

III. TRADE POLICY - ANALYSIS BY MEASURE

(1) INTRODUCTION

1. Trade reforms have been carried out in Guinea under the structural adjustment programmes in progress since 1985. These reforms have enabled most quantitative trade restrictions to be abolished. However, besides the restrictions maintained for health, security or moral reasons or under international conventions to which Guinea is a signatory, imports of potatoes are prohibited from February to June each year in order to allow local production to be sold.

2. Import duties (fiscal import duty, customs import duty and clearance fee), which are heavily concentrated around their simple arithmetic mean of 16.4 per cent (with a minimum rate of 2 per cent, a maximum of 32 per cent and a modal rate of 17 per cent (Table AIII.1), show negative tariff escalation from unprocessed products to finished goods. Subject to exemptions, unprocessed products are therefore the most protected, followed by semi-finished goods (Table III.1): this should be reflected in nominal higher than the effective protection rates. A 0.5 per cent community levy is collected on behalf of ECOWAS on goods originating in countries other than those of ECOWAS and an additional 0.25 per cent tax is levied for payment to the Chamber of Commerce. The basis for all these duties is the c.i.f. value. However, flat-rate values are set for certain products such as rice and beverages. Domestic taxes, including a value-added tax of 18 per cent and a surtax (eight levels from 5 to 70 per cent on imports), are applied to locally produced goods and to imports; the surtax is levied at lower rates on local products.

Table III.1
Customs tariff (excluding Community Levy and Additional Tax) by stage of processing, 1998

Products	Number of lines	Average	Minimum rate	Maximum rate	Standard deviation	Coefficient of variation
Unprocessed products	673	16.8	2	24	1.6	0.09
Semi-processed products	1,723	16.6	10	32	2.0	0.12
Finished products	2,945	16.1	2	32	3.1	0.19
Total	5,341	16.4	2	32	2.6	0.16

Source: Calculations by WTO Secretariat.

3. Pre-shipment inspection covering imports of goods worth at least US\$5,000 was introduced for tax purposes and increases the level of protection of similar goods or their locally produced substitutes. This is because the fees of the inspection company, the Société générale de surveillance (SGS), are borne directly by the importers, which can add up to nearly six additional points to the protection level (in the absence of inspection).

4. For exports, restrictions have been abolished on all products apart from gold and diamonds. Export duties of 2 per cent are levied on all products, with the exception of coffee and mineral products and derivatives, including gold, diamonds and ferrous scrap. These duties are: GF 25,000 per ton of scrap; 2 or 3 per cent on gold and 3 per cent on diamonds (small-scale production); and US\$13 per ton of coffee. A 2 per cent tax is levied on the re-exportation of all products. However, fiscal and customs advantages are granted to the exporting enterprises. In addition to the privileges common to the various regimes under the Investment Code, further additional advantages are granted to enterprises (whether exporters or not) which make use of Guinean products representing over 50 per cent of their intermediate consumption during a fiscal year.

5. Price controls have been progressively streamlined; they now apply only to petroleum products. Furthermore, the African Intellectual Property Organization Treaty, of which Guinea is a member, is being amended to align it on the provisions of the Agreement on Trade-Related Aspects of

Intellectual Property Rights (TRIPS). The counterfeiting of trade marks is the most common infringement in Guinea in this area.

(2) MEASURES DIRECTLY AFFECTING IMPORTS

(i) Registration and documents

6. A Guinean or foreign operator wishing to import goods for commercial purposes must first be included in the register of economic activities.¹ A foreigner included in the register may therefore pursue an economic activity in Guinea. The formalities necessary for such inclusion are carried out at the Office for the Promotion of Private Investment (OPIP), which comes under the Ministry for the Promotion of the Private Sector, Industry and Trade. In order to get a file opened, the party concerned must state whether he wishes to be a retailer or a wholesaler. The documentation required and the cost differ according to whether the would-be importer is a natural person or a company. A written application is required in the case of a natural person; the application must be accompanied by a certificate of ownership or a copy of the lease contract for the premises of establishment, a photocopy of the identity card and a residence certificate for nationals or a photocopy of the passport and residence permit (failing this, a three-month visa may be sufficient) for foreigners. The registration cost is GF 50,000. In the case of a company, the application must be accompanied by the articles of association, initialled by the National Tax Directorate² and a report attesting their juridical form and legal duration. The cost of registration is GF 100,000.

7. After inclusion in the register of economic activities, the importer's/exporter's card may be collected at the single window of the National Trade Directorate, which brings together at a single location the Trade Directorate, the Labour Directorate, the Tax Directorate and the Social Security Fund. The cost of obtaining the card varies: for a natural person, it is GF 50,000 (retailer) and GF 100,000 (wholesaler). The cost of the card for a company is GF 100,000.

8. Inclusion in the register of economic activities allows a trading account needed to carry out import operations to be opened. For operations whose f.o.b. value is at least US\$2,000, an import file (including the proforma invoice and order form) must be filed with the SGS, which is responsible for the compulsory inspection of goods prior to shipment (Section (ii) below). The importer's identification number must be communicated for each operation. After the documents have been checked and validated, the SGS issues a Descriptive Import Application (DDI) to the importer, who domiciles it with a commercial bank. The period of validity of the DDI is three months and can be extended. A copy of this document is returned to the National Trade Directorate for statistical purposes.

(ii) Inspection, customs valuation and payment of duties and taxes

9. For some years Guinea has been applying an import verification programme which was initially entrusted to the BIVAC Company. In June 1996 a Programme for the Security of Customs Revenue (PSRD) was adopted by the Government; the SGS is responsible for implementing it. Imports worth between US\$2,000 and less than 5,000 (f.o.b.) must be covered by a DDI but are not liable to SGS inspection. Apart from the exceptions laid down in the contract³ all import operations

¹ Code of Economic Activities, Book III, Chapter 1, October 1995.

² Costs amount to 2 per cent of the capital.

³ These include precious stones and metals, works of art, explosives and ammunition, live animals, newspapers, personal effects and used domestic articles including vehicles, films, postal packages and samples and grants from foreign governments and international organizations. Imports for the needs of diplomatic and consular missions and of United Nations agencies are not liable to inspection.

whose f.o.b. value is US\$5,000 or more must be inspected by a branch of the SGS before shipment to Guinea. The SGS is responsible for determining the customs value and tariff heading, for calculating and following up the collection of duties and taxes and for monitoring exemptions. The cost of its services is 1.05 per cent of the f.o.b. value of the goods, with a minimum amount equivalent in Guinean francs to Sw F 430;⁴ this fee is chargeable to the importer and paid on the basis of the proforma invoice when the DDI is filed at the SGS liaison office. Since fees are borne directly by the importers, preshipment inspection increases the level of protection of the goods concerned (Box III.1).

Box III.1 Preshipment inspection

Two aspects of the practice of pre-shipment inspection employed in Guinea should be stressed. These are the performance by the Société générale de surveillance (SGS) of all operations connected with customs formalities and the payment of import duties on imports liable to inspection, and the obligation imposed on the importers to bear the inspection costs (the SGS fees) directly. While, apart from the constraints on the importer represented by the preshipment inspection obligation, the activities of the SGS may, to a certain extent, not constitute additional barriers to trade, the same remark does not apply to the payment of the fees by the importers.

The fact that importers directly bear the SGS's fees increases the cost of imports and thus the level of protection of similar goods or their locally produced substitutes. The strongest increase in this protection results from applying a minimum sum set at Sw F 430 (about US\$307 at the rate of US\$1 equals Sw F 1.4). This minimum amount corresponds in reality to the cost of inspecting about US\$29,252 worth of goods, i.e. around six times the minimum threshold of US\$5,000 beyond which inspection is required.

The practice of a minimum fee may add up to nearly six additional points to the level of protection already provided by import duties in the absence of inspection, and about five points where fees are levied at the maximum rate of 1.05 per cent. As the additional level of protection is inversely proportional to the value of importation for goods worth less than US\$29,252, the more closely the value of the imports approaches the threshold of US\$5,000 required for inspection, the higher the level of additional protection. It is highly probable that the minimum fee is generally applied in Guinea because of the low purchasing power of the population and the small size of enterprises.

10. The current customs valuation procedure is based on the Brussels Definition of Value, that is, the price which it is considered could be obtained at a sale taking place under conditions of full competition between a buyer and an independent seller.⁵ Customs officers have recently been given training concerning the Brussels Definition of Value by the SGS. Guinea has therefore not yet adopted the definition of customs value in the WTO Agreement. However, Guinea has not had recourse to the delayed application allowed to developing countries by Article 20 (Special and Differential Treatment) of the Agreement on Implementation of Article VII of the GATT 1994. In addition, flat-rate values are used to calculate the duties and taxes for certain products, in particular rice and certain beverages (Section (iv) below).

11. After preshipment inspection, a report is forwarded by the SGS branch in the exporting country to the liaison office in Conakry within not more than 48 hours. The importer or an authorized customs agent⁶ must supply the liaison office with a copy of the business books and with supporting documents concerning the customs regime requested. The goods described in the final documents must conform to the preshipment inspection report; in the event of disagreement, the SGS may

⁴ For certain products, the costs are lower: 0.92 per cent for petroleum products, 0.72 per cent for certain foodstuffs (sugar, flour, milk) and 0.70 per cent for rice.

⁵ The definition is given in Article 24 of the Customs Code.

⁶ The authorization conditions are defined in Articles 83, 84 and 85 of the Customs Code.

perform inspections at destination. Most of the corrections made by the SGS relate to values. Where goods liable to inspection arrive in Guinea without having undergone preshipment inspection, the PSRD implementing decree provides for inspection at destination and penalties for a subsequent offence; for the second inspection on arrival, the duties and taxes are increased by 50 per cent, and after the third offence the goods are seized. The SGS has only begun to apply these penalties since the beginning of 1998; however, as at November 1998 no seizure had taken place.

12. Duties and taxes are calculated by the SGS by means of a Tax Statement (BDT) on the basis of the data in the inspection report (quality, quantity, tariff heading) and of the final documents delivered to the liaison office. The importer or agent uses that document when the goods arrive to pay the duties and taxes at a commercial bank specially authorized for this purpose. The duties and taxes are then transferred to a customs account at the Central Bank and from there to the Treasury. The BDT is the document which serves as the basis for payment of the duties and taxes, the customs declaration and removal of the goods.

13. The Customs Code (Article 22) provides that a Special Tariff Commission based at the Ministry of the Economy and Finance should be set up to provide legal remedies for the settlement of disputes concerning the type, origin or value of declared goods. As of the end of November 1998, the implementing texts determining the composition of this commission and its operating procedures had not been issued. Disputes brought before the SGS by declarers must give rise to a review within 48 hours by the SGS branches in the exporting countries concerned. The customs authorities take no part in the final decision, which therefore depends wholly on the assessment made by the SGS branch; no provision is made for legal appeal by the importer.

(iii) Customs clearance

14. The detailed declaration is drawn up and lodged by the importer or his agent on the basis of the BDT, together with the business documents required and the receipted BDT proving that the duties and taxes have been paid.⁷ The Taxpayer Identification Number (TIN) appearing on the BDT must be included on the customs declaration, together with the VAT number, which is needed in order to qualify for deductibility on certain imported goods and in order not to pay the 3 per cent flat-rate levy imposed as an advance payment on various taxes (Section (iv)(b) below).

15. The clearance of goods not subject to the PSRD follows the normal customs procedures (lodging of the declaration, acceptance, registration, documentary and physical verification, calculation and payment of duties and taxes, and removal) but is nevertheless subject to the following obligations: routine inspection in every case of all goods declared, signing of the removal order within 48 hours, payment of the duties and taxes directly into the account of the special customs collector at the Central Bank. Removal of goods not subject to the PSRD is conditional on the prior fixing of the SGS stamp on the bill of lading or on the original of the air waybill.

16. Customs procedures have been computerized since 1993 for Conakry Port on the basis of the SYDONIA automated customs system, version 2.0. However, the other customs offices are not yet computerized. Customs formalities (acceptance, registration of the declaration, documentary and physical verification in cooperation with the SGS, and removal of the goods) are currently carried out within 48 hours (if all the required documents are supplied), as compared with the period of five days needed to clear goods before computerization.⁸

⁷ For goods not subject to the PSRD, the calculation and payment of duties and taxes are carried out after the detailed declaration has been lodged, accepted, registered and verified.

⁸ An emergency removal procedure is provided for perishable goods.

17. Provision is made in the contract between the SGS and the Guinean State for the documentary and physical monitoring of suspensive arrangements. At the moment, that company only carries out documentary monitoring of the warehousing procedure; the customs service carries out physical monitoring of the warehousing procedure and documentary and physical monitoring of the other regimes. Guinea has 17 warehouses, of which 8 are for vehicles, 3 for lubricants, 1 for explosives, 1 for used clothing, 1 for sheet coils, 2 for electro-generating sets and 1 for petroleum products.

18. The main customs infringements concern over-invoicing, change of destination, false declarations of value and heading, and smuggling. The usual products smuggled are the most heavily taxed goods, mainly petroleum products and cigarettes. The customs service does not possess sufficient suitable equipment for controlling smuggling, which takes place both by sea and by land.

(iv) Import duties

19. The system of taxing imports has changed little since 1996 (Table III.2). The trend has generally followed the direction taken by reforms in the other countries of the West African subregion.⁹ MFN import duties consist of: the import customs duty (DDE), the fiscal import duty (DFE) and the clearance fee (RTL), as well as of the community levy (PC) collected for the benefit of ECOWAS and the additional centime (CA) paid to the Chamber of Commerce. Domestic taxes (VAT and consumption surcharges) are also levied on imports at the "customs cordon". Other taxes may be levied depending on the product or customs regime: the special tax on petroleum products (TSPP) which is a domestic tax, the registration tax (TE) on imports under the Investment Code, the storage tax (TEN) where goods are placed in storage and the transit duty (DT) on goods imported under this regime. The trend of these duties and taxes since 1990 is given in Table III.2. Guinea has used the Harmonized System Nomenclature since 1986, although it only became a party to the Convention in 1997.

Table III.2
Customs taxation of imports, 1990-98
(In per cent, unless otherwise indicated)

Duties and taxes	1990	1991	1992	1993	1994	1995	1996	1997	1998
DDE	2-7	2-7	2-7	2-7	2-7	2-7	2-7	2-7	2-7
DFE	6; 8	6; 8	6; 8	6; 8	6; 8	6; 8	6; 8; 22; 23	6; 8; 22; 23	6; 8; 22; 23
RTL	-	-	0.25-2	2	2	2	2	2	2
PC	..	..	..	..	..	..	..	..	0.5
CA	..	..	..	..	..	..	..	..	0.25
SC	..	..	..	..	..	..	..	..	5, 9, 10, 20, 25, 30, 50, 70
TSPP	20; 30; 60	20; 30; 60	20; 30; 60	20; 30; 60	20; 30; 40; 70; 145; 415; 425	20; 30; 40; 70; 145; 415; 425	20; 30; 40; 70; 100; 135; 325; 335	20; 30; 40; 70; 135; 160; 245; 355	5; 10; 20; 30; 40; 50; 60; 70; 135; 160; 245; 355
TCA/VAT	10	10	10	13	13	13	18	18	18
DT	2	2	2	2	2	2	2	3	3
TE	-	-	-	-	-	0.5	0.5	0.5	0.5
TEN		1	1	1	1	1	1	1	1

.. Not available.

DDE = droit de douane d'entrée (import customs duty); TVA = VAT; TE = taxe d'enregistrement (registration tax); TSPP = taxe spécifique sur les produits pétroliers (special tax on petroleum products); DFE = droit fiscal d'entrée (fiscal import duty); SC = surtaxe de consommation (consumption surcharge); TEN = taxe d'entreposage (storage tax); TCA = taxe sur le chiffre d'affaires (turnover tax); DT = droit de transit (transit duty); RTL = redevance sur traitement de liquidation (clearance fee); CA = centime additionnel (additional centime); and PC = prélèvement communautaire (community levy).

Source: Guinean authorities (National Customs Directorate).

⁹ During an experiment in the total liberalization of imports into Liberia, which lasted six months, Guinea's official imports decreased strongly through deflection of traffic.

20. Except for VAT, the basis of all *ad valorem* duties and taxes is the c.i.f. value, or the flat-rate value for certain products. The 1997 Finance Law thus fixed the flat-rate values for rice at US\$240 per metric tonne, for beer at GF 400 per 33-centilitre tin or bottle and for alcoholic beverages at GF 3,000 per litre. The VAT basis is composed of the c.i.f. value (or possibly the flat-rate value) increased by the amount of duties and taxes paid on inputs.¹⁰

(a) Nature and level of MFN duties

21. Guinea grants at least MFN status to all countries. Import duties comprise the DDE at the rates of 2 per cent and 7 per cent; the DFE at the rates of 6 per cent, 8 per cent, 22 per cent and 23 per cent; the RTL at the single rate of 2 per cent; the PC of 0.5 per cent levied on imports from countries other than those of ECOWAS; and the CA of 0.25 per cent levied on behalf of the Chamber of Commerce. Three categories are employed for dividing the products among the different DDE and DFE rates: essential goods such as certain food products and medicines, major consumer items like cement, clothing and building materials and "luxury products" (*inter alia*, alcohol, high-powered vehicles).¹¹ The highest DFE rates, namely 22 per cent and 23 per cent, which have been in force since 1996 (Table III.2), apply to imports of rice, flour and vegetable oil respectively. Products exempted from the DDE and DFE are agricultural machinery and equipment, fertilizers, medicines, fishing nets and outboard motors. Import duties are *ad valorem*; however, a minimum duty of GF 400 per litre is laid down for wine imports.¹²

22. Special taxes are levied on imports effected under certain special customs regimes: the TE is levied at the rate of 0.5 per cent on imports by enterprises authorized under the Investment Code; the 1 per cent TEN is levied on goods placed in a warehouse; and all goods in transit are subject to the DT of 3 per cent. Imports subject to the TE, TEN or DT are not liable to any other duties or taxes.

23. The simple arithmetical average of import duties (excluding PC and CA), calculated on the 5341 lines (HS, 6 digits) in the existing tariff, is 16.4 per cent, with a 2 per cent minimum and a 32 per cent maximum. The 0.16 variation coefficient indicates that average duties vary little between the various groups of products (Chart III.1); the most protected is that relating to food products, particularly edible oils and flour. The most lightly taxed products are non-electric machines and transport equipment. The collection rate for import duties (i.e. revenue collected only in respect of duties as a percentage of the total value of imports) rose from 7.9 per cent in 1996 to 9 per cent in 1997.

¹⁰ The fees of the SGS are not included either in the import-duty basis or in the domestic-tax basis.

¹¹ This division of products into categories is being amended so as to align it on the four-category division adopted, for example, by the West African Economic and Monetary Union (WAEMU).

¹² Ministerial Order No. A/97-3704 of 14 July 1997.

24. Import duties show a generally negative escalation from unprocessed products to finished goods, including semi-finished products (Chart III.2): subject to exemptions, unprocessed products enjoy the highest nominal tariff protection, followed by semi-finished and then finished goods. This should be reflected in higher nominal than effective rates of protection. This is not the case, however, for activities authorized under the Investment Code, the raw materials for which are subject to import duties at the single rate of 6 per cent (Chapter II(4)(ii), Table II.1).

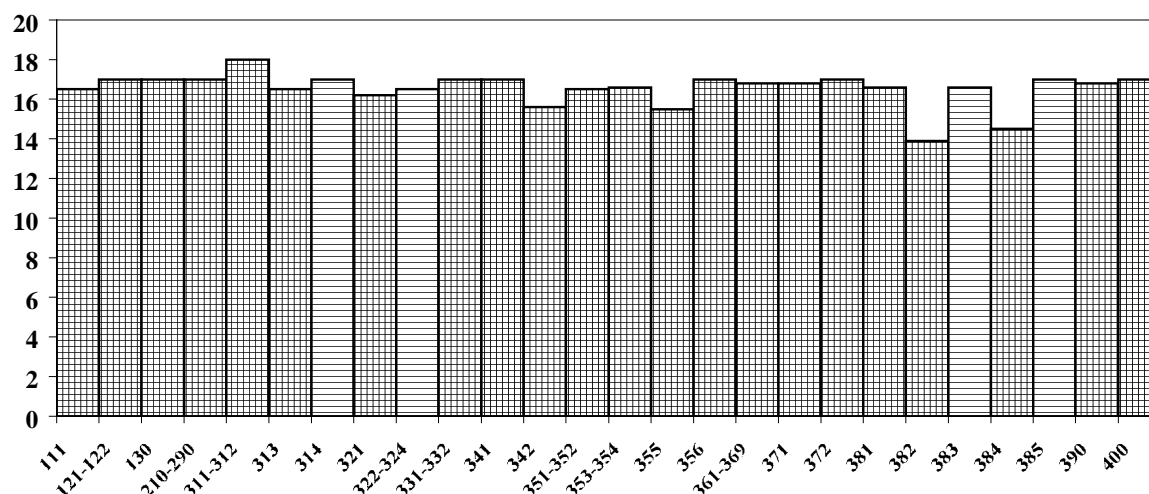
(b) Other duties and taxes

25. A consumption surcharge has been levied on "luxury products" since 1986. On imports, the surcharge is *ad valorem* and comprises eight rates: 5 per cent on paints and varnishes, tubes and pipes of polyvinyl chloride (PVC) and aluminium sheet and strip; 9 per cent on cigarettes; 10 per cent on used vehicles, turntables, video recording equipment and mineral water; 20 per cent on sweetened beverages; 25 per cent on wines; 30 per cent on fruit juices; 50 per cent on liqueurs; and 70 per cent on beers (Table III.3). The surcharge is also levied on locally manufactured products, for example beer and cigarettes. However, the method of taxing local products differs from that for imports of identical products: for example, beer produced locally by the Guinea Brewing Company (SOBRAGUI) is subject to a specific tax of GF 20 per bottle with a content of 50 centilitres or less, while imported beers are taxed under this surcharge at the rate of 70 per cent. Imports are more heavily taxed than locally produced goods. This difference in taxation provides additional protection for local products.

Chart III.1

Average import duties (excluding community levy and additional centime) by sector, 1998

Percentage



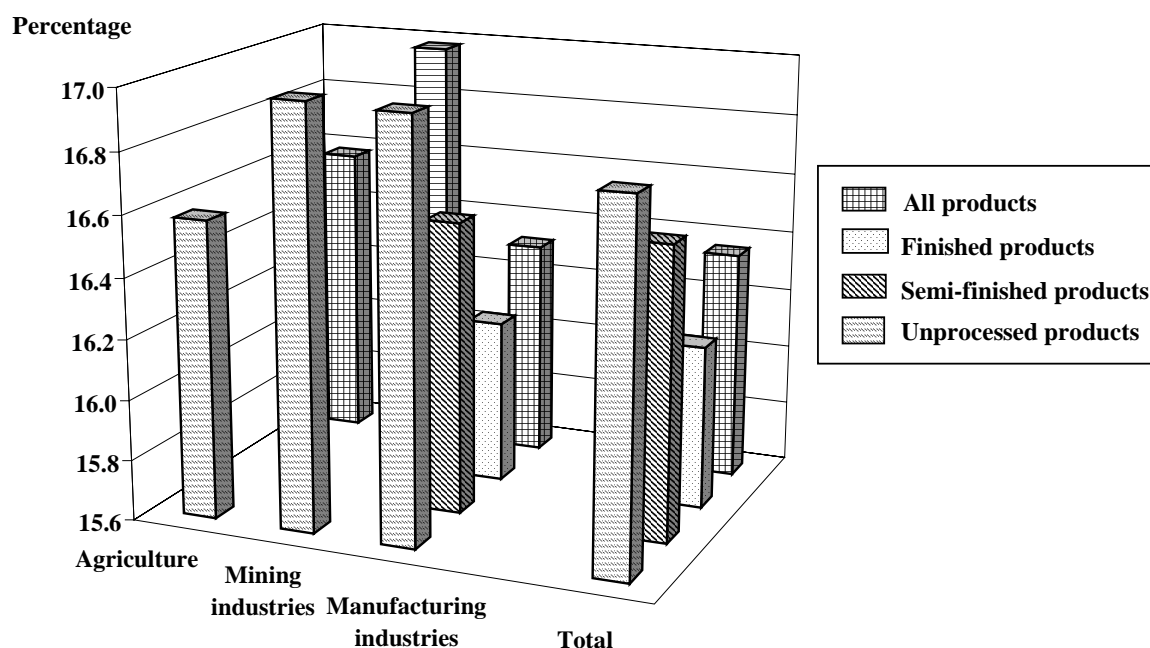
ISIC ^a	Description	ISIC ^a	Description
111	Agricultural and livestock production	353-354	Petroleum products
121-122	Forestry and forestry operations	355	Rubber products
130	Fishing	356	Plastic products
210-290	Mining	361-369	Pottery and china, glass and other non-metallic mineral products
311-312	Foodstuffs	371	Iron and steel
313	Beverages	372	Non-ferrous metals
314	Tobacco	381	Metal products
321	Textiles	382	Non-electrical machinery
322-324	Clothing, leather articles and footwear	383	Electrical machinery
331-332	Wood and wood products	384	Transport equipment
341	Paper products	385	Professional and scientific instruments
342	Printing	390	Other manufactures
351-352	Chemicals, including pharmaceuticals	400	Electrical energy

a International Standard Industrial Classification.

Source: WTO Secretariat on the basis of customs duty of the Republic of Guinea.

Chart III.2

Average tariff according to stage of processing by sector (ISIC Revision 2), 1998



Source: WTO Secretariat on the basis of information supplied by the Guinean authorities.

26. The TSPP is a special tax applied to imports of petroleum products, in addition to the DDE of 7 per cent, the DFE of 8 per cent and the RTL of 2 per cent. It amounts to GF 355 per litre for petrol, GF 245 per litre for diesel, GF 160 per litre for petroleum spirit and GF 135 per litre for kerosene.

27. VAT replaced the turnover tax (TCA)¹³ on 1 June 1996. It is currently applied at the rate of 18 per cent; exports are zero-rated. Exemption from VAT is granted for newspapers and magazines, rice, flour, wheat, bread, edible oils and, on certain conditions, pharmaceuticals, fertilizers and phytosanitary products, and school books and supplies.¹⁴ The law provides for the net reimbursement of VAT credit for exports. For the other cases, the VAT credit can simply be carried forward.¹⁵ A progressive charging process is provided for in cases like the petroleum products used in the fixed equipment of industrial enterprises. On the other hand, the charging of VAT credit is not permitted in cases like fuels for motor vehicles.

¹³ Law 95009 of 28 December 1995.

¹⁴ Article 17 of the 1996 Finance Law.

¹⁵ The carry-forward is designed to facilitate the campaign against fraud, which reportedly consists in applying for the reimbursement of false VAT credits, but has the disadvantage of penalizing certain enterprises, among them those which provide their own equipment or accumulate stocks. A provision of this nature may also encourage exemption applications which are difficult to check.

Table III.3
Distribution of tariff headings according to the rates of consumption surcharge, 1998

HS Chapter	Description	Rates (percentage)								Total number of lines
		5	9	10	20	25	30	50	70	
20	Fruit and vegetable preparations						13			13
22	Beverages		2	1	1	6		2	9	21
24	Tobacco		3							3
32	Tanning or dyeing extracts	9								9
33	Essential oils			17						17
34	Soaps	1								1
39	Plastics and plastic articles	2								2
42	Leather articles				3					3
43	Pelts and furs				18					18
58	Special fabrics						1			1
67	Feathers and down				8					8
71	Pearls, gemstones, precious metals, jewels and currency						12			12
76	Aluminium and aluminium articles	8								8
85	Electrical machinery and equipment			15						15
87	Motor vehicles			22						22
88	Air or space navigation				7					7
89	Sea or river navigation						3			3
95	Toys and sporting articles				19					19
96	Miscellaneous articles				8					8
Total		20	5	55	64	6	29	2	9	190

a Six-digit tariff headings of the Harmonized System (HS).

Source: WTO Secretariat.

28. A 3 per cent flat-rate levy is due on all imports by natural or legal persons not registered for VAT. The levy can be charged against the tax on industrial and commercial profits and corporation tax due for the financial year in which the operations take place. This advance payment is levied on behalf of the National Tax Directorate. The purpose of the levy is to persuade the informal taxpayer to make himself known in order not to lose the sums deposited as down-payments at the time of his import operations.

(c) Tariff bindings

29. Under the Uruguay Round, Guinea has bound its tariffs applicable to agricultural products (like the other WTO Member countries). For this purpose it adopted rates of: 40 per cent for the import customs duty (DDE), 8 per cent for the fiscal import duty (DFE) and 2 per cent for the clearance fee (RTL).¹⁶ However, DFE rates of 22 per cent and 23 per cent are applied to products such as rice, flour and vegetable oil.

30. Tariffs on the other products have not been bound, apart from Chapters 45 (cork and articles of cork), 47 (pulp and other cellulosic materials), 66 (umbrellas and sun umbrellas, walking-sticks, etc.) and 86 (railway/tramway locomotives, rolling-stock, etc.). The DDE rates have been bound at 40, 20, 30 and 25 per cent respectively for the products in these chapters. The DFE, RTL and TCA have been bound at the rate of 8, 2 and 13 per cent respectively for those products.

¹⁶ The turnover tax (TCA) had been bound at the rate of 13 per cent. It is no longer in force.

31. Tariff bindings do not concern products previously included in Schedule CXXXVI of Guinea, i.e. those for which the rates were bound when Guinea was a colony.

(d) Tariff preferences

32. Under the ECOWAS agreements, local and handicraft products included on the list of products adopted by the Community should have been circulating free of all import duties¹⁷ since 1 January 1990 when they are accompanied by a certificate of ECOWAS origin issued by the competent body appointed by the exporting country. Finished industrial products originating in the Community should be the subject of tariff reductions fixed according to different criteria, including the level of industrial development of each member country and its island or landlocked nature. Products must be approved in accordance with the scheme adopted by the ECOWAS Council of Ministers.¹⁸

33. In practice, numerous barriers to trade between Guinea and the other ECOWAS countries remain owing to the failure of most of the members to apply all or part of the rules of the agreements. On the basis of reciprocity, Guinea does not comply with ECOWAS rules in the case of countries which do not themselves comply with them.

34. Guinea has signed bilateral trade agreements with certain countries (Chapter II(5)(iii)). Some of these agreements specify reciprocal trade preferences and rules of origin. For example, the agreement with Morocco provides for customs-duty exemption for a list of Guinean products (particularly fishery products, fruits, spices, oilseeds, ores, skins, wood and wood products, gold, diamonds and scrap) and a list of Moroccan products (particularly food preparations, cheese, fruit and vegetables, oilseeds, fatty oils and bodies, ores, chemicals, pharmaceuticals and cosmetics, agricultural inputs, textiles and clothing, wood and wood products, metals and metal products, machinery and equipment, and vehicle parts).

(e) Tariff and fiscal exemptions

35. Reduced rates of duty are granted for certain imports. These reduced rates result from conventions between the Government and certain importers. Vehicles imported by companies such as the Guinea Bauxite Company pay duty at the agreed rate of 5.6 per cent compared with a normal rate of 17 per cent. Agreed rates for the specific tax on petroleum products are likewise applied to imports intended for fisheries, air navigation or recognized mining companies. Imports effected by diplomatic missions or international organizations, as well as official foreign grants and assistance, are exempted from duty. Exceptional exemptions are granted by the Minister for the Economy and Finance at the request of importers. Applications for such exemptions are examined by the Legal Service of the Private Office of the Minister for the Economy and Finance and the SGS; the Customs Directorate ensures that the Minister's decision in this connection is followed up. In addition, imports with partial or total exemption from duties and taxes are allowed by the Customs Code, the Investment Code and the Mining Code. Monitoring of the conditions to be fulfilled by approved enterprises is carried out by the Legal Service of the Private Office of the Minister for the Economy and Finance, the SGS and the Customs Directorate.

¹⁷ Decision C/DEC.8/11/79.

¹⁸ Decisions C/DEC.3/6/88 and C/DEC.4/7/94.

36. Around 45 per cent of imports released for consumption were exempted from import duties in 1996.¹⁹ Imports under the heading of foreign aid constituted the largest share of exemptions (over 40 per cent). The category of partial miscellaneous exemptions is also relatively large (Table III.4). Since 1995 imports of capital goods under the Investment Code have been subject to import duties of 2.5 per cent, to RTL at 2 per cent and TE at 0.5 per cent. Raw-materials imports by approved enterprises are subject to a single import duty of 6 per cent. Exemptions granted in this framework represented 12.5 per cent of all imports exempted in 1996 (Table III.4).

Table III.4
Exempted imports by major categories, 1996

Categories	Value (GF million)	Share (%)
Diplomatic privileges	6,385	2.0 %
Investment Code	39,211	12.5 %
Vehicle imports	711	0.2 %
Grants and aid	129,943	41.4 %
Miscellaneous partial exemptions	117,202	37.3 %
Petroleum product exemptions	20,597	6.6 %
Total	314,049^a	100 %

a i.e. 44.6% of total imports released for consumption.

Source: Guinean authorities (National Customs Directorate).

(v) Rules of origin

37. Article 17 of the Customs Code states that the country of origin of a product is the one where it was harvested, mined or manufactured. The orders of the Minister for the Economy and Finance which should define the rules for determining the origin of goods not falling within the category of these products have not yet been issued. The conditions under which proof of origin must be produced are laid down by regulation.

38. Rules of origin exist for preferential treatment purposes in trade agreements to which Guinea is a signatory. Under the Lomé Convention, complete processing (goods produced entirely locally) or sufficient processing (change of tariff heading) of a product gives it as its origin the ACP country where processing took place. Rules of origin as regards ECOWAS (Chapter II(5)(ii)(b)), the Mano River Union and the majority of bilateral trade agreements, particularly that signed with Morocco, are based on percentages of local inputs used or on the percentage of national added value in the finished product.

(vi) Anti-dumping, countervailing and safeguard measures

39. Guinea has no national legislation on anti-dumping, countervailing or safeguard measures,²⁰ nor has it applied any of these measures.

(vii) Prohibitions, quantitative restrictions and licensing

40. Guinea has dismantled quantitative import restrictions on a large number of products. Some of the current restrictions are being maintained for reasons of health, safety and morality or in

¹⁹ Under the 1996-99 structural adjustment programme, measures have been taken to reduce the magnitude of exemptions (e.g. abolition of exemptions for rice imports and of certain exemptions for government procurement and limitation of exemptions for petroleum products consumed by foreign or international institutions).

²⁰ WTO documents G/ADP/N/1/GIN/1, G/SCM/N/1/GIN/ and G/SG/N/GIN/1 of 17 January 1996.

accordance with international conventions to which Guinea is a signatory. Thus, imports of red meat of United Kingdom or Irish origin are banned at present. Implementation of this measure is the responsibility of the SGS.

41. In order to allow sales of domestic production of potatoes estimated at 3,000 tonnes per annum, imports of this product are prohibited from February to June. This temporary prohibition is negotiated between operators (producers and importers) and the Chamber of Commerce, under the auspices of the Ministry of Trade. It is implemented by means of a letter from the Minister for the Economy and Finance to the National Director of Customs. The latter then drafts a circular addressed to his services and to all importers. Guinea also used to apply import quotas or seasonal prohibitions to certain "sensitive" products. In order to permit the disposal of local production, an import quota was therefore applied to imports of flour: over 1,500 tonnes per annum, imports of this product were banned. The quota was managed by the importers' association which apportioned among its members the descriptive import applications (DDI) which it obtained from the SGS. The flour import quota was lifted during the year after importers had undertaken to market the whole of local production by the Grands Moulins de Guinée company.

42. Under the Programme for the Security of Customs Revenue (PSRD), the implementation of which was entrusted in June 1996 to the SGS, all imports whose f.o.b. value is at least US\$2,000 must be covered by a DDI. This document, which is valid for six months and can be extended, is delivered to a local commercial bank for domiciliation. Imports worth at least US\$5,000 (f.o.b.) must be inspected by the SGS before shipment (Section (ii) above). The maximum period for obtaining the DDI is 12 hours.

(viii) Standards and ecological and other technical requirements

(a) Standards, testing and certification

43. Since 1989 Guinea has adopted national legislation on product standardization and certification.²¹ The National Institute of Standardization and Metrology (INM) is responsible for implementing Government policy on standardization and related activities (quality, certification and metrology). Since 1993 it has had the status of a public scientific and technical establishment under the supervision of the Ministry of Industry. The INM received assistance from UNIDO between 1995 and 1996. This assistance consisted in the financing of a consultation mission on standardization and quality control in certain branches (e.g. fisheries, wood, agri-food industry, construction materials) and in support in drawing up a proposal for technical assistance to the INM for submission to donors.

44. There are two types of standards in Guinea: approved standards and registered standards. Registered standards are of a voluntary or optional nature while approved standards are of mandatory application throughout the country. Standards may become mandatory in Guinea mainly for reasons of safety, hygiene and public health and protection of individuals, living organisms, the environment and national treasures. The definitive approval of a standard is preceded by a preliminary enquiry among the parties mainly concerned. However, a standard may be approved without enquiry by decision of the Minister for Industry (on the basis of reasons submitted by the INM).

45. INM has defined priority sectors for standardization. These are: the agri-food sector, electricity, fisheries, wood, the environment and civil engineering, including buildings and public works (BTP). Standards are adopted by technical commissions made up of all the parties concerned

²¹ Ordinance 036/PRG/SGG/89 of 20 May 1989, Decree 105/PRG/SGG/89 of 20 May 1989, Decree 93/PRG/SGG of 20 July 1993, Law 93/040/CTRN of 15 October 1993 and Decree D/93/209/PRG/SGG of 21 October 1993.

(*inter alia*, representatives of the INM, consumers' association, producers, importers and control bodies). These commissions are sovereign and independent.

46. Fifteen draft general standards were adopted in 1997 and are currently being approved in respect of magnitudes, units and symbols. Three draft standards on coffee were adopted in the agri-food sector and are in the process of preliminary enquiry. In the civil engineering/BTP sector, three draft standards on cement were adopted and are being approved. In the electrotechnical field, a draft standard on wooden posts was adopted. A draft standard on water was prepared as regards the environment.

47. Guinean enterprises currently employ foreign standards for the disposal of their products on foreign markets; the standards concerned are mainly those laid down by the International Standardization Organization (ISO), the WHO/FAO Codex Alimentarius and those drawn up by other internationally recognized bodies (e.g. the French Standardization Association). National standards drawn up on the basis of these foreign or international standards apply to products for the local market. Imported products must comply with approved national standards.

48. The approved Guinean standards currently in force are: NG04-01-001 on hydraulic binders for the specific control of special characteristics of cements; NG04-01-002 on hydraulic binders for the verification of delivery quality (packagings and marking); and NG04-01-003 on hydraulic binders for common cements (composition, specification and conformity criteria of cements for tropical use). Standards NG02-01-002 on coffees and their derivatives (vocabulary) NG02-01-002 on green coffee (specification) and NG02-01-003 on green coffee in bags (packagings and markings) are in the process of approval. Standard NG06-01-001 on wooden posts (specifications) has been registered.

49. General rules have been drawn up on certification. The logo of the national quality promotion mark has been registered with the World Intellectual Property Organization (WIPO) via the Industrial Property Service (SPI) of Guinea. However, the national certification system has not yet been set up. Certification is currently carried out mainly by the SGS during the preshipment inspection of import products. Acceptance or rejection of the tests performed by foreign laboratories is left to the sole judgement of the SGS.

50. The authorities state that no requirement is in force in Guinea regarding marking, labelling and packaging.

(b) Sanitary and phytosanitary regulations and environmental protection measures

51. In the sanitary, phytosanitary and environmental protection field, the authorities state that Guinea applies the measures laid down in the international conventions to which it is a signatory. The controls stipulated by the 1997 Public Health Code for health purposes are not generally performed.

(ix) Government procurement

52. Guinea is not a signatory to the Plurilateral Agreement on Government Procurement negotiated during the Uruguay Round. Government procurement procedures are defined in the Government Procurement Code issued on 3 June 1997.²² The Code applies to all expenditure on works, supplies and industrial or service provision contracts, whether these concern orders from the State, public authorities, State companies, national public establishments or mixed companies with a majority public financial holding. For expenditures under GF 40 million for works, GF 20 million for

²² Law L/97/016/AN and Decree D/97/250/PRG/SGG of 3 November 1997.

provision of services and GF 30 million for intellectual services, written consultation of at least three entrepreneurs or service providers is required. Other methods of concluding contracts, namely open or restricted tendering, and private agreement, with or without prior informal consultation, are laid down for other purchases.

53. Restricted tendering is stipulated for services which are highly specialized or require a special technique which few enterprises can supply. Private agreement is used in the absence of a reply to an invitation to tender, if the tenders are unacceptable, in an emergency, where public safety is involved, in the event of recognized knowhow or on the instructions of the donor concerned.²³ Informal prior consultation is necessary when the service requires a patent, an exclusive right, an item of knowhow or a large preliminary investment. A number of the Code's provisions are designed to promote the use of Guinean enterprises and labour. The Code states that for subcontracts priority must be given to Guinean enterprises if they possess the conditions of competitiveness required on the technical and financial levels. Similarly, a preferential margin and lots reserved²⁴ for craftsmen, trade associations and enterprises coming under Guinean law may be included in the tender. The preferential margin granted on the adjusted price is 15 per cent. In the case of reserved lots, the beneficiary must apply at maximum the average price resulting from the award of comparable non-reserved lots. Finally, under a government contract, any supplier who hires personnel in Guinea is required to give preference to the employment of Guineans whenever the required skills are available on the local market.

54. Invitations to tender are published in the Government Procurement Journal (JMP) which appears on the first and third Thursdays of every month. The interministerial commission for the opening of envelopes and assessing of bids is empowered to deal with invitations to tender of an amount less than GF 1 billion. It is composed of a representative of the Ministry of Finance, a representative of the Ministry of Planning, a representative of the developer and a representative of the user service. In the case of external financial assistance, representatives of the bodies concerned may attend the envelope-opening sessions in an advisory capacity.

55. The National Commission for Major Government Contracts is competent for invitations to tender involving an amount of GF 1 billion or more. It is composed of the Minister of Finance, the Public Employer, the Minister of Planning, the developer and the developer's supervisory minister. Each member may be represented. These two commissions may enlist the aid of experts. Opening of the envelopes containing the tenders takes place in public. On the other hand, the commissions meet behind closed doors to choose the contract holder. Finally, an advisory Government Procurement Committee under the supervision of the Minister of Finance may be consulted by the latter, particularly in connection with exceptional procedures and the conclusion of private agreement contracts. The conclusion of a private agreement contract, following the opinion of the advisory committee, is subject to prior authorization by the Minister for Finance in the case of contracts for less than GF 1 billion and to authorization by the President of the Republic (or his authorized representative) for contracts for GF 1 billion or more.

56. Over the period 1992-96, 1472 Government contracts amounting to a total of GF 1,124 billion were signed. On the basis of the amounts, 66.5 per cent of the contracts were awarded by open tender, 17.7 per cent following restricted consultations and 15.8 per cent by private agreement. Guinean enterprises obtained 26.8 per cent of Government contracts. 48.7 per cent of contracts related to public works. 58.9 per cent of contracts were financed from external resources.

²³ Article 27 of the Government Procurement Code.

²⁴ Tendering on the basis of lots is used in order to adapt the size of contracts to that of Guinean SMEs and SMIs.

(x) Local content requirements

57. Enterprises utilizing local natural resources and raw materials enjoy fiscal and customs advantages (Chapter II(4)(ii), Table II.1)) if over 50 per cent of their intermediate consumption during a fiscal year is of Guinean origin.²⁵

(xi) Other measures

58. According to the authorities, no official counter-trade agreement or agreement designed to influence the quantity or value of goods and services exported to Guinea is in force at present. Likewise, the authorities have no knowledge of such agreements between Guinean and foreign enterprises. The WTO Secretariat has no knowledge of any measure taken by Guinea for balance-of-payments purposes.

59. Guinea takes part in international trade sanctions decided on by the UN Security Council or by regional institutions of which it is a member.

(3) MEASURES DIRECTLY AFFECTING EXPORTS

(i) Regulations

60. In order to carry out export operations, it is necessary to hold an importer's/exporter's card (Section (2)(i)). The exporter must obtain a Descriptive Export Application (DDE) form which can be obtained from the commercial banks. After filling it in, the exporter lodges the DDE with his commercial bank. In addition, export receipts for goods worth at least US\$500 must be repatriated to Guinea within 90 days of the date of export.

61. Certificates of origin required by importing countries which grant preferential treatment to Guinean goods²⁶ are issued to exporters by the National Directorate for Trade and Competition and then stamped by the customs administration; the form costs GF 2,000. A Support Centre for Export Formalities (CAFEX) has been set up by decree to deal with these formalities but is not yet in full operation (Section (vi) below).

62. Foreign private companies (Veritas and SGS) commissioned by foreign importers sometimes take action locally to verify the quality, quantity and packaging of products before shipment. This happens with coffee exports.

(ii) Export duties and taxes

63. A fiscal export duty of 2 per cent of the f.o.b. value is levied on the export of all products, apart from mineral products and derivatives (e.g. gold, diamonds and scrap) and coffee. Scrap exports are subject to a specific fiscal export duty of GF 25,000 per tonne. Exports of handicraft gold and diamonds are subject to a fiscal export duty of 3 per cent of the f.o.b. price; the duty is 2 per cent on exports by the Central Bank for Non-Industrial Gold.

64. The coffee export tax is set at US\$13 per tonne and is designed to finance coffee-promotion activities and the payment of Guinea's contributions to the Inter-African Coffee Organization (IACO).

²⁵ An intermediate consumption item obtained after processing of imported goods is considered to be Guinean if the cost of the imported goods is less than 50 per cent of the total cost of the intermediate consumption item obtained.

²⁶ Owing to lack of information, some exporters do not ask for a certificate of origin.

A tax of 2 per cent of the f.o.b. value is likewise levied on the re-export of all products (on leaving Guinea).

65. Taxes are also collected by the Central Bank on exports of bauxite and alumina and paid into a special account as an advance payment on the various taxes payable by the Guinea Bauxite and Alumina Company (CBG) and FRIGUIA (which produces alumina).²⁷ These advance payments are from US\$8 to 9 per tonne of bauxite (they vary according to the world price for this product) and amount to US\$1.75 per tonne of alumina. The tax (advance payment) on alumina is actually collected at the rate of US\$0.5 per tonne of bauxite consumed in producing it.

(iii) Export licensing, prohibitions and other measures restricting exports

66. Under its structural adjustment programmes, Guinea abolished export licences in 1986; these were replaced by descriptive export applications (DDE) to which all products are subject. Customs verifications are carried out on exit from the country, on the basis of the information in the DDEs. The formalities for obtaining a DDE take not more than three working days: DDEs examined by the Central Bank of the Republic of Guinea (BCRG)²⁸ are returned to the commercial banks, which collect the appropriate costs and charges, namely a banking commission of GF 2,500 per dossier and 13 per cent taxes levied on that same commission.

67. Gold exports are subject to prior authorization by the BCRG (Annex I.1). Exports of gold and diamonds produced on a small scale are carried out by the BCRG, which charges a commission for that purpose. Diamonds inspected and appraised by the National Office for the Inspection of Diamonds and other Gems (BNE), a government administrative and technical establishment, are packed and sealed by a tripartite commission (BNE, BCRG and the customs administration) in the presence of the owner or his representative. The diamonds are then kept by the BCRG until they are exported. Besides the 3 per cent duty (Section (ii) above), retention and shipment costs amounting to GF 500,000 are payable to the BCRG by the owner of the diamonds, who is also required to pay administrative costs for customs clearance, consignment and transit amounting to GF 250,000.²⁹ Gold exporters pay laboratory costs amounting to GF 50 per gramme in addition to these charges.

(iv) Export subsidies

68. Under the Investment Code, exporting enterprises³⁰ qualify, in addition to the common advantages granted to all approved enterprises (Chapter II(4)(ii) and Table II.1)), for total exemption from the tax on industrial and commercial profits for five years in proportion to the export turnover.

(v) Duty and tax concessions

69. Exports are zero-rated for VAT: this gives the right to the reimbursement of VAT credits on inputs and factors of production used to manufacture the exported goods.

²⁷ Advance payments (taxes) are collected under conventions which are periodically renegotiated between the various parties concerned.

²⁸ At the same time the BCRG validates the operations covered by the DDEs.

²⁹ Law 025/CTRN of 10 June 1993 and various Orders.

³⁰ Exporting enterprises are considered to be all production and service enterprises carrying out non-traditional exports whose turnover in foreign exchange represents more than 22 per cent of the total turnover of the enterprise during a fiscal year. Non-traditional exports are considered to be exports of goods and services of Guinean origin, excluding exports of bauxite and its derivatives, gold, diamonds and iron ore.

70. The Customs Code provides for two economic regimes for the encouragement of exports: in bond and temporary admission.³¹ A bonded warehouse is an establishment which is supervised by customs in order to permit the use of goods (of foreign origin) for which the duties and taxes to which they are liable are suspended; this regime is granted by decree.

71. Temporary admission is granted by the National Director of Customs on conditions defined by order of the Ministry of the Economy and Finance, for example for products which are to be handled or to undergo finishing or processing on the customs territory. However, the temporary admission regime is applied only to provisional imports of public-works equipment and imports of packaged coffee re-exported as such. There is no free-zone regime in respect of exports in Guinea.

(vi) Export promotion, financing and assistance

72. The Support Centre for Export Formalities (CAFEX)³² was created in October 1997 in order to simplify the procedures for exporting agricultural, livestock and fishery products, to assist exporters with approaches to and documentation on foreign markets and with quality promotion and to train and alert exporters regarding international trade techniques and the collection and processing of export statistics. The offices of the Fandié and Benty wharfs were opened in 1988. Once CAFEX is completely operational, formalities will take place at its single window, which will be located at Conakry airport. CAFEX is financed by State subsidies, loans, grants and miscellaneous receipts.

73. A Framework Project for the Promotion of Agricultural Exports (PCPEA) was established in August 1992 with the support of the World Bank (Chapter IV.2(i)). Following the PCPEA mid-term review (January 1995 to November 1996), the concept of agricultural export was extended to livestock and fishery products and coffee and cocoa, in addition to fruit and vegetables which were formally covered by the project. The closure date for the project has been postponed from 30 June 1999 to 30 June 2001. Its total cost of US\$24.6 million is being borne at the rate of around 85 per cent by the International Development Association/World Bank. Under this project, seasonal credit, export pre-financing and loans for expanding, modernizing and equipping export-oriented agricultural enterprises are granted.

74. The effects of export promotion actions will be limited by inadequate infrastructure and credit structures for foreign trade, the lack of trade information and the taxation of certain export products. Guinea has no export credit insurance structures.

(vii) Other provisions

75. Guinea applies no voluntary restraint on exports. Likewise, no Guinean legislation prohibits the establishment of export cartels.

(4) OTHER MEASURES AFFECTING PRODUCTION AND TRADE

(i) State trading, State enterprises and privatization

76. Guinea has undertaken reforms of its State enterprises as part of its structural adjustment programmes. Execution of the reforms has slowed over the past five years. This slowdown is partly attributable to the completion of the first phase of the reforms and to the lack of buyers for certain companies: five enterprises were taken over by the State because the buyers did not honour their

³¹ Customs Code, Title V, Chapters V, VI and VII.

³² CAFEX is a Government administrative establishment placed under the supervision of the Ministry for Promotion of the Private Sector, Industry and Trade.

commitments.³³ A new stage of the reforms was to be prepared during 1998. The State enterprises currently operating in the agricultural and mining sectors would be the main targets of this stage. In this connection it is planned to restructure certain companies such as the Bauxite Company of Guinea for the purposes of privatization.

77. Law L/93/037 of 20 August 1993 lays down the rules for privatizing State enterprises. A Privatization Committee is responsible for assisting the Minister in charge of the State portfolio in the preparation and execution of the privatization programme. The Committee is composed of a representative of the Minister in charge of the State portfolio (Chairman of the Commission), two representatives of the Minister responsible for the technical oversight of the enterprise concerned, a representative of the Professional Banking Association and two representatives of the Chamber of Commerce, Agriculture and Industry of Guinea.

78. Enterprises may be privatized by total or partial transfer (for a consideration) of the securities representing the State share of the equity capital or of the assets of the State enterprise concerned. Transfer is subject to an invitation-to-tender procedure whose detailed conditions are fixed by decree issued on proposal by the Minister in charge of the State portfolio in accordance with the recommendations of the Privatization Committee. A State enterprise may exceptionally be privatized by restricted consultation or by transfer of the State's shares to the personnel of the enterprise. Exceptions to invitation-to-tender procedures are allowed only if special legal or technical requirements inherent in the articles of association or in the activity of the public enterprise require them, or if it is proposed to transfer securities or parts of the assets to the personnel of the enterprise. A decree issued on proposal by the Minister in charge of the State portfolio and on recommendation by the Privatization Committee fixes the detailed conditions and the limits of each exception.

79. Table III.5 gives a non-exhaustive list of the public enterprises which are still active. The annual receipts resulting from privatizations and paid into the "Portfolio Management" account with the BCRG (financing of restructuring and privatization activities) are contained in Table III.6.

³³ Three of the enterprises taken over by the State have already been passed on, negotiations are in progress on one of them and the last one is being promoted with a view to takeover.

Table III.5
Situation of public enterprises

	Main activity	Share held by the State (%)
<u>INDUSTRIES</u>		..
SOBRAGUI S.A.	Beer, fruit juices	24
SIPAG S.A.	Planning	..
ENTAG S.A.	Tobacco	4
Usine Jus de fruits de Kankan	Mango, organe, banana juice	..
Huilerie de Dabola S.A.	Groundnut oil	..
Complexe Boissons de Foulaya-Kindia	Milk – juice	..
SEQUINA S.A. (Usine de Quinine)	Quinine hydrochlorate	..
SECTHEMA S.A. (Usine de thé)	Green or black tea	..
SAIG-Mamou S.A. (ex-conserverie)	Purée of tomato, passion fruit, guyava, papaya, etc.	..
SOPAG-Labé S.A.	Essential oils, perfumes	..
SALGUIDIA	Fruits	25
SOPROCHIM S.A. (Sopec)	Explosive hunting cartridges	..
Horizon-Vulcan S.A. (Soguirep)	Tyre retreading	..
SOPRAG S.A. (Entra-allumettes)	Matchboxes	..
Usine d'Oxygène et d'Acétylène	Industrial gases	..
SOGIP S.A. (Eniphargui)	Pharmaceuticals	..
SOGUIPLAST	Plastics	..
SIPECO (Usine Peintures)	Various paints	..
SOGUILUBE, S.A.	Lubricants	50
Ciments de Guinée S.A.	Cement	44
Ardoisière de Labé	Slate	..
SOMIAG S.A.	Granite	..
SOGUIFAB S.A.	Corrugated iron	..
EGUIMAT (Usine de carreaux)	Windows	..
Sanoyah Textile	Cotton to finished fabric	..
Usines modernes de Conakry	Preparation and tanning of skins and footwear	..
Usine des Meubles de Sonfonia	Miscellaneous furniture	..
<u>MINES</u>		
Compagnie des bauxites de Guinée	Bauxite	100
Société des bauxites de Kindia	Bauxite	100
Friguia	Alumina	100
<u>SERVICES</u>		
OPG	Postal services	100
SOTELGUI	Telecommunications	40
Le Port autonome de Conakry	Port services	100
Le Port de Kamsar	Port services	100
Société navale guinéenne	Maritime transport	100
GUINOMAR	Maritime transport	..
SOGUICOM	Maritime services	..
GETMA	Maritime services	..
SOGEAC	Airport management	51
SOMCAG	Aircraft stores	49
Air Guinée	Air transport	100
SOGETRAG	Surface transport	100
BICIGUI	Banking services	51
BPMG	Banking services	30
UGAR	insurance services	60
SGHI	Hotel services	100
SGP	Energy (oil production)	7

.. Not available.

Source: Guinean authorities.

Table III.6
Receipts resulting from privatizations, 1990-97

Year	Actual receipts	Expected receipts
1990	629,000,000	170,000,000
1991	8,000,000,000	1,000,000,000
1992	1,400,000,000	90,000,000
1993	1,200,000,000	200,000,000
1994	2,700,000,000	1,000,000,000
1995	727,000,000	40,000,000
1996	831,000,000	1,550,000,000
1997	631,000,000	..

.. Not available.

Source: Guinean authorities.

(ii) Subsidies and other forms of production assistance

80. The Investment Code and Mining Code provide for fiscal and customs advantages designed to promote production by enterprises fulfilling certain conditions and assuming certain commitments (Chapter II(4)(ii), Table II.1 and II.2)). Fertilizers are supplied free of charge to coffee planters during the first three years of using improved seedlings (Chapter IV(2)(ii)(c)).

81. An industrial zone development programme supported by a transitional mechanism for granting credit to enterprises has been adopted. Two projects have been initiated in this framework, one at Conakry and the other in the interior of the country. Six industrial zones have been defined around Conakry: those at Kagbelen (116 ha.), Bentourayah (60 ha.), Sanoyah (70 ha.) occupied mainly by a textile complex which has been inactive for some years, Soprociment (150 ha.) where a cement works is operating, Sonfonia (70 ha.) and Simbayah (136 ha.).

82. In order to promote regional development, industrial zones have been targeted in the 11 prefectures in the interior of Guinea possessing a development and town-planning scheme: Kindia, Manou, Faranah, Kissidougou, Macenta, N'zérékoré, Kankan, Labé, Boké, Fria and Dubréka. These industrial zones do not yet have the necessary facilities; they therefore cannot be used immediately by entrepreneurs unless the latter carry out the necessary construction work.

(iii) Price regulation and competition policy

83. Price control has become progressively more flexible since 1986. The law of December 1994³⁴ regulating competition and price freedom provides for total price freedom throughout the national territory. Nevertheless, when owing to exceptional circumstances and/or the action of one or more persons the selling price of a strategic or basic good is obviously unrelated to its cost price, temporary measures may be taken by order of the Minister for Trade. These measures, which will be taken, as appropriate, in consultation with economic operators in the sector concerned, would consist in setting an acceptable price level and freezing the prices concerned by Ministerial order.

84. On a proposal by the Standing National Consultative Committee on Competition and Prices³⁵ the Ministry of Trade is responsible for drawing up the list of "strategic" or basic products and for fixing the margins applicable, as regards price determination, to the different selling stages of these

³⁴ Law L/94/40/CTR/N and Implementing Decree D/94/119/PRG/SGG of 28 December 1994.

³⁵ Decree D/95/033/PRG/SGG.

products.³⁶ The Committee is composed of the Minister of Trade (or his representative), the Minister for Finance (or his representative) and a representative of certain technical ministries, the Central Bank, the various chambers of commerce, the Consumer Protection Association and the trade associations. It has to be consulted on all price and competition matters and prepares the relevant national policy.

85. In practice, only the prices of petroleum products are regulated; these prices are approved for one year. The scale of charges taken into account in forecourt prices is revised monthly. Petroleum product prices are identical throughout the country as the result of an equalization system. An interministerial technical council is responsible for setting prices and for the charges composing them. It consists of representatives of the Ministry of Trade, the Ministry of Finance, other technical ministries, the Central Bank and the oil companies. The National Standing Advisory Committee is the technical adviser to the Interministerial Technical Council as regards prices.

86. The Law of December 1994 also defines anti-competition practices and the associated penalties. However, such practices are not currently monitored as the department responsible is being organised. In any case, it will be difficult to apply it as 80 per cent of traders are illiterate.

(iv) Measures for the protection of intellectual property rights

87. Guinea became a party to the African Intellectual Property Organization (AIPO) on 13 January 1990. The other member States are Benin, Burkina Faso, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Gabon, Guinea-Bissau, Mauritania, Niger, Senegal and Togo. This agreement, known as the Bangui Agreement (Box III.2), establishes a uniform system for the protection of intellectual property and, in particular, a system for the single deposit of applications for patents, registration of utility models, trade marks, service marks and other intellectual property rights recognized by all the countries signatory to the Agreement. Guinea had no specific national intellectual property legislation prior to the ratification of the Bangui Agreement. The Agreement is now an integral part of Guinea's code of economic activities.

88. The Industrial Property Service (SPI), which comes under the supervision of the Ministry for the Promotion of the Private Sector, Industry and Handicrafts, is the national structure for liaison with the AIPO with regard to application of the Bangui Agreement and the contact point for implementation of the TRIPS Agreement. It works to promote industrial property protection *vis-à-vis* potential users and also helps to settle disputes. The Bangui Agreement is being reviewed so as to adapt its provisions to those of the WTO TRIPS Agreement. The Guinean Association for the Promotion of Invention and Innovation (AGUIPI) was set up on 4 August 1997. Its object is to contribute to the economic, scientific and technical development of Guinea through the promotion of technical inventions and innovations and the protection of the interests of inventors and innovators. This association is still too recent to have carried out any significant action in these fields.

89. The Guinean Copyright Office (BGDA), which is under the supervision of the Ministry of Communication, is responsible for defending the interests of the creators of literary and artistic works. Copyright is protected by Law 043/APNCP/80 of 9 August 1980 and its implementing decree.³⁷ This protection lasts for the whole lifetime of the author and for 80 calendar years following the end of the year of his death. This legislation also covers neighbouring rights. Non-payment of rights by public

³⁶ Order 95/20/MCIPIE/CAB/95 defines as strategic products petroleum products, fertilizers, seeds, phytosanitary products, cement, iron, concrete-reinforcing bars, sheeting, water and electricity and as basic products, rice, flour, dairy products, vegetable oils, tomatoes, onions, fish, meat, soap, salt, pharmaceuticals and textiles.

³⁷ Decree 442/PRG/80 of 15 September 1980.

distributors and private establishments and the unorganized distribution of protected works by shops and shopping centres constitute the main problems with which the BGDA has to cope.

90. 167 trade marks, 38 trade mark transfer contracts, 41 designs, 18 trade names and 38 patent applications have been lodged with the SPI since 1992. The SPI carries out actions (e.g. seminars) and holds information and awareness sessions as part of its activities. It encourages the amicable settlement of disputes concerning intellectual property rights. Thus, only two disputes were brought before the courts in 1997. The most common infringements concern the counterfeiting of trade marks. Only one dispute related to a patent. Penalties consisted of seizure of the products concerned, the fate of which is decided by the plaintiffs (right holders).³⁸

91. Guinea became a member of the World Intellectual Property Organization (WIPO) on 13 November 1980 and has acceded to a number of international agreements in that area, including the Berne Convention for the Protection of Literary and Artistic Works on 20 November 1980, the Paris Convention for the Protection of Industrial Property on 5 February 1982, the Patent Cooperation Treaty on 27 May 1991, the Treaty on Trade Mark Law on 1 August 1996, the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks on 5 November 1996, the Locarno Agreement Establishing an International Classification for Industrial Designs on 5 November 1996, the Vienna Agreement for the Establishment of an International Classification of the Figurative Elements of Marks on 5 November 1996 and the Strasbourg Agreement Concerning the International Patent Classification on 5 August 1997.

Box III.2: The Bangui Agreement on Intellectual Property

Patent legislation - Patents may relate to any new invention involving an inventive step and industrially applicable; plant varieties, animal species and essentially biological processes for the breeding of plants or animals, other than micro-biological processes, cannot be patented. The protection of plant varieties is laid down in the TRIPS Agreement (Article 27.3(b)).

Layout designs of integrated circuits are not currently protected. Patents are protected for a period of ten years which may be renewed twice for periods of five years. As renewal is not automatic, the period must be brought into conformity with the provisions of the TRIPS Agreement, which provides for a 20-year period for the protection of patents counted from the filing date. There are also divergences with respect to the granting of compulsory licences, which may be issued where the working of the patented invention is prevented by importation of the protected product. According to Article 27.1 of the TRIPS Agreement, patent rights may be enjoyed without discrimination as to the place of invention of the product. Article 58.2 of Annex I of the Bangui Agreement concerning counterfeiting when there is no local working is not consistent with the provision of Article 27.1. The provisions regulating the granting of compulsory licences on public interest grounds must also be brought into conformity with Article 31 of the Agreement. Moreover, the Agreement stipulates that the judicial authorities shall have the authority to order the defendant to prove that the process to obtain an identical product is different from the patented process (Article 34). Failing such proof, the process is assumed to be counterfeited. This provision does not appear in the Bangui Agreement.

Box III.2 (cont'd)

³⁸ The penalties laid down by current legislation in Guinea concerning intellectual property consist of confiscation of the articles concerned and payment of a fine. The Bangui Agreement also permits imprisonment of up to three years.

Legislation with respect to trade marks – Trade marks and service marks are protected for a period of ten years from the date of application for registration, renewable indefinitely. The TRIPS Agreement (Article 16.1) provides for protection against identical or similar signs for goods or services which are identical or similar to those in respect of which the trade mark is registered where such use would result in a likelihood of confusion. In the case of the use of an identical sign, a likelihood of confusion is presumed. The Agreement also provides for increased protection of well-known trade marks (Article 16.2) as well as protection against the use of identical or similar signs for products that are not similar. These protections are not explicitly provided for by the Bangui Agreement. According to Article 19.1 of the TRIPS Agreement, the registration of a trade mark may be cancelled only after an uninterrupted period of at least three years of non-use. This period is five years under the Bangui Agreement (Article 22).

Copyright - Any original intellectual, artistic or scientific work and a title thereof enjoy an exclusive incorporeal property right enforceable against all persons. The protection applies in particular to books and other writings, lectures, addresses and other works of such nature, works created for the stage, musical works, pictorial works, architectural works, maps and graphic reproductions, cinematographic, broadcasting and audiovisual works, photographic works and translations and arrangements of the above-mentioned works as well as folklore products.

The TRIPS Agreement also provides protection for computer programs and compilations of data which by reason of the selection or arrangement of their contents constitute intellectual creations (Article 10). The Bangui Agreement contains no corresponding provision. The related rights stipulated in Article 14 of the TRIPS Agreement, such as the protection of performers, producers of phonograms (sound recordings) and broadcasting organizations, do not appear in the Bangui Agreement either.

Industrial designs and other forms of intellectual property - The creator of any industrial design has the exclusive right to its exploitation and sale under the Bangui Agreement. The duration of the protection conferred by a certificate of registration for an industrial design expires five years after the deposit of the application for registration, but the registration may be renewed twice. The TRIPS Agreement (Article 26.1) grants broader rights, in particular with respect to imports. The Bangui Agreement provides for the registration of trade names for a renewable period of ten years from the date of filing. Only registered names can be the subject of criminal penalties. Appellations of origin are protected if they are registered by the AIPO or if a registration effect results from an international convention to which Guinea is a party.

Source: WTO (1997).