
SUMMARY

1. Côte d'Ivoire, Guinea-Bissau and Togo are members of the West African Economic and Monetary Union (WAEMU) and of the Economic Community of West African States (ECOWAS). Agriculture is of key importance to all three economies. Côte d'Ivoire, in particular, has been able to develop and diversify its agricultural sector through the cultivation of coffee, rubber, fruit, cotton and palm oil, in addition to cocoa, of which it is the world's leading producer. The main mining sector exports are petroleum products and gold. Its share of manufacturing exports, centred on the agricultural processing industry, declined sharply during the last decade, but Côte d'Ivoire has considerable potential for increasing the value added of such exports. The main destinations of its goods exports are the European Union and Africa, including the ECOWAS countries in particular.

2. In less than a decade, Guinea-Bissau has made great strides in developing its food crop sector, which exports only cashew nuts. These are grown on a small scale and exported unprocessed, almost exclusively to India. Since its last TPR in 2005, Togo, for its part, has continued to enhance the relative share of its services sector, particularly as regards port services and services related to regional transit trade: its other main activities are agriculture, which has enjoyed a remarkable boom since 2008, and the production of phosphates and cement. Most of Togo's exports go to African countries, particularly Burkina Faso, Benin, Niger, Ghana and Nigeria.

3. Overall, the national budgets of the three countries depend heavily on revenue levied at the customs border. This revenue derives from import duties and charges and internal taxes, as well as export levies. These levies reduce the income of producers of exported goods, raise the cost of imports of inputs for local enterprises and make products for local consumption more expensive. A gradual shift towards a domestic tax system, which is partially under way in two of the three countries, would make it possible to reduce this dependence on import and export taxes and, hence, to increase the revenue of the productive sectors of their economies.

(1) ECONOMIC ENVIRONMENT

4. Côte d'Ivoire, Guinea-Bissau and Togo have experienced socio-political conflicts which have considerably inhibited their trade and held back their economic development. The economic situation in the whole of WAEMU was seriously affected by the socio-political crisis in Côte d'Ivoire which accounted for 43 per cent of the Union's GDP in 1999, compared to 35 per cent at the present time. These conflicts also had an adverse impact on the human development indicators, especially those of Guinea-Bissau and Togo, which continue to be among the lowest in the world and below the average for sub-Saharan Africa. The most recent coup d'état, in April 2012, could further worsen this situation in the case of Guinea-Bissau.

5. Socio-political instability and the democratic deficit have led in all three countries to the partial suspension of official development assistance (ODA), which accounts for a substantial proportion of their respective gross domestic products (GDP). After falling to less than 5 per cent of GDP in 2005 in Togo, ODA reached 18 per cent of GDP in 2009 in the wake of a political agreement which enabled the country to release more resources in order to improve access to credit and undertake infrastructure projects and agricultural development programmes. This led to a substantial increase in Aid for Trade. In the case of Guinea-Bissau, where ODA accounts for roughly one third of GDP, most of the national debt was cancelled in 2011 but the aid channelled into trade remains at a low level.

6. Given the persistence and scale of the budget deficits, the success of socio-economic programmes depends to a large extent on external financing. The slowdown in investment, which is the indirect cause of inadequate maintenance, has led to the widespread deterioration of basic infrastructure, with frequent cuts in electricity and water supply, and the dilapidation of ports, roads and railways. In Cote d'Ivoire, however, the infrastructure network continues to be one of the best and most extensive in the West African subregion and could enable that country rapidly to return to and surpass its pre-crisis level of development, by means of appropriate policies.

7. Given their heavy reliance on imports for the supply of basic foodstuffs such as cereals, the three countries have each attempted to contain the strong inflationary pressures caused by the rise in global food and energy prices in 2008. The suspension of import duties and VAT, and the reduction in the customs value of these products are the main emergency measures that have been taken, unilaterally in many cases, and sometimes in contradiction to WAEMU rules. It has proved necessary to introduce a community-wide rapid response mechanism.

8. Despite the socio-political instability of recent years, the BCEAO has continued to ensure the stability of the Union's banking and monetary system. Its independence *vis-à-vis* national governments has enabled it to maintain its policy of financial stability and integrity in accordance with its mandate. Key interest rates, mandatory reserve ratios and open market operations, which resumed in February 2007, are its main instruments of monetary policy.

(2) GENERAL FRAMEWORK

9. Foreign investment flows in the three countries have been below their potential since 2005. In the absence of a community investment code, still under preparation within WAEMU, the tax (and customs duty) exemptions selectively granted by member States are only partially regulated. The harmonization of economic regimes within WAEMU would contribute to the establishment of a business environment that is more stable and transparent and, hence, more propitious to long-term investment decisions; this should therefore be included among the priorities of community policy.

10. The efficacy of the "single windows" for the completion of business start-up administrative formalities is limited by the fact that the officials running them frequently have no power of signature. The current trend, which seems to be towards developing parallel business formality centres that are also supposed to group together in a single location all administrative services dealing with such formalities, will not satisfy investors' need for institutional and regulatory stability and transparency. On the other hand, multiple structures should not be allowed to exist side by side, given the risk of overlapping and additional costs.

11. The free zones intended to promote exports have not been a great success, although they offer enterprises a full range of substantial tax exemptions under the ordinary law scheme, as well as a variety of discounts on electricity and input purchases, which gives them an undeniable advantage. In the absence of decisive community regulations, the free zones, including those in Cote d'Ivoire and Togo, would continue to pose competition problems at national and regional level, while also contributing to economic dualism.

12. Togo has made significant strides in the area of microcredit and financing of small and medium-sized enterprises. A national agency to promote and guarantee SME funding, financed by the State, has been processing and guaranteeing SME financing with banks since 2006. Funding has been provided in approximately 80 per cent of the cases dealt with; thus far, no claims under the

guarantee have been made against the State. The guarantee substantially reduces the rates at which SMEs can borrow money, and this serves to increase their competitiveness.

13. Côte d'Ivoire, Guinea-Bissau and Togo have continued harmonizing their business law in the OHADA framework, with nine Uniform Acts having entered into force in April 2012, which offer a common legal framework for general trade law, commercial sales, company law, securities and arbitration, and contracts for the transportation of goods by road. OHADA law also offers an accounting reference tool, SYSCOA, whose use is mandatory in member States. The Common Court of Justice and Arbitration hears appeals in all disputes relating to the Uniform Acts. Despite the existence of this harmonized framework, its proper application, which is essential to market confidence, is frequently not ensured and the protection of contracts and other economic rights is not guaranteed. The Ivorian Government is aware that the weakness of the judicial system hampers economic development, and has introduced measures to combat corruption. Togo's National Assembly, judiciary and civil service are the subject of a capacity-building strategy including information seminars, Internet access and online accessibility of all legislation.

14. In the WTO, the WAEMU member States have individually bound their customs duties and other duties and taxes. Jointly with its WAEMU and ECOWAS partners, Côte d'Ivoire is seeking solutions to the problem posed by applied rates exceeding bindings in certain cases. Guinea-Bissau and Togo do not face this problem. All three countries are founding Members of the African Union, the successor to the Organization of African Unity.

15. The WAEMU Commission has exclusive authority over the common trade policy of its members *vis-à-vis* third States. Its activities are funded by the community solidary levy of 1 per cent, which is applied to imports from third countries and is paid in full to the WAEMU Commission. An additional community levy of 0.5 per cent is collected on behalf of ECOWAS.

16. Since 1994, member States' trade policies have been substantially harmonized by the Commission, resulting in a common trade policy in a number of fields, such as taxation at the customs border (Common External Tariff in force since 1 January 2000), bank domiciliation of trade transactions and rules of origin. Considerable efforts are also under way, and deserve support, in the areas of harmonization of internal taxation (VAT, excise duties, tax on petroleum products, advance payment of direct taxes), prohibitions and licensing, standards, technical regulations and accreditation procedures, sanitary and phytosanitary safety and government procurement.

17. The WAEMU regulations provide for free trade in products approved by the National Approval Committee of each country as originating in the Union, on the basis of rules of origin adopted in 2003. In spite of these rules, the movement of approved products between the markets of WAEMU member States continues to be fraught with difficulty. Overall, intra-community trade is still limited to 6.5 per cent of total goods trade in Côte d'Ivoire and 10 per cent in Guinea-Bissau; Togo has a higher level of intra-community trade (20 per cent), accounting for more than half of total exports and 7 per cent of imports within the WAEMU area. However, the relative share of intra-WAEMU trade and intra-ECOWAS trade in the three countries has not grown significantly over the last five years.

18. In order to reduce obstacles to trade, the WAEMU Commission has installed juxtaposed control posts at the borders so as to avoid duplication of formalities, and has begun identifying - with a view to their elimination - irregular practices such as abusive or illegal taxation and inspection formalities, attempts at tariff rearmament on certain products originating in the Union, technical and administrative obstacles to community products and a number of other practices, such as the extortion

of bribes on the main road transport corridors of the Union. Moreover, under the current regime, products from third countries that have already received customs clearance in a WAEMU country and have then been re-exported to another member State are liable to a second collection of duties and taxes, generating further opportunities for abusive taxation. The Commission is aware that the free movement of goods on the community market can be achieved only through the establishment of a single market, and has included the establishment of free movement in its regional economic programme. These efforts should be supported in the Aid for Trade context.

19. The three countries are also among the 79 ACP countries with which the European Union (EU) concluded the Cotonou Agreement in June 2000, which covers the period up to 2020. Until December 2007, its trade provisions provided for the duty-free admission of non-agricultural products and most processed agricultural products originating in 78 ACP countries (excluding South Africa) on a non-reciprocal basis. The Cotonou Agreement provides for the negotiation of regional economic partnership agreements, which were to supersede its trade provisions as from 1 January 2008; of the three countries, only Côte d'Ivoire has an Economic Partnership Agreement (EPA) with the EU, signed in Abidjan on 26 November 2008. This Agreement has enabled Côte d'Ivoire to enjoy continued duty-free access to EU markets for its products. Under the EPA, customs duties on products originating in the parties are reduced or eliminated in accordance with a schedule for their removal. The EPA also contains detailed regulatory provisions (for example, on customs and administrative cooperation, and technical regulations, including SPS).

20. Negotiations on the amendments needed to the WAEMU CET in order to extend its application to all ECOWAS members have been under way within ECOWAS since 2006. In 2008, the ECOWAS members recommended the creation of a fifth tariff band at the rate of 35 per cent, which would apply essentially to agri-food products. For some countries, the adoption of this new 35 per cent rate would *inter alia* increase the number of customs duties applied in breach of WTO commitments.

(3) TRADE POLICY INSTRUMENTS

21. Imports continue to be subject to a number of burdensome charges, beginning with the CET, under which 41 per cent of the 20 per cent duties constitute international tariff peaks; other community tariffs add a further 2.5 percentage points. Certain non-WAEMU originating products are subject to a special import tax (TCI) in Côte d'Ivoire, the purpose of which is to cushion the impact of any sharp fall in world prices on community production and/or to offset unfair practices. The degressive protection tax (TDP), which continues to be collected in Côte d'Ivoire on a number of products, is another community mechanism applied nationally, which is still in effect in Côte d'Ivoire despite having already been abolished by WAEMU.

22. The three countries require a cargo tracking note (BSC) for trade flows transiting their respective maritime ports. The BSC does not come under a community regulation; generally speaking, it is introduced by the Ministry responsible for transport in each country. The (high) costs of issuing this document vary from one country to another and may give rise to discriminatory treatment depending on the point of embarkation of the imported goods. For customs purposes, the BSC appears to be of limited usefulness since most of the information it provides is already contained in the manifest. The obligation to submit an advance import or export declaration, or requirements of equivalent effect, remain in place in the three countries. These formalities increase transaction costs to the detriment of economic operators.

23. Burdensome compulsory import inspection programmes remain in place in all WAEMU member States except Guinea-Bissau and are not always harmonized. Their implementation is entrusted to international companies which control or determine all the information normally within the purview of customs: eligibility for importation, quality and quantity of goods, type of tariff, customs value and origin. Recent developments in the three countries include the introduction of X-ray scanning, the cost of which may be additional to that of compulsory inspection.

24. Each of the three countries continues to apply its own list of reference values for import, which is not always drawn from the list kept by the WAEMU Commission. The latter has even had to intervene in several cases concerning the application of reference values to intra-community trade. In a bid to combat under-invoicing, customs valuation of used vehicles has been entrusted to foreign private companies in Cote d'Ivoire and Togo, which themselves determine the import values. These practices are WTO-inconsistent.

25. With regard to internal taxes, the exclusion of important sectors of the economy such as agriculture from the scope of application of VAT (or the general sales tax in Guinea-Bissau) causes distortions in the trade in competing imported products and problems of national treatment. A comprehensive review of the VAT regime would make it possible to eliminate the many exemptions and complete the process of harmonization of VAT regimes within WAEMU.

26. There are differences in the way the advance payment of profits tax is levied at the customs border in each member State; for example, some food products are exempted from the payment in some countries of the Union, but not in others. The WAEMU rules stipulate that, in the event of recourse to such a mechanism, exclusively for the purpose of strengthening taxation of small and medium-sized enterprises, member States should ensure that its application is neutral as between imports and internal transactions. Deviations still occur from the community framework, which provides for the option of applying a rate of up to 5 per cent in the case of enterprises with no tax identification.

27. Being aware that technical regulations constitute one of the main barriers to the expansion of their international trade, the WAEMU member States, with EU assistance, launched a "quality" programme in 2001 for the harmonization of accreditation, certification, standardization and metrological activities within WAEMU. The principle of mutual recognition under the programme is applied at three levels: recognition of technical regulations, standards and specifications; recognition of conformity assessment procedures; and lastly, recognition of the results of conformity assessment procedures. Member States are required to notify to the WAEMU Commission their respective TBT regimes and to eliminate any unjustified obstacles to the free movement of goods and services. Their activities are coordinated by a Regional Quality Coordination Committee.

28. Despite the adoption in 2007 of a regulation requiring recognition of international sanitary and phytosanitary standards and the efforts to harmonize national legislation, the only concrete measures taken to facilitate trade in the WAEMU area have been the adoption of the IPCC single phytosanitary certificate on plants and plant products, and the harmonization of the control of veterinary medicines. A single WAEMU SPS import permit would facilitate trade in these products. On the ground, given their limited resources, some member States are not in a position to carry out proper controls. Moreover, the SPS controls carried out in a member State are not recognized by the other WAEMU countries; such recognition, based on the so-called "Cassis de Dijon" principle, would stimulate intra-regional trade in food products and contribute to raising rural incomes.

29. Notwithstanding the existence of detailed regulations on anti-competitive practices within WAEMU, it has to be observed that they have produced little in the way of case law. The competition regimes of Cote d'Ivoire and Togo have not yet been brought into line with the community regulations which, in principle, are directly applicable at national level. Guinea-Bissau has not yet adopted a national competition framework. The national competition commissions are not operational. The lack of effective competition is clear in several sectors of the three economies, particularly in the markets for fixed telephony, the Internet, water and electricity distribution, and port services.

30. Government procurement management was reorganized in 2009 with the aim of transposing the relevant WAEMU directives. In Guinea-Bissau, however, the implementing decrees and government procurement code are still being developed.

31. All the WAEMU countries, including Cote d'Ivoire, Guinea-Bissau and Togo, are signatories to the Bangui Agreement (1977) introducing a uniform law and creating a common industrial property office, the African Intellectual Property Organization (OAPI). The provisions on plant varieties for which patents are required pursuant to Article 27 of the WTO TRIPS Agreement entered into force on 1 January 2006. Because of the lack of skills needed to process applications for protection, the OAPI Administrative Council has postponed the entry into force of Annex IX on layout-designs (topographies) of integrated circuits which must be protected under Article 35 of the TRIPS Agreement. According to the authorities, the main infringements concern counterfeiting of food and pharmaceutical products, usurpation of trade names and industrial designs, and pirating of musical works and films.

(4) SECTORAL POLICIES

32. As far as food crops are concerned, an increase in production and productivity has not until recently been a genuine government priority; hence the lack of progress in terms of food security, income and living conditions for rural populations. The commitment made by African governments in 2003, through the Maputo Declaration, to allocate at least 10 per cent of their national budgets to agriculture, with the aim of achieving annual agricultural growth of 6 per cent, was applied only as from 2008 when the surge in international food prices revealed their strong reliance on imported food products. The public authorities now intervene in the three countries to support food production, in particular through the provision of fertilizers, seeds and other inputs at subsidized prices. A greater number of these measures should be notified to the WTO.

33. WAEMU has not yet harmonized customs duties and taxes of equivalent effect levied by member States on their exports. In the absence of such a framework, two of the three countries impose very high taxes on their agricultural exports, and this has had as its primary consequence a significant level of trade transit through neighbouring countries (likewise WAEMU members) which do not have recourse to these taxes. Togo, for example, which produces little cocoa, has recently become a cocoa exporter. These taxes also result in a decline in small farmers' income and therefore run counter to the aims of poverty reduction and rural development schemes.

34. The fisheries and fisheries production subsector accounts for more than 7 per cent of GDP in Guinea-Bissau and a high level of economic activity in Côte d'Ivoire on account of the tuna canning factories. The fishing fleets are not normally recipients of State subsidies or aid and none of the three countries has a large national fleet. The income from fishing agreements and licences for foreign-flagged ships accounts for one third of government revenue in Guinea-Bissau, which limits the freedom of manoeuvre to introduce sustainable management measures in the sector. Guinea-Bissau's income shortfall is considerable, as the total market value of catches far exceeds the

amount of duties collected. Although action to combat illegal fishing (IUU) is a declared priority of the three governments, their capacity for surveillance of territorial waters and intervention in the case of infringement is inadequate.

35. The three countries have continued to be particularly generous in their mining policy towards foreign enterprises. In Guinea-Bissau, recent discoveries of phosphate and bauxite open up interesting prospects in terms of additional revenue, although there are concerns about Dutch Disease-type inflationary risks; one intergovernmental organization is attempting to carry out systematic studies of the environmental and social impact of mining projects, in order to promote government awareness of the issue. In the energy field, the governments of the ECOWAS member countries have pooled their efforts to resolve the serious regional energy crisis caused by inadequate investment. The West African Gas Pipeline, begun in 2000, is now operational, but has not served to significantly increase the supply of natural gas, as the current throughput is insufficient to supply all the countries. The Côte d'Ivoire refinery, though portrayed as one of the most productive in Africa, experienced serious financial difficulties in 2010.

36. Recent developments in the area of services mainly relate to ports and airports. ASKY, a new private civil aviation company of regional scale, has chosen Togo to establish its headquarters. State-owned enterprises in the three countries continue to dominate the port and airport services sectors, water and electricity distribution, banking, insurance and telecommunications. This is mainly due to the difficulty of reforming these sectors and making them profitable, rather than to any deliberate policy of public intervention.
