waiver approved by the Members of the WTO. The WAEMU countries are currently negotiating a Regional Economic Partnership Agreement (REPA) with the EU, which would eventually take over in 2008. Niger's main concern is the fiscal impact. The option of integration into the EU's Generalized System of Preferences (GSP) is also being considered.

(3) INVESTMENT POLICY

27. Niger has improved the legal and economic environment for enterprises setting up in Niger by adopting the seven uniform acts on commercial companies of the Organization for the Harmonization of Business Law in Africa (OHADA). The climate for investors has been facilitated by establishing a single window, but there are still obstacles to investment. The inflow of foreign investment has been encouraged by the programme to privatize 12 State enterprises, initiated in 1996, of which six have already been privatized.

28. Niger's Investment Code provides fiscal incentives that increase in proportion to the total invested. Under the Investment Code, Niger allows approved enterprises to import equipment and materials free of duty and taxes, as well as inputs. The revenue foregone as a result of various exemptions from customs duties and taxes in 2002 (Investment Code, Mining Code or Petroleum Code and government procurement financed through external funds) amounted to CFAF 14.8 billion (€10 million). Import duties account for around 32 per cent of budgetary revenues.

(4) SECTORAL POLICIES

29. Since the end of the uranium boom in the early 1980s, Niger has abolished its policies of intervention in the agricultural

sector. In the future, the Government intends to support the development of promising subsectors (cowpeas, cattle on the hoof, meat, skins and hides) by providing public assets (infrastructure, social and health needs, support/advice).

30. Although uranium has for a long time been Niger's main mineral wealth, its importance is declining and its future is uncertain. Niger hopes to boost foreign investment in the mining and petroleum sectors in order to diversify the minerals exploited. It gives investors fiscal incentives and has launched a vast programme for investment in infrastructure.

31. Niger's industry is little developed and based principally on the agro-food sector. Its further development is hindered by several obstacles, in particular high production costs, limited access to financing, fiscal pressure on enterprises in the formal sector, and competition from the informal sector, including illegal international trade.

32. Niger hopes to develop its potential for cultural tourism and ecotourism and the number of tourists has risen sharply since 1996. In the telecommunications sector, the traditional operator (SONITEL) was privatized in 2001, but will keep its monopoly on fixed telephony until 2004, which is greatly diminishing the benefits for consumers. Two operators have, however, bought licences to provide mobile telephone services.

33. The banking sector underwent a serious crisis from 1990 onwards, which significantly reduced access to credit within Niger's economy. It is currently subject to the common regulations of the WAEMU and has recovered, but still only plays a marginal role in the economy, particularly as regards the key sector of agriculture. Its financing is currently benefiting from the expansion of opportunities afforded by micro-finance.

(5) **OUTLOOK**

34. Niger's economic and financial outlook in 2003 will depend on the settlement of the crisis in Côte d'Ivoire and international developments, particularly as regards oil prices. The major macroeconomic objectives for 2003 are: to achieve a 4 per cent rate of growth in real GDP; to keep inflation below 3 per cent; to limit the deficit on current account (excluding government transfers) to 9 per cent of GDP. For 2001-05, the authorities are counting on an annual average growth rate of 4 per cent, which would increase per capita income by 0.7 per cent per year because the rate of demographic growth is 3.3 per cent. The vulnerability of economic performance and social well-being to rainfall remains a major concern.

35. In the medium term, Niger's economic performance should benefit from the substantial efforts made since 1994 to stabilize government finance and open up the economy to competition, as well as government investment in basic social infrastructure in order to attack poverty at its roots. The development of the rural sector should also benefit from the expanded opportunities afforded by regional trade for the marketing and diversification of cash crops. This strategy offers Niger opportunities because of its landlocked situation, the cultural and linguistic links with neighbouring countries, and the exploitation of complementarity in agriculture and livestock production. At multilateral level, Niger could consider diversifying its mineral exports and finding outlets for its exports of agricultural or livestock products, handicrafts or services.
