

II. INSTITUTIONAL FRAMEWORK OF THE FOREIGN TRADE REGIME

(1) OVERVIEW

1. Since 1994, when Senegal first appeared before the Trade Policy Review Body (TPRB), it has undertaken large-scale restructuring of its economic policy in order to lay down the basis for more dynamic and lasting economic growth following the devaluation of the CFA franc in 1994 (Chapter I(i)). One of the key components of the post-devaluation programme has been the trade liberalization policy pursued by the West African Economic and Monetary Union (WAEMU). The establishment of a common market with a common trade policy is one of the WAEMU's major objectives and has led to the introduction of the Common External Tariff (CET), *inter alia*. The free trade area among members still has to be completed as far as industrial products are concerned and the common trade policy is being prepared.

2. Senegal is a founding Member of the WTO, where it has been recognized as a least-developed country (LDC) since 2001. In the same year, a National Trade Negotiations Committee became responsible for defining and dealing with all trade-related matters. Senegal does not, however, participate fully in the multilateral trading system, especially as regards notifications, the implementation of some of the WTO Agreements, and participation in negotiations under the Doha Agenda. In order to remedy this situation, the Government receives the support of its development partners in the context of the Integrated Framework Pilot Project and would like to benefit from a comprehensive and effective technical assistance programme. The formulation of such a programme is one of the priority objectives of the review of Senegal's trade policy prepared by the WTO Secretariat (Annex II.1).

(2) CONSTITUTIONAL AND GENERAL LEGAL FRAMEWORK

3. Senegal was formerly a colony in French West Africa and became independent in August 1960.

4. Since its first trade policy review in 1994, Senegal has modified its constitutional and legal framework and adopted a new Constitution on 7 January 2001. The aim is to reinforce the rule of law as regards individual rights, and the Senate and the Economic and Social Council have been abolished. The latter had previously acted as a consultative assembly composed of the leading trade unions and representatives of the private sector.

5. The President is the Head of State and is responsible for signing international treaties and agreements. Presidential elections are held every five years rather than every seven years under the 1961 Constitution. The President may be elected for one further term. President Wade, currently in office, was elected in March 2000, the first time since independence there had been a democratic transfer of power.

6. The President holds executive power. He appoints the Prime Minister and, on the latter's proposal, the other members of the Government. The Government in office since 6 November 2002 comprises 31 ministers. The last census in 2001 showed that Senegal's central administration employed 67,100 people.

7. The Prime Minister presents the Government's programme to the National Assembly where, following a debate, it is put to a vote of confidence. The Government implements domestic and foreign policy and directs the public administration in accordance with the programme approved by the National Assembly. Local authorities do not have any power as regards taxation or trade in goods.

8. The National Assembly has legislative power. It consists of one chamber with 120 members elected for a five-year term, unless it is dissolved, which can only be decided by the President. The last legislative elections were held on 29 April 2001.

9. Laws adopted by the National Assembly are transmitted to the President, who enacts them, and they are then published in the *Journal Officiel*. Three types of legislation require legislative action: finance laws, basic laws, and ordinary laws. The first two categories must be adopted by an absolute majority of the members of the National Assembly, whereas an ordinary law must be adopted by a simple majority. Basic laws concern, for example, the number of deputies, their remuneration, the procedures and criteria for their election, and the remuneration and privileges granted to members of the Government. Ordinary laws deal with investment and privatization, *inter alia*.

10. In cases of urgency, the Government may enact measures that would usually be the subject of a law by means of an "order". This procedure requires authorization by the National Assembly and is intended to allow the State to continue functioning between legislative sessions. An order must be ratified by the National Assembly at its next session, otherwise it is null and void. The National Assembly may amend an order, which may also be modified by means of another order or a law.

11. The judiciary is independent of the Legislature and the Executive.¹ Justice is administered by the Constitutional Court, the Council of State, the Court of Cassation, the Court of Audit, appeal courts and ordinary courts. In exercising their functions, judges are subject only to the authority of the law.

12. Local authorities have no responsibility for taxation. This lies with the Executive (central government), which defines the implementing procedures for legislative texts. Transfer of competence for taxation is not allowed under the Code governing the local authorities, which operate on the basis of the fiscal resources allotted to them. Local taxes are collected by the Treasury's accounting services in accordance with the responsibilities determined by the Directorate General of Taxation and State Property.

13. A new tripartite national coordination structure (National Charter for Social Dialogue) came into effect in March 2003; the structure provided under the former Constitution, namely the Economic and Social Council, was abolished under the 2001 Constitution. The three components of the new structure are the State, employers, and workers' representatives. Three levels of coordination are provided: in the enterprise, in the branch of economic activity, and at the national level.

(3) TRADE AND INVESTMENT POLICY

(i) Main features

14. The Government's trade and investment policy comes within the more general framework of a poverty reduction strategy (PRS adopted for the period 2003-2005 (Chapter I)). The PRS is the successor to the post-devaluation economic programme (Chapter I(1)), whose principal aim was to enhance Senegal's competitiveness with a view to sustainable economic growth. The trade-related elements include the elimination of the constraints on the exercise of professions in 1995 (Chapter III(2)(i)), the abolition of quantitative import restrictions between 1994 and 1996

¹ Article 88 of the 2001 Constitution.

(Chapter III(2)(vi)), and quantitative export restrictions in 1994 (Chapter III(3)(ii)); these measures were dealt with in detail at the time of the first review of Senegal's trade policy in 1994.²

15. One of the four principal axes of the PRS is "to promote opportunities for wealth creation in Senegal ... through heightened public and private investment following increased public development assistance and flows of direct foreign investment, better targeting and improvement of the quality of the investments and boosting of the agricultural sector's contribution to growth based, in particular, on product diversification and farm modernization".³ The PRS states the following:

"In this respect, an important objective of the poverty reduction strategy will be to establish a climate conducive to private investment. In addition to the sound macroeconomic policies that will be put into effect, it will be necessary to extend the reforms to a large group of fields, including privatizations, the asset markets, foreign trade, the financial and labor markets, the regulatory environment and the judicial system in order to improve investment quality. These investments will in turn serve to improve the development of the wealth-creating sectors and will be accompanied by public investments aimed at enhancing the quality of social and economic infrastructure."⁴

16. For the period 2003-2005, the PRS envisages that economic growth will be driven by investment and exports, particularly in the areas of agriculture, fisheries, textiles and clothing, crafts and tourism. In order to boost investment, in April 2002 the Government adopted a development strategy for the private sector, which focuses on simplifying the regulatory framework (section 4(i)) and improving the functioning of the judicial system, as well as facilitating access to financing through a more efficient financial sector (Chapter IV(6)(iv)).

17. In order to promote an increase in exports, the Government hopes to derive greater benefit from the access to international markets provided under the WTO and the Partnership Agreement between the ACP countries and the European Union (EU), as well as access to regional markets under various regional agreements. For this purpose, Senegal awaits the support of its development partners and the WTO Members for technical assistance in building up its national human and institutional capacity.

(ii) General framework

18. The Minister for Small and Medium Enterprises and Trade (hereinafter the Minister for Trade) is responsible for Senegal's trade policy as laid down by the Head of State.⁵ Together with the Ministry for the Economy and Finance, the Minister for Trade is in charge of international trade negotiations and of implementing foreign trade policies. The Minister for Trade represents the State at WTO ministerial meetings. He is also the focal point for the follow-up to the WTO Agreements and for Senegal's participation in the WTO's activities, subject to the application of the common trade policy of the WAEMU (see below).

19. In carrying out his functions, the Minister for Trade receives support from a National Committee for International Trade Negotiations, established in 2001⁶, whose role is:

- (a) To help in defining the objectives of trade negotiations in the WTO;

² GATT(1994), Volume I.

³ Government of Senegal (2002), Chapter 4.

⁴ Government of Senegal (2002), Chapter 4.

⁵ Decree No. 2001-406 of 21 May 2001.

⁶ Decree No. 2001-1072.

- (b) to formulate and harmonize national positions on multilateral, regional and bilateral trade negotiations;
- (c) to facilitate the administration and implementation of trade agreements;
- (d) to monitor and review the work of the United Nations Conference on Trade and Development and other bodies dealing with trade matters;
- (e) to assess the application of agreements and their impact on a regular basis.

20. The Committee is chaired by the Minister for Trade and includes representatives of ministries responsible for policy in various areas related to the work of the WTO, as well as representatives of government departments, the private sector and workers.

21. The Minister for Trade is responsible for import and export permits and import and export licences where these are required in order to protect consumer health (Chapter III). He also has authority in respect of anti-dumping, countervailing and safeguard measures.

22. The Ministry of the Economy and Finance plays an important role in trade policy matters. It includes the Directorate General of Customs and Indirect Taxation, a large part of whose activities relate to Senegal's commitments on tariff and non-tariff measures under regional and bilateral agreements and the WTO. The Minister for the Economy and Finance represents Senegal at ministerial meetings of the franc zone, the West African Monetary Union (WAMU), the WAEMU and the ACP-EU Partnership Agreement. He is also responsible for privatization.

23. The Senegalese Standards Association is responsible for technical standards and conformity assessment.

(iii) Instruments

- (a) International agreements and treaties

24. International agreements and treaties are ratified or approved by the President after an authorization law has been adopted by the National Assembly.⁷ It should be noted that only the approval of a treaty or agreement is the subject of a law and not the transposition of its provisions.

25. Properly ratified treaties or agreements (for example, the WTO Agreement) take precedence over laws once they have been published in the *Journal Officiel*, provided that the treaty or agreement is also applied by the other party.⁸ These acts are immediately applicable as a law of the State of Senegal and are automatically enforceable.

- (b) Trade in goods

26. Senegal's policy on trade in goods essentially involves implementing the WAEMU instruments (Box II.1), which establish a regulatory framework for a series of measures that affect trade in goods both directly and indirectly. These are, for example, MFN customs duties under the CET, supplementary duties and the preferential regime (Chapter III(2)(iv)), as well as the system of "reference values" which Senegal intends to introduce (Chapter III(2)(iii)). Senegal also has a

⁷ Title IX of the 2001 Constitution.

⁸ Article 98 of the 2001 Constitution.

number of domestic taxes on certain imported products with no counterpart at the domestic level (Chapter III(2)(iii)). The applicability and levels of excise duty and VAT are fixed under the regulatory framework established by the WAEMU and in the Senegalese General Code of Direct and Indirect Taxation, as amended by the Finance Law. The Code also determines surcharges on certain imports that have no counterpart at the domestic level.

27. Senegal's Customs Code (1987)⁹ still applies, except for the provisions contrary to those in the WAEMU Customs Code, of which Book I came into effect on 1 January 2003 (Chapter III(2)(ii)).¹⁰ Senegal has had an import inspection programme since 1991.¹¹

28. The rules on government procurement by the State, local authorities, public establishments, State enterprises and corporations with majority State equity are covered by the Government Procurement Code, revised in 2002.¹²

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

The WAEMU Treaty;
Additional Act No. 4/96 of 10 May 1996 establishing a preferential tariff regime for trade within the WAEMU, as modified by Additional Act No. 4/98;
Regulation No. 2/97/CM/UEMOA on adoption of the WAEMU's CET;
Directive No. 2/98/CM/UEMOA on harmonization of member States' legislation on value-added tax (VAT);
Directive No. 3/98/CM/UEMOA on harmonization of member States' legislation on excise duty;
Regulation No. 5/98/CM/UEMOA defining the list of categories of goods appearing in the WAEMU tariff and statistical nomenclature, as amended;
Regulation No. 3/99/CM/UEMOA on adoption of the Degressive Protection Tax (TDP) mechanism within the WAEMU, as amended;
Regulation No. 4/99/CM/UEMOA establishing a system of reference values;
Regulation No. 5/99/CM/UEMOA on customs valuation of goods;
Additional Protocol No. III/2001 establishing rules of origin for WAEMU products;
Additional Act No. 3/2001 on adoption of a WAEMU agricultural policy;
Directive No. 06/2001/CM/UEMOA on harmonization of taxation of petroleum products within the WAEMU;
Regulation No. 09/2001/CM/UEMOA on adoption of the WAEMU Customs Code (Book I: Organizational framework, customs procedures and regimes);
Regulation No. 2/2002/CM/UEMOA on anti-competitive practices within the WAEMU;
Regulation No. 3/2002/CM/UEMOA on procedures applicable to understandings and abuse of dominant positions within the WAEMU; and
Regulation No. 4/2002/CM/UEMOA on State aid within the WAEMU and implementing procedures for Article 88(c) of the Treaty.

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

(c) Trade in services

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

⁹ Law No. 87-47 of 28 December 1987 containing the Customs Code.

¹⁰ Regulation No. 09/2001/CM/UEMOA.

¹¹ Decree No. 91-1221 of 14 November 1991, whose implementing procedures have recently been determined in Ministerial Order No. 1110/MEFP/MDB of 25 February 1997.

¹² Decree No. 2002-550 of 30 May 2002.

30. In Senegal, banking services are subject to the common banking regulations of the WAEMU and the prudential measures determined by the WAEMU Banking Commission, which also acts as the monitoring body (Chapter IV(6)(iii)). In 1998, the West African Regional Stock Exchange (BVRM) was also created within the WAMU.

31. The insurance market in Senegal is governed by the Insurance Code of the Inter-African Insurance Market Conference (CIMA).¹³

32. Land and air transport are subject to community action within the WAEMU.¹⁴

33. At the national level, activities in many services sectors are the responsibility of public enterprises wholly or partly controlled by the State. This is the case in particular for transport, postal services, communications, culture, public health and education. Nevertheless, in many cases, privatization is planned; SONATEL has been privatized and access to the sector is regulated by the Telecommunications Code (Chapter IV(6)(i)).¹⁵

34. Other services are provided by private operators, subject to the relevant commercial law and taxation provisions, etc. (Chapter III(4)(ii)).

(d) Protection of intellectual property

35. Senegal is a member of the African Intellectual Property Organization (OAPI)¹⁶ established under the Bangui Agreement (1977).¹⁷ On 24 February 1999, the Bangui Agreement was revised to bring it into line with the WTO's TRIPS Agreement and Senegal ratified the revised Agreement on 9 March 2000. The revised Agreement, together with Annexes I to VIII, entered into force on 28 February 2002; the OAPI's Administrative Council deferred the entry into force of Annexes IX and X on layout-designs (topographies) of integrated circuits and plant varieties respectively. The Annexes to the revised Bangui Agreement (1999) in effect cover patents, utility models, trademarks, industrial designs, trade names, geographical indications, literary and artistic property, and protection against unfair competition.

36. For each of its Member States, the OAPI serves as the national industrial property service and provides a common system of administrative procedures for registering rights. The intellectual property service of the Ministry of Industry and Crafts acts as the national liaison structure (SNL) for the purposes of the Bangui Agreement.

37. As far as copyright and related rights are concerned, Senegal's regime, which dates from 1973, is currently being revised by the National Assembly.¹⁸ The Senegalese Copyright Office (BSDA) is responsible for collective administration in Senegal.

¹³ The CIMA was established in 1992 and also includes Benin, Burkina Faso, Cameroon, the Central African Republic, Chad, Congo, Côte d'Ivoire, Gabon, Niger and Togo.

¹⁴ Directive No. 8/2002/CM/UEMOA on adoption of the common air transport programme of member States of the WAEMU; and Regulation No. 24/2002/CM/UEMOA defining the conditions of access to intra-community air links for WAEMU air carriers.

¹⁵ Law No. 2001-15 of 27 December 2001.

¹⁶ <http://www.oapi.wipo.net>.

¹⁷ The OAPI also includes Benin, Burkina Faso, Cameroon, the Central African Republic, Chad, Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, Guinea, Guinea-Bissau, Mauritania, Niger and Togo.

¹⁸ Law No. 73-52 of 4 December 1973.

38. National authorities are responsible for protecting intellectual property rights. In Senegal, activities that might give rise to infringements of the revised Bangui Agreement are monitored and supervised by the intellectual property service of the Ministry of Industry and Crafts, the BSDA and the TRIPS Sub-Committee for international trade negotiations. The latter is currently examining the harmonization of Senegalese legislation and practices with the new requirements under the revised Bangui Agreement.

(e) Investment

39. Senegal's Investment Code provides benefits and guarantees for approved investment projects¹⁹, as well as free export enterprise status (Chapter III(3)(ii)).²⁰ The latter status complements the Dakar Industrial Free-Trade Zone, set up in 1974, which no longer accepts enterprises and whose statute will expire in 2016, and it replaces the "free points" regime established in 1991.²¹ Senegal notified these programmes to the WTO in 1997.²² Petroleum resources and mining are State property, and the latter regulates their exploitation by issuing operating permits to approved companies in accordance with the provisions of the Petroleum Code²³ and the Mining Code²⁴.

40. In the PRS, the main elements relating to investment are, on the one hand, expansion of investment opportunities by privatizing State enterprises (Chapter I(3)(iii)), and the promotion of major public works, and, on the other, creating a climate that is conducive to setting up enterprises in Senegal (Chapter III(4)(ii)). The National Agency for the Promotion of Investment and Major Public Works (APIX), created in July 2000, is responsible for planning and implementing policy on investment and major public works.

41. Since the first review of its trade policy, Senegal has updated its law on commercial companies (Chapter III(4)(i)) by adopting the seven uniform acts of the Organization for the Harmonization of Business Law in Africa (OHADA).

(4) TRADE POLICY FRAMEWORK AGREEMENTS

(i) WTO

(a) Overview

42. Senegal was formerly a contracting party to the GATT 1947²⁵, and has been a founding member of the WTO since 1 January 1995.²⁶ In April 2001, it was recognized as a least-developed

¹⁹ Law No. 87-25 of 18 August 1987, amended by Law No. 89-31 of 12 October 1989.

²⁰ Law No. 95-34 of 21 December 1995 and Implementing Decree No. 96-869 of 15 October 1996.

²¹ Law No. 74-06 of 22 April 1974 establishing the Dakar Industrial Free-Trade Zone, amended by Law No. 79-21 of 24 January 1979 and Law No. 91-30 of 12 April 1991 on free points status. See GATT (1994), Volume I, Chapter III(3).

²² WTO documents G/SCM/N/3/SEN of 27 January 1997 and G/SCM/N/3/SEN/Suppl.1 of 21 November 1997.

²³ Law No. 98-05 of 26 December 1998.

²⁴ Law No. 88-06 of 26 August 1988.

²⁵ Senegal became a contracting party to the GATT 1947 on 27 September 1963. Originally, the General Agreement applied to Senegal as a French overseas territory. After Senegal became independent in June 1960, it continued to apply *de facto* until Senegal became a contracting party pursuant to the provisions of paragraph 5(c) of Article XXVI.

²⁶ Law No. 94-83 of 30 December 1994 authorized the Prime Minister to ratify the WTO Agreement, which was in fact done on 7 June 1995.

country (LDC). It is not a member of any plurilateral agreement and does not intend to become an observer to the WTO Plurilateral Agreement on Government Procurement.

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

(b) Trade in goods

44. During the Uruguay Round, Senegal bound all its tariff lines for agricultural products at 30 per cent in its Schedule of Concessions XLIX, annexed to the GATT 1994; the Senegalese authorities indicate that they have reserved the right to impose other duties and taxes by including a rate of 150 per cent in the column "Other duties and taxes" in Schedule XLIX and, consequently, they consider that they are entitled to apply a full margin of protection to agricultural products of up to 180 per cent.²⁷ During the Uruguay Round, Senegal also bound 32.3 per cent of its tariff lines for non-agricultural products at 30 per cent.²⁸ In addition, Senegal bound all other non-agricultural tariff lines at 30 per cent in March 1996 following the conclusion of the renegotiations of its tariff concessions under Article XXVIII of the GATT 1994. Senegal has undertaken gradually to reduce the bound rate of 30 per cent to 15 per cent on certain products by 2005.²⁹

45. The Government of Senegal has agreed that its tariff data compiled by the Secretariat for the purpose of preparing the review of its trade policy should be incorporated into the integrated database (IDB); prior to this agreement, Senegal had never given the WTO any tariff or statistical data on its imports.³⁰

46. In its Schedule of Concessions XLIX, Senegal undertook to abolish prior authorization for 43 agricultural and non-agricultural products and the Government has confirmed that there are no import licences.³¹ Senegal has not made any commitment on domestic support (Part IV of Schedule XLIX), therefore the commitment applicable to Senegal in this respect – defined in Article 7.2(b) of the Agreement on Agriculture – consists of not granting domestic support in excess of the *de minimis* level of the value of the production in question.

47. The Senegalese authorities have indicated that they introduced the Agreement on Implementation of Article VII of the GATT 1994 (Customs Valuation Agreement) on 1 July 2001.³² They had already invoked the provisions on special and differential treatment in favour of developing

²⁷ The tariffs applied for certain agricultural tariff lines currently exceed the bound level of 30 per cent as a result of the combined effect of implementing the CET, the WAEMU's supplementary duties and the application of a surcharge, whereas others exceed this figure because of the combined effect of the implementation of the CET, the WAEMU's supplementary duties, and the Special Import Tax (TCI), which is a WAEMU protection mechanism (Chapter III(2)(iv)).

²⁸ WTO Secretariat (2000), Chapter II, Table II.1. This binding settled the issue of Senegal's continued application of the tariff concessions originally granted by France before independence (Schedule XLIX), as a result of fiscal reform and sectoral fiscal measures related to the implementation of a structural adjustment programme since 1986, commitments to the World Bank and the International Monetary Fund, and the adoption of a new customs tariff based on the Harmonized System. In 1990, Senegal obtained a temporary waiver from its commitments under Article II of the General Agreement (GATT, BISD, S37/319), which was extended by means of successive decisions until 31 December 1994.

²⁹ Certain products bound at 15 per cent as of 2005 will exceed the levels of the WAEMU CET, unless the latter is adjusted downwards. This is the case for butter, certain dairy products and beer.

³⁰ WTO document G/MA/IDB/2/Rev.15 of 17 September 2002.

³¹ WTO document G/LIC/N/1/SEN/1 of 23 October 2002.

³² WTO document G/VAL/N/1/SEN/1 of 27 September 2001.

countries to defer its implementation (originally fixed at 1 January 2000) for a period of 18 months. In December 2000, Senegal requested authorization to maintain a system of minimum values applicable to over 29 products during this period, and the request was granted.³³ Following the introduction of the WTO Agreement on Customs Valuation and the Regulations on Customs Valuation in WAEMU member countries, in September 2001 Senegal indicated that it wished to make a reservation in order to apply minimum values for a certain number of products.³⁴ On 5 June 2002, Senegal submitted a request for a waiver under Article IX of the WTO Agreement in order to apply minimum values for more than 29 products during a transitional period of three years as of that date (until 2005).³⁵ The list of products proposed was modified in comparison with the list previously approved and it constitutes Senegal's national schedule in respect of the WAEMU regulations on the system of reference values (Chapter III(2)(iii)).³⁶ According to the authorities, the continued application of minimum values is justified by the difficulties experienced by producers in competing and unlawful trade practices affecting domestic industry. It should be noted that Senegal has a preshipment inspection programme for imports (Chapter III(2)(iii)), and has notified its anti-dumping legislation to the WTO.

(c) Trade in services

48. Senegal's Schedule of Specific Commitments under the GATS (GATS/SC/75) sets out the commitments undertaken during the Uruguay Round. Services for which Senegal has undertaken commitments relate to tourism, distribution, business, recreation, culture and sports, and transport. With some exceptions, the supply of services by means of commercial presence (mode 3) requires prior approval by the relevant ministries under a discretionary procedure; the limitations indicated in the Schedule are more restrictive than the regime currently applicable to foreign investors (Chapter III(3)(ii)). Senegal has not made any commitment concerning the supply of services through the presence of natural persons (mode 4).

49. The final List of Article II (MFN) exemptions under the GATS (GATS/EL/75) concerns maritime transport, particularly any bilateral, plurilateral or multilateral agreement concluded or to be concluded by Senegal which exchanges coastal cabotage rights on a basis of reciprocity in the expectation that such agreements would be concluded in the near future. The List also concerns existing and future measures adopted with a view to implementing the relevant provisions of the United Nations Convention on a Code of Conduct, or any other agreement, which gives the national stevedoring and transit company a minimum share of the transport of cargo between two points, as well as any other measure on the development of auxiliary maritime and port services in Senegal for an unlimited period.

50. Senegal's Schedule of Specific Commitments under the GATS has expanded as a result of its participation in the negotiations on basic telecommunications (GATS/SC/75/Suppl. 1), which ended in 1997, as well as the negotiations on financial services (GATS/SC/75/Suppl. 2), which concluded in

³³ WTO documents G/VAL/W/45 of 4 November 1999, G/VAL/W/45/Add.1 of 5 November 1999, G/VAL/W/45/Add.2 of 18 December 2000 and G/VAL/39 of 18 January 2001 and Corr.1 of 27 March 2001.

³⁴ WTO document G/VAL/N/1/SEN/1 of 27 September 2001.

³⁵ WTO document G/C/W/390 of 26 June 2002.

³⁶ The following products in Annex II to WTO document G/VAL/W/45/Add.2 of 18 December 2000 were removed from the list of products in WTO document G/C/W/390 of 26 June 2002: powdered milk; used clothing; broken rice; granulated sugar; cube sugar; and dry biscuits. The following products in the list of products in document G/C/W/390 of 26 June 2002 are new: pasta; T-shirts; poultry and cuts, frozen; floor cloths; paper handkerchiefs; bicycles; wheat or meslin flour; household articles, enamelled; table, kitchen or other household articles and parts thereof, of aluminium; sweets; chewing gum; and mopeds of a cylinder capacity of not more than 50cc.

1998. In the telecommunications sector, there is a commitment to end SONATEL's monopoly on 31 December 2003 at the earliest and 31 December 2006 at the latest, as well as an additional commitment on the introduction of an appropriate regulatory framework for the opening up of competition in this sector and the granting of licences to other operators. No commitment has been made, however, concerning the supply of services through the presence of natural persons (mode 4).

(d) TRIPS Agreement

51. Since 1995, Senegal has taken advantage of the transitional provisions available under Article 65 of the TRIPS Agreement (which applies to developing countries and countries with economies in transition), in order to delay full application of the Agreement (except for Articles 3, 4 and 5) until 2000; after it was recognized as an LDC in 2001, Senegal took advantage of the transitional provisions provided under Article 66 of the Agreement. It has not yet notified the TRIPS Council of the revised Bangui Agreement and Annexes I to VIII thereto, which entered into force on 28 February 2002.³⁷ The authorities have indicated that they will make such a notification.

(e) Participation in the activities of the WTO

52. Senegal participates in the activities of the WTO and has a mission in Geneva. The Government nevertheless has some difficulty in keeping up to date with notifications (Table II.1). Senegal would like to see the WTO notification procedures for texts adopted by the WAEMU simplified so that they could be notified by one member of the organization but apply to all the other members.³⁸

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

- "To incite developed countries to liberalize their agricultural policies in practice in order to enhance domestic and external competitiveness of agricultural products of interest to developing countries and least-developed countries, in particular those with high value added;
- to make efforts to expand and improve waivers in favour of developing countries and least-developed countries."³⁹

54. Senegal is currently eligible to participate in the WTO's trade policy courses. Since 1998, two national seminars on the multilateral trading system have been organized in Senegal and Senegalese officials have taken part in 17 regional seminars on various WTO-related issues.⁴⁰ In

³⁷ The WTO notification on Senegal's relevant laws and regulations (WTO document IP/N/1/SEN/1 of 6 February 1997) concerns the 1977 Bangui Agreement.

³⁸ The WAEMU considered it necessary to ask each member State to notify individually to the WTO Regulation No. 5/99/CM/UEMOA on customs valuation for goods. Senegal and Côte d'Ivoire notified the implementation of this Regulation in their domestic legislation separately (WTO documents G/VAL/N/1/SEN/1 of 27 September 2001 and G/VAL/N/1/CIV/1 of 28 June 2002).

³⁹ Directive No. 01/2001/CM/UEMOA.

⁴⁰ Senegal has taken part in regional seminars on the following themes: trade and environment; the integrated database (IDB); the post-Doha Agenda; sanitary and phytosanitary measures; technical barriers to trade; the GATS; agriculture; regional integration; dispute settlement practices and procedures; market access; WTO rules on safeguard, anti-dumping and countervailing measures; textiles; notifications; and the reference centre.

addition, since 1995, five officials have participated in the trade policy course lasting 12 weeks and two in the three-week course for LDCs, organized by the WTO Training Institute.

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

Agreement	WTO document	Content
Multilateral agreements on trade in goods		
GATT 1994	Schedule XLIX - Senegal of 15 April 1994 ^a	Tariff concessions
Agreement on Textiles and Clothing	G/TMB/N/122 of 9 August 1995	Transitional safeguard mechanism
Agreement on Technical Barriers to Trade	G/TBT/CS/N/27 of 23 February 1996	Annex III
	G/TBT/Notif97.348 of 15 July 1997 G/TBT/Notif00.472 of 3 October 2000 G/TBT/Notif00.473 of 3 October 2000 G/TBT/Notif00.474 of 5 October 2002	Notifications of standards
Agreement on Implementation of Article VI of the General Agreements on Tariffs and Trade 1994	G/ADP/N/1/SEN/1 of 31 July 1996	Laws and regulations
	G/ADP/N/4, G/ADP/N/9, G/ADP/N/16	Notifications of anti-dumping measures
Agreement on Implementation of Article VII of the GATT 1994	G/C/W/390 of 26 June 2002	Request for a waiver on minimum values
	G/VAL/N/1/SEN/1 of 27 September 2001	WAEMU regulations on customs valuation
Agreement on Preshipment Inspection	G/PSI/N/1/Add.4 of 9 October 1996	Laws and regulations
Agreement on Rules of Origin	G/RO/N/10 of 16 August 1996	Laws and regulations
Agreement on Import Licensing Procedures	G/LIC/N/3/SEN/1 of 11 February 1997	Replies to the questionnaire; rules and information concerning procedures for submitting applications
	G/LIC/N/1/SEN/1 of 23 October 2002	Update
Agreement on Subsidies and Countervailing Measures	G/SCM/N/3/SEN of 27 January 1997 and Suppl.1 of 21 November 1997	Laws and regulations
Agreement on Safeguards	G/SG/N/1/SEN/1 of 1 November 1996	Laws and regulations
General Agreement on Trade in Services		
	GATS/SC/75 of 15 April 1994, Suppl. 1 of 11 April 1997 and Suppl. 2 of 26 February 1998	Schedule of Specific Commitments on Services
	GATS/EL/34 of 15 April 1994 and Suppl. 1 of 26 February 1998	List of Article II exemptions (MFN)
Agreement on Trade-Related Aspects of Intellectual Property Rights		
	IP/N/1/SEN/1 of 6 February 1997	Laws and regulations
	IP/N/3/Rev.3/Add.1 of 17 December 1998	Enquiry point
Marrakesh Agreement Establishing the World Trade Organization		
	WT/MIN(01)/15 of 14 November 2001	Waiver from obligations under Article I.1 of the GATT 1994 for the ACP-EC Partnership Agreement
Enabling clause		
	WT/COMTD/N/11 of 3 February 2000, WT/COMTD/N/11/Add.1 of 2 March 2001, WT/COMTD/N/11/Add.2 of 22 August 2001 WT/COMTD/N/11/Add.2/Corr.1 of 26 March 2002	West African Economic and Monetary Union (WAEMU)

^a This Schedule was amended following the tariff negotiations under Article XXVIII of the GATT 1994, which ended in 1997.

55. Senegal is currently requesting further technical assistance for the following: (i) harmonization of laws, regulations and rules with WTO obligations; (ii) updating notifications; (iii) training of officials in WTO-related areas (especially the building of negotiating capacity); and (iv) modernization of the customs administration. A comprehensive programme has been proposed by the Secretariat (Annex II.1).

(ii) Regional agreements of economic scope

(a) African Union⁴¹

56. The achievement of African unity is one of Senegal's fundamental objectives.⁴² Senegal is a founding member of the African Union, which succeeded the Organization of African Unity (OAU).⁴³ Ultimately, the African Union will be an economic and monetary union with five institutions: a Pan-African Parliament, a Central Bank, a Monetary Fund, a Court of Justice, and an Economic and Social Commission. The Protocol on the creation of the Pan-African Parliament was adopted in 2002, but the institution has not yet been set up. Currently, there is a transitional support structure and the Commission of the African Union should be set up in July 2003.

57. The Lusaka summit in 2001 saw the adoption of the New Partnership for Africa's Development (NEPAD), which constitutes "a call for a new relationship of partnership between Africa and the international community, especially the highly industrialised countries".⁴⁴ The NEPAD combines a multidisciplinary analysis of poverty in Africa with an initiative for the active participation of African States in the WTO and debt reduction that exceeds the current levels. In the long term, the objective of the African initiative is to link debt reduction to the assessed results of poverty reduction activities.

(iii) Economic Community of West African States (ECOWAS)⁴⁵

58. Senegal is a founding member of the ECOWAS, whose Treaty was revised in 1993 to include the objective of economic and monetary union.⁴⁶ Following this revision, the institutional framework of the ECOWAS provides for the following: a Central Bank, a Parliament, a Court of Justice, an Executive Secretariat, and an Economic and Cultural Council. In 2000, the ECOWAS set up the West African Parliament and the Court of Justice and in 2001 the West African Monetary Institute, which is the precursor of the Central Bank.

59. The 1993 revision of the Treaty established a two-stage programme for the liberalization of trade: the establishment of a free-trade area at the end of 1999 and the adoption of a CET in three stages. Local products and traditional crafts may circulate freely within the ECOWAS, and Senegal has granted such treatment since 2000. In principle, certain processed products approved under the preferential regime should also be duty free.⁴⁷ The liberalization of tariff barriers on

⁴¹ <http://www.africa-union.org>.

⁴² Article 96 of the 2001 Constitution.

⁴³ The Charter establishing the OAU was signed on 25 May 1963. The Constitutive Act of the African Union was adopted at the summit of the Organization of African Unity (OAU) in July 2000 in Lomé (Togo). The African Union, which has now replaced the OAU, was proclaimed on 11 July 2001 at Lusaka, in Zambia, after ratification of the Constitutive Act by more than 44 of the 53 member States of the OAU.

⁴⁴ African Union (2001).

⁴⁵ <http://www.ecowas.int>.

⁴⁶ The Treaty establishing the ECOWAS was signed on 28 May 1975. ECOWAS currently comprises 15 countries: Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo.

⁴⁷ WTO document WT/TPR/S/43-2 of 10 February 1998.

approved products should proceed according to an asymmetric scheme under which high-income countries would liberalize more rapidly than low-income countries.⁴⁸ This timetable has not been respected and a new timetable has not yet been fixed; the Senegalese authorities explain the halt in intra-community liberalization by the absence of a compensation mechanism to offset the loss in customs revenue, and by the approval system. It was also intended to introduce free movement of services, capital and persons within the Community at the end of a period of five years following the introduction of the Customs Union planned for the year 2000.⁴⁹ A community passport was established for this purpose and it should be recognized in the year 2005; Senegal introduced such a passport in 2000.

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

61. The ECOWAS is responsible for settling disputes in the subregion. In 2002, it undertook a peacekeeping mission in Côte d'Ivoire.⁵⁰

(a) West African Economic and Monetary Union (WAEMU)⁵¹

62. Senegal is a founding member of the WAEMU⁵², whose Treaty and some of whose projects have been notified to the WTO under the Enabling Clause since 1999.⁵³ With the exception of Côte d'Ivoire, the member States of the WAEMU are all LDCs and also all belong to the ECOWAS, which has wider geographical scope.

63. The Union's bodies consist of the Conference of Heads of State and Government; the Parliament; the Council of Ministers; the Commission; the Court of Justice; and the Court of Audit. The Conference of Heads of State and Government defines the broad outlines of Union policy and adopts acts additional to the Union Treaty, which complement the latter without amending it. The Council of Ministers is the WAEMU's decision-making body and adopts regulations, directives and decisions: the regulations are binding and apply directly in all member States; directives must be incorporated into the legislation and procedures of the member countries; decisions are binding on the persons or member States concerned. The Commission is the only body empowered to propose community acts, and has its headquarters in Ouagadougou (Burkina Faso). The Court of Justice was established and put in place in 1995 and the Court of Audit started to function in 1998. The WAEMU complements the WAMU by means of an economic integration component and incorporates its provisions, including a common currency (the African Financial Community franc (CFA)), administered by the Central Bank of West African States (BCEAO), a specialized autonomous body of the WAEMU (Chapter I(3)(ii)). The main objectives of the WAEMU are: (i) convergence of the

⁴⁸ Group I (Burkina Faso, Cape Verde, Gambia, Guinea-Bissau, Mali and Niger) had a 10-year period for reduction at an annual rate of 10 per cent for approved products. Group II (Benin, Guinea, Liberia, Sierra Leone and Togo) had a period of eight years for reduction, at an annual rate of 12.5 per cent for approved products. Group III (Côte d'Ivoire, Ghana, Nigeria and Senegal) had a period of six years, with an annual rate of reduction of 16.6 per cent for approved products.

⁴⁹ WTO document WT/WGTI/W/22 of 26 January 1998.

⁵⁰ <http://allafrica.com/stories/200210270001.html> [22 October 2002].

⁵¹ <http://www.uemoa.int>.

⁵² The WAEMU Treaty was signed on 11 January 1994 by Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal and Togo; Guinea-Bissau acceded to the Treaty on 1 January 1997. WTO document WT/COMTD/N/11 of 3 February 2000.

⁵³ WTO document WT/COMTD/N/11 of 3 February 2000.

economic performance and policies of member States through the institution of a multilateral monitoring procedure⁵⁴; (ii) establishment of a common market; (iii) coordination of sectoral policies; (iv) to the extent necessary for the proper operation of the common market, harmonization of member States' legislation, including the regime on duties and taxes on goods.⁵⁵

64. Regarding the liberalization of trade among WAEMU member States, a transitional preferential regime came into effect on 1 July 1996.⁵⁶ Since then, local products and traditional crafts have been completely free of import duty and taxes. Approved originating industrial products have also gradually become duty free (Chapter III(2)(iii)), a process which ended on 1 January 2000.⁵⁷ New WAEMU rules of origin came into effect on 1 January 2003 (Chapter III(2)(v)).⁵⁸

65. Regarding extra-community trade, including trade among member States of the WAEMU not subject to the preferential regime, the CET was introduced on 1 January 2000 on the basis of a common tariff and statistical nomenclature, along with a common customs valuation regime for goods; Senegal completed the introduction of the CET on 25 July 2002. A statistical charge (RS) and a community solidarity levy (PCS) are also applied on a permanent basis (Table II.2).

66. In addition, imports are subject to a special import tax (TCI) or a degressive protection tax (TDP). The TCI and TDP are nationally applied protection mechanisms established by the WAEMU subject to approval by the latter's Commission. The TDP should have expired at the end of 2002 but was renewed for the year 2003. Senegal currently applies the TCI on imports from third countries of sugar, groundnut oil, soya bean and colza oil, and wheat flour, but does not apply the TDP (Chapter III(2)(iv)).

67. In addition to the CET, the member States of the WAEMU are gradually adopting a common trade policy towards third countries, as well as within the WTO (see above). In principle, the WAEMU Commission has exclusive competence in this area and no member State may separately negotiate or conclude a bilateral trade agreement with a third country. In 1998, the WAEMU Commission was mandated to undertake negotiations on an agreement to develop trade and investment relations with the United States of America and an agreement was signed on 24 April 2002.⁵⁹ This non-preferential agreement commits the partners to encourage and facilitate trade in goods and services and to guarantee conditions conducive to investment. For this purpose, a Trade and Investment Council has been set up in order to deal with any matters relating to trade or investment.

68. Other agreements between the WAEMU and third countries are under preparation. In 1999, the WAEMU Commission commenced negotiations with Tunisia for the purpose of concluding a trade agreement⁶⁰ and an agreement is also being negotiated with Morocco. In September 2000, the WAEMU Commission was mandated to initiate negotiations with the EU with a view to concluding a Regional Economic Partnership Agreement (see below).⁶¹

⁵⁴ The WAEMU introduced a Convergence, Stability, Growth and Solidarity Pact in support of monetary union (Additional Act No. 4/99).

⁵⁵ Article 4 of the WAEMU Treaty.

⁵⁶ Additional Act No. 04/96, as amended by Additional Acts No. 01/97 and No. 04/98.

⁵⁷ Reductions of 30 per cent in 1997, 40 per cent in 1998, 60 per cent in 1999, and 100 per cent in 2000.

⁵⁸ Additional Protocol No. III establishing rules of origin for WAEMU products.

⁵⁹ Directive No. 07/98/CM/UEMOA.

⁶⁰ Directive No. 07/99/CM/UEMOA.

⁶¹ Directive No. 03/2000/CM/UEMOA.

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

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

Source: WAEMU Commission.

69. With regard to the coordination of national sectoral policies, the WAEMU has adopted common policies in the following areas: agriculture⁶², energy⁶³ and industry⁶⁴. The principal objectives of the common agricultural policy are to help in meeting the population's food needs and in the economic and social development of member States, as well as in reducing poverty in rural areas. The operating procedures for the common agricultural policy should be finalized soon. In this connection, the protection granted to agricultural products under the CET – relatively higher than that for non-agricultural products – could be increased.

70. Regarding transport, which is a key aspect for the development of intra-community trade, a community strategy and a road infrastructure network within the WAEMU have been adopted and put before donors.⁶⁵ A community programme on the building of checkpoints on the borders between member States has been adopted and should start to be implemented in 2003.⁶⁶

71. Harmonization of domestic tax legislation in member States has made progress as far as the value-added tax (VAT), excise duties, taxation of petroleum products (Box II.1), advance payment of tax on industrial and commercial profits (BIC), the legal framework, government finance accounts and statistics⁶⁷, accounting legislation (SYSCOA)⁶⁸ and the regional financial market are concerned. The WAEMU recently introduced a community policy on competition, which came into effect on 1 January 2003, but is not yet being applied (Chapter(4)(iv)). The draft "WAEMU Investment Charter" was not adopted by the WAEMU Council of Ministers, however, due to lack of agreement on the question of benefits given for approved projects.

(iv) ACP-EU Partnership Agreement

72. Senegal is one of the ACP countries with which the EU has concluded a Partnership Agreement. The latter entered into force on 1 March 2000 and was signed on 23 June 2000 in Cotonou, Benin.⁶⁹ The Agreement replaces the Lomé Convention, which had been in effect since 1975 and whose fourth extension expired at the end of February 2000. Of the 71 ACP countries, 55 are members of the WTO and 41 are LDCs.

⁶² Additional Act No. 3/2001.

⁶³ Additional Act. No. 4/2001.

⁶⁴ Additional Act No. 5/1999.

⁶⁵ Decision No. 2/2001.

⁶⁶ Decision No. 8/2000. The borders to be used for a pilot programme are those between Burkina Faso and Côte d'Ivoire and Togo, respectively.

⁶⁷ Directives No. 5/97/CM/UEMOA, 6/97/CM/UEMOA, 4/98/CM/UEMOA, 5/98/CM/UEMOA and 6/98/CM/UEMOA, as amended.

⁶⁸ Regulation No. 4/96/CM/UEMOA, as amended.

⁶⁹ European Commission press release, IP/00/640.

73. Trade provisions are one of the cooperation mechanisms between the ACP countries and the EU. The latter allows duty-free entry for industrial products and processed agricultural products originating in 70 ACP countries on a non-reciprocal basis (the Agreement on Trade, Development and Cooperation applies to South Africa). In the absence of data, the Senegalese authorities are unable to identify the products currently benefiting from the preferences granted.

74. The WTO Members have granted a waiver to the EU from its obligations under Article I.1 of the GATT 1994 (concerning MFN treatment) for the period 1 March 2000 to 31 December 2007, at which time new trade agreements consistent with the WTO's rules must have been concluded.⁷⁰ There are three options for that date:

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

75. In September 2001, the EU initiated negotiations with the WAEMU, in collaboration with the ECOWAS,⁷¹ for the purpose of concluding a REPA. One of the major components of such an agreement would be the elimination of non-reciprocal trade preferences for the ACP countries concerned. An agreement would provide that at the end of the transitional period – at the latest 2020 – the EU's regional partners would have abolished customs duties on imports from the EU. Consequently, tax revenue will decrease and competition will no doubt be keener. On the other hand, consumers will benefit from lower prices and the catalytic effect on domestic enterprises. Economic studies are needed, however, in order to assess the actual impact on each of the ACP countries' economies.

76. The WAEMU member countries are keeping open the GSP option. It should be noted that the revised GSP scheme currently in force includes the "Everything but Arms" initiative in favour of LDCs⁷², which came into effect on 5 March 2001, and allows duty-free entry of all products except arms, with some exceptions (rice, bananas and sugar, to which transitional arrangements apply).⁷³ As a result of the "Everything but Arms" initiative, the LDCs enjoy the most favourable preferential treatment under the GSP, including that within the framework of the ACP-EU Partnership Agreements, except in the case of protocols covering certain products.⁷⁴

(v) Bilateral agreements

77. Over the years, Senegal has concluded several bilateral trade and economic cooperation agreements.⁷⁵ The majority of the agreements with other WTO Members provide for the MFN regime. More favourable terms – duty-free entry – are provided under the agreements with Algeria, Morocco and Tunisia. Since the creation of the WAEMU in 1994, Senegal has only

⁷⁰ WTO document WT/MIN(01)/15 of 14 November 2001. The waiver granted by the WTO (WT/L/186), which extended the waiver under Article I (MFN) of the GATT for the fourth Lomé Convention between the ACP countries and the EEC (GATT document L/7694), ended on 29 February 2000.

⁷¹ Directive No. 3/2000/CM/UEMOA.

⁷² EU Regulation 416/2001.

⁷³ EU Regulation 2501/2001.

⁷⁴ WTO document WT/TPR/S/102-2 of 26 July 2002, p. 25.

⁷⁵ GATT document TPR/S/41 of 4 January 1994.

concluded three bilateral trade agreements (with Uganda, Viet Nam and the Czech Republic) because the WAEMU Treaty provides for a common trade policy. Consequently the bilateral trade agreements signed by Senegal and other members of the WAEMU will gradually be replaced by agreements between the WAEMU and third countries.

78. Senegal has been a member of the Multilateral Investment Guarantee Agency Agreement since 10 March 1987.⁷⁶ Senegal has also been a member of the International Centre for Settlement of Investment Disputes (ICSID) since 21 May 1967.

⁷⁶ MIGA (2002), Appendix tables, p. 88.

Annex II.1: Trade-related technical assistance

1. Like other LDCs, Senegal has a large number of trade-related needs and its problems are exacerbated by the difficulty of implementing the WTO Agreements, the lack of human and institutional capacity and supply constraints. In the past, Senegal received aid from a number of sources, but in order to meet all its needs it requires further assistance. At the same time, it is essential that such assistance should be better coordinated among those providing it because the absorption capacity of government institutions dealing with foreign trade is limited.

2. Senegal has regularly made use of the technical assistance supplied by the WTO and other international institutions. Such assistance has mainly been requested in order to allow Senegal to implement the WTO Agreements. In conformity with the provisions of the Integrated Framework, the evaluation made by Senegal should serve as the point of departure for global trade-related technical assistance proposals. The Diagnostic Trade Integration Study and the Action Matrix were endorsed at the National Validation Workshop held in Dakar on 16 December 2002.

Trade-related technical assistance needs:¹

Implementation of the WTO Agreements

3. Senegal encounters serious problems in applying a number of provisions of the WTO Agreements. These difficulties are due above all to the lack of institutional capacity in the implementing bodies, the limited knowledge of the WTO Agreements and the lack of human, material and financial resources to implement them. The areas in which Senegal has the greatest need of assistance are: (i) harmonization of legislation, regulations and rules with the WTO provisions; (ii) notifications; and (iii) training of officials in WTO-related areas, particularly the building of negotiating capacity. The WTO Secretariat, other intergovernmental organizations and bilateral donors have provided aid in order to meet general needs, but Senegal needs further assistance better adapted to its specific problems in order to be able to derive benefit from the multilateral trading system. Moreover, in certain cases, if the WTO Agreements are to be properly applied the existing institutions must be strengthened, or new institutions created, which could have substantial financial implications and would also call for action by several providers of aid with differing expertise.

4. The implementation-related areas of the greatest concern to Senegal are customs valuation, anti-dumping measures, countervailing measures, sanitary and phytosanitary measures, technical barriers to trade, and TRIPS. It will be impossible to benefit from all the advantages of applying the Customs Valuation Agreement as long as the customs infrastructure and the means for combating smuggling from Gambia and Guinea-Bissau have not been reinforced. According to the authorities, the utilization of "GAINDE"², a new computer system, is an important step to be taken.

5. As far as intellectual property rights (Chapter II(d)) are concerned, according to the authorities, Senegal has received little assistance from the WTO, WIPO or other relevant organizations. It is therefore urgent to enhance knowledge and expertise in the administration and other State and private sector entities by means of training courses and workshops. The Industrial Property Service is in need of legal advice in drawing up new legislation consistent with the provisions of the TRIPS Agreement. In addition, the enactment of laws consistent with the WTO would eliminate one of the major obstacles hampering the effective implementation of the law, in particular because it would facilitate the training of customs and police officers. Lastly, the entities

¹ The information given in this section comes from the evaluation of the needs made under the Integrated Framework, but also from the Diagnostic Trade Integration Study and the Action Matrix.

² GAINDE: Computerized Processing of Customs and Trade Information.

responsible for applying the Agreement require assistance, especially the customs service as regards imports of counterfeit goods. Senegal needs more jurists, especially in the field of TRIPS. Furthermore, if the WTO Agreements are to be observed, in the majority of cases institutions will have to be created or strengthened and personnel responsible for administering laws in compliance with Senegal's commitments will have to be trained.

6. The lack of officials trained in WTO-related areas, especially as regards negotiating skills in the multilateral framework, also hinders Senegal's participation in the trading system (it does not belong to any pressure group). Senegal can rarely attend meetings of the WTO, because it lacks the financial resources to do so. It has relied to a large extent on the reference centre in order to follow the WTO's activities.³

Training in the multilateral trading system

7. A small number of officials, mainly from the Ministries of Trade; Foreign Affairs; and Customs, have broad knowledge of trade policy and its instruments. Some ministries such as those of Agriculture and Livestock, Fisheries, Mining, Energy and Water Resources, Public Works and Transport appear to have limited knowledge of the multilateral trading system, certain aspects of which are nevertheless of direct interest to them. This is because these ministries have few contacts with those dealing directly with such issues or do not apprehend the full relevance of multilateral trade issues for their fields of activity. Other ministries or entities directly concerned such as the customs or the APIX seem to be in a similar situation. Together with a probable lack of communication/coordination among ministries – despite the committee (Chapter II(20)) – this set up explains why all issues relating to the multilateral trading system are dealt with only by the Ministry of Trade.

8. For this reason, it is mainly officials of the Ministry of Trade who take part or have taken part in the trade policy courses in Geneva (the three-month or the short-term trade policy course). In addition, officials from ministries such as those of Foreign Affairs, Economy and Finance (including the customs) have been involved in technical cooperation activities undertaken at the regional level. The various economic operators in the private sector also have little information about the multilateral trading system and its rules; only people directly responsible for the institutions concerned appear to have knowledge of the system. The 2003 Action Plan drawn up by the WTO Secretariat⁴ provides for special efforts to be made in favour of LDCs. These should be expanded through increased collaboration among international organizations in the context of the Integrated Framework and the JITAP II⁵ (second stage), for which Senegal was selected together with seven other LDCs⁶, as well as at the regional or subregional level, particularly within the framework of the WAEMU.

9. Up until now, the technical assistance provided by the WTO has aimed above all at making the WTO system better known to senior officials. Since 1998, two national seminars on the multilateral trading system have been organized in Senegal, but Senegalese officials have taken part in 17 regional seminars on various WTO-related issues.⁷ In addition, since 1995, five officials have

³ The reference centre was established by the Ministry of Trade in 1998 and has an electronic link to the WTO. This allows officials, representatives of universities and business circles and other interested persons to obtain trade-related information and documents by consulting the WTO's database.

⁴ WTO document WT/COMTD/W/104/Add.1/Rev.2 of 25 November 2002.

⁵ JITAP: Joint Integrated Technical Assistance Programme.

⁶ JITAP II (2003-2006)/Draft Programme document. The expanded JITAP covers Botswana, Cameroon, Malawi, Mali, Mauritania, Mozambique, Senegal and Zambia.

⁷ Senegal has participated in regional seminars on the following themes: trade and environment; the integrated database (IDB); the post-Doha Agenda; sanitary and phytosanitary measures; technical barriers to

taken part in the 12-week trade policy course and one in the three-week trade policy course designed for LDCs and organized by the Training Institute⁸. According to the authorities, these seminars and training courses have done a great deal to make the WTO Agreements better known, but they are still insufficient. In particular, it is essential to hold national seminars and train trainers in order to bolster the national team of WTO experts.

Information

10. The WTO reference centre, set up in the Ministry of Trade, provides information on the multilateral trading system through a link to the WTO's official site and general information on the WTO and other institutions dealing with trade matters. The reference centre and its library, installed by the WTO, are not easily accessible to persons outside the Ministry. There are also reference centres at the Trade Point, the CICES⁹ and the IDPE¹⁰.

11. Few people in the Ministry are capable of using the computer equipment supplied. The centre therefore indubitably needs substantial support to allow it to fulfil its role effectively. The computer equipment provided by the WTO will be upgraded and expanded. These activities form part of the Technical Assistance Action Plan for 2003. In addition, the media in Senegal are not in a position at the moment to cover multilateral issues fully. They should be brought up to date and given further information through the dispatch of appropriate WTO documentation.

Institutional support to the Ministry of Small- and Medium-sized Enterprises and Trade

12. In view of the difficulties encountered and mentioned above, the Ministry of Trade continues to play an important role, in particular because there is no enquiry point on multilateral issues in Senegal. The Ministry nevertheless finds it difficult to fulfil such a task, not only because of conflicting competence between the Ministry and other bodies (for example, the customs) or poor coordination, but also because of the current shortage of officials to deal with the subject; it also lacks institutional memory because the majority of well-trained officials – particularly those who attended the GATT/WTO trade policy courses – have left the Ministry for other jobs or have left Senegal; and financial resources are scarce.

Supply constraints

13. Supply constraints are a major obstacle to the expansion of foreign trade in Senegal. They make trade even more costly, particularly because the problems are often inter-related and have a mutually negative impact, which makes trade in general difficult. For example, unpredictable rainfall, little diversity of supply, certain production costs, particularly for energy, the informal sector and the inadequacy of the infrastructure exacerbate the problems, thereby hindering participation in international trade. The lack of knowledge about export outlets and the inadequacy of export financing mechanisms have prevented diversification of exports, both in terms of products and markets. All these problems need to be resolved within a global framework.

14. The Government has taken some measures to ease supply constraints. As far as infrastructure is concerned, it has decided to privatize and open up to private-sector participation services that are

trade; the General Agreement on Trade in Services; agriculture; regional integration; dispute settlement practices and procedures; market access; WTO rules; textiles; provisions on notifications; and the reference centre.

⁸ Source: WTO Training Institute.

⁹ CICES: Senegal International Foreign Trade Centre.

¹⁰ IDPE: Economic Planning Institute.

supplied by the State but are overwhelmed, such as telecommunications and electricity (Chapter II(36)). The needs are substantial and in particular the institutional capacity of export support bodies has to be built up, export financing mechanisms have to be improved and computer and telecomputing equipment has to be acquired in order to have access to up-to-date information on markets. In order to meet these needs, there should not only be a wide range of providers of technical assistance, but their action should be better coordinated. In this respect, the Integrated Framework, a mechanism under which six multilateral organizations (IMF, ITC, UNCTAD, UNDP, the World Bank and the WTO) coordinate the supply of trade-related technical assistance to LDCs, is helping Senegal to enhance the consistency of its trade-related policies by integrating trade priorities into its poverty reduction strategy.

Integration of international trade into the development plan

15. The Integrated Framework underlines the need to integrate each country's trade priorities into its national development plan or its poverty reduction strategy. If foreign trade is to promote economic growth that improves the condition of poor people, integration must be at three levels: the political level, the institutional level and at the level of the partnership between the government and donors. Senegal has been included in the extension of the pilot programme phase of the Integrated Framework.¹¹ The Diagnostic Trade Integration Study and the Action Matrix were endorsed at the National Validation Workshop held in Dakar on 16 December 2002. The Action Matrix incorporates all the priority activities and sectors required in order to enhance the competitiveness of the economy and integration into the global economy. It will be analysed at a follow-up seminar with donors in 2003 in order to discuss the implementation of the integrated plan of action in the PRSP¹² and to identify technical assistance needs and ways of mobilizing resources.¹³

Integration at the institutional level

16. The problem facing Senegal in developing its foreign trade is that it is hard to reconcile the political will to achieve a better foreign trade performance and the institutional capacity needed to plan and implement the required measures. Senegal has concluded a series of multilateral, regional and bilateral agreements (Chapter II(iv)), which call for the adoption of new policies, but the institutional capacity needed to implement them effectively is only rarely available. The capacity of the Ministry of Trade and other institutions responsible for promoting trade such as the APIX are limited owing to their inadequate financial resources. Moreover, responsibility for formulating and implementing trade policy is often divided up among several institutions, with duplication of work, and there are no clearly defined responsibilities. This fragmentation leads to rivalry in obtaining resources.

Integration at the level of the government-donors partnership

17. Senegal receives aid from various sources, but there is little coordination among its development partners, due in part to the general lack of coordination in the formulation of policies and in institutions. The World Bank, UNDP, the EU and USAID play a role in foreign trade. The result is not only to limit the benefits which aid could provide but this also imposes a heavy additional burden on government authorities, whose capacity is already insufficient. The Integrated Framework

¹¹ The pilot programme commenced in May 2001 in three countries: Cambodia, Madagascar and Mauritania. It has been extended in the first instance to Eritrea, Lesotho, Malawi, Senegal and Yemen (WT/IFSC/W/9).

¹² PRSP: Poverty Reduction Strategy Paper.

¹³ Integrated Framework, Diagnostic Trade Integration Study, Report on the National Validation Workshop, Dakar, 16 December 2002.

was designed in particular to remedy this problem and to enhance the coordination and coherence of policies.

Adaptation of legislation

18. Senegal finds it difficult to bring its legal system into conformity with the WTO Agreements. A certain number of laws and regulations have been in place for a long time. The scope of the task makes the process of adapting to the WTO Agreements a long and arduous one. There are also the constraints due to the limited financial resources of the ministries concerned; the legal problems related in part to the inclusion of the informal sector; and, lastly, coordination difficulties. Technical assistance in this area could be envisaged.

Implementation of the Agreements

19. The main problem is lack of information on the provisions of the Agreements to be implemented and on the action required. The crucial issue of implementation will not be completely resolved until there is better knowledge of the Agreements. Substantial assistance is therefore needed. The implementation-related areas of most concern to Senegal are customs valuation; sanitary and phytosanitary measures; technical barriers to trade; and trade-related aspects of intellectual property rights (TRIPS).

Participation in the WTO and trade negotiations

20. The key issues cited by the Senegalese authorities concern better participation in the work of the WTO and in trade negotiations. The authorities would like their officials to be better informed and prepared for multilateral negotiations and future negotiations and would welcome technical assistance in particular in the form of seminars/workshops on subjects in the WTO work programme under the Doha Ministerial Declaration, especially on matters related to competition, investment and government procurement, and negotiating techniques.

Notifications

21. Senegal has encountered some difficulty in fulfilling its obligations (Table II.1), especially since 1998. According to the authorities, the delay in notification is mainly due to a poor understanding of the regulations and the way in which notifications must be drawn up and communicated to the WTO Secretariat, not to mention limited knowledge of the WTO Agreements. The substance of notifications is often highly technical, which makes it difficult for officials to draft them. Coordination problems among the ministries concerned should also be mentioned.

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