

### III. TRADE POLICIES BY MEASURE

#### (3) INTRODUCTION

1. In Burkina Faso, trade reforms were carried out under the structural adjustment programmes introduced in 1991. The majority of non-tariff barriers to imports have been dismantled, with the exception of technical standards which now concern only ten products; some imports are also banned under international agreements or for reasons of security or health. Imports with an f.o.b. value of at least CFAF 500,000 are subject to a Prior Import Declaration. Price controls only remain on some essential products and basic services. The prices of tobacco (floor price), cotton (producer price) and petroleum products are also fixed. Reform of State enterprises, though slow, has allowed the privatization or winding-up of a few companies; contract plans have been agreed with the various partners for this restructuring.

2. Burkina bans the export of raw sheep and goat skins and hides. Other products are banned under international agreements signed by Burkina Faso. Shea nuts and cereals are subject to a Special Export Authorization. The provisions in the Investment Code and the Mining Code promote investment in Burkina; in the Investment Code, special emphasis has been laid on enterprises producing goods for export. However, the special contribution for the livestock sector concerns both local sales and exports.

3. Import duties are among the highest in the WAEMU, despite the reforms undertaken since 1992, which have simplified their structure. The simple arithmetical average of duties (not including the Community Solidarity Levy of 0.5 per cent on non-WAEMU imports) is 31.1 per cent, with a generally negative escalation for semi-processed and finished products (Table III.1). The application of the WAEMU Common External Tariff will help to lower import duties, but it is likely that the effective rate of protection will rise as a result of the increased (positive) escalation of duties. Burkina Faso has no domestic legislation on anti-dumping, countervailing and safeguard measures. But, a safeguard system, which was not the subject of a reservation by Burkina (Article 5 of the WTO Agreement on Agriculture), was introduced in March 1998. In addition, the African Intellectual Property Organization (AIPO) Treaty, which Burkina has signed, is currently being amended in order to harmonize its provisions with those of the Agreement on Trade-Related Aspects of Intellectual Property Rights.

Table III.1  
Customs tariff by level of processing, 1997

Product	Number of lines	Average	Minimum rate	Maximum rate	Std. dev.	Coefficient of variation
Raw products	694	28.5	6	37	11.1	0.39
Semi-processed products	1736	35.7	6	37	5.6	0.16
Finished products	3001	29.0	6	37	11.1	0.38
Total	5431	31.1	6	37	10.2	0.33

Source: WTO Secretariat based on information supplied by the Burkina authorities.

#### (4) MEASURES DIRECTLY AFFECTING IMPORTS

##### (i) Registration and documentation

4. Persons seeking to import goods for commercial purposes must be listed in the register of commerce, submit evidence of their activity (issued by the Chamber of Commerce) and their fiscal situation (issued by the Directorate of Taxes), be registered with the National Social Security Fund

and be in possession of a professional trader's licence<sup>1</sup>, which is issued by the Directorate-General of Trade.

5. Goods may be imported either directly by the purchaser or through authorized customs agents.<sup>2</sup> The documents needed for customs formalities are the invoice, the freight invoice, the insurance policy or certificate, the transport document, the packing list, and where appropriate, the Prior Import Declaration (DPI) the Special Import Authorization (ASI), the certificate of origin, the inspection certificate, and the phytosanitary or conformity certificate.

**(ii) Inspection, customs valuation and clearance**

6. In December 1992, Burkina Faso signed a pre-shipment inspection contract with the Société générale de surveillance (SGS); a new contract entered into force on 10 November 1997. The SGS is responsible for inspecting all imports whose f.o.b. value exceeds CFAF 3 million; below this amount, imports may be inspected selectively if their f.o.b. value is at least CFAF 500,000. Goods are inspected in the exporting country in respect of quality, quantity and price. Products exempt from SGS controls are gold and precious stones, works of art, ammunition and arms, explosives and pyrotechnical articles, live animals, fresh or refrigerated food products, personal effects and household domestic articles (including one second-hand vehicle), cinematographic film, ordinary newspapers and periodicals, trade samples, crude petroleum, grants in kind to the Government, and supplies for diplomatic and consular missions and international organizations.<sup>3</sup>

7. The SGS indicates the main elements on the basis of which imported products can be taxed, in particular the value and tariff classification, and issues an inspection certificate if the results inspection are satisfactory. It estimates the revenue to be expected and monitors the documents relating to the special import regimes that permit exemption from duties and taxes. The fees of the SGS are paid by the Government and represent 1 per cent of the f.o.b. value of the imports inspected. The minimum fee is CFAF 110,000, which corresponds to the cost of inspecting CFAF 11 million of goods, i.e. three times the threshold f.o.b. value that is the minimum for mandatory inspection. The following are currently exempt from pre-shipment inspection: gold; precious stones, works of art; arms, ammunition and military articles; explosives and pyrotechnical articles; live animals; perishable consumer goods (fresh or refrigerated); recovered metals; plants; cinematographic films; newspapers and periodicals; personal effects or used articles; personal grants; parcels; trade samples; crude oil, grants in kind to the Government; and supplies for diplomatic missions.

8. The duties and taxes to be paid are estimated by the customs administration, using the value indicated by the SGS as a reference. The customs value definition currently used in Burkina Faso is the Brussels definition.<sup>4</sup> A minimum price scale is drawn up by the Directorate-General of Customs for use by border posts which do not have the necessary means to verify the value declared by importers. According to the authorities, the transaction value will be applied as from the year 2000, i.e. at the end of the period given to developing countries under Article 20 (special and differential treatment) of the Agreement on Implementation of Article VII of GATT 1994.

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<sup>1</sup> Exercise of the profession of trader is governed by Decree No. 81-432-PRES/CMRPN/MCODIM of 12 September 1981 on implementation of Order No. 81-0026-PRES/CMRPN regulating the profession of trader, by Decree No. 93-394/PRES/MICM of 8 December 1993 amending Articles 4 and 5 of Decree No. 81-0432/PRES/CMRPN/MCODIM, and by the implementing orders by the Ministry responsible for trade.

<sup>2</sup> Forwarding agents must be approved by a committee of the Ministry of Economic Affairs and Finance.

<sup>3</sup> Article 6 of Decree No. 97-466/PRES/PM/MEF/MCIA concerning the import verification programme.

<sup>4</sup> Article 22 of the Customs Code.

9. In June 1993, computerized customs procedures commenced in the posts at Ouagadougou airport and station. All the larger posts are now equipped with the 2.6 version of SYDONIA. According to the authorities, customs formalities take about 48 hours from the time the declaration is registered if all the necessary documents are supplied.

**(iii) Import duties**

10. With regard to import duties, Burkina Faso grants at least most-favoured-nation treatment (MFN) to all countries. Import duties consist of the customs duty, the fiscal import duty, the statistical tax, the special intervention tax and the Community Solidarity Levy on behalf of the WAEMU and the Community Levy on behalf of the ECOWAS.<sup>5</sup> These duties and taxes are based on the c.i.f. value of the imports. Domestic taxes on imports, based on the c.i.f. value plus import duties, are also imposed by the customs.

**(a) Type and amount of MFN duties**

11. Burkina Faso adopted the Harmonized System (HS) nomenclature on 15 February 1992. The customs tariff entered into force on 1 January 1993 and comprises 5,431 eight-digit lines of the HS (1992 version). Since then, *ad valorem* taxation has applied to all products; reference prices and special taxes have been abolished. Nevertheless, in March 1998, a reference price was established for sugar; it is CFAF 326 or 379 per kg. according to the tariff line. Burkina Faso does not apply any seasonal duties, tariff quotas or variable levies.

12. Import duties currently consist of the uniform customs duty of 5 per cent, a fiscal import duty of 0.4 or 26 per cent, the statistical tax of 4 per cent, and the special intervention tax of 2 per cent. The customs service considers the latter two taxes to be fees for services rendered, even though they are levied on an *ad valorem* basis. For taxation purposes, imports are classified into three main categories.<sup>6</sup> Import duties on products in category I (essential goods and special goods) are 11 per cent; import duties on products in category II (raw materials and capital goods) are 15 per cent; import duties on products in category III (other products) are 37 per cent. However, some products enjoy exemption. For example, since 1994, customs duty on pharmaceutical products<sup>7</sup> and all duties and taxes on essential generic medicines<sup>8</sup> have been abolished. A Community Solidarity Levy (PCS) of 0.5 per cent is imposed on imports not originating in the WAEMU and a Community Levy of 0.5 per cent on imports from ECOWAS countries. In addition, a supplementary tax of 7.5 per cent is imposed on sugar if the c.i.f. price is lower than CFAF 253 or 306 according to the tariff position (Chapter IV(2)(ii)(d)).

13. The simple arithmetical average of import duties (not including the Community Solidarity Levy of 0.5 per cent on imports from outside the WAEMU) is 31.1 per cent, with a minimum of 6 per cent and a maximum of 37 per cent. The dispersion of import duties is very small: the coefficient of variation is 0.33, indicating that in general import duties do not vary a great deal from one product to another. The products subject to the least duty are mining products, timber, transport equipment, scientific equipment and non-electrical machinery. The rate of import duties on other products is close to the maximum; the products subject to the highest duties are fisheries products, tobacco,

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<sup>5</sup> This analysis was based on the tariff in effect at the end of 1997. Amendments were subsequently introduced.

<sup>6</sup> The new classification into four categories under the WAEMU should be adopted at the latest by 1 July 1999.

<sup>7</sup> Law No. 6/94/ADP of 11 March 1994.

<sup>8</sup> Law No. 7/94/ADP of 11 March 1994.

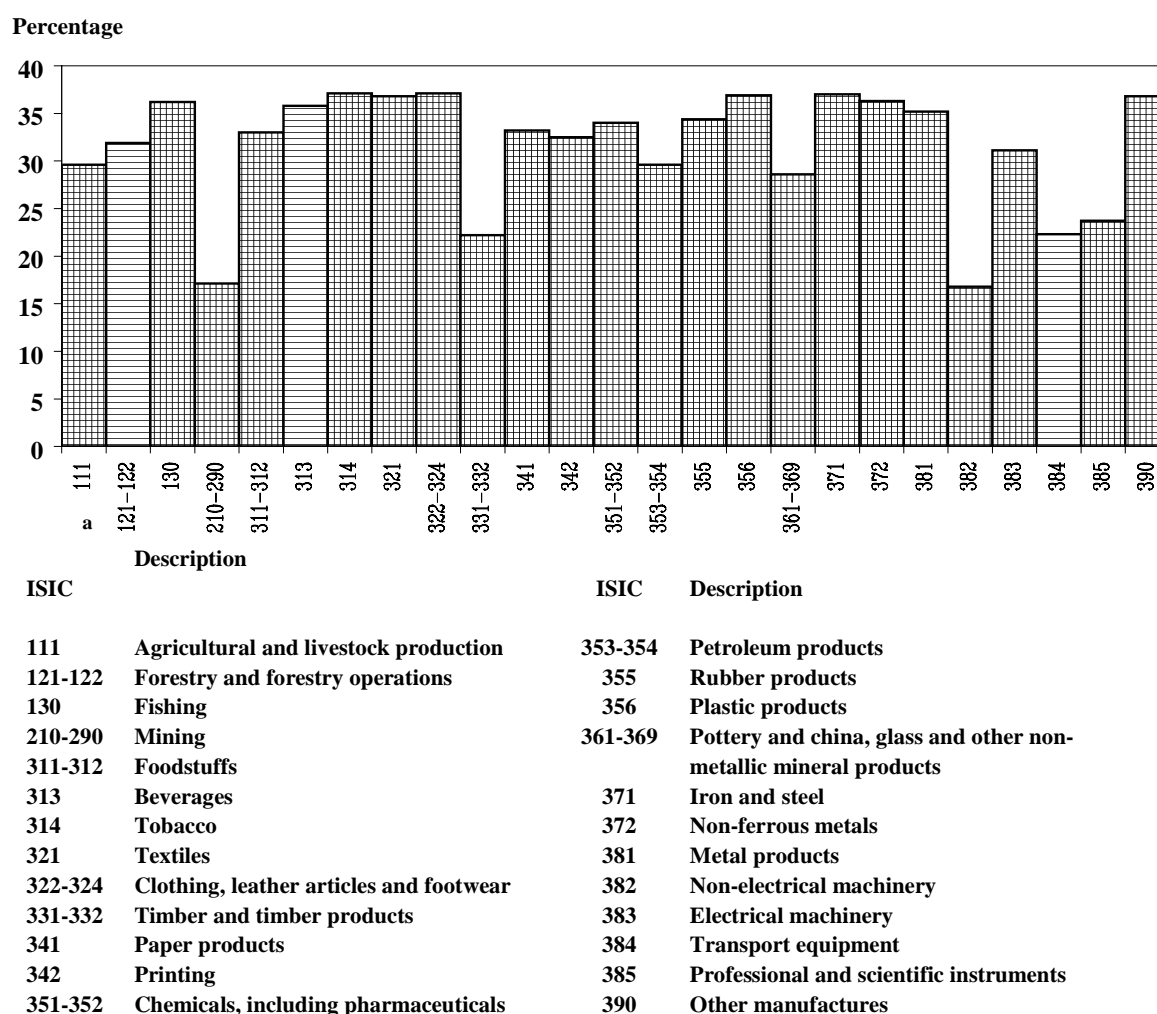
textiles, clothing, leather goods and footwear, plastic articles, and iron and steel, *inter alia* (Chart III.1).

14. A large part of the tariff is not used: in 1996, 45 per cent of tariff lines in Burkina were not used. The simple arithmetical average of import duties calculated on the basis of tariff lines actually used in 1996 was slightly higher (31.8 per cent). The arithmetical average of import duties, weighted by the value of imports, was 25.5 per cent in 1996; the rate of collection of import duties (i.e. total revenue raised by import duties compared with the c.i.f. value of imports) was 14.7 per cent for the same year.

15. Import duties show a generally negative escalation from semi-processed to finished products (Chart III.2). With the exception of food products, textiles, paper articles and non-ferrous metals, for which import duties are progressive, other goods are subject to a negative escalation of duties or, in some cases a constant level (Table AIII.1).

**Chart III.1**

**Import duties (not including the Community Solidarity Levy (PCS)) by product**

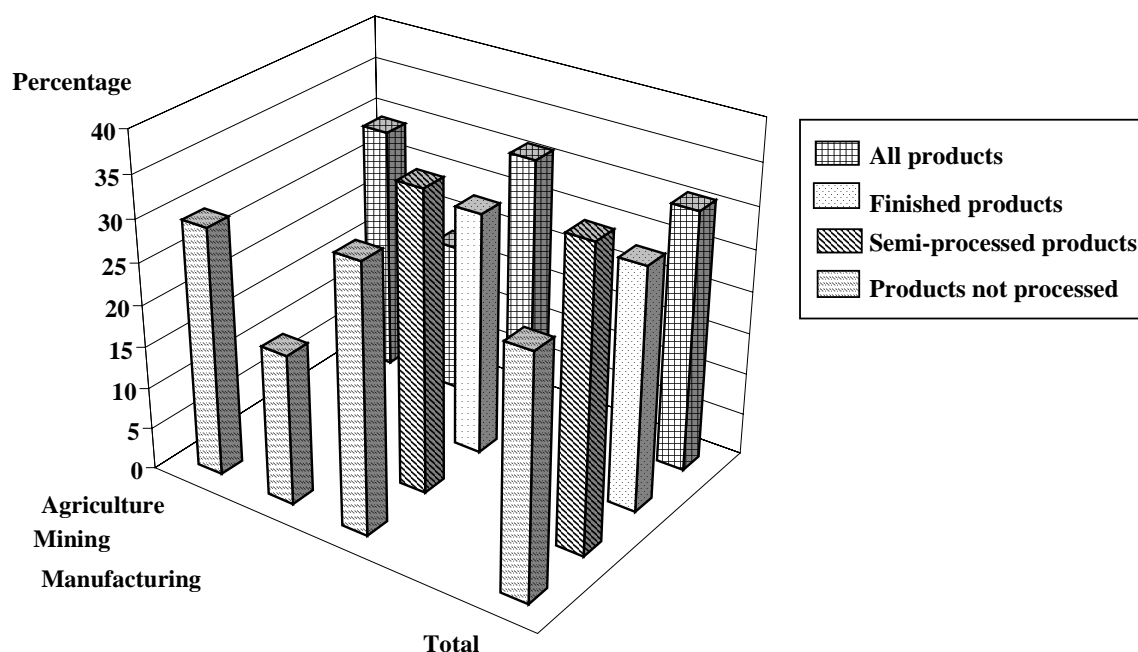


a International Standard Industrial Classification (ISIC).

Source: WTO Secretariat calculations based on information supplied by the Burkina authorities.

Chart III.2

Average tariff by level of processing by ISIC sector, Revision 2, 1998



Source: WTO Secretariat estimate.

## (b) Other duties and taxes

16. A value added tax (VAT) was introduced in 1993: in 1994, the rate was standardized at 15 per cent, rising to 18 per cent in 1996. Since 1995, the basis for VAT on imports is the c.i.f. value plus import duties.<sup>9</sup> VAT is paid on any locally produced or imported goods or services. Exports are zero-rated for the purposes of reimbursement of the VAT paid on inputs and production factors used to manufacture the exports. Products in categories I and II are exempt from VAT.

17. *Ad valorem* excise duties are also payable on local products and imports. These are: the consumer tax of 10 per cent on cola, coffee and tea; the 25 per cent tax on alcoholic beverages; the 10 per cent tax on non-alcoholic beverages; and the tax on tobacco, cigars and cigarettes, which amounts to 13 per cent for products manufactured locally and 95 per cent for imported products. The latter tax gives local enterprises additional nominal protection of 112 points.<sup>10</sup>

<sup>9</sup> In other words, the customs import duty, the fiscal import duty, the statistical tax and the special intervention tax.

<sup>10</sup> Import duties on tobacco and cigarettes: 37 per cent; excise duty 13 or 95 per cent.

- Current taxes on imported cigarettes  $(1 + 0.37)(1 + 0.95)$  c.i.f. value = (2.67) c.i.f. value. The protection afforded by import duties and excise duties is 167 per cent.
- Taxation of imported cigarettes if the excise duty is 13 per cent irrespective of the origin of the product:
- $(1.37)(1.13)$  c.i.f. value = (1.55) c.i.f. value. The protection afforded by import duties and excise duties is 55 per cent, giving 112 additional points  $(167 - 55)$  of nominal protection.

(c) Bindings of duties

18. During the Uruguay Round, Burkina bound its customs duties on agricultural products, like the other WTO Members as well as on products in Chapters 45, 46, 47 and 49 of the Harmonized System. Burkina granted a ceiling rate of 100 per cent for all these products. Other duties and taxes on these imports were bound at 50 per cent. The tariff bindings do not however concern goods previously included in Burkina's Schedule XLVI, i.e. those which were bound when Burkina was a colony. With the introduction of the CET, the WAEMU Commission intends to renegotiate the tariff concessions of all its member countries, including those appearing on the old Schedules.

(d) Tariff preferences

19. Pursuant to the WAEMU Agreements, local specialties and traditional handicrafts originating in the Union are exempt from import duties in Burkina. Industrial products approved for the preferential community tariff (TPC) also receive a reduction of 60 per cent on import duties and taxes<sup>11</sup>; at the end of 1997, 544 products (including agri-industrial products, tobacco, cigarettes and textiles) produced by 151 enterprises in the WAEMU had already been approved.<sup>12</sup> Industrial products not approved for the TPC receive a reduction of 5 per cent, which in Burkina Faso corresponds to exemption from customs duties. Burkina's bilateral agreements with India and Tunisia also provide for tariff reductions (Chapter II(5)(iii)).

20. The ECOWAS trade liberalization scheme (Chapter II) in principle comprises two main elements: the elimination of non-tariff barriers for all products originating in the ECOWAS countries and the gradual reduction of tariff barriers within the Community from 1994 onwards. According to the ECOWAS Agreements, from 1 January 1990, local specialties and traditional handicrafts should be exempt from any import duties when they appear on the list of products recognized by the Community and are accompanied by a certificate of origin issued by the competent authority appointed by the exporting country. Finished industrial products originating in the Community should receive tariff reductions based on a number of criteria, including the level of industrial development in the country and whether it is an island country or land-locked. For Burkina, the dismantling timetable is ten years, corresponding to a yearly rate of reduction of 10 per cent (Chapter II(5)(ii)(b)). In practice, however, many tariff and non-tariff barriers persist; the timetable for the liberalization of trade within the Community has not been respected and at the end of 1997 no product had been approved.

(e) Tariff and fiscal exemptions

21. The proportion of imports that are exempt rose from 33 per cent of the total in 1994 to 38 per cent in 1996 (Table III.2). Around half of those exempted are "special admissions" (total or partial exemption from duties and taxes) which in practice are of an ad hoc nature, thereby making it difficult for the customs authorities to monitor them. The number of these special imports free of duty in recent years can be explained by the organization of the Franco-African Summit in December 1996 and the African Football Cup (CAN) in February 1998.

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<sup>11</sup> Until June 1997, industrial products approved for the TPC received a reduction of 30 per cent of import duties and taxes. Approval is given by a WAEMU committee.

<sup>12</sup> Approved products only represented 4 per cent of total trade in industrial products within the WAEMU at the end of 1996.

**Table III.2**  
**Exemptions by major categories, 1996**  
(CFAF million and percentage)

	C.i.f. value	Percentage share
Investment Code	<b>33,880</b>	<b>28.6</b>
Special imports	<b>56,537</b>	<b>47.7</b>
partly duty-free	20,793	17.5
totally duty-free	35,744	30.2
External financing	<b>27,007</b>	<b>22.8</b>
partly duty-free	193	0.2
totally duty-free	26,814	22.6
Diplomatic privileges	<b>947</b>	<b>0.8</b>
partly duty-free	574	0.5
totally duty-free	372	0.3
Grants and aid	<b>127</b>	<b>0.1</b>
Total	<b>118,498</b>	<b>100.0</b>
Percentage of imports	0.38	n.a..

Source: Burkina authorities.

22. Partial exemption is allowed and applied by systematically reclassifying inputs imported by approved enterprises into Category I taxed at 11 per cent, (as against 15 or 37 per cent for the other categories). With effect from 1 January 1999, the date on which the WAEMU categories will enter into force, such reclassification will be inconsistent with the rules of the Union. Pursuant to the Investment Code, equipment, machinery and spare parts to be used for approved projects are either totally or partially exempt from customs duties (see Chapter II(4)(ii)); in 1996, exemptions under the Code represented 29 per cent of all exempt imports. Tariff and fiscal exemptions are also allowed under the Mining Code (Chapter II(4)(ii)).

#### (iv) Rules of origin

23. According to Article 21.2 of the Burkina Faso Customs Code, a product's origin is the country where it was harvested, taken from the soil or manufactured. The Ministry of Finance's Order, mentioned in Article 21.3 of the Code, which should determine the origin of products harvested, taken from the soil or manufactured in a country and then processed in another country, has not yet been issued. Consequently, Burkina Faso does not have any domestic rules on the origin of such goods.

24. Rules of origin do exist (for the purposes of preferential treatment) in the trade agreements signed by Burkina Faso. In the ECOWAS and the WAEMU, these are based on the percentage of local imports used or the percentage of national value added in the final product (Chapter II.5(ii)(b) and (c)). New rules of origin based on the provisions of the WTO Agreement should come into effect in the WAEMU in the year 2000. Under the Lomé Convention, full processing (goods wholly produced locally) or sufficient processing (change of tariff heading) of a product determines its origin as being the ACP country where the processing took place (Chapter II(5)(iii)).



**(v) Anti-dumping, countervailing and safeguard measures**

25. Burkina does not have any domestic legislation on anti-dumping<sup>13</sup>, countervailing or safeguard measures, has never applied any anti-dumping or countervailing measure.

26. According to Article 6 of the WTO Agreement on Textiles and Clothing, Burkina has the right to apply the transitional safeguard mechanism provided. It has not reserved the right to apply the special safeguard clause provided in Article 5 of the WTO Agreement on Agriculture. Nevertheless, a similar measure providing for reference prices and a 7.5 per cent surtax has been in effect for sugar imports since March 1998 (Chapter IV.(2)(ii)(d)).

**(vi) Prohibitions, quantitative restrictions and licensing**

27. Burkina has dismantled most of the quantitative restrictions on imports. The only prohibitions that remain in effect have been imposed for reasons of security or compliance with international agreements signed by Burkina (for example, the Montreal Protocol). Products banned for security reasons can nonetheless be imported under a Special Import Authorization (ASI) subject to approval by the Ministry of Regional Administration in the case of civilian weapons and ammunition and the Ministry of Defence for military explosives and articles. No other goods currently require an ASI; the restrictive ASI imposed on rice was lifted in 1996 and that on sugar was abolished in March 1998 (Chapter IV.(2)(ii)(d)).<sup>14</sup> In 1997, the cost of obtaining an ASI was CFAF 2,000.

28. Imports whose f.o.b. value is CFAF 500,000 or more are subject to a Prior Import Declaration (TPI) under the Import Verification Programme (preshipment inspection).<sup>15</sup>

29. Administrative formalities relating to the DPI can be carried out on the same day at a single window (at the Ministry of Trade). In 1997, the cost of the DPI for an importer was CFAF 300. Neither the ASI nor the DPI can be transferred and they are valid for six months, which may be renewed once upon request.

**(vii) Standards and ecological and other technical requirements**

30. Burkina does not have any domestic standards nor a national standardization institute. A standardization body should, however, be set up during 1998. Its legal status has not yet been precisely defined; it could become part of the National Foreign Trade Office (ONAC, Chapter II.(2)).<sup>16</sup> The programme also provides for the approval of laboratories to the ISO 9000 Standard. For the time being, the Inspectorate-General of Economic Affairs is responsible for technical regulations, standards and conformity assessment procedures.

31. The standards used in Burkina are either foreign (e.g. those of the French Standardization Agency) or international (e.g. the standards of the Codex Alimentarius). The number of products subject to technical standards and regulations fell from 40 to 10 in 1995 and now comprises: cold curing/vulcanizing glues; preserved foodstuffs of animal origin; wheat flour; edible vegetable oils; pesticides, insecticides and by-products; milk; type R6 or R20 saline electric batteries; tyres and

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<sup>13</sup> WTO document G/ADP/N/1/BFA/1.

<sup>14</sup> See Notice to Importers No. 6-020/MCIA/CAB of 18 October 1996 for rice and Notice to Importers No. 98-002/MCIA/SG/DGC of 2 March 1998 for sugar.

<sup>15</sup> WTO document G/LIC/N/3/BFA/1 of 11 February 1997.

<sup>16</sup> The standardization body was set up on 17 June 1998 under the ONAC. However, it is not yet operational.

inner tubes; rice; granulated and powdered sugar.<sup>17</sup> These products receive a national conformity certificate issued by the service responsible for quality and metrology. Inspection covers their quality, weight, quantity, packaging and labelling and may be carried out on samples.<sup>18</sup> In cases of non-conformity, the import, sale and distribution of the product in Burkina are prohibited.

32. The fee for issuing a certificate and costs of analysis and testing and for marking - a national conformity mark is affixed on the products - are paid by importers or domestic producers. Pending the fixing of these charges, a standing charge is currently imposed. It amounts to the following: CFAF 1 per kilogramme or litre for rice, sugar, milk, flour, preserved foodstuffs of animal origin and edible vegetable oils; CFAF 25 to 50 for inner tubes and tyres; CFAF 50 per kilo or litre for vulcanizing glues, insecticides and by-products; CFAF 0.50 per battery. Tests take a maximum of one week; tests carried out by foreign laboratories are acceptable (this is the case since 1994 for European countries whose exports to Burkina are accompanied by a certificate). Random checks are carried out in markets subsequently on the other products.

33. In 1997, Burkina adopted an Environment Code.<sup>19</sup> The following are the basic principles of this Code: fighting desertification, ensuring healthier and better living conditions, implementing international agreements ratified by Burkina Faso on environmental conservation, and prevention and management of disasters. The Ministry of the Environment and the Ministry of Mining collaborate in implementing some of these measures (Chapter IV(3)(i)). Burkina has ratified the Montreal Protocol and its London and Copenhagen Amendments regulating the use of freon and gases harmful to the ozone layer. Products containing such substances are subject to a Special Import Authorization.<sup>20</sup> Batteries containing mercury may not be imported. An Order also bans the import of asbestos-based products.

34. The "Kiti"<sup>21</sup> AN-IV 458 *bis*/CNR/CAPRD of 31 July 1987 defines control measures for certain pre-packaging. Packaging allows bags of cement for export (free of tax) to be distinguished from those sold on local markets.

#### **(viii) Government procurement**

35. Burkina Faso is not an observer or signatory to the Uruguay Round Plurilateral Agreement on Government Procurement. Decree 96-059/PRES/PM/MEF of 7 March 1996 governs procurement by the central authorities, State enterprises and local and regional authorities.<sup>22</sup> The Central Directorate for Government Procurement (DCMP) of the Ministry of Finance is responsible for implementing this Decree; its task is to facilitate and supervise all the procedures for the award of Government contracts. It also acts as the standing secretariat of the Arbitration and Conciliation Commission dealing with disputes related to government procurement. Committees for the allocation of contracts have been set up within ministerial departments and regional authorities, and State and parastatal State

<sup>17</sup> Decree 96-0064 of 18 October 1996 and WTO Document G/LIC/N/3BFA/1 of 11 February 1997. A national conformity certificate was established by Decree 94-014/PRES/PM/MICM/MPFL of 6 January 1994.

<sup>18</sup> Products imported on a regular basis are subject to monthly tests of samples taken from importers.

<sup>19</sup> Law No. 005/97/ADP of 30 January 1997 on Burkina Faso's Environment Code and Decree 97-110/PRES of 17 March 1997 enacting this Law.

<sup>20</sup> These relate to the following tariff positions: 29 03 29 00 (freon), 84 18 61 00 (air conditioners for automobiles and lorries), 84 18 10 00 (refrigerators), 84 18 30 00 (freezers), 84 15 50 00 (dehumidifiers), 84 18 69 00 (water coolers, ice-making machines, air conditioning devices and heat pumps), 38 08 10 10 (aerosols other than those used for medical purposes), 84 24 10 10 (portable fire extinguishers), 84 14 30 00 (R12 compressors).

<sup>21</sup> Kiti means law.

<sup>22</sup> Orders 029, 030, 031 and 032 by the Minister for Finance in 1996 define the measures for implementing this Decree.

enterprises in which the State is the majority shareholder have set up internal committees for awarding contracts.

36. Procurement below an amount CFAF 1 million only requires a straightforward order form. A letter of contract is required for purchases of more than CFAF 1 million but not exceeding CFAF 15 million: these purchases are supervised by the Procurement Committee in each Ministry or State company; at least three suppliers must be approached to submit sealed bids. Orders for over CFAF 15 million must comply with the full government procurement procedure and are therefore under the supervision of the Central Directorate for Government Procurement. The form of procurement most commonly used is tendering open to all enterprises established in Burkina Faso; foreigners may bid if the contract involves special features that require foreign competence or is financed by foreign funds. Restricted tendering is only permitted (subject to authorization by the DCMP) if the necessary competence is only possessed by certain companies. Bids may be pre-selected if the contracts concern public works. The award of contracts by private agreement can only take place if the bidding procedure is not successful, there is an emergency or the higher interests of the State have to be protected.

37. A preferential margin of 10 per cent of the adjusted price is given to domestic enterprises; the margin is 5 per cent if there is a joint bid in which 40 per cent comes from a national body. The margin rises to 15 per cent if the bid comprises Burkina value added. A margin of 7 per cent of the technical brief is given to national firms in the professional services sector; this preferential margin falls to 5 per cent if at least 20 per cent of the bid involves subcontracting by a national enterprise.<sup>23</sup> In order to exercise some control over exemptions, all government procurement contracts are awarded "including all taxes", unless a specific exemption is given by the Minister of Finance; in the case of procurement financed from outside, for accounting purposes, the duties and taxes are listed in the national budget.

38. Government procurement contracts worth CFAF 15-500 million (inclusive) are signed by the Minister of Finance or the Chairman of the Governing Body (where appropriate), following proposals by the competent Procurement Committees; the approval of the Council of Ministers is required for contracts exceeding CFAF 500 million. Works and supplies represented over 80 per cent of the value of government procurement contracts awarded between 1994 and 1996 (Table III.3).

**Table III.3**  
**Trend in government procurement, 1994-1996**  
(CFAF billion)

	1994	1995	1996
Works	14.9	11.7	6.8
Supplies	8.8	5.5	12.7
Services	0.6	3.1	0.5
Total	24.3	20.3	20.0

Source: Burkina authorities.

<sup>23</sup> In general, in Burkina Faso government procurement contracts always comprise a foreign element because local enterprises are not in a position to carry out contracts alone.

**(ix) Local content requirements**

39. Enterprises wishing to take advantage of the special benefits provided in Article 28 of the Investment Code (Chapter II(4)(ii))<sup>24</sup> in order to expand must use at least 50 per cent (in value or in quantity) of local raw materials. Exporting enterprises using local raw materials accounting for at least 80 per cent of the raw materials used in their manufacturing are given a 75 per cent reduction in industrial and commercial profits tax instead of the 50 per cent usually granted.

**(x) Countertrade**

40. There were official countertrade agreements with China, Sao-Tomé et Principe and Ghana until 1985. According to the authorities, these agreements were ended and since then there has been no further countertrade.

**(xi) Other measures**

41. According to the authorities, no agreements have been signed with foreign governments or enterprises with a view to influencing the quantity or value of goods or services exported to Burkina Faso. The authorities are not aware either of any such agreements between domestic and foreign enterprises. In addition, the WTO Secretariat is not aware of any measure taken by Burkina Faso for balance-of-payments purposes.

42. Burkina Faso applies the international trade sanctions agreed by the United Nations Security Council or the regional organizations to which it belongs.

**(5) MEASURES DIRECTLY AFFECTING EXPORTS****(i) Regulations**

43. The registration formalities applicable to imports of goods for commercial purposes also apply to exports; they confer the status of trader. Specifically, an export declaration must be made to the customs for all exports; this allows the customs authorities to monitor exports in order to be able to compile foreign trade statistics.

44. Export operations involving more than CFAF 3 million must be domiciled with an approved bank. All export earnings must be repatriated and converted into CFA francs within 120 days (Annex I.1).

**(ii) Export duties and taxes**

45. Almost all export duties and taxes were abolished in 1991; the statistical tax on exports was abolished in December 1993.<sup>25</sup> In Burkina, the only export taxes still in effect are the Special Contribution to the Livestock Sector (CSE) imposed on both exports and domestic sales of livestock products (Chapter IV(2)(ii)(f)).

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<sup>24</sup> The proportion of elements of national origin is determined as a percentage of all the raw materials directly used in manufacturing.

<sup>25</sup> Law 28/93/ADP of 2 December 1993.

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

46. Since July 1995, the export of raw sheep and goat hides and skins has been suspended. Shea nuts and cereals such as sorghum, maize, cowpea and rice<sup>26</sup>, must have a Special Export Authorization for purely statistical purposes, according to the authorities. Export of ivory is prohibited in accordance with international provisions on the protection of elephants.<sup>27</sup> Burkina Faso does not have any voluntary export restraint measures and did not sign the Multifibre Arrangement.

**(iv) Export subsidies**

47. According to the authorities, Burkina Faso does not subsidize any exports of goods or services.<sup>28</sup>

**(v) Duty and tax concessions**

48. Pursuant to Article 26 of the Investment Code, amended by Law No. 015/97/AN of 17 April 1997, new enterprises exclusively devoted to export (i.e. at least 80 per cent of whose total production is exported)<sup>29</sup> benefit from the following: total exemption from customs duties and taxes on equipment, machinery and spare parts, the machinery and materials to build their plants, and special vehicles needed for their operations; total and permanent exemption from all duties and taxes on the raw materials directly used for production or consumed in the form of non-recoverable packaging; and total exemption from domestic taxation on equipment manufactured locally. Table II.2 provides a more exhaustive list of the benefits given to exporting enterprises, including those related to their operations (e.g. total and permanent exemption from various taxes and charges).<sup>30</sup>

49. Exports are subject to a zero-rated VAT to allow reimbursement of any VAT on imports and production factors used to manufacture the goods exported. In order to simplify administrative formalities, the reimbursement procedure is restricted to VAT credit exceeding CFAF 250,000 and takes around one month; failing this, the VAT credit may be carried over.

**(vi) Export promotion, financing and assistance**

50. The National Foreign Trade Office (ONAC) is responsible for promoting exports through the information it makes available to the public, *inter alia* on business opportunities and cheaper sources of supply for raw materials, machinery and equipment. The ONAC publishes a fortnightly "ONAC Letter"; seminars and workshops are organized on particular subjects and commercial English courses are given, followed by study trips to Ghana. ONAC also coordinates Burkina Faso's participation in international fairs and exhibitions and in their organization in Burkina Faso. It is financed from the national budget and its services are free. Flat-rate fees are, however, paid by participants for activities such as courses and study trips.

51. The possibility of setting up export credit insurance, standardization and quality control structures, as well as of strengthening the documentation centre and diversifying means of transport,

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<sup>26</sup> Order No. 96-012/MCIA/SG/DGC of 29 February 1996.

<sup>27</sup> WTO document G/LIC/N/3/BFA/1.

<sup>28</sup> WTO document AGST/BKF.

<sup>29</sup> Sales by exporting enterprises in the national customs territory (not exceeding 20 per cent of the total production) are assimilated to imports and are therefore subject to import duties and taxes.

<sup>30</sup> Exemptions do not include taxes on services supplied and do not cover office material, paints, liquid hydrocarbons and their non-gaseous by-products utilized as fuel or lubricants, cement, plaster and computer equipment.

are being studied with the support of UNCTAD and the European Union. A study of sectoral potential and market awareness has also been carried out.

**(vii) Other provisions**

52. Burkina Faso is planning to set up free zones. There are no voluntary-export restraints in Burkina. There is no legislation prohibiting the establishment of export cartels. Consequently, associations of exporters such as that for fruit and vegetables and the Union of agricultural and market-garden cooperatives (Chapter IV(2)(ii)(e)) may be considered export cartels.

**(4) OTHER MEASURES AFFECTING PRODUCTION AND TRADE**

**(i) State trading, state enterprises and privatization**

53. One of the components of the structural adjustment plan supported by the IMF and the World Bank is the privatization programme under way since 1991. In 1994, a Privatization Committee was set up (between the two phases of the programme)<sup>31</sup>; it is responsible *inter alia* for proposing to the Government a list of enterprises to be privatized, drawing up draft legislative and regulatory texts, and overseeing the privatization procedure. During the second phase of the programme, which commenced in July 1994, the State decided to reserve 3 per cent of the capital of each company to be privatized for employees wishing to purchase shares. Employees also receive a 5 per cent reduction in the cost of transferring shares and are given the possibility of paying by instalments (over a maximum of five years).

54. The first phase of privatization involved 22 enterprises and began in July 1991. By December 1997, 15 had been privatized, two had been withdrawn from the list, one was awaiting a court ruling, two were in the process of being privatized and two had been wound up. The second phase involves 20 enterprises, of which only three had been privatized by December 1997. Five enterprises had been wound up.<sup>32</sup> In all, only 40 per cent of the planned privatization has taken place. The lack of local purchasers, due to the limited development of the private industrial sector, and the performance of certain consulting firms are two factors which helped to delay implementation of the programme.

55. The privatization programme has brought in almost CFAF 10 billion, of which the State has already received some CFAF 9 billion.<sup>33</sup> For privatized enterprises as a whole, investment has risen from CFAF 2.35 billion in 1992 to CFAF 5.56 billion in 1996.<sup>34</sup>

56. Three-year contract plans have been signed by the State-owned enterprises to be reorganized, the State, the employees of the enterprises and the main investors. These contract plans set out the commitments by the State and by the enterprises, as well as the prices of the goods or services supplied. The implementation of these provisions is monitored by an interministerial committee which meets at least once a year.

<sup>31</sup> Decree No. 94-411/PRES/PM/MICM/MEFP setting out the competence, composition and functioning of the Privatization Committee.

<sup>32</sup> The following enterprises were wound up during the privatization programme: SINAC, FASO YAAR, Faso Tours, SONACIB, CSPPA, ONAVET, SOBEMA, COMIKI, CNA.

<sup>33</sup> Balance sheet on 11 August 1998.

<sup>34</sup> The 1994 devaluation was a contributing factor to this performance.

57. Fifteen of the State enterprises that are still operating are deemed to be strategic, i.e. State or parastatal enterprises of national interest.<sup>35</sup> Such enterprises must meet at least one of the following criteria: enterprise obliged to supply a service; enterprise supplying a public service; enterprise whose activities concern national sovereignty or security; enterprise whose activities make a decisive contribution to development and social stability. These enterprises often enjoy a monopoly (Table III.4). They may, however, be privatized: this is currently the case for Air Burkina, ONATEL, SONABEL and ONEA.

**Table III.4**  
**State enterprises and privatization, December 1997**

Enterprise	Activity	State share-holding	Shareholding privatized or to be privatized	Comments
PRIVATIZED ENTERPRISES				
FIRST PHASE				
SIFA	Bicycles et motorcycles	25%	7%	Partial privatization, 1993
SBCP	Tannery	..	49%	Partial privatization, 1992
SBMC	Leather articles	..	51%	Privatization, 1992
FASO PLAST	Plastic articles	7%	27%	Partial privatization, 1993
CIMAT	Cement production	22%	61.77%	Partial privatization, 1993
SOBBRA	Beverages	..	..	Total privatization, 1991
GMB	Flour	25%	43.7%	Partial privatization
FLEX FASO	Export of fruit and vegetables	25.33%	69.77%	Partial privatization
SCFB	Rail transport	..	..	Concession, 1995
SONAR	Insurance	25%	27.8%	Privatization, 1993
ZAMA PUBLICITE	Advertising agency	25%	75%	Privatization, 1993
SONAPHARM	Pharmaceutical wholesaler	8%	43.6%	Privatization, 1993
BRAKINA	Beverages	..	9.43%	Total privatization
SOBCA	Infrastructure credit	..	18.88%	Capital increase
SECOND PHASE				
RNTC X9	Public transport	25%	75%	Partial privatization, 1996
SHSB-CITEC	Oil mills	..	..	Total privatization, 1997.
BURKINA & SHELL	Petroleum products	25%	26%	Partial privatization, 1997 Leasing-sales
ENTERPRISES BEING PRIVATIZED				
SOCOGIB	Building and management of property	95.77%	..	Monopoly
CNEA	National agricultural machinery centre	100%	..	
SOPAL	Production of alcohol from molasses	5.35%	82%	
SONACAB	Production of tiles	99.86%	..	
SAVANA	Processing of agri-food products	94.34%	..	
SOSUCO	Sugar production	30.6%	52%	
SONACOR	Marketing of rice	90.83%	..	
FASO FANI	Textiles	52.34%	..	
SLM	Equipment leasing	99.90%	..	
SOFIVAR	Promotion of groundnut cultivation (SEM)	76.66%	..	
INB	Printing	100%	..	
SNTB	Forwarding	46%	..	
AIR BURKINA	Air transport	66%	..	
ENTERPRISES REMOVED FROM THE PROGRAMME				
MACEHOU	Fruit, vegetables and cereals	..	..	Awaiting review of a TPR case <sup>a</sup>
FEED LOT COMOE	Animal feed	..	..	Transferred to the ministry responsible for scientific research
FRUICEMA	Fruits, vegetables and cereals	..	..	Transferred to the ministry responsible for scientific research
STRATEGIC ENTERPRISES				
SONABEL	Electricity	100%	..	Production and distribution monopoly
ONEA	Water and sewage	100%	..	Monopoly
ONATEL	Telecommunications	100%	..	Monopoly
SONAPOST	National Post Office	100%	..	Monopoly

<sup>35</sup> Law 53/93/ADP of 20 December 1993.

Enterprise	Activity	State share-holding	Shareholding privatized or to be privatized	Comments
CMBP	Burkina Precious Metals Company	100%	..	
SOFITEX	Textile fibres company	65%	..	Processing and marketing monopoly
CGP	General price equalization fund for consumer products and goods	100%	..	Elimination of the import monopoly
SONABHY	Hydrocarbons	100%	..	Import and marketing monopoly
CNSS	National Social Security Fund	100%	..	
CARFO	Civil Service Autonomous Retirement Fund	100%	..	
LONAB	National lottery	100%	..	
CENATRIN	Information processing	100%	..	
BUMIGEB	Office of mines and geology	100%	..	
SIBAM	Arms and ammunition	71.90%	..	
AIR BURKINA	Air transport	66%	..	

a Revolutionary peoples' courts.

.. Not available.

Source: Burkina authorities.

## (ii) Subsidies and other forms of production assistance

58. The Investment Code provides benefits according to the amount invested and the number of permanent jobs created; there are also other benefits, set out in specific provisions of the Code, for enterprises using local raw materials (Chapter II(4)(ii) and section 2(ix)). The Mining Code also offers benefits that vary according to the nature of the activities.

59. Burkina has five industrial zones that are either partially or totally serviced. The Kossodo zone was set up in 1971 because the Gounghin zone in the same Ouagadougou area was saturated. The industrial zone of Kossodo is the biggest in the country and occupies 181 hectares of which one third does not yet have services due to lack of financing. The towns of Bobo-Dioulasso, Koudougou and Banfora each have an industrial zone. Industrial zones have paved roads, electricity, telephone, sewers and water supplies. At the end of 1997, the beneficiaries of sites in these zones had not yet developed them.

## (iii) Price regulation and competition policy

60. Prices and margins were regulated through direct fixing of prices, price approval or fixing of profit margins. In March 1991, approval procedures for locally manufactured products were eliminated and a programme was introduced to reduce the number of imported products subject to control of profit margins. A temporary short-term price freeze was introduced in 1994 when the exchange rate of the CFA franc changed. Three months later, in April 1994, the prices of a large number of products were liberalized.<sup>36</sup> In December 1997, only five categories of goods were still subject to price controls: petroleum products, essential generic medicines, tobacco, cotton (producer price), school materials and public utility tariffs (water, electricity, telephone). Since 2 April 1998, the price of petroleum products has been readjusted every two months<sup>37</sup>; there is a floor price for

<sup>36</sup> Order 94-0085bis /MICM/DGRS/DRC liberalizing prices and margins on products subject to control and Order 94-110/MICM/SG/DGRS/DRC amending the aforementioned liberalization order.

<sup>37</sup> Readjustment is decided by the Minister for Trade after consulting a committee composed of the Inspector-General of Economic Affairs, the Directorate-General of Regulations and Statistics, the Technical Secretariat for the coordination of economic and social development programmes, the Customs Directorate, the Directorate-General of the Budget, and the Directorate-General of Energy and Mines. There is a proposal to reduce the adjustment period from four to two months and to broaden the committee to include other bodies such as the Treasury.



tobacco. The prices fixed in the contract – plans are proposed by the investors or the ministries responsible for the enterprises concerned and can be modified at their request.

61. Law 15/94/ADP governs competition in Burkina Faso and establishes a National Competition and Consumption Commission.<sup>38</sup> This Commission has been in operation since 27 January 1998 and plays an advisory role. Under the above-mentioned Law, prices of goods and services are free and determined solely by market forces.<sup>39</sup> The Minister of Trade may nevertheless regulate prices when competition on the local market is restricted by a monopoly or crisis situation, supply problems or legislative or regulatory provisions.

62. Agreements that may have the effect of distorting competition are prohibited. The abuse of a dominant position (refusal to sell, tied sales, discriminatory terms of sales etc.) are also prohibited. The seller is required to issue an invoice and inform his customer of the price and terms of sale. Loss-leader sales and discriminatory practices are prohibited.

63. All advertising containing allegations, suggestions or statements that are false or misleading is prohibited. The person responsible for the first marketing of a product or good must ensure that it complies with the requirements in force. It is forbidden to mislead a purchaser regarding the nature, origin or essential qualities of a good, the quantities supplied, the risks of using the product, the tests carried out or the instructions for use. It is also forbidden to adulterate foods, medicaments or agricultural products; medicaments are subject to a marketing authorization. The Law also provides for investigation procedures and sanctions where an offence has been committed.

**(iv) Regional promotion measures and assistance to adjustment, research and development**

64. The Investment Code provides for an additional two-year period of tax exemption for new investment made at least 50 kilometres from urban centres (Chapter II(4)(ii)). The information available to the WTO Secretariat does not indicate any adjustment assistance. Scientific research is coordinated by the National Scientific and Technical Research Centre (CNRST). The Environmental and Agricultural Research Institute (INERA) carries out studies and tests to improve and develop animal and plant production in Burkina; the Livestock Development Fund (FODEL), partly funded by the Special Contribution of the Livestock Sector, finances activities to improve the animal and public health sectors, the management of agricultural land, forests and pastures, and production (Chapter IV(2)(ii)(f)).

**(v) Measures for the protection of intellectual property rights**

65. Industrial property rights in Burkina Faso are governed by the Bangui Agreement of 2 March 1997, also signed by Benin, Cameroon, Central African Republic, Chad, Congo, Côte d'Ivoire, Djibouti, Gabon, Guinea, Guinea-Bissau, Mali, Niger, Mauritania, Senegal and Togo. The principal objective of this Agreement is to promote and protect inventive and innovative activity in the signatory States. The Agreement sets up a uniform regime for the protection of intellectual property and, in particular, a single system for filing patent applications and registering utility models, trademarks for products and services, and other industrial property rights recognized as valid by all the signatory countries.

66. The African Intellectual Property Organization (AIPO), whose headquarters are in Yaoundé, is responsible for administering this Agreement. Since 1982, Burkina has had a National Liaison Structure (SNL) with the AIPO. This service is the administrative responsibility of the ministry in

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<sup>38</sup> The implementing measures for this Law are set out in Decree 96-062/PRES/PM/MCIA.

<sup>39</sup> The competition law does not cover financial services or the professions.

charge of industry and its task is to centralize and transmit to the AIPO applications for the protection of industrial property rights; it also informs the public and promotes awareness. The SNL receives an annual grant from the AIPO and the latter issues intellectual property titles. Since independence, 11 patents have been filed in Burkina (seven of them under the Bangui Agreement), despite the annual subsidy granted since 1986 to cover the costs of filing and the first renewal fee for five national patents.

67. Copyright is protected under Order No. 83-016/CNR/PRES of 29 September 1983.<sup>40</sup> The Burkina Copyright Office (BBDA), which is a professional public body under the Ministry of Culture, is responsible for protecting the material and moral interests of the creators of literary and artistic works.<sup>41</sup> The BBDA has drawn up a communications plan in order to increase public awareness of the concept of copyright<sup>42</sup>; it also has activities aimed at providing copyright information in professional colleges (police, customs, *gendarmérie*, judiciary, financial authorities). It is cooperating with a small group of magistrates and hopes that there will soon be lawyers specializing in copyright law. Collaboration with the customs should be strengthened by the forthcoming publication of a ministerial decree.

68. Work is in hand at the AIPO to bring the current provisions into line with the obligations of WTO Members contained in the Uruguay Round Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) (Box III.1). On 23 August 1975, Burkina acceded to the 1967 Stockholm Convention establishing the World Intellectual Property Organization (WIPO); it has not yet ratified the Agreement on Neighbouring Rights signed under WIPO auspices. It has also acceded to other international agreements in the intellectual property field, in particular the Paris, Bern, Lisbon, Rome, Geneva, The Hague and Nice Conventions, but has not yet ratified the Florence and Nairobi Conventions on exemption from customs taxes for artistic productions. It has signed the 1994 Trademark Law Treaty and the 1989 Treaty on the International Registration of Audiovisual Works, as well as the Patent Cooperation Treaty (Washington, 1970).

69. Counterfeiting mainly concerns medicines, audio tapes, sports articles, clothing and beauty products; according to the authorities, these come from abroad. The increased price of imports following the devaluation of the CFA franc led to a rise in consumption of counterfeit medicines. In order to remedy this, it was decided to abolish customs duties on pharmaceutical products; there are no import duties on essential generic medicines.<sup>43</sup> There is a national committee to combat fraud and counterfeiting, but it only has limited means at its disposal. Moreover, counterfeit goods may only be held at the border if the holder of the right concerned lodges a complaint.

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<sup>40</sup> Decree No. 85-037/CNR/PRES/INFO of 29 January 1985 establishing the Burkina Copyright Office (BBDA). Order No. 94/0121 sets out the copyright fees applicable in Burkina and another instrument, Order 94-004, deals with the distribution of these fees.

<sup>41</sup> There is currently a draft framework law on copyright and neighbouring rights, which has been drawn up in close cooperation with the WIPO; it should be submitted to the National Assembly for adoption in November 1998.

<sup>42</sup> The BBDA is currently seeking financing in order to implement this plan.

<sup>43</sup> Laws 6/94/ADP and 7/94/ADP of 11 May 1994.

**Box III.1: 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 Article 27.3(b) of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Layout designs of integrated circuits are not currently protected. Patents are protected for a period of 10 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. Similarly, Article 58.2 of Annex I to the Bangui Agreement concerning counterfeiting when there is no local working is not consistent with the provisions 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.

Legislation with respect to trademarks - Trademarks and servicemarks are protected for a period of 10 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 trademark 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 trademarks (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 trademark 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 10 years from the date of filing. Only registered names are subject to criminal sanctions. Appellations of origin are protected as such if they have been registered by the AIPO or are to be treated as having been registered by virtue of an international convention to which Burkina Faso is a party.

Source: WTO (1997 Report on the Trade Policy Review of Benin).