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COMPARATIVE SURVEY OF NIGER/NIGERIA TRADE REGIMES

Part I:
Comparative Study of the Laws and Regulations on Trade

AID IQC No. 623-0000-I-00-8028-00 Delivery Order No. 5

APRIL 1991

FINAL REPORT

Submitted by

ERNST & YOUNG

In association with

Nathan Associates Inc.

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FOREWORD

Pursuant to a request from Niger's Ministry of Commerce, USAID prepared the project after which we conducted the following study.

We met with Mr. George Callen at USAID and he introduced us to Mrs. Bolho, Director of Domestic Commerce, and Mr. Maliki Barhouni, Secretary General of the Ministry of Economic Development. Mrs. Foukori, Legal Counsel for the Ministry of Economic Development, arranged most of our meetings with the officials of the various organizations and businesses, the list of which is included in this report.

Mrs. Foukori also accompanied us to Lagos in Nigeria where we were warmly received and guided by the Special Assistant at the Nigerien Embassy in Lagos, Mr. Cabo, and Mrs. Baillet, Commercial Attache.

We also received assistance from Mrs. Deborah R. Schwartz, Economic Advisor with the American Embassy in Nigeria.

As the very long list of persons who agreed to spend a little time with us shows, we had the opportunity to obtain various information to help us understand Nigeria's and Niger's trade laws and regulations. Consequently, in a foreword such as this, it is impossible to mention all of them and tell them just how much their assistance was appreciated. We hope that this report will not disappoint them too much.

Again, we wish to give special thanks to Mr. Michael Kerst, who was away upon our arrival in Niamey, but returned before our departure; he played a role in preparing this project.

I. TERMS OF REFERENCE

A. PROJECT BACKGROUND AND TERMS OF REFERENCE

Before stating the terms of reference for this study, it must be pointed out that studies have been conducted as part of a project whose goals were to provide Niger's economic operators with a coherent and orderly regulatory system. These prior studies include:

1. A comprehensive list of foreign trade measures from independence to date and all other earlier measures in effect, as well as treaties, conventions and bilateral and multilateral agreements.

2. A critical analysis of current regulations for foreign trade.

3. A draft of a new set of regulations, taking the social and economic environment into consideration.

After these studies, recommendations were made and the Government of Niger apparently agreed to some of them because, since this study, several steps have been taken to implement them.

The proposed measures relate more specifically to the simplification of the procedures used in foreign trade and the liberalization of the economy in general.

But if these studies have made it possible to make a brief survey of the situation in Niger, they did not really touch on the regulatory system or the procedures that raise obstacles for merchants, especially Nigerien exporters and importers when they trade with Nigeria.

Therefore, the purpose of this study, at the request of the Nigerien Government, is to conduct a comparative analysis of the regulatory provisions that affect the following areas:

- Tax and customs regulation

- Regulation of foreign trade and foreign exchange by placing special emphasis on export and import incentives or restrictions

- Price regulation

- Regulation of domestic trade (conditions of access to professions, trade monopoly, marketing policy and pricing policy for agricultural products)

- A review of all trade circuits (commerce-transit)

- A review of payment methods
- A review of systems and gaps.

Since much of the information about Niger is included in earlier studies, our main effort was to give an overview of the laws and regulations in Nigeria and the liberalization policy in this country.

The study of tax and customs regulations is found in the second part of the report.

B. HIGHLIGHTS OF FINDINGS

1. Foreign Trade Regulation

Mr. Mouralis has already studied these regulations and has suggested a new regulatory system which we feel should be adopted but we also believe that the text on export and import licensing should be changed since they have already been abolished.

2. Price regulation

It seems that the following explanations given by the Minister of Economic Development at a press conference provide an indication of the situation in Niger which is more or less similar to that of Nigeria.

Question: Some people have voiced the opinion that liberalizing the prices of products subject to mark-up will make the Council of Ministers make our market the battleground for freeing the prices of imported products subject to mark-up according to the decree of June 20, 1990.

Answer: This regulation pertains to 20 imported products; it marks the end of a process begun in 1985 which ends all price controls on imported products.

The mark-up system is one of three pricing systems in effect in Niger, namely equivalent prices, mark-up prices and free prices.

As you can see, this is not an elimination of all price controls. The equivalent price system remains intact for some strategic products and/or staples.

The liberalization we endorse must not be the same thing as a passive policy or one of softness. That is why government intervention, albeit greatly reduced, is being preserved! As for the behavior of operators, the trend in the prices of some imported products from 1985 to 1990 shows relative stability for most of them. The consumer price index confirms this trend. Moreover, no market supply problems have been noted.

3. Domestic Trade Regulation

Whereas Nigerians have free access to trade, Nigerians do not have as much access because of the procedures that must be completed and the flat-rate taxes to be paid such as trading licenses and the IMF.

4. Review of trade circuits

We have not reserved any special place for this because, with the border and the language spoken on both sides of the border, trade follows ancestral traditions and, in one way, totally escapes governmental constraints.

5. Review of payment methods

Now that the naira can be exchanged freely in Nigeria, methods of payment (for export-import) are straightforward, but there are difficulties and consist either of hand-to-hand payments or opening letters of credit. However, there are difficulties because it seems that for Nigerien exporters, private banks in Niger refuse to accept letters of credit from Nigerian banks with which they are not affiliated or on which they have no information to instill confidence.

On the Nigerian side, letters of credit are opened upon presentation of Form M (a copy of which is included in the report) and the required accompanying documents. The most annoying problem is that posed by the fact the Nigerian government requires its agents to inspect the goods to be imported.

II. EXECUTIVE SUMMARY

We have attempted to be as objective as possible in our evaluation and recommendations concerning foreign and domestic trade as required by the terms of reference of the project.

It would have been difficult to study those regulations without taking into consideration the economic policy and consequently the laws which represent that policy, and of which the regulations are an administrative and interpretative method of implementation.

We noticed that the two visited countries, Niger and Nigeria are going through a period of transition and are making efforts to switch from a centralized economy to a market economy.

To indicate what does take place to achieve that transition, we have tried to show the differences that exist between them, with regard to the natural resources and to the means available to them to utilize those natural resources. The means available to a government to help or delay the economic growth of its country consist in large part in the setting up of a legal and judiciary infrastructure that allows business people to take personal initiatives and risks and to make individual profits. The state may raise taxes and those profits to the extent that those taxes are not too high and do not discourage investors and consequently the increase in production.

It is, therefore, in the commercial legislation and regulations that it is possible to evaluate the evolution of a government and of its administration from a centralized economy to a market economy. That is not easy, especially in Niger and Nigeria where it is difficult, as explained hereafter, to find the laws and regulations.

We have also noticed that solutions to the problems in that field were dependent to some degree, in each country, on its geographic position, its population increase and its education. Consequently any legislation must be adapted to those factors.

We have tried to give some information on the economy of each country and on how their laws and regulations were adapted to those factors and may be improved to help economic growth. We have however, focused our study on the legislation and regulations concerning foreign trade.

We have recognized that in Nigeria, thanks to its extensive resources and to the restructuring project started with the help of the World Bank, some progress has been realized in the field of trade as a result of the suppression of important export licenses and of the availability of foreign currencies. This should facilitate trade with Niger, as the fluctuation of the naira was due of the most important obstacle since its devaluation.

However, the mechanism used to grant those foreign currencies are subject to two constraints in the case of imports that diminish its efficiency:

1. The necessity for private banks to obtain foreign currencies through auction sales by the central bank and consequently the need to prove to a foreign bank that they have the foreign currency and that irrevocable letters of credit will be honored.

2. The necessity for the exporters of commodities from Niger to have those commodities inspected by an inspection company designated by the central bank of Nigeria.

Niger for its part has also suppressed the import and export licenses. There is a single-step process and a place where one can obtain all the necessary information for a given transaction. This promises to simplify administrative formalities for trade and customs procedure but is still to be tested.

Furthermore, if the suppression of import or export licenses seems to facilitate to a certain extent the availability of foreign currencies, it does not solve the problems created by the customs duties and taxes and by the measures taken to protect the local production in the two countries.

Part II of our study examines the technical reasons why the commercial agreement between the two countries cannot be implemented in the field of customs, and raises the problem of a revision of that commercial agreement and of the legislation regulations and codification of commerce in both countries. The same reasons concern also the treaties, such as ECOWAS and EWAS, as described in Chapter VI.

It is recommended, therefore, that the Customs General Direction compile and write with the help of legal and technical experts and in cooperation with ECOWAS an updated customs code and that this code be circulated and put at the disposal of the customs officers stationed at the border with other countries. It is also recommended that qualified customs officers be included in the staff of the office referred to above in the Ministry of Commerce.

In Part II we also recommend that:

- The Customs General Direction be restructured.

- The customs and taxes on imports/exports be unified. It seems that in the special study that should be made to unify the different customs duties and taxes on import/export, the impact that they may have on the price increases of the goods exported should be taken into consideration. The price increases due to those taxes make it difficult for exporters from Niger to compete on the Nigerian market. USAID/Niger has already noticed this problem and achieved success in reducing taxes on cattle exported to Nigeria.

This leads us to problems concerning production, and to the influence that the legislation and regulations in the commercial field may have to help or hamper the creation of an internal or external market that will be an incentive to increase that production.

It is necessary in that respect to take into consideration the existence of an informal sector in Niger, that is the result, of the illiteracy of the majority of the population and to the existence at the border with Nigeria of a large Hausa population. That population and the Hadji who seems to dominate the commercial exchanges with Nigeria constitute a large part of that informal sector.

Efforts should be made to integrate them in the formal sector. At the present time the economic operators in the informal sector have no interest at all in joining the formal sector because of regulations and taxes.

It is necessary for the government to understand this problem and to change the laws and regulations in order to give the people of the country the opportunity to produce and sell freely within the legal system of the formal sector.

Furthermore, even if efforts were made and written documents became available on the subject of codes and customs,.there is still another factor to be taken into consideration. It is the compartmentalization of the government, and the failure to distribute laws and regulations, to the staff whose task is to implement them. This seems to be one of the main causes of the contradictions that exists in the information that can be obtained by economic operators from the civil servants in charge of the implementation of codes, customs and trade regulations.

Political decisions are not sufficient to change a centralized system to a liberalized market economy, especially with the illiteracy of the majority of people.

Furthermore, when we were in Niger, an updated commercial Code did not seem to be available. Foreign trade regulations were compiled by a Law professor Mr. Mouralis. At the request of USAID and a commission of which he was a member, he was in charge of writing a new commercial code. The commission has prepared a study on commercial companies. However, that commission is largely comprised of officials who have little time to spend on preparing the code. We can only assume that, as in the other former French colonies, the French company law of 1967 will still be in effect until that new code is promulgated. In the meantime we were unable to find the text of the Nigerian law on this subject. In Nigeria a Company Act was adopted in 1990. It has more in common with the American law than the French law as it is inspired to a large extent by British law.

Thus, for Niger, it will be necessary to prepare a veritable commercial code. The code could possibly be used for all of Africa if it is prepared by the Niger-Nigeria Commission. As the Uniform Trade Code of the United States is used by the 50 states of the United States of America, that code should cover the key concept of a

commercial transaction that represents only one legal question, its multiple facets notwithstanding. See Chapter III for a brief exposition of the U.S. trade code.

A joint commercial code for Niger and Nigeria including all the subdivisions of the U.S. code could be prepared. It would necessitate the comparison of each of these subdivisions with the French and English laws that cover the same commercial activities.

Actually, if the joint Niger-Nigeria commission were capable of doing this, it would be extremely worthwhile for Africa in general, as a uniform code. It is most certain that financial assistance from other donor countries and international organizations could be obtained for such a project.

Another aspect concerning domestic commerce in Niger and its economic development is the fiscal system in itself and independently from the problems of custom duties. A brief survey of that problem is included in Chapter IV of the first part of this report.

Taxes such as those like the "Patente" which seems to be assessed on the capital rather than on the revenue make it difficult for business people to cooperate with the government.

The manner in which the tax service operates should be completely overhauled and corrected. We tried to give some indications on the manner in which the revenue declarations are made in Nigeria and on the absence in that country of taxes like the "Patente."

We have also given some information on the evaluation of some treaties that the government of Niger has signed.

Those treaties, such as the ECOWAS, do not seem to be implemented rapidly because of technical problems and also of a lack of coordination between countries, nationalism and protectionism.

III. GENERAL FINDINGS

A. INTRODUCTION

According to observations and information collected during the visit to both countries, meaning Niger and Nigeria, the Ernst & Young team made the following observations.

Both countries have moved their policies in the same direction, in other words, a decentralization and liberalization of foreign and domestic trade and, consequently, toward a "market" economy.

Moreover, Nigeria, with an approximate population of 120 million and considerable natural resources, cannot be easily compared to Niger, with a population of 7.8 million and only small amounts of natural resources with land that is largely desert.

The geographical location, the heritage of the political environment due to colonization and the difference in the official languages have created different constraints for each country.

It seemed appropriate to give an overview of the opportunities and constraints of each country, which each must overcome and which influence their economic policy. This will make it possible to understand better the differences in the laws and regulatory systems of the two countries despite the similarity of their new policy and their efforts toward liberalization and a market economy.

It should also be generally observed that the following statistical and other information is based on evaluations and not on specific figures. Moreover, almost all political data and the laws and regulations mentioned for Nigeria have been updated, although it is very difficult to obtain printed texts of laws and regulations. The situation in Niger is not the same.

The measures taken to arrive at a market economy are mentioned below in greater detail, but may be summarized as follows:

- In Nigeria, a structural adjustment program was introduced by the government in 1986. Financial assistance was negotiated with the World Bank and a $5 billion loan was granted to the Government of Nigeria.

- The goal of the central part of this program was to free the economy from administrative controls and the corruption they made possible.

- The overvaluation of the Nigerian national currency, the naira, under this plan, was to determine its real value through market forces formed by supply and demand.

- These measures were supplemented by other decisions such as the elimination of regulations on interest rates, the abolition of subsidies, the elimination of export regulations and the marketing and privatization of public enterprises.

- Along with these measures went an effort to revitalize credit. This was facilitated by foreign creditors who were reassured by measures taken under the program and by the repatriation of foreign currency that Nigerian residents held abroad.

For Niger, there was also a liberalization effort and some nationalized enterprises were replaced with private enterprises. Export and import licenses were eliminated. A new investment code was adopted, but the environment is still unsuitable for investments made by Nigerians or foreigners. (See the critique of the new investment code.)

However, there were other factors: Forces within Nigeria, specifically, the devaluation of the naira, which exceeded projections and created a drop in purchasing power and an increase in production costs due to an increase in the price of foreign inputs into the manufacture of local products.

In turn, this produced resistance from consumers, reflected in the accumulation of unsold inventories and therefore decreased the production of these goods and also led to the dismissal of workers, furloughs and an increase in unemployment.

It is because of these problems which arose in 1988 that the government took macro-economic measures to facilitate administrative reforms.

In the subject under study here it is certain that the plan and the measures taken to implement it have also liberalized export-import transactions. The government no longer intervenes or requires an export or import license, and foreign currencies are available at private banks in Nigeria.

Despite these liberalization efforts, protectionism -- as it existed before the structural adjustment program (SAP) was implemented in Nigeria -- has not been entirely eliminated in the two countries.

However, there are still different constraints which, to a certain extent, influence the pace and extent of reforms, and the result is that the measures taken in Niger to liberalize the economy do not correspond exactly to those of Nigeria.

In Nigeria there are still laws and regulations which, although to a lesser extent than in the period that preceded the structural adjustment program, favor nationals and strive to develop production and local industry, sometimes without taking the interest of the Nigerian consumer into account.

Despite efforts to attract foreign investment a certain distrust still exists among the investors. This also due to the fact that, if the laws and regulations are oriented toward liberalism, enforcing them is not always sufficient.

If we compare the changes in the policy of the two countries, we notice that the same influences have led these countries to react in the same manner after their independence.

After a period spent affirming their personality as an independent people, they were pushed to react against foreign influence in their domestic economy.

But the nationalizations and governmental intervention they used toward this end in every sector of the economy have proven to be ineffective methods for economic development and growth. Recently, the two countries have turned to liberalization and a market economy. But, as indicated above, protectionist measures are still being taken.

However, since the border between the two countries is very permeable and, since the majority of people on both sides of the border speak Hausa, it is difficult to believe that the export and import bans are observed.

One effort to eliminate such bans has already been made by the joint committee which is preparing a new trade pact between the two countries. Unfortunately, as the study by Mr. Ansay (the customs expert) shows in Part II, it may be difficult to have customs in the two countries observe the pact, even if their customs officials have been given copies of it, which does not seem to be the case. As the expert explained, customs officials have difficulty interpreting the two product lists because they were not drawn up taking the customs codification of 1986 into account. Therefore, it is recommended that attempts be made to have the new pact, now being negotiated, take these observations into account.

It has been very difficult to obtain trade laws and regulations in Nigeria. The texts of these laws are printed in small quantities and the government printing office, which prints the official journal and, consequently, the texts of these laws, has no copies in stock. The decree on companies of January 2, 1990, was printed this year, but it can no longer be obtained at the National Printing Office, and it is difficult to find out whether this decree is the only one that applies to forming companies. It has also been difficult to find tax laws or decrees. On this subject, it must be admitted that, for its implementation, the program to restructure the economy has given rise to the recent adoption and amendment of many decrees.

As for the laws and regulations and their enforcement, it must be emphasized that, if they have indeed been officially adopted, government officials do not seem to observe or enforce them.

During this study it was found that the distribution of laws and decrees, both in Niger and Nigeria, leaves much to be desired.

In Niger, the tax system and the existence of the economic police are the main differences with Nigeria, which has a tax system based on income and has eliminated the Economic Police and price controls.

B. DETAILED DISCUSSION OF IMPEDIMENTS TO COMMERCE

In our reports we have attempted to be as objective as possible about trade policies and regulations for exports and imports between these two countries. The problems with the Nigerian Government's restructuring policy differ from those of Niger, partially because the exchange value of the naira is entirely based on the trade balance and the balance of payments, whereas Niger's currency is supported by the CFA franc. But Nigeria's natural resources, including its petroleum resources, are much more substantial than those of Niger. Moreover, Nigeria is a federation. However, Nigeria has made more efforts toward liberalization and a market economy than Niger.

Efforts have been made to improve the taxation system. Efforts have also been made in terms of export and import regulations. Of course, in the case of Niger, export and import licenses have been eliminated and there is an attempt to have only one window to deal with economic operators. But nothing seems to have been done about taxes, regulations or trade laws. For taxes, an attempt needs to be made to change the way they are collected. The Government needs revenue. But to have more revenue, it must encourage economic expansion and tax the additional revenue from merchants instead of levying taxes sometimes based on capital, as is currently the case.

There are other problems involving exports from Niger to Nigeria. It seems that most commercial transactions at the border between Niger and Nigeria are made by what we call "Hajjis" and do not fall within the formal sector which is under Government control.

The economic operators in the informal sector have no interest at all in joining the formal sector because of regulations and taxes.

It is necessary for the Government to understand this problem and to change the laws and regulations in order to give the people of the country the opportunity to produce and sell freely within the legal system of the formal sector. It seems that the Government of Niger is not up to the task. The reform of the legal system in Niger involves not only updating the laws but screening those laws that should be repealed.

Niger is not the only country that faces such problems. A study that has already been conducted in South America concluded that economic liberalism imposed from above will always be relative and will always be weighted down as in Chile and Argentina by a lack of complementary political freedom.

Economic freedom is the counterpart of political freedom and only when the two are combined, like the two sides of a coin, can they really work.

In the same study discussed in the book by De Soto entitled The Other Path, which should be taken into consideration for the study of the informal or parallel market of the Hajjis and the possibility of integrating them into the formal sector and the

legal system, the study describes the limitations that living outside the law imposes on informal businesses; they cannot grow, they cannot plan for the future and are vulnerable to theft, extortion and any crisis.

For exports from Niger to Nigeria, and despite simplifications for obtaining foreign currencies using Form M mentioned in the report, the problem of having an inspection company designated on Form M inspect the merchandise creates delays.

The main problem encountered during the mission, as we have pointed in in Part II, were the "unclear parts" of laws and regulations. It is difficult to draw any serious conclusions when the information that can be collected is contradictory according to its source.

Whether for customs or commerce, the compartmentalization of the government, the failure to distribute laws and regulations, up to and including the staff whose task is to implement them, and the economic operators, is one of the main causes of these contradictions. Decisions, such as creating a single window to provide information about export-import, if implemented, will necessitate a serious study of the different problems addressed in this report and coordination between the various agencies in charge of implementing such decisions.

Political decisions will not suffice to turn over-centralization into liberalization and demand for a market, which seems to be the goal of the current government. Whatever the political decisions may be, there is still the problem of how such decisions can be implemented.

It seems obvious that, at this time, for customs or trade, there is no customs code or trade code that defines the current policy thrust, not to mention former policy.

For customs, the customs code, as indicated in Part II, should be updated; in other words, as the current Customs Director has done, all decrees, laws, orders, and related letters should be compiled and those which should no longer be applicable under the new system should be repealed and the codification should be revised.

To revise the codification and to write a trade agreement between Niger and Nigeria which could be distributed and understood and implemented by customs in both countries, an effort should be made to bring the code in line with the "draft harmonized customs code" proposed by the CFAO.

For trade, the problem also has to do with the Code and related regulations.

The Nigerien Trade Code seems to be ill-defined. Foreign trade regulations were compiled by Mr. Mouralis and a commission of which he was a member was in charge of writing a new Trade Code. The commission had prepared a study on commercial companies, but it was largely comprised of officials who had little time to spend on preparing the code. We can only assume that, as in the other former French colonies, the French company law of 1967 is still in effect, but we

were unable to find the text of the Nigerien law on this subject. In Nigeria a Company Act was adopted in 1990. It has more in common with the American law than the French law.

Thus, for Niger, it will be necessary to prepare a veritable trade code. The code could possibly be used for all of Africa if it is prepared by the Niger-Nigeria Commission. The code should be prepared in cooperation with Niger and, as the Uniform Trade Code of the United States, which now applies to the 50 states of the United States of America, clauses should be included which, like the American Uniform Code, cover the key concept of a commercial transaction that represents only one legal question, its multiple facets notwithstanding.

Here are the subjects the Uniform Trade Code addresses: Article 1 sets forth principles and general definitions; Article 10 stipulates the date the UCC takes effect, includes a general provision on repeal and mentions specific laws that are either repealed or upheld; Article 11 stipulates the date of implementation and similar interim laws if the UCC is amended by subsequent legislation. Under the condition of these general provisions, all the regulations on the sale of movable property figure in Article 2; commercial paper in Article 3; tax collections and bank deposits in Article 4; letters of credit in Article 5; comprehensive transfers in Article 6; ownership titles in Article 7; shares of interest in Article 8, and guaranteed transactions in Article 9.

A joint trade code for Niger and Nigeria including all these subdivisions could be prepared by considering and comparing each of these subdivisions with the French and English laws that cover the same commercial activities.

Actually, if the joint Niger-Nigeria commission were capable of doing this, it would be extremely worthwhile for Africa in general if this project to prepare a uniform code for the African States could be proposed. It is most certain that financial assistance from other donor countries and international organizations could be obtained for such a project.

It is possible that, in a few months, a Documentation and Training Center will be set up in Africa. At this point, Cameroon would like to be the country in which the Center is located, precisely because it has a problem created by the existence of the French and English judicial systems inherited from the colonial era. It may well take a year or two before the Center begins operations in Africa. But a Center that could assist in preparing a uniform trade code for Niger and Nigeria already exists in the United States and is working to improve justice in South America. It is comprised of a consortium of two universities, Loyola and Tulane.

It also seems important to point out some problems that lead to conflicts, such as budget problems which lead the governments to take certain protectionist measures that are contrary to liberalization and a regional union stipulated by treaties such as the ECOWAS treaty.

One example of this type of problem is that created by Nigeria's restructuring program which stipulates that local production must replace imports. A tariff

released in 1988 is scheduled to be in effect for seven years with the purpose of protecting local production as well banning various imported agricultural products such as wheat. These measures are contrary to the objectives of ECOWAS.

Unfortunately, budget problems are partially responsible for these measures. For example, the credit ceilings negotiated with the IMF in 1989 required that 1% of the national product be covered by budget revenues for granting loans.

This attitude of the IMF did not result in any direct pressure to maintain or raise customs duties, except that Niger's Director of Customs indicated that the IMF has asked that customs duties be increased to balance Niger's budget as well. USAID may check the accuracy of this statement. In any case, in the World Bank reports, no mention is made of any attempt to lower customs duties.

These problems are above and beyond those of ECOWAS. Some have already been solved, such as those involving the free movement of citizens of countries of the Community.

For customs as well, efforts have been made to harmonize customs codes, but the process is slow and there is a lack of coordination, although the Sydonia system has already been approved for several countries. Further efforts should be made because a harmonized tariff nomenclature which would apply to the West African Community will replace the Brussels Tariff Nomenclature which is still in use.

Monetary problems are also under study and a committee has been formed with the governors of central banks to solve the problems caused by the regional Clearing House and to study a regional currency independent of the CFA franc. Studies in this area are scheduled and should produce specific proposals in 1994.

However, at this point, the decisions made and approved by the ECOWAS member countries are not observed, and it may be appropriate to mention Articles 13 and 17 of the agreement, which stipulate that the Council of Ministers must examine to what extent its decisions may be applied to the Member States and the circumstances under which the special situations of the States and the effects these decisions may have on the revenue of those States must be taken into account.

Article 17 stipulates:

> Member States shall not levy charges, either directly or indirectly, in excess of those they levy on their domestic products or otherwise charge in order to protect their domestic products against products imported from the other Member States.

The treaty was signed in 1975 but little progress has been made since then because budget problems were largely responsible for the delay in implementing the terms of the treaty. Protectionism, which still exists, is one of the barriers to more swift progress.

Moreover, customs questions are only a part of the objectives of the treaty and some progress has been made. But the same problem exists for the ECOWAS agreement and for a simple accord between Niger and Nigeria. The terms of the agreement are not sufficiently explicit and detailed. They simply ask that certain objectives be reached without really specifying how it is to be done.

During the visit to ECOWAS headquarters in Lagos, the members of the organization's secretariat noted that little progress has been made to date. A schedule giving the mandate to several committees to address applicable solutions was prepared which should make it possible to achieve some of the treaty's objectives in 1994 and identify how the terms of the agreement may be implemented.

IV. THE CASE OF NIGER

A. GENERAL PROFILE AND ECONOMIC SITUATION

Several studies have already been conducted on the regulation of foreign trade in Niger. They include studies on the private sector, foreign currency controls and the legal framework of foreign trade. Recommendations were made for reforms and improvements in the regulations in effect.

In this report, and based on the main objective, which is "to make recommendations as to the measures to be taken in order to guarantee harmonization of Niger's regulations with those of Nigeria in order to promote trade and partnerships among the economic operators of both countries," it seems that the position of both countries from a geographical and economic standpoint must first be summarized.

Beginning with Niger, it can be seen that, despite its smaller population, Niger has an area greater than that of Nigeria, although two-thirds of the country is desert.

Principal resources

Agriculture
- Cotton
- Corn
- Rice
- Onions
- Cowpeas
- Cassava
- Millet and sorghum

Mining

- Uranium
- Petroleum
- Coal
- Tin
- Phosphate
- Copper ores
- Gold

Mining resources to be developed in 1990: gold and oil.

The area of Niger along the Nigerian border is the only fertile and arable one, whereas most of Nigeria could be fertile and arable. Economically speaking, it is from this border area that trade with Nigeria has developed.

Politically speaking, the population which resides and works the earth on both sides of the border is comprised of "Hausas," in other words, family relationships exist between them and they use the Hausa language.

Niger has a gross national product estimated at $2.41 billion in 1988, while Nigeria's GNP is $38.1 billion. Per capita income is $249 and that of Nigeria is $349. Niger's population is approximately 7.8 million and Nigeria's is 112,000,000. Nigeria's area is 356,667 square miles and Niger's is 490,000 square miles. Eighty-seven percent of the population is illiterate in Niger and 70% in Nigeria.

Moreover, since Nigeria's official language is English and Niger's is French, the people along the border areas tend to forget about the official languages and communicate using Hausa. Since all laws and regulations on trade between the two countries are written either in French or English, it seems obvious that these people have no great appreciation for these laws and regulations, nor do they observe them to any great degree. Furthermore, the vast majority of people on both sides of the border are illiterate or claim to be. But even though the "Hausa" language promotes trade in these border areas, it does not promote exports or imports to the southern portion of Nigeria or to the North of Niger.

Obviously, the North of Niger is desert and it is almost entirely mining resources such as uranium which generate exports from this area, other than a handful of livestock.

The constraints this situation imposes on Niger's economic development may be summarized as follows:

- It is landlocked with no sea or ocean.
- The amount of arable land is limited.
- The agropastoral sector is vulnerable to changes in weather.
- Its domestic market is small.
- Environmentally fragile land is used intensively.
- There are problems developing appropriate technologies for agriculture that relies on rain.
- The number of skilled workers is limited.
- Few children attend primary schools and hence the percentage of illiterate children is very high. There is a lack of primary health care services.
- The population is growing too quickly.

To overcome all these constraints, it seems that the government has sought to centralize control over the economy too much over the years, despite the fact that it had an ineffective and excessively large administrative framework and business sector.

This has raised obstacles to production and savings and hence, obstacles to incentives for investments.

This situation has worsened over the last few years with the rise in the public debt. To take action against this, the World Bank, the International Monetary Fund, and most donor countries have suggested that the government change the thrust of its policy toward decentralization and:

1. Adopt a policy of respecting investments made by economic operators prepared to risk their money and energy.

2. Let the law of supply and demand govern prices and the market.

This involved the following policy:

Supply side: Liberalization of prices and markets.

Improvements in public management.

Move investment expenditures into the productive sectors.

Reform public enterprises.

Develop private sector activities.

Demand side: Improve the tax position.

Redirect lending to the non-governmental sector.

Maintain the growth of domestic credit at a level consistent with trade stability.

Some of these measures have been taken, for example, the elimination of import licenses and the reform of some public enterprises.

But the consequences of these measures and how they will be implemented administratively remain to be defined. In other words, to what extent will the government still be aware of trade and imports and intervene or not intervene in the country's trading activities.

There is some reason to believe that customs and banks may be the institutions that could provide some desired information:

1. Customs, through customs declarations when goods are imported.

2. Banks, when letters of credit are opened in foreign currencies.

Procedures to be adopted for computerizing customs declarations and coordinating letters of credit by banks to arrive at a coherent system to obtain valid statistics are under study.

However, the elimination of import licenses applies only to some of the constraints and problems that economic operators who wish to export to Nigeria may face. In Niger, considerable studies have already been conducted and were based on economic data, especially those which may have an influence on controlling:

- The trade balance and the balance of payments;
- Protecting the industries of Nigerien business;
- Budget receipts and taxation;
- Exports to Nigeria; and
- Monetary exchange rate.

In Niger and, as a result of these studies, recommendations have already been made in these areas, and that is why the information on Nigeria's economy and the trend of this country toward a market economy are studied "summarily" in the part of this report on Nigeria.

As a result of these studies conducted in Niger on these different legal and economic aspects, the government took some measures mentioned below, such as eliminating import licenses. It seems necessary to conduct a brief study on the changes made in customs procedures as a result of this decision; this study is done in the part of this report on this subject.

Moreover, to identify the changes to be made to improve trade between Niger and Nigeria, the laws that have been adopted or still need to be adopted so that the decision to eliminate import licenses is made jointly by the different ministries in charge of implementing this measure. It is quite obvious that if the Government wishes to facilitate and improve the export-import system with Niger, the laws and regulations must be updated and the merchants and state officials and employees in charge of implementing them must be informed to the utmost detail about those changes that are made.

In this area, it seems that much work remains to be done. Mr. Mouralis's recommendations in this area are still valid.

B. IDEAS AND RECOMMENDATIONS FOR NIGER

When comparing Nigerian and Nigerien export-import laws and regulations, a distinction must be made between laws that apply to merchants involved in export-import and procedures to be completed at the border to pay customs duties.

The laws and regulations that apply to merchants are generally indicated in sections 2 and 6 for Nigeria and section 4 for Niger. The customs code and procedures to be completed at the border are analyzed in the second part of this report. After comparing these laws and regulations that deal with merchants involved in export-import, we must conclude that Nigeria is more liberal than Niger because:

1. In Nigeria:

- No special approval is needed for export-import businesses.
- Obtaining an export or import license is no longer required.
- Obtaining foreign currencies which, at one time, was difficult for Nigerian importers, is now unregulated. They simply open a letter of credit in favor of the exporter at a private bank in Nigeria.
- The only complications are: first, those created by the requirement for an inspection by a designated agent of the National Bank of Nigeria; and second, obtaining a certificate of origin. The bank in Niger that accepts the letter of credit must have confidence in the bank in Nigeria. Only one form need be completed to open a letter of credit in favor of the supplier, and that is Form "M," included in this report. It indicates the documents that must be enclosed with it.

2. In Niger:

Import licenses were also eliminated and the procedures to be completed by an exporter or importer are indicated in the part of this report that deals with customs.

But an exporter or importer must always present to customs the documents that prove that he has paid for his trading license and his dues to the Chamber of Commerce and to the transportation union, and that he is listed in the commercial register. These requirements are the subject of comments that appear later in this report.

Trade barriers between Niger and Nigeria still exist but are the result of customs barriers and taxes such as the VAT, as explained in Part II.

The customs duties levied on exports from Niger to Nigeria make Nigerien products more expensive than those of Nigeria and, consequently, not competitive on Nigerian markets.

The exchange rate makes it even more difficult for a Nigerien exporter to offer his products at a competitive price on the Nigerian market, because it fluctuates and there does not seem to be any means to obtain information on the price of the naira or on market prices in Nigeria or in Niger. Moreover, customs barriers are contrary to the regional accords which Niger has signed, as explained in the section on international agreements.

Finally, trade can only expand if production and trade volume increases in Niger and, unfortunately, the tax system and trade regulations are not suitable for such an expansion.

As indicated in section 5 on taxes, Niger's tax system thwarts the formation of new small or medium-sized businesses, and this is one of the reasons the merchants in the informal sector do not wish to pay them and move into the formal sector.

Yet, the development of medium-sized businesses and the improvement and incentives for an environment suitable for trade were the basis of efforts to increase economic growth.

It must be added that, as indicated below in the observations on the new investment code, the anti-deregulation attitude of business and government control of business persists.

This attitude also makes it difficult to implement the plan which was to lower unemployment among civil servants as the reduction in the number of civil servants was supposed to produce unemployment.

Finally, we were unable to find the study conducted with assistance from the International Monetary Fund in 1988 which was supposed to be the basis for reforming the investment code and the policy for trade and customs tariffs as well as the pricing policy. Moreover, efforts were to be made to provide technical assistance to entrepreneurs and improve the banking system's ability to meet the needs of private investors.

As indicated on the subject of the new investment code, the opposite has occurred, and despite progress made since the study was conducted by Mr. H. Hardy in May 1989, most of his recommendations are still valid. We do not believe it is necessary to reiterate the reasons these recommendations were made since they were already given in the 1989 report.

The recommendations are:

- Abolish or gradually reduce the statistical tax on exports and imports.
- Set expiration dates for all interim measures that affect foreign trade and revise the procedures for extending the expiration dates.
- Eliminate all tariffs, quotas or bans on imports for imported inputs for use in the agropastoral sector.
- Develop a system to lower taxes and import costs for industrial inputs used in manufacturing products for export.
- Use the ban on products only to accomplish social and political as opposed to economic objectives.
- Suspend or lower the tax by 3% instead of the BIC on products in transit.
- Assist economic operators who process leathers and pelts to survive as they are confronted with a deteriorating market due to the devaluation of the naira and the purchase of leathers and pelts from Niger by Nigerians as part of a capital flight process whose objective is to obtain hard currencies in Europe.
- Eliminate the "Export-Import Authorization Card" required of Nigerien exporters and importers.
- Explore methods to make the Chamber of Commerce more representative of the interests of economic operators.
- Eliminate the trading license system or, in any case, allow economic operators to pay for more than one trading license and have more than one commercial specialty.
- Emphasize services to be provided to economic operators by training customs agents.
- Redefine the role of the Ministry of Commerce by emphasizing:
  - political decision-making
  - justice for economic operators
  - information services for economic operators.

- Organize meetings with economic operators to discuss the new Trade Code and to take suggestions that seem useful into account.

- Increase coverage of the economy and business by the printed and electronic media by using both national languages and French.

- Arrange annual and semi-annual training courses for all civil servants who deal with foreign trade by placing experienced specialists in charge of organizing training courses in Niger's major cities.

- Take steps to provide high-level training in economics and business administration for skilled civil servants in the Ministry of Commerce.

- Discuss the new Trade Code with the governments of neighboring countries before implementing it.

- Convince multilateral donors to take Niger's interests into consideration when they prepare adjustment programs for the neighboring countries.

- Explore the possibilities of establishing a duty-free zone in Niger.

- Explore the possibility of extending the railroad to Niger.

As the authors of studies in this area have already indicated, the government should update the laws and regulations and should enforce them.

It is doubtful that many people will be enthralled with the new investment code. It does indeed reduce income and other taxes over several years to some extent, but gives new impetus to the government's interventionist attitude by giving it--and probably through the Economic Police -- the opportunity to suspend the agreement with investors. The meaning of "suspension" and the ability of the government or the Economic Police to revoke the agreement is unclear. It was impossible for us to find one new investor capable of telling us how he interpreted the requirements of this code.

Work permits for aliens must be renewed every two years; if an official revokes the permit, an alien may no longer take care of his investment. Apparently there are rumors that the Economic Police are putting such pressure on some people.

The recommendations made by Messrs. Mouralis and Hardy must be added to these recommendations in terms of some laws and regulations that govern trade. These laws and regulations should be updated and the officials in charge of enforcing them should be informed of this. Our experience is that it is not easy to obtain these laws and regulations.

The government seems to be interested in this subject because a commission has been appointed to prepare the new Trade Code. Unfortunately, it also seems that the work required for preparation is making little progress. Moreover, and as Mr. Hardy recommends in his report, "the draft of the new foreign trade code should be discussed with the governments of the neighboring countries before it is implemented" and "multilateral donors should be persuaded to take Niger's interests into account when they prepare adjustment programs for the neighboring countries."

Moreover, we would hope that the Joint Niger-Nigeria Commission, which is working to improve relations between Niger and Nigeria, and which has been working on a legal agreement between the two countries, addresses this issue.

Unfortunately, the Assistant Director of the Commission, Mr. Amadou Nouhou, in the Director's absence, told Mr. Roussel that the Commission was interested in preparing agreements but not in their implementation. (On this subject, see the remarks made on the language and preparation of the new trade treaty regarding the article of the old treaty on implementing the laws and regulations of each country.)

Moreover, the legal agreement deals more with procedures than laws. But since the will to do so exists, it would be extremely worthwhile for the Commission to ask Niger and Nigeria if a comparative study of their trade laws might lead to the preparation of a similar code for both countries. Based on conversations with legal authorities in Nigeria and Niger, and with the legal department of ECOWAS, it seems that the time for such a study is now.

Such a study would be worthwhile not just for these two countries but for the rest of Africa as well. It falls within the objectives of ECOWAS and the Lomé Pact.

The occasionally antagonistic effect that French and English laws have had on some African countries, and on Niger and Nigeria in particular, should also be emphasized and taken into consideration.

If a study were to be done taking these effects on the two countries into account, it would be possible to see that, in practice, the trade laws of both countries are not very different since they are intended to govern the same transactions and trade among merchants. Psychological factors, such as the French or English influence mentioned above, and the fact that they

persist, are exploited to have us believe that there are differences in practice.

Actually, what differentiates them is that, for Nigeria, there is no genuine trade code, but rather a company law and other decrees and laws that address commercial transactions; in Niger, the study by Mr. Mouralis indicates that there is not really any up-to-date provision that contains the decrees and laws he lists and, for some, it is not known whether they are still applicable. Therefore, there should be a preparatory study to determine the issues a trade code should cover. In such a code, the contract law which, in French law, is in the civil code, is the basis of the trade code in American law. Trade codes were recently prepared for Mali and Guinea, and the HSD Group, including FFA Niger, is part of this and is a member of "Ernst & Young International," which also studied the implementation of trade codes in several African countries.

In the United States there is a uniform trade code which has been adopted by the fifty states in the Union.

Finally, in the area of sales contracts and world trade relations, the "United Nations Commission on International Trade" had the countries involved convene meetings after which a United Nations Convention on Contracts for International Sales of Goods was adopted.

Of course, it is perhaps still too early to talk in terms of a uniform trade code for the whole of Africa, but it is certainly possible to produce a draft that could be used to study and present an initial model of such a trade code which could be accepted both by a country influenced by the English and their language as well as by a country influenced by the French and their language.

This would not only help Niger improve its trade with Nigeria, but with the rest of Africa as well.

C. INVESTMENT CODE

Article 2 of the code (Annex I of this report) provides real protection, both from a legal and judicial standpoint, for all private investments.

But how can the Republic of Niger accomplish this when the laws that govern trade are unclear and when the courts are not always capable of ensuring that they are observed?

Article 3 stipulates that individuals or business entities involved in an activity in one of the sectors referred to in Article 9, regardless of their nationality, receive the same treatment subject to the provisions of the treaties and agreements entered into by the Republic of Niger with other countries.

But does the investment code cancel out the provisions of the law that require an approval limited in time for any alien who wishes to trade in Niger?

1. Article 14 -- Individuals or business entities which file for a preferential regime under Article 12 must undertake to:

- employ Nigerien citizens on a priority basis and submit a training and continuing education plan for personnel as part of "Nigerization;"
- use materials, raw materials, products and services of Nigerien origin on a priority basis;
- comply with national or international quality standards applicable in Niger for products or services provided as part of their activity;
- have a bookkeeping organization in order to comply with the laws and regulations and existing relevant practices;
- disclose all information to be used to verify the observance of the requirements of the approval.

2. Article 18

In the event of a failure to observe the commitments:

- The approval may be suspended if three (3) months after giving formal notice in writing, no steps have been taken by the approved business to correct the situation.
- Approval may be revoked:

a) If, within six (6) months of the date the approval is suspended, the business fails to correct the situation.

b) If the business fails to implement its investment program within twelve (12) months of the date the period for installing the equipment expires.

c) On the basis of a proposal by the Investment Commission, in the event of fraud or gross or premeditated negligence of the business to fulfil its obligations, determined by the arbitration board. In such a case, revocation shall result in paying back to the Treasury the amount of the tax and customs benefits obtained during that period.

- Suspension or revocation of the approval is determined using the same criteria for granting approval.

These articles impose conditions which, considering the environment and the difficulties inherent in communications, transportation and logistics that any investor encounters in Niger, are difficult to observe. Consequently, it seems that it would be somewhat dangerous for an investor to agree to them.

The commitments required by Article 14 in terms of "Nigerization" (the use of local products) may be interpreted by the Economic Police as they see fit since, just how possible is it to determine the priority granted to Nigerian citizens and materials, raw materials, products and services of Nigerian origin?

D. DRAFT REGULATIONS ON FOREIGN TRADE

It seems very important not to lose sight of the recommendations made by Mr. Jean-Louis Mouralis and reproduced below on regulating foreign trade.

In the draft dated July 1989, he first proposes general regulations for foreign trade and then the methods for implementing them.

In the general regulations he suggests, dated July 1989, Niger's export-import system still includes licenses which must be granted by the government. These licenses were recently eliminated. Monetary constraints which, in general, are the reasons licenses are prescribed, do not count in trade within the CEAO and even in some ECOWAS member countries. These organizations are even attempting to have a single currency following the example of the countries of the West African Monetary Union (WAMU).

However, there are other reasons countries may regulate foreign trade. They include protecting local production from foreign competition. This is why statistics on production, exports and imports are necessary so that the country can set up create customs barriers which protect local production.

There is also the fact that, in a country such as Niger, customs receipts are a major share of the government's revenue due to the ineffectiveness of the current tax system in this country. Since this is one of the few methods used to fill the government's coffers, it is quite obvious that there is considerable resistance to eliminating these customs barriers, even if it is to the detriment of the country's economic development and contrary to the objectives of the international treaties that Niger has signed and which are mentioned above.

Other than the elimination of export and import licenses, the texts proposed by Mr. Mouralis are still valid as part of government intervention for social reasons, emergencies, or to protect local production.

Texts related to information on trade must also be vigorously supported, and the research that Mr. Mouralis conducted to provide a list of decrees to be repealed must be applauded.

We believe that it is undeniable that, not only the texts which govern foreign trade in Niger are unclear, but that it is very difficult for an economic operator, especially one in the informal sector, to obtain them.

As Mr. Mouralis suggests, the texts of the decrees must be adopted and international agreements must be signed, and they must be printed quickly and distributed.

We must go even further and arrange training courses or seminars to be certain that enforcement officials are knowledgeable. This also applies to courts and, even more, to economic operators for whom the Chambers of Commerce, the press, radio, television and all methods of communications should be used to inform them of the changes in the country's economic policy.

The following recommendations from Mr. Mouralis's presentation must be highlighted:

1. Clarification of the regulation of foreign trade, in other words:

   a) Repeal some texts;

   b) Repeal but replace some texts;

   c) Revise some series of highly repetitive texts.

2. Regulation of trade must be brought to the attention of economic operators and administrative employees who are to oversee implementation. To do so:

   a) The rules in effect must be implemented in terms of publishing administrative and governmental legislative laws in the Republic of Niger. (Ordinary and emergency procedure.) Moreover, the ministerial authorities responsible for foreign trade must be in a position to distribute their regulatory decisions better.

   b) Official publication must be relayed through publication in other organs, journals, newsletters from the Chamber of Commerce, and on radio and television in the official language and national languages.

Upon publication in the trade code, it must be bound in such a way that it can be quickly updated. The best solution would be to use notebooks.

3. Improve information for the agency in charge of foreign trade and enable it to access the customs computer network.

Furthermore, we recommend eliminating prior approval to practice the occupation of importer which is a source of abuse and, ultimately, ineffective.

Repatriation of foreign currencies should be discontinued for exports and repatriation of foreign currency proceeds from exports of industrial products should be done through bank domiciliation.

E. THE TAX SYSTEM IN NIGER

In the studies and reports we found on trade between Niger and Nigeria, we noted that there is much discussion of liberalization and occasionally of market economies without specifying what these terms may actually imply.

We believe it is important to stress this aspect of the issue somewhat because the tax system has a substantial influence on the economy.

To determine the measures a government should take to create an environment appropriate for a market economy, the definition of what is meant by this must be specified.

First of all, it must be recognized that the most important law acknowledged to be the basis of trade is the law of supply and demand. In practice, a government may intervene in different ways to attempt to control supply, in other words, the prices at which the products or goods may be sold on the market.

Price controls or taxes may be levied on these goods at the point of production, shipment or sale. There may also be taxes on business activities per se, as in Niger with the "trading license" and the fixed-rate tax on sales.

Such intervention which affects the supply price may be increased through sales taxes, value-added taxes, etc.

When goods or services are placed on the market, demand for them depends on their price, because buying power is limited and, if prices are too high, volume diminishes. As demand drops, producers and merchants are themselves forced to reduce production or wholesale purchases because they cannot sell off what they produce or their inventories.

Moreover, demand depends in part on psychology and the wishes of the consumer who has the buying power. If he doesn't like a product or that product's quality, he does not buy it. On the other hand, if he likes a product, he may sometimes buy it without attaching very much importance to price.

Therefore, a producer must be aware of what is pleasing or what the consumer needs to be able meet these needs by producing the desired goods with the required quality.

When we speak of free markets, this is the aspect of the issue that is generally meant. We remember the results when production is regulated and the government, through its officials, determines what will be produced and where and to whom it is to be sold.

It is because of this policy that snow plows were found in Guinea in 1964, because officials responsible to Moscow had made this decision without contacting Guinean consumers. This is one of the reasons that led this country to change its method.

When we speak of liberalization, it is in the sense that we wish to leave it up to intermediaries, i.e., the merchants, to choose and run the risk of determining where the demand is, in other words, which products or services may meet purchasers' desires and needs.

The merchants run the risk of making inaccurate assessments of demand. They are the ones who suffer the consequences and pay if they are wrong; it is not the taxpayers who pay, as is the case if an official makes the mistake.

Since it is the merchant who must determine what is in demand, he takes the risk of a wrong decision and discharges the government of its responsibility for implementing resources in terms of capital, technical know-how and the required market studies. It seems that it has been proven that the government cannot do this with sufficient flexibility to monitor supply and demand on the markets.

If we have attempted to review these few basic principles, it is because we have found that the merchant's role in Niger is not understood in the sense indicated above.

On the contrary, it seems that he is considered a "milk cow" to be milked as much as possible. This is relatively understandable for a cow because the farmer feeds and milks it, but less understandable for a merchant because the government does not feed him.

Of course, in theory the government creates the environment necessary for the merchant to be able to conduct business, and it needs resources to create such an environment, which includes physical infrastructure, highways, transportation, etc., and social infrastructure, enforcement agencies, police and the defense of this infrastructure, i.e., the army, etc.

To be in a position to guarantee this environment suitable for trade and economic development, the government needs revenue. But income and other taxes as well as customs duties that give it these reserves must be obtained in a way other than by imposing constraints and taxes on activities and the capital of merchants as is the case in Niger.

If a merchant has no income, he cannot pursue his business, and then the government loses its revenue as well because it depends on that of the merchant.

Taxes, as levied in the countries in which liberalization has occurred, are levied only on the merchants' income and the government and its officials attempt to foster the formation and operation of businesses.

This means that no approval to form a company is required, nor are there trading licenses or dues to the Chamber of Commerce or the transportation union that merchants must pay.

Anyone is free to start a business if he wishes to form a company with others; he simply must register it with the government. The government does not give any approval but simply a certificate that the company has been formed according to the law. Only at the end of the year does the individual or company have to pay tax on profit. If he has not earned any profit, he does not pay any tax. This tax system currently exists in Nigeria and has existed and made economic development possible in the United States.

If, as in Niger, the government wishes to control merchants' activities, there are permits and controls and the official in charge usually asks for special contributions from the applicant or anyone who seeks to avoid controls. This is what is generally meant by the term "corruption."

One other problem -- and among the most serious for the Government of Niger in its relations with the informal sector -- is the income and other taxes it attempts to collect which form a barrier to integrating the mass of the informal sector and especially the new generation of young Hajjis who are no longer illiterate but claim to be.

These taxes are a disincentive to the establishment of merchants or businessmen in Niger, both Nigerians and aliens.

As for exports, customs duties also raise a barrier to the search for markets through which Nigeriens can take their goods to Nigeria at a competitive price which, in the current context, is the largest market to which they have access.

Generally, these customs duties must be eliminated if the ECOWAS regional agreement is to be ultimately recognized and observed.

It must be acknowledged that, since customs revenue and that from trading licenses form a large share of the government's revenue, there is nearly absolute opposition to abolishing them. See Chapter VI, Section A for a more detailed discussion of this problem.

However, a tax such as the trading license has already been abolished or does not exist in the countries that wish to foster trade and economic growth. Taxes are withheld from the real income of the merchants or other members of the company who have income. It is inconceivable in these countries that a tax could cut into capital as the "trading license" may do in some cases.

We have included the laws that exist in Nigeria on this subject in our report. In Nigeria, as in the United States, there is an income tax. Because of its federal nature, the states collect income taxes from individuals and the federal government collects them from companies.

The procedures to be completed for tax returns are found in Annex II and III of this study. They show that some deductions are subtracted from income for some expenses incurred and interest paid. They are almost the same deductions as those in Niger for the BIC.

Obviously, Nigeria is not in the same situation as Niger because the government may levy taxes on its largest source of revenue and export: oil; but Niger, due to the drop in the selling price of uranium, cannot do this. But Nigeria is attempting to diversify its production and its exports other than oil since oil will not last forever and its price may vary as well.

How then, confronted with the urgent need for funds, can the Nigerian government abolish the trading license as recommended?

It is quite obvious that to do so would probably require a complete change in the tax system and in taxes that have no direct relation to income. Moreover, we must consider the taxpayer's opinion of indirect taxes such as the VAT (which is regressive, in other words, the poorest taxpayers must pay it just as the wealthier ones).

The reasons the government cites for basing taxes on transactions and the visible and easily verifiable parts of trade are the tradition of separating the class known as "formal" or modern from the informal class, most of which is comprised of illiterates and hence, in the current state of affairs, it is impossible to collect taxes based on tax returns, as is the case in Nigeria, because illiterates cannot fill out the forms.

Along these lines it is appropriate to point out that Nigeria has a percentage of illiterates almost as high as that of Niger, and that is why it seems worthwhile to study the method in that country.

The general idea is that, if the country's economy develops, earnings from production and services increase, and taxes increase proportionally since they are based on income. The problem is how to determine income if individuals fail to report it. In Nigeria, the law requires that all companies keep books. The books may be kept by a company employee if the owners are illiterate. If no books are kept the government or the Tax Department may estimate income and collect tax on the estimated income. Of course, this requires a tax department capable of auditing all businesses and individuals. Obviously, this is not feasible in Nigeria or Niger. But it is not feasible in almost all countries of the world. The method to solve this problem is to select a certain number of tax returns and audit them for accuracy. If some are found to be incorrect, severe penalties are imposed

and serve as an example to the majority of taxpayers who fear being the subject of such an audit and file accurate returns.

Consequently, it is important to establish a tax system that, initially, may not be applied to all citizens but, if given enough publicity, may result in having individuals file their returns and file them correctly over time.

It is certain that this method, which involves auditing some returns and estimating the income of those who have not filed returns, requires a great deal of patience to obtain results.

There are other methods to apply pressure to make individuals understand that they must file their returns. One such method is to require that one copy of the tax return be produced whenever the individual wishes to obtain a government service or approval. This happens to be the method used for the trading license, where proof of payment is required when a merchant applies for an import license.

V. THE CASE OF NIGERIA

A. BACKGROUND INFORMATION AND STRUCTURAL ADJUSTMENT PROGRAM

To understand the measures taken by the government under the restructuring program it may be necessary to provide additional information about Nigeria's economy and its reforms.

Hence, the following estimates apply to Nigeria:

Available hectares of land	98.32 million
Irrigated hectares with adequate precipitation	74.04 million
Hectares suitable for farming	47.60 million
Hectares of permanent prairie	25.00 million
Farmed hectares	5.50 million
Number of working farmers	6.02 million

Commercial crops:

Cacao	Rice
Sugar	Wheat
Cotton	Cassava
Tobacco	Millet
Palm oil	Corn

The annual harvest in 1987 was 17.79 million metric tons.
Livestock was comprised of:

Goats	31 million
Sheep	12 million
Cattle	6 million

In 1980 fisheries were estimated to have 882,000 metric tons of fish. Nigeria is the third largest producer of oil in the world with reserves of 16 to 17 billion barrels. Daily production is 1.3 million barrels.

Mining resources are comprised of:

Coal	Limestone
Iron ore	Lead
Tin	Columbite
Uranium	Tantalite
Phosphate	Marble

Despite these considerable natural resources, Nigeria's economy, after growing due to the price of oil in the seventies, has tapered off considerably in the eighties. This has led the Nigerian government to negotiate with the

World Bank to obtain a loan for a structural adjustment program prepared in 1986.

Under this program liberalization and a move from a centralized economy toward a market economy began between 1986 and 1988 and the World Bank granted a loan of $500 million per year to Nigeria to implement structural adjustment.

This new thrust toward a structural adjustment program resulted from the following findings made in the late eighties after costly and overly-ambitious industrial projects initiated from profits from oil exports proved to be money losers. The findings are as follows:

- Excessively heavy geographical concentration
- High production prices
- Low added-value
- Severe under-utilization of production capacity
- Excessively high percentage of imported products for local manufacturing
- Low level of foreign investment in industry.

This situation was attributed to:

- Insufficient infrastructure
- A lack of management capability
- A lack of a solid technological base
- Other factors
- The manufacturing sector depended too heavily on imports.

To address this situation the structural adjustment program proposed deregulating imports and revising the regulations on structure for protecting local industries and to encourage investment.

The program's goals were to:

- Increase exports other than oil.
- Reduce the utilization of raw materials for imported products for manufacturing industrial products in Nigeria.

- Attain food self-sufficiency.

- Give the private sector a large role to play.

Moreover, an agreement was reached on the foreign currency market with a plan including several steps.

The first part involved:

- Devaluing the naira to foster exports.

- Abolishing import licenses and allocating available foreign currency by auction.

- Lowering and realigning customs tariffs (to protect local industries and force manufacturers to reduce their dependence on certain raw materials or imported equipment).

- Abolishing customs duties on exports.

- Requesting austere management policy measures to avert the dangers of inflation and excessive devaluation.

- Gradual privatization of many parastatals.

These measures seem to have stopped the deterioration of the economy and have made a small amount of growth in local production possible.

However, the growth rate did not reach the projected rate and some measures taken in 1988 to stimulate total agricultural production and lower the unemployment rate resulted in an about-face of the economy, but did so at the cost of a high inflation rate and severe pressure on the exchange rate.

However, certain statistics seem to indicate some progress. Industrial capacity rose by 4.7% and the use of imported materials dropped from 12% to 25%.

2. Nigeria's macro-economic indicators:

- According to the President's budget address in 1989 the constant cost factor rose in 1988 by 4.1% compared with 1.78% in 1989.

- Projected economic growth was 4.01%, rising by N. 142.18 billion in 1988 to 167.023 in 1989.

- Growth was distributed by sector as follows:

  - 8% for industry
  - 4% for agriculture

- 3% for transportation

3. Economic Thrust of Nigeria's Structural Reform Program

One of the reasons for the devaluation of the naira as explained in World Bank studies was that during the 1970 and because of the oil boom, the resources needed to accommodate the expansions of construction and urban services associated with the increase in public expenditures came at the expense of non-oil traded goods. Traditional agricultural exports were particularly hard-hit since the exchange rate was allowed to appreciate substantially. Import competing production was affected less as import restrictions and an ineffective system of price controls allowed prices of these goods to be maintained well above world levels. Import based consumer good industries which contributed little domestic value added prospered.

When the oil market weakened in the early 1984, sizeable external and fiscal unbalance emerged. As deficits increased the government took measures to redress the deficits. Budgetary expenditures were slashed and imports drastically reduced. Production in most sectors fell sharply.

In 1983 the Babangida government structural adjustment program was the response of the government to redress the situation. Its centerpiece was a market determined exchange system and the elimination of import licensing. The large foreign exchange gap in 1980-87 and consequent debt obligations was filled by a development loan from the World Bank.

As a result of this policy, the government had to increase the domestic price for petroleum products to offset a federal budget deficit of 20% of GDP.

The monetary policy had also to be tightened to contain the wage and price pressures resulting from the devaluation. Interest rates were increased and bank cash reserve requirements were also increased.

4. Effect of Naira Depreciation on Agricultural Prices

The cost of living increased in part because of the increase in the price of staple foods. With regard to farm input, most farmers especially owners of large commercial farms faced acute shortage of equipment and spare parts due to high cost of borrowing and continued depreciation of the naira exchange rate which made importation very expensive. All commodities world market price index computed in U.S. dollars declined sharply by 22.5% to 98.9 (1975=100). In naira terms, however, the index increased by 26.4% as a result of the continued depreciation of the naira exchange rate. See the Tables 3.5, 3.6 and Chart I at the end of this chapter.

In naira, even with the over supply in most commodity market all commodities except cocoa showed substantial price gains ranging from 24.3% for soy bean to 114.2% for groundnut oil.

Domestic produce prices of most of the agricultural export commodities showed appreciable gains during the year due to the continued decline in the exchange rate of the naira. For instance, prices of benniseed, groundnut, palm kernel, soyabeans and rubbers recorded increases of 156.0, 185.4, 150.0.64.0 and 33.3%, respectively over their levels in the preceding year. However, the producer prices of cocoa and palm oil fell largely as a result of sharp decline in world market. The price of cocoa, for example, dropped by about 31.8%, from an average of -- 11,000 per ton in 1988 to 7,500 per ton in 1989, while that of palm oil declined from 1,500 to 1,310 per ton.

5. Effect of Naira Depreciation on Domestic Output in General

As a result of the depreciation of the liberalization measures, and changes on import duties and excise schedule of project local production, there has been a decrease on imports, but also an increase in the prices.

The figures given by the World Bank domestic currency price for exports have risen sharply and investment and employment in the export sector have picked up. To what extent is not said. The shift in relative price is also changing the consumer demands pattern.

The domestic output has fallen in 1987. The consumer price index rose by 35% in May of 1988. In May 1988 food prices were 50% higher than in May 1987. There was also a sharp rise in unemployment. This in turn is said to change the migration from countryside to cities to migration from cities to countryside because of the increase in the price of food.

The federal government's increase naira earnings have been broadly offset by commensurately higher naira expenditures for foreign debt service and import dependent public investment projects. For State governments who share in oil earnings via the revenue sharing formula are less encumbered by foreign obligations. Their budget have increase and over time should permit some restoration of social services which had been drastically cut back in the pre-reform era.

Adjustments in the foreign exchange rate have resulted in a generalized increase in prices because of the high import content of industrial capacity. This has led to higher cost of living and lower living standards for the low income groups. The increase in the cost of credit due to the tight monetary policy has affected enterprises with high debt/equity ratio. Rationalization has resulted in retrenchment and led to social problems. These problems can be solved in the long run through reduced import dependency, diversification of the production base, enhanced competitiveness, a rationalized public sector and especially through increased capital investment in appropriate industries and enterprises.

From the point of view of attractiveness for investment and international competitiveness of manufacturing industry, the substantial devaluation of the naira (from 0.8 per dollar in 1983 to 5.3 per dollar in 1988) has considerably reduced the dollar cost of wages and salaries as a component of manufacturing costs. But there are other problems such as the list of laws and regulations relevant to investment in Nigeria indicated. That list is included at the end of this Chapter. The following excerpts from a World Bank report correspond to the evaluation found in the Central Bank of Nigeria report.

The exchange rate depreciation has also altered relative income within the private sector. Although overall GDP growth has been limited since the introduction of SAP because of the foreign exchange constraint, the changed structure of incentives has implied increases in income for some and losses for others. For example, the exchange rate depreciation has sharply increased returns to non-oil exports, and producers of agricultural cash crops, especially cocoa, have enjoyed significant increases in their output prices. Those engaged in the manufacture of products base on local resources have also benefited from the movement in the exchange rate. With respect to food crops, the effect of the SAP has so far been small compared with the impact of weather conditions. Adjustment-related supply shifts into cash crops and adverse weather conditions caused a 10% decline in total food crop production in 1987. But the resumption of more favorable weather patterns -- and sharply higher prices -- is expected to result in increased production of food crops in both 1988 and 1989.

Prior to the introduction of the SAP, the rate of urban unemployment had risen to 11% as a result of the decline in oil revenues and real public sector expenditures. In the initial phase of the SAP, the situation worsened as the large scale manufacturing sector continued to release labor. But by March 1988, the urban unemployment rate had fallen below 8%, suggesting considerable buoyancy in the informal sector and the emergence of new enterprises. The reduction in urban unemployment also reflects a movement of labor back to agriculture in line with the newly emerging structure of incentives. Survey results indicate that most migrants returned to their own villages and gained access to land relatively easily. Family land allocation mechanisms thus seem to have been able to accommodate the re-entry process. These favorable developments notwithstanding, overall unemployment has not decreased. Growth in employment of 3% a year has been sufficient to just offset the increase in the labor force leaving the aggregate unemployment rate broadly unchanged. Thus, while the effects of the SAP can be discerned in the changes in the structure of employment, an improvement in the unemployment situation will require further relaxation of the foreign exchange constraint.

While the principal losers from the drop in oil prices and the program have been the urban middle classes, rising food prices have highlighted the plight of the poor in Nigeria, who spent over 75% of their income on food. These effects have been exploited by the opponents of reform, who have

argued that the program "lacks a human face." In the circumstances, the government recognizes the need for special measures to mitigate the social costs of adjustment and is taking action along two fronts. First, in view of the urgent need for additional flows of foreign exchange, the government is preparing for a consultative group for Nigeria. The first meeting of the Group would provide an opportunity to generate concessional assistance to finance the increased flow of imports necessary for adequate growth. The recent Bank decision to make Nigeria IDA-eligible will improve substantially the prospects for a successful meeting. Second, the government's public investment program is being focused more directly on the needs of the poor. For example, within the share of the budget allocated to education, funding is being directed away from higher education towards primary education. Similarly, health expenditures are being directed increasingly towards primary care, with the objective of establishing one model health care unit in each local government area. In addition, the government is preparing several projects that are designed to address specifically the needs of some of the disadvantaged groups in society. Along these are the entrepreneurship development program which help those seeking to establish new businesses, a public work program intended to generate employment while simultaneously creating fixed assets, and a mass transit scheme, which will support the development of inexpensive urban transport and offset some of the effects of higher fuel prices. These programs would be candidates for funding through the consultative group.

6. Annual Report of the Central Bank for 1989

In its report for the year ended December 31, 1989, the Central Bank of Nigeria indicated in its review of economic policy measures in 1989, that:

Economic policy in 1989 attempted to control inflation, reduce pressures on the foreign sector, both to foster private sector production and to minimize the unemployment problem. Therefore, the type of economic policy adopted was somewhat restrictive.

The purpose of the tax policy was to support greater domestic production and mobilize more revenue.

The figures and information available to us show that domestic production grew and that there was a favorable turnaround in the balance of payments. However, despite the fact that inflation decreased slightly, the rate was still high at the end of the year.

7. Review of Economic and Political Conditions

It was necessary to stop the adverse social consequences of the Structural Adjustment Program (SAP) and, at the same time, consolidate its gains. This was the basis of economic policy measures in 1989. As a result of this objective, expansionist monetary and tax policy measures were taken.

Although the economy grew by 4.1% in real terms, the inflation rate rose, whereas the unemployment situation deteriorated. (See the table showing the consumer price curves for 1988 and 1989 in Annex 8.)

Thus, the primary goal of economic policy in 1989 was to support economic growth, stop inflationary pressure and, generally, put the adjustment procedure back on the right track.

Specifically, the core of the 1989 economic policy was to:

1. Control inflation.

2. Reduce pressure on the foreign sector to achieve a good balance of payments position, stabilize the naira's exchange rate and build up sufficient foreign currency reserves.

3. Stimulate the productive capability of the private sector and its production.

4. Levy taxes.

To achieve this policy, measures were taken in the areas of credit and currency; they involved, among other things, setting the objective for growth and fiduciary circulation to be attained in 1989. Domestic credit combined credit from the government and the private sector with credit from investment and commercial banks.

The other monetary measures involved the basis for calculating the volume of banking costs.

A distribution of the permissible credit lending for 10% growth by spreading it out over a six-month period.

Amendments to monetary policy include:

- Permission to grant Nigerians more credit facilities to purchase securities of privatized companies.

- The bank discount rate was raised by .5% to 13.25%.

- The banks' compulsory monetary reserve was raised to 21% and liquidity was raised from 27.5% to 30%.

- No financial institution in Nigeria may lend money with funds located abroad as a guarantee.

- All governmental accounts must be opened with the National Bank. Other measures involving bank accounts and lending rates were taken.

Finally, treasury bonds were sold at auctions. The liberalization of trade, adopted in 1988, was pursued, and private foreign exchange services were approved.

Tax policy measures:

- To raise the government's revenue, several products were removed from the list of products not to be imported and high taxes were levied. Among these products were cigarettes, jewelry, precious metals and gambling equipment (200%).
- A tax on beer, wine and spirits increased from 30 to 40%.
- The sales tax on beer and non-alcoholic beverages rose as much as 5 kobo per bottle.
- Subsidies for fertilizer were reduced.
- Taxes to be withheld on interest paid, rental income, etc., were set at 15%.

A series of measures to assist the poor social class included an attempt to create jobs, recruit technical, mathematics and science teachers, and set up farms in universities.

The National Bank of Nigeria's assessment of these measures paints a positive picture. But, in reality, the situation is not so bright.

For example, the articles in the "Daily Time" newspaper (Annex 7 of this report) indicate that the conditions for the middle class are deteriorating and that banks have not observed the directives from the Central Bank, which attempted to reduce their liquidity. Now they must absorb 4 billion in bad debts because the loans they made were not analyzed or guaranteed.

B. LAWS ON THE FORMATION OF COMPANIES AND STARTING BUSINESSES IN NIGERIA

1. General Laws

There is an office in Nigeria that keeps a list of companies that is more or less the same list as the "commercial register" in Niger.

A Nigerian citizen who wishes to set up a business may do so without registering it unless he is engaged in a business that involves providing certain services that require skills for which a license is required: physicians, attorneys, engineers, etc.

As for taxes, there is no trading license system but, at the end of the year, a merchant or person engaged in any activity that allows him to earn a profit must file a return with the tax department and indicate his profits. This return is completed on Form A, a copy of which is found in Annex II of this report. If he fails to file a return, the tax department may estimate his profits and require him to pay taxes based on the estimate.

For limited liability companies or corporations, the procedures to be completed are set forth in Articles 18-20 and 35 of the decree on companies, the translation of which appears below.

These companies must also complete the procedures required by Article 35 of the Law. If a commission to review applications for registration refuses to register a company and issue a legal formation certificate, the company may ask the courts to intervene. Once the company is registered it has all the powers indicated in Article 37 of the translation of the law that appears below. For tax purposes, a company must complete Form IRC 3C (in Annex III).

a. Article 18

Effective with the adoption of this decree, two or more persons may form and create a company and must comply with the conditions of this decree regarding the registration of said companies.

b. Article 19

1) No company, general or limited partnership with over 20 persons shall be formed for the purpose of doing business for profit or gain by said company or general or limited partnership or by one of the individual members unless it is registered as a company under this decree or is formed under other laws or decrees in Nigeria.

2) In this section nothing applies to:

a) A cooperative registered under the provisions of any valid legislation in Nigeria.

b) A partnership with the purpose of practicing:

- As a member of the legal profession or formed by persons who are each members of the legal profession.

- As an accountant or formed by persons who are each authorized by the Law to practice accounting.

c) If the number of members of a company or general or limited partnership exceeds 20 people at any time and, in violation of this section, they are engaged in operations for more than 14 days and are still in violation of this decree, any person who is a member of said company or general or limited partnership during said period who is also engaged in commercial operations after said 14 days shall be liable to payment of a fine of 25 naira for each day during which the violation continues.

c. Article 20

1. Unless an individual meets the requirements of subsection (2) of this section, he may not participate in the formation of a company if:

a) He is under eighteen years of age;

b) He is mentally incompetent and if a court in Nigeria or elsewhere has made such a determination; or

c) He is bankrupt; or

d) He is disqualified under section 254 of this decree from being the director of a company.

2. A person shall not be disqualified under this paragraph (a) of subsection (1) of this section if two other persons not disqualified under this subsection have subscribed to the memorandum.

3. A company being liquidated as a result of bankruptcy may not form a company pursuant to this decree.

4. Subject to the provisions of all legislation regulating the right and capability of aliens to form or take part in a company or business, an alien or a foreign company may participate in the formation of a company.

2. Registration of Companies

a. Article 35

1. Effective with this decree, a company shall be formed in the manner indicated in the following section.

2. The following shall be filed with the commission:

a) A memorandum of partnership and the articles of incorporation of the partnership in compliance with the requirements of this part of the decree;

b) Notification of the address of the registered office of the company and its headquarters if the latter is different from the registered office. It is understood that a PO box address or a private address shall not be accepted by the commission as the address of the registered office.

c) A declaration on the preceding form including a list and information as well as the consent of the persons who shall be the initial directors of the company.

d) Any other document to meet the requirements of any law regarding the formation of a company.

3. A statutory declaration on the prescribed form filed by a member of the legal profession that the requirements of this decree for the registration of a company have indeed been fulfilled shall be submitted to the commission which may accept said declaration as sufficient proof that the requirements have actually been met.

It is stipulated that if the commission rejects a declaration, it must send a rejection notice to the person who filed the declaration, giving the reasons for the rejection, and must do so within thirty days of receipt of the declaration.

b. Article 36

1. The commission shall register the memorandum and articles of incorporation unless, in its opinion:

a) They do not meet the requirements of this decree;

b) The type of business the company wishes to conduct or the object or purpose for which it was formed or any of the above is illegal; or

c) If any member of the signatories to the memorandum of formation is incompetent or disqualified under section 20 of this decree; or

d) If the requirements of any other law on the registration and formation of companies have not been met; or

e) The proposed name conflicts with or appears to conflict with a trademark or a registered trade name in Nigeria.

2. Any person who suffers damages from the decision of the commission under subsection (1) of this section may notify the commission to ask the court to give him directives and, within 21 days after receipt of such notification, the commission must ask the court to issue said directives.

3. To satisfy itself as stipulated in subsection (1)(c) of this section, the commission, in writing, may ask a signatory of the memorandum to file and present to the commission a statutory declaration to prove that he is not disqualified from taking part in the formation of a company under section 20.

4. The measures to be taken under this decree to form a company shall not include any invitation to purchase securities in any manner whatsoever using a prospectus.

5. After registering the memorandum and the articles of incorporation the commission shall certify under seal:

a) That the company was formed legally;

b) For a limited partnership, that the liability of its partners is limited by shares or guarantees; or

c) For a corporation, that the liability of the members is limited; and

d) That the company is either private or public as applicable.

6. The certificate of formation shall be "prima facie" proof that all the requirements of this decree with regard to registration and that the procedures, preceding or incidental, have been met

and that the partnership is a company approved for registration and is duly registered under this decree.

c. Effect of Registration

Effective on the date of formation indicated on the certificate of formation, the signatories to the memorandum, with any other person who may from time to time become a member of the company, shall form a company with the name indicated in the memorandum and shall immediately be able to exercise all the powers and functions of a company formed, including the power of owning land, inheritance and a joint seal, but with its members having the responsibility of contributing to the assets of the company in the event that it is dissolved as indicated in the decree.

C. TAXES IN NIGERIA

There are two types of taxes in Nigeria:

1. The income tax, to be paid to the government; in other words, this tax is collected by each state in the Federation of Nigeria. Form A is sent to every taxpayer who must fill the form out and send it back to the state. Form A (Annex 2) is the one used by the state of Lagos.

2. The income tax and capital gains tax, for which the forms must be completed by companies and paid to the Federation of Nigeria. This is form IRC 3C of the Federation of Nigeria, also included in Annex 3.

There is no tax on capital other than the tax on capital gains earned through sales or transfers of capital. Since these taxes are based on earnings and not partially on capital as in Niger, these taxes are paid only by those merchants who earn a profit and hence must pay taxes.

D. LAW ON FOREIGN EXCHANGE CONTROLS

1. Background

One purpose of the structural adjustment program was the liberalization of trade. This was adopted in 1988 and private foreign exchange services are now approved.

Export and import licenses have been eliminated. To order products in foreign currencies, the importer must now complete Form M (Annex 4) and submit it to his private bank. An unofficial translation of this form is also included.

It must be pointed out that, in Nigeria, if an importer may file a letter of credit with his bank, that does not necessarily mean that, in Niger, and for a Nigerien exporter, a letter of credit will be opened under his name by a Nigerien bank. Actually, banks in Niger only agree to open letters of credit if they are certain that the Nigerian bank will have foreign currency available.

It must also be mentioned that a clearing house was set up in 1975 for the countries that signed the ECOWAS agreement and that the clearing house deals with problems regarding the use of the currencies of its members in commercial transactions in the region.

Unfortunately, the activity of the clearing house has ebbed for many reasons. An introduction to the clearing house appears in section 10 of this report.

2. Federal Republic of Nigeria--1962 Law on Foreign Exchange Controls

There are no restrictions on taking money out of Nigeria, but there may be administrative delays. To export profits from a business, approval from the Ministry of Finance must be obtained after filing an application which must be accompanied by a certificate indicating that the taxes have been paid.

To obtain payment for goods sold in Nigeria, the purchaser in Nigeria must obtain Form M (Annex 5) from his bank to purchase foreign currency.

To meet the requirements of the World Bank and the IMF, Nigerians have manipulated the taxes on imported products by raising posted values relative to normal values. Some political influences have contributed to this situation.

This was contrary to the spirit of the ECOWAS agreement and the concept of liberalization. On the contrary, USAID in Niger has successfully lobbied the Government of Niger to reduce the customs duties for exported livestock

and other agricultural products reduced to foster the country's economic development.

For foreign currency exchange and because of the time it takes to develop a single monetary zone -- this was also stipulated in the agreement for the community -- a meeting of the governors of the central banks was convened in 1990 and, at the close of the meeting, it was decided that a joint monetary authority would work to solve the following problems:

1. In 1990, study the type of barriers other than tariff barriers among Member States and make recommendations to find solutions to eliminate them.

2. In 1991 the details of the harmonization of macro-economic policies will be negotiated and, in particular, tax policies related directly to monetary harmonization, non-tariff barriers and the protocol, rules and regulations regarding these problems.

3. The preparation of the protocol for a joint monetary authority will be completed in 1992.

4. The bylaws, rules and regulations of the joint monetary authority will be completed before 1992.

5. The protocol, bylaws, rules and regulations will be presented to the authority at its 1994 session.

6. The remainder of 1994 will be spent on the ratification of the protocol for the creation of the single monetary zone and the single monetary authority.

E. PROMOTION OF AGRICULTURAL PRODUCTION AND EXPORTING OF AGRICULTURAL PRODUCTS TO NIGERIA

Incentives for agricultural production and exporting these products exist in several forms and, in particular, those for local production through institutional and tax measures, such as:

Those regarding export incentives, including:

- Guarantee and insurance for export loans
- Fund for export development
- Fund for export expansion
- Arrangement for the adjustment of exports such as the domiciliary account for foreign currencies
- Abatement for capital and repatriation

Those which relate to protecting the local production of certain agricultural products by a ban on importing these products such as:

- Rice
- Corn
- Vegetable oil
- Wheat.

Those which provide incentives to industry, linked to agricultural production such as:

- Upgrading technical capabilities
- Efforts to use local materials
- The creation of an agricultural research and development committee
- Efforts to attract foreign capital for agricultural investments
- Foreign and domestic incentives to raise agricultural production in Nigeria.

Other institutional and tax measures taken by the government to foster growth in agricultural production include:

1. Benefits for obtaining credit

For commercial banks, the sector-based allocation for agriculture was increased from 10 to 12%, whereas the level was raised from 3 to 5% for commercial banks, the loan moratorium has become:

a. One year for seasonal crops, in other words, cotton and groundnuts.

b. Four years for livestock and commercial crops.

c. Five years for medium-sized and large farms with substantial capital.

d. Seven years for livestock operations.

The minimum percentage of deposits that rural bank branches may grant as loans to farm borrowers was raised from 30 to 40%:

- Farm credit guarantee 8 to 9%.
- Commercial bank agricultural production 9%.
- Banque Nigériane agricole et cooperative (lends to agriculture at 8 to 9%).

2. Donations and Reduction of Prices for Agricultural Inputs

Imported farm equipment and raw materials for fodder or feed for livestock, exempt from customs duties.

Farm inputs such as agricultural machinery, equipment, pesticides, fertilizer, etc., are sold to farmers with a 50% subsidy.

3. Tax and customs duties exemptions

The Federal Government will offer a tax exemption by issuing a pioneer certificate for a period not less than five years for any agricultural project or project related to agriculture which uses materials produced locally.

The ministers of agriculture of the states also distribute seeds and seedlings at heavily subsidized prices.

Where farmers have difficulties selling their grains, the Nigerian Grain Commission purchases grains and guarantees a minimum price equal to the production price plus a margin of 10 to 15%.

Opportunities are provided to lease tractors at subsidized prices. Training programs are arranged for farmers to learn how to use herbicides and on farm management, etc.

Outboard motor boats and modern fishing equipment and accessories for local fishermen are provided.

Companies that manufacture farm equipment receive a 10% investment rebate at the end of each annual period to cover expenses incurred for the plant or equipment.

4. Projects funded with international assistance

The World Bank is also interested in agricultural development and is conducting a study on the Nigerian strategy for agricultural growth. A World Bank representative provided the following information on assistance from the World Bank:

A project to assist in developing extension has begun and services for farmers are being provided in 21 states.

The fertilizer subsidy is too costly for the government, especially recently, due to progress made by the extension services, and the demand from farmers for the fertilizer has increased considerably and, as a result, the government's expenditures for this subsidy (which it is trying to eliminate) have risen.

However, this fertilizer is necessary to raise self-sufficiency for rice and wheat. Besides direct subsidies there are indirect subsidies for farms, in particular:

- Electricity, for which the farmer pays a very low price.
- Water, provided free of charge.
- Seeds, distributed free of charge.

In addition, the European Community has a large project to control desertification control and improve irrigation. The World Bank is interested in a project to conduct more agricultural research. There is also a seed improvement project and another to plant more rubber trees and palm oil trees, etc.

5. Protection of domestic industries

Customs duties on a number of products used for local industries were lowered. These products include parts for batteries for which duties were reduced from 45% to 25%; steel plate from 20% to 10%; reduction of duties for imported transportation equipment. 10% reduction of profits on research companies.

Conversely, customs duties on products manufactured locally, such as syringes and needles, were increased from 25% to 40%. Enameled products from 40% to 50%, etc. Severe penalties, such as life-in-prison sentences and seizures of property for smugglers were adopted to ensure that the program is observed.

Other measures:

Instead of directly taking part in agricultural production and distribution, the government has turned to upgrading the physical and institutional infrastructure which may facilitate the way farmers react to market incentives and the need to meet the growing need in the demand for food.

The primary strategy here has been the development of market roads and incentives to foster competition in prices producers charge at the farm or market.

After the prices of rice, beans, peas and corn were raised during the year, the federal government banned exports of these products in April 1989. It also ordered the states to put their seed reserves up for sale. It encouraged farmers to store their seeds as reserves by setting up a national project for this purpose.

A loan of 2 million naira was given to an institute for research on and the production of small storage units and the development of a cadre of extension agents.

There is no doubt that the long-term outlook for growth in production and the number of jobs created required an increase in the investment level, especially in order to extract the country's vast natural resources.

Consequently, and to develop incoming foreign capital, the government amended the decree on the development of Nigerian businesses of 1977. It set up an industrial development coordinating committee and replaced the seven approvals that had to be obtained formerly with just one window authorized to grant permission to set up a business. Moreover, with this amendment, there was only one list of businesses reserved exclusively for Nigerians in an effort to reserve 100% of ownership for Nigerians as opposed to the three lists in use previously.

All other businesses not on this list, reserved exclusively for Nigerians, are now open to 100% Nigerian or foreign ownership except in the banking and insurance sectors. Nigerians and foreigners are free to negotiate levels of ownership in these businesses that are not on the reserved list.

Foreigners may also have an interest in the businesses on the list adopted in Nigeria provided that:

a. The interest is not less than 20,000,000 naira, and

b. Prior approval from the industrial development coordinating committee is obtained.

The law on the development of Nigerian businesses which stipulated that a certain number of businesses and industries were not open to foreigners was amended as indicated above, and now foreigners may own an interest in those businesses indicated in the law whose list is included in this study.

Before being able to open a business, the issue of foreign exchange must be taken into consideration by a foreign investor and a Nigerian who wishes to become involved in export-import.

The issue involves the repatriation of capital and income.

Approval for setting up a business or industry is also required. Furthermore, the principal requirements that apply to foreigners for setting up a business or industry are:

a. A start-up permit which includes permission to hire expatriates.

b. Approval of the bylaws which guarantee the right to repatriate imported capital.

c. Approval of investment guarantees.

d. Approval for the agreement on pre-investment technical fees.

For investments in specific industries such as fishing, pharmaceuticals, etc., the additional requirements are indicated in the guide for investors published by the Center for Information and Investment Development of the Federal Ministry of Industries.

A new institutional framework was created by the government for the approval of businesses or industries mentioned above. One single agency for approvals, known as the Industrial Development Coordinating Committee (IDCC), was created.

It is under the Federal Ministry of Industries and is comprised of seven ministers who have the responsibility of ensuring that all applications for approvals are filed within sixty days. This new arrangement lifted the requirement to obtain these approvals from various governmental bodies as was previously the case.

6. Expatriate quotas

The number of expatriates or aliens who may be employed by investors is limited. The IDCC will ensure that the quotas for expatriates are issued for businesses with capital of five million naira (N5,000,000) or more which have a right to a maximum automatic quota of two positions, whereas those with capital of ten million naira (N10,000,000) or more are automatically entitled to have four positions. Any other application for an expatriate quota will be considered based on merit.

7. Product specifications

Prior to importing machinery or equipment, new companies are required to file copies of their specifications with the standardization organization of Nigeria.

8. Approval of investment guarantees

The Federal Government of Nigeria has bilateral arrangements with some countries in order to guarantee investments made in Nigeria by the citizens of those countries.

The purpose is to guarantee that, in the event of political or social changes that affect the investments, the repatriation of invested capital is guaranteed.

The requirements for the approval of these guarantees are:

a. That the capital required for the investments was actually imported into the country as approved by the by-laws and theoretically granted by the IDCC;

b. Evidence that the provisions of the decree on the development of Nigerian businesses are observed;

c. Filing of a copy of the start-up permit issued by the IDCC; and

d. Presentation of an audited copy of the balance sheet if the company is already operating.

9. Fees for technicians

Applications for approval of the fees paid to technicians must be filed with the IDCC. Investors are advised to obey the instructions in the technical fee approval procedure as published by the national office of industrial property (MOP).

F. WASTE MANAGEMENT AND INDUSTRIAL RESIDUE POLICY

Nigeria has imposed the following rules regarding management of waste and residue from industrial products:

1. Any existing industry must treat its waste or residue down to at least the second degree (in other words, the state at which disposal in garbage dumps will not endanger life or property). Solid toxic waste and products should be shipped in special packages, collected and disposed of. Toxic gases should be disposed of using special methods.

2. New industries should have advanced treatment techniques built into their system from the outset.

3. Industries should install environmental quality control units.

4. Any major industrial project should include an environmental impact statement. This is one of the requirements for obtaining a permit for setting up such industries.

5. Waste and garbage disposal by industry will be periodically inspected to ensure that waste disposal regulations are observed.

6. Special importance will be placed on recycling industrial wastes since they may be used as raw materials by another industry.

Besides the commission that grants the above mentioned approvals, the following institutions exist in Nigeria:

- The department for industrial inspection that certifies the merit of investments, the date these investments are used to set up "Pioneer" industries: verification of governmental agreements and inspections prior to shipment by foreign companies.

- Industrial information bank

- Raw materials research council

- Information center for the development of investments

- Fund for training managers and workers in industry.

The purpose of allowing such special exemptions was to foster large-scale operations in these special businesses, not just to supply the local market, but to increase exports as well. To avoid any misunderstanding, it must be

pointed out that this new structure for ownership of these existing businesses, as stipulated in the decree of 1977, is still in effect.

However, the Nigerian Government did not change its policy, which reserves the nation's industrial and commercial activities for Nigerians, because if an alien may now pay 100% of the capital of a business, he only has the right to hire between two and four expatriates or non-Nigerians.

He receives automatic approval to do so but must obtain other approvals if he wishes to hire more expatriates. It seems that this explains the small rise in foreign investments to a limited extent.

The problem of determining which modern or traditional law applies in the event of a conflict must also be emphasized. The Nigerian Government or, in any case, the Ministry of Justice of the Government, fully realizes this as demonstrated by its desire to organize a seminar to discuss the problem in November 1990.

A copy of the announcement on this issue in the Nigerian newspaper "Time" is included in this report.

G. LIST OF BUSINESSES RESERVED EXCLUSIVELY FOR NIGERIANS

1. Advertising and public relations
2. All facets of pari mutuel betting and lotteries
3. Assembly of radios, radiograms, turntables, television sets, tape recorders and other household appliances not combined with the manufacture of spare parts
4. Mixing and bottling of alcoholic beverages
5. Manufacture of bricks and tiles for building construction
6. Bread or pastry-making
7. Manufacture of candles
8. Centers for betting and casinos
9. Movie theaters and other recreational centers
10. Commercial transportation (liquid and dry cargo and fuel)
11. Commissionnaires
12. Department stores and supermarkets with sales of at least 2,000,000 naira
13. Dealerships except for vehicles, automobiles, machinery, equipment and spare parts
14. Electric repair shops other than repair shops associated with electrical machinery dealerships
15. Real estate agencies
16. Film distribution (including movies)
17. Beauty and barber shops
18. Ice cream preparation when not associated with the manufacture of other dairy products
19. Indenting and confirming
20. Laundry

21. Manufacturing agents

22. Manufacture of luggage, briefcases, handbags, wallets, shopping bags

23. Municipal bus and taxi service

24. Newspaper publication and printing

25. Office cleaning

26. All categories of passenger buses

27. Chicken farming

28. Paper (when not associated with printing presses for books)

29. Protection agencies

30. Radio and television broadcasting

31. Retail sales (except by or in department stores and supermarkets)

32. Tee-shirt manufacture

33. Packers

34. Tire retreading

35. Travel agencies

36. Wholesale distribution of manufactured goods or locally produced products

37. Specialized shops for repairing watches, clocks and jewelry, including costume jewelry for the general public

38. Clothing manufacture

39. Mills, including for rice

40. Manufacture of jewelry and other related articles, including costume jewelry

VI. BILATERAL RELATIONS

A. THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

1. Introduction

Niger and Nigeria are both members of the Economic Community of West African States and, hence, are expected to observe the terms of the agreement among these States. Niger is also a member of the West African Economic Community which includes the francophone countries of West Africa (CEAO). The ECOWAS agreement concerns many aspects of the relations between the two states, and the English version of the treaty has been added as Annex 10.

The purpose of the treaty, as indicated in Article 13 mentioned above, is: "the Member States shall lower and ultimately eliminate all customs duties and taxes that have the same effect as customs duties."

Further, in Article 13, ECOWAS stipulates that, for customs, a single tariff will be applied for the community as regards countries that are not members and that customs duties among them are to be eliminated. As explained in the part of this study that addresses customs, this results in the fact that the differences in codification and in some terms of the customs codes are to be abolished in 1994. Actually, decisions were made on this subject in 1989 which stipulate that all provisions of the treaty that have not yet been implemented are to be further studied and implemented no later than that date. Articles 14 to 17 set forth other conditions.

2. Problems of Liberalization and Trade Integration

Concomitant with efforts to liberalize the trade regime in Niger and Nigeria, a dilemma has cropped up which is common to many LDCs: Balancing the need to open up their markets, with the urgent need for revenue which is so well provided by taxes on trade. LDCs tend to depend on customs much more than industrial countries for the lion's share of government revenue, and when trade-related collections fall, budgets become unbalanced.

Also, in both Niger and Nigeria, the transition from an over-centralized economy to a liberalized economy has led to social problems. Private business structures are not made overnight. In these countries there were not enough businessmen and merchants to take over the activities of nationalized companies that had been dissolved. A relatively disorderly transition period followed and resulted in unemployment and some inflation in Nigeria.

Since Nigeria started its move toward liberalization earlier, these problems arose in 1988 and, in 1989, the Government adopted some revisions to the

plan. This is explained briefly elsewhere in our report. Niger is beginning to experience similar problems.

3. Possible Solutions to Problems of Liberalization and Trade Integration

a. Economic Problem

As is well known, free trade is a first-best solution to the question of how to erect a structure of protection. Tariffs, export taxes and other trade barriers create distortions that divert trade, punish consumers, producers of industrial and agricultural goods which use imported inputs, and have other familiar ill effects. In the long run, of course favorable growth effects of the trade liberalization are supposed to overcome the dislocations caused by the shifts in protection, but governments must face the effects in the short term.

A uniform system of excise taxes in the economy as a whole, rather than taxes on the trade sector, could theoretically be imposed to achieve equal revenue minus the distortions of tariffs. However, an excise tax of this type would be quite difficult to administer. Ease of administration is one of the reasons that LDCs adopt a revenue structure built on tariffs in the first place.

A possible solution to this might be to impose a uniform tariff on all goods, say 10% or another convenient and low number. In addition, Niger and Nigeria could impose a 10% (for example) sales tax on all goods where collection is feasible. As time goes on, more and more goods could be included in this uniform trade/sales tax, so that a uniform excise tax is approximated. Thus, the governments would achieve a revenue basis in the least distortionary manner possible.

The above solution is intended to be temporary vis-a-vis ECOWAS members, as the goal is to impose no tariffs on customs union members. However, until that day arrives, the foregoing might be a strategy by which trade liberalization can be forwarded, at the same time as government revenues are sustained.

However, such a solution goes beyond the scope of our study. It may be worthwhile for USAID or another donor to finance a study of public finance in Niger and Nigeria, comparing the revenue impact of various taxation strategies, taking into account possible adverse effects on both producers and consumers.

b. Treaty Progress

ECOWAS headquarters in Lagos told the Ernst & Young team that some progress has been made to achieve some of the objectives of the treaty such as the free movement of persons and services.

In that respect it should be noted that there is a commercial agreement that was prepared by the Niger and Nigeria Commission and signed by the two countries. This agreement tends to correspond to some of the provisions of the ECOWAS treaty. In Part II of this report we observe that there are technical and practical problems that still have to be overcome in that field. Those recommendations in Part II indicate that a new customs code for Niger will probably not be available before 1994, even if the ECU harmonized code should ready in earlier.

As explained in Part II of this report, the differences between Niger and Nigeria show the need for Niger to update its customs code, legislation and to cooperate with the ECWA and ECOWAS to have some decision made on the "harmonized customs code" developed by ECWA

As ECOWAS is in the process of preparing a common customs tariff schedule, and ECWA is also preparing a new common schedule for its member states there should be more cooperation between the two communities in that field.

Efforts have also been made with regard to trade to suppress import licenses by the countries of the community. Niger and Nigeria have abolished them.

But even if the import licenses have been suppressed, some problems remain in the field of money exchange. The clearing house as indicated in Section 10 (or nine) does not respond to the needs of the communities for the trade exchanges and the following decisions were made at the twelfth meeting of the governors of Central Bank of ECOWAS member states.

c. Customs Administration

The Ernst & Young team learned during its field investigation that customs administration is poor at the border of Niger and Nigeria. In both countries, especially Niger, customs officials were not fully current with much of the customs coverage on the books (mentioned earlier in this report). Better dissemination of information regarding the newest customs code to the civil service administering customs, would promote more effective collection of customs revenue, helping to alleviate the budget problem created in the wake of a trade liberalization.

In addition, an updating of the customs code in Niger, as mentioned in Chapter IV, would assist in revenue collection. As it stands now, many businesses remain in the informal sector because of burdensome, contradictory and ill-defined coverage of the customs code. A rewrite may draw more businesses into the formal sector, lured by the protections of law, insurance, credit, etc., thus inducing enterprises which currently pay no taxes to pay them, generating more revenue for the government.

B. INTERNATIONAL AGREEMENTS

The following describes bilateral agreements between Niger and Nigeria, as well as multilateral agreements which both countries have entered into, as presented by Mr. Jean-Louis Mouralis in his July 1989 report.

1. Bilateral agreements

Recently, and through the Joint Niger-Nigeria Commission, the following agreements have been entered into:

- Information agreement
- Agreement for the creation of local bilateral committees
- Agreement for cooperation and athletic exchanges
- Health agreement
- Highway transportation agreement
- Water resources development, conservation and usage
- Cultural enemy control
- Judicial cooperation
- 1959 agreement on trade, amended in 1976 and valid until 1989 (to be superseded by an agreement now being prepared).

It is important to point out that the trade agreement being negotiated contains vague terms. In the part on exports and imports, the definitions of the products mentioned on the lists in the annex of this agreement are not specific and customs cannot use them. Mr. P. Ansay provides all necessary information on the subject in the part of the study that addresses customs issues.

Along with the official agreements, unofficial agreements have been prepared to facilitate exchanges despite the problems caused by the currency difference. Niger has a hard currency whereas Nigeria has a soft one. The Niger-Nigeria Commission endeavored to implement bartering agreements for some products through public enterprises or parastatals as the Nigerien commercial attache to Nigeria explains below.

Officially, Niger obtains its petroleum, natural gas for cooking and electricity from Nigeria. In exchange it provides animals such as cattle, camels, small ruminants, etc., frozen meat (currently discontinued due to a misunderstanding), cowpeas and groundnuts.

These transactions are made through national or private companies duly mandated by both countries. Currently, transactions are made as follows:

a. From Nigeria to Niger

- Electricity: NEPA in Nigeria and NIGELEC in Niger
- Total Nigeria (mandated by Nigeria to supply refined oil and gas) and SONIDEP in Niger
- Crude oil: NNPC in Nigeria to SONIDEP in Niger. Currently suspended.

b. From Niger to Nigeria

- Live cattle and frozen meats:
  - SONETRAN in Niger and Nigerian Food Company (NFC)
  - Limited Company National and DANU Nigeria Limited a private firm mandated by Nigeria.

  (It should be noted that these transactions with the NFC have ceased as of 1986-1987 due to NFC's ill will.)
- Cowpeas and groundnuts: SONARA in Niger and private mandated firms in Nigeria.

The important factor is the approval to export or import products in terms of the transfer of foreign currency. Besides the official transactions there is also traditional commerce done through the informal sector including:

- Cattle and crops from Niger to Nigeria
- Crops and manufactured goods from Nigeria to Niger

We can only hope that the relations between the chambers of commerce of the two countries continue to improve and that meetings between them will be scheduled to result in a better understanding of opportunities for commercial trade.

2. <u>International Agreements</u>

- ECOWAS
- CEAO
- Clearing house - delays
- GATT
- The Universal Declaration of Human Rights

It must be pointed out that the agreements do not seem to be properly distributed and that, as indicated for the commercial agreement, the terms of these agreements do not appear to have been prepared with assistance from experts or officials from the agencies involved.

Therefore, between Niger and Nigeria there are no de facto accords such as those mentioned for oil, electricity and cattle, in the modern or formal sector -- but there is also a type of osmosis between the population of both sides of the border in the informal or traditional sector.

As a result of the change in Nigeria's economic policy, problems that created the black market for currency have diminished in importance and the difference in the exchange rate of the currencies between the black market and the official market have lessened. Moreover, Nigerian importers are no longer required to have an import license.

Observers to the Niger-Nigeria Commission believe that Nigeria is increasing its exports to Niger and West Africa because liberalization and the devaluation of the naira have made it possible to increase the production of Nigerian products and to price them competitively. Therefore, on the Nigerien side, a greater effort must be made to make it easier to export to Nigeria.

The list of bilateral and multilateral accords prepared by Mr. Mouralis appears below. The figures in the right-hand vertical column indicate the pages on which these agreements are explained in the bibliography annotated by Mr. Mouralis in July 1989. More detailed information on these treaties may be obtained by consulting the bibliography.

The observations made by the same author on the legal constraints that may obstruct the reform of foreign trade and which may come from the international accords Niger has entered into must also be taken into account. They are listed below.

3. Regulations By Country 65

a. Bilateral agreements

1) Algeria 66
2) China 67
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7) Hong Kong 72
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11)	Morocco	76
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13)	Pakistan	85
14)	Poland	85
15)	Republic of South Africa (banned)	86
16)	United Arab Republic	87
17)	Rhodesia (banned)	90
18)	Romania	91
19)	Syria	93
20)	Czechoslovakia	94
21)	Tunisia	95
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b.	Multilateral relations	101
1)	Economic Community of West Africa	101
2)	Economic Community for Cattle and Beef (CEBV)	110
3)	Economic Community of West African States	113
4)	European Economic Community (EEC)	115
5)	African Groundnut Council	118
6)	Customs Cooperation Council	118
7)	Conseil de l'entente	119
8)	Convention on the transfer of illicit ownership of cultural property	121
9)	Customs Convention on Temporary Imports of Instructional Materials	121
10)	Convention on the law applicable to international sales of tangible movable objects	121
11)	Convention on transit commerce of landlocked states	122
12)	Convention on the simplification of customs procedures and related protocol	122
13)	Niger Basin States	123
14)	GATT	123
15)	Malagasy and African Sugar Agreement	124
16)	West African Monetary Union and Free Zone(WAMU)	125

C. CLEARING HOUSE

1. Operations and Practical Problems

The operation of the West African Clearing House was described and is included in Annex 6.

As indicated in the description, this institution was constituted to provide the use of the member states' currencies in the commercial clearing house transactions of the sub-region, and to realize economies in the use of their external reserves in order to liberalize commercial exchanges between them. From indications supplied by the financial controller of ECOWAS, the activity of the clearing house has slowed down because the clearing of the payments by the various central banks required too much time.

The clearing house and the mechanism adapted for the liberalization of commercial exchanges could help the exchanges between Niger and Nigeria when it was difficult for Nigerians to obtain import licenses and the foreign currencies necessary to establish letters of credit in favor of Nigerien exporters. The situation has evolved since the foreign currencies are sold by auctions on the part of the Nigerian state to private Nigerian banks. Those banks can, in turn, open letters of credit in foreign currencies for their clients and in favor of foreign exporters such as those in Niger.

The economic operators consequently prefer to use, now that it is possible, letters of credit by the intermediary of private banks, which themselves prefer not to go through the clearing house.

However, Nigerien private banks encounter a problem when they want to use letters of credit.

In fact, the Nigerien banks must make sure before they accept an irrevocable letter of credit in the name of one of their clients of the credibility of the Nigerian bank.

If a Nigerien bank accepts a letter of credit from a Nigerian bank on behalf of one of his exporter's clients, that bank takes the engagement that they will pay upon presentation of the shipping documents of the commodities in CFA corresponding to the amount of the transaction. It is necessary, therefore, that the Nigerian bank be able to transfer the foreign currencies, that is, CFA francs to the Nigerien bank. Or, we were told by the representative of a Nigerien bank that he was not sure that the Nigerian bank had or could surely obtain the foreign currency at the necessary time. Apparently, the credit of some new Nigerian banks has not yet been firmly established.

Furthermore, if in theory the formalities to be taken care of in Nigeria to import foreign goods have been simplified and if it is easier and takes less

time to obtain the equivalent of an import license, there are two factors that still slow down the imports. They are (1) the necessity for the importers to obtain an inspection certificate from the inspection company designated by the Nigerian government in Form M; and (2) the difficulty to verify the credit of the Nigerian bank.

2. Conclusion

Commercial and investment banks which initiated the method according to which international payment orders for customers are executed often have a whole network of branches in the countries in which they operate. Thus, by dealing directly with businessmen and businesswomen and their customers, they are the institutions that are most appropriate for informing the business community and other users of banking services about the operations of the West African Clearing House.

Consequently, the success of the clearing house system largely depends on the total and unswerving cooperation of these banks.

It should be noted that the Clearing House has absolutely no intention of replacing the commercial and investment banks from which, in their opinion, their profits and privileges come. In fact, the system cannot function without them. If the regulations that govern the execution of transactions through the system are strictly observed, the banks and their clients will prefer using this system as opposed to any other method. Therefore, we appeal to the cooperation and understanding of all banks, businessmen and businesswomen, as well as the customers of banks in order to allow the Clearing House to reach its praiseworthy goals in due time.

ANNEX 1
Niger Constitution of 1989

D'ORIENTATION NATIONALE

MINISTERE DU COMMERCE, DE L'INDUSTRIE ET DE L'ARTISANAT

du 8 décembre 1989

Portant Code des Investissements en République du Niger.

Annexe 1

Revisé

LE PRESIDENT DU CONSEIL SUPERIEUR D'ORIENTATION NATIONALE.

CHEF DE L'ETAT.

VU La Charte Nationale ;

VU La Constitution du 24 septembre 1989 ;

LE CONSEIL DES MINISTRES ENTENDU ;

ORDONNE

TITRE PREMIER : DISPOSITIONS PRELIMINAIRES

Article Premier : La présente ordonnance a pour objet de favoriser le développement de l'activité économique en stimulant l'investissement en République du Niger. Elle définit les différents régimes permettant la mise en oeuvre des ~~indépendi~~ investissements, détermine les garanties et avantages ainsi que les obligations qui s'y attachent. L'ensemble de ces dispositions constitue le "Code des Investissements".

TITRE II : GARANTIES GENERALES

Article 2 : La République du Niger assure une protection constante au double point de vue légal et judiciaire à tous les investissements privés participant à la réalisation de ses programmes de développement économique et social.

Article 3 : Les personnes physiques ou morales, exerçant une activité dans l'un des secteurs visés à l'article 9, quelle que soit leur nationalité, reçoivent le même traitement sous réserve des dispositions des traités et accords conclus par la République du Niger avec d'autres Etats.

Article 4 : Les personnes physiques ou morales visées à l'article 3 ci-dessus peuvent, dans le cadre des lois en vigueur, acquérir et exercer tous droits de toute nature en matière de propriété, de concessions et d'autorisation administratives, et soumissionner aux marchés publics.

Article 5 : Les personnes physiques ou morales non résidentes au sens de la réglementation des changes, qui réalisent un investissement au Niger financé en devises convertibles, peuvent obtenir, conformément à cette réglementation, des transferts de revenus de toute nature provenant des capitaux investis et du produit de la liquidation de l'investissement.

.../...

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Peuvent é~~ment être effectués, tous transferts~~ à des personnes physiques ou morales non résidentes correspondant à des paiements ~~normaux~~ courants pour des fournitures et prestations effectives.

Article 6 : Le règlement des différends relatifs à la validité, à l'interprétation ou à l'application de l'acte d'agrément et à la détermination éventuelle de l'indemnité due à la méconnaissance ou à la violation des engagements fera l'objet de l'une des procédures d'arbitrage ci-après à déterminer dans l'acte d'agrément :

1. Le Constitution d'un Collège Arbitral par :

- la désignation d'un arbitre par chacune des parties,
- la désignation d'un tiers arbitre par les deux premiers arbitres.

Dans le cas où l'une des parties n'aurait pas désigné un arbitre dans les soixante (60) jours de notification par l'autre partie de son arbitre désigné, et dans le cas où les deux premiers arbitres ne se seraient pas mis d'accord sur le choix du tiers arbitre dans les trente (30) jours de la désignation du deuxième arbitre, la désignation du deuxième ou du tiers arbitre selon le cas sera faite par le Président de la Cour Suprême à l'initiative de la partie la plus diligente.

Les arbitres statueront en équité.
La sentence rendue à la majorité des arbitres sera définitive et exécutoire.

2. La possibilité pour les non nationaux de recourir au Centre International pour le Règlement des Différends relatifs aux Investissements (CIRDI) créé par la Convention du 18 mars 1965 de la Banque Internationale pour la Reconstruction et le Développement (BIRD).

Article 7 : Sauf cas d'utilité publique prévu par la loi, la République du Niger garantit aux entreprises installées ou qui viendraient à s'installer qu'aucune mesure d'expropriation ou de nationalisation des investissements ne serait prise.

Les éventuelles mesures d'expropriation ou de nationalisation donnent droit à une juste et équitable indemnisation.

TITRE III : DOMAINE D'APPLICATION.

Article 8 : Pour l'application de la présente ordonnance, sont considérés :

1. comme Petites Entreprises, celles dont l'investissement est de vingt cinq (25) à cent (100) millions de F CFA inclus, hors taxes et hors fonds de roulement.

2. comme Entreprises moyennes, celles dont l'investissement est supérieur à cent (100) millions de F CFA et inférieur ou égal à cinq cent (500) millions de F CFA hors taxes et hors fonds de roulement.

3. comme grandes Entreprises, celles dont l'investissement est supérieur à cinq cent (500) millions de F CFA hors taxes et hors fonds de roulement.

.../...

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nationalité.

a)

- agriculture industrielle (spéculation végétale ou animale),
- activités connexes de transformation de produits d'origine végétale ou animale ;
- production et conditionnement en vue de l'exportation des produits de l'agriculture, de l'élévage ou de la pêche.

b) Activité manufacturière de production ou de transformation.

c) Production d'énergie.

d) Extraction et transformation de produits de carrière ou de substances minérales à l'exclusion des activités d'extraction et de transformation des substances minérales concessibles qui demeurent régies par la loi minière et le Code Pétrolier.

e) Réalisation d'un programme de construction d'habitat social en vue de la vente ou de la location.

f) Activité de maintenance d'équipements industriels.

Les personnes physiques ou morales ci-dessus visées sont surées en ce qui concerne cette activité, des garanties générales énoncées au tre II de la présente ordonnance et sous réserve de leur admission au bénéfice un des régimes prévus au titre IV, des avantages particuliers y afférents.

ticle 10 : Sans préjudice des dispositions prévues à l'article 9 ci-dessus, des antages particuliers pourront être accordés aux personnes physiques ou morales elle que soit leur nationalité exerçant ou désireuses d'exercer des activités écifiques limitativement énumérées :

- artisanat de production,
- production culturelle et artistique,
- construction et équipements d'hôtels, d'écoles et d'établissements de soins,
- transports.

ticle 11 : Sont considérés au sens des articles 2 et 5 de la présente ordonnance mme investissements :

- les apports au Niger de capitaux de toute nature et le réinvestissement des fonds provenant d'investissements effectués antérieurement si ceux-ci sont destinés à la création d'entreprisesnouvelles, à l'extension, à la diversification, à la reconversion ou à la modernisation d'unités existantes ;
- les apports en nature à une société nouvellement créée ou à l'occasion d'extension, de diversification, de reconversion ou de modernisation d'une société déjà existante ;
- les participations consistant en un apport de capitaux ou de biens à toute entreprise établie au Niger en échange de l'octroi de titres sociaux ou de parts donnant droit à une participation aux bénéfices et au produit de la liquidation ;

.../...

au Niger lorsque ces prêts, d'une durée minimum de dix (10) ans, régulièrement établie sont venus compléter les fonds propres et ont permis d'obtenir les crédits bancaires nécessaires au financement de l'investissement envisagé. Ces prêts ne sauraient toutefois représenter plus de la moitié des fonds propres.

TITRE IV : REGIMES PRIVILEGIES

CHAPITRE PREMIER : DISPOSITIONS COMMUNES

Article 12 : Le Code des Investissements comprend trois régimes privilégiés :

1. Régime A ou régime Promotionnel,
2. Régime B ou Régime prioritaire,
3. Régime C ou Régime Conventionnel.

Article 13 : Peut bénéficier d'un régime privilégié, toute personne physique ou morale visée à l'article 9 ci-dessus qui présente un projet offrant les garanties financières, techniques et de rentabilité économique satisfaisante et qui s'engage :

- soit à créer une activité nouvelle,
- soit à développer ou à restructurer par la modernisation, la diversification, la reconversion ou l'extension, une activité existante.
- soit à accroître le nombre d'emplois permanents,
- soit à accroître la valeur des actifs immobilisés.

Article 14 : Les personnes physiques ou morales qui sollicitent le bénéfice d'un régime privilégié cité à l'article 12 doivent s'engager à :

- employer en priorité des ressortissants nigériens et présenter un programme de formation et de perfectionnement continu du personnel dans les perspectives d'une "nigérisation" ;
- utiliser en priorité les matériaux, matières premières, produits et services d'origine nigérienne ;
- se conformer aux normes de qualité nationale ou internationale applicables au Niger aux produits ou services résultant de leur activité ;
- disposer d'une organisation comptable permettant de se conformer aux dispositions légales et réglementaires ainsi qu'aux usages existants en la matière ;
- fournir toutes informations devant permettre de contrôler le respect des conditions de l'agrément.

Article 15 : Le bénéfice du Code des Investissements est accordé :

1. Par arrêté conjoint du Ministre chargé de l'Industrie et du Ministre chargé des Finances, pour :

.../...

- le Régime A,

- le Régime B lorsque le montant des investissements est égal à cinquante (50) millions et inférieur ou égal à cent (100) millions de F CFA hors taxes et hors fonds de roulement.

2. Par arrêté conjoint du Ministre chargé de l'Industrie et du Ministre chargé des Finances, après avis de la Commission des Investissements pour le régime B lorsque le montant des investissements est supérieur à cent (100) millions de F CFA et inférieur ou égal à cinq cent (500) millions de F CFA hors taxes et hors fonds de roulement.

3. Par décret pris en Conseil des Ministres après avis de la Commission des Investissements :

- pour le Régime C,
- pour le Régime B, lorsque le montant des investissements est supérieur à cinq cent (500) millions de F CFA hors taxes et hors fonds de roulement.

Article 16. Les attributions et la composition de la Commission des Investissements visée à l'article 15 seront déterminées par décret pris en Conseil des Ministres.

Article 17. - L'arrêté ou le décret accordant le bénéfice du Code des Investissements fixe notamment :

- l'objet, l'étendue, le lieu d'implantation et la durée de réalisation du programme d'investissement,
- les avantages accordés aux bénéficiaires et leur durée ;
- les obligations auxquelles l'entreprise aura à se conformer.

Article 18. - En cas de non respect des engagements pris :

1. L'agrément peut être suspendu si trois (3) mois après une mise en demeure écrite, aucune disposition n'a été prise par l'entreprise agréée pour régulariser sa situation.

2. L'Agrément peut être retiré :

a) Si dans un délai de six (6) mois à compter de la date de suspension de l'Agrément, l'entreprise ne régularise pas sa situation.

b) Si l'entreprise n'a pas réalisé son programme d'investissement dans un délai de douze (12) mois à compter de la date d'expiration de la période de mise en place des équipements.

c) Sur proposition de la Commission des Investissements, en cas de fraude ou de manquement grave ou intentionnel de l'entreprise aux obligations qui lui incombent, constaté par le collège arbitral. Dans ce cas, le retrait entraîne le remboursement au Trésor, du montant des avantages fiscaux et douaniers obtenus pendant la période écoulée.

3. La suspension ou le retrait de l'agrément est prononcé dans les mêmes formes que celles applicables pour son octroi.

.../...

Article 19 : La cession partielle ou totale de l'entreprise agréée doit être préalablement notifiée au Ministre chargé de l'Industrie et au Ministre chargé des Finances. Les avantages liés au régime initial peuvent être réaménagés en hausse ou en baisse en fonction des incidences de la cession sur les critères ayant motivé l'octroi du régime privilégié.

Article 20 : En cas d'arrêt exceptionnel des activités d'une entreprise agréée celle-ci peut demander la suspension du régime privilégié pour une période qui ne saurait être inférieure à un (1) an et supérieure à deux (2) ans.

La date d'expiration du régime d'agrément est modifiée en conséquence.

CHAPITRE II : REGIME A

Article 21 : Le Régime A peut être accordé à toute personne physique ou morale remplissant les conditions prévues aux articles 8, 9, et 13 de la présente ordonnance.

Article 22 : La durée du régime est fixée à dix (10) ans.

Article 23 : Le Régime A accorde aux entreprises les avantages suivants :

1. En phase de réalisation des investissements

Exonération totale :

- des droits et taxes perçus par l'Etat à l'exclusion de la taxe statistique mais y compris la taxe sur la valeur ajoutée (T.V.A.) sur les matériaux, outillage et équipements de production et concourant directement à la réalisation du programme agrée.

Toutefois en cas de disponibilité des produits locaux équivalents, l'importation des matériaux, outillages et équipements ne donnent pas lieu à exonération.

- des droits et taxes perçus par l'Etat y compris la TVA sur les prestations de services sur les travaux et services concourant directement à la réalisation du programme d'investissement agréé.

2. En phase d'exploitation

Exonération totale :

- de la patente pendant l'année fiscale où l'entreprise commence son exploitation et les quatre (4) années suivantes,

-de la contribution foncière jusqu'à la sixième (6ème) année suivant celle de l'achèvement des constructions et l'exécution des opérations connexes,

- exonération totale de l'impôt sur les bénéfices industriel et

ommercial (BIC) et l'impôt minimum fiscal (IMF) pendant les six (6) premières années puis dégressive à partir de la septième (7ème) année suivant les modalités prévues à l'article 24 de la présente ordonnance.

Article 24 : Au titre des exonérations dégressives au cours des quatre dernières années, visées à l'article 23 alinéa 2 et l'article 2 de la présente ordonnance, l'entreprise agréée acquittera successivement 20 %, 40 % , 60 %; et 80 % du taux des droits.

CHAPITRE III : REGIME B

Article 25 : Peuvent bénéficier des avantages du Régime B :

1. Les Entreprises nouvelles :

a) Les petites entreprises créant au moins cinq (5) emplois permanents pour des nigériens et réalisant au moins cinquante (50) millions de F CFA d'investissements hors taxes et hors fonds de roulement.

b) Les entreprises moyennes créant au moins (10) emplois permanents pour des nigériens et réalisant au moins deux cent cinquante (250) millions de F CFA d'investissements hors taxes et hors fonds de roulement.

c) Les grandes entreprises réalisant un programme d'investissement portant :

- soit sur la création d'au moins cent cinquante (150) emplois permanents pour des nigériens,
- soit sur un montant d'investissement minimum de un (1) milliard de F CFA hors taxes et hors fonds de roulement.

Les entreprises moyennes ou grandes dont l'investissement et la création d'emplois restent au dessous des seuils fixés ci-avant sont respectivement considérées, selon le cas, comme petites entreprises ou entreprises moyennes au sens du présent article. Elles bénéficient donc du régime B à condition de satisfaire aux conditions concernant la catégorie inférieure.

2. Les Programmes d'extension et ou de diversification, de renouvellement de modernisation d'une entreprise existante :

Pour ces programmes, il sera notamment tenu compte, sans qu'ils ne soient obligatoirement cumulatifs des critères suivants :

- la création d'une importante valeur ajoutée,
- la création d'emplois supplémentaires,
- la substitution d'une matière première importée ou d'une manière générale la valorisation d'une matière première locale.

Article 26. - Les entreprises agréées au Régime B bénéficient des avantages suivants :

.../...

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1. En phase de réalisation des investissements

- exonération totale des droits et taxes y compris la taxe sur la valeur ajoutée (TVA) sur les prestations de services, sur les travaux et services concourant directement à la réalisation du programme d'investissement agréé ;

- exonération totale des droits et taxes à l'exclusion de la taxe statistique mais y compris la taxe sur la valeur ajoutée (TVA) sur les matériaux, outillage et équipements de production et concourant directement à la réalisation du programme d'investissement agrée ;

Toutefois en cas de disponibilité des produits locaux équivalents, l'importation des matériaux, outillages et équipements ne donnent pas lieu à exonération.

2. En phase d'exploitation

Exonération totale jusqu'à trois(3) ans avant la fin dudit régime les droits et taxes ci-après :

- la patente,
- l'impôt minimum forfaitaire (IMF) ;
- l'impôt sur le bénéfice industriel et commercial ;
- la contribution foncière et la taxe sur la valeur locative ;
- les droits et taxes à l'exclusion de la taxe statistique et de la taxe sur la valeur ajoutée, sur les matières premières, matières consommables et emballages, fabriqués localement ou importés en cas d'indisponibilité de produits similaires locaux.

Au cours des quatre (4) dernières années, l'entreprise agréée bénéficiera d'une exonération partielle des droits et taxes sus-visées, qu'elle acquittera suivant les modalités prévues à l'article 24.

Article 27. - En plus des avantages prévus à l'article 26, les entreprises agréées admises au bénéfice du régime B sont exonérées des droits et taxes à l'exportation de leur produit.

Article 28. - La durée du régime B est fixée à :

- dix (10) ans pour la petite entreprise,
- douze (12) ans pour l'entreprise moyenne,
- quinze (15) ans pour la grande entreprise.

Article 29. - Les entreprises agréées au titre d'un programme d'extension, de modernisation, de renouvellement ou de diversification ne peuvent bénéficier que des seuls avantages prévus à l'article 26 pour la phase de réalisation des investissements.

.../...

APITRE IV : RÉGIME C

Article 30. Le Régime C est accordé aux grandes entreprises présentant une importance exceptionnelle pour l'exécution des programmes nationaux de développement économique et social et répondant à l'un des deux (2) critères suivants :

- montant d'investissement minimum égal à deux (2) milliards de F.CFA hors taxes et hors fonds de roulement ;

- nombre minimum d'emplois permanents pour des nigériens créés égal à quatre cents (400).

Il est accordé sur demande de l'entreprise pour une durée fixée à uinze (15) ans.

rticle 31. - Le régime C est accordé par une convention passée entre l'Etat et ntreprise bénéficiaire.

rticle 32. - La convention est approuvée en Conseil des Ministres après avis de a Commission des Investissements. Elle entre en application à la date de sa signature qui ne pourra intervenir qu'après publication du décret visé à l'article 5.

rticle 33. - En plus des avantages prévus aux articles 26 et 27, les entreprises mises au bénéfice du régime C peuvent prétendre à :

- la possibilité de réduire de 50 % le taux des droits et taxes sur s carburants (gaz-oil, fuel-oil) et toute autre source d'énergie utilisée dans s installations fixes. Cette exonération est accordée dans les limites d'un nt gent fixé annuellement et reconnu par l'autorité administrative compétente mme utilisable dans ces installations et sera appliquée conformément aux dispositions des articles 25 et 27.

L'autorité administrative aura un pouvoir de contrôle sur l'utilisation du contingent accordé.

ticle 34. - La convention garantit à l'entreprise bénéficiaire qu'aucune modification ne pourra être apportée aux règles d'assiette et de perception de tous pôts et taxes ainsi qu'aux tarifs prévus en faveur de l'entreprise s'il en sultait une aggravation de sa charge. De même ne pourront lui être appliqués impôts et taxes de caractère fiscal dont la création viendrait à être décidée.

La stabilité des charges fiscales ne s'applique pas :

- aux prélèvements para-fiscaux perçus dans un intérêt social spécifique,

- aux impôts et taxes versés ou retenus à la source par l'entreprise bénéficiaire pour le compte d'autrui.

icle 35. - La convention ne peut comporter d'engagements de la part de l'Etat nt pour effet de décharger l'entreprise des pertes, charges ou manques à gagner à l'évolution des techniques, à la conjoncture économique, à des facteurs naturels ou inhérents à l'entreprise, ou de restreindre les conditions de loyale concurrence.

.../...

Article 36. - La convention définit notamment :

a) l'objet, l'étendue, le lieu d'implantation et la durée du programme d'investissement ;

b) le régime fiscal garanti à l'entreprise ;

c) les engagements que souscrit en contrepartie l'entreprise bénéficiaire ;

d) les contrôles que l'Administration peut effectuer auprès de l'entreprise bénéficiaire et les conditions de ces contrôles ;

e) les conditions dans lesquelles la convention pourra être revisée ;

f) la procédure d'arbitrage qui sera mise en oeuvre en cas de litige entre les parties.

TITRE V : DISPOSITIONS SPECIALES

Article 37. - La durée des avantages afférents aux différents régimes est bonifiée de trois (3) ans pour les entreprises qui s'implantent dans les départements d'Agadez, de Diffa, de Tahoua ou de Zinder.

Article 38. - En plus des avantages prévus par les différents régimes privilégiés, les entreprises qui exercent leur activité dans l'un des domaines prévus à l'article 9 a, bénéficient d'une exonération totale de la taxe sur la valeur ajoutée (TVA) sur les affaire réalisées pendant la durée du régime.

L'exonération concerne également la TVA ayant grévé l'ensemble des acquisitions de biens et services, ouvrant normalement droit à la déduction au sens des dispositions du Code des Impôts, acquis durant la même période.

Article 39. - Les dispositions relatives à la dégressivité des avantages prévus à l'article 24 sont applicables aux articles 37 et 38.

Article 40. - Les personnes physiques ou morales désireuses d'investir dans la production cinématographique peuvent bénéficier des exonérations des droits et taxes y compris la taxe sur la valeur ajoutée (TVA) à l'exclusion de la taxe statistique sur :

- les appareils cinématographiques (appareils de prise de son, appareils de projection avec ou sans reproduction de son), leurs accessoires, parties ou pièces détachées ainsi que les produits cinématographiques recensés comme tel dans la nomemclature douanière ;

- les matériaux de construction, outillage et équipements produits localement ou importés et consommables en une seule fois en cas d'indisponibilité des produits locaux équivalents et concourant directement à la réalisation de l'investissement.

.../...

Article 41. - Sont considérés pour l'application du présent code comme exer-
une activité d'artisanat de production les entrepreneurs individuels ou les grou-
pements d'artisans exerçant dans les secteurs définis par arrêté conjoint du
Ministre chargé de l'Artisanat et celui chargé des Finances dont le programme
d'investissement est inférieur à 25 millions de F CFA hors taxe et hors fonds
de roulement.

Les personnes physiques ou morales désireuses d'investir dans l'artisanat de production au Niger et remplissant les conditions déterminées par l'arrêté ci-dessus cité peuvent bénéficier pendant cinq (5) ans des exonérations ci-après :

- patente,
- impôt sur le bénéfice industriel et commercial ;
- impôt minimum forfaitaire ;
- droits et taxes y compris la TVA, à l'exclusion de la taxe statistique sur l'achat sur place ou à l'importation du matériel et outillage en cas d'indisponibilité de produits locaux équivalents.

Article 42. - Les personnes physiques ou morales désireuses d'investir un minimum de cinquante (50) millions de F CFA dans la construction et l'équipement d'hôtels, écoles et établissements de soins peuvent bénéficier des avantages ci-après pour la réalisation de leur programme d'investissement :

- exonération des droits et taxes y compris la TVA sur les travaux et services concourant directement à la réalisation du programme agréé,

- exonération des droits et taxes y compris la TVA à l'exclusion de la taxe statistique sur les matériaux, outillage et équipements produits localement ou importés en cas d'indisponibilité de produits locaux équivalents ;

rticle 43. - Les avantages prévus aux articles 40, 41 et 42 sont accordés par rrêté conjoint du Ministre chargé de l'Industrie, et du Ministre chargé des inances.

rticle 44. - L'arrêté prévu à l'article 43 précise notamment :

- la Liste et la quantité des articles à acquérir,
- le délai d'acquisition,
- la nature des avantages.

TITRE VI - DISPOSITIONS FINALES

rticle 45. - Les privilèges accordés antérieurement à l'entrée en vigueur de la ésente ordonnance à les entreprises installées au Niger demeurent en vigueur.

.../...

ANNEX 2
Income Tax Return for the State of Nigeria

Form A

LAGOS STATE OF NIGERIA
INCOME TAX FORM FOR RETURN OF INCOME AND CLAIMS FOR ALLOWANCES AND RELIEFS

19.....

To

Please quote
File No .....
in any communication.

INCOME TAX YEAR 19.....

DATE OF ISSUE .....

PURSUANT to the provisions of the PERSONAL INCOME TAX LAW CAP. 91 of Laws of Lagos State of Nigeria. TAKE NOTICE that you are hereby required:

(1) to prepare, in Parts B and C of this form a true and complete statement of the amount of your income, from EACH and EVERY source, ACCRUING in, DERIVE from, BROUGHT into or RECEIVED in NIGERIA during the YEAR ENDED 31st DECEMBER 19..... computed in accordance with the provisions of the PERSONAL INCOME TAX LAW CAP 91, 1961 and the INCOME TAX MANAGEMENT ACT, 1961 and, any rules or regulation made thereunder;

(2) to prepare in Parts A, D, E and F of this form a true and complete statement of the particulars required in and for such Parts:

(3) to complete and SIGN the DECLARATION at the end of this form and;

(4) to deliver this form, within TWENTY-ONE DAYS from the date of its service upon you to any of the following Internal Revenue Offices: Block 4, 6th Floor Permanent Secretariat, Obafemi Awolowo Way, Alausa Ikeja, Campbell Street, Lagos, 20 Jebba Street (West) Ebute-Metta, 1 Market Street, Oyingbo, Ebute-Metta, (Block 1), Secretariat Buildings, Oba Akinjobi Street, Ikeja, 131 Kirikiri Road, Olodi Apapa, Ajegunle 4 Irese Road Ikorodu Town Hall, Badagry, 21 Marina, Epe, 178, Ladipo Street, Mushin, 213 Broad Street, Lagos.

Requirements (2), (3) and (4) must be complied with even if there is no income for the purposes of Part B of this form.

Before completing this form you should read carefully through the whole form and the explanatory notes. If you require any further information you are invited to write to or call at one of the addresses given in paragraph (4) above.

There are provisions in the Personal Income Tax LAW CAP. 91, for penalties for neglecting to make a return or for making an untrue return.

LAGOS STATE INTERNAL REVENUE BOARD

PART A — PERSONAL PARTICULARS
Applicable during the YEAR ENDED 31st DECEMBER 19.....

Name in full (Surname First) .....
(State whether Mr/Mrs or Miss)

Whether Married, Single, Widow or Widower .....

Nationality .....

Address of business or employment .....

Occupation .....

Name and Address of employer (if any) .....

If any change in the above circumstances had occurred during or since the YEAR ENDED 31st DECEMBER 19..... give particulars and dates .....

Dates of arrival in or departure from Nigeria .....

Residence at 1st January 19.....
(Preceding year, Give full address—*not* P. O. Box No.)

If married, state spouse's

(1) Name .....

(2) Business or Employment Address .....

(3) Occupation .....

(4) Employer .....

Best Available Document

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PART B **STATEMENT OF INCOME FOR THE YEAR ENDED 31ST DEC. 19.....**

Each section of this Part should be completed. IF YOU HAVE NO SUCH INCOME WRITE "NONE" AGAINST THE SECTION IN QUESTION.

		N	K
Apart from Employment Income which is taxed on the current year basis, income tax is based on the income of the preceding year, excepting in the case of new or discontinued trades, business or professions when special rules apply.	1. Trade, Business, Profession or Vocation of .....carried on at (state address of Head Office and all branches and trade Name, if different from your own)..... Annex copies of Accounts, for the YEAR ENDED 31st December 19..		
	2. Employment: (1) Salary ... ... (2) Commissions, Bonuses, Gratuities, etc. ... ... (3) Allowances ... ... *(Annex details of each allowance paid on your behalf)*		
Enter the gross Amount before deduction of tax	3. (1)(a) Dividends from NIGERIAN COMPANIES ... (b) other Dividends .... (2) Interest ... ... *(Annex a list giving details of each source and the gross income received therefrom)*		
State name and address of the payer	4. (1) Pension from ..... (2) Annuity from		
	5. Rents ..... *(Annex a list showing for each property, the amount of gross rent and or premium received therefrom and the repairs, rates and other expenses)*		
	6. Income received in or brought into Nigeria from sources outside Nigeria, viz		
	7. Income in respect of other profits arising from sources not included above. *(Annex details of each source and the income therefrom)*		
	8. Aggregate Income from all sources ... ... N *Note.*—When any sources of Income have been acquired or have ceased during the year ended 31st December 19.... annex particulars with dates.		
	DEDUCTIONS CLAIMED FROM INCOME OF THE YEAR ENDED 31st DECEMBER 19..... Any amounts claimed should be deducted in computing your income under any of the foregoing sections of part B		
		N	K
	9. Contributions paid in the YEAR ENDED 31st DECEMBER, 19.... under the Widows' and Orphans' Pensions Ordinance		
	10. Contributions paid in the YEAR ENDED 31st DECEMBER, 19.... to a pension, Provident or other Society or Fund approved by the Joint Tax Board..... *(State name of Society or Fund)*		
	11. Contributions paid in the YEAR ENDED 31st DECEMBER 19..... to the NATIONAL PROVIDENT FUND		
	Total Deductions N		

OFFICE/BUSINESS ADDRESS _____

PART C BENEFITS IN KIND

12. Residential Address:

(1) As at 1st January 19.....	(2) Changes during the year	For Official Use Only
		Rateable Value
Rent Paid		
Name and Address of Owner of Premises		
Rent Paid by Employer		
Rent Paid or Reimbursed by you		

13. Names of Domestic Servants (e.g. Maids, Drivers, Gardeners, Watchmen, Cooks, Stewards, Cleaners, etc) (*Please asterisk those paid for by your employer*)

Name	*Residential Address*	*Amount Paid*

14. Cost of Energy Consumed (Electricity, Gas, etc) where paid by Employer

15. Other perquisites by employer.

PART D

THIS PORTION NEEDS NOT BE COMPLETED WHERE DETAILED BALANCE SHEET IS SUBMITTED

ASSETS AS AT 31 : 12. *(see Part B 1)*

16. Tangible Immovable Properties

Houses:	Locality	Date Building Completed	Cost of Lands ₦	Cost of Construction/ Acquisition ₦
(1)				
(2)				
(3)				
(4)				
(5)				
(6)				
(7)				
(8)				
(9)				
(10)				

17. Lands	Locality	Date Acquired	Cost ₦
(1)			
(2)			
(3)			
(4)			
(5)			
(6)			
(7)			
(8)			
(9)			
(10)			

18. Farmlands:	Locality	Date Acquired	Cost ₦	Produce
(1)				
(2)				
(3)				
(4)				
(5)				
(6)				
(7)				
(8)				
(9)				
(10)				

19c. Interest charged on borrowed money used in producing income declared above.

Amount of debt and rate of interest	Purpose for which money borrowed	Amount of interest paid and tax, if any, deducted in year ended ... 31st Dec. 19....				Security for debt	Lender's name and address
		Interest		Tax			
		N	K	N	K		

PART E CLAIM FOR CAPITAL ALLOWANCES

20. Do you claim Capital Allowances under the Fifth Schedule to the Income Tax Management Act, 1961 in respect of assets used for the purpose of earning any of the Income returned in part B ..... (Yes/No) If so, annex a statement showing full particulars of your claim.

PART F CLAIMS FOR PERSONAL RELIEFS BY REFERENCE TO CIRCUMSTANCES IN THE YEAR ENDED 31st DECEMBER, 19....

21. PERSONAL ALLOWANCE

₦600 or 10% of earned Income whichever is higher is given as Personal Relief.

22. ALLOWANCE FOR WIFE

Allowance for wife-*(a)* married woman' and 'wife' include a wife married according to native law and custom where both the husband and the wife are subject thereto. This definition applies for all the purposes of this form.

(b) An allowance of ₦300 is given in respect of a wife living with or maintained by you as mentioned in sub-paragraph (1) below. In cases falling under sub-paragraph (2) the allowance will be ₦300 or the total amount of the payments, whichever is the less, but the total relief where both sub-paragraphs (1) and (2) apply may not exceed ₦300.

If during the YEAR ENDED 31st DEC. 19.... you:

(1) had a wife living with or maintained by you, state the full names of your wife.....

(2) made payments of alimony to a previous wife whose marriage with you has been dissolved by the order of any Court.

State

(i) the full names and address of such wife .....

(ii) the date of such Order.....

(iii) the total amount of any such payments made during the YEAR ENDED 31st DEC. 19..... ₦.....

23. ALLOWANCES FOR CHILDREN

(a) An allowance of ₦250 is given for each unmarried child maintained by you during the year ended 31st Dec. 19..... if such child was:

(i) under 16 at any time during that year; or

(ii) over 16 on the 1st Jan. 19.... and was either receiving full-time education or was articled or indentured in a trade or profession in that year.

(b) Allowances may not be claimed in respect of more than four children.

(c) If, in respect of the same child, two persons are entitled to these allowances they may have to be divided between them.

Full name of Child	Date of Birth	Name and address of educational establishment which each child attends or Person to whom articled or Indentured	Child's income in his or her own right during the year ended 31st Dec. 19.... (except scholarship income)
1	2	3	4.
			₦
			₦
			₦
			₦

Where the child is not the offspring of the claimant the following particulars should be given:

FULL NAME OF PARENTS .....

OCCUPATION ..... HOME ADDRESS .....

OFFICE/BUSINESS ADDRESS .....

PART F—*continued* ALLOWANCES FOR DEPENDENT RELATIVES

24. *(a)* An allowance may be given in respect of the amount expended by you, in the year ended 31st Dec. 19..... on the maintenance of a close relative, whose income did not exceed N600 in that year, if such relative was:

(i) the widowed mother of yourself or your spouse; or

(ii) incapacitated by old age or infirmity from maintaining himself or herself.

(b) If two or more persons maintain such a relative the allowance will be apportioned between them.

(c) The maximum allowance is N400 in total for husband and wife and may be split where the total amount spent by them on all dependents exceeds N400.

Name and address of dependent relative	*Relationship to you or your spouse If widowed mother state so*	*Age of relative, or nature of infirmity*	*Dependent's income during the year ended 31st Dec. 19.... of all sources excluding voluntary allowances*	*Amount Expended on maintenance during the Year Ended 31st Dec. 19.....*	*If any other person has contributed to the maintenance in the year ended 31st Dec. 19.... state the amount so contributed*	*Name and address of such contributor*
			N	N	N	
			N	N	N	

25. ALLOWANCES FOR LIFE ASSURANCE, ETC.

(a) Allowances may be given in respect of the premiums paid by you in the year ended 31st Dec. 19..... for the insurance of, or for deferred annuity on, the life of your wife or of yourself subject to the following restriction:

(i) the allowance in respect of the annual amount of each life insurance premium is restricted to 10% of the capital sum secured at death exclusive of bonuses;

(ii) the aggregate amount of the allowances for all premiums must not exceed one-fifth of your total income; and

(iii) the aggregate amount of the allowances in respect of all premium under policies and deferred annuity contracts and in respect of any amounts claimed by you, if you are an employee, under sections 9 to 11 of the form, must not exceed N2,000.

Name of Insurance Company	*Whether on life of self or spouse*	*Capital sum on death excluding any bonus or additional benefit*	*Premiums PAID during the year ended 31st Dec. 19.... (to the nearest N)*
		N	N

*CERTIFICATE/RECEIPT EVIDENCING PAYMENT MUST BE ATTACHED

DECLARATION WHICH MUST BE COMPLETED AND SIGNED

I.....hereby declare that Parts B & C of this form contain a true and correct statement of the amount of my income, in respect of all sources, accruing in or derived from Nigeria and of my income brought into or received in Nigeria, in respect of all sources outside Nigeria, computed, to the best of my judgement and belief in accordance with the provisions of the PERSONAL INCOME TAX (LAGOS) ACT, 1961, and the INCOME TAX MANAGEMENT ACT, 1961, and of any rules made thereunder and that deductions claimed by me in Part B of this form have been computed as aforesaid. I further declare that the particulars given by me in Parts A, D, E. F, of this form and in any Accounts or lists, etc., annexed by me to this form, are true and complete.

Given under my hand this ..... day of ..... 19.....

.....

(Signature of person making this Return)

Present Private Address .....

.....

.....

LSPC OW/110/883/200,000

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ANNEX 3
Income Tax Return for the Federation of Nigeria

FEDERATION OF NIGERIA
INCOME TAX FORM FOR RETURN OF INCOME AND CAPITAL GAINS TO BE MADE ON BEHALF OF A COMPANY

To the Principal Officer or Manager in Nigeria of	*Please quote* File No. ..... *in any communication*

Date of Issue.....

INCOME TAX YEAR 19..../19.....

PURSUANT TO the provisions of the Companies Income Tax Act, 1979, and the Capital Gains Tax Act 1967, TAKE NOTICE that you are hereby required :

(1) to prepare, in Part B of this form, a true and complete statement of the amount of the income and capital gains of the Company from each and every source, ACCRUING in, DERIVED from, BROUGHT into or RECEIVED in NIGERIA during the YEAR ENDED 31ST DECEMBER, 19..... (But *see* Note 5) computed in accordance with the provisions of the Companies Income Tax Act, 1979 and the Capital Gains Tax Act, 1967 and any rules or regulations made thereunder ;

(2) to prepare, in Parts A and C of this form, a true and complete statement of the particulars required in and for such parts ;

(3) to complete and sign the DECLARATION on this page ; and

(4) to deliver this form together with the audited accounts to the relevant address listed in Note 4 not later than six months after the close of your company's accounting year, or in the case of a newly incorporated company, within eighteen months from the date of incorporation or not later than six months after the end of its first accounting period whichever is earlier.

Requirements (2), (3) and (4) must be complied with even if there is no income or capital gains for the purposes of Part B of this form.

There are provisions in the Tax Laws for penalties for neglecting to make a return, or for making an untrue return.

Before completing this form you should read carefully through the whole form and the Notes. If you require further information you should write to or call at the address given in Note 4.

FEDERAL BOARD OF INLAND REVENUE
LAGOS

PART A
PARTICULARS APPLICABLE DURING THE YEAR ENDED 31st DECEMBER, 19.....
(BUT *see* NOTES 3 AND 5)

See Notes 1 and 13

The private address of the person signing the Declaration below.....

.....

State the place where the control and management of the business of the Company are exercised.....

Address of the Head Office of the Company.....

.....

Address of all branches in Nigeria of the Company.....

.....

If any change in the above circumstances has occurred during or since the YEAR ENDED 31st DECEMBER, 19..... give particulars and dates.....

DECLARATION WHICH MUST BE COMPLETED AND SIGNED

I, ...hereby declare that I am the Principal Officer or Manager in Nigeria of.....and that Part B of this form contains a true and correct statement of the amount of its income, in respect of all sources, accruing in, derived from, brought into or received in Nigeria, computed in accordance with the provisions of the Companies Income Tax Act, 1980, and of any rules made thereunder. I further declare that the particulars given by me in Parts A, B and C of this form and in my Accounts or lists, etc. annexed by me to this form, are true and complete.

GIVEN under my hand this.....day of.....19.....

.....
Signature of person making this Return

* *Delete as appropriate.*

FEDERATION OF NIGERIA
INCOME TAX FORM FOR RETURN OF INCOME AND CAPITAL GAINS TO BE MADE ON BEHALF OF A COMPANY

PART B STATEMENT OF INCOME AND CAPITAL GAINS OF THE YEAR ENDED 31st DECEMBER, 19..... (BUT *see* NOTE 5)

Each paragraph of this Part should be completed, the relevant amount of the income or capital gains being shown in the right-hand-column. If the Company has no such income or capital gains write 'None' against the paragraph or sub-paragraph in question.

		N	K
How profits to be computed, etc.	1. Trade or Business (state the nature of the trade or business).....		
See Notes 5, 6, 7, 8 (*a*) and 9.	.....Net income (Annex copies of Accounts for the YEAR ENDED 31st DECEMBER, 19..... but *see* Note 5).		
See Notes 5, 8 (*b*).	2. (1) (*a*) Dividends from Nigerian Companies.....		
	(*b*) Other Dividends.....		
	(2) Interest.....		
	(Annex a list giving details of each source and the gross income received therefrom).		
See Notes 5 and 5 (*c*).	3. Royalty..... (Annex a list showing each property and amount received therefrom)		
See Notes 5, 6, 7 and 8 (*d*).	4. Rents Net Income..... (Annex a list showing each property and amount received therefrom).		
See Notes 5, 6, 7 and 8 (*e*).	5. Income received in or brought into Nigeria from sources outside Nigeria.		
See Notes 5, 6, 7 and 8 (*f*).	6. Income in respect of other profits arising from sources not included above. (Annex details of each source and the income therefrom).		
	Aggregate Income from all sources .. .. N		
See Notes 5 and 12	7. Gains from disposal of assets (Annex details of each disposal and the capital gains therefrom)		
	8. Where any sources of income have been acquired or have ceased during the YEAR ENDED 31st DECEMBER, 19..... annex particulars with dates.		
See Note 10.	9. Interest charged on borrowed money used in producing Income declared above. Where any such interest has been deducted in computing any such income, state—		

Amount of debt	*Purpose for which money borrowed*	*Rate of interest and amount paid in year ended 31st December, 19.....*	*Security for debt*	*Lender's name and address*

PART C CLAIM FOR CAPITAL ALLOWANCES

See Note 11. 10. Under the Second Schedule to the Companies Income Tax Act, 1979, allowances may be claimed in respect of certain capital expenditure incurred by the Company, on assets used in its trade or business during the year ended 31st December, 19..... (But *see* Note 11 (*i*). Any such allowances will be given by the Federal Board of Inland Revenue in assessing the income of the Company for the Income Tax Year 19...../.....

See Note 11. 11. For each asset with respect to which such an allowance is claimed, being an asset used in such trade or business, give the following particulars—

(1) *Description of asset owned by the Company*	(2) *Cost of asset and date when incurred*	(3) *Description of the trade or business in which asset used*	(4) *Whether asset wholly or partly used in the trade or business*	(5) *Period asset used in the trade or business during the year ended 31st December, 19.....*
				From : *To :*

Where, at the date being the end of the period to be entered under column 5 above, the asset ceased to be used in such trade or business state—

(6) *Value of the asset at that date*	(7) *Amount received on any sale of the asset on or after that date*
N	N

(Where claims are made in respect of more than one asset the above particulars, for each asset, should be given on a separate sheet).

PART B STATEMENT OF INCOME AND CAPITAL GAINS OF THE YEAR ENDED 31st DECEMBER, 19..... (BUT *see* NOTE 5)

NOTES

1. This form should be completed by the Manager or other principal officer in Nigeria of the Company.

Definition

2. "Company" means any [illegible] or corporation (other than a corporation sole) established by or under any law in force in Nigeria or elsewhere.

"Nigerian Company" means any company incorporated under the Companies Act, 1968 or any enactment replaced by that Act.

3. In these Notes any reference to an "income period", in relation to a particular source of income, means the appropriate income period ascertained by reference to Note 5 below.

4. Addresses of Federal Inland Revenue Offices

P.M.B. 12531,
[illegible] Street,
Lagos.

[illegible] Lebanon Avenue,
[illegible],
P.M.B. [illegible],
[illegible] Road.

[illegible] Street,
P.M.B. 12672,
Lagos.

[illegible] Street,
P.M.B. 12[illegible],
Lagos.

[illegible] Club Road,
Kano.

[illegible] Road,
P.M.B. [illegible],
Kaduna.

[illegible] Road,
P.M.B. [illegible],
Ibadan.

[illegible],
P.M.B. [illegible],
Enugu.

[illegible] Road,
P.M.B. [illegible],
Port Harcourt.

[illegible] of [illegible] School,
P.M.B. [illegible],
Jos.

[illegible] Airport Road
P.M.B. [illegible],
Benin City.

[illegible] Road,
P.M.B. [illegible],
[illegible].

[illegible] Road,
P.M.B. 1175,
Maiduguri.

[illegible] Road
[illegible] the Airport
P.M.B. [illegible]
Calabar.

Ahmadu Bello Way,
P.M.B. [illegible],
[illegible].

[illegible] Road,
P.M.B. [illegible],
[illegible].

Ascertainment of Income Period

5. The normal rule is to return the income and capital gains of the Company of the year ended 31st December, 19.... in respect of all sources. But if accounts of the trade of business have not been made up to the 31st December, 19..... the amount to be returned in paragraph 1 on page 2 should be the income and capital gains of the twelve months accounting period, for which accounts of the business have been made up, which ended during the year to 31st December, 19..... If, however, the business commenced within the year ended 31st December, 19..... the income and capital gains to be returned, in paragraph 1, should be the income and capital gains of one year from the date of commencement or, if commenced after 31st December, 19.... the income of the period from the date of commencement to the 31st December, 19.... In the last case if accounts have not been made up either an estimate of the income should be made, and in fact that it is an estimate stated in paragraph 1, or, if an estimate is not possible, simply give the date of commencement.

Expenses which may be Allowed in calculating Income

6. These are, broadly speaking expenses not being capital expenditure, wholly exclusively, necessarily and reasonably incurred during the income period in the production of the income from the particular source. The deductions allowance include—

(i) interest on any borrowed money where the borrowed money is employed in producing the income from that source,

(ii) rents and premiums payable for the use of lands or buildings occupied for the purposes of acquiring the income from that source,

(iii) the cost of repair of any premises, plant, machinery or fixtures employed in producing the income from that source,

(iv) the cost of replacement of any implement, utensil, or article employed in producing the income from that source, unless capital allowances are being claimed in respect thereof, under Part C.

Expenses which may not be deducted in calculating Income

7. (i) expenses of a domestic or private nature,

(ii) disbursements or expenses not wholly, exclusively, and necessarily and reasonably laid out in acquiring the income,

(iii) capital withdrawn or any sum employed or intended to be employed as capital,

(iv) sums expended on additions, improvements or alterations,

(v) sums recoverable under an insurance or contract of indemnity,

(vi) amount payable in respect of Income Tax, and Capital Gains [illegible],

(vii) estimated sums in respect of the wear and tear of depreciation of any plant, building or other asset used in acquiring the income,

(viii) any sums in respect of allowances claimed under Part C.

Further provisions affecting the Calculation of Income from specified sources

8. (a) *Trades and businesses.*—Trade or business debts due to the Company and proved to be bad, and doubtful debts due to the Company to the extent that they are respectively estimated to be bad, may be deducted, in computing its income, of the income accrued from its trade or business.

(b) *Interest.*—Interest received by the Company in respect of Bank accounts or deposits and interest on deferred payments or on monies lent by the company should be included in the form.

(c) *Royalty.*—Royalty received by the Company in respect of a patent, trade mark, copy right and similar assets should be included in the form.

(d) *Rent and Premiums.*—Attach a separate statement showing gross rents receivable and repairs, rates and other expenses payable in respect of each property let by Company.

(e) *Remittances, etc.*—Remittances of income earned by the Company in Nigeria and income sums brought into Nigeria by the Company, from sources outside Nigeria, must be returned and particulars given, on a separate sheet of paper, showing the sources of such sums and the amount so received or brought into Nigeria in the year ended 31st December, 19...... If the remittance or sum is made out of income which has suffered tax in the country from which it was remitted, or the sum was brought, attach the dividend counterfoils or other documents showing the amount of such tax, unless the Company is not a Nigerian Company. (See Note 2).

(f) *Miscellaneous Income.*—Any income of the Company not appropriate to other paragraphs of Part A of the form must be returned against paragraph 6 of Part B.

Losses

9. If for an income period the Company has made a loss in carrying on a trade or business, the loss for that period should be computed in like manner as a computation of income profits and the amount of the loss should be returned, with an indication that it is a loss, in the appropriate space in the form, in which any income from the source in question would have been entered.

Interest on borrowed money

10. (a) If interest has been deducted, in accordance with Note 6 (i) above, in computing the Company's income from a source, for a different income period from that year, then regard should be had to the income period for that source when completing such third column.

(b) If the Company is paying Mortgage or debenture interest to any person whether resident in Nigeria or not, and in calculating the Company's income from any source, the Company is entitled to deduct such interest (see Note 6 (i) above), when paying such interest, there must be deducted tax therefrom at the rate specified in section 59 of Companies Income Tax Act, 1979. And an account of the amount of tax so deducted must forthwith be rendered to the Federal Inland Revenue. The amount so deducted is a debt due to the Federal Government.)

Claims for Capital Allowance—Part C

11. (a) Allowances may be given by way of deduction in assessing the Company's income from all sources in respect of certain capital expenditure incurred on assets owned by the Company, viz—

(i) plant, machinery or fixtures (qualifying plant expenditure),

(ii) buildings, structures or works (qualifying building expenditure) (normally a purchaser of assets of this description can only claim an allowance by reference to the original cost of construction),

(iii) assets, etc. connected with mineral deposits and the working thereof (qualifying mining expenditure),

(iv) plantations (qualifying plantation expenditure)

The amount of any allowances claimed must not be deducted in computing the income from any source for return in Part B.

(b) To qualify for an allowance the asset must have been used in a trade or business carried on by the Company and the expenditure must have been incurred for the purposes of that trade or business.

(c) Where in the income period, for an INCOME TAX YEAR, of the Company's trade or business the asset is first used by the Company (provided that the Company has incurred the qualifying expenditure thereon by the end of that period) any allowances claimed and to which the Company is entitled will be deducted in computing its income for that INCOME TAX YEAR. The allowances for that INCOME TAX YEAR are an initial allowance and an annual allowance, based on a percentage of the qualifying expenditure, at rates differing according to the nature of the asset.

(d) For any subsequent INCOME TAX YEAR (provided that the asset was still in use in the relevant income period for that subsequent INCOME TAX YEAR) the annual allowance is given on the percentage of the qualifying expenditure less the initial allowance if any.

(e) Where the asset is sold, or ceases (except in the case of qualifying mining expenditure) to be used in the Company's trade or business, if the proceeds of sale or the value of the asset on the cessation;

(i) is less than the residue the difference will be allowed as a balancing allowance, or

(ii) exceeds the residue, the excess will be added to the assessable income of the company.

(f) *Rates of Capital Allowance*

	Initial Per centum	Annual Per centum
Industrial Buildings	15	10
Other Buildings	5	10
Plant	[illegible]	[illegible]
Motor Vehicle	[illegible]	[illegible]
Mining	[illegible]	[illegible]
Plantation Equipment	[illegible]	[illegible]
Plantation	[illegible]	[illegible]
Housing Estate	[illegible]	[illegible]

In any claim insert what is considered to be a reasonable [illegible] having regard to the working life of the asset; for plant, its useful life, and for plantations, the productive life of the plantings.

(g) If the expenditure was not incurred, or the asset is not used, wholly and exclusively for the trade or business of the Company, any allowance claimed will be reduced by the Board by reference to those circumstances.

(h) There are further provisions of the Second Schedule to the Company Income Tax Act, 1979 relating to leases of buildings and other matters.

(i) If the income period of the trade or business of the Company in connection with which an allowance is claimed is different from the year ended 31st December, 19...... regard must be had to such different income period when completing the fifth column of paragraph 9.

Capital Gains

12. Annex a list giving details of assets disposed of during the year ended 31st December, 19...... and the capital gains derived from such disposal.

All forms of property including stocks and shares options, debts, incorporeal property generally, any currency other than Nigerian currency and any form of property created by the person disposing of it or otherwise coming to be owned without being acquired.

Indicate whether or not capital gains tax has been assessed or paid on the gains or whether or not a claim for relief has been advanced or granted under section [illegible] of the Capital Gains Tax Act, 1967.

Evidence of income expenses, etc.

13. Evidence may be called for in support of any amount or other facts recorded on behalf of the Company in this form or in any accounts or other particulars annexed thereto.

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ANNEX 4
Form M

DUPLICATE

Annexe 4

FEDERAL REPUBLIC OF NIGERIA

EXCHANGE CONTROL ACT, 1962

APPLICATION NUMBER

YEAR [redacted] MC 044296 [redacted]

FORM M

(FOR IMPORTS ONLY)

APPLICATION TO PURCHASE FOREIGN CURRENCY
(To be completed in septuplicate)

PREFIX [redacted] — APPOINTED AGENT'S No. [redacted]

*Please read carefully the notes overleaf and fill in appropriate information in all the blank spaces provided
*Shaded Areas are for official use only
*Use Capital letters throughout this form
*Permanent Addresses only (P. O. Box NOT ACCEPTABLE)

FINANCIAL INSTITUTION CODE [redacted]

Name and full address of Applicant's Banker (Authorised Dealer)

I/We, the undersigned, hereby apply for Foreign Exchange allocation for payment of importation of the goods described below:

1. PARTICULARS OF APPLICANT

C.B.N. File No. [redacted] — [redacted] — [redacted]

Applicant's Name

Address

Town

State

Registration/Certificate of Incorporation No.

Changed Name/Address since last application? If yes, state particulars below

2. PARTICULARS OF BENEFICIARY

Beneficiary's Name

Address

City

State

Country

COUNTRY CODE [redacted]

Changed Name/Address since last application? If yes, state particulars below

3. DESCRIPTION AND QUANTITY OF GOODS (GIVE FULL PARTICULARS)

PURPOSE CODE [redacted]

SITC CODE [redacted]

Country of Origin ..... Country of Supply .....

Ultimate Destination .....

4. AMOUNT APPLIED FOR (C. & F.) .....

(Name and Amount applied for in Local/Foreign Currency in words)

CURRENCY CODE [redacted]

UNIT PRICE	QUANTITY	F.O.B. VALUE	FREIGHT CHARGES	ANCILLARY CHARGES	AMOUNT

On Behalf of .....

For Account of .....

In Favour of .....

Payment Mode .....
(i.e. Revocable/Irrevocable Letter of Credit or Bill for Collection)

PAY MODE [redacted]

L.C. EXP DATE D D M M Y Y

Transfer Mode .....
(i.e. Telegraphic Transfer, Bank Draft, Mail Transfer, etc)

TRANS [redacted]

SHIPMENT DATE D D M M Y Y

Means of Despatch .....
e.g. Air, Sea, Post, etc)

7. IMPORT LICENCE PARTICULARS

IMPORT LICENCE NUMBER

VALUE APPROVED [redacted] VALID FROM ..... TO .....

8. APPLICANT'S DECLARATION

I/We, declare that the above statements are true, that the prescribed supporting evidence is attached or will be surrendered as soon as possible and that the foreign currency will be used solely for the purpose stated in accordance with the provisions of the Exchange Control Act, 1962.

*Any false declaration will make me/us liable for prosecution.

Name ..... Signature ..... Date .....

AUTHORISED DEALER'S STAMP

Full Name: ..... Signature: ..... Date: .....

Printed By Central Bank Press, Lagos.

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ANNEX 4

FORM M (TRANSLATION)

1. Application to purchase foreign currency, Form M, to be filed in seven copies (for importers only). Read the notes on the reverse carefully and fill in the following spaces.

   Permanent address only. Post office box numbers are unacceptable. Complete name and address of the applicant's bank (authorized dealer)

2. We, the undersigned, hereby apply for an allocation of foreign currency in payment of and for importing the following products.

3. Information about the applicant

   - File number of the Central Bank of Nigeria
   - Name of applicant
   - Address of Applicant
   - City
   - State
   - Formation certificate number

4. Information about the beneficiary

   - Name of beneficiary
   - Address
   - State
   - Country

5. Description and quantity of items (provide all details)

   - Country of origin
   - Final destination

6. Amount requested (CIF) currency amount

   - From
   - For account #
   - Favor of
   - Method of payment (such as revocable/irrevocable letter of credit or receipt)
   - Method of transfer (such as wire, bank check)
   - Method of payment
   - Transfer
   - Date
   - Date of shipment

Method of shipment (sea, mail, etc.)

7. Information on the import license, import license number
Value approved valid from to
Applicant's declaration

8. We declare that the information below is true, that the supporting documents which must be attached thereto are indeed attached or will be provided as soon as possible and that the foreign currencies will be used for the purpose indicated and in compliance with the terms of the foreign exchange control law of 1962. Any false statement shall make us liable for criminal punishment.

Names Signature Date

9. The items described on the reverse are subject to inspection before loading and to a price comparison by the agent designated by the Federal Republic of Nigeria who must be contacted.

Signature and of the foreign exchange office

Agent's address

and stamps

"Importers are warned that a report of the results of a proper inspection that everything was found to be in due form issued by the designated agent of the Federal Republic of Nigeria or with no agent must be presented by the seller as part of the documents in payment of any letter of exchange or other encashment for this application (see notes below)

Full name Signature Date

A. Number of the original application in the event of delayed payment

Unit stamp of customer's staff

Code

Signature approving the transaction, name, date, etc.

INSTRUCTIONS FOR IMPORTERS IN NIGERIA
FORM M

1. If the file number of the Central Bank of Nigeria (CBN) is known it should be indicated by the applicant in section 3. If not, the Central Bank of Nigeria will inform him of the file number through the authorized broker after the application has been "reviewed." The CBN file number should be indicated on all subsequent applications to accelerate the review of the application.

2. This form must be completed by importers for all imports and before any order is confirmed and before shipment. Consequently, importers are advised to inform their "overseas" sellers about the inspection requirement prior to embarkation and must not ship items that require inspection prior to shipment.

3. The application for foreign currencies must be completed in seven (7) copies and given to the importer's bank for internal transmission to the CBN (CISS Office) for review. When importers submit completed forms they must be accompanied by four copies (one of which must be the original) of the seller's proforma invoice clearly showing the separate free-on-board price and free with all the related charges such as commissions and interest shown separately.

4. Importers should ensure that the applications are filed on one form only in the event that similar items are purchased from the same seller regardless of the country of supply, supplier or number of partial shipments. When imports are part of a project or contract, only one application on a form need be submitted as long as it is accompanied by a copy of the contract (photocopies are acceptable) and the complete address of the seller.

5. The CBN will write the number of the designated agent on the form and will indicate whether pre-shipment inspection is required on a stamp with the address of the office where the agent can be contacted on the form. Three copies will be returned to the importer's bank and, upon receipt, the importer may confirm his order with the seller and make arrangements for payment. No letter of credit may be opened unless a Form M is duly completed and in the possession of the importer's bank.

6. After the CBN has reviewed the application and issued a number, importers are advised to send one photocopy of the "reviewed" form to their seller so that they know the address of the designated agent and may arrange for inspection.

7. After embarkation, payment may be made by having the importer's bank present the original copy of the form to the CBN with an

"inspection report that everything is in order" when the pre-shipment inspection was stipulated and with the shipping documents, in other words, the maritime bill of lading, the declaration of arrival at customs, insurance certificate, payment invoice, itemization and air delivery arrival ticket, required for items in storage. The appropriate import licenses of postal packages and supporting documents of an earlier departure required if applicable.

8. Approved importers and suppliers should note that the invoice for payment should now include all additional costs, including price fluctuations and contractual price escalation clauses applicable on a "proportional" basis. The total value of the final invoice for payment must in all cases be supported by an "inspection certificate" when inspection prior to shipment was stipulated and importers are informed that separate requests for payment of funds for related costs for imports will no longer be accepted unless such costs are accompanied by an inspection certificate issued by the designated agent.

9. An approved Form M shall be valid for importing for six (6) months from the review date and importers are advised that changes in specifications, the seller, the country of supply and quantities within the limit of standard commercial tolerances shall not necessitate applying for an amendment to the form provided that these details are confirmed by the inspection relative to Form M and provided that:

   a. the price is supported by an inspection certificate issued by the designated agent in the event that pre-shipment inspection is required and

   b. any increase above the price declared on Form M does not exceed 10% of the total amount declared as (CIF); any increase in the price over 10% requires a new Form M.

10. For items exempt from pre-embarkation inspection, approval will not be given for an amount greater than that indicated in the original application.

11. When prior registration of an order with the Ministry of Commerce is required for items and/or when the order was placed on a specific import license list, it is necessary to provide proof that the special requirements for these licenses have in fact been fulfilled.

    The application must be accompanied by:

    1). A maritime bill of lading

    2). An inspection report issued by an inspector designated by the Nigerian Government

3). An invoice certified by customs

4. A receipt of customs duties paid and an up-to-date certificate indicating that the taxes have been paid.

ANNEX 5
Proposal for Foreign Trade Regulations

B/- LES CONTRAINTES JURIDIQUES

Les contraintes juridiques pouvant s'opposer à une réforme du commerce extérieur ne peuvent venir que des accords internationaux que le Niger a signés.

a)- Le Niger est évidemment libre de modifier comme il l'entend la législation interne (1). Cela paraît aller de soi mais un passage des termes de référence de l'étude nous amène à donner une précision. Ce passage est le suivant : "préparer un cadre juridique des nouveaux projets de loi examinant les traités étrangers, l'adhésion aux groupements régionaux (C.E.A.O., C.E.D.E.A.O., etc.) et internationaux, les législations française et nigérienne applicables". La présence de la "législation française applicable" nous surprend un peu car, depuis l'indépendance du Niger, la législation française ne s'y applique plus. Ou l'on veut parler des accords instituant la zone franc entre plusieurs pays, dont le Niger, et il s'agit de traités internationaux ; ou l'on fait allusion à la législation antérieure à l'indépendance et restée applicable, faute d'abrogation, et il s'agit alors d'une législation devenue nigérienne par l'effet de l'article 76 de la constitution de la République du Niger du 8 novembre 1960(2) et, à ce titre, modifiable au gré du législateur nigérien comme le sont les lois et règlements qu'il a faits depuis l'indépendance.

---

(1)- à condition, bien sûr, de ne pas la mettre en contradiction avec un accord international en vigueur.

(2)- dont voici le texte : "La législation actuellement en vigueur au Niger" (à la date du 8 novembre 1960) "reste applicable sauf l'intervention de textes nouveaux, en ce qu'elle n'a rien de contraire à la présente constitution".

Il peut donc sans difficulté abroger l'ensemble de la réglementation interne de son commerce extérieur, telle que nous l'avons décrite dans notre rapport N° 1 et commentée dans notre rapport N° 2, qu'il s'agisse de l'organisation de de la profession d'importateur-exportateur, de la réglementation de la délivrance des titres du commerce extérieur lorsqu'ils sont nécessaires, de la refonte des textes épars sur l'importation ou le transit, ou de la modification des régimes de prohibition et de contingentement ou des avantages que le Niger aurait accordés à un autre pays en dehors d'un accord international(2).

Les seules limites que ne pourra pas franchir le réformateur sont constituées par un certain nombre de grands principes proclamés dans le projet de constitution(2) et qui seront donc vraisemblablement bientôt en vigueur : la liberté d'entreprise(3), la non-rétroactivité des lois et règlements(4)(5), déjà édicté, mais moins efficacement, par l'article 2 du code civil applicable au Niger(6) et le respect des traités et accords internationaux qui constituent les normes législatives suprêmes puisqu'ils priment toute disposition législative ou réglementaire interne.

b)- Or, les contraintes juridiques internationales, qui constituent donc des impératifs inévitables, sont assez nombreuses. Elles découlent de la signature par le Niger d'accords bilatéraux ou de son adhésion à un traité ou à une convention multilatérale.

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(1)- comme l'octroi, aux marchandises importées en provenance du Honduras, du tarif minimum (A. n° 294/MFAE du 28 novembre 1963, J.O. n°.23 du 1er decembre 1963.8)

(2)- adopté et soumis à référendum par l'ordonnance n°.89.06 du 8 février 1989, J.O. sp. n° 1 du 22 février 1989.1.
(3)- article 13 du projet de constitution.
(4)- article 86 " " .
(5)- sauf si leur rétroactivité peut conférer des droits et avantages au citoyen (article 86 du projet).
(6)- voir sur ce point notre rapport n° 2, D, b.

1. Les accords bilatéraux signés par le Niger(1) ne sont pas très contraignants comme nous l'avons constaté en les annotant. Il comporte tous, soit la "clause de la nation la plus favorisée"(2), soit "l'engagement par les parties de s'accorder réciproquement le traitement le plus favorable possible"(3), soit "l'engagement à s'accorder un traitement aussi favorable que possible dans l'octroi réciproque des autorisations d'importation et d'exportation"(4), soit "l'engagement de déployer les efforts appropriés pour promouvoir le commerce entre les deux pays sur une base mutuellement avantageuse"(5), soit "l'engagement de ne prendre aucune mesure discriminatoire à l'égard de leurs échanges réciproques"(6).

Ces engagements ne sont pas très lourds. Le plus précis d'entre eux, la clause de la nation la plus favorisée(se trouve en outre systématiquement limité par une réserve importante : il ne s'applique pas aux avantages que chacune des parties accorde ou accordera aux pays limitrophes ou aux pays faisant partie avec elles d'une union douanière, d'un marché commun, d'une zone de libre-échange ou d'une zone monétaire déjà créés ou qui pourront être créés à l'avenir.

Le reste de ces accords contient surtout des déclarations de bonne volonté et des promesses de laisser librement circuler les échantillons et catalogues et de permettre à chaque partie d'organiser sur le territoire de l'autre des foire et des expositions.

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(1)- annotés dans notre rapport n° 1, III, A.
(2)- accords avec la Chine, la Confédération helvétique, la Corée du sud, le Nigéria et la Roumanie.
(3)- accord avec l'Algérie et la Yougoslavie.
(4)- accords avec le Japon, le Maroc et la Tunisie.
(5)- accords avec le Pakistan, l'Egypte et l'URSS
(6)- accords avec la Pologne et la Tchécoslovaquie.
(7)- par cette clause, un Etat s'engage à consentir à son partenaire tous les avantages qu'il pourrait par la suite consentir à un Etat tiers.
Les clauses parlant de traitement "le plus favorable possible" ou "aussi favorable que possible" sont certainement assimilables à elle.

2. L'adhésion du Niger à des organisations régionales à caractère économique ou financier crée des contraintes autrement plus lourdes.

2.1. L'organisation régionale à laquelle le Niger a adhéré depuis le plus longtemps est le conseil de l'Entente qui regroupe la Côte d'Ivoire, le Bénin, le Burkina-Faso, le Niger et le Togo.

Ces Etats ont passé, en 1970, une convention créant entre eux la communauté économique du bétail et de la viande (C.E.B.V.)(1), abrogée et remplacée par une autre convention signée en 1978. La première avait été suivie d'un certain nombre d'accords qui sont restés en vigueur après son abrogation.

Ils sont relatifs à l'information statistique, à la qualité de la viande, aux catégories de bétail, aux pistes du bétail, à l'organisation et la réglementation des professions touchant au commerce du bétail et de la viande dans les Etats de la Communauté(2).

On doit en mentionner à part deux autres qui sont plus importants :

- l'accord sanitaire n° 8 des 1er et 2 février 1974, qui traite de l'information sanitaire entre Etats membres, de la transhumance, des échanges commerciaux d'animaux, des échanges commerciaux de viandes entre Etats membres et de la coopération sanitaire en zone frontalière.

- l'accord n° 9 des 1er et 2 février 1974, qui réalise l'harmonisation de la réglementation douanière applicable

(1)- voir notre rapport n° 1, III, B, b.

(2)- Sur ce dernier point, la législation interne du Niger a été adaptée pour être conforme à l'accord C.E.B.V. (voir ordonnance n° 86.015 du 3 avril 1986 relative au commerce du bétail et de la viande, J.O. n° 9 du 1er mai 1986.434 et notre rapport n° 1, III, B, b, in fine).

aux importations, exportations et transit du bétail et de la viande dans les Etats de la communauté.

Le dernier de ces deux accords faisaient obligation aux Etats membres, en son article 4, de diminuer de 10 % pendant une période de deux ans, à compter de la date de son entrée en vigueur, les taux des droits et taxes d'entrée et de sortie perçues sur ces marchandises dans les échanges inter-Etats communautaires et applicables à la date de sa signature.

Il était prévu qu'au terme de cette période expérimentale de diminution des taxes, le conseil des ministres statuerait sur l'opportunité de modifier, de poursuivre ou d'annuler cette expérience. Nous n'avons trouvé aucune trace d'une telle décision dans le journal officiel.

Cette diminution étant réservée aux échanges internes à la communauté, l'accord prévoit que la preuve de l'origine communautaire se ferait par un "passeport de circulation" pour les bovins, les ovins et les caprins et "par tout autre document justificatif pouvant être exigé par l'Etat importateur" pour les porcins, les équins, les asins, les camelins et les viandes et abats. Pour la même raison, l'accord prévoit également que la garantie de l'arrivée à destination privilégiée des marchandises exportées d'un Etat membre vers un autre Etat membre, est assurée par l'obligation faite à l'exportateur de souscrire auprès du service des douanes de l'Etat exportateur, une "SOUMISSION" portant engagement de présenter dans l'Etat communautaire de destination, les marchandises à l'importation pour mise à la consommation. Cette soumission est garantie par une caution.

Cet accord se résume donc à une préfé[illegible]e Etats membres ; il n'établit pas la libre circulation du bétail et de la viande à l'intérieur de la communauté.

On pourrait penser que la C.E.B.V. se t[illegible] aujourd'hui dépassée par le traité de la C.E.A.O. qui institué la libre circulation des animaux vivants et des produits de l'élevage ;

ce n'est pas exact car les membres de la C.E.B.V. ne sont pas les mêmes que ceux de la C.E.A.O. : le Togo fait partie de la première et non de la seconde ; à l'inverse, le Mali, la Mauritanie et le Sénégal sont membres de la seconde mais non de la première. Les aires géographiques d'application des deux accords ne coïncident pas.

2.2. La deuxième organisation régionale à caractère économique ou financier à laquelle le Niger a adhéré est la communauté économique de l'Afrique de l'ouest (C.E.A.O.) instituée le 17 avril 1973 entre la Côte d'Ivoire, le Burkina-Faso, le Mali, la Mauritanie, le Niger et le Sénégal, elle entra en activité le 1er janvier 1974 ; le Bénin y adhéra en 1985 (1).

De toutes celles dont le Niger fait partie, c'est elle qui fonctionne le mieux et qui est allée le plus loin, semble-t-il, dans la réalisation de ses objectifs de départ(2).

2.2.1. Les principales règles communautaires.

2.2.1.1. Le régime préférentiel spécial applicable, dans certaines conditions, à l'importation dans les Etats membres des produits industriels originaires des autres Etats membres est effectivement appliqué depuis le 1er janvier 1976.
Rappelons qu'il repose sur la substitution d'une taxe de coopération régionale (T.C.R.) à l'ensemble des droits et taxes perçues à l'importation dans chaque Etat membre(4). La procédure d'agrément d'un produit au bénéfice de la T.C.R. a donné lieu à plusieurs décisions du Conseil des ministres de la communauté(5). Cinq entreprises nigériennes ont fait agréer un

(1)- voir notre rapport n° 1, p. 101 et 110.
(2)- voir notre " " p. 102 et s.
(3)- Acte n° 1/CEAO/75 du 1er avril 1975, J.O. sup. n° 1 du 1er avril 1976.198.
(4)- à l'exclusion, le cas échéant, des taxes spécifiques ou ad valorem, frappant également et au même taux, les produits de l'espèce, que ceux-ci soient produits localement ou importés.
(5)- Voir notre rapport n° 1, p. 110 et s.

un ou des produits : la société nigérienne de textile (SONITEXTI (SONITEXTIL), la société d'exploitation des produits d'arachides du Niger (SEPANI), l'office de l'énergie solaire (ONERSOL) et la société nigérienne de tannerie (SONITAN). La diversité des taux de la T.C.R. ne facilite pas la tâche des services des douanes ; les discussions qui eurent lieu pour l'adoption d'un taux unique n'ont pas, jusque-là abouti(1).

2.2.1.2. La libre circulation, à l'intérieur de la communauté, en franchise de tous droits et taxes d'entrée(2), des produits du cru originaires des Etats membres(3) est réalisée depuis le 1er janvier 1976, date à laquelle fut en effet fixée la "suppression de toutes les mesures administratives susceptibles de restreindre ou d'interdire la libre circulation dans la Communauté des marchandises originaires des Etats membres"(4).

2.2.1.3. Par l'article 50 du traité et la décision n° 13/CM/CD/75 du 26 décembre 1975(5), les Etats membres s'accordent mutuellement le bénéfice de la clause de la nation la plus favorisée. Si un Etat membre de la Communauté est amené à prendre des mesures tarifaires tendant à supprimer tout ou partie des droits et taxes perçus à l'importation d'un produit en provenance d'un pays tiers, il doit donc en informer dans les meilleurs délais le secrétariat général de la Communauté qui diffusera l'information aux autres Etats membres et accorder le même avantage à ce produit lorsqu'il est importé sur son territoire en provenance de celui d'un autre Etat membre.

2.2.1.4. L'établissement, en 12 ans, d'un tarif douanier et fiscal d'entrée commun dans les relations de la

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(1)- voir J. LAMA, rapport sur la politique commerciale, p.16.
(2)- à l'exclusion, le cas échéant, des taxes intérieures spécifiques ou ad valorem.
(3)- pour plus de précisions sur ces produits, voir notre rapport n° 1, p. 101 et s.
(4)- Acte n° 1, C.E.A.O./75 du 8 avril 1975, précité.
(5)- J.O. n°. sp.1 du 10 avril 1975.201.

communauté avec les pays tiers est enfin prévu.

Telles sont les contraintes qui découlent pour le Niger de son appartenance à la C.E.A.O. et les règles qu'il doit respecter dans ses rapports commerciaux avec les autres Etats membres.

2.2.2. La clause de sauvegarde.

Cependant, comme le prévoit l'article 51 du traité, portant clause de sauvegarde, chaque Etat membre peut, à certaines conditions, prendre des mesures contraires aux règles communautaires lorsque la situation de son économie le justifie.

2.2.2.1. D'après l'article 51, alinéa 1 du traité, la clause de sauvegarde peut jouer dans l'une des trois hypothèses suivantes :

- si "des perturbations sérieuses se produisent dans un secteur de l'activité économique d'un ou plusieurs Etats membres" ;
- si "des difficultés surgissent se traduisant par l'altération de la situation économique d'un Etat membre"
- si l'un des Etats membres a besoin de "protéger une industrie naissante".

Tout Etat membre se trouvant dans l'une de ces trois situations peut donc suspendre en ce qui le concerne l'application des règles communautaires et introduire dans sa réglementation du commerce extérieur des dispositions qui sont en contradiction avec elles.

2.2.2.2. La procédure à suivre est décrite dans l'article 51, alinéas 1 et 2.

Dans les deux premières hypothèses, l'Etat qui prend des mesures de sauvegarde doit en informer immédiatement le secrétaire général de la Communauté.

Dans la troisième hypothèse, il doit donner cette information deux mois au moins avant la mise en application des mesures envisagées.

Dans les trois cas, cette information doit être accompagnée de toutes les explications nécessaires pour pouvoir juger de la nécessité des mesures prises ou projetées.

2.2.2.3. De telles mesures sont essentiellement provisoires ; selon l'article 51, alinéa 3, elles ne peuvent demeurer en vigueur que pendant un délai d'un an à compter du jour de leur intervention et elles ne peuvent être prorogées au-delà de ce délai que sur décision du conseil des ministres de la Communauté.

2.2.2.4. Les textes nigériens qui soumettant l'importation d'un produit, quelle qu'en soit l'origine(1), à la levée d'une licence ou qui en prohibe ou en contingente l'importation(2) sont contraires au traité de la C.E.A.O et au principe de la libre circulation, à l'intérieur de la Communauté, des marchandises qui sont originaires d'un Etat membre.

Nous ne savons pas si elles ont été prises à titre de sauvegarde en application de l'article 51 du traité et si elles ont, en conséquence, fait l'objet de la procédure d'information décrite plus haut.

Quoiqu'il en soit, les mesures les plus récentes(2), reprennent des dispositions anciennes(3) qui s'appliquaient depuis

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(1)- c'est-à-dire même s'ils sont originaires de la C.E.A.O.

(2)- comme c'est le cas de l'arrêté n° 05/MCI/A/DCE du 8 mars 1988, de la note d'information n°001/MCI/A/DCE du 2 novembre 1988 et de la circulaire n° 002/MCI/A/DCE/ST du 6 décembre 1988 ; voir notre rapport n° 1, p. 39 et 126 et s.

(3)- mais en diminuant le nombre de produits dont l'importation est prohibée ou soumise à la levée d'une licence.

plus d'un an et dont il est difficile de justifier le maintien si l'on se réfère à l'article 51 du traité. Il semble d'ailleurs que les autres membres de la communauté fassent de même. Le fait et le droit ne coïncident pas exactement en ce domaine.

Mise à part ces mesures contraires aux règles communautaires, la C.E.A.O. fonctionne ; elle en est à la phase de "zone de libre échange"(1). Elle offre un vaste marché protégé aux produits agro-pastoraux du Niger. Cependant, exception faite du bétail et de la viande, le Niger est plus importateur qu'exportateur de ces produits ; en outre, "le débouché traditionnel le plus important des produits agro-pastoraux du Niger est le Nigéria"(1) qui n'est pas membre de la C.E.A.O. C'est pourquoi il a toujours été(2) - et sera probablement pendant longtemps(3)- nécessaire de réglementer de façon spécifique l'échange de ces produits avec le Nigéria.

L'appartenance du Niger à la C.E.A.O. impose au législateur de concevoir une politique du commerce extérieur qui respecte en tout point les règles communautaires.

2.3. La troisième organisation régionale à caractère économique ou financier à laquelle participe le Niger est la communauté économique des Etats de l'Afrique de l'ouest (C.E.D.E.A.O.)(4).

La C.E.D.E.A.O. fut instituée par le traité signé à Lagos le 28 mai 1975 entre la Côte d'Ivoire, le Bénin, la Gambie, le Ghana, la Guinée, la Guinée Bissau, le Burkina-Faso, le Libéria, le Mali, la Mauritanie, le Niger, le Nigéria, le Sénégal

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(1)- J. LAMA, rapport sur la politique commerciale, p. 9.
(2)- voir les nombreux textes propres aux échanges commerciaux entre le Niger et le Nigéria dans notre rapport n° 1, p. 77 et s.
(3)- Au moins jusqu'à ce que la libre circulation des produits soit instaurée au sein de la C.D.E.A.O. dont le Niger et le Nigéria font tous deux partie.
(4)- voir notre rapport n° 1, p. 113.

le Sierra-Léone et le Togo, soit 15 Etats. On peut noter que tous les Etats membres de la C.E.A.O. en font partie.

Les objectifs de la C.E.D.E.A.O. sont sensiblement les mêmes que ceux de la C.E.A.O. mais le traité de Lagos prévoyait un temps beaucoup plus long de réalisation, 13 ou 15 ans pour certains d'entre eux.

Aujourd'hui, la seule réalisation originale de la CEDEAO est la chambre de compensation de l'Afrique de l'ouest (C.C.A.O.) qui permet de régler les opérations commerciales entre les pays de l'U.M.O.A., dont la monnaie, le franc CFA, est convertible et les autres pays de la C.E.D.E.A.O., dont les monnaies sont inconvertibles. Le mécanisme de la C.C.A.O. est décrit dans le rapport de l'expert en devises (1).

2.4. La dernière organisation régionale à caractère économique ou financier à laquelle le Niger participe est l'union monétaire ouest-africaine (U.M.O.A.) dont la monnaie commune est le franc C.F.A. qui s'échange au taux fixe de 50 francs CFA pour 1 franc français. L'appartenance du Niger à la zone franc et à l'U.M.O.A. détermine totalement le système de change nigérien, c'est-à-dire le taux de change, la gestion des réserves et le régime du contrôle des changes(2).
La réglementation du commerce extérieur relative aux mouvements de fonds consécutifs à ces opérations commerciales(3) est donc étroitement conditionnée par cette double appartenance ; une réforme ne pourra évidemment rien changer d'essentiel sur ce point.

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(1)- J. LAMA, "Aperçu sur le système de change", p. 25 et s.
(2)- " ib., eod. loc., p. 3 et s.
(3)- Rapatriement du produit financier des exportations ou paiement à l'étranger des importations.

3. Enfin, les dernières contraintes juridiques, que devront avoir en vue ceux qui prépareront la réforme de la réglementation nigérienne du commerce extérieur, découlent de l'adhésion du Niger à deux conventions internationales à caractère économique.

3.1. Partie contractante de l'accord général sur les tarifs douaniers et le commerce (G.A.T.T.) depuis le 20 novembre 1964(1), le Niger se doit de respecter les grands principes contenus dans cet accord qui veut éviter, dans le commerce international, les préférences et les discriminations injustifiées ainsi que les pratiques protectionnistes.

3.2. Associé à la C.E.E. par le biais de la convention de Lomé(2) le Niger doit s'abstenir de contingenter les marchandises originaires de la C.E.E., celle-ci ayant réciproquement la même obligation à l'égard des produits originaires des pays ACP. Cependant, cette réciprocité de principe n'est pas totale et les pays "ACP" ne sont pas tenus de souscrire, en ce qui concerne l'importation de produits originaires de la C.E.E., des obligations correspondant aux engagements pris par les Etats de la C.E.E."(3). Des mesures de sauvegarde leur sont largement permises. Les textes nigériens(4) contingentant les produits de toutes origines sont donc compatibles avec les règles de la convention ACP-CEE(5).

Une autre obligation est faite au Niger par la convention d'association, celle de n'exercer aucune discrimination entre les Etats membres de tous ses échanges avec la C.E.E.(3)(6).

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(1)- voir notre rapport n° 1, p. 123.
(2)- " " " ", p. 115 et s.
(3)- J. LAMA, rapport sur la politique commerciale, p. 5.
(4)- Arrêté n° 05/MCI/AD/CE du 8 mars 1988 et note d'information n° 001/MCI/A/DCE/ST du 2 novembre 1988 et circulaire n° 002/MCI/A/DCE/ST du 6 décembre 1988, précités.
(5)- alors qu'ils ne le sont pas avec les règles de la C.E.A.O, sauf mise en oeuvre, selon la procédure prévue, de la clause de sauvegarde, voir supra, b, 2.2.
(6)- article 136, de la Convention de Lomé.

La préférence traditionnelle du Niger à l'égard de la France se trouve donc réduite par ce texte ; cependant, les deux pays étant membres de la zone franc, des avantages non négligeables découlent pour le Niger à commercer avec la France et peuvent le conduire à la préférer aux autres membres de la C.E.E. ; ils ont trait à la simplicité des opérations financières nécessitées par une importation ou une exportation.

Enfin, nous noterons que la convention de Lomé fait obligation au Niger d'accorder à la communauté économique européenne le bénéfice de la clause de la nation la plus favorisée.

Nous arrivons ainsi au terme de notre description des contraintes économiques et juridiques s'imposant au Niger et qui limiteront toute réforme de la réglementation du commerce extérieur sans pour autant la rendre inutile, comme nous le constaterons en déterminant les différents objectifs qu'il convient de lui assigner.

ANNEX 6
Clearing House

WEST AFRICAN CLEARING HOUSE

Helpful information for banks and their customers

The West African Clearing House (WACH), the first multilateral clearing agreement in West Africa, was created in 1975 by the Regional Committee of West Africa of the Association of African Central Banks.

The agreement was signed in Lagos on March 14, 1975 by the Governors of the seven Central Banks representing twelve countries of the Region and operations began in July 1976. Three other Central Banks have joined the institution since that time, while one of the founding members (a central bank) merged with another member Central Bank. As a result of this event, the Clearing House is currently comprised of nine member Central Banks representing fifteen countries.

OBJECTIVES

The objectives of the Clearing House as set forth in the agreement are to:

I. Foster the use of currencies of the members of the Clearing House in regional commercial transactions;

II. Save money by using the foreign currency reserves of the members of the Clearing House;

III. Encourage Clearing House members to liberalize commercial trading between the two countries;

IV. Further cooperation and monetary consultations among the members of the Clearing House.

Eligible transactions

All payments for ordinary transactions among the member countries may go through the clearing house. However, payments for inter-regional trade of products of an origin other than West Africa are excluded. Intergovernmental donations, intergovernmental loans and payments that are not ordinary international transactions as defined by the International Monetary Fund (IMF) may be included only after the mutual consent of the parties concerned has been obtained. Payments for transactions between the member countries of the West African Monetary Union will not go through the Clearing House system.

Unit of account

A unit of account, on the basis of which the relative values of the currencies of the members may be determined, is used to record transactions through the clearing house system. This unit is called the "West African Unit of Account" (WAUA), and its value is equal to that of one Special Drawing Right (SDR) of the IMF. The price of the currency of each Bank in terms of the WAUA is calculated twice each month by the Secretariat of the Clearing House and is disclosed to all member Banks. Each series of prices is valid only for fifteen days during any given month.

Transactions that go through the Clearing House system are recorded in the currency of the countries involved and the banks convert these amounts into WAUAs.

Procedure for wire transfers, transfers via the mail and other payments (except for those by letters of credit).

A commercial bank that executes the payment order of a customer for a person who resides in another country whose Central Bank is a member of the Clearing House must send the payment order to the Central Bank of his own country and provide the following information:

I. Name and address of the person placing the order

II. Amount, usually in the national currency of the country of the beneficiary (and/or in the currency of the country of the person sending the funds) in WAUAs.

III. Name and address of the beneficiary, his bank and the branch to which it must be paid and, if possible, his account number.

IV. Type of transaction (to allow the Secretariat to classify the transactions of the Clearing House and to improve the statistics it collects).

Transactions are classified as follows:

A. Transfers of goods and services

I. Goods
II. Services
- Travel
- Other services

B. Financial transfers
I. Embassies
II. Contributions to regional organizations
III. Donations

- Intergovernmental donations
- Private donations

IV. Tuition
V. Other

C. Transfers of capital

I. Governmental
II. Private

Upon receipt of the required information, the Central Bank sends the order by wire (or by the regular mail for amounts under 1,000 WAUAs) to its counterpart in the country in which the beneficiary resides and at the same time advises the Secretariat of the Clearing House. The Central Bank of the country of the beneficiary credits the commercial bank in question which ultimately issues payment.

Payment by letter of credit

When a payment must be made through an irrevocable and confirmed letter of credit (LC), the beneficiary (exporter) must, as is normally done in standard banking practice, be paid as soon as he submits all the documents required under the LC to the bank. Said bank must then file for payment from the Central Bank of his country, which honors the request as quickly as possible if it is established that the payment is in proper and due form. The Central Bank advises the Clearing House and the Central Bank of the country of the importer of the transaction and requests credit for the amount in question. The exporter's commercial bank, immediately after paying its customer, must send the documents received from him to the importer's bank. Upon receipt of these documents, the importer's bank submits a request for payment in the amount owed before issuing the documents enabling him to take possession of the items in question. This bank must then pay the amount received from the importer to its Central Bank, which was supposed to have already confirmed the transaction with the Central Bank of the country in which the exporter resides and with the Secretariat of the Clearing House.

Benefits

All transactions that go through the clearing house system must meet the foreign exchange control regulations of the countries involved. However, the transactions of the Clearing House enjoy the benefits of foreign exchange regulations more easily than other types of international payments.

Besides financing from the Clearing House, Central Banks provide other benefits to bank customers as well as to commercial and investment banks for transactions made through the clearing house system. The Central Banks pay for all telex and cable costs in the transfer of any amount greater

than or equal to 1,000 WAUAs and air mail costs for the transfer of any amount. The Central Banks also pay for all risks of fluctuations in exchange rates for all the transactions of the Clearing House.

Payment of balances

Balances are paid multilaterally at the end of each month among the Central Banks with a 15-day grace period to allow the Banks with a net debit position to pay the creditor banks in convertible currencies.

Transaction trends

After having recorded an average of 3.6 million WAUAs per month during the first two years (1976/77-18977/78), transactions rose substantially over the next three years. Estimated at 74.28 million WAUAs in 1978/79, total transactions exceeded the figure of the preceding year (69.64%).

In 1979/80, transactions increased by another 45.85% and reached 108.35 million WAUAs. Total transactions in 1980/81 rose to 167.65 million WAUAs for an increase of 54.73% compared with the level recorded one year earlier. However, in 1981/82, the trend reversed when, for the first time, transactions dropped 14.58% compared with the previous year and amounted to 143.21 million WAUAs.

In 1982/83 there was some improvement since total transactions were 158.31 million WAUAs, a rise of 10.54% compared with the level of one year earlier; however, this figure represents a drop of 5.57% compared with the level of 1980/81.

The value of transactions for 1983/84 was greater than that of any earlier period: estimated at 224.40 million WAUAs, it rose 41.75% compared with the figure of the previous year and 33.85% compared with the 1980/81 level.

Even if there is an upward trend for the value of transactions made through the clearing house system, it should be noted that a considerable portion of eligible intra-regional transactions and other transactions are still made outside the system.

Reasons the clearing house system is not used for all eligible transactions

I. Relatively poor lack of knowledge of the system

II. Lack of enthusiasm from banks to break with traditional practices

III. Poor communications

IV. Lack of reciprocity in intra-regional trade

V. Foreign exchange controls

ANNEX 7
Newspaper Articles on Aftermath of the Structurual Adjustment

DAILY TIMES
NIGERIA'S LARGEST DAILY SALE
Published since 1926

Better life for the middle class

THE Structural Adjustment Programme (SAP) has made very decisive impacts on the structure and value system of our society. Beyond the beneficial effect of injecting a cost-consciousness into our previously extravagant public and private life styles, most observers of the Nigerian scene would also readily concede that the economic environment created by SAP has further widened the gap between the rich and the poor. This may not have been intended but it is obviously unpalatable.

It is perhaps in recognition of this situation that government initiated such programmes as the People's Bank, Mass Transit and rural development. These programmes have, within the limits of available resources, brought considerable relief to the poor in both the rural and urban areas. Their fullest benefits can only await the fullness of time.

What is perhaps most disconcerting, however, is the sorry level to which the nation's middle class has been allowed to descend. In spite of the fluidity of social classes in our situation, we can still point to a broad spectrum of functionaries consisting of middle to high income executives in the public and private sectors: university and high school teachers, technicians, administrators and sundry others who can be designated as our own equivalent of the middle class in other societies.

In any development oriented society, the middle class is crucial to any policy geared towards meaningful economic development. In addition to furnishing the necessary bureaucratic and technocratic skills that work an economy, it also provides, through the media, the very interpreters of a given milieu. The level of contentment among the middle class is also an indication of whether, infact, a social and economic reform programme has of chance of succeeding and taking root.

It is in recognition of this that we are compelled to raise an alarm at the present mood of dejection among the nation's middle class. It is a mood occasioned by the sudden disappearance, under the SAP regime, of those indices of wellbeing which energise and sustain the productivity of the mid le class.

These include access to affordable housing, means of transportation, education for their children as well as a minimum level of nutrition. It is the paucity or near absence of these in recent times that has occasioned the phenomenon of brain drain. We also look more closely at the growing incidence of official erruption and avoidable thievery among officials in the public and private sectors. It may not be unconnected that the erosion of the symbolic benefits that sustain the illusion of middle class contentment.

It is of course true that our economy is in a poor shape and cannot, therefore, support some privileges. But it is also true that we need this class to bail out the economy.

There is, in fact, scope in the present deregulated economic atmosphere to create a better life for our middle class. The bottom line, it seems to us, is the availability of affordable credit. It ought to be possible for government to create an environment in which this class of Nigerians can borrow money with favourable terms to build or buy their own houses and purchase vehicles while still being able to feed their families and live decently.

In this era of better life for everyone, let us not forget the middle class also.

TIMES OPINION 20 YEARS AGO

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Best Available Document

Banks burdened by ₦9.4bi bad debts

By EMEKA ODO
Economic Correspondent

NIGERIA'S banking industry, currently recuperating after the recent liquidity mopping up exercise of the Central Bank of Nigeria (CBN), is burdened by ₦9.4 billion bad and doubtful debts which the banks are finding difficult to recover.

These debts, which financial experts said are the result of bad lending policies and corruption on the part of some bank staff, are being owed 62 banks which were subjected to an appraisal by the Nigerian Deposit Insurance Corporation and does not include those owed other banks which were yet to be appraised by NDIC officials.

Bad and doubtful debts are loans which a bank extended to its customer but which the customer is no longer servicing (payment of interest and capital as and when due) and which it is most probable the bank would not be able to recover.

These bad, doubtful and lost loans are [illegible] per cent of [illegible] advances outstanding at the 60 banks as at December 1989, a percentage which financial experts said was too high and unhealthy for the banking system.

A breakdown of the figures showed that 19 privately owned commercial banks gave out the bulk of the loans — ₦5.175 billion or 55 per cent of the total, which was 40 per cent of their total loans and, all values [illegible]

The privately owned com-

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Banks

(Continued from Page 1

mercial banks were followed by 20 state-owned banks who doled out N3.594 billion which later turned into bad and doubtful debts and which is 64 per cent of their total loans and advances.

The remaining N676 million bad and doubtful debts were given out by 23 merchant banks. The debts constitute only 15 per cent of their total loans and advances outstanding as at the end of last year.

The emerging picture, financial analysts said, seems to suggest that the merchant banks were more careful in assessing customers and projects for which they gave out loans and advances.

The NDIC explained that these bad and doubtful debts are caused by many factors, some of which include:

- Poor selection of risks. For example, loans for speculative purchase of securities or commodities and loans granted on the basis of collateral pledged;
- Over-lending: For example, loans beyond the reasonable capacity of the borrower's ability to repay;
- Incomplete credit information: For example, loans granted without adequate supporting credit information such as purpose of borrowing and sources and terms of repayment;
- Failure to establish or enforce liquidation agreement: For example, loans granted without formal agreements on terms of repayments;
- Over-emphasis on income: For example, loans granted mainly on the basis of expected earnings with little attention to repayment capacity;
- Self-dealing: For example, loans granted to directors/shareholders because of their position as owners without application of the established cannons

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ANNEX 8
Statistics on Natural Resources and Prices, Nigeria Central Bank Statistics

annexe 8

ANNEX 1

Available major raw materials in Nigeria their location and the products into which they can be processed

RAW MATERIALS	LOCATION (STATES)	PROCESSED PRODUCTS
Cattle, goats and sheep	Borno, Bauchi, Kano Kaduna, Sokoto	Hides, leather goods fresh and frozen meat bones, blood, skins and wool, milk and products
Domestic fowls, chicken, ducks, turkey	Most parts of Nigeria	Eggs, broilers, spent layers meat
Tomatoes, oranges, pineapples, mangoes, etc.	Widely grown in most parts of Nigeria	Natural and concentrated juice, jam, animal feed sugar syrup.
Onions, tubers, beans, carrots, potatoes and other vegetables	Most parts of Nigeria	Dehydraited vegetables and other food products
Fish	Mangrove swamp, Lake Chad Main Rivers in Nigeria, Niger, Benue, Ogun Forcados, Cross River and Kaduna River and Nigerian Territorial water.	Fish meal, fish oils, fresh and frozen fish glue, lubrication, varnishes soap and industrial uses
Cotton seeds, groundnuts coconut, palm kernel, palm oil, soya bean	Anambra, Cross River, Rivers, Bendel, Imo Ondo Ogun, Gongola, Benue, Oyo and Kwara States	Edible oil, soap and detergents, lubricants cake
Maize, guinea corn (sorghum), millet	Ogun, Ondo, Benue Bendel Gongola, Bauchi, Kaduna Sokoto, Kano, Borno, Oyo Anambra, Imo, Cross River and Kwara States	Corn flakes, (cereal flaking process) cakes flour, animal feed, starch and other food products
Rice	Gongola, Bendel, Ogun Borno, Anambra, Imo States	Whole rice, broken rice bran
Cocoa	Ogun, Oyo, Ondo and Bendel States	Cocoa, butter, chocolate sweets, soap and cosmetics, wine, beverages and other confectionery and bakery
Yam, cassava, maize	Oyo, Gongola, Imo, Kaduna Anambra, Ogun, Cross River [illegible] and	Glucose, food, starch for textile and paper industries and laundries

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Limestone	Anambra, Oyo, Ogun, Niger Bendel, Sokoto, River, Benue and Kwara States	Cement manufacture, and fluxing stone for iron smelting
Salt	Anambra, Cross River, Bauchi and Kwara States	Food stuff uses, uses in agricultural and industrial chemicals, textile industrial soap making and explosives
Talc	Kwara, Oyo and Niger States	Used in point, cement, toileteries and furnaces
Wolframite	Bauchi, Benue, Kano and Plateau States	Used mainly in manufacture of tungsten steel and electronic bulb filaments
Zircon	Plateau State	Used in nuclear reactors chemicals plant
Tantalum	Oyo, Ondo, Kwara, Kaduna and Plateau States	Used in the manufacture of dental, surgical and military instruments and equipments
Marble	Bendel, Kwara, Oyo and Niger States	Used for metallurgical processes chemical industry, cement production, road and building construction
Phosphate	Ogun and Sokoto States	For phosphate fertilizers
Shalc	Anambra and Imo States	Ingredients for bricks and heavy clay products

Source: Federal Ministry of Agriculture, Water Resources and Rural Development, External and Agricultural Investment Bureau, 1626 Saka Jojo Street, Victoria Island, Lagos, march 1986.

ANNEX 4

INCENTIVES TO INVEST IN NIGERIA
FEDERAL REPUBLIC OF NIGERIA

Pioneer Industries - Schedule of Products

	PIONEER INDUSTRIES	SCHEDULE OF MAIN PIONEER PRODUCTS
1.	Cultivation and processing of food crops, vegetables	Preserved/canned foodstuffs and fruit, tea, coffee, refined sugar, tomatoe puree/juice, etc.
2.	Manufacture of cocoa products	Cocoa powder, cocoa butter, cocoa cake, chocolates, cocoa wine
3.	The processing of oil seed	Coconut oil, meat, cake; shell and shell flour, cotton-seed oil, meal, cake; flour and linters; lecethin; benniseed oil, meal, cake and flour; sheanut oil, meal and calke; essential oil, meal and cake; castor-seed oil, meal and cake; castor-seed oil, meal and cake; cashew-nut oil, meal and cake; sun-flower-seed oil, meal and cake; kernel cake.
4.	Integrated dairy production	Butter, cheese; fluid milk, milk powder; ice-cream. (By products: livestock, minor edible dairy products).
5.	Cattle and other livestock ranching.	Livestock.
6.	Bone crushing	Glue, gelatine, bone meal, bone flour, crushed bone, oil grease and tallow.
7.(a)	Deepsea trawling and processing	
(b)	Coastal fishing and shrimping	Preserved sea foods, fish and shrimps, fishmeal.
(c)	Inland lake fishing and processing	
8.	Mining of lead/zinc ores by underground mining methods	Lead-zinc ores.
10.	The manufacture of iron and steel from iron ore	Iron and steel products.
11.	The smelting and refining of non-ferrous base metals and the manufacture of their alloys.	Refined non-ferrous base metals and their alloys.

12.	Mining and processing of barytes and associated minerals.	Barytes and associated minerals.
13.	Manufacture of oil well drilling materials containing a predominant proportion of Nigerian raw materials.	Oil well drilling materials containing a predominant proportion of Nigerian raw materials.
14.	The manufacture of cement	Clinker
15.	Manufacture of glass and glassware.	Sheet glass; pharmaceutical and laboratory glassware; household glassware; (excepting lamp fittings); glass envelopes for electric lamps and electronic valves.
16.	Manufacture of lime from local limestone.	Lime.
17.	Quarrying and processing of marbles.	Marble and processed marbles.
18.	Manufacture of ceramic products	Refractory and heat-insulating constructional products; table ware; sanitary ware; laboratory ware.
19.	Manufacture of basic and intermediate industrial from predominantly Nigerian raw materials	(i) Basic and intermediate organic chemicals; (ii) Basic and intermediate inorganic chemicals; (iii) Fertilizers; (iv) Petrochemicals; (v) Synthetic textile fibres; (vi) Caustic soda and chlorine.
20.	Manufacture of pharmaceuticals.	Pharmaceuticals
21.	Manufacture of surgical dressings	Cotton wadding; dressing; bandages; sanitary protection.
22.	Manufacture of starch from plantation crop.	Starch.
23.	Manufacture of yeast, alcohol and related products.	Yeast, alcohol and related products.
24.	The manufacture of animal feedstuff.	Animal feedstuff.
25.	Manufacture of paper-pulp-paper and paper-board.	Paper-pulp; paper; paperboard.
26.	Manufacture of articles of paper-pulp, paper and paper-board.	Paper-pulp; paper; paperboard.
27.	Manufacture of leather.	Sole leather, upper leather and leather products.

28.	Manufacture of textile fabrics and man-made fibres	Yarn, thread, twine, cardage; bags, sacks; waterproff canvas; textile piece goods.
29.	Manufacture of products made wholly or mainly of metal	Pipes and tubes; nuts; bolts; rivets; washers; screws; nails; wire; extruded metal sections.
30.	Manufacture of machinery involving the local manufacture of a substantial proportion of components thereof.	Office and Industrial machinery equipment and apparatus (whether or not electrical).
31.	Manufacture of goods made wholly or partly of rubber	Tyres, tubes, compounded rubber sheeting camelback, rubber solution, rubber flooring compounds, rubber flooring.
32.	Manufacture of nets from local raw materials	Fishing nets, mosquito nets and related products.
33.	The processing of local wheat-flour milling.	Flour and offals.
.	Oil palm plantation and processing.	Palm oil, palm kernel, offals.
35.	Rubber plantation and processing.	Rubber.
36.	Gum Arabic plantation and processing.	Gum Arabic.
37.	Integrated wood projects.	Furniture, decorative veneer, black-board, particle board sean-timber, plywood.
38.	Manufacture of fertilizer.	Superphosphate and nitrogenous fertilizer.
39.	Commercial vehicles manufacture.	Commercial vehicles.

A major factor in the rising cost of living was the increase in the prices of staple foods arising from inadequate supply and competitive demand by industrial users. Other factors included the persistent depreciation of the naira exchange rate, sharp increases in interest rates and the generally high and rising cost of production, transportation and accommodation.

III.1 AGRICULTURE

III.1.1 Agricultural Production

As in 1988, the agricultural sector recorded significant improvement in 1989. All the sub-sectors except livestock, contributed to the improved performance of agriculture in the review period. At 120.1 (1975 = 100), the aggregate index of agricultural production increased by 6.1 per cent in 1989 compared with 3.5 per cent in 1988 (see Table 3.2). Crop production rose sharply by 7.4 per cent compared with an increase of 5.6 per cent in 1988. Staple food crops recorded a more significant increase of 8.9 per cent, while the rate of growth in cash crops output declined from 6.2 to 3.2 per cent. Output of major staples such as wheat, rice, millet, sorghum, beans and cassava recorded significant increases (see Table 3.3).

A country-wide survey of agricultural sector conducted by the Central Bank of Nigeria showed that the appreciable increase in agricultural production was attributable mainly to favourable weather situation during the year. Although average annual rainfall declined, the state by state distribution was fair and timely for improved agricultural activities (see Table 3.4). The heavy floods which characterised 1988 were virtually absent. Furthermore, except for isolated instances of dry spells in Sokoto, Borno and Kano States, and some floods in Anambra, Akwa Ibom, Benue, Bendel and Cross River States, the rainfall pattern in 1989 was generally very favourable to good crop yield.

Other factors which helped to boost agricultural output in the year included increased hectarage cultivated, and the concerted efforts by the various governments to minimise post harvest losses through the construction of modern storage facilities and improvement on traditional ones. The survey, however, showed that basic farm inputs such as fertilizers, chemicals, tools, tractors and equipments were in short supply in 1989. Total fertilizer distributed to farmers during the year was about 912,000 metric tonnes, representing a decline of 7.6 per cent from the level distributed in the previous year. Moreover, distribution was particularly inefficient in 1989, with widespread reports of diversion and black market operations which led to unprecedented hikes in the retail prices of fertilizer, in spite of continued substantial official subsidy estimated at about 55 per cent. This situation resulted in the reorganisation of the Federal Fertilizer Procurement and Distribution Department (FPDD), and concerted efforts to improve the distribution network during the second half of the year through reduction in freight charges and a more rational sharing of the subsidy between the State and the Federal Government.

With regard to other farm inputs, most farmers, especially owners of large commercial farms faced acute shortage of equipment and spare parts due to high cost of borrowing and continued depreciation of the naira exchange rate which made importation very expensive. There was however significant increase in the supply of improved seeds. During the year a total of 13,340 tonnes of assorted foundation seeds of maize, cowpeas, rice and sorghum were produced and distributed to farmers by the National Seeds Service. This represented an increase of 33.1 per cent over the level of supply in 1988. About 25,000 litres of chemicals (pesticides) were also distributed for combating pests in parts of Sokoto, Borno, Gongola, Kano and Katsina States, where invasion of quelea-birds occurred. Quality control activities were also stepped up during the year as about 15,004 tonnes of assorted grains, 28,456 tonnes of yam and 6,056 tonnes of seed cotton were inspected and graded at produce inspection centres located throughout the country.

The index of livestock production dropped by 2.1 per cent to 101.9 in 1989 compared with the decline of 2.6 per cent in 1988. The continued poor performance of the livestock sub-sector was traced largely to the poultry component which continued to be depressed due to inadequate supply and high cost of poultry feed. Output of lamb/mutton, beef and pork on the other hand recorded impressive increases of 4.9, 5.8 and 25.0 per cent, respectively. Although initial scarcity of poultry feeds was triggered off by the ban on maize grain import, the situation has not improved despite the substantial increase in domestic production because of increased domestic demand

TABLE 3.2

INDEX OF AGRICULTURAL PRODUCTION BY TYPE OF ACTIVITY (1987-89)

(1975 = 100)

	1987 (1)	1988[1] (2)	1989[2] (3)	*Percentage change between* (1) *and* (2) (4)	(2) *and* (3) (5)
Crops	115.9	122.4	131.4	5.6	7.4
(a) Staples	(113.3)	(119.1)	(129.7)	5.1	8.9
(b) Other Crops	(124.5)	(132.7)	(136.9)	6.6	3.2
Livestock	106.9	104.1	101.9	−2.6	−2.1
Fish	63.1	59.9	67.6	−5.1	12.9
Forestry	113.5	115.8	119.6	2.0	3.3
Aggregate	109.4	113.2	120.1	3.5	6.1

[1] Revised [2] Provisional

Source: Derived from data compiled from Federal Office of Statistics (FOS), Food and Agriculhural Organisation (FAO) Production year-book; Central Bank Annual Agricultural Survey, Annual Reports of Federal Ministries of Agriculture, Water Resources and Rural Development and Returns from State Ministries of Agriculture and Natural Resources.

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pharmaceutical companies. This situation has compelled most large-scale poultry farmers to diversify into piggery production where feed requirements depend largely on food waste and

was due largely to the improved availability of fodder and pastures following good rains during the year. There were also fewer reported outbreaks of pests in livestock during the year.

TABLE 3.3

ESTIMATED OUTPUT OF MAJOR AGRICULTURAL COMMODITIES

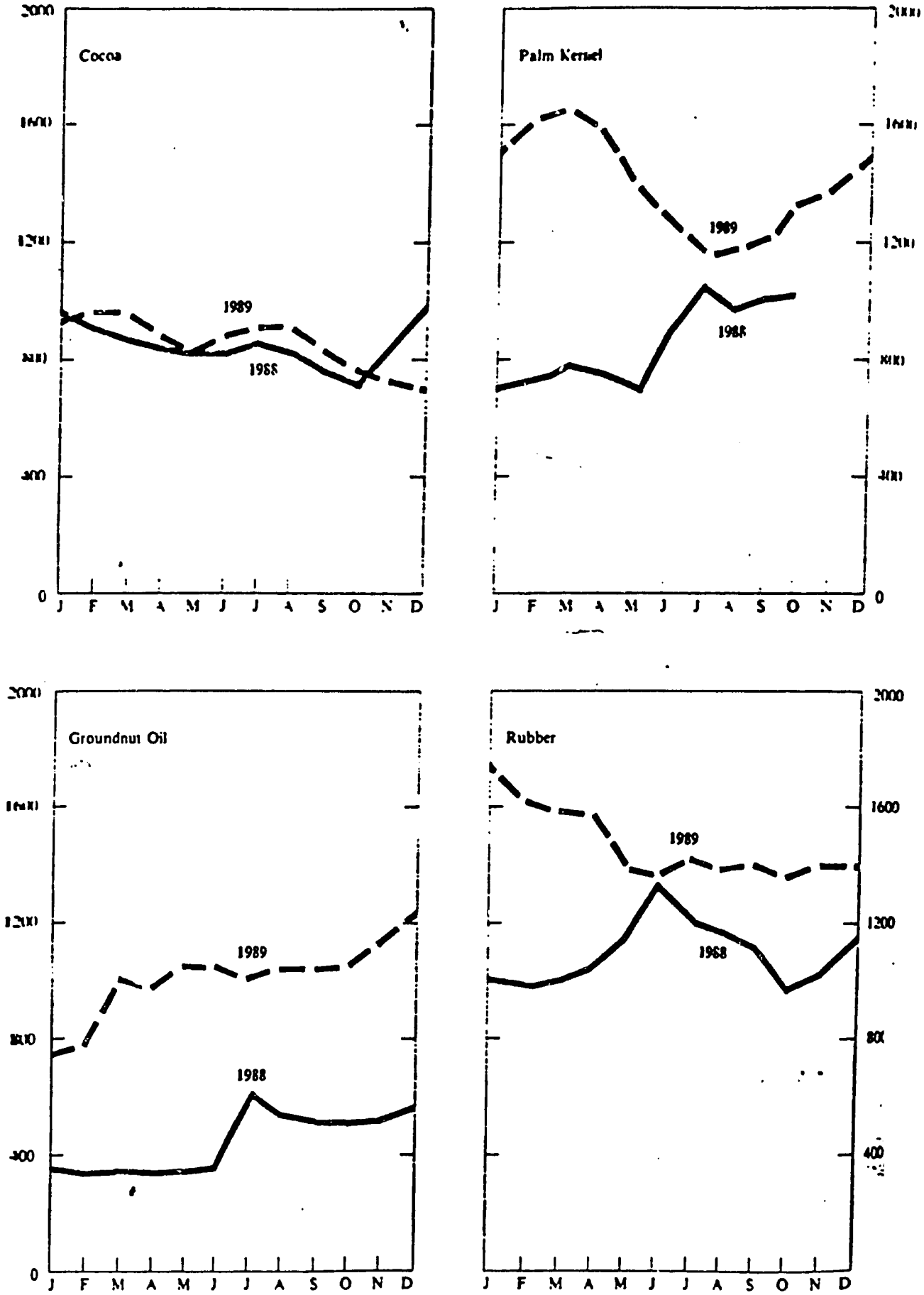
('000 Tonnes, Except Otherwise Stated)

	1987 (1)	1988[1] (2)	1989[2] (3)	Percentage change between (1) and (2) (4)	Percentage change between (2) and (3) (5)
1. *CROPS*					
i. Staples					
Maize	24,908	26,203	28,533	5.2	8.9
Millet	1,311	1,277	1,338	-2.6	4.8
Sorghum	3,070	3,720	4,170	21.2	12.1
Rice	3,468	3,298	3,587	-4.9	8.8
Wheat	514	529	555	2.9	4.9
Acha	139	159	257	14.4	61.6
Beans	26	30	35	15.4	16.7
Cassava	1,000	1,263	1,430	26.3	13.2
Potato	3,151	3,155	3,918	0.1	24.2
Yam	45	44	50	-2.2	13.6
Cocoyam	9,266	9,132	9,378	-1.4	2.7
Plantain	606	693	635	14.4	-8.4
Vegetable	1,071	1,549	1,700	44.6	9.7
	1,241	1,354	1,480	9.1	9.3
ii. Other Crops	8,485	9,043	9,325	6.6	3.1
Melon	280	275	182	-1.8	-33.8
Groundnut	696	686	815	-1.4	18.8
Benniseed	34	36	40	5.9	11.1
Coconut	105	108	110	2.9	1.9
Sheanut	104	109	110	4.8	0.9
Soyabeans	102	121	134	18.6	10.7
Cottonseed	80	194	185	142.5	-4.6
Palm Kernel	353	545	600	54.4	10.1
Palm Oil	680	700	700	2.9	0.0
Groundnut Oil	50	60	60	20.0	0.0
Cocoa	105	230	256	119.0	11.3
Coffee	6	10	12	66.7	20.0
Rubber	56	68	80	21.4	17.6
Sugar Cane	852	888	900	4.2	1.4
Palm Wine	4,951	4,986	5,111	0.7	2.5
Tobacco	26	27	30	3.8	11.1
2. *LIVESTOCK PRODUCTS*	1,117	1,088	1,065	-2.6	-2.1
Poultry	56	54	50	-3.6	-7.4
Goat Meat	206	209	215	1.5	2.9
Lamb/Mutton	75	81	85	8.0	4.9
Beef	232	260	275	12.1	5.8
Pork	34	36	45	5.9	25.0
Milk	182	188	185	3.3	-1.6
Eggs	332	260	210	-21.7	-19.2
3. *FISHERY*	254	279	315	9.8	12.9
Artisanal Coastal and Brackish Water Catches	146	172	193	17.8	12.2
Artisanal Inland Rivers and Lakes Catches	103.0	51	70	-50.5	37.3
Fish Farming	21	27	25	28.6	-7.4
Industrial (Trawling) coastal Fish and Shrimps	24	29	27	20.8	-6.9
4. *FORESTRY (000 cm³)*	95,961	97,980	101,184	2.1	3.3
Roundwood	94,876	96,868	100,043	2.1	3.3
Sawn Wood	950	972	996	2.3	2.5
Wood Based Panel	120	125	129	4.2	3.2
Paper and Paper Boards	15	15	16	0.0	6.7

[1] Revised [2] Provisional

Source: Derived from data compiled from Federal Office of Statistics (FOS), Food and Agric. Organisation (FAO) Production Year Book; Central Bank Annual Agricultural Surveys, Annual Reports of Federal Ministries of Agriculture, Water Resources and Rural Development and Returns from State Ministries of Agriculture and Natural Resources.

(Base Year: 1975 = 100)



PRICES OF SELECTED CASH CROPS

(Naira per tonne)

Commodity	1987/88 (1)	1988/89[1] (2)	1989/90[2] (3)	Percentage change between (1) and (2) (4)	Percentage change between (2) and (3) (5)
Benniseed	2,295	2,000	5,120	12.9	156.0
Cocoa	7,500	11,000	7,500	46.7	31.8
Coffee (Arabica)	5,500	6,000	7,464	9.1	24.4
Copra	n.a.	n.a.	n.a.	—	—
Cotton	4,800	4,500	5,600	12.5	24.4
Groundnut	2,075	2,250	6,421	8.4	185.4
Ginger (peeled)	1,200	1,500	2,873	25.0	91.5
Palm Kernel	850	1,000	2,500	17.6	150.0
Palm Oil (special)	1,200	1,500	1,310	25.0	-12.7
Soyabeans	1,500	2,000	3,279	33.3	64.0
Rubber (100% dry lump-top quality)	1,000	1,500	2,000	50.0	33.3
Kolanut	7,500	8,500	15,000	13.3	76.5
Chilli Pepper	3,500	4,000	5,755	14.3	43.9

[1] Revised
[2] Provisional

Source: Central Bank of Nigeria National Agricultural Survey.

Provisional data showed that a total of ₦293.9 million was disbursed to the ADPs during the year, representing a decline of 25.0 per cent from the level attained in the preceding year (see Table 3.10). The funding was made up of ₦120.4 million from World Bank (IBRD/IFAD), ₦36.2 million from Federal Government, ₦97.3 million from State Governments and the balance of ₦40.0 million from other sources such as returns on investment. There was a lull in the activities of the ADPs during the year as a result of inadequate funding. In particular road construction, fertilizer distribution and extension services recorded a slump.

(b) *Directorate of Food, Roads and Rural Infrastructure (DFRRI)*

In fiscal 1989, the Federal Government allocated ₦300 million as capital expenditure to the Directorate of Food, Roads and Rural Infrastructures (DFRRI) in the continued support of the Directorate's programmes. The decline in DFRRI's allocation to ₦300 million, compared with the allocation of ₦500 million in 1988, reflected largely the merger of the Directorate's recurrent expenditure with that of the Ministry of Agriculture and Rural Development, in the bid to further consolidate and rationalise rural development activities and prevent wasteful duplication of efforts. Overall, the Directorate made some progress in its main programme of organisation and mobilisation; provision of rural infrastructure; and the promotion of productive activities.

Under the organisation and mobilisation programme, the Directorate completed the community listing exercise in 14 states, codified on local government areas (LGAs) basis.

Work is in progress in respect of rural roads, water and electrification. The second phase of the rural roads programme, under which additional 30,000 kilometres is planned to be constructed, took off in all the states of the Federation, except Abuja, the Federal Capital Territory. Furthermore, work is in progress in a number of states, to complete and upgrade to the Directorate's minimum specification, some 8,000 kilometres out of the 30,000 kilometres rural roads billed for completion in 1987 under the first phase of the programme. This was sequel to the Final Comprehensive Inspections (FCIs) carried out by the Presidential Task Force on Inspection which was commenced in 1988 and completed in all the states of the Federation during the review period. The Directorate's activities in respect of uncompleted or sub-standard rural roads were largely concentrated in Benue, Gongola and Niger States as well as at Abuja, the Federal Capital Territory, where the execution of the programme initially encountered great difficulties. However, some states, including Akwa Ibom, Bauchi, Cross River, Imo and Ondo, exceeded their targets by a combined total of 1,853.6 kilometres.

In order to guard against the recurrence of the initial widespread complaints about the poor quality of DFRRI road projects, a special Presidential Task Force was set up for Final Comprehensive Inspection (FCI). The monitoring and evaluation activities of the Task Force were intensified in 1989. Also, a comprehensive Rural Feeder Roads Maintenance Programme was established to arrest damages to, and prevent eventual collapse of DFRRI roads. A major highlight of the maintenance package is the active roles assigned to local governments and benefitting communities.

Further progress was also made in the execution of the ₦100 million rural water programme targeted to provide water to 250 communities in each state, totalling approximately 5,000 communities all over the country. As at the end of the review period, about 4,000 water points designated to provide 5,101 communities with potable water were already completed. The final comprehensive inspection had also been carried out in all the States of the Federation, except Benue State and the Federal Capital Territory, Abuja. In all, about 419 water points in Niger, Kwara, Benue, Imo and Ondo States did not conform with specification in all respects and were rejected by the FCI teams.

TABLE 3.8

AVERAGE RURAL MARKET PRICES OF SOME DOMESTIC STAPLE FOOD CROPS IN SELECTED STATES

(Naira per tonne)

States/Crop	Cassava (Tuber)	Garri	Yam (White)	Maize (Shelled)	Sorghum	Millet	Rice (Husked)	Cowpea (White)	G/Nut (Shelled)	Palm Oil
Akwa-Ibom										
1987	150	800	500	750	—	—	2,350	2,500	3,000	—
1988	808	2,426	1,705	2,975	—	—	5,540	5,275	5,090	3,500
1989	1,500	4,201	2,123	5,260	—	—	7,206	5,223	n.a.	2,650
Anambra										
1987	600	800	—	700	—	—	1,450	2,400	2,000	—
1988	780	2,490	1,620	1,930	—	—	3,830	4,390	4,170	4,320
1989	600	1,293	1,500	2,064	—	—	3,464	3,742	4,500	3,620
Bendel										
1987	250	870	680	950	—	—	2,670	2,660	2,650	1,910
1988	510	1,950	1,240	2,000	—	—	4,160	4,390	3,790	3,840
1989	700	2,160	650	1,910	—	—	4,000	4,250	4,000	3,500
Benue										
1987	450	750	1,200	800	700	700	2,200	2,200	—	—
1988	—	2,480	1,430	1,630	1,780	1,720	4,070	4,410	3,180	3,380
1989	2,860	3,920	2,240	2,570	2,170	2,610	7,450	6,830	4,410	3,000
Cross River										
1987	150	800	500	750	—	—	2,350	2,500	3,000	—
1988	630	3,050	2,490	1,460	—	—	4,970	5,470	4,460	
1989	1,200	4,200	2,500	5,500	—	—	7,250	5,503	—	—
Gongola										
1987	600	940	1,080	590	570	640	2,320	2,110	1,760	—
1988	970	1,830	1,990	2,190	1,610	1,430	3,570	3,690	2,640	4,686
1989	750	2,000	2,500	2,500	2,050	2,007	7,300	5,400	3,500	—
Lagos										
1987	550	1,400	—	550	—	—	2,500	2,200	2,500	—
1988	720	2,420	2,480	2,180	—	—	5,560	5,410	3,410	4,052
1989	1,250	1,659	3,000	2,500	—	—	5,450	6,600	5,250	3,500
Niger										
1987	—	1,100	1,050	550	—	—	2,250	2,250	2,500	—
1988	998	2,110	1,970	1,350	1,700	1,580	3,080	3,640	2,170	5,740
1989	1,005	2,000	2,500	1,250	n.a.	n.a.	n.a.	n.a.	n.a	3,200
Ogun										
1987	—	1,000	1,350	850	—	—	2,820	2,780	2,350	2,550
1988	1,320	2,090	1,530	2,020	1,450	1,220	4,110	3,990	2,640	4,530
1989	1,200	2,500	2,000	2,500	1,500	1,500	5,000	6,000	5,000	4,000
Ondo										
1987	500	850	1,200	800	—	—	2,500	2,600	2,250	2,550
1988	520	1,580	1,170	1,560	—	—	3,880	4,200	6,000	5,660
1989	890	2,200	4,500	2,000	—	—	8,000	5,000	5,200	3,600
Plateau										
1987	—	800	630	420	350	450	2,030	2,130	1,310	—
1988	620	2,420	1,310	1,410	1,610	1,410	3,640	3,790	2,380	4,170
1989	—	3,418	3,220	2,031	2,349	2,265	8,099	5,655	5,972	3,950
National Average										
1987 (1)	406	919	910	611	830	597	2,313	2,394	2,332	2,337
1988 (2)	788	2,260	1,721	1,891	1,630	1,472	4,219	4,423	3,630	4,388
1989 (3)	1,196	2,686	2,430	2,735	2,017	2,096	6,322	5,420	4,729	3,447
Percentage between										
(1) *and* (2)	94.1	146.0	89.0	209.0	96.4	146.0	82.0	84.8	55.7	87.8
(2) *and* (3)	51.8	15.9	41.2	44.6	23.7	42.4	49.8	22.5	30.3	21.6

Sources: Federal Department of Rural Development; APMEU Bulletin on Agricultural commodities Market Prices; Returns from States Ministries of Agriculture; and the Federal Office of Statistics — Rural Survey.

The first phase of the rural electrification programme which comprises 195 projects designed to cover 227 villages/communities at the cost of ₦70.8 million was launched early last year. Some 142 projects or 73 per cent of the total have been completed and inspected in most states of the Federation.

With respect to rural housing programme, the Directorate trained additional two staff from each state during the year, as Technical Extension Workers, in the use of machinery and equipment for making bricks, roofing and floor tiles, wooden louvre windows, etc., for the construction of and improvement to rural housing. The trained Technical Extension Workers were in turn expected to disseminate the technology to all constituent communities where raw materials are available.

In the Directorate's efforts at promoting productive activities in the reporting period, particular attention was directed at minimising post-harvest losses on the farm and the establishment of income generating activities. To this end, the Directorate funded some collaborating Research Institutes

Akwa Ibom										
1987	2,350	970	2,510	—	—	2,700	790	—	—	—
1988	2,022	1,533	4,016	1,700	2,500	3,887	1,020	—	—	—
1989	2,000	2,910	5,025	—	—	5,820	2,094	—	—	—
Anambra										
1987	736	831	2,498	—	700	1,488	—	—	—	1,300
1988	1,227	1,618	2,090	207	222	1,751	1,446	—	3,430	1,730
1989	2,473	2,314	4,806	2,100	2,450	5,510	—	—	—	—
Bauchi										
1987	579	773	2,400	460	513	2,297	—	—	2,500	1,250
1988	1,474	2,895	3,778	1,129	1,374	4,076	—	—	—	—
1989	1,618	2,610	4,247	1,542	1,748	7,020	—	—	—	—
Benue										
1987	812	763	2,305	705	760	2,388	1,500	480	—	1,950
1988	1,684	1,453	3,425	1,725	1,800	3,790	—	—	—	—
1989	2,133	2,303	4,264	1,963	1,500	5,384	1,950	—	—	—
Borno										
1987	537	578	2,538	609	559	2,486	—	—	1,922	1,859
1988	1,593	1,895	3,978	1,458	1,477	3,991	—	—	—	—
1989	1,868	3,200	4,338	1,425	1,672	6,150	—	—	—	—
Cross River										
1987	767	975	2,436	—	—	2,093	540	198	3,520	1,178
1988	1,898	3,766	3,983	1,700	—	3,600	—	—	—	—
1989	3,250	3,430	5,271	1,200	—	5,680	—	—	—	—
Gongola										
1987	570	673	2,250	537	580	2,443	1,750	—	1,925	1,250
1988	1,393	1,875	4,022	1,511	1,594	4,182	—	—	—	—
1989	1,750	1,800	4,387	1,688	1,800	6,740	—	—	—	—
Kaduna										
1987	590	645	2,700	635	494	2,738	1,200	—	2,647	1,286
1988	1,610	900	3,812	1,518	1,525	4,333	—	—	—	2,323
1989	1,683	2,810	4,794	1,690	1,655	6,430	—	—	—	—
Kano										
1987	550	560	2,733	559	587	2,547	—	—	2,153	1,141
1988	770	962	3,254	926	918	2,910	—	—	2,447	2,336
1989	1,728	2,704	4,545	1,509	1,594	6,490	—	—	—	3,146
Kwara										
1987	686	705	2,088	606	640	2,258	630	—	1,200	1,200
1988	1,520	1,652	4,024	1,705	1,631	3,531	—	—	—	—
1989	2,063	1,800	4,859	1,800	2,644	6,427	—	—	—	—
Lagos										
1987	593	1,485	2,324	—	—	2,751	—	—	2,615	—
1988	1,123	2,421	3,569	—	—	6,608	4,400	—	—	—
1989	2,990	—	—	—	—	—	—	—	—	—
Ondo										
1987	654	753	2,213	700	733	2,067	—	—	—	—
1988	1,593	1,502	3,759	2,000	2,477	2,903	—	—	—	—
1989	2,290	2,131	4,300	—	2,779	5,960	—	—	—	—
Oyo										
1987	651	663	2,169	—	725	2,206	—	—	—	—
1988	1,522	1,643	3,812	2,500	2,204	3,302	—	—	—	—
1989	2,140	2,036	4,950	—	2,440	6,110	—	—	—	—
Plateau										
1987	527	464	2,335	531	523	2,403	700	—	2,260	—
1988	1,483	1,825	4,083	1,370	1,404	3,528	—	—	—	—
1989	1,984	2,957	4,169	1,692	1,765	6,509	3,220	—	—	—
Rivers										
1987	817	964	2,317	—	—	2,250	600	250	—	—
1988	1,763	1,325	4,000	1,700	1,650	3,774	—	—	—	—
1989	2,090	2,850	4,650	1,430	—	6,205	2,445	—	—	—
Sokoto										
1987	964	799	2,300	612	588	2,612	—	—	1,500	1,200
1988	1,654	1,367	4,200	2,975	1,779	4,426	—	—	—	—
1989	1,790	2,500	4,125	1,704	1,704	6,367	—	—	—	—
Average for all states										
1987 (1)	838	800	2,382	595	615	2,358	856	309	2,222	1,311
1988 (2)	1,520	1,798	3,737	1,621	1,611	3,787	2,288	—	2,938	2,129
1989 (3)	2,115	2,718	4,581	1,645	1,979	6,439	2,586	—	—	—
Percentage change between										
(1) *and* (2)	81	125	57	172	162	60	167	—	32	62
(2) *and* (3)	39	51	23	1.5	23	70	13	—	—	—

Sources: Compiled from Central Bank of Nigeria Zonal Offices Returns and Returns from State Ministries of Agriculture.

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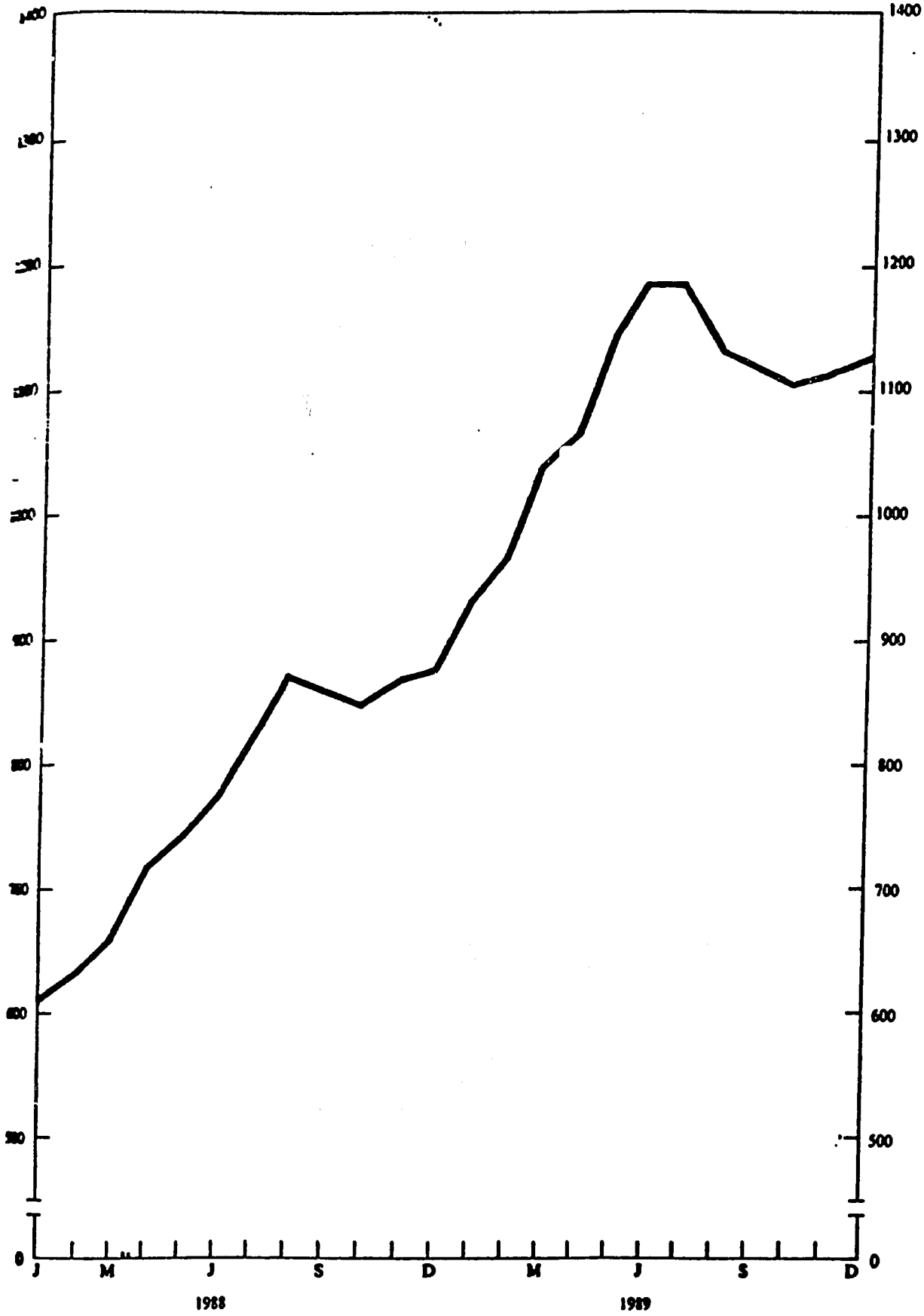
COMBINED RURAL AND URBAN CENTRES AND INCOME GROUPS

(Base Year: 1975 = 100)



ANNEX 6

LAWS AND REGULATIONS RELEVANT TO INVESTMENT IN NIGERIA

(1) CUSTOMS AND EXCISE MANAGEMENT ACT 1983, No. 55 of 1958.
(2) CUSTOMS (DRAWBACK) REGULATIONS LEGAL NOTICE, No. 70 OF 1959.
(3) CUSTOMS DUTIES (DUMPED AND SUBSIDISED GOODS) ACT No. 9 OF 1958.
(4) INCOME TAX MANAGEMENT ACT 1961, No. 81.
(5) FACTORIES ACT CAP. 66.
(6) NATIONAL PROVIDENT FUND ACT 1961, No. 20.
(7) WORKMEN'S COMPENSATION ACT: CAP 222.
(8) MERCHANDISE MARKS ACT CAP. 117.
(9) REGISTRATION OF BUSINESS NAMES ACT 1961, No. 17.
(10) TRADE MARKS ACT 1965, No. 29.
(11) IMMIGRATION ACT 1963, No. 6.
(12) EXCHANGE CONTROL ACT 1962, No. 16.
(13) COMPANIES ACT No. 51 OF 1968.
(14) PATENTS AND DESIGNS ACT 1970, No. 60
(15) INDUSTRIAL INSPECTORATE ACT 1970, No. 53
(16) INDUSTRIAL DEVELOPMENT (INCOME TAX) ACT 1971, No. 22.
(17). NIGERIAN STANDARDS ORGANIZATION ACT 1971, No. 56.
(18) INDUSTRIAL TRAINING FUND ACT 1971, No. 47
(19) WAGES BOARDS AND INDUSTRIAL COUNSILS ACT 1973, No. 1.
(20) NATIONAL BANK FOR COMMERCE AND INDUSTRY ACT 1973, No. 22.
(21) TRADE UNION ACT 1973, No. 31.
(22) EXCISE TARRIF (CONSILIDATION) ACT 1973, No. 7.
(23) CUSTOMS TARIFF (CONSOLIDATION) ACT 1973, No. 6.
(24) LABOUR ACT 1974, No. 21.
(25) TRADE DISPUTES ACT 1976, No. 7.
(26) TRADE DISPUTES ESSENTIAL SERVICES ACT 1976, No. 23.
(27) NIGERIAN EXPORT PROMOTION COUNCIL ACT 1976, No. 26.
(28) NIGERIAN ENTERPRISES PROMOTION ACT 1977, No. 3.
(29) PRODUCTIVITY, PRICES AND INCOMES BOARD ACT 1977, No. 30.
(30) PRE-SHIPMENT INSPECTION OF IMPORTS ACT 1978, No. 36.
(31) COMPANIES INCOME TAX ACT 1979, No. 28.
(32) INDUSTRIAL PROMOTION ACT 1979, No.40.
(33) IMPORT PROHIBITION ORDER L.N. 10 OF 1979.
(34) NATIONAL OFFICE OF INDUSTRIAL PROPERTY ACT 1979, No. 70.
(35) SECURITIES AND EXCHANGE COMMISSION ACT 1979, No. 71.
(36) THE ELECTRICITY (PRIVATE LICENSES) REGULATIONS 1965, L.N. 76.
(37) BANKRUPTCY ACT 1979, No. 16.
(38) NIGERIAN EXPORT PROMOTION COUNCIL DECREE (No. 26) 1976.
(39) SECOND-TIER FOREIGN EXCHANGE MARKET DECREE No. 23, 1986.
(40) CUSTOMS, EXCISE etc (CONSOLIDATED) DECREE No. 1, 1988.
(41) FACTORIES DECREE No. 16, 1987.
(42) WORKMEN'S COMPENSATION DECREE No. 17, 1987.
(43) INDUSTRIAL EVELOPMENT CO-ORDINATING COMMITTEE DECREE 1988.
(44) NIGERIAN EXPORT CREDIT GUARRANTEE AND INSURANCE CORPORATION DECREE (No.15), 1988.
(45) PRIVATISATION AND COMMERCIALISATION DECREE (No. 25) 1988.

ANNEX 9
Various Taxes

Pages

DIVISION 2 . : FISCALITE DIRECTE DES PERSONNES

CHAPITRE 21 : IMPOTS CEDULAIRES SUR LES TRAITEMENTS ET SALAIRES 21/01

22 : PROPRIETE FONCIERE 22/01

23 : BENEFICES AGRICOLES 23/01

24 : REMUNERATION DES DIRIGEANTS 24/01

26 : BENEFICES NON COMMERCIAUX 26/01

27 : REVENUS DES CAPITAUX MOBILIERS 27/01

28 : IMPOT GENERAL SUR LE REVENU 28/01

29 : DISPOSITIONS COMMUNES A DIVERS IMPOTS CEDULAIRES 29/01

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DIVISION 3 : TAXES INDIRECTES

CHAPITRE 31 : TAXE SUR LA VALEUR AJOUTEE 31/01

CHAPITRE 36 : TAXE SUR LES PRODUITS PETROLIERS 36/01

DIVISION 4 : ENREGISTREMENT

CHAPITRE 41 : ENREGISTREMENT 41/01

42 : TIMBRE 42/01

45 : DROITS DE TIMBRE DE NATURE PARTICULIERE 45/01

47 : CONSERVATION FONCIERE 47/01

DIVISION 5 : CONTENTIEUX DES IMPOTS

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DIVISION 6 : INCITATIONS FISCALES A L'INVESTISSEMENT

CHAPITRE 61 : REGIME DES INDUSTRIES NOUVELLES 61/01

62 : REGIME DES EXONERATIONS DE LA CONTRIBUTION FONCIERE DES PROPRIETES BATIES 62/01

63 : EXONERATION SOUS CONDITION DE REMPLOI DES PLUS-VALUES DE CESSION 62/01

67 : REGIMES PRIVILEGIES 67/01

DIVISION 7 : RELATIONS AVEC L'EXTERIEUR

CHAPITRE 71 : DOUANES 71/02

72 : CONVENTIONS FISCALES INTERNATIONALES 72/01